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Lois E. Hall

Lois E. Hall
Yates County Clerk

Record and Return To:

BOYLAN CODE LLP
11 NORTH STREET
CANANDAIGUA NY 14424

DECLARATION OF CONDOMINIUM

Establishing a plan for Condominium ownership of premises situate in the Village of Penn Yan, Yates County, New York.

Name: THE MOORINGS ON KEUKA CONDOMINIUM

ADDRESS: CHARLES HERRMANN WAY, PENN YAN, NEW YORK 14527

SPONSOR: KEUKA OUTLET DEVELOPMENT LLC, 4661 DEWEY AVENUE, GORHAM, NEW YORK 14461

DATE OF DECLARATION: Nov 21, 2023

The lands affected by this Declaration contain 15.4 acres and are designated on a map entitled: Final Plat Map prepared by BME Associates and filed in the Yates County Clerk's Office as map #M23-196, filed September 26, 2023.

Record and Return to:

Boylan Code LLP
11 North Street
Canandaigua, New York 14424

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**DECLARATION ESTABLISHING
THE MOORINGS ON KEUKA CONDOMINIUM**

For the Premises described on Appendix A attached hereto in the Village of Penn Yan, Yates County, New York pursuant to Article 9-B of the Real Property Law of the State of New York.

Keuka Outlet Development LLC, a New York limited liability company, having an office for the transaction of business at 4661 Dewey Avenue, Gorham, New York 14461 (hereinafter referred to as Sponsor) does hereby declare:

**ARTICLE I
DEFINITIONS**

The following definitions shall apply to the use of all terms defined herein for the purposes of and as the terms appear in this Declaration, the By-Laws, and the Rules and Regulations:

1.01 Board of Managers. The three (3) member board initially appointed by the Sponsor and thereafter elected by the Unit Owners to administer, control, maintain, repair, replace and insure the Common Elements, and perform such other duties as are set forth in this Declaration and in the By-Laws

1.02 By-Laws. The By-Laws of The Moorings on Keuka Condominium annexed hereto as Appendix B and recorded herewith.

1.03 Condominium. The Moorings on Keuka Condominium comprised of the Property and the Common Elements.

1.04 Condominium Assessment Charges. The monthly amount assessed for each Unit as determined by the Board of Managers for expenses and reserve fund contributions of each individually owned Unit, which are assessed equally against all units of the same model, or such other sums as may be designated as Assessment Charges pursuant to the terms of the Declaration.

1.05 Condominium Common Charges. The monthly amount assessed for each Unit as determined by the Board of Managers in accordance with such Unit's interest in the Common Elements for expenses and reserve fund contributions that are common to the Condominium, or such other sums as may be designated as Common Charges pursuant to the terms of the Declaration.

1.06 Common Elements. Those portions of the Property described in Section 6.01 of this Declaration.

1.07 Community Building. The community property containing meeting space, kitchenette and exercise room as described in Section 4.03 hereof.

1.08 Declaration. This Declaration of Condominium and Protective Covenants, Conditions, Restrictions, Easements, Charges and Liens for The Moorings on Keuka Condominium filed in the office of the Yates County Clerk which subjects the Property to the Condominium form of ownership, establishes each Owner's related property and easement rights, and the basis by which the Condominium is to be managed and operated, including the assessment and collection of Common Charges by the Board of Managers.

1.09 Docks. Waterside floating docks on the Keuka Outlet with provisions for tying up boats seasonally.

1.10 Eligible Mortgage Holder. Any holder of a first mortgage on any Unit which has submitted a written request to the Board of Managers to notify it of any proposed action requiring the consent of a specified percentage of Eligible Mortgage Holders. This term shall also include the Sponsor if it holds a mortgage on any Unit.

1.11 Environmental Easement. That area of the Property north of Kimble's Creek that has been subject to a Brownfield Cleanup Agreement and remains subject to institutional and engineering controls as specified in a Site Management Plan.

1.12 Green. That portion of the Property north of Kimble's Creek between the Units, upon which those Units' porches face.

1.13 Limited Common Element. A portion of the Common Elements limited in use as described in Section 6.05 hereof.

1.14 New York State Department of Environmental Conservation. (NYS DEC) The regulatory authority governing the portion of the Property north of Kimble's Creek that is within an Environmental Easement area.

1.15 Owner. The holder of record title, including all unsold Units held in the name of the Sponsor, whether one or more persons or entities, of a fee interest in any Unit, whether or not such holder actually resides in such Unit. The Sponsor has reserved certain easement rights, veto rights, amendment rights and voting rights in the Declaration and By-Laws which do not apply to other Owners. In addition, certain provisions of the Declaration and By-Laws apply to Owners generally, but not to the Sponsor.

1.16 Property. The land described in Appendix A to this Declaration together with all improvements thereon, provided however, that the Property shall not include any Unit owned by the Sponsor or any other Owner.

1.17 Rules and Regulations. The Rules and Regulations attached to the By-Laws, as amended from time to time in accordance with the provisions of the By-Laws governing such amendments.

1.18 Site Management Plan. A required element of the Brownfield Cleanup Program (BCP) for a portion of the former Penn Yan Marine site, north of Kimble's Creek, designated under an Environmental Easement. After the BCP remedial work was completed, some contaminants were left at the site (remaining contaminants) at levels below restricted residential Site Cleanup Objectives. An Institutional and Engineering Control Plan describes the procedures for the implementation and management of all Institutional and Engineering Controls (IC/ECs) at the site.

1.19 Special Assessments. The amounts assessed by the Board of Managers for the purpose of making capital repairs, improvements or additions to the Common Elements or to fund unanticipated cash shortfalls. The provisions of Article VII of the By-Laws with respect to the responsibility for payment, collection, enforceability and lien for Common Charges shall also be applicable to Special Assessments.

1.20 Unit. Each Unit, as defined in Article V of the Declaration. For the purposes of defining the rights and obligations of Sponsor, Unit shall be interpreted to mean the building to be erected whether or not such building has actually been erected.

1.21 Waterfront Walkway. A pedestrian pathway constructed along the Keuka Outlet to be constructed as a boardwalk or stone-dust path as conditions warrant, and dedicated to the Village of Penn Yan for public access along the Keuka Outlet, the future maintenance of which will be the responsibility of the Village.

ARTICLE II SUBMISSION OF PROPERTY

2.01 Submission. The Sponsor hereby submits the Property to the provisions of Article 9-B of the State of New York Real Property Law and declares that the Property shall constitute a condominium pursuant to said Article 9-B.

ARTICLE III NAME OF CONDOMINIUM

3.01 Name. This Condominium shall be known as The Moorings on Keuka Condominium. The Condominium shall be comprised of the Units and the Common Elements on the Property. Each Unit together with its appurtenant interest in the Common Elements shall for all purposes constitute real property.

ARTICLE IV DESCRIPTION OF FACILITIES

4.01 Site Development. The formerly vacant site, after the completion of the demolition, clearing and environmental remediation of the former Penn Yan Marine property will be regraded and improved with underground utilities, buildings, docks, roadways, lighting and landscaping. Site improvement plans are illustrated in Offering Plan Exhibit C7.

4.02 Residences. The project proposes 39 residences configured in up to 18 one or two-story duplex and at least 3 single-family buildings. The buildings will be constructed on reinforced concrete footings and insulated foundation walls. Firewalls in each duplex separate the residences. Ground level floors are reinforced concrete slabs on grade. Above grade walls are 2 x 6 wood studs at 16" on center covered with Diamond Kote siding over cavity wall insulation providing exterior walls with a minimum R value of 21. Floor to floor heights are nine feet four inches, the second-floor structure consists ¾" thick Avantech deck over lumber floor joists. Avantech 5/8" T&G roof decks are protected with asphalt architectural shingles over ice and water shield, and insulated with a minimum R value of 49. All interior walls and ceilings are finish-painted, half-inch gypsum board. Prefinished, clad wood windows and doors, and cultured stone wainscots accenting the front exterior elevations complete the building envelopes.

The residences are provided in four basic architectural models from which buyers may make custom architectural modifications. Floor plans are shown in Offering Plan Exhibit C8.

Model A is a two story (3BR; 2 ½ bath) model and will contain approximately 2,145 SF of living space. Each unit's dedicated two-car garage enters the lower level of the house at a mudroom leading past the laundry and stair to the upper floor. The front entry enters a foyer leading past a powder room into the kitchen and open dining/living room. Master bedroom suite with walk-in closet and private bathroom is off the kitchen and mudroom hall. Master bedroom and living room are fronted by a covered porch leading to the community Green. A two-flight stair from the entry mudroom leads to two additional bedrooms and a shared bath. Overall building height from the lower floor level to the peak is approximately twenty eight feet eleven inches.

Model B is a one story (2BR; 2 bath) model and will contain approximately 1,366 SF of living space. Each unit's dedicated one-car garage and front door enter at a foyer leading past a bedroom and laundry to the kitchen, primary bedroom suite with private bathroom, and open dining/family room. Dining and living rooms are fronted by a covered porch facing the community Green. Overall building height from the lower floor level to the peak is approximately twenty five feet three inches.

Model C is a one story (2BR; 2 bath) model containing approximately 1,729 SF of living space. Each unit's dedicated two-car garage enters the house at a mudroom leading past the laundry into the kitchen. The main entry door enters a foyer leading past the second bedroom and half-bath to the kitchen, and opens to a dining and living room. The primary bedroom suite with walk-in closet and private bath is entered from the living room area. Both the living room and master

bedroom are adjacent to a covered porch leading to the community Green. Overall building height from the lower floor level to the peak is approximately twenty-seven feet ten inches.

Model D is a prospective single-family two-story (3BR + Loft/Office; 2 ½ bath) model containing approximately 2,336 SF of living space. The unit is entered from a dedicated two-car garage and front door into an entry foyer. Just inside the foyer are a laundry room, closet and powder room leading to an open kitchen/dining/living room. The master bedroom suite with walk-in closet and private bath is entered from the open living area. The kitchen/dining/living areas are adjacent to a covered porch leading to the community Green. Overall building height from the lower floor level to the peak is approximately twenty nine feet.

Heating and central air conditioning will be provided by split heat pumps systems, and distributed by ducted forced air on digital thermostats.

Plumbing accommodations in each unit include 1" water service, water and laundry hookups, a tankless hot water heater, wrap-around tub/showers, 1.6 gallon consumption toilets, lavatories, kitchen sink, including garbage disposal, and two exterior hose bibs.

Standard electrical work includes 200 amp services in each residence, light fixtures at exterior entry, exit, deck (2/deck), entry foyer, stair landing, under kitchen wall cabinets, bedrooms and closets (excluding linen closets). Service will be provided for outlets, electrical fixtures and appliances. Phone, data and TV outlets will be provided at up to 5 locations for each; additional locations will be at buyer's optional cost. Each model is sold with electric garage door operators with remote controls.

Buyers are allowed to customize their homes with allowances of \$150,000 for Models A and D, and \$120,000 for Models B and C for the cost of providing the following items to be selected from the builder's standards: cabinets, countertops, flooring, tile, shelving, toilet accessories, appliances, plumbing and lighting fixtures. These labor and material allowances are included in the base cost of the units; costs exceeding the allowances or additional costs for non-standard light and plumbing fixtures or finishes will be added to the base cost of the units by written change orders.

4.03 Community Building. A building for the use of the Condominium residents shall be constructed and will be a part of the Common Elements of the Property. Construction shall be completed before the effective date of this Declaration. The building will include, but not be limited to, a meeting room, kitchenette, office, toilet rooms and fitness room with exercise equipment. Plans for the Community Building are illustrated in Offering Plan Exhibit C8.

4.04 Docks. Floating boat docks (as permitted by NYS DEC) constructed on the Keuka Outlet for the use of the Condominium Owners and their guests will be a part of the Common Elements of the Property. Commencement of their construction shall begin before the effective date of this Declaration and shall be available for use before its first annual anniversary.

4.05 Pickleball Courts. An area paved and lined with nets for two Pickleball courts is planned.

4.06 Roadways. The Property is accessed from Hicks Street, a village street. The Village will extend the village street from Hicks Street via a newly dedicated street, Charles Herrmann Way, over a bridge across Kimble's Creek. North of Kimble's Creek, Charles Herrmann Way will be extended and maintained as a private road around three sides of the property. South of Kimble's Creek, access to the Units will be provided by short, private extensions from Charles Herrmann Way.

4.07 Stormwater Facilities. Stormwater management facilities north of Kimble's Creek consist of downspout piping and yard inlets connected to underground piping which collects stormwater into a NYS DEC approved Stormwater Management Forbay and Permanent Pool before emptying into the Keuka Outlet. Stormwater south of Kimble's Creek is collected into Village stormwater sewers in the street.

ARTICLE V THE UNITS

5.01 Number and Designation of Units. There will be up to eighteen (18) duplex and at least three (3) single-family residential buildings constructed on the Property. A Unit shall include one half of a duplex Building (including separate garage and porch) or the full single-family building. The Units shall be designated by street number. Each Unit is located as shown on the site plan filed simultaneously herewith in the Yates County Clerk's Office (the Site Plan) in accordance with New York Real Property Law Section 339-p and incorporated herein by reference. The Site Plan shows the general location and layouts of each Unit, however, the actual locations and layouts of Units as constructed may vary from the locations shown in the Site Plan due to site conditions and purchaser preferences of desired models. Each Unit shall be conveyed by the Sponsor to the initial purchaser thereof by reference to a Street Number on the Site Plan. Included on Map SP-1 of the Offering is a list of tax account numbers which will be applied to each Unit as supplied by the Yates County Assessor. (Offering Plan Schedule A2).

Purchasers may choose between four basic floor plans with architectural options. The approximate square footages and a brief description of the number and type of rooms of each of the four Model types is as set forth in Section 4.02 above. Each Unit will have a 2.56 % undivided interest in the Common Elements.

5.02 Dimensions of Units. Each Unit will have the areas described in Article IV Section 4.02 and as further described in Offering Plan Part II Floor Plans, Attachment E-2.

5.03 Ownership of Units. Each Owner will own his, her or its Unit in fee simple absolute, will have an exclusive easement to use the Limited Common Elements associated with

the Unit and will also own an undivided interest in the Common Elements as set forth in Article VI.

5.04 Use of Units. Each Unit shall be used for residential purposes only, as set forth more fully in the By-Laws and the Rules and Regulations.

5.05 No Partition or Division of Units. No Unit shall be subject to partition or division by the Unit Owner; provided, however, that the foregoing shall not be construed as prohibiting any interior alterations or changes to a Unit.

5.06 Merger of Units. More than one Unit may be purchased and configured as one residence. Such combined Unit shall entitle the Unit Owner to only one vote and shall cause the percentage of common interest of all Unit Owners to be one of the resultant total number of Units.

5.07 Access to Common Elements. Subject to this Declaration and the By-Laws and Rules and Regulations, each Unit Owner has access to the entire Property, except for the other Units and the Limited Common Areas as defined in Section 6.05 appurtenant to other Units, and subject to Rules and Regulations established by the Board of Managers.

ARTICLE VI COMMON ELEMENTS

6.01 Definition of Common Elements. The Common Elements consist of all of the Property except any Units owned by the Sponsor or by any other Owner and include, without limitation, (i) all utility or other pipes, wires, conduits, water and sewer lines and other material which are not part of any Unit, or which service two or more Units, and which are not owned by public utility companies or independent authorities; (ii) all parking areas and private roadways within the development not dedicated to the Village; (iii) the Community Building; (iv) Docks; (v) multiple unit mailboxes; (vi) Pickleball Courts and (vii) all other apparatus, improvements and installations on the Property for common use or which may be necessary or convenient to the existence, maintenance or safety of the Common Elements or two or more of the Units.

6.02 Interest in Common Elements. Each Owner shall have 1/39th (2.56%) interest in the Common Elements. The percentage of interest of each Unit in the Common Elements has been determined by the Sponsor in accordance with Real Property Law Section 339-I-(iii), with each Unit being assigned equal percentage interests in the Common Elements due to the fact that all Owners will have equal access to the Common Elements and will benefit equally from the expenditures of the Condominium. The interests in the Common Elements as expressed herein shall have a permanent character and shall not be altered without the consent of all Unit Owners, expressed in a duly recorded amendment to this Declaration. The undivided interest in the Common Elements shall not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

The general cost of operating, maintaining and providing capital reserves for the future repairs and renovations of Common Elements shall be assessed equally in the Common Charges for all Unit owners, including the Sponsor. The foregoing notwithstanding, the Board of Managers of The Moorings on Keuka Condominium may establish rules for the use and assessment of costs for individuals' uses of these facilities.

6.03 Common Elements to Remain Undivided. The Common Elements shall remain undivided, and no Unit Owner shall bring any action for partition or division of the Common Elements.

6.04 Eminent Domain. Notwithstanding anything else contained herein, if a Unit or any portion of the Common Elements is taken by eminent domain, the following shall apply:

(a) **Taking of a Unit.** If there shall occur a taking of all or any portion a Unit, the entire award from such proceedings shall be paid to the Owner of such Unit. The Unit Owner affected shall have the exclusive right to contest any condemnation or eminent domain proceeding which is directed at taking any portion of their Unit. If an entire Unit is so taken, or if part of a Unit is taken such that the remaining portion may not be practically or lawfully used for any purpose permitted by this Declaration, that Unit's entire interest in the Common Elements shall be automatically reallocated to the remaining Units in proportion to the respective Common Element interests of those Units before the taking. A Unit Owner's remedies in the event of a partial or total taking by eminent domain or condemnation which effectively prohibits use of such Unit are determined by State law and enforceable by such Owner.

(b) **Taking of Common Elements.** All of the Owners are deemed to have irrevocably appointed the Board of Managers to represent the Owners in any condemnation or eminent domain proceedings, negotiations, settlements, or agreements pertaining to a taking of any of the Common Elements. The Owners are deemed to have appointed the Board of Managers as their attorney-in-fact for this purpose. In the event all or part of the Common elements are taken in any condemnation or eminent domain proceedings, the award from such proceedings shall be paid to the Board of Managers. The Board of Managers shall arrange for the repair, restoration or replacement of the affected Common Elements to the extent reasonably possible and shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. All payments made to the Board of Managers shall be considered to have been made for the benefit of the Owners and the holders of mortgages on the Units.

If there shall be a surplus of such proceeds or if the Board of Managers cannot reasonably repair, replace or restore the Common Elements taken, the proceeds shall be distributed, at the discretion of the Board of Managers, to the Condominium reserve fund, or among the Unit Owners in accordance with their respective percentage interests in the Common Elements. All such payments to Owners shall be subject to payment of all liens of record on such Owners' Units, including fines, penalties and unpaid Common Charges owed by the Unit Owner to the Board of Managers and mortgages of record.

(c) Arbitration. Any Unit Owner who wishes to contest a determination of the Board of Managers made pursuant to this Section 6.04 may do so by submitting the matter to the American Arbitration Association for a determination which decision shall be binding on the Board of Managers. The cost of such arbitration, whether or not successful, shall be borne solely by the Unit Owner submitting the matter to arbitration.

(d) Partition Action in lieu of Continuation of Condominium after Partial Taking. If any condemnation or eminent domain proceeding results in a partial taking of the Property, the Property or so much thereof as remains shall be subject to an action for partition upon authorization by at least 80 percent in number and common interest of all Units as set forth in Section 339-t of the Real Property Law.

(e) Abandonment, Subdivision, Encumbrance or Transfer of Common Elements. The Common Elements shall not be abandoned. Further, the Common Elements shall not be encumbered, conveyed or transferred, except by the Board of Managers for the purpose of granting easements, rights of way or licenses for utilities and similar services for the benefit of the Property, without the consent of all Unit Owners, who shall vote by written ballot after such notice as is provided in the By-Laws and the written consent of Eligible Mortgage Holders who represent at least 51 percent of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders. The foregoing is intended to comply with the provisions of New York Real Property Law Section 339-I such that no lien shall be created against the Common Elements subsequent to the recording of this Declaration, except with the unanimous consent of all Unit Owners. Further, labor performed and materials furnished to the Common Areas cannot be the basis for a lien on such Common Elements.

(f) Condemnation Provisions Subject to Existing Law. All provisions of this Section 6.04 are subject to interpretation in accordance with the law in effect at the time of any condemnation or eminent domain proceeding. Should all or any portion of the provisions of this Section 6.04 be determined, in the opinion of counsel to the Condominium or by a court having jurisdiction, to be unenforceable at such time, the distribution of proceeds, rights with respect to partition, and allocation of percentage interests in the common elements after a partial taking, shall be as a court of law shall determine unless all affected Unit Owners shall otherwise agree.

6.05 Limited Common Elements. Subject to the right of the Board of Managers to enter upon any such area for maintenance, repair or improvement of a Common Element or Unit as set forth in this Declaration, the By-Laws and the Rules and Regulations, the entire area including the land upon which the Unit actually sits as shown on the filed map, is restricted in use to the Unit Owner to which such portions are appurtenant and are deemed Limited Common Elements. The Limited Common Elements include, but are not limited to: (i) the driveway leading to each Unit from the private street to the garage of each Unit, (ii) the sidewalks leading from each Unit to the driveway of each Unit and to the perimeter walkway of the Green, (iii) decks, porches, exterior doors and windows, and landscaped areas pertaining to each Unit.

ARTICLE VII
ALTERATIONS AND IMPROVEMENTS TO UNITS AND COMMON ELEMENTS

7.01 Additions or Structural Alterations. New York Real Property Law Section 339-k and this Declaration prohibit work by Unit Owners which would jeopardize the soundness or safety of the Condominium Property, reduce the value thereof, or impair any easement or hereditament. The addition of any material structure, or the excavation of additional basements or cellars, without the consent of all of the Unit Owners affected, is also prohibited. Any disturbance of the grounds within the Environmental Easement is restricted by the NYS DEC and needs to follow the restrictive covenants within the Site Management Plan's Excavation Work Plan. No Unit Owner shall make any structural alteration or improvement in or to his or her Unit which would impair the structural soundness of the Unit, which would cause an adverse material effect on the exterior appearance or value of the Unit without the prior written consent thereto by the Board of Managers obtained in accordance with the procedures set forth in this Article VII, which consent shall not be unreasonably withheld. Subject to the foregoing, Owners may make internal alterations and modifications to their Units without the approval of the Board of Managers.

7.02 Alterations of Unit. No Unit Owner may (i) change the exterior appearance of any Unit, including changing the color, style or materials thereof without the prior written approval of the Board of Managers of The Moorings on Keuka Condominium, or (ii) install any gardens, plantings or shrub beds on any Limited Common Area except pursuant to a landscaping plan approved in writing by the Board of Managers of the Moorings on Keuka Condominium or (iii) modify alter or change any gardens, plantings, or shrub beds previously approved except pursuant to a landscaping plan approved in writing by the Board of Managers. The Declaration and the By-Laws provide that the Board of Managers may delegate some of all of the authority for the matters described in (i)-(iii) of this Section 7.02 to a committee of the Board of Managers.

7.03 Alterations and Improvements to Common Elements.

A. By Board of Managers. The Board of Managers shall have the right, at its option, to make or cause to be made such alterations and improvements to the Common Elements or to install such fixtures and equipment therein, as, in its opinion, may be beneficial or necessary, subject, however, to the requirements that: (i) so long as the Sponsor owns at least one (1) Unit, no such alteration or improvement can be made without the prior written consent of the Sponsor; and (ii) if the alteration or improvement shall impose a cost to the budget of more than five percent of the then current estimated annual budget (including reserves), the expenditure for such alteration or improvement shall be approved by more than two-thirds of the Unit Owners. Such expenses shall constitute common expenses. Alterations, improvements or machinery costing less than five percent (5%) of the Condominium's then current estimated annual budget may be made by the Board of Managers without the approval of the Unit Owners. Before undertaking such work, the Board of Managers may require the consent in writing of such Unit Owners and the holders of first mortgages thereon, whose rights, in the sole opinion of the Board of Managers, may be prejudiced by such alteration or improvement.

In all cases of alteration or improvement, the Board of Managers shall comply fully with all governmental codes, laws, ordinances and regulations, including the Site Management Plan's Excavation Work Plan and provisions of the Real Property Law of the State of New York in effect at the time of the alteration or improvement.

B. By Unit Owners. No Owner shall install, direct or permit the installation of any fixture or equipment in or on the Common Elements or make any addition, alteration or improvement to the Common Elements (i) which would in any way violate any governmental law, code, ordinance or regulation including the Site Management Plan's Excavation Work Plan and the provisions of the Real Property Law of the State of New York in effect at the time of the alteration or improvement, or (ii) without the prior written consent of any Owners directly affected (as determined by the Board of Managers) and of the Board of Managers, obtained pursuant to Article VII of this Declaration of the Moorings on Keuka Condominium and, so long as the Sponsor owns at least one Unit, the prior written consent of the Sponsor. The maintenance and repair of any addition, alteration or repair to the Limited Common Elements made by the Unit Owner shall be the sole responsibility of such Unit Owner.

The foregoing notwithstanding, the provisions of this Section 7.03(B) shall not apply to the Sponsor. The Sponsor reserves the right to make alterations and improvements to the Common Elements so long as it owns at least one Unit.

7.04 Alterations and Improvements to Limited Common Elements.

A. By Board of Managers. The Board of Managers shall have the right, at its option, to make or cause to be made such alterations and improvements to the Limited Common Elements or to install such fixtures and equipment therein, as, in its opinion, may be beneficial or necessary, subject, however, to the requirements that: (i) so long as the Sponsor owns at least one (1) Unit, no such alteration or improvement can be made without the prior written consent of the Sponsor; and (ii) if the alteration or improvement shall impose a cost to the budget of more than five percent of the then current estimated annual budget (including reserves), the expenditure for such alteration or improvement shall be approved by more than two-thirds of the Unit Owners. Such expenses shall constitute common expenses. Alterations, improvements or machinery costing less than five percent (5%) of the Condominium's then current estimated annual budget may be made by the Board of Managers without the approval of the Unit Owners. Before undertaking such work, the Board of Managers may require the consent in writing of such Unit Owners and the holders of first mortgages thereon, whose rights, in the sole opinion of the Board of Managers, may be prejudiced by such alteration or improvement.

In all cases of alteration or improvement, the Board of Managers shall comply fully with all governmental codes, laws, ordinances and regulations, including the Site Management Plan's Excavation Work Plan and the provisions of the Real Property Law of the State of New York in effect at the time of the alteration or improvement.

B. Unit Owners. No Owner shall install or direct or permit the installation of any fixture or equipment in or on the Limited Common Elements or make any addition, alteration or improvement to the Limited Common Elements (i) which would in any way violate any governmental law, code, ordinance or regulation including the Site Management Plan's Excavation Work Plan and the provisions of the Real Property Law of the State of New York in effect at the time of the alteration or improvement, or (ii) without the prior written consent of any Owners directly affected (as determined by the Board of Managers) and of the Board of Managers, obtained pursuant to Article VII of this Declaration of The Moorings on Keuka Condominium and, so long as the Sponsor owns at least one Unit, the prior written consent of the Sponsor.

Notwithstanding the foregoing, the provisions of this Section 7.04(B) shall not apply to the Sponsor. The Sponsor reserves the right to make alterations and improvements to the Limited Common Elements so long as it owns at least one Unit.

7.05 Submission of Plans to the Board of Managers: Approval. Except for internal modifications to Units permitted by the last sentence of Section 7.01 above, any addition, alteration or improvement to the Units, Common Elements or Limited Common Elements or any installation of any appliance or machinery pursuant to Sections 7.02, 7.03 and 7.04 above proposed by an Owner(s) (other than the Sponsor) shall require that an application therefore, in such form as the Board of Managers may require, be submitted to, reviewed and approved by the Board of Managers of The Moorings on Keuka Condominium. The Board of Managers may charge and collect a reasonable fee for the examination of plans submitted for approval, including any fees which may be charged by architects, engineers or attorneys retained by the Board of Managers in connection with the review of such plans. The Board of Managers may appoint a committee, as authorized by Article V of the By-laws, to serve in an advisory capacity to the Board of Managers. The Board of Managers shall be required to act upon such written plan within sixty (60) days of the receipt of an application deemed complete by the Board of Managers.

Subject to the provisions of the Declaration and By-Laws of the Moorings on Keuka Condominium, the Board of Managers may adopt simplified review procedures for any such installations, additions, alterations or improvements which it shall deem minor for which the submission of plans is not necessary.

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

- A. failure of such plans to comply with any protective covenants, conditions and restrictions contained in the Declaration, By-Laws, Rules or Regulations;
- B. failure to include information in such plans as requested;
- C. incompatibility of proposed improvements or use of proposed improvements with existing improvements or uses in the vicinity;
- D. failure of proposed improvements to comply with any zoning, building, health or other governmental laws, codes, ordinances, rules and regulations;

E. the opinion of the Board of Managers that the installation, additions, alteration, cost or improvement would have a material adverse effect on the value or exterior appearance of the subject Building;

F. any other matter which in the judgment and sole discretion of the Board of Managers would render the proposed improvements, use or uses inharmonious or incompatible with the general housing and improvements on the Condominium.

Upon approval or qualified approval by the Board of Managers of any plans submitted pursuant to this Section, the Board of Managers shall notify the applicant in writing of such approval or qualified approval, which notification shall set forth any qualifications or conditions of such approval shall file a copy of such plans as approved for permanent record (together with such qualifications or conditions, if any), and, if requested by the applicant, shall provide the applicant with a copy of such plans bearing a notation of such approval or qualified approval.

In any case where the Board of Managers disapproves any plans submitted hereunder, the Board of Managers shall notify the applicant in writing, together with a statement of the grounds upon which such action was based.

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

7.07 Liability of Board of Managers. No action taken by the Board of Managers or any member, subcommittee, employee or agent thereof, shall entitle any person to rely thereon, with respect to conformity with laws, regulations, codes or ordinances, or with respect to the physical or other condition of any Building or other portion of the Condominium Property. Neither the Condominium, nor the Board of Managers, nor any member, subcommittee, employee or agent thereof shall be liable to anyone submitting plans to them for approval or to any Unit Owner, or any other person, in connection with any submission of plans, or the approval or disapproval thereof, including without limitation, mistakes in judgment, negligence or nonfeasance. Every person or other entity submitting plans to the Board of Managers agrees, by submission of such plans, that no action or suit will be brought against the Condominium or the Board of Managers (or any member, subcommittee, employee or agent thereof) in connection with such submission.

ARTICLE VIII
EASEMENTS AND PROPERTY RIGHTS

8.01 Utilities, Pipes and Conduits. Each Unit Owner shall have an easement in common with the owners of all other Units to the use and enjoyment of all Common Elements and each Unit shall be subject to such easement, as may be necessary, for such Unit Owner to maintain, repair and replace, as necessary, such Owner's Unit including, if any, the pipes, conduits and wires running from the meters servicing such Unit to the Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to the pipes, ducts, cables, wires, conduits, public utility lines and other Common Elements serving more than one Unit.

8.02 Right of Access of Board of Managers. The Board of Managers, its agents, contractors and employees, shall have an easement and right of access to each Unit for the purpose of (i) making reasonable inspections; (ii) curing or removing violations of the Declaration or By-Laws or Rules and Regulations of the Condominium therein or therefrom; (iii) correcting any condition originating in a Unit and threatening damage, injury or destruction to or of another Unit; (iv) making any maintenance or repair which pursuant to the By-Laws an Owner is required to make and which such Owner has failed to make after ten (10) days written notice; or (v) complying with any laws, orders, rules or regulations of any governmental body having jurisdiction thereof; (vi) connecting or tapping into a water hose bib on an individual condominium unit to clean common elements or water plantings in common areas, and (vii) maintaining, repairing or replacing any pipe, wire, duct, cable, conduit or utility line located in any Unit or on a Limited Common Element and servicing two or more Units. The cost of such maintenance, repairs, improvements or replacements shall be a common expense unless otherwise provided in this Declaration or the By-Laws. The Board of Managers shall have a right of access to all Common Elements (including Limited Common Elements) to cure or remove violations and for inspection, maintenance, repair or improvement. The rights of access are to be exercised (unless in an emergency) at reasonable hours and upon reasonable notice to the Unit Owner involved. In the case of an emergency, the right of access shall be immediate, regardless of the presence of the Unit Owner involved.

8.03 Rights of Sponsor. The Sponsor shall have the right, until the completion of the construction, marketing and sale of all Units to:

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

(b) use the Property for ingress and egress for itself, its employees, subcontractors and others necessary to complete construction, and for prospective purchasers and contract purchasers of Units;

(c) use any of the Units to which title has not been transferred or with respect to which the Sponsor has permission from the Owner, (i) as a model or as a sales or rental center and to have prospective purchasers and lessees of Units visit such sales center, or (ii) for the storage of supplies and equipment until all Units have been sold, or earlier at the option of the Sponsor;

(d) grant to itself or to others such other easements and rights of way as may be reasonably needed for the orderly development of the Condominium;

(e) erect and maintain in such locations as Sponsor deems appropriate or desirable (and which do not unreasonably interfere with the appearance or use of the Condominium Property) signs identifying and advertising for sale or lease Units in the Condominium.

8.04 Easement of Necessity. Each Unit shall have and each Unit shall be subject to all easements of necessity in favor of such Unit or in favor of other Units.

8.05 Easement for Encroachments.

If any portion of a Unit or the Common Elements (whether restricted in use to an individual Unit Owner or not) encroaches or shall hereinafter encroach upon another Unit, the Common Elements or the Limited Common Elements as a result of (i) the construction, renovation, settling or shifting of the building(s) or any component of such building, or (ii) any repair or restoration by the Board of Managers of the building(s), any Unit or the Common Elements, or (iii) any construction after a partial or total destruction as a result of a fire or other casualty or as a result of condemnation or eminent domain proceedings, a valid easement for the encroachment and the maintenance of the same shall and does exist. Such easements as provided in this section shall exist so long as the building shall stand, or so long as the building in which any such encroachment exists shall stand.

8.06 Sponsor's Consent Necessary to Amend Article VIII. No provision of this Article VIII may be amended without the written consent of the Sponsor (or its successors or assigns) as long as the Sponsor owns any Units.

8.07 Environmental Easement. An Environmental Easement granted to the NYS DEC requires compliance with an Institutional and Engineering Control Plan on that portion of the Property north of Kimble's Creek within the easement area.

ARTICLE IX VOTING RIGHTS

9.01 Voting Rights. As set forth more fully in the By-Laws, each Unit Owner shall be entitled to vote on all matters put to a vote at all meetings of Unit Owners in accordance with the percentage interest of the Unit owned in the Common Elements of the Condominium, unless otherwise provided herein.

**ARTICLE X
BOARD OF MANAGERS**

10.01 Board of Managers. The affairs of the Condominium shall be governed and controlled pursuant to the By-Laws by a Board of Managers who shall initially be appointed by the Sponsor and thereafter (as described in the By-Laws) be elected and serve and who shall have the duties and powers as provided in the By-Laws. The Board of Managers shall have the responsibility for maintenance, repair and replacement of the Common Elements and the Property and more generally with respect to the Property as described in this Declaration and in the By-Laws. The Board of Managers shall have the right to delegate its duties to a manager or agent. Rights given to the Board of Managers under this Declaration and under the By-Laws may be exercised by the Sponsor also during such time that the Sponsor controls the Board of Managers or prior to the time a Board of Managers has been appointed by the Sponsor.

10.02 Administration. The administration of the Condominium described herein shall be in accordance with the provisions of this Declaration and with the Condominium By-Laws.

10.03 Sponsor's Veto Power over Certain Actions Taken by Board of Managers. All rights of the Board of Managers set forth herein are subject to all reserved rights of the Sponsor, including but not limited to Sponsor's veto powers set forth below and in the By-Laws (The veto which Sponsor may exercise over expenses during this time period is called the Expense Veto.).

As noted below, except for expenses required to comply with applicable laws or regulations or to remedy any notice of violation or to remedy any work order by an insurer, the Sponsor shall retain the right to veto the following actions of the Board of Managers until the end of the Expense Veto:

- (a) Any addition, alteration or improvement to the Common Elements or to any Unit owned by the Condominium;
- (b) Any expenses proposed to be incurred or actually incurred other than those set forth in the initial budget of the Condominium as set forth by the Sponsor in Schedule B to the Condominium Offering Plan as initially accepted for filing with the New York State Department of Law; or
- (c) Hiring any employee in addition to the employees, if any, provided for in the original budget of the condominium set forth in Schedule B to the Offering Plan; or
- (d) Entering into any service or maintenance contract for work not covered or contemplated by the initial budget set forth in Schedule B to the Offering Plan; or
- (e) Borrowing money on behalf of the Condominium; or
- (f) Reducing the quantity or quality of services or maintenance of the Property.

The Sponsor may not exercise veto power over expenses described in Schedule B to the Offering Plan as initially accepted for filing with the New York State Department of law or over expenses required:

- (a) To comply with applicable laws or regulations; or

- (b) To remedy a notice of violation; or
- (c) To remedy any work order by an insurer.

The Sponsor may, however, exercise veto power over expenses other than those described above for a period ending not more than five (5) years after the closing of the first Unit or whenever the unsold Units constitute less than 20 percent of the interest in the Common Elements, whichever is sooner. At the conclusion of this time period, Sponsor's veto power over expenses related to the Common Elements of the Condominium will end. Sponsor's other veto powers (principally as to amendments to the Condominium Declaration and By-Laws) shall continue unaffected.

Notwithstanding anything to the contrary contained in this Declaration, until the closing of title to all of the Units within The Condominium, the Board of Managers may not, without the Sponsor's written consent, (i) except for necessary repairs or repairs, alterations, additions or improvements required by law, authorize any addition, alteration or improvement to the exterior of the Units, or (ii) borrow money on behalf of the Condominium, or (iii) reduce the quantity or quality of services or maintenance of the Property. This section shall not be amended without the Sponsor's consent so long as the Sponsor owns any Unit.

ARTICLE XI OBLIGATIONS, RESPONSIBILITIES, COVENANTS, AND RESTRICTIONS

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

11.02 Units to be Properly Maintained. Unit Owners shall maintain their Unit and the Limited Common Elements in good repair and overall appearance.

11.03 Mortgages on Units. Any Unit Owner who mortgages his Unit shall promptly provide the Board of Managers with the name and address of the mortgagee.

11.04 No Nuisance. No nuisances or noxious or offensive activities shall be conducted or allowed upon the Property nor shall any use or practice be allowed which is or may become a

source of annoyance or nuisance to residents or which interferes with the peaceful possession and proper use of the Property by its Owners and Occupants.

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

ARTICLE XII AMENDMENT AND TERMINATION OF DECLARATION

12.01 Amendment. This Declaration may be modified, altered or amended at any duly called meeting of Unit Owners, provided that:

(a) A notice of the meeting containing a full statement of the proposed modification, alteration or amendment has been sent to all Unit Owners and Eligible Mortgage Holders as listed on the books and records of the Condominium at least thirty (30) and not more than fifty (50) days prior to the date set for such meeting; for purposes of this Declaration, the term Eligible Mortgage Holder shall mean and refer to the holder of a first mortgage on a Unit: who has requested the Board of Managers to notify them of any proposed action or any proposed modification, alteration, amendment or addition to the legal documents of the Condominium which requires the consent of mortgagees or mortgage holders; and

(b) Two-thirds or more in number and in common interest of all Unit Owners approve the change; and

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

(d) An instrument evidencing the change is duly recorded in the Office of the Erie Ontario County Clerk. Such instrument need not contain the written consent of the required number of Unit Owners, but shall contain a certification by the Board of Managers of the Condominium that the consents required by this Section for such change have been received and filed with the Board of Managers; and

(e) So long as the Sponsor shall continue to own at least one Unit, the Board of Managers obtains the Sponsor's written consent to the change.

12.02 Amendment for Filing of Supplemental Floor Plans and Price Changes.

Notwithstanding Section 12.01 above, the Sponsor may execute and record Amendment(s) to this Declaration at any time until it no longer owns any Units for the purpose of filing supplemental floor plans of Units, as described in Real Property Law Section 339-p. Such Amendment(s) need only be signed by the Sponsor, and attached thereto shall be the verified statement of a registered architect or licensed professional engineer as described in the aforementioned Sections of the Real

Property law and of this Declaration. In addition to floor plan modifications, Sponsor may file and record amendments to this Declaration for the purpose of modifying the pricing schedule for the individual Units. Such amendments need only be signed by the Sponsor.

12.03 Amendment by Sponsor to Correct Errors or to Comply with Secondary Mortgage Market Requirements. Notwithstanding Section 12.01 above or any other provision of this Declaration, the Sponsor, during the time it owns any Unit, may make amendments to this Declaration, consistent with the current provisions of the Condominium Act and this Declaration, to correct omissions or errors, or to bring this Declaration or the By-Laws into compliance with the requirements of the secondary mortgage market, including but not limited to, The Federal Housing Administration, Federal National Mortgage Agency, Federal Home Loan Mortgage Corporation or State of New York Mortgage Agency, which amendments shall not adversely modify substantial rights of any Unit Owner without such Unit Owner's written permission. Such amendment(s) need only be signed by the Sponsor. The intent of this paragraph is to permit correction of minor errors and to allow the Sponsor to more easily market the Units by assuring that Unit purchasers can obtain mortgages on the Units.

12.04 Termination. The Condominium shall not be terminated or abandoned except as provided by law. In addition to any requirement by law, termination shall require the consent of at least eighty percent (80%) of all Unit Owners in number and in common interest. Where the action to terminate the Condominium is after the substantial destruction or condemnation, such termination shall also require the consent of Eligible Mortgage Holders who represent at least fifty-one percent (51 %) of the votes of the Units that are subject to mortgages held by Eligible Mortgage Holders. Where the termination of the Condominium is for reasons other than the substantial destruction or condemnation of the property, termination must be agreed to by Eligible Mortgage Holders that represent at least two-thirds of the votes of the Units subject to mortgages held by Eligible Mortgage Holders. Any eligible Mortgage Holder who fails to submit a response to any written proposal for termination within thirty (30) days after it receive proper notice of the proposal for termination shall be deemed to have consented, provided that such notice was delivered by certified or registered mail, with a return receipt requested.

12.05 Expansion and Merger of Condominium with Other Condominiums. Nothing in this Declaration shall preclude the expansion of the Condominium to include other Units, garages, recreational facilities and other amenities located on adjacent lands, or the merger of the Condominium with another condominium located on adjacent lands, provided such expansion or merger is accomplished pursuant to the laws in effect at the time of such expansion or merger. Notwithstanding anything to the contrary which may be contained in this Declaration, any expansion or merger which results in a single condominium shall mean that all references herein to Condominium shall be deemed to mean and refer to the Condominium after expansion or merger and all references to the Board of Managers of the Condominium shall mean and refer to the Board of Managers of the Condominium resulting from such expansion or merger.

12.06 Rights of Eligible Mortgage Holders. In addition to the requirements for approval of amendment as noted in this Article XII, amendments of a material nature must also be agreed

to by Eligible Mortgage Holders who represent at least fifty-one percent (51 %) of the votes of those Units that are subject to mortgages held by Eligible Mortgage Holders. This Section is, however, subject to the amendment powers vested in Sponsor (and later in the Board of Managers) as set forth in Section 12.03 for the purposes of compliance with the various regulatory agencies referred to in Section 12.03. A change to any of the following provisions will be considered as an amendment of a material nature:

- (a) Voting rights.
- (b) Increases in Common Charges or Special Assessments that raised the previously assessed amount by more than twenty-five percent (25%).
- (c) Assessment liens.
- (d) Priority of assessment liens.
- (e) Reductions and reserves for maintenance, repair and replacement of Common Elements.
- (f) Responsibility for maintenance of the Common Elements.
- (g) Reallocation of interest in the general or Limited Common Elements or rights to their use.
- (h) Redefinition of any Unit boundaries.
- (i) Convertibility of Units into Common Elements or vice versa.
- (j) Expansion or contraction of the Condominium, or the additional, annexation or withdrawal of property to or from the condominium.
- (k) Hazard or fidelity insurance requirements.
- (l) Imposition of any restriction on the leasing of Units.
- (m) Imposition of any restrictions on a Unit Owner's right to sell or transfer a Unit.
- (n) Restoration or repair of the condominium (after damage or partial condemnation) in a manner other than that specified in the condominium Documents; or any of the provisions that expressly benefit mortgage holders, insurers or guarantors.

Where the regulations of an Eligible Mortgage Holders permit an action (such as an amendment) to be taken upon less onerous consent requirements than set forth in this Declaration (or in the attached By-Laws), then the less onerous requirements shall automatically apply as to that Eligible Mortgage Holder. For example, if a provision in this Declaration (or in the attached By-Laws) requires consent of 51% of Eligible Mortgage Holders, but the regulations of a particular Eligible Mortgage Holder require only that notice of the action be given and the Eligible Mortgage Holder not send written notice of object, then the latter requirement shall apply as to that Eligible Mortgage Holder.

12.07 Qualifying Amendments to Offering Plan. Nothing set forth herein shall prohibit the Sponsor from filing amendments to the Offering Plan as required by law or regulation. Such amendments shall be signed by the Sponsor and filed as required by law or regulation.

ARTICLE XIII GENERAL

13.01 Service of Process. Service of process on the Unit Owners in any action relating to the common elements shall be made upon: Chrisantha, Inc. on behalf of the Board of Managers of The Moorings on Keuka Condominium (or its designee). Chrisantha, Inc. may amend this Section 13.01 to name a different individual or entity and address for the purpose of accepting

service of process by filing an amendment to this declaration which amendment need only be executed by the Sponsor with a copy to be served upon the Board of Managers by certified mail.

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

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

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

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

13.06 Reservation of Power. Any alteration, amendment, suspension or repeal of Article 9-b of the New York Real Property Law shall be effective with respect to this Declaration.

13.07 No Private Right of Action. Nothing set forth in this Declaration, By-Laws or attached Rules and Regulations shall be deemed to create a private right of action in any Unit Owner, tenant or occupant under the New York General Business Law or other securities law'.

13.08 Special Rights of Condominium Mortgage Holders, Insurers or Guarantors. Provided that the respective entity or person has first sent a written request for the following information to the Board of Managers, stating both its name and address and the Unit number or address of the Unit in which it holds a mortgage or insures or guarantees a mortgage, such mortgage holder, insurer or guarantor of the mortgage on a Unit in the condominium project shall have the right to timely written notice of the following (as may be set forth more fully in the Declaration or By- Laws):

- (a) Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit or Units securing its mortgage.
- (b) Any sixty (60) day delinquency in the payment of assessments or Common Charges owed by the Owner of any Unit on which it holds a mortgage.
- (c) A lapse, cancellation or material modification of any insurance policy maintained by the Board of Managers.
- (d) Any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders.

IN WITNESS WHEREOF, the Sponsor has caused this Declaration to be executed this 21st day of November, 2023

The Moorings on Keuka Condominium

By: Keuka Outlet Development, LLC, Sponsor

By: Christopher N. Iversen
Christopher N. Iversen, manager

STATE OF NEW YORK)
COUNTY OF ONTARIO) ss.:

On the day of Nov 21 in the year 2023 before me, the undersigned, a Notary Public in and for the State, personally appeared Christopher N. Iversen, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

William R. Kenyon
Notary Public

WILLIAM R. KENYON
Notary Public, State of New York
Ontario County #34-7238425
My Commission Expires 07-30-26

**DECLARATION OF CONDOMINIUM
APPENDIX A
LEGAL DESCRIPTION**

ALL THAT CERTAIN TRACT OR PARCEL OF LAND containing 15.434 acres more or less, situate in the Village of Penn Yan, Town of Milo, County of Yates, State of New York, bounded and described as follows:

BEGINNING at a point on the Westerly line of Hicks Street (49.5' Right-of-Way), said point being at the northwest corner of said right-of-way and marked by a Capped (Wilson) Iron Pin; Thence

1. N 49°33'49" W, along the westerly line of Hicks Street extended, a distance of 238.88 feet to a point on the northerly limits of the prism and banks of the former Crooked Lake Canal; thence
2. N 04°04'27" W, along the northerly limits of the prism and banks of said former Crooked Lake Canal, a distance of 110.31 feet to a point; thence
3. N 02°00'29" E, continuing along the northerly limits of the prism and banks of said former Crooked Lake Canal, a distance of 75.39 feet to a point; thence
4. N 17°37'05" E, continuing along the northerly limits of the prism and banks of said former Crooked Lake Canal, a distance of 103.82 feet to a point; thence
5. N 30°34'32" E, continuing along the northerly limits of the prism and banks of said former Crooked Lake Canal, a distance of 141.28 feet to a point; thence
6. N 38°19'32" E, continuing along the northerly limits of the prism and banks of said former Crooked Lake Canal, a distance of 142.46 feet to a point; thence
7. N 53°34'32" E, continuing along the northerly limits of the prism and banks of said former Crooked Lake Canal, a distance of 145.65 feet to a point; thence
8. N 68°17'32" E, continuing along the northerly limits of the prism and banks of said former Crooked Lake Canal, a distance of 303.28 feet to a point; thence
9. S 21°42'28" E, a distance of 67.43 feet to a point on the westerly boundary line of lands now or formerly of the Village of Penn Yan (T.A. No. 049.82-1-21); thence
10. S 17°11'09" E, along said westerly boundary line of the Village of Penn Yan, a distance of 37.79 feet to a point on the southerly boundary line of said lands of the Village of Penn Yan; thence

11. N 70°31'03" E, along said southerly boundary line of the Village of Penn Yan, a distance of 82.46 feet to a point on the westerly boundary line of lands now or formerly of Roto Salt Co. Inc. (T.A. No. 049.82-1-20.1); thence

12. S 46°49'59" E, along said westerly boundary line of Roto Salt Co. Inc., a distance of 163.30 feet to a point on the northerly boundary line of lands now or formerly of Roger C. Ribble (T.A. No. 061.26-1-2); thence

13. S 58°40'00" W, along said northerly boundary line of Ribble, a distance of 205.00 feet to a point on the westerly boundary line thereof; thence

14. S 47°21'47" E, along said westerly boundary line of Ribble, a distance of 581.89 feet to a point on the northerly boundary line thereof; thence

15. S 39°41'01" W, along the northerly boundary line of Ribble, and along the northerly boundary line of lands now or formerly of Randy L. & Robin Richardson (T.A. No. 061.26-1-20), lands now or formerly of Murray D. Axtell (T.A. No. 061.26-1-21), and lands now or formerly of Paul C. & Louise Calhoun (T.A. No. 061.26-1-22) a distance of 430.62 feet to a point on the easterly boundary line of lands now or formerly of Joseph L. & Margaret Chaapel (T.A. No. 061.26-1-23); thence

16. N 48°19'49" W, along said easterly boundary line of Chaapel, and along the easterly right of way line of Waddell Avenue (49.5' Right-of-Way), and along the easterly boundary line of lands now or formerly of James & Cynthia Pedder (T.A. No. 061.26-1-27), a distance of 222.92 feet to a point on the northerly boundary line of said lands of Pedder; thence

17. S 39°41'01" W, along said northerly boundary line of Pedder, and along the northerly boundary line of lands now or formerly of Donald Harris (T.A. No. 061.26-1-26), and along the northerly boundary line of lands now or formerly of David P. & Daria B. Malanga (T.A. No. 061.26-1-25) a distance of 244.47 feet to a point on the easterly right-of-way line of the aforementioned Hick Street; thence

18. N 49°33'49" W, along said easterly right-of-way line of Hicks Street, a distance of 341.35 feet to a point on the northerly terminus thereof; thence S 40°26'11" W, along said northerly limits of Hick Street right-of-way, a distance of 49.50 feet to the Point of Beginning.

APPENDIX B

THE MOORINGS ON KEUKA

CONDOMINIUM

BY-LAWS

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PREFACE

The definition of terms as set forth in Article I of the The Moorings on Keuka Condominium Declaration and elsewhere in that Declaration shall automatically apply to all like terms used in these By-Laws. The provisions of these By-Laws are applicable to the Condominium and to the use and occupancy thereof. All present and future Owners, mortgagees, lessees, and occupants of Units and their respective employees and any other persons who may use the facilities of the Property in any manner are subject to these By-Laws, the Declaration and the Rules and Regulations. The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a Unit as a residence shall constitute an agreement that the occupant and all guests and invitees of the occupant must comply with these By-Laws, the Rules and Regulations and the provisions of the Declaration, as they may be amended from time to time.

ARTICLE I UNIT OWNERS - VOTING RIGHTS

Section 1.01 Voting. Each Unit Owner shall be entitled to one vote at all meetings of Unit Owners for each Unit owned by such Unit Owner regardless of the number of Units each Owner owns. The Sponsor shall be entitled to one vote for each Unit owned by it whether or not such Unit has been improved by a completed building. If a Unit is owned by more than one person, as joint tenants, tenants by the entirety or as tenants in Common, the persons owning such Unit shall reach agreement as to the matter voted upon and cast a single vote for their Unit. A vote of a corporate Unit Owner may be cast by an officer of such corporation. A vote by a Unit Owner which is a partnership may be cast by any general partner of such partnership. A vote by a Unit Owner which is a limited liability company may be cast by the managing member or the manager of such limited liability company. Upon the recording of title to a Unit in the name of joint Owners, a document may be filed with the Board of Managers designating which of the Owners of such Unit shall have the right to cast votes for the Unit. If such a document is not filed, the Board of Managers may in good faith adopt a rule or policy for making a determination as to which of the Owners may cast the vote for the Unit. A fiduciary shall be the voting member with respect to any Unit owned in a fiduciary capacity. The voting rights of a Unit Owner during any period in which such Unit Owner shall be in default for the payment of Common Charges or any other charge levied by the Condominium shall be suspended until such default is cured (except that this provision shall not apply to the Sponsor). Such voting rights may also be suspended, after notice and hearing, for a period not to exceed thirty (30) days, for an infraction of published rules or regulations.

Section 1.02 Right to Vote. At any meeting of the Unit Owners, every Unit Owner having the right to vote shall be entitled to vote in person or by proxy. Such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof.

Section 1.03 Voting Regulations. The Board of Managers may make such regulations as are consistent with the terms of the Declaration and these By-Laws and which are deemed advisable for (i) any meeting of the Unit Owners, (ii) proof of membership in the Condominium, (iii) evidence of the right of a Unit Owner to vote, (iv) the appointment and duties of inspectors of votes cast, (v) registration of Unit Owners for voting purposes, (vi) the establishment of representative voting procedures, and (vii) such other matters concerning the conduct of

meetings and voting as are appropriate and not specifically provided for in these By-Laws. At such time as the Sponsor shall surrender control of the Board of Managers as more fully set forth in section 2.01 of these By-Laws, voting for election to the Board of Managers shall be by secret written ballot which shall (a) set forth the number of vacancies to be filled; and (b) contain space for a write-in nomination for each vacancy. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 1.04 Absentee Ballots and Proxy Voting. On any matter submitted for vote, other than the election of members of the Board of Managers, any Unit Owner entitled to vote may cast a vote without attending the meeting by filing a written statement with the Board of Managers prior to the meeting which specifies the issue on which the Unit Owner intends to vote and that the Unit Owner votes for or against the same. Unit Owners who are unable to attend a meeting at which members of the Board of Managers are to be elected shall be entitled to file an absentee ballot if so provided by the Board of Managers or may vote by a proxy which shall be in writing and shall be filed with the Secretary of the Board of Managers.

ARTICLE II MEETINGS OF UNIT OWNERS

Section 2.01 Election of Board of Managers; Annual Meetings. The Sponsor shall have control of the Board of Managers for five (5) years from the date of closing of title to the first Unit or until the transfer of title to 32 Units, whichever shall first occur. During such period of control by the Sponsor, the President of the Board of Managers must be an Officer of the Sponsor. After the earlier to occur of the transfer of title to more than 32 of the Units or the termination of said five (5) year period, the Sponsor shall notify all Unit Owners that the first meeting shall be held within thirty (30) days thereafter. At such meeting all Unit Owners, including the Sponsor, shall elect a new three (3) member Board. Notwithstanding any contrary provision of these By-Laws or the Declaration, and subject to the following sentence, so long as the Sponsor of the Condominium shall continue to own at least one (1) Unit, the Sponsor shall have the right to appoint or elect one (1) of the three (3) members of the Board of Managers. One of the newly elected Members of the Board of Managers shall be elected for an initial term of one year, another newly elected Member of the Board of Managers shall be elected for a two-year term and the third newly elected Member of the Board of Managers shall be elected for a three year term. Thereafter, all newly elected Members of the Board of Managers shall be elected for three-year terms. If Sponsor exercises its right to so appoint a member of the Board of Managers, Sponsor may not cast its votes with respect to the Units which it owns for the other members of the Board. When the Sponsor no longer owns any Unit it shall have no further right to appoint any members of the Board of Managers or to vote on any matter hereunder. Except as otherwise provided in Section 3.05 hereof, Members of the Board of Managers elected by the Sponsor shall serve for a term of one year. All other members of the Board of Managers shall be elected by the Unit Owners (excluding Sponsor if Sponsor has exercised its right to appoint a member of the Board of Managers) and shall serve for the terms prescribed by these By-Laws. After the first annual meeting of the Unit Owners held after the Sponsor relinquishes control of the Board of Managers, subsequent meetings of the Unit Owners shall be held on an annual basis, not later than June 1 of each year, for the purpose of electing members to such Board of Managers and the transaction of such other business fixed by or under these By-Laws. The failure to hold the annual meeting on the date so specified or to elect a sufficient number to the Board of Managers to conduct the business of the Condominium shall not work forfeiture or give cause for the dissolution of the Condominium.

Section 2.02 Place of Meetings. Meetings of the Unit Owners shall be held at a suitable

place convenient to the Unit Owners as may be designated by the Board of Managers.

Section 2.03 Special Meetings. It shall be the duty of the President to call a special meeting of the Unit Owners if so directed by resolution of the Board of Managers or upon a petition signed and presented to the Secretary by the Owners of Units having more than a forty per cent (40%) interest in the Common Elements of the Condominium. The notice of any special meeting shall state the time and place of such meeting and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 2.04 Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting of the Unit Owners at least ten (10) but not more than fifty (50) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to (i) each Unit Owner of record, at such Unit Owner's permanent residence or other address as such Unit Owner shall have designated by notice in writing to the Secretary, and (ii) all Eligible Mortgagees of such Unit. If the purpose of any meeting shall be to act upon a proposed amendment to the Declaration or to these By-Laws, the notice of meeting shall be mailed at least thirty (30) days and not more than fifty (50) days prior to such meeting. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

Section 2.05 Waiver and Consent. Whenever the vote of the Unit Owners at a meeting is required or permitted by any provision of the Declaration, applicable law or these By-Laws to be taken in connection with any action of the Condominium, the meeting and vote of Unit Owners may be dispensed with if all Unit Owners who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken.

Section 2.06 Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of Unit Owners owning Units having fifty per cent of the total interest in the Common Elements of the Condominium shall constitute a quorum at all meetings of the Unit Owners. If any meeting of Unit Owners cannot be held because a quorum has not attended, Unit Owners owning Units having a majority in common interest of those present at such meeting, either in person or by proxy, may, with notice to all Unit Owners, whether present or not, adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called, and from time to time thereafter, until a quorum shall be present or represented. Once a quorum shall have been established at any meeting of Unit Owners such quorum shall not be broken due to the absence of members initially constituting the quorum at a meeting adjourned to a later date for a continuation of the same affairs.

Section 2.07 Majority Vote. The vote of a majority of Unit Owners at a meeting at which a quorum shall be present shall be binding upon all Unit Owners for all purposes except where in the Declaration or these By-Laws or by law, a higher percentage vote is required. The term "majority of Unit Owners" shall mean those Unit Owners holding more than fifty per cent of the total authorized votes of all Unit Owners present in person or by proxy and voting at any meeting of the Unit Owners, in accordance with Section 2.01 hereof.

Section 2.08 Order of Business at Meetings. The order of business at all meetings of the Unit Owners shall be as follows:

- (a) Roll call
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting

- (d) Reports of officers
- (e) Report of Board of Managers
- (f) Reports of committees
- (g) Election of Inspectors of election (when so required)
- (h) Election of members of the Board of Managers, in the case of an annual meeting.
- (i) Unfinished business
- (j) New business

Section 2.09 Inspectors of Election. The Board of Managers in advance of any meeting of Unit Owners, may appoint two (2) or more persons, who need not be Unit Owners, to act as inspectors of election at such meeting or any adjournment thereof. If inspectors of election are not so appointed prior to the meeting, the person presiding at such meeting may, and shall on the request of any Unit Owner entitled to vote thereat, appoint two (2) or more inspectors of election. In case any person appointed fails to appear or act, the vacancy may be filled in advance of the meeting by the Board of Managers or at the meeting by the person presiding thereat. The inspectors of election shall (1) determine the Unit Owners entitled to vote at the meeting; (2) determine the existence of a quorum and the validity and effect of proxies; (3) receive ballots or determine votes or consents; (4) hear and determine any challenges or questions arising in connection with any Unit Owner's right to vote; (5) count and tabulate all votes, ballots or consents and determine the result thereof; and (6) do such other acts as may be proper to conduct an election or vote with fairness to all Unit Owners.

ARTICLE III BOARD OF MANAGERS

Section 3.01 Number and Qualification. The affairs of the Condominium shall be governed by a Board of Managers, initially consisting of three (3) persons designated by the Sponsor. Successors to these designees shall be elected by the Unit Owners at the first meeting of Unit Owners held pursuant to Section 2.01 of these By-Laws. At such time as the Sponsor is no longer in control of the Board of Managers, the Board of Managers shall be composed of three (3) persons, all of whom shall be Owners or spouses of Owners, other representatives of owners or mortgagees of Units (subject to the right of Sponsor to appoint one (1) member of the Board until Sponsor no longer owns any Units in the Condominium), so long as such persons are willing to serve.

Section 3.02 Election and Term. Members of the Board of Managers shall hold office until their respective successors shall have been elected, or, with respect to Sponsor's designees, appointed by the Sponsor.

Section 3.03.1 Powers and Duties. The Board of Managers shall have the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things except as by law or by the Declaration or by these By-Laws may not be delegated to the Board of Managers by the Unit Owners or which require the consent of Sponsor as set forth in the Declaration. Such powers and duties of the Board of Managers shall include, but shall not be limited to, the following:

- (a) Determination and levying of Common Charges, and as applicable, Special

Assessments payable in monthly installments (or such other periodic installments as the Board shall determine) to cover the cost of common expenses required for the affairs of the Condominium, including without limitation, the operation and maintenance of the Property. The Board of Managers may increase the annual charges or impose a special assessment in excess of that amount, if required, to meet any additional necessary expenses, but said increases can only be assessed among the Unit Owners in accordance with their respective Common Elements.

(b) Collection and use of the assessments collected to arrange for repair, maintenance and replacement of the Property and the Common Elements as set forth in the Declaration and these By-Laws.

(c) Making of repairs, restorations or alterations of the Property after damages or destruction by fire or other casualty in accordance with the provisions of these By-Laws and the Declaration.

(d) Procure and maintain adequate hazard, liability and other insurance covering the Condominium, the Board of Managers, the Condominium Property, and their respective officers, agents and contractors, as required by the Declaration of these By-Laws.

(e) Paying any taxes and filing tax returns required of the Condominium.

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

(g) Borrowing money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the Property, provided, however that (i) the consent of at least two-thirds of all Unit Owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these By-Laws, shall be required for the borrowing of any sum in excess of 15% of the amount of the then current annual budget of the Condominium and (ii) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the common expenses without the consent of the Unit Owner.

(h) Adoption and amendment of reasonable Rules and Regulations covering the details of operation of the Condominium and use of the Property. Such Rules and Regulations and amendments shall be binding upon Unit Owners when the Board has approved them in writing. A copy of such Rules and Regulations and all amendments shall be delivered to each Unit Owner. No Rule or Regulation which materially affects the interest of the Sponsor shall be effective without the prior written consent of the Sponsor.

(i) Collection of delinquent assessments by suit or otherwise, abatement of nuisances and the seeking of damages from Unit Owners for violations of the Rules and Regulations.

(j) Employing and terminating the employment of employees and independent contractors, purchasing supplies and equipment, entering into contracts and generally having the

powers of manager in connection with the matters hereinabove set forth.

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

(l) Taking any and all actions as are necessary or appropriate in the judgment of the Board of Managers to enforce the provisions of the Declaration and compliance therewith.

(m) Abate nuisances and enjoin or seek damages from or impose penalties on Unit Owners for violations of the provisions of the Declaration, these By-Laws or of any rule or regulation of the Condominium.

(n) Pay all expenses owing by the Condominium.

(o) Suspend the voting rights of a Unit Owner (but not the Sponsor) during any period in which such Unit Owner shall be in default for the payment; of Common Charges or any other charge levied by the Board of Managers. Such voting rights may also be suspended, after notice and hearing, for a period not to exceed thirty (30) days for an infraction of published rules or regulations.

(p) Act as the agent of each Unit Owner for the purpose of seeking judicial review of a real estate tax assessment, and the Board of Managers is empowered to retain legal counsel on behalf of Unit Owners and to charge such Unit Owners a pro rata share of expenses, disbursements, and legal fees for which the Board of managers shall have a lien against each Unit, all as more specifically set forth in New York Real Property Law section 339-y.

(q) Entering into and upon the Units when necessary and with as little inconvenience to the Unit Owners as possible in connection with the maintenance, care and preservation of the Property.

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

(s) Take actions necessary to implement and manage Institutional and Engineering Controls and comply with the Excavation Work Plan dictated by NYS DEC's Site Management Plan within the Environmental Easement on the north side of Kimble's Creek.

(t) Fulfill the Site Owner's responsibilities of the Site Management Plan and assist Yates County in its fulfillment of the Remedial Party's responsibilities under that SMP, as those responsibilities are assigned under the Amended and Restated Development Agreement between County of Yates, Village of Penn Yan and Keuka Outlet Development LLC dated 6/28/17. (See Offering Plan Part III, Exhibit H-1).

Section 3.03.2 All rights of the Board of Managers set forth herein are subject to all reserved rights of the Sponsor, including but not limited to Sponsor's veto powers set forth in these By-Laws and in the Declaration. The Sponsor will retain extensive veto powers as detailed

by and reserved in the Condominium Declaration and these By-Laws. As noted below, except for expenses required to comply with applicable laws or regulations or to remedy any notice of violation or to remedy any work order by an insurer, the Sponsor shall retain the right to veto the following actions of the Board of Managers until the end of the Expense Veto:

(a) Any addition, alteration or improvement to the Common Elements or to any Unit owned by the Condominium;

(b) Any expenses proposed to be incurred or actually incurred other than those set forth in the initial budget of the Condominium as set forth by the Sponsor in Schedule B to the condominium Offering Plan as initially accepted for filing with the New York State Department of Law; or

(c) The hiring of any employee in addition to the employees, if any, provided for in the original budget of the condominium set forth in Schedule B to the Offering Plan; or

(d) Entering into any service or maintenance contract for work not covered or contemplated by the initial budget set forth in Schedule B to the Offering Plan; or

(e) Borrowing money on behalf of the Condominium; or

(f) Reducing the quantity or quality of services or maintenance of the Property.

Section 3.03.3 However, the Sponsor may not exercise veto power over expenses described in First Year Budget Schedule B to the Offering Plan as initially accepted for filing with the New York State Department of law or over expenses required:

(a) To comply with applicable laws or regulations; or

(b) To remedy and notice of violation; or

(c) To remedy any work order by an insurer.

The Sponsor may, however, exercise veto power over expenses other than those described above for a period ending not more than five (5) years after the closing of the first Unit or whenever the unsold Units constitute less than twenty percent (20%) of the interest in the Common Elements, whichever is sooner. (The veto which Sponsor may exercise over expenses during this time period is called the Expense Veto.) At the conclusion of this time period, Sponsor's veto power over expenses related to the Common Elements of the Condominium will end. Sponsor's other veto powers (principally as to amendments to the Condominium Declaration and By-Laws) shall continue unaffected.

Section 3.04 Nominations. After the Sponsor has relinquished control of the Board of Managers, nominations for election to the Board of Managers shall be made by a Nominating Committee which shall be appointed by the Board of Managers. The Board of Managers shall

also receive any nominations in writing presented by Unit Owners not on the Nominating Committee at least ten (10) days prior to the annual meeting and shall include said nominations on the ballot. Nominations may also be made from the floor at the annual meeting of the Condominium Unit Owners. The Nominating Committee shall make as many nominations for election to the Board of Managers as it shall, in its sole discretion, determine, but not less than the number of vacancies as are to be filled as provided below.

Section 3.05 Removal of Members of the Board of Managers. Subject to the limitations set forth below, at any regular or special meeting of Unit Owners, any one or more of the members of the Board of Managers elected by the Unit Owners may be removed (i) without cause by a two-thirds vote of the Unit Owners other than the Sponsor in number and common interest; or (ii) with cause by the affirmative vote of not less than a majority of Owners other than the Sponsor in number and common interest, and a successor may then and there or thereafter be elected to fill the vacancy thus created. Any member of the Board of Managers whose removal has been proposed by the Unit Owners shall be given an opportunity to be heard at the meeting. Members of the Board of Managers appointed by the Sponsor may be removed without cause only by the Sponsor, but may be removed for cause by the Unit Owners in the same manner as any other member of the Board of Managers may be removed for cause; the successor to such removed member shall be appointed by the Sponsor.

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

Section 3.07 Vacancies. Except as hereinafter provided, vacancies in the Board of Managers shall be filled by vote of a majority of the remaining members at a special meeting of the Board of Managers held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Board of Managers until the next annual meeting of the Unit Owners or until a successor is elected. If the vacancy occurs with respect to any member of the Board of Managers designated or elected by the Sponsor pursuant to these By-Laws, the Sponsor shall have the sole right to choose the successor to fill the unexpired portion of the term of such Board member.

Section 3.08 Organizational Meeting. The first organizational meeting of the Board shall be held within thirty (30) days after the Board shall have been constituted pursuant to these By-Laws. The first meeting of each Board newly elected by the Unit Owners shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum of the Board shall then be present, or as soon thereafter at such date, time and place as may be practicable.

Section 3.09 Regular Meetings. Regular meetings of the Board of Managers may be

held at such time and place as shall be determined from time to time by a majority of the members of the Board. Notice of regular meetings of the Board of Managers shall be given to each member of the Board of Managers personally, by mail, email or by telegram, at least two (2) days prior to the day set for such meeting. Any one or more members of the Board may participate in such regular meetings or special meetings as described below by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such meeting.

Section 3.10 Special Meetings. Special meetings of the Board of Managers may be called by the President on two (2) days' notice to each member of the Board either personally or by mail or telegram, which notice shall state the time, place and purpose of the meeting. Special meetings shall be called by the President or Secretary in a like manner and on like notice on the written request of at least two (2) members of the Board of Managers.

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

Section 3.11 Quorum of Board of Managers. At all meetings of the Board of Managers, a majority of the members thereof shall constitute a quorum for the transaction of business, and, except as may be otherwise specifically provided by statute or by the Declaration or by these By-Laws, the votes of a majority of the members of the Board of Managers present at a meeting at which a quorum is present shall constitute the decision of the Board of Managers. If at any meeting of the Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time, with notice to all Unit Owners until a quorum shall be present. 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.

Section 3.12 No Compensation. No member of the Board of Managers shall receive any compensation for acting as such. Nothing herein contained shall prohibit any member of the Board of Managers from receiving compensation for other services actually rendered and approved by the Board of Managers.

Section 3.13 Liability of the Board of Managers. The members of the Board of Managers shall not be liable to the Unit Owners for any errors of judgment, negligence, or otherwise in acting as a member of the Board of Managers except for their own individual willful misconduct or bad faith. It is intended that the members of the Board of Managers shall have no personal liability with respect to any contract made by them on behalf of the Condominium. Every agreement made by the Board on behalf of the Condominium shall provide that the members of the Board are acting only as agents for the Condominium and shall have no personal liability thereunder. It is also intended that the liability of any Unit Owner

arising out of any contract made by the Board of Managers or out of the aforesaid indemnity liability thereunder as his interest in the Common Elements bears to the interests of all the Unit Owners in the Common Elements. Every agreement made by the Board of Managers or by the managing agent or the manager, on behalf of the Condominium shall provide that the members of the Board of Managers, or the managing agent or the manager, as the case may be, are acting only as agents for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interest of all Unit Owners in the Common Elements.

From and after the date that the Sponsor shall have relinquished control of the Board of Managers, no member of the Board of Managers shall engage in any transactions which conflict with such person's duties as a Board member without the prior approval of a disinterested majority of the remaining Board members after full disclosure of all material facts.

Section 3.14 Managing Agent and Manager. The Board of Managers may employ for the Condominium a managing agent or manager at a compensation established by the Board of Managers to perform such duties and services as the Board of Managers shall authorize. As long as Sponsor has the right to appoint a member to the Board of Managers, Sponsor shall also have the right to require that the Condominium be managed by an experienced and qualified manager.

ARTICLE IV OFFICERS

Section 4.01 Appointment; Officers. The Board of Managers shall appoint a President (who shall be a member of the Board of Managers and a Unit Owner or a member, officer or shareholder of an entity that is a Unit Owner), one (1) or more Vice Presidents, a Secretary, and a Treasurer, and such other officers as it may determine, who, during the period that the Sponsor is in control of the Board of Managers, need not be Unit Owners. Any two (2) or more offices may be held by the same persons, except the offices of the President and Secretary, and all officers shall have the authority to perform the duties described for such offices in these By-laws and as may from time to time be delegated by the Board of Managers. The appointment of an officer shall not of itself create contract rights. From and after the date that the Sponsor has relinquished control of the Board of Managers, all officers must be Unit Owners or a member, officer or shareholder of an entity that is a Unit Owner.

Section 4.02 Term and Vacancies. Each officer shall hold office for a period of one (1) year and until his or her successor shall have been duly appointed by the Board of Managers, unless he or she shall sooner resign or shall be removed or otherwise shall be filled by the Board of Managers for the unexpired portion of the term of such office.

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

Section 4.04 President. The President shall be the chief executive officer of the Condominium. The President shall preside at all meetings of Unit Owners and of the Board of Managers. The President shall execute agreements, contracts and leases on behalf of the Condominium except as the Board of Managers by resolution may delegate to other officers of the Condominium, or otherwise determine. The President shall have the authority to do any and all acts and things and to direct any officers, employees or agents of the Condominium to do such acts and things not prohibited by applicable law or these By-Laws as are reasonably appropriate for the fulfillment of the purposes of the Condominium and to the execution and enforcement of the Declaration, these By-Laws and any Rules and Regulations established by the Condominium Board of Managers. The President shall have all of the general powers and duties which are incident to the office or president of a stock corporation organized under the Business Corporation Law of the State of New York, including, but not limited to, the power to appoint committees from among the Unit Owners from time to time as the President may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Condominium and shall further perform such other duties and functions as may be assigned to him or her by the Board of Managers.

Section 4.05 Vice President. The Vice President shall be capable of performing all of the duties of the President in the absence or unavailability of the President and shall perform such other duties and functions as may be assigned to him or her by the President or the Board of Managers.

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

Section 4.07 Treasurer. The Treasurer shall (i) have the responsibility for Condominium funds, including the collection and handling of Common Charges; (ii) be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data; (iii) be responsible for the deposit of all moneys and other valuable effects in the name of the Condominium in such depositories as may from time to time be designated by the Board of Managers; (iv) sign or endorse any and all checks, notes or similar instruments in the ordinary course of business, except as the Board in any specific instance may otherwise direct; and (v) in general, perform all the duties incident to the office of Treasurer of a stock corporation organized under the Business Corporation Law of the State of New York.

Section 4.08 Agreements, Contracts, Leases, etc. The Board of Managers by resolution may authorize any officers or agents of the Condominium in any specific instance to execute agreements, contracts, leases or related documents on behalf of the Condominium.

Section 4.09 Compensation of Officers. No officer shall receive any compensation for acting as such. Nothing herein contained shall prohibit any officer from receiving compensation for services actually rendered and approved by the Board of Managers.

Section 4.10 Conflicts of Interest. From and after the date that the Sponsor shall have relinquished control of the Board of Managers, no officer shall engage in any transaction which conflicts with such person's duties as an officer without the prior approval of a majority of the Board of Managers after full disclosure of all material facts.

Section 4.11 Liability of Officers. The officers shall not be liable to the Unit Owners for any errors of judgment, negligence, or otherwise in acting as an officer except for their own individual willful misconduct or bad faith. It is intended that the officers shall have no personal liability with respect to any contract made by them on behalf of the Condominium. Every agreement so made on behalf of the Condominium shall provide that the officers are acting only as agents for the Condominium and shall have no personal liability thereunder. Every agreement made by any such officer on behalf of the Condominium shall provide that such officer is acting only as agents for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interest of all Unit Owners in the Common Elements.

From and after the date that the Sponsor shall have relinquished control of the Board of Managers, no officer shall engage in any transactions which conflict with such person's duties as a Board member without the prior approval of a disinterested majority of the remaining Board members after full disclosure of all material facts.

ARTICLE V COMMITTEES

Section 5.01 Committees Acting on Behalf of Board of Managers. Except as limited by this Section, the Board of Managers may, by resolution or resolutions, passed by a majority of the whole Board, designate one (1) or more committees, each of such committee to consist of at least three (3) Unit Owners, at least one (1) of whom shall be a member of the Board of Managers, which to the extent provided in said resolution or resolutions, shall have and may exercise the powers of the Board of Managers in the management of the business and affair of the Condominium, and may have power to sign all papers which may be required, provided the said resolution or resolutions, shall specifically so provide. However, no such committee shall have or be given the power to (a) determine the Common Charges and expenses required for the affairs of the Condominium, (b) determine the Common Charges payable by the Unit Owners to meet the Common Charges and expenses of the Condominium, or (c) adopt or amend the rules and regulations covering the details of the operation and use of the Property. Such committee or committees shall have such name or names as may be determined from time to time by resolution of the Board of Managers. Committees established by resolution of the Board of Managers shall keep regular minutes of their proceedings and shall report the same to the Board as required.

Section 5.02 Committee Rules. Each committee may adopt its own rules and regulations that are not inconsistent with the terms of the resolution of the Board of Managers designating the committee or with other rules and regulations from time to time adopted by the Board of Managers.

ARTICLE VI FINANCE

Section 6.01 Checks. All checks, drafts and orders for the payment of money, notes and other evidences of indebtedness issued in the name of the Condominium shall, unless otherwise provided by resolution of the Board of Managers, or for line item expenditures within the Condominium's previously approved budget, be signed by the President or Treasurer and counter-signed by one (1) other member of the Board of Managers. This section requiring dual signatures shall not apply to actions taken by the Board of Managers during such time that the Sponsor controls the Board of Managers.

Section 6.02 Fiscal Year. The fiscal year of the condominium shall be the twelve (12) calendar months ending December 31 of each year.

Section 6.03 Annual Reports. It is the obligation of the Board of Managers to give all Unit Owners, annually, (i) a financial statement of the Condominium reviewed by a certified public accountant or public accountant, (ii) prior notice of the annual Condominium meeting, and (iii) a copy of the proposed budget of the Condominium at least thirty (30) and no more than fifty (50) days prior to the date set for the adoption thereof by the Board of Managers.

Section 6.04 Record Keeping. The Board of Managers or the managing agent retained by the Board of Managers for the Condominium shall keep records of the actions of the Board of Managers and the managing agent, minutes of the meetings of the Board of Managers, minutes of the meetings of the Unit Owners and financial records and books of account of the Condominium.

Section 6.05 Separate Account for Capital Reserve Funds. Any funds of the Condominium collected or designated as reserves for the replacement of capital items shall be segregated from all other funds of the Condominium. The Board of Managers may designate all or any portion of a Special Assessment to a Capital Reserve Fund. Capital Reserve Funds may be expended only with the approval of the Board of Managers.

Section 6.06 Working Capital Fund. The Sponsor shall establish for the benefit of the Condominium a working capital fund. The working capital fund shall be funded by funds from each closing of title to a Unit conveyed by the Sponsor and by the payment of monthly common charges and special assessments. The Sponsor shall collect at sale closing an initial capital contribution equal to two months Condominium Charges on the Unit, as from time to time established by the Board of Managers. These initial capital contribution amounts paid into this fund shall not be considered advanced payments of Condominium Charges. During the period of time that the Sponsor appoints a majority of the Board of Managers, the working capital fund may not be used to reduce projected Common Charges as originally set forth in the Offering Plan. After the period of time that the Sponsor appoints a majority of the Board of Managers, Working Capital Funds may be expended with the approval of the Board of Managers.

Section 6.07 Inspection of Records. Every Unit Owner or his representative and

mortgagee shall be entitled to examine the books and records of the condominium on reasonable notice to the Board but no more often than once a month. Copies of such records shall be provided to such Unit Owner or his representative or mortgagee upon the payment of a reasonable fee as established by the Board of Managers.

Section 6.08 Availability of Records and Legal Documents. The Board of Managers shall make the books and records of the Condominium available for inspection upon reasonable notice and during normal business hours. Copies of such records shall be provided to such Unit Owner or his representative or mortgagee upon the payment of a reasonable fee as established by the Board of Managers.

ARTICLE VII

COCONDOMINIUM CHARGES AND ASSESSMENTS

Section 7.01 Date of Commencement and Notice of Condominium Charges. The Condominium Charges provided for herein shall commence on the date on which the first Unit is conveyed or on such date thereafter as determined by the Sponsor. The first Condominium Charges shall be adjusted according to the number of days remaining in the month as established by the Board of Managers and such Charges shall thereafter be on a monthly basis.

Section 7.02 Determination of Condominium Charges. The Board of Managers shall, from time to time, but at least annually, fix and determine the budget representing the sum or sums necessary and adequate for the continued operation of the Condominium including but not limited to expenses for operational items such as insurance, repairs, betterments, management fees, and all maintenance and reserve funding obligations of the Condominium as set forth in Declaration and these By-Laws, and administrative, legal and other expenses of operating the Condominium, and shall send a copy of the proposed budget to all Unit Owners as set forth in Section 6.03 herein. The Board of Managers shall send a copy of the budget as adopted and any supplement thereto to every Unit Owner and such Unit Mortgagees as shall have requested the same.

Section 7.03 Allocation of Condominium Charges. Except as otherwise permitted in this section, the Common Charges shall be charged by the Board of Managers to the Unit Owners, according to their respective common interests in the Common Elements, except that the Board of Managers may elect to specifically allocate and apportion expenses, including but not limited to utility charges, insurance costs and contributions to reserve funds based upon special or exclusive use or availability or exclusive control of particular Units or Common Element areas by particular Unit Owners, or the physical differences in the Unit types giving rise to differences in Unit expenses.

The initially budgeted Condominium Charges are at four different rates for Models A, B, C and D, and for uncompleted Units, based on the differing apportionment of expenses for insurance, maintenance and reserve contributions. Larger Units have higher replacement costs than smaller Units. As a result, larger Units have higher impact on the property insurance premiums and on maintenance and replacement reserves. Undeveloped Units owned by the Sponsor have no impact on the property insurance premium until construction of a Unit is

completed and the Units are added to the Condominium property insurance. Likewise, until the Sponsor's Units are completed, those Units have no replacement and maintenance cost impacts on the Capital Reserves. Condominium Assessment Charges reflect these differences. All Unit Owners, including the Sponsor, will pay, in accordance with their respective ownership interests in the Condominium, Condominium Common Charges toward expenses and Capital Reserves for the Common Elements. Together, Condominium Assessment Charges and Condominium Common Charges make up the Condominium Charges.

Section 7.04 Condominium Charges and Special Assessments; Personal Obligation of Unit Owner and Lien on Unit. The Condominium Charges and Special Assessments shall be paid when due. All unpaid sums assessed as Condominium Charges and Special Assessments shall be the personal obligation of the Unit Owner and shall, to the extent allowed by law, constitute a lien upon the Unit prior to all other liens except: (a) tax or assessment liens on the Unit by the taxing subdivision of any governmental authority, including but not limited to state, town, county and school taxing agencies and (b) all sums unpaid on any bona fide mortgage of record encumbering any Unit dated and recorded prior to the date of the filing of the lien for such unpaid Condominium Charges and Special Assessments. The Board of Managers is obligated to enforce this lien for the payment of Condominium Charges or Special Assessments. Any obligation for unpaid Condominium Charges and Special Assessments and any lien arising thereby shall include late charges, interest at the legal rate of interest then imposed on judgments, attorney fees, disbursements and other costs/expenses incurred in enforcing the lien.

A purchaser of any Unit shall be liable for the payment of unpaid Condominium Charges or Special Assessments assessed against such Unit prior to such purchaser's acquisition, except that a mortgagee or other purchaser who acquires title at a foreclosure sale, shall not be liable for, and such Unit shall not be subject to, a lien for the payment of Condominium Charges against such Unit, which became due prior to such acquisition of title. In such even, the unpaid balance of Condominium Charges shall be charged to all other Unit Owners as common expenses.

Pursuant to New York Real Property Law Section 339-x, a Unit Owner may not exempt himself from liability for Condominium Charges. No Unit Owner may be exempt from liability for payment of Condominium Charges or Special Assessments assessed against such Owner's Unit by waiver of the use of enjoyment of any of the Common Elements or by the abandonment of his Unit.

Dissatisfaction with the quantity or quality of maintenance furnished to the Common Property shall not be grounds for the withholding or failure to pay any Condominium Charge or Special Assessment.

Section 7.05 Collection of Condominium Charges and Special Assessments. If a Condominium Charge or Special Assessment or any installment thereof is not paid within ten (10) days after the due date, the Board of Managers may impose a late charge. The amount of the late charge shall be as set forth on the attached Rules and Regulations and may be increased or decreased by the Board of Managers pursuant to the procedures applicable to amending the Rules and Regulations.

If the Condominium Charges or any installment thereof or other Special Assessments are

not paid within thirty (30) days after the due date. (i) the Condominium Charges or Special assessment shall bear interest from the due date at a rate equal to the rate of interest imposed on judgments in the State of New York in addition to the above stated late fee, (ii) the Board of Managers may accelerate the remaining installments of such Condominium Charges, if any, for the relevant fiscal year, or as applicable, any remaining installments with respect to a Special Assessment and (iii) the Board of Managers may take any appropriate enforcement or collection action including retaining a collection agency and retaining attorneys to take any appropriate enforcement or collection action including, but not limited to, the commencement of a lawsuit against the Owner personally obligated to pay the same and foreclosure of the lien against the Unit of such Owner. If the Board of Managers retains a collection agency and/or attorneys pursuant to subparagraph (iii) above, the Owner shall pay all of the Board of Manager's costs, including all collection agency and attorneys' fees, regardless as to whether a suit at law or foreclosure action is commenced. IT IS SPECIFICALLY UNDERSTOOD AND ACCEPTED BY ALL OWNERS THAT THE BOARD OF MANAGERS SHALL NOT BE LIMITED IN RECOVERING SAID COST BY THE AMOUNT IN CONTROVERSY AND THAT ALL COSTS SHALL BE PAID BY THE OWNER PROVIDED THAT THE COSTS WERE REASONABLE AS DETERMINED SOLELY BY REFERENCE TO THE AMOUNT OF WORK AND COSTS REQUIRED TO RESOLVE THE MATTER. (In the event the Sponsor controls the Board of Managers, a decision to bring legal action against the Sponsor for failure to pay Condominium Charges or Special Assessments on the Units owned by the Sponsor may be made by a majority of those Unit Owners other than the Sponsor.)

Once a Condominium Charge or Special Assessment is deemed delinquent as described above, any payments received from the Owner shall be applied in the following order: attorneys' fees, other cost of collection, late charges, interest, then the delinquent Condominium Charge, assessment or installment thereof beginning with the amounts past due for the longest period.

In the event that a Unit subject to unpaid and delinquent Condominium Charges and or Special Assessments is occupied by a tenant, the Board of Managers may also elect to proceed to serve notice on the tenant and Unit Owner as provided by Section 339-dd of the Real Property Law and follow the procedures set forth therein. That section becomes applicable as to Condominium Charges, Special Assessments or late fees due for any Unit which have not been paid in full, within sixty days after the expiration of any grace period of the earliest due date.

Section 7.06 Rights and Obligations Regarding Foreclosure of Liens for Unpaid Condominium Charges and Special Assessments. In any action brought by the Board of Managers to foreclose a lien on a Unit because of unpaid Condominium Charges or Special Assessments, the Unit Owner shall be required to pay a reasonable rental for the use of the Unit and plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board of Managers, acting on behalf of all Unit Owners, shall have the power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the Unit. The Board of Managers shall also have the right, in the event that the Board of Managers is the successful or only bidder at foreclosure sale, to cause the Unit to be conveyed to a corporation, limited liability company or other entity organized by the Board of Managers for the purpose of owning, leasing, mortgaging and selling or conveying clear title to the Unit. A suit to recover a money judgment for unpaid

Condominium Charges and Special Assessments shall be maintainable without foreclosing or waiving a lien securing same.

Section 7.07 Notice of Default to Eligible Mortgage Holder. Reference is made herein to the Declaration which requires certain notices to be given to Eligible Mortgage Holders.

Section 7.08 Statement of Condominium Charges and Special Assessments. Upon the written request of a Unit Owner, lessee or mortgagee with respect to the Unit owned by such Owner, leased by such lessee or upon which such mortgagee hold a mortgage, or any prospective purchaser, lessee, mortgagee or title insurer of such Unit, the Board of Managers, the Manager or the managing agent, shall promptly furnish a certificate in writing setting forth with respect to such Unit, as of the date of such certificate, (i) whether or not the Condominium Charges and Special Assessments due have been paid (ii) the amount of such Condominium Charges and Special Assessments, including interest and costs, if any, due and payable, and (iii) whether any other amounts or charges are owing to the Condominium. A reasonable charge, as determined by the Board of Managers, may be made for the issuance of this certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Board of Managers and any bona fide purchaser or lessee of, or lender on, or title insurer of, the Unit with respect to which the request was made.

Section 7.09 Special Assessments. The Board of Managers may levy, in any assessment year, one or more Special Assessments, payable in that year and/or the following year only, except as permitted for the repayment of debt undertaken in accordance with Section 3.03.1(g). Any special Assessment levied by the Condominium will require the affirmative vote or written consent of not less than fifty-one percent (51%) of the Unit Owners in the Condominium, and, so long as the Sponsor owns any Unit in the condominium, the written consent of the Sponsor. Special Assessments shall be collectible by the Board of Managers in the same manner and shall be subject to the same procedure as are applicable to the collection of Condominium Charges in this Article VII.

ARTICLE VIII MAINTENANCE OF THE CONDOMINIUM PROPERTY

Section 8.01 Repairs and Maintenance which are the Board of Managers' Responsibility. Repair, maintenance and replacement of the Common Elements throughout the Condominium, for lawn cutting and care of grass and green areas, including spring and fall clean up and trimming of shrubs on the Common Elements, snow plowing of private streets, as well as all maintenance, repairs and replacements to the community building, roads and docks, and any pipes, wires, conduits, water and sewer lines and utility lines which serve two or more Units, shall be made by the Board of Managers. With respect to Limited Common Elements, the Board of Managers will be responsible only for (i) snow removal from the driveways from the garage of each Unit to the private streets, (ii) cutting, seeding, fertilizing and maintaining all green spaces, gardens, shrub beds and landscaped areas constituting Limited Common Elements, and, (iii) all maintenance, repairs and replacements of roofs, gutters, siding and trim, sidewalks and

driveways. Except for these items, the maintenance and repair of each Unit and the Limited Common Elements appurtenant to that Unit shall be the sole responsibility of the Owner of that Unit. The cost of all repairs and maintenance which is the responsibility of the Board of Managers shall be a Common Charge.

The Board of Managers shall fulfill the Site Owner's responsibilities of the Site Management Plan and assist Yates County in its fulfillment of the Remedial Party's responsibilities under that SMP, as those responsibilities are assigned under the Amended and Restated Development Agreement between County of Yates, Village of Penn Yan and Keuka Outlet Development LLC dated 6/28/17.

Section 8.02 Repairs and Maintenance which are the Unit Owner's Responsibility.

The following maintenance, repairs and replacements with respect to each Unit shall be made by the Owners of such Unit at his or her sole expense: (i) all exterior doors, windows and screens, (ii) porches, railings, (iii) interior finishes, (iv) plumbing and utility connections and lateral service pipes from their Units to mains, and (v) any raised bed gardens associated with their Unit. Unit Owners are obligated to maintain their Units in good repair and overall appearance as deemed acceptable by the Board of Managers. The Board of Managers shall have no obligation whatsoever to repair, maintain or replace any Unit or any facilities or betterments to any Unit, or any improvements or betterments located on any Limited Common Elements appurtenant to any Unit, except specifically set forth in Section 8.01, above.

Any maintenance, repair or replacement necessary to preserve the appearance and value of the Property made pursuant to Section 8.01 above but which is occasioned by a negligent or willful act or omission of (a) a Unit Owner, or (b) any family member, employee, agent, guest, tenant, or invitee of such Unit Owner, or (c) a family member, employee, agent, guest or invitee of the tenant of such Unit Owner, or (d) an employee, agent, guest or invitee of (i) any member of such Unit Owner's family or (ii) any family member of the tenant of such Unit Owner; shall be made at the cost and expense of such Unit Owner.

In the event that a Unit Owner fails to make any maintenance or repair to such Owner's Unit or to the Limited Common Areas appurtenant to such Unit, which maintenance or repair is necessary to protect the value or appearance of the Condominium Property or to preserve the character of the Condominium or any of the other Units, the Board of Managers shall have the right to make such maintenance or repair (after the failure of the Unit Owner to do so, or commence or be diligently continuing to do so, upon ten (10) days' written notice, or written or oral notice of a shorter duration in the event of an emergency situation) and to charge the Unit Owner for the cost of all such repairs and/or maintenance. In the event that the Board of Managers charges a Unit Owner for repairs or maintenance to such Owner's Unit or for repairs to any Common Element restricted in use to such Unit Owner and which the Unit Owner is obligated to maintain pursuant to these By-Laws or the Declaration, and the Unit Owner fails to make prompt payment, the Board of Managers shall be entitled to bring suit thereon, and, in such event, the Unit Owner failing to make such payment shall be liable for the reasonable attorney's fees and costs of such suit or proceeding together with interest on all sums due.

Section 8.03 Quality of Maintenance and Repairs. All repairs, painting and maintenance, whether made by the Unit Owner or by the Board of Managers, shall be carried out in such a manner so as to conform to the materials, style and color initially provided by the

Sponsor, unless the Board of Managers determines otherwise. No Unit Owner may (i) change the exterior appearance of any Unit, including changing the color, style or materials thereof without the Prior written approval of the Board of Managers or (ii) install any gardens, plantings or shrub beds on any Limited Common Area except pursuant to a landscaping plan approved in writing by the Board of Managers or (iii) modify, alter or change any gardens, plantings, or shrub beds previously approved except pursuant to a landscaping plan approved in writing by the Board of Managers. The Declaration provides that the Board of Managers may delegate some of all of the authority for the matters described in (i)-(iii) to a committee of the Board.

Section 8.04 Restrictions on Use of Units and Common Elements. In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of the Property shall be restricted to and shall be in accordance with the following provisions:

(a) Except for the Sponsor's right to use Units for a sales center, models or for storage as set forth in the Declaration, each Unit, whether occupied or leased out by the Unit Owner, shall be used for residential purposes only.

(b) No nuisances shall be allowed on the Property nor shall any use or practice be allowed which is a source of annoyance to its residents or occupants or which interferes with the peaceful possession or proper use of the Property by its residents or occupants.

(c) 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 bodies having jurisdiction thereof shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Property, shall be cured or corrected by and at the sole expense of the Unit Owners or the Board of Managers, as the case may be, responsible for such violation, provided that upon failure of a Unit Owner to cure or correct such violation after ten (10) days' written notice, the Board of Managers may, at such Unit Owner's expense, payable in the same manner as an assessment against such Unit, cure or correct such violation on such Unit Owner's behalf or commence appropriate legal proceedings to enjoin or restrain such violation, as more fully set forth in Section 8.08 hereof.

(d) Subject to the Rules and Regulations, each Owner of a Unit shall be permitted to keep pet(s) in his Unit and on the premises. No tenants or lessees shall be permitted to have pets in any Unit without the express written consent of the Unit Owner.

(e) No fences, walls, swimming pools, storage sheds, playground or swing sets, portable basketball equipment, satellite dishes (except as otherwise permitted by law), decks, patios, lanais, outbuildings or other structures of any kind whatsoever shall be placed or erected within the Condominium without the prior written consent of both the Sponsor, so long as Sponsor shall own title to any Unit, and the Board of Managers of the Condominium, after submission and approval of plans therefor, which consent may be withheld or conditioned by the Sponsor or the Board of Managers as applicable in their sole and absolute discretion.

(f) Soils to be disturbed within the Environmental Easement area on the north side of Kimble's Creek are subject to the prior written consent of both the Sponsor, so long as Sponsor shall own title to any Unit, and the Board of Managers of the Condominium, after submission and approval of plans therefor, which consent may be withheld or conditioned by the Sponsor or the Board of Managers as applicable in accordance with the NYS DEC approved Excavation Work Plan.

Section 8.05 Rules and Regulations. Rules and Regulations concerning the use of the Units and the Common Elements may be promulgated and amended by the Board of Managers. Copies of such Rules and Regulations shall be furnished by the Board to each Unit Owner prior to the time when the same shall become effective. The initial Rules and Regulations of the Condominium are attached hereto as Schedule A.

Section 8.06 Right of Access. The Board of Managers, the Sponsor and their respective agents, contractors and employees shall have such rights of access to the Units and Common Elements as are set forth in Sections 8.02, 8.04 and 8.08 of the Declaration and in these By-Laws.

Section 8.07 No Obstruction of Common Elements and Facilities. A Unit Owner shall not obstruct the Common Elements. The Common Elements and facilities shall be used only for those purposes for which they are reasonably suited and capable.

Section 8.08 Abatement of Violations. The violation of any Rule or Regulation adopted by the Board of Managers, or of any By-Law contained herein, or of any provision of the Declaration, shall give the Board of Managers or its designees, the right, in addition to any other rights set forth in these By-Laws: (a) to enter the Unit in which, or as to which, such violation exists and to summarily abate, remove, repair or alter, at the expense of the Unit Owner, any structure, thing or condition that may exist therein contrary to the provisions of the Declaration, these By-Laws or the Condominium's Rules and Regulations, as the case may be, and the Board of Managers or its designees shall not be deemed thereby guilty in any manner of trespass subject to the laws of New York State; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation; or (c) to establish a penalty in accordance with Section 8.10 below. No Unit Owner shall have the right to enjoin, abate or remedy the continuance of a violation by appropriate legal proceedings at law or in equity until a reasonable time after a written request to the Board of Managers to remedy the matter has been delivered and the Board shall have failed or refused to act thereon. In any case of flagrant or repeated violation by a Unit Owner or one for whom such Unit Owner is responsible, such Owner may be required by the Board of Managers to give sufficient surety for future compliance. The Board of Managers shall also have the right to decide not to enforce violations of rules where after deliberation it deems enforcement to not be in the best interest of the Condominium. All rights, remedies and privileges granted to the Board of Managers and to aggrieved Unit Owners herein shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising such right or rights from exercising such other and additional rights, remedies or privileges as may be granted by the Condominium Declaration, these By-Laws or the Rules and Regulations at law or in equity.

Section 8.09 Obligation and Lien for Cost of Enforcement. If the Condominium retains attorneys to enforce the provisions of the Declaration, the By-Laws or the Rules and Regulations, as the same may be amended from time to time, all legal fees and other costs so incurred by the Board of Managers shall be a binding, personal obligation of the violator regardless as to whether a suit at law or in equity is commenced. IT IS SPECIFICALLY UNDERSTOOD AND ACCEPTED BY ALL OWNERS THAT THE BOARD OF MANAGERS SHALL NOT BE LIMITED IN RECOVERING SAID COSTS BY THE AMOUNT IN CONTROVERSY OR BY THE NATURE OF THE VIOLATION AND THAT ALL COSTS SHALL BE PAID BY THE VIOLATOR, PROVIDED THAT THE COSTS

WERE REASONABLE AS DETERMINED SOLELY BY REFERENCE TO THE AMOUNT OF WORK AND COSTS REQUIRED TO RESOLVE THE MATTER. If such violator is (1) the Unit Owner, or (2) any family member, tenant; or guest or invitee of such Unit Owner, or (3) a family member, guest, or invitee of a tenant of such Unit Owner, or (4) a guest or invitee of (i) any member of such Unit Owner's family or (ii) any family member of the tenant of such Unit Owner, such cost shall also be a lien upon the Unit or Units of such Unit Owner.

Section 8.10 Penalties and Fines. In addition or as an alternative to an action at law or suit in equity, the Board of Managers may, with respect to any violation of the Declaration or of these By-Laws or any Rules and Regulations of the Condominium or of any committee of the Condominium, and after affording the alleged violator a reasonable opportunity to appear and be heard, establish monetary and non-monetary penalties, the amount and severity of which shall be reasonably related to the violation and to the aim of deterring similar future violations by the same or any other person. Monetary penalties imposed against a Unit Owner or occupant shall be deemed an assessment against the Unit of such Owner and shall constitute a personal obligation of the Unit Owner and shall be collectible in the same manner as common charges and special assessments under Article VII of these By-Laws.

Section 8.11 Owner Responsible for Tenants. Any lease of a Unit shall provide for full compliance by the tenant with the Declaration, By-Laws and Rules and Regulations of the Condominium. Should a tenant be in violation thereof at any time, the Board of Managers of the Condominium may send the Owner of the Unit which said tenant occupies written notice of such violation by certified or registered mail, return receipt requested. If the violation is not cured or eviction proceedings commenced against the tenant within fourteen (14) days after delivery of notice of such violation, or if the eviction proceedings are not reasonably diligently pursued thereafter, the Board of Managers may pursue any remedies which it may have under this Article VIII, including an action to enforce the Declaration, By-Laws and Rules and Regulations, an action to enjoin any violation or a summary proceeding to evict such Tenant. All expenses associated with any such action shall be the obligation of the Unit Owner and enforceable in accordance with the provisions hereof.

Section 8.12 Selling, Leasing and Mortgaging Units. No Unit Owner shall convey, mortgage, pledge, sell or lease such Owner's Unit unless and until all unpaid Condominium Charges and any liens or other amounts owed by the Unit Owner pursuant to the Condominium Declaration or By-Laws and assessed against his Unit shall have been paid, at the time of closing, leasing or mortgaging, out of the proceeds of the sale, lease or mortgage of a Unit or by the grantee. Further, a Unit Owner may convey such Owner's Unit and the common interest appurtenant thereto, to the Board of Managers on behalf of all Unit Owners free of any cost to the Board of Managers and, upon such conveyance, such Unit Owner shall not be liable for any Condominium Charges thereafter accruing against such Unit. Any sale or lease of any Unit in violation of this section shall be voidable at the election of the Board of Managers. Any lease of a Unit shall provide for full compliance by the tenants with the Declaration, By-Laws and Rules and Regulations of the Condominium. The Owner shall be responsible for violations by such Owner's tenant and shall be subject to actions by the Board of Managers in accordance with Sections 8.8, 8.09 and 8.10 of these By-Laws.

The above provisions of this section shall not apply to (i) the Sponsor's lease of any unsold Unit or the Sponsor's lease of any sold Unit to the purchaser thereof, and (ii) the acquisition or sale of a Unit by a mortgagee who shall acquire title to such Unit by foreclosure or by deed in lieu of foreclosure. Such provisions shall, however, apply to any purchaser from such mortgagee.

Section 8.13 No Severance of Ownership No Unit Owner shall execute any deed, mortgage or other instrument conveying or mortgaging title to such Unit Owner's Unit without including therein the appurtenant interest in the Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interest, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the appurtenant common interest of any Unit may be sold, transferred or otherwise disposed of, except as part of a sale, transfer or other disposition of the Unit to which such interests are appurtenant, or as part of a sale, transfer or other disposition of such part of the appurtenant common interests of all Units.

Section 8.14 Gifts and Devises. Any Unit Owner shall be free to convey or transfer his Unit by gift or to devise his Unit by will or to pass the same by intestacy, without restriction.

ARTICLE IX INSURANCE

Section 9.01 Insurance. The Board of Managers shall obtain and maintain, to the extent determined by the Board in its sole discretion to be reasonably obtainable and appropriate, and in such amounts as the Board shall determine to be appropriate unless otherwise required herein (i) general liability insurance, (ii) directors' and officers' liability insurance, (iii) a fidelity bond/theft insurance, and (iv) umbrella coverage, (v) casualty insurance on the Common Elements and individual Units. The Board of Managers may also maintain such other insurance as it shall deem necessary or desirable from time to time.

(a) General Liability. The liability insurance shall cover the Board of Managers, the officers of the Condominium, the managing agent, if any, and all Unit Owners, but not the liability of Unit Owners arising from occurrences within such Owner's Unit or within any common elements exclusive to such Owner's Unit. The policy shall include the following endorsements: (i) comprehensive general liability (including libel, slander, false arrest and invasion of privacy), (ii) personal injury, (iii) medical payments, (iv) cross liability under which the right of a named insured under the policy shall not be prejudiced with respect to such insured's action against another named insured, (v) "severability of interest" precluding the insurer from denying coverage to a Unit Owner because of negligent acts of the Condominium Board of Managers or any other Unit Owner ' (vi) contractual liability, (vii) water damage liability, (viii) hired and non-owned vehicle coverage, (ix) liability for the property of others, (x) host liquor liability coverage with respect to events sponsored by the Condominium, and (xi) deletion of the normal products exclusion with respect to events sponsored by the Condominium.

Coverage may not be cancelled or suspended (including cancellation for non-payment of premium) or substantially modified without at least 30 days' prior written notice to the insured, including all known mortgagees of Units as shown on the records of the Condominium. Any deductible provision shall apply only to each occurrence rather than to each item of damage.

The Board of Managers shall review such coverage at least once each year. Until the first meeting of the Board of Managers elected by the Unit Owners, this public liability

insurance shall be in a combined single limit of \$1,000,000.00 covering all claims for bodily injury and property damage arising out of a single occurrence.

(b) Directors' and Officers' Liability. The directors' and officers' liability insurance shall cover the "wrongful" acts of a member of the Board of Managers or of an officer of the Condominium. The policy shall be on a "claims made" basis so as to cover all prior officers and members of the Board of Managers, and any deductible provision shall apply only to each occurrence rather than to each item of damage. The policy shall provide for "participation" by the Condominium or by the members of the Board of Managers or officers of the Condominium only to the minimum extent permitted by law or applicable governmental regulations.

Until the first meeting of the Board of Managers elected by the Unit Owners, the directors' and officers' liability coverage shall be in the amount of \$1,000,000.00.

(c) Fidelity Insurance. The fidelity insurance shall name the Condominium as Obligee and shall cover all members of the Board of Managers, officers and employees of the Condominium and of the Condominium's managing agent, if any, who handle Condominium funds. The insurance shall be in an amount not less than the estimated maximum amount of funds, including reserves, in the custody of the Condominium or managing agent at any given time, but in no event less than a sum equal to three (3) months aggregate common charges on all Units, plus reserves. It shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression and shall provide that the insurance shall not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days prior written notice to the Board of Managers, Insurance Trustee, if any, and all institutional first mortgage holders of Units as listed on the books and records of the Condominium.

Until the first meeting of the Board of Managers elected by the Unit Owners, the coverage shall be at least \$50,000.00 for dishonest acts and for forgery. Notwithstanding the limitation set forth herein, the Board of Managers shall, upon the request of any Unit Owner, Unit mortgage holder, or prospective Unit Owner or mortgage holder increase the amount of such bond to meet the reasonable requirements of any existing or proposed purchaser or insurer of any mortgage made or to be made on any Unit.

(d) Fire and Casualty Insurance. The policies shall cover the interests of the Condominium, the Board of Managers and all Unit Owners and mortgagees as their interests may appear. Coverage shall be for the full replacement value of the Units and other improvements (without deduction for depreciation) under the "Single Entity" concept, i.e., covering the Units as initially sold/built and including all machinery servicing the Units and common facilities, the wall-to-wall carpeting, lighting fixtures, bathroom fixtures, kitchen appliances, wall coverings (including paint) as initially sold/built, including any improvements or alterations, including any upgrading made by the present or any prior Unit Owner to the wall-to-wall carpeting, lighting fixtures, bathroom fixtures, kitchen appliances, wall coverings and any other parts of the "unit", land, foundations, and the personal property of Unit Owners and occupants in the Unit.

The policy shall have the following provisions, endorsements and coverage's: (i) extended coverage, including sprinkler leakage (if applicable), debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage, (ii) "agreed amount" (unless not obtainable) and inflation guard, (iii) coverage for loss of common charges from Unit Owners forced to vacate because of fire or other insured against casualty, (iv) waiver of any right to claim by way of subrogation against individual Unit Owners and the members of their households and families, the Condominium, the members of the Board of Managers, the officers of the Condominium, and the managing agent, if any, for the Condominium, and waiver of any defenses based on co-insurance or any invalidity based on acts of the insured, (v) an exclusion from the "no other insurance" clause in policies of individual Unit Owners, so that the insurance purchased by the Board of Managers on behalf of the Condominium shall be deemed primary coverage and any policy obtained by the individual Unit Owners or mortgage holders shall be deemed excess coverage and that the insurance obtained by the Board of Managers on behalf of the Condominium shall in no event be brought into "contribution" with insurance purchased by individual Unit Owners or mortgagees, (vi) a provision that the policy cannot be cancelled, invalidated or suspended because of the conduct or neglect of someone over whom the Condominium Board of Managers has no control, or because of any failure to comply with any warranty or condition in the policy regarding any portion of the premises over which the Board of Managers has no control, (vii) cross-liability giving the Unit Owners the right to sue the Board of Managers and vice-versa with the insuring company agreeing to defend the defendant, (viii) a provision that the policy may not be cancelled (including cancellation for nonpayment of premium) or substantially modified without at least 30 days prior written notice to all of the insured, including all known mortgage holders of Units, (ix) a provision requiring periodic review, at least every two (2) years to assure the sufficiency of coverage and (x) a provision that adjustment of loss shall be made by the Board of Managers. Any deductible provision shall apply only to each occurrence rather than to each item of damage.

Prior to obtaining any new fire and casualty insurance policy, the Board of Managers shall obtain an appraisal from an insurance company or from such other source as the Board of Managers shall determine to be acceptable as to the full replacement value (exclusive of land, foundations and personal property of Unit Owners or occupants) for the purpose of determining the amount of fire and casualty insurance to be effected pursuant to this Section.

The proceeds of all policies of physical damage insurance including flood insurance shall be payable to the Board of Managers if they are \$50,000 or less and, if in excess of \$50,000, to the Insurance Trustee selected by the Board of Managers, to be applied for the purpose of repairing, restoring or rebuilding unless otherwise determined by the Unit Owners as hereinafter set forth. (This \$50,000 limit shall automatically be increased each calendar year by 5% over the limit of the previous year.) The policy must provide that any right of the insurer to elect to restore damage in lieu of cash settlement may not be exercised without the consent of the Insurance Trustee. The policy shall contain the standard mortgagee clause in favor of each mortgagee (or the servicer of the mortgage and "its successors and assigns") of a Unit which shall provide that any loss shall be payable to the mortgagee as its interest shall appear, subject, however, to the loss payment provisions in favor of the Board of Managers and the Insurance Trustee as set forth below. The obligation to restore or reconstruct after damage due to fire or

other casualty supersedes the customary right of a mortgagee to have the proceeds of insurance coverage applied to the mortgage indebtedness.

Each Unit Owner and such Unit Owner's known mortgagee shall be a named insured on the policy and shall receive, at the time of purchase and at the time a new policy is obtained or an existing policy renewed, a certificate evidencing proof of insurance coverage.

Duplicate originals of the policy and of all renewals of the policy, together with proof of payment of premiums, shall be furnished to all known institutional mortgagees of Units requesting the same.

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

(f) Deductible Amounts. In the event of damage or destruction of any Unit or common elements as a result of fire or other casualty covered by insurance obtained by or through the Board of Managers, the deductible amount of any insurance proceeds shall apply to each occurrence, not to each item of damage, and shall be funded as follows:

1. If the damage is from a cause which emanates from the common elements, **the Unit Owners shall be responsible for the first \$2,500.00 of any loss which relates to the Unit Owners' Unit and the** Condominium shall be responsible for the remaining deductible amount (if any), except that, if the cause of such damage is the result of gross negligence or the wantonly malicious act of any Owner (or of a member of such Owner's family or of a tenant of such Owner or of a guest or invitee of such Owner or of a member of such Owner's family) the Owner shall be responsible for such deductible amount;
2. If the property is damaged from a cause which emanates from or within a Unit (other than from a utility line or conduit which passes through the Unit and which services two (2) or more Units) including from any utility line, conduit, balcony or patio which services only such Unit, whether located within or without the Unit, the Owner or Owners of such Unit shall be responsible for the deductible amount.
3. The Condominium may pay the deductible portion for which a Unit Owner is responsible, and the amount so paid, together with interest and costs of collection (including attorneys' fees) shall be a charge and continuing lien upon the Unit involved, shall constitute a personal obligation of the Unit Owner, and shall be collectible in the same manner as common charges and assessments under the Declaration and these By-Laws.

Section 9.02 Insurance Carried by Unit Owners. Each unit owner(s), at such owner's expense, is required and shall obtain insurance under an HO-6 policy or equivalent form for such owner(s) benefit to cover the following items, which are the insurance responsibility of each

owner(s) under this declaration agreement.

The unit owner(s) is responsible to insure/replace/repair the first \$2,500 in dwelling property and/or real property of their respective unit and/or for which they have the responsibility to maintain, including, but not limited to, wall to wall carpeting, lighting fixtures, bathroom fixtures, kitchen appliances, wall coverings (including paint) and all other machinery servicing the unit.

The policy shall have the following provisions, endorsement and coverage's, (1) Non specified perils coverage commonly referred to "all risk" coverage on the dwelling coverage purchased under the HO-6 policy, (2) coverage for such owners personal liability with such owners unit and on such owners lot in the amount of \$300,000 (3) loss assessment coverage, (4) Water back up coverage, (4) personal property coverage for such unit owners benefit on a replacement cost, all risk basis, such unit owners policies shall contain waivers of subrogation against the Condominium, if available, and the liability of the carriers issuing insurance procured by the Board of Directors shall not be affected or diminished by reason of any such additional insurance carried by the owner.

Any deductible, if any, on any insurance policy purchased by the unit owner(s) shall be the sole responsibility of that unit owner(s), except that the condominium will reimburse the first \$250.00 of said deductible.

Failure to purchase insurance does not negate the unit owner's responsibility to the first \$2,500 in dwelling and/or real property damage to their respective unit.

The board may, at its option, amend the amount of property that each unit owner(s) is responsible for upon written notification to each unit owner(s) 30 days before any change takes place.

Section 9.03 Repair or Reconstruction after Fire or other Casualty. In the event of damage to or destruction of the Buildings or common elements as a result of fire or other casualty (unless 75 % or more of the Units are destroyed or substantially damaged and 75% or more of the Unit Owners do not duly and promptly resolve to proceed with repair and restoration), the insurance proceeds, if any, shall be payable to the Board of Managers if they do not exceed the limit established pursuant to Section 9.01(d) hereof; and if in excess of such limit, then to the Insurance Trustee as the Board of Managers shall select, subject to the reasonable approval of the mortgagee's representative, if any. The Board of Managers shall notify all holders, insurers or guarantors of mortgages of such Unit or Units (or of all Units if a material portion of the project has been damaged or destroyed) as indicated on the records of the Condominium and shall arrange for the prompt repair and restoration of the damaged Buildings and common elements (including any damaged Units and kitchen or bathroom fixtures, but excluding, unless covered by the insurance obtained by the Board of Managers, any wall, ceiling or floor decorations or coverings or other furniture, furnishings, fixtures, appliances or equipment installed by present or prior occupants or Owners of the Units), and the Board of Managers or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a common expense and the Board of Managers shall assess all the Unit Owners for such deficit and for a completion bond for such deficit as part of the common charges.

In the event of any damage or destruction as hereinabove described, the Board of Managers shall promptly send written notification of the casualty to all institutional first mortgage holders of Units as they appear on the books and records of the Condominium.

If there shall have been a repair or restoration pursuant to the first paragraph of this Section, and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration, then the excess of such insurance proceeds shall be divided by the Board of Managers or the Insurance Trustee, as the case may be, among all the Unit Owners, subject to the rights of holders of mortgages encumbering such Units, in proportion to their respective common interests after first paying out of the share due each Unit Owner such amounts as may be required to reduce unpaid liens on such Unit in the order of priority of such liens.

In the event that insurance proceeds, net of the deductible amount and less any insurance trustee's fees, are, for any reason, insufficient to pay all of the costs of restoring or repairing the property which the Board of Managers is obligated to insure to the same condition as formerly existed, the Board of Managers shall levy a special assessment to make up the deficiency against the Unit Owners of the damaged property, which special assessment shall be levied in proportion to the damage as determined by the Board of Managers, to their insured property in relation to the total damage to all the insured property. Such obligation of the Unit Owners shall be without regard to the source from which the cause of the damage emanated and without regard to any negligence, but the Condominium shall be obligated to reimburse the Unit Owner for any deductible amount under such Unit Owner's insurance, up to \$250.00 per occurrence, if the cause (i) emanates from property owned by the Condominium or which the Condominium has the responsibility to maintain pursuant to this Declaration, or (ii) was the negligence of the Board of Managers or of any officer or committee appointed by the Board of Managers. Any such amount owing by a Unit Owner, together with interest and costs of collection (including attorney's fees), shall be a charge and continuing lien upon the Unit involved, shall constitute a personal obligation of such Owner, and shall be collectible in the same manner as Common Charges under Article VII of these By-Laws.

If 75 % percent or more of the Units are destroyed or substantially damaged as determined by the Board of Managers and 75 % percent or more of the Unit Owners do not duly and promptly resolve to proceed with repair and restoration, the Property shall be subject to an action for partition upon the suit of any Unit Owner or lien holder, as if owned in common, in which event, the net proceeds of sale, together with the net proceeds of insurance policies shall be held in escrow by the Board of Managers or the Insurance Trustee, as the case may be, to be divided among all Unit Owners, subject to the rights of holders of mortgages encumbering such Units, in proportion to their respective common interests after first applying the share of the net proceeds of such sale otherwise payable to any Unit Owner to the payment of any liens on such Owner's Unit, in the order of the priority of such liens.

Wherever in this Article the words "promptly repair" are used, it shall mean repairs are to begin weather permitting, not more than 60 days from the date the Insurance Trustee notifies the Board of Managers and the Unit Owners that it holds proceeds of insurance sufficient to pay the estimated costs of such work; or not more than 90 days after the Insurance Trustee notifies the Board of Managers and the Unit Owners that such funds are insufficient to pay said estimated costs and advises them of the amount of the required completion bond, if necessary, or in the

event the amount of the required completion bond, if necessary, or in the event there is no Insurance Trustee, not more than 60 days from the date of receipt of insurance funds on account of such damage or destruction, and wherever the words "promptly resolve" are used, it shall also mean not more than 60 days from the date of receipt of said insurance funds.

Any repair or restoration as hereinabove described shall be in substantial accordance with the plans and specifications of the damaged improvements as originally built. Any proposed substantial deviation therefore shall require the written consent of Eligible Mortgage Holders holding mortgages on 51 % or more of the Units subject to mortgages held by Eligible Mortgage Holders.

The Board of Managers shall pay the fees and disbursements of any Insurance Trustee and such fees and disbursements shall constitute a common expense of the Condominium.

Section 9.04. Actions Which May Increase Insurance Rates Prohibited. Under no circumstances shall a Unit Owner permit or suffer anything to be done or left in such Unit Owner's Unit which will increase the insurance rates on such Unit or on any other Unit or on the common elements.

Section 9.05 Casualty to the Common Elements. Where the casualty is to the Common Elements as defined in the Declaration, the deductible amount shall be a common expense, except that the Condominium may assess the amount of the deductible to a Unit Owner where the maintenance, repair or replacement due to the casualty is or was occasioned by a negligent or willful act or omission of a Unit Owner (including any family member, or tenant, of such Unit Owner or any guest or invitee of such Unit Owner, member of such Unit Owner's family or tenant of such Unit Owner), as more fully set forth in Section 8.02 of the By-Laws.

ARTICLE X AMENDMENT

Section 10.01 Amendments to By-Laws. Except as hereinafter provided otherwise, these By-Laws may be modified, altered or amended at any duly called meeting of Unit Owners provided that:

(a) A notice of the meeting containing a full statement of the proposed modification, alteration, or amendment has been sent to all Unit Owners as listed on the books and records of the Condominium and to all mortgagees of Units who have requested the same;

(b) A two-thirds majority of the Unit Owners in number and in common interest approve the change; and

(c) The change is set forth as an amendment to the Declaration and these By-Laws duly recorded in the Yates County Clerk's Office.

Because these By-Laws are part of the Declaration, they may also be amended as set forth in Article XII of the Declaration.

Section 10.02 Sponsor Consent. No amendments can be made to the By-Laws or the Rules and Regulations without Sponsor's written consent so long as Sponsor owns at least one Unit.

ARTICLE XI MISCELLANEOUS

Section 11.01 Notices. All notices hereunder shall be in writing and sent by mail by depositing same in a post office or letter box in a postpaid sealed wrapper addressed, if to go to the Board of Managers, at the office of the Condominium, and if to go to a Unit Owner or mortgagee, to the address of such Unit Owner or mortgagee at such address as appears on the books of the Condominium. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received. Whenever any notice is required to be given under the provisions of the Declaration, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice shall be deemed the equivalent thereof.

Section 11.02 Conflicts; Compliance with Article 9-B. These By-Laws are set forth to comply with the requirements of Article 9-B of the Real Property Law of the State of New York. In case any of these By-Laws conflict with the provisions of said statute or of the Declaration, the provisions of the statute or of the Declaration, whichever the case may be, shall control.

Section 11.03 No Waiver for Failure to Enforce. No restriction, condition, obligation or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

Section 11.04 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of these By-Laws or the intent of any provision thereof.

Section 11.05 Severability. Should any part of these By-Laws be deemed void or become unenforceable at law or in equity, the validity, enforceability or effect of the balance of these By-Laws shall not be impaired or affected in any manner.

Section 11.06 Gender. The use of the masculine gender in these By-Laws shall be deemed to include the masculine, feminine or neuter and the use of the singular shall be deemed to include the plural, whenever the context so requires.

SCHEDULE A RULES AND REGULATIONS

A. Pets. Except for dogs or cats (maximum of two in total, e.g. one dog and one cat, or two cats or two dogs), fish or birds kept in a cage, no animals shall be kept or maintained in any Unit or other portion of the Property except with the consent of the Board of Managers, which may, from time to time (i) impose reasonable rules and regulations setting forth the type and number of pets and (ii) prohibit certain types of animals entirely, and (iii) impose fines upon Unit Owner(s) for failure to comply with this section and further rules and regulations promulgated under this section. Unit Owners are responsible to insure that their pets (or any visiting pets) behave in an appropriate manner with due consideration to noise, health and the general well-being of other members of the Condominium. The Unit Owner which houses the pet shall be responsible to clean up after the pet and keep the animal properly controlled. The Board of Managers shall have the further right to require any Owner (or any tenant of any Owner, or any family member or guest of any Owner or tenant) to dispose of any animal, if in the opinion of the Board of Managers, acting in its sole discretion, such animal is creating a nuisance because, e.g., the Owner does not clean up after the animal, the animal is too noisy or the animal is not properly controlled.

B. Residential Use Only. All Units shall be used for single family resident purposes only, except that only the following business uses will be permitted: leasing of the Unit by Owner thereof to other persons for residential use; the maintenance of a professional or other business office which does not involve the consultation with clients or customers at the Unit or the delivery of supplies or materials to or from the Unit in such manner or volume which in the reasonable judgment of the Board of Managers is a source of annoyance or danger to other Unit Owners and does not include the employment of any individual not a member of the same family of the Unit Owner. These restrictions and limitations are more restrictive as to Unit Owners than they are to the Sponsor. The Sponsor has specifically reserved the right to maintain a model and sales office, maintenance and repair shop, and to reserve other rights for sales, marketing, remodeling, upgrading and refurbishing of Units.

C. Occupancy Density. Except as allowed in the Declaration, each Unit, whether occupied or leased out by the Unit Owner, shall be used for residence purposes only; and shall be resided in by not more persons (including children) than two (2) times the number of bedrooms in the Unit, except as may be waived by written consent obtained from the Board of Managers prior to occupancy.

D. Limitations on Utilization on Common Elements, Docks and Parking Facilities. The Common Elements shall not be obstructed, littered, defaced or misused in any manner. Unit Owners must not allow the accumulation of personal property, trash, grills, outdoor furniture or other items in the Common Elements. Use of the community building, docks, parking facilities and access to facilities in the Condominium will be subject to rules and regulations that may be promulgated by the Board of Managers from time to time.

E. Vehicles. Unless used in connection with the marketing or sale of Units or used in connection with construction, marketing, etc. by the Sponsor, or maintenance of the property or otherwise consented to by the Board of Managers, the following shall not remain overnight on the Condominium property or outside the garage of any Unit.

- (i) Any vehicle with gross vehicular weight exceeding 7,500 pounds.

- (ii) Dump trucks, camper trailers, RVs, boats or trailers.
- (iii) Recreational vehicles such as motorcycles, snowmobiles, jet skis, ATVs,
- (iv) Unlicensed motor vehicles of any type.

F. Porches, Patios and Stoops. Porches, patios, stoops, driveways and sidewalks cannot be used for storage (e.g. no bicycles, boxes, lumber or supplies may be left outside). The only items permitted to remain outside are outdoor furniture and grills for cooking.

G. Signs, Notices, Illuminations etc. No sign, notice, advertisement or illumination shall be inscribed in or exposed on or at any window or other part of any building.

H. No Outdoor Work on Motor Vehicles, Boats or Machines. No work on any motor vehicles, boats or machines of any kind shall be permitted outdoors, except for vehicle repairs that can be completed by sunset of the day commenced.

I. Satellite Dishes and Antennas. No satellite dishes or exposed antenna shall be installed or permitted on any building or Unit unless consented to by the Board of Managers.

J. Late Charges. As authorized by Section 7.05 of the Condominium By-Laws, the Board of Managers may impose a late charge of ten percent (10%) of the amount of any Condominium Charge or Special Assessment, or installment thereof, not paid within ten (10) days after the applicable due date, and may assess interest of one percent (1%) per month for any charges not paid within thirty (30) days after due date.

K. Gardening. Landscaping activities are not subject to restrictions. Vegetable gardening is subject to approval by the Board of Managers to ensure its practice is done in conformance with the SMP Institutional and Engineering Control Plan.