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Mitigating Liability in Condo Developments: Warranties, Disclosure and Construction Claims

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**MANAGING RISK IN CONDOMINIUM DEVELOPMENT:
WARRANTIES, DISCLOSURE AND CONSTRUCTION CLAIMS**

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I. INTRODUCTION

Condominiums and homeowners associations are the only kind of real estate where the developer creates and funds an entity responsible for making claims against the developer. Both individual unit owners and the owners association have unique warranty rights that generally cannot be waived.

Developers today are very likely to be developing condominiums because of market demand, economics (especially land costs) and the flexibility that the condominium form of ownership offers for mixed-use and complex projects. Although the mechanics of financing, designing and constructing a condominium are the same as a multifamily rental or office building, the risks of liability are vastly different. This article discusses the source of those risks and how to avoid them. Although the thought of doing a condominium development strikes fear in the hearts of some architects, general contractors and developers, the risks can be managed by careful planning and execution, with appropriate attention to the unique facets of condominium development. The authors have been assisting condominium developers for over forty-five years and have generally avoided litigation and large claims settlements. Thus, it would be unfortunate if fear of liability should deter developers from using one of the most flexible development techniques for the creative design and development of new projects.

II. SOURCES OF LIABILITY

Developers of condominiums are typically subject to three types of claims: (1) misrepresentation and fraud—essentially lying about the project; (2) violating the condominium act disclosure provisions--failing to disclose a material fact accurately; and (3) statutory or contractual warranties—not living up to express promises made to a purchaser or constructing or renovating a building with building code violations or construction defects. In turn, the statutory warranties come in at least two major forms: (1) Uniform Common Interest Ownership Act (“UCIOA”) (or Uniform Condominium Act) warranties derived from the Uniform Commercial Code provisions governing the sale of goods and (2) structural defect warranties derived from state law governing defects in the sale of real estate. This article discusses the express and implied warranties imposed by UCIOA, structural defect warranties and the other causes of action typically pursued by associations and/or unit owners, explains how these warranties and claims are imposed on owners/developers, contractors, design professionals and subcontractors, and provides practical suggestions to minimize the risk for all participants in the development of a condominium.

III. STATUTORY WARRANTIES

A. UCIOA WARRANTIES

A plurality of jurisdictions in the United States, through their condominium act, have adopted the express and implied warranties set forth in the UCIOA or Uniform Condominium Act with respect to the construction or conversion of a condominium project. These warranties set forth the primary obligations of the developer to the condominium association with respect to the common elements and to the individual unit owners with respect to their units. The statutory warranties set forth express obligations that, for the most part, must be complied with to avoid litigation.

1. Express Warranties – Section 4-113 of UCIOA sets forth broad express warranties that apply to the condominium unit itself and to any improvements "to the common interest community that would directly benefit the unit," which certainly includes the common elements of a condominium. Under this section, express warranties are created by "any affirmation of fact or promise which relates to the unit, its use or rights appurtenant thereto . . . any model or description of the physical characteristics of the common interest community . . ." No formal words such as "warranty" or "guarantee" are necessary to create the express warranties. The breadth of the express warranties created by this section of the UCIOA is aptly described in the comments to this section as follows: "It [the express warranties] is based on the principle that, once it is established that the Declarant acted so as to create particular expectations in the purchaser, warranty should be found. . . ." Thus, virtually any statement about the condominium, its construction and amenities will be deemed an express warranty.

2. Implied Warranties – Section 4-114 establishes several significant implied warranties regarding the quality of construction of the condominium that apply to both the units and the commons elements of the condominium. The implied warranties imposed by this section include the following: "the unit and the common elements . . . are suitable for the ordinary uses of real estate of its type and . . . will be free from defective materials and constructed in accordance with applicable law, according to sound engineering and construction standards, and in a workmanlike manner." The comments to this section state the "warranty of suitability under this Act is similar to the warranty of habitability."

3. Waiver – The UCIOA does not allow for the waiver of the express warranties set forth in the Act. It does allow for the waiver of the implied warranties for non-residential condominiums and a very limited waiver of these warranties for residential condominiums. With respect to a residential condominium, the implied warranties can only be waived by the execution of an "instrument" that "describes the specified defect or specified failure to comply with applicable law" that is being waived. A general disclaimer or waiver is not effective for a residential condominium.

4. Statute of Limitations – Section 4-116 of UCIOA states that a claim for a breach of the warranties created by the Act "must be commenced within six years after the cause of action accrues."¹ A cause of action accrues as to a unit when "the purchaser to whom the warranty is first

¹ The length of the statute of limitations will differ in different jurisdictions.

made enters into possession" As to a common element, a cause of action accrues "at the time the common element is completed or, if later, as to a common element that is added to the common interest community by exercise of development rights, at the time the first unit which was added to the condominium by the same exercise of development rights is conveyed to a bona fide purchaser." The statute of limitations, by agreement, may be reduced to a period of two years.

5. Notice – UCIOA does not require that written notice of a warranty claim be provided to the developer during the warranty period or at anytime before suit is filed. However, many states have adopted, or are considering adopting, "notice and opportunity to cure" statutes that require notice and an opportunity to cure before suit can be filed for violation of condominium warranties.

6. Summary – UCIOA provides for broad express and implied warranties for common elements and individual units that, in effect, require the repair of any component of the common elements or a unit that is not "suitable" for its intended use or that does not comply with applicable standards of construction. These warranties generally cannot be waived and may subject a developer to a lawsuit or claim up to six years after the unit is conveyed or the common elements completed.

B. STRUCTURAL DEFECT WARRANTIES

The first jurisdiction to incorporate a structural defect warranty into its condominium act was Virginia. Followed by the District of Columbia, Pennsylvania and a few other jurisdictions, this approach is much more of a traditional real estate warranty against construction defects.

1. Common Elements – Pursuant to Virginia Code Section 55-79.79 (Section 42-1903.16 of the D.C. Code), "the Declarant shall warrant or guarantee against structural defects all of the common elements for two years." The two years begin to run when the first unit of the building is conveyed, or when the common element is completed, whichever last occurs.

2. Condominium Units – Virginia Code Section 55-79.79 (Section 42-1903.16 of the D.C. Code) states "the Declarant shall warrant or guarantee, against structural defects, each of the units for two years from the date each is conveyed . . . the Declarant shall also warrant that the unit is fit for habitation and constructed in a workmanlike manner so as to pass without objection in the trade."

3. Structural Defects – The term "structural defects" under the Virginia and District of Columbia Condominium Acts has a different definition than is typically used in the construction industry. The Acts define structural defects as "those defects in components constituting any unit or common element which reduce the stability or safety of the structure below accepted standards or restrict the normal intended use of all or part of the structure and which require repair, renovation, restoration or replacement." The "normal intended use" portion of the definition of structural defects makes the warranty obligation quite broad. In essence, if any part of the condominium is not performing its intended use and function, or that use or function is impaired, a structural defect exists. However, the Acts continue on to provide that the developer shall not be "responsible for any items of maintenance."

4. Statute of Limitations – A suit for breach of the statutory warranties must be brought within five years from the date the warranty commences to run as to either the common elements or an individual unit.

5. Notice and Opportunity to Cure – The Virginia Condominium Act requires that written notice of a warranty claim be provided to the declarant at least six months before suit is commenced to enforce the warranty obligations. The notice must describe the “nature of the claimed defects,” and the declarant has the right to cure or fix the claimed defect before suit can be filed. This legislation, enacted by the 2006 Virginia General Assembly, is consistent with a portion of the “Notice and Opportunity to Cure” bills advocated by the National Association of Home Builders all over the country.

6. Summary – The Virginia and District of Columbia Condominium Acts provide for a two-year warranty on common elements and individual units that, in effect, requires the repair of any component of the common elements or a unit that is not performing its intended function. While the warranty period is for two years, suit may be filed five years after the warranty commences. In many respects the warranty is really a five-year warranty if the association or unit owner can demonstrate that the claimed defect existed during the two-year warranty period.

C. OTHER CLAIMS UNDER STATE LAW

1. Attorneys' fees under the Condominium Act or Homeowners Association Act. This provision (in those states that have adopted it) creates a right in favor of each unit owner and the association to commence a lawsuit for recovery of damages or injunctive relief for any violation of the act. The law typically goes on to state that when such an action is filed "the prevailing party shall be entitled to recover reasonable attorneys' fees and costs expended in the matter." Thus, associations have used this provision to seek recovery of attorneys' fees in connection with a suit to enforce their statutory warranty rights.² The attorneys' fees provision is typically mutual and may also provide a basis for the developer to obtain its attorneys' fees if it prevails in a lawsuit for breach of statutory warranties.

2. State Consumer Protection Act – The Virginia Consumer Protection Act, set forth in Virginia Code Section 59.1-198, et seq., is one example of a consumer protection statute intended to apply to the sale of goods which has been applied to the sale of real estate. These laws prohibit any misrepresentations regarding the "quality, grade or model" of "goods." In some states the law goes on to define "goods" to mean "all real, personal or mixed property, tangible or intangible." Therefore, unit owners sometimes rely upon the Consumer Protection Act for claims against the developer for misrepresentations in documents relating to the condominium, such as the Public Offering Statement, that contain any representations relating to the condominium. Under some of these laws, if the violation is deemed willful, the plaintiff can recover treble damages plus attorneys' fees and costs. Suit under a Consumer Protection Act typically has a shorter statute of limitations (in Virginia, it must be commenced within two years) commencing after the date the cause of action accrues, typically when the plaintiff knew or reasonably should have known of the representation upon which the claim is based. The threat posed by a Consumer Protection Act in

² See Dana v. 313 Free Mason, a Condominium Association, 266 Va. 491 (2003).

any specific jurisdiction depends on the exact terms of the law and the “attitude” of the state enforcement agencies and judiciary. In some states the Consumer Protection Act is strictly construed against the plaintiff and a claim is hard to make successfully; in other, more consumer-friendly states, the law is construed to favor the consumer and the developer has the burden of proving that the consumer was dealt with fairly.

3. Fraud/Misrepresentation – Similar to the Consumer Protection Act claims, unit owners may also seek to recover damages for fraud and misrepresentation. Again, these claims are typically based upon condominium documents and disclosures provided to the unit owner prior to the purchase of the unit. These types of actions are utilized by plaintiffs to seek damages beyond simply repair of a defect. In many jurisdictions a fraud claim must be commenced within two years after the date the fraud became known, or reasonably should have been known.

D. POTENTIAL THIRD PARTY CLAIMS—STATUTE OF LIMITATIONS PROBLEMS

When an association or unit owner asserts a claim for breach of the statutory warranties set forth in the condominium act or some of the other potential claims discussed above, the developer will often pursue a third party claim against the general contractor or the developer's design team depending upon who may be responsible for the defect or claim. The general contractor will then seek to file a third party claim against a subcontractor or supplier who may ultimately be responsible for the defective construction.

The law in most states, however, also creates a potential trap for the developer and a general contractor, in attempting to assert third party claims. The basis for such a claim will typically be breach of contract. The statute of limitations for a breach of contract claim will typically be between two and five years depending on the jurisdiction.³ Further, under the law in many states, the statute of limitations begins to run when the breach occurs, not when it is discovered.⁴

For example, the statute of limitations for a claim by the developer against the general contractor, or a claim by the general contractor against its concrete subcontractor, relating to a defect in the pouring of the concrete begins to run when the defective concrete work is performed. The first unit in the condominium may not be sold for another year or more after the concrete work was performed. Thus, it is likely that the association will not commence a lawsuit against the developer for breach of the statutory warranties until after the developer's breach of contract claim against the general contractor has already been barred by the statute of limitations.⁵ Likewise, the

³ See, e.g. Va. Code Section 8.01-246.

⁴ See, e.g. Va. Code Section 8.01-230; VMI v. King, 217 Va. 751 (1977). See also, D.C. Code Section 12-301(7) where a breach of contract claim must be brought within three years after the cause of action accrues. Moreover, "The statute of limitations begins to run from the date a contract is breached." Allison v. Howard Univ., 209 F. Supp. 2d 55 (D.D.C. 2002).

⁵ This is an even greater problem with respect to a claim against a design professional. They often complete their drawings and design documents several years before the first unit is conveyed. Thus, the statute of limitations for a breach of contract claim against the design team may well expire years before the association files suit.

general contractor's ability to assert a breach of contract claim against its concrete subcontractor will also be lost. Accordingly, both the developer and the general contractor must be diligent in asserting third party claims and must make some modifications to their contracts to ensure that they have the ability to seek restitution from the party actually responsible for the claimed defect.

This problem can even be worse in states with the “discovery rule.” The date on which the statute of limitations begins to run in some states (such as Maryland) is governed by the so-called discovery rule, where the limitations period "begins to run when a Claimant gains knowledge sufficient to put her on inquiry."⁶ Thus, the date on which the statute of limitations begins to run is a factual inquiry as to when the developer, or the general contractor, had sufficient knowledge of a possible defect to commence the running of the statutory limitations period. Discovery may not occur for many years—which leaves the developer and the general contractor exposed until expiration of that state’s statute of repose. The statute of repose is the ultimate end point for liability—even if the statute of limitations has not expired because the defect was not discovered timely. Usually after ten years has passed since construction of the project, the developer or contractor can no longer be held responsible for construction defects. These issues should be addressed in the contracts between the developer and the general contractor, the design professionals and the subcontractors. Proposed contractual language to protect the developer and general contractor from this statute of limitations problem will be discussed below.

IV. RISK MANAGEMENT

The primary risk in the construction of a condominium is the fact that there will be an association often comprised of several hundred individuals who can pool their resources to pursue claims against the developer. Often, these warranty claims cannot be waived by contract. Once control of the association is turned over to the unit owners, they will most likely be advised by both their counsel and their management company that they must conduct an inspection of the condominium to determine the existence of any defects and potential warranty issues. In short, warranty claims of some nature are likely on any condominium project. The developer and its legal, design and construction team must recognize this fact and must work together before, during and after construction to minimize potential claims and to have a plan in place on how to address these claims effectively. The good news is that most associations really only want legitimate problems fixed and do not want to engage in drawn out litigation. The trick is having a procedure in place through which the developer and the legal, design and construction team can expeditiously, fairly and in a cost effective manner address and resolve warranty claims. This section discusses strategies throughout the life of a condominium project to minimize risk and to foster a cooperative, efficient and successful approach by the developer and its team to address warranty claims.

A. ENTITY FORMATION

All condominium projects should be developed in a single purpose, single asset entity in a jurisdiction that is loathe to “pierce the corporate veil” (look through the entity to parent or affiliated companies that might have significant assets). Virginia is a good example of a state

⁶ Lumsden v. Design Tech Builders, Inc., 358 Md. 435 (Ct. App. 2000).

where the courts rarely pierce the corporate veil unless the developer has failed to follow the legal formalities to maintain the separate existence of the entity. When properly implemented, this approach leaves the unit owner or association making a claim with the only source of recovery being the developer entity's warranty set-aside and any insurance coverage.

The developer must not terminate the entity too soon—the developer should maintain the entity and keep a reasonable amount of money in the entity for potential claims until the statute of limitations has expired and all claims have been resolved. This avoids claims of fraudulent transfers of profits and failure to provide for contingent claims on winding up the affairs of the entity.

B. INSURANCE COVERAGE

Insurance coverage for condominium developments is complicated and can be expensive. California projects can pay from \$25,000 to \$40,000 per unit for coverage. This is based on the expectation that every project will end up in litigation. Fortunately, the situation is better on the East Coast, but insurers are basing their premiums on the West Coast experience (and losses). Unfortunately, both developers and their insurance agents are sometimes fuzzy on which coverages cover what risks. When considering wrap insurance (OCIP or CCIP--where a single policy covers both the developer and the general contractor), builder's risk or completed operations, go to an insurance professional who is familiar with these coverages and can insure the project appropriately. It is also preferable to have guidance from an insurance recovery attorney who can assist in determining which coverages are appropriate and whether they provide the protections required for the project. Also, the type of insurance on the condominium itself can vary from single entity to bare walls coverage—you need to work with an agent and an attorney who understand the various policies and what is appropriate for your project. Further detail is beyond the scope of this article, but having the correct coverages can shift some of the development risk to the insurance carrier in return for the premium being paid.

C. BRICKS AND STICKS

1. Peer Review of Design Documents: In light of the significant potential for warranty claims, it is important for the developer and the general contractor to ensure that the design documents are sufficient and, for the most part, uncomplicated. Condominium projects are not projects that should stretch the limits of architectural design or projects in which the developer should seek to try new or innovative designs. Rather, tried and true construction methods and design should be the order of the day. A peer review will help identify for the project architect and the developer areas in the design documents that can be simplified, or perhaps even eliminated, in order to ensure a design that is understandable and that can be implemented. The review should focus on the most common construction problems: roof flashing, window flashing, through-wall flashing and weep holes, window caulking, expansion joints on exterior and garage decks, EIFS, steel railings, wood trim, inadequate grading for drainage and any other construction problem which is common to your part of the country. Involving the general contractor in this process is also highly recommended so that all parties on the developer's team understand and coordinate the design of the project. Finally, the design of the project should result in a structure that is easily maintainable. Condominium associations sometimes lack the resources and sophistication to deal

with state-of-the-art buildings and systems and allow them to fall into disrepair and early failure—resulting in a claim against the developer.

2. Project Supervision: Build it right. There is no substitute for assiduous supervision of construction. The developer must have and maintain competent supervision of the project as it is being constructed—whether using in-house employees or a third party independent inspector. You must assure not only code compliance but also careful adherence to the plans and specifications—including all details. The developer will ultimately have to deal directly with the association concerning any warranty claims. Therefore, the developer must oversee and understand the construction of the condominium and, importantly, ensure to the extent possible that the condominium is properly constructed. The developer should be particularly diligent in overseeing the construction of the building envelope because a leaky condominium is the source of most warranty claims. Likewise, the general contractor must have a diligent project management team to ensure proper performance by its subcontractors. The developer should identify the specific management team for the project in the construction contract and require prior approval of any changes. Finally, the construction team should memorialize field changes on the plans and specifications to avoid claims later.

3. The Construction Crew. Another source of claims is the construction crew. Unaccustomed and untrained to deal with home purchasers, they can sabotage your reputation and credibility both by their actions and their words. It is surprising how little time and attention the developer and some contractors give to the appearance of the jobsite. When trash and materials are left in disarray, purchasers visiting the jobsite can be appalled and begin to doubt the quality of the construction. The joy of homeownership is not enhanced when a new buyer finds fast food leftovers in the hallway or, worse still, in the unit. Also, some purchasers will engage the construction crew in conversation, only to be told that: “This job would be easier to build if that cheap developer would only use decent materials.” These real world problems can easily be avoided by keeping the jobsite clean and training the construction crew not to converse with purchasers.

4. Mock-ups. Construction of a "mock-up" of important components of the building envelope, followed by a water test of the mock-up, can be an effective means of determining whether the design for the building envelope will work. Clearly, it is better to discover that the design will not work effectively before construction of the building. Additionally, the construction of a mock-up will provide additional detail with respect to how the work will be performed and will ensure consistent construction techniques. A good example is a mock-up of the typical window for the building, including flashing and caulking, since they are a common source of leakage claims. Design documents will typically provide little guidance as to how a window is to be flashed or caulked other than to say "flash and caulk per industry standards." By constructing a mock-up of the window, the flashing and caulking detail can be more precisely defined, the design professional can show the installer how the installation is to be performed and, most importantly, the complete assembly can be tested to make certain that it works. It is obviously better to discover a problem with the window before installing hundreds of them on the building. Similar mock-ups can also be used for other common sources of leaks, such as roof flashing and penetrations in the building envelope--vents and the like.

5. Conversions. Although the extent of design review will vary with the level of renovation in a conversion from either multifamily rental or non-residential use to residential condominium ownership, an additional concern is the condition of the structure. Conversions require careful inspection for existing conditions, environmental issues and legal compliance. Finding historic elements in the building, structural problems, asbestos, lead paint or leaking underground storage tanks can all add significantly to the cost of the conversion. In Philadelphia, for example, the City required conversion of all dry standpipes to a wet pipe system—adding hundreds of thousands of dollars to the cost of renovation. The applicability of requirements to bring the project into compliance with the current building code and the Fair Housing Act (applying handicap design standards set forth in the Americans with Disabilities Act) can also double or triple your construction budget or possibly make your project infeasible. Finally, most state condominium acts require disclosure about the condition of the project and the developer’s plans for renovation; techniques for making these disclosures are discussed in the section on disclosure.

6. Internal Dispute Resolution Process in Construction and Design Contracts The developer, the design professionals, and the general contractor must all recognize and understand the potential statute of limitations problem the developer may face if, as is normal, an association waits until the last minute to file suit for a claimed construction defect. The developer's team should also recognize the value in jointly defending claims by the condominium association and creating a dispute resolution process that allows the team to cooperatively address legitimate claims and to jointly defend baseless claims without suing each other.

The alternative, circular finger pointing by the developer’s team, results in protracted and costly litigation and makes it easier for the association to recover damages. What is needed is appropriate risk allocation between the developer, the general contractor and the design team and ownership of this risk by the appropriate entity. No participant in the design and construction should be dragged into a frivolous lawsuit filed by the association nor should any party escape liability for defective construction due to the vagaries of the statute of limitations.

Therefore, the developer should implement a dispute resolution process that consists of the following: (1) the developer agrees that it will only hold the general contractor or architect liable for the repair of defective work for which the parties agree they are responsible; (2) if there is a dispute as to who is responsible for the claimed defect, the parties appoint a third party with substantial construction and/or design experience to determine responsibility and the parties are bound by this decision; (3) if the parties agree a claim by the association is baseless, they agree to jointly defend it without suing each other; (4) the developer will not assign any claims it may have against the general contractor or architect to the association; (5) the developer will maintain sufficient funds to address warranty claims; and (6) the general contractor and architect shall be responsible to correct defects caused by them, as agreed by the parties or as determined by the independent third party, during the time frame in which the association can file a warranty claim against the developer. This process avoids needless litigation and the concomitant costs, protects the general contractor and architect from frivolous third party claims or being drawn into a lawsuit based on the developer's misrepresentations, limits the exposure of the general contractor and architect to the repair of defective work and provides the developer with the assurance that it can look to the general contractor or architect to fix defects for which they are responsible. The process also allows the developer's team to present a united front against baseless claims by the association.

Obviously, this process must be coordinated with the developer's and general contractor's insurance carriers to maintain coverage. A full discussion of the interface of dispute resolution and insurance coverage is beyond the scope of this presentation.

The alternative to this approach is litigation among the developer and its team that makes it easy for the association to prevail on its claims and that will likely lead to a lawsuit by the association against the developer. The approach outlined above appropriately allocates risk to the various team members and provides a means to avoid costly litigation.

V. MARKETING AND SALES

The primary focus of the marketing and sales team must be on selling the product. However, as agents of the developer (whether an in-house sales team or an outside broker), purchasers rely on what they read in your marketing materials and what they are told by your sales staff. The marketing materials are most easily controlled because you see it and review it before it is used; the sales staff meets one-on-one with your purchasers and may say things they shouldn't just to make the sale. The solution is to limit your exposure to these representations and to train the marketing and sales staff as to your expectations of them.

Marketing and sales must set the level of expectation for the project just slightly below what you will deliver. Also, the sales staff should be trained about who NOT to sell to—not based on discrimination but based on personality—will this purchaser be content in a multifamily building where he or she hears noise from neighboring units? Is this purchaser asking so many detailed questions about construction techniques that he or she will never be satisfied with the quality of the project? The cost of dealing with a problem purchaser—sometimes including litigation—can exceed the planned profit on the sale.

1. Marketing Materials and Advertisements. Marketing materials and advertisements must set the appropriate level of expectation in your purchaser. If you are selling a first-time homebuyer garden style conversion of a forty-year-old project, you cannot portray the project as it were a \$700 per foot luxury high-rise. Focus on the positive qualities of your project but do not try to make a sow's ear look like a silk purse. When you do not deliver on your promise, your purchasers will object. The best examples of this mistake are showing a swimming pool, golf course or doorman in your ads and then not delivering on that representation.

Sales drawings of the units are another potential source of liability. Calculation of unit size (in square feet) will vary not only based on the unit boundaries selected, but also the methodology used. The net usable square footage typical in condominium sales is from 8% to 15% less than the gross rentable square footage used by BOMA or most multifamily rental owners. Thus, a disclaimer should be placed on sales materials stating that the size may vary and that the exact layout and dimensions of the unit being purchased may vary from the one shown on the sales drawing.

2. The Purchase Agreement. The Purchase Agreement establishes the legal relationship between the developer and the purchaser. When you have a separate disclosure document, the

Purchase Agreement should NOT be used for disclosure except when required by state or local law. The single most important function of the Purchase Agreement is to obligate the developer to deliver the unit as promised and to obligate the purchaser to pay the purchase price. The key is to give the developer control over the process. The Purchase Agreement should set forth the developer's process for obtaining financing, pre-settlement inspection, settlement, warranty claims and dispute resolution, and require the purchaser to follow them. The Purchase Agreement should protect against changes by the sales staff; there should be no crossouts or interlineations—changes should be made only on separate addenda to simplify developer review and approval (management by exception). The Purchase Agreement should disclaim oral representations and require any changes to be in writing.

Another key to avoiding claims is to set forth in an exhibit to the Purchase Agreement exactly what will be delivered to the purchaser at settlement—a Schedule of Finishes. Also, an exhibit outlining the optional extras or color selections made by the purchaser can be shown on an exhibit—a Schedule of Purchaser's Options. A drawing of the unit will usually be part of the condominium plats and plans and need not be part of the Purchase Agreement. However, never promise to deliver the unit in accordance with the plans and specifications; all too often the as-built construction differs from the plans and specifications and field changes are not always reflected. The rest of the terms are to provide for allocation of costs, contingencies, if any, compliance with other legal obligations (such as the Interstate Land Sales Full Disclosure Act) and any rescission rights required by state law.

Finally, the Purchase Agreement must be prepared to comply with federal, state and local law requirements. An example of applicable federal law would be that until 2014 the developer either had to register the project with the Office of Interstate Land Sales Registration at HUD and delivering a HUD Property Report to purchasers or qualify for a full or partial exemption from the Interstate Land Sales Full Disclosure Act. Prior to 2014, the project could be fully exempt if the Purchase Agreement contained an "absolute obligation to deliver the unit" within two years after the date of the Purchase Agreement. HUD guidelines and case law interpreted this requirement (1) to allow for extensions for force majeure, (2) to preclude taking away the purchaser's right of specific performance and (3) to limit a presale requirement to six months after the date of the first Purchase Agreement in each phase of the project. There are various partial exemptions that excuse the developer from delivering the HUD Property Report, the most common of which is the "99-unit" exemption for smaller projects. In 2014 Congress amended the Act to exempt condominium projects from the registration and disclosure requirement; however, condominium projects remain subject to the fraud and consumer protection provisions of the Act. An example of applicable state law would be any right to rescission provided for in the condominium act. An example of applicable local law would be additional disclosure requirements or mandatory provisions to include in the Purchase Agreement. The District of Columbia, for example, requires disclosure of the soil type while Montgomery County, Maryland requires extensive disclosures and mandates the inclusion of specific wording.

A. LIMITING EXPOSURE IN CONDOMINIUM DOCUMENTS

In drafting condominium documents, disclosure documents and purchase agreements, the developer can limit its exposure and make it more difficult for unit owners to pursue a claim against

the developer. For example, requiring arbitration of claims, waiving trial by jury (where permissible) and/or limiting any damage claims to the correction of defective work should be considered. Moreover, statements about the quality and construction of the condominium should be avoided or closely scrutinized. These types of statements give rise to the Consumer Protection Act and fraud claims discussed above. Carefully and properly drafted condominium documents, disclosure documents and purchase agreements will significantly reduce the developer's potential liability.

1. Declaration. The Declaration defines the unit boundaries, provides for limited common elements and reserved common elements, establishes easements, provides for development rights and must provide for amendment.

2. Bylaws. The Bylaws provide for governance of the unit owners association—the Board of Directors, officers, committees, managing agent, etc.; assessment and collection of assessments; allocation of maintenance responsibilities; voting rights and procedures and amendment. Using a Chart of Maintenance Responsibilities clarifies who is responsible for maintaining components of the project and assesses liability when the maintenance is not performed.

3. Common Element Interest Table. This exhibit allocates voting rights, assessment liability and ownership interest, usually based on size, par value or equality. Under the uniform acts, each of these factors can be allocated separately.

4. Plats and Plans. The Plats show the property, phasing, easements and buildings on the land while the Plans show the units on the land or in the buildings. In most jurisdictions the Plats and Plans must be certified as-builts so that you cannot record your condominium documents before the units are substantially complete.

B. LIMITING EXPOSURE IN DISCLOSURE DOCUMENTS

1. The Public Offering Statement. The Public Offering Statement, Property Report or Offering Plan (whatever the name in your state) is the disclosure document. Disclosure should be a tool used by the developer to reduce exposure to claims. The Public Offering Statement should disclose all material and any unusual facts about the project. The Public Offering Statement helps to set the purchaser's level of expectations. For example, describing the typical cracking of concrete educates the purchaser that the cracking is normal, not a construction defect, and puts the association on notice of their obligation to maintain the concrete. Describing the noise levels and warning purchasers that hearing their neighbors is normal in a multifamily building only adjusts the purchaser's expectations to the reality that awaits them—the developer should avoid unpleasant surprises. The Public Offering Statement should NOT represent that the project will be built in accordance with the plans and specifications. The Public Offering Statement can also restate the process for pre-settlement inspection, settlement and warranty claims to prepare the purchaser. The public offering statement is also a good tool for building the developer's credibility.

When describing the condition of the converted structure in a conversion project, do not use the engineer's report as written--it is the developer's liability, plus few engineers can write so

that purchasers can understand it. The remaining useful life and replacement costs MUST match up with the reserve table in the budget (as discussed below).

2. The Budget. The budget for the operation of the unit owners association is a major source of potential liability. Other than the purchase price, the next most important issue to a purchaser is the amount of the monthly condominium assessment. If the number turns out to be insufficient to operate the condominium as the developer has promised, then a claim for “low-balling” the assessment is likely. Such claims can be avoided.

First, even if the developer is capable of preparing the budget, it is wiser to engage a competent and independent professional community manager to do so. It insulates the developer from a claim that the budget was prepared based on marketing requirements and adds credibility to the numbers. Second, consultants specialize in preparing such budgets have software and formats that present the budget in an understandable way and can deal with the effect of absorption rates and multiphase development. Budgets for all but the simplest projects should consist of various parts: (1) a multiyear feasibility budget that shows the absorption of units over time, the addition of phases over time and the effects of inflation and operating costs over time; (2) budget notes that show the basis for calculation of each significant item of the budget (this can protect against liability for errors when the assumptions prove unreliable); (3) a reserve table and funding analysis that shows estimated remaining lives of major components, estimated replacement costs and reserve balances over time; and (4) an initial working capital budget which shows how the working capital contributions will be spent, generally for start-up expenses, initial equipment and transition consulting services. Third, the more specificity in the budget about maintenance expenses, the more likely it is that the association will perform that maintenance, or if the association does not, then the developer will have a good defense to a construction defect claim. Simple examples are painting exterior wood trim, caulking windows and repairing concrete cracks; if the budget allocates funds for this maintenance and the association does not spend it, the association will have a difficult time holding the developer responsible for failures. Also, in a conversion it is essential that the reserve table match up with the disclosure of condition, replacement cost and developer’s renovation plans in the Public Offering Statement.

3. Maintenance Manual. The developer should provide the Association with a “Maintenance Manual” (consistent with manufacturer’s recommendations) to assure that maintenance is performed properly. It is a helpful tool in defending a claim if the budget provided for such maintenance and the maintenance was not performed in accordance with the manual.

VI. TRANSITION

Transition is a process and not an event. In turning over control of the association to the unit owners, it is essential to involve the unit owners early and train them how to operate and govern the project. Involving homeowners in the governing process early on allows you to identify both positive leaders for the community and possible troublemakers. If the homeowners learn to govern well they will be easier to deal with when making warranty claims.

The developer should control the project during the critical phases of development—typically until 75% of the units are sold or five years after the conveyance of the first unit in most states. Thereafter, the developer should maintain a minority on the Board if permitted by state law. The developer’s representatives should be good at dealing with people and knowledgeable about construction. Developer Board members can serve as a resource to the homeowner Board members in addressing problems as they arise and can defend the developer’s construction when it is attacked as deficient at a Board or unit owner meeting. Developer Board members can keep the developer advised of what is going on in the association and allow the developer to address and avoid problems.

During the period when the developer controls the association, open Board meetings should be held where homeowner attendance is encouraged. Nothing dispels mistrust about the “crooked deals” the developer is doing better than attending a Board meeting where financial reports are reviewed, operating problems are discussed with management and everything is routine. People do not sue people they like and trust—so the goal should be to build credibility and a personal relationship with the homeowners, especially the homeowner members of the Board. Frequent communication with homeowners through newsletters or email builds credibility and trust. Information about the progress of sales and construction invites the purchaser or homeowner to view the project as his or her own and assist with word-of-mouth sales. In a high-rise condominium, the developer can achieve 50% referral sales, resulting in a significant savings on marketing costs.

VII. THE CUSTOMER SERVICE PROCESS

The developer must have in place and must implement a coordinated, responsive and effective warranty/customer service program. The purchaser wants “one stop shopping” where the complaint can be made without determining ultimate responsibility for the problem. Whether the developer’s staff or the association’s management staff takes the calls, the person relating to the homeowner must be well-trained, service oriented and have good people skills. That staff person then routes the calls to the manager for maintenance items and to the developer for punchlist and warranty items. The developer should implement a “work ticket” process for tracking the nature, status and disposition of all claims. The information provided from such a system can be very effective in discrediting association claims later when allegations of a widespread problem can be shown to be a problem in only a few units. Such information can also be helpful in identifying any systemic problems which require remedial work so that the appropriate subcontractor can be held responsible.

Claims and complaints should not be ignored. This does not mean that the developer agrees to fix everything, but it does mean that the developer responds to claims/complaints promptly. Ignoring complaints will risk infuriating members of the association and will increase the potential for litigation. On the other hand, the developer cannot and should not fix every complaint or issue raised. Associations and unit owners are notorious for believing that the developer is there to provide permanent maintenance and "handyman" services. The customer service staff (whether provided by the developer, the general contractor or a third party professional warranty service company) must be adept at saying "no" nicely and savvy enough to recognize problems that should be addressed because they will increase or cause additional claims, will provide good will at little

expense or are necessary to address an emergency situation. If possible, the developer should avoid any significant repairs until a final agreement has been negotiated with the association. In short, the customer service team must walk a fine line between being responsive and saying "no" until a global settlement is reached with the association.

In dealing with common element warranty claims it is essential to work with the Board of Directors and the association's attorney and consultants to identify problems, design solutions and remediate effectively BUT in a defined process. Moving the warranty claims process forward is like pushing rope: it is a slow process with numerous built-in time delays which seems to take forever. The association usually has a long time to sue, so the developer must create an incentive to resolve claims early. One way to create urgency is to delay doing major work until there is a complete settlement. The developer must be patient to achieve a good result. Also, when the developer rushes to perform work to create "good will," it is rarely successful—instead, it often results in the developer receiving multiple "warranty lists" over time without a final resolution of claims. If the repairs are made without any agreement or scope of work, then the next Board elected towards the end of the warranty claims process may not know about the previous work done at the beginning and the process will begin all over again. The goal is always to reach an overall settlement where the developer receives a final general release once the work is completed.

The developer's strategy should be to repair defective work in accordance with a final scope of work and not to pay damages to the association. There are three key reasons for this strategy: (1) the developer can usually get the work done for less (either because of relationships with contractors or subcontractors or because the firms which performed the defective work will repair it at little or no additional cost under their contracts) and the association will value the work more highly based on the estimates the association will have received; (2) performing work instead of paying money gives no incentive to contingent fee attorneys who might otherwise be seeking to make claims on behalf of the association; and (3) repairing problems enhances the developer's reputation for standing behind his or her work.

VIII. CONCLUSION

Although a condominium project does have a greater potential for claims than the typical single-family development or commercial project, the risks of such a project can be managed and mitigated to ensure a successful project. The key is recognizing the potential for and types of claims that will likely be asserted and planning in advance to address them. Anticipating unit owner and association claims and proactively addressing them in the project documents and disclosures will minimize the risk of litigation. Too often neither the developer nor the development team considers these issues until a claim has been made. Therefore, they fall into typical finger-pointing mode and work against rather than with each other. Establishing a fair and cooperative process within the design and development team to deal with the likely claims and taking steps in advance of construction to minimize claims will often avoid litigation and lead to the resolution of claims in a cost effective manner. The real costs of litigation, in lost sales, management time and attention, legal fees and possible damage awards are unacceptable; thus, every developer should do everything possible to make such claims unlikely.

MATERIALS AVAILABLE FROM THE AUTHORS

1. Community Associations Institute Best Practices Report on Transition
2. Sample Modifications to AIA Form A 201
3. Sample Joint Defense Agreement
4. Sample Limited Warranty Certificates
5. Sample Public Offering Statement Narrative Disclosures
6. Sample Purchase Agreement
7. Sample Condominium Instruments

REFERENCE MATERIALS

1. "Guiding Principles for Community Association Governing Documents," The College of Community Association Lawyers, 2021 at <https://www.caionline.org/Advocacy/LegalArena/Documents/GuidingPrinciplesForCADocuments.pdf>.
2. "From Good to Great: Principles for Community Association Success," Community Associations Institute, at <https://www.caionline.org/Advocacy/Resources/Pages/default.aspx>
3. National Association of Home Builders Construction Standards, Third Edition (2005).
4. "Litigation Involving the Developer, Homeowners' Associations, and Lenders," E. Richard Kennedy & Ellen Hirsch de Haan, Vol. 39, No. 1, Spring 2004, *Real Property, Probate and Trust Journal*, p.1.
5. "Control Your Warranty Claims," with Michael S. Dingman, published in the *Virginia Builder* 8 (2001).
6. "Developing Community -- For Developers of Common-Interest Communities: Building a Sense of Community is Good Business," published in the March/April 1998 *Common Ground*.
7. "Consumer Warranty Issues in the Sale of Residential Condominiums," with Deborah K. Raines, published in the Fall 1985 *Real Property, Probate and Trust Journal*.

DRAFT AIA® Document A107™ - 2007

Standard Form of Agreement Between Owner and Contractor for a Project of Limited Scope

AGREEMENT made as of the ___ day of May in the year 2011
(In words, indicate day, month and year)

BETWEEN the Owner:
(Name, address and other information)
3565 Lee Highway, LLC
C/o The Christopher Companies
10461 White Granite Drive, Suite 103
Oakton, Virginia 22124
703-352-5950 (Phone)
703-352-0960 (Fax)

and the Contractor:
(Name, address and other information)
Monarc Construction Inc.
2781 Hartland Road
Falls Church, Virginia 22403
703-641-8500 (Phone)
703-641-8504 (Fax)

for the following Project:
(Name, location and detailed description)
Dominion Heights Condominium
3565 Lee Highway
Arlington, Virginia

The Architect:
(Name, address and other information)
Devereaux & Associates, P.C.
1481 Chain Bridge Road
Suite 302
McLean, VA 22101
703-893-0102 (Phone)
703-893-0106 (Fax)

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 THE WORK OF THIS CONTRACT

The Contractor shall execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

The Contractor agrees to construct the Project in accordance with the requirements of the Contract Documents, in accordance with applicable construction industry standards and best practices for similar Work and to perform the Work in compliance with all applicable federal, state, and local laws, building codes, ordinances, statutes, regulations and orders relating to the performance of the Work required by the Contract Documents ("Legal Requirements"). The Contractor will inform itself fully of all Legal Requirements and will cause all of its Subcontractors to similarly comply with all Legal Requirements.

Contractor further acknowledges that the Project is required to be constructed so as to achieve a LEED "Gold" certification based on the criteria attached as Exhibit 1. In the performance of the Work, Contractor shall comply with the criteria and requirements set forth in Exhibit 1 for the LEED Gold certification.

Contractor also acknowledges that the Project is subject to certain requirements approved and required by Arlington County pursuant to Administrative Regulation 4.1 which are set forth in the List and Description of all Development Conditions for Site Plan #395 dated May 22, 2010. Contractor acknowledges that it has reviewed and is familiar with these requirements and will perform the Work in accordance with them, provided that the Project is designed to reflect the agreement made by the Owner with the County of Arlington in their site plan approval.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.
(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

Date of Commencement shall be June 6, 2011.

§ 2.2 The Contract Time shall be measured from the date of commencement.

§ 2.3 The Contractor shall achieve Substantial Completion of the entire Work not later than Four Hundred Seventy (470) days from the date of commencement. Contractor shall achieve Final Completion of the entire Work not later than Four Hundred ninety-Eight (498) days from the Date of Commencement.
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Notwithstanding any contrary provisions in the Contract Documents, the term "Substantial Completion" relating to the completion of the Project shall mean the date certified and approved by the Owner, in its reasonable discretion, when (i) construction of all the Work is sufficiently complete in accordance with the Contract Documents, so that the Owner can beneficially occupy and use that portion of the Project for its intended purpose, (ii) the Owner has issued a punchlist of the Work remaining to be completed, (iii) all required governmental inspections applicable to the Contractor's Work have been conducted, and all final approvals required for the beneficial occupancy have been obtained from public and quasi-public authorities with jurisdiction over the Project, including a Residential Use Permit, if required, issued by appropriate authorities, and (iv) all other conditions precedent to Substantial Completion as set forth in the Contract Documents have been satisfied.

The Owner will provide the Contractor with all information on purchase options for the Units in the following manner:

All Electrical Optional Rough-Ins (3) three weeks prior to start of Electrical Rough-In.

Cabinet, Counter/Bath tops and Ceramic Tile Selections (4) weeks prior to start of hanging Drywall

Flooring Finishes and Appliances at time of starting Hanging of Drywall

It is the contractor's understanding that the only revision to the current selection for material and equipment will be:

As set forth in Exhibit 5 and further specified in the appropriate Divisions listed in Christopher Management Specifications revised dated 5/20/11

Kitchen Cabinets

Kitchen and bathroom countertops

Floor finishes

The Owner confirms that despite the fact that all units may not be sold by the Substantial Completion date, they will allow the Contractor to achieve Substantial Completion by finishing the units as designed and specified per the terms of this agreement. The Owner can direct a change to the specifications for the units provided that the change

is made fourteen (14) weeks before the unit is scheduled to be completed. As Arlington County requires the units to be finished as designed with all finishes and appliances in place, the Owner acknowledges that the units must be completed in order to achieve Substantial Completion.

Contractor acknowledges and agrees that time is of the essence in completing the Work required hereunder. Contractor further acknowledges and agrees that it would be difficult to quantify the damages that would be incurred by the Owner in the event the Work is not completed within the time required under this Agreement. If the Contractor fails to achieve Substantial Completion of the Project within the Contract Time, as such time may be modified in accordance with the terms of the Contract Documents, the Contractor shall pay the Owner liquidated damages, and not as a penalty, the amount of \$2,000.00 per day for each day until Substantial Completion is achieved. Provided, however, that liquidated damages shall not commence until 10 days after the Contractor fails to achieve Substantial Completion. Contractor acknowledges and agrees that the foregoing liquidated damages amounts constitute a reasonable estimate of the damage that would be incurred by the Owner in the event the Project is not completed within the time required by this Agreement and Contractor waives any rights it may have to contest the amount of the liquidated damages on the grounds that they are unreasonable or constitute a penalty. Nothing herein, however, shall waive or abridge the right of the Contractor to contest whether it is the cause of failure to achieve Substantial Completion within the Contract Time.

ARTICLE 3 CONTRACT SUM

§ 3.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be one of the following:
(Check the appropriate box.)

- Stipulated Sum, in accordance with Section 3.2 below
- Cost of the Work plus the Contractor’s Fee, in accordance with Section 3.3 below
- Cost of the Work plus the Contractor’s Fee with a Guaranteed Maximum Price, in accordance with Section 3.4 below

(Based on the selection above, complete Section 3.2, 3.3 or 3.4 below.)

§ 3.2 The Stipulated Sum shall be Twelve Million Seven Hundred Ninety-Five Thousand Nine Hundred Fifty-four Dollars (\$12,795,594), subject to additions and deletions as provided in the Contract Documents.

§ 3.2.1 The Stipulated Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

§ 3.2.2 Unit prices, if any:
(Identify and state the unit price, and state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price Per Unit
Offsite disposal of material		\$30 per cubic yard
Import of material		\$25 per cubic yard
Grinding/Routing/Sealing of Concrete Cracks		\$8.70 per lineal foot

§ 3.2.3 Allowances included in the stipulated sum, if any:
(Identify allowance and state exclusions, if any, from the allowance price.)

Item	Allowance
Warranty reserve for Condominium Units	\$66,000
Replace inlet at Car World	\$5,000

Temporary Dewatering

\$130,000

The warranty reserve allowance will be held in a dual signatory escrow account, access to which will be agreed by the Owner and the Contractor, and will be used to cover the out of pocket expenses of the Contractor for materials and punchout/service labor incurred by the Contractor in providing the Owner's standard builders' warranty not otherwise included as part of the Stipulated Sum. Available funds will cover 60 - day and 1 year walk-through lists to the extent that the items are not covered by a warranty provided by a subcontractor. In addition, the funds will be used to cover like expenses of the Contractor for punchout /service labor incurred in correcting the building common areas from time to time as required by owner, as well as in preparation of the common areas for turnover to the Unit Owner's Association. In addition, upon mutual agreement of Owner and Contractor, the funds may be used to cover discretionary "goodwill" expenses intended to satisfy customer concerns of a subjective nature.

Notwithstanding the foregoing, the warranty reserve shall not be used to correct a Defect as defined in Article 21.5 which shall be the responsibility of the responsible party as determined in accordance with Article 21.5. Nor shall the warranty reserve be used to pay for the performance of corrective work required under Article 18.

Owner shall manage the scheduling and coordination of all warranty requests with the Contractor. Contractor shall be responsible for coordinating its subcontractors as required. Owner shall authorize all disbursements from the warranty reserve allowance, and any unused funds remaining upon expiration of the two year statutory warranty shall be disbursed to owner provided no outstanding warranty issues or claims remain unresolved.

ARTICLE 4 PAYMENTS

§ 4.1 PROGRESS PAYMENTS

§ 4.1.1 Based upon Applications for Payment submitted to the Owner by the Contractor and Certificates for Payment issued by the Owner, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 4.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 4.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 10th day of the next month. If an Application for Payment is received by the Architect after the date fixed above, payment shall be made by the Owner not later than twenty-one (21) days after the Architect receives the Application for Payment. *(Federal, state or local laws may require payment within a certain period of time.)*

§ 4.1.4 Retainage, if any, shall be withheld as follows: 10% of the Cost of the Work until the Work is 50% complete and thereafter retainage shall be 0%.

§ 4.1.5 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

4% per annum

§ 4.2 FINAL PAYMENT

§ 4.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 18.2, and to satisfy other requirements, if any, which extend beyond final payment;

- .2 the contractor has submitted a final accounting for the Cost of the Work, where payment is on the basis of the Cost of the Work with or without a guaranteed maximum price;
- .3 Final Release of Liens and Claims forms, attached as Exhibit 3, executed by the Contractor and its subcontractors and suppliers have been received by the Owner; and
- .4 a final Certificate for Payment has been issued by the Owner.

§ 4.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Owner's final Certificate for Payment, or as follows:

ARTICLE 5 DISPUTE RESOLUTION

§ 5.1 BINDING DISPUTE RESOLUTION

For any claim subject to, but not resolved by, mediation pursuant to Section 21.3, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, claims will be resolved in a court of competent jurisdiction.)

- Arbitration pursuant to Section 21.4 of this Agreement
- Litigation in a court of competent jurisdiction. The parties hereby mutually agree to waive any right they may have to a trial by jury for any dispute arising from or relating to the Project and/or this Agreement. Notwithstanding the foregoing, Owner and Contractor agree to follow the process set forth in article 21.5.
- Other *(Specify)*

ARTICLE 6 ENUMERATION OF CONTRACT DOCUMENTS

§ 6.1 The Contract Documents are defined in Article 7 and, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 6.1.1 The Agreement is this executed AIA Document A107–2007, Standard Form of Agreement Between Owner and Contractor for a Project of Limited Scope, as modified.

§ 6.1.2 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ 6.1.3 The Specifications:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

The Specifications are comprised of the following:

Prepared by Devereaux and Associates located at 1481 Chain Bridge Road, Suite 302, McLean, VA 22101

Dated: 3.18.11

Pages (1-790) as supplemented by Addendum 5 dated March 24, 2011

Prepared by Christopher Management Inc

Pages: 1, 2, 3, 4, 5

§ 6.1.4 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Architectural Plans:

Prepared by Devereaux and Associates located at 1481 Chain Bridge Road Suite 302, McLean VA, 22101

Revision Set 1 Dated 2.25.11

Sheets: CSI, CS2, CS3, HC-1-HC-4, A0.1, A0.2, A0.4, A0.6, A0.7, A0.8, A0.9, A0.11, FP1, FP2, FP3, FP4, FP5, FP6, FP7, FP8, FP9, A1.0, A1.1, A1.2, A1.3, A1.4, A1.5, A1.6, A2.0, A2.1, A2.2, A2.2a, A2.3, A2.4, A2.5, A2.6, A2.7, A2.8, A2.9, A2.10, A2.11, A2.12, A2.13, A2.14, A2.15, A2.16, A2.17, A2.17a, A2.18, A2.19, A2.20, A2.21, A2.22, A2.22a, A2.23, A2.24, A2.25, A2.26, A2.27, A2.28, A2.29, A2.30, A2.31, A2.32, A2.33, A2.34, A2.35, A2.36, A3.0
A3.1, A3.2, A3.3, A4.0, A4.1, A4.2

Waterproofing Plans:

Prepared by CSG Consulting Engineers located at 1445 Emerson Avenue, McLean VA 22101
Sheet 1 dated: 1.17.11; Sheet 1A, dated: 1.17.11; Sheet 2 dated 11.08.10; Sheets 3, 4 and 5 dated 12.03.10

Structural Plans:

Prepared by Cates Engineering Structural Consulting located at 7500 Iron Bar Lane, Suite 209, Gainesville, VA 20155.
Revision 1 Dated 2.25.11
Sheets: S0.1, S0.2, S1.1, S1.2, S1.3, S2.1, S2.2, S2.3, S2.4, S3.1, S4.1, S4.2, S4.3, S4.4, S5.1, S5.2, S5.3

Mechanical, Electric, and Plumbing Plans:

Prepared by Scot Engineering located at 8600 Running Fox Court, Suite 100, Fairfax Station, VA 22039.
Plans Dated: 2.27.11
Sheets: MEP-01, M1.01, M1.02, M2.01, M2.02, M2.03, M2.04, M2.05, M2.06, M2.07, M2.08, M2.09, M2.10, M2.11, M2.12, M2.13, M2.14, M2.15, P1.01, P1.02, P1.03, P1.04, P2.01, P2.02, P2.03, P2.04, P2.05, P2.06, P2.07, P2.08, P2.09, P.2.10, P2.11, P2.12, P2.13, P2.14, P2.15, E1.01, E1.02, E1.03, E2.01, E2.02, E2.03, E2.04, E2.05, E2.06, E2.07, E2.08, E2.09, E2.10, E2.11, E2.12, E2.12, E2.13 E2.14, E2.15.

Site Plans:

Prepared by Urban Engineering located at 7712 Little River Turnpike, Annandale, VA 22003
Plans Dated: 2.28.11
Sheets: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 32A, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63,.

Demolition Plans:

Prepared by Urban Engineering located at 7712 Little River Turnpike, Annandale, VA 22003
Plans Dated: 1.31.11
Sheets: 1, 2, 3, 4, 5, 6, 7

County Landscape Plans:

Prepared by Urban Engineering located at 7712 Little River Turnpike, Annandale, VA 22003
Plans Dated: 3.2.11
Sheets: L0.00, L1.00, L1.10, L1.20, L1.30, L2.00, L2.10, L3.00, L3.10, L3.20, L3.30

Tree Preservation Plan:

Prepared by Urban Engineering located at 7712 Little River Turnpike, Annandale, VA 22003
Plans Dated: 3.1.11
Sheets: L0.00, L4.00, L4.10

Maintenance of Traffic Plan:

Prepared by Urban Engineering located at 7712 Little River Turnpike, Annandale, VA 22003
Plans Dated: 1.31.11
Sheets: 1, 2, 3, 4, 5, 6, 7, 8, 9

Maintenance of Traffic Plan for Demo Only:

Prepared by Urban Engineering located at 7712 Little River Turnpike, Annandale, VA 22003
Plans Dated: 1.31.11
Sheets: 1, 2, 3, 4, 5

Dewatering Plan:

Prepared by ECS Mid-Atlantic LLC located at 14026 Thunderbolt Place, Suite 100, Chantilly, VA 20151
Plan Dated: 11.19.10
Sheet: 1

Under-Slab Drainage Plan:

Prepared by ECS Mid-Atlantic LLC located at 14026 Thunderbolt Place, Suite 100, Chantilly, VA 20151
Plan Dated: 11.15.10
Sheets: 1, 2

Traffic Signalization Plan:

Prepared by Wells and Associates Inc. located at 5 Wirt Street SW, Suite 300, Leesburg, VA 20175
Plan Dated: 2.16.11
Sheet: 1

Cabinet Layouts:

Prepared by Timberlake Cabinetry located at 3102 Shawnee Drive, Winchester, VA 22601
Layouts Dated: 11.6.10, 11.8.10, 11.9.10, 11.10.10 and 11.11.11
Sheets: 1-77
As modified by Addendum #6 dated March 25, 2011.

§ 6.1.5 The Addenda, if any:

Number	Date	Pages
Addendum # 1	3-14-2011	[REDACTED]
Addendum # 2	3-15-2011	
Addendum # 3	3-17-2011	
Addendum # 4	3-18-2011	
Addendum # 5	3-24-2011	
Addendum # 6	3-25-2011	
Addendum # 7	3-28-2011	
Addendum # 8	3-28-2011	
Addendum # 9	3-28-2011	
Addendum # 10	3-30-2011	

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are enumerated in this Article 6.

§ 6.1.6 Additional documents, if any, forming part of the Contract Documents:

- .1 Exhibit A, Determination of the Cost of the Work, if applicable.
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:

- 3 Other documents:
(List here any additional documents that are intended to form part of the Contract Documents.)
All Exhibits referred to in this Agreement and the following:

Environmental Report:

Prepared by Environmental Consultants and Contractors Inc. located at 43045 John Mosby Highway,
Chantilly, VA 20352
Dated: 10.18.04
Pages: 1-90

Geotechnical Report:

Prepared by Geotechnical Consulting and Testing located at 21505 Greenoak Way, Dulles, VA 20166
Dated: 3.23.06
Pages: 1-43
(Later Version Sent as Addendum#4)

LEED Scorecard:

Prepared by Sustainable Partners Inc., located at 11325 Random Hills Road, Suite 360, Fairfax, VA 22030
Dated: 2.4.11
Page: 1

Unit Matrix:

Prepared by Christopher Management Inc
Pages: 1, 2
(Later Version Sent as Addendum #6))

Waste Management Plan:

Prepared by Con-Serv Industries located at 45945 Center Oak Plaza, Sterling, VA 20165
Dated: N/A
Pages: 1, 2, 3,
(Sent as Addendum #2)

ARTICLE 7 GENERAL PROVISIONS

§ 7.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in Article 6 and consist of this Agreement (including, if applicable, Supplementary and other Conditions of the Contract), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. In the event of a conflict between the Contract Documents, the provisions requiring the Contractor to provide the greater level of service or the greater quantity or quality of materials shall govern with no increase in the Stipulated Sum.

§ 7.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written

or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Contractor. No parties other than the Owner and Contractor are intended beneficiaries of this Contract.

§ 7.3 THE WORK

The term “Work” means the construction and services required by the Contract Documents and the Legal Requirements, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

§ 7.4 INSTRUMENTS OF SERVICE

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect’s consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 7.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

§ 7.5.1 The Owner shall be deemed the owner of the Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner’s reserved rights. All copies of Instruments of Service, except those the Owner specifically, and in writing, allows the Contractor to retain, shall be returned or suitably accounted for to the Owner, upon completion of the Work.

§ 7.5.2 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects.

§ 7.6 TRANSMISSION OF DATA IN DIGITAL FORM

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmission, unless otherwise provided in the Agreement or in the Contract Documents.

ARTICLE 8 OWNER

§ 8.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 8.1.1 The Owner shall furnish all necessary surveys and a legal description of the site.

§ 8.1.2 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner, including information provided by the Owner or Architect during construction in response to inquiries and questions raised by the Contractor in writing, unless Contractor knows, or reasonably should know, the information is inaccurate or incomplete, but shall exercise proper precautions relating to the safe performance of the Work.

§ 8.1.3 Contractor shall obtain and pay for all trade permits required for the Project. The Owner shall secure and pay for any other necessary permits, approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 8.2 OWNER’S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or repeatedly (defined as two events) fails to carry out the Work in accordance with the Contract Documents, the Owner may, after ten (10) days’ written notice to the Contractor and Contractor’s failure to correct the Work, issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

§ 8.3 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner, without prejudice to any other remedy the Owner may have, may correct such deficiencies and may deduct the reasonable cost thereof, including Owner's expenses and compensation for the Architect's services made necessary thereby, from the payment then or thereafter due the Contractor.

ARTICLE 9 CONTRACTOR

§ 9.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 9.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, has knowledge of the Legal Requirements as defined in the Agreement and correlated personal observations with requirements of the Contract Documents and the Legal Requirements.

§ 9.1.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 8.1.1, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents. The Contractor shall promptly report to the Architect and the Owner any errors, inconsistencies, or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents.

§ 9.1.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require. The provisions of this article shall not relieve Contractor of any other obligations under this Agreement.

§ 9.2 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 9.2.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

§ 9.2.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

§ 9.3 LABOR AND MATERIALS

§ 9.3.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 9.3.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. Any employee of the Contractor or any employee of a Subcontractor whose work is unsatisfactory to the Owner or who is considered by the Owner to be unskilled or who is otherwise objectionable to the Owner shall be dismissed from the Project by the Contractor upon written notice from the Owner.

§ 9.3.3 The Contractor may make a substitution only with the consent of the Owner, after evaluation by the Architect and in accordance with a Modification.

§ 9.4 WARRANTY

The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and the Legal Requirements, will be performed in a good and workmanlike manner, and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear under normal usage.

§ 9.5 TAXES

The Contractor shall pay sales, consumer, use and other similar taxes that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 9.6 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS

§ 9.6.1 Unless otherwise provided in the Contract Documents, the Owner shall secure and pay for the building permit as well as, fees, licenses and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. Contractor shall secure and pay for any trade permits required for the construction of the Project.

§ 9.6.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules, and regulations, and lawful orders of public authorities applicable to performance of the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 9.7 ALLOWANCES

The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. The Owner shall select materials and equipment under allowances with reasonable promptness. Allowance amounts shall include the costs to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts. Allowance amounts shall not include the Contractor's costs for unloading and handling at the site, labor, installation, overhead, and profit.

§ 9.8 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 9.8.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work in a format acceptable to Owner. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 9.8.2 The Contractor shall perform the Work in accordance with the most recent schedule submitted to and approved by the Owner.

§ 9.9 SUBMITTALS

§ 9.9.1 The Contractor shall review for compliance with the Contract Documents and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in coordination with the Contractor's construction schedule and in such sequence as to allow the Architect reasonable time for review. By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them; (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so; and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Work shall be in accordance with approved submittals.

§ 9.9.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

§ 9.9.3 The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record field changes and

selections made during construction, which shall be known as the "As-Built Documents" and one record copy of approved Shop Drawings, Product Data, Samples and similar required submittals. The information contained in the As-Built Documents shall include, but not be limited to: (i) the actual location of underground utilities and appurtenances as referenced to permanent surface improvements; (ii) the location of internal utilities and appurtenances concealed in the building structures; and (iii) changes during the construction process and detail not shown in the original Contract Documents. The As-Built Documents are to be kept accurately and are to be updated on a regular basis. No work shall be permanently concealed until the required information has been recorded. The As-Built Documents and one record copy of approved Shop Drawings, Product Data, Samples and similar required submittals shall be available to the Architect, and the Owner at all times and shall be delivered to the Owner upon completion of the Work.

§9.9.4 Each month the Contractor shall submit to Owner a monthly status report ("Monthly Status Report"). The Monthly Status Report shall summarize and describe, among other things, the Work performed during the preceding month, the status of any change orders, pending change orders or requests for information, and shall include the monthly update to the schedule and the current As-Built Documents

§9.9.5 Contractor and its major subcontractors, and any other subcontractors requested by Owner to attend, shall attend a weekly meetings with the Owner at a time and place to be determined by the Owner to discuss, among other things, the status and progress of the Work, any delays or potential delays to the Work and any other issues relating to or affecting the Project. At its discretion, Owner may invite the Architect to attend such meetings. Contractor shall take detailed minutes of each such meeting. A copy of the final meeting minutes shall be sent to the Owner.

§ 9.10 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment. The Contractor shall prepare, and submit to the Owner for approval, a plan for the efficient and effective use of the Project site and for secure storage of materials and equipment by the Contractor and all Subcontractors.

§ 9.11 CUTTING AND PATCHING

The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

§ 9.12 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material from and about the Project.

§ 9.13 ROYALTIES, PATENTS AND COPYRIGHTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 9.14 ACCESS TO WORK

The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

§ 9.15 INDEMNIFICATION

§ 9.15.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the

negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 9.15.1.

§ 9.15.2 In claims against any person or entity indemnified under this Section 9.15 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 9.15.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 10 ARCHITECT

§ 10.1 The Architect shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as directed by the Owner, (1) to become familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine, to the best of its knowledge, if the Work is being performed in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 10.2 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 10.3 The Architect shall advise the Owner of Work that does not conform to the Contract Documents and to recommend inspection or testing of the Work.

§ 10.4 The Architect will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the purpose of checking for conformance with the design concept and requirements expressed in the Contract Documents.

§ 10.5 The Architect may interpret and make recommendations concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect may make initial recommendations on all claims, disputes and other matters in question between the Owner and Contractor but will not be liable for results of any interpretations or recommendations rendered in good faith. Contractor may also rely upon any responses from the Architect, which shall come through the Owner, to requests of information submitted in writing during the course of the Project.

§ 10.6 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents and approved by the Owner.

§ 10.7 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner and Architect.

ARTICLE 11 SUBCONTRACTORS

§ 11.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site.

§ 11.2 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner the names of the Subcontractors or suppliers for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor or

supplier to whom the Owner or Architect has made reasonable written objection within ten days after receipt of the Contractor's list of Subcontractors and suppliers. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 11.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by the Contract Documents, assumes toward the Owner and Architect, and (2) allow the Subcontractor the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Contract Documents, has against the Owner.

ARTICLE 12 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 12.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such claim as provided in Article 21.

§ 12.2 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's activities with theirs as required by the Contract Documents.

§ 12.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor.

ARTICLE 13 CHANGES IN THE WORK

§ 13.1 By appropriate Modification, changes in the Work may be accomplished after execution of the Contract. The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, with the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner, Contractor and Architect, or by written Construction Change Directive signed by the Owner. Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Owner in writing of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time within 10 days of Contractor's receipt of the Construction Change Directive. If the Contractor does not respond to, or fails to state its disagreement with, a Construction Change Directive in writing, within the timeframe set forth in above, Contractor shall be deemed to have accepted the terms of the Construction Change Directive and will be bound by its terms.

§ 13.2 Adjustments in the Contract Sum and Contract Time resulting from a change in the Work shall be determined by mutual agreement of the parties or, in the case of a Construction Change Directive signed only by the Owner, by the Contractor's cost of labor, material, equipment, and overhead and profit, based upon the provisions of article 13.3 unless the parties agree on another method for determining the cost or credit. Pending final determination of the total cost of a Construction Change Directive, the Contractor may request payment for Work completed pursuant to the Construction Change Directive. The Owner will make an interim determination of the amount of payment due for purposes of certifying the Contractor's monthly Application for Payment. When the Owner and Contractor agree on adjustments to the Stipulated Sum and/or the Contract Time arising from a Construction Change Directive, the Contractor will prepare a change order for Owner's review and approval setting forth the agreed adjustments.

§ 13.3 The amount of any adjustment to the Stipulated Sum due to a change order or construction change directive shall be based on the following:

- (1) For Subcontractor Work. The actual estimated cost of the work broken down and supported by back up to justify the cost plus ten percent (10%) for overhead and five percent (5%) for profit.
- (2) For General Contractor Work. For work performed by its own forces cost as supported by backup plus six percent (6%) overhead and four percent (4%) fee.
- (3) For General Contractor mark up on changes three percent (3%) for overhead and three percent (3%) for profit.

For Changes relating to an extension of the Contract Time only, the General Conditions cost that may be claimed by the Contractor will be a pro rata share of the original time related General Conditions cost included in the Schedule of Values calculated on a daily basis.

Notwithstanding the foregoing, the mark-up for unit options shall be 6% for the Contractor and 15% for the Subcontractors for materials supplied and installed and 6% for the Contractor for materials supplied only. .

§ 13.4 The Owner will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

§ 13.5 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be equitably adjusted as mutually agreed between the Owner and Contractor; provided that the Contractor provides notice to the Owner promptly and before conditions are disturbed.

ARTICLE 14 TIME

§ 14.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 14.2 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 14.3 The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 14.4 The date of Substantial Completion is the date certified by the Architect in accordance with Section 15.4.3.

§ 14.5 If the Contractor is delayed at any time in the commencement or progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties or any causes beyond the Contractor’s control, or by other causes which the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine, subject to the provisions of Article 21.

ARTICLE 15 PAYMENTS AND COMPLETION

§ 15.1 APPLICATIONS FOR PAYMENT

§ 15.1.1 Where the Contract is based on a Stipulated Sum or the Cost of the Work with a Guaranteed Maximum Price, the Contractor shall submit to the Owner, before the first Application for Payment, a schedule of values, allocating the entire Contract Sum to the various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used in reviewing the Contractor’s Applications for Payment issued on the Project.

§ 15.1.2 Contractor shall submit an itemized Application for Payment prepared in accordance with the schedule of values for completed portions of the Work. Each Application shall be signed and notarized. With each Application for Payment the Contractor shall also submit any other evidence or documents reasonably required by the Owner or its Lender. Additionally, as a condition precedent to payment, each Application for Payment shall include Release of Lien and Claims forms, attached as Exhibit 2, executed by the Contractor and any entity whose work, services and/or materials are included in the Application for Payment.

§ 15.1.3 Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing under terms acceptable to Owner including, without limitation, sufficient insurance coverage to protect the Owner’s interest in the materials and equipment.

§ 15.1.4 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

§ 15.2 CERTIFICATES FOR PAYMENT

§ 15.2.1 The Owner will, within ten days after receipt of the Contractor's Application for Payment, either approve the Application for Payment for such amount as the Owner determines is properly due, or notify the Contractor in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 15.2.3.

§ 15.2.2 The issuance of a Certificate for Payment constitutes a representation that the Owner has approved the Application for Payment, but will not be a representation that the Owner has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum. The issuance of a Certificate of Payment does not waive any rights or remedies the Owner may have under this Agreement

§ 15.2.3 The Owner may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner for the reasons set forth below. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Contractor as provided in Section 15.2.1. If the Contractor and the Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount of the Application less the amount withheld by the Owner. The Owner may withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 9.2.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents; or
- .8 failure to provide any lien release required by the Contract Documents.

§ 15.2.4 When the above reasons for withholding certification are removed, certification and payment will be made for amounts previously withheld.

§ 15.3 PROGRESS PAYMENTS

§ 15.3.1 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to sub-subcontractors in similar manner.

§ 15.3.2 Neither the Owner nor Architect shall have an obligation to pay or see to the payment of money to a Subcontractor except as may otherwise be required by law. Provided, however, that Owner, upon reasonable evidence of Contractor's failure to pay any of its subcontractors or suppliers, may, at its sole option and in its sole discretion, make payment directly to a subcontractor or supplier which payment shall be deducted from any payment due, or that is to become due, to the Contractor under this Agreement.

§ 15.3.3 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 15.4 SUBSTANTIAL COMPLETION

§ 15.4.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 15.4.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 15.4.3 Upon receipt of the Contractor's list, the Owner will make an inspection to determine whether the Work or designated portion thereof is substantially complete. When the Owner determines that the Work or designated portion thereof is substantially complete, the Owner will issue a Certificate of Substantial Completion which shall establish the date of Substantial Completion, establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 15.4.4 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work less an amount equal to 150% of the cost reasonably estimated by the Owner for completion of any punchlist items and/or the correction of any defective Work.

§ 15.5 FINAL COMPLETION AND FINAL PAYMENT

§ 15.5.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection and, when the Owner finds the Work acceptable under the Contract Documents and the Contract fully performed, the Owner will promptly issue a final Certificate for Payment. The issuance of a final Certificate of Payment does waive any rights or remedies the Owner may have under this Agreement

§ 15.5.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) any and all As-Built Documents and drawings for the Project in a form required by the Contract Documents and approved by the Owner, (4) 3 complete and bound sets of any warranty documents, owner's manuals and/or operator's manuals for the Project, (5) final release of lien and claims forms executed by Contractor and its subcontractors and (6), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of security interests or encumbrances arising out of the Contract, to the extent and in such form as may be reasonably designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 15.5.3 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 16 PROTECTION OF PERSONS AND PROPERTY

§ 16.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 16.1.2 and 16.1.3, except for damage or loss attributable to acts or omissions of the Owner or Architect or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 9.15.

§ 16.2 HAZARDOUS MATERIALS

§ 16.2.1 The Contractor is responsible for compliance with the requirements of the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents, and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shutdown, delay and start-up.

§ 16.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact, the material or substance presents the risk of bodily injury or death as described in Section 16.2.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 16.2.3 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred including reasonable attorney's fees and expenses.

ARTICLE 17 INSURANCE AND BONDS

§ 17.1 Contractor shall maintain insurance as described below written for not less than the limits of liability specified below or required by law, whichever is greater. Such insurance shall be issued by financially responsible and properly licensed insurance carriers to do business in the jurisdiction where the Work will be performed and rated at least A VIII by Best's Rating Guide (or otherwise acceptable to Owner) Coverages, whether written on an occurrence or claims made basis shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment. Further, claims-made coverage shall allow for reporting of claims for five years following completion of the Work.

Commercial General Liability Insurance Policy including Contractual Liability, Bodily Injury, Property Damage, Products & Completed Operations, Personal Injury and Advertising Injury with the following minimum limits on a

per project basis: \$2,000,000 per occurrence and \$2,000,000 annual aggregate. Owner, Owner's Lender and each of their subsidiaries and affiliates, subcontractors, sub-subcontractors, officers, agents, and employees shall be included as "Additional Insureds."

Commercial Automobile Liability Insurance Policy including all owned, leased, hired or non-owned autos subject to minimum limits of \$1,000,000 each accident for bodily injury and physical damage. Owner, Owner's Lender and each of their subsidiaries and affiliates, subcontractors, sub-subcontractors, officers, agents, and employees shall be included as "Additional Insureds."

Statutory Workers Compensation as required by applicable law and Employers' Liability with a minimum limit of \$1,000,000. The insurance carrier shall agree to waive subrogation rights as respects Owner, Owner's Lender and each of their subsidiaries and affiliates, subcontractors, sub-subcontractors, officers, agents, and employees.

Umbrella/Excess Liability insurance providing limits in excess of the limits for Commercial General Liability, Commercial Automobile Liability and Employers' Liability described above subject to minimum limits of \$5,000,000 per occurrence and annual aggregate. Owner, Owner's Lender and each of their subsidiaries and affiliates, subcontractors, sub-subcontractors, officers, agents, and employees shall be included as "Additional Insureds."

Subcontractors will also be required to carry Commercial General Liability, Workers' Compensation/Employers' Liability, Commercial Automobile and All Risk Property insurance described above in their normal and customary amounts, or as required by statute, unless otherwise directed by Contractor or Owner.

Prior to commencing its Work and annually thereafter, Contractor shall furnish one or more certificates, satisfactory to Owner, from each insurer evidencing that the coverage required by this Article is in full force and effect in compliance with the provisions of this Article. Each such certificate shall state the relevant policy number(s), date(s) of expiration and limits of coverage, and shall further state that such coverage shall not be canceled or materially changed until Contractor endeavors to provide the Owner and the Owner's Lender with at least thirty (30) days prior written notice of such cancellation or change. Contractor shall cause such certificates to be sent to the Owner's address for contract administration set forth on the cover page to this Agreement, or such other address as may be specified by Owner from time to time.

In addition, Contractor shall purchase and maintain, in a form, amount, and with a carrier or carriers acceptable to Owner and which are lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all risk" or equivalent policy form in the amount of the initial Contract sum, plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis with deductibles that shall not exceed \$5,000. The deductibles will be paid by the Owner for any claim made. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the Owner has an insurable interest in the property to be covered, whichever is later. This insurance shall include interests of the Owner, Owner's Lender, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 17.2 OWNER'S LIABILITY INSURANCE

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 17.3 PROPERTY INSURANCE

§ 17.3.1

§ 17.3.2

§ 17.3.3 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the separate contractors, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Contractor as fiduciary. The Owner or Contractor, as appropriate, shall require of the separate contractors, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that

person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 17.3.4 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their sub-subcontractors in similar manner.

§ 17.4 PERFORMANCE BOND AND PAYMENT BOND

§ 17.4.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

§ 17.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

ARTICLE 18 CORRECTION OF WORK

§ 18.1 The Contractor shall promptly correct Work rejected by the Architect or Owner, or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense, unless compensable under Section A.2.7.3 in Exhibit A, Determination of the Cost of the Work.

§ 18.2 In addition to the Contractor's obligations under Section 9.4, if, within two years after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 15.4.3, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the two-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. Contractor shall additionally perform corrective work as required under article 21.5.

§ 18.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 8.3.

§ 18.4 The two-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 18.5 The two-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Article 18.

ARTICLE 19 MISCELLANEOUS PROVISIONS

§ 19.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract without written consent of the other, except that the Owner may, without consent of the Contractor, assign the Contract to a related entity or to a lender providing construction financing for the Project if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 19.2 GOVERNING LAW

The Contract shall be governed by the law of the place where the Project is located, except, that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 21.4.

- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 repeatedly (defined as two events) disregards applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 20.2.2 When any of the above reasons exists, the Owner may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days' written notice, terminate the Contract and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 20.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 20.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 20.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses, including attorney's fees, made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

§ 20.3 TERMINATION BY THE OWNER FOR CONVENIENCE

The Owner may, at any time, terminate the Contract, in whole or in part, for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs directly incurred by reason of such termination..

ARTICLE 21 CLAIMS AND DISPUTES

§ 21.1 If the Contractor wishes to make a Claim, including without limitation, a claim for an extension of time for achieving Substantial Completion, or an increase in the Stipulated Sum, Contractor shall give Owner written notice within fifteen (15) days after the occurrence of the event giving rise to such claim and before Contractor proceeds to perform any Work which Contractor believes is outside the scope of the Work required by the Contract Documents. Within fifteen (15) days after providing such written notice, the Contractor shall submit a written statement to the Owner setting forth in detail (1) the nature and cause of the claim, and (2) an itemized and substantiated statement of the time extension or claim amount requested. If requested by the Owner, the Contractor shall also submit a plan for recovery from the effect of the delay so as to achieve Substantial Completion on or before the date established by the Contract Documents. Any claim not made in strict compliance with the provisions of this section is waived.

The requirements set forth in this Article are of the essence. The Contractor shall have the burden to prove entitlement to any change in the Stipulated Sum or change in the Contract Time. Any changes in the Stipulated Sum or Contract Time may only be effected by an authorized written Change Order signed by the Owner. No change in the Work requested by the Owner, whether an alteration or an addition to the Work shall form the basis of a change to the Stipulated Sum or to any amounts due under the Contract Documents or to a change in the Contract Time unless and until such alteration or addition has been authorized by a written Change Order or Construction Change Directive executed and issued in strict compliance with this Agreement or by written authorization to proceed with such Owner-recognized change in the Work signed by the Owner.

No course of conduct or dealing between the parties, nor express or implied acceptance of alterations or additions to the Work and no claim that the Owner has been unjustly enriched by any alteration or addition to the Work, whether or not any such unjust enrichment to the Work or the Owner in fact exists, shall form the basis of any claim for an increase in any amount due under the Contract Documents or a change in the Contract Time.

Claims, disputes and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Architect but excluding those arising under Section 16.2, shall be referred initially to the Owner for decision. Such matters, except those waived as provided for in Section 21.5 and in Section 15.5.3, shall, after initial decision by the Owner or 30 days after submission of the matter to the Owner, be subject to mediation as a condition precedent to binding dispute resolution. All decisions made by the Owner under this Article shall

include the following sentence: "This notification includes an initial decision of the Owner made pursuant to Article 21.1."

§ 21.2 If a claim, dispute or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 21.3 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with their Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 21.4 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 20. Nothing contained in this Section 21.8 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 21.5 DISPUTE RESOLUTION (CONDOMINIUM CLAIMS)

§21.5.1 Contractor shall be responsible for the correction, at its sole expense, of a defect in the construction of any unit or common element of the Condominium which gives rise to, causes or results in a violation of the warranty requirements set forth in Section 55-79.79 of the Virginia Condominium Act ("Defect") subject to the following restrictions:

§ 21.5.1.1 Contractor shall correct any Defect in the common elements and each unit of the Condominium for the period of time under the Virginia Condominium Act during which the Unit Owner's Association and/or an individual unit owner may file suit based on or arising from a Defect Contractor shall only be liable for a Defect to the extent that it arises due to Contractor's failure to perform the Work in accordance with the Contract Documents and generally accepted quality and practices of an experienced general contractor in the Washington, D.C. metropolitan area.

§21.5.1.2 Contractor's liability for a Defect shall be limited to the repair of such Defect provided that Contractor complies with all of its obligations under article 21.5 of this Agreement.

§21.5.1.3 Nothing in this section shall be construed to make the Contractor responsible or liable for any items of maintenance relating to the units and/or common elements of the Condominium or any other claim by the Association and/or a unit owner that is not covered by Section 55-79.79 of the Virginia Condominium Act.

§21.5.1.4 If the Project is developed other than as a condominium, then the provisions of Article 21.5 shall not apply.

§ 21.5.2 RESOLUTION OF CONDOMINIUM CLAIMS.

§ 21.5.2.1 Owner will be responsible for receiving any warranty claims or other claims (collectively referred to as a "Condominium Claim") by any individual unit purchaser or the Condominium Association (collectively referred to as a "Claimant"). If Owner believes that a Condominium Claim is a Defect arising from Contractor's failure to perform the Work in accordance with the Contract Documents and generally accepted quality and practices of an experienced general contractor in the Washington, D.C. metropolitan area, the Owner will promptly

report any such claim to the Contractor. Owner and Contractor will jointly attempt to determine if the Contractor is responsible for the Condominium Claim. Owner and Contractor shall execute a Joint Defense Agreement to facilitate this process. A copy of which is attached hereto as Exhibit 4. To the extent that the Contractor and Owner agree that Contractor is responsible, Contractor shall correct the Defect, and any other part of the Work damaged thereby, at its sole expense as soon as reasonably possible. To the extent Owner and Contractor agree that the Defect is not the Contractor's responsibility, the Contractor shall have no liability for the Condominium Claim, but shall cooperate with the Owner in the defense of any such Condominium Claim(s) and will reasonably provide, without cost to Owner, documents, witnesses and other factual support necessary or desirable to prepare and present a defense.

§ 21.5.2.2 If Owner and Contractor are unable to agree on the existence of a Defect and/or whether its arises from Contractor's failure to perform the Work in accordance with the Contract Documents and generally accepted quality and practices of an experienced general contractor in the Washington, D.C. metropolitan area, the parties hereby engage Rick Edelson of Tadjer, Cohen & Edelson, as an independent, impartial construction arbitrator to make a binding and enforceable determination of responsibility in accordance with the Contract Documents and generally accepted quality and practices of an experienced general contractor in the Washington, D.C. metropolitan area. Either party may, by written request to the other and to the Arbitrator, demand arbitration of the existence of a Defect and/or whether the Defect arises from Contractor's failure to perform the Work in accordance with the Contract Documents and generally accepted quality and practices of an experienced general contractor in the Washington, D.C. metropolitan area. The parties shall pay an equal share of the costs of the Arbitrator, whose determination shall be final and enforceable as an arbitration award. If Rick Edelson is unable or refuses to serve as the arbitrator, the parties will proceed with a single arbitrator from the American Arbitration Association who shall have substantial and actual experience in the design and/or construction of projects similar to this Project. If suit is filed to enforce a decision of the Arbitrator, the party prevailing in such suit shall be entitled to recover its attorney's fees and costs.

§ 21.5.2.3 The arbitration shall be conducted under rules agreed upon by Owner and Contractor or, absent such agreement, under the rules set forth by the Arbitrator after the initial meeting. All arbitrations conducted pursuant to this agreement to arbitrate will be confidential. The Arbitrator's initial decision is limited to determining whether the Condominium Claim arises from a Defect and, if yes, whether the Defect arises from Contractor's failure to perform the Work in accordance with the Contract Documents and generally accepted quality and practices of an experienced general contractor in the Washington, D.C. metropolitan. If the Arbitrator determines that the claim does not constitute a Defect or does not arise from Contractor's failure to perform the Work in accordance with the Contract Documents and generally accepted quality and practices of an experienced general contractor in the Washington, D.C. metropolitan, then Contractor shall have no liability to Owner for the claim. If the Arbitrator determines that the claim(s) is a Defect and arises from Contractor's failure to perform the Work in accordance with the Contract Documents and generally accepted quality and practices of an experienced general contractor in the Washington, D.C. metropolitan area, then Contractor shall have 10 days from receipt of the Arbitrator's decision to confirm in writing its willingness to repair the Defect, and any other part of the Work damaged thereby, and to state how it intends to correct the Defect or to propose a commercially reasonable alternative to the repair (i.e., an extended warranty, maintenance fund, etc.). If the parties are unable to agree on the repair or other remedy, either may request in writing to the other and to the Arbitrator that the Arbitrator hear evidence, following the same procedure for determination of the existence of a Defect, to determine the repair or remedy to which the Owner is entitled; however, in no event shall the cost or payment of any remedy that is an alternate to repair exceed the costs of repairs. The parties shall pay an equal share of the costs of the Arbitrator, whose decision shall be final and enforceable as an arbitration award. Contractor shall commence performing the repair or provide the remedy determined by the Arbitrator within 21 days of receipt of the Arbitrator's decision. If suit is filed to enforce a decision of Arbitrator, the party prevailing in such suit shall be entitled to recover its attorney's fees and costs.

§ 21.5.2.4 Provided that Contractor performs its obligations under Article 21.5 of this Agreement, the Contractor shall have no liability to the Owner for any other form of damages alleged by the Condominium Association or any unit purchaser including but not limited to attorney's fees, consultant's costs, consequential or indirect damages, loss of use damages, emotional distress damages, lost profits, moving costs, interest expenses and the like.

§ 21.5.2.5 All arbitrations held hereunder must be concluded (including the remedy phase) within 90 days after the written demand for arbitration is received. The parties will bear their own cost and fees in arbitration.

§ 21.5.3 Owner may not assign this Contract, any claims arising under it or any performance bonds to or for the benefit of the Condominium Association or any individual purchaser(s) of any condominium unit. For purposes of this Agreement, the term "Condominium Association" shall be deemed to include, without limitation, any organization with power to act on behalf of the purchasers of the individual condominium units with respect to alleged deficiencies in the design and construction of the Project, including any entity organized under the laws of the Commonwealth of Virginia which has responsibility for the common areas of the Project.

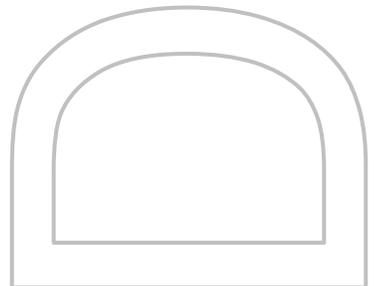
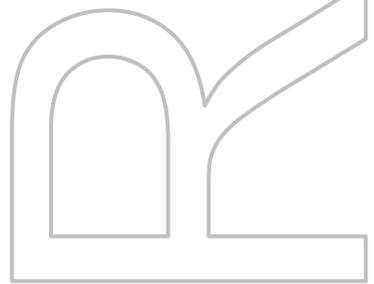
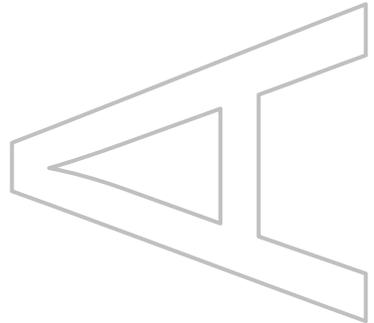
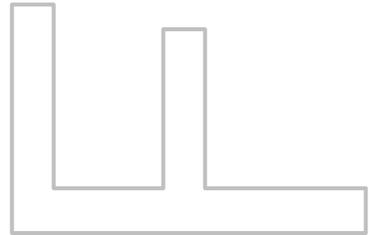
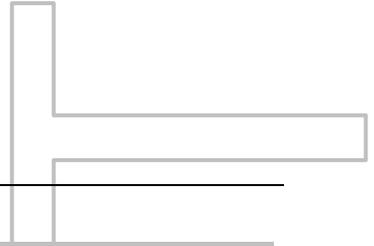
This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

(Printed name and title)

CONTRACTOR *(Signature)*

(Printed name and title)



SAMPLE CONSERVANCY, LLC

Multi-Year Budget Projections

Prepared: TBD

SAMPLE CONSERVANCY, LLC
MULTI YEAR BUDGET PROJECTIONS

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SAMPLE CONSERVANCY, LLC

MULTI-YEAR BUDGET PROJECTIONS

INTRODUCTION

These budget projections have been prepared for Sample, L.C. the Master Developer of Sample Conservancy, LLC, which is a mixed-use development on 20 acres in Fairfax County, Virginia. The Sample Conservancy is to include four phases (Phases 1, 2, 3, And 4).

The current plan for the mixed-use development phases are; Phase 1, consisting of Land Bay A comprising 100 Townhomes, Land Bay B comprising 300 multifamily units over approximately 15,000 feet of retail space and Land Bay C comprising 100 stacked Townhomes; Phase 2, consisting of Land Bay E comprising 500 Condominium units; Phase 3, consisting of Land Bay F comprising 4000 Condominium units; Phase 4, consisting of Land Bay G comprising approximately 400,000 square feet of office space, 100,000 square feet of hotel space, and 2,000 square feet of retail space.

All members of the Conservancy will contribute assessment payments for the operation of the development. These assessments are currently planned to maintain the community with regard to landscape, street trees, private roadways and sidewalks, trails, public amenities, facilities (possibly water fountains and theatre), lighting, retaining walls, reserves to provide for the replacement of common facilities, HVAC service as needed in the enclosed walkways, transportation demand management efforts required by the County, clearing snow, administration, management and insurance. Each land bay and each structure/entity in each land bay will be subject to additional assessments depending on the needs of those buildings. Purchasers are advised to read the other associated documents included in the disclosure information.

SAMPLE CONSERVANCY, LLC

MULTI-YEAR BUDGET PROJECTIONS

ASSUMPTIONS

The assumptions made in projecting revenue and expense were based upon the best information available at the time. Material changes in the assumptions will affect the accuracy of the projections.

Settlement Projections - The budget reflects settlements that are assumed to occur beginning in year 2022. The development of the parcel is also conditioned on the projected economic conditions and information provided by the developer and builders. Projected settlements each year are shown on the included schedules and cannot be predicted to occur as planned with certainty.

Assessment Structure - All owners in the Conservancy will pay a general assessment for operating expenses of the Conservancy that will benefit everyone. Condominium and townhome owners will be charged an additional assessment for services provided specifically to the area that comprises their individual community. The multifamily units, retail spaces, office space, and hotel space will be assessed on a rate based upon their overall square footage for retail/commercial/office, and the apartments based upon a percentage of the general assessment.

The general expenses that are covered by the general assessment include but are not limited to:

- Professional management and accounting services
- Legal and audit services
- Required insurance coverage
- Maintenance of landscape areas including grounds, trees, retaining walls, trails, and storm water management
- Maintenance and repair of private roadways and sidewalks and related streetscape, signage, and lighting

SAMPLE CONSERVANCY, LLC

MULTI-YEAR BUDGET PROJECTIONS

ASSUMPTIONS (Continued)

- Public amenities and facilities (possibly water fountains and open air theatre)
- Reserves to provide for the replacement of common facilities
- Clearing snow from private roadways and sidewalks
- HVAC service as needed in the enclosed walkways
- Required expenses to support Transportation Demand Management Programs

The expenses attributable to users of the townhomes and condominium units will be assessed by those subassociations directly and may also include:

- Clearing snow on roads and walks
- Repairs to roadways and curb and gutter
- Replacement reserves as determined to address the areas noted above

As part of the program to support the initial operating expenses of the Conservancy during the development period, owners will pay a one-time capital contribution that is currently equal to two months of the unit's total monthly assessment amount. This is due and payable at the time of settlement.

During the initial period of development it is anticipated that the operating expenses of the Conservancy will exceed the assessment revenue. During that time, the Declarant plans to provide funds to make up the shortfall (deficit funding). When assessment income exceeds expenses, the Declarant will be repaid for prior deficit funding with projected operating surplus.

SAMPLE CONSERVANCY, LLC

MULTI-YEAR BUDGET PROJECTIONS

ASSUMPTIONS (Continued)

Amenities – The residents will have access to parks and trails throughout the Property.

Inflation – Projected expenses for future years are inflated at 3% annually, exceeding the current rate of inflation.

Trash Service - The budget assumes that residential trash removal service is provided by either private contract or the local municipality and that apartments and commercial users will contract individually for service.

Declarant Funding – The budget assumes that the Declarant will fund the budget deficits during the Declarant Control Period. This funding may be considered a loan to the Association.

NOTES TO THE BUDGET
INCOME

Account Title

ASSESSMENT INCOME:

Condominium/Townhome General Assessment Income

Projected amount of accrued general assessment income attributable to all settled townhome and condominium units assuming initial settlements begin in 2022.

Multifamily Assessments Income

Projected amount of accrued assessment income attributable to all multifamily rental dwelling units. Assessment is calculated at 75% of the Residential Base Rate.

Office Assessment Income

Projected amount of accrued assessment income attributable to completed office space. Each 1,000 square feet of space is a unit equivalent and each unit is assessed at 50% of the Residential Base Rate.

Retail Assessment Income

Projected amount of accrued assessment income attributable to completed retail space; none expected during the first two years of development. Each 1,000 square feet of space is a unit equivalent and each unit is assessed at 50% of the Residential Base Rate.

Hotel Assessment Income

Projected amount of accrued assessment income attributable to a hotel. Each hotel room is equal to one unit and each unit is assessed at 50% of the Residential Base Rate. Approximately 150 rooms projected

Townhome Limited Common Expense Assessments (LCA) Income-Land Bay A, C/D

Projected amount of accrued assessment income attributable to all settled townhome units. The Limited Common Expense Assessment covers clearing snow, road, sidewalk and curb and gutter and grounds maintenance provided by the Association within the limits of the Townhome Section, and lighting if any.

Condominium Limited Common Expense Assessments (LCA) Income – Land Bays E & F

Projected amount of accrued LCA income attributable to all settled Condominium units in Land Bays E & F The LCA covers clearing snow and roads, sidewalks and curb and gutter and grounds maintenance provided by the Association within the limits of Land Bays E & F, and lighting if any.

NOTES TO THE BUDGET

INCOME

Account Title

Condominium Limited Common Expense Assessments (LCA) Income – Future Phases

Projected amount of accrued LCA income attributable to all settled condominium units outside of Land Bays E & F. To be determined.

Initial Working Capital Contribution- (Residential and/or Non – Residential)

Projected amount of one time assessments paid by new condominium and townhome purchasers at the time of settlement. The amount is equal to two times the total (base and LCA combined) monthly assessment. The non-residential units are to contribute a working capital contribution based upon _____.

Working Capital Contribution –Resale – (Residential and/or Non-Residential)

Upon the resale of any unit, a working capital contribution of two months, based upon the current rate, will be assessed to the purchaser. Assumed to begin in year ____.

Interest Income

Interest income is based on the investment of budgeted replacement reserves, less expenses with a one month deferral, and a 1 percent yield.

Late Fees

Assumes a late fee assessment either a a percentage or flat rate and an average delinquency rate of three percent of the number of settled units.

Program Income

For use of open air theatre & area.

ADMINISTRATIVE EXPENSES:

Bank Fees

Allowance for routine bank charges for operating and depository accounts.

Committee / Board Expense

Allowance for expenses for minute taking, educational materials, training and related services for association board and committee meetings.
(12 meetings and 4 training sessions plus minor board coast)

Office Supplies & Expenses

Allowance for purchase of envelopes, paper, stationery and minor office supplies.

Miscellaneous Expenses

Budgeted allowance for the annual registration fee with the appropriate regulatory agencies and minor expenses not included elsewhere.

NOTES TO THE BUDGET
INCOME

Account Title

Printing & Copying

Budgeted allowance for copying of mailings to owners and occupants and for professional reproduction of mass mailings, forms and flyers, as well as reimbursable reproduction by the managing agent.

Postage

Allowance of \$0.75 per owner or occupant per month for postage for mass mailings and routine business mailings.

Transportation Demand Management Expense

Allowance for the distribution of informational materials and periodic re-assessment of public transportation resources available to the community as required by the County.

Insurance

Budgeted annual expense for mandated insurance coverage to include the following:

- a. General Liability Insurance
- b. Directors & Officers Liability Insurance
- c. Employee Dishonesty Coverage
- d. Umbrella Liability Insurance
- e. Replacement value hazard insurance for reasonably insurable common property

Insurance Reserve

Allowance for insurance deductible for an insurance claim; project one claim per year.

Environmental Insurance

Projected cost for renewal of the environmental insurance policy for the community.

PROFESSIONAL SERVICES:

Audit & Tax Preparation Fees

Estimated fee for preparation of an audit report and federal and state tax returns, budgeted to commence in Year 2 for Year 1 activity.

Management Reimbursements

Projected fees for services provided by the managing agent on a reimbursable basis, including delinquency processing, wire fees and other minor miscellaneous administrative charges.

Legal Fees – General

Allowance for legal consultation on routine association matters.

NOTES TO THE BUDGET EXPENSES

Account Title

Management Fees

Cost for professional management of the Association. Services include among other things assessment collection, accounting, administration of contracted services, architectural control monitoring and guidance, customer service and Association meeting organization and attendance.

Engineering/Consulting Services

Budgeted expense for annual inspection of the amenities & required easement components and for regular updates of the replacement reserves by a certified reserve specialist.

Management Payroll Pass-through

Budgeted expense for future on-site staff. The specifics of staffing have yet to be determined; however, no on-site staff is planned for the first two years.

Program Management

Expenses to facilitate conservancy events including those held at open air theater.

TAXES:

Federal Income Taxes

Estimated federal taxes, based on 30 percent of any non-assessment income; payable in the year after earned.

State Income Taxes

Estimated state taxes, based on 6 percent of any non-assessment income; payable in the year after earned.

RESERVES:

Operating Reserves

Collections and accumulation of funds for use at the discretion of the Association.

Replacement Reserves

For replacement of capital items.

COMMON UTILITIES:

Common Electricity/Outdoor Lights

Allowance for electric service for landscape irrigation, landscape lighting, or signage that may be operated by the Association; phased-in beginning in Year 3. Project 240 light poles and wall mounts at \$.085 all in kw.

**NOTES TO THE BUDGET
EXPENSES**

Account Title

Open Air Utilities

Allowance for utility services for the Open Air Theatre. Project monthly events

Irrigation Water

Allowance for public water used for common area landscape irrigation. (Entrance areas & fountain)

REPAIR & MAINTENANCE EXPENSES:

Landscape Maintenance

Estimated cost for maintenance of lawn areas and landscaped beds. 3 acres mowing at \$12,000 per and plant beds at \$9,000 per acre.

Turf Treatments & Enhancements

Allowance for maintaining turf quality and minor enhancements to ensure a healthy appearance of green spaces throughout the community; 3 acres at \$3,000 per.

Floral Rotations

Budgeted allowance for planting of annuals in the spring and fall at certain focal points within the community. Budget assumes the Declarant will provide the installation in Year 1. Project 6 areas of rotation quarterly at \$2,000 per 6 acres.

Tree Maintenance

Allowance for special applications to or replacement of damaged or dead trees. Assumed to first occur in Year 3. Project annual survey and 10 % of 400 planted trees need special attention at \$200 and all sprayed as necessary \$25 per tree

Irrigation System Contract

Allowance for annual start-up, adjustments and fall winterization for the community landscape irrigation system, at entry areas and open air theatre.

Irrigation Repair & Maintenance

Allowance for routine repair and maintenance service to the community landscape irrigation system.

Lighting Repair & Maintenance

Allowance for routine repair and maintenance service for outdoor lighting; to begin in year 3. 240 fixtures 15% annual or \$300 service

Snow and Ice Contract

Allowance for clearing snow and ice for sidewalks along public roads in areas where no private owner or subassociation is responsible. 2 major, 6 medium, 4 minor events (\$20,000, \$15,000, \$12,000)

NOTES TO THE BUDGET EXPENSES

Account Title

Elevator/Lift

Service & maintenance on one hydraulic lift at open air theater, and two elevators near Metrorail station.

Entry Feature

Maintenance & repair on entry features & signage.

Retaining Walls

Annual engineering & inspection along with annual repairs to all retaining walls throughout the Property.

Fountain

Service & maintenance on water features at Open Air theater.

Casual Labor

Allowance for community clean-up and miscellaneous tasks on an as-needed basis; seasonal maintenance.

General Repair & Maintenance

All repairs and maintenance not otherwise included in specific budget line items.

Dog Stations Maintenance

Estimated expense to contract for pet waste station service within the community. 20 stations at \$50 a month.

Open Air Theatre

Repairs to open air theatre hardscape such as replenishment, graffiti removal and cleaning

Allowance for Unanticipated Future Maintenance

Allowance for maintenance and repair of various areas throughout the community.

COMMUNICATIONS/ACTIVITIES:

Website

Allowance for set-up and maintenance of a community website.

Community Events

Budgeted expense for homeowner events throughout the year to support programs. 8 annual events at \$3,000

**NOTES TO THE BUDGET
EXPENSES**

Account Title

LIMITED COMMON EXPENSES

TOWNHOUSE LIMITED COMMON EXPENSE:

Do we drop this as an LCE & make common?

Landscaping (Phase 1 common area)

Estimated expense for common area landscape maintenance in Phase 1 Land bays B & C/D section. The expense is phased-in as common areas will be added during development.

Landscaping (Phases 2 and 3 common area)

Estimated expense for common area landscape maintenance in the Phase 2&3 condominium sections. The expense is phased-in as common areas will be added during development anticipated to occur in Year 3.

Townhome Irrigation

Budgeted allowance for irrigation of the townhome section.

Clearing Snow (Phase 1) Interior Roads and Sidewalks

Estimated expense for clearing snow from private street and common sidewalk in Phase 1 Townhome section. The expense is phased-in as common areas will be added during development.

Clearing Snow (Phases 2 and 3) Interior Roads and Sidewalks

Estimated expense for clearing snow from private street and common sidewalk in Phase 2 and Phase 3 sections. The expense is phased-in as common areas will be added during development.

Broadband Service

Open Air Theatre

Estimated expense, based on projected settlements.

Repair and Replacement Reserves

Annual budgeted amount to allocate toward eventual replacement cost of common site elements of the townhomes such as sidewalks and parking areas & other master services in the townhome

**NOTES TO THE BUDGET
EXPENSES**

Account Title

LIMITED COMMON EXPENSES

CONDOMINIUM LIMITED COMMON EXPENSE – LAND BAYS E & F (Phases 2 & 3):

Do we drop this as an LCE & move to common responsibility?

Landscaping (common area)

Estimated expense for common area/building perimeter landscape maintenance in Land Bays E&F condominium section. The expense is phased-in as common areas will be added during development.

Irrigation

Estimated expense for irrigation operation expense in Land Bays E& F condominium section.

Clearing Snow

Estimated expense for clearing snow from private street, parking areas and common sidewalk in the Land Bays E&F section. The expense is phased-in as common areas will be added during development.

Repair and Replacement Reserves

Annual budgeted amount to allocate toward eventual replacement cost of common site elements of the condominium within Land Bays E & F such as sidewalks and parking areas. This does not include reserves for common elements of the buildings.

LIMITED COMMON EXPENSES

CONDOMINIUM LIMITED COMMON EXPENSE – FUTURE PHASES

To be Determined

**** NOTE:** The budget assumes that the Declarant will fund the deficit until such time as the Association breaks even. Projected net surplus in subsequent years will be used to repay the cumulative deficit funding.

BYLAWS

OF

THE VIRGINIA CONDOMINIUM

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BYLAWS

ARTICLE 1

General Provisions

Section 1.1. Name. These Bylaws provide for the governance of the Condominium by the Unit Owners Association pursuant to the requirements of Article 3 of the Condominium Act. The name of the Unit Owners Association is the name of the Condominium followed by the words "Unit Owners Association."

Section 1.2. Office. The office of the Condominium, the Unit Owners Association and the Board of Directors shall be located at the Property or at such other place as may be designated from time to time by the Board of Directors.

Section 1.3. Definitions. Terms used without definition have the meanings specified for such terms in the Declaration to which these Bylaws are attached as Exhibit B, or if not defined in the Declaration, the meanings specified for such terms in section 55-79.41 of the Condominium Act. The following terms have the following meanings in the condominium instruments:

(a) "Board of Directors" or "Board" means the executive organ established pursuant to Article 3.

(b) "Common Element Interest" means the number assigned to each unit by Exhibit C to the Declaration which establishes each unit's undivided interest in the common elements, common expenses and surplus and votes in the Unit Owners Association.

(c) "Commercial Unit" means a unit which may be used for non-residential purposes.

(d) "County" means the County of _____, Virginia. All references to approval by the County shall mean approval by the appropriate agency of the County, as determined by the Office of the County Attorney at that time.

(e) "Declarant Control Period" means the period prior to the earliest of (i) the date on which units to which seventy-five percent or more of the aggregate Common Element Interests appertain have been conveyed to unit owners other than the Declarant; (ii) five years after the date of the first conveyance of a condominium unit to a unit owner other than the Declarant (the maximum time period permitted by subsection 55-79.74(a) of the Condominium Act); or (iii) the date specified by the Declarant in a notice to the Unit Owners Association that the Declarant Control Period is to terminate on that date. For the purposes of the preceding sentence, the calculation of the Common Element Interests shall be based, at any given time, on the Common Element Interests to be assigned to all units then registered with the Virginia Real Estate Board.

(f) "Limited Common Expenses" means expenses separately assessed against one or more but less than all of the condominium units generally in accordance with the use of the services, as permitted by section 55-79.83 of the Condominium Act and Section 5.1 of these Bylaws and expenses relating to residential units only, as set forth in subsection 5.1(h). Except where the context requires otherwise, common expenses shall include Limited Common Expenses.

(g) "Majority Vote" means a simple majority (more than fifty percent) of the votes actually cast in person or by proxy at a duly held meeting at which a quorum is present. Any specified percentage vote means that percentage vote with respect to the votes actually cast in person or by proxy at a duly held meeting at which a quorum is present. Any specified percentage approval or vote of the Mortgagees means approval or a vote by the Mortgagees of condominium units to which such percentage of the total number of votes appertain.

(h) "Mortgagee" means an institutional lender holding a first mortgage or first deed of trust ("Mortgage") encumbering a condominium unit in the Condominium which has notified the Unit Owners Association of its status and has requested all rights under the condominium instruments. For the purposes of Article 8, when any right is to be given to a Mortgagee, the Board of Directors shall also give such right to the Federal Home Loan Mortgage Corporation, Fannie Mae (formerly the Federal National Mortgage Association), the Department of Veterans Affairs, the Federal Housing Administration, the Farmer's Home Administration, the Government National Mortgage Association and any other public or private secondary mortgage market entity participating in purchasing or guarantying Mortgages if the Board has notice of such participation.

(i) "Officer" means any person holding office pursuant to Article 4, but contrary to section 55-79.41 of the Condominium Act, shall not mean members of the Board of Directors unless such directors are also Officers pursuant to Article 4.

(j) "Reserved Common Element" means a common element in which the Board of Directors has granted a revocable license for exclusive use by less than all of the unit owners.

(k) "Unit Owners Association" or "Association" means the unincorporated, non-profit association of all the unit owners owning condominium units in the Condominium.

ARTICLE 2

Unit Owners Association

Section 2.1. Composition. The Unit Owners Association consists of all of the unit owners. For all purposes the Association acts merely as an agent for the unit owners as a group. The Association has the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium and performing all of the other acts that may be required or permitted to be performed by the Association by the Condominium Act and the Declaration. Except as to those

matters which the Condominium Act specifically requires to be decided by the vote of the Association, the foregoing responsibilities shall be performed by the Board of Directors or managing agent as more particularly set forth in Article 3.

Section 2.2. Annual Meetings. The annual meetings of the Unit Owners Association shall be held on weekdays (other than legal holidays) at least forty-five days before the beginning of each fiscal year. The first meeting of the Association shall be held within one year after there is a unit owner other than the Declarant.

Section 2.3. Place of Meetings. Meetings of the Unit Owners Association shall be held at the principal office of the Association or at such other suitable place convenient to the unit owners as may be designated by the Board of Directors.

Section 2.4. Special Meetings.

(a) The President shall call a special meeting of the Unit Owners Association: (i) if so directed by resolution of the Board of Directors; (ii) after the termination of the Declarant Control Period, upon a petition signed and presented to the Secretary by unit owners of units to which not less than twenty-five percent of the total Common Element Interest appertains; or (iii) during the Declarant Control Period, upon request of the Declarant. The signatures on a petition requesting a special meeting shall be valid for a period of one hundred-eighty days after the date of the first such signature. Such resolution, petition or request must (1) specify the time and place at which meeting is to be held, (2) either specify a date on which the meeting is to be held which will permit the Secretary to comply with Section 2.5, or else specify that the Secretary shall designate the date of the meeting, (3) specify the purposes for which the meeting is to be held, and (4) be delivered to the Secretary. The notice of any special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

(b) Not later than the termination of the Declarant Control Period, a special meeting of the Association shall be held at which a majority of the directors shall be elected by the unit owners, including the Declarant if the Declarant owns any units, to serve terms as provided in Section 3.3. If such election is held prior to the time required by this section, the directors elected at such election shall not take office until the earlier of the time such election is required to be held or resignation of a director appointed by the Declarant without appointment of a replacement within ten days. The elected directors shall assume office in the order of the highest number of votes received. Any remaining directors designated by the Declarant shall continue to serve until their terms expire; provided, however, that no more than two such directors may serve until the first annual meeting after the special meeting held pursuant to this subsection and no more than one such director may serve until the second annual meeting after the special meeting held pursuant to this subsection.

Section 2.5. Notice of Meetings. The Secretary shall notify each unit owner of each annual or regularly scheduled meeting of the unit owners at least twenty-one but not more than thirty days, and of each special meeting of the unit owners at least seven but not more than thirty

days, prior to such meeting, stating the time, place and purpose thereof. The giving of a notice of meeting in the manner provided in this section and Section 11.1 constitutes service of notice.

Section 2.6. Quorum and Adjournment of Meetings. Except as otherwise provided in these Bylaws, the presence in person or by proxy of unit owners owning units to which twenty-five percent or more of the total Common Element Interest appertains constitutes a quorum at all meetings of the Unit Owners Association. If at any meeting of the Association a quorum is not present, unit owners of a majority of the Common Element Interests who are present at such meeting in person or by proxy may: (i) recess the meeting to such date, time and place as such unit owners may agree not more than forty-eight hours after the time the original meeting was called; or (ii) adjourn the meeting to a time not less than forty-eight hours after the time the original meeting was called, whereupon the Secretary shall make reasonable efforts to notify unit owners of such date, time and place.

Section 2.7. Order of Business. The order of business at all meetings of the Unit Owners Association shall be as follows: (a) roll call (proof of quorum); (b) proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) report of Board of Directors; (f) reports of committees; (g) appointment of inspectors of election (when so required); (h) election of directors (when so required); (i) unfinished business; and (j) new business; provided, however, that balloting for election of directors may commence at any time.

Section 2.8. Conduct of Meetings. The President shall preside over all meetings of the Unit Owners Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The then current edition of Robert's Rules of Order, Newly Revised, shall govern the conduct of all meetings of the Association when not in conflict with the Condominium Act or the condominium instruments. Tellers, appointed by the President or other Officer presiding over the meeting, shall supervise the tallying of all votes, and the names and addresses of the tellers shall be recorded in the minutes of the meeting.

Section 2.9. Voting.

(a) Basis; Multiple Person Owners. Voting at all meetings of the Unit Owners Association shall be on a percentage basis and the percentage of the vote to which each unit owner is entitled shall be the Common Element Interest assigned to such unit owner's unit in the Declaration. Where the ownership of a unit is in more than one person, the person entitled to cast the vote of such unit shall be the person named in a certificate signed by all of the owners of such unit and filed with the Secretary (if such a certificate is on file) or, in the absence of such named person from the meeting, the person entitled to cast the vote of such unit shall be the person owning such unit who is present. If more than one person owning such unit is present, then such vote shall be cast only in accordance with their unanimous agreement pursuant to subsection 55-79.77(c) of the Condominium Act. If a unit owner is not a natural person, the vote for such unit may be cast by any natural person having authority to sign deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with one or more other persons, a unit owner; provided, however, that such natural person is named in a certificate

signed by an authorized officer of such person; and, provided, further, that any vote cast by a natural person on behalf of such unit owner shall be deemed valid unless successfully challenged prior to adjournment of the meeting at which such vote was cast. Such certificate shall be valid until revoked by a subsequent certificate similarly signed and filed. Subject to the requirements of the Condominium Act, wherever the approval or disapproval of a unit owner is required by the Condominium Act or the condominium instruments, such approval or disapproval shall be made only by the person who would be entitled to cast the vote of such unit at any meeting of the Unit Owners Association. There shall be no cumulative voting.

(b) Required Vote. Except where a greater number is required by the Condominium Act or the condominium instruments, a Majority Vote is required to adopt decisions at any meeting of the Association. If the Declarant owns or holds title to a unit, the Declarant shall have the right at any meeting of the Association to cast the vote appurtenant to such unit.

(c) Delinquents. No unit owner may vote at any meeting of the Association or be elected to or serve on the Board of Directors if payment by such unit owner of any financial obligation to the Association is delinquent more than sixty days and the amount necessary to bring the account current has not been paid at the time of such meeting or election.

Section 2.10. Proxies. A vote may be cast in person or by proxy. A proxy may be instructed (directing the proxy how to vote) or uninstructed (leaving how to vote to the proxy's discretion). Proxies may be granted by any unit owner in favor of only: (i) another unit owner, an Officer, the Declarant or such unit owner's Mortgagee, (ii) additionally in the case of a non-resident unit owner, the unit owner's lessee, attorney or rental agent or (iii) with respect to instructed proxies only, the managing agent. No person other than the Declarant, the managing agent or an Officer shall cast votes as a proxy for more than one unit not owned by such person; provided, however, that no Officer shall cast votes as an uninstructed proxy for more than five units not owned by such person and provided, further, that a Mortgagee or an attorney or a rental agent for a nonresident unit owner may cast votes as proxy for as many units as such person represents. Proxies shall comply with the requirements of subsection 55-79.77D of the Condominium Act shall contain the full name and address of the witness, shall be dated, shall be signed by a person having authority at the time of the execution thereof to sign deeds on behalf of that person, shall terminate after the first meeting held on or after the date of that proxy or any recess or adjournment of that meeting held within thirty days and shall be filed with the Secretary. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from any of the persons owning such unit. Except with respect to proxies in favor of a lessee or Mortgagee, no proxy shall in any event be valid for a period in excess of one hundred and eighty days after the date the proxy is signed.

ARTICLE 3

Board of Directors

Section 3.1. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Unit Owners Association and may do

all such acts and things as are not by the Condominium Act or the condominium instruments required to be exercised and done by the Association. The Board of Directors shall delegate to one of its members or to a person employed for such purpose the authority to act on behalf of the Board on such matters relating to the duties of the managing agent (as defined in Section 3.2) if any, which may arise between meetings of the Board as the Board deems appropriate. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board shall on behalf of the Association:

(a) Prepare and adopt an annual budget, in which there shall be expressed the assessments of each unit owner for the common expenses.

(b) Make assessments against unit owners to defray the costs and expenses of the Condominium, establish the means and methods of collecting such assessments from the unit owners and establish the period of the installment payment of the annual assessment for common expenses.

(c) Provide for the operation, care, upkeep and maintenance of all of the Property and services of the Condominium; provided, however, that after the Declarant Control Period, (1) any significant reduction therein, or (2) contracting therefor at rates twenty percent or more below the reasonable costs (as budgeted for an average of the prior three years) shall first require a Majority Vote of the unit owners or prior written approval by owners of units to which more than fifty percent of the total number of votes in the Association appertain.

(d) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the common elements and provide services for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the Property.

(e) Collect the assessments against the unit owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Property.

(f) Adopt and amend any rules and regulations in accordance with subsection 5.8(b); provided, however, that such rules and regulations shall not be in conflict with the Condominium Act or the condominium instruments.

(g) Open bank accounts on behalf of the Association and designate the signatories thereon.

(h) Make, or contract for the making of, repairs, additions and improvements to or alterations and restoration of the Property, in accordance with these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

(i) Enforce by legal means the provisions of the Declaration, these Bylaws and the rules and regulations, act on behalf of the unit owners with respect to all matters arising out of any eminent domain proceeding, and notify the unit owners of any litigation against the Association involving a claim in excess of ten percent of the amount of the annual budget.

(j) Obtain and carry insurance against casualties and liabilities, as provided in Article 6, pay the premiums therefor and adjust and settle any claims thereunder.

(k) Pay the cost of all authorized services rendered to the Association and not billed to unit owners of individual units or otherwise provided for in Sections 5.1 and 5.2.

(l) In accordance with section 55-79.74:1 of the Condominium Act, keep books with detailed accounts in chronological order of the receipts and expenditures affecting the Property, and the administration of the Condominium, specifying the expenses of maintenance and repair of the common elements and any other expenses incurred. Such books and vouchers accrediting the entries therein shall be available for examination by the unit owners, their attorneys, accountants, Mortgagees and authorized agents during general business hours on business days at the times and in the manner set and announced by the Board of Directors for the general knowledge of the unit owners. All books and records shall be kept in accordance with generally accepted accounting principles, and the same shall be audited at least once each year by an independent auditor retained by the Board of Directors who shall not be a resident of the Condominium, a tenant or a unit owner. The cost of such audit shall be a common expense.

(m) Notify a Mortgagee of any default hereunder by the unit owner of the unit subject to such Mortgage, if such default continues for more than sixty days.

(n) Borrow money on behalf of the Condominium when required in connection with any one instance relating to the operation, care, upkeep and maintenance of the common elements; provided, however, that (except during the Declarant Control Period) either a Majority Vote obtained at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws or the written approval of unit owners of units to which more than fifty percent of the votes in the Association appertain, shall be required to borrow any sum in excess of one percent of the total annual assessment for common expenses for that fiscal year. If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this subsection (n) is not repaid by the Association, a unit owner who pays to the creditor a percentage of the total amount due equal to such unit owner's Common Element Interest in the Condominium shall be entitled to obtain from the creditor a release of any judgment or other lien which such creditor shall have filed or shall have the right to file against such unit owner's condominium unit, and the Association shall not be entitled to assess the unit for payment of the remaining amount due such creditor.

(o) Acquire, hold and dispose of condominium units and mortgage the same without the prior approval of the Association if such expenditures and hypothecations are included in the budget adopted by the Association.

(p) In its sole discretion, from time to time, designate certain common elements as Reserved Common Elements and impose such restrictions and conditions on the use thereof as the Board of Directors deems appropriate.

(q) Grant and accept easements through or over the common elements in accordance with subsection 55-79.80B of the Condominium Act.

(r) Upon receipt of such payment as may be established by the Board of Directors in compliance with section 55-79.97 of the Condominium Act, furnish the statement required by section 55-79.97 subsection 55-79.84H and section 55-79.85 of the Condominium Act within ten days after the receipt of a written request therefor from any unit owner, substantially in the form set forth on Exhibit A to these Bylaws and designated "Certificate for Resale."

(s) Do such other things and acts not inconsistent with the Condominium Act or the condominium instruments which the Board of Directors may be authorized to do by a resolution of the Association.

Section 3.2. Managing Agent. The Board of Directors shall employ for the Condominium a "managing agent" at a compensation to be established by the Board.

(a) Requirements. The managing agent shall be a bona fide business enterprise, unaffiliated with the Declarant, which manages common interest residential communities. Such firm or its principals shall have a minimum of two years experience in real estate community management and shall employ persons possessing a high level of competence in the technical skills necessary to proper management of the Condominium. The managing agent must be able to advise the Board of Directors regarding the administrative operation of the Condominium and shall employ personnel knowledgeable in the areas of condominium insurance, accounting, contract negotiation, labor relations and condominium regulation.

(b) Duties. The managing agent shall perform such duties and services as the Board of Directors shall direct. Such duties and services may include, without limitation, the duties listed in subsections (a), (c), (d), (e), (h), (i), (j), (k), (l), (m), (r) and (s) of Section 3.1. The Board of Directors may delegate to the managing agent all of the powers granted to the Board of Directors by these Bylaws other than the powers set forth in subsections (b), (f), (g), (n), (o) (p), and (q) of Section 3.1. The managing agent shall perform the obligations, duties and services relating to the management of the Property, the rights of Mortgagees and the maintenance of reserve funds in compliance with the provisions of these Bylaws.

(c) Standards. The Board of Directors shall impose appropriate standards of performance upon the managing agent. Unless the managing agent is instructed otherwise by the Board of Directors:

(1) the accrual method of accounting shall be employed and expenses required by these Bylaws to be charged to more than one but less than all of the unit owners shall be accounted for and reported separately;

(2) two or more persons shall be responsible for handling cash to maintain adequate financial control procedures;

(3) cash accounts of the Unit Owners Association shall not be commingled with any other entity's accounts;

(4) no remuneration shall be accepted by the managing agent from vendors, independent contractors or others providing goods or services to the Association whether in the form of commissions, finders fees, service fees or otherwise; any discounts received shall benefit the Association;

(5) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed in advance to the Board of Directors; and

(6) a quarterly financial report shall be prepared for the Association containing:

(A) an "income statement" reflecting all income and expense activity for the preceding period on an accrual basis;

(B) an "account activity statement" reflecting all receipt and disbursement activity for the preceding period on a cash basis;

(C) an "account status report" reflecting the status of all accounts in an "actual" versus "projected" (budget) format;

(D) a "balance sheet" reflecting the financial condition of the Association on an unaudited basis;

(E) a "budget report" reflecting any actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or ten percent of a major budget category (as distinct from a specific line item in an expanded chart of accounts); and

(F) a "delinquency report" listing all unit owners who are delinquent in paying condominium assessments and describing the status of any actions to collect such assessments.

(d) Limitations. During the Declarant Control Period, the Board of Directors shall employ a managing agent for an initial term not to exceed two years. The Association and the Board of Directors shall not undertake "self-management" or fail to employ a managing agent without the prior consent of at least sixty-seven percent of the unit owners and at least fifty-one percent of the Mortgagees. Any contract with the managing agent must provide that it

may be terminated, without payment of a termination fee, without cause on no more than ninety days written notice and with cause on no more than thirty days written notice.

Section 3.3. Number and Term of Office.

(a) Designated Members. During the Declarant Control Period, the Declarant shall be entitled to designate directors not elected pursuant to Section 2.4. The initial Board of Directors shall consist of no less than three nor more than seven persons, all of whom shall be designated by the Declarant. The term of office of at least two directors shall expire at the third annual meeting after the special meeting held pursuant to subsection 2.4(b); the term of office of up to three additional directors shall expire at the second annual meeting after the special meeting held pursuant to subsection 2.4(b); and the term of office of any other directors shall expire at the first annual meeting after the special meeting held pursuant to subsection 2.4(b). The Declarant shall fix the term of each designee. At the special meetings required by subsection 2.4(b), a number of the directors designated by the Declarant shall resign if necessary so that a majority of the directors shall have been elected in accordance with subsection 2.4(b). The persons elected shall serve for the remainder of the terms of office of the resigning directors who such persons replace, or if no resignation was required, for the terms of office necessary so that the term of office of one-third of the directors shall expire at each of the first three annual meetings after their election. The directors receiving the greatest vote shall be elected for the longest available terms. At the expiration of the term of office of all directors designated by the Declarant or elected at the special meeting held pursuant to subsection 2.4(b), all successor directors shall be elected to serve for a term of three years. For a period of one year following the termination of service by the directors designated by the Declarant, the Declarant may appoint and replace from time to time a representative who shall be entitled to notice of all meetings of the Board of Directors and to attend and speak (but not vote) at all Board meetings, in all respects as if such delegate were a member of the Board.

(b) Elected Members. No later than the first annual meeting of the Unit Owners Association after the special meeting held pursuant to subsection 2.4(b), the Board of Directors shall be composed of five persons, at least one of whom shall be the unit owner of a Commercial Unit, all of whom shall be unit owners or agents (officer, partner, etc.) or employees of a unit owner, Mortgagees (or designees of Mortgagees) or designees of the Declarant. An elected director shall serve for a term of three years unless elected to fill a vacancy, in which case such director shall serve as provided in Section 3.6. Except for resignation or removal, the directors shall hold office until their respective successors are elected by the Association.

Section 3.4. Election of Directors.

(a) Elections Committee. At least sixty-five days prior to the special meeting required by subsection 2.4(b) and each annual meeting of the Unit Owners Association thereafter, the Board of Directors shall appoint an Elections Committee consisting of a member of the Board whose term is not then expiring and at least two other unit owners. The Elections Committee shall develop election procedures and administer such procedures as are approved by the Board providing for election of directors by ballot of the unit owners at annual meetings and, where appropriate, special meetings.

(b) Nominations. Persons qualified to be directors may be nominated for election only by a nominating petition submitted to the chairman of the Elections Committee at least thirty-five days before the meeting at which the election is to be held signed by persons owning fee simple interests in and representing in the aggregate at least ten units and either signed by the nominee or accompanied by a document signed by the nominee indicating the willingness to serve as a director; provided, however, that additional nominations may be made from the floor at the meeting at which the election is held for each vacancy on the Board of Directors for which no more than one person has been nominated by petition. The nominee must either be present and consent to the nomination or have indicated in writing the willingness to serve. This subsection (b) does not apply to persons appointed to the Board by the Declarant.

(c) Qualifications. No person shall be eligible for election as a member of the Board of Directors unless such person is (alone or together with one or more other persons) a unit owner, or an agent (officer, partner, etc.) or an employee of a unit owner, Mortgagee (or a designee of a Mortgagee) or a designee of the Declarant. No person affiliated with a unit owner nor any unit owner shall be elected as a director or continue to serve as a director if such person is more than sixty days delinquent in meeting financial obligations to the Association and a lien has been filed against such person's unit.

Section 3.5. Removal or Resignation of Directors. Except with respect to directors designated by the Declarant, at any regular or special meeting of the Unit Owners Association duly called, any one or more of the directors may be removed with or without cause by a Majority Vote of the unit owners (as defined in subsection 1.3(e)) and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the unit owners shall be given at least seven days notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A director may resign at any time (i) in person at a meeting of the Board or the Association or (ii) by giving written notice to an Officer. Resignation of a director is effective when delivered unless the notice specifies an effective date which is not more than thirty days after the date of the notice. Except for directors who are designees of the Declarant, a director shall be deemed to have resigned automatically and without notice upon disposition of the unit which made such person eligible to be a director as provided for officers in subsection 55-79.78A of the Condominium Act, or if not in attendance at three consecutive regular meetings of the Board, if the minutes reflect the Board's removal of such director for such absence.

Section 3.6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the unit owners shall be filled by a vote of a majority of the remaining directors at a special meeting of the Board held for such purpose promptly after the occurrence of any such vacancy, even though the directors present at such meeting may constitute less than a quorum because a quorum is impossible to obtain. Each person so elected shall be a director until the unit owners elect a successor at the next annual meeting of the Unit Owners Association. The term of the replacement director so elected shall expire so that the staggered terms of directors shall remain unaffected. Directors elected by the unit owners or the Board to fill a vacancy shall serve the remainder of the term of office of the director being replaced. During the Declarant Control Period, the Declarant shall designate the successor to any director previously designated by the Declarant who resigns or is removed.

Section 3.7. Meetings of Directors.

(a) Organization Meeting. The first meeting of the Board of Directors following the annual meeting of the Unit Owners Association shall be held within thirty days thereafter at such time and place as shall be determined by a majority of the directors at the annual meeting.

(b) Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but such meetings shall be held at least quarterly during each fiscal year.

(c) Special Meetings. The President may call a special meeting of the Board of Directors on three business days notice to each director, given personally or by mail, telegraph or telephone; such notice shall state the time, place and purpose of the meeting. The President or Secretary shall call a special meeting of the Board of Directors in like manner and on like notice on the written request of at least three directors.

(d) Executive Session. All meetings of the Board of Directors shall be open to unit owners as observers, except that the President or presiding officer may call the Board into executive session on sensitive matters such as personnel, litigation strategy or hearings for violations of the condominium instruments, as provided in subsection 55-79.75B of the Condominium Act. Any final action taken by the Board in executive session shall be recorded in the minutes.

(e) Notice. Notice of meetings of the Board of Directors shall be given to each director, personally or by mail, telegraph or telephone, at least three business days prior to the day named for such meeting. No notice of the organizational meeting shall be necessary if such meeting is held immediately following the annual meeting.

(f) Waiver of Notice. Any director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director, in person or by telephone communication, at any meeting of the Board of Directors shall constitute a waiver of notice by such director of the time, place and purpose of such meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

(g) Quorum of Board of Directors. At all meetings of the Board of Directors a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn or recess the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. A director who participates in a meeting by means of telephone or similar communications equipment whereby all directors participating in the meeting can hear each other at the same time shall be deemed present at the meeting for all purposes.

(h) Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order, Newly Revised, shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Condominium Act or the condominium instruments.

Section 3.8. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the directors shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

Section 3.9. Compensation. No director shall receive any compensation from the Condominium for acting as such.

Section 3.10. Board of Directors as Agent. The Board of Directors shall have the power to act as agent for the unit owners of all of the units and for each of them, to manage, control and deal with the interests of such unit owners in the common elements of the Condominium to permit the Board of Directors to fulfill all of its powers, rights, functions and duties. The Board of Directors shall have the power to act as agent for each unit owner, each Mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Condominium or the Property to: (i) adjust and settle all claims arising under insurance policies purchased by the Board of Directors, (ii) execute and deliver releases upon the payment of claims and (iii) act on their behalf in any condemnation proceeding or action of eminent domain pursuant to section 55-79.44 of the Condominium Act; provided, however, that the consent of a Mortgagee shall be required if such Mortgagee notifies the Board of Directors pursuant to Section 11.1 within thirty days after receipt of notice of the damage pursuant to subsection 6.2(c) or notice of the taking in condemnation or by eminent domain pursuant to Section 8.2. The powers set forth in this section are in addition to any rights granted by subsection 55-79.80B of the Condominium Act. The Board of Directors may grant and accept easements and licenses pursuant to subsection 55-79.80B of the Condominium Act.

Section 3.11. Liability of the Board of Directors, Officers, Unit Owners and Unit Owners Association. (a) The Officers, directors and members of the Covenants Committee shall not be liable to the Unit Owners Association or any unit owner for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the Officers and directors from and against all contractual liability to others arising out of contracts made by the Officers or the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Condominium Act or the condominium instruments, except to the extent that such liability is satisfied by directors and officers liability insurance. Officers and directors shall have no personal liability with respect to any contract made by them on behalf of the Association. The liability of any unit owner arising out of any contract made by the Officers or Board of Directors, or out of the indemnification of the Officers or directors, or for damages as a result of injuries arising in connection with the common elements solely by virtue of ownership of a Common Element Interest therein or for liabilities incurred by the

Association, shall be limited to the total liability multiplied by such unit owner's Common Element Interest. Every agreement made by the Officers, the Board of Directors or the managing agent on behalf of the Association shall, if obtainable, provide that the Officers, the directors or the managing agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as unit owners), and that each unit owner's liability thereunder shall be limited to the total liability thereunder multiplied by such unit owner's Common Element Interest. The Association shall indemnify and hold harmless each of the members of the Covenants Committee from and against all liability to others arising out of the due exercise of such member's responsibilities unless such member's action shall have been taken in bad faith or contrary to the provisions of the Condominium Act or the condominium instruments. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that such person is or was an Officer or director of the Association or a member of the Covenants Committee against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Condominium.

(b) The Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a common expense, or for injury or damage to person or property caused by the elements or by any unit owner, or resulting from electricity, water, snow or ice which may leak or flow from or over any portion of the common elements or from any pipe, drain, conduit, appliance or equipment. The Association shall not be liable to any unit owner for loss or damage, by theft or otherwise, of articles which may be stored upon any of the common elements. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the common elements or from any action taken by the Association to comply with any law, ordinance or with the order or directive of any governmental authority.

Section 3.12. Common or Interested Directors. Each director shall exercise such director's powers and duties in good faith and with a view to the interests of the Condominium. No contract or other transaction between the Unit Owners Association and any of its directors, or between the Association and any corporation, firm or association (including the Declarant) in which any of the directors of the Association are directors or officers or are pecuniarily or otherwise interested, is either void or voidable because any such director is present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because such director's vote is counted for such purpose, if any of the conditions specified in any of the following subsections exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(b) The fact of the common directorate or interest is disclosed or known to at least a majority of the unit owners, and the unit owners approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

Any common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote at the meeting to authorize any contract or transaction with like force and effect as if such director of the Association were not an officer or director of such other corporation, firm or association or not so interested.

Section 3.13. Covenants Committee.

(a) Purpose. The Board of Directors shall establish a Covenants Committee, consisting of three members appointed by the Board, one of whom shall be the owner of a Commercial Unit, each to serve for a term of one year, in order to assure that the Condominium shall always be maintained in a manner: (1) providing for visual harmony and soundness of repair; (2) avoiding activities deleterious to the esthetic or property values of the Condominium; (3) furthering the comfort of the unit owners, their guests and tenants; (4) promoting the general welfare and safety of the Condominium community; and (5) facilitating the commercial uses of the Commercial Units.

(b) Powers. The Covenants Committee shall regulate the external design, appearance, use and maintenance of the units and the common elements. The Covenants Committee shall have the power to impose reasonable application fees as well as the costs of reports, analyses, or consultations required in connection with improvements or changes proposed by a unit owner. The Covenants Committee shall have the power to impose reasonable charges (pursuant to subsection 9.1(g)) upon, and issue a cease and desist request to, a unit owner, a member of such unit owner's household, company or such unit owner's guests, invitees, or tenants, agents or employees whose actions are inconsistent with the provisions of the Condominium Act, the condominium instruments, the rules and regulations or resolutions of the Board of Directors (upon petition of any unit owner or upon its own motion). The Covenants Committee shall from time to time, as required, provide interpretations of the condominium instruments, rules and regulations and resolutions pursuant to the intents, provisions and qualifications thereof when requested to do so by a unit owner or the Board of Directors. Any action, ruling or decision of the Covenants Committee may be appealed to the Board of Directors by any party deemed by the Board to have standing as an aggrieved party and the Board may modify or reverse any such action, ruling or decision.

(c) Authority. The Covenants Committee shall have such additional duties, powers and authority as the Board of Directors may from time to time provide by resolution. The Board of Directors may relieve the Covenants Committee of any of its duties, powers and authority either generally or on a case-by-case basis. The Covenants Committee shall carry out its duties and exercise its powers and authority in the manner provided for in the rules and

regulations or by resolution of the Board of Directors. The Covenants Committee shall act on all matters properly before it within forty-five days; failure to do so within the stipulated time shall constitute an automatic referral of such matters to the Board of Directors for consideration.

(d) Commercial Unit. The Covenants Committee shall not exercise its powers and authority to interfere with the reasonable conduct of business in any Commercial Unit. Reasonable signs, modifications, alterations and changes of use by the owner of a Commercial Unit which are needed for the proper conduct of business shall be permitted. Further, reasonable modifications to the Commercial Units and to common elements adjacent thereto shall be permitted to allow remodeling and reconfiguration of such units.

ARTICLE 4

Officers

Section 4.1. Designation and Duties. The principal Officers of the Unit Owners Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an assistant treasurer, an assistant secretary and such other Officers as in its judgment may be necessary. The President and Vice President shall be members of the Board of Directors. Any other Officers may, but need not, be unit owners. Each Officer shall perform such duties as are normally associated with such office in parliamentary organizations, except to the extent (if any) inconsistent with the Condominium Act or the condominium instruments, and shall perform such other duties as may be assigned to such office by resolution of the Board of Directors. If any Officer is unable for any reason to perform the duties of the office, the President (or the Board of Directors if the President fails to do so) may appoint another qualified person to act in such Officer's stead on an interim basis.

Section 4.2. Election of Officers. The Officers of the Unit Owners Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board. Any Officer may hold more than one position; provided, however, that three different individuals shall hold the offices of President, Vice President and Secretary, and the President shall not simultaneously serve as Treasurer. Except for death, resignation or removal, the Officers shall hold office until the Board elects their respective successors.

Section 4.3. Removal or Resignation of Officers. Upon the affirmative vote of a majority of all members of the Board of Directors any Officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose. An Officer may resign as provided for a director in Section 3.5.

Section 4.4. President. The President shall: be the chief executive officer of the Unit Owners Association; preside at all meetings of the Association and of the Board of Directors; have general and active direction of the business of the Association subject to the control of the Board; see that all orders and resolutions of the Board are carried into effect; and appoint

committees from time to time as the President may decide is appropriate to assist in the conduct of the affairs of the Association.

Section 4.5. Vice President. The Vice President shall take the place of the President and perform the duties of the President 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 Directors shall appoint some other director 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 by the Board of Directors or by the President.

Section 4.6. Secretary. The Secretary shall: keep the minutes of all meetings of the Unit Owners Association and of the Board of Directors; have charge of such books and papers as the Board may direct; give or cause to be given all notices required to be given by the Association; maintain a register setting forth the place to which all notices to unit owners and Mortgagees hereunder shall be delivered; and, in general, perform all the duties incident to the office of Secretary. Pursuant to section 55-79.93:1 of the Condominium Act, after the termination of the Declarant Control Period, the Secretary shall file any required annual report with the Virginia Real Estate Board and pay the required fee. The Secretary may delegate the responsibility to file to a managing agent.

Section 4.7. Treasurer. The Treasurer shall (together with the managing agent): be responsible for Unit Owners Association funds and securities; keep full and accurate financial records and books of account showing all receipts and disbursements; prepare all required financial data; deposit all monies and other valuable effects in the name of the Board of Directors, the Association or the managing agent, in such depositories as may from time to time be designated by the Board; and, in general, perform all the duties incident to the office of treasurer. The Treasurer shall ensure that the statements of account of the Association are reconciled no less than quarterly.

Section 4.8. Execution of Documents. Unless otherwise provided in the resolution of the Board of Directors: (i) all agreements, contracts, deeds, leases, checks and other instruments of the Unit Owners Association for expenditures or obligations in excess of one percent of the total annual assessment for common expenses for that fiscal year, and all checks drawn upon reserve accounts, shall be executed by any two persons designated by the Board of Directors; and (ii) all such instruments for expenditures or obligations of one percent of the total annual assessment for common expenses for that fiscal year or less, except from reserve accounts, may be executed by any one person designated by the Board of Directors. Any Officer of the Association may be designated by Board resolution to sign any certification pursuant to subsection 55-79.71D or subsection 55-79.72:1C of the Condominium Act and to sign Certificates for Resale on behalf of the Association. Any Officer may also be designated by Board resolution to sign any amendment to subdivide a unit or relocate boundaries between units on behalf of the Association or at the request of a unit owner, pursuant to section 55-79.69 or 55-79.70 of the Condominium Act.

Section 4.9. Compensation of Officers. No Officer who is also a director shall receive any compensation from the Unit Owners Association for acting as such Officer.

ARTICLE 5

Operation of the Property

Section 5.1. Determination of Common Expenses and Assessments Against Unit Owners.

(a) Fiscal Year. The fiscal year of the Unit Owners Association shall be the calendar year unless otherwise determined by the Board of Directors.

(b) Preparation and Approval of Budget.

(1) At least seventy-five days before the beginning of each fiscal year, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the common elements and those parts of the units as to which it is the responsibility of the Association to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be common expenses by the Condominium Act, the condominium instruments or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the unit owners of all related services. The budget shall also reflect the separate assessment of Limited Common Expenses.

(2) Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements. At least sixty-five days before the beginning of each fiscal year, the Board of Directors shall send to each unit owner a copy of the budget in a reasonably itemized form which sets forth the amount of the common expenses and any special assessment payable by each unit owner. Such budget shall constitute the basis for determining each unit owner's assessment for the common expenses of the Condominium.

(c) Assessment and Payment of Common Expenses.

(1) Subject to the provisions of subsection 9.1(a), the total amount of the estimated funds required from assessments for the operation of the Property set forth in the budget adopted by the Board of Directors shall be assessed against each unit owner in proportion to such unit owner's respective Common Element Interest, except for: (i) Limited Common Expenses, which shall be assessed against each unit owner benefited in proportion to the relative Common Element Interest of such units inter se, or in accordance with use of the service, as appropriate, and (ii) expenses payable by owners of residential units only, which shall be assessed against the residential units benefited in proportion to the relative Residential Only Share of such residential units, inter se, as provided in subsection (h). The assessment for common expenses, including Limited Common Expenses, shall be a lien against each unit owner's unit as provided in Section 9.2. On or before the first day of each fiscal year, and the first day of each of the succeeding eleven months in such fiscal year, each unit owner shall be

obligated to pay to the Board of Directors or the managing agent (as determined by the Board), one-twelfth of such assessment. Within ninety days after the end of each fiscal year, the Board of Directors shall supply to all unit owners, and to each Mortgagee requesting the same, an itemized accounting of the common expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall, at the discretion of the Board of Directors, be placed in reserve accounts, be placed in a special account to be expended solely for the general welfare of the unit owners, be credited according to each unit owner's Common Element Interest to the next periodic installments due from unit owners under the current fiscal year's budget, until exhausted, or distributed to the unit owners. Unless the Board of Directors directs otherwise, any net shortage shall be assessed promptly against the unit owners in accordance with their Common Element Interests and shall be payable either: (1) in full with payment of the next periodic assessment which is due more than ten days after delivery of notice of such further assessment; or (2) in not more than six equal periodic installments, as the Board of Directors may determine.

(2) Any common expenses paid or incurred in making available the same off-site amenities or paid subscription television service to some or all of the unit owners shall be assessed equally against the condominium units involved, and any common expenses paid or incurred in providing metered utility services to some or all of the units shall be assessed against each condominium unit involved based on its actual consumption of such services. Any common expenses benefiting less than all of the condominium units, or caused by the conduct of less than all those entitled to occupy the same or by their licensees or invitees, shall be specially assessed against the condominium unit or units involved, in proportion to their respective Common Element Interests. For example, since the elevators and corridors on upper floors serve only residential units, the cost of maintenance, management, operation, repair and replacement of these items will be charged to the owners of residential units only. Any common expenses paid or incurred in providing metered utility services to some or all of the units shall be assessed against each condominium unit involved based on its actual consumption of such services. The cost of insurance obtained pursuant to Article 6 (including any coverages obtained pursuant to subsection 6.4(d)) shall be allocated as follows: the premium calculation shall be furnished to the Board of Directors separating out from any charges which are otherwise properly chargeable to all unit owners as a common expense: (i) the amount charged for the commercial risk, which shall be paid as a Limited Common Expense by the owners of the Commercial Units; (ii) the amount charged for the residential risk, which shall be paid as a Limited Common Expense by the owners of the residential units; and (iii) the amount charged for other special risks, which shall be paid as a Limited Common Expenses by the unit owners creating such risks.

Further, the Board of Directors may assess other expenses on other bases to the extent permitted by section 55-79.83 of the Condominium Act.

(d) Reserves. The Board of Directors shall build up and maintain reasonable reserves for working capital, operations (including losses due to insurance deductibles), contingencies and replacements. Reserves for items serving units other than Commercial Units

and reserves for items serving only Commercial Units shall be maintained for and funded solely by (as a Limited Common Expense) the units served by such item. Such reserves shall be maintained and funded separately from reserves for items serving all units. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. Except for normal maintenance expenses shown in the annual operating budget, all expenses for repair and replacement of physical assets maintained by the Association shall be charged first against such reserves. Unless otherwise determined by a vote of three-fourths of the directors, the amount held as reserves shall not substantially exceed the amount reasonably required to assure the Association's ability to replace components as they reach the end of their useful lives. If regular annual maintenance extends the useful life of components so that reserves are excessive, the reserves shall be adjusted by reallocation to other budget items or by distribution to the unit owners. If the reserves are inadequate for any reason, including non-payment of any unit owner's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed against the unit owners according to their respective Common Element Interests, and which may be payable in a lump sum or in installments as the Board may determine. The Board of Directors shall serve notice of any such further assessment on unit owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall, unless otherwise specified in the notice, become effective with the next periodic payment which is due more than ten days after the delivery of such notice of further assessment. All unit owners so notified shall be obligated to pay the adjusted periodic amount or, if such further assessment is not payable in installments, the amount of such assessment. Such assessment shall be a lien as of the effective date as set forth in subsection (c). Reserves for replacement of the limited common element hallways shall be Limited Common Expenses assessed against the units to which such limited common elements are appurtenant.

(e) Initial Budget and Initial Capital Payment.

(i) Upon taking office, the first Board of Directors elected or designated pursuant to these Bylaws shall determine the budget, as defined in this section, for the period commencing thirty days after such election and ending on the last day of the fiscal year in which such election occurs. Assessments shall be levied and become a lien against the unit owners during such period as provided in subsection (c).

(ii) The Declarant, as the agent of the Board of Directors, will collect from each initial purchaser at the time of settlement an "initial capital payment" equivalent to twice the estimated periodic installment of the annual assessment for common expenses and limited common element parking space and/or storage space charges, if any, for such purchaser's unit. The Declarant will deliver the funds so collected to the Board of Directors to provide the necessary working capital for the Association. Such funds may be used for certain prepaid items, initial equipment, supplies, organizational costs and other start-up costs, and for such other purposes as the Board of Directors may determine.

(f) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a unit owner's obligation to pay the allocable share of the common

expenses as provided in these Bylaws whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each unit owner shall continue to pay each periodic installment at the rate established for the previous fiscal year until notified of the periodic payment which is due more than ten days after such new annual or adjusted budget is adopted.

(g) Accounts. All sums collected by the Board of Directors with respect to assessments against the unit owners or from any other source may be commingled into a single fund.

(h) Expenses Payable by Residential Unit Owners Only. Pursuant to subsection (c), certain expenses and reserves benefiting residential units only shall be assessed against residential units only. Such expenses and reserves shall include without limitation the following expenses and reserves and such other expenses and reserves as the Board of Directors may from time to time determine by unanimous vote: elevators and corridors serving only residential units. Such expenses shall be assessed against each owner of a residential unit in proportion to such unit's Common Element Interest of each residential unit bears to the total Common Element Interest of all other residential units, set forth in Exhibit C to the Declaration.

Section 5.2. Payment of Common Expenses. Each unit owner shall pay the common expenses, including Limited Common Expenses, assessed by the Board of Directors pursuant to the provisions of Section 5.1. No unit owner may be exempted from liability for the assessment for common expenses by reason of waiver of the use or enjoyment of any of the common elements or by abandonment of the unit. No unit owner shall be liable for the payment of any part of the common expenses assessed against that unit subsequent to the date of recordation of a conveyance by such unit owner in fee of such unit. Prior to or at the time of any such conveyance, all liens, unpaid charges and assessments shall be paid in full and discharged. The purchaser of a unit shall be jointly and severally liable with the selling unit owner for all unpaid assessments against the latter for the proportionate share of the common expenses up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling unit owner amounts paid by the purchaser therefor; provided, however, that any such purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling unit owner within ten days following a written request therefor to the Board of Directors or managing agent and such purchaser shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth; and provided, further, that each Mortgagee who comes into possession of a condominium unit by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the condominium unit free of any claims for unpaid assessments or charges against such unit which accrue prior to the time such Mortgagee or purchaser comes into possession thereof, except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all condominium units including the mortgaged condominium unit.

Section 5.3. Collection of Assessments. The Board of Directors, or the managing agent at the request of the Board, shall take prompt action to collect any assessments for common expenses due from any unit owner which remain unpaid for more than thirty days after the due date. If a unit owner is delinquent for more than sixty days, the Board of Directors shall

file a memorandum of lien in compliance with section 55-79.84 of the Condominium Act prior to the ninetieth day, unless the Board decides by a two-thirds vote not to do so. Any assessment, or installment thereof, not paid within ten days after due shall accrue a late charge in the amount of twenty dollars, or such other amount as may be established from time to time by the Board of Directors.

Section 5.4. Statement of Common Expenses. The Board of Directors shall promptly provide any unit owner, contract purchaser or Mortgagee so requesting the same in writing with a written statement of all unpaid assessments for common expenses due from such unit owner. The Board of Directors may impose a reasonable charge for the preparation of such statement to cover the cost of preparation.

Section 5.5. Maintenance, Repair, Replacement and Other Common Expenses.

(a) Chart of Maintenance Responsibilities. Notwithstanding the general provisions for maintenance set forth in subsections (b) and (c), specific maintenance responsibilities and the costs attributable thereto shall, to the extent set forth thereon, be determined pursuant to the Chart of Maintenance Responsibilities attached as Exhibit B to these Bylaws.

(b) By the Unit Owners Association. The Unit Owners Association shall be responsible for the maintenance, repair and replacement of all of the common elements (including the limited common elements) as defined in the condominium instruments, whether located inside or outside of the units, the cost of which shall be charged to all unit owners as a common expense; provided, however, that the Board of Directors may elect not to do so if in the opinion of a majority of the Board of Directors such maintenance, repair or replacement was necessitated by the act, neglect or carelessness for which a unit owner is responsible pursuant to subsection 9.1(a); and provided, further, that each unit owner shall perform normal maintenance on the limited common elements appurtenant to such unit owner's unit and any portion of the remaining common elements which the Board of Directors pursuant to the rules and regulations has given such unit owner permission to utilize, including without limitation the items enumerated in subsection (c).

(c) By the Unit Owner.

(1) Each unit owner shall keep the unit and its equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition. Each unit owner shall perform this responsibility in such manner as shall not unreasonably disturb or interfere with the other unit owners. Each unit owner shall promptly report to the Board of Directors or the managing agent any defect or need for repairs for which the Association is responsible.

(2) The unit owner of any unit to which a limited common element balcony, or patio is appurtenant shall perform the normal maintenance for such limited common element, including keeping it in a clean and sanitary condition, free and clear of snow, ice and any accumulation of water and shall also make all repairs thereto caused or permitted by such

unit owner's negligence, misuse or neglect. All structural repair or replacement shall be made by the Association as a common expense, as provided in subsection (b).

(3) Any unit owner permitted by the Board of Directors to use a specific portion of the common elements for storage is responsible for the maintenance and care of such portion and shall use such portion in a safe and sanitary manner.

(d) Manner of Repair and Replacement. All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first-class quality, but may be done with contemporary building materials and equipment. The method of approving payment vouchers for all repairs and replacements shall be determined by the Board of Directors.

Section 5.6. Additions, Alterations or Improvements by the Board of Directors. Except during the Declarant Control Period, whenever in the judgment of the Board of Directors the common elements shall require additions, alterations or improvements costing in excess of three percent of the total annual assessment for common expenses for that fiscal year the making of such additions, alterations or improvements requires a Majority Vote, and the Board of Directors shall assess all unit owners benefited for the cost thereof as a common expense (or Limited Common Expense). Any additions, alterations or improvements costing less than three percent of the total annual assessment for common expenses for that fiscal year may be made by the Board of Directors without approval of the unit owners and the cost thereof shall constitute a common expense or Limited Common Expense, depending on the nature of the additions, alterations or improvements. Notwithstanding the foregoing, if, in the opinion of not less than eighty percent of the directors, such additions, alterations or improvements are exclusively or substantially exclusively for the benefit of the unit owners requesting the same, such requesting unit owners shall be assessed therefor in such proportion as they jointly approve or, if they are unable to agree thereon, in such proportion as may be determined by the Board of Directors.

Section 5.7. Additions, Alterations or Improvements by the Unit Owners. No unit owner shall make any structural addition, alteration or improvement in or to the unit without the prior written consent of the Board of Directors or the Covenants Committee, as appropriate. No unit owner shall paint or alter any common element or the exterior of the unit, including the doors and windows, nor shall any unit owner paint or alter the exterior of any building, without the prior written consent of the Board of Directors or the Covenants Committee, as appropriate. Except when a request is being handled by the Covenants Committee, the Board of Directors shall be obligated to answer any written request by a unit owner for approval of a proposed structural addition, alteration or improvement in such unit owner's unit within forty-five days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board of Directors to the proposed structural addition, alteration or improvement. If any application to any governmental authority for a permit to make any such structural addition, alteration or improvement in or to any unit requires execution by the Unit Owners Association, and provided consent has been given by the Board of Directors, then the application shall be executed on behalf of the Association by an authorized Officer only, without however incurring any liability on the part of the Board of Directors, the Association or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement,

or to any person having claim for injury to person or damage to property arising therefrom. Subject to the approval of any Mortgagee of the affected units, the Board of Directors and any unit owner affected, any unit may be subdivided or may be altered so as to relocate the boundaries between such unit and any adjoining units. The Secretary shall record any necessary amendment to the Declaration to effect such action as provided in section 55-79.69 or 55-79.70 of the Condominium Act. The provisions of this section shall not apply to units owned by the Declarant until deeds of conveyance of such units shall have been recorded; provided, however, that the Declarant's construction or alterations shall be architecturally compatible with existing units. The Declarant shall have the right to make such alterations or subdivisions without the consent of the Board of Directors, and an authorized Officer shall execute any such application required. The Declarant shall also have the right to make improvements to the common elements to complete development of the Property without approval from the Board of Directors or the Covenants Committee.

Section 5.8. Restrictions on Use of Units and Common Elements; Rules and Regulations.

(a) Restrictions. Each unit and the common elements shall be occupied and used as follows:

(1) Except for the areas of the Condominium designated for a management office or commercial or recreational use and except as provided in the Declaration, no unit shall be used for other than purposes for which the Property was designed. The Commercial Units may be used for any purposes permitted by the applicable zoning subject to the restrictions set forth in the condominium instruments. The Board may also permit the use of all or part of a residential unit for a home or professional office, provided that such use is consistent with all applicable laws, ordinances and regulations of any governmental authority. As a condition to consenting to such office use, the Board may require the unit owner to pay any increase in the rate of insurance for the Condominium which may result from such office use. Such permission may not be revoked later except for good cause shown. Nothing in these Bylaws shall be construed to prohibit the Declarant from using any unit owned by the Declarant for promotional, marketing or display purposes or from using any appropriate portion of the common elements for settlement of sales of condominium units and for customer service purposes. Further, the Declarant specifically reserves the right to operate a rental, brokerage and management office at any time in up to two units, to the extent permitted by law.

(2) Nothing shall be done or kept in any unit or in the common elements which will increase the rate of insurance for the Property or any part thereof applicable for residential or permitted commercial uses without the prior written consent of the Board of Directors. No unit owner shall permit anything to be done or kept in the unit or in the common elements which will result in the cancellation of insurance on the Property or any part thereof or which would be in violation of any law, regulation or administrative ruling. No waste will be committed on the common elements.

(3) No improper, offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all

governmental agencies having jurisdiction thereof shall be observed; provided, however, that the Association and the Board of Directors shall have the power but not the obligation to enforce such laws, ordinances and regulations, enforcement being the primary responsibility of government officials. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Property shall be complied with, by and at the sole expense of the unit owner or the Board of Directors, whichever shall have the obligation to maintain or repair such portion of the Property, and, if the latter, then the cost of such compliance shall be a common expense.

(4) No unit owner shall obstruct any of the common elements nor shall any unit owner place or cause or permit anything to be placed on or in any of the common elements (except those areas designated for such storage by the condominium instruments or the Board of Directors) without the approval of the Board. Nothing shall be altered or constructed in or removed from the common elements except with the prior written consent of the Board of Directors or the Covenants Committee, as appropriate (subject, however, to the applicable provisions of the Fair Housing Amendments Act of 1988 regarding modifications by handicapped residents and to the applicable provisions of the Americans with Disabilities Act).

(5) The common elements shall be used only for the furnishing of the services and facilities for which the same are reasonably suited and which are incident to the use and occupancy of the units. The lobby, hallways and stairways shall be used for no purpose other than for normal transit.

(6) No unit shall be used or occupied for (i) transient or hotel purposes or (ii) in any event for an initial period of less than six months. No portion of any residential unit (other than the entire unit) shall be leased for any period; provided, however, that a reasonable number of roommates is permitted. No unit owner shall lease a unit other than on a written form of lease: (i) requiring the lessee to comply with the condominium instruments and rules and regulations; (ii) providing that failure to comply constitutes a default under the lease, and (iii) providing that the Board of Directors has the power to terminate the lease or to bring summary proceedings to evict the tenant in the name of the lessor after forty-five days prior written notice to the unit owner, in the event of a default by the tenant in the performance of the lease. The Board of Directors may suggest or require a standard form lease for use by unit owners. Each unit owner shall, promptly after entering into any lease of a condominium unit, forward a conformed copy of the lease to the Board of Directors. The foregoing provisions of this paragraph, except the restriction against use or occupancy for transient or hotel purposes, shall not apply to the Association, the Declarant, or a Mortgagee in possession of a unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure.

(7) Trailers, campers, recreational vehicles, boats and other large vehicles may not be parked on the Property. All vehicles shall be parked wholly within parking space lines; provided, however, that any unit owner having the right to use one or more limited common element parking spaces may use any adjacent area not within another unit owner's parking space if such space is not otherwise necessary for the use of the Association. The garage areas, including the limited common element parking spaces, shall be used only for parking. Other than as provided above, nothing may be stored, erected, attached to or otherwise placed on

the common elements in the parking areas without the prior written consent of the Board of Directors or the Covenants Committee, as appropriate. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept upon any of the common elements. Except in areas designated by the Board of Directors, vehicle repairs other than: (i) emergency maintenance, (ii) ordinary light maintenance (excluding fluid changes and other operations which might soil the common elements) and (iii) normal cleaning (in areas designated by the Board, if any) are not permitted on the common elements.

(8) The maintenance, keeping, boarding and/or raising of animals, livestock, poultry or reptiles of any kind, regardless of number, is prohibited within any unit or upon the common elements, except that the keeping of orderly domestic pets (e.g., dogs, cats or caged birds) not to exceed one per unit without the approval of the Board of Directors, guard dogs, guide animals and aquarium fish (and other limited species of animals which do not normally leave the unit and which do not make noise) is permitted, subject to the rules and regulations adopted by the Board of Directors; provided, however, that such pets are not kept or maintained for commercial purposes or for breeding; and provided, further, that any such pet causing or creating a nuisance or unreasonable disturbance or noise may be permanently removed from the Property upon ten days written notice from the Board of Directors. Such pets shall not be permitted upon the common elements unless accompanied by someone who can control the pet and unless carried or leashed. Any unit owner who keeps or maintains any pet upon any portion of the Property shall be deemed to have indemnified and agreed to hold the Association, each unit owner and the Declarant free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Condominium. All pets which may leave the unit shall be registered with the Board of Directors and shall otherwise be registered and inoculated as required by law. The Board of Directors may establish reasonable fees for registration of pets not to exceed the additional costs incurred by the Association resulting from the presence of such pets.

(9) Except for such signs as may be posted by the Association or by the Declarant for promotional or marketing purposes, no signs of any character shall be erected, posted or displayed upon, in, from or about any unit or common element without the prior written approval of the Board of Directors. The foregoing provisions of this paragraph shall not apply to a Mortgagee in possession of a unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure. The Board of Directors shall permit the owner of a Commercial Unit to post reasonable signs on the exterior of the unit necessary for the proper conduct of business.

(10) Sufficient carpeting or rugs shall be maintained in residential units on a minimum of eighty percent of the floor surfaces (except kitchens, closets and bathrooms) in units located over other units to adequately reduce transmission of sound between units. Additional washers, dryers and other major appliances may not be installed in a unit without the prior written approval of the Covenants Committee.

(11) No unit shall be subjected to or used for any timesharing, cooperative, licensing or other arrangement that would entail weekly, monthly or any other type

of revolving or periodic occupancy by multiple unit owners, cooperators, licensees or timesharing participants.

(12) Pursuant to Condition #63 of Site Plan Amendment SP #375, all unit owners must deliver all refuse, as defined by the _____ County Code at the time, to an operating refuse disposal facility designated by the County.

(b) Changes to Rules and Regulations. Each unit and the common elements shall be occupied and used in compliance with the rules and regulations which may be promulgated and changed by the Board of Directors. The Board of Directors shall furnish copies of the rules and regulations to each unit owner. Changes to the rules and regulations shall be conspicuously posted prior to the time when the same shall become effective and copies thereof shall be furnished to each unit owner upon request. The rules and regulations shall not unreasonably interfere with the reasonable conduct of business in the Commercial Units.

Section 5.9. Right of Access. By acceptance of the deed of conveyance, each unit owner thereby grants a right of access to the unit, as provided by subsection 55-79.79(a) of the Condominium Act and subsection 4.2(a) of the Declaration, to the Board of Directors or the managing agent, or any other person authorized by the Board or the managing agent, or any group of the foregoing, for the purpose of enabling the exercise and discharge of their respective powers and responsibilities, including without limitation making inspections, correcting any condition originating in the unit or in a common element to which access is obtained through the unit and threatening another unit or the common elements, performing installations, alterations or repairs to the mechanical or electrical systems or the common elements in the unit or elsewhere in the Property or to correct any condition which violates any Mortgage; provided, however, that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the unit owner. In case of an emergency, such right of entry shall be immediate, whether or not the unit owner is present. Each unit owner shall provide a working copy of all unit keys to the Unit Owners Association.

Section 5.10. Utility Charges; User Fees. The cost of utilities serving the Condominium not individually metered or submetered to specific units shall be common expenses allocated pursuant to Section 5.1. The cost of utilities serving one or more units and individually submetered shall be a Limited Common Expense payable by the units served based on actual consumption of such services in accordance with subsection 55-79.83C of the Condominium Act. Pursuant to subsections 55-79.83B and 55-79.83C of the Condominium Act, the Board of Directors may impose reasonable user fees, whether or not designated as Limited Common Expenses, for the use of Reserved Common Elements or personal property of the Unit Owners Association or services provided by or arranged for through the Association.

Section 5.11. Parking Spaces. Each of the parking spaces located in the garage of the building and so designated on the Plats and Plans shall be subject to designation as limited common elements appurtenant to certain designated units pursuant to the reservation set forth in Article 3 of the Declaration. Until assigned as a limited common element, all parking spaces shall be used by the unit owners for self-service parking purposes on a "first come, first served" basis, except as the Board of Directors may otherwise determine; provided, however, that no unit

owner shall park on the common element parking spaces more than one vehicle (owned or leased by such unit owner, a member of such unit owner's household, company, an employee or a tenant leasing the unit) without the prior written consent of the Board of Directors. Any unit owner having the right to use a limited common element parking space must use such space before using any unassigned parking space. The cost of maintenance and repair of all parking areas shall be a common expense; provided, however, that the Board of Directors shall assess a Limited Common Expense charge (pursuant to subsection 5.1(c)) in the amount of One Hundred Twenty Dollars per space per year, payable monthly, upon units to which a limited common element parking space is appurtenant. Such charge shall be adjusted in proportion to any change in the total budget for common expenses from year to year. During the time that units are being sold by the Declarant, no more than twelve automobile parking spaces may be restricted to the Declarant's use for sales purposes.

Section 5.12. Storage. The storage areas are common elements and may be assigned to units as Reserved Common Elements by appropriate resolution of the Board of Directors (unless such areas have been assigned as limited common elements). Some of the storage areas located in the building and so designated on the Plats and Plans shall be subject to designation as limited common elements appurtenant to certain designated units pursuant to the reservation set forth in Article 3 of the Declaration.

Section 5.13. Disclaimer of Bailee Liability. The Board of Directors, the Unit Owners Association, any unit owner and the Declarant shall not be considered a bailee, however, of any personal property stored on the common elements (including property located in storage areas and vehicles parked on the common elements), whether or not exclusive possession of the particular area is given to a unit owner for storage or parking purposes, and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

Section 5.14. Natural Resource Area. In accordance with Condition 66 of Site Plan Amendment #375 and Rezoning Z-2506-03-1 pertaining to the Property, Isaac Crossman Park is an _____ County Natural Resource Area, intended to preserve and protect areas of significant environmental or ecological value including, but not limited to, natural lands, meadows, watersheds, waterfronts, forests and gardens. Typical uses and activities in natural areas are passive in character, and may include interpretative centers, wildlife observation areas, hiking trails, cultural or historic sites – although many natural areas contain no amenities and receive no visitation (i.e., mowing and irrigation are not required). Maintenance service may be increased temporarily in response to an identified public health or safety issue, but the purpose and overall character of the natural area is not subject to change. Isaac Crossman Park will not be a manicured or landscaped area.

ARTICLE 6

Insurance

Section 6.1. General Provisions.

(a) Authority, Liability and Notice. Except as otherwise provided in Section 6.5, all insurance policies relating to the Property shall be purchased by the Board of Directors and the cost thereof shall be allocated as provided in paragraph (2) of subsection 5.1(c). The Board of Directors, the managing agent and the Declarant shall not be liable for failure to obtain any coverages required by this Article 6 or for any loss or damage resulting from such failure: (i) if such failure is due to the unavailability of such coverages from reputable insurance companies; (ii) if such coverages are so available only at demonstrably unreasonable cost; or (iii) if the Unit Owners Association's insurance professionals advise that the coverages required by paragraph (2) of subsection 6.2(b) are not necessary. The Board of Directors shall promptly furnish to each unit owner written notice of the procurement of, subsequent changes in, or termination of, insurance coverages obtained on behalf of the Association, in compliance with subsection 55-79.81(b) of the Condominium Act.

(b) Policy Requirements.

(1) All policies of insurance shall be written by reputable companies licensed or qualified to do business in the Commonwealth of Virginia. Physical damage policies shall be in form and substance and with carriers acceptable to a majority of the Mortgagees.

(2) The deductible or self-insured retention (if any) on any insurance policy purchased by the Board of Directors shall be a common expense (or a Limited Common Expense, as appropriate); provided, however, that the Association may, pursuant to subsection 9.1(a), assess any deductible amount necessitated by the act, neglect or carelessness for which a unit owner is responsible against such unit owner.

(3) The Declarant, so long as Declarant shall own any unit, shall be protected by all such policies as a unit owner. The coverage provided to the Declarant under the insurance policies obtained in compliance with this Article 6 shall not be deemed to protect or be for the benefit of any general contractor engaged by the Declarant nor shall such coverage be deemed to protect the Declarant against liability for (or waive any rights with respect to) warranty claims.

(4) Each such policy shall provide that:

(A) The insurer waives any right to claim by way of subrogation against the Declarant, the Association, the Board of Directors, the managing agent or the unit owners, and their respective guests, invitees, tenants, agents and employees and, in the case of the unit owners, the members of their households or companies;

(B) Such policy shall not be cancelled, invalidated or suspended due to the conduct of any unit owner (including the members of such unit owner's household or company and such unit owner's guests, invitees, tenants, agents and employees) or of any member, officer or employee of the Board of Directors or the managing agent without a prior demand in writing that the Board or the managing agent cure the defect and neither shall have so cured such defect within sixty days after such demand;

(C) Such policy may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty days prior written notice to the Board of Directors, the managing agent, as to liability insurance, flood insurance (if applicable), pressure, mechanical and electrical equipment, including air conditioning equipment, coverage and director's and officer's liability only, and all Mortgagees;

(D) The Association is the "First Named Insured" under the policy.

Section 6.2. Property Insurance.

(a) Coverage. The Board of Directors shall obtain and maintain a policy of insurance against Special Causes of Loss (formerly "all-risk"), including without limitation fire damage, vandalism, malicious mischief, sprinkler leakage (if applicable), cost of demolition, debris removal, and water damage coverage, insuring the entire Property (including without limitation all of the units and the fixtures initially installed therein by the Declarant, and replacements thereof up to the value of those initially installed by the Declarant, but not including furniture, wallcoverings, improvements and additions, furnishings or other personal property supplied or installed by unit owners), together with all air conditioning and heating equipment and other service machinery contained therein and covering the interests of the Unit Owners Association, the Board of Directors and all unit owners and their Mortgagees, as their interests may appear, (subject, however, to the loss payment and adjustment provisions in favor of the insurance trustee), in an amount equal to one hundred percent of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be redetermined annually by the Board with the assistance of the insurance company affording such coverage). The Board of Directors shall also obtain and maintain such coverage on all real and personal property owned by the Association. Prior to obtaining any policy of physical damage insurance or any renewal thereof the Board of Directors shall obtain an appraisal from an insurance company, or such other source as the Board may determine, of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to this section.

(b) Waivers and Endorsements. Such policy shall also provide:

(1) a waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to these Bylaws not to do so;

(2) the following endorsements (or equivalent): (A) "no control" (to the effect that coverage shall not be prejudiced by any act or neglect of any occupant or unit owner or their agents when such act or neglect is not within the control of the insured, or the unit owners collectively; nor by any failure of the insured, or the unit owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or the unit owners collectively, have no control); (B) ordinance/law coverage for (i) the "cost of demolition" of the undamaged portion of the Property; (ii) "contingent liability from operation of building laws or codes;" and (iii) "increased cost of construction;" (C) "condominium replacement cost;" (D) "inflation guard;" and (E) "agreed amount" or "elimination of coinsurance" clause; and

(3) that any "no other insurance" clause expressly exclude individual unit owners' policies from its operation so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual unit owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual unit owners or their Mortgagees, unless otherwise required by law; and

(4) such deductibles and self-insured retentions as to loss as the Board of Directors in its sole discretion deems prudent and economical.

(c) Certificates. A duplicate original of the policy of physical damage insurance, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder, together with proof of payment of premiums, shall be delivered by the insurer to any Mortgagee requesting the same, at least thirty days prior to expiration of the then current policy.

(d) Notice to Mortgagees. The Board of Directors shall promptly notify all Mortgagees of any event giving rise to a claim under such policy arising from damage to the common elements in excess of five percent of the then current replacement cost of the Property. The Board of Directors shall promptly notify the Mortgagee of a unit of any event giving rise to a claim under such policy arising from damage to such unit.

Section 6.3. Liability Insurance. The Board of Directors shall obtain and maintain comprehensive general liability (including libel, slander, false arrest and invasion of privacy coverage) and property damage liability insurance in such limits as the Board may from time to time determine, insuring each director and officer, the managing agent, each unit owner and the employees of the Unit Owners Association against any liability to the public or to the unit owners (and their guests, invitees, tenants, agents and employees) arising out of, or incident to the ownership or use of the common elements. Such insurance shall be issued on a commercial general liability basis and shall contain: (1) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to an action against another named insured; (2) hired and non-owned vehicle coverage; (3) host liquor liability coverage with respect to events sponsored by the Association; (4) products and completed operations coverage; and (5) a "severability of interest" endorsement which shall preclude the insurer from denying liability coverage to a unit owner because of negligent acts of the

Association or of another unit owner. The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than two million dollars covering all claims for bodily injury, property damage, personal injury and advertising injury. This coverage, or a separate policy, shall also contain protection for the Association if it operates a website or conducts business using the website, email or similar means. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained so that the total of the primary and excess limits are in an amount not less than four million dollars.

Section 6.4. Other Insurance. The Board of Directors shall obtain and maintain:

(a) Fidelity. Adequate fidelity coverage to protect against dishonest acts on the part of Officers, directors, trustees and employees of the Unit Owners Association and all others who handle, or are responsible for handling, funds of the Association, including the managing agent. Such fidelity bonds shall: (i) name the Association as an obligee; (ii) be written in an amount not less than one-half the total annual condominium assessments for the year or the amount required by the Mortgagees, Fannie Mae or the Federal Home Loan Mortgage Corporation, whichever is greatest; (iii) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression; and (iv) may provide that the managing agent is an insured under the policy.

(b) Flood Insurance. If required by any governmental or quasi-governmental agency, including without limitation Fannie Mae or the Federal Home Loan Mortgage Corporation, flood insurance in accordance with the then applicable regulations of such agency.

(c) Workers' Compensation. Workers' compensation insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an "all states" endorsement).

(d) Boiler and Machinery/Mechanical Breakdown Insurance. If applicable, pressure, mechanical and electrical equipment including information technology equipment and air conditioning equipment coverage on a comprehensive form in an amount not less than the greater of (i) five hundred thousand dollars per accident per location or (ii) the replacement cost of all such insured equipment.

(e) Directors and Officers Liability Insurance. Directors and officers liability insurance in an amount not less than one million dollars including coverage for the Association, directors, officers, committee members and employees. The policy may also provide that the managing agent is an insured under the policy except with respect to claims that the managing agent may file against the Association or that the Association may file against the managing agent. Such coverage, to the extent available, shall include non-monetary damages, breach of contract, fair housing disputes and allegations of wrongful purchase of the insurance program in form, content or amount; and

(f) Other. Such other insurance as the Board of Directors may determine or as may be requested from time to time by a Majority Vote. Such insurance may include, without limitation: (i) business income and extra expense; (ii) employee benefits; (iii) employment

practices liability; (iv) auto (owned); (v) medical payments protection; and (vi) electronic data processing (EDP) coverage.

Section 6.5. Unit Owner Insurance.

(a) Insurance Restriction. No unit owner shall acquire or maintain insurance coverage so as to: (i) decrease the amount which the Board of Directors, on behalf of all unit owners, may realize under any insurance policy maintained by the Board; or (ii) cause any insurance coverage maintained by the Board to be brought into contribution with insurance coverage obtained by a unit owner. No unit owner shall obtain separate insurance policies on the Condominium except as provided in this section.

(b) Required Coverage.

(1) Each unit owner shall obtain personal insurance for such unit owner's benefit, at such unit owner's expense, covering the unit and such unit owner's personal property and personal liability, as well as any improvements made to the unit by such unit owner (under coverage normally called "improvements and betterments coverage"); and in the case of Commercial Units for such other risks as are normally insured. Such personal insurance shall also include coverage for "loss assessment" that may be levied by the Association against the unit owner (including loss assessment for Association insurance deductibles and retentions) and shall provide protections for the unit owner for any permitted home business pursuits. The Association shall not be responsible for any claim for loss of business, income, clients, reputation or other loss from a permitted home business use because of any damage or claim (insured or otherwise) to the common elements or arising from actions of the Association, the Board of Directors, committee members or the managing agent. Each unit owner of a Commercial Unit shall obtain general liability insurance in a minimum amount of two million dollars and upon request, shall provide a new certificate of insurance to the Board of Directors two weeks prior to the expiration date of such insurance.

(2) If an Owner fails to obtain the insurance coverage required by this subsection, the Board of Directors may purchase such insurance coverage on such unit owner's behalf and assess the unit owner for the cost thereof. The Declarant, the Association and the Board of Directors shall not be held liable for the failure of any unit owner to purchase insurance or for not purchasing such insurance on the unit owner's behalf.

(b) Convertible Space. The unit owner of the convertible space (or any units created from the Convertible Space) shall obtain and maintain property damage and liability insurance on the convertible space (and any units created from the convertible space) and the limited common elements appurtenant to the convertible space (or any units created from the convertible space) for so long as the use is different from the uses of the other units in the Condominium.

(1) Such insurance shall be obtained and maintained in all respects as if obtained by the Board of Directors pursuant to the other provisions of this Article 6, except that the coverage amounts shall be as agreed upon by the Board of Directors and the unit owner of the convertible space (or any units created from the convertible space). The unit owner shall

perform any obligation with respect to such insurance coverage which the Board of Directors would perform if such insurance coverage were obtained by the Board of Directors.

(2) If any units are created from the convertible space, the unit owners of the convertible space and such units shall mutually agree upon obtaining such coverage and shall pay the costs thereof in proportion to the relative size of their units. The unit owner of the convertible space (or any units created from the convertible space) shall provide a certificate of insurance to the Board of Directors and shall provide proof of continuing insurance at least two weeks prior to the expiration of such insurance. If such insurance coverage is not obtained and maintained, the Board of Directors may obtain the required insurance coverage and shall assess the cost thereof against the unit owner obligated to obtain such insurance coverage.

(3) If the use of the convertible space (and all of the units created from the convertible space) is changed to the general office uses of the other units in the Condominium, this subsection (b) shall become null and void, the insurance coverage shall be obtained by the Board of Directors pursuant to the other provisions of this Article 6 and the unit owner of such convertible space (or any unit created from the convertible space) will pay as a common expense their share of the cost of obtaining the Association's insurance coverage.

(4) Notwithstanding the provisions of Article 7, the unit owner of the convertible space (or any units created from the convertible space) shall be responsible for repair and reconstruction of the portions of the Property they are required to insure under this subsection (b) after fire or other casualty; provided, however, that if any damage occurs to the limited common elements, such damage shall be repaired promptly. The unit owner may request in writing that the Board of Directors undertake repair and reconstruction pursuant to Article 7 and shall then assign the insurance proceeds to the Board of Directors, in which event the Board of Directors shall undertake repair and reconstruction and the unit owner shall pay all administrative and other costs incurred by the Board of Directors in so doing.

Section 6.6. Insurance Trustee. All physical damage insurance policies purchased by the Board of Directors shall be for the benefit of the Unit Owners Association, the unit owners, their Mortgagees and the Declarant, as their interests may appear, and shall provide that all proceeds of such policies shall be paid in trust to the Board as "insurance trustee" to be applied pursuant to the terms of Article 7. The sole duty of the insurance trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in these Bylaws, for the benefit of the insureds and their beneficiaries.

ARTICLE 7

Repair and Reconstruction After Fire or Other Casualty

Section 7.1. When Repair and Reconstruction are Required. Except as otherwise provided in Section 7.4, if all or any part of any building is damaged or destroyed as a result of fire or other casualty, the Board of Directors shall arrange for and supervise the prompt repair and restoration thereof (including without limitation any damaged units, and the floor coverings, fixtures and appliances initially installed therein by the Declarant, and replacements thereof

installed by the unit owners up to the value of those initially installed by the Declarant, but not including any other furniture, furnishings, fixtures, equipment or other personal property supplied or installed by the unit owners in the units unless covered by insurance obtained by the Unit Owners Association). Notwithstanding the foregoing, each unit owner shall have the right to supervise the redecorating of the unit.

Section 7.2. Procedure for Reconstruction and Repair.

(a) Cost Estimates. Immediately after a fire or other casualty causing damage to any portion of the building, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring such portion (including without limitation any damaged units and the floor coverings, fixtures and appliances initially installed therein by the Declarant, and replacements thereof installed by the unit owners up to the value of those initially installed by the Declarant, but not including any other furniture, furnishings, fixtures, equipment or other personal property supplied or installed by the unit owners in the units unless covered by insurance obtained by the Unit Owners Association) to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the insurance trustee determines to be necessary.

(b) Assessments. If the proceeds of insurance are not sufficient to defray such estimated costs of reconstruction and repair, or if upon completion of reconstruction and repair the funds for the payment of the costs are insufficient, the amount necessary to complete such reconstruction and repair may be obtained from the appropriate reserve for replacement funds and/or shall be deemed a common expense and a special assessment for such amount shall be levied.

(c) Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the original construction of the Property, subject to any modifications required by changes in applicable governmental regulations, and using contemporary building materials and technology to the extent feasible; provided, however, that other action may be taken if approved by at least fifty-one percent of the Mortgagees.

Section 7.3. Disbursements of Construction Funds.

(a) Construction Fund and Disbursement. The proceeds of insurance collected on account of casualty, and the sums received by the insurance trustee from collections of assessments against unit owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(1) If the estimated cost of reconstruction and repair is less than five percent of the total annual assessment for common expenses for that fiscal year, then the construction fund shall be disbursed in payment of such costs upon order of the Board of Directors; provided, however, that upon request of twenty percent of the Mortgagees, such fund shall be disbursed pursuant to paragraph (2).

(2) If the estimated cost of reconstruction and repair is five percent of the total annual assessment for common expenses for that fiscal year or more, then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in Virginia and employed by the insurance trustee to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect and other persons who have rendered services or furnished materials in connection with the work stating that: (i) the sums requested by them in payment are justly due and owing and that such sums do not exceed the value of the services and materials furnished; (ii) there is no other outstanding indebtedness known to such architect for the services and materials described; and (iii) the cost as estimated by such architect for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested.

(b) Surplus. The first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds and, if there is a balance in the construction fund after the payment of all of the costs of the reconstruction and repair for which the fund is established, such balance shall be divided among all unit owners in proportion to their Common Element Interests and shall be distributed in accordance with the priority of interests at law or in equity in each unit.

(c) Common Elements. When the damage is to both common elements and units, the insurance proceeds shall be applied first to the cost of repairing those portions of the common elements which enclose and service the units, then to the cost of repairing the other common elements and thereafter to the cost of repairing the units.

(d) Certificate. The insurance trustee shall be entitled to rely upon a certificate executed by the President or Vice President, and the Secretary, certifying: (i) whether the damaged Property is required to be reconstructed and repaired; (ii) the name of the payee and the amount to be paid with respect to disbursement from any construction fund or whether surplus funds to be distributed are less than the assessments paid by the unit owners; and (iii) all other matters concerning the holding and disbursing of any construction fund. Any such certificate shall be delivered to the insurance trustee promptly after request.

Section 7.4. When Reconstruction Is Not Required. Unless the Condominium is terminated, if the Board of Directors elects not to repair insubstantial damage to the common elements, the Board of Directors shall use the insurance proceeds to remove all remains of the damaged improvements and restore the site to an acceptable condition compatible with the remainder of the Condominium and distribute the balance of any insurance proceeds received on account of such damage to all unit owners in proportion to their respective Common Element Interests. If the Condominium is terminated pursuant to section 55-79.72:1 of the Condominium Act, the net assets of the Condominium together with the net proceeds of insurance policies, if any, shall be divided by the insurance trustee among all unit owners in proportion to their respective Common Element Interests, after first paying out of the share of each unit owner, to the extent sufficient therefor, the amount of any unpaid liens on the unit in the order of priority of such liens.

ARTICLE 8

Mortgages

Section 8.1. Notice to Board of Directors. A unit owner who mortgages the unit shall notify the Board of Directors of the name and address of the Mortgagee and, upon request, shall file a conformed copy of the note and Mortgage with the Board.

Section 8.2. Notice of Default, Casualty or Condemnation. The Board of Directors when giving notice to any unit owner of a default in paying an assessment for common expenses (which remains uncured for sixty days) or any other default, shall simultaneously send a copy of such notice to the Mortgagee of such unit. The Board of Directors shall also promptly notify each Mortgagee of any casualty when required by subsection 6.2(c), of all actions taken under Article 7 and of any taking in condemnation or by eminent domain pursuant to section 55-79.44 of the Condominium Act and actions of the Unit Owners Association with respect thereto.

Section 8.3. Notice of Amendment of Condominium Instruments. The Board of Directors shall give notice to all Mortgagees at least seven days prior to the date on which the unit owners, in accordance with the provisions of these Bylaws, materially amend the condominium instruments.

Section 8.4. Notice of Change in Managing Agent. The Board of Directors shall give notice to all Mortgagees requesting such notice at least thirty days prior to changing the managing agent.

Section 8.5. Mortgagees' Approvals. Subject to any greater requirements of sections 55-79.71 or 55-79.72:1 of the Condominium Act or Section 10 of these Bylaws:

(a) Two-Thirds Vote. Unless at least sixty-seven percent of the Mortgagees and at least sixty-seven percent of the unit owners have given their prior written approval, the Unit Owners Association shall not: (i) (except following destruction or condemnation) change any unit's Common Element Interest except as provided in section 55-79.44 of the Condominium Act; (ii) (except following destruction or condemnation) partition, subdivide, abandon, encumber, sell or transfer the common elements of the Condominium (except for the granting of utility easements, etc. pursuant to subsection 55-79.80B of the Condominium Act); (iii) (except following destruction or condemnation) by act or omission withdraw the submission of the Property to the Condominium Act, except as provided by section 55-79.72:1 of the Condominium Act; (iv) modify the method of determining and collecting assessments or allocating distributions of casualty insurance proceeds or condemnation awards; or (v) use hazard insurance proceeds for losses to the Condominium for any purpose other than repair, replacement or restoration except as provided in Section 7.4.

(b) Majority Vote. Unless at least fifty-one percent of the Mortgagees and at least sixty-seven percent of the unit owners have given their prior written approval, the Association shall not: (i) following destruction or condemnation, change any unit's Common Element Interest except as provided in section 55-79.44 of the Condominium Act; (ii) following

destruction or condemnation, by act or omission, withdraw the submission of the Property to the Condominium Act, except as provided by section 55-79.72:1 of the Condominium Act; and (iii) add or amend any material provision of the condominium instruments which establishes, provides for, governs or regulates any of the following: (1) voting; (2) assessments, assessment liens or subordination of such liens; (3) reserves for maintenance, repair and replacement of the common elements (or units if applicable); (4) insurance or fidelity bonds; (5) rights to use of the common elements; (6) maintenance responsibility; (7) expansion or contraction of the Condominium or conversion of convertible land; (8) boundaries of any unit; (9) the interests in the common elements or limited common elements; (10) convertibility of units into common elements or of common elements into units; (11) leasing of units; (12) imposition of any right of first refusal or similar restriction on the right of a unit owner to sell, transfer, or otherwise convey the unit; or (13) any provisions which are for the express benefit of Mortgagees.

(c) Non-Material Amendments. Any addition or amendment to the condominium instruments shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only.

(d) Presumptive Approval. If the Unit Owners Association notifies a Mortgagee of additions or amendments in accordance with subsection 55-79.73:1A of the Condominium Act and does not receive a written objection within the time period provided for in section 55-79.73:1 of the Condominium Act, then the Unit Owners Association shall be deemed to have received the written consent of such Mortgagee.

Section 8.6. Other Rights of Mortgagees. All Mortgagees or their representatives shall have the right to attend and to speak at meetings of the Unit Owners Association. All such Mortgagees shall have the right to examine the condominium instruments, rules and regulations and books and records of the Condominium, to receive the annual report filed by Declarant pursuant to section 55-79.93:1 of the Condominium Act and to require the submission of annual financial reports and other budgetary information.

ARTICLE 9

Compliance and Default

Section 9.1. Relief. Each unit owner shall be governed by, and shall comply with, all of the terms of the Condominium Act, condominium instruments and rules and regulations, as any of the same may be amended from time to time. In addition to the remedies provided in section 55-79.53 of the Condominium Act, a default by a unit owner shall entitle the Unit Owners Association, acting through its Board of Directors or through the managing agent, to the following relief.

(a) Additional Liability. Each unit owner shall be liable to the Association or to any affected unit owner for the expense of all maintenance, repair or replacement rendered necessary by such unit owner's act, neglect or carelessness or the act, neglect or carelessness of any member of such unit owner's household, company or such unit owner's guests, invitees, tenants, agents or employees, but only to the extent that such expense is not covered by the

proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation. Any costs, including without limitation legal fees, incurred as a result of a failure to comply with the Condominium Act, the condominium instruments and the rules and regulations by any unit owner (or any member of such unit owner's household, company or such unit owner's guests, invitees, tenants, agents or employees) may be assessed against such unit owner's unit.

(b) Costs and Attorneys' Fees. Subject to the provisions of Article 12, in any proceedings arising out of any alleged default by a unit owner, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be determined by the court.

(c) No Waiver of Rights. The failure of the Unit Owners Association, the Board of Directors or of a unit owner to enforce any right, provision, covenant or condition which may be granted by the condominium instruments or the Condominium Act shall not constitute a waiver of the right of the Association, the Board or the unit owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors or any unit owner pursuant to any term, provision, covenant or condition of the condominium instruments or the Condominium Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the condominium instruments or the Condominium Act or at law or in equity.

(d) Interest. In the event of a default by any unit owner in paying any sum assessed against the condominium unit other than for common expenses which continues for a period in excess of fifteen days, interest from the due date at a rate not to exceed the lower of the maximum permissible interest rate which may be charged by a Mortgagee under a Mortgage at such time or eighteen percent per annum may be imposed in the discretion of the Board of Directors on the principal amount unpaid from the date due until paid.

(e) Abating and Enjoining Violations by Unit Owners. The violation of any of the rules and regulations adopted by the Board of Directors, the breach of any provision of the condominium instruments or the Condominium Act shall give the Board of Directors the right, in addition to any other rights set forth in these Bylaws: (i) to enter the unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; (ii) to use self-help to remove or cure any violation of the condominium instruments or the rules and regulations on the common elements (including without limitation the towing of vehicles) or in any unit; or (iii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; provided, however, that before any construction may be altered or demolished (except in emergencies) judicial proceedings shall be instituted.

(f) Legal Proceedings. Failure to comply with any of the terms of the condominium instruments and the rules and regulations shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board of Directors, the managing agent or, if appropriate, by any aggrieved unit owner and shall not constitute an election of remedies.

(g) Charges. In accordance with section 55-79.80:2 of the Condominium Act, the Board of Directors and the Covenants Committee may levy reasonable charges against unit owners for violations of the Condominium Act, the condominium instruments or the rules and regulations by the unit owner, the members of such unit owner's household, company, or such unit owner's guests, invitees, tenants, agents or employees. No charge may be levied for a single violation in an amount more than the lesser of (i) the maximum amount permitted by subsection 55-79.80:2B of the Condominium Act or (ii) one percent of such unit owner's annual assessment. Each day a violation continues, after notice is given to the unit owner, is a separate violation. If a unit owner requests in writing a hearing before the charge is imposed, the imposition of the charge shall be suspended until the hearing is held. Charges are special assessments and shall be collectible as such.

(h) Other Remedies. In accordance with section 55-79.80:2 of the Condominium Act, the Board of Directors may suspend or revoke a unit owner's recreational or other privileges for a reasonable period not to exceed the duration of the default or violation if payment of the assessment on the unit is delinquent more than thirty days or for any other violation of the condominium instruments or the rules and regulations.

Section 9.2. Lien for Assessments.

(a) Lien. The total annual assessment of each unit owner for common expenses or any special assessment, or any other sum duly levied (including without limitation charges, interest, late charges, etc.), made pursuant to these Bylaws, is hereby declared to be a lien levied against the condominium unit of such unit owner as provided in section 55-79.84 of the Condominium Act, which lien shall, with respect to annual assessments, be effective on the first day of each fiscal year of the Condominium and, as to special assessments and other sums duly levied, on the first day of the next month which begins more than seven days after delivery to the unit owner of notice of such special assessment or levy. The Board of Directors or the managing agent may file or record such other or further notice of any such lien, or such other or further document, as may be required to confirm the establishment and priority of such lien.

(b) Acceleration. In any case where an assessment against a unit owner is payable in installments, upon a default by such unit owner in the timely payment of any two consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the entire balance of the annual assessment may be declared due and payable in full by the service of notice to such

effect upon the defaulting unit owner and such unit owner's Mortgagee by the Board of Directors or the managing agent.

(c) Enforcement. The lien for assessments may be enforced and foreclosed in any manner permitted by the laws of the Commonwealth of Virginia, by power of sale (pursuant to subsection 55-79.84I of the Condominium Act and Section 9.3 or action in the name of the Board of Directors, or the managing agent, acting on behalf of the Unit Owners Association. During the pendency of such suit the unit owner shall be required to pay a reasonable rental for the unit for any period prior to sale pursuant to any judgment or order of any court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the laws of the Commonwealth of Virginia.

(d) Remedies Cumulative. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

Section 9.3. Supplemental Enforcement of the Lien. In addition to the proceedings at law or in equity or the enforcement of the lien established by the condominium instruments or, the Condominium Act, all of the unit owners may be required by the Declarant or the Board of Directors to execute bonds conditioned upon the faithful performance and payment of the installments of the lien established thereby and may likewise be required to secure the payment of such obligations by recording a declaration of trust in the land records where the condominium instruments are recorded granting unto one or more trustees appropriate powers to the end that, upon default in the performance of such bond such declaration of trust may be foreclosed by such trustees acting at the direction of the Board of Directors. If any such bonds have been executed and such declaration of trust is recorded, then any subsequent purchaser of a unit shall take title subject to such declaration of trust and shall assume the obligations provided for therein.

Section 9.4. Subordination and Mortgage Protection. Notwithstanding any other provisions to the contrary, the lien of any assessment levied pursuant to these Bylaws upon any unit (and any penalties, interest on assessments, late charges or the like) shall be subordinate to, and shall in no way affect the rights of a Mortgagee if the Mortgage was made in good faith for value received; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such unit pursuant to foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser of the unit at such sale from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.

ARTICLE 10

Amendments to Bylaws

Section 10.1. Amendments. These Bylaws may not be modified or amended except as provided in section 55-79.71 of the Condominium Act; provided, however, that until the expiration of the Declarant Control Period, Sections 2.4, 2.9, 3.3, 3.4, 3.5, 3.6 and 10.1 may not be amended without the prior written consent of the Declarant. Paragraph (12) of subsection 5.8(a) may not be amended without the prior written approval of the County. All amendments to the Bylaws shall be prepared and recorded by the Secretary.

Section 10.2. Approval of Mortgagees. These Bylaws contain provisions concerning various rights, priorities, remedies and interests of Mortgagees. Such provisions are to be construed as covenants for the protection of such Mortgagees on which they may rely in making loans secured by Mortgages. Accordingly, no amendment or modification of these Bylaws impairing or affecting such rights, priorities, remedies or interests of a Mortgagee shall be adopted without the prior written consent of such Mortgagee.

ARTICLE 11

Miscellaneous

Section 11.1. Notices. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or sent by United States mail, postage prepaid (pursuant to section 55-79.75 of the Condominium Act), or if notification is of a default or lien, sent by registered or certified United States mail, return receipt requested, postage prepaid, (i) if to a unit owner, at the address which the unit owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of such unit owner's unit, or (ii) if to the Unit Owners Association, the Board of Directors or to the managing agent, at the principal office of the managing agent or at such other address as shall be designated by notice in writing to the unit owners pursuant to this section. If a unit is owned by more than one person, each such person who so designates an address in writing to the Secretary shall be entitled to receive all notices hereunder.

Section 11.2. Captions. The captions are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision.

Section 11.3. Gender. The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

Section 11.4. Construction. These condominium instruments are intended to comply with all of the applicable provisions of the Condominium Act and shall be so interpreted and applied. The failure to comply strictly with the time periods required by the condominium instruments, unless also required by the condominium Act, shall not invalidate any action of the

Board of Directors or the Unit Owners Association in the absence of a written objection by the Declarant, a unit owner or a Mortgagee within ten days after the failure to comply.

Section 11.5. Use of New Technology. Due to the ongoing development of new technologies and corresponding changes in business practices, to the extent permitted by law now or in the future: (1) any notice required to be sent or received; (2) any signature, vote, consent or approval required to be obtained; or (3) any payment required to be made, under the condominium instruments may be accomplished using the most advanced technology available at that time if such use is a generally accepted business practice. The use of technology in implementing the provisions of the condominium instruments dealing with notices, payments, signatures, votes, consents or approvals shall be governed by this Section.

(a) Electronic Means. To the extent permitted by law, the Unit Owners Association and its unit owners and occupants may perform any obligation or exercise any right by use of any technological means providing sufficient security, reliability, identification and verifiability. Acceptable technological means shall include without limitation electronic communication over the internet, the community or other network, whether by direct connection, intranet, telecopier or e-mail.

(b) Signature Requirements. Any requirement for a signature under the condominium instruments may be satisfied by a digital signature meeting the requirements of applicable law.

(c) Electronic Funds Transfer. Payment of all sums to and from the Association and the unit owners and occupants may be made by electronic transfer of funds creating a record evidencing the transaction for the period such record would be required to be available in non-electronic form.

(d) Voting Rights. Voting and approval of any matter under the condominium instruments may be accomplished by electronic means provided that a record is created as evidence thereof and maintained as long as such record would be required to be maintained in non-electronic form.

(e) Non-technology Alternatives. If any unit owner, occupant or third party does not have the capability or desire to conduct business using electronic or other technological means, the Association shall make reasonable accommodation, at its expense, for such person to conduct business with the Association without use of such electronic or other means until such means has become generally (if not universally) accepted in similar communities in the area.

ARTICLE 12

Alternative Dispute Resolution

The purpose of the Declaration is to establish a harmonious community. Because the prompt, efficient, fair and non-belligerent resolution of any disputes is desirable, any controversy arising out of or relating to the condominium instruments, or a breach thereof, or any other

dispute between (1) the Declarant and (2) the Unit Owners Association or any unit owner shall be resolved as set forth in this Article.

Section 12.1 Direct Communication. The parties to the disagreement shall set forth their respective positions in the dispute in correspondence. Each party shall respond within seven days after receipt of a letter from the other until agreement is reached.

Section 12.2 Mediation. If the dispute cannot be resolved through direct communication of the parties, either party may request appointment of a neutral and properly credentialed mediator. Both parties shall participate in the mediation in good faith until the dispute is resolved for a period not to exceed thirty days without the consent of all parties. The cost of the mediation shall be divided equally among the parties.

Section 12.3 Arbitration.

(a) Method. If the dispute cannot be resolved through mediation, either party may request appointment of one or more neutral arbitrators. If the parties cannot agree on a single arbitrator, then each party shall appoint one arbitrator and the two appointed arbitrators shall select the third arbitrator. Each arbitrator shall be properly credentialed with expert knowledge and practical experience regarding the subject in dispute. The initiating Person shall give written notice of its decision to arbitrate by providing a specific statement setting forth the nature of the dispute, the amount involved and the remedy sought. The initiating Person shall be responsible for all filing requirements and the payment of any fees according to the rules of the applicable regional office of the American Arbitration Association. The parties shall have an equal and fair opportunity to present their respective positions to the arbitrators, orally or in writing, as the arbitrators may specify depending on the nature of the dispute. The arbitrators may require such testimony, materials and documentation as they may determine to be appropriate. The arbitrators shall provide a written resolution within thirty days after the conclusion of the presentations of the parties and receipt of requested materials and documents. Any dispute shall be settled by binding arbitration administered by the American Arbitration Association.

(b) Costs. The arbitrator shall award to the prevailing party, if any, as determined by the arbitrator, all of its costs and expenses including any attorney's fees, arbitrator's fees and out-of-pocket expenses of any kind. The term "prevailing party" shall mean the party whose position is most nearly upheld in arbitration. (For example, the prevailing party would be the party who is required to pay \$1,000.00 in the arbitration proceeding where such party had, prior to the commencement of the arbitration, offered \$500.00 by way of settlement and the opposing party, refusing such offer, had claimed entitlement to \$10,000.00.)

(c) Binding Nature; Applicable Law. The consideration of the parties to be bound by arbitration is not only the waiver of access to determination by a court and/or jury, but also the waiver of any rights to appeal the arbitration finding other than for the reasons set forth in Sections 8.01-581.010 and 8.01-581.011 of the Code of Virginia (1950), as amended. A judgment upon an award rendered by the arbitrator may be entered in any court having jurisdiction. Unless otherwise provided in this Article, the terms of Sections 8.01-577 and 8.01-

581.01 et seq. of the Code of Virginia (1950), as amended, shall apply to the proceedings under this subsection.

Section 12.4 Location. The alternative dispute resolution proceeding shall be held in _____ County, Virginia unless otherwise mutually agreed by the parties.

Section 12.5 Sole Remedy; Waiver of Judicial Rights. The Declarant, the Unit Owners Association and each unit owner expressly consent to the procedures established in this Article as their sole and exclusive remedy, and expressly waive any right they may have to seek resolution of any dispute contemplated by this Article in any court of law or equity, and any right to trial by judge or jury; provided, however, that any party may pursue judicial adjudication of a decision of the Board of Directors: (i) suspending party's right to use a portion of the common elements pursuant to subsection 9.1(h); (ii) imposing a charge pursuant to subsection 9.1(g); or (iii) a judicial grant of injunctive relief obtained pursuant to subsection 9.1(e). The provisions of this Article shall not reduce or delay the Association's rights to levy a late charge, collect interest or file and pursue a lien as provided in Articles 5 and 9 with respect to any Assessment or other charges due from a unit owner hereunder. If a dispute involves the Declarant or the Association, no Person shall file a memorandum of lis pendens or similar instrument that would encumber or create a lien upon the real estate owned either by the Declarant or the Association.

Section 12.6 Disputes Requiring Emergency Relief. If a dispute requires immediate, emergency relief such as would be available through judicial injunctive relief, then either party to the dispute may seek such relief as a temporary resolution pending the opportunity to conduct other procedures under this Article.

ARTICLE 13

Commercial Units

Section 13.1. Protection of Commercial Unit Owners. If, (i) at any meeting of the Board of Directors, the directors determine to take a particular action and a director who is a Commercial Unit Owner votes against such action, upon the written request of the director who is a Commercial Unit Owner and, if there is more than one Commercial Unit Owner at such time, upon the written request of at least one additional Commercial Unit Owner, or (ii) at any meeting of the unit owners, there is a Majority Vote for a particular action which unreasonably, adversely affects a Commercial Unit owner's ability to conduct business and unit owners of Commercial Units to which one-half or more of the aggregate Common Element Interest is appurtenant request in writing to the Board of Directors such proposal shall be submitted to arbitration as provided in Section 12.2 to determine whether the interests of the Commercial Unit Owners are unreasonably prejudiced by such action. If the arbitrators determine that the action of the Board of Directors or the Unit Owners Association has so prejudiced such unit owners' interests, such action shall not be taken.

Section 13.2. Arbitration. Arbitration pursuant to these Bylaws shall consist of the appointment of an independent arbitrator by the members of the Board of Directors who are residential Unit Owners, the appointment of a second independent arbitrator by the members of

the Board of Directors who are Commercial Unit Owners and the appointment of the third arbitrator by the two previously-appointed arbitrators. These arbitrators shall be requested to reach a decision within thirty days after their appointment. The cost of arbitration shall be paid by the losing party unless the arbitrators determine that the cost should be a common expense.

**DECLARATION
FOR
MASTER ASSOCIATION**

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**DECLARATION
FOR
MASTER ASSOCIATION**

THIS DECLARATION is made as of _____, 20 ____, by DEVELOPER, LLC, a Delaware limited liability company (“Declarant”).

R E C I T A L S:

R-1. The Declarant owns in fee simple the land designated as Submitted Land in the legal description attached as Exhibit A and the Declarant desires to subject such land to the covenants, restrictions, reservations, easements, servitudes, liens and charges set forth in this Declaration.

R-2. The Declarant also wishes to reserve the right to subject all or any portion of the land designated as Additional Land in the legal description attached as Exhibit B to the provisions of this Declaration, as it may be amended from time to time.

R-3. The Lots and Common Area located on the Submitted Land are shown on the Plat Showing Lots and Common Area attached as Exhibit F.

R-4. The Declarant deems it desirable and in the best interest of all the owners of the land subject to this Declaration to protect the value and the desirability of such land by providing for the development of such land in accordance with a common plan and the common Upkeep (as hereinafter defined) of certain shared facilities.

R-5. To provide a means for meeting the purposes and intents set forth herein, the Declarant has caused Master Association Community Association, LLC to be formed as a limited liability company under the laws of the Commonwealth of Virginia, whose members shall consist of the Declarant, any Subassociations governing land located within the Property and any fee simple owners of any portion of the Submitted Land not subject to a Subassociation.

D E C L A R A T I O N:

The Declarant hereby covenants and declares, on behalf of itself and its successors and assigns, that from the date this Declaration is recorded the land designated as Submitted Land in Exhibit A shall be held, conveyed, acquired and encumbered subject to the terms and provisions hereof, all of which shall run with the land (including all improvements thereon) and bind and inure to the benefit of all Persons who may now or hereafter own or acquire any right, title, estate or interest in or to any of such land or who may now or hereafter occupy or enter upon any portion thereof, subject to the right of the Declarant or the Association to amend this Declaration from time to time in accordance with the provisions for amendment set forth herein.

P A R T O N E

ARTICLE 1

GENERAL PROVISIONS

Section 1.1. Definitions. Terms used herein without definition shall have the meanings specified for such terms in Section 13.1-1002 of the LLC Act. Capitalized terms used herein shall have the meanings specified for such terms below.

(1) “Additional Land” means the land so designated in Exhibit B, as amended from time to time, which the Declarant has reserved the right to submit to the Declaration and the jurisdiction of the Association.

(2) “Articles of Organization” means the Articles of Organization for the Association filed with the Virginia State Corporation Commission, as amended from time to time.

(3) “Assessable Floor Area” means the actual gross floor area constructed within a Lot as determined from architectural plans filed with the appropriate County agency.

(4) “Assessments” means the sums levied against the Lots to pay Common Expenses and other expenditures by the Association as provided in Article 6. Assessments include Annual Assessments, Limited Common Expense Assessments, Additional Assessments, Individual Assessments and Special Assessments (Assessments levied pursuant to Section 55-514 of the POA Act).

(5) “Association” means Master Association Community Association, LLC and, with respect to the rights and obligations of the Association set forth in this Declaration, its successors and assigns.

(6) “Association Documents” means collectively the Articles of Organization, this Declaration and any Supplementary Declarations, all as amended from time to time. Any exhibit, schedule, certification or amendment to an Association Document is an integral part of that document.

(7) “Common Area” means, at any given time, all of the Property then owned by the Association for the benefit, use and enjoyment of the Owners; provided, however, that land within the Property is not Common Area solely because it is burdened by an easement for utilities, landscaping, storm water management or signage or dedicated as a public street or roadway even though the Association may provide Upkeep for such area. Common Area shall include without limitation all sidewalks, roadways, private streets and walks, streetscape, street furniture, irrigation system, landscaping, and rights-of-way located on the Property which are not the maintenance responsibility of any Subassociation or any fee simple owner of any portion of the Submitted Land not subject to a Subassociation. The Declarant has the right to expand or contract the scope of the Common Area by recording an amendment to this Declaration or to the Plat Showing Lots and Common Area. Except when the context clearly requires otherwise, any reference to Common Area includes Limited Common Area and Reserved Common Area (as those terms are defined below).

(8) “Common Expenses” means all expenditures incurred by or on behalf of the Association, together with all funds determined by the Members to be reasonably necessary for the creation and maintenance of reserves pursuant to the provisions of the Association Documents. Except when the context clearly requires otherwise, any reference to Common Expenses includes Limited Common Expenses.

(9) “County” means Fairfax County, Virginia. All references to approval by the County shall mean approval by the appropriate agency of the County, as determined by the Office of the County Attorney at that time.

(10) “Covenants Committee” means the committee that may be established pursuant to Subsection 9.1(a) to assure that the Property will be maintained in a manner consistent with the purposes and intents of this Declaration and to enforce the Design Guidelines and Rules and Regulations.

(11) “Declarant” means Developer, LLC, a Delaware limited liability company, and its successors and assigns who take Special Declarant Rights pursuant to Section 1.4.

(12) “Declarant Control Period” means the period of time beginning on the date the Declaration is recorded and ending on the earliest of: (i) the later of (1) the twenty-fifth anniversary of the date of recordation of the Declaration or (2) the fifth anniversary of the date of recordation of the most recent Supplementary Declaration adding Additional Land; provided, however, that once the Declarant Control Period has expired, the recordation of a subsequent Supplementary Declaration shall not reinstate the Declarant Control Period; and provided, further, that if the Declarant is delayed in the improvement and development of the Property due to a sewer, water or building permit moratorium or other cause or event beyond the Declarant's control, then the aforesaid period shall be extended for the period of the delay or three years, whichever is less; (ii) the date specified by the Declarant in a written notice to the Association that the Declarant Control Period is to terminate on that date; or (iii) the end of the Development Period.

(13) “Declaration” means this Declaration for Master Association made by the Declarant and recorded among the Land Records, as amended from time to time, and except when the context clearly requires otherwise, includes all Supplementary Declarations.

(14) “Design Guidelines” means the architectural criteria and design standards governing construction and modification of improvements on the Property to protect the appearance and character of the Property.

(15) “Development Period” means the period of time that the Declarant or any third party is engaged in development or sales, or activities relating thereto, anywhere on the Property or the Additional Land and the Declarant is entitled to exercise certain Special Declarant Rights described in Section 1.4 under the Association Documents. When all the Submitted Land is owned by Owners other than the Declarant (or a lender holding Special Declarant Rights), all the Additional Land is owned by Owners other than the Declarant or an Affiliate of the Declarant (or a lender holding Special Declarant Rights) and all the bonds held by a governmental agency with respect to the Property and the Additional Land have been released, then the Development Period shall end.

(16) “Development Plan” means the development plans or site plans for the Submitted Land or the Additional Land as approved by the County in rezoning RZ 2011-PR-010 and RZ 2011-PR-011, as amended from time to time, and such additional development as may be approved for any Additional Land. Although the Declarant intends to develop the Property substantially in accordance with the initial Development Plan, the Declarant reserves the right to modify the Development Plan subject only to the requirements and procedures of the County.

(17) “Land Records” means the land records of Fairfax County, Virginia, the jurisdiction in which the Property and the Additional Land are located.

(18) “Limited Common Area” means a portion of the Common Area which has been designated by the Declarant pursuant to Subsection 2.4(b) for the primary or exclusive use of one or more Owners or a Subassociation. The Declarant may but need not depict a Limited Common Area by recording a plat or plan.

(19) “Limited Common Expenses” means Common Expenses benefiting one or more but less than all of the Owners or Subassociations and assessed against the Lots owned by the Owners or Subassociations benefited pursuant to paragraph (2) of Subsection 6.2(a).

(20) “LLC Act” means the Virginia Limited Liability Company Act, Chapter 12 of Title 13.1 of the Code of Virginia (1950), as amended, supplemented or replaced from time to time.

(21) “Lot” means a portion of the Property which is a separate lot of record or any other parcel of Submitted Land held in separate ownership and any improvements thereon. Lot shall also mean any condominium unit created in accordance with Chapter 4.2 of Title 55 of the Code of Virginia (1950), as amended, or any cooperative unit created in accordance with Chapter 24 of Title 55 of the Code of Virginia (1950), as amended. The common elements of any condominium or cooperative are appurtenances to the units and are part of the Lot. Lot shall not mean any Common Area, common area or common elements of a Subassociation or land dedicated for public purposes. A “Residential Lot” means any Lot which is used primarily for residential purposes. A “Nonresidential Lot” means any Lot which is used primarily for retail, commercial, office, hotel or other nonresidential uses pursuant to the applicable zoning for such Lot.

(22) “Majority Vote” means a simple majority (more than fifty percent) of the votes entitled to be cast by Members present in person or by proxy at a duly held meeting at which a quorum is present. Any vote of a specified percentage of Members means that percentage with respect to the total number of votes actually cast by Members present in person or by proxy at a duly held meeting of the Members at which a quorum is present. Any vote by a specified percentage of a committee means that percentage with respect to the total number of votes entitled to be cast at a duly held meeting of the committee at which a quorum is present. Any vote of or approval (whether actual or presumed) by a specified percentage of the Mortgagees is calculated according to the number of votes allocated to the Lots (or the Owners of the Lots) on which each Mortgagee has a Mortgage. Reference to a “Majority” means the Members, Owners or Mortgagees with respect to a majority of the votes in the Association.

(23) “Manager” means the Person appointed pursuant to Section 5.5.

(24) “Managing Agent” means the Person appointed pursuant to Section 5.6.

(25) “Member” means (i) the Declarant, (ii) a Subassociation governing any portion of the Property, and (iii) an Owner of a Lot not subject to a Subassociation.

(26) “Membership Interest” means each Member’s ownership interest in the Association as defined in Subsection 5.2(c).

(27) “Mortgagee” means an institutional lender (one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds or business trusts, including but not limited to real estate investment trusts, any other lender regularly engaged in financing the purchase, construction or improvement of real estate, or any assignee of loans made by such lender, or any combination of any of the foregoing entities) holding a first mortgage or first deed of trust (“Mortgage”) encumbering a Lot and which has notified the Association of its status and requested all rights under the Association Documents in writing pursuant to Section 13.2.

(28) “Owner” means one or more Persons who own a Lot in fee simple, but does not mean any Person having an interest in a Lot solely by virtue of a contract or as security for an obligation. Although the term “Owner” is sometimes used to refer to a Member of the Association, in the case of a Subassociation, the board of directors (or other governing body) of such Subassociation shall elect one natural person, who shall be an Owner, to represent, vote and act on behalf of the Owners of the Lots subject to the Subassociation, and the Owners of Lots within the Subassociation shall not be Members of the Association.

(29) “Person” means a natural person, corporation, partnership, limited liability company, association, trust or other entity capable of holding title or any combination thereof.

(30) “POA Act” means the Virginia Property Owners' Association Act, Chapter 26 of Title 55 of the Code of Virginia (1950), as amended, supplemented or replaced from time to time.

(31) “Proffers” means the proffers applicable to the Submitted Land or the Additional Land as approved by the County in conjunction with rezoning of the Property, RZ 2011-PR-010 and RZ 2011-PR-011, as amended from time to time.

(32) “Property” means, at any given time, the Submitted Land together with all improvements and appurtenances thereto now or hereafter existing.

(33) “Reserved Common Area” means a portion of the Common Area for which the Association has granted a revocable license pursuant to Section 3.8 for the exclusive use of Owners of one or more but less than all of the Lots or a Subassociation.

(34) “Rules and Regulations” means the rules and regulations governing the use, occupancy, operation, Upkeep and physical appearance of the Property adopted from time to time by the Association.

(35) “Subassociation” means any (i) condominium unit owners’ association created pursuant to Chapter 4.2 of Title 55 of the Code of Virginia (1950), as amended; (ii) proprietary lessees’ association created pursuant to Chapter 24 of Title 55 of the Code of Virginia (1950), as amended; or (iii) property owners’ association created pursuant to Chapter 26 of Title 55 of the Code of Virginia (1950), as amended, subject to this Declaration and governing some but less than all of the Property pursuant to covenants recorded among the Land Records.

(36) “Submitted Land” means the land designated as such in Exhibit A and all land which is from time to time submitted to this Declaration and subjected to the jurisdiction of the Association. Submitted Land includes Common Area and Lots but does not include improvements or appurtenances thereto.

(37) “Supplementary Declaration” means any declaration recorded among the Land Records: (i) submitting land to the terms of this Declaration and subjecting such land to the jurisdiction of the Association, whether or not such Supplementary Declaration contains additional provisions reflecting the unique characteristics of the land being submitted; or (ii) submitting a portion of the Property to such supplementary covenants in accordance with the provisions of Article 4.

(38) “Upkeep” means care, inspection, maintenance, clearing snow and ice, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

Section 1.2. Construction of Association Documents.

(a) Recitals, Exhibits, Captions and Cross-References. The recitals and exhibits are hereby incorporated by this reference. The captions are provided only for reference, and do not define, limit or otherwise affect the scope, meaning or effect of any provision. All cross-references are to the Declaration unless otherwise indicated.

(b) Gender and Number. The use of the masculine gender shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to include the plural and vice versa, whenever the context so requires.

(c) Severability. Each provision of an Association Document is severable from every other provision and the invalidity or unenforceability of any one or more provisions shall not change the meaning of or otherwise affect the enforceability or meaning of any other provision. To the extent that any provision of the Association Documents is found to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision, then the narrower or partially enforceable construction shall be applied and, to the extent lawful, the provision shall be enforced.

(d) Interpretation; Construction. If there is any conflict among the Association Documents, the Declaration, and then the applicable Supplementary Declaration, shall control, except as to matters of compliance with the LLC Act, in which case the Articles of Organization shall control. Specific provisions shall control general provisions, except that a construction consistent with the LLC Act or the POA Act shall in all cases control over any construction inconsistent therewith. The Association Documents shall be construed together and

shall be deemed to incorporate one another in full. Any requirements as to the content of one shall be deemed satisfied if the deficiency can be cured by reference to any of the others. The Association Documents shall be liberally construed in favor of the party seeking to enforce their provisions to effectuate the purpose of protecting the common plan for development.

(e) No Merger; Savings Clause. The easements granted and reservations made herein or in any Supplementary Declaration shall not terminate or merge and shall continue to run with the land, notwithstanding the common law doctrine of merger and the common ownership of certain portions of the Property at this time by the Declarant. If the intended creation of any easement provided for in this Declaration should fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to be so created shall nevertheless be considered as having been granted directly to the Association as agent for such intended grantees for the purpose of allowing the Persons to whom the easement was originally to have been granted the benefit of such easement.

(f) Ambiguities Resolved by Declarant. If there is any ambiguity or question as to whether any Person, land or improvement falls within any of the definitions set forth in Section 1.1, the Declarant's determination (as evidenced in a Supplementary Declaration) shall be binding and conclusive.

(g) Use of New Technology. Due to the ongoing development of new technologies and corresponding changes in business practices, to the extent permitted by law now or in the future: (i) any notice required to be sent or received; (ii) any signature, vote, consent or approval required to be obtained; or (iii) any payment required to be made, under the Association Documents may be accomplished using the most advanced technology available at that time if such use is a generally accepted business practice. The use of technology in implementing the provisions of this Declaration dealing with notices, payments, signatures, votes, consents or approvals shall be governed by this subsection.

(1) Electronic Means. To the extent permitted by law, the Association, the Manager, any Subassociation, the Owners, and the Owners' household, tenants, guests, employees, agents and invitees may perform any obligation or exercise any right by use of any technological means providing sufficient security, reliability, identification and verifiability. Acceptable technological means shall include without limitation electronic communication over the internet, the community or other network, whether by direct connection, intranet, telecopier or e-mail.

(2) Signature Requirements. Any requirement for a signature under the Association Documents may be satisfied by a digital signature meeting the requirements of applicable law.

(3) Electronic Funds Transfer. Payment of all sums to and from the Association and the Subassociations, Owners and any occupants may be made by electronic transfer of funds creating a record evidencing the transaction for the period such record would be required to be available in non-electronic form.

(4) Voting Rights. Voting and approval of any matter under the Association Documents may be accomplished by electronic means provided that a record is

created as evidence thereof and maintained as long as such record would be required to be maintained in non-electronic form.

(5) Non-technology Alternatives. If any Owner or third party does not have the capability or desire to conduct business using electronic or other technological means, the Association shall make reasonable accommodation, at its expense, for such Person to conduct business with the Association without use of such electronic or other means until such means has become generally (if not universally) accepted in the Washington, D.C. metropolitan area.

Section 1.3. Merger or Consolidation. Upon merger or consolidation of the Association with another entity formed for similar purposes, the Association's properties, rights and obligations may be transferred to the surviving or consolidated association, or alternatively, the properties, rights and obligations of the other entity may be assumed by the Association, as the surviving entity. No such merger or consolidation shall effect any revocation, termination, change or addition to this Declaration except pursuant to Articles 13 and 14.

Section 1.4. Special Declarant Rights; Transfer.

(a) Special Declarant Rights. Special declarant rights are those rights reserved for the benefit of the Declarant as provided for in the Association Documents, and shall include without limitation the following rights: (i) to have, use, grant, reserve, modify and terminate easements over and through the Property for the purpose of making improvements within the Property as provided in Article 3; (ii) to maintain models, management offices, construction offices, sales offices, customer service offices or offices for similar purposes and signs advertising the Property as provided in Article 3; (iii) to remove and replace a Manager or Managing Agent selected by the Declarant; (iv) to make unilateral amendments to the Association Documents as provided in Sections 2.4, 4.1, 4.2 and 15.1; (v) to add Additional Land pursuant to Section 4.1; (vi) to withdraw Submitted Land pursuant to Section 4.2 and (vii) to exercise any other rights reserved or given to the Declarant by the Association Documents (“Special Declarant Rights”).

(b) Transfer of Special Declarant Rights.

(1) Procedure. The Declarant may unilaterally transfer (without the approval or joinder of the Association or any Owner, Subassociation or Mortgagee) Special Declarant Rights created or reserved under the Association Documents to (i) any Person acquiring Lots or Additional Land or (ii) any lender holding a Mortgage on Lots or Additional Land. Such transfer shall be evidenced by an instrument recorded in the Land Records. Following recordation of a document assigning to another Person all or some of the rights reserved to the Declarant under the Association Documents pursuant to this section, the term “Declarant” shall mean or include that assignee. The instrument is not effective unless signed by the transferor and transferee; provided, however, that a Person acquiring Lots or Additional Land pursuant to Paragraph (3) of Subsection 1.4(b) may unilaterally sign an instrument to acquire some or all of the Special Declarant Rights. A partial transfer of Special Declarant Rights does not prevent the transferor declarant from continuing to exercise Special Declarant Rights with respect to the Association and land retained by such declarant. The instrument providing for a partial transfer of Special Declarant Rights shall allocate voting rights between the transferor and the transferee as such Persons shall agree among themselves or based on the number of Lots and/or square footage of Additional Land owned by each declarant if not otherwise provided. Each Person having Special Declarant Rights under the Association Documents has the right to

transfer such rights unilaterally with respect to land owned by such Person except to the extent provided otherwise in an instrument assigning the Special Declarant Rights to such Person. If at any time the Declarant ceases to exist and has not made an assignment of the Special Declarant Rights, a successor may be appointed by an amendment to the Declaration made pursuant to Section 15.2.

(2) Liability of Transferor. Upon transfer of any Special Declarant Rights, the liability of a transferor declarant is as follows:

A. A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations the transferor has undertaken by contract or which are imposed upon the transferor by law.

B. If the successor to any Special Declarant Rights is an Affiliate of a declarant (as defined in Subsection (b)(7)), the transferor is jointly and severally liable with the successor for any obligation or liability of the successor that relates to the Property.

C. If a transferor retains any Special Declarant Rights, but transfers other Special Declarant Rights to a successor who is not an Affiliate of the declarant, the transferor remains liable for any obligations and liabilities relating to the retained Special Declarant Rights imposed on a declarant by the Association Documents arising after the transfer.

D. A transferor has no liability for any act or omission, or any breach of a contractual or warranty obligation arising from the exercise of Special Declarant Rights by a successor declarant who is not an Affiliate of the transferor.

(3) Effect of Foreclosure on Successor. Unless otherwise provided in a Mortgage, in case of foreclosure of a Mortgage (or deed in lieu of foreclosure), tax sale, judicial sale, sale by a trustee under a deed of trust or sale under the Bankruptcy Code or receivership proceedings, of any Lots or Additional Land owned by a declarant, a Person acquiring title to all the Lots or Additional Land being foreclosed or sold, but only upon such Person's request, succeeds to all Special Declarant Rights related to such Lots or Additional Land or only to any rights reserved in the Association Documents to maintain models, management offices, construction offices, sales offices, customer service offices and signs advertising the Property. The judgment, instrument conveying title or other instrument recorded in the Land Records shall provide for transfer of only the Special Declarant Rights requested.

(4) Effect of Foreclosure on Declarant. Upon foreclosure (or deed in lieu of foreclosure), tax sale, judicial sale, sale by a trustee under a deed of trust, or sale under the Bankruptcy Code or receivership proceedings, of all Lots and Additional Land owned by a declarant (i) the declarant ceases to have any Special Declarant Rights, and (ii) the Declarant Control Period terminates unless the judgment, instrument conveying title or other instrument recorded among the Land Records provides for transfer of Special Declarant Rights held by that declarant to a successor declarant.

(5) Liability of Successor. The liabilities and obligations of Persons who succeed to Special Declarant Rights are as follows:

A. A successor to any Special Declarant Rights who is an Affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by the Association Documents.

B. A successor to any Special Declarant Rights, other than a successor described in subparagraphs (C) or (D) of this paragraph or a successor who is an Affiliate of a declarant, is subject to all obligations and liabilities imposed by the Association Documents: (A) on a declarant which relate to such declarant's exercise or non-exercise of Special Declarant Rights; or (B) on the transferor, other than: (i) misrepresentations by any previous declarant; (ii) warranty obligations, if any, on improvements made by any previous declarant, or made before the Association was created; (iii) breach of any fiduciary obligation by any previous declarant or Manager; or (iv) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

C. A successor to only a right reserved in the Association Documents to maintain models, sales offices, customer service offices and signs, if such successor is not an Affiliate of a declarant, may not exercise any other Special Declarant Rights, and is not subject to any liability or obligation as a declarant.

D. A successor to all Special Declarant Rights held by a transferor who succeeded to those rights pursuant to foreclosure, a deed in lieu of foreclosure or a judgment or instrument conveying title under Subsection (b)(3), may declare the intention in an instrument recorded in the Land Records to hold those rights solely for transfer to another Person. Thereafter, until transferring all Special Declarant Rights to any Person acquiring title to any Lots owned by such successor, or until such successor records an instrument assuming the right to exercise the Special Declarant Rights, that successor may not exercise any of the Special Declarant Rights other than any right held by the transferor to vote in accordance with the provisions of the Association Documents, and any attempted exercise of those rights is void. So long as a successor declarant does not exercise Special Declarant Rights (except the right to vote as described above) under this subsection, such successor is not subject to any liability or obligation as a declarant.

(6) Limitation. Nothing in this Article subjects any successor to Special Declarant Rights to any claim against or other obligation of a transferor declarant, other than claims and obligations arising under the Association Documents.

(7) Affiliate. For the purposes of this section, "Affiliate" or "Affiliate of a declarant" means any Person who controls, is controlled by, or is under common control with a declarant. A Person controls a declarant if the Person (i) is a general partner, officer, director or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more Persons or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent of the voting interests in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than twenty percent of the capital of the declarant. A Person is controlled by a declarant if the declarant (i) is a general partner, officer, director or employer of the Person, (ii) directly or indirectly or acting in concert with one or more other Persons or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing more than twenty percent of the voting interest in the Person, (iii) controls in any manner the election of a majority of the directors of the Person, or (iv) has contributed more than twenty percent of the

capital of the Person. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised.

Section 1.5. No Obligations. Nothing contained in the Association Documents shall impose upon the Declarant or its successors or assigns any obligation of any nature to build, construct, renovate, provide or warrant any improvements. Neither the Declarant nor its successors or assigns shall be liable to any Member, Owner or occupant by reason of any mistake in judgment, negligence, nonfeasance, action or inaction or for the enforcement or failure to enforce any provision of this Declaration. No Member, Owner or occupant of any portion of the Property shall bring any action or suit against the Declarant to recover any damages or to seek equitable relief because of the enforcement or failure to enforce any provision of the Declaration against a third party. This section shall not be construed to release or absolve the Declarant, its successors or assigns from any obligation imposed by the duly adopted ordinances of the County, including without limitation the approved Proffers and conditions of subdivision approval.

Section 1.6. Notices. Except as specifically provided otherwise in the LLC Act or the Association Documents, any offer, acceptance, election, approval, consent, certification, request, waiver, notice or other communication required or permitted to be given under the Association Documents, shall be in writing and shall be deemed to have been duly given if hand delivered personally to the Member's representative or the Member, at the Member's address of record, delivered by: (i) any form of wire or wireless communication, (ii) private carrier, or (iii) United States mail, postage prepaid; or if notification is of a default, hearing or lien, sent by registered or certified United States mail, return receipt requested, postage prepaid: (i) if to an Owner, at the address which the Owner shall designate in writing and file with the Managing Agent or, if no such address is designated, at the address of a Lot owned by such Owner; (ii) if to a Subassociation, at the address which the Subassociation shall designate in writing and file with the Managing Agent or, if no such address is designated, at the address on file with the Virginia Common Interest Community Board; (iii) if to the Association, the Manager or the Managing Agent, at the principal office of the Association or at such other address as shall be designated by notice in writing to the Members pursuant to this section; or (iv) if to a Mortgagee, at the address indicated by the Mortgagee in a written notice to the Association. The date on which notice shall be deemed received shall be the date of delivery if by courier or overnight delivery service, or three days after the date of mailing if by mail. Notice to one Person comprising an Owner is sufficient notice to an Owner.

ARTICLE 2

COMMON AREA

Section 2.1. Conveyance; Title. The Declarant shall convey the Common Area to the Association in fee simple, released from any encumbrances securing the repayment of monetary obligations incurred by the Declarant, but subject to all easements and other encumbrances then of record (including those created by this Declaration). The Association shall accept title to any real estate or personal property offered to the Association by the Declarant.

Section 2.2. Regulation of Common Area. The Association shall have the right to regulate use of the Common Area pursuant to Section 5.1 and to charge fees for the use of Common Area if appropriate. The Association may also allow non-owners to use portions of the Common Area on an annual or user fee basis and may enter into agreements with neighboring

property owners to provide for such use. The Association, acting through its Manager, without Owner, Subassociation or Mortgagee approval, may also lease, mortgage, dedicate or convey Common Area or grant easements over and through the Common Area subject to the restrictions in Section 15.4.

Section 2.3. Determination and Improvement of Common Area by the Declarant. The Declarant may identify the location of planned Common Area, but the planned Common Area may change from time to time in connection with changes in the Development Plan and other factors not now known. Therefore, the Declarant's determination of which land is to become Common Area shall be binding and conclusive, and any reference to Common Area shall mean the Common Area at the relevant time.

Section 2.4. Reserved Common Area and Limited Common Area.

(a) Reserved Common Area. The Declarant, or the Manager after the Declarant Control Period, shall have the power in its discretion from time to time to grant revocable licenses in the Common Area by designating portions of the Common Area as Reserved Common Area. Such Reserved Common Area shall be subject to such restrictions, reasonable charges and conditions on the use thereof as the Declarant, or the Manager after the Declarant Control Period, may deem appropriate. Such Reserved Common Area shall be maintained by the Association or, at the Manager's option, by the Persons having the exclusive right to use the Reserved Common Area.

(b) Limited Common Area. The Declarant shall have the unilateral right, without the approval or joinder of the Association or any Owner, Subassociation or Mortgagee, for as long as the Declarant has the right to add Additional Land under Section 4.1, to restrict portions of the Common Area in the nature of an easement for the exclusive (if specifically designated) or primary, as appropriate, use of one or more Subassociations or the Owners of one or more specific Lots by designating such portions of the Common Area as Limited Common Area. The Declarant may describe the Limited Common Area or Common Area that may be assigned as Limited Common Area in a Supplementary Declaration and may thereafter unilaterally record an instrument assigning such Limited Common Area. Limited Common Area may only be reassigned with the prior written approval of the Subassociation or Owners of sixty-seven percent of the Lots served by such Limited Common Area, the Association acting through its Manager, and the Declarant (during the Development Period). Upon conveyance of Common Area in accordance with Section 2.1, the Manager can unilaterally relocate such Limited Common Area if such relocation does not materially adversely affect the Lots served by such Limited Common Area.

Section 2.5. Transfer of Responsibility for Upkeep. When the Declarant substantially completes improvements on any portion of the Common Area and transfers responsibility for Upkeep for any portion of the Common Area to the Association, the Declarant shall provide written notice to the Association, specifying the Common Area or improvements for which responsibility is being transferred. A representative of the Association unaffiliated with the Declarant and appointed by the Manager shall inspect such portion of the Common Area and shall report its condition to the Manager and the Members within fifteen days after notice from the Declarant that such portion of the Common Area is ready for inspection. If the Association fails to do so within the fifteen-day period, the Association waives its rights under this section. When the Declarant transfers the responsibility for Upkeep of any portion of the Common Area to the Association, any improvements located thereon shall be substantially complete, all work

(except for such work which cannot be performed due to the weather conditions or the season of the year, which the Declarant will be obligated to complete when weather conditions permit) required by the site plan shall be completed and such portion of the Common Area and improvements on such portion of the Common Area shall be in a condition generally acceptable to the Association. When the Association assumes responsibility for Upkeep for a portion of the Common Area, the Association shall cooperate with the Declarant to obtain release of governmental bonds. If such Common Area and the improvements located thereon are not in such condition, the Association shall notify the Declarant in writing, specifying the deficiencies, whereupon the Declarant shall have until the later of the bond release or sixty days after the date of the notice of the deficiencies to remedy the deficiencies. Ten days or more after such period expires, the Association may perform on behalf of the Declarant and the Declarant shall promptly reimburse the Association for the reasonable costs incurred.

Section 2.6. Additional Improvements on Common Area. After the initial improvement and conveyance of any Common Area to the Association, the Declarant may, but is not obligated to, construct additional improvements on the Common Area for the benefit of the Property, pursuant to the easements in Section 3.1.

Section 2.7. Boundary Adjustments. The Declarant, during the Development Period, and the Manager, thereafter, has the power at any time or times, consistent with the then existing ordinances of the applicable governmental authority, and pursuant to a recorded plat, to transfer part of the Common Area for the purpose of adjusting Lot lines or otherwise in connection with the orderly subdivision and development of the Property; provided, however, that any boundary line adjustment is approved by all Owners of Lots for which the boundaries are being adjusted.

ARTICLE 3

EASEMENTS

Section 3.1. Development and Utility Easements.

(a) Easement to Facilitate Development. The Declarant hereby reserves to itself and its successors and assigns a nonexclusive blanket easement over and through the Property for all purposes reasonably related to the development and completion of improvements on the Property, including without limitation: (i) temporary slope and construction easements; (ii) easements for the temporary storage (in a sightly manner) of reasonable supplies of building materials and equipment necessary to complete improvements; (iii) crane easements; (iv) easements for the construction, installation and Upkeep of improvements (e.g., buildings, landscaping, street lights, signage, etc.) on the Property and the Additional Land or reasonably necessary to serve the Property or the Additional Land; and (v) easements for ingress and egress as necessary to perform the foregoing.

(b) Easement to Facilitate Sales. The Declarant hereby reserves to itself and its successors and assigns the right to: (i) use any Lots owned or leased by the Declarant, any other Lot with written consent of any Subassociation or the Owner thereof or any portion of the Common Area as models, management offices, sales offices, a visitors' center, construction offices, customer service offices or sales office parking areas (provided, however, that the Declarant shall remain responsible for the Upkeep of that portion of the Common Area used exclusively for the foregoing purposes); (ii) place and maintain in any location on the Common Area and each Lot within ten feet of any Lot boundary line abutting a public right-of-way or a

private street or roadway, trails, paths and sidewalks, street lights, street and directional signs, temporary promotional signs, plantings, street lights, entrance features, “theme area” signs, lighting, stone, wood or masonry walls or fences and other related signs and landscaping features or to grant easements for the Upkeep of any of the foregoing; and (iii) relocate or remove all or any of the above from time to time at the Declarant's sole discretion. The Association is hereby granted an easement to perform the Upkeep of any permanent structure or landscaping installed under clause (ii) above.

(c) Easement for Utilities and Related Services. The Declarant hereby reserves to itself and to its successors and assigns, and also grants to the Association, the right to grant and reserve exclusive or non-exclusive, perpetual or non-perpetual blanket easements over and through the Common Area and any Lot for the purpose of: (i) installing, constructing, operating, maintaining, inspecting, repairing or replacing equipment used to provide to any portion of the Property or the Additional Land any utilities, including without limitation water, sewer, drainage, gas, electricity, telephone, television, telecommunications, fiber optic service or street lighting, whether public or private; and (ii) ingress and egress to install, construct, operate, maintain, inspect, repair and replace such equipment and (iii) storm water management and storm water drainage, as necessary or desirable for the orderly development of the Property or the Additional Land. Such easement may be granted to any Person providing the aforesaid utilities or installing, constructing, maintaining, inspecting, repairing or replacing equipment related thereto. Any pipes, conduits, lines, wires, transformers and any other apparatus necessary for the provision or metering of any utility may be installed or relocated only where permitted by the Declarant, where contemplated on any site plan approved by the Declarant or where approved by the Manager. Equipment used to provide or meter such utilities or services may be installed above ground during periods of construction if approved by the Declarant or the Manager. The Person providing a service or installing a utility pursuant to this easement shall install, construct, maintain, repair or replace the equipment used to provide or meter the utility as promptly and expeditiously as possible, and shall restore the surface of the land and the surrounding vegetation and improvements to their original condition (to the extent practical) as soon as possible. If the Person installing the utility or providing the service requests a specific easement across the Common Area or any Lot by separate recordable instrument, then the Declarant, or the Association after the termination of the Development Period, acting through its Manager, without Owner, Subassociation or Mortgagee approval, shall have the power to grant and convey such easement and to record a deed locating such easement.

(d) Dedications and Easements Required by Governmental Authority. The Declarant hereby reserves to itself and its successors and assigns, and also grants to the Association, the right to make any dedications and to grant or terminate any easements, rights of way and licenses required by any government or governmental agency over and through all or any portion of the Common Area. The Declarant also hereby reserves to itself and its successors and assigns, and also grants to the Association, an easement to make any corrections required by a governmental authority or utility and a right to grant and reserve easements or to vacate or terminate easements across all Lots and Common Area as may be required by any governmental agency or authority or utility company in connection with the release of bonds or the acceptance of streets for public maintenance with respect to the Property.

(e) Storm Water Management Easement. The Declarant hereby reserves to itself and its successors and assigns, and also grants to the Association, an easement and the right to grant and reserve easements over, under and through the Property for the construction and Upkeep of storm water management facilities, including without limitation storm water retention

areas, vaults, storm drainage inlets and pipes, rain gardens and Filterra described or shown on the Development Plan or determined to be necessary after the Development Period. The Declarant, and the Association after the Development Period, shall also have the right to allow the owners of the Additional Land and other adjacent real estate to tie into the storm water management facilities for the Property; provided, however, that such owners pay that portion of the expense of Upkeep for the storm water management facilities for the Property as may be deemed appropriate by the Declarant.

(f) Easement to Correct Drainage. The Declarant reserves to itself and its successors and assigns, and also grants to the Association, an easement and right on, over and under the ground within each Lot and the Common Area to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance, including any necessary right of access. Such right expressly includes the right to cut any trees, bushes or shrubbery, to regrade the land, or to take any other similar action reasonably necessary, following which the Declarant or Association, as applicable, shall restore the affected Property to its original condition as near as practical.

(g) Further Assurances. Any and all conveyances made to the Association, a Subassociation or any Owner shall be conclusively deemed to incorporate these reservations of rights and easements, whether or not set forth in such grants. Upon written request of the Declarant, the Association, each Subassociation and each Owner shall from time to time sign, acknowledge and deliver to the Declarant such further assurances of these reservations of rights and easements as may be requested. If an intended beneficiary of an easement described in Section 3.1 requests recordation of a separate document evidencing such Person's easement rights that are consistent with this Declaration, then the Declarant or the Association, as applicable, may sign and record such an easement instrument, without the consent, approval or joinder of any Owner, Subassociation or Mortgagee.

(h) Duration of Development Rights; Assignment. The rights and easements reserved by or granted to the Declarant pursuant to this section shall continue throughout the Development Period, unless specifically stated otherwise. The Declarant may assign its rights under this section to, or share such rights with, one or more other Persons, exclusively, simultaneously or consecutively. The Declarant shall notify the Association of any such assignment or designation by the Declarant. The Declarant may also make limited temporary assignments of its easement rights hereunder to any Person performing construction, installation or Upkeep on any portion of the Property.

Section 3.2. Association Powers and Rights. The Association's exercise of the rights, powers and easements granted in Section 3.1 is subject to Section 15.4. If the Declarant, any Subassociation or any Owner requests the Association to exercise its powers under this section, the Association's cooperation shall not be unreasonably withheld, conditioned or delayed. Any rights of a Subassociation or an Owner hereunder are specifically limited to the real estate subject to such Subassociation or such Owner's Lot and are subject to such rules as may be established by the Declarant and the Association to maintain reasonable standards of safety, cleanliness and general appearance of the Property. Each Subassociation and Owner shall be required to comply with the standards adopted by the Declarant to ensure an orderly and uniform development scheme for the Property.

Section 3.3. Easement for Upkeep.

(a) Association Access. The Declarant, on behalf of itself and its successors and assigns, hereby grants the right of access over and through any portion of the Property (excluding any dwelling) to the Association, the Managing Agent and any other Persons authorized by the Manager, in the exercise and discharge of their respective powers and responsibilities, including without limitation to make inspections, correct any condition originating in a Lot or in the Common Area threatening another Lot or the Common Area, correct drainage, perform installations or Upkeep of utilities, landscaping or other improvements located on the Property for which the Association is responsible for Upkeep, or correct any condition which violates the Association Documents. The Manager, Managing Agent, agents and contractors of the Association may also enter any portion of the Property (excluding any dwelling) in order to utilize or provide for the Upkeep of the areas subject to easements granted in this Article to the Association. Each Subassociation and Owner shall be liable to the Association for the cost of all Upkeep performed by the Association and rendered necessary by any act, neglect, carelessness or failure to comply with the Association Documents for which such Subassociation or Owner is responsible pursuant to Section 12.1, and the costs incurred by the Association shall be assessed against such Subassociation or Owner's Lot in accordance with Sections 6.2 and 12.1.

(b) Declarant Access. Until the expiration of any applicable warranty period, the Declarant hereby reserves to itself and its successors and assigns a right of access over and through the any portion of the Property not within a dwelling to perform warranty-related work within the Common Area or the Lots. The Declarant may assign its rights under this subsection to, or share such rights with, one or more other Persons, exclusively, simultaneously or consecutively.

(c) Entry into Improvements. If entry to an improvement or a dwelling is required by any Person pursuant to this section, a request for entry shall be made in advance and such entry shall be made, to the extent practicable, at a time reasonably convenient to the Subassociation or Owner. In case of an emergency, however, such right of entry to any improvement (excluding any dwelling) shall be immediate.

Section 3.4. Easements for Encroachments. If any improvement on any Lot or portion of the Common Area now or hereafter encroaches on any other portion of the Property by reason of: (i) the original construction thereof; (ii) deviations within normal construction tolerances in the Upkeep of any improvement; or (iii) the settling or shifting of any land or improvement, an easement is hereby granted to the extent of any such encroachment for the period of time the encroachment exists. The Owner of the encroaching improvement shall also have an easement for the limited purpose of Upkeep of the encroaching improvement. This easement does not relieve any Person from liability for such Person's negligence or willful misconduct or excuse the violation of County ordinances.

Section 3.5. Easement for Support. To the extent that any portion of the Property now or hereafter supports or contributes to the support of any other portion of the Property, the former is hereby burdened with an easement for the lateral and subjacent support of the latter.

Section 3.6. Easement for Emergency Access. An easement over and through all or any portion of the Common Area is hereby granted to the County for police, fire, ambulance and other rescue personnel in the lawful performance of their functions during emergencies.

Section 3.7. Easement for Use of Common Area.

(a) Use and Enjoyment. The Declarant reserves to itself during the Development Period and grants to each Owner a non-exclusive right and easement of use and enjoyment in common with others of the Common Area, except as limited by the designation of Limited Common Area or Reserved Common Area. Each Owner is also hereby granted a non-exclusive easement for egress and ingress and utility services (including lead sidewalks, driveway aprons and utility laterals) over the Common Area to the extent necessary to provide vehicular and pedestrian access to such Lot for such Owner and such Owner's household, tenants, guests, employees, agents and invitees. The Manager, without further Subassociation, Owner or Mortgagee approval, is authorized on behalf of each Member to relocate or to modify easements over and across Common Area granted to or for the benefit of Owners in deeds of subdivision or otherwise; provided, however, that each Owner retains (in a location determined by the Manager) a right of access to such Owner's Lot for vehicular and pedestrian ingress and egress and for utility services. The foregoing rights and easements of use and enjoyment and access, ingress and egress and utility services shall be appurtenant to each Lot, whether or not mentioned in the deed thereto. Any purported conveyance or other transfer of such rights and easements apart from the Lot to which such rights and easements are appurtenant shall be void.

(b) Delegation. Subject to the Rules and Regulations and such other restrictions as may be adopted by the Association, any Person having the right to use and enjoy the Common Area may delegate such rights to such Person's household, tenants, guests, employees, agents and invitees and to such other Persons as may be permitted by the Association.

(c) Limitations. The rights and easements of enjoyment created by this section shall be subject (in addition to any easements granted or reserved in this Declaration or pursuant to the other Association Documents) to all rights and powers of the Declarant or the Association when exercised in accordance with the other applicable provisions of the Association Documents, including without limitation the Association's right (acting through its Manager) to designate Reserved Common Area, to regulate the use of the Common Area, to grant memberships to non-owners, and to establish reasonable charges for use of the facilities located on the Common Area (if any), to grant easements across the Common Area, to dedicate portions of the Common Area and to lease, convey or mortgage the Common Area subject to the requirements in Section 15.4.

(d) Additional Land.

(1) Common Area. During the Development Period, the Declarant hereby reserves to itself and its successors and assigns the right to grant to each Person lawfully occupying any portion of the Additional Land a non-exclusive right and easement of use and enjoyment in common with others of the Common Area and a right of access over and through the Common Area (except as limited by the designation of Limited Common Area or Reserved Common Area). The Persons to whom this easement is granted or the Subassociation governing the Additional Land shall pay to the Association an annual assessment levied exclusively for a share of the costs of management and Upkeep of the Common Area, including insurance and reserves, equal to the amount that would be payable if the Additional Land were subject to the Declaration.

(2) Access. During the Development Period, the Declarant also reserves to itself, its successors and assigns, the right to grant to each Person lawfully occupying a portion of the Additional Land a non-exclusive easement over all streets, roads, walks and paths on the Common Area, as may be necessary for vehicular and/or pedestrian ingress and egress across such Common Area from a public right-of-way to any portion of the Additional Land that would not otherwise have access to a public right-of-way; provided, however, that the Persons benefiting from such easement shall pay a portion of the expense of Upkeep for such streets, walks and paths if so determined by the Declarant.

Section 3.8. Limitations on Exercise of Rights and Easements.

(a) Other Easements. These easements are subject to all other easements and encumbrances of record (including those created by this Declaration).

(b) Notice. The Declarant or the Association, as appropriate, when exercising the rights and easements granted by this Article, shall: (i) give reasonable prior notice to all affected Subassociations and Owners, unless an emergency exists which precludes such notice; (ii) minimize any economic or aesthetic injury to the affected Lots or the Common Area; and (iii) not unreasonably interfere with the affected Owners' use, enjoyment and benefit from such Owners' Lots or the Common Area.

(c) Relocation. If an easement is relocated, the cost of such relocation shall be paid by the party requesting the relocation.

(d) Damage. Any damage resulting from the exercise of the aforesaid rights and easements shall be promptly repaired and the site restored to the extent practical by the Declarant or the Association, as appropriate, or, at the option of the Declarant or the Association, the Person responsible for such damage. In either case, the cost of such repair and restoration shall be paid for by the Person responsible for the damage or requesting the relocation.

Section 3.9. Priority and Enforcement of Easements.

(a) No Subordination. No Person may subordinate the easements herein created to any subsequent encumbrance.

(b) No Enforcement by Third Parties. The easements and rights granted by this Declaration shall not be enforceable by Persons to whom such easements and rights may be delegated by Owners, including without limitation the household, tenants, guests, employees, agents or invitees of any Owner. This subsection does not affect, however, the rights of Mortgagees in possession or court-appointed officers or managers in possession and control of a Lot acting in the name, place and stead of Owners, or any Person's right to enforce any easements or rights granted in any lease or agreement between such Person and an Owner.

(c) Easements Additional. The easements created by or pursuant to this Article shall be in addition to such other easements as may be created by recordation of appropriate instruments among the Land Records.

ARTICLE 4

DEVELOPMENT OF THE PROPERTY

Section 4.1. Expansion by the Declarant.

(a) Designated Additional Land. The Declarant hereby reserves a unilateral right until the later of: (i) the twenty-fifth anniversary of the date of recordation of this Declaration or (ii) the fifth anniversary of the date of recordation of the most recently recorded Supplementary Declaration adding Additional Land, to expand the Property from time to time without the approval of the Association, any Owner (except the owner of such real estate), Subassociation or Mortgagee (except the Mortgagee secured by such real estate) to submit all or any portion of the Additional Land to the provisions of this Declaration and the jurisdiction of the Association whether or not such land is owned by the Declarant. The right to expand may be terminated only upon the recordation by the Declarant of an instrument relinquishing such right. The Declarant also reserves the unilateral right, without the approval or joinder of the Association, any Subassociation or any Owner (except the owner of such real estate) or Mortgagee, to sign and record a Supplementary Declaration, subjecting any portion of the Property to such additional covenants and restrictions as may be necessary to reflect the different characteristics of such portion of the Property as are not inconsistent with the overall scheme of the Declaration; provided, however, that the Declarant shall not record a Supplementary Declaration affecting a Lot after the conveyance of such Lot to an Owner other than the Declarant without the written consent of either the Subassociation governing such Lot or the Owner of such Lot. The Declarant shall add Additional Land in accordance with the procedures set forth in Section 4.3. There are no limitations on the right to expand except as set forth in this Article. If the Declarant does not submit all or any portion of the Additional Land to the Declaration, such land may be developed in any manner allowable under local zoning ordinances without regard to the restrictions in this Declaration.

(b) Undesignated Additional Land. The Declarant may also unilaterally amend the description of Additional Land set forth in Exhibit B or submit adjacent real estate not described as Additional Land without the approval of any Owner, Subassociation or Mortgagee whether or not such real estate is owned by the Declarant; provided, however, that such additional real estate is immediately adjacent to the Property or across a public right-of-way from the Property and such submission would not increase the overall amount of land described in Exhibits A or B by more than ten percent in either square footage of land, number of planned dwelling units or gross square footage of commercial floor area.

Section 4.2 Expansion by the Association. With (i) the written consent of the fee simple owner of such real estate (if not the Association) and any mortgagee secured by such real estate, (ii) at least a Sixty-seven Percent Vote or the written approval of Members entitled to cast at least sixty-seven percent of the total number of votes and (iii) the written consent of the Declarant during the Development Period, the Association may submit any real estate located immediately adjacent to the Property or across a public right of way from the Property to the provisions of this Declaration and the jurisdiction of the Association, in accordance with the procedures set forth in Section 4.3.

Section 4.3 Procedure for Expansion; Additional Covenants. The Declarant or the Association, as appropriate, may record one or more Supplementary Declarations. Each Supplementary Declaration adding real estate shall: (i) include a legally sufficient description of

the real estate added, (ii) designate such real estate with the term “phase” and a unique identifier so as to differentiate between each portion of the Property; and (iii) describe any real estate being conveyed to the Association as Common Area and describe any new Lots. Any Supplementary Declaration may contain such additional covenants and restrictions as may be necessary to reflect the different characteristics of the Lots or the land uses if consistent with the overall scheme of this Declaration. The Declarant or the Association may not subject a Lot to a Supplementary Declaration after conveyance of such Lot to an Owner other than the Declarant or the Association without the prior written consent of such Owner (and the Mortgagee) of such Lot. Upon recording a Supplementary Declaration submitting real estate to the Declaration, the provisions of the Declaration shall apply to the real estate thereby added as if such real estate were originally part of the Submitted Land.

Section 4.4. Land Submitted by Persons Other than the Declarant. Any Person other than the Declarant submitting land to this Declaration hereby grants to the Declarant, the Association, each Subassociation and each Owner all rights, easements and other interests with respect to such land granted or reserved in this Article and shall provide such further assurances as may be required.

Section 4.5. Withdrawable Land.

(a) By the Declarant. During the Development Period, the Declarant has the unilateral right, without the approval or joinder of the Association, any Owner, Subassociation or Mortgagee other than the Owner and Mortgagee of the real estate being withdrawn, to sign and record an amendment withdrawing any portion of the Property from time to time if such real estate is: (i) dedicated or to be dedicated to public use; (ii) conveyed or to be conveyed to a public agency; or (iii) rezoned for a different use.

The Declarant hereby also reserves a unilateral right, without the approval or joinder of the Association or any Owner, Subassociation or Mortgagee, to sign and record an amendment withdrawing any portion of the Property owned by the Declarant for any purpose.

The Declarant may record one or more amendments to this Declaration and Exhibit A removing the real estate described therein from the jurisdiction of the Association, and upon the recordation of any such amendment, this Declaration shall thereupon cease to bind, run with or otherwise affect the real estate within that portion. There are no limitations on the right to withdraw except as set forth herein and Section 15.4.

(b) By the Association. After the Development Period, the Manager has the unilateral right, acting on behalf of the Association, without the joinder or approval of any Owner, Subassociation or Mortgagee other than the Owner and Mortgagee of the real estate being withdrawn, to sign and record an amendment withdrawing any portion of the Property from time to time if such real estate is: (i) dedicated or to be dedicated to a public use; (ii) conveyed or to be conveyed to a public authority; or (iii) rezoned for a different use. The Association may also amend the Declaration to withdraw other real estate, subject to the requirements of Section 15.4 and with the approval of the Owner and Mortgagee of the real estate being withdrawn.

(c) Dedications for Public Purposes. Any real estate within the Property dedicated to a public authority for public purposes is automatically withdrawn and the Declarant

or the Manager may unilaterally, without the approval of the Association or any Owner, Subassociation or Mortgagee, record an instrument confirming such withdrawal.

P A R T T W O

This Part Two, as amended from time to time, shall constitute the “Operating Agreement” of the Association as defined in Section 13.1-1023 of the LLC Act.

ARTICLE 5

THE ASSOCIATION

Section 5.1. Creation, Purposes; Limitations and Implied Rights. The Association is a not-for-profit limited liability company organized and existing under the laws of the Commonwealth of Virginia, charged with the duties and vested with the powers prescribed by law and set forth in the Association Documents. The Association does not contemplate pecuniary gain or profit to any Subassociation or the Owners. No part of any net earnings shall be paid to any Subassociation or Owner, and as such they will have no interest in or any title to any of the property or assets of the Association except upon dissolution. Nothing shall prohibit the Association from reimbursing its Members, the Manager or the Managing Agent for services performed or for all reasonable expenses incurred in performing services for the Association. The purposes for which the Association is organized are to:

- (1) own the Common Area;
- (2) provide for the Upkeep of the Common Area and, to the extent provided in the Association Documents, of the Lots and off-site improvements;
- (3) establish and administer the architectural, streetscaping, landscaping and maintenance standards governing the Common Area;
- (4) adopt or amend any reasonable Rules and Regulations not inconsistent with the Association Documents;
- (5) provide services for the benefit of the Owners of the Lots and the occupants of the Property in their use of the Common Area;
- (6) adopt an annual budget and impose, collect and disburse Assessments and charges to defray the Common Expenses of the Association for the Common Area, establish the means and methods of collecting such Assessments and establish the period of the installment payment, if any, of the annual Assessment in accordance with Article 6;
- (7) lease or contract for the operation of off-site facilities adjacent to the Property for the benefit of the Owners and the occupants;
- (8) exercise all other powers and perform all duties and obligations of the Association as set forth in the Association Documents with respect to all or any portion of the Common Area; and

(9) exercise the powers now or hereafter conferred by law on Virginia limited liability companies as may be necessary or desirable to accomplish the purposes set forth above.

The Association may exercise any other right or privilege given to it expressly by the Association Documents or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 5.2. Membership.

(a) Mandatory Membership. Members of the Association shall at all times be, and be limited to, the Declarant (during the Development Period), any Subassociation governing any portion of the Property and the Owners of the Lots not subject to a Subassociation. A representative of (i) the Declarant, (ii) each such Subassociation and (iii) each Owner of a Lot not subject to a Subassociation shall be entitled to attend all meetings of the Association. Membership in the Association is mandatory; no Subassociation or Owner shall have any right to voluntarily resign or otherwise withdraw from the Association. Each Owner of a Lot within a Subassociation, although not a Member of the Association, shall be subject to the provisions of the Association Documents.

(b) Admission of Additional Members. Additional Members shall be admitted from time to time upon the same terms and conditions as govern the current Members. The business address of each such additional Member shall be set forth on Exhibit E to the Declaration, as amended from time to time. The Membership Interest (as defined in subsection 5.2(c)) of additional Members shall be determined in accordance with Subsection 5.2(c). The only entities which may be additional Members are: (i) a declarant of a condominium or cooperative or the developer of a planned community located on land subject to the Declaration; (ii) a Subassociation governing any portion of the Property; and (iii) an Owner of a Lot not subject to a Subassociation.

(c) Membership Interests. Each Owner's ownership interest in the Association ("Membership Interest") is set forth on Exhibit E, as amended from time to time. Each Member's number of votes, percentage of liability for Assessments and share of the Association's surplus or deficit is equal to such Member's Membership Interest.

(d) Restrictions on Transfers; Succession and Substitution. "Transfer" or "Transferred" with respect to any Membership Interest shall mean any sale, transfer (whether by gift, devise, intestate succession or otherwise), assignment or other disposition of or mortgage, hypothecation or other encumbrance of all or any portion of any right related in any way to a Membership Interest. Transfers of Membership Interests and rights of a transferee to become a Member shall be governed by Section 13.1-1039 and Section 13.1-1040 of the LLC Act, respectively; provided, however, that upon conversion or consolidation of any Owner or Subassociation, its successor in interest automatically shall become a Member of the Association in such Member's place and stead. Upon recordation of any instrument creating a Subassociation on any portion of the Property, the Subassociation created thereby shall become a Member of the Association with respect to the portion of the Property governed by such Subassociation.

Section 5.3. Voting Rights. The Association shall have only one class of Member with voting rights as follows:

(a) Members other than the Declarant. Each Subassociation and each Owner of a Lot not subject to a Subassociation (other than the Declarant when the Declarant's votes are calculated pursuant to Subsection 5.3(b)) shall have the following voting rights:

(1) one vote per dwelling unit on a Residential Lot owned by such Owner (including Residential Lots containing multifamily rental units);

(2) one vote for every 10,000 square feet of Assessable Floor Area within each Nonresidential Lot devoted to office uses;

(3) one vote for every 100 square feet of Assessable Floor Area within each Nonresidential Lot devoted to retail uses;

(4) one vote for every 5,000 square feet of Assessable Floor Area within each Nonresidential Lot devoted to hotel uses; and

(5) one vote for every ___ square feet of Assessable Floor Area within each Nonresidential Lot devoted to commercial (other than office, retail or hotel) uses.

(b) The Declarant. The Declarant shall have one more vote than all of the other Members combined until the end of the Declarant Control Period. Thereafter, the Declarant's votes shall be calculated pursuant to Subsection 5.3(a) for each portion of the Property owned by the Declarant when a vote is taken; provided, however, that the Declarant shall have at least one vote until the end of the Development Period.

(c) Required Vote. A Majority Vote of the Members shall be necessary for the adoption of any matter voted upon, except as otherwise provided in the Association Documents.

(d) Member Representatives. Each Subassociation and Owner not subject to a Subassociation shall designate a Person to represent such Member at meetings of the Association for a term of three years, provided, however, that if the Member owns or governs both Residential Lots and Nonresidential Lots, a different Person may be designated to represent each type of Lot and the votes of the Residential Lots and Nonresidential Lots may be cast separately. The terms of such representatives shall be established so that the term of office of approximately one-third of the representatives expires each year. The designated representative shall vote and otherwise act on behalf of the Member being represented. A Member may remove a representative for good cause shown. The Member shall designate a Person to replace a representative who resigns, is removed or is no longer able to serve.

(e) Manner of Voting. Voting at a meeting shall be by voice vote unless the presiding Managing Agent determines otherwise or any Member present at the meeting, in person or by proxy, requests, and by a Majority Vote the Members consent to, a vote by written ballot indicating the name of the Member voting, the number of votes appertaining to such Member, and the name of the proxy of such ballot if cast by a proxy. There shall be no cumulative voting.

(f) Proxies. A vote may be cast in person or by proxy. A proxy may be instructed (directing the proxy holder how to vote), uninstructed (leaving how to vote to the

proxy holder's discretion) or partially instructed and partially uninstructed. Only instructed proxies may be granted by any Member to the Manager or Managing Agent. No Person other than the Declarant, a Mortgagee (with respect to the Lots on which the Mortgagee holds a Mortgage), the Manager or the Managing Agent is permitted to cast votes as a proxy for more than one other Member. Proxies shall be: (i) in writing, (ii) dated, (iii) signed by the Member, (iv) valid for eleven months unless a longer time period is provided in the proxy and (v) filed with the Managing Agent. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from the Member. A sample proxy is attached as Exhibit D.

Section 5.4. Meetings of Members.

(a) Annual Meetings. The first annual meeting of the Association shall be held, not later than the first anniversary of the organization of the Association which occurs after there is a Member other than the Declarant, at such place, date and time as may be fixed by the Declarant. Subsequent annual meetings of the Association shall be held on weekdays (other than legal holidays recognized as such in Virginia) at least thirty days before the beginning of each fiscal year at such place, date and time as may be fixed from time to time by the Manager. At each annual meeting of the Members the Manager shall present the proposed budget for the next fiscal year and the Manager's report on the condition of the Association.

(b) Special Meetings. The Association shall hold a special meeting: (i) upon the call of the Manager; (ii) if so directed by resolution of a Majority of the Members; (iii) upon a petition presented to the Managing Agent and signed by Members entitled to cast at least twenty percent of the total number of votes (excluding the Declarant's votes); or (iv) upon request of the Declarant during the Development Period. The signatures on a petition requesting a special meeting shall be valid for a period of one hundred-eighty days after the date of the first such signature. Such resolution, petition or request must: (i) specify the time and place at which the meeting is to be held; (ii) either specify a date on which the meeting is to be held which will permit the Managing Agent to comply with Subsection 5.4(d), or else specify that the Managing Agent shall designate the date of the meeting; (iii) specify the purposes for which the meeting is to be held; and (iv) be delivered to the Managing Agent. No business other than that stated in such resolution, request or petition shall be transacted at such special meeting.

(c) Regular Meetings. Regular meetings of the Members may be held at such times and places as shall be determined from time to time by a majority of the Members; provided, however, that after the Declarant Control Period, such meetings shall be held at least quarterly during each fiscal year. All meetings shall be open to Owners as observers, except that the Manager or presiding officer may call the Members into executive session (excluding one or more adverse Members) on sensitive matters such as personnel, litigation strategy or hearings with respect to violations of the Association Documents or as otherwise permitted by law. Any final action taken by the Members in executive session shall be recorded in the minutes.

(d) Notice of Meetings.

(1) Content and Timing. Written notice stating the place, date and time of each annual meeting and, in case of a special meeting, the purposes for which the meeting is called, shall be given by the Managing Agent to each Member not less than ten nor more than sixty days before the date of the meeting. Notice of regular meetings of the Members shall be given to each representative of a Member orally or in writing at least three business days prior to the date named for such meeting. Such notice shall state the place, date and time of the meeting. Notice of meetings shall also be posted or otherwise published in a manner reasonably expected to notify all Members of the place, date and time of the meetings of the Members. The giving of notice in the manner provided in this section and Section 1.6 shall be considered service of notice.

(2) Extraordinary Actions. Notwithstanding the provisions of paragraph (1), notice of a meeting to act on an amendment to the Articles of Organization, a plan of merger or consolidation or dissolution of the Association shall be given in the manner provided above not less than twenty-five nor more than sixty days before the date of the meeting. Any such notice shall be accompanied by a copy of or a summary of the proposed amendment, plan of merger or consolidation or dissolution.

(e) Waiver of Notice of Meetings.

(1) Written Waiver. Whenever any notice is required to be given of any meeting of the Association, a waiver thereof in writing signed by a Member entitled to such notice, whether given before or after the meeting, shall be equivalent to the giving of such notice to that Member and such waiver shall be delivered to the Managing Agent for inclusion in the minutes or filing with the Association records.

(2) Waiver by Attendance. A Member who attends a meeting shall be conclusively presumed to have had timely and proper notice of the meeting or to have duly waived notice thereof, unless such Member attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting was not lawfully called or convened and so notifies the person conducting the meeting at or prior to the commencement of the meeting or, in the case of a special meeting, at or prior to consideration of the matter subject to objection.

(f) Quorum. A quorum shall be deemed to be present throughout any meeting of the Association if Members entitled to cast at least **thirty** percent of the total number of votes are present, in person or by proxy, at the beginning of such meeting. Once a Member is present at a meeting such Member is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting.

If at any meeting of the Association a quorum is not present, a majority of the Members who are present at such meeting in person or by proxy may: (i) recess the meeting to such place, date and time as such Members may agree not more than forty-eight hours after the time the original meeting was called; or (ii) adjourn the meeting to a time not less than forty-eight hours or more than thirty days after the time the original meeting was called at such date and place as such Members may agree, whereupon the Managing Agent shall announce the place, date and time at the meeting and make other reasonable efforts to notify all Members of such date, time and place.

(g) Order of Business. Unless otherwise specified in the notice of the meeting, the order of business at all meetings of the Association shall be as follows:(i) roll call (proof of quorum); (ii) proof of notice of meeting; (iii) reading of minutes of preceding meeting; (iv) reports of the Manager and the Managing Agent; (v) reports of committees; (vi) unfinished business; and (vii) new business.

(h) Conduct of Meetings. The Manager shall preside over all meetings of the Association and the Managing Agent or recording secretary shall keep the minutes of the meetings and record all resolutions adopted at the meetings and proceedings occurring at such meetings. The Manager may appoint a parliamentarian at any meeting of the Association. The then current edition of Robert's Rules of Order, Newly Revised, shall govern the conduct of all meetings of the Association when not in conflict with the LLC Act or the Association Documents.

(i) Attendance at Meetings. A Member who participates in a meeting by any means of communication by which all Members or committee members may simultaneously hear each other during the meeting shall be deemed present at the meeting for all purposes.

(j) Action by Members Without Meeting. Any action required or permitted to be taken at a meeting of the Association may be taken without a meeting if written consent, setting forth the action so taken and signed by all of the Members entitled to vote with respect to the subject matter thereof, is delivered to the Manager or the Managing Agent for inclusion in the minutes or filing with the Association records. Such consent shall have the same force and effect as a unanimous vote of the Members.

Section 5.5. Manager. The Members shall appoint a manager to be responsible for the management and Upkeep of the Property and the administration of the Association. Unless otherwise specifically provided in the LLC Act or the Association Documents, all rights, powers, easements, obligations and duties of the Association may be performed by the Manager on behalf of the Association.

(a) Term and Replacement. The Manager shall serve and continue in such office for an initial term of one year unless sooner removed by written action of Members with an absolute majority of the votes, by operation of law, or by order or decree of any court of competent jurisdiction, or by voluntary resignation or upon the death, insanity, or incapacity of the Manager. If the Manager for any reason vacates such position, the Members shall immediately elect a new manager with full power and authority of the Manager. Upon the resignation, removal or termination for any other reason whatsoever of the Manager, the written consent of Members with an absolute majority of the votes shall be required to designate a new manager.

(b) Power and Authority of the Manager. The Manager shall have complete and exclusive control of the management of the Association's business and affairs, and the Members shall have no right to participate in the management or the conduct of the Association's business and affairs nor any power or authority to act for or on behalf of the Association in any respect whatsoever. Except as otherwise specifically provided in this Declaration, the Manager shall have the right, power and authority on behalf of the Association and in its name to exercise all of the rights, powers and authority of the Association under the

LLC Act and the Association Documents, subject always, however, to the policies and limitations established by the Members, including without limitation the power to:

- (1) Provide goods and services to the Members.
- (2) Provide for Upkeep of the Common Area and, to the extent required, of the Lots and off-site improvements, and coordinate with any Member controlling amenities subject to common use.
- (3) Designate, hire, dismiss and, where appropriate, compensate the personnel necessary to provide for Association Upkeep and the general administration of the Association, and to provide goods and services, as well as purchase equipment, supplies and materials to be used by such personnel in the performance of their duties.
- (4) Collect the Assessments, deposit the proceeds thereof in depositories and use the proceeds to carry out the Upkeep of the Property and other real estate and facilities (to the extent the Association is so authorized by the Association Documents) and the general administration of the Association, as well as collect any other amounts due from the Members and Owners.
- (5) Adopt and amend any reasonable Rules and Regulations not inconsistent with the Association Documents.
- (6) Open bank and other accounts on behalf of the Association and designate the signatories thereon.
- (7) Enforce the provisions of the Association Documents and the Rules and Regulations adopted by the Members.
- (8) Act with respect to all matters arising out of any eminent domain proceeding affecting the Common Area.
- (9) Notify the Members of any litigation against the Association involving a claim in excess of twenty percent of the total Annual Assessment.
- (10) Obtain and carry insurance against casualties and liabilities, as provided in Article 10, pay the premiums therefor and adjust and settle any claims thereunder.
- (11) Pay the cost of all authorized goods and services rendered to the Association.
- (12) Notify the appropriate Mortgagee of any default by an Owner not subject to a Subassociation in paying Assessments which remains uncured for sixty days or of any other default, simultaneously with the notice sent to the defaulting Owner.
- (13) Provide an Association Disclosure Packet or Common Expense Statement with respect to a Lot within fourteen days or as otherwise required by law after a written request and payment of the appropriate fee in accordance with Section 6.6.

(14) Charge reasonable fees for the use of the Common Area and for services and allow non-members to use portions of the Common Area on a fee arrangement determined by the Members.

(15) Prepare an annual budget in accordance with Article 6.

(16) Subject to Subsection 6.1(f), borrow money on behalf of the Association and assign and pledge all revenues to be received by the Association, including all Assessments, in order to secure the repayment of any sums borrowed by the Association from time to time.

(17) Sign deeds, plats of resubdivision and applications for construction permits or similar documents for the Common Area as may be necessary or desirable in the normal course of the orderly development of the Property, at the request of the Declarant or, after the Development Period, on its own determination.

(18) Grant or terminate easements, rights-of-way or licenses over and through the Property pursuant to Sections 3.1 and 3.2 and subject to the restrictions set forth in Section 15.4.

(19) Upon a Majority Vote of the Members, designate certain portions of the Common Area as Reserved Common Area, pursuant to Section 2.4, and impose such restrictions and conditions on the use thereof as the Members deem appropriate.

(20) Suspend the right of any Owner or other occupant of a Lot, and the right of such Person's household, guests, employees, tenants, agents and invitees to use the Common Area in accordance with Section 12.1.

(21) Enter into contracts to provide construction, renovation, repair, organizational, managerial or other services.

(22) Exercise and fulfill all other rights, powers and duties of the Association.

(23) Employ from time to time persons, firms or corporations in the operation of the business of the Association, including without limitation accountants, attorneys and a Managing Agent, on such terms and for such reasonable compensation as the Manager shall determine.

(24) Sign, acknowledge and deliver any and all instruments to effectuate the foregoing.

(25) Do anything else not inconsistent with the LLC Act, the POA Act, the Association Documents or the policies and limitations established by the Members.

(c) Rights of Members. The Members shall establish policies, goals, priorities and limitations under which the Manager shall operate but shall not take part in the management of the business nor transact any business for the Association in their capacity as Members, nor shall they have power to sign for or to bind the Association.

(d) No Duty to Consult. Except as otherwise provided herein or in the Declaration, the Manager shall have no duty or obligation to consult with or seek the advice of the Members so long as the Manager acts within the terms of the Association Documents and the policies and limitations of the Members.

(e) Third Party Reliance. Third parties dealing with the Association shall be entitled to rely conclusively upon the power and authority of the Manager as set forth herein.

(f) Manager's Other Activities. The Manager shall devote such time, effort, and skill to the Association's business affairs as the Manager deems necessary and proper for the Association's welfare and success. The Members expressly recognize that the Manager may have substantial other business activities and agree that the Manager and the Manager's affiliates, directors, employees, and agents, as the case may be, shall not be bound to devote all of their business time to the affairs of the Association, and the Manager or the Manager's affiliates may engage for their own account and for the accounts of others in other businesses or activities.

Section 5.6. Managing Agent.

(a) Compensation. The Manager may employ for the purpose of administering the Property a "Managing Agent" at compensation to be established by the Members.

(b) Requirements. The Managing Agent shall be a bona fide business enterprise, unaffiliated with the Declarant, which manages multi-structure commercial or mixed-use projects within common interest communities. Such firm or its principals shall have a minimum of two years' experience in community management and shall employ persons possessing a high level of competence in the technical skills necessary to proper management of the Property. The Managing Agent must be able to advise the Manager regarding the administrative operation of the Property and shall employ personnel knowledgeable in the areas of insurance, accounting, contract negotiation, labor relations and property management. Otherwise, the Managing Agent may be a full-time employee of the Association who shall organize, staff, train and administer the in-house personnel solely to manage the Property.

(c) Duties. The Managing Agent shall perform such duties and services as the Manager shall direct. Such duties and services may include, without limitation, the duties listed in Paragraphs (1), (2), (3), (6), (8), (9), (10), (11), (12), (14) and (22) of Subsection 5.5(b). The Manager may delegate to the Managing Agent all of the powers granted to the Manager or the Members other than the powers set forth in Paragraphs (4), (5), (13), (15), (16), (17), (18), (19), (20) and (21) of Subsection 5.5(b). The Managing Agent shall perform the obligations, duties and services relating to the management of the Property, the rights of Mortgagees and the maintenance of reserve funds in compliance with the provisions of the LLC Act and the Association Documents.

(d) Standards. The Manager shall impose appropriate standards of performance upon the Managing Agent. Unless the Managing Agent is instructed otherwise by the Manager:

(1) the accrual method of accounting shall be employed and expenses required by the Association Documents to be charged to one or more but less than all Owners shall be accounted for and reported separately;

(2) two or more persons shall be responsible for handling cash to maintain adequate financial control procedures;

(3) cash accounts of the Association shall not be commingled with any other entity's accounts;

(4) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors or others providing goods or services to the Association whether in the form of commissions, finders fees, service fees or otherwise; any discounts received shall benefit the Association;

(5) any financial or other interest which the Managing Agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Manager; and

(6) a financial report shall be prepared for the Association at least quarterly, containing: (i) an "income statement" reflecting all income and expense activity for the preceding period on an accrual basis; (ii) an "account activity statement" reflecting all receipt and disbursement activity for the preceding period on a cash basis; (iii) an "account status report" reflecting the status of all accounts in an "actual" versus "projected" (budget) format; (iv) a "balance sheet" reflecting the financial condition of the Association on an unaudited basis; (v) a "budget report" reflecting any actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or ten percent of a major budget category (as distinct from a specific line item in an expanded chart of accounts); and (vi) a "delinquency report" listing all Owners who are delinquent in paying Assessments and describing the status of any actions to collect such Assessments.

(e) Limitations. The Manager may employ a Managing Agent for an initial term not to exceed two years; provided, however, that the terms of any such management agreement may be renewable by mutual agreement of the parties for successive one-year terms. Any contract with the Managing Agent must provide that it may be terminated, without payment of a termination fee, without cause on no more than ninety days written notice and with cause on no more than thirty days written notice.

Section 5.7 Fiduciary Matters and Indemnification.

(a) Signature Requirements. Unless otherwise provided in the resolution of the Members: (i) all agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of **2/10** percent of the total annual assessment for Common Expenses for each fiscal year, and all checks drawn upon reserve accounts, shall be signed by any two persons designated by the Members; and (ii) all such instruments for expenditures or obligations of **2/10** percent or less of the total annual assessment for Common Expenses for each fiscal year, except from reserve accounts, may be signed by any one Person designated by the Members. Notwithstanding the foregoing, instruments creating or paying obligations for less than **Five** Thousand Dollars, except for withdrawals from the reserve funds, may be signed by only one Person. The Manager and the Managing Agent, if so

designated by the Members, may sign a Statement of Common Expenses or an Association Disclosure Packet on behalf of the Association.

(b) Conflicts of Interest. Each Member and the Manager shall exercise such Member's and Manager's powers and duties in good faith and in the best interests of the Association. Any common or interested Member may be counted in determining the presence of a quorum of any meeting of the Members or a committee which authorizes, approves or ratifies any contract or transaction, but such Member's vote shall not be counted with respect to any matter as to which such Member would have a conflict of interest; such Member may vote, however, at the meeting to authorize any other contract or transaction in accordance with Section 13.1-1026 of the LLC Act. The voidability of a transaction involving a Member with a conflict of interest shall be determined in accordance with the standards set forth in Section 13.1-871 of the Nonstock Corporation Act. For the purposes of this subsection, the vote of a Member appointed by the Declarant during the Declarant Control Period may be counted if the conflict of interest is created by such Member's relationship to the Declarant.

(c) Liability and Indemnification.

(1) No Personal Liability. The Members, Manager and members of any committee of the Association shall not be liable to the Association or any Owner for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Members and the Manager shall have no personal liability with respect to any contract made by them on behalf of the Association. No Owner shall be liable for the contract or tort liability of the Association by reason of ownership or membership therein. Every agreement made by the Manager or Managing Agent on behalf of the Association shall, if obtainable, provide that the Members, Manager or Managing Agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder.

(2) Indemnification. The Association shall indemnify the Members, Manager and members of any committee of the Association to the extent that it is contemplated a limited liability company may indemnify its Members, Manager and employees pursuant to applicable law; provided, however, that before the Association uses Association funds for indemnification, all insurance proceeds must be obtained and applied toward such indemnification. The foregoing right of indemnification shall not be exclusive of any other rights to which a Person may be entitled by law, agreement, vote of the Members or otherwise.

(3) "Directors and Officers" Liability Insurance. The Association shall have the power, pursuant to Article 10, to purchase and maintain insurance on behalf of any Person who is or was a Member, Manager or member of a committee appointed by the Members against any liability asserted against such Person and incurred by such Person in any such capacity or arising out of such Person's status as such, whether or not the Association would have the power to indemnify such Person against such liability under the provisions of this section. Further, the availability of the Association's indemnity shall not relieve any insurer of any liability under an insurance policy held by the Association.

(d) Compensation of Members and Manager. The Association may pay a recording secretary. Otherwise, no salary or other compensation shall be paid by the Association to any Member of the Association for serving or acting as such, but this shall not preclude the payment of salary or other compensation for the performance by such Member or Manager of

other services to the Association nor shall it preclude the reimbursement of reasonable, ordinary and necessary expenses incurred in serving or acting as a Member or Manager.

(e) Fiduciary Relationship. The Manager shall at all times act in a fiduciary capacity for the Association. The Manager shall not have any hidden or concealed earnings from any activity of the Association. The Manager shall not be liable, responsible or accountable to the Association or the Members in damages or otherwise for any acts performed, or for any failure to act, taken in good faith; provided, however, that the Manager shall not be relieved of its fiduciary obligations to the Members and the Association for fraud, bad faith, intentional misconduct or negligence.

(f) Manager and Affiliates Dealing With the Association. Subject to obtaining any consent expressly required hereunder, the Manager may appoint, employ, contract or otherwise deal with any Person, including individuals with whom the Manager is related, and with business entities in which the Manager has a financial interest, for transacting Association business, including any acts or services for the Association as the Manager may approve; provided, however, that fees or other payments and terms of contract with such parties shall not be in excess of prevailing competitive rates for such transactions.

(g) Limitation of Liability of Members and Managers. The liability of any Member or Manager to the Association or to any of the other Members shall be eliminated, to the maximum extent possible, pursuant to Section 13.1-1025 of the LLC Act.

Section 5.8. Bank Accounts.

(a) Funds of the Association shall be deposited in an account or accounts of a type, in form and name, and in one or more banks or other financial institutions which are participants in federal insurance programs as selected by the Manager. The Manager shall arrange for the appropriate conduct of such accounts. Funds may be withdrawn from such accounts only for bona fide and legitimate Association purposes and may from time to time be invested in such securities, money market funds, certificates of deposit, or other liquid assets as the Manager deems appropriate, in accordance with an investment policy adopted by the Members.

(b) The Members acknowledge that the Manager may maintain Association funds in accounts, money market funds, Certificates of Deposit or other liquid assets in excess of the insurance provided by the Federal Deposit Insurance Corporation or other institutions providing depository insurance, and that the Manager shall not be accountable or liable for any loss of such funds resulting from failure or insolvency of the depository institution.

Section 5.9. Books and Records.

(a) Maintenance. At all times during the term of the Association, the Manager shall keep, or cause to be kept, full and faithful books of account, records and supporting documents, which shall reflect, completely, accurately and in reasonable detail, each transaction of the Association (including, without limitation, transactions with the Manager, Members or affiliates of either). The books of account shall be maintained and tax returns prepared and filed on the method of accounting determined by the Manager upon the advice of the Association's accounting firm. The books of account, records, and all documents and other writings of the Association shall be kept and maintained at the principal office of the Association

for the periods required by law and the Association's records retention policy, but not less than three years. The Association shall keep books and records as required by Section 13.1-1028 of the LLC Act, Section 55-510 of the POA Act and as otherwise required by law. All books and records shall be kept in accordance with generally accepted accounting principles, and the same shall be audited at least once a year by a certified public accountant retained by the Manager who shall not be an Owner or an occupant of a Lot. The cost of such audit shall be a Common Expense. The audit shall be available within one-hundred twenty days after the end of the fiscal year. The Manager shall make available to all Members and to each Mortgagee requesting the same, an itemized accounting of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collect pursuant to the budget adopted by the Members for such fiscal year and showing the net amount over or short of the actual expenditures plus reserves. The Association shall also file and maintain the annual reports required to be filed with the Virginia State Corporation Commission by Section 13.1-1062 of the LLC Act and with the Virginia Common Interest Community Board by Section 55-516.1 of the POA Act.

The Manager shall cause the Association to keep at its principal office the following:

- (1) a current list of the full name and last known business address of each Member, in alphabetical order;
- (2) a copy of the Articles of Organization and the Certificate of Organization, and all Articles of Amendment and Certificates of Amendment thereto;
- (3) copies of the Association's federal, state, and local income tax returns and reports, if any, for the three most recent years;
- (4) copies of the Declaration, as amended;
- (5) copies of the Association's current budget and financial statements for the three most recent years;
- (6) records of Association actions in the form of resolutions, consents or meeting minutes;
- (7) copies of the current Rules and Regulations and Design Guidelines, if any;
- (8) records of the Association's receipts and expenditures; and
- (9) any other information or records required by law.

(b) Availability. The books and records of the Association shall be available for examination by the Members, their attorneys, accountants, Mortgagees and authorized agents during general business hours on business days at the times and in the manner established by the Manager for the general knowledge of the Members in accordance with Section 13.1-1028 of the LLC Act and Section 55-510 of the POA Act or as otherwise required by law. The list of Members required by Section 5.10 shall be available for inspection for a period of ten days prior to the meeting and at the meeting. Pursuant to Section 12.3, all Mortgagees or their representatives shall have the right to examine the books and records of the Association on the

same terms and conditions as the Members. The Manager may fix from time to time a reasonable charge to cover the direct and indirect costs of providing any documents.

(c) Association Agent. The Managing Agent shall be responsible for filing the annual report with the Virginia Common Interest Community Board as required by Section 55-516.1 of the POA Act.

(d) Tax Matters Member. The Association shall designate a “Tax Matters Member” for federal income tax purposes as long as such designation is required. Developer, LLC shall be the “Tax Matters Member” until a successor is elected.

Section 5.10. Capital Contributions.

(a) Initial Members. The initial capital contributions of the Initial Members are as set forth on Exhibit E to the Declaration.

(b) Additional Capital Contributions. Additional capital contributions shall be required to be made by the Members only with the unanimous prior consent of the Members.

(c) No Interest Upon Contributions. No Member shall be entitled to interest on its capital contribution.

(d) Return of Capital Contributions. No Member shall be entitled to withdraw any part of its capital contribution or its capital account. Except as otherwise provided herein, there shall be no obligation to return to any Member or withdrawn Member any part of such Member's capital contributions for so long as the Association continues in existence.

(e) Loans Not Capital Contributions. Loans or advances by any Member to the Association shall not be considered capital contributions and shall not increase the capital account balance of the lending or advancing Member.

(f) Limited Liability. Except as provided herein, no Member shall be required under any circumstances to contribute or lend any money or property to the Association.

Section 5.11. Maintenance of Members' Capital Accounts. With respect to each Member, a separate “capital account” for such Member shall be established and maintained throughout the full term of the Association in accordance with applicable Treasury Regulations that must be complied with in order for the allocations of income and losses provided herein to have “economic effect” under applicable Treasury Regulations. “Treasury Regulations” means the federal income tax regulations promulgated by the United States Department of Treasury, as in effect from time to time. However, no Member shall be required under any circumstances to restore a deficit balance in its capital account at any time during the term of the Association or upon dissolution and liquidation of the Association.

Section 5.12. Allocations of Income, Losses and Credits. Except as expressly otherwise provided, the Association's income, losses, or specific items thereof, and tax credits for a fiscal year shall be allocated among the Members for the fiscal year as required by applicable Internal Revenue Service rules and regulations as determined by the Manager upon the advice of the Association's accounting firm.

Section 5.13. Committees. The Members may create and abolish from time to time such committees consisting of two or more persons as the Members may deem appropriate to aid in the administration of the affairs of the Association. Such committees shall have the powers and duties fixed by resolution of the Members from time to time. The Manager shall appoint the chair of each committee, and may either appoint the other members thereof or leave such appointment to the committee chair. The Members may remove a member of a committee with or without cause on three days written notice.

ARTICLE 6

COMMON EXPENSES AND ASSESSMENTS

Section 6.1. Determination of Common Expenses and Budget.

(a) Fiscal Year. The first fiscal year of the Association shall be the calendar year unless otherwise determined by the Manager.

(b) Preparation and Approval of Budget.

(1) At least forty-five days before the beginning of each fiscal year after the year the initial budget is adopted pursuant to Subsection 6.1(d), the Members shall adopt a budget for the Association containing an estimate of the total amount considered necessary for the ensuing fiscal year to pay the cost of: (i) administration of the Association; (ii) management and Upkeep of the Common Area and all improvements thereon, including without limitation any and all parks, surface parking lots, entrance features, fountains, sidewalks, roadways, private streets, streetlights, irrigation system, landscaping and rights-of-way located on the Property which are not the maintenance responsibility of any Member; (iii) services provided to the Members, Lots or Common Area; (iv) to the extent provided in the Association Documents, shared maintenance agreements, subdivision documents, easements or governmental requirements, Upkeep of the Lots and off-site facilities or signage, programming and activities (whether on the Common Area or off-site); and (v) other expenses that may be declared to be Common Expenses by the Association Documents or by a resolution of the Members. At least forty days before the beginning of each fiscal year, the Members shall make available a copy or summary of the budget. Such budget shall constitute the basis for determining the Assessment against each Lot.

(2) The budget shall also include such reasonable amounts as the Members consider necessary to provide working capital (available cash for day-to-day expenses which is otherwise uncommitted), a general operating reserve (including an amount to cover operating losses due to insurance deductibles), reserves for contingencies (potential costs or liabilities which have not been incurred but which should be planned for) and reserves for replacements.

(3) The budget shall also include any Limited Common Expense Assessments (the separate assessment of Limited Common Expenses) including without limitation certain expenses (and reserves) relating to or benefiting one or more but fewer than all of the Lots, whether categorized by location or type of expense. Such expenses shall be assessed only against the Lots benefited in accordance with paragraph (3) of Subsection 6.2(a).

(4) The budget shall also include a line item to fund the Transportation

Demand Management Plan as required by the Proffers.

(c) Initial Budget and Initial Assessments.

(1) Prior to the earlier of: (i) the date a Lot is conveyed to an Owner other than the Declarant or (ii) the date of initial occupancy of an improvement on a Lot, the Members shall determine the budget, as defined in this section, for the period commencing thirty days thereafter and ending on the last day of that fiscal year.

(2) The first installment of the Annual Assessment for Common Expenses shall be prorated based upon the number of days remaining in the payment period and shall be due on the earlier of: (i) the date the Lot is conveyed to an Owner other than the Declarant or (ii) the date of initial occupancy of an improvement on the Lot. Any additional amounts due shall be divided by the number of full payment periods (if any) remaining in that fiscal year and paid in equal installments on the first day of each payment period remaining in that fiscal year.

(3) Notwithstanding the foregoing, the Declarant may, at the Declarant's sole option, decide to pay all ordinary operating costs of the Association for a period of time not to exceed five years. If the Declarant so elects, the Association will incur no Common Expenses and thus no regular Annual Assessments will be collected during such time.

(4) Each initial purchaser of a Lot from the Declarant shall pay at settlement an "Initial Assessment" equal to twice the periodic installment of the Annual Assessment increased each year by the same percentage as the increase in the total Annual Assessment (excluding Limited Common Expenses) for such purchaser's Lot to provide necessary working capital for the Association. Such funds are to be used for certain prepaid items, initial equipment, supplies, organizational costs and such other costs of the Association as the Manager may determine (including without limitation operating expenses).

(d) Effect of Failure to Prepare or Adopt Budget. For the first fiscal year of the Association following the earlier of (i) the date a Lot is conveyed to an Owner other than the Declarant or (ii) the date of initial occupancy of an improvement on a Lot, and for all fiscal years thereafter, the Members shall establish the Annual Assessment against each Lot for Common Expenses in the manner described in Subsection 6.2(a). The failure or delay of the Members to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner's obligation to pay Assessments whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Owner shall continue to pay Assessments at the rate established for the previous fiscal year until notified of the new payment which is due on the first day of the next payment period which begins more than ten days after such new annual or adjusted budget is adopted and the Owner receives such notice.

(e) Borrowing; Pledge of Revenues. The Association shall have the right and power to borrow money, when required for any valid purpose, and assign and pledge all revenues to be received by the Association, including all Assessments, in order to secure the repayment of any sums borrowed by the Association from time to time; provided, however, that either a Majority Vote of the Members obtained at a meeting held for such purpose or written approval by Members entitled to cast more than fifty percent of the total number of votes shall be required to borrow any sum in excess of ten percent of the total Annual Assessment for Common Expenses for that fiscal year or, subject to Section 15.4, mortgage any of the Common Area.

Section 6.2. Assessments.

(a) Common Expense Assessments.

(1) Calculation of Assessments. Prior to each fiscal year, the Manager shall establish an Assessment Rate by taking the total amount of the estimated Common Expenses budgeted for such fiscal year, subtracting any Limited Common Expenses and dividing by the total number of Assessment Units then allocated to Lots. Each Lot's Annual Assessment shall be the Assessment Rate established for such fiscal year multiplied by the number of Assessment Units allocated to such Lot pursuant to paragraph (2) of this subsection.

(2) Allocation of Assessment Units. Assessment Units shall be allocated to Lots as follows:

(i) one Assessment Unit for each dwelling unit on a Residential Lot owned by an Owner (including Residential Lots containing multifamily rental units);

(ii) one Assessment Unit for every 10,000 square feet of Assessable Floor Area within each Nonresidential Lot devoted to office uses;

(iii) one Assessment Unit for every 100 square feet of Assessable Floor Area within each Nonresidential Lot devoted to retail uses;

(iv) one Assessment Unit for every 5,000 square feet of Assessable Floor Area within each Nonresidential Lot devoted to hotel uses; and

(v) one Assessment Unit for every _____ square feet of Assessable Floor Area within each Nonresidential Lot devoted to commercial uses (other than office, retail or hotel).

(3) Limited Common Expense Assessment. Limited Common Expenses may be assessed only against the Lots or Members benefited in proportion to their relative Common Expense liability inter se or based on usage, as appropriate. The Manager shall notify each Member obligated to pay Limited Common Expenses of the amount due which shall be paid with payment of the Annual Assessment unless otherwise provided in the notice from the Manager. Such Limited Common Expenses include without limitation:

(i) Any expenses to be paid solely by a Subassociation and the Owners within that Subassociation.

(ii) Any expenses incurred in the Upkeep or maintenance of reserves for the Upkeep of any Limited Common Area may be assessed only against the Lots to which such Limited Common Area is appurtenant.

(iii) Any expenses designated in a Supplementary Declaration as Limited Common Expenses shall be paid by the Owners of Lots subject thereto.

(iv) Any fees or expenses charged by the Association for the use of a Reserved Common Area.

(v) Any services or utilities to Lots which vary and are measured based on usage shall be assessed against the Lots served based on usage.

(vi) Any charges by the Association to a Member for optional services provided pursuant to a contract.

(vii) Any expenses proposed by the Members or a specific group of Owners as Limited Common Expenses against a specific group of Lots and agreed to by such Owners entitled to cast a majority of the total number of votes with respect to such Lots, shall be assessed against such Lots as such Owners may agree or in proportion to the relative number of Assessment Units assigned to such Lots, inter se.

(b) Additional Assessments. The Association may levy Additional Assessments on the Lots subject to Assessment pursuant to paragraph (1) of Subsection 6.2(a). The Association shall give notice of any Additional Assessment to the Members specifying the amount and reasons therefor, and such Assessment shall, unless otherwise specified in the notice, be payable in full with the next periodic installment which is due more than ten days after the date of such notice or in installments, as the Members may otherwise determine. Such Assessment shall be a lien as set forth in Section 12.2.

(c) Individual Assessments. The Association shall have the power to assess a Subassociation or an Owner's Lot individually: (i) for the amount of any costs incurred by the Association pursuant to Section 7.2 in performing Upkeep that the Subassociation or Owner failed to perform as required by that subsection; (ii) for the amount of any charges imposed on that Subassociation or Owner pursuant to Subsection 12.1(g); and (iii) for any costs incurred by the Association because of any violation or negligence for which that Subassociation or Owner is responsible under Section 12.1. Each such Assessment shall be due within ten days after notice thereof is given to the Member unless the notice specifies a later date.

(d) Optional Expenses. Upon request, the Association may provide certain services on a contractual basis; provided, however, that the charge for such services shall be assessed against the persons requesting such services in accordance with the terms of the contract.

(e) Reserves. The Association shall build up and maintain reasonable reserves for working capital, contingencies and replacements. Such funds shall be a Common Expense of the Association and shall be deposited and invested by the Manager as directed by the Members. Not less than seventy-five percent of such funds shall be deposited with one or more financial institutions, the accounts of which are insured by an agency of the United States of America or, in the discretion of the Manager, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. Reserves for items serving only certain Lots shall be accounted for and funded solely by the Owners of the Lots served (as a Limited Common Expense). As to each separate reserve account:

(1) Extraordinary expenditures not originally included in the annual budget, which may become necessary during the year, shall be charged first against the appropriate reserves. Except for expenses for normal Upkeep shown in the annual operating budget, all expenses for repair and replacement of physical assets maintained by the Association shall be charged first against the appropriate reserves. Unless otherwise determined by the

Members, the amount held as reserves shall not substantially exceed the amount reasonably required to assure the Association's ability to replace components as they reach the end of their useful lives.

(2) If regular annual Upkeep extends the useful life of components so that reserves are excessive, the reserves shall be adjusted by reallocation to other budget items or by a refund to each Owner (including the Declarant) in proportion to the percentage (if any) of Assessments paid by such Owner during the last complete fiscal year.

(3) If the reserves are inadequate to meet actual expenditures for any reason (including non-payment of any Member's Assessment), then the Members shall, in accordance with Subsections 6.2(b) and (g), levy an Additional Assessment against the Lots.

(f) Surplus and Deficit.

(1) Any amount accumulated in excess of the amount required for actual expenses and reserves shall, at the discretion of the Members: (i) be placed in reserve accounts; (ii) be placed in a special account to be expended solely for the general welfare of the Owners; (iii) be credited to the next periodic installments due from Owners under the current fiscal year's budget, until exhausted, or (iv) be refunded to each Owner (including the Declarant) in proportion to the percentage (if any) of Assessments paid by such Owner during the last complete fiscal year.

(2) Unless either (i) previous years' surpluses are applied to amortize the deficit or (ii) the budgets for the next two succeeding fiscal years are adjusted to amortize the deficit during such fiscal years, any net shortage in expenses (including reserves) shall be assessed promptly against the Owners as an Additional Assessment in accordance with Subsection 6.2(b).

(g) Installment Payments and Due Dates. Any and all Assessments and other charges shall be a lien against each Owner's Lot as provided in Section 12.2. The Manager shall establish one or more payment periods and the due dates for each such payment in each fiscal year; provided, however, that payments shall be due not less than quarterly or more frequently than monthly unless specifically provided otherwise herein. On or before the first day of each fiscal year, and the first day of each succeeding payment period in such fiscal year, each Owner shall pay to the Member governing such Owner's Lot or directly to the Association (as directed by the Association) at such place as the Association may direct that installment of the Assessment which is due during such period. A Subassociation shall remit all Assessments received from its members within five days. All sums collected by the Members from Assessments or any other source may be commingled into a single fund.

(h) Lots Added During the Fiscal Year. Notwithstanding any other provision of this Article, whenever any Additional Land is added, the Assessment against each Lot being added shall be calculated in the same manner and be due in the same number of installments as the Assessment for the remainder of the fiscal year against Lots already a part of the Property. In addition, the Owner of the Lot being added shall pay a prorated portion of any amount payable for the period between the date the Lot becomes subject to Assessments and the due date of the next installment. Such proration of the Assessment due for any Lot added shall be based upon the total Assessment due and a 365-day fiscal year. Payment of the prorated portion will be due

no later than the due date of the first installment to be paid by the Owner of any Lot added. The Manager may revise the budget to reflect the addition of such Lots.

Section 6.3. Exemptions. The Common Area and any properties dedicated to a public authority shall be exempt from Assessment and the lien created hereby.

Section 6.4. Liability for Common Expenses.

(a) Owner Liability. Each Owner of a Lot, by acceptance of a deed thereto (whether or not so stated in any such deed or other conveyance), covenants and shall pay to the Association all Common Expenses, including Limited Common Expenses and other charges assessed by the Association pursuant to the provisions of this Declaration. Each Owner shall also be personally liable for all Assessments against such Owner's Lot. No Owner shall be exempted from liability for Assessment by reason of waiver of the use or enjoyment of any of the Common Area or by abandonment of the Lot or by temporary unavailability of the Common Area. No Owner shall be liable for the payment of any part of the Common Expenses assessed against the Lot subsequent to the date of recordation of a conveyance by such Owner of such Lot. Prior to or at the time of any such conveyance, all liens, unpaid charges and Assessments shall be paid in full and discharged. The purchaser of a Lot shall be jointly and severally liable with the selling Owner for all unpaid Assessments against the latter for (i) the amount shown on the Statement of Common Expenses; or (ii) if no Statement of Common Expenses is obtained, the amount shown on the assessment or judgment lien against the Lot filed in the Land Records; or (iii) if no Statement of Common Expenses is obtained and no assessment or judgment lien has been filed, the amount owed not to exceed six monthly installments of the Annual Assessment for Common Expenses, including Limited Common Expenses, in any case without prejudice to the purchaser's right to recover from the selling Owner amounts paid by the purchaser therefor. Notwithstanding the foregoing limitation on a successor's personal liability, the Lot shall remain subject to a lien for the full amount owed to the Association in accordance with this section until such amount has been paid. Any such purchaser may rely on a Statement of Common Expenses obtained pursuant to Section 6.6.

(b) Mortgagee Liability. Each Mortgagee who comes into possession of a Lot by virtue of foreclosure or by deed or assignment in lieu of foreclosure or any purchaser at a foreclosure sale shall take the Lot free of any claims for unpaid Assessments or charges against such Lot which accrue prior to the date such Mortgagee or purchaser comes into possession thereof, except as provided below and except for claims for a pro rata share of such Assessments or charges resulting from a pro rata reallocation of such Assessments or charges to all Lots including the mortgaged Lot assessed after the Mortgagee or purchaser takes possession. The lien created by Section 12.2 shall cease to exist with respect to Assessments and charges levied prior to the time title is transferred by foreclosure or by deed or assignment in lieu thereof; provided, however, that if the proceeds of a foreclosure exceed the total amount due to the Mortgagee, then the excess shall first be paid to the Association and applied to the satisfaction of the Association's lien.

Section 6.5. Collection of Assessments. Any Assessment, or installment thereof, not paid within ten days after the due date shall be delinquent and may accrue a late charge in the amount of Twenty-five Dollars per dwelling for a residential Lot, five percent of the installment for a Nonresidential Lot or such other amount as may be established from time to time by the Manager. The Association shall take prompt action to collect any Assessments due from any Member which remain unpaid for more than thirty days after the due date for payment thereof.

The late charge is in addition to the Association's other enforcement powers pursuant to Article 11.

Section 6.6. Statement of Common Expenses. The Association shall provide any Owner, contract purchaser or Mortgagee, within fourteen days after a written request therefor (or within such other time period as may be required by law), with a written statement of all unpaid Assessments due with respect to a specific Lot (or a statement that the amount of unpaid Assessments is zero) as part of the "Association Disclosure Packet" substantially in the form attached as Exhibit C or otherwise ("Statement of Common Expenses"). No contract purchaser, Mortgagee or purchaser from a Mortgagee requesting such a statement shall be liable for, nor shall the Lot conveyed to such Person relying on such statement be subject to a lien for, any unpaid Assessments due prior to the date of such statement in excess of the amount set forth on such statement; provided, however, that this section shall not be interpreted to release any Person from personal liability for such Assessments levied while such Person owned the Lot. The Association may impose a reasonable charge for the preparation of such statement to cover the cost of preparation subject to the limitations set forth in the POA Act.

ARTICLE 7

OPERATION OF THE PROPERTY

Section 7.1. Upkeep by Association.

(a) General. The Association shall be responsible for the management and operation of all of the Common Area, including without limitation: (i) Upkeep of the Common Area, including clearing snow and ice; and (ii) Upkeep of all other improvements such as streetlights located thereon. The cost of such management and operation shall be charged to Owners as a Common Expense or Limited Common Expense, depending on the nature of the service provided. The Association shall not have any responsibility for the Upkeep of any Lot except for those responsibilities and duties specifically enumerated within the Association Documents for easement areas pursuant to Section 3.3 or other areas described in the subdivision documents for the Property or separate easement agreements. Notwithstanding the general provisions for Upkeep of Common Area set forth in this section, other specific responsibilities for Upkeep and allocations of the costs of Upkeep shall be determined by any provisions therefor included in a Supplementary Declaration or as part of a deed of subdivision or deed of easement for a portion of the Property. If the Manager determines that certain Upkeep was necessitated by the negligence, misuse or misconduct of a Member or for which a Member is responsible pursuant to Section 12.1, the cost of such Upkeep shall be assessed against such Member pursuant to Subsections 6.2(c) and 12.1(g). Further, the Manager may determine that all or a part of the Upkeep of any portion of the Common Area designated as Reserved Common Area shall be performed by the Person having the exclusive right to use the same. The Members shall establish the standards for Upkeep of the Common Area in their sole discretion.

(b) Entrance Features, Signs and Rights-of-Way; Off-site Upkeep. The Association shall provide for Upkeep of the center islands, road frontage and adjacent public areas (including public rights-of-way to the extent not maintained by the appropriate governmental authorities and to the extent permitted by the appropriate governmental authorities) of all public roads within, adjacent to or leading to the Property, such Upkeep to include without limitation: (i) entrance features; (ii) sidewalks, trails and paths; (iii) street, traffic, directional, and project signage and accessories, including poles; (iv) bus shelters; (v)

street lights and accessories, including poles; (vi) mail box pavilions; (vii) permanent site signage; and (viii) landscaping and associated lighting and irrigation systems—but not including street pavement area. The Association shall also provide for Upkeep of the items listed above located within the Property or within the public rights-of-way adjacent to or leading to the Property to the extent such items are not maintained by a governmental authority or others and to the extent required and permitted by the appropriate governmental authorities.

(c) Stormwater Facilities. The Association shall provide all necessary Upkeep for stormwater management, stormwater drainage, vaults and storm drainage inlets and pipes, including without limitation rain gardens and Filterra, serving the Property.

(d) Other Services. To the extent determined to be reasonably necessary or desirable by the Members, the Association may provide trash collection, water or telecommunications (including cable television), transportation or similar services to the Members as a Common Expense or a Limited Common Expense, as appropriate.

(e) Shared Maintenance. To the extent determined to be reasonably necessary or desirable by the Members, the Association may enter into shared maintenance agreements to maintain areas whether or not located within the Property. Such areas may include but are not limited to storm water management or drainage easements and facilities, landscaping, entrance features, signage, trails, sidewalks and areas along streets and roadways (including within public rights-of-way to the extent not maintained by the appropriate governmental authorities but excluding street pavement areas). Fairfax County and the Virginia Department of Transportation will not be responsible for the maintenance, repair or replacement of private roads.

Section 7.2. Upkeep by Owners and Subassociations. Each Owner shall keep such Owner's Lot and each Subassociation shall keep all other improvements governed by such Subassociation in good order, condition and repair and in a clean and sanitary condition except as provided otherwise in this Declaration or in a Supplementary Declaration. Each Member shall perform these responsibilities in such a manner as shall not unreasonably disturb or interfere with the reasonable enjoyment by the other Owners of their Lots. If (i) any Subassociation shall fail to keep the portion of the Property under its jurisdiction or (ii) any Owner shall fail to keep such Owner's Lot in as good repair and condition as when acquired (normal wear and tear excepted) and in a neat and orderly condition, consistent with such Rules and Regulations as the Association may promulgate, then the Manager may, pursuant to resolution, give notice to that Member of the condition complained of, describing generally the action to be taken to rectify that condition. If the Member fails to take the actions specified or to otherwise rectify the condition within thirty days after the date the notice is given, or such other period as may be specified in the notice if the circumstances warrant a different period, the Manager shall have the right, but not the obligation, pursuant to Section 3.3 and Subsection 12.1(e) and any resolutions adopted by the Association, to rectify that condition by taking such action (or by causing action to be taken) as was generally described in the notice. The costs incurred in rectifying the condition shall be assessed against such Subassociation or Owner's Lot in accordance with Subsection 6.2(c) and Section 12.1. The Member shall reimburse the Association within thirty days after delivery of a statement for such expenses.

Section 7.3. Assignment of Insurance Proceeds. Each Member covenants and agrees that if any insurance proceeds are payable by reason of any event or circumstances causing a condition rectified by the Association pursuant to this Article, those proceeds are hereby assigned to the Association to the extent not assigned to a Mortgagee in the Mortgage. Each

Member shall, promptly upon request of the Manager of the Association, sign such documents as may be necessary to effect or confirm such assignment. The amount thereof received by the Association shall be credited against the costs incurred by the Association in rectifying that condition and any amount in excess of those costs shall be returned by the Association to the Member, subject to the rights of any Mortgagee having a lien against such Subassociation or upon such Owner's Lot.

Section 7.4. Manner of Repair and Replacement. All repairs and replacements by the Association or any Member shall be substantially similar to the original construction and installation and shall be of first-class quality, but may be made with contemporary materials. The method of approving payment vouchers for all repairs and replacements made by the Association shall be determined by the Members.

Section 7.5. Additions, Alterations or Improvements by the Association. Whenever in the judgment of the Manager the Common Area shall require capital additions, alterations or improvements (other than for Upkeep) costing in the aggregate in excess of twenty percent of the total Annual Assessment for Common Expenses for that fiscal year during any period of twelve consecutive months, the making of such additions, alterations or improvements shall require a Sixty-seven Percent Vote of the Members pursuant to Section 15.4, and the Members shall assess all Owners benefited for the cost thereof as a Common Expense or a Limited Common Expense depending on the nature of the improvement. Any capital additions, alterations or improvements costing in the aggregate twenty percent or less of the total Annual Assessment for Common Expenses for that fiscal year or replacement items or items of Upkeep during any period of twelve consecutive months may be made by the Manager without approval of the Members and the cost thereof shall constitute a Common Expense or a Limited Common Expense depending on the nature of the improvements. Notwithstanding the foregoing, if the Manager determines that such capital additions, alterations or improvements are exclusively or substantially exclusively for the benefit of a specific Subassociation or specific Owners, such Subassociation or Owners shall be assessed therefor in such proportion as they jointly approve or, if they are unable to agree thereon, in such proportion as may be determined by the Manager.

Section 7.6. Additions, Alterations or Improvements by a Member. Any addition, alteration or improvement by a Member shall be subject to Sections 9.2, 9.3 and 9.5.

Section 7.7. Disclaimer of Liability.

(a) Bailee. The Association and any Member shall not be considered a bailee of any personal property stored or placed on the Common Area (including property located in vehicles parked on the Common Area), whether or not exclusive possession of the particular area is given to a Member for parking or otherwise, and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

(b) Operational. The Association shall not be liable for any failure of or interruption to the water supply or other services to be obtained by the Association or paid for as a Common Expense, or for personal injury or property damage which is caused by the elements or by any Member or any other Person, or which results from electricity, water, snow or ice which may leak or flow from or over any portion of the Property or from any pipe, drain, conduit, appliance or equipment, or any secondary or consequential damages of any type. No diminution, offset or abatement of any Assessment shall be claimed or allowed for

inconvenience or discomfort arising from the making of repairs or improvements to the Property by the Association or from any action taken by the Association to comply with any law, ordinance or with the order or directive of any governmental authority. This section is not intended nor shall it be construed to relieve any insurer of its contractual obligations under any policy benefiting the Association, a Member or an Owner.

Section 7.8. Transportation Demand Management Plan. The Association shall implement the Transportation Demand Management Plan with respect to the Property (“TDM Plan”) required by the Proffers, as it may be amended from time to time. The Manager shall perform such acts as are reasonably necessary in its discretion to administer or facilitate the TDM Plan, as amended from time to time. The cost of such administration and the cost of any performance by the Association under the TDM Plan shall be a Common Expense. Any modification to the TDM Plan must be approved by the Members unless required by the County or to meet the requirements of the Proffers, in which case the Manager may approve the modification on behalf of the Association.

ARTICLE 8

RESTRICTION ON USE OF LOTS AND COMMON AREA; RULES AND REGULATIONS; RESALE OF LOTS

Section 8.1. Permitted Uses; Prohibited Uses. Except as otherwise provided in the Association Documents, each Lot and the Common Area may be occupied and used for any purposes permitted in the Development Plan which are permissible under local law. No Lot or the Common Area shall be used for any other purpose without the prior written approval of the Manager. The Manager’s approval of other uses may be conditioned or withheld in its sole discretion. Each Member shall comply with applicable zoning requirements, as amended from time to time. The Declarant and its successors, assigns and designees may use any Lot owned by that Declarant (or any other Lot with the permission of the Owner thereof) or any portion of the Common Area for promotional, marketing, display or customer service purposes (such as a visitors’ center). Further, the Declarant specifically reserves the right to operate construction offices, rental, brokerage and management offices, sales offices and model or display homes at any time on Lots owned or leased by that Declarant (or any other Lot with the permission of the Owner thereof) and on any portion of the Common Area, to the extent permitted by law. The Declarant may assign its rights under this subsection to or share such rights with one or more other Persons, exclusively, simultaneously or consecutively with respect to the Common Area and Lots owned or leased by the Declarant or such Persons. The permitted uses may be further limited, expanded or otherwise modified with respect to Additional Land by the Supplementary Declaration submitting such Additional Land.

Section 8.2. Restrictions on Use. The following restrictions on use shall apply to all Lots and Common Area.

(a) No Unsafe Activities or Waste. Nothing shall be done or kept on the Property which will increase the rate of insurance for the Common Area or any part thereof applicable for permitted uses without the prior written consent of the Manager. No Person shall undertake any activities on the Property which are unsafe or hazardous with respect to any other Person or property. No Person shall permit anything to be done or kept on the Property which will result in the cancellation of any insurance on the Common Area or any part thereof or which

would be in violation of any law, regulation or administrative ruling. No waste will be committed on the Property.

(b) Compliance with Laws. No improper, offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws and regulations of all governmental agencies having jurisdiction thereof shall be observed; provided, however, that the Association and the Manager shall have the power but not the obligation to enforce such laws, ordinances and regulations, enforcement being the primary responsibility of government officials. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Property shall be complied with, by and at the sole expense of the Owner, the Association, the Declarant or a Subassociation, whichever shall have the obligation for the Upkeep of such portion of the Property, and, if the Association, then the cost of such compliance shall be a Common Expense or Limited Common Expense, as appropriate.

(c) Harmful Discharges. There shall be no emissions of dust, sweepings, dirt, cinders, chemical odors, gases or other substances into the atmosphere (other than normal fireplace chimney emissions and food odors), no production, storage or discharge of hazardous wastes on the Property or discharges of liquids, solid wastes or other harmful matter into the ground or any body of water, if such emission, production, storage or discharge may adversely affect the use or intended use of any portion of the Property or may adversely affect the health, safety or comfort of the occupants of the Lots. No waste nor any substance or materials of any kind shall be discharged into any public sewer serving the Property or any part thereof in violation of any regulation of any public body having jurisdiction over such public sewer.

(d) Noise. No Person shall cause any unreasonably loud noise (except for security devices) anywhere on the Property, nor shall any Person permit or engage in any activity, practice or behavior for the purpose of causing annoyance, discomfort or disturbance to any Person lawfully present on any portion of the Property.

(e) Obstructions. No Person shall obstruct any of the Common Area or otherwise impede the rightful access of any other Person on any portion of the Property upon which such Person has the right to be. No Person shall place or cause or permit anything to be placed on or in any portion of the Common Area without the approval of the Manager. Nothing shall be altered or constructed in or removed from the Common Area except with the prior written approval of the Manager.

(f) Association Property. The Common Area shall be used only for the furnishing of the services and facilities for which the same is reasonably suited and which are incident to the use and occupancy of the Lots. The improvements located on the Common Area, if any, shall be used only for their intended purposes. Except as otherwise expressly provided in the Association Documents, no Member shall make any private, exclusive or proprietary use of any of the Common Area (except those areas, if any, designated as Limited Common Area or Reserved Common Area) without the prior written approval of the Manager, and then only on a temporary basis.

(g) Signs and Flags. Except for such signs, flags and banners as may be posted by the Declarant or permitted by the Declarant for promotional or marketing purposes or by the Association, and signs and flags which may not be restricted pursuant to Sections 55-79.75:2 of the Condominium Act and 55-513.1 of the POA Act, no signs, flags or banners of any

character shall be erected, posted or displayed unless in compliance with the Design Guidelines or with the prior written approval of the Covenants Committee.

(h) Trash. Trash storage and collection shall be in accordance with the Rules and Regulations. Except in connection with construction activities, no burning of any trash and no accumulation or storage of litter, refuse, bulk materials, building materials or trash of any other kind shall be permitted on any Lot. Trash containers shall not be permitted to remain outside a structure hiding it from view. No incinerator shall be kept or maintained upon any Lot.

(i) Landscaping; Utility Lines. No tree, hedge or other landscape feature shall be planted or maintained in a location which obstructs sight-lines for vehicular traffic on public or private streets. Pavement, plantings and other landscape materials shall not be placed or permitted to remain upon any Lot: (i) if such materials may damage or interfere with any easement for the installation or Upkeep of utilities; (ii) in violation of the requirements of such easements; (iii) unless in conformity with public utility standards; or (iv) if such materials may unreasonably change, obstruct or retard direction or flow of any drainage channels. Except for hoses and the like which are reasonably necessary in connection with construction activities or normal landscape Upkeep, no water pipe, sewer pipe, gas pipe, drainage pipe, television or telephone cable, electric line or other similar transmission line shall be installed or maintained upon any Lot above the surface of the ground unless approved by the Declarant during the Development Period or the Covenants Committee thereafter.

(j) Accessory Improvements. No structure of a temporary character, and no temporary trailer, tent, shack, barn, pen, kennel, run, stable or other temporary accessory building shall be erected, used or maintained on any Lot except in connection with construction or marketing activities by the Declarant without the prior written approval of the Covenants Committee. All accessory buildings must be approved in writing by the Covenants Committee. No exterior air conditioning unit, solar panels, burglar bars or similar equipment attached to the exterior of a building may be installed or modified without the prior written approval of the Covenants Committee. No basketball hoops, swings or other play equipment may be erected, placed or maintained on any Lot without the prior written approval of the Covenants Committee.

(k) Antennas. No exterior antenna, satellite dish or similar exterior improvement shall be maintained upon the Property without the prior written approval of the Covenants Committee; provided, however, that the Association shall not prevent access to telecommunications services in violation of applicable law. Exterior antennas, satellite dishes greater than one meter (39 inches) in diameter, or amateur radio equipment generally will not be allowed upon the Property; provided, however, that: (i) an Owner may install an antenna permitted by the Association's antenna rules upon prior written notice to the Covenants Committee; (ii) the Covenants Committee may approve other antennas in the appropriate circumstances; and (iii) the Covenants Committee may establish additional or different guidelines for antennas as technology changes. Notwithstanding the foregoing, the Manager may install and maintain antennas, satellite dishes and similar equipment on the Common Area to serve the Property.

(l) Fences. Except for any fence installed by the Declarant or the Association, no fence shall be installed except in compliance with the applicable Design Guidelines or with the prior written approval of the Covenants Committee. No chain link fence shall be permitted on the Property; provided, however, that the Declarant or its designees may

erect a chain link fence for the temporary storage of building materials for the protection of building sites or storm water management ponds or for other construction or safety purposes.

(m) Vehicles. No junk or derelict vehicle or other vehicle on which current registration plates and state inspection permits are not displayed shall be kept upon any portion of the Property outside a building. Vehicle repairs and storage of vehicles are not permitted except in accordance with the Rules and Regulations; provided, however, that washing of vehicles on Lots and noncommercial repair of vehicles is permitted as provided in the Rules and Regulations. All motor vehicles, including without limitation trail bikes, motorcycles, dune buggies and snowmobiles, shall be driven only upon paved streets and parking lots. No motor vehicles shall be driven on trails or unpaved portions of Common Area, except vehicles authorized by the Manager for Upkeep of the Common Area. Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the Rules and Regulations now or hereafter adopted may be towed by the Association at the sole expense of the owner of such vehicle.

(n) Timesharing. No Lot shall be subjected to or used for any timesharing, cooperative, licensing or other arrangement that would entail weekly, monthly or any other type of revolving or periodic occupancy by multiple Owners, cooperators, licensees or timesharing participants.

(o) Animals. The maintenance, keeping, boarding or raising of animals, livestock, poultry or reptiles of any kind, regardless of number, is prohibited on any Lot or upon the Common Area, except that a reasonable number of orderly, traditional domestic pets (e.g., two dogs, cats or caged birds), guide animals and aquarium fish (and other limited species of animals which do not normally leave the Lot and which do not make noise) is permitted within Residential Lots subject to the Rules and Regulations; provided, however, that such pets are not kept or maintained for commercial purposes or for breeding. Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon ten days written notice from the Manager. Pets shall not be permitted upon the Common Area unless accompanied by someone who can control the pet and unless carried or leashed. The person walking the pet shall clean up pet droppings. Any Owner who keeps or maintains any pet upon any portion of the Property shall be deemed to have indemnified and agreed to hold the Association, each Owner and the Declarant free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Property. Notwithstanding the foregoing, a legally permissible pet store engaging in the retail sale of domestic pets, pet supplies and pet-related services may be operated in a Nonresidential Lot and is exempt from this restriction.

(p) Hunting, Firearms and Fishing. No hunting, trapping or fishing of any kind or discharge of any firearm or other weapon shall be permitted without the prior written approval of the Manager.

(q) Open Fires. Open burning is not permitted on the Property, except that outdoor fireplaces, grills, and chimneys may be used if equipped with fire screens to prevent the discharge of embers or ashes.

(r) Lighting. No exterior lighting shall be directed outside the boundaries of a Lot except for required street and parking lot lighting without the prior written approval of the Covenants Committee; typical flood lights directed toward a building on the Lot shall be

permitted. The Declarant shall install and the Association shall provide Upkeep for all lighting on the Common Area. Except for traditional holiday lighting, which may be maintained from Thanksgiving through January 15, or such other time period as may be determined by the Covenants Committee, all other exterior lighting requires the prior written approval of the Covenants Committee.

(s) Use of PROJECT NAME and Master Association Name. No Person shall use the “PROJECT NAME” or “Master Association” name or logo in any advertising of or for Lots or the Property in print, radio, television or any other media without prior written approval by the Declarant of: (i) the typeface of the name and (ii) the appearance of the logo. The Declarant expressly retains the right at all times to modify the appearance of the logo (except that any exercise of such right after an approval of the previous appearance of the logo must occur reasonably and with reasonable notice to the Owner of the requirement that the logo be changed). The Declarant also reserves the right to prohibit and to enjoin any advertising whatsoever which the Declarant determines contains any false or misleading facts, information or representations with respect to the Declarant, the Property or any part thereof. Upon the expiration of the Development Period, the Declarant shall give the Association a non-exclusive license to use the name and logo.

Section 8.3 Rules and Regulations.

(a) Adoption; Variances. The Manager shall have the power to adopt, amend and repeal Rules and Regulations restricting and regulating the use and enjoyment of the Property or of any portion thereof, which may supplement, but may not be inconsistent with the provisions of the Association Documents. The Manager may issue temporary or permanent exceptions or variances to any prohibitions expressed or implied by this Article for good cause shown, in accordance with the procedures set forth in Section 9.1.

(b) Distribution. Copies of the Rules and Regulations shall be furnished by the Manager to each Member and to each occupant requesting the same. Changes to the Rules and Regulations shall be published prior to the time when the same shall become effective and copies thereof shall be provided to each Member and to each occupant requesting the same.

(c) Scope. For the purposes of interpretation and enforcement of the Rules and Regulations, the Property shall be deemed to include the real estate immediately adjacent to the Property within the public rights-of-way or otherwise to the extent a Member’s or occupant’s actions affect the appearance of or value of the Property. Rules and Regulations governing the actions of Members or occupants on real estate adjacent to the Property shall be consistent with and reasonably necessary to the maintenance of a uniform quality of appearance and value of the Property.

Section 8.4. Exclusion for the Declarant and Designees of the Declarant. Notwithstanding any other provision of the Association Documents, neither the restrictions in this Article nor the Rules and Regulations shall apply to any otherwise lawful acts or omissions of the Declarant during the Development Period.

Section 8.5 Resale of Lots.

(a) Reference to Declaration. The deed or instrument transferring title to any Lot shall contain a provision incorporating by reference the provisions of this Declaration, as

well as any applicable Supplementary Declaration. Notwithstanding failure to include a reference to this Declaration in a deed or instrument transferring title to a Lot, the covenants, restrictions, easements, conditions, charges and liens set forth herein shall encumber the Lot as though reference thereof was set forth in such deed or instrument.

(b) Notification. The contract seller of a Lot shall notify the Manager or the Managing Agent of the contract purchaser and the scheduled date and place conveyance will be accomplished.

(c) Association Disclosure Packet. The Manager or the Managing Agent shall, upon written request from a contract seller of a Lot, and upon payment of the applicable fee, furnish an Association Disclosure Packet in the form attached as Exhibit C as required by applicable Virginia law and a Statement of Common Expenses in accordance with Section 6.6.

ARTICLE 9

ARCHITECTURAL REVIEW AND COVENANT ENFORCEMENT

Section 9.1. Covenants Committee.

(a) Purpose and Membership. The Association shall establish a Covenants Committee consisting of at least three persons. During the Declarant Control Period the Committee shall be appointed by the Declarant. Thereafter, the Committee shall be appointed from among the Members. If there are Members who are (i) the Owners of Nonresidential Lots, (ii) the Owners of Residential Lots not subject to a Subassociation or (iii) a Subassociation containing Residential Lots, then the Members in each such category shall appoint at least one Committee member. Each Committee member shall serve a term of from one to three years as may be determined by the group of Members appointing them, in order to assure that the Property shall always be maintained in a manner: (i) providing for visual harmony and soundness of repair; (ii) avoiding activities deleterious to the aesthetic or property values of the Property; and (iii) promoting the general welfare and safety of the Owners, such Owners' tenants and such Owners' (or tenants') household, guests, employees, tenants, agents and invitees. If the Declarant and the Members fail to appoint a Covenants Committee, then the Manager shall perform the duties of the Covenants Committee.

(b) Powers and Duties.

(1) The Covenants Committee shall regulate the external design, signage, appearance, use and Upkeep of the Property; provided, however, that the Covenants Committee shall not have the power (i) to regulate the activities of the Declarant on the Common Area or any Lot owned by the Declarant, (ii) to review construction on any Lot which has been approved by the Declarant during the Development Period or (iii) to review initial construction on the Property if such construction is reviewed by the Declarant. The Covenants Committee shall review and approve or disapprove all design guidelines and rules and regulations adopted by a Subassociation governing the interior of buildings on the Property (other than the garages and other Common Areas) to ensure compliance with the Association Documents and the Design Guidelines and Rules and Regulations adopted by the Association but shall not review applications made by Owners of Lots subject to the jurisdiction of a Subassociation or the decisions of a Subassociation if such decisions are in compliance.

(2) The Covenants Committee may from time to time establish requirements regarding the form and content of plans and specifications to be submitted for approval. The Covenants Committee shall have the power to impose reasonable application fees as well as the costs of reports, analyses or consultations required in connection with improvements or changes proposed by a Member. Such fees shall be assessed against the Subassociation or the Lot owned by the Owner making the application; provided, however, that the Committee shall inform the applicant of the potential fees before incurring or assessing such fees and the applicant shall have the option to withdraw the application.

(3) The Covenants Committee shall have the power pursuant to Subsection 12.1(g) (upon petition of any Member or upon its own motion) to impose reasonable charges upon, and issue a cease and desist request to, a Member, an Owner's tenant and such Owner's (or tenant's) guests, employees, agents and invitees whose actions are inconsistent with the provisions of the Association Documents or the Rules and Regulations.

(4) Subject to the review of the Manager, the Covenants Committee shall from time to time provide interpretations of the Association Documents pursuant to the intents, provisions and qualifications thereof when requested to do so by a Member. The Committee may publish and record such interpretations in order to establish precedents for application of the Association Documents or the Design Guidelines or other matters relative to architectural control and protection of the aesthetic or property values of the Property.

(5) The Covenants Committee shall propose Design Guidelines for approval by the Manager, and subsequent changes or additions to the Design Guidelines, subject to the limitations in Section 9.2. Such Design Guidelines approved by the Manager are hereby incorporated by this reference and shall be enforceable as if set forth herein in full; provided, however, that no amendments or additions thereto, or exceptions or waivers therefrom, are permitted during the Development Period without the prior written approval of the Declarant. The guidelines or rules established by any Subassociation are subordinate to the Association Documents and the Design Guidelines and are void to the extent less restrictive than the Association Documents or Design Guidelines, unless approved by the Covenants Committee.

(6) A Majority Vote of the Covenants Committee shall be required in order to take any action. Any member of the Covenants Committee may request the assistance and/or participation of a paid professional architect or design consultant. The Covenants Committee shall keep written records of all its actions. Any action, ruling or decision of the Covenants Committee may be appealed to the Manager by any party who appeared at a hearing with respect to such action, ruling or decision or who submitted a written protest prior to the action, ruling or decision or any other Person as determined appropriate by the Manager, and the Manager may modify or reverse any such action, ruling or decision.

(7) The Covenants Committee shall have the right to inspect construction periodically. Any deviation from the approved drawings and specifications which materially changes the exterior appearance, quality or location of the improvement is a violation of the Association Documents. This section shall in no way affect any requirement for inspection by any governmental entity.

(c) Authority. The Covenants Committee shall have such additional duties, powers and authority as the Manager may from time to time provide by resolution. The Manager may relieve the Covenants Committee of any of its duties, powers and authority either generally

or on a case-by-case basis. The Covenants Committee shall carry out its duties and exercise its powers and authority in accordance with Subsection 12.1(h) and in the manner provided for in the Rules and Regulations adopted by the Manager or by resolution of the Manager. Notwithstanding the foregoing, neither the Covenants Committee nor the Manager shall have authority to regulate construction by the Declarant or by others as approved by the Declarant during the Development Period.

(d) Time for Response; Variances. The Covenants Committee shall act on all matters properly before it within forty-five days after its receipt of a complete application in the form prescribed by the Covenants Committee; failure to do so within the stipulated time shall constitute an automatic referral to the Manager. Except when a request is being handled by the Covenants Committee, the Manager shall be obligated to answer any written request for approval of a proposed structural addition, alteration or improvement within fifteen days after such referral to the Manager, and failure to do so within the stipulated time shall constitute a consent by the Manager to the proposed structural addition, alteration or improvement; provided, however, that neither the Manager nor the Covenants Committee has the right or power, either by action or failure to act, to waive enforcement or grant variances or exceptions from written Design Guidelines without a specific finding that enforcement of such guidelines would impose an unfair burden on such Member or is otherwise not in the best interests of the Association and stating the variance or exception and the reasons therefor in a written instrument which shall be part of the records of the Association.

(e) Standards for Enforcement. In performing its duties to accomplish its purpose as set forth in subsection (a), the Covenants Committee shall: foster harmonious relations between Members, occupants and third parties, encourage direct communication between disputants, balance the need for enforcement against the economic, social and community effects of such enforcement in each individual case, evaluate the materiality of any claimed breach, consider community standards and treat all Members and occupants fairly and equally. At the request of any party, the decision of the Covenants Committee on any matter shall contain a finding as to whether the decision preserves or protects property values and/or sustains or enhances the quality of life in the community.

(f) Determination of Violations. The Covenants Committee shall establish a policy for the consideration of violations of the Association Documents, Rules and Regulations, Design Guidelines and other provisions which the Covenants Committee is empowered to enforce. Such policy shall provide whether the Covenants Committee will proactively seek out certain violations or reactively respond to complaints filed by the Owners and occupants. The Covenants Committee shall direct the Managing Agent as to the specific extent of the Managing Agent's enforcement duties (in accordance with the management agreement).

Section 9.2. Architectural Review During the Development Period. The Declarant shall have the right to adopt all initial Design Guidelines for the Property during the Development Period and review and approve or disapprove the plans for the initial construction of any structure to be located on the Property, including without limitation the site development plan, architectural design, architectural materials, landscaping plans, minimum square footage, non-structural improvements and general appearance in order to ensure the quality and compatibility of style of all the improvements to be located on the Property. Such Design Guidelines, as the same may be amended from time to time, are hereby incorporated herein by this reference and shall be enforceable as if set forth herein in full.

Section 9.3. Modifications and Rules Enforcement. Review of the plans for any additions, alterations or modifications to the exterior of existing improvements located on the Property and possible violations of the Association Documents and Rules and Regulations by an Owner, shall be conducted by the Covenants Committee in accordance with Section 9.1.

Section 9.4. Compensation of the Covenants Committee. One or more members of the Covenants Committee, other than a Member or an occupant of the Property, may be compensated by the Association for their service on the Covenants Committee (including designees of the Declarant) and for their technical or professional expertise as may be determined by the Manager.

Section 9.5. Additions, Alterations and Improvements Requiring Approval.

(a) Approval Required.

(1) No Person shall make any addition, alteration, improvement or change of grade in or to any structure on a Lot (other than for normal Upkeep or natural landscaping) which alters the exterior appearance of the structure without the prior written approval of the Covenants Committee. No Person shall make any addition, alteration or improvement to any Common Area (other than for normal Upkeep or natural landscaping) unless in compliance with the Design Guidelines without the written consent of the Covenants Committee. No Person shall paint, affix a sign not permitted by the Rules and Regulations to or alter the exterior of any improvement, including the doors and windows, without the prior written approval of the Covenants Committee. Approval by the Declarant, the Manager or the Covenants Committee shall not relieve an Owner from any obligation to obtain required governmental approvals and permits. Upon request, the Owner shall deliver all approvals and permits required by law to the Covenants Committee or the Managing Agent, as appropriate, prior to the commencement of the construction requiring such approval or permit. If any application to any governmental authority for a permit to make any such structural addition, alteration or improvement to any Lot or improvement located on any Lot requires signature by the Association, and provided consent has been given by the Manager or the Covenants Committee, as appropriate, then the application shall be signed on behalf of the Association by the Manager only, without incurring any liability on the part of the Manager, the Association, the Covenants Committee or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any Person having a claim for personal injury or property damage arising therefrom. Any addition, alteration or improvement upon any Lot in violation of the Association Documents shall be removed or altered to conform to the Association Documents (including the Design Guidelines) within thirty days after notice of the violation from the Managing Agent or the Covenants Committee.

(2) Owners of Lots which are also subject to the jurisdiction of a Subassociation must comply with the Design Guidelines and the Rules and Regulations for the Property, as well as any design guidelines or rules and regulations governing the interior of a building established by the Subassociation with jurisdiction over such Lot.

(3) During the Development Period, the provisions of this section shall not apply to Lots owned by the Declarant or to new construction or alteration of existing improvements on any Lot if such construction or alteration has been approved by the Declarant. If approved by the Declarant, a Member shall have the right to construct improvements or make

alterations or subdivisions without the approval of the Manager or the Covenants Committee and the Manager shall sign any application to the County required therefor.

(4) The provisions of this section shall not apply to a Mortgagee in possession of a Lot as a result of foreclosure, judicial sale or proceeding in lieu of foreclosure affixing a sign or taking any other actions that may be necessary to sell or lease all or any portion of the Lot, if such actions are in accordance with applicable law and not detrimental to the value of the Property.

(b) Limitations.

(1) Any Person obtaining approval of the Covenants Committee shall commence construction or alteration in accordance with plans and specifications approved within twelve months after the date of approval and shall substantially complete any construction or alteration within eighteen months after the date of approval, or within such other periods as are specified in the approval during which to commence or complete construction. If any such Person does not commence work within the time period specified, the approval shall lapse.

(2) Any Person obtaining approval of the Covenants Committee shall not deviate materially from the plans and specifications approved without the prior written consent of the Committee. Such Person shall notify the Committee when the alterations or improvements are complete. Approval of any particular plans and specifications or design does not waive the right of the Committee to disapprove such plans and specifications, or any elements or features thereof, if such plans and specifications are subsequently submitted for use in any other instance or by any other Person.

(c) Certificate of Compliance. Upon the completion of any construction or alterations in accordance with plans and specifications approved in accordance with this Article by the Covenants Committee or the Manager, the Covenants Committee shall, at the request of the Member responsible for such construction or alterations, issue a certificate of compliance which shall be prima facie evidence that the construction or alteration referenced in the certificate has been approved by the Committee. The certificate shall not be used and may not be relied upon for any other purpose, and shall not constitute a representation either as to the accuracy or sufficiency of the plans and specifications reviewed by the Committee or the Manager or the quality or soundness of the construction, alterations or improvements or as a substitute for governmental approvals or permits. The Committee may impose a reasonable charge to cover the costs of inspection and preparation of such a certificate.

ARTICLE 10

INSURANCE

Section 10.1. General Provisions.

(a) Authority; Liability and Notice. The Manager shall have the power and responsibility on behalf of the Association to: (i) purchase insurance policies relating to the Common Area and the activities of the Association; (ii) adjust all claims arising under such policies; and (iii) sign and deliver releases upon payment of claims. The cost of all insurance policies purchased by the Association relating to the Common Area shall be a Common Expense or a Limited Common Expense, as appropriate. The Members and the Manager shall not be

liable for failure to obtain any coverages required by this Article or for any loss or damage resulting from such failure: (i) if such failure is due to the unavailability of such coverages from reputable insurance companies; (ii) if such coverages are so available only at demonstrably unreasonable cost; or (iii) if the Association's insurance professionals advise that such coverages are unnecessary. Exclusive authority to negotiate losses under policies purchased by or on behalf of the Association shall be vested in the Manager. The Manager shall promptly notify the Members and Mortgagees of material adverse modifications, lapses or termination of insurance coverages obtained on behalf of the Association.

(b) Policy Requirements.

(1) All policies of insurance shall be written by reputable companies licensed or qualified to do business in Virginia.

(2) The deductible or self-insured retention (if any) on any insurance policy purchased by the Association shall be a Common Expense (or a Limited Common Expense, as appropriate); provided, however, that the Association may, pursuant to Subsections 6.2(c) and 12.1(a), assess any deductible amount necessitated by the misuse or neglect of: (i) a Subassociation against such Subassociation or (ii) an Owner, or such Owner's tenant or such Owner's (or tenant's) household, guests, employees, agents or invitees against the Lot owned by such Owner.

(3) The Declarant, so long as the Declarant shall own any Lot, shall be protected by all such policies as an Owner.

(4) Each such policy shall provide that:

(A) The insurer waives any right to claim by way of subrogation against the Declarant, the Association, the Manager, the Managing Agent, a Subassociation, any Owner and the Owner's household, guests, employees, tenants, agents and invitees;

(B) Such policy shall not be cancelled, invalidated or suspended due to the conduct of any Subassociation or Owner, or such Owner's tenant or such Owner's (or tenant's) household, guests, employees, agents and invitees, or of any Managing Agent or employee of the Manager or the Managing Agent without a prior demand in writing that the Manager or the Managing Agent cure the defect and neither shall have so cured such defect within thirty days after such demand;

(C) Such policy may not be cancelled or substantially modified (except for cancellation for non-payment of premium) without at least thirty days prior written notice to the Manager and the Managing Agent and without at least ten days prior written notice for non-payment of premium;

(D) The Association is the "First Named Insured" under such policy.

Section 10.2. Property Insurance.

(a) Coverage. The Association shall obtain and maintain a property insurance policy written on a Special Covered Causes of Loss Form, including without limitation fire

damage, vandalism, malicious mischief, sprinkler leakage (if applicable), cost of demolition, debris removal, and water damage coverage, insuring any improvements located on the Common Area, and covering the interests of the Association, in an amount equal to one hundred percent of the then current full insurable replacement cost of any improvements located on the Common Area (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be redetermined periodically by the Manager with the assistance of the insurance company affording such coverage). The Manager shall also obtain and maintain appropriate coverage on all personal property and real estate other than the Common Area owned by the Association.

(b) Waivers and Endorsements. Each such policy shall also provide:

(1) a waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made not to do so;

(2) the following endorsements (or equivalent): (i) “no control” (to the effect that coverage shall not be prejudiced by any act or neglect of any Subassociation, Owner or occupant or their agents when such act or neglect is not within the control of the insured or the Owners collectively, nor by any failure of the insured or the Owners collectively, to comply with any warranty or condition with regard to any portion of the Property over which the insured or the Owners collectively have no control); (ii) ordinance/law coverage for (1) the “cost of demolition” of the undamaged portion of the Property, (2) “contingent liability from operation of building laws or codes”; and (3) “increased cost of construction”; (iii) “replacement cost” or “guaranteed replacement cost”; (iv) “inflation guard”; and (v) “agreed amount” or “elimination of co insurance” clause;

(3) that any “no other insurance” clause expressly exclude individual Subassociations’ and Owners’ policies from its operation so that the property damage policy purchased by the Association shall be deemed primary coverage and any individual Subassociation’s or Owner’s policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Manager hereunder provide for or be brought into contribution with insurance purchased by individual Subassociations, Owners or Mortgagees, unless otherwise required by law;

(4) such deductibles and self-insured retentions as to loss as the Manager in its sole discretion deems prudent and economical; and

(5) to the extent a policy covers a Lot, the standard mortgagee clause.

(c) Certificates. Certificates of property insurance coverage signed by an agent of the insurer, all renewals thereof, and any sub-policies or certificates and endorsements issued thereunder, together with proof of payment of premiums, shall be delivered by the insurer to any Mortgagee requesting the same, at least ten days prior to expiration of the then current policy.

(d) Notice to Mortgagees. All Mortgagees shall be notified promptly of any event giving rise to a claim under such policy arising from damage to improvements located on the Common Area in excess of ten percent of the then current replacement cost of such improvements. The Mortgagee of any Lot insured by the Association shall be notified promptly of any event giving rise to a claim under such policy arising from damage to improvements located on such Lot.

Section 10.3. Liability Insurance. The Association shall obtain and maintain commercial general liability (including libel, slander, false arrest and invasion of privacy coverage) and property damage liability insurance in such limits as the Manager may from time to time determine, insuring the Association, the Manager, the Members and the employees of the Association against any liability to the public or to any Subassociation, Owner or such Owner's tenant and such Owner's (or tenant's) household, guests, employees, agents or invitees arising out of, or incident to the ownership or care, custody, control and use of the Common Area or legal liability arising out of employment contracts of the Association. Such insurance shall be issued on a comprehensive liability basis and shall contain: (i) a cross-liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to an action against another named insured; (ii) hired and non-owned vehicle coverage; (iii) host liquor liability coverage with respect to events sponsored by the Association; (iv) deletion of the normal products exclusion with respect to events sponsored by the Association; and (v) a "severability of interest" endorsement which shall preclude the insurer from denying liability coverage to a Member because of negligent acts of the Association or of another Member. The Manager shall review such limits once each year, but in no event shall such insurance be less than One Million Dollars covering all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained in an amount not less than Four Million Dollars.

Section 10.4. Other Insurance. The Association shall obtain and maintain the following coverages.

(a) Fidelity. Adequate fidelity coverage to protect against dishonest acts on the part of the Manager, the Managing Agent, trustees and employees of the Association and all others who handle or are responsible for handling funds of the Association, including without limitation volunteers. If the Association has delegated some or all of the responsibility for handling funds to a Managing Agent, such Managing Agent shall be covered by its own fidelity insurance; however, the Members may determine to purchase additional fidelity coverage for the Managing Agent as well. Such fidelity insurance (except for fidelity insurance obtained by the Managing Agent for its own personnel) shall: (i) name the Association as an obligee; (ii) be written in an amount not less than one-fourth the total Annual Assessment for Common Expenses or the amount required by the Mortgagees; and (iii) contain waivers of any defense based upon the exclusion of Persons who serve without compensation from any definition of "employee" or similar expression.

(b) Flood Insurance. If required by a majority of the Mortgagees or governmental regulations, flood insurance in accordance with the then applicable regulations for such coverage.

(c) Workers' Compensation. Workers' compensation insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an "all states" endorsement).

(d) Boiler and Machinery/Mechanical Breakdown Insurance. If applicable, pressure, mechanical and electrical equipment including information technology and air conditioning equipment coverage on a comprehensive form in an amount not less than the greater of (i) Fifty Thousand Dollars per accident per location or (i) the replacement cost of all such insured equipment.

(e) “Directors and Officers” Liability Insurance. Liability insurance under a “Directors and Officers” policy in an amount not less than One Million Dollars. The policy may also provide that the Managing Agent is an insured under the policy except with respect to claims that the Managing Agent may file against the Association or that the Association may file against the Managing Agent. Such coverage, to the extent available, shall include non-monetary damages, breach of contract, fair housing disputes and allegations of wrongful purchase of the insurance program in form, content or amount.

(f) Other. Such other insurance: (i) as the Manager may determine; (ii) as may be required with respect to the Additional Land by any amendment to this Declaration adding such Additional Land; or (iii) as may be requested from time to time by a Majority Vote of the Members. Such insurance may include, without limitation: (i) business income and extra expense; (ii) employee benefits; (iii) employment practices liability; (iv) auto (owned); (v) medical payments protection; and (vi) electronic data processing (EDP) coverage.

Section 10.5. Insurance for Subassociations and Lots.

(a) Insurance Restriction. No Person shall acquire or maintain insurance coverage on the Common Area insured by the Association so as to: (i) decrease the amount which the Association may realize under any insurance policy maintained by the Association; or (ii) cause any insurance coverage maintained by the Association to be brought into contribution with insurance coverage obtained by such Person. No Person shall obtain separate insurance policies on the Common Area.

(b) Required Coverage. Each Subassociation shall obtain as to any improvements located on the common area or common elements within such Subassociation and each Owner shall obtain as to such Owner’s Lot liability insurance in a minimum amount of One Million Dollars and property insurance on a Special Covered Causes of Loss Form (or its equivalent) in an amount equal to one hundred percent of the then current insurable replacement cost of any improvements located on the common area or common elements within such Subassociation and on such Owner’s Lot. Such insurance shall also include coverage for “loss assessment” that may be levied by the Association against the Member (including loss assessment for insurance deductibles and retentions). The Association shall not be responsible for any claim for loss of business, income, clients, reputation or other loss because of any damage or claim (insured or otherwise) to the Common Area or arising from actions of the Association, the Manager, committee members or the Managing Agent.

(1) Members located on Additional Land may be required to obtain certain insurance coverages with respect to such Additional Land in amendments to this Declaration adding such Additional Land.

(2) The Declarant, the Association and the Manager shall not be held liable for the failure of any Member to purchase insurance.

If the Association so requests, the Member shall provide a certificate of insurance to the Association. If a Member fails to obtain the insurance coverage required by this Article, the Association may purchase such insurance coverage on such Member's behalf and assess the Member or assess the Lot owned by such Owner (as appropriate) for the cost thereof pursuant to Subsections 6.2(c) and 12.1(b).

(c) Blanket Policy. Each Owner shall have the right to comply with and satisfy its obligations under this Article by means of one or more blanket policies of insurance covering this and other liability and locations of the Owner obtaining such insurance; provided, however, that such policies allocate to the liabilities to be insured under this Article an amount not less than the amount of insurance required to be carried pursuant to this Article, so that the proceeds from such insurance shall not be less than the proceeds that would be available if the Owner was insured under a unitary policy.

(d) Master Policy. If the Association obtains a master policy which provides the coverages, limits, terms and conditions required in this Article for both the Common Areas and the Lots (whether or not within a Subassociation), then the Association will have met the requirements of this Article and a Subassociation and any Owner need not obtain separate policies of property insurance covering the Lots. The Manager shall determine whether such a master policy meets the requirements of this Article, but may rely on the advice of insurance professionals. The Association, however, has no obligation to provide such coverage. If the Association provides such coverage, the Association shall pay the reasonable cost thereof not to exceed the cost of obtaining the coverage directly. The cost of property insurance coverage obtained pursuant to this Subsection 10.5(c) shall be allocated as follows: the premium calculation shall be furnished to the Manager separating out any charges which are otherwise properly chargeable to all unit owners as a common expense: (i) the amount charged for the commercial risk, which shall be paid as a Limited Common Expense by the Subassociations or Owners of Lots with commercial uses; (ii) the amount charged for the residential risk, which shall be paid as a Limited Common Expense by the Subassociations or Owners of Lots with residential uses; and (iii) the amount charged for other special risks, which shall be paid as a Limited Common Expense by the Subassociations or Owners of the Lots creating such risks. If a master policy covering both the Common Areas and the Lots is obtained, the Manager shall obtain from each insurer providing coverage a certification that the coverage is at least equivalent to the coverage required by this Article and, if there are multiple insurers and if appropriate, a joint settlement agreement for the adjustment of losses.

ARTICLE 11

RECONSTRUCTION AND REPAIR

Section 11.1. When Reconstruction or Repair Required.

(a) Common Area. Except as otherwise provided in Section 11.5, if all or any part of any improvement located on the Common Area is damaged or destroyed by fire or other casualty, the Association shall arrange for and supervise the prompt repair and restoration thereof. The Manager shall not use the proceeds of casualty insurance received as a result of damage or destruction of improvements located on the Common Area for purposes other than the repair, replacement or reconstruction of such improvements except in accordance with Sections 11.5 and 15.4.

(b) Lots. If a building or other major improvement located upon a Lot or the common area or common elements of a Subassociation is damaged or destroyed, the Member or Owner owning or insuring such building or improvement (“Responsible Party”) shall restore the site either (i) by repairing or reconstructing such building or other major improvement or (ii) by clearing away the debris and restoring the site to a condition compatible with the remainder of the Property and acceptable to the Association. Unless the Association permits a longer time period, such work must be: (i) in the case of a structure of less than four levels, commenced within six months after the casualty and substantially completed within twelve months after the casualty or (ii) in the case of a structure of four or more levels, commenced within twelve months after the casualty and substantially completed within twenty-four months after the casualty. If the building or other major improvement will look substantially the same as before the casualty and will comply with the Design Guidelines, no prior approval of the Covenants Committee shall be required.

Section 11.2. Procedure for Reconstruction and Repair of Common Area.

(a) Cost Estimates. Immediately after a fire or other casualty causing damage to any portion of any improvement located on the Common Area, the Responsible Party shall obtain reliable and detailed estimates of the cost of restoring and repairing such improvement to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as may be necessary. The Responsible Party shall furnish those cost estimates to the Association before commencing reconstruction or repair.

(b) Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the original construction of any improvement located on the Common Area, subject to any modifications required by changes in applicable governmental regulations, and using contemporary building materials and technology to the extent feasible; provided, however, that other action may be taken if approved in accordance with Section 15.4.

Section 11.3. Disbursement of Construction Funds for Common Area.

(a) Construction Fund and Disbursement. The proceeds of insurance collected on account of a casualty and all other sums received by the Responsible Party (including without limitation sums received from the collection of Assessments against the Owners pursuant to Subsection 11.3(b) or any Owner pursuant to Subsections 6.2(c) or 12.1(a) if the Association is the Responsible Party), for such purposes shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner.

(1) If the estimated cost of reconstruction and repair is less than **twenty** percent of the total Annual Assessment for Common Expenses for that fiscal year, then the construction fund shall be disbursed in payment of the costs of reconstruction and repair as the Responsible Party may determine.

(2) If the estimated cost of reconstruction and repair is **twenty** percent of the total Annual Assessment for Common Expenses for that fiscal year or more, then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in the jurisdiction where the Property is located and employed by the Responsible Party to supervise such work, payment to be made from time to time as the work

progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect and other Persons who have rendered services or furnished materials in connection with the work stating that: (i) the sums requested by them in payment are justly due and owing and that such sums do not exceed the value of the services and materials furnished; (ii) there is no other outstanding indebtedness known to such architect for the services and materials described; and (iii) the cost as estimated by such architect for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested. The Responsible Party shall furnish such certificates to the Association before making any such payment and both the Responsible Party and the Association shall be entitled to rely on such certificate.

(b) Shortfalls. If the proceeds of insurance are not sufficient to defray such estimated costs of reconstruction and repair, or if upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient: (i) if the Association is the Responsible Party, the amount necessary to complete such reconstruction and repair may be obtained from the appropriate reserve for replacement funds or shall be deemed a Common Expense or Limited Common Expense, as appropriate, and an assessment therefor shall be levied subject to Section 6.2 or (ii) if the Association is not the Responsible Party, the amount necessary to complete such reconstruction and repair shall be obtained by the Responsible Party or the Association may (but need not) complete the reconstruction or repairs and assess the amounts required against the Responsible Party.

(c) Surplus. The first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds. If, after payment of the costs of all reconstruction and repair and the refund of any excess payments made by Owners pursuant to Subsection 11.3(b) in proportion to their contributions or the refund of excess payments made by any Owner pursuant to Subsection 12.1(b), there remains any surplus funds, such funds shall be paid to the Association and shall be placed in the appropriate reserve account.

Section 11.4. Multiple Responsible Parties. If there is more than one Responsible Party, then the insurance proceeds shall be paid to the Association or to a depository institution serving as an insurance trustee and disbursed to the Responsible Parties as they rebuild or repair the damaged improvements. The Responsible Parties shall cooperate in rebuilding or repairing the damaged improvements.

Section 11.5. When Reconstruction and Repair of Common Area Not Required. If destruction of the improvements located on the Common Area is insubstantial or does not compromise the structural integrity, functionality or utility of a Lot, the Association may elect not to require the Responsible Party to repair such insubstantial damage. If damaged improvements are not repaired, then the Responsible Party shall remove all remnants of the damaged improvements and restore the site thereof to a condition compatible with the remainder of the Common Area and acceptable to the Association.

ARTICLE 12

COMPLIANCE AND DEFAULT

Section 12.1. Enforcement Provisions.

(a) Compliance. Each Member and each Owner's tenants and each Owner's (or tenant's) household, guests, employees, agents or invitees, shall be governed by, and shall comply with, all of the terms of the Association Documents and the Rules and Regulations, as amended from time to time. A default in complying with the Association Documents or the Rules and Regulations shall entitle the Association, acting through its Manager, to the following relief.

(b) Additional Liability. Each Member shall be liable to the Association for any costs incurred by the Association and the expense of all Upkeep rendered necessary by such Member's act or omission, or for the act or omission of an Owner's tenant and such Owner's (or tenant's) household, guests, employees, agents, or invitees, regardless of neglect or culpability, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Association. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any Lot or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation. Any costs, including without limitation legal fees, incurred as a result of a failure to comply with the Association Documents and Rules and Regulations by any Owner may be assessed against such Owner's Lot.

(c) No Waiver of Rights. The failure of the Association or a Member to enforce any right, provision, covenant or condition which may be granted by the Association Documents shall not constitute a waiver of the right to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association or the Members pursuant to any term, provision, covenant or condition of the Association Documents shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the Person exercising the same from exercising such other privileges as may be granted to such Person by the Association Documents, the LLC Act or at law or in equity.

(d) Interest. If a default by a Member in paying any sum assessed against such Subassociation or such Owner's Lot continues for a period in excess of thirty days, interest from the due date at a rate not to exceed the interest rate then charged by the Internal Revenue Service on delinquent taxes may be imposed in the discretion of the Manager on the principal amount unpaid from the date due until paid; provided, however, that if the Manager does not impose interest, the Manager shall set forth its reasons for not charging such interest in a written record of its decision. The imposition of interest shall not preclude collection of a late charge nor shall a late charge levied pursuant to Section 6.5 be considered interest subject to the limitations of this subsection.

(e) Abating and Enjoining Violations. The violation of any of the Rules and Regulations adopted by the Members or the breach of any provision of the Association Documents shall give the Association the right, in addition to any other rights set forth in the Association Documents: (i) to enter the portion of the Property (excluding any dwelling) pursuant to Section 3.3, on which, or as to which, such violation or breach exists and summarily

to abate and remove, at the expense of the defaulting Member, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions of the Association Documents or the Rules and Regulations, and the Association shall not thereby be deemed guilty in any manner of trespass; (ii) to use self-help to remove or cure any violation of the Association Documents or the Rules and Regulations on the Property (including without limitation the towing of vehicles); or (iii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; provided, however, that before any construction may be altered or demolished (except in emergencies) judicial proceedings shall be initiated. Where appropriate, the Association shall follow the due process procedures set forth in Subsection 12.1(h).

(f) Legal Proceedings. Subject to Article 17, failure to comply with any of the terms of the Association Documents or the Rules and Regulations shall be grounds for relief, including without limitation an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all Assessments, any other relief provided for in the Association Documents and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Manager or, if appropriate, by any aggrieved Member and shall not constitute an election of remedies.

(g) Charges and Suspension of Rights. The Manager or the Covenants Committee shall have the power to impose charges and to suspend the right to vote in the Association and the right to use the Common Area (other than for access or utilities) or other rights in the case of a Member found to be responsible for a violation of the Association Documents or the Rules and Regulations pursuant to Section 55-513B of the POA Act; provided, however, that the Manager or Committee may not deny an Owner use of the Common Area for ingress or egress to such Owner's Lot or for utility services; provided, further, that if a utility service is paid for as a Common Expense or a Limited Common Expense and an Owner does not pay such Assessment for more than sixty days, then such utility service may be discontinued to such Owner until payment is made so long as such suspension does not endanger the health, safety or property of any Owner, tenant or occupant. The Manager or Covenants Committee may suspend the right of an Owner or other occupant, and the right of such Person's household, tenants, guests, employees, agents or invitees to use the Common Area (other than for access or utilities) for a reasonable period not to exceed sixty days, for any violation of any provision of any of the Association Documents or the Rules and Regulations or for any period during which any Assessment against an Owner's Lot remains unpaid. No such power shall be exercised until the Person charged with such a violation has been given notice and an opportunity for a hearing as set forth in Subsection 12.1(h); provided, however, that voting rights and the right to use the Common Area (other than for access or utilities), may be suspended due to nonpayment of Assessments without giving the Person charged with the violation notice and an opportunity for a hearing. Charges may not exceed Fifty Dollars for each violation or Ten Dollars per day for each violation of a continuing nature (for a period not to exceed ninety days) or such greater amount as may be permitted by law. Charges are Individual Assessments and shall be collectible as such and shall also constitute a lien against a Lot in accordance with Section 12.2. Imposition of a charge does not preclude the liability of a Member for reimbursement to the Association of costs incurred by the Association as a result of such Member's acts or omissions. The Manager or Covenants Committee may determine to take certain other actions, including without limitation towing vehicles or performing Upkeep on a Lot pursuant to Section 6.2 and Section 7.2 without providing a hearing. The Manager or Covenants Committee may deliberate privately, but shall either announce the decision in the presence of the respondent or give the respondent notice thereof.

(h) Due Process. Before imposing any charge or before taking any action affecting one or more specific Members, the Manager or Covenants Committee shall afford any such Person the following basic due process rights.

(1) Notice. The respondent shall be afforded prior written notice of any action (except when an emergency requires immediate action) and, if notice is of default or violation, an opportunity to cure which is reasonable under the circumstances, prior to the imposition of any sanction. The notice shall also state that the respondent is entitled to a hearing, if a hearing is required pursuant to Subsection 12.1(g). Notice of any violation or any hearing shall be sent by registered or certified United States mail, return receipt requested, to the Member at such Member's address of record with the Association at least fourteen days prior to such hearing or as may otherwise be required by the POA Act.

(2) Hearing. If the respondent is entitled to a hearing and requests in writing a hearing before any charge is imposed or action taken, then the imposition of the charge or the taking of the action shall be suspended until the respondent has an opportunity to be heard at a hearing at which the Manager or Covenants Committee discuss such charge or action. Each Person so appearing shall have the right to be represented by such Person's counsel, at such Person's own expense. The hearing result shall be hand-delivered or sent by registered or certified mail, return receipt requested (or in any other manner permitted by law), to the Member at the Member's address of record with the Association within three days after the hearing.

(3) Appeal. Upon receipt of a written request therefor made within ten days after the date of an action by the Covenants Committee, or in the absence of a Covenants Committee the Manager, any Person deemed by the Manager upon an appeal from the Committee or by the Members upon an appeal from the Manager, to have standing as an aggrieved party may appeal to the Manager or the Members, as appropriate, and the Manager or Members may reconsider, review, modify or reverse any action taken.

(4) Fairness. The Manager, Covenants Committee and Members shall treat all Persons equitably, based upon decision-making procedures, standards and guidelines which, even if informal, shall be applied to all Persons consistently.

(i) Venue. The venue for any suit involving any Association Document shall be in either the Circuit Court for the County or the United States District Court for the Eastern District of Virginia, sitting in Alexandria, Virginia. Each Member hereby irrevocably submits to personal jurisdiction of such court, and, provided that a copy of any service is mailed via certified mail, return receipt requested to the Member at the notice address for such Member, authorizes the Manager to accept service of process on behalf of such Member.

(j) New Owner Information. If the contract seller or the new Owner does not give the Manager written notice of such Owner's name and the number or address of the Lot within thirty days after acquiring title to such Lot, then reasonable record-keeping costs incurred by the Association, as determined by the Manager, may be assessed against such Owner's Lot. The Manager may set or change the amount of such Assessment from time to time. Such Assessment shall be a lien against such Owner's Lot as provided in Section 12.2.

Section 12.2. Lien for Assessments.

(a) Lien. In addition to any lien established by the POA Act, the total Annual Assessment of each Owner for Common Expenses, including Limited Common Expenses, any Additional Assessment, any Individual Assessment or any other sum duly levied (including without limitation charges, interest, late charges, contractual charges, costs of collection and attorney fees, etc.), made pursuant to the Association Documents, is hereby declared to be a lien against any Lot owned by such Owner in accordance with this Declaration. Until fully paid and satisfied, the lien shall apply to and encumber all of the Lots that were owned, as of the date when payment was due, by the Owner from whom payment was due, and shall also apply to and encumber any and all Lots thereafter acquired by that Owner from the time such Owner becomes the Owner thereof. With respect to Annual Assessments, the lien is effective on the first day of each fiscal year of the Association and, as to Additional Assessments, Individual Assessments and other sums duly levied, the lien is effective ten days after the date of notice to the Owner of such Assessment or levy. The Manager or the Managing Agent may file or record such other or further notice of any such lien, or such other or further document, as may be required to confirm the establishment and priority of such lien by law. The lien created by this section shall be prior to all liens and encumbrances hereafter recorded except Mortgages, real estate taxes and other charges levied by governmental authority and made superior by law. The personal obligation of the Owner to pay such Assessment shall, in addition, remain such Owner's personal obligation and a suit to recover a money judgment for nonpayment of any Assessment or installment thereof, levied pursuant hereto, may be maintained without foreclosing or waiving the lien herein created to secure the same.

(b) Acceleration. Where an Assessment against an Owner is payable in installments, upon default by such Owner in the timely payment of any two consecutive installments, the maturity of the remaining total of the unpaid installments of such Assessment may be accelerated, at the option of the Members, and the entire balance of the Assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Owner. If an Owner's Assessments for any prior fiscal year are delinquent, then the entire annual Assessment (otherwise payable in installments) shall be due and payable in full when assessed upon service of notice to such effect upon the defaulting Owner.

(c) Enforcement. The lien for Assessments may be enforced and foreclosed in any manner permitted by the laws of Virginia or by an action in the name of the Association, the Manager or any Managing Agent, acting on behalf of the Association. Any such foreclosure provided for herein is to be conducted in accordance with the provisions of the POA Act or Title 55, Sections 55-59.1 et seq. of the Code of Virginia (1950), as amended, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted or provided by law. During the pendency of any such action to enforce the Association lien, the Owner shall be required to pay a reasonable rental for the Lot for any period prior to sale pursuant to any judgment or order of any court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the law. The Association shall have the power to bid on the Lot at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with such Lot unless provided otherwise by the POA Act or other law.

(d) Remedies Cumulative. A suit to recover a money judgment for unpaid Assessments may be maintained without foreclosing or waiving the lien securing the same, and a

foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

Section 12.3. Subordination and Mortgagee Protection. Notwithstanding any other provision hereof to the contrary, the lien of any Assessment levied pursuant to the Association Documents upon any Lot (and any interest, late charges or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage made in good faith for value received nor shall such Person be personally liable for such Assessment; provided, however, that such subordination shall apply only to Assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to foreclosure or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the holder of a Mortgage or the purchaser of the Lot at such sale from liability for any Assessments thereafter becoming due, nor from the lien of any such subsequent Assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.

ARTICLE 13

MORTGAGEES

Section 13.1. Notice to the Association. Upon request, an Owner who mortgages such Owner's Lot shall notify the Association of the name and address of the mortgagee. No mortgagee shall be entitled to any Mortgagee rights under the Association Documents unless such mortgagee has notified the Association of its address as required by Section 13.2 and has requested all rights under the Association Documents.

Section 13.2. Notices to Mortgagees. Any holder of a Mortgage who desires notice from the Association shall notify the Managing Agent or registered agent of the Association to that effect by certified or registered United States mail, postage prepaid. Any such notice shall contain the name and address, including post office address of such Mortgagee and the name of the Person or office to whom notices from the Association should be directed. The Mortgagee shall be responsible for keeping such information up to date. The Association shall notify Mortgagees of the following:

(1) Any default by an Owner of a Lot upon which the Mortgagee has a Mortgage in paying Assessments (which remains uncured for sixty consecutive days) or any other default, simultaneously with the notice sent to the defaulting Owner (failure to notify the Mortgagee shall not affect the validity of the Association's assessment lien);

(2) Any event giving rise to a claim under the Association's physical damage insurance policy arising from damage to improvements located on the Common Area in excess of **ten** percent of the annual budget for Common Expenses or on any Lot insured by the Association on which the Mortgagee holds a Mortgage;

(3) All actions taken by the Association with respect to reconstruction of the Common Area or a Lot upon which the Mortgagee has a Mortgage;

(4) Any termination, lapse or material adverse modification in an insurance policy held by the Association;

(5) Any Taking by condemnation or by eminent domain of the Common Area and the actions of the Association in connection therewith;

(6) Any proposal to terminate this Declaration or dissolve the Association, at least thirty days before any action is taken to terminate or dissolve; and

(7) Any proposal to amend materially the Articles of Organization or to amend this Declaration where Mortgagee consent is required by Subsection 15.4(e), at least ten days before any action is taken.

Section 13.3. Determining Mortgagee Approval. Where the approval of Mortgagees is required, such approval means: (i) written approval; (ii) any written waiver of approval rights; (iii) a letter stating no objection; or (iv) presumptive approval if a Mortgagee does not respond to a notice by certified or registered United States mail, return receipt requested, within sixty days after the date the request for approval is transmitted in accordance with the notice requirements of Sections 1.6, 13.2 and 15.4. The approval of any Mortgagee shall not be unreasonably withheld, conditioned or delayed.

Section 13.4. Other Rights of Mortgagees. Upon request, a Mortgagee or its authorized representative shall have the right to receive notice of and to attend and to speak at meetings of the Association. A Mortgagee shall have the right to examine the Association Documents, Rules and Regulations and books and records of the Association and to require the submission of existing annual financial reports and other budgetary information. A Majority of the Mortgagees may make a request and shall be entitled to an audited financial statement for the preceding fiscal year of the Association prepared at the Association's expense and provided within a reasonable time. A Majority of the Mortgagees may require the Association to employ a professional Managing Agent.

ARTICLE 14

CONDEMNATION

Section 14.1. Definition. For the purposes of this Article, "Taking" means an acquisition of all or any part of the Common Area or of any interest therein or right accruing thereto, as a result of in lieu of or in anticipation of the exercise of the right of condemnation or eminent domain, or a change of grade caused by the action of a governmental entity affecting the value of the Common Area or any part thereof so severely as to amount to condemnation.

Section 14.2. Taking of Common Area. If there is a Taking of all or any part of the Common Area, then the Association shall notify the Members, but the Manager shall act on behalf of the Association in connection therewith and no Member shall have any right to participate in the proceedings incident thereto. The award made for such Taking shall be payable to the Association, to be disbursed as follows. If the Taking involves a portion of the Common Area on which improvements have been constructed, then the Association shall restore or replace such improvements so taken on another portion of the Common Area, to the extent space is available therefor, in accordance with plans approved by the Manager, unless within sixty days after such Taking the Declarant (during the Declarant Control Period) or the Members by a Sixty-seven Percent Vote (after the Declarant Control Period) shall otherwise agree. The

provisions of Article 11 regarding the disbursement of funds following damage or destruction shall apply.

ARTICLE 15

AMENDMENT; EXTRAORDINARY ACTIONS

Section 15.1. Amendment by the Declarant. In addition to corrective amendments made pursuant to Subsection 15.4(f), during the Development Period, the Declarant may unilaterally, without the approval or joinder of the Association, or any Member or Mortgagee, amend any provision of this Declaration or any Supplementary Declaration from time to time to: (i) make non-material, clarifying or corrective changes; (ii) satisfy the requirements of the Proffers or other governmental approvals or of any government, governmental agency or Mortgagee; (iii) reflect the relocation of boundary lines between the Common Area and any Lots or among any Lots; provided, however, that such relocation is reflected in the Land Records; (iv) depict the assignment of Limited Common Area as required by Section 2.4; (v) add all or any portion of the Additional Land in accordance with Section 4.1; (vi) withdraw Submitted Land in accordance with Section 4.2; and (vii) reflect the addition of new Members.

Section 15.2. Amendment by the Members.

(a) Member Approval. In addition to corrective amendments made pursuant to Subsection 15.4(f), and subject to Sections 15.3, 15.4 and 15.5, the Association may amend this Declaration (not including a Supplementary Declaration) only with at least a Sixty-seven Percent Vote or with the written approval of Members entitled to cast at least sixty-seven percent of the total number of votes.

(b) Certification. An amendment by the Association shall be certified by the Manager as to compliance with the procedures set forth in this Article, signed and acknowledged by the Manager of the Association, and recorded among the Land Records. In accordance with Section 55-515.1E of the POA Act, an action to challenge the validity of an amendment may not be brought more than one year after the amendment is effective.

(c) Supplementary Declarations. Amendment of a Supplementary Declaration is governed by the provisions for amendment contained therein and the requirements of Section 15.4. A Supplementary Declaration may not include provisions in conflict with the Declaration. Although the Declaration and Supplementary Declaration should be construed to give effect to both, in the case of conflicting provisions, the Declaration shall control.

Section 15.3. Prerequisites to Amendment. Written notice of any proposed amendment to this Declaration or any Supplementary Declaration by the Association shall be sent to every Member (or every Member and Owner of a Lot subject to such Supplementary Declaration) at least fifteen days before any action is taken. No amendment shall increase the financial obligations of an Owner in a discriminatory manner or further restrict development on existing Lots in a discriminatory manner. No amendment to the Declaration shall diminish or impair the rights of the Declarant during the Development Period under the Declaration without the prior written consent of the Declarant. No amendment to the Declaration shall diminish or impair the express rights of the Mortgagees under the Declaration without the prior written approval of at least Fifty-one Percent of the Mortgagees. No amendment may modify this Article or the rights of any Person hereunder without obtaining the approvals required by Subsections 15.4(c) and (e).

Except as specifically provided in the Declaration, no provision of the Declaration shall be construed to grant to any Owner or to any other Person any priority over any rights of Mortgagees.

Section 15.4. Extraordinary Actions and Material Amendments. The provisions of this section shall not be construed to reduce the vote that must be obtained from Members where a greater vote is required by the LLC Act or other provisions of the Association Documents nor shall it be construed to lessen the unilateral rights given to the Declarant pursuant to Articles 3, 4 and 15 to amend the Declaration or a Supplementary Declaration without the approval or joinder of the Association or any Subassociation, Owner or Mortgagee. To the extent this section applies to amendments to a Supplementary Declaration, the approval of the Members required shall be deemed to refer only to the Members owning Lots or governing land subject to such Supplementary Declaration.

(a) Material Amendments. A material amendment to the Association Documents includes any amendment adding, deleting or amending any provisions regarding:

- (1) Assessment basis or Assessment liens;
- (2) any method of imposing or determining any charges to be levied against the Members;
- (3) reserves for maintenance, repair or replacement of the Common Area;
- (4) Members' Upkeep obligations;
- (5) allocation of rights to use the Common Area;
- (6) any scheme of regulation or enforcement of standards for Upkeep, architectural design or exterior appearance of improvements;
- (7) reduction of insurance requirements;
- (8) restoration or repair of the Common Area or Lots;
- (9) the addition, annexation or withdrawal of land to or from the Property;
- (10) voting rights (except to reduce the Declarant's voting rights with the consent of the Declarant);
- (11) restrictions affecting leasing or sale of a Lot; or
- (12) any provision which is for the express benefit of Mortgagees.

(b) Extraordinary Actions. An extraordinary action of the Association includes:

(1) determining not to require professional management after the Declarant Control Period, if professional management has been required by the Association Documents, a Majority of the Mortgagees or a Majority Vote of the Members;

(2) expanding the Property or amending Exhibit B to include real estate not previously described as Additional Land which either (i) increases the overall land area of the real estate described in Exhibit A and B by greater than ten percent in square footage of land, number of planned dwelling units or gross square footage of commercial floor area or (ii) is not adjacent to or across a public right-of-way from the Property;

(3) abandoning, partitioning, encumbering, mortgaging, conveying, selling or otherwise transferring or relocating the boundaries of the Common Area except for:

(i) granting easements for utilities or other purposes to serve the Property or adjacent land which are not inconsistent with or which do not interfere with the intended use of such Common Area;

(ii) dedicating or conveying a portion of the Common Area to a public authority;

(iii) making conveyances or resubdivisions as part of a boundary-line adjustment or otherwise pursuant to Section 2.7; and

(iv) making conveyances to a Member other than the Declarant pursuant to a plan of dissolution or an entity formed for similar purposes pursuant to a consolidation or merger.

(4) using insurance proceeds for purposes other than repair and reconstruction of the insured improvements;

(5) making capital improvements (other than for repair or replacement of existing Common Area improvements) during any period of twelve consecutive months costing in excess of twenty percent in the aggregate of the total Annual Assessment for Common Expenses for the fiscal year; or

(6) withdrawing land from the provisions of the Declaration, except as provided in Sections 4.2 and 16.2.

(c) Member Approval. Any material amendment or extraordinary action listed above must be approved by (A) in writing by Members entitled to cast at least sixty-seven percent of the total number of votes entitled to be cast by Members or (B) by at least a Sixty-seven Percent Vote of the Members entitled to be cast at a meeting for approval of material amendments or extraordinary actions provided that: (i) at least twenty-five days notice of the meeting is provided to all Members; (ii) the notice of the meeting states the purpose of the meeting and contains a copy or summary of any material amendments proposed; and (iii) the notice of the meeting also contains a copy of the proxy that can be cast in lieu of attendance at the meeting. Approval of the Declarant is also required during the Development Period. Any amendments which would impose capital contribution obligations on a Member or which would have a non-pro rata adverse effect (including dilution of voting rights) on any Member requires the prior written consent of such Member.

(d) Additional Material Amendments and Extraordinary Actions. The following additional material amendments and extraordinary actions must be approved by: (i) Members entitled to cast at least **seventy-five** percent of the total number of votes in the Association; and (ii) the Declarant during the Development Period:

(1) amendment or addition of any provisions of the Association Documents regarding rights of first refusal or similar restrictions on the right of Owners to sell, transfer or otherwise convey a unit;

(2) termination of the Declaration;

(3) dissolving, merging or consolidating the Association, except pursuant to a merger or consolidation with another nonprofit entity formed for purposes similar to the purposes for which the Association was formed; or

(4) conveyance of all the Common Area, except to an entity formed for similar purposes pursuant to a consolidation or a merger.

(e) Mortgagee Approvals. Any material amendment or extraordinary action listed in subparagraphs **(a), (b) and (d) except item (b)(5)** above must also be approved by Fifty-one Percent of the Mortgagees.

(f) Corrective Amendments. Any amendment to the Association Documents shall not be considered material if made only for the purposes of correcting technical errors or for clarification. The Declarant may unilaterally sign and record a corrective amendment or supplement to the Association Documents to correct a mathematical mistake, an inconsistency or a scrivener's error, or clarify an ambiguity in the Association Document with respect to an objectively verifiable fact (including without limitation recalculating the liability for Assessments or the number of votes appertaining to a Lot), within five years after the effective date of the Association Document containing or creating such mistake, inconsistency, error or ambiguity. Regardless of the effective date of the Association Document, the Manager may also unilaterally sign and record such a corrective amendment or supplement upon a Majority Vote of the Members and Owners. Any amendment to the Association Documents adding provisions to or interpreting the application of provisions of the Declaration, contained in a Supplementary Declaration and applied to a specific portion of the Property, shall not be considered a material amendment. The Manager may unilaterally amend Exhibit E stating the respective interests of the Members to reflect accurately the then current information.

(g) Contracts Made During the Declarant Control Period. All Association contracts made during the Declarant Control Period which extend beyond the Declarant Control Period must meet at least one of the following criteria: (i) be for a term of two years or less; (ii) be terminable by the Association upon ninety days written notice; or (iii) be commercially reasonable.

ARTICLE 16

TERMINATION

Section 16.1. Termination of Declaration.

(a) Duration; Termination by the Association. The covenants and restrictions of this Declaration shall run with the land and bind the Property and be in full force and effect in perpetuity unless amended as provided above or terminated as hereinafter provided. Subject to Section 15.4, the Association may terminate this Declaration only with the approval of Members entitled to cast at least **seventy-five** percent of the total number of votes. The termination shall be certified by the Manager as to compliance with the procedures set forth in this Article, signed and acknowledged by the Manager and recorded among the Land Records. (Section 4.2 shall govern withdrawing less than all of the Submitted Land from the Property.)

(b) Prerequisites. Written notice of the proposed termination shall be sent to every Member and Mortgagee at least thirty days before any action is taken. The Declaration may not be terminated during the Development Period without the prior written consent of the Declarant. Such termination shall not affect any permanent easements or other permanent rights or interests relating to the Property created by or pursuant to the Association Documents. To the extent necessary, the termination agreement shall provide for the transfer or assignment of the easements, rights or interests granted to the Association herein to a successor entity which is assuming the Association's Upkeep and regulatory responsibilities. Any lien which has arisen pursuant to the provisions of the Declaration shall remain in full force and effect despite termination of the Declaration until the amounts secured thereby are paid in full.

Section 16.2. Termination of Association.

(a) Events of Dissolution. The Association shall be dissolved upon the occurrence of any of the following events:

(1) The determination in writing of Members owning **seventy-five** percent of the total Membership Interests to dissolve and terminate the Association;

(2) The sale, transfer or assignment of substantially all of the assets of the Association;

(3) The adjudication of the Association as insolvent within the meaning of insolvency in either bankruptcy or equity proceedings, or the filing of an involuntary petition in bankruptcy against the Association (which is not dismissed within ninety days), the filing against the Association of a petition for reorganization under the Federal Bankruptcy Code or any state statute (which is not dismissed within ninety days), a general assignment by the Association for the benefit of creditors, the voluntary claim (by the Association) that it is insolvent under any provisions of the Federal Bankruptcy Code (or any state insolvency statutes) or the appointment for the Association of a temporary or permanent receiver, trustee, custodian or sequestrator (which receiver, trustee, custodian or sequestrator is not dismissed within ninety days);

(4) When so determined in accord with other specific provisions herein; and

(5) As otherwise required by Virginia law; provided, however, that the Association shall not dissolve upon the occurrence of any event described in Section 13.1-1046(3) of the LLC Act.

Termination of the Association shall not affect the other provisions of this Declaration.

(b) Conclusion of Affairs. Upon the dissolution and non-continuation of the Association for any reason, the Manager shall proceed promptly to wind up the affairs of and liquidate the Association, subject, however, to the provisions of this Declaration. Except as otherwise provided herein, the Members shall continue to share distributions and tax allocations during the period of liquidation in the same manner as before the dissolution. The Manager shall have reasonable discretion to determine the time, manner and terms of any sales or distributions of Association property pursuant to such liquidation having due regard to the activity and the condition and relevant market and general financial and economic conditions and consistent with its fiduciary obligations to the Members.

(c) Liquidating Distributions. After paying or providing for the payment of all debts or liabilities of the Association and all expenses of liquidation, and subject to the right of the Manager to set up such reserves as it may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Association, the proceeds of the liquidation and any other assets of the Association shall be distributed to or for the benefit of the Members in accordance herewith. No Member shall have any right to demand or receive property other than cash upon dissolution and termination of the Association; provided, however, that the Manager shall distribute each portion of the Common Area to the Member owning a Lot in or governing such portion; provided, however, that if a site plan is approved for the Property, or any portion thereof containing Common Area, which changes the design, layout or use of the Property in such a manner that the Common Area is no longer necessary to the new design, layout or use, then such Common Area may be distributed as agreed upon by the Members in accordance with the requirements of Section 15.4.

(d) Termination. Within a reasonable time following the completion of the liquidation of the Association, the Manager shall supply to each of the Members a statement which shall set forth the assets and the liabilities of the Association as of the date of complete liquidation and each Member's portion of the distributions. Upon completion of the liquidation of the Association and the distribution of all Association assets, the Association shall terminate, and the Manager shall have the authority to sign and record a Certificate of Cancellation of the Association as well as any and all other documents required to effectuate the dissolution and termination of the Association.

ARTICLE 17

DISPUTE RESOLUTION

The purpose of the Declaration is to establish a harmonious community. Because the prompt, efficient, fair and non-belligerent resolution of any disputes is desirable, any controversy arising out of or relating to this Declaration, or a breach thereof, or any other dispute between (i) the Declarant, (ii) the Association, (iii) any Subassociation or (iv) any Owner of a Lot shall be resolved as set forth in this Article, except as otherwise provided in Subsection 12.1(f).

Section 17.1. Direct Communication. The parties to the disagreement shall set forth their respective positions in the dispute in correspondence. Each party shall respond within seven days after receipt of a letter from the other until agreement is reached.

Section 17.2. Mediation. If the dispute cannot be resolved through direct communication of the parties, either party may request appointment of a neutral and properly credentialed mediator. Both parties shall participate in the mediation in good faith until the dispute is resolved for a period not to exceed thirty days without the consent of all parties. The cost of the mediation shall be divided equally among the parties.

Section 17.3. Arbitration.

(a) Method. If the dispute cannot be resolved through mediation, either party may request appointment of one or more neutral arbitrators. If the parties cannot agree on a single arbitrator, then each party shall appoint one arbitrator and the two appointed arbitrators shall select the third arbitrator. Each arbitrator shall be properly credentialed with expert knowledge and practical experience regarding the subject in dispute. The initiating Person shall give written notice of its decision to arbitrate by providing a specific statement setting forth the nature of the dispute, the amount involved and the remedy sought. The parties shall have an equal and fair opportunity to present their respective positions to the arbitrators, orally or in writing, as the arbitrators may specify depending on the nature of the dispute. The arbitrators may require such testimony, materials and documentation as they may determine to be appropriate. The arbitrators shall provide a written resolution within thirty days after the conclusion of the presentations of the parties and receipt of requested materials and documents.

(b) Costs. The arbitrator shall award to the prevailing party, if any, as determined by the arbitrator, all of its costs and expenses including any attorney's fees, arbitrator's fees and out-of-pocket expenses of any kind. The term "prevailing party" shall mean the party whose position is most nearly upheld in arbitration. (For example, the prevailing party would be the party who is required to pay \$1,000.00 in the arbitration proceeding where such party had, prior to the commencement of the arbitration, offered \$500.00 by way of settlement and the opposing party, refusing such offer, had claimed entitlement to \$10,000.00.)

(c) Binding Nature; Applicable Law. The consideration of the parties to be bound by arbitration is not only the waiver of access to determination by a court and/or jury, but also the waiver of any rights to appeal the arbitration finding other than for the reasons set forth in Sections 8.01-581.010 and 8.01-581.011 of the Code of Virginia (1950), as amended. A judgment upon an award rendered by the arbitrator may be entered in any court having jurisdiction. Unless otherwise provided in this Article, the terms of Sections 8.01-577 and 8.01-581.01 et seq. of the Code of Virginia (1950), as amended, shall apply to the proceedings under this subsection.

Section 17.4. Location. The alternative dispute resolution proceeding shall be held in the County unless otherwise mutually agreed by the parties.

Section 17.5. Sole Remedy; Waiver of Judicial Rights. The Declarant, the Association and each Member expressly consent to the procedures established in this Article as their sole and exclusive remedy, and expressly waive any right they may have to seek resolution of any dispute contemplated by this Article in any court of law or equity, and any right to trial by judge or jury; provided, however, that any party may pursue judicial adjudication of a decision of the Manager:

(i) suspending that party's right to use a portion of the Common Area pursuant to Subsection 12.1(g); (ii) imposing a charge pursuant to Subsection 12.1(g); or (iii) a judicial grant of injunctive relief obtained pursuant to Subsection 12.1(f). The provisions of this Article shall not reduce or delay the Association's rights to levy a late charge, collect interest or file and pursue a lien as provided in Articles 5, 6 and 12 with respect to any Assessment or other charges due from a Member hereunder. If a dispute involves the Declarant or the Association, no Person shall file a memorandum of lis pendens or similar instrument that would encumber or create a lien upon the real estate owned either by the Declarant or the Association.

Section 17.6. Disputes Requiring Emergency Relief. If a dispute requires immediate, emergency relief such as would be available through judicial injunctive relief, then either party to the dispute may seek such relief as a temporary resolution pending the opportunity to conduct other procedures under this Article.

ARTICLE 18

NONRESIDENTIAL LOTS

If the ability to conduct a legally permissible business on a Nonresidential Lot is adversely affected to an unreasonable extent by (1) any decision of the Association or (2) any action of or failure to act by the Manager, and the Owner of that Nonresidential Lot objects in writing to the Association or the Manager, then either (1) such decision shall not be taken or such action or inaction shall be reversed or (2) the issue subject to objection shall be submitted to arbitration as provided in Section 17.3 to determine whether the interests of the business on the Nonresidential Lot are unreasonably prejudiced by such decision, action or inaction. If the arbitrators determine that the decision of the Association or the action or inaction of the Manager has or would so prejudice the operation of the business on the Nonresidential Lot, such decision shall not be taken or such action or inaction by the Manager shall be reversed. The Association and the Manager shall cooperate to the extent feasible and accommodate the reasonable requests of any legally permissible business operating on a Nonresidential Lot and failure to do so shall be subject to arbitration as provided in Section 17.3 at the request of the Owner of the Nonresidential Lot.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be signed pursuant to due and proper authority as of the date first set forth above.

DEVELOPER, LLC
a Delaware limited liability company

By: _____ [SEAL]
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA)

) ss:
CITY/COUNTY OF _____)

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that _____, as _____ of DEVELOPER, LLC, known to me or proven to be the person whose name is signed to the foregoing instrument, has acknowledged the same before me in the aforesaid jurisdiction as a duly authorized official of the company.

GIVEN under my hand and notarial seal on _____, 20__.

_____ [SEAL]
Notary Public

My commission expires: _____

My notary registration no.: _____

MASTER ASSOCIATION

DESCRIPTION OF SUBMITTED LAND

BLOCK _____

Block _____, Section _____, _____ containing _____ square feet or _____ acres, more or less, as recorded in Deed Book _____ at Page _____ among the land records of Fairfax County, Virginia.

MASTER ASSOCIATION
DESCRIPTION OF ADDITIONAL LAND
BLOCKS _____AND PARCEL

Block _____ containing _____ square feet or _____ acres, more or less, as recorded in Deed Book _____ at Page _____ among the land records of Fairfax County, Virginia.

TOGETHER WITH:

Commonwealth of Virginia
Department of Professional and Occupational Regulation
Post Office Box 29570
Richmond, Virginia 23242-0570 (804) 367-8510
cic@dpor.virginia.gov
www.dpor.virginia.gov



**Common Interest Community Board
VIRGINIA PROPERTY OWNERS' ASSOCIATION DISCLOSURE PACKET NOTICE**

The lot being purchased is in a development subject to the Virginia Property Owners' Association Act. The contract to purchase a lot shall disclose that the lot is located in a property owners' association. The purchaser may have the right to cancel the contract after receiving the disclosure packet and the purchaser may request an update of the disclosure packet pursuant to § 55.509.4 of the Code of Virginia.

Living in a common interest community carries with it certain rights, responsibilities and benefits. Benefits include the right to use common areas, which may include swimming pools, parks, playgrounds and other recreational facilities. In order to finance the operation of the common interest community association, each owner is responsible for and obligated to pay periodic assessments, and if necessary, special assessments to ensure that the financial requirements are met.

Use of common areas, financial obligations of lot owners and other rights, responsibilities and benefits associated with the ownership of a lot in this common interest community are subject to the provisions of governing documents that typically include a declaration, articles of incorporation, bylaws and rules and regulations. These documents are important and should be reviewed carefully prior to purchase.

Some decisions are made by the association board of directors, while other decisions are reserved to a vote of association members. The purchaser is bound by all decisions of the association and the board of directors and the provisions of the governing documents.

Failure to comply with the association governing documents can result in legal action taken against the lot owner. Failure to pay assessments and mandatory fees may result in the association filing a lien and/or lawsuit against the lot owner, foreclosing the lien, and other actions permitted by the governing documents and the Property Owners' Association Act.

Documents and information contained in the disclosure packet describe the basis for living in a common interest community and should be reviewed carefully prior to purchase of the lot.

The Association Disclosure Packet must include the following statements:

- Association name, and if incorporated, the state of incorporation and the name and address of the registered agent;
- A statement of any approved expenditures that require an additional assessment during the current year or the immediately succeeding fiscal year;
- A statement of all assessments and other mandatory fees currently imposed by the association;
- A statement whether there is any other entity or facility to which the lot owner may be liable for fees or charges;
- The current reserve study report (or a summary thereof), a statement of the status and amount of any reserve or replacement fund and any portion of the fund allocated by the governing board for a specified project;
- A copy of the association's current budget (or a summary thereof) and a copy of its statement of income and expenses or financial condition for the last fiscal year available, including a statement of the balance due of any outstanding loans of the association;
- A statement of the nature and status of any pending suit or unpaid judgment to which the association is a party and that either could or would have a material impact on the association or its members or that relates to the lot being purchased;
- A statement setting forth the insurance coverage provided for all lot owners by the association, including any fidelity bond maintained by the association, and what additional insurance would normally be secured by each individual lot owner;
- A statement that any improvement or alteration made to the lot, or uses made of the lot or common area assigned thereto by the prior lot owner, are not in violation of any of the instruments referred to in this disclosure notice;
- A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to place a sign on the owner's lot advertising the lot for sale;
- A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to display any flag on the owner's lot, including, but not limited to reasonable restrictions as to the size, place and manner of placement or display of such flag and the installation of any flagpole or similar structure necessary to display such flag;
- A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to install or use solar energy collection devices on the owner's property;
- A statement indicating any known project approvals currently in effect by secondary mortgage market agencies;
- Certification, if applicable, that the association has filed with the Common Interest Community Board the annual report required by §55-516.1 of the Code of Virginia including the filing number assigned by the Common Interest Community Board and the expiration date of the filing; and
- The association complaint procedure as required by 18 VAC 48-70-60 and pursuant to 18 VAC 48-70-40 and 18 VAC 48-70-50.

The Association Disclosure Packet must include the following attachments, if any:

- A copy of the current declaration, the association's articles of incorporation and bylaws, and any rules and regulations or architectural guidelines adopted by the association;
- A copy of notice given to the lot owner by the association of any current or pending rule or architectural violation;
And
- A copy of any approved minutes of the board of directors and association meetings for the six calendar months preceding the request for the disclosure packet.

This form was developed by the Common Interest Community Board in accordance with § 54.1-2350 of the Code of Virginia and is to accompany the association disclosure packet required by § 55-509.5 of the Code of Virginia.
Page 2 of 2

09/17/13

MASTER ASSOCIATION
ASSOCIATION DISCLOSURE PACKET

TO: _____

FROM: Master Association Community Association, LLC
State of Organization: Virginia
Name and Address of Registered Agent: Robert M. Diamond, Esq.
7900 Tysons One Place, Suite 500, McLean, Virginia 22102

RE: Lot No. _____, Master Association
Fairfax County, Virginia

DATE REQUEST RECEIVED: _____, 20____
Month Day Year

DATE ISSUED: _____, 20____
Month Day Year

In accordance with Section 55-512 of the Virginia Property Owners' Association Act, as amended, the Association hereby represents that based on its best knowledge and belief, the information set forth below is accurate as of the date hereof.

A. The status of Assessments and mandatory fees or charges with respect to the Lot is as follows:

Current Assessment due _____ \$ _____
Due Date

Assessment in arrears _____ \$ _____
Period Covered

Other fees or charges due _____ \$ _____
Description

Fees or charges in arrears _____ \$ _____
Description

TOTAL DUE \$ _____

Known Assessments, fees and charges
for the current fiscal year not yet due \$ _____*

* The Monthly Assessment for 20____ is \$ _____.
Year Amount

The Association levies Annual Assessments (which may be payable in equal periodic installments) to pay Common Expenses. Additional Assessments may also be levied for the same purpose. A fee of \$_____ is currently charged by the Association for the preparation of an Association Disclosure Packet (such as this one). A late charge of \$25.00 per dwelling unit on a Residential Lot and five percent of the installment for Nonresidential Lots is currently applied to any assessment or installment thereof not paid within ten days after the date it becomes due. The Association also has the power pursuant to Articles 6 and 12 of the Declaration and Section 55-513 of the Virginia Property Owners' Association Act to levy Individual Assessments against a specific Owner for failing to comply with the provisions of the Association Documents. There are no other fees or charges imposed by the Association or any other entity or facility in connection with the Property, except as stated in Paragraph L, if applicable, and below:

[Fill in if applicable, i.e. Initial Capital Payment for New Purchasers]

B. There are no expenditures of funds approved by the Association which will require an Additional Assessment during the current year or the immediately succeeding fiscal year, except as follows:

[Fill in if applicable.]

C. As of the date hereof, there is an outstanding balance in the reserve for the replacement funds (reserve accounts) of approximately \$_____. Of that balance, the following amounts, if any, have been designated by the Association for the following specific projects:

[Fill in if applicable.]

D. Attached is (1) a copy or summary of the current operating budget, and (2) a copy or summary of the income and expense statement or a statement of financial condition for the year ended _____, 20____, the most recent fiscal year for which such statement is available.

E. There are no unsatisfied judgments against the Association nor any pending suits (other than collection cases) in which the Association is a party which either could or would have a material impact on the Association or which relate to the Lot referenced above, except as follows:

[Fill in status and nature if applicable.]

F. The Association holds hazard, property damage and liability insurance policies covering the Common Area as required by the Declaration in the following amounts: ___ hazard and property damage; _____ liability. The Association also maintains fidelity coverage in the amount of _____. Each Member must obtain insurance covering property damage to such Member's Lot and personal property contained therein. You are urged to review Article 10 of the Declaration and the applicable Supplementary Declaration, and to consult with your insurance agent. Copies of the insurance policies are available for inspection or information is obtainable as follows:

[Fill in contact for insurance information.]

G. The Association has not given notice to the Owner of the Lot and has no knowledge of whether improvements or alterations made to the Lot or uses made of the Lot or any Common Area assigned to the Lot, if any, are in violation of the documents listed in Paragraph H, except as follows:

[Fill in if applicable.]

H. Attached is a copy of the Declaration, any applicable Supplementary Declaration, Articles of Organization, Rules and Regulations and Design Guidelines of the Association (to the extent such documents exist), including all amendments. Because the Association requires an application and prior approval to place anything on the common areas and to alter the appearance of a Lot:

1. The Association restricts, regulates, limits or prohibits "for sale" signs placed on a Lot advertising such Lot.
2. The Association restricts, regulates and limits the size, place and manner of placement or display of flags and banners and prohibits the installation of any free-standing flagpole or similar structure.
3. The Association restricts, regulates limits or prohibits the installation and use of solar collection devices on an Owner's Lot.

I. Each Member of the Association has voting rights in the Association. No Owner of a condominium unit, cooperative unit or a lot subject to a property owners' association (other than this Association) has a direct vote in the Association. Each Owner has the following votes:

- (1) one vote per dwelling unit on a Residential Lot owned by such Owner (including Residential Lots containing multifamily rental units);
- (2) one vote for every ___ square feet of Assessable Floor Area within each Nonresidential Lot devoted to office uses;
- (3) one vote for every ___ square feet of Assessable Floor Area within each Nonresidential Lot devoted to retail uses;
- (4) one vote for every ___ square feet of Assessable Floor Area within each Nonresidential Lot devoted to hotel uses; and
- (5) one vote for every ___ square feet of Assessable Floor Area within each Nonresidential Lot devoted to commercial (other than office, retail or hotel) uses.

The Declarant has one more vote than all of the other Members combined until the earliest of the date: (1) which is twenty-five years after the date of recordation of the Declaration; or (2) when the Declarant records an instrument terminating the Declarant's right to its voting majority. Thereafter, the Declarant's votes are calculated like the other Owners but the Declarant has at least one vote until the end of the Development Period.

J. Each Owner is liable to the Association for any costs incurred by the Association and the expense of all Upkeep rendered necessary by such Owner's act or omission and the act or omission of such Owner's tenant and such Owner's (or tenant's) household, guests, employees, agents and invitees, regardless of neglect or culpability. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any Lot or its appurtenances.

K. The purchaser of a Lot is jointly and severally liable with the selling Owner for all unpaid Assessments against the latter for the proportionate share of the Common Expenses up to the time of recordation of the deed transferring title, not to exceed: (1) the amount shown on a Statement of Common Expenses; or (2) if no Statement of Common Expenses is obtained, the amount shown on the assessment or judgment lien against the Lot filed in the Land Records; or (3) if no Statement of Common Expenses is obtained and no assessment or judgment lien against the Lot has been filed, the amount owed not to exceed six months worth of the Annual Assessment, including Limited Common Expenses, in any case without prejudice to the purchaser's right to recover from the selling Owner amounts paid by the purchaser therefor. The Lot also remains subject to a lien for the amount owed to the Association, if any.

L. The Lot is is not also subject to the jurisdiction of and pays fees to another association. Information regarding **[NAME OF OTHER ASSOCIATION]** can be obtained from _____ . A separate disclosure document should be obtained.

M. The Association Documents do not create a right of first refusal or other restraint on free alienability of the Lots.

N. The Property is not known to be currently approved (or mortgages secured by Lots within a Subassociation eligible for purchase) by the Federal Housing Authority, the Veterans Administration, Fannie Mae (formerly the Federal National Mortgage Association) or the Federal Home Loan Mortgage Corporation, nor would it be because none of these entities regularly review or approve community associations that are not condominiums or cooperatives. The Association believes that a mortgage on a Lot is not currently eligible for purchase, insurance or guarantee by all of these entities.

O. In accordance with regulations promulgated by the Virginia Common Interest Communities Board, the Association has adopted a complaint procedure administered in the first instance by the Covenants Committee. The complaint procedure provides for notice, an opportunity to cure any default, an opportunity for a hearing before the Covenants Committee (or the Manager if the Members do not appoint a Covenants Committee), appeal to the Manager (or the Members if the Members do not appoint a Covenants Committee) and a prompt decision communicated to the complainant. The complaint procedure affords due process to the complainant; the resolution adopting the complaint procedure is attached.

The Association contact for questions regarding this Disclosure Packet is:

Name

Address

Telephone Number

NOTE: Pursuant to Subsection 12.1(j) of the Declaration, upon acquiring title to a Lot each new Owner shall immediately give written notice to the Managing Agent stating the name and address of such new Owner and the number or address of the Lot. If a new Owner gives such notice within thirty days after acquiring title to a Lot, there will be no charge for adding such Owner's name to the Association records. After thirty days there will be a charge of \$_____ assessed against such Owner to cover the administrative costs of record keeping.

THE ASSOCIATION HAS FILED WITH THE VIRGINIA COMMON INTEREST COMMUNITY BOARD THE ANNUAL REPORT REQUIRED BY SECTION 55-516.1 OF THE CODE OF VIRGINIA (1950):

FILING NO. _____, EXPIRATION DATE _____

The Association may charge a fee for the preparation of this Association Disclosure Packet as allowed by law.

MASTER ASSOCIATION
COMMUNITY ASSOCIATION, LLC

Date: _____, 20____

By _____

Name: _____

Title: _____

I hereby acknowledge that I received this Association Disclosure Packet on _____, 20____.

By _____

Owner:

I hereby acknowledge that I have received and read the information contained in this Association

Disclosure Packet on _____, 20____.

By _____

Purchaser:

[ATTACH COMPLAINT PROCEDURE]

MASTER ASSOCIATION

INSTRUCTIONS FOR PROXIES

1. USE THE PROXY ONLY IF YOU ARE NOT CERTAIN YOU WILL ATTEND IN PERSON.
2. IF THE MEMBER IS A CONDOMINIUM, COOPERATIVE OR PROPERTY OWNERS ASSOCIATION, THEN THE PROXY SHOULD BE SIGNED BY SUCH MEMBER'S REPRESENTATIVE. IF THE MEMBER IS A PERSON WHO OWNS A LOT, SIGNATURE BY ONE OWNER IS SUFFICIENT.
3. THE PROXY MAY BE REVOKED ONLY BY ACTUAL NOTICE TO THE PERSON PRESIDING OVER THE MEETING.
4. Print your name, address and Lot number(s).
5. Print the name of the person you wish to designate as your proxy.

Important Note! A proxy may be granted only in favor of another Member, the Manager, the Managing Agent or an Owner's Mortgagee. Only instructed proxies may be granted to the Manager or the Managing Agent. No person other than the Declarant, a Mortgagee (with respect to the Lots on which the Mortgagee holds a Mortgage), the Manager or the Managing Agent may cast votes as proxy for more than one Lot not owned by such person.

6. Sign and date the proxy in the presence of a witness.
7. Have witness sign full name and print full address.
8. A. If you wish to have someone else vote on your behalf on all issues (Uninstructed Proxy): Check appropriate box. If you are granting an uninstructed proxy, the proxy holder may cast your vote at the meeting on any issues raised at the meeting as determined by the proxy holder.

B. If you wish to indicate your vote for specific issues (Instructed Proxy): Check the appropriate box and fill in your vote for or against any question described in the meeting notice. The proxy holder must cast your vote as indicated on the proxy form for any questions described in the meeting notice.

C. If you wish to indicate your vote for specific issues but allow someone else to vote on your behalf on any issues coming before the meeting but not described in the meeting notice (Partially Instructed and Partially Uninstructed Proxy): Check appropriate box. The proxy holder must cast your vote as indicated on the proxy form for any questions described in the meeting notice but may cast your vote on any issues raised at the meeting as determined by the proxy holder.
9. Give the proxy form to the person you have designated as your proxy.

10. File a copy of the Proxy with the Managing Agent at the meeting. If possible, please mail or deliver a copy of the proxy in advance to Master Association Community Association, LLC, c/o _____, Managing Agent. If you have any questions, please contact _____ by telephone at _____ or by email at _____@_____.

MASTER ASSOCIATION

PROXY FORM

Address _____ Lot No(s). _____ No. of Votes _____

I/We _____ AND _____,

Print _____ *Print* _____
pursuant to Section _____ of the Declaration, hereby appoint _____,
Print

who is (circle the appropriate title): (1) the Declarant, (2) the Manager or the Managing Agent (instructed proxies only), (3) another Member or (4) my Mortgagee, as my/our proxy for the sole purpose of casting my/our votes at the meeting on _____, 20____. IF NO NAME IS FILLED IN, THE PROXY SHALL BE AUTOMATICALLY GRANTED TO _____

_____. This proxy is granted for the specific purposes set forth below. This Proxy is irrevocable except by actual notice by the undersigned in person or in writing to the person presiding over the meeting that it is revoked prior to the commencement of the counting of the votes. This Proxy will continue for any recess or adjournment of the meeting but will terminate thereafter.

CHECK BELOW THE TYPE OF PROXY YOU WANT TO USE AND FOR WHICH PURPOSES YOUR PROXY CAN BE USED:

- QUORUM ONLY:** My/Our Proxy may be used for quorum purposes only.
- UNINSTRUCTED PROXY:** My/Our Proxy may cast my/our votes on any issue however the Proxy chooses.
- PARTIALLY INSTRUCTED PROXY:** My/Our Proxy must vote as directed below for issues described in the meeting notice AND may cast my/our votes on any other issue as the Proxy chooses.
- INSTRUCTED PROXY:** My/Our Proxy must vote only as directed below.

My/Our proxy must vote (check one box): For Against As he/she chooses

(in case there is a question to be decided).

Owner's Signature

Owner's Signature

Date: _____

Date: _____

Witness: _____

Witness: _____

Address: _____

Address: _____

Note: A COPY OF THE PROXY MUST BE FILED WITH THE MANAGING AGENT AT OR BEFORE THE COMMENCEMENT OF THE MEETING on _____, 20____, at ____ p.m. at [location]. The Managing Agent will be available to accept the proxy during the registration period from ____ until _____ p.m. If possible, please mail or deliver a copy of the proxy in advance to Master Association Community Association, LLC, c/o _____, Managing Agent at _____ by ____ p.m. on _____, 20____. If you have any questions, please contact _____ by telephone at _____ or by email at _____@_____.

MASTER ASSOCIATION

TABLE OF MEMBERS AND INTERESTS

<u>Members</u>	<u>Membership Interest in the Association</u>	<u>Votes in the Association</u>	<u>Capital Contributions Cash/Property</u>
DEVELOPER, LLC 1 Builder Road Suite 100 McLean, Virginia 22102	100%	_____	\$__
TOTAL	100%	=====	\$__

Exhibit F
to the Declaration

PLAT SHOWING LOTS AND COMMON AREA

DECLARATION
FOR
THE VIRGINIA CONDOMINIUM

ARTICLE 1

CREATION; DEFINED TERMS

Section 1.1. Creation of the Condominium. Pursuant to the provisions of Chapter 4.2 of Title 55 of the Code of Virginia ("Condominium Act"), Condominium Associates, LLC, a Virginia limited liability company ("Declarant"), hereby creates a condominium comprised of the land described as submitted land in Exhibit A, located within _____ County, Virginia ("Land"), together with all improvements thereto and all easements, rights and appurtenances thereunto appertaining ("Property").

Section 1.2. Defined Terms. Except as otherwise defined herein or in Section 1.3 of the Bylaws comprising Exhibit B, all terms used in the condominium instruments shall have the meanings specified in section 55-79.41 of the Condominium Act. All exhibits referred to in the condominium instruments are exhibits to this Declaration.

Section 1.3. Name of Condominium. The name of the condominium is "The Virginia Condominium" ("Condominium").

ARTICLE 2

BUILDINGS ON THE LAND; UNIT BOUNDARIES

Section 2.1. Location and Dimensions of Buildings. The location and dimensions of each building on the Land are depicted on the "Plats" labeled as Exhibit D.

Section 2.2. Units. The location of units within each building and their dimensions are shown on the "Plans" labeled as Exhibit E. The Common Element Interest Table attached as Exhibit C is a list of all units, their identifying numbers, location (all as shown more fully on the Plats and Plans), type and the Common Element Interest appurtenant to each unit determined on the basis of par value. The "par value" of each unit is the number of points assigned by the Declarant based upon the relative size of the unit and other factors. The basis for allocation of par value is set forth in the Notes to Common Element Interest Table attached as Exhibit C.

Section 2.3. Unit Boundaries. The boundaries of each unit are as follows:

(a) Horizontal (upper and lower) Boundaries: The upper and lower boundaries of the unit are the following boundaries extended to an intersection with the vertical (perimetric) boundaries:

(1) Upper Boundary: The horizontal plane of the bottom surface of the concrete slab or wood trusses (as the case may be) of the ceiling.

(2) Lower Boundary: The horizontal plane of the top surface of the undecorated concrete floor slab or wood subflooring (as the case may be).

In units where two levels are directly connected by an interior stairway, the upper and lower boundaries refer to the uppermost and lowermost such boundaries; the concrete slab dividing the two levels is part of the unit.

(b) Vertical (perimetric) Boundaries: The vertical boundaries of the unit are the vertical planes which include the back surface of the wallboard of all walls bounding the unit extended to intersections with each other and with the upper and lower boundaries.

(c) Utility System. The unit includes the room containing the heating and air-conditioning apparatus serving only that unit (whether or not located within the unit boundaries), which apparatus is part of the unit. Any portion of a utility system or other apparatus serving more than one unit (e.g., pipes, conduits, ducts) which is located partially within and partially outside the unit (including without limitation the fire protection sprinkler system) is part of the common elements. Any portion of a utility system serving only one unit that is located outside the unit is a limited common element appurtenant to that unit.

Section 2.4. Maintenance Responsibilities. Notwithstanding the ownership of the various portions of the common elements and the units by virtue of the foregoing boundary description, the provisions of the Bylaws shall govern the division of maintenance and repair responsibilities between the unit owner and the Association.

Section 2.5. Relocation of Unit Boundaries and Subdivision of Units. Relocation of boundaries between units and subdivision of units is permitted subject to compliance with the provisions therefor in Sections 5.7 and 8.5 of the Bylaws and in sections 55-79.69 and 55-79.70 of the Condominium Act.

ARTICLE 3

COMMON ELEMENTS

Section 3.1. Limited Common Elements.

(a) Individual Limited Common Elements. The locations of the common elements to which each unit has direct access are shown on the Plats and Plans; pursuant to subsection 55-79.50E of the Condominium Act, a balcony or patio, if any, shown adjacent to a unit is a limited common element appurtenant to that unit.

(b) Subsequent Assignment. A portion of the common elements is marked on the Plans as "Common Elements which may be assigned as Limited Common Elements." This portion of the common elements includes i) all of the covered or underground parking spaces located under or in the building from the top surface of the concrete floor slab to the underside of the concrete ceiling slab or dropped ceiling, as the case may be and ii) the storage areas in common element storage rooms. Pursuant to paragraph (6) of subsection 55-79.54A of the

Condominium Act, the Declarant reserves the exclusive right to assign these parking spaces and storage areas as limited common elements for the exclusive use of certain unit owners to whose units these parking spaces and storage areas shall become appurtenant. The Declarant may assign such a common element as a limited common element parking space or storage space pursuant to the provisions of section 55-79.57 of the Condominium Act by causing an appropriate amendment to this Declaration or to the Plans to be signed and recorded. If, prior to settlement on a unit, a person acquires the right to the assignment of a limited common element, the Declarant shall evidence the right to such an assignment in the deed to the unit to which such limited common element shall appertain. If a unit owner acquires the right to the exclusive use of such a limited common element subsequent to settlement on the unit, the Declarant may but need not evidence the unit owner's right to such an assignment in a separate written agreement with the unit owner. Any limited common element which is designed for or to be accessible to handicapped people may be reassigned unilaterally by the Board of Directors from a unit not occupied by a handicapped person to a unit occupied by a handicapped person if a replacement limited common element is assigned.

(c) Residential Only Limited Common Elements. Those common areas serving only, but all of the residential units, are limited common elements appurtenant to all residential units. For instance, the corridors located on the floors of the Condominium where the residential units are located are limited common elements appurtenant to all residential units. The elevators, elevator shafts and stairwells serving only residential units are limited common elements appurtenant to all residential units. Certain parking spaces have been designated on the Plats and Plans as limited common elements serving the Commercial Unit.

Section 3.2. Reserved Common Elements. The Board of Directors shall have the power in its discretion from time to time to grant revocable licenses in designated common elements to the Association or to any unit owners and to establish a reasonable charge to such unit owners for the use and maintenance thereof. The common elements or portions thereof so designated shall be referred to as Reserved Common Elements. Such designation by the Board shall not be construed as a sale or disposition of the common elements.

Section 3.3. Alteration of Common Elements by the Declarant. The Declarant reserves the right to modify, alter, remove or improve defective, obsolete or non-functional portions of the common elements, including without limitation any equipment, fixtures and appurtenances, when in the Declarant's judgment it is necessary or desirable to do so, until the expiration of the applicable warranty period.

Section 3.4. Rental Operation on Convertible Land and in Convertible Space. The Declarant shall have the right to operate any convertible space as a rental project with any permissible commercial uses. The Declarant may establish and maintain all offices, signs and other accoutrements normally used in the operation of such rental properties in the sole discretion of the Declarant. The Declarant may, in the sole discretion of the Declarant, lease portions of any convertible space so long as the Declarant pays the expenses attributable to such rental operation. Such operations shall be for the benefit of the Declarant and neither the Association nor any unit owner (other than the Declarant) shall have any right or interest in the profits or losses thereof.

ARTICLE 4

EASEMENTS

In addition to the easements created by sections 55-79.60 and 55-79.65 of the Condominium Act, the following easements are hereby granted and the following rights are hereby reserved.

Section 4.1. Easement to Facilitate Sales. All units shall be subject to an easement in favor of the Declarant pursuant to section 55-79.66 of the Condominium Act. The Declarant reserves the right to use any units owned or leased by the Declarant or any portion of the common elements as models, management offices, sales offices (for this and other projects) or construction, warranty or customer service offices. The Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. Prior to assignment as limited common elements, the Declarant shall have the right to restrict the use of certain common element parking spaces for sales purposes and to use such spaces for sales purposes. Further, the Declarant shall have the right to erect temporary offices on certain common element parking spaces for models, sales, management, customer service and similar purposes. The reservation of this easement to facilitate sales also applies to the additional land. This easement shall continue until the Declarant has conveyed to unit owners other than the Declarant all the units in the Condominium that the Declarant has the right to create and the warranty period has expired.

Section 4.2. Easement for Access and Support.

(a) Access. The Declarant reserves in favor of the Declarant, the managing agent and any other person authorized by the Board of Directors the right of access to any common element or unit as provided in section 55-79.79 of the Condominium Act and Section 5.9 of the Bylaws. In case of emergency, such entry shall be immediate whether or not the unit owner is present at the time. Further, until the expiration of the warranty period, such entry shall be permitted to inspect or perform warranty-related work (for the benefit of the unit being entered, other units or the common elements) whether or not the unit owner or the Association consents or is present at the time.

(b) Support. Each unit and common element shall have an easement for lateral and subjacent support from every other unit and common element.

Section 4.3. Declarant's Right to Grant Easements.

(a) Construction; Utilities. The Declarant shall have the right to grant and reserve easements and rights-of-way through, under, over and across the Property for construction purposes, and for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone, television

reception and other utilities. This right shall continue until the Declarant has conveyed to unit owners other than the Declarant all the units that the Declarant has the right to create and the warranty period has expired.

(b) Access. The Declarant reserves the right to grant or reserve easements and rights-of-way through, over and across the Property to afford vehicular and pedestrian access through, over and across the common elements from and to any public street or road adjoining the Property and any portion of the real estate described in Exhibit A which is not, at the time of such grant or reservation, part of the Property. This right shall continue until the seventh anniversary of the recordation of this Declaration.

Section 4.4. Cross-Easement for Use of Common Facilities.

(a) Grant of Easement. Each unit owner and each person lawfully occupying a unit located on any portion of the additional land described in Exhibit A is hereby granted a non-exclusive easement for access to and use of the amenities and commercial and recreational grounds, driveways and parking facilities constituting a portion of the common elements (other than any limited common elements) of the Condominium ("Common Facilities").

(b) Extent of Easement. The easement created hereby shall be subject to the following:

(1) the right of the Unit Owners Association to charge guests reasonable admission and other fees for the use of the Common Facilities;

(2) the right of the Declarant prior to the termination of the Declarant Control Period to grant and reserve easements and rights-of-way through, over and across the Common Facilities, for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone, television reception and other utilities; and

(3) the right of the Association to adopt rules and regulations governing the use of the Common Facilities.

(c) Delegation of Use. Any person having the right to use the Common Facilities may delegate such right to the members of such person's household, such person's employees, tenants who occupy the Land and additional land and to such other persons as may be permitted by the Association.

(d) Rights to Use. Each person having the right to use the Common Facilities and each person to whom such right has been delegated shall comply with the rules and regulations regarding such use, as such rules and regulations may be established and amended from time to time by the Board of Directors. Such rights to use may be suspended upon failure of a unit owner to pay condominium assessments, whether such unit owner owns a unit in the same or in an adjacent condominium, upon failure to comply with such rules and regulations or

upon failure of a tenant (other than in a condominium unit) to pay rent to the landlord of the unit in which such tenant occupies.

(e) Assessments Against Fee Owners and Unit Owners of Other Condominiums. Each owner of a portion of the additional land to whom the Declarant has granted an easement to use the Common Facilities shall pay to the Association an annual assessment levied exclusively for a proportionate share of the costs for the management, operation, repair, replacement and maintenance of the Common Facilities. The assessment levied upon each such owner shall be determined by multiplying the actual expenses for the Common Facilities by a fraction, the numerator of which is the number of dwelling units on the additional land which such owner owns and the denominator of which is the number of dwelling units and condominium units on both the Land and the additional land. The assessment shall be adjusted monthly by the Association to reflect any change in the number of such dwelling units or condominium units. If the additional land is subject to a homeowners association or a unit owners association created after the Declaration is recorded, such association shall pay to the Association the assessment described in this subsection on behalf of the owners subject thereto.

Section 4.5. Easement to Facilitate Expansion. The Declarant reserves a transferable easement over and on the common elements for the purpose of making improvements on the Land and additional land pursuant to the provisions of the condominium instruments and the Condominium Act, and for the purpose of doing all things reasonably necessary and proper in connection therewith.

Section 4.6. Development Plan and Proffer Amendments. If any modification or amendment to the final development plan, if any, or the development proffers for the Condominium are sought and the signatures of the units owners or the officers of the Unit Owners Association are required therefor, then: (i) during the Declarant Control Period the Declarant (through an authorized representative) and (ii) after the Declarant Control Period the President of the Unit Owners Association (or other authorized agent designated by the Board of Directors) shall have the irrevocable power to act as attorney-in-fact for the unit owners and the Unit Owners Association, on their behalf, to sign all documents required. Further, the President of the Unit Owners Association (or other authorized agent designated by the Board of Directors) shall have the irrevocable power to act as attorney-in-fact for the unit owners to receive any notices which may be required in connection with any such modification or amendment.

ARTICLE 5

AMENDMENT TO CONDOMINIUM INSTRUMENTS; REQUIRED CONSENT

This Declaration may be amended as provided in the Condominium Act, as amended from time to time. No amendment of the Declaration may be made without the prior written approval of the required percentage of Mortgagees where such approval is provided for in Section 8.5 of the Bylaws or where such approval is required elsewhere in the condominium instruments or by the Condominium Act. No amendment to the condominium instruments shall diminish or impair the rights of Commercial Unit Owners under the condominium instruments

unless such amendment is approved by unit owners owning Commercial Units to which more than 50% of the aggregate Common Element Interests appertain. Section 10.1 shall not be amended without the prior written consent of _____ County. Section 10.2 shall not be amended without the prior written consent of the City of _____.

ARTICLE 6

DEVELOPMENT OPTIONS

Section 6.1. Convertible Land. The Declarant may designate as convertible land all or any portion of the additional land at any time all or any portion of the additional land is submitted to the Condominium Act. All of the reservations and the assurances set forth in Sections 6.2 and 6.3 of this Article shall apply to the convertible land; provided, however, that at such time as the convertible land created from the additional land is completely converted, the maximum number of units on such convertible land as an aggregate will be no more than 144 or 72 units per acre, and the maximum number of limited common elements within such convertible land as an aggregate will be 5,000. The conversion of such convertible land shall be made pursuant to section 55-79.61 of the Condominium Act.

Section 6.2. Contraction of the Condominium. The Declarant hereby reserves an option until the seventh anniversary of the recordation of this Declaration to contract the Condominium from time to time in compliance with subsection 55-79.54D and section 55-79.64 of the Condominium Act without the consent of any unit owner or Mortgagee. The option to contract may be terminated prior to such anniversary only by the Declarant recording an instrument relinquishing such option. The Declarant reserves the right to withdraw any or all portions of the withdrawable land at any time, at different times, in any order, without limitation; provided, however, that the withdrawable land shall not exceed the area described on Exhibit A. There are no other limitations on the option to contract.

Section 6.3. Expansion of the Condominium.

(a) Reservation. The Declarant hereby reserves an option until the seventh anniversary of the recordation of this Declaration to expand the Condominium from time to time in compliance with subsection 55-79.54C and section 55-79.63 of the Condominium Act without the consent of any unit owner or Mortgagee. The option to expand may be terminated prior to such anniversary only upon the recordation by the Declarant of an instrument relinquishing such option. The Declarant reserves the right to add any or all portions of the additional land at any time, at different times, in any order, without limitation; provided, however, that the additional land shall not exceed the area described on Exhibit A. There are no other limitations on the option to expand except as set forth in this Article.

(b) Assurances. The Declarant makes no assurances as to location of improvements on the additional land. At such time as the Condominium is expanded, the maximum number of units on the additional land will not exceed 144. The maximum number of units on any portion of the additional land added to the Condominium shall not exceed 72 units per acre. Moreover, the maximum number of units in the Condominium as a whole shall never

exceed 72 units per acre. The maximum percentage of the aggregate land and floor area of all units that may be created on the additional land that may be occupied by units not restricted exclusively to residential use, if such additional land is added to the Condominium, is fifty percent. The Declarant makes no assurances as to what improvements may be constructed on the additional land but such improvements will be reasonably compatible in quality, materials and style with the improvements on the Land but need not be the same materials or style. Any units created on the additional land shall be substantially identical to the units depicted on the Plats and Plans. The Declarant reserves the right to designate common elements therein which may be subsequently assigned as limited common elements. The Declarant makes no assurances as to type, size or maximum number of such common elements or limited common elements. The allocation of Common Element Interests in the additional land shall be computed as required by subsection 55-79.56B of the Condominium Act on the basis of size par value. If the Declarant does not add, or adds and then subsequently withdraws, any portion of the additional land, the Declarant shall nevertheless have the right to construct all or any portion of any building on the additional land and operate the same without restriction.

Section 6.4. Convertible Space. The Declarant has designated a portion of the building on the submitted land as convertible space and identified on the Plans for the Condominium as CS-1. Prior to converting the convertible space in accordance with section 55-79.62 of the Condominium Act, the Declarant shall have the right to use such convertible space as sales and/or management offices or customer service offices. The Declarant may designate as convertible space all or any portion of any building constructed on the additional land when added to the Condominium. The conversion of such convertible space shall be made pursuant to section 55-79.62 of the Condominium Act.

ARTICLE 7

RIGHT TO LEASE OR SELL UNITS

The Declarant shall own in fee simple each condominium unit to which legal title is not conveyed or otherwise transferred to another person. The Declarant retains the right to enter into leases with any persons for the occupancy of any of the units owned by the Declarant.

ARTICLE 8

NO OBLIGATIONS

Nothing contained in the condominium instruments shall be deemed to impose upon the Declarant or its successors or assigns any obligation of any nature to build, construct or provide any improvements except to the extent required by the Condominium Act.

ARTICLE 9

COMMERCIAL USE

The commercial unit may be used for any nonresidential purpose permitted by the applicable zoning subject to the restrictions set forth in the condominium instruments. No commercial unit shall be used for residential purposes.

ARTICLE 10

COUNTY AND CITY COVENANTS

Section 10.1. Maintenance Covenant. In the event the Unit Owners Association fails to maintain the exterior common elements in accordance with the approved landscape plan in the City of _____ or with the applicable state or county statutes and ordinances in effect at that time as reasonably determined by the Zoning Administrator of the City of _____, _____ County and its designated agents and employees shall have the right to enter upon the exterior common elements for the sole purpose of bringing same into compliance with said landscape plan and/or state or county statutes or ordinances. The costs incurred by the City of _____ to perform such maintenance shall be assessed against each unit owner in proportion to that unit owner's respective Common Element Interest and shall constitute a lien against each condominium unit in favor of the City of _____. Any such lien shall run with the land and be binding on all parties having any right, title or interest therein. Notwithstanding the foregoing, any lien levied pursuant to the above shall be subordinate to the lien of any prior-recorded, bona fide first mortgage deed of trust on any condominium unit.

Section 10.2. Open Space Covenant. That portion of the Property located within the jurisdiction of the City of _____, Virginia as shown on the Plats shall remain pervious open space for the purpose of preserving the scenic, natural and aesthetic value of said area in its present state, and preventing the use or development of that area for any purpose or in any manner not consistent with this purpose. This covenant shall run the land and shall be binding upon all persons having and/or acquiring any right, title or interest in said portion of the Property and shall inure to the benefit of the Association and the City of _____, Virginia.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be signed by an authorized officer, on _____, 20 __, on behalf of the company.

[SIGNATURE APPEAR ON THE FOLLOWING PAGE]

CONDOMINIUM ASSOCIATES, LLC
a Virginia limited liability company

By: _____[SEAL]
_____, _____

COMMONWEALTH OF VIRGINIA)
) SS:
COUNTY OF _____)

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that _____, as _____ Condominium Associates, LLC, whose name is signed to the foregoing instrument, has acknowledged the same before me in the aforesaid jurisdiction as an officer of the corporation on behalf of the company.

GIVEN under my hand and seal on _____, 20_____.

_____[SEAL]
Notary Public

My commission expires: _____

JOINT DEFENSE AND CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made and entered into on _____, 20 __, by and between Condominium Developer, LLC ("Developer"), and Quality Construction Company, Inc. ("Construction"), sometimes referred to as the parties.

RECITALS:

R-1. Developer was the developer/declarant of The Virginia Condominium ("Condominium").

R-2. Developer entered into a contract with Construction for the Condominium.

R-3. The Board of Directors of the Unit Owners Association for the Condominium ("Association") has asserted numerous claims against Developer alleging the existence of numerous defects in the construction of the Condominium.

R-4. Developer may have certain claims against Construction arising from and related to the claims asserted by the Association relating to alleged defects in the construction of the Condominium.

R-5. The parties desire to assist one another in assessing and defending the claims asserted by the Association.

AGREEMENT:

In consideration of the mutual agreements set forth herein, the parties agree as follows.

1. The parties shall assist one another in investigating, responding to and defending any claims asserted by the Association of any defects or deficiencies in the Condominium. As part of this mutual effort, the parties shall share information, documents, evidence and professional expertise in order to assist one another in responding to and addressing the claims of the Association.

2. The disclosure and sharing of information, documents, evidence and professional expertise, as set forth in Paragraph 1 of this Agreement, are matters of common interest and concern essential to effectively defending and/or responding to any claims of the Association. The parties intend such disclosures to be governed by the joint defense doctrine explained at length in In re: Grand Jury Subpoenas, 902 F.2d 244 (4th Cir. 1990); United States v. McPartlin, 594 F.2d 1321 (7th Cir. 1979).

3. In order to accomplish the mutual objectives of this Agreement, any and all communications, documents or information relating to the common defense of and/or response to any claims of the Association, made or given by and between the parties hereto, or their respective counsel, experts or agents, including without limitation the following, no matter how disclosed to one another, shall be governed by this Agreement: (a) witness interviews and statements, (b) verbal statements and/or conversations, (c) transcripts, (d) drafts of any pleadings, (e) documents, including without limitation any drafts relating to the defense of and/or response to any claims by the Association, and/or any documents setting forth or relating to information shared by the parties pursuant to this Agreement (collectively referred to as the "Joint Defense Materials"). For the purposes of this Agreement, documents shall include any computerized data, including without limitation e-mail.

4. No Joint Defense Materials received by any of the parties, or their counsel or experts, from any other party hereto, or their counsel or experts, shall be disclosed to any third party without the prior express written consent of the party that supplied the materials pursuant to this Agreement. The parties shall take all necessary and appropriate precautions to protect any Joint Defense Materials from disclosure and shall not disclose any Joint Defense Materials to

third parties without the consent described above or an appropriate order from a court requiring such disclosure.

5. Each party shall be represented solely by its own attorney regarding the claims of the Association; while each party's attorneys have a duty to preserve the confidences disclosed to them pursuant to the terms of this Agreement, the attorneys will be acting solely as the attorney for their respective clients and will owe a duty of loyalty only to their own clients. The relationship set forth in this Agreement, and the information exchanged in connection with it, shall not be used to disqualify counsel for any of the parties in any claims resolution procedures and/or litigation that may arise between the parties relating to any claims by the Association.

6. If any attempt is made by the Association or any third party to secure or obtain Joint Defense Materials, the other parties to this Agreement shall be promptly notified and shall be given copies of any writings or documents, including subpoenas, which relate to the attempts or efforts by the Association, or any third party, to obtain Joint Defense Materials.

7. All documents and information disclosed by and between the parties and their counsel shall be treated as if protected by the attorney-client privilege and attorney work product doctrine, whether or not so identified or marked. The parties shall not enter into any settlement with the Association, or any third party, that would require or result in disclosure of Joint Defense Materials without the prior written consent of all of the parties.

8. Any party entering into negotiations with the Association to resolve any potential claims against it, shall inform the other parties of that fact and maintain the confidentiality of any Joint Defense Materials.

9. Any party to this Agreement may withdraw from the Agreement at any time by giving written notice, by certified mail, in which case this Agreement shall no longer be effective

as to that party, but shall continue to protect any and all Joint Defense Materials disclosed to the withdrawing party prior to the party's notification of intent to withdraw. Immediately upon demand by any of the other parties to this Agreement, the withdrawing party and its counsel and experts shall return all copies of Joint Defense Materials to the producing parties.

10. By entering into this Agreement, the parties do not waive any claims they may have against one another arising from or relating to the Condominium. The parties shall not, however, assert any claims against one another until any and all claims of the Association relating to claimed defects or deficiencies in the Condominium have been completely resolved, either by a final settlement or a final nonappealable court order disposing of the Association's claims, or until one of the parties withdraws from this Agreement. Further, if the claim of any party is subject to the running of a statute of limitations, the party may file suit to preserve its claim.

11. Each party shall be separately responsible for its own attorneys' fees and any other costs incurred in responding to and/or defending the Lawsuit or any claims asserted by the Association.

12. Any disclosure of Joint Defense Materials in violation of this Agreement will cause the parties to suffer irreparable harm for which there is no adequate legal remedy. Immediate injunctive relief shall be an appropriate and necessary remedy for any violation, or threatened violation, of this Agreement.

13. Any waiver in any particular instance of the rights and limitations contained in this Agreement shall not be deemed, and is not intended to be, a general waiver of any rights and limitations contained herein and shall not operate as a waiver beyond the particular instance.

14. The parties represent and warrant that they have reviewed this Agreement with their respective counsel and fully understand the contents of this Agreement. The parties further represent and warrant that they have provided a copy of this Agreement to their insurance carriers and have obtained approval from their insurance carriers to enter into this Agreement.

15. This Agreement shall be binding upon the parties and their successors and may only be modified by a writing signed by all the parties.

16. This Agreement may be signed in one or more counterparts, which counterparts together shall constitute one complete original instrument. The parties may modify or extend this Agreement only by a written instrument signed by the parties.

WITNESS THE FOLLOWING SIGNATURES:

CONDOMINIUM DEVELOPER, LLC

By: _____

Its: _____

QUALITY CONSTRUCTION COMPANY, INC.

By: _____

Its: _____

US_ACTIVE-118303887.1

LIMITED WARRANTY¹

Issued To and Accepted By

THE VIRGINIA CONDOMINIUM UNIT OWNERS ASSOCIATION

The Declarant has designed and constructed for you a value-engineered project. The project has been constructed in accordance with the local building code and has been inspected by the local building inspector during construction. In any new construction, however, certain items may require adjustment.

This Limited Warranty Certificate describes the Declarant's obligations to make such adjustments and outlines the methods for the Association to follow to obtain such adjustments.

I. COVERAGE AND DURATION

A. Non-Consumer Products

1. The Declarant will correct any structural defects, which shall be those defects in components constituting any common element which reduce the stability or safety of the common element below accepted standards or restrict the normal intended use of all or part of the structure and which require repair, renovation, restoration or replacement, brought to the Declarant's attention in writing within two years after the date of recordation of the deed to the first unit to be conveyed in the Condominium or completion of the common element, whichever is later.
2. The Declarant will correct any structural defect in the common element plumbing system, except operating fittings, which causes the system not to be in proper working order and which is caused by defective workmanship and materials, brought to the Declarant's attention in writing within two years after the date of recordation of the deed to the first unit to be conveyed in the Condominium or completion of the common element, whichever is later.

¹ NOTE: This Limited Warranty Certificate has been prepared to comply with the disclosure requirements of the federal Magnuson-Moss Warranty--Federal Trade Commission Improvement Act (15 U.S.C. § 2301) enacted in 1975; the sentences indicated by asterisks are required by regulations promulgated by the Federal Trade Commission (16 C.F.R. § 701.3, Dec. 31, 1975).

B. Consumer Products

1. The Declarant gives no warranty on appliances, fixtures, finishes or other equipment which constitutes a common element except as may be required by the statutory warranty.
2. The Declarant's sole obligation with respect to items not warranted by the Declarant shall be to deliver and, if assignable, assign to the Association any manufacturers' warranties covering such common element appliances, fixtures, finishes and equipment (except insofar as the same may be a part of a unit), before the expiration of the Declarant Control Period. The Declarant is not responsible for performance under manufacturers' warranties in any way.

C. Examples

1. The following are examples of non-consumer products: ducts, doors, windows, wiring, toilet, bathtub, sink, etc.
2. The following appliances and other equipment are examples of consumer products: smoke detector, exhaust fan, thermostat, individual heating and air conditioning system, garbage disposal, refrigerator/ freezer, range/oven and dishwasher.

II. THE DECLARANT'S RESPONSIBILITY

In the event of any defect in any item or component thereof covered by the Declarant's warranty, the Declarant, at its option, will repair or replace the affected item or component at no cost to the Association. Replacement items or components will be substantially comparable to those replaced (although identical colors and other features may not necessarily be available). The Declarant will correct the defect in such manner as to restore the component to the condition which would have existed had the defect not been present.

III. EXCLUSIONS

- A. The Declarant's warranty does not include cracks, popping nails or other effects of aging, normal settlement, or expansion, contraction, shrinkage or warping of materials that may occur in walls, floors, ceilings, doors or any of the components of a common element as long as such defect will not prevent the normal intended use of all or part of the common element.
- B. The Declarant's warranty does not include defects or smudges in painted surfaces, chipping and/or cracking of marble, formica, fiberglass or tiles, defective, scratched or broken glass, or similar defects readily visible to the human eye which are not noted for correction at the time of the initial inspection of the common elements.

- C. The Declarant's warranty does not cover normal maintenance items or conditions resulting from wear and tear and/or misuse or negligence. The Declarant's warranty does not apply where use or maintenance was contrary to the condominium instruments or Rules and Regulations of the Condominium or where any defect results from damage for which a unit owner or the Association is responsible, or by negligence or unreasonable use (including failure to provide reasonable and necessary maintenance).
- D. THE DECLARANT SPECIFICALLY DISCLAIMS ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL (SECONDARY) DAMAGE TO ANY PERSON, ANY UNIT, THE COMMON ELEMENTS, OTHER COMPONENTS OR ANY OTHER REAL OR PERSONAL PROPERTY, RESULTING FROM A DEFECT. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.*

IV. LIMITATION AND DISCLAIMER OF IMPLIED WARRANTIES

- A. ON CONSUMER PRODUCTS FINALLY DETERMINED BY A COURT TO BE WITHIN THE STATUTORY WARRANTY DESCRIBED ABOVE, ALL IMPLIED WARRANTIES ARE LIMITED IN DURATION TO THE PERIOD OF THIS WRITTEN WARRANTY. This includes, without limitation, the implied warranties of merchantability and fitness created by sections 8.2-314 and 8.2-315 of the Code of Virginia, and any implied warranty of habitability which is now recognized, or may in the future be recognized, in Virginia. Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you.*
- B. On all other consumer products and on all nonconsumer products, whether or not warranted by manufacturers, all implied warranties are expressly disclaimed and do not apply, including without limitation the implied warranties of merchantability and fitness created by sections 8.2-314 and 8.2-315 of the Code of Virginia, and any implied warranty of habitability which is now recognized, or may in the future be recognized, in Virginia.

V. WARRANTY PROCEDURES

- A. The following procedures have been established to permit maximum efficiency in administering work under warranty. The Association will have the opportunity to make a walk-through inspection after the common elements are completed. At that time a list of items needing correction in accordance with the Declarant's warranty usually is prepared. If any additional items arise, the procedure to be followed for correcting these items is as follows.

1. Except in case of emergency, no defects shall be reported within the first ninety days of the operation of the Association, at which time inspection of common elements shall be made as set forth above. This provision will avoid confusion and will assist in obtaining a more comprehensive list of items requiring correction, and will also allow the Declarant a more efficient and expeditious working arrangement for the correction of warranted defects. Experience indicates that most defects are discovered within ninety days. If the Association discovers defects that are covered by the Limited Warranty Certificate, in order to obtain performance of any of the Declarant's warranty obligations, a written statement of all warranty claims must be sent during the warranty period to: Customer Service Office, Condominium Associates, LLC, 3110 Fairview Park Drive, Falls Church, Virginia 22042.
 2. Upon receipt of the written statement, the Declarant's representative will meet with a representative of the Association, inspect the item and list all warranted defects on the "Warranty Inspection Form," a copy of which is attached, to be signed by both the representative of the Association and the Declarant's representative.
 3. Any warranted latent defects that may be discovered subsequent to the completion of the "Warranty Inspection Form," during the period covered by the Limited Warranty Certificate, will be handled individually upon written notice from the Association to the Declarant sent to the address set forth in paragraph 1 above.
- B. If the Association representative and the Declarant's representative fail to agree upon the defects to be noted on the Warranty Inspection Form or the workmanlike correction of such defects, the Declarant will, within five days after the date of the Association's request therefor, submit the disagreement to the project architect for decision, and such decision shall be final and binding on the Declarant and the Association. The project architect will render a decision based on the Public Offering Statement, the condominium instruments, the Warranty Inspection Form and the Limited Warranty Certificate. The charge by the project architect for this service will be paid one-half by the Declarant and one-half by the Association prior to resolution.

VI. INTERPRETATION

Nothing contained herein shall be deemed to be in derogation of the warranty required by subsection 55-79.79(b) of the Condominium Act as of this date. No action taken to correct defects shall extend this warranty. The written warranties set forth herein and the implied warranties limited herein are in lieu of all other warranties which may otherwise be implied. This Limited Warranty Certificate shall be governed by the laws of Virginia. This warranty gives you specific legal rights, and you may also have other rights which vary from state to state.*

CONDOMINIUM ASSOCIATES, LLC
a Virginia limited liability company

Date: _____

By _____

Authorized Officer

THE VIRGINIA CONDOMINIUM

LIMITED WARRANTY¹

Issued To and Accepted By

Unit Owner

Condominium Unit No. _____

The Declarant has designed and constructed for you a value-engineered home. Your unit was constructed in accordance with the local building code and has been inspected by the local building inspector during construction. In any new construction, however, certain items may require adjustment. This Limited Warranty Certificate describes the Declarant's obligations to make such adjustments and outlines the methods for you to follow to obtain such adjustments.

I. COVERAGE AND DURATION

A. Non-Consumer Products

1. The Declarant will correct any structural defects, which shall be those defects in components constituting any unit which reduce the stability or safety of the unit below accepted standards or restrict the normal intended use of all or part of the unit and which require repair, renovation, restoration or replacement, brought to the Declarant's attention in writing within two years from the date hereof.
2. The Declarant will correct any structural defect in the plumbing system, except operating fittings, which causes the system not to be in proper working order and which is caused by defective workmanship and materials, brought to the Declarant's attention in writing within two years from the date hereof.
3. The Declarant warrants that the unit is, at the time of settlement, fit for habitation, and that the unit was, at the time of construction,

¹ NOTE: This Limited Warranty Certificate has been prepared to comply with the disclosure requirements of the federal Magnuson-Moss Warranty -- Federal Trade Commission Improvement Act (15 U.S.C. § 2301) enacted in 1975; the sentences indicated by asterisks are required by regulations promulgated by the Federal Trade Commission (16 C.F.R. § 701.3, Dec. 31, 1975).

constructed in a workmanlike manner so as to pass without objection in the trade.

B. Consumer Products

1. The Declarant gives no warranty on appliances, equipment or fixtures sold with the unit, except as may be required by the statutory warranty.
2. The Declarant's sole obligation with respect to items not warranted by the Declarant shall be to deliver to the unit owner at settlement any manufacturers' warranties covering such appliances and equipment in the unit still in effect, except insofar as the same may be common elements. The Declarant is not responsible for performance under manufacturers' warranties in any way.

C. Examples

1. The following are examples of non-consumer products: ducts, doors, windows, wiring, toilet, bathtub, sink, etc.
2. The following appliances and other equipment sold with the unit are examples of consumer products: smoke detector, fire extinguisher, exhaust fan, thermostat, individual heating and air conditioning system, doorbell, garbage disposal, washer/dryer, refrigerator/freezer, range/oven and dishwasher.

II. THE DECLARANT'S RESPONSIBILITY

In the event of any defect in any item or component thereof covered by the Declarant's warranty, the Declarant, at its option, will repair or replace the affected item or component at no cost to the unit owner. Replacement items or components will be substantially comparable to those replaced (although identical colors and other features may not necessarily be available). The Declarant will correct the defect in such manner as to restore the component to the condition which would have existed had the defect not been present.

III. EXCLUSIONS

- A. The Declarant's warranty does not include cracks, popping nails or other effects of aging, normal settlement, or expansion, contraction, shrinkage or warping of materials that may occur in walls, floors, ceilings, doors or any of the components of the unit, as long as such defect will not prevent the normal intended use of all or part of the unit.

- B. The Declarant's warranty does not include defects or smudges in painted surfaces, chipping and/or cracking of marble, formica, fiberglass or tiles, defective, scratched or broken glass, or similar defects readily visible to the human eye which are not noted for correction at the time of inspection by the initial purchaser before settlement or waiver of inspection.
- C. The Declarant's warranty does not cover normal maintenance items or conditions resulting from wear and tear and/or misuse or negligence. The Declarant's warranty does not apply where use or maintenance was contrary to the condominium instruments or Rules and Regulations of the Condominium or where any defect results from damage by the unit owner or by negligence or unreasonable use (including failure to provide reasonable and necessary maintenance).
- D. THE DECLARANT SPECIFICALLY DISCLAIMS ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL (SECONDARY) DAMAGE TO ANY PERSON, THE UNIT, OTHER COMPONENTS OR ANY OTHER REAL OR PERSONAL PROPERTY, RESULTING FROM A DEFECT. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.*

IV. LIMITATION AND DISCLAIMER OF IMPLIED WARRANTIES

- A. ON CONSUMER PRODUCTS FINALLY DETERMINED BY A COURT TO BE WITHIN THE STATUTORY WARRANTY DESCRIBED ABOVE, ALL IMPLIED WARRANTIES ARE LIMITED IN DURATION TO THE PERIOD OF THIS WRITTEN WARRANTY. This includes, without limitation, the implied warranties of merchantability and fitness created by sections 8.2-314 and 8.2-315 of the Code of Virginia, and the implied warranty of habitability created by subsection 55-79.79(b) of the Condominium Act. Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you.*
- B. On all other consumer products and on all nonconsumer products, whether or not warranted by manufacturers, all implied warranties are expressly disclaimed and do not apply, including without limitation the implied warranties of merchantability and fitness created by sections 8.2-314 and 8.2-315 of the Code of Virginia, and the implied warranty of habitability created by subsection 55-79.79(b) of the Condominium Act.

V. WARRANTY PROCEDURES

- A. The following procedures have been established to permit maximum efficiency in administering work under warranty. Each unit owner has the opportunity to inspect the unit prior to settlement. At that time a list of items needing correction in accordance with the Declarant's warranty usually is prepared. If any additional items arise, the procedure to be followed for correcting these items is as follows.
1. Ninety days after settlement or occupancy, whichever occurs first, if the unit owner discovers defects that are covered by the Limited Warranty Certificate, in order to obtain performance of any of the Declarant's warranty obligations, a written statement of all warranty claims must be sent during the warranty period to: Customer Service Office, Condominium Associates LLC, 3110 Fairview Park Drive, Falls Church, Virginia 22042.
 2. Upon receipt of the written statement, the Declarant's representative will respond to the unit owner and, when necessary, meet the unit owner, inspect the unit and list the warranted defects on a Warranty Inspection Form to be signed by both the unit owner and the Declarant's representative. If the Declarant requires, the unit owner shall be present at the unit during the inspection and during the performance of any corrective work at the time scheduled by the Declarant.
 3. Any warranted latent defects that may be discovered subsequent to the completion of the Warranty Inspection Form, during the period covered by the Limited Warranty Certificate, will be handled individually upon written notice from the unit owner to the Declarant sent to the address set forth in paragraph 1 above.
- B. If the unit owner and the Declarant's representative fail to agree upon the defects to be noted on the Warranty Inspection Form or the workmanlike correction of such defects, the Declarant will, within five days after the date of the unit owner's request therefor, submit the disagreement to the project architect for decision, and such decision shall be final and binding on the Declarant and the unit owner. The project architect will render a decision based on the Purchase Agreement, the Public Offering Statement, the condominium instruments, the Unit Inspection Form, the Warranty Inspection Form and the Limited Warranty Certificate. The charge by the project architect for this service will be paid one-half by the Declarant and one-half by the unit owner prior to resolution.

- C. This Limited Warranty Certificate may be assigned by a unit owner to a subsequent owner of the unit effective on the date that the subsequent owner notifies the Declarant in writing of such assignment; this Limited Warranty Certificate is not otherwise transferable.
- D. The signature of the Declarant's representative on the Warranty Inspection Form constitutes agreement by the Declarant to complete in a workmanlike manner all items noted on such form. Work shall start promptly and be carried on expeditiously by the Declarant. The unit owner agrees to grant reasonable access to the unit for the purpose of such work during normal working hours and as required by the work schedule of the Declarant's contractor. If the unit owner fails to grant such access, Declarant will so notify the unit owner in writing. If the unit owner still fails to grant access five days after receipt of such notice, then the unit owner waives any rights to the completion of work noted on the Warranty Inspection Form.
- E. Upon completion of all work noted on the Warranty Inspection Form, the Declarant will notify the unit owner in writing and the unit owner shall acknowledge such completion by signing the second part of the form. If the unit owner and the Declarant fail to agree on the satisfactory completion of the work referred to above, the provisions established in Paragraph B above for disagreement concerning the items to be noted on the Warranty Inspection Form will govern.

VI. INTERPRETATION

Nothing contained herein shall be deemed to be in derogation of the warranty required by subsection 55-79.79(b) of the Condominium Act as of this date. No action taken to correct defects shall extend this warranty. The written warranties set forth herein and the implied warranties limited herein are in lieu of all other warranties which may otherwise be implied. This Limited Warranty Certificate shall be governed by the laws of Virginia. This warranty gives you specific legal rights, and you may also have other rights which vary from state to state.*

CONDOMINIUM ASSOCIATES LLC

Date: _____

By: _____
Authorized Officer

THE VIRGINIA CONDOMINIUM

WARRANTY INSPECTION FORM

Purchaser

Unit Number

Listed below are all of the defects discovered to date in my unit in accordance with the terms and conditions of my Limited Warranty Certificate dated _____.

Date

Purchaser

=====
The Declarant agrees to correct in a workmanlike manner the items listed above.

Date

Condominium Associates LLC
3110 Fairview Park Drive
Falls Church, VA 22042

I acknowledge that the above items have been completed in a workmanlike manner.

Date

Purchaser

=====

THE VIRGINIA CONDOMINIUM
Maintenance Responsibilities

I	II	III	IV	V
ITEMS	COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	LIMITED COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	UNIT COMPONENTS UNDER ASSOCIATION RESPONSIBILITY	CERTAIN OTHER COMPONENTS UNDER UNIT OWNER'S RESPONSIBILITY WITHOUT RESPECT TO OWNERSHIP OF THE COMPONENT
Plumbing & related systems & components thereof.	All maintenance, repair & replacement of portions of plumbing serving more than one unit. Water damage to common elements or units other than the one which is the primary source of the problem through negligence of the occupants of such units.	If any, same as in Column II.	Only to the extent that a malfunction originates outside the unit in which the malfunction occurs or may occur.	All portions within a unit including fixtures & appliances attached thereto. Water damage to a unit, when the primary source of such problem is through the negligence of the occupants of that unit.
Electrical & related systems & components thereof excluding appliances, fixtures & lights serving only one unit.	All, in all regards.	All, in all regards, from the common side of the unit panel.	--	All, in all regards, for items serving only one unit and located within the unit (on the unit side of the unit's electrical panel, including the panel itself).
Heating, ventilating & cooling systems & components thereof.	All, in all regards, serving more than one unit.	All, in all regards serving more than one unit at the unit owner's expense.	All, in all regards, at the unit owner's expense. Fan coil unit in residential units.	Maintenance, repairs and replacement to be performed by Association at unit owner's expense. Fan coil unit motors and filters in all units.
Parking Spaces.	All surface parking spaces in all regards.	--	--	--
Refuse collection system.	All, in all regards.	--	--	Unit owners responsible for carrying their refuse from units to appropriate trash receptacles serving the property.
Grounds, including the pool, the pool house, all paved areas and other improvements thereon lying outside the main walls of the buildings and all underground utility systems.	All, in all regards.	--	--	Maintenance of plantings and improvements approved by the Association and installed by the unit owner.

Building, exterior roof, exterior vertical walls, foundation.	All, in all regards.	--	--	--
Windows.	All which do not serve a unit, in all regards.	All, in all regards.	--	Routine interior cleaning of windows.
Doors, main entry to units and steps leading to front door of units.	All, in all regards.	All surfaces exposed to corridor including door panel, buck, trim & sill.	--	Interior of door panel interior trim. Hardware set including lock and door chime assembly and hinges/closure. Routine cleaning of steps leading to the front doors of units.
Patio doors.	--	In all regards except routine cleaning, latch mechanism and weather-stripping, at unit owner's expense.	--	Routine cleaning, latch mechanism and weather-stripping.
Patios.	All which do not serve a unit, in all regards.	All, in all regards, except for routine cleaning, at unit owner's expense.	--	Routine cleaning.
Screens (patio doors and windows).	All which do not serve a unit, in all regards.	--	--	All which serve the unit in all respects. Replacements to be of same color, grade and style.

NOTESMAINTENANCE RESPONSIBILITIES:

This chart and the titles and headings used herein are not intended to describe or encompass all maintenance functions nor to delineate all respective responsibilities between the unit owners, severally, and the Association. The placement of responsibility under any specific column does not always accurately reflect the precise character and nature of ownership. The appropriate sections of the Declaration determine ownership. In many cases maintenance responsibility is allocated to the Unit Owners Association to ensure central maintenance responsibility, uniformity and quality of repair, and to protect community health and safety. Where such maintenance is required due to the negligent or wrongful act or omission of a unit owner (or such unit owner's household, tenants, employees, agents, visitors, guests or pets), the Association will perform the necessary maintenance at the sole expense of the unit owner.

Column I: Items. Items appearing in this column are illustrative and not exhaustive.

Column II: Common Elements Under Association Responsibility. Responsibility for determining and providing for the maintenance, repair and replacement requirements of the common elements and determining the costs thereof shall be primarily the responsibility of the Board of Directors and such designees to which it may delegate certain such responsibilities.

Column III: Limited Common Elements Under Association Responsibility. Responsibility for determining the maintenance, repair and replacement requirements of the limited common elements shall be a shared responsibility between the Board of Directors and the unit owner of a unit to which a specific limited common element is exclusively appurtenant; provided, however, that the Board shall have the final responsibility for determining the need for and accomplishing such maintenance, repair and replacement activities.

Column IV: Unit Components Under Association Responsibility. The items in this column are legally and by definition a part of a unit but are attached or directly connected to or associated with the common elements and common expense items in such a way that a clear distinction between unit owner and Association responsibility cannot be made. Moreover, such items frequently involve matters of concern relative to the general health, safety and welfare of all of the occupants of the building. Thus, certain costs which appear to benefit a single unit owner but which affect other unit owners are declared a common expense, especially when the correct functioning of an activity or element is integral to or supportive of the legally defined common elements and common expenses. Heating, cooling and ventilating systems and components thereof are an exception due to the split system being used; the only practical method is to provide for central maintenance responsibility at the individual unit owner's expense.

Column V: Certain Other Components Under Unit Owner's Responsibility Without Respect to Ownership of the Component. The items in this column are not intended to be exclusive and all-encompassing and do not affect responsibilities expressly provided for otherwise.

PURCHASER SHOULD READ THIS DOCUMENT FOR PURCHASER'S OWN PROTECTION

PUBLIC OFFERING STATEMENT

NAME OF CONDOMINIUM: The Virginia Condominium

LOCATION OF CONDOMINIUM: 1111 Developer's Lane
Falls Church, Virginia 22042

NAME OF DECLARANT: Condominium Associates, LLC

ADDRESS OF DECLARANT: 3110 Fairview Park Drive
Falls Church, Virginia 22042

EFFECTIVE DATE OF PUBLIC OFFERING STATEMENT: November 2, 2014, revised through
January 30, 2016

This Public Offering Statement presents information regarding condominium units being offered for sale by the declarant. Virginia Law requires that a Public Offering Statement must be given to every purchaser in order to provide full and accurate disclosure of the significant features of the condominium units being offered. The Public Offering Statement is not intended, however, to be all inclusive. The purchaser should consult other sources for details not covered by the Public Offering Statement.

The Public Offering Statement summarizes information and documents furnished by the declarant to the Virginia Common Interest Community Board. The Board has carefully reviewed the Public Offering Statement to ensure that it is an accurate summary but does not guarantee its accuracy. In the event of any inconsistency between the Public Offering Statement and the material it is intended to summarize, the latter will control.

Under Virginia Law a purchaser of a condominium unit is afforded a ten-day period during which he or she may cancel the contract of sale and obtain full refund of any sums deposited in connection with the contract. The ten-day period begins running on the contract date or the date of delivery of a Public Offering Statement, whichever is later. The purchaser should inspect the condominium unit and all common areas and obtain professional advice. If the purchaser elects to cancel, he or she must deliver notice of cancellation by hand or United States mail, return receipt requested.

The following are violations of Virginia Law and should be reported to Virginia Common Interest Community Board, Perimeter Center, Suite 400, 9960 Mayland Drive, Richmond, Virginia 23233:

- a misrepresentation made in the Public Offering Statement
- an oral modification of the Public Offering Statement
- a representation that the Board has passed on the merits of the condominium units being offered or endorses the condominium.

PURCHASER SHOULD READ THIS DOCUMENT FOR PURCHASER'S OWN PROTECTION

SUMMARY OF IMPORTANT CONSIDERATIONS

Following are important matters to be considered in acquiring a condominium unit. They are highlights only. The narrative sections should be examined to obtain detailed information.

1. The Condominium will be governed by a unit owners association. Each unit owner will have a vote on certain decisions of the association and will be bound by all decisions of the association including those with which the unit owner disagrees. See Narrative Section J of this Public Offering Statement.

2. Certain decisions of the unit owners association will be made by the Board of Directors. See Narrative Section J of this Public Offering Statement and Section 3.1 of the Bylaws.

3. The expenses of operating the unit owners association will be paid by the unit owners on the basis of an annual budget. Each unit owner will pay an annual assessment which may be payable in monthly installments. A unit owner cannot reduce the amount of the assessment by refraining from use of the common elements. See Narrative Section L of this Public Offering Statement.

4. If a unit owner fails to pay an assessment (or installment thereof) when due, the unit owners association will have a lien against such unit owner's condominium unit. Certain other penalties may also be applied. See Narrative Section L of this Public Offering Statement.

5. The Declarant must pay assessments on unsold condominium units. The Declarant may, at the Declarant's sole option, decide to pay all ordinary operating costs for the project for some time. If the Declarant so elects, the Condominium will incur no common expenses and thus no condominium assessments will be collected during such time. See Narrative Section L of this Public Offering Statement.

6. The Declarant will retain control of the unit owners association until the earlier of (i) five years after conveyance of the first unit to a unit owner other than the Declarant; or (ii) until units to which 75 percent of the undivided percentage interest in the common elements appertain have been conveyed to unit owners other than the Declarant. See Narrative Section J of this Public Offering Statement.

7. A managing agent, not affiliated with the Declarant, will perform the routine operations of the unit owners association. See Narrative Section J of this Public Offering Statement and Section 3.2 of the Bylaws.

8. The Declarant may rent unsold condominium units. The right of any other unit owner to rent a residential unit is subject to certain restrictions (including without limitation a minimum term of six months, not for transient or hotel purposes, not less than the entire unit and certain required lease provisions). See Narrative Section I of this Public Offering Statement and paragraph (6) of Subsection 5.8(a) of the Bylaws.

9. The units are restricted to residential use, except for the commercial unit which is restricted to certain professional office and similar uses permitted by the applicable zoning. See Narrative Sections C and I of this Public Offering Statement and paragraph (1) of Subsection 5.8(a) of the Bylaws.

10. The right of a unit owner to resell a condominium unit is not subject to restrictions. However, Section 26 of the Purchase Agreement and the Primary Residence Addendum to the Purchase Agreement make it a default if the purchaser offers a unit for resale or rental prior to twelve months after settlement and provides for liquidated damages to the Declarant. See Narrative Section G7 of this Public Offering Statement.

11. The unit owner may not alter the structure of the unit or modify the exterior of the unit without the approval of the Covenants Committee. See Narrative Section J of this Public Offering Statement and Section 5.7 of the Bylaws.

12. The unit owners association will obtain certain insurance benefiting the unit owner, but the unit owner should obtain other insurance. See Narrative Section M of this Public Offering Statement and Section 6.5 of the Bylaws.

13. The unit owner will pay real estate taxes on the condominium unit. See Narrative Section N of this Public Offering Statement.

14. The Condominium is not subject to development as a timeshare condominium. See Narrative Section I of this Public Offering Statement and paragraph (11) of Subsection 5.8(a) of the Bylaws.

15. The Declarant may expand or contract the Condominium or convert convertible land without the consent of any unit owner. See Narrative Section C of this Public Offering Statement and Article 6 of the Declaration.

16. Marketing and sale of condominium units will be conducted in accordance with the Virginia Fair Housing Law, Section 96.1 *et seq.* of the Code of Virginia, and subsection 55.1-1914 of the Virginia Condominium Act.

17. During the sales program, the Declarant may reserve the use of certain parking areas for sales and customer service purposes. See Narrative Section E6 of this Public Offering Statement.

18. The unit owner's right to bring legal action against the Declarant is not limited by the Purchase Agreement. See Narrative Section G7 of this Public Offering Statement.

19. The purpose of the County's Natural Resource Areas, including Isaac Crossman Park, is to preserve and protect areas of significant environmental or ecological value including, but not limited to, natural lands, meadows, watersheds, waterfronts, forests and gardens. Typical uses and activities in natural areas are passive in character, and may include interpretative centers, wildlife observation areas, hiking trails, cultural or historic sites – although many natural

areas contain no amenities and receive no visitation (i.e., mowing and irrigation are not required). Maintenance service may be increased temporarily in response to an identified public health or safety issue, but the purpose and overall character of the natural area is not subject to change, and residents should not expect a manicured or landscaped area.

THE VIRGINIA CONDOMINIUM
PUBLIC OFFERING STATEMENT
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THE VIRGINIA CONDOMINIUM
PUBLIC OFFERING STATEMENT

INTRODUCTION

Condominium Associates, LLC, a Virginia limited liability company ("Declarant"), presents its proposal for condominium ownership of certain real estate located at 1111 Developer's Lane, Falls Church, Virginia 22042. The land and structures constitute a condominium known as The Virginia Condominium ("Condominium" or "Virginia"). This Public Offering Statement describes the Declarant's plans for development of the Condominium.

This Public Offering Statement consists of two parts, a narrative portion and an exhibit portion. The narrative portion is intended to summarize the significant features of the Condominium and also to present other information of interest to the prospective purchaser. The exhibits include legal documents which are required for the creation and operation of the Condominium, floor plans of the units, a projected budget for the Condominium, Rules and Regulations, the Unit Inspection Form, the Limited Warranty Certificates, and the proposed Management Agreement. If there is any inconsistency between the exhibits and the narrative, the exhibits will govern. All of the Declarant's sales and other representatives are prohibited from changing any of the terms and conditions of this Public Offering Statement or the legal documents or features of the Condominium or attempting to interpret their legal effect. Purchasing a home is an important decision; you may wish to review this Public Offering Statement with your attorney to be sure you have a clear understanding of what you are buying.

A. THE CONDOMINIUM CONCEPT

1. Condominium Ownership. The term "condominium" refers to a form of property ownership. While used for centuries in Europe, condominium ownership in the United States only became widespread in the late 1960's. Condominium ownership is a form of ownership which, in effect, combines two older forms of ownership. Just like the owner of a detached single-family home, the condominium unit owner is the sole owner of fee simple title to the home, that portion of the building which comprises the living quarters, or in the case of commercial units, working space (called a "unit"). In addition, the condominium unit owner is one of many mutual owners (legally speaking, "tenants in common") of common facilities which service more than one unit owner's living quarters (or working space) and of common areas which the unit owner may use and enjoy along with owners of other units. The property owned in common is called the "common elements" and each unit owner's share of ownership, called the "common element interest," is expressed as a percentage fraction and set forth in the "Declaration." The Declaration, together with the Bylaws and the Plats and Plans, are recorded to create the Condominium and are called the "condominium instruments." The ownership share in the common elements is an "undivided" interest, which means that a unit's common element interest cannot be sold separately from the unit. No unit owner owns all of a particular common element; rather, all unit owners own an undivided interest in all common elements. The ownership of a common element interest gives the unit owner the right to participate in the administration of all the common elements (subject to the Declarant's reserved rights of control as set forth in the condominium instruments), and imposes upon the unit owner the obligation to

pay a defined share of the expenses of operating and maintaining all of the common elements. Ownership of an undivided interest in the common elements distinguishes condominium ownership from other forms of property ownership.

(a) Common Elements. The common elements are all portions of the Condominium which are not included within the units. The common elements include the land, those portions of the building structure which support, enclose or service the units, the parking facilities, grounds, recreational and other community facilities.

(b) Limited Common Elements. Certain common elements are designated as "limited common elements." Like all common elements, each limited common element is owned by all of the unit owners in proportion to their respective common element interests. What makes it "limited" is that it is reserved for the exclusive use of one or more (but less than all) of the unit owners, to the exclusion of the rest of the unit owners. In addition to the limited common elements already assigned to various units (such as balconies, patio and some parking spaces and the corridors on the floors where the residential units are located), there are common elements which may subsequently be assigned as limited common elements (such as garage parking and storage spaces).

(c) Reserved Common Elements. Certain common elements may be designated as "reserved common elements." A reserved common element is a portion of the common elements set aside for use by less than all of the unit owners not by the condominium instruments but, rather, by the Board of Directors of the unit owners association. For example, the Board of Directors may reserve a portion of the common elements for use as storage space by designated unit owners. The Board of Directors may modify or terminate a unit owner's right to restricted use of a reserved common element.

2. The Virginia Concept.

(a) The Planning Concept. The Virginia Condominium is planned to be one building consisting of four phases in a single expanding condominium. The building contains a total of one hundred twenty-nine (129) residential units located above one (1) commercial unit containing approximately 8,000 square feet of retail space. The Virginia embodies certain basic principles:

- a mixed-use community
- an exceptional social environment
- large and innovative floor plans
- competitive sales prices made possible by extensive standardization in building design and volume purchasing power
- low operating and maintenance costs generated by careful facilities planning
- individually-metered electricity and gas and other energy saving features for maximum energy conservation
- a developer with financial strength, a sound reputation and a team of experienced and skilled professionals.

Phase 1 contains no units and contains that portion of the Condominium located in the City of Falls Church. Phase 2 consists of common elements, such as the garage, 40 residential units and the commercial unit (currently designated as Convertible Space 1). Phase 3 consists of common elements and 40 residential units. Phase 4 consists of common elements and 49 residential units.

(b) Energy Conservation. The Declarant has designed the electrical system for the installation of an individual electric meter for each condominium unit. Each unit owner can, therefore, control the amount of electricity used in the unit, and electricity charges for each unit will be billed to and paid by each unit owner. Individual metering has been shown by government studies to reduce energy usage by up to thirty percent. The electricity charges for the common elements will be a common expense included in the monthly assessment. Electricity charges for common elements include such items as corridor lighting, water, elevators, etc. Individually metered energy charges are for the unit lighting, gas heating and cooking, air conditioning, washer/dryer and other kitchen appliances. Heating and cooling will be accomplished by energy-efficient heat pumps for each unit.

(c) Transportation. The Condominium will be located .3 miles, a short walk, from the East Falls Church Metro Station. George (City of Falls Church) and Metrobus lines run along Lee Highway directly to and from the Metro station. There will be a bus stop directly in front of the Condominium on Lee Highway. Interstate 66 and Route 7 are located within .25 miles. The Virginia is envisioned as the community of the future - with convenient access to the workplace by means of efficient and affordable public transportation - and with all the convenience of recreation at home.

(d) Recreation. The Isaac Crossman parks are improved and unimproved activity areas within walking distance of the Condominium. They offer densely forested areas with walking trails, playground equipment and open spaces. The Washington and Old Dominion Bike Trail is located less than 100 yards from the Condominium. The State Theater, a beautifully restored venue for music and live entertainment is a short walk down Lee Highway. A state of the art exercise center available only for the Condominium's use is located on the mezzanine level. Some may never feel the need to leave The Virginia as a bakery and coffee shop, restaurants, banking and other services are planned to be available onsite.

B. CREATION OF THE CONDOMINIUM

1. Method. The Condominium is created by recording condominium instruments substantially the same as the ones attached to this Public Offering Statement as Exhibit 1. If the Declarant makes additional amendments to the condominium instruments (not shown herein) after a purchaser signs a contract to purchase a condominium unit but before settlement, the Declarant will send a copy of the revised condominium instruments or amendments to the purchaser as recorded, within ten days after the recordation date (unless, of course, the purchaser has previously cancelled the contract).

2. The Declaration. The essential function of the Declaration is to describe property rights within the Condominium. The Declaration is more detailed than this Public Offering Statement about the units and the common elements (including the limited common elements)

and any convertible space. The Declaration also contains definitions, describes certain easements and contains various other provisions. Technically, the Bylaws and the Plats and Plans described below are integral parts of the Declaration. The Declaration is recorded in the Clerk's Office of the Circuit Court of Fairfax County, Virginia. A copy of the proposed Declaration is attached to this Public Offering Statement as part of Exhibit 1. The Declaration creates the Condominium, establishes the boundaries of the units and assigns the common element interest appurtenant to each unit. In addition, the Declaration establishes special property rights within the Condominium, such as limited common elements and easements (both discussed in following sections). Although the Declarant intends to sell all the units, the Declaration reserves for the Declarant the right to rent any units not sold.

3. The Bylaws. The essential function of the Bylaws is to provide for the manner in which the Condominium is to be governed. The Declarant Control Period is described, and so is the manner in which the Condominium will subsequently be governed by the unit owners association, its Board of Directors and committees and a managing agent to be selected by the Board. The Bylaws contain various other provisions including, among other things, restrictions on the use of the units and common elements, the manner of setting the association's budget, enforcing the collection of assessments and insurance requirements. The Bylaws are attached as Exhibit B to the Declaration in this Public Offering Statement.

4. Plats and Plans. The essential function of the Plats and Plans is to depict the Condominium graphically. The Plats show the location of the buildings and improvements on the land. The Plans show the location of the units in the buildings and set forth the elevations of the unit boundaries. Photo-reduced copies of the Plats and Plans are included as Exhibits D and E to the Declaration in this Public Offering Statement, but you can examine full-size copies of the Condominium, at the office of the Declarant or at the office of Virginia Common Interest Community Board, Perimeter Center, Suite 400, 9960 Mayland Drive, Richmond, Virginia 23233.

5. Amendments. Under the Condominium Act, some amendments to the condominium instruments can be made by the Declarant or certain unit owners unilaterally. Certain other amendments require the written consent of unit owners with two-thirds of the votes in the unit owners association. The consent of the Declarant, Mortgagees, the unit owners association and/or particular unit owners is required for certain amendments by Article 5 of the Declaration and Articles 5 and 10 of the Bylaws.

Finally, the Declarant's rights to assign limited common element parking spaces and/or storage spaces, to create units on convertible space and land and to expand and contract the Condominium are created by the Declaration. Expansion, contraction or conversion is accomplished by the Declarant's amendment of the Declaration. The form amendments which will be used to assign limited common element parking spaces and/or storage spaces and add additional phases are attached to this Public Offering Statement as part of Exhibit 1.

C. DESCRIPTION OF THE CONDOMINIUM

1. Physical Description. The Condominium is located in a desirable area because of its close-in location near downtown Washington. The Condominium is served by excellent

highways and public transportation to downtown Washington. The living environment is enhanced by the view of the extensive landscaping, open parklike spaces, natural vegetation and topography.

2. Declarant's Development Program: Additional Withdrawable and Convertible Land and Convertible Space. The site consists of approximately 1.72 acres which the Declarant intends to develop as in four phases. Phases 1, 2 and 3 consist of portions of the one building planned to be built on the land. Phase 4 is the portion of the land located in the City of Falls Church. The Declarant does not intend to rent any of the units but may do so if market conditions so warrant.

(a) Significance of Additional Land. The Declarant has retained the right to add certain land to the Condominium within seven years following creation of the Condominium. The Declarant intends to add these phases to the project as planned; the Declarant is under no obligation to do so, however, and development may stop at any stage short of completion and the land may be put to other uses and sold. Should the development not be carried out as intended, the Condominium will, nevertheless, constitute a complete community albeit a smaller one than originally planned.

(b) Significance of Withdrawable Land. The Declarant has also reserved the right to contract the Condominium at any time within seven years following creation of the Condominium without the consent of any unit owner. The Condominium may be contracted by withdrawing the withdrawable land, except that no land may be withdrawn after a unit located therein has been conveyed to a unit owner. Subject to this limitation and applicable land use restrictions, any land or buildings within the withdrawable land may be sold and/or put to any use whether or not originally contemplated by the plan of condominium development.

(c) Significance of Convertible Land. Although the Declarant has not designated any land as convertible land, the Declarant has reserved the right to designate any portion of the additional land as convertible when that land is added to the Condominium. Convertible land is simply a part of the common elements which the Declarant may, by exercising certain retained rights, without the consent of any unit owner, convert into units, common elements and limited common elements. The Declarant may exercise rights to convert the convertible land within seven years after the Condominium was created; however if the Declarant does nothing prior to the expiration of the conversion rights, the convertible land remains common elements of the Condominium. Although the Declarant may continue to rent the dwellings on and is entitled to all the income derived from the convertible land, the Declarant must pay all real estate taxes, operating costs and maintenance expenses attributable to the convertible land.

(d) Significance of Convertible Space. Each phase of the Condominium may contain "convertible space." A convertible space is treated as a condominium unit which the Declarant may unilaterally convert in whole or in part into smaller units, common elements, limited common elements or a combination thereof. Since a total common element interest based on par value has already been assigned to the convertible space, any amendment to the condominium instruments converting all or any part of any one or more convertible spaces into

units would not require reallocation of the common element interests of any other units, but would reallocate the common element interest assigned to the convertible space among the units created out of the convertible space based upon the par value formula used in the original allocation. If, however, the Declarant converts all of a remaining convertible space into common elements, then the common element interest of all other units will be adjusted based upon the square footage being converted to common elements. The concept of convertible space permits flexibility in sizing units according to need without necessarily affecting the common element interest of existing units in the Condominium. When the Declarant offers the convertible space for sale, the Declarant may not know what amount of space is desired by any particular prospective purchaser. By defining a single area as convertible space, thus treating it as a single unit with a common element interest computed just like all other units, the Declarant may subsequently subdivide the one space into whatever smaller units are desired by a purchaser without necessarily affecting the common element interest of any other unit in the Condominium. This is accomplished by recording an amendment to the Declaration.

3. Permitted Uses. Except for the units designated for commercial use, the units in the Condominium are restricted to residential use. However, the Declarant may use units owned or leased by the Declarant and common elements as models, management offices, sales offices or customer service offices; other reasonable, temporary nonresidential uses may be permitted by the Board of Directors. The commercial unit may be used for whatever uses are permitted by the zoning category and subject to any development conditions associated with any zoning approvals for the Condominium. Finally, additional units may be designated by the Board of Directors for a management office for commercial or recreational uses. The restrictions on the uses of units are set forth in Section 5.8 of the Bylaws. In addition, the Declarant may use portions of the common elements for shops, storage and similar purposes to facilitate completion of construction and performance of warranty service.

D. INDIVIDUAL UNITS

1. Unit Boundaries. Generally speaking, each unit will consist of the space bounded by the walls, floor and ceiling of the unit. The unit will also include interior partitions, floor covering (wood flooring, carpeting, tile, etc.), wall finishings and interior doors, any portions of the heating and air conditioning apparatus which serve only that unit, and any portion of the plumbing, electrical and mechanical systems serving only that unit. Units with one, two and three bedrooms will be offered. The convertible space will include the entire structure containing the commercial space in that structure.

The identifying number, size and par value and type of each unit in the Condominium are set forth in Exhibit C to the Declaration.

2. Floor Plans. The Condominium contains four floors of residential space located above a floor of commercial and recreational space, as well two levels of garage parking. The unit types per phase are generally as follows:

UNIT TYPE	<u>TOTAL UNITS PER TYPE PER PHASE</u>			
	<u>PHASE 1</u>	<u>PHASE 2</u>	<u>PHASE 3</u>	<u>PHASE 4</u>
A1	--	--	8	6
A1-acc	--	--	--	2
B1	--	3	--	4
B1M	--	--	--	1
B2	--	4	8	4
B3	--	4	--	12
B3m1	--	8	--	--
C1	--	--	4	--
C1m	--	--	1	--
C1m1	--	--	3	--
C2	--	4	--	4
C2m	--	3	--	3
C2lm	--	1	--	1
C3	--	1	--	4
C3m	--	3	--	--
C4	--	4	--	3
C4a	--	--	3	--
C4-acc	--	--	--	1
C4b	--	--	3	--
C4m	--	--	1	--
C4ml	--	--	1	--
D1	--	--	8	--
D2	--	3	--	--
D2m	--	--	--	--
D2l	--	1	--	--
D3	--	--	--	3
D3l	--	--	--	1
Convertible Space 1	--	1	--	--
TOTAL:	--	40	40	49

Floor plans for each unit type are attached to this Public Offering Statement as Exhibit 2.

3. Common Element Interest. As indicated above, each unit has an appurtenant common element interest. The common element interest assigned to each unit is calculated on the basis of par value. The common element interest appertaining to each unit is listed in Exhibit C to the Declaration which is attached to this Public Offering Statement. Par value is allocated based on a combination of value, number of bedrooms and living areas, use of common facilities and services and approximate relative size of similar units. See the Notes to Common Element Interest Table attached as Exhibit C to the Declaration.

If the Condominium is expanded by creation of additional units, the common element interest of all units will be recalculated on the basis of the par value formula set forth in the Notes to the Common Element Interest Table. This recalculation will reduce the common element interest appertaining to each unit, but because the total amount of common elements will have increased, the actual ownership interests will be essentially unchanged. In other words, more people will be sharing the pie, but the size of the pie will have increased.

4. Restrictions on Changes. A unit owner may not alter the structure of the unit or modify the exterior of the unit without the approval of the Covenants Committee of the unit owners association. See Narrative Section J of this Public Offering Statement and Section 5.7 of the Bylaws.

5. Optional Improvements. The residential units will be delivered equipped and finished as set forth on Schedule A to the Purchase Agreement. The Declarant may offer a limited number of optional extras and custom finishing; if so, the options to be installed will be set forth on Schedule B to the Purchase Agreement. Purchasers may contract with any home improvement contractor of their choice to provide additional optional improvements at additional cost to such purchasers, but such improvements may not be installed prior to settlement. Usually, such improvements can be financed by a home improvement loan for qualified borrowers.

6. Combination Units. The Declarant, at the request of a purchaser of certain adjoining units on the same floor, at the Declarant's sole discretion, may agree to remove, modify or relocate the partition between such units. Such an agreement would not, as a matter of law, however, relocate the boundaries of the two units, reduce the number of units (e.g., by combining the two adjoining units) or affect the common element interest of the two units. In addition, purchasers may, after settlement, with the permission of the Board of Directors, combine two adjoining units if they wish to do so.

7. Development Schedule. Construction of the building and the common elements began in December of 2014 with completion anticipated by June of 2016.

8. Sound Conditioning. The Condominium will be constructed generally to comply with the sound standards established by the United States Department of Housing and Urban Development (and employed by the Federal National Mortgage Association). These standards require a minimum 45 STC (Sound Transmission Class) for party walls, corridor walls and floors and a minimum 45 IIC (Impact Insulation Class) for floor systems. These standards also require 50 STC between unit space and noisy public space such as trash rooms or machine rooms. However, the Declarant cautions all purchasers that in some locations some noise leaks may occur. Noise generated by the operation of appliances and plumbing fixtures (e.g., fans, faucets, toilets, disposals and drains) in adjacent units may be audible. Units adjacent to the trash rooms and near the elevators may experience some additional noise. Noise will be audible from the corridors and stairwells through unit entrance doors. Therefore, noise sensitive individuals should be aware that while the building will be generally well sound-insulated, certain intermittent noises from adjacent units and service areas are likely to be audible. Further,

residents will hear noise transmitted by hardwood floors. In addition, outside ambient noise from street traffic, aircraft and wind noise intrinsic to a building in an urban area may be audible.

E. COMMON ELEMENTS

1. Common Elements. The Condominium consists of the common elements and the units (including any convertible space). The common elements constitute all of the Condominium other than the units. The following items are major common elements of the Condominium: all of the land, the supporting structure of the buildings, exterior walls (including the storefront of the commercial unit), walls separating units, portions of plumbing, electrical, heating, mechanical and air conditioning systems serving the common elements or more than one unit, stairs, elevators, outside stairs, surface parking areas, the airspace around and above the buildings and within the buildings (except for the airspace within the units).

(a) Concrete. One of the major components of the common elements is reinforced concrete. Floors (and ceilings) are usually poured-in-place concrete slabs reinforced with two layers of crisscrossed steel bars. This is a strong, stable, long-lasting and well-accepted method of construction. Nevertheless, concrete is porous, will retain moisture and will expand and contract with temperature fluctuations so hairline cracks will occur in the concrete slabs due to the effects of time, the freeze and thaw cycle, limited elasticity and building settlement. These settlement and shrinkage cracks are normal, are not structural defects and do not require repairs. However, in areas exposed to water penetration (e.g., exposed balconies), the freeze and thaw cycle can cause spalling of the concrete and rusting of the reinforcing steel. This condition may cause structural problems and premature deterioration of the concrete if not maintained. These cracks require sealing with an elastomeric material to prevent water penetration through the slab. The unit owners association budget contains funds for the cost of this routine preventive maintenance.

In addition, some of the cosmetic aspects of concrete construction also concern unit owners unnecessarily. Frequently, poured concrete slabs are left "unfinished," and may be rough, showing honeycomb or wood frame marks left after the pouring of the concrete. To provide a more finished appearance, poured concrete slabs are frequently "rubbed" with a thin coat of concrete. This is particularly noticeable on interior stairwells where the unpainted concrete surface is very visible. The cracking or spalling of this thin cosmetic layer is non-structural and can easily be maintained by recoating. However, any deterioration beyond this cosmetic layer may be structural and should be monitored and maintained by the unit owners association. Also, the "rubbed" areas will have normal variations of color and texture. Finally, when water comes in contact with concrete (or brick), a residue or stain called "efflorescence" may appear. This is caused by the normal leaching of salts and minerals naturally occurring in the concrete (or brick) to the surface. This "efflorescence" need not be removed, is cosmetic only, does not affect the structure and will be reduced over the years as the salts and minerals are depleted. Also, garage decks, being constructed of porous concrete, are not waterproof; water may penetrate the decks, especially through hairline cracks.

(b) Water Penetration.

(1) Roof. The roof is an impermeable membrane with flashing around roof penetrations. Although all roofs may be expected to experience occasional leaks from various causes, the Association budget allocates funds for routine repairs and a reserve for replacement.

(2) Windows. The windows are double-glazed aluminum affixed to the opening and caulked with an elastomeric sealant. In cold weather, and in high relative humidity, the differential between the indoor and outdoor ambient air temperature may cause water droplets to condense on the inside of the windows and window frames and run down the frame onto the sills and walls. The unit owner should wipe off this excess condensation to prevent damage to the sills and the walls; over time, touch-up painting of the sills and surrounding walls may be required. The condensation problem can be exacerbated by personal habits of the unit owner, such as lengthy bathing without use of bathroom exhaust fans or by use of insulated window coverings which block warm air from reaching the glass surface.

(3) Caulking and Tuckpointing. The caulking around wall penetrations such as windows and vents is an elastomeric sealant which bonds to adjacent masonry and metal surfaces and expands and contracts to keep a good seal as the stiffer materials (brick, steel, aluminum, etc.) expand and contract with temperature changes. Caulking will lose its elasticity with age and will fail if required to stretch beyond its limits of elasticity either due to shrinkage or settlement cracks or by failure of expansion joints. Tuckpointing is the restoration of mortar between the bricks. The same shrinkage and settlement cracks that cause failure of the caulking also cause deterioration of the mortar bond. This is exacerbated by the non-elasticity of mortar and the freeze and thaw cycle in the Washington, D.C. area with its extremes of temperature. The routine caulking and tuckpointing required is not a structural problem and has been included in the unit owners' association budget.

(4) Corridor Ventilation System. The corridor and public space heating, ventilating and air conditioning system is only one part of the overall air management system for the building. For both fire safety and aesthetic reasons, high-rise buildings should have "positive" air pressure (greater pressure in the corridors than in the units) so that smoke and cooking odors are kept within the units. To maintain the "positive" air pressure, rooftop corridor supply fans force outside air into the corridor air handling system. The outside air is filtered, tempered (heated or cooled) to acceptable levels and supplied to the corridors. This air then passes into the units under and around the unit entrance doors and supplies make-up air to the unit. The air is then exhausted through the kitchen and bathroom ventilation systems. Airborne dust may be deposited at the unit corridor door openings as the air passes through. If the air entry into the unit is restricted or the air balance is disrupted, then the effectiveness of the system is reduced; therefore, the Bylaws prohibit a unit owner from interfering with the airflow through the unit entry door.

2. Limited Common Elements. Some of the common elements of the Condominium are called "limited common elements." What makes a common element "limited" is that it is reserved for the exclusive use of one or more, but less than all, of the unit owners to the

exclusion of other unit owners. There are different types of limited common elements in this Condominium. There are limited common elements appurtenant to only the residential units, such as the elevators serving only the residential units. There are also limited common elements appurtenant to the commercial unit, such as specified parking spaces located within the garage which are for the exclusive use of the owners of the commercial units and/or their invitees. There are also limited common elements which may be appurtenant to only one specific unit. Each limited common element type is described in more detail below.

(a) Residential Limited Common Elements. The corridors, stairwells, trashrooms, elevators and elevator shafts serving the residential units are for the exclusive use of the owners of the residential units and their guests, as are the main lobby.

(b) Commercial Limited Common Elements. Approximately 24 parking spaces have been designated as limited common elements for the use of the owner of the commercial unit.

(c) Specific Unit Limited Common Elements.

(1) Balconies and Patios. Balconies and patios are designated limited common elements for the exclusive use of the units served thereby. Balcony and patio areas are not part of the unit.

Patios are constructed of poured reinforced concrete. Finishes are troweled and left natural, and may not be changed structurally or cosmetically without the prior written consent of the Covenants Committee. Juliette balconies are constructed of pre-finished metal. Balconies on the C4 units are constructed of pressure treated wood. If the unit owner attempts to alter the drainage system or otherwise modify a balcony or patio, the unit owner will be responsible for any resulting damage. No floor coverings are permitted on balconies or patios because they retain moisture and cause premature deterioration of the metal or wood. If such coverings are installed, the Declarant disclaims any liability for any resulting damage. If any floor covering must be removed to make repairs to the balcony or patio, the cost of removal, the cost of replacement and any damage caused is the responsibility of the unit owner, not the Declarant or the unit owners association.

(2) Parking Spaces and Structure. The Declarant has also reserved the right to assign common element parking spaces designated for such assignment as limited common elements for the exclusive use of residential unit owners.

Each purchaser of a residential unit will have the option of selecting a garage parking space (not already assigned as a limited common element to the commercial unit) when entering into a Purchase Agreement. With concrete construction in the parking structure there will be shrinkage cracks in the slabs and walls. During inclement weather, vehicles bring snow, ice and salts inside, which melts, drips through the slab and may damage cars and equipment below. Leakage is not as likely on exposed concrete walls as with slabs, but only the aesthetics of the building are affected, the leakage is not necessarily a structural defect. During construction, the

Declarant specifies that control joints are to be placed in the poured walls to minimize the leakage, but it may not be totally eliminated.

In dealing with leakage through the concrete walls and slabs, the unit owners' association should have management make seasonal inspections of the areas with problems. If necessary, an elastomeric sealant can be pressure-injected into leaking areas. This work is provided for in the Association's budget as an on-going maintenance item.

The concrete slabs in the parking structure are porous; they are not sealed and will not be waterproof. A "sealer" is not used because shrinkage cracks are almost inevitable and will defeat the purpose of a sealer. Also, sealers are costly and require frequent reapplication to maintain any effect, yet achieve little or no preservation of the integrity of the concrete slab. The key point about the concrete parking structure is the need for on-going maintenance by the unit owners association. From the onset of the Condominium, the unit owners association must undertake an assiduous and on-going program of preventive maintenance to protect the integrity of the parking structure. The yearly budget should allow funds for this purpose; otherwise, huge expenditures can be required if the concrete (and reinforcing steel) is allowed to go unrepaired and to deteriorate.

(3) Storage Facilities. There are storage spaces located in the building available for assignment as limited common elements. Each purchaser of a residential unit will have the option of selecting a storage space, to the extent spaces are available. Storage areas are subject to humid conditions common to such facilities. Unit owners should use discretion in deciding which items may properly be stored in the storage spaces. Unit owners shall use the storage areas for storage purposes only and shall comply with all applicable laws, ordinances, governmental regulations, and all protective covenants and restrictions affecting such use. Storage of any flammable, hazardous or similarly dangerous items or materials in the storage spaces is strictly prohibited.

3. Common Expense Assessments. Assessments for common expenses are, in principle, based upon benefits derived. See Narrative Section L of this Public Offering Statement and Section 5.1 of the Bylaws for further information on expenses and assessments.

4. Laundry Facilities. A washer and dryer is located in each unit. No other laundry facilities are planned to be available within the Condominium.

5. Parking. The project is served by surface parking spaces on public streets (subject to local parking regulations). In addition, there are common element underground parking spaces which will be available for assignment as limited common elements for the exclusive use of the residential unit owners. Approximately 24 parking spaces have been designated as limited common elements for the use of the owner of the commercial condominium unit, its successors and/or assigns, invitees, guests and employees. The total number of onsite parking spaces available to the Condominium is approximately 190, resulting in a parking ratio of approximately 1.3 spaces per unit, which is in compliance with the current project approval requirements of the City of Falls Church. During the sales program the Declarant may reserve

the exclusive use of certain parking areas for sales and customer service purposes (see Narrative Section H2 of this Public Offering Statement).

6. Condominium Office. Office space will be located on the mezzanine level of the Condominium for the administrative and operational needs of the Condominium.

F. THE DECLARANT

The Declarant, Condominium Associates, LLC is a Virginia limited liability company formed in June 20, 2013 for the development of the Condominium. The sole managing member of the Declarant is Condominium Homes, Inc., a Virginia corporation ("Condominium Homes").

Condominium Homes is a real estate development company founded in 1993 with its primary focus being the development and ownership of apartment properties in the Washington Metropolitan area. Since founding the company, Condominium Homes has been responsible for the acquisition, renovation, ownership and management of five Northern Virginia apartment properties, creating more than 850 much-needed quality affordable rental apartments. The affordable rental properties are known for their investment-grade quality, tenant amenities, hands-on management and overall livability. A summary of the residential projects follows:

[INSERT COMPANY'S PROJECTS]

G. TERMS OF THE OFFERING

1. Offering Prices. Offering prices for all residential unit types in the Condominium have been tentatively established at this time but will be subject to change at any time prior to execution of Purchase Agreements for individual units. Different purchasers may pay different prices for similar residential units at the sole discretion of the Declarant. Initial offering prices of the residential units to the general public range from \$290,400 for certain one-bedroom units to over \$800,000 for the three-bedroom unit.

Nothing in this Public Offering Statement represents an offer or agreement by Declarant to sell any condominium unit to any person at any price.

2. Time of Settlement. Settlement upon each unit shall take place only after, or concurrently with, the following events: (i) satisfaction of the presale requirements of the "lead" lender offering individual permanent mortgage financing to unit purchasers at the request of the Declarant (see "Financing" below); (ii) release of the unit from the lien of all mortgages other than purchaser's mortgage, if any; (iii) issuance of a mortgagee's title insurance policy satisfactory to the Mortgagee; and (iv) inspection of the unit by the purchaser or waiver of such inspection.

Although settlement may be delayed by events not within the Declarant's control, settlement will ordinarily occur from ten to thirty days after the unit is ready for occupancy and the purchaser has obtained financing. If delivery of the unit is not made within twenty-four months after the date of the Purchase Agreement due to actions of the Declarant, the purchaser

has the option either to terminate the Purchase Agreement or proceed with the purchase when the unit is ready for settlement. If a delay is caused by circumstances beyond the control of the Declarant, however, then the time for delivery of the unit shall be extended for the period of the delay to a maximum of an additional twelve months. If the purchaser fails to make timely and proper application for a loan or fails to complete settlement on a unit as required, the Declarant may cancel the Purchase Agreement and keep all sums deposited by the purchaser in connection with the Purchase Agreement. If, for any reason not within the control of purchaser, the purchaser is in good faith unable to obtain financing from a lending institution which has issued a permanent commitment to the Declarant, the Declarant will refund the purchaser's deposit. If the purchaser has pre-qualified with or obtained a loan commitment from a lender and later is unable to obtain financing, the Declarant may retain the entire deposit as liquidated damages.

3. Financing. A unit purchaser may apply for financing from any lender or may pay all cash at settlement. The Declarant is not obligated to assist a purchaser in obtaining financing. However, the Declarant is arranging for at least one lending institution to provide a number of first mortgage loans secured by units in the Condominium to qualified purchasers meeting standard credit requirements. The terms of all such financing will be available to purchasers from the lender. The Declarant reserves the right to provide any credit information provided by a purchaser to any other lending institution solely for the purpose of obtaining financing for the purchaser's unit. Financing is subject to the additional terms and conditions stated in the lender's commitment letter to the purchaser and in the loan instruments. The lender's charges will be paid in accordance with subsection 3(c) of the Purchase Agreement. If the Declarant does not obtain binding Purchase Agreements on the number of units required by the Declarant's lender, all Purchase Agreements may be cancelled by the Declarant and all deposits will be returned to the purchasers.

4. Settlement Costs and Expenses.

(a) Settlement Costs. If settlement is made by such attorneys or agents as the Declarant may designate, then the Declarant pays the cost of examination of title, state grantor's tax, fees for preparation of standard residential closing documents, notary fees and attorney settlement charges (other than charges by the purchaser's attorney). If, however, the purchaser elects to make settlement through any other attorney or agent, the Declarant pays for only the state grantor's tax and if the purchaser wishes to obtain owner's title insurance coverage, it is the purchaser's responsibility to do so. The purchaser pays owner's and mortgagee's title insurance premiums, all recording costs, mortgage insurance premiums then due, if applicable, prepaid interest and lender's fees.

(b) Prepayments, Escrows, Capital Contributions. Notwithstanding anything contained herein to the contrary, the purchaser reimburses the Declarant at settlement for prepaid real estate taxes, assessments and utility charges, if any, on the condominium unit all of which will be adjusted as of the date of settlement. If required by the lender, the purchaser prepays at settlement interest for up to one month, any mortgage insurance premiums and a reasonable percentage of the estimated annual real estate taxes. The purchaser also pays the fees and expenses of the purchaser's own attorney, if any.

The purchaser is required to pay the unit owners association common expenses allocable to the unit monthly in advance. Common expenses payable for the month in which the sale of a unit closes are adjusted on a per diem basis as of the settlement date (unless the Declarant has elected to pay all expenses of operating the Condominium at that time [see Narrative Section L4 of this Public Offering Statement]). The percentage of common expenses to be assessed against each unit is fixed by the Declaration. The estimated common expenses for a full year of operation (based on full occupancy of the buildings) for each unit are set forth in the Budget attached to this Public Offering Statement as Exhibit 3.

In addition to a portion of the regular monthly installment of the common expense assessment against the unit for the month of settlement, each initial purchaser is required to make at settlement an initial capital contribution to the unit owners' association "working capital fund." The initial capital contribution is equal to twice the monthly installment of: (i) the estimated common expense assessment, and (ii) limited common element parking space charges, if any, for the condominium unit. This payment is a requirement imposed by the lenders to ensure that the association will have available sufficient money for three major purposes: first, to pay for initial equipment, supplies, organizational costs and other start-up costs at the beginning of the life of the association; second, to provide an immediate fund of cash at the beginning of the association's operations to pay bills for such items as insurance premiums payable for the entire year when an entire year's assessments necessary to fund such premiums have not yet been collected; and third, to defray partially the higher per unit costs that occur in the early stages of the association's business life. Also, the working capital fund, if not otherwise expended, can provide additional reserves which may be set aside for unexpected expenditures to ensure that the association starts out on a solid financial foundation. The initial capital contribution is not an escrow or advance and is not refundable.

5. Development Expenses. The Declarant bears all costs and expenses incurred in connection with the creation of the Condominium and sales of units, including selling expenses upon the initial sales of units, advertising and printing expenses, the Declarant's attorneys' fees and engineering and surveying costs. All brokerage commissions, if any, on initial sales of the units by the Declarant's sales agent will be paid by the Declarant. The Declarant will convey each unit free of liens or liabilities against such unit, except the lien for current real estate taxes not then due and payable and the statutory lien for condominium assessments.

6. Deposits. All earnest money deposits will be held in escrow by the Declarant in an account at a financial institution in the Commonwealth of Virginia pending settlement. All deposits shall be credited against the purchase price at settlement, paid over to the Declarant upon a breach of the Purchase Agreement by the purchaser or returned to the purchaser should the contemplated transaction not be completed by the Declarant for any reason. The deposit will be held and returned or applied without payment of interest to the purchaser. In addition, the Declarant may collect non-refundable deposits for optional improvements selected by a purchaser. Such option deposits may be used to purchase and install the options selected and are not refundable.

7. Owner Occupancy. THE PURCHASE AGREEMENT FOR RESIDENTIAL UNITS REQUIRES THE PURCHASER TO REPRESENT THAT THE UNIT WILL BE

OCCUPIED AS THE PURCHASER'S PRIMARY YEAR-ROUND RESIDENCE OR SECOND HOME AND NOT USED FOR RENTAL OR INVESTMENT PURPOSES; ANY MISREPRESENTATION REGARDING PURCHASER'S INTENTION TO RESIDE IN THE UNIT SHALL BE A DEFAULT UNDER THE PURCHASE AGREEMENT PURSUANT TO SECTION 14. The Primary Residence Addendum to the Purchase Agreement provides for certain remedies of the Declarant in the event that purchaser misrepresents such purchaser's intention to occupy the unit as their primary residence by offering the unit for sale or rent within twelve months after settlement. These remedies include the obligation to pay to the Declarant a portion of the purchase price or rent on any resale or rental of the unit within twelve months following settlement. The Declarant may waive such a requirement in the Declarant's sole discretion. Further, the foregoing restrictions do not apply to a purchaser who is transferred by such purchaser's employer to a place of employment more than fifty miles from the Condominium, provided that such purchaser provides to the Declarant written documentation from the employer evidencing the transfer.

H. ENCUMBRANCES

An encumbrance is any right to or interest in land, subsisting in others that may diminish the value of the property, but does not prevent the property from being transferred. For instance, a mortgage is an encumbrance that provides the lender with a security interest in the property and, therefore, makes the value of the property less than it would be without the mortgage.

Easements are encumbrances that give others certain rights (usually non-exclusive) to use the property for various purposes (e.g., to install and maintain utility lines, to provide access to other property, etc.). In addition to other matters of record, the Condominium will be subject to certain easements created by the Declaration and by the Condominium Act, and to other easements, covenants and similar obligations created by the Declarant in the development of the Condominium. These easements and other matters include the ones described in this section.

1. Easement for Encroachments. By virtue of this easement, unit owners and the unit owners association are protected if a unit or common element encroaches upon another unit or common element.

2. Easement to Facilitate Sales. The Declarant may use any units in the Condominium owned or leased by the Declarant or any portion of the common elements as models, management offices, sales offices, construction offices or customer service offices, for storage or other purposes, and may place advertising signs anywhere on the Condominium. The Declarant also may reserve up to twelve parking spaces for sales, construction, management and customer service purposes. This easement continues until the Declarant has conveyed to unit owners other than the Declarant all the units in the Condominium which the Declarant has the right to create and the Declarant has concluded the warranty service program at the condominium.

3. Easement for Ingress and Egress. Each unit owner has a right of access to the common elements, subject to rules, regulations and restrictions established by the unit owners association.

4. Easement for Access. Authorized representatives of the unit owners association, including the Declarant and the managing agent, may enter any common element or unit to the extent necessary to inspect and correct conditions affecting other units or the common elements or which may have an adverse effect on common expenses, to make repairs to common elements which are accessible from the unit or to correct conditions which constitute violations of the condominium instruments or Rules and Regulations. Notice must be given to the unit owner prior to entry except in emergencies when a unit may be entered without notice. In the event of a violation of the condominium instruments or Rules and Regulations, the violation may be corrected without the consent of the unit owner, and the unit owner may be charged with the resulting expense.

5. Cross-Easement for Use of Grounds and Parking. Each unit owner and each person lawfully occupying a unit has an easement for access to and use of the grounds, parking, and recreational facilities. This easement provides that unit owners and their guests may use the facilities on the terms established by the unit owners association. If any of the land reserved by the Declarant for expansion is developed but not added to the Condominium, the occupants of such land will have the right to use the grounds and parking designated in the Declaration.

6. Easement for Support. Each unit owner has the benefit of a restriction upon any action of a neighboring unit owner, or of the unit owners association with respect to the common elements, which would endanger the stability or safety of the unit.

7. Easement to Facilitate Conversion and Expansion. Pursuant to section 55.1-1928 of the Condominium Act, the Declarant has a transferable easement over and on the common elements for the purpose of making improvements on the submitted land and on any additional land, and for the purpose of doing all things reasonably necessary and proper in connection therewith.

8. Utility Easements. The land is subject to the utility easements shown on the Condominium Plats and described in the title insurance policy. These easements include the usual easements for telephone, electric, sewer, gas and water pipes, wires and service lines. Additional utility easements may be granted by the Declarant or the unit owners association. If additional phases are not added to the Condominium, the Declarant may grant cross-easements between such phases and the Condominium providing for sharing of water, sewer, drainage and parking facilities on a cost sharing basis in proportion to the number of dwelling units on each property with special provision for the commercial space.

9. Encumbrances on Title. The land is subject to the encumbrances shown on the title insurance policy which is available for review at the sales office and at the office of the Virginia Common Interest Community Board. During the Declarant Control Period, the Declarant may, and subsequent thereto the Board of Directors may, grant such easements, licenses and servitudes as may be necessary or beneficial to the proper operation of the Condominium pursuant to section 55.1-1956B of the Condominium Act. The Condominium is presently subject to the liens of several deeds of trust securing loans for funds the Declarant borrowed to acquire and construct the Condominium. The Declarant is required by law to

release the lien of any loans on any condominium unit to be conveyed. Each condominium unit will be conveyed to a purchaser free of any liens other than those placed by the purchaser.

10. Declaration of Covenants. The Property had been used for industrial purposes dating back to the early 1900's. For this reason, the Declarant has elected to participate in the Virginia Department of Environmental Quality Voluntary Remediation Program in an effort to prevent future exposure to contaminated soils and groundwater which were found to be present on the Property. Most of the contaminated materials were removed prior to commencement of construction on the site. However, since localized minor areas of contamination may remain beneath part of the site, the Declarant has agreed to record a covenant in the land records which will prohibit against constructing and using any water wells on the Property and excavating below a certain elevation.

I. RESTRICTIONS ON TRANSFER

There are no restrictions on the transfer or resale of a condominium unit by a unit owner. Leasing of units is subject, however, to certain restrictions. No residential unit may be leased initially for less than a six-month term other than units owned by the Declarant or by certain Mortgagees. No unit may be leased for hotel or transient purposes. No portion of a residential unit (less than the entire unit) may be leased for any period. All leases must be written and must provide that failure to comply with the condominium instruments and Rules and Regulations constitutes a default under the lease. The Board of Directors may require the use of a standard lease form. No unit may be subjected to a timesharing or similar form of ownership on a periodic or revolving basis. Please also see Narrative Section O of this Public Offering Statement regarding the County's Natural Resource Areas.

Also Section 26 of the Purchase Agreement and the Primary Residence Addendum to the Purchase Agreement make it a default if the purchaser offers a unit for resale or rental prior to twelve months after settlement and provides for liquidated damages to the Declarant. See Narrative Section G7 of this Public Offering Statement. However, the foregoing restrictions do not apply to a purchaser who is transferred by such purchaser's employer to a place of employment more than fifty miles from the Condominium, provided that such purchaser provides to the Declarant written documentation from the employer evidencing the transfer.

J. UNIT OWNERS ASSOCIATION

1. The Unit Owners Association. All unit owners are members of the unit owners association and have certain rights and are subject to certain obligations pursuant to the condominium instruments. The unit owners association provides an institutional framework for the efficient management, maintenance and governance of the Condominium. The unit owners association also protects the property value of the condominium units and enhances the quality of life of the unit owners by enforcing the terms of the condominium instruments. Each unit owner has a vote in the Association proportionate to the common element interest appurtenant to the unit. Because a larger unit has a greater common element interest, the owner of a larger unit will have a greater vote in the Association. The vote for each unit is equal to the common element interest assigned to that unit by the Declaration.

The unit owners will participate directly in the important policy decisions of the Association (although the Declarant will control the Association initially). All of the normal operations of the unit owners association will eventually be accomplished under the direction of a five-member Board of Directors, at least one of whom will be the owner of a commercial unit. During the Declarant Control Period, the Board of Directors will consist of no less than three members appointed by the Declarant.

The purpose of the Declarant's retaining control of the Board of Directors in the early stages of the Condominium's existence is to ensure the stability of the Association, to administer the Condominium's affairs until the new unit owners become familiar with the project and to ensure that a representative population of unit owners is involved in the organization of the Association. The Declarant may retain control of the Board of Directors for five years following conveyance of the first unit to a unit owner other than the Declarant or until units to which 75% of the common element interest appertains are conveyed to unit owners other than the Declarant (based on the common element interests to be assigned to all units then registered with the Virginia Common Interest Community Board), whichever occurs first. The Declarant may also relinquish control at an earlier date by so notifying the unit owners association. After termination of the Declarant Control Period, directors will be elected by the unit owners.

The Board of Directors elects the officers of the unit owners association. The officers are a President, Vice President, Secretary, Treasurer and any other officers the directors may deem necessary. The President and Vice President must be directors.

The Board of Directors also appoints a three-member Covenants Committee, one of whom will be the owner of a Commercial Unit, whose function is to regulate the appearance, use and maintenance of the common elements and any proposed structural changes in the units. The Covenants Committee has the authority to prevent a unit owner from taking actions which are inconsistent with the general plan for design, appearance, use or maintenance of the common elements. Decisions of the Covenants Committee may be appealed to the Board of Directors. The Covenants Committee may also interpret the condominium instruments, Rules and Regulations and resolutions when requested to do so. The Covenants Committee may not exercise its powers to interfere with the reasonable conduct of business in the Commercial Units.

The operation of the unit owners association is governed by the Bylaws. The Bylaws are recorded in the land records along with the Declaration when the Condominium is created. In addition to provisions for a Board of Directors, managing agent and officers, the Bylaws provide for annual and special meetings, common expense assessments, insurance, restrictions on the use of units and common elements, and numerous other matters affecting the occupancy and operation of the Condominium. The Bylaws also authorize the Board of Directors to establish and modify Rules and Regulations governing the unit owners. A copy of the initial Rules and Regulations proposed by the Declarant for enactment by the Board of Directors is attached to this Public Offering Statement as Exhibit 4. A copy of the Bylaws is attached as Exhibit B to the Declaration.

The Bylaws may be amended by agreement of the unit owners of units to which two-thirds of the votes in the unit owners association appertain, except that during the Declarant

Control Period, no amendment which affects the Declarant's right to control the Board of Directors may be made without the Declarant's approval. Further, no amendment to the condominium instruments may diminish or impair the rights of the Commercial Unit Owner without the consent of a majority of the Commercial Unit Owner.

2. The Managing Agent. The Declarant will employ a managing agent to act on behalf of the Board of Directors in the performance of all duties other than policy-making duties, acquiring property, opening bank accounts without specific authority and borrowing money. The managing agent will be a professional organization having experience in the operation of condominium associations. The managing agent brings to the task of managing the unit owners association two qualifications which the Board of Directors may not possess. The managing agent has expertise in handling the complex functions of the unit owners association and can devote itself to running the association on a full-time basis. In a condominium, the contributions of professional management are vital to the success of the unit owners association.

The managing agent for the Condominium will be _____, a leading firm in the field of condominium and cooperative management. The managing agent is not affiliated with the Declarant. The management agreement will be for a term of two years and may be renewed for successive terms of one year each. The management agreement will provide for termination by the unit owners association, without payment of a termination fee, without cause upon ninety days written notice and with cause upon thirty days written notice. After the initial term, the managing agent will be selected by the Board of Directors of the Condominium. A copy of the proposed management agreement is attached to this Public Offering Statement as Exhibit 7.

3. Contracts. The Declarant, on behalf of the unit owners association, will enter into other service contracts such as trash collection and landscape maintenance contracts, but no such contracts have been entered into and no such contracts will be with companies affiliated with the Declarant; thereafter, such contracts will be entered into by the Board of Directors of the Condominium.

K. SURROUNDING AREA

The Condominium is located at/from the intersection of North Street and South Street, one block from Interstate 66, Exit 69. The immediate neighborhood is an eclectic mix of single family detached, townhome and condominium residences and service commercial businesses. Walking distance to the East Falls Church Metro Station, the entire Metro D.C. area is easily accessible. The Virginia Condominium is within five minutes of Seven Corners and Tyson's Corner and 10 minutes to Washington D.C. by car. Within a mile radius there are numerous retail stores including many restaurants. Harris Teeter, Safeway, Starbucks, Hollywood and Blockbuster Video and CVS pharmacy are all close by. The Mary Riley Styles public library is .5 miles from the Virginia. Virginia Hospital Center, a 334-bed acute care facility with a top-notch emergency room, is two miles from the Virginia. The Condominium will be served by the fine public schools in Falls Church.

With respect to the zoning of the surrounding area, a number of industrial, automotive, warehouse and other commercial uses are located across North Westmoreland Street and to the

northeast of the subject property. These properties are zoned a combination of "M-1 and C-M," both industrial districts. The block is designated "Low" Office-Apartment-Hotel on the General Land Use Plan. Single family houses are located diagonally across North Westmoreland Street along 19th Road North. These properties are zoned "R-6" for single family dwellings and are designated "Low" Residential on the General Land Use Plan. The City of Falls Church and Four Mile Run are located to the southwest of the subject property. The land within the City of Falls Church is designated as open space on the City's Future Land Use Plan. To the southeast and contiguous to the subject property is the Isaac Crossman Park at Four Mile Run which is zoned "S-3A" for public Use. This land is designated "Public" on the General Land Use Plan.

L. FINANCIAL MATTERS

1. Common Expense Assessments. Generally, as indicated above in Narrative Section J, unit owners will be assessed to obtain the funds necessary to meet the budget of the unit owners association. Annual assessments will be established prior to the beginning of each fiscal year and will be payable on a monthly basis. On the first day of each month, each unit owner must pay an installment of one-twelfth of the amount of the annual assessment, although the unit owners association will not regularly send bills or requests for such payments.

The amount of the common expenses assessed against each condominium unit will generally be based on the common element interest appertaining to the unit. Each unit owner (including the Declarant) will be responsible for payment of that percentage of the total annual budget of common expenses which is equal to the common element interest appertaining to such unit owner's unit. For example, if a unit has a 0.4% common element interest, the unit owner will be assessed an amount equal to 0.4% of the total annual budget. Since a larger unit generally has a greater common element interest, the unit owner of a larger unit will be assessed a greater portion of the budget. Assessments for limited common elements may be either on the basis of the unit's common element interest (certain utilities) or on a uniform basis (limited common element parking and storage spaces). A more detailed description of the method for determining the basis of assessments for limited common elements may be found in Subsection 5.1(c) of the Bylaws. A unit owner cannot obtain a reduction of the common expenses assessed against the unit by refraining from use of any of the common elements. The monthly installment of the annual common expense assessment against each unit and the limited common element parking and storage space charges are shown in the budget.

The budget will cover anticipated common expenses for the upcoming fiscal year. The budget will also include whatever amount the Board of Directors considers necessary as an adequate reserve to provide for unforeseen contingencies, working capital and repair or replacement of common elements.

The consultants retained by the Declarant have prepared a budget for the first year of the Condominium's operation and a budget projection for the years thereafter. A copy of the budget is attached to this Public Offering Statement as Exhibit 3. THE BUDGET FIGURES ARE, OF COURSE, ESTIMATES AND THE DECLARANT CANNOT BE CERTAIN THAT SUFFICIENT FUNDS HAVE BEEN BUDGETED TO COVER ALL COMMON EXPENSES THAT MAY BE INCURRED. BUDGET FIGURES FOR FUTURE YEARS ARE LESS RELIABLE DUE TO CHANGES IN THE GENERAL CONDITION OF THE ECONOMY

AND OTHER UNPREDICTABLE FACTORS. The figures were obtained, however, with the assistance of professional community management firm and the Declarant believes that the figures represent the best estimates obtainable; because actual expenditures may differ from estimated expenditures, due to possible changes in the future income or expenses of the Condominium, or other variable factors, such estimates are not intended or considered as guarantees of any kind whatsoever. The assumptions made and methods used in preparing the estimates are set forth in the notes to the budget.

If insufficient funds are budgeted for any given fiscal year, the Board of Directors may levy an additional assessment to make up the budget deficit. Conversely, should there be a surplus at the end of a fiscal year, the Board of Directors may, in its discretion, place the surplus in reserve accounts or refund the surplus to the unit owners by reducing future assessments. Any additional assessment will be payable by unit owners either in a lump sum or in installments, as the Board of Directors determines.

The budget includes the initial working capital obtained from purchasers at settlement. Such funds will be used to pay for certain prepaid items, to pay non-recurring start-up costs, and for such other purposes as the Board of Directors may determine, such as to establish reserve funds. (See Narrative Section G4 above.)

2. Other Assessments. Although most common expenses for services serving all units are apportioned among all unit owners, certain common expenses will be payable in their entirety by individual unit owners. If the unit owners association makes an emergency repair on behalf of an absent unit owner, for example, the charge for that repair will be paid by the unit owner. If any unit owner has a limited common element appurtenant to the unit, that unit owner may be charged, on an individual basis, with the cost of maintenance and repair of that limited common element by the levy of a charge which may be imposed by the Board of Directors. If any additions, alterations or improvements to the common elements are requested by certain unit owners and result in benefit to only those unit owners, the cost of the addition, alteration or improvement may be charged on an individual basis to the benefited unit owners.

Generally, a unit owner must pay directly all of the costs of maintenance and repair for the unit; certain exceptions are noted on the Maintenance Responsibilities Chart attached as Exhibit B to the Bylaws. The charges for utilities, except utilities separately metered to each unit, are common expenses which will be apportioned among all unit owners. The utility charges for the common elements will be common expenses; each unit owner will pay the utility charges individually metered and billed to the unit.

3. Collection of Assessments. All of the amounts assessed against a unit automatically give rise to a lien on that unit. If the assessments are not paid when due, the unit owners association may perfect the lien by recording a memorandum of lien in the land records. The unit owner cannot dispose of the unit free of the lien until the lien is satisfied by payment of the assessments secured by the lien and the costs of collection. The unit owners association may obtain payment of past due assessments by foreclosure of the lien (resulting in a forced sale of the condominium unit) or by suing the unit owner. If any assessments are past due for more than two months, the Board of Directors may accelerate the payments (i.e., declare immediately due

and payable the total amount assessed against the unit owner for that fiscal year but not yet paid). In addition, the unit owners association may impose a late fee, charge interest and provide notice of the delinquency to a lender holding a mortgage or deed of trust on the unit.

4. Declarant Assessments. The Declarant must pay assessments on unsold condominium units which have been created just like any other unit owner. However, the Declarant may, at the Declarant's sole option, decide to pay all ordinary operating costs for the project for some time. If the Declarant so elects, the Condominium will incur no common expenses and thus no condominium assessments will be collected during such time. The Declarant has posted a bond in the amount of \$100,000 with the Virginia Common Interest Community Board to secure payment of the common expenses assessed against units owned by the Declarant.

M. INSURANCE

The Board of Directors will obtain insurance to protect the unit owners association and, to a certain limited extent, the unit owners as individuals. The Condominium, including the units, will be covered by fire and property damage insurance. The coverage will be "all risk" and in an amount equal to the full replacement cost of the Condominium, subject to reasonable "deductible" limits. This coverage will not insure personal property belonging to a unit owner and may not cover any improvements or betterments to a unit made by a unit owner.

The unit owners association and the unit owners will be insured against liability arising from ownership or use of the common elements. This coverage will not insure unit owners against liability arising from an accident or injury occurring within a unit or liability arising from the willful or negligent act or omission of a unit owner. The Board of Directors will also maintain appropriate workmen's compensation insurance and fidelity coverage to protect against negligent or dishonest acts on the part of officers, directors, trustees, and employees of the unit owners' association, including the managing agent.

The Declarant strongly recommends that each unit owner obtain insurance coverage on personal property and liability exposure not covered by the unit owners association policy. The unit owner may also wish to insure any improvements to the unit to the extent that the improvements increase the value of the unit beyond the limit of coverage provided by the policy maintained by the unit owners association. The unit owner should be aware, however, that there are certain restrictions on this type of additional insurance in Section 6.5 of the Bylaws. The unit owner should consult the managing agent and an insurance broker before purchasing such additional insurance.

The insurance purchased by the unit owners association does not include owner's or mortgagee's title insurance. Each purchaser has the right to purchase such insurance at settlement from a title insurance company of purchaser's choice at purchaser's expense.

N. TAXES

Real property taxes are levied separately against individual condominium units. Each unit owner will receive an individual tax bill in the year the tax assessor assesses the

condominium unit as an individual tax parcel and each year thereafter. The unit owner then will be responsible for the payment of taxes on the unit (unless the unit owner's lender requires escrow of tax payments with the monthly mortgage payment, in which case the lender will forward the tax payment on the unit owner's behalf). The assessed value of each condominium unit is presently unknown because the tax assessor cannot assess units until construction is complete and because the units are not assessed on a unit-by-unit basis until January 1 of the year after the units have been created pursuant to the Condominium Act.

Generally the assessment of real property for real estate tax purposes is based on the taxable status of such property at the beginning of the tax year (on January 1). Because the Condominium will not have been created on January 1 of the year when settlements begin, individual tax bills probably will not be issued for each condominium unit. Rather, the Declarant will receive one or more tax bills or make payments based on an assessment of the existing tax parcels. Therefore, if settlement on a condominium unit occurs before an individual tax bill for the unit has been issued, the purchaser of such condominium unit will be required to reimburse the Declarant at settlement for an amount of real estate taxes equal to the taxes on the Condominium multiplied by the common element interest appurtenant to such unit.

The purchaser will be responsible for any supplemental tax bills which may be issued.

Real property in Virginia is required to be assessed at 100% of its fair market value. The tax rate for 2015 in the City of Falls Church is \$.878 per \$100 of assessed value. The unit owner can estimate the annual real property tax on the unit by dividing the purchase price of the unit by 100 and multiplying the result by the actual tax rate.

The personal property tax rate for 2015 (imposed primarily on automobiles) is \$4.40 per \$100 of assessed value in the City of Falls Church. The Virginia General Assembly has initiated a program to reduce and eventually eliminate the personal property tax on automobiles valued below \$20,000. The full reduction in personal property tax has yet to be fully implemented; currently, the tax has been cut in half.

O. GOVERNMENTAL APPROVALS

All zoning, site plan and other governmental regulations have been satisfied, as applicable to the Condominium. The Declarant knows of no violations of such regulations. Nonconforming uses may exist, however, due to amendments to such regulations adopted after construction of the Condominium. Such nonconforming uses are permitted by applicable law.

On June 14, 2013, the City of Falls Church ("Board") approved a rezoning of a portion of the subject property from "C-M" to "C-O-1.0" and approved a site plan known as Site Plan #375 for the development of eighteen (18) townhouse units. On January 23, 2014, the Declarant submitted an application for (i) the approval of a site plan amendment to build an additional one hundred twenty-eight (128) dwelling units as well as approximately 8,000 square feet of retail space on the subject property ("Site Plan Amendment #375") and (ii) the rezoning of the entire site from "C-O-1.0" Commercial Office Building, Hotel and Apartment Districts to "C-O-1.5" Commercial Office Building, Hotel and Apartment Districts ("Rezoning Z-2506-03-1"). The "C-O-1.5" zoning classification permits a density of up to seventy-two (72) residential units per

acre, and building height of up to ten (10) stories by site plan. The Board approved the rezoning and site plan amendment request on February 10, 2014, subject to certain conditions being met. A copy of the conditions of Site Plan Amendment #375 and Rezoning Z-2506-03-1 is attached to this Public Offering Statement as Exhibit 8, pursuant to Item #52 of same.

Pursuant to Item #48 of the approved minutes of the Board, the Condominium is or will be subject to a Transportation Management Plan ("TMP"). The TMP has been established to influence travel behavior by mode, frequency, time, route or trip length in order to achieve a maximally efficient use of transportation facilities. The TMP will be administered by the unit owners association. A contribution of \$1,500 per year for ten years will be made to the City of alls Church Commuter Services ("CFCS") to sustain direct and indirect on-site and off-site services in support of TMP activities. Payment to CFCS will begin upon completion of the first finished unit in the Condominium. Subsequent payments will be made each year on the anniversary of issuance of the first Certificate of Occupancy. A Transportation Kiosk will be placed in the Condominium to provide transportation-related information to residents and visitors. In addition, SmartTrip cards will be provided to residential unit purchasers on a one-time basis. Furthermore, transit information will be distributed to residents and visitors, including, among other things, a new resident package provided by Arlington County containing site-specific transit related information to each new resident. A copy of the proposed TMP is attached to this Public Offering Statement as Exhibit 9.

Pursuant to Item #66 of the approved minutes, you are hereby notified of the following:

The purpose of the City's Natural Resource Areas, including Isaac Crossman Park, is to preserve and protect areas of significant environmental or ecological value including, but not limited to, natural lands, meadows, watersheds, waterfronts, forests and gardens. Typical uses and activities in natural areas are passive in character, and may include interpretative centers, wildlife observation areas, hiking trails, cultural or historic sites – although many natural areas contain no amenities and receive no visitation (i.e., mowing and irrigation are not required). Maintenance service may be increased temporarily in response to an identified public health or safety issue, but the purpose and overall character of the natural area is not subject to change, and residents should not expect a manicured or landscaped area.

Please also see Article 9 of the Declaration attached hereto as Exhibit 1.

P. UNIT AND COMMON ELEMENT INSPECTION

1. Units. Not less than ten days prior to settlement on a unit, the Declarant will notify the unit purchaser that the unit is ready for inspection. The purchaser will then be given the opportunity to inspect the unit and note any items which have not been completed in accordance with Schedule A and Schedule B to the Purchase Agreement. The unit will be delivered in accordance with Schedule A and Schedule B to the Purchase Agreement. If the purchaser fails to inspect the unit (or has waived the right to an inspection), the purchaser must accept the unit without inspection. The Unit Inspection Form, on which the purchaser will note

items requiring work and indicate acceptance of the unit, is attached to this Public Offering Statement as Exhibit 5.

2. Common Elements. As the common elements are completed, the Declarant will develop a "punch list" procedure with the managing agent. Following correction of "punch list" items, maintenance duties will be transferred from the Declarant to the unit owners association for such common elements.

Q. WARRANTIES

Each unit will be covered by the statutory warranty for two years after the date of conveyance; and each common element will be covered for two years from the date the first unit is conveyed or from completion of that common element, whichever is later. The details of the warranty on the unit and common elements are set forth in the Limited Warranty Certificates attached to this Public Offering Statement as Exhibit 6. The statutory warranty requires the Declarant to warrant the unit and common elements against structural defects and warrant that the unit is fit for habitation and constructed in a workmanlike manner so as to pass without objection in the trade. The Declarant gives no warranty with respect to consumer products or appliances sold with the unit except as required by the statutory warranty. Although the Limited Warranty Certificates establish certain procedures which the Declarant may require the unit owner or the unit owners association to follow to obtain warranty service, failure to comply shall not derogate from any of the rights created by subsection 55.1-1955B of the Condominium Act. The Declarant will transfer to the unit owner at settlement any manufacturers' warranties on appliances sold with the unit. The text of all written warranties on appliances and other equipment sold by Declarant with the unit is available at the sales office for review by prospective purchasers.

R. PERMITTED CHANGES

1. Changes. In order to meet possible unforeseen or varying demands for the number and type of units, or to meet particular requirements of prospective purchasers, lending institutions or title insurance companies or for any other reason, the Declarant reserves the right, subject to the limitations of the Condominium Act and other applicable governmental regulations, to change the size, number and location of units and other improvements on the property, the size, layout, location, and common element interest of any unit for which a Purchase Agreement has not been executed by the Declarant or with respect to which the purchaser is in default, provided such changes do not change the common element interest of any unit already conveyed or under an executed Purchase Agreement as to which the purchaser is not in default. The Declarant reserves the right to modify the plans and specifications for the project during construction as long as such modifications do not substantially change the layout of a unit under an executed Purchase Agreement as to which the purchaser is not in default. Field changes and other modifications may or may not be reflected by change orders or on the plans and specifications. The Declarant also reserves the right to substitute for any of the materials, equipment and appliances described in the condominium instruments or Purchase Agreement, materials, equipment and appliances of equal or better quality.

2. Termination of Condominium. The Condominium shall continue (unless terminated by condemnation) until such time as the Property shall be withdrawn from the provisions of the Condominium Act as a result of a decision to do so by unit owners having at least eighty percent of the votes in the unit owners association. Upon such termination, the Property shall be subject to the provisions of section 55.1-1937 of the Condominium Act.

S. GENERAL INFORMATION

The exhibits which follow this presentation provide a more detailed description of the Condominium and the rights and obligations of the unit owners. Please consider the exhibits carefully and discuss your questions with your own counsel.

Any information, data or representation not referred to in this presentation and not contained in the various exhibits and documents mentioned herein, must not be relied upon. No person has been authorized by the Declarant to make any representation which is not expressly contained herein. This presentation may not be changed or modified orally.

The Declarant reserves the right to change the terms of this Public Offering Statement as they affect potential purchasers not then under contract provided that either: (i) any such change does not materially and adversely affect the substance of the Public Offering Statement with respect to prior purchasers or purchasers under contract, or their common element interest in the Condominium; or (ii) if a material change, such change is mailed or hand-delivered to each contract purchaser who will then have ten days to cancel the Purchase Agreement, whereupon the deposit will be returned by the Declarant.

THE ADELE CONDOMINIUM

BUDGET PROJECTIONS

Prepared: July 14, 2017

Community Management Corporation
4840 Westfields Boulevard, Suite 300
Chantilly, Virginia 20151

(703) 631-7200

**THE ADELE
CONDOMINIUM**

BUDGET PROJECTIONS

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THE ADELE CONDOMINIUM

BUDGET PROJECTIONS

INTRODUCTION

These multi-year budget projections have been prepared for The Adele Condominium (“Condominium”), a mixed-use condominium in Washington, D.C. The Adele Condominium Unit Owners Association (“Association”) will provide services and manage the community for the members. The Condominium consists of one 8-story building with a total of 14 residential condominium units, 4 modern office units, a shared controlled-access lobby and rooftop patios. In addition, there are 4 surface parking spaces and 10 storage spaces to be designated as limited common elements. Red A&W I, LLC is the Declarant for the Condominium.

All unit owners will be required to pay assessments to the Association. The Association will maintain all of the common elements which are described in the Declaration. The Association will not be responsible for the maintenance of the interior of the individual units which are a unit owner responsibility. Purchasers should review the Maintenance Responsibility Chart which is Exhibit B to the Bylaws as well as the budget for the Association to further identify the types of expenses and related services that the assessments cover. Purchasers should read the other associated documents included in the Public Offering Statement which provide further important information.

Community Management Corporation (CMC) is the professional management company which has prepared the projected annual and multi-year budgets for the Association based on the best available information, including site plans and other plans for the site prepared by a registered professional engineer, data and judgments generated internally and the operating experience of similar communities. The income and expenses reflected in the budget are projections only and are based in part on the best information and assumptions available at the time when the budget was prepared. Neither the Declarant nor Community Management Corporation makes assurances as to actual income and expenses that may be incurred.

THE ADELE CONDOMINIUM

BUDGET PROJECTIONS

ASSUMPTIONS

A number of assumptions have been employed in deriving revenue and expense projections in this budget. Any material change in the assumptions could affect the accuracy of the projections.

Settlement Projections - The budget reflects projected settlements based on current economic conditions and information provided by the Declarant. Settlements each year are shown along the top row of the multi-year budget. The budget assumes the project will be developed in a single phase with the initial phase to be recorded in March of 2018.

Assessment Structure - All units will pay assessments for operating expenses of the Association which will benefit all units. The budget assumes that there will be a General Common Expense Assessment for both Residential and Office units based on a percentage defined in the Common Element Interest Table (see attached table). These expenses include among other things:

- professional management and accounting services
- legal and audit services
- collection services for delinquent accounts
- required insurance coverages for the Association
- maintenance of common elements according to the governing documents
- replacement reserves for the common elements
- sprinkler system monitoring and inspections
- snow removal from sidewalks, the courtyard and the parking area

Working Capital Contribution - Each purchaser is required to pay a Working Capital Contribution which is equivalent to twice: (1) the estimated periodic installment of the annual assessment for common expenses and (2) the limited common element parking space charges and storage space charges, if any, for such purchaser's unit. These funds are intended to be used primarily for start-up and non-routine expenses. The Working Capital Budget provides illustrative expenditures of such funds based on the experience of similar condominium projects. Surplus funds from the Working Capital funds can, if not otherwise expended, provide additional reserves which may be set aside for unexpected expenditures to ensure that the association starts out on a solid financial foundation.

THE ADELE CONDOMINIUM

BUDGET PROJECTIONS

ASSUMPTIONS

Amenities – The Association will maintain the main lobby with restricted electronic access and an elevator. The rooftop patios will be assigned as limited common elements to Residential Units.

Inflation – Projected expenses are inflated at an average rate of four percent per year compounded for all expense accounts, commencing with the second projected year.

Trash Service - The budget assumes that the residential units will pay the cost to maintain the trash chute system and collection from the garbage carts and recycling bins located on the lower level. The Commercial Units will contract and manage the collection and removal of trash from their units.

Parking The project is served by surface parking spaces on public streets (subject to local parking regulations) and by four additional surface parking spaces on the common elements which will be available for assignment as limited common elements to Residential Units.

Storage In addition to storage within the units, there are ten individual storage spaces available for purchase which will be assigned as limited common elements. There is no common storage room.

Utilities – All electric utilities will be individually metered and gas will commonly metered and included in the Residential Limited Common Expense Assessment. Water and sewer for the units will be commonly metered and is included in the General Common Expense Assessment.

Maintenance – The budget assumes that the Association will be responsible of the overall maintenance of the building envelope to include roof, common doors, windows, patios and balconies. Please review the Maintenance Responsibilities Chart and the Reserve Study for a complete listing of obligations. The operating budget includes allocations for minor caulking, grouting of the walls, ceilings and the courtyard among other routine maintenance obligations of the Association. The Association will also maintain the surface parking and storage spaces, other than routine cleaning. All major repair or replacement expenditures will be funded through Replacement Reserves.

Repair & Replacement Reserves- In addition to the projection of operating expenses for a ten year period, the budget includes replacement reserve requirements based on a study prepared by a registered professional engineer using available building plans and consultation with the developer. The study recommends an annual reserve contribution of \$42,900. The Table of Repair and Replacement Reserves is included as an attachment to this narrative.

Notes to the Budget – the notes below are for the projected 2018 budget. This is Community Management Corporation's best estimate based on available information.

NOTES TO THE BUDGET
INCOME

Line	Account Title	First Year Budget Amount
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ASSESSMENT INCOME:

<u>Average General Common Expense Assessment Rate Per Month</u>	\$ 1,264.40
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General assessment fees per unit calculated to meet budgeted expenses. See assessment table for unit specific assessment rates.

<u>Accrued General Common Expense Assessment Income</u>	\$ 227,573
---	------------

Projected amount of accrued condominium assessment income attributable to all Units.

<u>Average Residential-only Limited Common Expense Assessment Rate Per Month</u>	\$ 50.86
--	----------

Residential-only limited common expense assessments per Residential Unit calculated to meet residential-only budgeted expenses.

<u>Accrued Residential-only Limited Common Expense Assessment Income</u>	\$ 7,120
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Projected amount of accrued residential-only condominium assessment income attributable to all Residential Units.

TOTAL ASSESSMENT INCOME	\$ 234,693
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OTHER INCOME:

<u>Parking Income</u>	\$ 1,000
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Projected income from the four surface parking spaces assigned as limited common elements to Residential Units at an additional annual assessment for each parking space, payable Twenty-five Dollars per month.

<u>Storage Income</u>	\$ 2,000
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Projected income from the ten storage spaces assigned as limited common elements to Residential Units at an additional annual assessment for each storage space, payable Twenty Dollars per month.

<u>Key Income</u>	\$ 50
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Income derived from the sale of additional/replacement entry keys, cards and fobs.

NOTES TO THE BUDGET
INCOME

Line	Account Title	First Year Budget Amount
	<u>Interest Income</u>	\$ -0-
	Interest income is based on the investment of budgeted replacement reserves, with a one year deferral, and a 1.0% yield.	
	<u>Late Fees</u>	\$ 75
	Assumes a \$75.00 late fee and an average delinquency rate of 2% for Residential Units.	
	<u>Miscellaneous Income</u>	\$ 50
	Any receipts that are received and would not be more appropriately categorized in a more specific income line item.	
	<u>Move-In / Move-Out Fee Income</u>	\$ 2,100
	Income derived from a non-refundable fee associated with move-in / move-out activity.	
	TOTAL OTHER INCOME	\$ 5,275
	TOTAL INCOME	<u>\$ 239,968</u>
 GENERAL COMMON EXPENSES		
ADMINISTRATIVE EXPENSES:		
	<u>Annual Meeting</u>	\$ 500
	Cost directly associated with the preparation and execution of the Annual Meeting would be paid from this line item.	
	<u>Audit Fees & Tax Preparation</u>	\$ -0-
	Estimated fee for preparation of an audit report and federal and District of Columbia tax returns; budgeted to commence in the second year.	

NOTES TO THE BUDGET
EXPENSES

Line	Account Title	Budget Amount
	<u>Insurance</u>	\$ 11,158
	Budgeted annual expense for insurance coverage to include:	
	a. General Liability Insurance	
	b. Directors & Officers Liability Insurance	
	c. Employee Dishonesty Coverage	
	d. Replacement value hazard insurance	
	e. Umbrella Insurance	
	Unit owners are required to obtain appropriate individual insurance coverage for their units and personal liability.	
	<u>Insurance Claim Losses</u>	\$ 5,000
	Allowance is for insurance events that were above the deductible, but not covered by insurance, or losses that resulted from an event that was more minor in nature and a claim was not opened.	
	<u>Legal Fees - General Counsel</u>	\$ 1,500
	This allowance is for legal costs associated with advising the Board, reviewing contracts and reviewing Board Policy.	
	<u>Legal Fees - Collections</u>	\$ -0-
	Allowance for legal services for collections of delinquent accounts. Based on an annual collection effort of 2% of settled units.	
	<u>Management Fees</u>	\$ 15,000
	Budgeted fee of \$1,500 per month for management services to include among other things assessment collection, accounting, administering contract services, governance guidance and customer service.	
	<u>Miscellaneous Administrative</u>	\$ 1,025
	Projected fees for services provided by the managing agent on a reimbursable basis, including delinquency processing, wireless fees, storage and other minor miscellaneous administrative charges.	
	<u>Printing & Copying</u>	\$ 700
	Budgeted allowance for routine copying and reproduction costs For reproduction of mass mailings, forms and flyers.	

NOTES TO THE BUDGET
EXPENSES

Line	Account Title	Budget Amount
	<u>Office Expense</u>	\$ 500
	Budgeted allowance for various office supplies used by the managing agent in the course of doing business for the Association.	
	<u>Postage</u>	\$ 325
	Allowance for postage for routine business mailings, including reimbursable postage expenses incurred by the managing agent.	_____
	TOTAL ADMINISTRATIVE EXPENSES	\$ 35,708
	REPAIR AND MAINTENANCE EXPENSES:	
	<u>Janitorial Supplies</u>	\$ 1,500
	This is an allowance for janitorial supplies used to maintain the common areas.	
	<u>Carpet Maintenance</u>	\$ 1,000
	This is an allowance for periodic carpet and floor cleaning, as well as any minor repairs that are necessary. Major repair or replacement expenditures will be funded through the Replacement Reserves.	
	<u>Backflow Preventer Inspection</u>	\$ -0-
	This is an allowance for annual inspections beginning in Year 2. Major repair or replacement will be funded through Replacement Reserves.	
	<u>Building Repairs and Maintenance</u>	\$ 2,500
	This is an allowance for minor maintenance and repairs to the common elements and building equipment serving all units. Major repair or replacement expenditures will be funded through the Replacement Reserves.	
	<u>Elevator Inspection</u>	\$ -0-
	This is an allowance for the cost of the annual inspections for the elevator. Expense is deferred until Year 2.	

NOTES TO THE BUDGET
EXPENSES

<u>Line</u>	<u>Account Title</u>	<u>Budget Amount</u>
	<u><i>Elevator Repairs</i></u>	\$ 800
	This allowance is for elevator repairs that are not covered under warranty or the elevator maintenance contract.	
	<u><i>Elevator Permits & Certificates</i></u>	\$ -0-
	This is an allowance for the cost of the permits and certificate for the elevator.	
	<u><i>Entrance System Maintenance</i></u>	\$ 400
	This allowance is for minor maintenance and repair of the building and door access control systems.	
	<u><i>HVAC Repairs & Maintenance</i></u>	\$ 1,050
	This is an allowance for expenses associated with repair and routine maintenance on a quarterly basis of the HVAC systems serving the common areas.	
	<u><i>Electrical Repairs</i></u>	\$ 750
	This is an allowance for minor electrical repairs and supplies for common area electrical equipment and facilities. Major repair or replacement expenditures will be funded through the Replacement Reserves.	
	<u><i>Lighting Supplies</i></u>	\$ 500
	This is an allowance for replacement of light bulbs in the common areas of the building.	
	<u><i>Fire Safety Equipment</i></u>	\$ 250
	Allowance for minor maintenance and repairs to the common fire prevention and safety systems.	
	<u><i>Rooftop Maintenance</i></u>	\$ 250
	This is an allowance for minor repairs and maintenance for the rooftop amenity of the building.	

NOTES TO THE BUDGET
EXPENSES

Line	Account Title	Budget Amount
	<u>Plumbing</u>	\$ 1,000
	Allowance for common area plumbing repairs and supplies. Major repairs or maintenance expenditures will be funded through the Replacement Reserves.	
	TOTAL REPAIR AND MAINTENANCE EXPENSES	\$ 10,000
	UTILITY EXPENSES	
	<u>Common Electricity</u>	\$ 12,000
	Budgeted expense for electric service for all common areas to include hallways, lobby, exterior lights and utility rooms not metered to individual units.	
	<u>Gas</u>	\$ 600
	This allowance is for gas service associated with the common areas of the building	
	<u>Water & Sewer</u>	\$ 8,100
	This is an allowance for water and sewer charges for both the common areas of the building and the individual units not individually metered.	
	<u>Internet</u>	\$ 1,500
	This is an allowance for internet service serving the common areas of the Building.	
	<u>Telephone Service</u>	\$ 3,600
	Budgeted expense for six telephone lines at \$60 per month for the fire suppression system, elevator and front desk.	
	<u>Fuel</u>	\$ -0-
	This allowance is for fuel for the diesel generator for emergency backup power for the building with expenses deferred until Year 2.	
	TOTAL UTILITY EXPENSES	\$ 25,700

NOTES TO THE BUDGET
EXPENSES

Line	Account Title	Budget Amount
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MAINTENANCE SERVICE AGREEMENT EXPENSES:

	<u>Concierge Service</u>	\$ 86,870
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This allowance is for a contract associated with staffing for the front desk of the building for 76 hours per week.

	<u>Janitorial Contract</u>	\$ 26,750
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This allowance is for a porter service providing routing cleaning and property maintenance tasks 4 hours Monday through Saturday in the initial year increasing to 6 hours per day Monday through Friday and 4 hours per day Saturday and Sunday.

	<u>Elevator Contract</u>	\$ -0-
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This allowance is for a preventive maintenance contract for the elevator in the building on a monthly basis to begin in Year 2.

	<u>Fire Extinguishers</u>	\$ -0-
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Allowance for minor maintenance and repairs to the common fire prevention and safety systems.

	<u>Generator Maintenance Contract</u>	\$ 1,050
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This allowance is for quarterly maintenance of the diesel generator for emergency backup power.

	<u>Grounds Maintenance Contract</u>	\$ 2,500
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This allowance is for routine grounds maintenance of the exterior landscaping elements of the building.

	<u>Mechanical Systems Contracts</u>	\$ 1,050
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This is an allowance for expenses associated with a preventative maintenance contract for the HVAC system and other mechanical systems serving the common area.

	<u>Pest/Termite Control Contract</u>	\$ -0-
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This is an allowance for an extermination contract for the common areas. It is anticipated that these areas will be treated on a monthly basis.

NOTES TO THE BUDGET
EXPENSES

Line	Account Title	Budget Amount
	<u>Safety Systems Monitoring</u>	\$ 750
	This is for the contract to monitor the building alarms and the fire safety systems. The building alarm monitoring allowance is based on historical expenditures at similar buildings utilizing similar building systems.	
	<u>Snow Removal Contract</u>	\$ 250
	Budgeted allowance to clear snow from common sidewalk, front and rear entrances and parking spaces.	
	<u>Sprinkler/Fire Alarm Systems</u>	\$ -0-
	This allowance is for the annual maintenance contract for the fire sprinklers beginning in Year 2.	
	<u>Window Washing</u>	\$ 2,500
	This is an allocation for window washing services.	
	TOTAL MAINTENANCE SERVICE EXPENSES:	\$121,720
	TAXES & LICENSES	
	<u>Federal & District of Columbia Taxes</u>	\$ 100
	Estimated federal and District of Columbia taxes, based on 30 percent of income other than assessments.	
	<u>Licenses, Permits & Fees</u>	\$ -0-
	This would be an allowance for any required licenses, permits and fees that must be maintained by the association.	
	TOTAL TAXES & LICENSES EXPENSES:	\$ 100
	TOTAL COMMON OPERATING EXPENSES	<u>\$193,278</u>

NOTES TO THE BUDGET
EXPENSES

Line	Account Title	Budget Amount
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REPLACEMENT RESERVE CONTRIBUTIONS:

<u>General Repair & Replacement Reserves</u>	\$ 35,750
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Budgeted contribution to replacement reserve based on a Reserve Study prepared by a Certified Replacement Reserve Specialist using available plans.

<u>Operating Reserves</u>	\$ 3,880
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Allocation to compensate for unbudgeted non-recurring operational expenses that may occur or shortfalls in revenue.

TOTAL REPLACEMENT RESERVE CONTRIBUTIONS	\$ 39,620
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TOTAL COMMON EXPENSES	<u>\$232,848</u>
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RESIDENTIAL-ONLY LIMITED COMMON EXPENSES

<u>Trash Chute Repair & Maintenance</u>	\$ 200
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This is an allowance for routine repairs and maintenance of the trash chute and trash and related systems. Major repair or replacement expenditures will be funded through the Replacement Reserves.

<u>Trash Removal Service</u>	\$ 3,500
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Budgeted expense for trash and recycling services for the Residential Units utilizing a common container and recycling bins in the trash room.

<u>Gas</u>	\$ 3,420
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This allowance is for gas service for the residential units kitchen appliances.

RESIDENTIAL-ONLY TOTAL LIMITED COMMON EXPENSES	\$ 7,120
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COMMERCIAL-ONLY LIMITED COMMON EXPENSES

Because the Commercial Units are currently Convertible Space on each commercial floor and have not been divided into multiple units, there are no Commercial-only Limited Common Expenses at this time. If multiple Commercial Units are created on a floor or if multiple floors of Commercial Units share an expense, then those shared expenses will be budgeted as Commercial-only Limited Common Expenses.

SURPLUS OR LOSS ()	\$ -0-
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**THE ADELE
CONDOMINIUM**

**MULTI-YEAR BUDGET
PROJECTIONS**

**THE ADELE
CONDOMINIUM**

**REPAIR & REPLACEMENT RESERVE
STUDY**

REPAIR AND REPLACEMENT RESERVE CALCULATIONS

PROPERTY COMPONENTS	SIZE	QUANTITY	UNITS	USEFUL LIFE (YRS.)		REPLACEMENT COST	DISTRIBUTION OF CONTRIBUTION	RECOMMENDED CONTRIBUTION
				AVERAGE	REMAINING			
BUILDING EXTERIORS								
ROOFING FLAT	7,622		SF	20	19	152,440	6,080	
WINDOWS	187		EA	35	34	158,950	3,620	
ENTRANCE DOORS/GLASS			LS	30	29	35,000	930	
BALCONY DOORS - LARGE	8		EA	35	34	51,200	1,170	
BALCONY DOORS - SMALL	29		EA	35	34	156,600	3,570	
TRELLIS - CEDAR	562		SF	25	24	12,930	410	
FAÇADE CAULK/REPAIR			LS	15	14	25,000	1,330	
FAÇADE/BALCONY REPAIR			LS	25	24	150,000	4,790	
WATERPROOFING ALLOW.			AN	1	1	2,400	960	
BUILDING INTERIOR								
REDECORATIONS - LOBBY			LS	20	19	20,000	800	
CARPET/FLOORING	412		SY	12	11	26,780	1,780	
INTERIOR PAINTING			LS	12	11	10,000	660	
MAIL BOXES			LS	30	29	1,650	40	
PAINT/REPAIR/FURNISHINGS ALLOW.			AN	1	1	1,200	480	
TOTAL BUILDING								\$26,620
MECHANICAL EQUIPMENT								
ELEVATORS	1		EA	25	24	120,000	3,830	
EMERGENCY GENERATOR	1		EA	30	29	45,000	1,200	
HVAC - RTU	12		TN	15	14	168,000	8,940	
HVAC - FAN COIL UNITS	8.5		TN	20	19	15,300	610	
FIRE CONTROL PANEL			LS	25	24	10,000	320	
ENTRANCE ACCESS SYSTEM			LS	15	14	8,000	430	
PLUMBING/ELECT./MECH. ALLOW.			AN	1	1	2,400	960	
HEATERS, FIRE CONTROLS, VALVES, PUMPS, MOTORS, SECURITY, EXHAUST FANS, ETC.								\$16,290
TOTAL MECHANICAL								\$16,290
RESERVES TOTALS						\$1,172,850		\$42,900

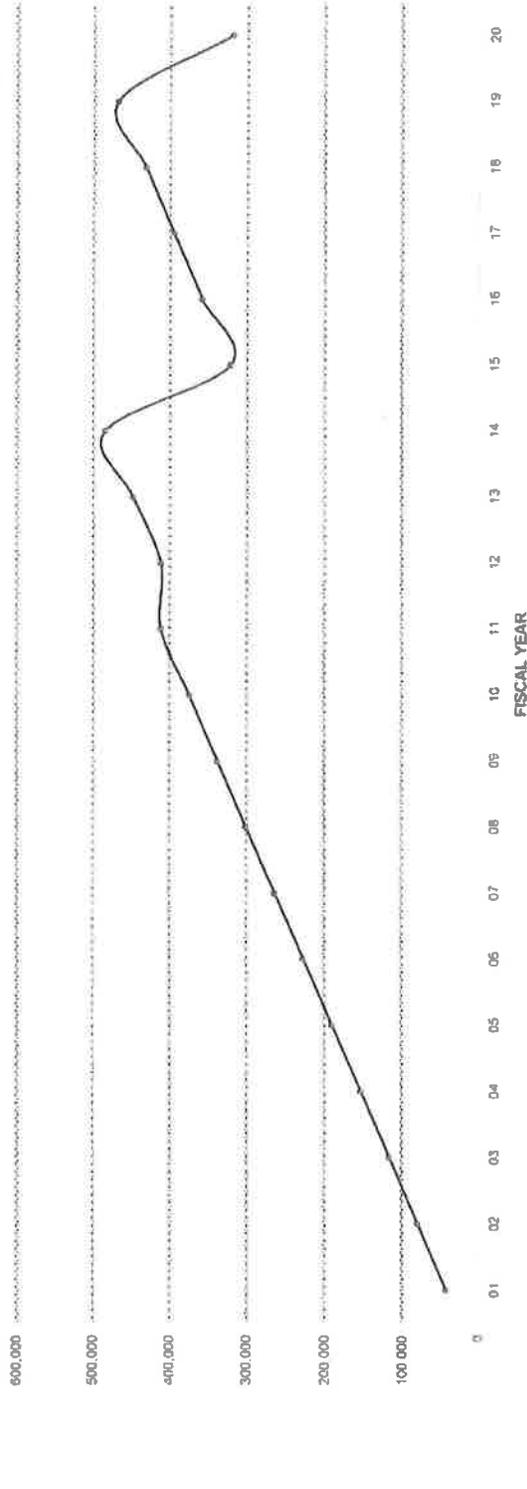
PROJECTED ANNUAL EXPENSES

YEAR	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20
BUILDING EXTERIORS																				
ROOFING FLAT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	152,440
WINDOWS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ENTRANCE DOORS/GLASS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
BALCONY DOORS - LARGE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
BALCONY DOORS - SMALL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRELLIS - CEDAR	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
FAÇADE CAULK/REPAIR	0	0	0	0	0	0	0	0	0	0	0	0	0	0	25,000	0	0	0	0	0
FAÇADE/BALCONY REPAIR	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
WATERPROOFING ALLOW	0	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400
BUILDING INTERIOR																				
REDECORATIONS - LOBBY	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	20,000
CARPET/FLOORING	0	0	0	0	0	0	0	0	0	0	26,780	0	0	0	0	0	0	0	0	0
INTERIOR PAINTING	0	0	0	0	0	0	0	0	0	0	10,000	0	0	0	0	0	0	0	0	0
MAIL BOXES	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PAINT/REPAIR/FURNISHINGS ALLOW	0	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200
MECHANICAL EQUIPMENT																				
ELEVATORS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
EMERGENCY GENERATOR	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
HVAC - RTU	0	0	0	0	0	0	0	0	0	0	0	0	0	0	168,000	0	0	0	0	0
HVAC - FAN COIL UNITS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	15,300
FIRE CONTROL PANEL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ENTRANCE ACCESS SYSTEM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PLUMBING/ELECT/MECH ALLOW	0	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400
HEATERS, FIRE CONTROLS, VALVES, PUMPS, MOTORS, SECURITY, EXHAUST FANS, ETC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	8,000	0	0	0	0	0
Totals	\$0	\$6,000	\$42,780	\$6,000	\$6,000	\$207,000	\$6,000	\$6,000	\$6,000	\$6,000	\$193,740									

7/14/17

20 YEAR CASH FLOW CHART

BEGINNING BALANCE 50 0.0% INTEREST 0.0%
 PERCENT FUNDED 0% 0.0% INFLATION 0.0%



FISCAL YEAR	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20
ANNUAL EXPENSE	0	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000
CONTRIBUTION	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900
YEAR END BALANCE	42,900	79,800	116,700	153,600	190,500	227,400	264,300	301,200	338,100	375,000	411,900	448,800	485,700	522,600	559,500	596,400	633,300	670,200	707,100	744,000

Note: the annual contribution is designed to keep a future minimum threshold of \$75,000.

FISCAL YEAR	21	22	23	24	25	26	27	28	29	30
ANNUAL EXPENSE	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000
CONTRIBUTION	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900	42,900
YEAR END BALANCE	355,400	392,300	429,200	466,100	499,000	531,900	564,800	597,700	630,600	663,500

**THE ADELE
CONDOMINIUM**

WORKING CAPITAL BUDGET

THE ADELE CONDOMINIUM WORKING CAPITAL BUDGET

Purpose:

The purpose of a Working Capital Budget is to allocate certain expenses to be charged against the Initial Working Capital Contribution, which is paid by each initial purchaser at the time of settlement. In the case of The Adele Condominium, this contribution is equivalent to twice the estimated periodic installment of the annual assessment for common expenses and limited common element parking space charges and storage space charges, if any, for such purchaser's unit.

The items charged against this budget traditionally are viewed as "start-up" items, or items necessary to beginning the business of running the association. Since each community association is somewhat unique in certain aspects, charges that are not reflected in this budget may occur which are justifiably expenses against the working capital.

WORKING CAPITAL EXPENSES

Organizational Expenses

Interim Management	\$ 2,500
This allowance is for initial set-up services performed for and associated with the establishment of contracts and services necessary for the operation of the Condominium.	
Association Handbook	2,500
This fee is for the development of an Association Handbook created to be a resource to the unit owners for the establishment of services, neighborhood contact, and as a clarification tool for select portions of the legal documents.	
Transition Program	1,250
This fee is for conducting a Board of Directors training and facilitating the transition meeting to include the attorney.	
Transition and Initial Replacement Reserve Study	15,000
This fee is for a transition and initial replacement reserve study to be conducted by an independent third-party engineering firm after transition to unit owner control.	
Non-contract Consulting	2,500
This allowance is for consulting services provided to the Association that are non-routine, non-recurring and primarily associated with the initial operation of the Condominium.	
Total Organizational Expenses	\$ 23,750

Accessories

Computer/Office Equipment	5,500
Miscellaneous Items	1,500
Total Initial Accessories	\$ 7,000

Initial Maintenance Supplies

Lock/Hardware/Tools	\$ 1,500
Miscellaneous Items	500

Total Initial Supplies **\$ 2,000**

Total Working Capital Expenses **\$ 32,750**

**THE ADELE
CONDOMINIUM**

ASSESSMENT TABLE

THE ADELE CONDOMINIUM

PROJECTED OPERATING BUDGET - 07/14/17

ASSUMES SINGLE PHASING SCHEDULE PROVIDED BY THE DECLARANT

	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
COMMERCIAL UNITS RECORDED	4	4	4	4	4	4	4	4	4	4
RESIDENTIAL UNITS RECORDED	4	4	4	4	4	4	4	4	4	4
PARKING SPACES	4	4	4	4	4	4	4	4	4	4
STORAGE SPACES	10	10	10	10	10	10	10	10	10	10

ADELE CONDOMINIUM ASSESSMENT TABLE

TIER	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
CS-1	\$1,897,699	\$1,151,444	\$2,277,033	\$2,164,591	\$2,454,249	\$2,543,088	\$2,035,700	\$2,702,253	\$2,832,900	\$2,937,811
CS-2	\$2,458,096	\$3,016,071	\$3,102,973	\$3,115,313	\$3,441,311	\$3,565,311	\$3,695,671	\$3,831,023	\$3,974,181	\$4,119,200
CS-3	\$2,685,377	\$3,047,566	\$3,222,577	\$3,349,601	\$3,476,677	\$3,602,451	\$3,731,643	\$3,870,338	\$4,012,299	\$4,161,021
CS-4	\$2,728,693	\$3,076,753	\$3,277,501	\$3,403,553	\$3,532,653	\$3,660,485	\$3,793,376	\$3,932,300	\$4,077,600	\$4,228,023
T01	\$693,111	\$687,444	\$720,551	\$754,254	\$786,611	\$810,766	\$840,110	\$870,677	\$901,541	\$935,724
T09	\$1,059,409	\$1,207,633	\$1,276,333	\$1,324,977	\$1,374,833	\$1,424,977	\$1,475,483	\$1,527,351	\$1,580,581	\$1,635,182
S01	\$1,258,444	\$1,448,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S02	\$1,318,444	\$1,488,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S03	\$1,378,444	\$1,548,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S04	\$1,438,444	\$1,608,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S05	\$1,498,444	\$1,668,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S06	\$1,558,444	\$1,728,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S07	\$1,618,444	\$1,788,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S08	\$1,678,444	\$1,848,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S09	\$1,738,444	\$1,908,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S10	\$1,798,444	\$1,968,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S11	\$1,858,444	\$2,028,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S12	\$1,918,444	\$2,088,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S13	\$1,978,444	\$2,148,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S14	\$2,038,444	\$2,208,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S15	\$2,098,444	\$2,268,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S16	\$2,158,444	\$2,328,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S17	\$2,218,444	\$2,388,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S18	\$2,278,444	\$2,448,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S19	\$2,338,444	\$2,508,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S20	\$2,398,444	\$2,568,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S21	\$2,458,444	\$2,628,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S22	\$2,518,444	\$2,688,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S23	\$2,578,444	\$2,748,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S24	\$2,638,444	\$2,808,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S25	\$2,698,444	\$2,868,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S26	\$2,758,444	\$2,928,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S27	\$2,818,444	\$2,988,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S28	\$2,878,444	\$3,048,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S29	\$2,938,444	\$3,108,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S30	\$2,998,444	\$3,168,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S31	\$3,058,444	\$3,228,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S32	\$3,118,444	\$3,288,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S33	\$3,178,444	\$3,348,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S34	\$3,238,444	\$3,408,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S35	\$3,298,444	\$3,468,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S36	\$3,358,444	\$3,528,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S37	\$3,418,444	\$3,588,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S38	\$3,478,444	\$3,648,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S39	\$3,538,444	\$3,708,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S40	\$3,598,444	\$3,768,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S41	\$3,658,444	\$3,828,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S42	\$3,718,444	\$3,888,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S43	\$3,778,444	\$3,948,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S44	\$3,838,444	\$4,008,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S45	\$3,898,444	\$4,068,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S46	\$3,958,444	\$4,128,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S47	\$4,018,444	\$4,188,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S48	\$4,078,444	\$4,248,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S49	\$4,138,444	\$4,308,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S50	\$4,198,444	\$4,368,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S51	\$4,258,444	\$4,428,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S52	\$4,318,444	\$4,488,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S53	\$4,378,444	\$4,548,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S54	\$4,438,444	\$4,608,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S55	\$4,498,444	\$4,668,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S56	\$4,558,444	\$4,728,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S57	\$4,618,444	\$4,788,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S58	\$4,678,444	\$4,848,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S59	\$4,738,444	\$4,908,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S60	\$4,798,444	\$4,968,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S61	\$4,858,444	\$5,028,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S62	\$4,918,444	\$5,088,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S63	\$4,978,444	\$5,148,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,825,118	\$1,886,200	\$1,948,022
S64	\$5,038,444	\$5,208,779	\$1,258,051	\$1,586,288	\$1,645,977	\$1,705,171	\$1,764,888	\$1,8		

Such Purchase Price being payable as follows:

Deposit	\$ _____
Mortgage Proceeds (if any)	\$ _____
Balance Due (exclusive of settlement costs and prorated amounts of prepaid items)	\$ _____

2. DEPOSIT. Declarant acknowledges receipt of the Deposit. The Deposit equals five percent of the Purchase Price, payable in cash or by personal check, and shall be held in an escrow account pursuant to section 55-79.95 of the Condominium Act. At settlement, the Deposit shall be paid to the person conducting the settlement hereunder for delivery to Declarant. Upon default hereunder or upon any termination of this Agreement, the Deposit shall be paid to the person lawfully entitled thereto pursuant to the terms of this Agreement. The Deposit shall be held and returned or applied hereunder without payment of interest to Purchaser.

3. FINANCING. Purchaser hereby elects the following method of financing, pursuant to the terms of this Agreement (Purchaser to designate applicable financing):

- No financing arrangement (all cash)
- Financing arranged through lender of Purchaser's choice
- Financing arranged through lenders designated by Declarant

(a) Cash or Purchaser's Lender. If Purchaser elects to pay the Purchase Price all in cash, or if Purchaser elects to place a mortgage or deed of trust on the Condominium Unit with a lender of Purchaser's choice, then this Agreement shall be in no way contingent upon financing and Purchaser assumes full responsibility to initiate and pursue all steps necessary to obtain the funds required for settlement. Further, Purchaser shall provide Declarant, within ten days after any request therefor, proof of Purchaser's financial ability to pay the Balance Due at settlement. If Purchaser fails to provide proof satisfactory to Declarant, Declarant at its sole option, may terminate this Agreement and cause the Deposit to be returned to Purchaser. If Purchaser thereafter fails to pay the Purchase Price due at settlement, then this Agreement, at the sole option of Declarant, may be terminated and the Deposit retained by Declarant.

(b) Designated Lender.

(1) Introduction. If Purchaser elects to obtain financing from any lender designated by Declarant, then Purchaser shall place with such lender a mortgage or deed of trust on the Condominium Unit in the amount of the Mortgage Proceeds paying interest at the prevailing market rate for such term and on the repayment schedule established by the lender's written commitment to Purchaser. Purchaser's credit will be subject to approval by the designated lender making such mortgage loan.

(2) Loan Application. Within fifteen days after notice from Declarant, Purchaser shall make diligent and truthful application to the lender and shall promptly provide to Declarant or such lender such information or other materials as may be required by such lender. Purchaser shall complete all mortgage credit applications and other similar forms provided by the lender promptly after receipt, and if such forms are not submitted to the lender properly and fully signed within fifteen days after the request for the same, then this Agreement, at the sole option of Declarant, may be terminated and the Deposit retained by Declarant. Purchaser shall comply with the terms of any pre-qualification letter or commitment from the lender. If

Purchaser has complied with the requirements of this Agreement and for any reason whatsoever is unable to obtain a pre-qualification letter and commitment satisfactory to Declarant for the mortgage loan referred to above from a designated lender, this Agreement shall automatically terminate and Declarant shall cause the Deposit to be returned to Purchaser. If the lender refuses to make the loan due to the failure of Purchaser to comply with the terms and satisfy the conditions of any pre-qualification letter or commitment, Declarant shall have the sole option to terminate this Agreement and Declarant may retain the Deposit. In no event shall Declarant have any obligation or liability to Purchaser due to the lender's refusal to make such loan for any reason whatsoever, except that Declarant shall cause the Deposit to be returned to Purchaser, if due.

(3) Other Financing. If Purchaser elects to obtain financing from a lender designated by Declarant, Purchaser may also seek financing from any other source until either a designated lender issues a commitment to Purchaser or Purchaser fails to pursue mortgage financing in compliance with paragraph (2) above. Purchaser must thereupon either accept the commitment offered by the designated lender or deliver to Declarant a copy of a commitment letter satisfactory to Declarant issued by the lender of Purchaser's choice; otherwise, Declarant shall have the sole option to terminate this Agreement and retain the Deposit.

(c) Lender's Fees. The lender, whether selected by Purchaser or designated by Declarant, customarily will charge loan fees to Purchaser. When Declarant's designated lender finances the purchase, Declarant will pay Two Thousand Dollars (\$2,000.00) towards the combined cost of the designated lender's fees charged to Purchaser and other closing costs charged to Purchaser pursuant to Section 10(a) below. When Purchaser elects to obtain financing from an institutional lender of Purchaser's choice, Declarant will not pay any loan fees or other charges and Purchaser shall pay all lender's fees. Declarant is not obligated to pay any fees charged by a lender.

(d) Credit Information. Any credit application and any information obtained in connection therewith may be released by Declarant or any designated lender to any other designated lender without the further consent of Purchaser, solely for purposes of obtaining a mortgage commitment hereunder.

4. AMENDMENT OF CONDOMINIUM INSTRUMENTS.

(a) Restrictions. Declarant reserves the right, upon notice to Purchaser, prior to settlement hereunder, to make such modifications, additions or deletions in or to any of the condominium instruments as may be approved or required by any permanent lender, secondary mortgage market agency, public authorities or the title company insuring title, provided that none of the same shall: (i) change the Common Element Interest of the Condominium Unit as fixed in the Declaration (other than as permitted by the Declaration and the Condominium Act) or increase the proportion of the common expenses to be borne by the Condominium Unit being sold hereunder; (ii) increase the Purchase Price hereunder; (iii) require a material physical modification of the layout or location of the Condominium Unit; or (iv) decrease the financial obligations of Declarant hereunder. Notwithstanding the foregoing, the Declarant may amend the condominium instruments to correct or supplement any erroneous or incomplete information based upon an objectively verifiable fact in accordance with subsection 55-79.71F of the Condominium Act.

(b) Development Rights. Notwithstanding anything contained herein to the contrary, Declarant reserves the right, and Purchaser agrees to the exercise thereof, to amend the condominium instruments to facilitate completion of the Condominium at any time permitted by law.

5. PUBLIC OFFERING STATEMENT; DECLARANT'S RIGHTS.

(a) Public Offering Statement. Purchaser hereby acknowledges receipt of a copy of the Public Offering Statement for the Condominium, including the condominium instruments and all other attached

exhibits and schedules. Purchaser hereby ratifies and agrees to be bound by the provisions of the foregoing documents, as each such document may be duly amended from time to time.

(b) Declarant's Rights. Declarant shall retain or acquire title to each condominium unit not sold to any other Person. Declarant retains the right to enter into leases with any third parties for the occupancy of any condominium unit so retained or acquired by Declarant and not sold to any other Person.

6. DELIVERY. At settlement, Declarant shall deliver the unit and the appurtenances thereto substantially in accordance with the Plats and Plans, as the same may be modified and amended from time to time, with all fixtures, appliances and equipment to be provided by Declarant installed as set forth on the Schedule of Finishes attached as Schedule A and the Schedule of Purchaser's Options attached as Schedule B. Purchaser acknowledges that measurements shown on the Plats and Plans are approximate and actual dimensions may not be exactly as shown. Declarant shall not be required to install or provide any fixtures or appliances not actually installed in the unit at the time of inspection pursuant to Section 7 or otherwise agreed in writing to be installed by Declarant. Declarant shall have the right to make minor changes in the dimensions of any portion of the Condominium and to substitute substantially equivalent materials for any of the same set forth in any sales or other documents and to make such modifications or substitutions as may be required by any governmental authorities asserting jurisdiction over the Condominium, or any construction or permanent lender or as may be reasonably necessary. Purchaser acknowledges that because units in a multifamily building share common walls, floors, ceilings, plumbing and ducts, noise will be audible from other units and from common areas. Any dispute involving delivery of the unit in accordance with Schedule A and Schedule B and the Plans shall be submitted to the architect for the project whose decision shall be binding.

7. INSPECTION. Declarant shall notify Purchaser not less than ten days prior to settlement of the date and time that Purchaser may inspect the unit. At such inspection, the Unit Inspection Form set forth as an exhibit to the Public Offering Statement shall be completed and signed by Purchaser and by a representative of Declarant. Purchaser shall attend such inspection and participate in completing the Unit Inspection Form prior to settlement. Failure of Purchaser to make the inspection at the date and time specified by Declarant shall constitute full acceptance of the Condominium Unit by Purchaser.

8. SETTLEMENT.

(a) Time, Place and Obligations. Declarant shall give notice to Purchaser specifying a date, which date shall not be less than ten nor more than thirty days following the giving of such notice, on which settlement shall take place. Declarant shall complete the Unit, and settlement shall occur, within twenty-four months after the date Purchaser signs this Agreement. Settlement may, at Declarant's option, be conducted individually or in groups, and shall take place on the date and at the time and place specified in the notice or such other date, time and place as the parties may agree upon in writing. Declarant shall deliver to Purchaser a good and sufficient special warranty deed at settlement conveying the Condominium Unit to Purchaser. Purchaser shall pay the Balance Due at settlement (in addition to causing the lender, if any, to pay the Mortgage Proceeds) to the order of Declarant or as Declarant may direct. Declarant thereupon will deliver possession of the Condominium Unit to Purchaser.

(b) CRESPA Disclosure. Virginia law (section 6.1-2.22) requires the following disclosure:

Choice of Settlement Agent: You have the right to select a settlement agent to handle the closing of the transaction. The settlement agent's role in closing your transaction involves the coordination of numerous administrative and clerical functions relating to the collection of documents and the collection and disbursement of funds required to carry out the terms of the contract between the parties. If part of the purchase price is financed, your lender will instruct the settlement agent as to the signing and

recording of loan documents and the disbursement of loan proceeds. No settlement agent can provide legal advice to any party to the transaction except a settlement agent who is engaged in the private practice of law in Virginia and who has been retained or engaged by a party to the transaction for the purpose of providing legal services to that party.

Escrow, closing and settlement service guidelines: The Virginia State Bar issues guidelines to help settlement agents avoid and prevent the unauthorized practice of law in connection with furnishing escrow, settlement or closing services. As a party to a real estate transaction, you are entitled to receive a copy of these guidelines from your settlement agent, upon request, in accordance with the provisions of the Consumer Real Estate Settlement Protection Act.

9. TITLE.

(a) Quality. Title to the Condominium Unit shall be subject to the terms and conditions of the condominium instruments. The Condominium Unit shall be conveyed free from encumbrances except as provided for herein. Title shall be good and marketable and insurable at regular rates, subject, however, to covenants, easements and restrictions of record or to be recorded prior to settlement (including without limitation all such covenants, easements and restrictions set forth in the condominium instruments, and to liens or other matters over which the title company agrees to insure.

(b) Defects. If Declarant is unable because of any defect in title to convey title as provided herein at settlement, Declarant is expressly released from all liability for damages, and Declarant, at Declarant's sole option, may either: (i) correct the defect if the same can be done within a reasonable time or (ii) terminate this Agreement and cause the Deposit to be returned to Purchaser. If Declarant determines that legal action is necessary to remedy defects in title, such action shall be taken promptly by Declarant at its own expense, whereupon the time specified herein for full settlement by Purchaser will thereby be extended for the period necessary for such prompt action.

10. EXPENSES OF CLOSING.

(a) Settlement Costs. If settlement is made by Smith Title, Inc., or such other attorneys or agents as Declarant may designate, then Declarant shall pay the cost of examination of title, state grantor's tax, attorney or title company fees for preparation of standard residential closing documents (excluding documents prepared by the lender), notary fees and attorney settlement charges (other than charges by Purchaser's attorney). If, however, Purchaser elects to make settlement through any other attorney or agent, Declarant shall pay only the state grantor's tax. Purchaser shall pay all other expenses, including without limitation owner's and mortgagee's title insurance premiums, all recording costs, and mortgage insurance premiums then due.

(b) Prepayments and Escrows. Notwithstanding anything contained herein to the contrary, Purchaser shall reimburse Declarant at settlement for prepaid real estate taxes, assessments and utility charges, if any, on the Condominium Unit, all of which shall be prorated as of the date of settlement. If required by the lender, Purchaser shall prepay at settlement any mortgage insurance premiums, interest for up to one month and a reasonable percentage of the estimated annual real estate taxes. If a separate real estate tax bill has not been issued for the Condominium Unit prior to settlement, Purchaser shall comply with such arrangements as may be established by Declarant to assure payment of such taxes.

(c) Association Assessments. Purchaser will also deposit with Declarant at settlement for transmittal to the Unit Owners Association of the Condominium: (i) a portion of the monthly installment of the common expense assessment and limited common element parking space charges, if applicable, against the Condominium Unit, prorated to the date of settlement; and (ii) an initial working capital contribution in an

amount equal to twice the monthly installment of: (1) the common expense assessment, and (2) limited common element parking space charges, if applicable, against the Condominium Unit in the fiscal year of the Unit Owners Association in which settlement occurs, such amount being in addition to and not in lieu of regular monthly installments of such assessments and charges as the same thereafter become due and payable. Such payments are non-refundable.

11. RISK OF LOSS. Purchaser does not acquire any equitable ownership of or title to the Condominium Unit under this Agreement. The risk of loss or damage by fire or other casualty is assumed by Declarant until the deed of conveyance is delivered to Purchaser at settlement.

12. FURNISHINGS AND MODELS. Furniture, wallcoverings, furnishings or the like as shown in or about any model unit are for display purposes only and are not considered a part of such unit for the purposes of this Agreement. Further, the location of wall switches, thermostats, chases, plumbing, electrical outlets and similar items may vary from unit to unit and may not be as shown in any model unit. Any floor plans, sketches or sales drawings shown to Purchaser other than those which are a part of the Plans or the Public Offering Statement are for display purposes only and may not be exactly duplicated. The Condominium Unit is being sold unfurnished and will contain only the appliances and equipment installed at the time of inspection of the Condominium Unit by Purchaser. Declarant will finish and equip the Unit only in accordance with Schedule A and Schedule B. Any scale model of the project is only an artist's conception and is subject to change.

13. CUSTOM FINISHING; ACCESS. Items in the nature of "custom finishing," decorating or the like and/or any deviations from the Plans shall be the sole responsibility of Purchaser and shall be performed only after settlement and possession by Purchaser. Purchaser shall not bring any furniture or other property onto the Condominium nor, except for the inspection pursuant to Section 7, shall Purchaser have access to the Condominium Unit or the building containing the Condominium Unit prior to settlement and delivery of possession to Purchaser.

14. DEFAULT BY PURCHASER. If Purchaser shall fail to pay the Balance Due at settlement, or shall fail to perform any of Purchaser's other obligations hereunder, Declarant may terminate this Agreement by giving notice to Purchaser and may retain the Deposit as liquidated damages. The parties hereto shall thereupon be released from any further liability or obligation hereunder. Thereafter, Declarant shall be free to sell the Condominium Unit to any third party, and Declarant shall be under no obligation to account to Purchaser for any part of the proceeds of such sale.

15. ASSIGNMENT. This Agreement is personal to Purchaser and Purchaser may not assign this Agreement. Any purported assignment of this Agreement in violation hereof shall be voidable at the option of Declarant. Declarant's refusal to consent to an assignment hereof shall not entitle Purchaser to terminate this Agreement or give rise to any claim for damages against Declarant. Declarant may assign its rights hereunder and, if such assignment shall be for the purpose of securing a lender to Declarant, Purchaser's rights hereunder shall, at the option of such lender, be subject and subordinate to the rights of such lender. Within ninety days after foreclosure or acceptance of a deed in lieu thereof, such lender may terminate this Agreement, whereupon the Deposit shall be returned to Purchaser, and Declarant, such lender and Purchaser shall be released from any further liability or obligation hereunder. If such lender does not terminate this Agreement, Purchaser shall complete the purchase of the Condominium Unit in accordance herewith.

16. NOTICES. Any notice to be given hereunder by one party shall be sent to the other party at the address given above or at such other address as either party may hereafter specify to the other in writing. Any notice shall be in writing, shall be prepaid and shall be delivered by personal delivery, by United States mail or by a nationally recognized overnight delivery service. Except for notice given pursuant to Section 24, if delivered by mail, notices shall be sent by prepaid first class mail. If sent by mail, the postmark date shall be

deemed to be the date of the giving of notice, except that the date of actual receipt shall be deemed to be the date of the giving of any notice of change of address.

17. WARRANTIES. Declarant shall warrant the Condominium Unit against structural defects (as defined in subsection 55-79.79(b) of the Condominium Act) for two years after the date of conveyance of the Condominium Unit, and each of the common elements for two years after the date of conveyance of the first unit in that portion of the Condominium to be conveyed or completion of that common element (whichever is later). For the same period, Declarant shall warrant that the unit is fit for habitation and was constructed in a workmanlike manner so as to pass without objection in the trade. All such warranties are more fully set forth on the Limited Warranty Certificates attached as exhibits to the Public Offering Statement. Declarant will deliver a signed copy of the Limited Warranty Certificate for the Condominium Unit to Purchaser at settlement. Prior to the expiration of the warranty period, Declarant will assign to the Board of Directors of the Condominium, on behalf of the unit owners of all units, all guaranties from subcontractors or suppliers of materials running in favor of Declarant, to the extent that such guaranties are assignable. Declarant will deliver to Purchaser at settlement any manufacturers' warranties covering any equipment in the Condominium Unit except insofar as the same may be common elements.

18. BROKERAGE. This Agreement was procured through the services of Declarant's sales representatives, The Condominium Company, without the intervention of any other broker except the cooperating broker, if any, identified on the signature page when Purchaser signs this Agreement. Purchaser shall indemnify Declarant against the claim of any other broker, including any attorneys' fees incurred as a result of such claim. Any commissions are earned only upon settlement on the Condominium Unit and Declarant hereby authorizes and directs the settlement attorney or agent to pay the commissions due from Declarant's proceeds at settlement.

19. DELAY.

(a) Purchaser's Option. If settlement shall not have occurred within the period allowed in Section 8 due to reasons within Declarant's control, Purchaser shall have the option of either: (i) terminating this Agreement by written notice to Declarant, delivered at any time prior to Declarant's establishment of a settlement date, in which event Declarant shall, if Purchaser shall not then be in default, cause the Deposit (and all other money paid to Declarant by Purchaser hereunder, if any) to be returned to Purchaser, and neither party shall have any further liability or obligation hereunder; or (ii) electing to proceed with the purchase of the Condominium Unit when the same is available.

(b) Force Majeure. If Declarant is delayed in performing any obligation hereunder for reasons beyond the control of Declarant, then the time for performance shall be extended for the period of such delay not to exceed an additional twelve months. Reasons beyond the control of Declarant shall include, without limitation, impossibility of performance, acts of God, fire, earthquake, flood, explosion, condemnation or acts of governmental agencies asserting jurisdiction over the Condominium, and any other legally supportable justification under the laws of the Commonwealth of Virginia which would excuse Declarant from performance within the period allowed in this Agreement.

20. TERMINATION OF AGREEMENT. If Declarant has not satisfied the pre-sale requirements specified by any construction or permanent lender designated by Declarant, the Federal Home Loan Mortgage Corporation, Fannie Mae (formerly the Federal National Mortgage Association), the Federal Housing Administration, the Department of Veterans Affairs, or any of them, then Declarant may by notice to Purchaser terminate this Agreement, whereupon Declarant shall cause the Deposit to be returned to Purchaser, and thereafter neither of the parties hereto shall have any further liability to the other hereunder.

21. INTEGRATION AND SCOPE OF AUTHORITY. This Agreement supersedes any and all prior understandings and agreements between the parties and constitutes the entire agreement between them. No representations, warranties, conditions or statements, oral or written, not contained herein shall be considered a part hereof. This Agreement may not be changed except by an instrument in writing signed by the party sought to be charged therewith or by the duly authorized agent of such party. Any and all additions, deletions, omissions and/or deviations from the printed form of this Agreement or any attachments hereto, other than the appropriate completion of the "blanks" which appear herein, are agreed to be in excess of the authority of Declarant's sales representatives and shall be of no force or effect. Only a manager of Declarant has the authority to sign this Agreement or any modification on behalf of Declarant.

22. MISCELLANEOUS. Subject to the provisions hereof, when this Agreement becomes effective, it shall bind and inure to the benefit of the parties hereto and their heirs, personal representatives, successors and assigns. The invalidity of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. Notwithstanding anything to the contrary herein, acceptance of the deed at settlement shall constitute Purchaser's acknowledgment of full compliance by Declarant with the terms of this Agreement. The terms hereof shall be merged into and extinguished by delivery of the deed at settlement except for Sections 4(b), 5, 17, 18, 21, 22, 23 and 26 which shall survive delivery of the deed and shall not be merged therein. Time is of the essence in this Agreement.

23. STATUS OF PURCHASER. If this Agreement is signed by an individual who is then unmarried and at the time of settlement is married, Purchaser shall indemnify Declarant from any loss that may arise by reason of the failure of Purchaser's spouse to sign any applications, mortgages, notes or other documents required by the lender. If Purchaser is married and Purchaser's spouse is not also a purchaser under this Agreement, then Purchaser shall be responsible for such spouse signing the mortgage loan documents required by the lender and the failure of such spouse to do so shall not release Purchaser from any obligation under this Agreement, and Purchaser shall hold Declarant harmless from any loss as a result of the refusal of such spouse to sign any such document. If Purchaser is not a natural person, Purchaser shall indemnify Declarant from any loss that may arise by reason of the failure of any of Purchaser's principal officers, owners, beneficiaries or their spouses to sign any applications, mortgages, notes or other documents required by the lender. If Purchaser files for or is adjudicated a bankrupt, makes an assignment or arrangement for the benefit of creditors, files for divorce or legal separation, dies or notifies Declarant of a desire to be released from this Agreement, Declarant may, at Declarant's sole option, terminate this Agreement and cause the Deposit to be returned to Purchaser, whereupon neither party shall have any further obligation to the other hereunder.

24. RIGHT TO RESCIND. For a period of ten days following the execution of this Purchase Agreement and receipt of a current Public Offering Statement, Purchaser shall have the unqualified right to rescind this Purchase Agreement by giving notice thereof hand-delivered or sent by United States mail, return receipt requested, to Declarant. If Purchaser elects to rescind this Purchase Agreement as aforesaid, then Purchaser shall be entitled to the return of the Deposit made on account hereof, whereupon the parties shall have no further rights and liabilities hereunder.

25. MECHANICS' LIEN NOTICE. Virginia law (section 43-1 et seq.) permits persons who have performed labor or furnished materials for the construction, removal, repair or improvement of any building or structure to file a lien against the property. This lien may be filed at any time after the work is commenced or the material is furnished, but no later than the earlier of (i) ninety days from the last day of the month in which the lienor last performed work or furnished materials or (ii) ninety days from the time the construction, removal, repair or improvement is terminated. AN EFFECTIVE LIEN FOR WORK PERFORMED PRIOR TO THE DATE OF SETTLEMENT MAY BE FILED AFTER SETTLEMENT. LEGAL COUNSEL SHOULD BE CONSULTED.

26. RESTRICTION ON INVESTORS. PURCHASER HEREBY REPRESENTS AND DECLARES THAT PURCHASER INTENDS TO OCCUPY THE UNIT AS A PRIMARY YEAR-ROUND RESIDENCE OR SECOND HOME AND NOT FOR INVESTMENT; ANY MISREPRESENTATION REGARDING PURCHASER'S INTENTION TO RESIDE IN THE UNIT SHALL BE A DEFAULT HEREUNDER PURSUANT TO SECTION 14. (This statement does not prevent unit owners from residing at one or more second homes for part of the year.). IF PURCHASER VACATES THE UNIT AND OFFERS THE UNIT FOR RENT PRIOR TO 12 MONTHS AFTER SETTLEMENT, PURCHASER SHALL BE IN DEFAULT, WHEREUPON PURCHASER SHALL PAY DECLARANT LIQUIDATED DAMAGES IN THE AMOUNT OF ONE-HALF THE TOTAL PAYMENTS RECEIVED FROM THE TENANT FOR THE FIRST 12 MONTHS OF THE RENTAL PERIOD. FURTHER, IF PURCHASER OFFERS THE UNIT FOR RESALE PRIOR TO 12 MONTHS AFTER SETTLEMENT, PURCHASER SHALL BE IN DEFAULT, WHEREUPON PURCHASER SHALL PAY DECLARANT LIQUIDATED DAMAGES IN THE AMOUNT OF ONE-HALF OF THE DIFFERENCE BETWEEN THE SALES PRICE ON RESALE AND THE PURCHASE PRICE HEREUNDER. NOTWITHSTANDING THE ABOVE, THE FOREGOING RESTRICTIONS SHALL NOT APPLY TO A PURCHASER WHO IS TRANSFERRED BY SUCH PURCHASER'S EMPLOYER TO A PLACE OF EMPLOYMENT MORE THAN FIFTY (50) MILES FROM THE CONDOMINIUM, PROVIDED THAT SUCH PURCHASER PROVIDES TO THE DECLARANT WRITTEN DOCUMENTATION FROM THE EMPLOYER EVIDENCING THE TRANSFER.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date first written above.

PURCHASER:

DECLARANT:

The Virginia Developer, LLC
a Virginia limited liability company

_____ [SEAL]

By: _____ [SEAL]
_____, its _____

_____ [SEAL]

By: _____
_____, President

The undersigned acknowledges receipt of the Deposit as set forth above on _____, 20_____.

THE CONDOMINIUM COMPANY
Agent for Declarant

Sales Representative

CO-BROKER (if any) acting as agent for Purchaser:

Company/Broker

Agent's Name

Street Address

City

State

Zip Code

Telephone Number

Commission Due Upon Settlement

Real Estate License Number of Cooperating Agent

WELBILT CONDOMINIUM
SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made as of December __, 2010, by and between the WELBILT CONDOMINIUM UNIT OWNERS ASSOCIATION ("Association") and QUALITY FIRST LLC, a Virginia limited liability company ("Declarant"). The Association and the Declarant are sometimes collectively referred to herein as the "parties."

RECITALS:

R-1. The parties wish to address alleged defects (the "Claims") at Welbilt Condominium ("Condominium") and to memorialize the resolution of the Claims, thereby avoiding the burdens, risks and expenses incident to any continued discussions, proceedings or litigation.

R-2. The parties also wish to resolve any and all monetary claims the Association may have for reimbursement of expenditures or otherwise regarding the Condominium.

R-3. The parties also wish to resolve any and all claims the Association may have for consultants' and attorneys' fees incurred in prosecuting claims against the Declarant.

R-4. The parties have accepted Mark Banker as the Escrow Agent under this Settlement Agreement (the "Escrow Agent").

AGREEMENT:

In consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and adequacy of which each of the parties does hereby acknowledge, the parties, intending to be legally bound, agree as follows.

PART I - RELEASE

The Board of Directors, on behalf of the Association, and the Declarant shall sign duplicate originals of the General Release (the "Release") attached as Exhibit B, and deliver such Release to the Escrow Agent upon signing this Settlement Agreement. The parties hereby authorize the Escrow Agent to deliver one original of the signed Release to the Declarant and one original to the Association pursuant to Part IV. The Release shall not be effective until delivered by the Escrow Agent.

PART II - CASH PAYMENT

The Declarant shall pay \$25,000.00 in full settlement of all monetary claims for items paid for by the Association and claimed to be the Declarant's responsibility to the Escrow Agent upon full execution of this Settlement Agreement. The Escrow Agent shall retain such funds in an interest-bearing escrow account for the Association (such funds being an asset of the Association and not being an asset of the Declarant). The Declarant authorizes the Escrow Agent to disburse the escrowed funds together with interest earned to the Association in full satisfaction of the claims regarding the budget in accordance with the procedures stated in Part IV.

PART III - WORK

3.1 Completion Date. When all the parties have signed this Settlement Agreement, Declarant shall cause the Scope of Work attached as Exhibit A ("Work") to be performed diligently until completed and to be complete by June 30, 2011, subject only to written extensions agreed upon pursuant to Paragraph 3.2 and delays caused by bad weather (the "Completion Date"). Time is of the essence.

3.2 Procedure. The Declarant shall cause each item of Work to be performed after notice to the Association's property manager so that the Association's designee, John Smith ("Association Representative"), can be present on behalf of the Association to observe the Work. Upon completion of the Work, the Declarant or the Declarant's designee, Jack Ofalltrades ("Declarant's Representative") shall provide written notice to the Association's Representative that the Work has been completed and the Association's Representative shall promptly advise the Declarant's Representative in writing either (a) that such Work has been completed in accordance with the Scope of Work, or (b) a punchlist of any item of repair requiring correction or completion to conform to the Scope of Work. Any item of Work requiring correction shall be completed within twenty days after receipt of the punchlist. Within seven days after notice from the Declarant that the remedial work specified in each punchlist is complete, the Association shall reinspect such work and deliver to the Declarant's Representative a written statement of completion for such item of Work if the remedial work has been completed in accordance with the Scope of Work. If the remedial work is unsatisfactory, the Association shall deliver within seven days to the Declarant's Representative a revised punchlist identifying any such item of Work that has not been completed in accordance with the Scope of Work. The required remedial repairs shall be made within ten additional days subject to the Association's final review. Any punchlist to be provided by the Association shall specify the deficiencies in detail. Any of the time periods set forth in this Part III may be extended for a reasonable time by written agreement of the parties. Upon request by either party's representative, the parties' representatives shall meet within seven days to discuss any dispute regarding completion in accordance with the Scope of Work and shall use their best efforts to resolve any such dispute in good faith. If the parties fail to agree, then the issue in dispute shall be referred to the Deciding Engineer (or if the Deciding Engineer is not available, such other engineer as is acceptable to the Association and the Declarant) in writing if requested by either party and the decision of such engineer shall be final. The Deciding Engineer's fees for dispute resolution shall be paid by the non-prevailing party.

The Work shall proceed in each location specified. When all Work is completed in accordance with the Scope of Work and has been approved by the Association, a final written statement by the Association that all Work has been completed in accordance with the Scope of Work shall be delivered to the Declarant's Representative within seven days thereafter. If such notice is not provided within seven days, then the Work shall be deemed accepted. The Association's approval and written statements of completion of any or all items of Work shall be based upon the Scope of Work and shall not be unreasonably withheld, conditioned or delayed. All Work shall be done in a good and workmanlike manner in conformance with all applicable building codes. When the Work is completed and approved, the location where the Declarant performed Work or stored materials shall be left neat and clean. If the Declarant has not completed the Work by the Completion Date and thereafter fails to complete the Work within thirty days after written notice, the Association may complete the remaining Work and the Declarant shall pay the reasonable costs of completion of the Work.

3.3 Safety. The Declarant shall take all precautions necessary and shall be responsible for the safety of the work performed pursuant to this Agreement. The Declarant shall maintain all

protection necessary for the purpose of safety on the job site related to the Work. The Declarant will provide appropriate barriers and signs to protect the Work and safety of the members of the Association and the public during the entire duration of this Agreement while its representatives are performing the Work and until completion.

3.4 Protection of Property. The Declarant shall exercise reasonable care to protect all components of the building and common elements from damage during all aspects of the work performed pursuant to this Agreement. If the Declarant causes damage during the course of services performed under the terms of this Agreement to property of the Association, its agents, owners, residents, tenants, guests, invitees, licensees, or of its members, the Declarant, at its own expense, shall promptly remedy such damages and repair such damaged property to a condition substantially similar to that which existed before the damage. If the Declarant fails to do so in a timely manner, the Association may proceed to repair the damage and hold the Declarant responsible for the reasonable costs of such repair or restoration.

3.5 Hours of Work. Any and all activities performed by the Declarant or its agents pursuant to this Agreement shall be performed between the hours of 7:30 a.m. and dark, Monday through Friday only, excluding Holidays, and such other times and days as the Association may approve. Any activity performed by the Declarant or its agents pursuant to this Agreement which is outside the scope of the times set forth above, shall not commence without the express written permission of an officer of the Association.

3.6 Cooperation by Association. The Association shall cooperate fully to facilitate the inspection, testing and performance of the Work and shall make its consultants and representatives reasonably available when needed to observe the Work. The Association shall coordinate and be responsible for providing access to the areas necessary to the performance of the Work when required by the Declarant upon reasonable advance notice.

PART IV – RELEASE OF ESCROW

Upon receipt by the Declarant of the notice of completion of all Work to the reasonable satisfaction of the Association, or failure to give timely notice of a punchlist, the Declarant shall notify Counsel for the Association and the Escrow Agent. Upon receipt of the Association's written statement of completion or the expiration of the time period during which such notice is to be provided, the Escrow Agent is hereby authorized and directed to deliver the Release to the Declarant and the escrowed cash payment to the Association.

PART V - REPRESENTATIONS AND WARRANTIES

5.1 This Settlement Agreement contains the entire understanding between the Association and the Declarant with respect to the subject matter hereof and there are no other agreements or understandings among the parties with respect to its subject matter, nor have there been any representations, express or implied, as to the subject matter herein. This Settlement Agreement may be amended or modified only by a written instrument duly signed by each of the parties hereto prior to the effective date of any such amendment or modification.

5.2 Each of the parties warrants, represents and agrees that in signing this Settlement Agreement, each of them does so with full knowledge of any and all rights which each of them may have with respect to the Claims, and that each of them has received independent legal advice from their

respective attorneys with regard to the facts relating to the Claims, and with respect to the rights and asserted rights arising out of the facts.

5.3 Each party further states that each party is not relying and has not relied on any representation or statement made by any other party with respect to the facts involved in the Claims, or with regard to such party's rights or asserted rights. Each of the parties hereby assumes the risk of any mistake of fact with regard to the Claims, or with regard to any facts which are now unknown to any of the parties relating thereto, and each of the parties acknowledges and waives any provisions of law or statute which limit in any way the giving of a general release.

5.4 Each party further represents and warrants that no party has previously assigned or transferred or purported to assign or transfer to any person not a party to this Agreement any claim which has been or could have been asserted in the discussion of the Claims.

PART VI - GENERAL PROVISIONS

6.1 This Settlement Agreement and any discussions in connection therewith shall not in any event be construed as, or be deemed to be, evidence of an admission or concession by the Declarant of liability to the Association, and this Settlement Agreement shall not be admissible in any tribunal or judicial forum to be used as an admission or concession by the Declarant of liability to the Association (except in an action to enforce the Settlement Agreement).

6.2 Any dispute relating to or arising from this Settlement Agreement shall be heard and adjudicated solely in the Fairfax County Circuit Court, unless such court lacks subject matter jurisdiction. The parties hereto consent to jurisdiction in such courts, and service of process may be effectuated by first class mail on any officer, general partner or legal counsel for the parties hereto. The costs of the action, including without limitation reasonable attorney's fees as determined by the Court, shall be paid to the prevailing party.

6.3 This Settlement Agreement shall be governed by, and construed in accordance with, the laws of Virginia, and shall be binding upon, inure to the benefit of and be enforceable by, the parties hereto and their respective successors and assigns.

6.4 This Settlement Agreement may be signed in counterparts, each of which shall be deemed to be an original.

6.5 If the Escrow Agent becomes unavailable, the parties shall promptly designate an acceptable replacement. Each party shall pay the fees of such party's representatives and counsel (except as otherwise provided in this Settlement Agreement).

6.6 Any notice required to be provided pursuant to this Agreement shall be in writing and sent by facsimile and first class U.S. mail, postage prepaid, to:

If for the Association:

with a facsimile copy to :

Board of Directors
Welbilt Condominium
Unit Owners Association
1 Washington Street
Alexandria, Virginia 22314

Association Advocate, Esquire
Association Advocate & Associates, P.C.
123 Forever Lane, Suite 10000
Fax No.: 703-123-4567

If for the Declarant:

with a facsimile copy to:

Quality First LLC
Attn: Doug Developer
500 Quality Lane
Fairfax, Virginia 22030
Fax No.: 703-111-1001

Robert M. Diamond, Esquire
Reed Smith, LLP
3110 Fairview Park Drive, Suite 1400
Falls Church, Virginia 22042-4536
Fax No.: 703-641-4340

or to such other facsimile numbers and/or addresses as any party may designate in writing in a notice to the other party given as provided herein. Any such notice shall be deemed received on the earlier of facsimile confirmation or three calendar days after regular mailing.

IN WITNESS WHEREOF, the undersigned, pursuant to the due and proper authority vested in them as evidenced by the Resolutions attached as Exhibit C and Exhibit D, have signed this Settlement Agreement on behalf of each of the parties hereto as of the date first written above.

COUNSEL TO THE ASSOCIATION:

WELBILT CONDOMINIUM
UNIT OWNERS ASSOCIATION

ASSOCIATION ADVOCATE
& ASSOCIATES, P.C.

By: _____ (SEAL)
Name: _____
Title: President

Association Advocate

COUNSEL TO THE DECLARANT:

QUALITY FIRST LLC
a Virginia limited liability company

REED SMITH LLP

By: _____ (SEAL)
Authorized Official

Robert M. Diamond

Richard Ricardo hereby signs this Settlement Agreement solely to obligate itself to perform its obligation set forth in Section 3.2 of this Settlement Agreement in good faith.

DECIDING ENGINEER:

PRACTICAL ENGINEERING, INC.

By: _____
Name: Richard Ricardo, P.E.

The undersigned Escrow Agent hereby signs this Settlement Agreement solely to obligate itself to perform its obligations set forth in Parts I, II and IV of this Settlement Agreement in good faith.

ESCROW AGENT:

GREATER ATLANTIC & PACIFIC
NATIONAL BANK

By: _____
Mark Banker

SCOPE OF WORK

1. Parking Garage. The Declarant will install additional drains in the locations shown on the attached drawing dated July 27, 2010 prepared by OCD Engineers, the Association's engineering consultant. If x-ray testing reveals post-tension cables in such locations, then OCD Engineers will work with representatives of the Declarant to identify the most appropriate alternative location within the delineated area. Additionally, the Declarant shall install curbing at the "V" of each level and install additional drainage and dams to route water towards the to-be-installed drains.
2. Duct penetration to the 7th floor through the 8th floor mechanical room. The Declarant will install housekeeping curbs around the duct penetrations in the 8th floor mechanical room.
3. Damaged concrete at the entrance to the rear surface parking lot. The Declarant will replace the damaged and cracked concrete and provide positive drainage to the storm drain.
4. Cracks in the garage slabs. The Declarant will rout and seal cracks in the garage slabs in excess of 1/4 inch in width in the locations shown on the attached garage floor plans.
5. Damaged concrete at the right, front corner of the building. The Declarant will repair the damaged concrete sidewalk at the right, front corner of the building.
6. Leak in the garage slab under the pool. The Declarant will (1) install a gutter system under the existing weepholes in the slab to manage any water flowing from the pool deck down into the void area and ultimately through the garage slab and (2) seal the cracks, joints and penetrations on the pool deck which were identified as possible sources of water entering the void spaces above the garage.
7. Stairwell Pressurization. If the Association obtains written permission from the Fire Marshal to permit adjustments to the stairwell door at least fifteen days prior to the Completion Date, then the Declarant will make such adjustments. If the Fire Marshal will not allow any adjustments to the door, then no adjustments by the Declarant will be required.
8. Enclosed balconies. The Declarant will reslope the four enclosed balconies adjacent to Units 105, 106, 107 and 108 to facilitate the flow of water to the drains. The Association will be responsible for obtaining permission and access from the affected unit owners.
9. Exposed telephone or cable conduit. The Declarant will recess the exposed conduit into the concrete slab in the garage and cover it with an appropriate material.

GENERAL RELEASE

KNOW ALL PERSONS BY THESE PRESENTS, That the WELBILT CONDOMINIUM UNIT OWNERS ASSOCIATION, on its own behalf and on behalf of all the unit owners (to the extent permitted by law), its and their successors, transferees, lessees, assigns, heirs, officers, directors, agents and representatives (together the "Association") for and in consideration of Ten Dollars cash in hand paid and certain promises made by QUALITY FIRST LLC, a Virginia limited liability company ("Declarant") in a Settlement Agreement dated _____, 2010, to make certain payments and for other good and valuable consideration, the adequacy of which is hereby acknowledged, does hereby release, remise, acquit, exonerate and forever discharge the Declarant and its general and limited partners, subsidiaries and affiliates, and their members, directors, officers, stockholders, agents, servants, employees, attorneys, insurers, trustees, successors and assigns, from any and all claims, actions, causes of action, demands, rights, damages, costs, defenses, contracts, and guarantees of whatsoever kind or nature, whether at law, in equity or mixed, known or unknown, whether presently accrued or to accrue hereafter, in any way relating to Welbilt Condominium.

FURTHER, the Declarant, on its own behalf and on behalf of its successors, transferees, assigns, officers, directors, members, agents and representatives for and in consideration of Ten Dollars cash in hand paid by the Association and for other good and valuable consideration, the adequacy of which is hereby acknowledged, does hereby release, remise, acquit, exonerate and forever discharge the Association and its members, affiliates, directors, officers, agents, servants, employees, attorneys, insurers, trustees, successors and assigns, from any and all claims, actions, causes of action, demands, rights, damages, costs, defenses, contracts, and guarantees of whatsoever kind or nature, whether at law, in equity or mixed, known or unknown, whether presently accrued or to accrue hereafter, in any way relating to Welbilt Condominium.

IT IS FURTHER UNDERSTOOD AND AGREED that the parties' tender of the above-mentioned consideration is not to be construed as an admission of any wrongdoing or liability on the part of either party, and any such wrongdoing is expressly denied.

IT IS FURTHER UNDERSTOOD AND AGREED that inasmuch as a portion of the consideration for the parties' promises is the full and final disposition of these claims, and the certainty of avoiding additional legal fees to litigate these claims, the Association (including the Board of Directors, all officers, employees and the management agent) shall not encourage or assist any unit owner in bringing any proceeding, claim or action released hereunder; provided, however, that this provision shall not prevent the Association from providing assistance required by law, the condominium instruments or the Board of Director's fiduciary obligations.

IN WITNESS WHEREOF, the undersigned, being represented by counsel, pursuant to due and proper authority, have signed this General Release effective as of _____, 2010.

WELBILT CONDOMINIUM
UNIT OWNERS ASSOCIATION

By: _____
Name: _____
Title: _____

QUALITY FIRST LLC
a Virginia limited liability company

By: _____ (SEAL)
Authorized Official

QUALITY FIRST LLC RESOLUTION

THESE RESOLUTIONS OF QUALITY FIRST LLC, a Virginia limited liability company ("Company"), are made as of _____, 2010 by the undersigned on behalf of the Company.

IN WITNESS WHEREOF, it is:

RESOLVED, that the Company enter into a settlement agreement ("Settlement Agreement") with the Welbilt Condominium Unit Owners Association (the "Association") for the purpose of addressing claims for alleged defects in the common elements of Welbilt Condominium and the Declarant's liability as declarant, and thereby avoiding the burdens, risks and expenses incident to any continued discussions, proceedings or litigation, and that the Company perform all of the obligations and responsibilities imposed upon it by the Settlement Agreement.

RESOLVED, that the manager shall sign and deliver all documents, containing such terms and conditions and in such form, as may be deemed necessary or desirable in connection with the Settlement Agreement.

FURTHER RESOLVED, that the Company take such further action as the manager deems necessary or desirable to consummate the agreement authorized in these resolutions.

IN WITNESS WHEREOF, the undersigned, being the members of the Company, have signed these Resolutions certifying that they were duly adopted by the members as of the date first written above.

QUALITY FIRST LLC
a Virginia limited liability company

WITNESS:

By: _____
Name: Doug Developer
Title: President

WELBILT CONDOMINIUM UNIT OWNERS ASSOCIATION
GENERAL RESOLUTION NO. _____

WHEREAS, the Welbilt Condominium Unit Owners Association (the "Association") and Quality First LLC, a Virginia limited liability company (the "Declarant"), wish to address claims for alleged defects in the common elements at Welbilt Condominium and the Declarant's liability as declarant;

WHEREAS, Article III, Section 3.2 of the Bylaws of the Welbilt Condominium Unit Owners Association assigns the Board of Directors all of the powers and duties necessary for the administration of the affairs of the Association, further states that the Board of Directors may do all such acts and things as are not by the Condominium Act or the condominium instruments required to be exercised and done by the Association; and

WHEREAS, the Association wishes to enter into the attached Settlement Agreement ("Settlement Agreement") with the Declarant for the purposes of resolving all remaining claims between the Association and the Declarant, if any, and thereby avoiding the burdens, risks and expenses incident to any continued discussions, proceedings or litigation.

NOW THEREFORE, BE IT RESOLVED THAT _____, the President of the Association, is hereby authorized and directed to sign the Settlement Agreement with the Declarant and the General Release attached as Exhibit A to the Settlement Agreement on behalf of the Association and that the Association perform all of its obligations and responsibilities under the Settlement Agreement.

IN WITNESS WHEREOF, the undersigned, being all of the directors of the Association, have signed this General Resolution No. _____ as of _____, 2010.

WELBILT CONDOMINIUM
UNIT OWNERS ASSOCIATION

WITNESS:

By: _____
By: _____
By: _____
By: _____
By: _____
By: _____
By: _____

THE VIRGINIA CONDOMINIUM
UNIT INSPECTION FORM

Purchaser

Unit Number

My unit is hereby accepted in accordance with the terms and conditions of Section 7 of the Purchase Agreement. Acceptance is subject to completion or correction in a workmanlike manner of the items noted below in accordance with the procedures set forth on the reverse side of this form.

Date

Purchaser

The Declarant will complete or correct in a workmanlike manner the items listed above.

Date

Condominium Associates LLC
3110 Fairview Park Drive, Suite 1400
Falls Church, VA 22042

I acknowledge that the items noted above have been completed or corrected in a workmanlike manner.

Date

Purchaser

UNIT INSPECTION PROCEDURES

The following procedures have been established to identify efficiently and complete promptly incomplete items, and correct possible defects existing at the time of inspection and acceptance of the unit.

1. All items not completed in accordance with the Declarant's scope of work which are readily visible to the human eye shall be noted for completion or correction on this Unit Inspection Form.

2. If the Purchaser and the Declarant's representative fail to agree upon the items to be noted on the Unit Inspection Form or the workmanlike completion or correction thereof, the Declarant will, within five days after the date of inspection, submit the disagreement to the project architect for decision; such decision shall be final and binding on the Declarant and the Purchaser. The project architect will render a decision based on the Purchase Agreement, the Public Offering Statement and the condominium instruments. The charge by the project architect for this service will be paid one-half by the Declarant and one-half by the Purchaser prior to resolution.

3. The signature of the Declarant's representative on the Unit Inspection Form constitutes agreement by the Declarant to complete or correct in a workmanlike manner all items noted on such form. Work shall start promptly and be carried on expeditiously by the Declarant. If such work is not completed prior to settlement and occupancy by the Purchaser, then the Purchaser will grant reasonable access to the unit for the purpose of performing such work during normal working hours and as required by the Declarant's work schedule. If the Purchaser fails to grant such access, the Declarant will notify the Purchaser in writing. If the Purchaser still fails to grant access five days after receipt of such notice, then the Purchaser waives any right to the work noted on the Unit Inspection Form.

4. Upon completion of all work noted on the Unit Inspection Form, the Declarant will so notify the Purchaser and the Purchaser shall acknowledge such completion by signing the second part of the form. If the Purchaser and the Declarant fail to agree on the satisfactory completion of the work referred to above, the same provisions established for disagreement concerning the items to be noted on the Unit Inspection Form will govern.

5. Any unfurnished or partially furnished model unit is generally representative of the overall quality of the floor finishes and painting within the units. The Declarant disclaims any liability for failure of the floor finishes and painting within a unit to exceed the overall quality of the floor finishes and painting within any model unit.

* * *



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Fax +1 703 641 4340
reedsmith.com

February 1, 2021

FOR SETTLEMENT PURPOSES ONLY

VIA E-MAIL AND U.S. MAIL

Association Advocate, Esq.
Association Advocate & Associates, P.C.
123 Forever Lane, Suite 10000
Fairfax, Virginia 22030

**Re: Welbilt Condominium;
Response to Notice of Warranty Claims and
Expense Reimbursement Claims**

Dear Assoc:

On behalf of Quality First LLC, the developer (“Declarant”) of Welbilt Condominium (“Condominium”), this letter responds to the draft Building Evaluation and Transition Study dated June 6, 2020, prepared by OCD Engineers (“Study”) and provided with your November 30, 2020 letter. The Study reviews the condition of the common elements and alleges certain deficiencies. The Declarant wishes to address and resolve all of the issues raised in the Study.

This letter and all future correspondence in connection with our negotiation of these claims are being sent on the express condition that they are part of our settlement negotiations, are privileged and confidential and shall not be used as admissions or in any way for any purpose should negotiations fail and litigation ensue.

The Declarant's responsibility under both the Virginia Condominium Act warranty and the Limited Warranty Certificate for the common elements is to complete incomplete items and to repair or compensate the Association for structural defects. Structural defects in common elements are defined by Section 55.1-1955B of the Condominium Act as: “defects in components constituting any ... common element which reduce the stability or safety of the structure below accepted standards or restrict the normal intended use of all or part of the structure and which require repair, renovation, restoration, or replacement.” The statute then expressly excludes maintenance items from the coverage of the warranty, an exclusion which is also included in the Limited Warranty Certificate for the common elements.

We have reviewed the Study and have, to the extent possible, responded. We have tried to categorize the claims into five possible responses: (1) items which the Declarant agrees to repair; (2)

items which the Declarant does not believe to be warranted defects and for which the Declarant denies responsibility; (3) items which the Declarant does not believe to be warranted defects but which the Declarant will address as a courtesy in the context of an overall settlement; (4) items which, although they may be a real problem, are due to lack of maintenance and which are not the Declarant's responsibility; and (5) items for which either additional information is required or the location of the claimed defect is required in order for the Declarant to evaluate the claim and to determine whether or not the claimed item is a structural defect.

Some of the items presented as claims by the Association appear to be maintenance issues. In fact, the Study notes several items that require ordinary maintenance. The budget prepared by Association Management & Consulting, Inc. and approved by the Declarant and the Association has always included funds to maintain many of the items listed below. Nonetheless, the Declarant has agreed to address some of these maintenance issues in the course of making warranty repairs as a courtesy to the Association.

Finally, the OCD Engineers Study often notes that the construction of certain components of the building does not reflect the construction drawings or that certain improvements to the construction would be desirable. The Declarant has not represented that it will construct the building in accordance with the construction drawings and is not obligated to do so. Value engineering and field changes frequently result in the completed construction varying from the drawings. The Declarant will modify the construction only if the variance does not comply with applicable building codes. Any enhancements, betterments or improvements are solely within the discretion of the Association and are not the responsibility of the Declarant.

PART ONE: WARRANTY CLAIMS

This response addresses each item in the same order as the Study, using the Study's numbering system. The Association's attorney letter claims follow the Study observations, followed in turn by the Declarant's responses.

5.0 SITE IMPROVEMENTS

ENGINEER'S OBSERVATION 5.1 Topography

Based on our evaluation, we find that this portion of the project is in compliance with the noted standards.

ENGINEER'S OBSERVATION 5.2 Storm Drainage

We observed sediment stains at various locations on the concrete pavement in the parking garage. In addition areas of poor drainage in the garage were reported in many of the owner surveys. Based on our inspection and the occupant reports, it appears that there are areas of poor drainage within the garage.

We recommend a more detailed survey of the garage drainage systems in order to determine the extent of the problem and the most appropriate means for remediation. The typical floor contains approximately seven point drains with associated floor slope areas. Some of these slopes are awkward and may be difficult to achieve. There are no linear, or trench drains used. Simpler contours are necessary for this type of drain. Possible solutions include installing additional drains and re-sloping the concrete surfaces. The addition of thin layers of concrete to an existing concrete surface is generally not feasible due to bonding limitations. However, there are some products with polymer additives and epoxies which can be used depending on the degree of change required.

Finally, we observed a possible inappropriate connection to the storm water drainage system. In the room where the trash compactor is located there is a floor drain which leads to a sewage ejector type sump pump. The drawings indicate that the discharge of the sump pump should connect to the sanitary sewer system. Instead the discharge is piped to another floor drain which appears to connect to the oil interceptor. We recommend that the sump pump be piped to the nearest sanitary sewer riser.

Based on our evaluation, we find that this portion of the project is in not in compliance with the noted standards.

- *There appears to be areas within the parking garage which do not drain properly.*
- *The sump pump serving the trash compactor room may be inappropriately connected to the storm water system.*

ATTORNEY LETTER: 1. Storm Drainage

There are multiple areas within the parking garage that do not drain properly. Sediment stains have been observed at various locations on the concrete pavement in the parking garage, indicating poor drainage within the garage. Many surveys submitted by unit owners likewise indicated areas of poor drainage within the garage. The typical floor in the parking garage contains approximately seven point drains with associated floor slope areas. Some of these floor slopes are awkward and difficult to achieve. There are no linear or trench drains used in the parking garage.

The Association's engineer has recommended that the Declarant install additional drains and re-slope the concrete surfaces to the extent necessary. The Association's engineer also has recommended that the Declarant, with the participation of the Association, perform a more detailed survey of the garage drainage systems in order to fully determine the extent of the problem and the appropriate means of remediation. Following completion of the additional survey, we anticipate submitting to you a supplemental report that sets forth the results of such survey.

There also appears to be a problem with the sump pump serving the trash compactor room. The sump pump may be inappropriately connected to the storm water drainage system. In the trash compactor room, there is a floor draining which leads to a sewage ejector type sump pump. The drawings indicate that the sump pump's discharge should connect to the sanitary sewer system. However, the discharge is instead piped to another floor drain that appears to connect to the oil interceptor. The Declarant should correct this defect by having the sump pump's discharge piped to the nearest sanitary sewer riser.

DECLARANT'S RESPONSE:

A. The parking garage drainage system has been reviewed by the Project Architect, was built as designed, meets industry criteria and is performing its intended function. If the Association can identify specific deficiencies in specific locations, the Declarant will address the deficiencies.

B. The sump pump serving the trash compactor room is not a sewage ejector pump and therefore should not be connected to the sanitary sewer riser. The design in the drawing for this drain was modified due to conditions discovered during construction. The outlet of the floor drain was found to be higher than the storm piping due to a slab fold at the loading dock. Therefore, a sump pump was added so the discharge of this drain could be pumped up and back down into an open site drain that is tied into the gravity storm system. No action by the Declarant is required.

ENGINEER'S OBSERVATION 5.3 Paving & Curbing

The concrete gutter used as an entrance apron to the rear surface lot is cracked and in fair condition. We recommend replacement. The replacement should be sufficient for heavy traffic including landscaping and service vehicles which may access this lot.

The concrete pavement is generally in good condition with the exception of the drainage issues discussed in the previous section. We observed some minor cracking and chipping at some of the joints. On-going maintenance of the garage will include filling any cracks which may develop and periodically sealing the entire surface.

The construction documents call for all of the concrete surfaces to be initially sealed. Based on our visual inspections, we could not determine if this has been accomplished. We recommend that the Association obtain documentation from the builder as to what products were applied. However, we caution that no additional sealants should be applied until after the drainage issue has been resolved. This could affect the application of any products intended to re-slope the surfaces.

Finally, the surface of the garage, on all floors, is intersected by an expansion joint which traverses the entire building. There are gaps in the slabs with a rubberized, traffic strips placed in the gaps. These strips are not continuous in between the double columns at the edges of the slabs. Based on the classification as an open parking structure, openings between the floors are not required to be completely filled or fire stopped.

Based on our evaluation, we find that this portion of the project is not in compliance with the noted standards.

- *The concrete curb apron at the entrance of the rear surface lot has excessive cracking.*

ATTORNEY LETTER: 3. Paving & Curbing

The concrete curb/apron at the entrance of the rear surface parking lot has excessive cracking and must be replaced in a manner sufficient to handle heavy traffic, including landscaping and service vehicles that may access the parking lot. There is also some minor cracking and chipping at some of the joints in the concrete pavement which should be addressed.

Although the construction documents require all concrete surfaces to be initially sealed, it is unclear from visual inspections whether this has been done. Documentation should therefore be provided regarding what products were applied to the concrete surfaces.

DECLARANT'S RESPONSE:

A. Although cracking of concrete curbing is normal wear and tear, the Declarant will inspect the curb/apron in this location and, if necessary, replace the curb/apron as a courtesy. The minor cracking and chipping at some of the joints in the concrete pavement should be addressed by the Association as ordinary maintenance.

B. The Declarant did not seal the concrete floor surfaces in the parking garage. The concrete in the garage was treated with DCI which is an admixture to enhance the protection of the concrete. The concrete floor surfaces are performing their intended function. No action by the Declarant is required.

ENGINEER'S OBSERVATION 5.4 Flatwork

The concrete sidewalks are generally in good condition. We did observe one section of cracked concrete near the right/front corner of the building, apparently due to slight settlement. We recommend that this section be replaced in order to prevent a tripping hazard.

The raised pool deck system appears to be in good condition. The material used in the main building expansion joint which traverses the pool deck has pulled apart from the pavers in many locations. This joint material or its application may have been inappropriate for this detail. We recommend that this portion of the expansion joint be reworked to prevent water penetration through the seam to the garage.

We recommend that the Association obtain from the builder any special tools or instructions that may be required to remove

individual pavers in order to make repairs to the roof system below the pool deck.

Based on our evaluation, we find that this portion of the project is not in compliance with the noted standards.

- *One section of concrete near the right/front corner of the building is cracked and requires replacement.*
- *The material used for the building expansion joint between the pool deck and the top floor of the garage needs to be reworked.*

ATTORNEY LETTER: 4. Flatwork

One section of the concrete sidewalk near the right/front corner of the building is cracked, apparently because of slight settlement, and needs to be replaced in order to prevent a tripping hazard.

Additionally, the material used for the main building expansion joint between the pool deck and the top floor of the garage needs to be reworked. The material has pulled apart from the pavers in many locations. Reworking this portion of the expansion joint should help prevent water penetration through the seam to the garage.

Furthermore, the Declarant should provide to the Association any special tools or instructions that may be needed to remove individual pavers for the purpose of making repairs to the roof system below the pool deck.

DECLARANT'S RESPONSE:

- A. The Declarant will inspect the concrete sidewalk in this location and either fill the crack with an elastomeric sealant or, if the edges of the crack are displaced and create a tripping hazard, the Declarant will either grind the concrete flush or repour that portion of the sidewalk.
- B. The Declarant will rework the material in the main building expansion joint in this location.
- C. There are no special tools or instructions required; there are no pavers adjacent to the pool deck—it is textured concrete.

ENGINEER'S OBSERVATION 5.5 Landscaping & Appurtenances

The landscaping and appurtenances appear to be generally complete and in good condition. However, we did observe two possible concerns which the Association may wish to consider.

One, Mr. Fernandez of Pine Ridge Landscaping pointed out that some of the evergreens next to the building may be inappropriate for this location. He stated that these varieties can grow in height to 40 feet or more.

The second issue is the amount of exterior lighting along the drive aisle to the main lobby entrance may be less than desired. We noted a lack of fixtures in this area.

Based on our evaluation, we find that this portion of the project is in compliance with the noted standards.

ATTORNEY LETTER: 10. Landscaping & Appurtenances

Some of the evergreen trees planted next to the Condominium may be inappropriate for such a location, as these trees can grow to a height of forty (40) feet or more. Additionally, there are not enough exterior light fixtures along the drive aisle to the main lobby entrance. More lighting may need to be installed to provide adequate visibility at night.

DECLARANT'S RESPONSE:

A. The Declarant installed landscaping selected by a professional landscape designer and in compliance with the County-approved site plan. There is no defect in the landscaping. No action by the Declarant is required.

B. The exterior lighting along the drive aisle to the main lobby entrance meets code requirements, complies with the County-approved site plan and is performing its intended function. No action by the Declarant is required.

6.0 STRUCTURE & EXTERIOR

ENGINEER'S OBSERVATION 6.1 Structure

This building is constructed of cast-in-place concrete columns and slabs. The foundations are poured concrete in different configurations. Due to the high water table some mud slabs are used. This consists of a double layer concrete slab with waterproofing in between.

Most of the structural elements within the building are concealed and were not visible for inspection. However, we did not observe any conditions which would indicate that any element of the structure is not performing adequately.

ENGINEER'S OBSERVATION 6.2 Exterior

Based on our evaluation, we find that this portion of the project is in compliance with the noted standards.

ENGINEER'S OBSERVATION 6.3 Roofing

Based on our observations, the roof surfaces are generally in good condition. We observed evidence of one roof leak in the corridor in front of unit 1602. This leak as with any water penetration situation should be fully investigated promptly and repaired. Minor leaks are typical however for any roof system and should be expected.

Based on our evaluation, we find that this portion of the project is not in compliance with the noted standards.

- *There is evidence of a roof leak above unit 1602.*

ATTORNEY LETTER: 9. Roofing

There is evidence of a roof leak above Unit 1602. The source of this leak should be fully investigated, identified and repaired. Moreover, following these inspections, we reserve the right to expand the nature and scope of the roof claim based on the results of these additional inspections.

DECLARANT'S RESPONSE: The Declarant will inspect the roof to determine the cause of the roof leak in the corridor above unit 1602. The roof is covered by the manufacturer's warranty. If the cause of the leak is covered by the Declarant's warranty or the manufacturer's warranty, the Declarant will ensure that the roof is properly repaired.

7.0 MECHANICAL SYSTEMS

ENGINEER'S OBSERVATION 7.1 Electrical Systems

The electrical systems appear to be complete and in good condition.

During our inspection, Mr. Thompson pointed out two safety concerns with the electrical systems. One, there appears to be a leak in the connection of the exhaust manifold to the emergency generator. Discoloration on the piping is visible at the joint.

Two, the electrical junction boxes for the light poles in the rear surface lot are mounted too high in the ground. The covers have been broken by lawn mowing equipment, exposing the wiring. We recommend that these deficiencies be corrected promptly.

Based on our evaluation, we find that this portion of the project is not in compliance with the noted standards.

- *There is a leak in the exhaust manifold for the emergency generator.*
- *Electrical junction boxes for the exterior light poles have missing covers.*

ATTORNEY LETTER: 6. Electrical Systems

There is a leak in the connection of the exhaust manifold to the emergency generator. The piping is discolored at the joint. The Declarant needs to repair and correct this defect.

Additionally, the electrical junction boxes for the light poles in the rear surface lot have missing covers that need to be fixed and replaced. The junction boxes are mounted too high in the ground, and as a result the covers have been broken by lawn mowing equipment, thereby exposing the wiring.

DECLARANT'S RESPONSE:

A. The Declarant will inspect the connection of the exhaust manifold to the emergency generator and will make necessary repairs.

B. The soil in this area has settled since the electrical junction boxes for the light poles in the rear surface lot were installed, thus creating an appearance of high installation elevations. The boxes were installed per the site plan, but as a courtesy the Declarant has already repaired and lowered the junction boxes. No further action by the Declarant is required.

ENGINEER'S OBSERVATION 7.2 Plumbing Systems

The domestic water system appears to be complete and in good condition.

Finally, we observed one safety concern which should be corrected promptly. This was also reported to building maintenance. The flexible tubing gas supply to the pool heater is not properly secured and hangs within the path of the door swing to the pool equipment room. We recommend that all gas piping within this room be properly secured.

Based on our evaluation, we find that this portion of the project is not in compliance with the noted standards.

- *The gas piping installation to the pool heater presents a safety hazard.*

ATTORNEY LETTER: 5. Plumbing Systems

The flexible tubing gas supply to the pool heater is not properly secured and hangs within the path of the door swing to the pool equipment room. This condition presents a safety hazard that must be corrected promptly. All gas piping within this room must be properly secured.

There have also been several leaks in the natural gas system reported by management and maintenance personnel. One of the leaks was at a flanged connection where the bolts were not fully tightened. Also, the Declarant needs to provide the Association with all test reports that were performed on the natural gas system within the building.

DECLARANT'S RESPONSE:

A. The Declarant will resecure the flexible tubing gas supply to the structure.

B. All building systems were inspected and approved by Fairfax County and a Residential Use Permit was issued. Any leaks in the natural gas system are a life safety hazard and should be reported immediately on an emergency basis to Washington Gas Company. No action by the Declarant is required.

ENGINEER'S OBSERVATION 7.3 HVAC Systems

The heat pump units appear to be adequate to condition the common areas. However we did observe some deficiencies which may impede the performance of the equipment. The units are not equipped with outside air dampers and some of the refrigerant piping runs appear to be excessive,

The drawings indicate that motor-operated dampers should be provided in the outside air duct to each common area heat pump. These dampers should close when the unit is not in operation in order to prevent air leakage through the return air ductwork to the conditioned spaces. In addition, these dampers could be controlled to regulate the amount of outdoor air intake for optimum energy efficiency. We recommend that these dampers be provided.

Another concern associated with the heat pump systems is with the floor in the mechanical equipment room, where the 7th floor systems are located. There are no housekeeping curbs provided around the duct penetrations to the 7th floor. This is the apparent cause of reported water leaks to the Community Room below. We recommend that concrete curbs or other suitable methods be provided in order to prevent water penetration or other spills from leaking to the occupied spaces below.

The rooftop units also appear to be adequate to condition the common corridors and to provide make-up air to the building. Each unit is scheduled to supply 8,000 cubic feet per minute (CFM) of fresh air. That equates to approximately 1,500 CFM per floor, or 65 CFM per condominium unit.

Based on our conversations with management and maintenance personnel and the many comments reported on the owner surveys, we understand that there is a general concern about excess air flow through the corridors and stairs, and air noise through the door sweeps to the condominium units.

Based on our brief analysis, we do not consider the rooftop units to be the culprit for the excess air flows. The amount of air per living unit is adequate to make up for possible exhaust from each unit and should not cause excessive velocities or air noise through the door sill. When there is a reduced amount of exhaust air from the building this amount of make-up air is reasonable and in fact desirable to create a positive pressurization of the building and to prevent infiltration through the building envelope.

With any high-rise building, pressure differentials can be created by open windows or by contiguous shafts through the building. These can include elevators, stair towers and the trash chute. The stair towers in this building are equipped with stair pressurization systems which will be discussed in more detail in the Fire Safety Systems Section of this report.

The barometric relief dampers used with these stair pressurization systems include an open bypass section which leaves the stair towers wide open to the outside. We recommend that these dampers be replaced with dampers that will entirely isolate the relief openings when these emergency systems are not in use. In addition this will reduce heating and cooling costs by preventing infiltration to the stair towers and the common corridors.

Some of the garage ventilation fans have not been provided with electrical service and are not in operation. Based on the 1996 codes and the current building code this garage is classified as an "open parking structure". This is based on two exposed sides (minimum 40% of the perimeter) and a minimum of 20% open area (including all of the perimeter walls). Open parking structures are not required to have any ventilation systems.

Based on our evaluation, we find that this portion of the project is not in compliance with the noted standards.

- *The heat pump units have not been provided with motor operated outside air dampers.*
- *The refrigerant piping runs may be excessive and may need to be upsized.*
- *Housekeeping curbs have not been provided around the duct penetrations through the floor in the eighth floor mechanical room.*
- *The barometric relief dampers for the stairwell pressurization systems have bypasses which are left open to the outdoors.*
- *Not all of the garage ventilation fans have been provided with electrical service.*
- *We also recommend that the Association obtain all air test and balance reports that should have been completed when the HVAC systems were placed into operation.*

ATTORNEY LETTER: 2. HVAC Systems

The heat pump units are not equipped with motor-operated outside air dampers. The construction drawings indicate that motor-operated dampers should be provided in the outside air duct to each common element heat pump. The dampers should close when the unit is not in use, thereby preventing air leakage through the return air ductwork to the conditioned spaces. The dampers could also be controlled to regulate the amount of outdoor air intake for energy efficiency purposes. The Declarant needs to provide these motor-operated outside air dampers.

The refrigerant piping runs may be excessive and may need to be upsized. There are large vertical separations between the indoor and outdoor units in some of the split-systems. If these distances are greater than the manufacturer-recommended distance, then the diameter of the refrigerant piping must be upsized for proper operation of the equipment. For example, the outdoor unit for the main lobby system is located approximately 150 feet above the indoor unit, and the outdoor unit for the 7th floor spaces is located approximately 94 feet above the 7th floor. All of these split-systems need to be evaluated by a qualified mechanic or factory representative to determine if the installed refrigerant piping is adequate. If the piping is not adequate, it will need to be replaced with an adequate piping system.

Housekeeping curbs have not been provided around the duct penetrations to the 7th floor through the floor in the 8th floor mechanical room. This defect has apparently caused water leaks to the Community Room. Concrete curbs or other suitable methods must be installed in order to prevent water penetration or other spills from leaking into the spaces below.

The barometric relief dampers for the stairwell pressurization systems have an open bypass section which leaves the stair towers open to the outdoors. These dampers should be replaced with dampers that will isolate the relief openings when the emergency systems are not in use.

Some of the garage ventilation fans have not been provided with electrical service and are not in operation. Although the parking garage is classified as an "open parking structure" and fans may provide only a minimal benefit to the operation of the garage, if the fans have been provided then electrical service must be provided as well to complete the installation.

Additionally, the Declarant needs to provide the Association with all air test and balance reports that should have been completed when the HVAC systems were put into operation.

DECLARANT'S RESPONSE:

- A. The Declarant will install motorized outside air dampers for the heat pump units as recommended by the Study.
- B. The refrigerant piping runs are in compliance with the manufacturer's recommendations and the

diameter of the refrigerant piping is sufficient. The HVAC systems are performing their intended function and do not need modification. No action by the Declarant is required.

C. Housekeeping curbs are not required by code, but if the lack of such curbs is causing water leaks to the Community Room, the Declarant will install curbs around the duct penetrations to the 7th floor in the 8th floor mechanical room as a courtesy.

D. The barometric relief dampers are performing their intended function and do not require replacement. No action by the Declarant is required.

E. The Declarant will inspect the garage ventilation fans and if any are lacking an electrical connection, the Declarant will install an appropriate electrical connection. In addition, the Declarant will provide the available air test and balance reports.

8.0 SPECIAL SYSTEMS

ENGINEER'S OBSERVATION 8.1 Vertical Transportation

The elevators appear to be complete and in good condition. The operation appears to be adequate for the building. There were no comments to the contrary on the owner surveys.

Based on our evaluation, we find that this portion of the project is in compliance with the noted standards.

ENGINEER'S OBSERVATION 8.2 Security Systems

The security systems appear to be complete and in good condition. The measures appear to be appropriate for this building. There were no comments to the contrary on the owner surveys.

Based on our evaluation, we find that this portion of the project is not in compliance with the noted standards.

DECLARANT'S RESPONSE: This statement appears to be an error.

ENGINEER'S OBSERVATION 8.3 Fire Protection & Life Safety

The fire systems appear to be complete and in good condition. The fire marshal has inspected and approved the systems. Some minor deficiencies noted on their report were being corrected during our investigation.

The sprinkler piping within the garage is black steel with Victaulic, grooved end-type fittings. We observed evidence of rust developing throughout the exposed piping within the garage. Although not required by the contract documents, we recommend that the Association consider painting this piping in order to extend its service life.

The air compressor, as well as the other equipment in the pump room is not provided with any vibration isolation mounting. In addition the air compressor is placed directly the floor slab without a concrete equipment pad. It was reported in some of the owner surveys that equipment noise was a concern within the building, particularly in units surrounding the pump room. We recommend that proper vibration isolation mounts be provided for all equipment in this room.

The stairwell pressurization fans are centrifugal utility sets with belt drives. We observed that the fans have been balanced by screwing a cut piece of scrap sheet metal over the inlet of the fans. We consider this to be a temporary solution. We recommend that the fans be re-sheaved to achieve the desired operating conditions. The fans could also be provided with variable speed drives for balancing, as is indicated on the fan schedule in the mechanical drawings.

Finally, we recommend that the Association obtain the stair pressurization test reports. It was reported in some of the owner

surveys that opening of the stairway doors during recent fire tests was extremely difficult. Also, keep in mind that these systems will have to be periodically re-tested.

Based on our evaluation, we find that this portion of the project is not in compliance with the noted standards.

- *The fire system air compressor is not provided with vibration isolation mounts.*
- *The stair pressurization fans are not properly balanced.*

ATTORNEY LETTER: 8. Fire Protection & Life Safety

The fire system air compressor, as well as other equipment in the pump room, is not provided with vibration isolation mounts. Moreover, the air compressor is placed directly on the floor slab without a concrete equipment pad. Equipment noise has been reported by unit owners as a concern. Thus, proper vibration isolation mounts should be provided for all equipment in the pump room so as to reduce the level of equipment noise.

The stairwell pressurization fans are not properly balanced. The fans appear to have been balanced by screwing a cut piece of scrap sheet metal over the inlet of the fans, which is merely a temporary solution. The fans need to be re-sheaved in order to achieve the desired operating conditions and could be given variable speed drives for balancing. Additionally, the Declarant needs to provide the Association with the stair pressurization test reports, as some unit owners reported difficulty in opening stairway doors during fire tests.

In addition, the Association has some concerns that the garage sprinkler system may be defective. Specifically, there appear to be several locations that pitch and slope of the pipe seemed to be an issue. In dry systems, there must be a certain slope to the pipe so that all lines slope back to low point in order to collect all trapped water. Here, there appears to be several places that because of slope, it is very difficult to get all the water out. Without the proper pitch or slope, water can collect and when exposed to freezing temps, will break the pipe. The Association's consultants are performing additional inspections to determine the nature and extent of this issue, and we anticipate providing you with a supplemental report in the near future.

DECLARANT'S RESPONSE:

- A. Although not required by code, the Declarant will install vibration isolation mounts for the fire system air compressor in the pump room as a courtesy. A concrete equipment pad is not required. The vibration isolation mounts should reduce the level of equipment noise.
- B. The Declarant will inspect the stairwell pressurization fans and rebalance them as required to achieve the desired operating conditions. The Declarant will also provide the available stair pressurization test report.
- C. The Declarant cannot evaluate any problems with the slope of the sprinkler system piping without specific claims and locations. The Declarant will await further specific information from the Association.

ENGINEER'S OBSERVATION 9.0 COMMON AMENITIES

The common amenities are generally in good condition, however the pool and hot tub were winterized and covered at the times of our site visits and were not visible for inspection.

The pool equipment is located in a mechanical room on the seventh floor. It appears that an attempt was made to waterproof the floor of this room with rubberized flashing at the perimeter walls and at floor penetrations. The flashing has subsequently been violated in many locations. We recommend that the water proofing be re-done in order to prevent water penetration to the occupied floor below.

The management company reported suspected water leaks from the swimming pool and hot tub. Based on our limited observations, it appears that there may be a leak associated with the hot tub. We observed calcium leaching through the concrete slab in the area of the hot tub to the garage floor below. This is indicative of water penetration through the slab. Based on our conversations with maintenance personnel it appears that concerns with the pool leak were associated with the pool drain and the winterization valves and not a leak in the circulation system or the pool shell.

The pool and hot tub were designed and possibly installed by the Paddock Swimming Pool Company. The design drawings were not available during our investigation. We recommend that the Association obtain these drawings and establish a course of action with their pool contractor to isolate and resolve this possible leak.

Finally with regard to the bicycle storage rack, it appears that the capacity is inadequate for the building demand. We observed many additional bicycles secured to the aluminum railings within the garage. These railings are a light-gage metal and not designed for securing bicycles. Although there is no regulation or code requirement for bicycle storage, one standard that can be applied is LEED, put forth by the US Green Building Council. Based on this standard, storage is required for 15 percent of a residential building's occupants, or more as the demand dictates.

Based on our evaluation, we find that this portion of the project is not in compliance with the noted standards.

- *The water proofing on the floor of the pool equipment room has been compromised and is incomplete.*
- *We suspect a water leak from the hot tub circulating system or shell which needs to be further investigated and corrected.*

ATTORNEY LETTER: 7. Common Amenities

The waterproofing on the floor of the pool equipment room has been compromised and is incomplete. The 7th floor pool equipment room was waterproofed with rubberized flashing at the perimeter walls and at floor penetrations. However, the flashing has since been violated in many locations. The waterproofing for the room must be redone in order to prevent water penetration to the floor below.

There appears to be a water leak from the hot tub circulating system or shell which needs to be investigated further and corrected. The pool and hot tub were winterized and covered at the time of OCD Engineer's site visits and were not visible for inspection. The Board anticipates conducting additional inspections of the pool and its various equipment to confirm whether the equipment is properly installed and compatible with the pool, the pool is in a sound condition and it complies with all applicable laws. At this time, we know that the filtration system does not comply with applicable federal law.

Nevertheless, based on recent observations, there appears to be calcium leaching through the concrete slab in the hot tub area to the garage floor below. This indicates water penetration through the slab, which must be corrected and fully remediated by the Declarant. Additionally, in order to fully ascertain the cause of this water penetration, the Declarant needs to provide the Association with the design drawings for the pool and hot tub.

The Condominium lacks sufficient bicycle storage capacity. The bicycle storage rack is filled to capacity, and additional bicycles are secured to the aluminum railings in the garage. These railings are a light-gage metal and are not designed for securing bicycles. The Declarant should provide additional and sufficient bicycle storage rack amenities.

DECLARANT'S RESPONSE:

- A. The pool equipment room floor was waterproofed during construction. The subsequent violation of the flashing is not a warranty item. The Association should have the pool contractor redo the waterproofing in the pool equipment room as needed. No action by the Declarant is required.
- B. The Declarant will have the subcontractor that built the pool inspect the hot tub and correct the leak.

Further, the Declarant will provide the Association with the design drawings for the pool and hot tub but will not be responsible if the drawings do not accurately reflect the construction in place.

C. The bicycle storage capacity complies with site plan requirements and anticipated usage. No action by the Declarant is required.

ENGINEER'S OBSERVATION 11.0 CONCLUSION

In Summary, we consider this site and building to be in generally good condition when compared to others of similar age and construction type. However there are some components that are in fair condition, due to incomplete or improper workmanship. Based on our investigation, we recommend that the Association not accept this building in "as-is" and address the noted deficient items with the Developer. Refer to the Executive Summary for a list of the deficient components.

DECLARANT'S RESPONSE: The Declarant will immediately address any life safety or emergency items, or items that may deteriorate due to delay. Otherwise, the Declarant will work with the Association to develop a scope of work for any necessary remedial action and complete that work upon resolution of all outstanding warranty issues. The Declarant would appreciate the Association's cooperation in bringing all claims to the Declarant's attention as soon as possible so that the Declarant will have recourse to the general contractor and the responsible subcontractors to perform the necessary work. For the convenience of the parties, attached is a chart listing the items in OCD Engineer's Executive Summary together with the Declarant's analysis of the responsible party and the appropriate steps to address each item.

PART TWO: EXPENSE REIMBURSEMENT CLAIMS

Part Two of this letter is the response to that portion of your November 4, 2020 letter describing monetary claims for items paid for by the Association and claimed to be the Declarant's responsibility, as well as the claims in your June 6, 2020 letter. The Declarant wishes to address and resolve the Association's remaining claims for reimbursement for work it has contracted to have performed.

The Declarant has reviewed each of the Association's monetary claims. Those claims break down into expenditures from Association funds that were solely for the benefit of the Declarant's sales efforts and inspection and repair costs which the Association believes were necessary to correct warranty defects. First, the Declarant wishes to make crystal clear its position that the Declarant is not responsible for any inspection costs that the Association thought necessary to determine if there was a defect—that is completely a cost to be paid by the Association. Second, the warranty process requires that the Association notify the Declarant of, and give the Declarant the opportunity to correct, any warranty defect. With respect to most if not all of these invoices, the Association did not provide the Declarant with the notice and opportunity to cure required by Subsection 55.1-1955C of the Condominium Act and the procedures set forth in Section V of the Limited Warranty Certificate for the common elements provided by the Declarant in the Public Offering Statement. If the Association proceeded to address any warranty issues without following that procedure, then the Declarant has no legal obligation to reimburse the Association for such expenditures. The Declarant may have used alternative methods or means of correcting such defects and may have had recourse to the general contractor or subcontractors to accomplish corrections at no cost to the Declarant or the Association. Finally, some of the invoices provided by the Association do not supply any information about the cause

of the problem or the nature of the work performed. In order for the Declarant to provide a meaningful response, the Association must provide additional detailed information regarding the claimed expense. That being said, the Declarant has carefully reviewed the invoices and will respond to the Association's monetary claims in the same order as your letter.

1. OCD Engineers noted that several gas meters can not be read remotely, more specifically, six as reported by Ms. Therm of Utility Submetering. This necessitated replacement of several transmitters and the addition of a repeater installed on the building roof, which work was performed by Utility and Volt Electric. The Declarant is responsible for the cost associated with this work, which totals \$1,826.60. Copies of the Utility and Volt Electric invoices are enclosed for your review.

Declarant's Response: The Declarant will reimburse the Association for this expense.

2. From March 31, 2017 to February 3, 2018, the Declarant engaged Victory Valet, Inc. to perform services to the sales office. These expenses clearly were for the benefit of the Declarant's sales activities, but were paid for out of the Association's assessment income. The total amount of the Victory Valet invoices that were paid by the Association was \$19,767.00. Copies of the invoices are enclosed for your review.

Declarant's Response: Although no invoices from Victory Valet were enclosed, the Declarant did not engage the valet to perform any services exclusively for the sales office. Generally, valet services were promised to purchasers as an amenity of the Condominium. The sales center has two parking spaces where valet service is not needed. Valet service was included in the Association's budget and the Declarant paid its pro rata share of that expense. Thus, unless the Association can document that the valet company was engaged to provide special services for the sales office, the Declarant is not responsible for the cost of the valet service. Following up on the Association's request at the most recent walk-through, we have previously provided to you the marketing materials which clearly promise valet service as an amenity of the Condominium.

3. From May 2017 to July 2019, the Association had to engage Ripoff Service Company to perform significant work to address issues caused by defective common element components at a total cost of \$13,188.96. Copies of such invoices are enclosed for your review.

Declarant's Response: The Declarant has reviewed the Ripoff invoices, mainly related to the fire alarm system. First, this system was under warranty during this period; any required repairs should have been performed by the manufacturer or the contractor which installed the system. Second, the Ripoff invoices were mostly for overtime incurred by the onsite engineer. The Association did not notify the Declarant that the onsite engineer's time would be charged to the Declarant nor did the Declarant authorize this expenditure. Further, the three invoices which were for actual repair work were all approved by the Board of Directors to be charged against the ordinary repair and maintenance budget. Although the Declarant appreciates the reduction of the Ripoff claim to \$8,532.50, unless the Association can demonstrate that the work performed was to remedy a structural defect, the Declarant is not obligated to reimburse the Association for these expenses.

5. On May 22, 2019, the Association engaged Suck-it-Up USA to perform water mitigation services necessitated by a water leak at a total cost of \$1,985.74. A copy of the invoice is enclosed for your review.

Declarant's Response: Although the Declarant is not obligated to do so, as part of an overall settlement the Declarant will reimburse the Association for this expense.

6. In May 2018, the Association engaged Brightwork Associates to repair a pool deck railing that was in a defective condition at a total cost of \$540.00. A copy of the invoice is enclosed for your review.

Declarant's Response: The Brightwork Associates invoice describes the job as "Install brackets @ Pool Deck Railing Walls." There is no explanation of why this work was necessary or the nature of any structural defect involved. The Declarant is not obligated to reimburse the Association for this expense.

8. In March 2018 and from March 2019 to June 2019, the Association paid Cheatum Pool Service \$13,020.00, to bring the pool into compliance with federal law and to correct defects in the pool and spa. Copies of the invoices are enclosed for your review.

Declarant's Response: First, if the pool had not been in compliance with federal law and was defective when installed and delivered, then it would have been under warranty from the contractor which installed the pool and spa. However, the facts are that the pool complied when installed but the law and requirements subsequently changed. This is an expense of the Association to comply with the new law and requirements. The Cheatum Pool Service invoices do not cite a structural defect requiring repair because the changes were required to bring the pool into compliance with a new law known as "The Virginia Graeme Baker Act", enacted in December of 2018 after the completion of construction and turnover of the building for Association maintenance. Any other repairs should have been called in as a warranty claim and the Declarant should have been notified. Also, line item 64155 in the budget—Pool & Grills R&M—provides: "An allowance for non-warrantable Repair and Maintenance of the Pool (outside of the pool management contract) and Pool & Grill maintenance; routine repairs and maintenance of the pool facilities." Thus, the Declarant is not obligated to reimburse the Association for this expense. The Declarant appreciates the reduction of the Cheatum Pool Service claim to \$5,020.00 and, as part of an overall settlement, will reimburse the Association for this amount.

11. From March to August 2019, the Association paid Sloppy Fire Protection \$12,235.50, to correct defects in the fire suppression system. Copies of the invoices are enclosed for your review.

Declarant's Response: The Sloppy Fire Protection invoices show that ordinary maintenance was required and provided but do not evidence a structural defect. If there had been a structural defect in the fire suppression system, the Declarant could have contacted the contractor warranting the installation. However, see for example the invoices for:

Check settings on Dry valves G-2, G-3 & G-4. All settings appear to be correct. Found no problems with any Accelerators or Actuators. Blew out all low points and plugged them off. Systems were left in service. FRCP clear upon Departure. Note: Checked grading on low point Drains and found them to be good at this time.

Called on site to investigate supervisory trouble on the fire panel and water on the floor in the pumphoom. Upon arrival and departure the fire panel was clear and normal. In the pumphoom it appear the jockey pump sensing line had a constant leak that caused water pressure to drop and made the firepump run to cause a supervisory trouble on the fire

panel. The leak has been tightened up. The fire pump is a vertical Peerless pump and the reservoir or drain line appear clogged causing water to leak on the floor.

As a follow up SFP showed up 6-12-09 to restore Service on first floor, at arrival FCP was silenced, and fire pump leaking heavily from gland pack, adjusted the glands and it is good condition now. System is back on service with Valves open and FCP back on a normal condition.

The descriptions on these invoices demonstrate that not only is the reason for the service call ordinary maintenance, but also that the on-site personnel were unable to diagnose simple maintenance problems without calling in a specialty contractor. Also, line item 70170 of the budget—Fire Safety System PM—provides: “Funds for the preventative maintenance of the fire safety system equipment.” The Association should have a service agreement for this purpose. Finally, these repairs are ordinary maintenance and are included in line item 61100 of the budget—Fire Safety Equipment—which provides for: “Fire system and sprinkler repairs—including the fire pump and fire alarm monitoring system.” The Declarant is not obligated to reimburse the Association for this expense. Although the Declarant appreciates the reduction of the Sloppy Fire Protection claim to \$9,266.00, as part of an overall settlement, the Declarant is willing to reimburse the Association for \$3,674.00.

12. From December 2018 to July 2019, the Association paid Fairfax City Fire and Rescue \$1,824 for inspections to address the faulty fire suppression system. Copies of the invoices are enclosed for your review.

Declarant’s Response: As part of an overall settlement, the Declarant is willing to reimburse the Association for this expense.

14. On October 27, 2017, the Association paid International Consulting \$2,970.00 for fire watch services necessitated by failures in the fire suppression system. A copy of the invoice is enclosed for your review.

Declarant’s Response: The charges for International Consulting seem to be for a fire watch most likely required as a result of a problem with the fire suppression system. The fire watch is consequential or secondary damage for which the Declarant is not responsible. Again, the Declarant’s obligation with respect to structural defects is to repair or correct the defect. The Declarant is not responsible for secondary or consequential damages. Subsection III.D of the Limited Warranty Certificate for the common elements clearly states that:

THE DECLARANT SPECIFICALLY DISCLAIMS ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL (SECONDARY) DAMAGE TO ANY PERSON, ANY UNIT, THE COMMON ELEMENTS, OTHER COMPONENTS OR ANY OTHER REAL OR PERSONAL PROPERTY, RESULTING FROM A DEFECT.

The Declarant is not obligated to reimburse the Association for this expense.

17. On December 11, 2017, the Association paid Monumental Millwork \$279.30 for dead bolts that were ordered by the Declarant's warranty manager. A copy of the invoice is enclosed.

Declarant's Response: The Declarant paid this invoice directly to the vendor; the Association was not responsible for payment. In accordance with the Association's agreement to waive its claim for this amount if the Declarant provided a copy of the cancelled check proving that the Declarant paid this cost, we have previously provided to you a copy of the cancelled check in the amount of \$279.30 payable to Monumental Millwork, Inc.

19. On March 16, 2019, the Association engaged Stuffit Waterproofing to investigate a water leak in front of unit 1602, at a total cost of \$2,202.08. The cause of the water leak is clear a warranty item. Copies of the two invoices are enclosed for your review.

Declarant's Response: The Stuffit Waterproofing invoice is also instructive. The description of the work performed during two visits to the roof state as follows:

On 3-13-09 arrived on site for a leak investigation in front of door unit #1602. Met with John Thomas, showed us leak on the 16th floor, got access to the roof and located the area. Moved pavers, gravel, insulation and flex flash 30. Inspected membrane right over leak, did not see anything, membrane looked very good. Put back insulation, pavers and cleaned area. Note: informed Mr. Thomas we need to do a water test on this leak. (No access to water) He mentioned he needs to talk to project manager before we can do all this.

On 3-12-09 arrived on site to continue leak investigation and water on unit #1602. Pre-arranged for Stuffit to meet with Mr. Thomas. He was not on site at the time, finally we got access roof, build dam for water test. Water on approx 2 1/2 hrs no leak, asked Mr. Thomas to cut ceiling out, drain right above leak area, removed insulation of the pipe, insulation was wet. (Drain line was leaking, non roofing issue) do not know where this pipe leads to. Informed Mr. Thomas, cleaned up, put back insulation and pavers. Note: Build dam for water test.

As these descriptions demonstrate, the Association is demanding that the Declarant reimburse it for roofing work which was not required. In fact, instead of a roof leak, the source of the problem was a leaky pipe which should have been diagnosed and repaired by the Association as part of ordinary maintenance. The Declarant is not obligated to reimburse the Association for this expense. Furthermore, the fact that the roofing company was investigating "a water leak from a pipe solely serving unit 1602, which was owned by the Declarant at such time the work was performed" does not make the Declarant responsible for this expense. First, the Declarant is a unit owner and pays condominium assessments like every other unit owner and is entitled to maintenance services from the Association. Second, the leak was apparently from a pipe above the corridor in front of Unit 1602. If the pipe served only Unit 1602, it would be a limited common element. The Chart of Maintenance Responsibilities indicates that the Association is responsible for repairing limited common element plumbing pipes unless due to the negligence of a unit owner. Thus, the Declarant is still not obligated to reimburse the Association for this expense.

20. On July 8; 2017, the Association reimbursed the then community manager \$965.86 for the use of his personal phone during the period prior to the first settlement. On the check request, representatives of the Declarant stated that the amount would be billed back to the Declarant. A copy of the check request is enclosed for your review.

Declarant's Response: First, the check request form is not signed by a representative of the Declarant. Second, there is no evidence that the entire amount of the two bills was for service provided at the Declarant's request. Third, at least half of the amount shown is for past due charges. The only current charges for the two months total \$475.55. The back-up provided shows only the front page of the cell phone bills. When the Declarant originally received the expense reimbursement request for these personal cell phone charges, the Declarant disputed it because the back-up showed an inordinate amount of long distance phone calls and very long phone calls, neither of which would have been required by the property manager in his property management role at that time since he was working in the Declarant's corporate office preparing for first settlements. Additionally, we were advised that the property manager may have been operating an online shoe sales business on the side while he was acting as the property manager which may have been the cause of the enormous cell phone bills. Although the Declarant agrees that "There is no legitimate basis under which the Association is responsible for such charge", the Declarant is also not responsible for this charge and never authorized its payment. Although the Declarant is not obligated to reimburse the Association for this expense, as part of an overall settlement, the Declarant is willing to pay one half of this expense, \$482.93.

21. On July 30, 2019, Irrigation Experts, Inc performed repairs on the main irrigation controller at a cost of \$290.08. A copy of the invoice is enclosed for your review.

Declarant's Response: The Declarant will reimburse the Association for this expense.

23. From October 2018 to February 2019, the Association engaged Fire Sprinkler Co. on 8 separate occasions to perform repairs on defective components of the fire suppression system at a total cost of \$5,014.88. Copies of those invoices are enclosed for your review.

Declarant's Response: The Fire Sprinkler invoices generally show the replacement of globe valves and frozen nipples and heads. First, these repairs are ordinary maintenance and are included in line item 61100 of the budget—"Fire Safety Equipment: Fire system and sprinkler repairs—including the fire pump and fire alarm monitoring system." Second, if caused by freezing, the problems are due to weather or failure to drain the system as required and not a structural defect. The lines are properly sloped to drains and if properly drained will not freeze. Although the Declarant appreciates the reduction of the Fire Sprinkler claim to \$4,624.88, the Declarant is not obligated to reimburse the Association for this expense.

June 24, 2010 Claim: The Association is supplementing its claim for reimbursement in the amount of \$7893.50, which represents sums paid to Sloppy Fire Protection and Fire Sprinkler Company to correct conditions arising from defects in the garage sprinkler system.

Declarant's Response: The Sloppy Fire Protection and Fire Sprinkler invoices show that ordinary maintenance was required and provided but do not evidence a structural defect. If there had been a structural defect in the fire suppression system, the Declarant could have contacted the contractor warranting the installation. Furthermore, the Declarant employed Fire Sprinkler to review and remedy any problems with the garage sprinkler system at the Declarant's expense. Any funds expended by the Association would not have been paid by the Declarant and will not be reimbursed. Subsequently, because Fire Sprinkler did not complete the work requested by the Declarant, the Declarant engaged

Competent Sprinkler Co. to complete the remedial work. No reimbursement of the Association is warranted. As to the individual invoices:

A. Sloppy Fire Protection Invoice #77352, dated February 3, 2010, in the amount of \$1,363.00 for two service calls on January 8 & 15, 2010. The description of the work done on January 15 includes tightening a sprinkler head and changing the oil in a compressor—ordinary maintenance. The description of the work done on January 8 includes: “frozen drum drips on P-6, P-5, P-4, P-3 levels, heated drum drips pipe to get out water and frozen water, drained low point of water & blew out systems. Systems low points must be maintained 2 time a day until all the water is gone out of pipe. Customer is responsible to maintain all low point drains.” This description clearly indicates that the problem is a failure to properly drain and maintain the system. The Declarant is not responsible for ordinary maintenance.

B. Sloppy Fire Protection Invoice #77351, dated February 3, 2010, in the amount of \$3,048.00 for two service calls on January 6 & 7, 2010. The description of the work done on January 7 includes “the Victaulic dry valves would not set up on 1/6/10, came and made sure all the air & the valves were set up properly – turned air line on set low PSI actuator & set the valves in service panel clear of the dry valves.” The description of the work done on January 6 includes: “Frozen drum drip on 5th level was replaced. Drain all low point drains, resecured drains from pump surge. Restore system to normal.” These descriptions are of ordinary maintenance for which the Declarant is not responsible.

C. Sloppy Fire Protection Invoice #77353, dated February 6, 2010, in the amount of \$877.50 for two service calls, but only one service ticket is provided for January 21, 2010. The description of the work done includes: “multiple troubles on fire control”—defective input signal module, defective input signal module on phone system and moisture in J-boxes requiring weatherproofing. The Declarant is not responsible for ordinary maintenance.

D. Sloppy Fire Protection Invoice #78507, dated February 19, 2010, in the amount of \$507.00 for a service call on February 14, 2010. The description of the work done includes: “Tripped dry system – 5th level parking garage. Dry valve tripped due to frozen low point/auxiliary drain. Replace broken assembly w/new & reset system. Note: Customer is responsible for maintaining low point drains free & clear of water to prevent freeze ups.” This description is of ordinary maintenance for which the Declarant is not responsible.

E. Sloppy Fire Protection Invoice #81343, dated March 30, 2010, in the amount of \$536.00 for a service call on March 15, 2010. The description of the work done includes: “Leak on 4” pipe on dry system. Replaced several vic couplings per customer on G-2 dry system. Note: Found excessive trapped water in main & branch lines, regraded branch lines to remove standing water where vic’s were replaced.” Again, the work was required due to the lack of adequate maintenance of the fire sprinkler system. The Declarant is not responsible for ordinary maintenance.

F. Fire Sprinkler Invoice #186137, dated November 24, 2018, in the amount of \$1,265.00. There is no description of the reason for the service call or the work done. The Declarant will not reimburse the Association without additional information regarding this invoice.

G. Fabulous Fire & Fabrication Invoice #1634414, dated March 9, 2019, in the amount of \$297.40 for 10 sprinkler parts for the garage purchased by the building engineer. Assuming that these were standard parts for the fire sprinkler system, the cost of these parts is an ordinary maintenance expense and is not the responsibility of the Declarant.

Association Advocate, Esq.
February 1, 2021
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ReedSmith

In total, and in the context of an overall settlement of all warranty claims, the Declarant will reimburse the Association for \$15,103.35 of the expenses claimed.

In sum, the Declarant is prepared to perform all of the work which is properly the Declarant's responsibility, or where the Association has already performed that work (although without providing the notice and opportunity to cure which is required by the warranty documents), the Declarant will make a contribution toward the cost. If the resolution proposed in this letter is acceptable, I will prepare a Settlement Agreement, Scope of Work and other exhibits.

If you have any questions regarding the Declarant's position on any of the items discussed, please call me so that we can resolve these claims on an amicable basis. Please advise us when you have reviewed these items so we may schedule a meeting if needed to resolve any outstanding issues.

Thank you in advance for your assistance in resolving these claims.

Sincerely,

REED SMITH LLP



By:
Robert M. Diamond

Attachment

cc: Ms. Project Manager
Ms. Construction Supervisor

PURCHASER SHOULD READ THIS DOCUMENT FOR PURCHASER'S OWN PROTECTION

PUBLIC OFFERING STATEMENT

NAME OF CONDOMINIUM: Stratford Condominium
LOCATION OF CONDOMINIUM: 1854 Stratford Park Place
Reston, Virginia 22091
NAME OF DECLARANT: Town Center Tower, L.L.C.
ADDRESS OF DECLARANT: 12030 Sunrise Valley Drive
Suite 170
Reston, Virginia 22091-3405

EFFECTIVE DATE OF PUBLIC OFFERING STATEMENT: June 12, 1998; revised through June 5, 2001

This Public Offering Statement presents information regarding condominium units being offered for sale by the declarant. Virginia Law requires that a Public Offering Statement must be given to every purchaser in order to provide full and accurate disclosure of the significant features of the condominium units being offered. The Public Offering Statement is not intended, however, to be all inclusive. The purchaser should consult other sources for details not covered by the Public Offering Statement.

The Public Offering Statement summarizes information and documents furnished by the declarant to the Virginia Real Estate Board. The Board has carefully reviewed the Public Offering Statement to ensure that it is an accurate summary but does not guarantee its accuracy. In the event of any inconsistency between the Public Offering Statement and the material it is intended to summarize, the latter will control.

Under Virginia Law a purchaser of a condominium unit is afforded a ten-day period during which he or she may cancel the contract of sale and obtain full refund of any sums deposited in connection with the contract. The ten-day period begins running on the contract date or the date of delivery of a Public Offering Statement, whichever is later. The purchaser should inspect the condominium unit and all common areas and obtain professional advice. If the purchaser elects to cancel, he or she must deliver notice of cancellation by hand or United States mail, return receipt requested.

The following are violations of Virginia Law and should be reported to the Virginia Real Estate Board, 3600 West Broad Street, Fifth Floor, Richmond, Virginia 23230-4917:

- a misrepresentation made in the Public Offering Statement
- an oral modification of the Public Offering Statement
- a representation that the Board has passed on the merits of the condominium units being offered or endorses the condominium.

PURCHASER SHOULD READ THIS DOCUMENT FOR PURCHASER'S OWN PROTECTION

SUMMARY OF IMPORTANT CONSIDERATIONS

Following are important matters to be considered in acquiring a condominium unit. They are highlights only. The narrative sections should be examined to obtain detailed information.

1. The Condominium will be governed by a unit owners association. Each unit owner will have a vote on certain decisions of the association and will be bound by all decisions of the association including those with which the unit owner disagrees. See Narrative Section J of this Public Offering Statement.

2. Certain decisions of the unit owners association will be made by the Board of Directors. See Narrative Section J of this Public Offering Statement and Section 3.1 of the Bylaws.

3. The expenses of operating the unit owners association will be paid by the unit owners on the basis of an annual budget. Each unit owner will pay an annual assessment which may be payable in monthly installments. A unit owner cannot reduce the amount of the assessment by refraining from use of the common elements. See Narrative Section L of this Public Offering Statement.

4. If a unit owner fails to pay an assessment (or installment thereof) when due, the unit owners association will have a lien against such unit owner's condominium unit. Certain other penalties may also be applied. See Narrative Section L of this Public Offering Statement.

5. The Declarant must pay assessments on unsold condominium units. The Declarant may, at the Declarant's sole option, decide to pay all ordinary operating costs for the project for some time. If the Declarant so elects, the Condominium will incur no common expenses and thus no condominium assessments will be collected during such time. See Narrative Section L of this Public Offering Statement.

6. The declarant will retain control of the unit owners association until the earlier of (i) five years after conveyance of the first unit to a unit owner other than the declarant; or (ii) until units to which 75 percent of the undivided percentage interest in the common elements appertain have been conveyed to unit owners other than the declarant. See Narrative Section J of this Public Offering Statement.

7. A managing agent which may be an affiliate of the declarant, will perform the routine operations of the unit owners association. See Narrative Section J of this Public Offering Statement and Section 3.2 of the Bylaws.

8. The declarant may rent unsold condominium units. The right of any other unit owner to rent a unit is subject to certain restrictions (including without limitation a minimum term of six months, not for transient or hotel purposes, not less than the entire unit and certain required lease provisions). See Narrative Section I of this Public Offering Statement and Section 5.8(a)(6) of the Bylaws.

9. The units are restricted to residential use. See Narrative Sections C and I of this Public Offering Statement and Section 5.8(a)(1) of the Bylaws.

10. The right of a unit owner to resell a condominium unit is not subject to restrictions.

11. The unit owner may not alter the structure of the unit or modify the exterior of the unit without the approval of the Covenants Committee. See Narrative Section J of this Public Offering Statement and Section 5.7 of the Bylaws.

12. The unit owners association will obtain certain insurance benefiting the unit owner, but the unit owner should obtain other insurance. See Narrative Section M of this Public Offering Statement and Section 6.5 of the Bylaws.

13. The unit owner will pay real estate taxes on the condominium unit. See Narrative Section N of this Public Offering Statement.

14. The Condominium is not subject to development as a timeshare condominium. See Narrative Section I of this Public Offering Statement and Section 5.8(a)(11) of the Bylaws.

15. The declarant may expand or contract the condominium or convert convertible land without the consent of any unit owner. See Narrative Section C of this Public Offering Statement and Articles 6, 7 and 9 of the Declaration.

16. Marketing and sale of condominium units will be conducted in accordance with the Virginia Fair Housing Law, Section 96.1 et seq. of the Code of Virginia, and Section 55-79.52(c) of the Virginia Condominium Act.

17. During the sales program, the Declarant may reserve the use of certain parking areas for sales and customer service purposes. See Narrative Section E6 of this Public Offering Statement.

18. The condominium is set up with a ward system -- the units in Stratford House being one ward and the units in Stratford Court being the other ward -- with limited common elements and Limited Common Expenses appurtenant to each ward. See Section 5.1(h) and Exhibit B to the Bylaws and Narrative Section A2(a) of this Public Offering Statement.

19. The Condominium is part of Reston Residential Center, a planned community, and is subject to the Declaration of Covenants, Conditions and Restrictions for Reston Residential Center, which are intended to conserve the natural beauty of the property, to ensure its best use and most appropriate development, and to prevent the erection of poorly designed or constructed improvements. The restrictions, covenants and other regulations are administered and promulgated by the Reston Town Center Joint Committee. See Narrative Section H of this Public Offering Statement and Section 9.1 of the Declaration.

STRATFORD CONDOMINIUM
PUBLIC OFFERING STATEMENT
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STRATFORD CONDOMINIUM

PUBLIC OFFERING STATEMENT

INTRODUCTION

Town Center Tower, L.L.C., a Virginia limited liability company ("Declarant"), presents its proposal for condominium ownership of certain real estate located at 1803 Reston Parkway, Reston Town Center, Fairfax County, Virginia 22091. The land and structures constitute a condominium known as Stratford Condominium ("Condominium"). This Public Offering Statement describes the Declarant's plans for development of the Condominium.

This Public Offering Statement consists of two parts, a narrative portion and an exhibit portion. The narrative portion is intended to summarize the significant features of the Condominium and also to present other information of interest to the prospective purchaser. The exhibits include legal documents which are required for the creation and operation of the Condominium, floor plans of the units, a projected budget for the Condominium, Rules and Regulations, the Unit Inspection Form, the Limited Warranty Certificates, the Management Agreement and the Master Association Documents for Reston Residential Center. If there is any inconsistency between the exhibits and the narrative, the exhibits will govern. All of the Declarant's sales and other representatives are prohibited from changing any of the terms and conditions of this Public Offering Statement or the legal documents or features of the Condominium or attempting to interpret their legal effect. Purchasing a home is an important decision; you may wish to review this Public Offering Statement with your attorney to be sure you have a clear understanding of what you are buying.

A. THE CONDOMINIUM CONCEPT

1. Condominium Ownership. The term "condominium" refers to a form of property ownership. While used for centuries in Europe, condominium ownership in the United States only became widespread in the late 1960's. Condominium ownership is a form of ownership which, in effect, combines two older forms of ownership. Just like the owner of a detached single-family home, the condominium unit owner is the sole owner of fee simple title to the home, that portion of the building which comprises the living quarters (called a "unit"). In addition, the condominium unit owner is one of many mutual owners (legally speaking, "tenants in common") of common facilities which service more than one unit owner's living quarters and of common areas which the unit owner may use and enjoy along with owners of other units. The property owned in common is called the "common elements" and each unit owner's share of ownership, called the "common element interest," is expressed as a percentage and set forth in the "Declaration." The Declaration, together with the Bylaws and the Plats and Plans, are recorded to create the Condominium and are called the "condominium instruments." The ownership share in the common elements is an "undivided" interest, which means that a unit's common element interest cannot be sold separately from the unit. No unit owner owns all of a particular common element; rather, all unit owners own an undivided interest in all common elements. The ownership of a common element interest gives the unit owner the right to participate in the administration of all the common elements (subject to the Declarant's reserved rights of control as set forth in the condominium instruments), and imposes upon the unit owner the obligation to pay a defined share of the expenses of operating and maintaining all of the common elements. Ownership of an undivided interest in the common elements distinguishes condominium ownership from other forms of property ownership.

(a) Common Elements. The common elements are all portions of the Condominium which are not included within the units. The common elements include the land, those portions of the building structure which support, enclose or service the units, the parking facilities, grounds, recreational and other community facilities.

(b) Limited Common Elements. Certain common elements are designated as "limited common elements." Like all common elements, each limited common element is owned by all of the unit owners in proportion to their respective common element interests. What makes it "limited" is that it is reserved for the exclusive use of one or more (but less than all) of the unit owners, to the exclusion of the rest of the unit owners. In addition to the limited common elements already assigned to various units (such as balconies and patios), are common elements which are appurtenant to the units in only one ward and common elements which may subsequently be assigned as limited common elements (such as storage areas and parking spaces).

(c) Reserved Common Elements. Certain common elements may be designated as "reserved common elements." A reserved common element is a portion of the common elements set aside for use by less than all of the unit owners not by the condominium instruments but, rather, by the Board of Directors of the unit owners association. For example, the Board of Directors may reserve a portion of the common elements (or limited common elements appurtenant to only one ward) for use as storage space by designated unit owners. The Board of Directors may modify or terminate a unit owner's right to restricted use of a reserved common element.

2. The Stratford Concept.

(a) The Planning Concept. Stratford Condominium provides a choice between Stratford House, a single 14-story building, and Stratford Court, four smaller, 4-story buildings. The Condominium features:

- a totally residential community
- a recreational and social environment which accents the natural surroundings
- large and interesting floor plans
- competitive sales prices made possible by extensive standardization in building design and volume purchasing power
- low maintenance costs generated by careful facilities planning
- individually-metered gas and electric service and other energy-saving features for energy conservation
- an experienced development team working with skilled consultants

Stratford Condominium is planned to consist of 8 phases as a single expanding condominium. Phase 6 includes a 14-story building. Phases 1, 2, 3 and 4A each are planned to contain one building four stories in height. Each building is designed with a separate entrance courtyard and controlled-access lobby. Each structure contains its own garage parking, as well as amenities. A community clubhouse and outdoor pool are planned for Stratford Court (in Phase 5). An outdoor pool is planned for Stratford House (in a portion of Phase 7). The plan is for Stratford House and Stratford Court to have separate amenities. The costs of operating and maintaining the amenities and services in each "ward" will be assessed separately to the unit owners in each ward.

The Condominium is part of the community of Reston Residential Center and is located on Section 85, a total of over 8.95 acres of land. Parks, gardens, public squares, shops, restaurants, live theater and a hotel are located across Reston Parkway in Reston Town Center.

(b) Energy Conservation. The Declarant has designed the residences for the installation of individual electric and natural gas meters for each condominium unit. Each unit owner can, therefore, control the amount of electricity and gas used in the unit, and electric and gas charges for each unit will be billed to and paid by each unit owner. Individual metering has been shown by government studies to reduce energy usage by up to thirty percent. The utility charges for the common elements will be a common expense included in the monthly assessment. Utility charges for common elements include such items as corridor

heating, air conditioning and lighting, water, elevators, etc. Individually metered energy charges are for the unit heating, air conditioning, lighting, washer/dryer and other kitchen appliances. Heating will be accomplished by energy-efficient gas furnaces and cooling will be accomplished by electric air-conditioning for each unit.

Energy-saving features are designed into the Condominium. Heavy roof and exterior wall insulation, double-paned windows, low-wattage fixtures in public areas and water-saving devices are a few of the special conservation measures taken to ensure the minimum expenditure of energy for maximum utilization. The insulation is designed to provide a value of R-30 on the roof and R-13 in the exterior walls. Exterior walls will be insulated with Fiberglass batt insulation to a thickness of 3-2 inches, which thickness, according to the manufacturer, will yield an R-value of 13. Top floor ceilings will be insulated with fiberglass batt or blown-in-place insulation of an appropriate thickness to yield an R-value of 30. "R-value" is the insulation measuring standard being used nationwide and the number shown is provided by the manufacturer of the insulation material.

(c) Transportation. The Condominium is located in the urban core of Reston, across from Reston Town Center. The Condominium is located within walking distance of a wide array of community and neighborhood shopping. Entertainment abounds with an outdoor ice skating rink, an 11-screen multiplex cinema and a very active schedule of events hosted in the center plaza. The Condominium is located less than a mile from the Dulles Toll Road, which connects Washington, D.C. (18 miles to the east) with Dulles Airport (5 miles west of Reston) and the Loudoun County suburbs. The Declarant envisions Stratford as a community of convenience--with easy access to the workplace and recreation at home.

(d) Recreation. Two separate amenity groups are the focus of social and recreational activities, one for Stratford House and one for Stratford Court. The amenities include outdoor swimming pools, exercise facilities, community rooms and business centers. Footpaths and jogging trails are located on and adjacent to the Condominium.

B. CREATION OF THE CONDOMINIUM

1. Method. The Condominium is created by recording condominium instruments substantially the same as the ones attached to this Public Offering Statement as Exhibit 1. If the Declarant makes additional amendments to the condominium instruments (not shown herein) after a purchaser signs a contract to purchase a condominium unit but before settlement, the Declarant will send a copy of the revised condominium instruments or amendments to the purchaser as recorded, within ten days after the recordation date (unless, of course, the purchaser has previously cancelled the contract).

2. The Declaration. The essential function of the Declaration is to describe property rights within the Condominium. The Declaration is more detailed than this Public Offering Statement about the units and the common elements (including the limited common elements). The Declaration also contains definitions, describes certain easements and contains various other provisions. Technically, the Bylaws and the Plats and Plans described below are integral parts of the Declaration. The Declaration is recorded in the Clerk's Office of the Circuit Court of Fairfax County, Virginia. A copy of the proposed Declaration is attached to this Public Offering Statement as part of Exhibit 1. The Declaration creates the Condominium, establishes the boundaries of the units and assigns the common element interest appurtenant to each unit. In addition, the Declaration establishes special property rights within the Condominium, such as limited common elements and easements (both discussed in following sections). Although the Declarant intends to sell all the units, the Declaration reserves for the Declarant the right to rent any units not sold.

3. The Bylaws. The essential function of the Bylaws is to provide for the manner in which the Condominium is to be governed. The Declarant Control Period is described, and so is the manner in which

the Condominium will subsequently be governed by the unit owners association, its Board of Directors and committees and a managing agent to be selected by the Board. The Bylaws contain various other provisions

including, among other things, restrictions on the use of the units and common elements, the manner of setting the association's budget, enforcing the collection of assessments and insurance requirements. The Bylaws are attached as Exhibit B to the Declaration in this Public Offering Statement.

4. Plats and Plans. The essential function of the Plats and Plans is to depict the Condominium graphically. The Plats show the location of the buildings and improvements on the land. The Plans show the location of the units in the buildings and set forth the elevations of the unit boundaries. Photo-reduced copies of the Plats and Plans are included as Exhibits D and E to the Declaration in this Public Offering Statement, but you can examine full-size copies at the Condominium, at the office of the Declarant or at the office of the Virginia Real Estate Board at 3600 West Broad Street, Fifth Floor, Richmond, Virginia 23230-4917.

5. Amendments. Under the Condominium Act, some amendments to the condominium instruments can be made by the Declarant or certain unit owners unilaterally. Certain other amendments require the written consent of unit owners with two-thirds of the votes in the unit owners association. The consent of the Declarant, Mortgagees, the unit owners association and/or particular unit owners is required for certain amendments by Article 5 of the Declaration and Articles 5 and 10 of the Bylaws.

Finally, the Declarant's rights to assign limited common element parking spaces, expand and contract the Condominium and to convert convertible land or space are created by the Declaration. Expansion, contraction or conversion is accomplished by the Declarant's amendment of the Declaration. The form amendments which will be used to assign limited common element parking spaces and add additional phases are attached to this Public Offering Statement as part of Exhibit 1.

C. DESCRIPTION OF THE CONDOMINIUM

1. Physical Description. The Condominium is served by Reston Parkway and the Dulles Toll Road, among other major arterial highways. Public transportation to both downtown Washington and Dulles Airport is available from Reston Town Center, across the street from the buildings. The living environment is enhanced by views of the careful landscaping, parklike spaces, natural vegetation and topography.

2. Declarant's Development Program: Additional, Withdrawable and Convertible Land. The site consists of approximately 8.95 acres which the Declarant has divided into eight phases on the Plat. The Declarant will create the Condominium initially consisting of Phase 3 with the remainder of the phases designated as additional land. The Declarant does not now own the additional land; the contract provides for the Declarant to acquire the land phase by phase. Thereafter, the Declarant intends to create the remaining units by adding the additional land comprising these phases. The Declarant does not intend to rent any of the units but may do so if market conditions so warrant.

<u>Phase</u>	<u>Acreage</u>	<u>Maximum Number Of Units /Current planned</u>
1	1.72342	48
2	1.77307	48
3	1.33140	64
4A	1.04901	64 / 60
4B	0.51662	0
5	0.37978	0
6	1.31322	122 / 120

<u>Phase</u>	<u>Acreege</u>	<u>Maximum Number Of Units /Current planned</u>
7	<u>0.86547</u>	<u>0</u>
Total	8.95199	346 / 340

(a) Significance of Additional Land. The Declarant has retained the right to add certain land to the Condominium within seven years following creation of the Condominium. The Declarant intends to add these phases to the project as planned; the Declarant is under no obligation to do so, however, and development may stop at any stage short of completion and the land may be put to other uses and sold. Should the development not be carried out as intended, the Condominium will, nevertheless, constitute a complete community, albeit a smaller one than originally planned.

(b) Significance of Withdrawable Land. The Declarant has also reserved the right to contract the Condominium at any time within seven years following creation of the Condominium without the consent of any unit owner. The Condominium may be contracted by withdrawing the withdrawable land, except that no land may be withdrawn after a unit located therein has been conveyed to a unit owner. Subject to this limitation and to applicable land use restrictions, any land or buildings within the withdrawable land may be sold and/or put to any use whether or not originally contemplated by the plan of condominium development.

(c) Significance of Convertible Land. Although the Declarant has not designated any land as convertible land, the Declarant has reserved the right to designate any portion of the additional land as convertible when that land is added to the Condominium. Convertible land is simply a part of the common elements which the Declarant may, by exercising certain retained rights, without the consent of any unit owner, convert into units, common elements and limited common elements. The Declarant may exercise rights to convert the convertible land within seven years after the Condominium was created; however, if the Declarant does nothing prior to the expiration of the conversion rights, the convertible land remains common elements of the Condominium. Although the Declarant may continue to rent the dwellings on and is entitled to all the income derived from the convertible land, the Declarant must pay all real estate taxes, operating costs and maintenance expenses attributable to the convertible land.

3. Permitted Uses. The units in the Condominium are restricted to residential use except that the Declarant may use units owned or leased by the Declarant and common elements as models, management offices, sales offices or customer service offices; other reasonable, temporary nonresidential uses may be permitted by the Board of Directors. Finally, additional units may be designated by the Board of Directors for a management office. The Declarant does not intend to sell more than twenty percent of the units to persons who do not intend to occupy the units as their primary residences. The restrictions on the uses of units are set forth in Section 5.8 of the Bylaws. In addition, the Declarant may use portions of the common elements for shops, storage and similar purposes to facilitate completion of construction and performance of warranty service.

D. INDIVIDUAL UNITS

1. Unit Boundaries. Generally speaking, each unit will consist of the space bounded by the walls, floor and ceiling of the unit. The unit will also include interior partitions, floor covering (wood flooring, carpeting, tile, etc.), wall finishings and interior doors, any portions of the heating and air conditioning apparatus which serve only that unit, and any portion of the plumbing, electrical and mechanical systems serving only that unit. Units with one, two and three bedrooms will be offered.

The identifying number, par value and type of each unit in the Condominium are set forth in Exhibit C to the Declaration.

2. Floor Plans. There are 120 units planned in Stratford House, a 14-story building, and 220 units planned in the four buildings in Stratford Court. Floor plans have been carefully designed and are the result of extensive field experience and market acceptance. Each unit will have a private storage space. Although the number of each type of unit in a specific building may vary, the unit types for each of the phases are more fully described in the following table:

UNIT TYPE	DESCRIPTION*	APPROX. SIZE (SQ. FT.)	PAR VALUE	PHASE 1	PHASE 2	PHASE 3	PHASE 4	PHASE 6	Total Units
1A	1 bedroom/1 bath	735	800	2	2	2	-	-	6
1B	1 bedroom/1 bath	730	800	1	1	-	-	-	2
1B-1	1 bedroom/1 bath w/den	820-860	1000	1	1	8	-	-	10
2B	2 bedroom/2 bath	930	1000	6	6	-	-	-	12
2C	2 bedroom/2 bath	880-900	1000	6	6	22	-	-	34
2D	2 bedroom/2 bath	1,050-1,080	1200	-	-	12	-	-	12
2DS	2 bedroom/2 bath w/sunroom	1,140-1,165	1200	12	12	-	12	-	36
2D-1	2 bedroom/2-1/2 bath w/den, loft	1325	1400	-	-	4	-	-	4
2DS-1	2 bedroom/2 -1/2 bath w/den, loft and sunroom	1,440	1600	4	4	-	4	-	12
2E	2 bedroom/2 bath	1,280-1,310	1400	-	-	12	-	-	12
2ES	2 bedroom/2bath w/sunroom	1,372-1,395	1400	12	12	-	12	-	36
2E-1	2 bedroom/2-1/2 bath w/den and loft	1,398	1400	-	-	4	-	-	4
2ES-1	2 bedroom/2 1/2 bath w/den, loft and sunroom	1530	1600	4	4	-	4	-	12
2F	2 bedroom/2 bath	1,100	1200	-	-	-	3	-	3
2F-1	2 bedroom/2- bath w/loft	1,215	1400	-	-	-	1	-	1
2G	2 bedroom/2 bath w/den	1,570-1595	1600	-	-	-	3	-	3
2G-1	2 bedroom/2-1/2 bath w/loft & den	1,820	2000	-	-	-	1	-	1
2H	2 bedroom/2 bath	1,230-1,270	1400	-	-	-	3	-	3
2H-1	2 bedroom/2 bath w/loft	1,470	1600	-	-	-	1	-	1
2J	2 bedroom/2 bath	960-990	1000	-	-	-	11	-	11
2J-1	2 bedroom/2 bath w/loft	1,111	1200	-	-	-	4	-	4
1K	1 bedroom/1bath	750	800	-	-	-	1	-	1
HR-A	2 bedroom/2 bath w/sunroom	1,419	1600	-	-	-	-	24	24
HR-B	2 bedroom/2 bath	1,358	1400	-	-	-	-	12	12
HR-B1	2 bedroom/1 bath	1,186	1200	-	-	-	-	1	1
HR-B2	2 bedroom/2 bath	1,430	1600	-	-	-	-	1	1
HR-B3	2 bedroom/2 bath w/den	1,497 -1,562	1600	-	-	-	-	13	13
HR-C	2 bedroom/2 bath w/sun room and breakfast room	1,641	1800	-	-	-	-	26	26
HR-C1	2 bedroom/2 bath w/sun room and breakfast room	1,600	1600	-	-	-	-	1	1
HR-D	2 bedroom/2 bath w/den and breakfast room	1,775	1800	-	-	-	-	22	22
HR-D1	2 bedroom/2 bath w/den and breakfast room	1,756	1800	-	-	-	-	1	1
HR-D2	3 bedroom/3 bath w/den and breakfast room	2,186	2200	-	-	-	-	4	4
HR-D3	2 bedroom/2 bath	1,472	1600	-	-	-	-	1	1
HR-E	2 bedroom/3 bath w/library guest room and sun room	2,330	2400	-	-	-	-	12	12
HR-F	3 bedroom/3 bath w/sunroom	2,095	2200	-	-	-	-	2	2
TOTAL				48	48	64	60	120	340

Floor plans for each typical unit type are attached to this Public Offering Statement as Exhibit 8.

*Square footage for units as actually constructed may vary slightly and thus par values may be adjusted accordingly.

3. Common Element Interest. As indicated above, each unit has an appurtenant common element interest. Because of the large variety of units, the common element interest assigned to each unit is calculated on the basis of par value. The common element interest appertaining to each unit is listed in Exhibit C to the Declaration which is attached to this Public Offering Statement. Par value is allocated based on a combination of value, use of common facilities and services and approximate relative size of similar units. See the Notes to Common Element Interest Table attached as Exhibit C to the Declaration.

If the Condominium is expanded by creation of additional units, the common element interest of all units will be recalculated on the basis of the par value formula set forth in the Notes to Common Element Interest Table. This recalculation will reduce the common element interest appertaining to each unit, but because the total amount of common elements will have increased, the actual ownership interests will be essentially unchanged. In other words, more people will be sharing the pie, but the size of the pie will have increased.

4. Restrictions on Changes. A unit owner may not alter the structure of the unit or modify the exterior of the unit without the approval of the Covenants Committee of the unit owners association. See Narrative Section J of this Public Offering Statement and Section 5.7 of the Bylaws.

5. Optional Improvements. The units will be delivered equipped and finished as set forth on Schedule A to the Purchase Agreement. The Declarant may also agree to install certain custom finishing items or optional upgrades; if so, any custom finishes or optional upgrades will be set forth on Schedule B to the Purchase Agreement. At the time of placing the order, purchasers will be required to pre-pay one-half the costs of such optional upgrades or custom finishes as a custom finishing fee. Purchasers may also contract with any home improvement contractor of their choice to provide additional optional improvements at additional cost to such purchasers, but such improvements may not be installed prior to settlement. Usually, such improvements can be financed by a home improvement loan for qualified borrowers.

6. Development Schedule. Although construction schedules indicate the Declarant's plans, such schedules vary greatly depending on many variables. Although the construction schedule has changed, the Budget was prepared based on this schedule.

<u>Phase</u>	<u>Scheduled Start Date</u>	<u>Scheduled Completion Date</u>
3 and 5	Fall of 1998	Fall of 1999
1	Spring of 1999	Spring of 2000
2	Fall of 1999	Fall of 2000
4A & 4B	Spring of 2000	Spring of 2001
6 and 7	Summer of 1999	Winter of 2000

[See Narrative Section E9 of this Public Offering Statement]

7. Sound Conditioning. The Condominium will be constructed generally to comply with the sound standards established by the United States Department of Housing and Urban Development (and employed by the Federal National Mortgage Association). These standards require a minimum 45 STC (Sound Transmission Class) for party walls, corridor walls and floors and a minimum 45 IIC (Impact Insulation Class) for floor systems. These standards also require 50 STC between unit space and noisy public space such as trash rooms or machine rooms. However, the Declarant cautions all purchasers that in some locations some noise leaks may occur. Noise generated by the operation of appliances and plumbing fixtures (e.g., fans, faucets, toilets, disposals and drains) in adjacent units may be audible.

Units adjacent to the trash rooms and near the elevators will experience some additional noise. Noise will be audible from the corridors or stairwells through unit entrance doors. Therefore, noise sensitive individuals should be aware that while the buildings will be generally well sound-insulated, certain intermittent noises from adjacent units and service areas are likely to be audible. Further, to reduce sound transmission, the Bylaws require unit owners to maintain floor coverings (carpet and padding) over any hardwood flooring which they may install in their units. In addition, outside ambient noise from street traffic, aircraft and wind noise intrinsic to these types of buildings in an urban area may be audible

E. COMMON ELEMENTS

1. Common Elements. The Condominium consists of the common elements and the units. The common elements constitute all of the Condominium other than the units. The following items are major common elements of the Condominium: all of the land, the supporting structure of the buildings, exterior walls, walls separating units, portions of plumbing, electrical, heating, mechanical and air conditioning systems serving the common elements or more than one unit, stairs, elevators, surface parking areas, storage spaces and the airspace around and above the buildings and within the buildings (except for the airspace within the units). Also included in the common elements will be recreational and other service facilities not located within a unit. The functions of the recreational facilities may be changed by the unit owners association. Revenue, if any, derived from these facilities will belong to the unit owners association. The recreational facilities serving each portion of the Condominium will be available only for the exclusive use of the residents of units in that portion of the Condominium and their invited guests. Finally, all stormwater drainage facilities, including an underground facility, are common elements which must be maintained by the unit owners association.

(a) Concrete. One of the major components of the common elements is reinforced concrete. Concrete floors (and ceilings) are usually poured-in-place slabs reinforced with two layers of crisscrossed steel bars. This is a strong, stable, long-lasting and well-accepted method of construction. Nevertheless, concrete is porous, will retain moisture and will expand and contract with temperature fluctuations so hairline cracks will occur in the concrete slabs due to the effects of time, the freeze and thaw cycle, limited elasticity and building settlement. These settlement and shrinkage cracks are normal, are not structural defects and do not require repairs. However, in areas exposed to water penetration (e.g., exposed balconies), the freeze and thaw cycle can cause spalling of the concrete and rusting of the reinforcing steel. This condition may cause structural problems and premature deterioration of the concrete if not maintained. These cracks require sealing with an elastomeric material to prevent water penetration through the slab. The unit owners association budget contains funds for the cost of this routine preventive maintenance.

In addition, some of the cosmetic aspects of concrete construction also concern unit owners unnecessarily. Frequently, poured concrete slabs are left "unfinished," and may be rough, showing honeycomb or wood frame marks left after the pouring of the concrete. To provide a more finished appearance, poured concrete slabs are frequently "rubbed" with a thin coat of concrete. This is particularly noticeable on interior stairwells where the unpainted concrete surface is very visible. The cracking or spalling of this thin cosmetic layer is non-structural and can easily be maintained by recoating. However, any deterioration beyond this cosmetic layer may be structural and should be monitored and maintained by the unit owners association. Also, the "rubbed" areas will have normal variations of color and texture. Finally, when water comes in contact with concrete (or brick), a residue or stain called "efflorescence" may appear. This is caused by the normal leaching of salts and minerals naturally occurring in the concrete (or brick) to the surface. This "efflorescence" need not be removed, is cosmetic only, does not affect the structure and will be reduced over the years as the salts and minerals are depleted. Also, garage decks, being constructed of porous concrete, are not waterproof; water may penetrate the decks, especially through hairline cracks.

(b) Water Penetration.

(1) Roof. The roof is an impermeable surface with flashing around roof penetrations. Although all roofs may be expected to experience occasional leaks from various causes, the manufacturer and installer provide a guaranty against major failures assignable to the Association and the Association budget allocates funds for routine repairs and a reserve for replacement. Stratford House will have a rubberized asphalt membrane roof with a 10-year warranty. Stratford Court will have asphalt strip shingle roofs with 25-year warranties and prefinished metal roofs with 5-year warranties.

(2) Windows. The windows are double-glazed, vinyl. In cold weather, and in high relative humidity, the differential between the indoor and outdoor ambient air temperature may cause water droplets to condense on the inside of the windows and window frames and run down the frame onto the sills and walls. The unit owner should wipe off this excess condensation to prevent damage to the sills and the walls; over time, touch-up painting of the sills and surrounding walls may be required. The condensation problem can be exacerbated by personal habits of the unit owner, such as lengthy bathing without use of bathroom exhaust fans or by use of insulated window coverings which block warm air from reaching the glass surface.

(3) Caulking and Tuckpointing. The caulking around wall penetrations such as windows and vents is an elastomeric sealant which bonds to adjacent masonry and metal surfaces and expands and contracts to keep a good seal as the stiffer materials (brick, steel, aluminum, etc.) expand and contract with temperature changes. Caulking will lose its elasticity with age and will fail if required to stretch beyond its limits of elasticity either due to shrinkage or settlement cracks or by failure of expansion joints. Tuckpointing is the restoration of mortar between the bricks. The same shrinkage and settlement cracks that cause failure of the caulking also cause deterioration of the mortar bond. This is exacerbated by the non-elasticity of mortar and the freeze and thaw cycle in the Washington, D.C. area with its extremes of temperature. The routine caulking and tuckpointing required is not a structural problem and has been included in the unit owners association budget.

(4) Pump Room and Riser Piping. A pump room which houses the fire pumps, and major piping and plumbing for the building is located in various portions of the structure. Identification of these pipes by color coding and direction of water flow will be performed by the Declarant. The riser piping which carries the water to each tier is identified by the construction staff during construction. The unit owners association will be given valve charts and drawings showing the general location of these pipes.

(5) Stratford House Corridor Ventilation System. The corridor and public space heating, ventilating and air conditioning system is only one part of the overall air management system for the Stratford House building. For both fire safety and aesthetic reasons, highrise buildings should have "positive" air pressure (greater pressure in the corridors than in the units) so that smoke and cooking odors are kept within the units. To maintain the "positive" air pressure, rooftop corridor supply fans force outside air into the corridor air handling system. The outside air is filtered, tempered (heated or cooled) to acceptable levels and supplied to the corridors. This air then passes into the units under and around the unit entrance doors and supplies make-up air to the unit. The air is then exhausted through the kitchen and bathroom ventilation systems. Airborne dust may be deposited at the unit corridor door openings as the air passes through. If the air entry into the unit is restricted or the air balance is disrupted, then the effectiveness of the system is reduced; therefore, the Bylaws prohibit a unit owner from interfering with the airflow through the unit entry door.

2. Limited Common Elements. Balconies and patios adjacent to ground floor units are designated limited common elements for the exclusive use of the units served thereby. Balcony and patio area is not included in the calculation of unit size. The Declarant has also reserved the right to assign any and all parking spaces and storage areas as limited common elements for the exclusive use of individual unit owners. There are no other "single-user" type common elements.

(a) Balconies. Balconies in Stratford House are constructed of poured reinforced concrete. Finishes are troweled and left natural, and may not be changed structurally or cosmetically without the prior written consent of the Covenants Committee. No permeable floor coverings are permitted on non-enclosed balconies because they retain moisture and cause premature deterioration of the concrete. If any floor covering must be removed to make repairs to the balcony, the cost of removal, the cost of replacement and any damage caused is the responsibility of the unit owner, not the Declarant or the unit owners association.

(b) Parking. The parking spaces which are available for assignment are laid out and assigned by the Declarant and set forth on each purchaser's Purchase Agreement. Regardless of location within one of the parking structures, leakage onto a vehicle is possible.

With concrete construction in the parking structures there will be shrinkage cracks in the slabs and walls. During inclement weather, vehicles bring snow, ice and salts inside, which melts, drips through the slab and may damage cars and equipment below. Leakage is not as likely on exposed concrete walls as with slabs, but only the aesthetics of the building are affected, the leakage is not necessarily a structural defect. During construction, the Declarant specifies that control joints are to be placed in the poured walls to minimize the leakage, but it may not be totally eliminated.

In dealing with leakage through the concrete walls and slabs, the unit owners association should have management make seasonal inspections of the areas with problems. If necessary, an elastomeric sealant can be pressure-injected into leaking areas. This work is provided for in the Association's budget as an on-going maintenance item.

Below-ground areas are treated from the exterior during construction with waterproofing material. These waterproofing materials, along with the installing contractors, are selected by the Declarant using past experiences and specifications for the particular job and its intended use and longevity. However, as with any type of limited waterproofing on subterranean walls, this waterproofing may fail for unforeseen reasons.

The concrete slabs in the parking structures are porous. The key point about the concrete parking structures is the need for on-going maintenance by the unit owners association. From the onset of the Condominium, the unit owners association must undertake an assiduous and on-going program of preventive maintenance to protect the integrity of the parking structures. The yearly budget should allow funds for this purpose; otherwise, huge expenditures can be required if the concrete (and reinforcing steel) is allowed to go unrepaired and to deteriorate.

(c) Ward Facilities. In Phase 5, Stratford Court will have an outdoor pool and clubhouse with: community room, exercise room, business center and management office. All of the facilities serving Stratford Court only are limited common elements appurtenant to the units in Stratford Court. In Phase 7, Stratford House will have an outdoor pool, community room, exercise room, central reception desk and management office. All of the facilities serving Stratford House only are limited common elements appurtenant to the units in Stratford House.

3. Common Expense Assessments. Assessments for common expenses are, in principle, based upon benefits derived. See Narrative Section L of this Public Offering Statement and Section 5.1 of the Bylaws for further information on expenses and assessments.

4. Storage Facilities. There is a limited amount of storage space provided in the buildings. These facilities will be areas designated as limited common area or reserved common elements to be assigned by the unit owners association. The unit owners association may charge a nominal fee for use of any extra storage areas.

Each unit has an individual storage area assigned. Located on the parking levels, the usable space in the storage area may vary due to the presence of structural support columns, pipes and ductwork. Storage rooms are subject to humid conditions common to such facilities. Unit owners should use discretion in deciding which items may properly be stored in the storage rooms. Only items appropriate for a basement environment (mildew-resistant) are recommended. All items should be placed on pallets and stored away from masonry walls to permit air circulation around the sides. To comply with fire regulations, the stored items must be placed with at least 18 inches vertical clearance from the sprinkler head (or as indicated by the colored line in each storage area.)

5. Parking. The project is served by surface parking spaces on public streets (subject to local parking regulations) and by additional surface parking spaces on the common elements (private driveways and lots subject to the provisions of the Bylaws). The project is planned to contain approximately 171 outdoor on-site parking spaces and 404 garage parking spaces. All garage parking spaces and some surface spaces are planned to be available for assignment as limited common elements. The total number of on-site parking spaces available to the Condominium (including handicapped spaces) is planned to be approximately 575, resulting in a parking ratio of approximately 1.6 spaces per unit, which is in compliance with the applicable project approval requirements of Fairfax County. Unassigned surface parking spaces will be available on a first-come, first-served basis. The Board of Directors will assess a Limited Common Expense charge initially in the amount of One Hundred Twenty Dollars per space per year, payable monthly, upon units to which a limited common element parking space is appurtenant. During the sales program the Declarant may reserve the exclusive use of certain parking areas for sales and customer service purposes. (See Narrative Section H2 of this Public Offering Statement.)

6. Condominium Office. Office space will be located on the first floor in Stratford House (Phase 6) and in the Clubhouse serving Stratford Court (Phase 5) for the administrative and operational needs of the Condominium.

7. Development Schedule. Construction of the underground parking structure and residential units began in the Fall of 1998. Phase 3 was completed in Winter of 1999. Phase 1 was completed in the Summer of 2000. Phase 5 was completed in the Winter of 2000. Phase 6 will be completed in the Spring of 2001. Phases 2 and 7 are scheduled to be completed in the Summer of 2001. Phase 4 is scheduled to be completed in the Summer of 2002. Construction of the Condominium is scheduled to be completed by the Summer of 2002. [For a phase-by-phase schedule, see Narrative Section D7 of this Public Offering Statement]

The property is zoned PRC, a zoning category which allows residential, office and some commercial uses. Although the Declarant expects that all of the residential units will be occupied as residences, the Declarant does not intend to restrict other lawful uses provided that at least eighty percent of the residential units are purchased by persons occupying their units as principal residences. The foregoing limitations are consistent with the requirements of the secondary mortgage market relating to the purchase of condominium mortgage loans.

F. THE DECLARANT

The Declarant, Town Center Tower, L.L.C., is a Virginia limited liability company formed in October of 1995 for the development of the Condominium. The members are Albert H. Small, Albert H. Small, Jr. and Douglas Erdman.

The qualifications of the principal officers of Town Center Tower, LLC and the other persons directly involved in the development of the Condominium are described below.

1. Albert H. Small, President of Southern Engineering Corporation

Southern Engineering Corporation has been active in the construction industry for forty-five years, pioneering the development of colonial and contemporary multiple and single family housing in the mid-Atlantic region. Southern Engineering Corporation has developed over 10,000 apartment units and thousands of single family homes in numerous award-winning communities acclaimed by the industry. The firm has been instrumental in the development of over two million square feet of office space. The firm's most recent activity is the Somerset House condominium development in Chevy Chase, Maryland where 300 of the finest residential condominium homes in the Washington area were recently developed. A third condominium tower at Somerset House containing 100 ultra-luxury condominium homes is now under construction.

Mr. Small plays a leadership role not only in the operation of his business and associated professional affiliations, but also in many civic and institutional organizations. He now serves on the Board of Visitors at the University of Virginia, Board of Directors of the National Symphony Orchestra; National Advisory Board Music Associates of Aspen; the Life Guard of Mount Vernon; Folger Shakespeare Library; Treasurer, Department of State Diplomatic Rooms Endowment Fund; Board of Managers of the Historical Society of Washington, D.C.; James Madison Council of the Library of Congress; American Antiquarian Society; Board of Trustees, The Tudor Place Foundation; Honorary Director, Washington Performing Arts Society; Foundation for the National Archives; and Metropolitan Police Boys and Girls Club, Incorporated. He also serves as a Counselor for Meridian International Center, and is a member of the National Association of Home Builders; Suburban Maryland Home Builders Association; Urban Land Institute; Chief Executives Organization; World Business Council, Incorporated; University of Virginia Alumni Association; Georgetown Club; Harmonie Club, New York City; and the Army and Navy Club.

2. Albert H. Small, Jr., President of Renaissance Housing, Inc.

Renaissance Housing, Inc. was founded with the sole intention of providing only the finest production and custom homes for the discerning buyer. Since being established in 1984, Renaissance has built over 700 luxury homes in Northern Virginia with prices starting at \$400,000 going to well over \$1 million. The firm has won 12 Finest for Family Living awards, the 1995 Best in America Living award (for best home in the nation over 4,000 sq. ft.), the 1995 ACE award (for construction excellence), and has had its homes featured in numerous industry publications including Builder Magazine, Professional Builder and Southern Living.

Albert H. Small, Jr. (Sonny) is well regarded as one of the finest homebuilders in the region. He is active with the Board of the National Association of Home Builders, is a member of the Urban Land Institute, and is an Executive Officer in the Young Presidents Organization. In addition to his professional activities, Mr. Small serves on many local charitable and school boards.

3. Douglas F. Erdman, President of Community Realty Co.

Community Realty Co., Inc., founded in 1963, possesses decades of experience coupled with state of the art techniques in the management and marketing of income-producing properties. Today, the company's diversified management portfolio includes over 7,000 multi-family rental apartments and over 1.5 million square feet of commercial space in the mid-Atlantic region including the metropolitan areas of Baltimore, Frederick, Washington, D.C., Richmond, and Norfolk. The property portfolio under the direction of the company is valued in excess of \$400 million. In addition to exceptional property management and marketing services, Community Realty Co. also excels in fiscal reporting, engineering, maintenance, financing, and construction. The company is an Accredited Management Organization⁷ (AMO⁷) as bestowed by the Institute of Real Estate Management⁷. The company is a member of the Washington Board of Realtors⁷, Apartment and Office Building Association, Property Managers Association and National Association of Home Builders.

Mr. Erdman is active in a myriad of professional organizations including the Urban Land Institute (multifamily council) and the National Multi-Housing Council. He has achieved the designation of Certified Property Manager⁷ (CPM⁷) and is a licensed real estate broker in Maryland, Washington, D.C. and Virginia. Mr. Erdman follows the multi-family industry not only by overseeing the daily operation of the company, but also by speaking at and being active in many industry events. Mr. Erdman also dedicates much of his personal time to civic and charitable activities and functions.

G. TERMS OF THE OFFERING

1. Offering Prices. Offering prices for all unit types in the Condominium have been tentatively established at this time but will be subject to change at any time prior to execution of Purchase Agreements for individual units. Different purchasers may pay different prices for similar units at the sole discretion of the Declarant. Initial offering prices to the general public are from approximately \$112,900 for one-bedroom units and \$140,900 for two-bedroom units. Nothing in this Public Offering Statement represents an offer or agreement by Declarant to sell any condominium unit to any person at any price.

2. Time of Settlement. Settlement upon each unit shall take place only after, or concurrently with, the following events: (i) satisfaction of the presale requirements of the lender offering individual permanent mortgage financing to unit purchasers at the request of the Declarant (see "Financing" below); (ii) release of the unit from the lien of all mortgages other than purchaser's mortgage, if any; (iii) issuance of a mortgagee's title insurance policy satisfactory to the Mortgagee; and (iv) inspection of the unit by the purchaser or waiver of such inspection.

Although settlement may be delayed by events not within the Declarant's control, settlement will ordinarily occur from ten to thirty days after the unit is ready for occupancy and the purchaser has obtained financing. If delivery of the unit is not made within twenty-four months after the date of the Purchase Agreement due to actions of the Declarant, the purchaser has the option either to terminate the Purchase Agreement or proceed with the purchase when the unit is ready for settlement. If a delay is caused by circumstances beyond the control of the Declarant, however, then the time for delivery of the unit shall be extended for the period of the delay. If the purchaser fails to make timely and proper application for a loan or fails to complete settlement on a unit as required, the Declarant may cancel the Purchase Agreement and keep all sums deposited by the purchaser in connection with the Purchase Agreement. If, for any reason not within the control of purchaser, the purchaser is in good faith unable to obtain an acceptable pre-qualification letter or commitment from a lending institution which has issued a permanent commitment to the Declarant, the Declarant will refund the purchaser's deposit. If the purchaser has pre-qualified with or obtained a loan commitment from a lender and changes financial position so as to become unqualified for financing, the Declarant may retain the entire deposit as liquidated damages.

3. Financing. A unit purchaser may apply for financing from any lender or may pay all cash at settlement. The Declarant is not obligated to assist a purchaser in obtaining financing. However, the Declarant is arranging for at least one lending institution to provide a number of first mortgage loans secured by units in the Condominium to qualified purchasers meeting standard credit requirements. The terms of all such financing will be available to purchasers from the lender. The Declarant reserves the right to provide any credit information provided by a purchaser to any other lending institution solely for the purpose of obtaining financing for the purchaser's unit. Financing is subject to the additional terms and conditions stated in the lender's commitment letter to the purchaser and in the loan instruments. The lender's charges will be paid in accordance with subsection 3(c) of the Purchase Agreement. If the Declarant does not obtain binding Purchase Agreements on the number of units required by the Declarant's lender, all Purchase Agreements may be cancelled by the Declarant and all deposits will be returned to the purchasers.

4. Settlement Costs and Expenses.

(a) Settlement Costs. If settlement is made by such attorneys or agents as the Declarant may designate, then the Declarant pays the cost of examination of title, state grantor's tax, fees for preparation of standard residential closing documents, clerk's fees, notary fees and attorney settlement charges (other than charges by the purchaser's attorney). If, however, the purchaser elects to make settlement through any other attorney or agent, the Declarant pays for only the state grantor's tax. The purchaser pays owner's and mortgagee's title insurance premiums, all recording costs, mortgage insurance premiums then due, if applicable, prepaid interest and lender's fees.

(b) Prepayments, Escrows, Capital Contributions. Notwithstanding anything contained herein to the contrary, the purchaser reimburses the Declarant at settlement for prepaid real estate taxes, assessments and utility charges, if any, on the condominium unit all of which will be adjusted as of the date of settlement. If required by the lender, the purchaser prepays at settlement interest for up to one month, any mortgage insurance premiums and a reasonable percentage of the estimated annual real estate taxes. The purchaser also pays the fees and expenses of the purchaser's own attorney, if any.

The purchaser is required to pay the unit owners association common expenses allocable to the unit monthly in advance. Common expenses payable for the month in which the sale of a unit closes are adjusted on a per diem basis as of the settlement date (unless the Declarant has elected to pay all expenses of operating the Condominium at that time (see Narrative Section L4 of this Public Offering Statement)). The percentage of common expenses to be assessed against each unit is fixed by the Declaration. The estimated common expenses for a full year of operation (based on full occupancy of the buildings) for each unit are set forth in the Budget attached to this Public Offering Statement as Exhibit 3.

In addition to a portion of the regular monthly installment of the common expense assessment against the unit for the month of settlement, each initial purchaser is required to make at settlement an initial capital contribution to the unit owners association "working capital fund." The initial capital contribution is equal to twice the monthly installment of: (i) the estimated common expense assessment, and (ii) limited common element parking space charges, if any, for the condominium unit. This payment is a requirement imposed by the lenders to ensure that the association will have available sufficient money for three major purposes: first, to pay for initial equipment, supplies, organizational costs and other start-up costs at the beginning of the life of the association; second, to provide an immediate fund of cash at the beginning of the association's operations to pay bills for such items as insurance premiums payable for the entire year when an entire year's assessments necessary to fund such premiums have not yet been collected; and third, to defray partially the higher per unit costs that occur in the early stages of the association's business life. As the project nears completion (and units are added to the Condominium), the per unit cost of many items tends to decrease and the regular assessments should be sufficient for normal operating costs as the costs are spread among larger numbers of unit owners. Also, the working capital fund, if not otherwise expended, can provide additional reserves which may be set aside for unexpected expenditures to ensure that the association starts out on a solid financial foundation. The initial capital contribution is not an escrow or advance and is not refundable.

5. Development Expenses. The Declarant bears all costs and expenses incurred in connection with the creation of the Condominium and sales of units, including selling expenses upon the initial sales of units, advertising and printing expenses, the Declarant's attorneys' fees and engineering and surveying costs. All brokerage commissions, if any, on initial sales of the units by the Declarant's sales agent will be paid by the Declarant except for buyer brokers. The Declarant will convey each unit free of liens or liabilities against such unit, except the lien for current real estate taxes not then due and payable and the statutory lien for condominium assessments.

6. Deposits. All deposits will be held in escrow by the Declarant in an account at a financial institution in the Commonwealth of Virginia pending settlement. All deposits shall be credited against the purchase price at settlement, paid over to the Declarant upon a breach of the Purchase Agreement by the purchaser or returned to the purchaser should the contemplated transaction not be completed by the Declarant for any reason. Interest earned on the deposit shall be credited to the purchaser at settlement; if the settlement is not completed for any reason whatsoever, no interest is credited, due or payable. Otherwise, any transfer of the deposit under the Purchase Agreement includes any interest thereon.

7. Owner Occupancy. THE PURCHASE AGREEMENT REQUIRES THE PURCHASER TO REPRESENT THAT THE UNIT WILL BE OCCUPIED AS THE PURCHASER'S PRIMARY YEAR-ROUND RESIDENCE. The Declarant may waive such a requirement in the Declarant's sole discretion.

H. ENCUMBRANCES

1. Easement for Encroachments. By virtue of this easement, unit owners and the unit owners association are protected if a unit or common element encroaches upon another unit or common element.

2. Easement to Facilitate Sales. The Declarant may use any units in the Condominium owned or leased by the Declarant or any portion of the common elements as models, management offices, sales offices, construction offices or customer service offices, for storage or other purposes, and may place advertising signs anywhere on the Condominium. The Declarant also may reserve up to twenty parking spaces for sales, construction, management and customer service purposes. This easement continues until the Declarant has conveyed to unit owners other than the Declarant all the units in the Condominium which the Declarant has the right to create and the Declarant has concluded the warranty service program at the condominium.

3. Easement for Ingress and Egress. Each unit owner has a right of access to the common elements, subject to rules, regulations and restrictions established by the unit owners association.

4. Easement for Access. Authorized representatives of the unit owners association, including the Declarant and the managing agent, may enter any common element or unit to the extent necessary to inspect and correct conditions affecting other units or the common elements or which may have an adverse effect on common expenses, to make repairs to common elements which are accessible from the unit or to correct conditions which constitute violations of the condominium instruments or Rules and Regulations. Notice must be given to the unit owner prior to entry except in emergencies when a unit may be entered without notice. In the event of a violation of the condominium instruments or Rules and Regulations, the violation may be corrected without the consent of the unit owner, and the unit owner may be charged with the resulting expense.

5. Easement for Use of Grounds, Driveways, Parking and Recreational Facilities. If any of the land reserved by the Declarant for expansion is developed but not added to the Condominium, the Declarant has reserved the right to grant the occupants of such land the right to use the grounds, driveways, parking and recreational facilities in the Condominium. The unit owners association may charge a proportionate share of the operating costs for the exercise of this right.

6. Easement for Support. Each unit owner has the benefit of a restriction upon any action of a neighboring unit owner, or of the unit owners association with respect to the common elements, which would endanger the stability or safety of the unit.

7. Easement to Facilitate Expansion. Pursuant to Section 55-79.65 of the Condominium Act, the Declarant has a transferable easement over and on the common elements for the purpose of making improvements on the submitted land and on any additional land, and for the purpose of doing all things reasonably necessary and proper in connection therewith.

8. Utility Easements. The land is subject to the utility easements shown on the Condominium Plats and described in the title insurance policy. These easements include the usual easements for telephone, electric, sewer, gas and water pipes, wires and service lines. Additional utility easements may be granted by the Declarant or the unit owners association. If additional phases are not added to the Condominium, the Declarant may grant cross-easements between such phases and the Condominium providing for sharing of water, sewer, drainage and parking facilities on a cost-sharing basis in proportion to the number of dwelling units on each property.

9. Governing Documents for Reston Town Center. The Condominium is subject to the Declaration of Covenants, Conditions and Restrictions for Reston Residential Center and a member of

the Reston Town Center Joint Committee which will operate and manage the Town Center. This document and a budget are attached to the Public Offering Statement as Exhibit 8.

10. Other Encumbrances on Title. The land is subject to the encumbrances shown on the title insurance policy which is available for review at the sales office and at the office of the Virginia Real Estate Board. During the Declarant Control Period, the Declarant may, and subsequent thereto the Board of Directors may, grant such easements, licenses and servitudes as may be necessary or beneficial to the proper operation of the Condominium pursuant to Section 55-79.80B of the Condominium Act. The Condominium is presently subject to the liens of several deeds of trust securing loans for funds the Declarant borrowed to acquire and construct the Condominium. The Declarant is required by law to release the lien of any loans on any condominium unit to be conveyed. Each condominium unit will be conveyed to a purchaser free of any liens other than those placed by the purchaser.

I. RESTRICTIONS ON TRANSFER

There are no restrictions on the transfer or resale of a condominium unit by a unit owner. Leasing of units is subject, however, to certain restrictions. No unit may be leased initially for less than a six-month term other than units owned by the Declarant or by certain Mortgagees. No unit may be leased for hotel or transient purposes. No portion of a unit (less than the entire unit) may be leased for any period. All leases must be written and must provide that failure to comply with the condominium instruments and Rules and Regulations constitutes a default under the lease. The Board of Directors may require the use of a standard lease form. No unit may be subjected to a timesharing or similar form of ownership on a periodic or revolving basis.

J. UNIT OWNERS ASSOCIATION

1. The Unit Owners Association. The unit owners association is the organization responsible for governing the Condominium. Each unit has a vote in the association proportionate to the common element interest appurtenant to the unit. Because a larger unit generally has a greater common element interest, the owner of a larger unit will have a greater vote in the association. The vote for each unit is equal to the common element interest assigned to that unit by the Declaration.

The unit owners will participate directly in the important policy decisions of the Association (although the Declarant will control the Association initially). All of the normal operations of the unit owners association will eventually be accomplished under the direction of a seven-member Board of Directors, at least three of whom will be owners of units in Stratford House and at least three of whom will be owners of units in Stratford Court. During the Declarant Control Period, the Board of Directors will consist of no less than three members appointed by the Declarant.

The purpose of the Declarant's retaining control of the Board of Directors in the early stages of the Condominium's existence is to ensure the stability of the Association, to administer the Condominium's affairs until the new unit owners become familiar with the project and to ensure that a representative population of unit owners is involved in the organization of the Association. The Declarant may retain control of the Board of Directors for five years following conveyance of the first unit to a unit owner other than the Declarant or until units to which 75% of the common element interest appertains are conveyed to unit owners other than the Declarant (based on the common element interests to be assigned to all units then registered with the Virginia Real Estate Board), whichever occurs first. The Declarant may also relinquish control at an earlier date by so notifying the Association. After termination of the Declarant Control Period, directors will be elected by the unit owners.

The Board of Directors elects the officers of the unit owners association. The officers are a President, Vice President, Secretary, Treasurer and any other officers the directors may deem necessary. The President and Vice President must be directors.

The Board of Directors also appoints a five-member Covenants Committee, at least two of whom will be the owners of units in Stratford House and at least two of whom will be the owners of units within Stratford Court, whose function is to regulate the appearance, use and maintenance of the common elements and any proposed structural changes in the units. The Covenants Committee has the authority to prevent a unit owner from taking actions which are inconsistent with the general plan for design, appearance, use or maintenance of the common elements. Decisions of the Covenants Committee may be appealed to the Board of Directors. The Covenants Committee may also interpret the condominium instruments, Rules and Regulations and resolutions when requested to do so.

The operation of the unit owners association is governed by the Bylaws. The Bylaws are recorded in the land records along with the Declaration when the Condominium is created. In addition to provisions for a Board of Directors, managing agent and officers, the Bylaws provide for annual and special meetings, common expense assessments, insurance, restrictions on the use of units and common elements, and numerous other matters affecting the occupancy and operation of the Condominium. The Bylaws also authorize the Board of Directors to establish and modify Rules and Regulations governing the unit owners. A copy of the initial Rules and Regulations proposed by the Declarant for enactment by the Board of Directors is attached to this Public Offering Statement as Exhibit 4. A copy of the Bylaws is attached as Exhibit B to the Declaration.

The Bylaws may be amended by agreement of the unit owners of units to which two-thirds of the votes in the unit owners association appertain, except that during the Declarant Control Period, no amendment which affects the Declarant's right to control the Board of Directors may be made without the Declarant's approval.

2. The Managing Agent. The Declarant has employed Community Management Corporation as managing agent to act on behalf of the Board of Directors in the performance of all duties other than policy-making duties, acquiring property, opening bank accounts and borrowing money. The managing agent is a professional organization having experience in the operation of condominium associations. The managing agent brings to the task of managing the unit owners association two qualifications which the Board of Directors may not possess. The managing agent has expertise in handling the complex functions of the unit owners association and can devote itself to running the association on a full-time basis. In a condominium, the contributions of professional management are vital to the success of the unit owners association.

The managing agent for the Condominium, Community Management Corporation, is a leading firm in the field of condominium and cooperative management. The managing agent is not affiliated with the Declarant. The management contract is for a term of one year and may be renewed for successive terms of one year each. The management contract provides for termination by the unit owners association, without payment of a termination fee, without cause upon ninety days written notice and with cause upon thirty days written notice. After the initial term, the managing agent will be selected by the Board of Directors of the Condominium.

3. Contracts. The Declarant, on behalf of the unit owners association, will enter into other service contracts such as trash collection and landscape maintenance contracts, but no such contracts have been entered into and no such contracts will be with companies affiliated with the Declarant; thereafter, such contracts will be entered into by the Board of Directors of the Condominium.

K. SURROUNDING AREA

The Condominium is conveniently located directly across Reston Parkway from the Reston Town Center, one and a half blocks from the Dulles Toll Road and within minutes of the Fairfax County Parkway and Route 7. The community is bounded on the east by Old Reston Avenue; its neighbors across Old Reston Avenue include the Sycamore Apartment Complex, the Kindercare facility and the proposed Opus Dei facility, all zoned PRC (planned residential community). The neighbor to the south is

the international headquarters facility of the Prison Fellowship Ministries, a charitable organization which provides outreach services in prisons throughout America and internationally, zoned PDC (planned development community), and which is currently planning an expansion of their facilities. The W&OD Trail, immediately to the south of the property, is zoned R-1. The community is bounded on the north by The George Mason Bank building (zoned C-3), and on the west by Reston Parkway. The zoning of the immediate area across Reston Parkway is PRC.

Retail shopping, specialty shops and services, restaurants, theaters, and Reston Hyatt Hotel are located immediately across Reston Parkway in Reston Town Center. Ample free parking is provided there. Additional shopping is available to the north along Reston Parkway, and within a 5 minute trip, east along Route 7 to Tyson's Corner Center, and west along Route 7 to Lowes Island and the Countryside Center. The Plaza America Center is a 5 minute walk on Sunset Hills Road.

Many recreational facilities are located close by, including pedestrian trails, parks, tennis courts, golf course and pools. To use the facilities of the Reston Association, unit owners will have to pay a non-member fee. Ice skating is available during winter months at the outdoor pavilion at Reston Town Center, and the community is immediately adjacent to the W & OD Regional Trail which extends from Arlington to Purcellville, Virginia.

High tech industries and national corporations have located in Reston due to its proximity to Dulles International Airport and the Washington Metropolitan business market. As an example, Oracle and BDM/TRW office campuses are within walking distance of the Condominium and Andersen Consulting's landmark 18-story building is located in the Town Center also.

The Condominium is served by Lake Anne Elementary School, Langston Hughes Middle School and South Lakes High School. Churches, temples and other houses of worship abound in Reston.

L. FINANCIAL MATTERS

1. Common Expense Assessments. Generally, as indicated above in Narrative Section J, unit owners will be assessed to obtain the funds necessary to meet the budget of the unit owners association. Annual assessments will be established prior to the beginning of each fiscal year and will be payable on a monthly basis. On the first day of each month, each unit owner must pay an installment of one-twelfth of the amount of the annual assessment, although the unit owners association will not regularly send bills or requests for such payments.

The amount of the common expenses assessed against each condominium unit will generally be based on the common element interest appertaining to the unit. Each unit owner (including the Declarant) will be responsible for payment of that percentage of the total annual budget of common expenses which is equal to the common element interest appertaining to such unit owner's unit. For example, if a unit has a 0.4% common element interest, the unit owner will be assessed an amount equal to 0.4% of the total annual budget. Since a larger unit generally has a greater common element interest, the unit owner of a larger unit will be assessed a greater portion of the budget. Assessments for limited common elements may be either on the basis of the unit's common element interest (certain utilities) or on a uniform basis (limited common element parking spaces). A more detailed description of the method for determining the basis of assessments for limited common elements may be found in Section 5.1(c) of the Bylaws. A unit owner cannot obtain a reduction of the common expenses assessed against the unit by refraining from use of any of the common elements. The monthly installment of the annual common expense assessment against each unit and the limited common element parking space charge are shown in the budget.

The budget will cover anticipated common expenses for the upcoming fiscal year. The budget will also include whatever amount the Board of Directors considers necessary as an adequate reserve to provide for unforeseen contingencies, working capital and repair or replacement of common elements.

The consultants retained by the Declarant have prepared a budget for the first year of the Condominium's operation and a budget projection for the nine years thereafter. A copy of the budget is attached to this Public Offering Statement as Exhibit 3. THE BUDGET FIGURES ARE, OF COURSE, ESTIMATES AND THE DECLARANT CANNOT BE CERTAIN THAT SUFFICIENT FUNDS HAVE BEEN BUDGETED TO COVER ALL COMMON EXPENSES THAT MAY BE INCURRED. BUDGET FIGURES FOR FUTURE YEARS ARE LESS RELIABLE DUE TO CHANGES IN THE GENERAL CONDITION OF THE ECONOMY AND OTHER UNPREDICTABLE FACTORS. The figures were obtained, however, with the assistance of an independent professional community management firm and the Declarant believes that the

figures represent the best estimates obtainable; because actual expenditures may differ from estimated expenditures, due to possible changes in the future income or expenses of the Condominium, the rate of addition of units to the Condominium or other variable factors, such estimates are not intended or considered as guarantees of any kind whatsoever. The assumptions made and methods used in preparing the estimates are set forth in the notes to the budget.

If insufficient funds are budgeted for any given fiscal year, the Board of Directors may levy an additional assessment to make up the budget deficit. Conversely, should there be a surplus at the end of a fiscal year, the Board of Directors may, in its discretion, place the surplus in reserve accounts or refund the surplus to the unit owners by reducing future assessments. Any additional assessment will be payable by unit owners either in a lump sum or in installments, as the Board of Directors determines.

The budget includes the initial working capital obtained from purchasers at settlement. Such funds will be used to pay for certain prepaid items, to pay non-recurring start-up costs, and for such other purposes as the Board of Directors may determine, such as to establish reserve funds. (See Narrative Section G4 above.)

2. Limited Common Expense Assessments. All expenses of operating the facilities serving only one ward will be assessed as a Limited Common Expense against the units in that ward, based on their relative Common Element Interest. The budget is set up to show common expenses, Stratford Court Limited Common Expenses and Stratford House Limited Common Expenses.

3. Other Assessments. Although most common expenses for services serving all units are apportioned among all unit owners, certain common expenses will be payable in their entirety by individual unit owners. If the unit owners association makes an emergency repair on behalf of an absent unit owner, for example, the charge for that repair will be paid by the unit owner. If any unit owner has a limited common element appurtenant to the unit, that unit owner may be charged, on an individual basis, with the cost of maintenance and repair of that limited common element by the levy of a charge which may be imposed by the Board of Directors. If any additions, alterations or improvements to the common elements are requested by certain unit owners and result in benefit to only those unit owners, the cost of the addition, alteration or improvement may be charged on an individual basis to the benefited unit owners.

Generally, a unit owner must pay directly all of the costs of maintenance and repair for the unit; certain exceptions are noted on the Maintenance Responsibilities Chart attached as Exhibit B to the Bylaws. The charges for utilities, except utilities separately metered to each unit, are common expenses which will be apportioned among all unit owners. The utility charges for the common elements will be common expenses; each unit owner will pay the utility charges individually metered and billed to the unit.

Each unit owner will also be obligated to pay a share of the Town Center expenses. The type of assessments which will be levied by the Town Center include the annual assessment and special assessments for capital improvements which may be levied against some or all of the owners. Unpaid assessments due to the Town Center will give rise to a lien against the unit, which if unsatisfied may be enforced by foreclosure or other legal remedies. The Town Center assessments are included in the

budget attached as part of Exhibit 7. Town Center assessments are collected by the Unit Owners Association for transmittal to the Reston Residential Center Association.

4. Collection of Assessments. All of the amounts assessed against a unit automatically give rise to a lien on that unit. If the assessments are not paid when due, the unit owners association may perfect the lien by recording a memorandum of lien in the land records. The unit owner cannot dispose of the unit free of the lien until the lien is satisfied by payment of the assessments secured by the lien and the costs of collection. The unit owners association may obtain payment of past due assessments by foreclosure of the lien (resulting in a forced sale of the condominium unit) or by suing the unit owner. If any assessments are past due for more than two months, the Board of Directors may accelerate the payments (i.e., declare immediately due and payable the total amount assessed against the unit owner for that fiscal year but not yet paid). In addition, the unit owners association may impose a late fee, charge interest and provide notice of the delinquency to a lender holding a mortgage or deed of trust on the unit. The Declarant has posted an irrevocable letter of credit in the amount of \$100,000 with the Virginia Real Estate Board to secure payment of the common expenses assessed against units owned by the Declarant. First Union National Bank of Virginia issued the letter of credit.

5. Declarant Assessments. The Declarant must pay assessments on unsold condominium units which have been created just like any other unit owner. However, the Declarant may, at the Declarant's sole option, decide to pay all ordinary operating costs for the project for some time. If the Declarant so elects, the Condominium will incur no common expenses and thus no condominium assessments will be collected during such time.

M. INSURANCE

The Board of Directors will obtain insurance to protect the unit owners association and, to a certain limited extent, the unit owners as individuals. The Condominium, including the units, will be covered by property damage insurance. The coverage will be against Special Causes of Loss (formerly "all risk") and in an amount equal to the full replacement cost of the Condominium, subject to reasonable "deductible" limits. This coverage will not insure personal property belonging to a unit owner and may not cover any improvements or betterments to a unit made by a unit owner.

The unit owners association and the unit owners will be insured against liability arising from ownership or use of the common elements. This coverage will not insure unit owners against liability arising from an accident or injury occurring within a unit or liability arising from the willful or negligent act or omission of a unit owner. The Board of Directors will also maintain appropriate workmen's compensation insurance and fidelity coverage to protect against negligent or dishonest acts on the part of officers, directors, trustees, and employees of the unit owners association, including the managing agent.

The Declarant strongly recommends that each unit owner obtain insurance coverage on personal property and liability exposure not covered by the unit owners association policy. The unit owner may also wish to insure any improvements to the unit to the extent that the improvements increase the value of the unit beyond the limit of coverage provided by the policy maintained by the unit owners association. The unit owner should be aware, however, that there are certain restrictions on this type of additional insurance in Section 6.5 of the Bylaws. The unit owner should consult the managing agent and an insurance broker before purchasing such additional insurance.

The insurance purchased by the unit owners association does not include owner's or mortgagee's title insurance. Each purchaser has the right to purchase such insurance at settlement from a title insurance company of purchaser's choice at purchaser's expense.

N. TAXES

Real property taxes are levied separately against individual condominium units. Each unit owner will receive an individual tax bill in the year the tax assessor assesses the condominium unit as an individual tax parcel and each year thereafter. The unit owner then will be responsible for the payment of taxes on the unit (unless the unit owner's lender requires escrow of tax payments with the monthly mortgage payment, in which case the lender will forward the tax payment on the unit owner's behalf). The assessed value of each condominium unit is presently unknown because the tax assessor cannot assess units until construction is complete and because the units are not assessed on a unit-by-unit basis until January 1 of the year after the units have been created pursuant to the Condominium Act.

Real property in Virginia is required to be assessed at 100% of its fair market value. The tax rate for 2000 in the Reston area of Fairfax County is \$1.29 per \$100 of assessed value. This includes a \$0.06 special district tax. The unit owner can estimate the annual real property tax on the unit by dividing the purchase price of the unit by 100 and multiplying the result by the actual tax rate. The tax rate may be adjusted in April of each year.

Generally the assessment of real property for real estate tax purposes is based on the taxable status of such property at the beginning of the tax year (on January 1). Because the Condominium will not have been created on January 1 of the year when settlements begin, individual tax bills probably will not be issued for each condominium unit. Rather, the Declarant will receive one or more tax bills or make payments based on an assessment of the existing tax parcels. Therefore, if settlement on a condominium unit occurs before an individual tax bill for the unit has been issued, the purchaser of such condominium unit will be required to reimburse the Declarant at settlement for an amount of real estate taxes equal to the taxes on the Condominium multiplied by the common element interest appurtenant to such unit, pro-rated from the date of settlement to the end of the tax year.

The personal property tax rate for 2000 (imposed primarily on automobiles) is \$4.57 per \$100 of assessed value in Fairfax County. Boats are assessed differently in Fairfax County. Governor Gilmore and the Virginia General Assembly have initiated a five-year program to reduce or eliminate the personal property tax on automobiles.

O. GOVERNMENTAL APPROVALS

All zoning, site plan and other governmental regulations are being complied with, as applicable to the Condominium. The Declarant knows of no violations of such regulations. Nonconforming uses may exist in the future, however, due to amendments to such regulations adopted after construction of the Condominium. Such nonconforming uses are permitted by applicable law.

The portion of the Condominium on which the buildings are located is zoned PRC which allows a maximum density of 50 units per acre. The buildings are planned to contain 340 units.

The Declarant filed a request for a zoning variance with Fairfax County to permit construction of the 14-story building; approval was obtained on September 22, 1997. The application for site plan approval was filed on September 23, 1997. All site plans for the project have been approved. The building permit for Building 3 was approved October 23, 1998; for the Community Center, December 17, 1998; for Building 1, April 12, 1999, for the highrise, August 9, 1999; for Building 2, April 11, 2000. Application was made in October of 2000 for the building permit for Building 4.

The Reston Town Center Design Review Board approved the design of the condominium on May 13, 1997, subject to final approval of the specific colors and materials to be used in the exterior construction (which were subsequently approved).

P. UNIT AND COMMON ELEMENT INSPECTION

1. Units. Not less than ten days prior to settlement on a unit, the Declarant will notify the unit purchaser that the unit is ready for inspection. The purchaser will then be given the opportunity to inspect the unit and note any items which have not been completed in accordance with Schedule A and Schedule B to the Purchase Agreement. The unit will be delivered in accordance with Schedule A and Schedule B to the Purchase Agreement. The Declarant will complete or correct any legitimate items not in accordance with the scope of work prior to settlement. If the purchaser fails to inspect the unit (or has waived the right to an inspection), the purchaser must accept the unit without inspection. The Unit Inspection Form, on which the purchaser will note items requiring work and indicate acceptance of the unit, is attached to this Public Offering Statement as Exhibit 5.

2. Common Elements. As the common elements are completed in each Phase, the Declarant will develop a "punch list" procedure with the managing agent. Following correction of "punch list" items, maintenance duties will be transferred from the Declarant to the unit owners association for such common elements.

Q. WARRANTIES

Each unit will be covered by the statutory warranty for two years after the date of settlement; and each common element will be covered for two years from the date the first unit is conveyed or from completion of that common element, whichever is later. The details of the warranty on the unit and common elements are set forth in the Limited Warranty Certificates attached to this Public Offering Statement as Exhibit 6. The statutory warranty requires the Declarant to warrant the unit and common elements against structural defects and warrant that the unit is fit for habitation and constructed in a workmanlike manner so as to pass without objection in the trade. The Declarant gives no warranty with respect to consumer products or appliances sold with the unit except as required by the statutory warranty. Although the Limited Warranty Certificates establish certain procedures which the Declarant may require the unit owner or the unit owners association to follow to obtain warranty service, failure to comply shall not derogate from any of the rights created by section 55-79.79(b) of the Condominium Act. The Declarant will transfer to the unit owner at settlement any manufacturers' warranties on appliances sold with the unit. The text of all written warranties on appliances and other equipment sold by Declarant with the unit is available at the sales office for review by prospective purchasers.

R. PERMITTED CHANGES

1. Changes. In order to meet possible unforeseen or varying demands for the number and type of units, or to meet particular requirements of prospective purchasers, lending institutions or title insurance companies or for any other reason, the Declarant reserves the right, subject to the limitations of the Condominium Act and other applicable governmental regulations, to change the size, number and location of units and other improvements on the property, the size, layout, location, and common element interest of any unit for which a Purchase Agreement has not been executed by the Declarant or with respect to which the purchaser is in default, provided such changes do not change the common element interest of any unit already conveyed or under an executed Purchase Agreement as to which the purchaser is not in default. The Declarant reserves the right to modify the plans and specifications for the project during construction as long as such modifications do not substantially change the layout of a unit under an executed Purchase Agreement as to which the purchaser is not in default. Field changes and other modifications may or may not be reflected by change orders or on the plans and specifications. The Declarant also reserves the right to substitute for any of the materials, equipment and appliances described in the condominium instruments or Purchase Agreement, materials, equipment and appliances of equal or better quality.

2. Termination of Condominium. The Condominium shall continue (unless terminated by condemnation) until such time as the Property shall be withdrawn from the provisions of the Condominium Act as a result of a decision to do so by unit owners having at least eighty percent of the votes in the

unit owners association. Upon such termination, the property shall be subject to the provisions of section 55-79.72:1 of the Condominium Act.

S. GENERAL INFORMATION

The exhibits which follow this presentation provide a more detailed description of the Condominium and the rights and obligations of the unit owners. Please consider the exhibits carefully and discuss your questions with your own counsel.

Any information, data or representation not referred to in this presentation and not contained in the various exhibits and documents mentioned herein, must not be relied upon. No person has been authorized by the Declarant to make any representation which is not expressly contained herein. This presentation may not be changed or modified orally.

The Declarant reserves the right to change the terms of this Public Offering Statement as they affect potential purchasers not then under contract provided that either: (i) any such change does not materially and adversely affect the substance of the Public Offering Statement with respect to prior purchasers or purchasers under contract, or their common element interest in the Condominium; or (ii) if a material change, such change is mailed or hand-delivered to each contract purchaser who will then have ten days to cancel the Purchase Agreement, whereupon the deposit will be returned by the Declarant.