

**CONDOMINIUM OFFERING PLAN
BRANDY BAY HEIGHTS CONDOMINIUM**

**3612 Central Avenue
Town of Jerusalem
Yates County, New York
15 Units are currently being offered.
The Condominium will consist of a total of 15 Units.**

Total Amount of Offering: **\$3,868,500.00**

SPONSOR: **MTS Development, LLC**
3289 Howard Davis Road
Bluff Point, New York 14478
(315) 536-2120

SELLING AGENT: **MTS Development, LLC**
3289 Howard Davis Road
Bluff Point, New York 14478
(315) 536-2120

Date of Acceptance for Filing: November 4, 2013. The term of the initial offer is twelve (12) months. The term may be extended by an amendment accepted for filing by the New York State Department of Law.

THIS OFFERING PLAN IS THE ENTIRE OFFER TO SELL THESE CONDOMINIUM UNITS. NEW YORK LAW REQUIRES THE SPONSOR TO DISCLOSE ALL MATERIAL INFORMATION IN THIS OFFERING PLAN AND TO FILE THIS OFFERING PLAN WITH THE NEW YORK STATE DEPARTMENT OF LAW PRIOR TO SELLING OR OFFERING TO SELL ANY CONDOMINIUM UNIT. FILING WITH THE DEPARTMENT OF LAW DOES NOT MEAN THAT THE DEPARTMENT OR ANY OTHER GOVERNMENT AGENCY APPROVED THIS OFFERING.

BECAUSE SPONSOR IS RETAINING THE RIGHT TO RENT RATHER THAN SELL UNITS, THIS PLAN MAY NOT RESULT IN THE CREATION OF A CONDOMINIUM IN WHICH A MAJORITY OF THE UNITS ARE OWNED BY OWNER-OCCUPANTS OR INVESTORS UNRELATED TO THE SPONSOR. (SEE PAGE 1 FOR SPECIAL RISKS SECTION OF THE PLAN.) PURCHASERS FOR THEIR OWN OCCUPANCY MAY NEVER GAIN CONTROL OF THE BOARD OF MANAGERS UNDER THE TERMS OF THIS PLAN.

SEE PAGE 1 FOR SPECIAL RISKS TO PURCHASERS.

**OFFERING PLAN
FOR
BRANDY BAY HEIGHTS CONDOMINIUM**

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**OFFERING PLAN FOR
BRANDY BAY HEIGHTS CONDOMINIUM**

PART I

SPECIAL RISKS

1. Sponsor May Appoint Majority of the Board of Managers.

The Sponsor will have control of the Board of Managers so long as the Sponsor owns Units having 30% or more interest in the Common Elements. The Sponsor shall appoint all members of the Board of Managers for five (5) years from the date of the recording of the Declaration or until the transfer of title to 50% of the Units. After the transfer of title to 50% of the Units or the termination of said five (5) year period, the Sponsor shall notify all Unit Owners that the first meeting of the Unit Owners shall be held to elect board members within 30 days thereafter. After such time and so long as the Sponsor of the Condominium shall continue to own Units having: (i) 30% or more interest in the Common Elements, the Sponsor shall have the right to appoint two (2) of the three (3) members of the Board of Managers; (ii) less than 30% interest in the Common Elements, the Sponsor shall have the right to appoint one (1) of the three (3) members of the Board of Managers. When the Sponsor no longer owns Units having a 10% or more interest in the Common Elements, it shall have no further right to solely appoint any members of the Board of Managers. See "Control by the Sponsor" on page 43 of this Offering Plan and Section 2.04 of By-Laws in Part II of this Offering Plan.

2. Limited Warranty.

The Housing Merchant's Implied Warranty as contained in Section 777-a of the New York General Business Law will apply to the purchase of Units, but such warranty, as permitted by such law has been limited as to the Sponsor's Limit of Total Liability to 80% of the Contract Price; except that the Sponsor must build and deliver the Unit in accordance with applicable plans, specifications and codes. The Warranty applies only to the initial Purchasers of Units while such Purchaser owns the Unit. See page 120 of this Offering Plan; Section 15 and Exhibit D of the Purchase Agreement (Exhibit C in Part II of this Offering Plan).

3. Portion of Purchaser's Deposit Used For Extras is "At Risk".

Any deposits required to be made by a Purchaser under a Purchase Agreement or under a rider or addendum to the Purchase Agreement which are for "extras," will not be refundable to the Purchaser in the event the Purchase Agreement is terminated due to Purchaser's failure to take title, if such funds, at the time of termination, have already been utilized in the performance of the work or the purchase of the materials which comprise such extras. See Section 19 of the Purchase Agreement (Exhibit C in Part II of this Offering Plan).

4. Escrow Deposits.

Purchasers are advised that all deposits, down payments or advances made by Purchasers prior to closing will be placed in an attorney's segregated special escrow account

covered by the Federal Deposit Insurance Corporation. Deposits in excess of \$250,000.00 may not be federally insured. See "Trust Funds and Escrow Arrangements" on page 27 of this Offering Plan.

5. Reserve Fund for Replacement or Repair of Certain Improvements.

The initial budget for the first year of operations for the Condominium (see Schedule B on page 20 of this Offering Plan) contains amounts to be allocated to the Condominium's reserve fund. These reserve amounts are to be used for repairs to or replacement of the listed items. The amounts budgeted for these reserve items are based on current replacement costs. If repairs or replacements are necessary in the future and the Condominium does not have sufficient funds available in the reserve fund, the Condominium will likely have to impose a special assessment on Unit Owners to meet the expense of such repairs or replacements.

6. Title.

The Offering Plan and the Purchase Agreement provide that the Sponsor will convey marketable title to the Purchasers with respect to the Units. Title to the Units will be conveyed by bargain and sale deed with covenant against grantor's acts and lien covenant. See "Closing of Title to Units" on page 33 of this Offering Plan.

7. Transfer Tax Paid by Purchaser.

The New York State Real Property Transfer Tax will be the obligation of the Purchaser pursuant to Section 11 of the Purchase Agreement (Exhibit B in Part II of this Offering Plan) and shall be paid at the time of closing. The payment of this tax is customarily the obligation of the Seller. As provided in Section 1402(a) of the New York Tax Law this tax is imposed at the rate of two dollars for each five hundred dollars of consideration or fractional part thereof. Consideration, for the purpose of calculating the tax, means the price actually paid or required to be paid for Units under the Purchase Agreement ("Contract Price") increased by the amount of the tax paid by the Buyer on the Contract Price.

8. Purchaser Financing Contingency.

The Sponsor is not designating and has not procured any specific lender to finance the purchase of individual Units by Purchasers. Purchasers may obtain any necessary financing from any source available to them. The Purchase Agreement may provide the Purchaser's obligation to purchase is contingent on the Purchaser obtaining a commitment for financing. Any conditions of any such mortgage commitment shall not be deemed contingencies of the purchase but shall be the sole responsibility of Purchaser. Acceptance of a written mortgage commitment by the Purchaser shall be deemed a waiver and satisfaction of this contingency. Purchaser agrees to use its best efforts to satisfy any contingencies and comply with any deadlines contained in such mortgage commitment. Notwithstanding anything to the contrary, Purchaser's financing commitment lapses or expires prior to closing of the purchase and sale, and the Purchaser has made a good faith effort to extend the financing commitment, then the Sponsor must offer Purchaser a right of rescission of the Purchase Agreement and a

reasonable period of time to exercise such right of rescission. See "Financing Contingency" on page 31 of this Offering Plan and Section 3(a) of the Purchase Agreement (Exhibit C in Part II of this Offering Plan).

9. Working Capital Contribution.

Simultaneously with the closing of title to each Unit, the Sponsor will deposit an amount equal to two (2) months' common charges for each Unit with the Condominium which contingency funds may be used by the Condominium as working capital. Each initial Purchaser of a Unit will, at the time of closing of title to the Unit purchased, reimburse the Sponsor for such deposit. See "Working Capital Fund" on page 71 of this Offering Plan.

10. Occupancy Restrictions/Fair Housing Act Compliance.

Occupancy of the Units is restricted to persons 55 years of age or older, as set forth in the Fair Housing Act (Title VIII of the Civil Rights Act of 1968), as amended, 42 U.S.C. §§3601-3619, 3631, as it may be amended from time to time (the "Fair Housing Act"); and as implemented by any regulations promulgated pursuant thereto. The Condominium is intended and operated for occupancy by persons 55 years of age or older, as described in the Fair Housing Act. Provided that the Condominium qualifies as housing intended and operated for occupancy by persons 55 years of age or older under the Fair Housing Act, individuals under the age of 18 years old are not permitted to occupy a Unit in the Condominium, except that persons under the age of 55 are permitted to visit occupants of a Unit for a period of time which shall not be in excess of 7 consecutive days, and which shall not be for a period in excess of 14 total days for a calendar year. See "Restrictions on Occupancy and Use" on page 61 of this Offering Plan.

11. Unit Square Footages.

The Unit square footage calculations shown on Schedule A on page 17 of this Offering Plan are based on measurements from the exterior side of exterior walls or in the case of an opposing wall which is dividing the Unit from other Units, to the centerline of such wall. These calculations are estimates, within reasonable tolerances, based upon computations from scaled dimensions on floor plans and are not based upon measurements from interior surfaces of interior walls. The actual area comprising the Unit may be significantly less than the area listed in Schedule A.

12. No Letter of Credit or Bond Posted by Sponsor.

The Sponsor has not posted any bond or letter of credit or other security to secure its obligations under this Offering Plan. See "Rights and Obligations of the Sponsor" on page 37 of this Offering Plan.

13. Leasing by the Sponsor.

The Sponsor has retained the unconditional right to rent Units it owns rather than selling such Units. Any financing the Sponsor has acquired to construct the Units does not

restrict leasing of the Units. While the Sponsor intends on selling of the Units it owns, if market conditions do not permit such sales, the Sponsor may rent such Units. The Sponsor retains the sole right to determine whether to sell or rent the Units. This could result in a Condominium in which the majority of the Units are not owned by owner-occupants or investors unrelated to the Sponsor. Purchasers for their own occupancy may never gain control of the Board of Managers under the terms of this Plan. See "Control by the Sponsor" on page 43 of this Offering Plan.

INTRODUCTION

The purpose of this Offering Plan is to set forth all of the terms of an offer for the sale of 15 dwelling units ("Units"), in a condominium known as the Brandy Bay Heights Condominium ("Condominium"). This Offering Plan may be amended from time to time by an amendment filed with the New York State Department of Law and distributed to purchasers and owners of Units. Definitions of important words used throughout this Offering Plan can be found on page 7 of this Offering Plan.

The Condominium complies with and is subject to the provisions of Article 9-B of the Real Property Law (the New York Condominium Act). The property is or will become a condominium upon the recording in the Yates County Clerk's Office of the Declaration and By-Laws together with the filing of the floor plans of the buildings with the Yates County Clerk. A copy of the Declaration and By-Laws can be found in Part II of this Offering Plan.

MTS Development, LLC (the "Sponsor" of this offering) is a New York limited liability company with its office at 3289 Howard Davis Road, Bluff Point, New York 14478. The Sponsor has acquired title the Property by a Warranty Deed recorded in the Yates County Clerk's Office on May 17, 2013 in liber 657, page 292.

The land, buildings and appurtenances comprising the Condominium are hereinafter sometimes referred to as the "Property". Part II of this Offering Plan contains a detailed description of the Property. A condominium map showing the location of the Units within the buildings and the location of the buildings on the Property and the boundary lines of the Property can be found in Part II of this Offering Plan. Floor plans showing Unit room layouts can also be found in Part II of this Offering Plan.

The Property will include an outdoor recreation and picnic area with a gazebo and tables. There will also be a Community Building, with kitchen facilities, for Unit Owner's use. No further recreational facilities are planned for the Condominium (see "Description of Property and Improvements" on page 10 of this Offering Plan.)

Number of Units and Timetable for Completion.

The Condominium will consist of 15 residential Units.

There will be 5 Buildings on the Property, consisting of 3 Buildings containing 4 Units each, 1 Building containing 3 Units and the Community Building. Each Unit will be a two-bedroom, two-bath dwelling Unit, each Unit has an attached enclosed one and one-half car garage, a front porch, a rear patio, and a basement.

The Sponsor anticipates that the completion of construction and issuance of certificate of occupancy for the first Building, including all Units located with such Building, will be completed in December 2013. Construction of the first Building and initial Units has commenced. The Sponsor anticipates that all of the Buildings and Units will be completed in two (2) years from the acceptance date of the Offering Plan, weather and market conditions

permitting. The Sponsor will be selling and closing Units as construction of each individual Building is completed and therefore completion of all Buildings will not affect the projected commencement date of the Condominium operations.

Town Approval.

The Town of Jerusalem has approved the construction of 15 Units on the Property. Before construction of a particular Unit commences, plans of the Unit and building will be reviewed by the Town of Jerusalem and a building permit will be issued. All construction will be in conformance with the plan approved by the Town of Jerusalem.

Future Development of Lands Adjacent to Condominium.

A principal of the Sponsor owns the property immediately adjoining the Property to the West which consists of approximately 5 acres of land which may be used by the Sponsor to develop additional residential lots or units in the future.

Pricing of Units.

The prices of the Units in the Condominium are found in Schedule A of this Offering Plan. The prices are set by the Sponsor alone and are not subject to review by the New York State Department of Law.

Offering Plan, Schedules and Exhibits Constitute Entire Offer.

This Offering Plan, including all Schedules hereto, and Parts A, B and C of the Exhibits filed with the New York State Department of Law constitute the entire offer of the Sponsor. Copies of these documents will be available for inspection by prospective purchasers without charge at the on-site office of the Sponsor whenever it is open and at the office of the Sponsor's attorney for purchase and sale closings during regular business hours.

FEATURES OF CONDOMINIUM OWNERSHIP

The ownership of a condominium unit is similar in many respects to the ownership of a private home. Each Unit Owner owns title to the Unit outright and is entitled to exclusive possession and use of it, except that the Board of Managers has a right of access for repairs and maintenance to the Common Elements of the Condominium as set forth in the Declaration. A Unit Owner may sell, lease, or rent the Unit owned to anyone without restriction (and subject to the provisions of the Declaration), provided the lease term is at least twelve (12) months, except for Units owned by the Sponsor, which shall have no minimum term.

Each Unit Owner will exclusively own only a Unit within the interior of a Building. The description of a Unit is included as section 4.03 of the Declaration. Only a Unit Owner is entitled to possession of his or her Unit and to access, use and enjoy the same, subject the Declaration. Each Unit Owner will also own a percentage interests in the Common Elements.

The Common Elements generally include all of the Property, including the Buildings, except for the Units. A description of the Common Elements is included as section 5.01 of the Declaration. Certain portions of the Common Elements designated as limited or restricted common elements (such as decks, patios, and mailboxes (as described in Section 5.06 of the Declaration)) where, although owned in common by all Unit Owners, only the Unit Owner(s) designated in the Declaration or by the Board of Managers pursuant to the provisions of the Declaration, to use such space can have access, use and enjoyment of such space. Each Unit Owner is obligated to comply with the Declaration, the By-Laws, the Rules and Regulations and any other requirements of the Board of Managers permitted thereunder.

The Board of Managers will maintain and repair all portions of the common elements including: (i) lawn and landscaped areas; and to shrubbery and other plantings installed by the Sponsor or the Board of Managers on the Common Elements; but not for shrubbery, flower beds or other plantings installed by or at the direction of any Unit Owner or Unit occupant; (ii) sidewalks along roadways (unless maintained by the Town of Jerusalem); (iii) all driveways, including snow removal; (iv) water and sanitary sewer laterals servicing the Units from the Unit to the point where it connects to the main; (v) ponds, culverts and surface drainage of storm water; (vi) the entrance monument and sign at the entrance of the Condominium; (vi) the exteriors of the Units including: trim, siding, roof and gutters; and (vii) fire hydrants, wires, conduits and public utility lines servicing the Units and for which a utility company or other entity is not responsible (whether or not such lines and facilities are on Common Elements); (viii) the Community Building; and (ix) the private roadway and parking areas shown on the Condominium Map and Floor Plans. The Board of Managers will also maintain the exterior of the Units including: Unit trim, siding, roof and gutters. Each Unit Owner will be responsible for the maintenance, repair and replacement of any concrete patio pad adjacent to their Unit, as well as, windows, doors, garage doors, doorbells, screens, storm doors, front porch and steps and air conditioner pads. The maintenance of these items by the Owners is subject to the architectural control and approval of the Board of Directors of the Association pursuant to Article VII of the Declaration found in Part II of this Offering Plan. Unit Owners are responsible for the maintenance, repair and overall appearance of the interior of their Units. Each Unit Owner may mortgage the Unit owned, and in such amount as is deemed necessary or desirable. Each Unit is separate and shall not be subject to mortgages on other Units.

Each Unit will be taxed as a separate tax lot for real estate purposes, just as a private home, and the Unit Owner will incur no tax liabilities if the Owners of other Units fail to pay their taxes. Under present income tax laws, if a Unit Owner itemizes deductions, a deduction may be taken from income, for the real estate taxes and the interest paid on the mortgage(s) on the Unit owned as a primary or secondary residence. See Opinion of Counsel on page 63 of this Offering Plan.

Each Unit Owner also owns, in common with the Owners of all other Units, an undivided interest in all parts of the Property other than the Units. The percentage interest of each Unit in the common elements has been determined pursuant to Section 339-i-1(iii) of the New York Condominium Act on the basis of equal percentages. The specific percentage of each

of the Units is set forth in the Declaration, which is contained in Part II of this Offering Plan, and is also set forth in Schedule A of this Offering Plan. Each Unit Owner has the right of access, and the right to use and enjoy the Common Elements, except those portions of the Common Elements designated as limited or restricted common elements (such as decks, patios, and mailboxes) where, although owned in common by all Unit Owners, only the Unit Owner(s) designated in the Declaration or by the Board of Managers pursuant to the provisions of the Declaration, to use such space can have access, use and enjoyment.

Subject to the rights of the Sponsor to control the Board of Managers, as set forth in Section 2.04 of the Bylaws, each Unit Owner will have the right to vote annually for the election of members of the Board of Managers who will supervise the Property and manage the affairs of the Condominium.

In accordance with Sections 339-i and 339-m of the New York Condominium Act, the Board of Managers will assess every Unit Owner in proportion to such Unit Owner's interest in the Common Elements for the operating costs of the Property (all such expenses being hereinafter referred to as "common charges"). The cost of repairs, replacements and improvements of the Common Elements will be paid for by the Board of Managers as a common expense. Repairs, replacements, improvements and decorations to the interior of Units will be under the control and at the expense of the Unit Owner.

The Board of Managers is responsible for fire and casualty insurance covering the buildings as originally built for their full replacement value excluding (i) drywall, wall finishes, wall to wall carpeting or other flooring finishes, lighting fixtures, bathroom fixtures, appliances, wall coverings, all machinery servicing the Units, cabinets and counters, and (ii) the personal property of Unit Owners and occupants. The Board of Managers is also responsible for liability insurance on the Common Elements, and such other insurances as the Board of Managers deems appropriate. The Sponsor suggests that Unit purchasers obtain the following coverages:

- a. Fire and Casualty Insurance - to cover (i) unless covered by the overall fire casualty insurance policy obtained by the Board of Managers, any addition to the original construction of the Unit, upgrades in original construction purchased from the Sponsor, or any replacement or upgrading of equipment in the Unit which is of better quality, larger or more costly than original construction or standard equipment in the Unit as initially offered for sale, and all drywall, wall finishes, wall to wall carpeting or other flooring finishes, lighting fixtures, bathroom fixtures, appliances, wall coverings, all machinery servicing the Units, cabinets and counters; and (ii) the personal property of the Unit Owner; and
- b. Liability Insurance - to cover occurrences within the Unit or within any Common Elements restricted or limited in use to the Unit Owner. Additional information on insurance coverage can be found in the subsection of this Offering Plan entitled "Insurance".

The offering prices of Units found on Schedule A (page 15 of this Offering Plan) do not include any appliances except for a refrigerator, range, microwave, dishwasher, central air conditioner, washer and dryer, garbage disposal, and security system.

The prices of Units found on Schedule A of this Offering Plan are not subject to approval by the Department of Law or any other governmental agency. This Offering Plan, which is required to be delivered to all prospective purchasers, contains all of the material terms of this offering. Copies of this Offering Plan and all exhibits submitted to the Department of Law in connection with the filing of this Offering Plan are available for inspection without charge and for copying at a reasonable charge to prospective purchasers and their attorneys at the office of the Sponsor's attorneys for closing for the sale of Units.

THE PURCHASE OF A CONDOMINIUM UNIT HAS MANY SIGNIFICANT LEGAL AND FINANCIAL CONSEQUENCES. THE ATTORNEY GENERAL STRONGLY URGES YOU TO READ THIS OFFERING PLAN CAREFULLY AND TO CONSULT WITH AN ATTORNEY BEFORE SIGNING A PURCHASE AGREEMENT.

DEFINITIONS

"Board of Managers" - those persons elected by the Unit Owners or appointed by the Sponsor pursuant to the By-Laws to administer the operation and maintenance of the Property. The By-Laws provide that the Board of Managers shall consist of three (3) persons.

"Building" shall mean and refer to the structures described on Schedule B of the Declaration and as more particularly described in Article III of the Declaration.

"Common Charges" - the amounts assessed by the Board of Managers to the Unit Owners for the "common expenses" of the Condominium. Pursuant to the Declaration, these charges are assessed on an annual basis and are payable on a monthly basis.

"Common Elements" - all of the Property comprising the Condominium except the Units, including:

- (i) all land within the boundaries of the Property;
- (ii) if not owned by the Town of Jerusalem, the roads, sidewalks, and the driveways, decks, patios, and grass areas;
- (iii) all utility or other pipes, wires, conduits and other material which are not part of the Units and not owned by public utility companies or any governmental municipality;

- (iv) the open space or landscaped areas;
- (v) the Community Building; and
- (vi) all other apparatus and installations on the Property for common use or which may be necessary or convenient to the existence, maintenance or safety of the common elements.

"Common Expenses" - the expenses of operating the Property, including reserves for the repair or replacement of Common Elements which the Board of Managers may establish from time to time.

"Common Interest" - the undivided proportionate interest of ownership appertaining to each Unit as set forth in the Declaration.

"Community Building" shall mean and refer to the structure shown as the Community Building on the Condominium Map and Floor Plans that is part of the Common Elements.

"Condominium" - all of the property comprising the Units, buildings, other improvements and land offered under this Offering Plan.

"Condominium Map and Floor Plans" shall mean and refer to Condominium Map and Floor Plans prepared by Schultz Associates, Engineers and Land Surveyors P.C., to be filed in the Yates County Clerk's Office as amended and supplemented from time to time, which shows the Condominium and the floor plans of Units.

"Declaration" - the instrument recorded in the Yates County Clerk's Office pursuant to which the Property is subjected to the condominium form of ownership, as amended from time to time.

"Limited or Restricted Common Elements" - those portions of the common elements which are, pursuant to Section 5.06 of the Declaration, irrevocably restricted in use to specified Unit Owners. Examples of limited or restricted common elements in the Condominium are the mailboxes, decks, and patios.

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

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

"Sponsor" shall refer to MTS Development, LLC, its successors and assigns.

"Unit" - a specific parcel in the Condominium designed for individual ownership.

"Unit Owner" - the owner of a Unit in the Condominium. A Unit Owner may be one or more individuals or legal entities.

DESCRIPTION OF PROPERTY AND IMPROVEMENTS

The Condominium is located on a private drive off the west side of Central Avenue, in the Town of Jerusalem, County of Yates, State of New York. This area is zoned for Agriculture/Residential use with a special use permit for multiple dwellings. The Property is accessed via Central Avenue and the Units are accessed via a private drive.

There are 15 single family residential Units. There will be 5 Buildings on the Property, consisting of 3 Buildings containing 4 Units each, 1 Building containing 3 Units and the Community Building. Each Unit will be a two-bedroom, two-bath dwelling Unit, each has an attached enclosed one and one-half car garage, a front porch, a rear patio, and a basement.

Individual electric and gas meters for the Units are located on the exteriors of the buildings. Individual water meters for the Units are located in the interior of the Unit and the meter readers are located on the exteriors of the buildings. All meters are owned and maintained by the utility companies. The furnace and hot water tank which service the individual Units shall be deemed a part of the Unit served by such equipment and the maintenance, repair and replacement of such equipment shall be the responsibility of such Unit Owner. The heating system for each Unit is a forced air furnace.

Appliances.

The purchase price of the Units will include a refrigerator, range, microwave (with exhaust fan), dishwasher, central air conditioner, washer and dryer, garbage disposal, and security system. Purchasers should be aware that the Sponsor is not offering and the purchase price does not include a free standing freezer, trash compactor, and communication equipment, except internal wiring.

Parking Facilities.

There will be indoor one and half car garages and outdoor parking spaces (driveways) on the Property to accommodate at least 2 automobiles for each Unit in the

Condominium. There will also be 16 public parking spaces spread over the Property as shown on the Condominium Map and Floor Plans.

Utilities.

Police protection is provided by the Yates County Sheriff's Department. Fire protection is provided by the Branchport/Keuka Park Fire Department. The Yates County Highway Department maintains Central Avenue, including snow removal. The Condominium maintains a private drive, including snow removal. Water is provided by the Town of Jerusalem and metered to each Unit. Each Unit Owner will be responsible to pay for their own water. The sanitary sewer main line up to the first clean out will be owned and maintained by the Town of Jerusalem. Refuse pick up and disposal is provided by a private provider contracted by the Condominium and paid for by each Owner as part of their common charges. Electric and natural gas services are provided by NYSEG.

Cable Television.

The Units will be pre-wired for cable television. Owners have the option of connecting with the cable service with a private provider, such as Time Warner Cable.

Property to be Improved in Accordance with All Applicable Laws.

The improvements to the Property will be undertaken in accordance with all applicable zoning and building laws, regulations, codes and other requirements including the New York State Uniform Fire Prevention and Building Code, the New York Real Property Law, Town Law, Environmental Conservation Law, General Municipal Law, Public Health Law and the Regulations of the New York State Department of Environmental Conservation.

Access and Streets.

Access to the Property is from Central Avenue, a public street owned and maintained by the County of Yates. A private drive, running from Central Avenue through the Condominium will provide access to each Building and Unit. The private drive will be maintained by the Condominium.

Construction Timetable for Completion.

The Sponsor anticipates that the completion of construction and issuance of certificate of occupancy for the first Building, including all Units located with such Building, will be completed in December 2013. Construction of the first Building and initial Units has commenced. The Sponsor anticipates that all of the Buildings and Units will be completed in two (2) years from the acceptance date of the Offering Plan, weather and market conditions permitting. The Sponsor will be selling and closing Units as construction of each individual Building is completed and therefore completion of all Buildings will not affect the projected commencement date of the Condominium operations.

LOCATION AND AREA INFORMATION

Location of the Property and Surrounding Facilities.

The Condominium is located in the Town of Jerusalem, New York, and is located on the west side of Central Avenue. This Property is zoned for Agriculture/Residential use with a special use permit for multiple dwellings. The Property is bounded as follows:

North	-	Agriculture/Residential
South	-	Agriculture/Residential
East	-	Central Avenue/Residential
West	-	Agriculture/Residential

A principal of the Sponsor owns the property immediately adjoining the Property to the West which consists of approximately 5 acres of land which may be used by the Sponsor to develop additional residential lots or units in the future.

Transportation.

Public transportation is not available. The Yates ARC and the Yates County Office for the Aging-Proaction will transport, if need, by appointment. The Penn Yan Area Council of Churches will transport for Sunday worship in Penn Yan.

Shopping.

Local shopping facilities include: Bluff Point (Kinney's Corners) (1 mile), local shops in Branchport and Penn Yan (each 4 miles). Each area has unique shopping districts. Penn Yan has two primary shopping districts. One is the Main Street Area and the other is the Lake Street Plaza Area. In addition, there are numerous farm markets and roadside farm stands throughout Yates County. Further, the cities of Geneva and Canandaigua are approximately 20 miles from the property and offer a large variety for shopping.

Recreation.

Local recreational activities include (10 miles or less):

Golf: Lakeside Country Club, Majestic Hills, Macs Mini Golf
 Dancing: Penn Yan Friendship Squares, a modern square and round dance club
 Cultural and Art Groups: Penn Yan Art Guild, Yates County Arts Center, Rochester Folk Art Guild,

A principal of the Sponsor owns the property immediately adjoining the Property to the West which consists of approximately 5 acres of land which may be used by the Sponsor to develop additional residential lots or units in the future.

SCHEDULE A
BRANDY BAY HEIGHTS CONDOMINIUM
SALES PRICES AND ESTIMATED MONTHLY CHARGES
FOR THE FIRST YEAR OF OPERATION BASED ON OCCUPANCY OF ALL UNITS
PROJECTED CHARGES ARE FOR A PERIOD BEGINNING MARCH 1, 2014 - FEBRUARY 28, 2015
(Letters in parentheses designate footnotes which follow Schedule A)

(1) UNIT DESIGNATION	(2) ROOMS/ BATHS - ROOM TYPES	(3) APPROX. SQUARE FOOT AREA * (Habitable/Uninhabitable)	(4) OFFERING PRICE	(5) PERCENTAGE OF UNDIVIDED INTEREST IN COMMON ELEMENTS	(6) PROJECTED MONTHLY COMMON CHARGES	(7) PROJECTED MONTHLY/ YEARLY REAL ESTATE TAXES	(8) PROJECTED TOTAL MONTHLY CARRYING CHARGES
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
1-A	5/2 2B, K, GD, L	1402 542	\$263,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
1-B	5/2 2B, K, GD, L	1299 477	\$248,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
1-C	5/2 2B, K, GD, L	1299 477	\$248,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
1-D	5/2 2B, K, GD, L	1402 542	\$263,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
2-A	5/2 2B, K, GD, L	1402 542	\$263,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
2-B	5/2 2B, K, GD, L	1299 477	\$248,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
2-C	5/2 2B, K, GD, L	1299 477	\$248,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
2-D	5/2 2B, K, GD, L	1402 542	\$263,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
3-A	5/2 2B, K, GD, L	1402 542	\$263,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
3-B	5/2 2B, K, GD, L	1402 542	\$263,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
3-C	5/2 2B, K, GD, L	1402 542	\$263,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
4-A	5/2 2B, K, GD, L	1402 542	\$263,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
4-B	5/2 2B, K, GD, L	1299 477	\$248,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
4-C	5/2 2B, K, GD, L	1299 477	\$248,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
4-D	5/2 2B, K, GD, L	1402 542	\$263,900.00	6.6667	\$299.84	\$221.57/\$2,658.84	\$521.41
TOTALS		20,412 7,740	\$3,868,500.00	100	\$4,497.60	\$3,138.05/\$37,656.60	\$7,635.65

* All Units have access to the adjoining porch, patio, driveway, front walkway, exterior lawn and landscaped areas.

* The Uninhabitable areas include the garage, front porch and rear porch of the Unit; these spaces may not be used as a bedroom or living room and doing so may result in a building code violation being issued for the Unit.

SCHEDULE A

Footnotes

- (A) Units are designated by Unit number (See Site Plan in Part II of this Offering Plan for location of Units).
- (B) Units contain a combination great room and dining room, kitchen, laundry room, two (2) bedrooms, and two (2) baths and adjoining one and one-half car attached garage. See floor plans in Part II of this Offering Plan. Every designated room in the Units exceeds the space requirements for various types of rooms, as specified in the State Building Construction Code applicable to multiple dwellings. See Volume 9B New York Code of Rules and Regulations, Section 715.1.
- (C) The square footage calculations are based on measurements from the exterior side of exterior walls or in the case of an opposing wall which is dividing the Unit from other Units, to the centerline of such wall. These calculations are estimates, within reasonable tolerances, based upon computations from scaled dimensions on floor plans and are not based upon measurements from interior surfaces of interior walls. The actual area comprising the Unit may be significantly less than the area listed in Schedule A.
- (D) The offering prices of the Units as set forth in this Schedule A are negotiable. The Sponsor may enter into an agreement with a Purchaser to sell one or more of the Units at prices different from those set forth in this Schedule A. See section of this Offering Plan entitled "Changes in Prices and Units" for a discussion of price changes. (See section of this Offering Plan entitled "Closing Costs and Adjustments" for information regarding closing costs).
- (E) As permitted by Section 339-i-1(iii) of the Real Property Law, the percentage of interest of each Unit in the Common Elements will be equal or as close as possible to total 100%. See Opinions of Counsel as Exhibit A to Part II of this Offering Plan.
- (F) Includes expenses as outlined in the budget set forth as Schedule B of this Offering Plan. These figures do not include costs for which the Unit Owner is responsible, such as repairs to the interior or doors of Units, and separately metered utilities (gas and electric) for heating, lighting, cooking and hot water. (See Schedule B on page 20 of this Offering Plan). Also see Schedule B-1 on page 25 of this Offering Plan for estimated utility charges for a Unit.
- (G) Based on projected annual taxes for each Unit by the Town of Jerusalem Assessor. Each Unit will be taxed as a separate tax lot for real estate tax purposes and the Unit Owner will be responsible for the payment of such taxes. Non-payment of these taxes will subject the Unit to any lien arising from the non-payment of taxes on other Units. Real estate taxes paid by the owners of Units will be deductible for income tax purposes as to

Units owned as a first or second residence. The amount of the projected income tax deduction for real estate taxes may vary in future years due to changes in such taxes resulting from changes in the assessed value, the tax rate or method of assessing real property.

The projected annual taxes are based on a projected assessed values of the Units by the Town of Jerusalem Assessor. The Town of Jerusalem Assessor projects that all Units with 1,402 sq. feet of habitable space (with an offering price of \$263,900.00) will have an assessed valuation of \$125,300.00 and that all Units with 1,299 sq. feet of habitable space (with an offering price of \$248,900.00) will have an assessed valuation of \$112,000.00. The tax rates used to calculate projected annual taxes are (i) for combined Town/County and special district taxes, a rate of \$9.789769 per \$1,000.00 of assessed valuation; and (ii) for combined School taxes, a rate of \$11.11115 per \$1,000.00 of assessed valuation.

- (H) Includes amounts in Columns (6) and (7). These figures do not include costs for which the Unit Owner is individually responsible, such as repairs to the interior of the Unit, and separately metered gas for heat and hot water, and electricity for lighting, cooking and other domestic uses within the Unit and water. (See Schedule B-1 on page 25 of this Offering Plan).

SCHEDULE B

**BRANDY BAY HEIGHTS CONDOMINIUM
PROJECTED BUDGET FOR FIRST YEAR OF OPERATION FOR 15 UNITS
BEGINNING MARCH 1, 2014 - FEBRUARY 28, 2015
PREPARED AS OF AUGUST 11, 2013**

This budget estimate is prepared for a twelve month period with a commencement date of March 1, 2014. If the actual or anticipated date of commencement of Condominium operation is to be delayed more than six months from the budget year projected in the offering plan, the plan will be amended to include a revised budget disclosing current projections. If such amended projections exceed the original projections by 25 percent or more, the Sponsor will offer all purchasers the right to rescind and a reasonable period of time that is not less than 15 days after the date of presentation to exercise the right, whether or not sponsor offers to guarantee the previous budget projection. Sponsor shall return any deposit or down-payment within a reasonable period of time to purchasers who rescind within a reasonable period of time. Sponsor may not declare this plan effective where there are any material changes to the budget if these changes have not be disclosed by a duly filed amendment to the offering plan.

The Sponsor anticipates that the completion of construction and issuance of certificate of occupancy for the first Building, including all Units located with such Building, will be completed in December 2013. Construction of the first Building and initial Units has commenced. The Sponsor anticipates that all of the Buildings and Units will be completed in two (2) years from the acceptance date of the Offering Plan, weather and market conditions permitting. The Sponsor will be selling and closing Units as construction of each individual Building is completed and therefore completion of all Buildings will not affect the projected commencement date of the Condominium operations.

[BUDGET ON THE FOLLOWING PAGE]

SCHEDULE B CONT.

**BRANDY BAY HEIGHTS CONDOMINIUM
PROJECTED BUDGET FOR FIRST YEAR OF OPERATION FOR 15 UNITS
BEGINNING MARCH 1, 2014 - FEBRUARY 28, 2015
PREPARED AS OF AUGUST 11, 2013**

INCOME	FOOT- NOTE	2013 - 2014 PROJECTED	COST PER UNIT/ PER MONTH	COST PER UNIT/ PER YEAR
GROSS POTENTIAL INCOME FROM DUES:		\$53,971.51	\$299.84	\$3,598.10
INCOME FROM OTHER SOURCES:		\$0.00	\$0.00	\$0.00
ADJUSTED GROSS POTENTIAL INCOME:		\$53,971.51	\$299.84	\$3,598.10
PROJECTED EXPENSES				
ACCOUNTING SERVICES	1	\$7,000.00	\$38.89	\$466.67
CONTINGENCY FEE	2	\$1,500.00	\$8.33	\$100.00
ELECTRIC	3	\$2,400.00	\$13.33	\$160.00
NATURAL GAS	3	\$1,200.00	\$6.67	\$80.00
WATER & SEWER CHARGES	4	\$1,200.00	\$6.67	\$80.00
BUILDING MAINTENANCE	5	\$2,400.00	\$13.33	\$160.00
MAINTENANCE SUPPLIES	5	\$300.00	\$1.67	\$20.00
INSURANCE - PROPERTY AND LIABILITY	6	\$6,786.51	\$37.70	\$452.43
LAWN AND LANDSCAPING MAINTENANCE	7	\$9,800.00	\$54.44	\$653.33
LAWN FERTILIZER AND WEED CONTROL	7	\$1,800.00	\$10.00	\$120.00
LEGAL FEES	8	\$500.00	\$2.78	\$33.33
MANAGEMENT FEE	9	\$0.00	\$0.00	\$0.00
LABOR	10	\$0.00	\$0.00	\$0.00
OFFICE SUPPLIES	11	\$300.00	\$1.67	\$20.00
REFUSE DISPOSAL - COMMUNITY BUILDING	12	\$500.00	\$2.78	\$33.33
REFUSE DISPOSAL - LIVING UNITS	12	\$2,800.00	\$15.56	\$186.67
RESERVE FUND (ROOF & SIDING)	13	\$4,300.00	\$23.89	\$286.67
RESERVE FUND (ROAD MAINTENANCE)	14	\$1,000.00	\$5.56	\$66.67
SECURITY SYSTEM	15	\$325.00	\$1.81	\$21.67
SNOW REMOVAL	16	\$9,500.00	\$52.78	\$633.33
TELEPHONE	17	\$360.00	\$2.00	\$24.00
TOTAL EXPENSE:		\$53,971.51	\$299.84	\$3,598.10

FOOTNOTES TO SCHEDULE B

BRANDY BAY HEIGHTS CONDOMINIUM PROJECTED BUDGET FOR FIRST YEAR OF OPERATION FOR 15

1. **ACCOUNTING:** The accounting estimate of the cost is for routine accounting services including a full set of audited financial statements certified by a public accountant and required tax reports. The \$6,000.00 to \$8,000.00 estimate is provided by Leslie U. Gordon, CPA. For the purpose of the subject budget a median was used to determine the estimated cost.
2. **CONTINGENCIES:** This amount may be used at the discretion of the Board to make up deficits in other items of the budget, or pay for unexpected expenses. This category is designed to meet unanticipated costs or changes in prices.
3. **UTILITIES:** Electric and natural gas will be provide to each living unit, metered individually and paid for by the living unit resident directly to NYSEG. Street lighting will be provided and paid for by the condominium association dues.
4. **WATER AND SEWER:** Municipal domestic water and sewer will be provide to each living unit, metered individually and paid for by the living unit resident directly to the Town of Jerusalem, New York. Water consumption and sewer charges for the community building will be metered separately and paid for by the condominium association dues. Estimated water and sewer charges were based on the Keuka Park Water/Sewer 2013 Rate Schedule and rates of \$188.00/quarter for sewer charges and \$59.50/quarter for the 10,000 gallons and \$5.94 per 1,000 gallons over the first 10,000 gallons. Estimates were based on an estimated water consumption for the community building of 10,000 or less gallons and budget for additional surcharges and taxes and a 10% inflation factor.
5. **BUILDING MAINTENANCE:** Interior repairs and maintenance of the living units will be the responsibility of the living unit owners except for items covered by builder warranty. Exterior repairs and maintenance of the buildings will be the responsibility of the condominium association. Interior and exterior repairs and maintenance made to the community building will be the responsibility of the condominium association the estimated expenses associated with the interior and exterior repairs and maintenance described in this section were made by Cameron Southerland and Sons, 2650 Knapp Road, Dundee, New York 14837. Building Maintenance costs may include repair of windows, doors, locks, walls, utility lines, painting of the interior of the Community Building, and all other general maintenance items not otherwise covered in the budget. Maintenance supplies may include cleaning supplies, tools, paint and equipment and supplies necessary for the Building Maintenance. The budget figures will be updated

when Condominium operations commence and actual Building maintenance requirements and expenses can be more readily ascertained.

6. **INSURANCE:** The condominium association will carry an insurance policy to cover fire and casualty to the buildings, liability for the common area and a director's and officer's liability policy. Each liability policy will be in the amount of \$1,000,000.00 per occurrence, with a general aggregate amount of \$2,000,000.00. The deductibles on the fire and casualty insurances \$2,500.00. The fire and casualty insurance will cover the replacement of the buildings in the event of a total loss. The insurance policies will name the unit owners as an additional insured and will provide that: (a) the policy contains an agreed value endorsement which waives the coinsurance clause; (b) ~~there will be~~ no cancellation without notice to the board of directors; (c) a waiver of subrogation is included; and (d) a waiver of pro-rata reduction if homeowners obtain additional coverage is included. The aggregate budgeted amount for all such insurances is \$6,786.51. This quote was provided by the Tower Insurance Company of New York, 120 Broadway, New York, New York 10271.
7. **LAWN AND LANDSCAPE MAINTENANCE:** Lawns will be mowed weekly with an expected season of 26 weeks. Lawns will be fertilized, including two applications of weed and feed. Foundation plantings will be trimmed during the summer growing season. The proposal for lawn and landscape maintenance services is provided by TML Excavating & Associates, 3134 Skyline Drive, Penn Yan, New York 14527.
8. **LEGAL FEES:** This estimate is provided by Phillips Lytle LLP and includes annual responses to audit requests.
9. **MANAGEMENT:** While the sponsor is in control of the board of managers the sponsor will self-manage the condominium at no cost. When the living unit owners obtain the board of managers the unit owners may elect to hire a management company to manage the condominium at an additional expense.
10. **LABOR:** There will be no employees or associated payroll expenses.
11. **OFFICE SUPPLIES:** These estimated expenses were made by the sponsor.
12. **REFUSE DISPOSAL:** Refuse disposal will be provided to each living unit, and paid for by the condominium association dues. Refuse removal for the community building will be paid for by the condominium association dues. A proposal for refuse disposal services is provided by Casella Waste Systems, Inc., 54 Doran Avenue, Geneva, New York 14456.
13. **RESERVE FUND (ROOF AND SIDING):** Replacement of the roof of the buildings will be the responsibility of the condominium association. The estimate for

replacement of the roofs was made by Cameron Southerland and Sons, 2650 Knapp Road, Dundee, New York 14837. The roof and siding reserve for replacement budget number is predicated upon a fifty (50) year roof life cycle and a twenty (25) five year vinyl siding life cycle.

14. **RESERVE FUND (ROAD MAINTENANCE):** All roads, parking areas, driveways and sidewalks are to remain private. General maintenance of the roads will be the responsibility of the condominium association. The estimate for maintenance of the roads was made by the sponsor.
15. **SECURITY SYSTEM:** The Community Building security system proposal for monthly security system monitoring services is provided by Covert Security, Inc., 1812 State Route 14A, Penn Yan, New York 14527.
16. **SNOW REMOVAL:** The projected expense is for snow plowing of roads, driveways and walks. A proposal for snow removal services is provided by TML Excavating & Associates, 3134 Skyline Drive, Penn Yan, New York 14527.
17. **TELEPHONE:** Community land line telephone. Estimate for monthly telephone services is provided by sponsor.

This budget estimate is prepared for a twelve month period with a commencement date of March 1, 2014. If the actual or anticipated date of commencement of Condominium operation is to be delayed more than six months from the budget year projected in the offering plan, the plan will be amended to include a revised budget disclosing current projections. If such amended projections exceed the original projections by 25 percent or more, the Sponsor will offer all purchasers the right to rescind and a reasonable period of time that is not less than 15 days after the date of presentation to exercise the right, whether or not sponsor offers to guarantee the previous budget projection. Sponsor shall return any deposit or down-payment within a reasonable period of time to purchasers who rescind within a reasonable period of time. Sponsor may not declare this plan effective where there are any material changes to the budget if these changes have not be disclosed by a duly filed amendment to the offering plan.

SCHEDULE B-1
PROJECTED BUDGET FOR INDIVIDUAL ENERGY COSTS

The following projected budget illustrates the anticipated charges a Unit Owner will incur for natural gas and electrical services to three typical Units. These estimates are based on estimated unit consumption charges. Actual charges incurred may vary from these projections due to such factors as individual consumption habits, fluctuations in utility rates and weather conditions.

<u>Unit sq. ft.</u>	<u>1299 sq. ft</u>	<u>1402 sq. ft</u>
Natural Gas	\$832.00/year ¹	\$1,024.00/year ¹
Electric	\$943.42/year ²	\$1,100.65/year ²
Total energy cost + 10% ³	\$1,951.96/year	\$2,337.12/year

Footnotes

1. Natural Gas – Annual cost of natural gas service is based on the following assumptions: (i) an average consumption rate of 65 therms per month for the 1299 sq. ft. Unit and 80 therms per month for the 1402 sq. ft. Unit, (ii) a rate of \$0.69817/therm for supply charges, (iii) a rate of \$0.3685/therm for delivery charges and assessments, (iv) a 4.00% state sales tax, and (v) a 4.00% county sales tax.
2. Electric – Annual cost of electrical service is based on the following assumptions: (i) an average consumption rate of 600 kWh per month for the 1299 sq. ft. Unit and 700 kWh per month for the 1402 sq. ft. Unit, (ii) a rate of \$0.06666/kWh for electric supply, (iii) a rate of \$0.06437/kWh for delivery charges, and (iv) taxes on delivery of 2.04082%.
3. Total energy cost - The total energy costs include an additional 10% for inflation.

admitted to practice law in the State of New York. Neither the Escrow Agent nor any authorized signatories on the account are the Sponsor, Selling Agent, Managing Agent, or any principal thereof, or have any beneficial interest in any of the foregoing.

The Escrow Account:

The Escrow Agent has established the escrow account at Canandaigua National Bank, located in Rochester, New York ("Bank"), a bank authorized to do business in the State of New York. The escrow account is entitled "Handelman, Witkowitz & Levitsky, LLP Attorney Escrow Account/IOLA Brandy Bay Heights Escrow Account" ("Escrow Account"). The Escrow Account is federally insured by the FDIC at the maximum amount of \$250,000 per deposit. Any deposit in excess of \$250,000 will not be insured.

All Deposits received from Purchaser shall be in the form of checks, money orders, wire transfers, or other instruments, and shall be made payable to or endorsed by the Purchaser to the order of Handelman, Witkowitz & Levitsky, LLP, as Escrow Agent.

Any Deposits made for upgrades, extras, or custom work shall be initially deposited into the Escrow Account, and released in accordance to the terms of the Purchase Agreement.

The Escrow Account is an interest bearing account. Interest earned on the account will be credited to the New York State Interest on Lawyer Account Fund ("IOLA"), in accordance with the provisions of New York Judiciary Law Section 497. Buyer will not receive credit for interest earned on the Escrow Account. No fees of any kind may be deducted from the Escrow Account, and the Sponsor shall bear all costs associated with the maintenance of the Escrow Account.

The Purchase Agreement:

The Purchase Agreement is attached hereto as Exhibit C in Part II of this Offering Plan. The relevant escrow trust fund provisions are included in Section 17 of the Purchase Agreement, which must be executed by the Escrow Agent.

Notification to Purchaser:

Within five (5) business days after the Purchase Agreement has been tendered to Escrow Agent along with the Deposit, the Escrow Agent shall sign the Purchase Agreement and place the Deposit into the Escrow Account. Within ten (10) business days of placing the deposit in the Escrow Account, Escrow Agent shall provide written notice to Purchaser and Sponsor, confirming the Deposit. The notice shall provide the account number and the initial interest rate to be earned on the Deposit. Any Deposits made for upgrades, extras, or custom work shall be initially deposited into the Escrow Account, and released in accordance to the terms of the Purchase Agreement.

The Escrow Agent is obligated to send notice to the Purchaser once the Deposit is placed in the Escrow Account. If the Purchaser does not receive notice of such deposit within fifteen (15) business days after tender of the Deposit, he or she may cancel the Purchase Agreement within ninety (90) days after tender of the Purchase Agreement and Deposit to Escrow Agent. Complaints concerning the failure to honor such cancellation requests may be referred to the New York State Department of Law, Real Estate Finance Bureau, 120 Broadway, 23rd Floor, New York, N.Y. 10271. Rescission shall not be afforded where proof satisfactory to the Attorney General is submitted establishing that the Deposit was timely placed in the Escrow Account in accordance with the New York State Department of Law's regulations concerning Deposits and requisite notice was timely mailed to the Purchaser.

Release of Funds:

All Deposits, except for advances made for upgrades, extras, or custom work received in connection with the Purchase Agreement, are and shall continue to be the Purchaser's money, and may not be comingled with any other money or pledged or hypothecated by Sponsor, as per GBL § 352-h.

Under no circumstances shall Sponsor seek or accept release of the Deposit of a defaulting Purchaser until after consummation of the Plan, as evidenced by the acceptance of a post-closing amendment by the New York State Department of Law. Consummation of the Plan does not relieve the Sponsor of its obligations pursuant to GBL §§ 352-e(2-b) and 352-h.

The Escrow Agent shall release the Deposit if so directed:

(a) pursuant to terms and conditions set forth in the [Escrow Agreement/Purchase Agreement] upon closing of title to the [Unit/Shares/Membership Interests/Fractional Interest]; or

(b) in a subsequent writing signed by both Sponsor and Purchaser; or

(c) by a final, non-appealable order or judgment of a court.

If the Escrow Agent is not directed to release the Deposit pursuant to paragraphs (a) through (c) above, and the Escrow Agent receives a request by either party to release the Deposit, then the Escrow Agent must give both the Purchaser and Sponsor prior written notice of not fewer than thirty (30) days before releasing the Deposit. If the Escrow Agent has not received notice of objection to the release of the Deposit prior to the expiration of the thirty (30) day period, the Deposit shall be released and the Escrow Agent shall provide further written notice to both parties informing them of said release. If the Escrow Agent receives a written notice from either party objecting to the release of the Deposit within said thirty (30) day period, the Escrow Agent shall continue to hold the Deposit until otherwise directed pursuant to paragraphs (a) through (c) above. Notwithstanding the foregoing, the Escrow Agent shall have

the right at any time to deposit the Deposit contained in the Escrow Account with the clerk of the county where the Unit is located and shall give written notice to both parties of such deposit.

The Sponsor shall not object to the release of the Deposit to:

(a) a Purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an Amendment to the Plan; or

(b) all Purchasers after an Amendment abandoning the Plan is accepted for filing by the Department of Law.

The Department of Law may perform random reviews and audits of any records involving the Escrow Account to determine compliance with all applicable statutes and regulations.

Waiver Void:

Any provision in the Purchase Agreement or separate agreement, whether oral or in writing, by which a Purchaser purports to waive or indemnify any obligation of the Escrow Agent holding any Deposit in trust is absolutely void. The provisions of the Attorney General's regulations and GBL §§ 352-e(2-b) and 352-h concerning escrow trust funds shall prevail over any conflicting or inconsistent provisions in the Purchase Agreement, Plan, or any amendment thereto.

Liquidated Damages in Event of Purchaser's Default.

If a purchaser defaults in the performance of the purchaser's obligations under the Purchase Agreement, the Sponsor will provide purchaser 30 day written notice affording purchaser the opportunity to cure such default. If such default is not cured within 30 days after receipt of such notice, the Sponsor may cancel the Purchase Agreement and retain or collect from purchaser as liquidated damages an amount equal to (a) 10% of the contract price, excluding from the contract price solely for the purpose of computing liquidated damages the cost to Purchaser of any "extras", changes or modifications to the Unit which were contracted for by Purchaser; and (b) the actual costs incurred by the Sponsor for any "extras", changes or modifications to the Unit which were contracted for by the purchaser.

Notice to Close.

After this Offering Plan has been declared effective the Sponsor will fix dates for closing title to all Units for which Purchase Agreements have been executed by serving notice on each purchaser stating the date of the first closing and setting such purchaser's closing date. Such notice will be served on each purchaser no less than thirty (30) days before the date set for the closing of the Units. Such service will be made by personal delivery or by mailing regular mail or registered or certified mail with or without return receipt requested at the last known

address of such purchaser, or if the purchaser has provided written information of an alternative address to the purchaser at such alternative address.

Thereafter, the Sponsor will give the purchaser at least 10 days prior written notice to close. Such notice will advise the purchaser of the status of payment of Common Charges on the Unit and when the purchaser's first payment of Common Charges will be due and payable. Any balance owing on the purchase price of the Unit shall be payable at the time of closing.

Risk of Loss.

If a Unit is damaged or destroyed by fire or other casualty, the risk of such a loss remains with the Sponsor unless and until either the Purchaser takes actual possession of the Unit pursuant to a written agreement with Sponsor, or legal title to the Unit has been conveyed to the Purchaser. Prior to closing of the transfer of title the first Unit in a Building, the Building will be insured by the Sponsor. After the closing of the transfer of title the first Unit in a Building, the Building will be insured by the Condominium. Any person who takes possession of a Unit or Building prior to closing of the transfer of title to such assumes the risk of losses not covered by insurance.

Financing Contingency.

The Sponsor is not designating and has not procured any specific lender to finance the purchase of individual Units by Purchasers. Purchasers may obtain any necessary financing from any source available to them. The Purchase Agreement may provide the Purchaser's obligation to purchase is contingent on the Purchaser obtaining such financing.

Unless the purchaser is a "cash" buyer, the purchaser's obligations to consummate the purchase may be made contingent on the purchaser obtaining mortgage financing on equal or better terms than as provided in the Purchase Agreement. The Purchaser will make application for such loan within five (5) days of the date on which the Sponsor accepts the Purchase Agreement and will notify the Sponsor in writing when the mortgage application, if any, is made and, in due course, when it is accepted or rejected. If the Purchaser does not receive a commitment for a mortgage loan within 60 days from the date of application and the Purchaser so notifies the Sponsor in writing within five (5) days after the expiration of the 60-day period, the Purchase Agreement shall terminate upon such written notice to the Sponsor and the Sponsor shall cause the downpayment to be returned to the Purchaser, with any interest earned thereon. The conditions of any such mortgage commitment shall not be deemed contingencies of the Purchase Agreement but shall be the sole responsibility of the Purchaser. Acceptance of a written mortgage commitment by the Purchaser shall be deemed a waiver and satisfaction of such contingency. Purchaser agrees to use its best efforts to satisfy any contingencies and comply with any deadlines contained in such mortgage commitment. Notwithstanding anything to the contrary, Purchaser's financing commitment lapses or expires prior to closing of the purchase and sale, and the Purchaser has made a good faith effort to extend the financing commitment,

then the Sponsor must offer Purchaser a right of rescission of the Purchase Agreement and a reasonable period of time to exercise such right of rescission.

Provisions of Offering Plan Control.

Any conflict between the terms, provisions and conditions of this Offering Plan and those of the Purchase Agreement will be resolved in favor of the Offering Plan.

ASSIGNMENT OF PURCHASE AGREEMENTS

The Purchaser may not assign the Purchase Agreement without the prior written consent of the Sponsor. Any purported assignment of the Purchase Agreement by the Purchaser without the Sponsor's consent shall be deemed null and void.

EFFECTIVE DATE OF THE OFFERING PLAN

The Sponsor's offer to sell the Units is contingent on this Offering Plan being declared effective and the compliance with the relevant conditions and time periods described in this section of the Plan. The Sponsor is reserving the right to rent unsold Units, and all Units are vacant.

The Sponsor will not declare the Plan effective until Purchase Agreements have been signed with bona fide Purchasers for at least 15% or three (3) of the Units. When this quota has been achieved, the Plan will be declared effective. The Offering Plan will not be declared effective based on Purchase Agreements: (i) signed by Purchasers who have been granted a right of rescission which has not yet expired or been waived, (ii) signed by Purchasers who have not been in possession of the Offering Plan for at least three (3) days prior to signing, unless eight (8) days have passed without such Purchaser rescinding such purchase, (iii) with any Purchaser who is the Sponsor, the selling agent or managing agent, or is a principal of any one of them, or is related by blood, marriage or adoption to a principal of any one of them, or who is a business associate, an employee, a shareholder or a limited partner of any one of them, except that such a Purchaser (other than the Sponsor or a principal of the Sponsor) may be included if the Sponsor has submitted proof satisfactory to the Department of Law establishing that the Purchaser is bona fide. This Offering Plan must be declared effective when Purchase Agreements have been accepted by the Sponsor for 80% or three (3) or more of the Units offered under this Offering Plan.

If this Offering Plan is abandoned after the Sponsor has accepted Purchase Agreements, the Sponsor shall promptly submit an amendment to the Office of the Attorney General together with form RS-3 as promulgated by the Office of the Attorney General. If payments under purchase agreements have been received, the funds will be returned to the purchasers within five (5) days after the amendment abandoning the plan has been accepted by

the Office of the Attorney General for filing. If there are no outstanding purchaser agreements the Sponsor need not submit an amendment but shall submit a form RS-3 to the Office of the Attorney General, which shall be served simultaneously by the Sponsor on all commercial or professional tenants, if any. Such service will be made by personal delivery or by mailing regular mail or registered or certified mail with or without return receipt requested at the last known address of such tenant, or if the tenant has provided written information of an alternative address to the tenant at such alternative address.

This Offering Plan may be declared effective by an amendment duly filed with the Department of Law or by notice to all Purchasers followed, within five (5) business days thereafter, by the submission of an amendment to the Department of Law together with an affidavit of service of such notice on all Purchasers who shall be identified by name, address, Unit purchased, purchase price exclusive of extras and total purchase price. If requested, the Sponsor shall submit to the New York State Department of Law copies of all Purchase Agreements (and any amendments or modifications to such agreements) within five (5) business days after the request is made.

The closing of the first Unit shall not occur until this Offering Plan is declared effective and the amendment declaring this Offering Plan effective is accepted for filing by the Department of Law. Sponsor expects the first Unit closing to occur in March 2014. If such date is delayed for more than 12 months, the Sponsor shall offer all Purchasers at that time a right of rescission.

The Sponsor may not abandon this Offering Plan after it has been declared effective for any reason, other than (i) a defect in title which cannot be cured without litigation or cannot be cured for less than a stated amount which shall not be less than one-half of one percent of the total offering amount, or (ii) substantial damage or destruction of the Building(s) by fire or other casualty which cannot be cured for less than a stated amount which shall not be less than one-half of one percent of the total offering amount, or (iii) the taking of any material portion of the Property by condemnation or eminent domain. Any stated dollar amount relied upon as a basis for abandonment after effectiveness must exclude any attorneys' fees or any such title defects or determinations of any authority or regulatory association which exist on the date of presentation of this Offering Plan and are either known to the Sponsor or are a matter of public record.

TERMS OF SALE/CLOSING OF TITLE TO UNITS

The term "closing" refers to the procedure by which title to a Unit is actually conveyed by the Sponsor to a purchaser. It involves the simultaneous delivery of: (1) a signed bargain and sale deed from the Sponsor to purchaser; and (2) the purchase money from the purchaser to the Sponsor. Also involved is the recording of the mortgage, if any, and the deed.

The closing of title to each Unit will take place only after or concurrently with the following events:

1. Issuance of a partial, temporary or permanent certificate of occupancy for the Unit or for the building in which the Unit is located.
2. Compliance by the Sponsor with all terms of any mortgage financing offered or procured by the Sponsor.
3. The appropriate recording in the Yates County Clerk's Office of the Declaration and By-Laws, and the filing with respect to the Units offered pursuant to this Offering Plan of floor plans and engineer's or architect's and tax authority certifications required by Section 339-p of the New York Condominium Act and such other documents as may be required by law.
4. Discharge or partial release duly recorded of all liens affecting the Unit to be closed and its undivided common interest as required by Section 339-r of the New York Condominium Act.
5. The Sponsor has given each purchaser at least 30 days prior written notice of the date on which title to such purchaser's Unit will close, and the opportunity to inspect the Unit and other property subject to the Declaration.
6. The Sponsor has delivered a deed in the form required by the Purchase Agreement.
7. The Sponsor has assigned to the purchaser all assignable manufacturer's warranties with respect to equipment and appliances installed in the Unit and has assigned to the Board of Managers all assignable manufacturer's warranties with respect to equipment and appliances installed in the common elements.
8. All mortgages on the Property prior to the recording of the Declaration are subordinated to the Declaration.
9. The purchaser shall execute an instrument in the form annexed to the Purchase Agreement designating the Board of Managers as the purchaser's attorney-in-fact, coupled with an interest for the sole purpose of managing, selling, mortgaging, leasing, voting or otherwise dealing with any Units acquired by the Board of Managers in accordance with any of the provisions of the By-Laws.
10. This Offering Plan has been amended to disclose that it has been declared effective and to confirm that any Units to be closed have been constructed in accordance with any applicable plans and specifications and that the Sponsor has complied with, or will concurrently with closing comply with,

the requirements of subparagraphs 1 through 9 of this section of this Offering Plan entitled "Closing of Title to the Units."

11. If so requested by the purchaser, the issuance to the purchaser (at the purchaser's expense) of a binder for title insurance from a title company licensed in the State of New York insuring (i) that such purchaser has good and marketable fee title to the Unit purchased, free and clear of all liens and encumbrances except those set forth in the Purchase Agreement, and subject to the provisions of the Declaration and By-Laws and any mortgage executed or assumed by the purchaser and (ii) that the Condominium was validly formed pursuant to Article 9-B of the Real Property Law.

Title to each Unit and its appurtenant interest in the Common Elements will be conveyed at the closing free and clear of all liens, encumbrances and title exceptions other than those described in this Offering Plan, the Purchase Agreement and the proposed Unit deed. Purchasers will need to execute and deliver a power of attorney to be granted to the Condominium Board of Managers at the closing of a Unit as set forth in Section 13 of the Purchase Agreement. The Purchaser's will be provided a Bargain and Sale with Covenant Against Grantor's Acts and Lien Covenant.

All personal property located within the Unit on the date the Purchase Agreement is signed that is owned by the Sponsor or the Unit Owner, if not the Sponsor, is included in the conveyance, unless otherwise provided in the Purchase Agreement. Any and all damage to a Unit prior to a closing shall be the Sponsor's responsibility. If a Unit is damaged or destroyed by fire or other casualty prior to the closing of title, Sponsor shall have the option to (i) repair such damage at its cost and expense, in which event any purchase agreement shall remain in full force and effect and the time for closing shall be extended for up to 120 days to repair such damage; or (ii) return the downpayment to Purchaser and terminate the purchase agreement, in which case Purchaser shall have no further claim against Seller.

CLOSING COSTS AND ADJUSTMENTS

Sponsor's Costs. Prior to the first closing or in conjunction with individual Unit closings, the Sponsor will pay for the following: (1) obtaining and recording any release of the Unit and its appurtenant interest in the Common Elements from the lien of any mortgage not assumed by the Unit purchaser; (2) obtaining and recording a subordination to the Declaration of any mortgage affecting any portion of the Property; (3) continuing the master title search of the Property to the date of closing; and (4) preparation of the deed to the Unit purchaser.

Purchaser's Costs. Each individual purchaser shall be responsible for the cost of the following: (1) recording the deed to the purchaser (\$36.00 est.); (2) filing Form RP-5217 Real Property Transfer Report (\$125.00); (3) filing Form TP-584 Real Estate Transfer Tax Return (\$5.00); (4) recording of any mortgage obtained by purchaser (up to \$110.00 est.);

(5) mortgage tax on any mortgage obtained by purchaser (1/2 of 1% of the mortgage amount up to \$10,000.00 and 3/4 of 1% of the mortgage amount over \$10,000.00); (6) attorneys' fees of any lender granting purchaser a mortgage (est. up to 1% of the mortgage amount); (7) judgment search required by any lender granting purchaser's mortgage (\$50.00); (8) reimbursement to Sponsor for any mortgage tax credit on purchaser's mortgage granted pursuant to Section 339-ee(2) of the New York Condominium Act (the amount between the mortgage tax as if no credit was applied as per (3) above less the amount of mortgage tax actually paid on purchaser's mortgage); (9) any "points", "origination fees" or appraisal fees charged by purchaser's mortgage lender (the amount of such fees varies from lender to lender and, at the time of the initial offering under this Plan were in an amount of up to 5% of the mortgage amount); (10) the cost of title insurance required by purchaser's mortgage lender (\$299.00 for first \$35,000.00 plus \$6.61 per \$1,000.00 of the mortgage amount up to \$50,000.00, \$4.10 per \$1,000.00 of the mortgage amount up to \$100,000.00), and \$3.31 per \$1,000 of the mortgage over \$100,000.00 and the cost of "fee" or owner's title insurance if desired by purchaser (\$303.00 for first \$35,000.00 plus \$6.74 per \$1,000.00 of the purchase price up to \$50,000.00, \$4.20 per \$1,000.00 of the purchase price up to \$100,000.00), and \$3.39 per \$1,000.00 of the purchase price above \$100,000.00; (if "fee" title insurance as well as mortgagee or lender's title insurance is obtained, a "simultaneous" or reduced rate for the lender's title insurance is available); (11) the recording of the power of attorney to be granted by the purchaser to the Condominium Board of Managers (\$36.00 est.); (12) reimbursement to Sponsor for the deed stamps to be placed on the deed from Sponsor to purchaser (\$2.00 for each \$500.00 of the purchase price less the amount of any mortgage assumed by the purchaser), which is a cost customarily borne by the seller; (13) Sponsor's initial working capital contribution advances on behalf of the purchaser to the Condominium (equal to two months' common charges for all Units); and (14) the fee of purchaser's attorney, if any (the amount of such fee shall be as agreed upon between purchaser and purchaser's attorney).

The purchaser is not required to pay any portion of the fee of Sponsor's attorney.

A purchaser who elects financing may be required to make an escrow deposit for real estate taxes or other expenses, as required by the lender.

The required closing costs for Purchaser of a typical Unit (i.e. 1-B) at the cost of \$248,900.00 are set forth below:

Deed Recording	\$36.00
Form RP-5217	\$125.00
Form TP-584	\$5.00
Power of Attorney Recording	\$36.00
Contribution to working capital (2 months)	\$599.68
Deed Stamps	<u>\$980.00</u>
Total	\$1,781.68

The above closings costs do not include attorneys fees or the premium for a fee title insurance policy, as these costs are optional. Further, these costs do not include any costs associated with obtaining financing for the purchase, which are also Purchaser expenses.

Adjustments at Closing for Taxes and Common Charges.

Real estate taxes for each Unit for the tax year in which title closes and the Condominium common charges for each Unit for the month in which title closes will be apportioned between the Sponsor and the purchaser as of the date of closing of title. In the event that a Unit has not been separately assessed on the closing date for the then current tax fiscal year, the Sponsor will place in escrow, in the name of the Board of Managers, an amount equal to the unpaid real estate taxes which are projected to be levied against the entire Property for the six (6) month period following the first closing or until the Units are separately assessed, whichever period is shorter. Such funds shall be released only upon the signature of an attorney with the law firm of Handelman, Witkowitz & Levitsky, LLP, which represents the Sponsor with respect to sales of Units. The Sponsor will cause the real estate taxes to be paid from the escrow account when they are due and payable, and shall be entitled to reimbursement from the Unit purchasers for any additional taxes paid on the Unit owned by such purchaser applicable to the period of such purchasers' ownership.

RIGHTS AND OBLIGATIONS OF SPONSOR

1. The Sponsor has obtained financing for the construction of improvements to the Common Areas as follows:

a. Commercial Infrastructure Line of Credit in the amount of \$590,000.00 by The Lyons National Bank for site improvements. The construction loan contains no provisions regarding the Sponsor's obligation to market the Units for sale, or regarding any minimum number or percentage of Units which must be under contract before the Offering Plan can be declared effective and Unit closings commence.

b. Commercial Building Line of Credit in the amount of \$520,000.00 by The Lyons National Bank for Units. The construction loan contains no provisions regarding the Sponsor's obligation to market the Units for sale, or regarding any minimum number or percentage of Units which must be under contract before the Offering Plan can be declared effective and Unit closings commence.

c. Commercial Line of Credit in the amount of \$63,000.00 by The Lyons National Bank for operating costs. The construction loan contains no provisions regarding the Sponsor's obligation to market the Units for sale, or regarding any minimum number or percentage of Units which must be under contract before the Offering Plan can be declared effective and Unit closings commence.

d. The loans at 1.a. - 1.c. above will be secured with one mortgage in the amount of \$1,173,000.00. The Sponsor and the lender have agreed on a release price of

\$75,000.00 plus 80% of the actual cost of the Unit to be sold to be paid to the lender for the release of each Unit from the lien of the construction mortgage at the time of closing.

2. The Sponsor will build and complete the construction of the Condominium in accordance with the description of the Property as set forth in Part II of this Offering Plan. The Sponsor reserves the right to substitute equipment or materials and to make modifications of layout or design, provided, however, that the Sponsor may not (i) substitute equipment or materials of lesser quality or design; or (ii) change the size or location of buildings, Units, other improvements or common elements if such changes affect the percentage of common interests or adversely affect the value of any Unit to which title has closed or for which a purchase agreement has been executed and is in effect unless all affected Unit Owners consent in writing to such change and all affected contract purchasers are given the right to rescind and receive any deposit or downpayment.

3. Except as provided in paragraph 4 below, the Sponsor must obtain a permanent certificate of occupancy for the Property or, alternatively, obtain a temporary, partial or conditional certificate of occupancy for the Unit to be closed. The Sponsor and the principals of the Sponsor will obtain a permanent certificate of occupancy for the Property not later than one year after the issuance of the temporary, partial or conditional certificate of occupancy, if available from the Town of Jerusalem at that time. The date or dates of the permanent certificates shall not be later than the expiration date of any partial, temporary or conditional certificate of occupancy or of any extension of any partial, temporary or conditional certificate of occupancy for such Property or Unit.

4. If the closing of Units takes place prior to the issuance of a permanent certificate of occupancy until the certificate of occupancy is issued, the Sponsor will retain all purchasers' deposits in a special escrow account as required by Sections 352-e(2)(b) and 352-h of the New York General Business Law unless (i) the Sponsor's engineer or architect certifies that the amount needed to complete the work necessary to obtain a permanent certificate of occupancy is less than the amount of the purchasers' deposits held in escrow, in which case the sum exceeding the amount so certified by the Sponsor's engineer or architect may be released from the escrow account, or (ii) the Sponsor posts a surety bond at least in the amount certified by the Sponsor's engineer or architect as the cost to complete the work necessary to obtain a permanent certificate of occupancy or (iii) the entire amount held in escrow may be released if the Sponsor deposits with an escrow agent an unconditional, irrevocable letter of credit or posts a bond, the election to use such irrevocable letter of credit or to post such bond to be disclosed by a duly filed amendment to this Offering Plan.

5. New York General Business Law Section 777-a grants to buyers of most newly constructed Units a Housing Merchant Implied Warranty. The following is a brief summary of that law:

A. Housing affected:

Newly constructed single-family homes and cooperative and residential condominium Units in buildings of five stories or less.

B. Coverage:

1. For one year, the home must be free from defects caused by workmanship or materials that do not meet the standards of the applicable building code; for items not covered by code, the construction must be in accordance with locally accepted building practices.
2. For two years, the plumbing, electrical, heating, cooling and ventilation systems must be free from defects caused by unskillful installation.
3. For six years, the home must be free from physical defects in the structural elements (foundation, floors, walls, roof framing) which make it unsafe or unlivable.

C. Not covered:

1. A defect not caused by defective workmanship, materials or design.
2. A patent defect which was obvious or would have been obvious upon inspection.
3. Defects in items sold with the home, such as stoves, refrigerators, air conditioners, etc. There are implied warranties from the manufacturers of such goods which are described in other laws.

D. Notice:

Buyers must give notice of defects in their home in writing no later than 30 days after the end of the warranty period.

E. Limitation of the Warranty:

The Housing Merchant Implied Warranty can be limited. However, the limited warranty cannot permit construction which is below code or below locally accepted building practices, and the limited warranty time periods cannot be shorter than those described above.

In this offering, the Housing Merchant Implied Warranty is limited as follows:

- (a) The Limited Warranty extends to the Initial Purchaser only.

(b) Limited Warranty requires that a court action brought to enforce any term of the Limited Warranty or any right conferred on Purchaser by the giving of the Limited Warranty, must be commenced within the time periods set forth in the Limited Warranty (see Section 9 of the Limited Warranty).

(c) The Limited Warranty provides a procedure which must be complied with when making any claim to Seller for repair and/or replacement. Failure to comply with this procedure will result in the loss of warranty coverage (see Section 8 of the Limited Warranty).

(d) The Limited Warranty provides Seller the right to inspect, test and repair any damage prior to the Purchaser being permitted to repair and/or replace the damage by use of an independent contractor. (See Section 8c of the Limited Warranty).

(e) The Limited Warranty excludes consequential and incidental damages.

(f) The Limited Warranty limits Seller's total liability under the warranty coverage provided.

(g) The Limited Warranty provides for arbitration in the event of a dispute. However, any decision resulting from such arbitration will not be binding on any party unless such party has consented in writing to be bound by such arbitration. (See Section 10 of the Limited Warranty).

See paragraph 15 of the Purchase Agreement and the terms of the limited warranty in Part II of this Offering Plan.

Prior to the closing of the Unit, the Sponsor must assign any manufacturer's warranties with respect to equipment and appliances installed in the Unit to the Unit Owner and assign any warranties with respect to equipment and appliances installed in the common elements to the Board of Managers.

6. The Sponsor will pay for all authorized and proper work involved in the construction and establishment and sale of the Property and will cause all mechanic's liens with respect to such construction to be promptly discharged or bonded.

7. Prior to the transfer of title to the first Unit, the Sponsor will record the Declaration.

8. The Sponsor has no obligation to defend any suit or other proceeding or to indemnify the Board of Managers or Unit Owners because of any act or omission of the Sponsor, except that during the course of construction, to the fullest extent permitted by law, the Sponsor shall indemnify and hold the purchaser harmless from and against all claims, damages, losses and expenses, including reasonable attorneys' fees arising out of or resulting from Sponsor's construction, and occurring during the course thereof, provided that such claim, damage, loss or

expense (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the construction itself), and (ii) is caused in whole or in part by negligent act or omission of the Sponsor, any subcontractor of Sponsor, anyone directly or indirectly employed by Sponsor or any subcontractor of Sponsor or anyone for whose acts Sponsor or Sponsor's subcontractors may be liable. This indemnification obligation shall not be limited or precluded by any workers' compensation act, disability acts or other employee benefit acts.

9. The Sponsor will furnish to the Board of Managers a set of "as built" plans and specifications promptly upon the completion of construction or the transfer of title to the first Unit, whichever last occurs. Pursuant to Section 339-p of the New York Condominium Act, the Sponsor will have filed with the Declaration or as an amendment to the Declaration a verified statement by a licensed engineer or architect that the filed plans fully and fairly depict the Units as built.

10. With respect to unsold Units which it owns, the Sponsor will pay all Common Charges and special assessments. The Sponsor has sufficient net worth and financial resources to meet its obligations with respect to unsold Units. The Sponsor anticipates that the primary source of funding such obligations will be income from projected sales. If the income from sales is insufficient, the Sponsor will utilize funds contributed or loaned to the Sponsor by principals of the Sponsor.

11. Copies of this Offering Plan and all exhibits or documents referred to herein shall be available for inspection by prospective purchasers and by all persons who shall have purchased Units offered by this Offering Plan or who shall have participated in the offering of such Units at the office of the Sponsor, 3289 Howard Davis Road, Bluff Point, New York 14478, and shall remain available for such inspection, upon notice, for a period of six (6) years.

12. The Sponsor can dissolve or liquidate at any time. If the Sponsor dissolves or liquidates, efforts of purchasers to enforce those obligations of Sponsor which survive the delivery of deeds to purchasers, as described in Paragraph 14 below, could be unenforceable unless the Sponsor makes arrangements, such as by furnishing a performance bond, to secure the performance of such obligations. In the event of the dissolution or liquidation of the Sponsor or the transfer of ten (10) or more Units or twenty percent (20%) or more of the total number of Units in the Condominium, whichever is less, the Sponsor will provide financially responsible entities or individuals who will assume the status and all of the obligations of the Sponsor for those Units under the offering plan, applicable laws or regulations.

13. The Sponsor will cause the Board of Managers to maintain the Property in substantially the same condition and manner as on the date of the first closing until the Sponsor no longer controls the Board of Managers.

14. The risk of loss or damage to a Unit by fire or other casualty until delivery of the deed shall be assumed by the Sponsor, and upon the happening of such event the Sponsor shall be responsible for the repair of the Unit. In the event the Sponsor cannot repair the Unit in a

reasonable time, the Purchaser shall have the election of terminating the Purchase Agreement without further liability, in which event the all sums received under the Purchase Agreement shall be returned to the Purchaser.

15. The Sponsor shall procure fire and casualty insurance pursuant to an agreement amount replacement value policy, or in an amount sufficient to avoid coinsurance, as reflected in Schedule B of this Offering Plan.

16. The only obligations of the Sponsor which shall survive delivery of the deeds to the Unit purchasers are the following:

- (a) the obligation to obtain the permanent certificate of occupancy as set forth in paragraph 3 above;
- (b) the limited warranty as to defects in materials and workmanship as set forth in paragraph 5 above;
- (c) the obligation to pay for all work and to discharge or bond all mechanic's liens as set forth in paragraph 6 above;
- (d) the indemnity obligations as set forth in paragraph 8 above;
- (e) the obligation to pay Common Charges and assessments as set forth in paragraph 10 above; and
- (f) the obligation to pay taxes for which monies were placed in escrow by the Sponsor because Units were not separately assessed prior to closing and which obligation is set forth in this Offering Plan in the section entitled "Closing Costs and Adjustments."

Notwithstanding the above, all representations under this Offering Plan, all obligations pursuant to the New York General Business Law, and such additional obligations under this Offering Plan which are to be performed subsequent to the closing date will survive delivery of the deed.

No bond or other security has been furnished by the Sponsor to secure performance of the Sponsor's obligations as set forth in this section of this Offering Plan or to complete the construction of the Property.

Nothing contained in this Offering Plan shall be a disclaimer or limitation of liability of the Sponsor or its principals for failure to perform any obligation imposed by applicable statute or regulation. Further, this Offering Plan does not contain any financial limitations on the Sponsor's liability for failure to perform its obligations under this Offering Plan.

**RENTS TO BE PAID TO BOARD OF MANAGERS
IF COMMON CHARGES ARE
PAST DUE MORE THAN 30 DAYS**

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

CONTROL BY THE SPONSOR

The affairs of the Condominium shall be governed by a Board of Managers. The Sponsor will have control of the Board of Managers so long as the Sponsor owns Units having 30% or more interest in the Common Elements. The Sponsor shall appoint all members of the Board of Managers for five (5) years from the date of the recording of the Declaration or until the transfer of title to 50% of the Units. After the transfer of title to 50% of the Units or the termination of said five (5) year period, the Sponsor shall notify all Unit Owners that the first meeting of the Unit Owners shall be held to elect board members within 30 days thereafter. After such time and so long as the Sponsor of the Condominium shall continue to own Units having: (i) 30% or more interest in the Common Elements, the Sponsor shall have the right to appoint two (2) of the three (3) members of the Board of Managers; (ii) less than 30% interest in the Common Elements, the Sponsor shall have the right to appoint one (1) of the three (3) members of the Board of Managers. When the Sponsor no longer owns Units having a 10% or more interest in the Common Elements, it shall have no further right to solely appoint any members of the Board of Managers. (See By-Laws Section 2.04). Further, the Sponsor has retained the unconditional right to rent Units it owns rather than selling such Units. While the Sponsor intends on selling of the Units it owns, if market conditions do not permit such sales, the Sponsor may rent such Units. This could result in a Condominium in which the majority of the Units are not owned by owner-occupants or investors unrelated to the Sponsor. Purchasers for their own occupancy may never gain control of the Board of Managers under the terms of this Plan.

Notwithstanding anything to the contrary, the Sponsor may not exercise veto power over expenses described in Schedule B, or over expenses required: (i) to comply with applicable laws or regulations; or (ii) to remedy any notice of violation; or (iii) to remedy any work order by an insurer. Sponsor may exercise veto power over expenses, other than those described 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-five percent (25%) of the common interest, whichever is sooner.

CONDOMINIUM BOARD MEMBERS - SUMMARY OF DECLARATION AND BY-LAWS

Composition, Election and Removal of Board of Managers of Condominium.

The Board of Managers shall consist of three (3) persons elected by the Unit Owners or appointed by the Sponsor (See By-Laws Section 2.04).

All members of the Board of Managers shall be (i) Unit Owners, (ii) spouses of Unit Owners, (iii) mortgagees of Units, (iv) members or employees of a partnership Unit Owner or mortgagee, (v) officers, directors, shareholders, employees or agents of a corporate Unit Owner or mortgagee, (vi) fiduciary or officers, agents or employees of a fiduciary Unit Owner, or (v) anyone appointed by the Sponsor (See By-Laws Section 3.01).

Nominations for elections to the Board of Managers shall be made by a nominating committee which shall be appointed by the Board of Managers or from the floor at the annual meeting of Unit Owners. (See By-Laws Section 3.04).

Members of the Board elected by the Unit Owners may be removed with or without cause by a majority of the Unit Owners at any regular or special meeting of Unit Owners. Any Board member whose removal has been proposed shall be given the opportunity to be heard at the meeting. (See By-Laws Section 3.05).

The first Meeting of the Unit Owners shall be thirty (30) days after the earlier to occur of: (i) five (5) years from the date of the recording of the Declaration, or (ii) until the transfer of title to 50% of the Units from Sponsor.

Special Meetings of the Unit Owners may be called by a resolution passed by a majority of the members of the Board of Managers, or upon a petition signed and presented to the Secretary by not less than 25% in common interest, in the aggregate, of Unit Owners. (See By-Laws Section 2.06).

Except for members of the Board of Managers initially appointed by the Sponsor, who shall serve until the first annual meeting of the Unit Owners or until replaced by the Sponsor, whichever first occurs, at the first annual meeting of the Unit Owners, and at any annual meeting at which the number of members of the Board of Managers is increased, the term of office of a majority of members of the Board of Managers shall be fixed at two (2) years, and the term of office of a minority of members of the Board of Managers shall be fixed at one (1) year. At the expiration of the initial term of office of each respective member of the Board of Managers, a successor shall be elected to serve for a term of two (2) years, so as to effectuate "staggered terms. (See By-Laws Section 3.04). The Board of Managers shall be composed of three (3) persons, all of whom shall be Owners or spouses of Owners or mortgagees of Units or,

in the case of partnership Owners or mortgagees, shall be members or employees of such partnership, or, in the case of corporate Owners or mortgagees, shall be the fiduciaries or officers, agents or employees of such fiduciaries, except for members of the Board of Managers appointed by the Sponsor. Except as set forth in the in Section 2.04 of the By-Laws, the Sponsor shall have no right to control the Board of Managers. All members of the Board of Managers shall be elected by the Unit Owners or Sponsor and shall serve for the terms prescribed by the By-Laws. (See By-Laws Section 3.04).

All members of the Board of Managers shall serve without compensation.

At any regular or special meeting of the Owners, any one or more of the members of the Board of Managers elected by the Unit Owners may be removed with or without cause, by a majority vote of the Unit Owners other than the Sponsor and a successor may then and there or thereafter be elected to fill the vacancy thus created. Any member of the Board of Managers whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting. (See By-Laws Section 3.05).

Any officer of the Condominium may be removed with or without cause, upon the affirmative vote of a majority of the members of the Board of Managers. (See By-Laws Section 4.03).

Each Unit Owner (including the Board of Managers if the Board of Managers shall then own or hold title to one or more Units) shall be entitled to cast one vote at all meetings of Unit Owners for each Unit owned by such Unit Owner

The following persons are the initial members of the Board of Managers and officers of the Condominium. Steven McMichael, William H. Sutherland and Fred M. Thomas are the principals and members of the Sponsor entity.

Steven McMichael (principal of Sponsor) - President
 Fred M. Thomas (principal of Sponsor) - Treasurer
 William H. Sutherland (principal of Sponsor) - Secretary

Powers and Duties of Board of Managers of Condominium

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-Laws may not be delegated to the Board of Managers by the Unit Owners. As set forth in By-Laws Section 3.02, such powers and duties of the Board of Managers shall include, but shall not be limited to, the following:

1. Determination and levying of annual assessments payable in monthly installments to cover the cost of common expenses required for the affairs of the Condominium, including without limitation, the operation and maintenance of the Property. The Board of Managers may increase the annual assessments or vote a special assessment in excess of that amount, if

required, to meet any additional necessary expenses, but said increases can only be assessed among the Unit Owners pro rata according to their respective Common Interest.

2. Collection, use and expending the assessments collected to maintain, care for and preserve the Common Elements.
3. Operation, care, upkeep and maintenance of the Common Elements.
4. Purchasing or leasing or otherwise acquiring in the name of the Board of Managers, or its designee, corporate or otherwise, on behalf of all Unit Owners, Units offered for sale or lease or surrendered by their Owners to the Board of Managers.
5. Obtaining and maintaining insurance for the Property, pursuant to the provisions of Article VII of the By-Laws.
6. Purchasing of Units at foreclosure or other judicial sales in the name of the Board of Managers, or its designee, corporate or otherwise, on behalf of all Unit Owners.
7. Selling, leasing, mortgaging, repairing, maintaining, voting the votes appurtenant to (other than the election of members of the Board of Managers), or otherwise dealing with Units acquired by, and subleasing Units leased by, the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners.
8. Suspend the right to the use of the Common Elements except for ingress and egress to the Unit Owner's home, during any period in which such Unit Owner shall be in default in the payment of any assessment levied by the Condominium. Such rights may also be suspended after a notice and Hearing for a period not to exceed 60 days for an infraction of published rules and regulations.
9. Bringing and defending actions against Unit Owner(s) which are pertinent to the operation of the Condominium, and bringing actions on behalf of Unit Owners as provided for in Section 339 dd of the Real Property Law or in the Declaration.
10. Borrowing money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the Common Elements, provided, however that (i) the consent of at least 67% in number and in Common Interest of all Unit Owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these By Laws, shall be required for the borrowing of any sum in excess of 5% of the amount of the then current annual budget of the Condominium and (ii) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Elements without the consent of the Unit Owner.
11. Adoption and amendment of reasonable rules and regulations covering the details of operation and use of the Property, Common Areas and Community Building. Such rules and regulations and amendments shall be binding upon the Unit Owner when the Board of Managers has approved them in writing. A copy of such Rules and Regulations and all amendments shall

be delivered to each Unit; any Unit Owner may make suggestions to the Board. Suggestions to consider changes to any of the Rules and Regulations of the Association must be submitted in writing and signed by 20% of the current Unit Owners' households. All proposed changes to the Rules and Regulations shall be communicated to all Unit Owners at least 10 days prior to the time the Board is to vote on such changes. A Special Meeting of the Unit Owners to discuss such changes to the Rules and Regulations in advance of the Board vote may be requested in writing to the Board and signed by 25% of the current Unit Owners households. A simple majority of the entire Board of Managers is required to approve such changes to the Rules and Regulations provided the quorum is met.

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

13. 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.

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

15. Complying with any change in New York law as it may affect the Condominium.

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

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

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

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

20. Cause a financial statement for the Condominium to be prepared by the Condominium's independent public accountant following the end of each fiscal year.

21. Cause the Condominium to meet the requirements to be classified as housing intended and operated for occupancy by persons 55 years of age or older set forth in the Fair

Housing Act (Title VIII of the Civil Rights Act of 1968), as amended, 42 U.S.C. §§3601-3619, 3631, as may be amended from time to time (the "Fair Housing Act").

Officers of the Condominium.

The officers of the Condominium shall be the President, the Secretary and the Treasurer. They shall be elected annually by the Board of Managers. Only the President must be a member of the Board of Managers. The Board of Managers may remove any officer by the affirmative vote of a majority of members of the Board of Managers. (See By-Laws Section 4.04 through 4.07).

Risks and Liabilities of Condominium Board Members, Officers and Unit Owners.

Because the Declaration gives the members of the Board of Managers and the officers of the Condominium control over the rights, interests, actions and property of other people, the officers and members of the Board of Managers are deemed to be in a fiduciary position.

Those in a fiduciary position are held to a higher standard of conduct than persons not in such position. Officers and members of the Board of Managers must discharge their duties (such as the enforcement of rules and regulations, collection of assessments and management of funds) in good faith and with a degree of diligence, care and skill which an ordinarily prudent person would exercise under like circumstances. A failure to act in such a manner which results in an illegal or tortious act which the Board member or officer participated in or could have prevented but did not, could result in personal liability. Failure to exercise proper supervision would also be grounds for finding a breach of fiduciary duty and personal liability.

The legal documents of the Condominium include several provisions designed to protect or indemnify officers, the Board of Managers, and individual Unit Owners from personal liability, including the following:

- The By-Laws (Section 3.11) provide that any contract or other commitment made by the Board of Managers, the managing agent or the manager shall state that the party entering into the contract is doing so only as the agent for the Unit Owners and shall have no personal liability (except as a Unit Owner), and that the liability of any Unit Owner in such contract shall be limited to the proportionate share of the total liability under the contract as the percentage interest in the common interest of the Condominium appurtenant to such Owner's Unit.
- The By-Laws (Section 7.01) provide for the obtaining of directors' and officers' liability insurance to have funds available to defend law suits against officers and/or members of the Board of Managers, and to pay any claims that may result. So long as any Board member has been elected or appointed by the Sponsor, this coverage may not be obtainable, or if obtainable, the cost may be too great in the

opinion of the Board to warrant this expenditure. (In New York the coverage of this type of policy is limited to 95% of such costs.) Such insurance usually will not cover any losses resulting from insufficiency of fire and casualty or liability insurance coverage and may have other exclusions including intentional wrongdoing, libel and slander, fraudulent acts or civil rights actions.

- Unit Owners should be aware that if the Condominium insurance coverage is for any reason insufficient, they could be called upon to make up the difference between the amount of coverage and the amount of damages due an injured party as agreed upon or as determined by a court.

In addition to the above measures, there are certain precautions or actions which officers and members of the Board of Managers can take to reduce the possibility of legal actions against them or the Condominium. These include the following:

- Policy decisions should be made only by members of the Board of Managers. Officers should refrain from making policy decisions especially "on-the-spot" decisions.
- Proposed Rules and Regulations should be reasonable and should be communicated to the Unit Owners or members so as to afford an opportunity for comment prior to adoption.
- The Rules and Regulations should be uniformly and timely enforced. Alleged violators of the Rules and Regulations should be afforded the opportunity to be heard before any penalty is imposed. Penalties imposed for violations of the provisions of the Declaration, By-Laws, or any Rules and Regulations should not be unconscionable.
- Officers and members of the Board of Managers cannot discriminate on the basis of race, sex, religion, creed or national origin.
- Penalties, interest, late charges and attorneys' fees with respect to the collection of assessments, if not controlled by statute, should reasonably relate, to the cost of collection and the loss of funds for the period such assessments remain unpaid.
- Officers and members of the Board of Managers should exercise proper supervision over the employees of the Condominium.
- Officers and members of the Board of Managers should operate the Condominium in a business-like manner and they should not incur large deficits because of mismanagement.

- The Condominium can be sued by the Unit Owners or others for injuries sustained allegedly as a result of the negligence or wrongful conduct of their members of the Board of Managers, officers, agents or employees of the Condominium. Officers and members of the Board of Managers must not act in an illegal or tortious manner and, if they can, should take action to prevent an illegal or tortious act.
- Officers and members of the Board of Managers should avoid actual or potential conflicts of interest and should make full disclosure of such actual or potential conflicts. Any member of the Board of Managers having an existing or potential conflict in a matter before the Board of Managers should not vote on the matter.

Repair, Replacement and Maintenance of Common Elements.

All maintenance, repairs and replacement to the common elements of the Property shall be common expense unless occasioned by a negligent or willful act or omission, in which event the Board of Managers shall seek recovery from the responsible party. (See the subsection of this Offering Plan entitled "Repair and Maintenance of the Property").

Repair or Restoration After Fire or Other Casualty.

In the event of damage to or destruction of any of the buildings or common elements as a result of fire or other casualty, the insurance proceeds, if any, shall be payable to the Board of Managers if such proceeds do not exceed \$100,000.00 and, if in excess of \$100,000.00, then to such insurance trustee as the Board of Managers shall select. The amount of this limit shall automatically increase each calendar year by 5% over the limit of the previous year. The Board of Managers shall arrange for prompt repair and restoration of the damage and the Board of Managers 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 or 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 as part of the common charge.

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.

If 75% or more of the Units are destroyed or substantially damaged as determined by the Board of Managers and 75% or more of the Unit Owners do not duly and promptly resolve to proceed with repair or restoration, the Property shall be subject to an action for

partition upon the suit of any Unit Owner or lienor, 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 this Unit, in the order of the priority of such liens. (See New York Condominium Act, Section 339-cc and By-Laws Section 7.04).

Provide Insurance Coverage.

The Board of Managers shall obtain and maintain, to the extent reasonably obtainable and to the extent determined by the Board of Managers to be appropriate or relevant and containing the provisions, endorsements and coverages as set forth in the By-Laws: (1) fire and casualty insurance covering the Units and other improvements on the Property for their full replacement value under the "single entity" concept, excluding (i) drywall, wall finishes, wall to wall carpeting or other flooring finishes, lighting fixtures, bathroom fixtures, appliances, wall coverings, all machinery servicing the Units, cabinets and counters, and (ii) the personal property of Unit Owners and occupants, (2) liability insurance, (3) directors' and officers' liability insurance, and (4) a fidelity bond. Details of the insurance coverages to be obtained are set forth in the subsection of this Offering Plan entitled "Insurance" and in Article VII of the By-Laws.

Furnish Reports and Notices to Unit Owners.

All Unit Owners will be entitled to receive annually copies of the following: (1) an annual financial statement (audit or review) of the Condominium prepared by an independent public or certified public accountant, to be received annually within four (4) months after the end of the fiscal year of the Condominium, (2) notice of the holding of an annual Unit Owners' meeting for the purpose of electing the Board of Managers, to be received annually not less than 10 days before the meeting, and (3) a copy of the proposed annual budget of the Condominium, to be received not less than 30 days prior to the date set for adoption thereof by the Board of Managers. (See By-Laws Section 5.01 and 6.02).

Amending Condominium Documents.

The Declaration and By-Laws may be amended by the affirmative vote of 67% or more of all Unit Owners in number and in common interest voting at a duly called meeting of Unit Owners, provided that 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 mortgagees of 51% or more of the Units in number and common interest. (See Declaration Section 13.01 and By-Laws Section 9.01).

Termination of Condominium.

The Condominium shall continue (unless terminated by casualty loss as provided by law or by condemnation as described in the By-Laws) until such time as the Property shall be withdrawn from the provisions of the New York Condominium Act as a result of the vote of at least 80% in number and in common interest of the Unit Owners at which time the Property shall be subject to an action for partition by any Unit Owner or any lienor as if owned in common and the net proceeds of the sale resulting therefrom shall be divided among all Unit Owners in proportion to their respective interests in the Common Elements, after first applying the share of the net proceeds of such sale otherwise payable to each Unit Owner to the payment of any liens on his Unit in the order of the priority of such liens. (See Section 339-t of the New York Condominium Act).

Covenant Against Partition of Common Elements.

Pursuant to Section 5.04 of the Declaration, the Common Elements shall remain undivided and no Unit Owner shall bring any action for partition or division unless otherwise provided by law and unless consented to by Eligible Mortgage Holders. Section 4.05 of the Declaration provides that no Unit (including the interest in the common elements appurtenant thereto) shall be subject to partition or subdivision. This shall not prohibit structural alterations or changes in the number of rooms within a Unit undertaken with the approval of the Board of Managers.

Accumulation of Reserves.

The Board of Managers is required to establish reserves for the purpose of funding capital replacements and repairs of the common elements. The reserves shall be in such amounts as are adequate to fund the projected cost of such repairs and replacements and shall be sufficient to meet the reasonable requirements of existing or proposed lenders, holders and insurers of first mortgages on the Units. (See By-Laws Section 5.08).

RIGHTS AND OBLIGATIONS OF UNIT OWNERS AND THE BOARD OF MANAGERS

Sale and Lease of Units.

Units can be sold or leased by a Unit Owner, provided that (i) the Owner is not in arrears on the payment of common charges (except where the payment of such unpaid common charges is paid by the grantee or provided for out of the proceeds of the sale), (ii) the initial lease term of any lease of a Unit shall be not less than twelve (12) months, except for leases for Units that the Sponsor owns, which shall have no minimum term, and (iii) no portion of a Unit (i.e., other than the entire Unit) may be rented. (See By-Laws Section 8.01). No Unit can be sold or leased without a simultaneous sale or lease of the undivided interest in the common elements. Additional restrictions or limitations on the sale or lease of Units may not be imposed unless and until an amendment to the By-Laws allowing them is approved by the affirmative vote of at least

67% in number and common interest of all Owners of Units to which such restrictions or limitations will apply.

Any lease of a Unit shall provide for full compliance by the tenant with the Declaration, By-Laws and Rules and Regulations, and, if a tenant is in violation thereof at any time, the Board of Managers (or the manager appointed by the Board of Managers) may send the Unit Owner which said tenant occupies written notice of such violation by certified mail, return receipt requested. If the violation is not cured or eviction proceedings commenced against the tenant within 14 days after the Owner has received notice of such violation, or if the eviction proceedings are not reasonably diligently pursued thereafter, the Board of Managers may pursue any remedies which it may have under Article VI of the Declaration, including an action for abatement and enjoinder or the imposition of monetary and/or 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. (See Declaration Section 6.08).

Occupancy and Use of Units.

In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the By-Laws provide that the use of the Units shall be restricted to and be in accordance with the following provisions (See Declaration, Section 6.04):

A. Occupancy shall be limited to residential purposes only and subject to such limitations as set forth in the Declaration.

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

C. No portion of a Unit (other than the entire Unit) may be rented, and no transient tenants, i.e., tenants occupying the premises under an initial lease term of less than twelve (12) months, may be accommodated therein.

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

E. Rules and Regulations concerning the use of the Units may be promulgated and amended from time to time by the Board of Managers provided that copies of such rules and regulations are furnished to each Unit Owner prior to the time that they become effective.

F. Except for either one (1) dog weighing less than 30 pounds, or one (1) cat or fish or birds kept in a cage, all to be owned by a Unit Owner or Unit occupant, no animals,

birds or insects shall be kept or maintained in a Unit or other portion of the Property, except with the consent of the Board of Managers which may, from time to time: (i) impose reasonable rules and regulations setting forth the type and number of animals, birds and insects; and (ii) prohibit certain types of animals, birds or insects entirely. In any event, pets may be allowed outdoors only when accompanied by a responsible person and leashed. The Board of Managers shall have the right to require any Unit Owner (or any tenant of any Unit Owner, or any family member or guest of any Unit Owner or tenant) to dispose of any animal, bird or insect, if, in the opinion of the Board of Managers, acting in its sole discretion, such animal, bird or insect is creating a nuisance because, e.g., the Unit Owner does not clean up after the animal, the animal is too noisy, or the animal is not properly controlled. All Unit Owners must comply with the Town leash law. No dogs may be tied outdoors and left unattended.

Mortgaging of Units.

Each Unit Owner has the right to mortgage the Unit owned by such Owner without restriction. A Unit Owner who mortgages a Unit shall notify the Board of Managers in writing of the name and address of the mortgagee. (See By-Laws Section 8.02).

Common Charges and Expenses.

The common charges shall be payable monthly and the amount payable by each Unit Owner shall be in relation to such Unit Owner's Common Interest.

A Unit Owner shall be liable for the payment of common charges and expenses (i) assessed or becoming due against the Unit owned during the ownership period, and (ii) assessed against the Unit prior to such ownership, if unpaid at the time he or she becomes the Unit Owner, except that a mortgagee acquiring title to the mortgaged Unit or a purchaser at a foreclosure sale shall not be liable and the Unit shall not be subject to a lien for the payment of common charges and expenses assessed prior to such acquisition; but, such mortgagee or purchaser at a foreclosure sale, shall be liable for payment of all common charges and expenses after the acquisition of title. No Unit Owner shall be liable for common charges and expenses assessed or becoming due against the Unit owned after a sale, transfer or conveyance of the Unit in accordance with the applicable provisions of the By-Laws. Any Unit Owner may, subject to the terms and conditions specified in the By-Laws, convey the Unit owned to the Board of Managers or its nominee on behalf of all other Unit Owners without compensation in which event such Unit Owner shall be exempt from common charges and expenses thereafter assessed. In the event of a foreclosure by the Board of Managers of a statutory lien on any Unit for unpaid common charges and expenses, if the proceeds of the foreclosure sale shall not be sufficient for the payment of such unpaid common charges and expenses, or if a Unit is acquired by a mortgagee or purchaser in foreclosure, the unpaid balance shall be charged to all Unit Owners as a common expense. If there is any surplus remaining from the proceeds of a foreclosure sale after payment of the indebtedness and all expenses of the sale, such surplus shall be paid to the Unit Owner. (See By-Laws Section 5.02).

The Board of Managers shall prepare a budget for the Condominium from time to time and at least once each year. At least 30 days prior to adoption, a copy of the proposed budget shall be distributed to all Unit Owners. Copies of such budget shall be furnished to the Unit Owners and to such of their mortgagees as shall have requested the same.

In addition to the normal operating expenses of the Condominium, the budget shall provide for reserves, working capital, and other sums required for the affairs of the Condominium. Every Unit Owner (and such mortgagees as shall have requested same) shall be advised promptly after the adoption of each budget of the amount of Common Charges payable by the Unit Owner for the period covered by such budget.

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

Schedule B of this Offering Plan contains an estimate of the receipts and expenses for the first year of Condominium operation.

Under the provisions of Section 339-z of the Real Property Law of the State of New York, the Board of Managers on behalf of the Unit Owners shall have a lien on each Unit for unpaid common charges assessed against such Unit by the Board of Managers. Such liens shall be subordinate only to liens for: (i) real estate taxes and assessments on the Unit, and (ii) unpaid sums on any first mortgage of record encumbering the Unit. Any lien for unpaid common charges or assessments against a Unit shall be effective from and after the filing of a notice thereof and until all sums secured thereby with the interest thereon shall have been fully paid or until six (6) years from the date of filing (unless foreclosure of such lien is started within such six-year period), whichever may be earlier. Such liens may be foreclosed by a suit brought in name of the Board of Managers acting on behalf of the Unit Owner in like manner as the foreclosure of a mortgage on real property, or an action may be brought by the Board of Managers to recover the unpaid common charges, without foreclosing the lien.

The Sponsor will cause the Board of Managers to file a lien as provided for in Section 339-aa of the New York Real Property Law on Units in which the Sponsor is more than 30 days in arrears of common charges while it is in control of the Board of Managers.

Repair and Maintenance of the Property.

Except as otherwise provided in this Article VI of the Declaration, all maintenance and repair of and replacements to the improvements on the Property, including, without limitation, the maintenance, repair and replacement of: (i) lawn and landscaped areas; and to shrubbery and other plantings installed by the Sponsor or the Board of Managers on the Common Elements; but not for shrubbery, flower beds or other plantings installed by or at the direction of any Unit Owner or Unit occupant; (ii) sidewalks along roadways (unless maintained

by the Town of Jerusalem); (iii) all driveway and walkways, including snow removal (not including front and rear porch attached to Units and steps leading from and to the front and rear porches, which are the Unit Owner's responsibility); (iv) water and sanitary sewer laterals servicing the Units from the Unit to the point where it connects to the main; (v) ponds, culverts and surface drainage of storm water; (vi) the entrance monument and sign at the entrance of the Condominium; (vi) the exteriors of the Units including: trim, siding, roof and gutters; and (vii) fire hydrants, wires, conduits and public utility lines servicing the Units and for which a utility company or other entity is not responsible (whether or not such lines and facilities are on Common Elements); (viii) the Community Building; and (ix) the private roadway and parking areas shown on the Condominium Map and Floor Plans.

Buildings and Units.

With respect to the Building and the Units, the Board of Managers shall repair and replace the Building exterior siding, gutters, roofs, and paint the exterior trim, and the exterior of window frames, door frames, and garage door frames which open from a Unit, and caulk the windows. The Board of Managers shall not repair, replace or maintain: (i) window glass or panes; (ii) doors entering the Unit; (iii) garage doors, garage door hardware, tracks or openers; (iv) any porches or steps leading from and to the front and rear porches; or (v) any part of a Unit. The Board of Managers shall be responsible for the repair, maintenance and replacement of all portions of a Building except for any portion of a Building which is part of the Unit.

Other Improvements.

With respect to the other improvements on the Common Elements, the Board of Managers shall repair and replace all roadways and driveways on the Common Elements. The Board of Managers shall be responsible for all repair and maintenance of the Community Building.

Unit Owners Repairs and Maintenance.

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

The Unit Owners shall be responsible for maintenance, replacement and repair of the front and rear porch attached to Units and steps leading from and to the front and rear porches, including snow removal. The Unit Owners shall also be responsible for maintenance, repair and replacement of windows, doors, garage, doors, doorbells, screens, storm doors, and air conditioner pads.

Access Rights of Board of Managers.

The Board of Managers, its agents, contractors and employees, shall have an easement and the right of access to the Units and to the Common Elements (irrespective of the restrictive nature of such common element) for the purpose of: (i) making inspections; (ii) removing violations of the Declaration, By-Laws, or Rules and Regulations of the Condominium therefrom; (iii) correcting any condition originating in a Unit and threatening another Unit or a Common Element; (iv) performing installations, alterations or repairs to the mechanical or electrical services or other common elements in a Unit or elsewhere; (v) correcting any condition which violates the provisions of any mortgage covering another Unit; (vi) making any maintenance or repair which pursuant to the Declaration an Owner is required to make and which such Owner has failed to make after written notice; or (vii) complying with any laws, orders, rules or regulations of any governmental body having jurisdiction thereof, and (viii) maintaining, repairing or replacing the common elements or any pipe, wire, duct, cable (e.g., coaxial cable for cable television), conduit or utility line located in any Unit or in the Common Elements.

Additions, Alterations and Improvements.

By Unit Owners. No exterior addition, alteration or improvement, including change in color, shall be made to a Unit or Building without the written approval of the Board of Managers, obtained as provided in Sections 7.04 through 7.08 of the Declaration. Notwithstanding anything to the contrary contained herein, any changes, alterations or improvements made on the Property (including to any Unit, any Building or the Community Building) shall be done in conformance with and subject to the conditions set forth in (the "Site Approvals"): (i) the site plan approval adopted by the Town of Jerusalem on September 6, 2012, as amended from time to time, and (ii) the Stipulation of Settlement and Discontinuance filed in the matter of Donald A. Schneider v. Town of Jerusalem Zoning Board of Appeals, et al, Index No. 2012-0197. The Board of Managers shall maintain all Common Elements in conformance with the Site Approvals. The Board of Managers shall not approve any addition, alteration or improvement by a Unit Owner unless such addition, alteration or improvement is in conformance with the Site Approvals. The provisions of this paragraph shall not apply to a Unit owned by the Sponsor or its designee until a deed to such Unit has been delivered to a purchaser thereof.

In connection with any installation or work done by a Unit Owner, the Board of Managers may require that the Unit Owner obtain such insurance coverages, and in such amounts, as the Board of Managers deems proper.

To proceed with the contemplated improvement, the Unit Owner must submit plans of the proposed improvement for Board of Managers approval along with the payment of any reasonable fee required by the Board of Managers to have an architect, engineer or attorney review the plans. The Board of Managers may disapprove the plans for the proposed improvement because of the failure to comply with the Declaration and By-Laws, failure to include sufficient information as detail, objection to the design, appearance, materials or other aesthetic factors, failure to comply with building code or municipal ordinances or any other matter which, in the discretion of the Board of Managers, would render the proposed improvement or use inharmonious or incompatible with the Condominium. The Board of Managers will notify the applicant of its approval or disapproval of the proposed improvement within 35 days of submission of the plans.

Any Unit Owner contemplating such an addition, alteration or improvement to his or her Unit or to the Common Elements must carefully follow the procedures set forth in Article VII of the Declaration (see Part II of this Offering Plan).

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

By Board of Managers. Whenever in the judgment of the Board of Managers the Common Elements shall require additions, alteration or improvements costing more than 5% of the Condominium's current estimated annual budget (including reserves) and the making of such alterations or improvements shall have been approved by more than 67% in number and in Common Interest of the Unit Owners, present in person and/or by proxy and voting at a meeting duly held in accordance with the By-Laws, the Board of Managers shall proceed with such additions, alterations, or improvements and shall assess each Unit Owner with his proportionate share of the cost of such additions, alterations or improvements, as part of the common expenses. Any additions, alterations or improvements costing less than 5% of the Condominium's current estimated annual budget (including reserves) may be made by the Board of Managers without the approval of the Unit Owners and the cost thereof shall constitute part of the common expense. (See Declaration Section 7.03).

Insurance.

Details of the insurance coverage for the Condominium are set forth in Article VII of the By-Laws.

Obtained by Board of Managers. The Board of Managers shall obtain and maintain, to the extent reasonably obtainable and to the extent determined by the Board of Managers to be appropriate or relevant: (1) fire and casualty insurance, (2) liability insurance, (3) directors' and officers' liability insurance, and (4) a fidelity bond. Refer to Schedule B for information as to costs of the insurance coverages initially proposed to be carried.

The Board of Managers may also obtain such other insurance as it shall deem necessary or desirable from time to time including "umbrella" catastrophe coverage.

To the extent reasonably obtainable and to the extent the Board of Managers determines such coverages to be appropriate or relevant, the coverages shall be as follows:

1. Fire and Casualty Insurance. The policy shall cover the interests of Board of Managers and all Unit Owners and mortgagees in the Property and the Units as their interests may appear. Coverage shall be for the full replacement value, (without deduction for depreciation) of all improvements on the Property, excluding (i) drywall, wall finishes, wall to wall carpeting or other flooring finishes, lighting fixtures, bathroom fixtures, appliances, wall coverings, all machinery servicing the Units, cabinets and counters, and (ii) the personal property of Unit Owners and occupants

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

The proceeds of all policies of physical damage insurance shall, as provided in the By-Laws, be payable to 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. 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 entitled to be an 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 is renewed, a certificate evidencing proof of insurance coverage. Duplicate originals of the policy and all renewals of the policy shall be furnished to all known institutional mortgagees of Units.

2. Liability Insurance Covering the Board, 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 or on any common elements exclusive to such Owner's Unit). The policy shall include the following endorsements (i) comprehensive general liability, (ii) personal injury, (iii) medical payments, (iv) cross liability and (v) contractual liability. 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.
3. Directors' and Officers' Liability Insurance Covering the "Wrongful" Acts of a Member of the Board of Managers or Officer of the Condominium. This coverage provides for funds to be available to defend suits against officers and members of the Board of Managers for their "wrongful" acts and to pay any claims which may result. The policy shall be on a "claims made" basis and shall include all prior officers and members of the Board of Managers. 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 required by law or applicable governmental regulation (5% as of the date of this Offering Plan). 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.
4. Fidelity Bond Covering All Members of the Board of Managers, Officers and Employees of the Condominium and of the Condominium's Managing Agent Who Handle Condominium Funds. The bond shall be in at least the amount of 25% of the Condominium's annual budget but in no event less than a sum equal to three months aggregate Common Charges on all Units, plus reserves, owned by or under the control of the Condominium. Until the first meeting of the Board of Managers elected by the Unit Owners, the coverage shall be \$50,000.00.

Allocation of Deductible. The deductible, if any, on any insurance policy purchased by the Board of Managers shall be a Common Expense, provided, however, that the Board of Managers may assess any deductible amount necessitated by the gross negligence or

wantonly malicious act of a Unit Owner, against such Unit Owner. With respect to property insurance, the deductible shall apply to an occurrence and not to each item insured.

Obtained by Unit Owners. The Sponsor suggests that purchasers of Units obtain the following coverages which the Board of Managers does not provide or is not obligated to provide: (1) fire, casualty and theft coverage for such Unit Owner's personal property and exclusions from coverage noted above, (2) coverage for such Unit Owner's personal liability within such Unit Owner's Unit and such Unit Owner's interest in the Common Elements and (3) fire and casualty insurance coverage for "improvements and betterments" to such Unit Owner's Unit which may not be covered by fire and casualty insurance obtained by or through the Board of Managers, provided, however, that (i) such policies contain waivers of subrogation, if available, and (ii) the liability of the carriers issuing insurance procured by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by the Unit Owner.

Any policy obtained by the Owner of an individual Unit shall not affect or diminish the liability of carriers issuing common insurance obtained by the Board of Managers by reason of any such insurance carried by any Unit Owner.

The customary form of policy for the above coverages for Unit Owners is HO-6 equivalent. Unit purchasers may obtain such coverage by making arrangements with their own insurance agent or with the insurance agent for the Condominium (whose name is available from the Sponsor upon request). Unit Purchasers are advised that the HO-6 policy has a \$1,000.00 limit of liability for "additions, alterations, fixtures, improvements or installations". This limitation may be increased by payment of an additional premium.

Unit purchasers may also wish to obtain coverage for (i) living expenses in the event their Unit cannot be occupied because of a fire or other casualty and (ii) their liability for any "deductible" or other shortfall in the Condominium's coverage in the event the loss suffered is the result of the Owner's gross negligence or wantonly malicious act.

Restrictions on Occupancy and Use

Occupancy of the Units is restricted to persons 55 years of age or older, as set forth in the Fair Housing Act (Title VIII of the Civil Rights Act of 1968), as amended, 42 U.S.C. §§3601-3619, 3631, as it may be amended from time to time (the "Fair Housing Act"); and as implemented by any regulations promulgated pursuant thereto. The Condominium is intended and operated for occupancy by persons 55 years of age or older, as described in the Fair Housing Act. Provided that the Condominium qualifies as housing intended and operated for occupancy by persons 55 years of age or older under the Fair Housing Act, individuals under the age of 18 years old are not permitted to occupy a Unit in the Condominium, except that persons under the age of 55 are permitted to visit occupants of a Unit for a period of time which shall not be in excess of 7 consecutive days, and which shall not be for a period in excess of 14 total days for a

calendar year.

Each Unit shall be used for residential purposes only. No business or professional use is allowed, except for by the Sponsor. The Units shall not be leased or rented for an initial term of less than twelve (12) months, except for leases for Units owned by the Sponsor, which shall have no minimum term.

The Condominium's rules regarding pets allow the Owners of each Unit to have either one (1) dog weighing less than 30 pounds, or one (1) cat or fish or birds kept in a cage. No other pets will be permitted in the Units unless consented to by the Board of Managers.

The Unit Owners shall not use the Unit or the Common Elements in any manner which would be illegal, disturbing or a nuisance or in any way which would be injurious to the reputation of the Condominium.

Obligation of Unit Owners to Comply with Declaration, By-Laws and Rules and Regulations of Condominium.

All Unit Owners, their tenants and the other Unit occupants are, pursuant to provisions of the Declaration and the By-Laws, obligated to comply with the provisions of such Declaration and By-Laws. The By-Laws also require compliance with any rules or regulations promulgated by the Board of Managers in accordance with the Declaration or By-Laws. (See Declaration Section 6.06 and By-Laws Section 3.02(k)).

In the event of the breach of any provision of the Declaration or By-Laws or the violation of any Rule or Regulation, the Board of Managers may (i) enjoin, abate or remedy, by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; or (ii) establish a penalty as described below. One (1) or more aggrieved Unit Owners shall have also the right to enjoin, abate or remedy the continuance of a breach by appropriate legal proceedings at law or in equity. Prior to exercising such right, the Board of Managers or Unit Owner or Owners, as the case may be, shall, if reasonably possible, notify the Owner and mortgagee (if known) of the Unit or Units involved and provide a reasonable amount of time for the cure of such violation or breach. (See Declaration Section 6.07).

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

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 the By-Laws or of any

Rules and Regulations of any committee of the Condominium, and after affording the alleged violator a reasonable opportunity to appear and be heard, establish monetary and non-monetary penalties, the amount and severity of which shall be reasonably related to the violation and to the aim of deterring similar future violations by the same or any other person. Monetary penalties imposed against a Unit Owner or occupant shall be deemed an assessment against the Unit of such Unit Owner and, as such, shall be a charge and continuing lien upon such Unit, shall constitute a personal obligation of the Unit Owner, and shall be collectible in the same manner as common charges and special assessments under the Declaration or under the By-Laws. (See Declaration Section 6.09)

TAXES - REAL ESTATE TAXES, DEDUCTIONS TO UNIT OWNERS AND TAX STATUS OF CONDOMINIUM

Real Estate Taxes.

The Units will be separately assessed for real estate tax purposes. Each Unit will be assessed and taxed as a separate tax lot, and the owner of each Unit will not be responsible for the payment of taxes on other Units. Also, each individual Unit will not be subjected to any lien arising from the non-payment of taxes on other Units. The estimated amount of the taxes on the Units, and the estimated assessed valuation of the Units, is found in footnote G to Schedule A, found on page 18 of this Offering Plan.

The Town of Jerusalem Assessor projects that all Units with 1,402 sq. feet of habitable space (with an offering price of \$263,900.00) will have an assessed valuation of \$125,300.00 and that all Units with 1,299 sq. feet of habitable space (with an offering price of \$248,900.00) will have an assessed valuation of \$112,000.00. The tax rates used to calculate projected annual taxes are (i) for combined Town/County and special district taxes, a rate of \$9.789769 per \$1,000.00 of assessed valuation; and (ii) for combined School taxes, a rate of \$11.11115 per \$1,000.00 of assessed valuation. Based on the above tax rates and projected assessed valuations, the Town of Jerusalem tax assessor projects that that all Units with 1,402 sq. feet of habitable space (with an offering price of \$263,900.00) will have a yearly Town/County tax bill of \$1,226.66 and School tax bill of \$1,392.23. Based on the above tax rates and projected assessed valuations, the Town of Jerusalem tax assessor projects that that all Units with 1,299 sq. feet of habitable space (with an offering price of \$248,900.00) will have a yearly Town/County tax bill of \$1,096.43 and School tax bill of \$1,244.45. The projected assessed valuations and projected tax bills are expected to commence in the tax year following the issuance of certificate of occupancy for such Unit.

The real estate tax assessed valuation for the Units is determined according to Real Property Law Section 339-y.1(b), with the aggregate of the assessed valuation of all Units not exceeding the total valuation of the property were it assessed as a single parcel (e.g. as a rental apartment complex). The Town of Jerusalem Assessor has indicated that the aggregate assessed valuation will be proportionately allocated among the individual Units based on the relative value (e.g. offering price) of each Unit.

There are no provisions in the By-Laws applicable to the review of real estate taxes. The Board of Managers and any Unit Owners shall have all legal rights and remedies available to any real property owner with the respect to the review and contestation real estate taxes and assessed valuations.

Procedure for Review of Real Estate Tax Assessments.

There are no tax certiorari proceedings currently pending, or planned which affect the Property. If the Board of Managers deems a challenge to any future changes in assessed valuation advisable, Section 339-y of the New York Condominium Act authorizes the Board of Managers to complain or apply to the Board of Assessment Review of the Town of Jerusalem as the agent of all Unit Owners who have given their written authorizations to the Board, by filing a single complaint on behalf of all such Unit Owners. The Board of Managers may also commence and prosecute a tax certiorari proceeding for the review of the assessments of the Units. The Board of Managers may retain legal counsel on behalf of all Unit Owners for whom it is acting as agent and charge such Unit Owners a pro rata share of expenses, disbursements and legal fees.

In lieu of protesting their real property tax assessment through the Board of Managers, Unit Owners may request a review of the assessment on their Unit on their own or through their own attorney. If the request of an individual Unit Owner is denied, the Unit Owner may commence and prosecute a formal proceeding for court review. The small claims review procedure established in 1981 by Sections 730 through 738 of the New York Real Property Tax Law is not available to owners of Condominium units.

Unit Owners.

Under both federal and New York income tax laws, Unit Owners will be entitled to deduct from their gross income the real estate taxes assessed against their Unit and paid on account of interest on any mortgage indebtedness covering their Units owned as primary and secondary residences.

Unit Owners who are veterans of the United States Armed Forces may be entitled to a veteran's exemption covering a portion of the real estate taxes assessed against their respective units. Purchasers are advised that certain veteran's exemptions are available only where the property is to be used as the veteran's primary residence. Veterans are encouraged to inquire at the Town of Jerusalem Assessor's Office after closing to determine whether or not they qualify for a veteran's exemption, and what portion of such exemption, if any, is dependent upon use of the Unit as their primary residence.

Unit Owners who are at least 65 years of age may be entitled to a senior citizens exemption covering a portion of the real estate taxes assessed against their respective Units. Senior citizens are encouraged to inquire at the Town of Jerusalem Assessor's office after closing to determine whether or not they qualify for such an exemption.

Condominium.

Sponsor's tax counsel is of the opinion that, given the information supplied to it by Sponsor, the Condominium will be eligible for tax exempt status under the federal income tax laws should it elect to take such exemption. However, interest income earned on Condominium funds and any income not received from membership dues, fees or assessments will be taxable to the Condominium whether or not tax exempt status under the federal tax laws is obtained.

See opinion of Sponsor's counsel supportive of the above statements on next page.



Phillips Lytle LLP

MTS Development, LLC
3289 Howard Davis Road
Bluff Point, New York 14478

August 16, 2013

Re: Brandy Bay Heights Condominium

Dear Gentlemen:

You have requested our opinion as to certain income and real property tax consequences in conjunction with your offering to the public of units (collectively the "Units," and individually a "Unit"), together with an appurtenant common interest in the common elements, as such terms are defined in Section 339-e of the New York Real Property Law and as described in the Declaration (defined below) establishing Brandy Bay Heights Condominium (the "Condominium"). Owners of a Unit or Units will be a member of an unincorporated association of all of the owners of a Unit or Units in the Condominium (the "Association").

In rendering this opinion, we have reviewed the proposed Condominium Offering Plan (the "Offering Plan"), the Declaration of Condominium Establishing the Condominium (the "Declaration"), and the Bylaws of the Condominium (the "Bylaws").

Based upon the foregoing, and subject to the qualifications set forth herein, we provide you the following opinion:

I. INCOME TAX AND CERTAIN REAL PROPERTY TAX CONSEQUENCES

Income Taxation of Unit Owners. Under the provisions of Sections 163 and 164 of the Internal Revenue Code of 1986, as amended (the "Code") and Section 615 of New York State Tax Law (the "Tax Law"), each individual owner ("Unit Owner") of a Unit who uses the Unit as a personal residence and who itemizes deductions in computing his or her taxable income under the Code or the Tax Law will be entitled to deduct from such Unit Owner's gross income for Federal and New York State income tax purposes (a) the real estate taxes assessed against the Unit owned by such Unit Owner which are paid by such Unit Owner, and (b) the amount of interest paid by such Unit Owner on account on any mortgage indebtedness covering such Unit which is used as Unit Owner's

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primary or secondary residence, provided that the interest paid on such mortgage indebtedness constitutes "qualified residence interest" as defined in Section 163(h)(3) of the Code.

No opinion is expressed as to the effect of either Federal or New York State income tax laws regarding tax preference or minimum tax on the foregoing, deductions, limitations on itemized deductions, nor on a Unit Owner's income tax liability. Unit Owners should consult their respective tax advisors for advice regarding tax preference items, minimum tax and limitations on itemized deductions.

Senior Citizens Real Property Tax Exemption. A Unit Owner who is a senior citizen may be entitled to a senior citizen's exemption covering a portion of the real estate taxes assessed against his or her Unit. It is suggested that Unit Owners who are senior citizens inquire at the Town of Jerusalem Assessor's Office to determine whether such an exemption is available and whether they qualify for such an exemption in connection with their ownership of a Unit.

Veteran's Exemption. A Unit Owner who is a veteran of the United States Armed Forces may be entitled to a veteran's exemption covering a portion of the real estate taxes assessed against his or her Unit. It is suggested that Unit Owners who are veterans inquire at the Town of Jerusalem Assessor's Office to determine whether such an exemption is available and whether they qualify for such an exemption in connection with their ownership of a Unit.

Tax Exemption for Persons with Disabilities and Limited Incomes. A Unit Owner with one or more disabilities whose income is limited by such disabilities may be entitled to an exemption covering a portion of the real estate taxes assessed against his or her Unit. It is suggested that Unit Owners who are individuals with disabilities inquire at the Town of Jerusalem Assessor's Office to determine whether such an exemption is available and whether they qualify for such an exemption in connection with their ownership of a Unit.

II. INCOME TAXATION OF THE CONDOMINIUM ASSOCIATION

Section 528 of the Code provides that certain "homeowners associations" (including condominium associations) that meet the requirements of Section 528 of the Code are not subject to Federal income tax on amounts received as membership dues, fees or



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assessments from member owners of real property. A "homeowners association" will meet the requirements of Section 528 of the Code if:

1. substantially all of the units of the project are used by individuals as residences;
2. the homeowners association is organized and operated to provide for the acquisition, construction, management, maintenance and care of homeowners association property;
3. 60% or more of the gross income of the homeowners association for the taxable year consists solely of amounts received as membership dues, fees or assessments from owners of residential units ("60% Test");
4. 90% or more of the homeowners association's expenses for the taxable year are expenditures for the acquisition, construction, management, maintenance and care of homeowners association property ("90% Test");
5. no part of the net earnings of the homeowners association inures (other than by acquiring, constructing or providing management, maintenance and care of homeowners association property and other than by a rebate of excess membership dues, fees or assessments) to the benefit of any private shareholder or individual; and
6. the homeowners association elects (at such time and in such manner as prescribed by Treasury Regulation 1.528-8 or any successor or replacement thereof) to have Section 528 of the Code apply to it for the taxable year.

Based on our review of the Offering Plan, the Declaration, the Bylaws, and the information which you have submitted to us in the Representation Letter, if the information provided in the Representation Letter is true for a taxable year, we are of the opinion that the Association will be eligible to be treated as a "homeowners association" under Section 528 of the Code should it elect to be treated in such a manner for such taxable year. We also bring to your attention that interest income earned on Association funds and any income not received from membership dues, fees or assessments will be taxable to the Association, whether or not treatment as a "homeowners association" under Section 528 of the Code is obtained and that an annual Federal income tax return must be filed even though the requirements for homeowners association status under Section 528 of the Code are otherwise met. We further advise you that we are making no opinion as to the taxability or effect of any



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income to the Association from the sale or lease of Units acquired through the foreclosure of a lien for non-payment of common charges. If the Association does not satisfy the 60% Test or the 90% Test for a tax able year, it will not be eligible to elect to have Section 528 applicable to it for such taxable year.

Should the Association not qualify for or elect not to take the exemption provided for under Section 528 of the Code, the Association will be taxed on the excess of income, including common charges and assessments, over expenditures in any year except that, pursuant to Revenue Ruling 75-370, assessments which are collected from Unit Owners and set aside in special bank accounts for capital improvements and which are not commingled with the general funds of the Association will not be includable as income because the Association is not deemed to have the beneficial use of such funds, i.e., the Association merely acts as the agent of Unit Owners with respect to such funds.

In an effort to avoid inclusion of reserves for capital improvements or replacements as gross income, it is recommended that the Association designate and communicate to Unit Owners, in advance, on an annual basis, which portion of the common charges or any other assessments will be set aside in a reserve for capital improvements or replacements. The funds received for such reserve should be segregated and designated for such capital improvements or replacements. The Association should be aware that such reserves must be for a capital improvement or replacement and not for exterior maintenance or repair.

Pursuant to Revenue Ruling 70-604, as amended by Announcement 71-11, common charges or assessments collected in excess of needs to meet actual expenses (and designated reserves) paid or incurred for the year will not be taxable to the Association if such common charges or assessments are returned to Unit Owners or used to offset common charges or assessments for the following year.

III. REAL PROPERTY TAXATION OF CONDOMINIUM PROPERTY.

Section 339-y-1(b) of the New York Real Property Law provides that the aggregate of the assessment on the Units in the Condominium plus the common facilities may not exceed the total valuation of the property were it assessed as an individual parcel.

We render no opinion as to whether the Town of Jerusalem will in fact assess the Units in the Condominium in compliance with Section 339-y-1(b) of the New York Real Property Law.

MTS Development, LLC
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August 16, 2013

No opinion is rendered herein with respect to any legal or tax consequences except as set forth above.

We are members of the Bar of the State of New York. Accordingly, we express no opinion as to the laws of any state or jurisdiction other than the United States and the State of New York. Persons contemplating the purchase of a Unit should consult their own tax advisor as to the tax consequences of the Offering Plan and of ownership of a Unit.

This opinion is based solely upon the documents referenced herein and applicable law, including statutes, regulations, judicial decisions and administrative rulings and practices, as of the date hereof. However, this opinion is not a guarantee; it is based on existing rules of law applied to the facts as documents referred to above. No assurances can be given that the United States Department of the Treasury and the New York State Department of Taxation and Finance will allow any of the foregoing deductions, or that the laws, regulations or rulings upon which this opinion is based will not change. Any change in applicable law or any of the given facts and circumstances may affect the continued validity of this opinion. We disavow any obligation to update this opinion or to advise you of any changes in our opinion in the event of changes in applicable law or facts if additional or newly discovered information is brought to our attention.

You are authorized to use this letter in the Offering Plan for the sale of Units in the Condominium. No other use of this letter may be made without our express written permission.

Very truly yours,



Phillips Lytle LLP

WORKING CAPITAL FUND AND RESERVE FUND

Working Capital Fund.

Simultaneously with the closing of title to each Unit, the Sponsor will deposit an amount equal to two (2) months' common charges for each Unit with the Condominium which contingency funds may be used by the Condominium as working capital. The total amount to be deposited for the 15 Units will be \$8,995.20. Each initial Unit purchaser will, at the time of closing of title to the Unit purchased, reimburse the Sponsor for such deposit. The Board of Managers may use the funds so deposited as it may determine, in its sole discretion, such as for expenses which must be prepaid by the Condominium, including, but not necessarily limited to: fire, casualty and liability insurance and directors' and officers' liability insurance. While the Sponsor is in control of the Board of Managers, the working capital fund shall not be used to reduce estimated Common Charges, or the Sponsor's obligation to the Condominium.

Reserve Fund.

The proposed budget for the first year of operation contains expense items which will be used to establish reserve funds as follows:

Roofing and Siding	\$4,300.00
Road, Sidewalks, Driveways	\$1,000.00
Contingency	\$1,500.00

These reserves will be funded by Common Charges paid by all Unit Owners.

The purpose of the reserve funds is to insure that there is money available in the future for major maintenance and repair items. If an adequate amount is allocated annually to the reserve fund expense items in the Condominium budget, there should be no requirement for substantial special assessments against each Unit at the time such maintenance and repairs are undertaken.

If the reserve funds or working capital funds are insufficient to cover the cost of any necessary capital expenditures, the Board of Managers may obtain financing for such capital expenditure. The Board of Managers is authorized to borrow money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the Common Elements, provided, however that (i) the consent of at least 67% in number and in common interest of all Unit Owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these By-Laws, shall be required for the borrowing of any sum in excess of 5% of the amount of the then current annual budget of the Condominium and (ii) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Elements without the consent of the Unit Owner.

Neither the Department of Law nor any other government agency has passed upon the adequacy of the working capital or reserve funds.

MANAGEMENT AGREEMENT

The Sponsor, at this time, will not enter into a Management Agreement for the management of the Condominium. At this time, the Sponsor will provide management services as needed, without compensation.

IDENTITY OF PARTIES

Sponsor

Sponsor, MTS Development, LLC, 3289 Howard Davis Road, Bluff Point, New York 14478, is a New York limited liability company. Sponsor was formed on June 11, 2012, under the laws of the State of New York. The members of Sponsor are Steven McMichael, William H. Sutherland and Fred M. Thomas. Steven McMichael has owned and operated an electrical company over 28 years, servicing large commercial and residential properties. Mr. McMichael has also, purchased, renovated and sold multiple homes on Keuka Lake. William H. Sutherland has 43 years of experience in commercial real estate construction and leasing, until his retirement in 2004. Fred M. Thomas is a registered pharmacist and has over 20 years of experience operating hospitals and nursing homes.

Sponsor acquired title to the Property by deeds recorded in the Yates County Clerk's Office on May 17, 2013, in Liber 657 of Deeds, page 292.

Neither the Sponsor nor its principals have previously been involved in any public offerings.

Neither the Sponsor, nor any of its members, are subject to any prior bankruptcies, convictions, including felonies, or judgments.

Attorneys

The Sponsor has retained the following attorneys in conjunction with this offering:

Phillips Lytle LLP, Ryan A. Lown, Esq., 1400 First Federal Plaza, Rochester, New York 14614; is the firm which prepared this Offering Plan. This firm has no relationship to the Sponsor, except an attorney/client relationship.

Handelman, Witkowicz & Levitsky, LLP, Steven M. Witkowicz, 16 East Main Street, Rochester, New York 14614; is the firm which will represent the Sponsor in Lot closings

and act as Escrow Agent. This firm has no relationship to the Sponsor, except an attorney/client relationship.

Managing Agent

The Sponsor, at this time, will not enter into a Management Agreement for the management of the Condominium. At this time, the Sponsor will provide management services as needed, without compensation.

Architect

The architect for the Condominium is Professional Building Systems, Inc., 72 East Market Street, Middleburg, PA 17842. Employees of the firm are licensed architects in New York State and has previously been involved in many custom, single family housing subdivisions. The firm has no relationship to the Sponsor except a design professional/client relationship.

Engineer

The site engineer for the Condominium is Clough Harbour & Associates, 220 Main Place Tower, Buffalo, New York 14202. William T. Ewell, PE, LEED AP, senior engineer of the firm is a licensed professional engineer in New York State and has previously been involved in many subdivision, municipal and site infrastructure projects. The firm has no relationship to the Sponsor except a design professional/client relationship.

Schultz Associates Engineers & Land Surveyors, P.C., 129 South Union Street, Spencerport, New York 14559 prepared the Condominium Map and Floor Plans and the Description and Specifications of Condominium Property. Kris E. Schultz, P.E., L.S. a principal of the firm is a licensed professional engineer and land surveyor in New York State and has previously been involved in many subdivision, municipal and site infrastructure projects. The firm has no relationship to the Sponsor except a design professional/client relationship.

Selling Agent

The Sponsor has not retained the services of a Selling Agent. At this time, the Sponsor will handle the sale of Units. William H. Sutherland, a member of the Sponsor, has been building and selling custom homes privately for 43 years.

REPORTS TO UNIT OWNERS

It is the obligation of the Board of Managers to make available all the Unit Owners annually:

- (i) within 120 days after the end of each fiscal year, a full and correct statement of the financial affairs of the Condominium, including a balance

sheet and a financial statement of operation for the preceding fiscal year prepared and signed by a public or certified public accountant to the effect that the financial statement presents fairly the financial position of the Condominium and the results of its operations in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding period except as specified therein. Such reports shall be distributed to all Unit Owners and to all mortgagees of Units who have requested the same

- (ii) not less than 10 days or more than 30 days before the date of the Annual Meeting, notice of the Annual Meeting.
- (iii) a copy of the proposed annual budget of the Condominium at least 15 days prior to the date set for adoption by the Board of Managers. The budget shall be certified while the Sponsor is in control of the Board of Managers.

DOCUMENTS ON FILE

Copies of this Offering Plan and all exhibits or documents referred to herein shall be available for inspection without charge and for copying at a reasonable charge at the office of the Sponsor, 3289 Howard Davis Road, Bluff Point, New York 14478, and shall remain available for inspection for a period of six years. The Sponsor shall deliver to the Board of Managers a copy of all documents recorded or filed with the Yates County Clerk at or immediately prior to the time of the first Unit closing.

GENERAL

A. There are no lawsuits or other legal proceedings pending which could materially affect this offering, the Property, the Sponsor's capacity to perform all its obligations under this Offering Plan, the Selling Agent, the Managing Agent, the Condominium or the operation of the Condominium.

B. This Property has not been the subject of any prior public offering.

C. The Sponsor, the Selling Agent and the Managing Agent will not discriminate against any person because of race, creed, color, national origin, sex, age, disability or marital status in the sale of Units on the Property.

D. In the event there is an amendment to this Offering Plan which discloses a material change that adversely affects contract purchasers, the Sponsor will afford such contract purchasers with a 15 day right of rescission. The Sponsor will return any deposit or downpayment to purchasers who exercise the right to rescind. The Sponsor may condition the

return of the deposit of any purchaser occupying a Unit, upon the such purchaser vacating the Unit.

BRANDY BAY HEIGHTS CONDOMINIUM REPORT

Description and Specifications of Condominium Property.

October 11, 2013

This report is prepared in accordance with Section 20.7 of the Attorney General's Regulations regarding the condominium offering plans. The site engineering including the design of the roads, utilities, and grading, along with the condominium site plans were prepared by Kernahan Engineers and Clough Harbour & Associates and building architectural floor plans were prepared by PBS Modular. This condominium report is provided by Schultz Associates, Engineers and Lands Surveyors, P.C.

(a) Location and Use of Property:

- (1) Brandy Bay Heights Condominium is located in the Town of Jerusalem, County of Yates, State of New York at 3612 Central Avenue, Penn Yan, NY. All condominium units front along the primary private roadway in the development.
- (2) Brandy Bay Heights is located in part of Town Lot 49, Township 7, Range 1, Phelps & Gorham Purchase, Town of Jerusalem, County of Yates, State of New York.
- (3) Zoning of the project is agricultural residential, with special use permits granted by Yates County Planning and the Town of Jerusalem Zoning Board.
- (4) The agricultural residential district allows, with the special use permit, multiple dwelling development if central water and sanitary sewer are available. The development shall provide spacing and orientation of dwelling units so as to ensure adequate light and air exposure.

(b) Status of Construction

- (1) Construction is currently ongoing at Brandy Bay Heights Condominiums. The stone base of the private drive has been installed at the time of the preparation of this report. The balance of site improvement and first 4 unit building and community center are to be constructed within the next 6 months. Full build out of the project is expected to be complete by the winter of 2014.
- (2) The class of construction is "Type VB" frame construction as outlined in the New York State Uniform Fire Prevention and Building Code. The Type of construction describes the fire-resistance rating requirements for building

elements per the 2007 Building Code of New York State, Chapter 6, section 601.

- (3) Currently residential Certificates of Occupancy have not been issued since no construction of dwelling units has commenced as of the date of this report.
- (4) NA

(c) **Site**

- (1) The site is approximately 5.481 acres. This area includes the area of the private drive.
- (2) The Sponsor will construct a total of 15 dwelling units and one office/community center building. The four buildings containing the dwelling units will consist of three buildings with four units and one building with triple units. The fifth building, being the separate community center building. Each dwelling unit has 2 bedrooms or a master bedroom and a study. All dwelling units will have full basements, except under rear bedroom and bathroom area, where a crawl space will be provided. The garage will be slab on grade. All dwelling units have 2 baths. All dwelling units have a 1.5 car garage and driveway.
- (3) The private drive servicing the project will be maintained by Brandy Bay Heights Condominium. The private drive is to be constructed in accordance with the approved plans, which include 22' wide pavement with 24" wide shoulders on both sides. There will be 24" depth of compacted cobbles topped with a rolled layer of No. 2 Crusher Run Stone base, a 2.5" depth of NYSDOT type 3 Asphalt Binder and a 1.5" depth of NYSDOT Type 1A Asphalt Top. The shoulders will be 12" of compacted item 3 mix crushed gravel. The private drive pavement width will be increased three feet to 25 feet wide along the rear of the units to provide a three foot wide pedestrian walkway accompanied by white striping to separate the walkway from the roadway.
 - (i) Brandy Bay Heights Condominium owns and maintains all paved roadways within the project.
 - (ii) There is no curbing proposed within Brandy Bay Heights.
 - (iii) Brandy Bay Heights Condominium owns and maintains all storm sewers on site. Storm sewer piping will be 24" diameter SICPP (smooth interior corrugated polyethylene pipe) under the private drives. The roadway drainage and adjacent driveways and lawn

areas will drain to the swales, storm culverts and rock-lined channels. The Brandy Bay Heights Condominium will own and maintain all proposed storm sewer improvements including swales, ditches and rock lined swales. There are no catch basins proposed.

- (iv) Brandy Bay Heights Condominium owns and maintains all site lights. Lighting will be provided by twelve pole mounted lights set along the private drive and adjacent to parking areas. The light pole will be no higher than 16' tall, square, steel poles from Rudd Lighting Direct. The light fixtures will be Aerodome AVV3 series, 400 Watt metal halide.
 - (v) All items are in conformity with the local fire district and Town building codes per the approved plans.
- (4) All roads, sidewalks and ramps are considered part of the site improvements. Brandy Bay Heights Condominium owns and maintains all storm sewers. Brandy Bay Heights Condominium is responsible for maintenance or ownership of these improvements.
- (i) Brandy Bay Heights Condominium owns and maintains the unit driveways. These driveways will be approximately 14' wide at the face of the garage to the edge of the private drive. The driveways are approximately 20' long. The unit driveways will have 6" of crusher run stone base, 1 ½" of asphalt binder and 1" top asphalt.
 - (ii) Brandy Bay Heights Condominium does not own or maintain any curbing.
 - (iii) Brandy Bay Heights Condominium owns and maintains any storm sewers. Brandy Bay Heights Condominium does not own or maintain any catch basins.
 - (iv) Brandy Bay Heights Condominium owns and maintains all exterior site lights within the project. Lighting will be provided by twelve pole mounted lights set along the private drive and adjacent to parking areas. The light pole will be no higher than 16' tall, square, steel poles from Rudd Lighting Direct. The light fixtures will be Aerodome AVV3 series, 400 Watt metal halide.
 - (v) All items are in conformity with the local fire district and Town building codes.

(d) Utilities

Electricity and natural gas is provided by New York State Electric and Gas (NYSEG). NYSEG will be responsible for electric cables, transformers and services to each condominium unit. Electric and gas consumption will be metered by each individual unit and billed to each individual condominium unit by NYSEG.

Telephone Service will be provided to each individual unit by Verizon or Time Warner, at the owner's option. Verizon and/or Time Warner will own and maintain all underground lines.

Individual units are wired for cable television connections. All unit owners have the option of connecting to cable service with the cable provider, Time Warner.

Refuse pick up and disposal is provided by Casalla Waste and paid for by Brandy Bay Heights Condominium.

The sanitary sewer system is constructed in accordance with the specifications of the Keuka Park Sewer District and the Town of Jerusalem. The Town of Jerusalem owns and will maintain the sanitary sewer mains, manholes and laterals to the units, within their easement. This includes all sanitary sewer improvements that serve the project. Brandy Bay Heights Condominium owns and maintains the sanitary laterals to each unit from the sanitary sewer easement line up to the building unit. Every unit shall have a separate lateral.

The sanitary sewer materials shall be as noted:

Main: 8" diameter PVC (polyvinyl chloride), SDR 35

Laterals and cleanouts: 4" diameter PVC (polyvinyl chloride), SDR 35; cast-iron cleanout-caps

Manholes: precast concrete with cast-iron frame and covers

The water distribution system is constructed in accordance with the Keuka Park Consolidated Water District and the Town of Jerusalem standards. The system relies on Town of Jerusalem water system pressure and will not require additional pumps to provide water for domestic and fire fighting purposes. The 6" HPDE SDR-11 watermain, valves, hydrants and water services up to and including the curb box will be owned and maintained by the Town of Jerusalem. Fire hydrants are installed less than 500' apart.

Water will be separately metered to each unit and billed by the Town of Jerusalem. Brandy Bay Heights Condominium will maintain the 1" HDPE

SDR-11 water services for each unit, from the curb box to the individual unit. The office/ community center building will have a 2" HDPE SDR-11 water service with backflow preventer.

The storm drainage system is constructed in accordance with the project plans and specifications. Storm water discharge from roof leaders will be discharged to splash blocks and/or daylight. The roadway drainage and adjacent driveways and lawn areas will drain to the swales, storm culverts and rock lined channels. The Brandy Bay Heights Condominium will own and maintain all proposed storm sewer improvements including swales, ditches and rock lined swales.

All of the storm water runoff collected in the storm sewer system, drains to the existing storm drainage system on Central Avenue.

The storm sewer materials shall be as noted:

Main: 24" diameter SICPP (smooth interior corrugated polyethylene pipe)

(e) **Sub-soil Conditions**

- (1) As identified in the USDA Natural Resources Conservation Service Soil Survey the prevalent soil types

Symbol	Name	Slope	Hydric	Type
Ob	Odessa Silty Clay Loam	6-12%	No	C/D
Sg	Schoharie Silty Clay Loam	12-20%	No	C/D

These soils offer suitable conditions for construction of roads, utilities, and homes. Seasonal high water tables are present in the soils. The contractors installing the development features will need to take precautions to de-water utility and foundation trenches. Foundation drains will be provided in the units with basements. The foundation drains, will drain to daylight. Earthmoving and soil compaction shall be performed in accordance with the project plans and specifications. Building and roadway foundations will sit on soils that will have a minimum 2,000 psf capacity. This bearing capacity will support worst-case building and traffic loads. Topsoil from all pavement

and building areas will be removed and stockpiled. Stockpiled topsoil will be redistributed to proposed lawn and landscape areas.

- (2) Moisture and ground water in this area has not been a problem and should be adequately handled by the standard construction methods such as damp-proofing and perimeter footer/foundation drains to daylight, which eliminates the chance of flooding due to ground water.
- (3) The site area covering the existing and proposed units will be located outside of a designated flood hazard zone per the FEMA regulated flood plane mapping, Community Panel No. 360959C 07, dated January 20, 1984.

(f) **Landscaping and Enclosures**

- (1) Brandy Bay Heights Condominium will be responsible for the maintenance of all site landscaping including but not limited to, lawn, berms, trees, grasses and storm water management facility vegetation on common and private property of the project site. All areas not covered by improvements or existing trees, will be covered with grass. The seed to consist of blue grass, rye grass and fescue mix appropriate for site conditions.
- (2) The buildings will be landscaped with various flowering and evergreen shrubs.
- (3) Additional trees associated with visual barriers will be planted along the south side of the site at 12' to 15' on center. There will also be trees placed for screening along the site frontage on Central Avenue. These trees are to be set at 8' on center. The site entrance sign will be place within a shrub and flowerbed.
- (4) No fencing is existing or proposed for Brandy Bay Heights Condominium.
- (5) There are no gates in Brandy Bay Heights Condominium.
- (6) There are no garden walls in Brandy Bay Heights Condominium.
- (7) There are no retaining walls in Brandy Bay Heights Condominium.
- (8) There are no display pools or fountains in Brandy Bay Heights Condominium.

(g) Building Size

- (1) All buildings will be one story with full basements, except under the rear bedroom and bathroom area, where a crawl space will be provided. The garage will be slab on grade. The buildings are approximately 23 feet in height from first floor to the highest part of the roof.
- (2) All units will have a partial crawl spaces located under the rear bedroom and bathroom. The floor systems are 2 x 10 @ 16" o.c. with 5/8" O.S.B.
- (3) The office/community center building will have a full basement. The living units will have full basements, except under rear bedroom and bathroom area, where a crawl space will be provided. The garage will be slab on grade.
- (4) All buildings are one story with the first floor to ceiling height of 8' floor to ceiling.
- (5) There are no equipment rooms.
- (6) There are no parapets on the buildings.

(h) Structural System**(1) Exterior of buildings:**

- (i) **Walls:** All buildings walls will be wood frame structures with vinyl siding on all exterior walls. Vinyl siding above decks is CertainTeed Monogram Double 4 Clapboard and siding on porch roof gables and all other gables over units, porches and dormers is CertainTeed Northwoods Single 9" Rough-Split Shakes. The exterior walls shall consist of 2X6 wood studs at 16" on center. Interior walls to be 2x4 wood studs at 16" on center. The walls shall be insulated with fiberglass batt insulation. The exterior walls shall have an R-value of R-21. The common walls shall have an R-value of R-13. Insulation above the ceiling, below the roof will be fiberglass batt and shall have an R-value of 38. The insulation is in compliance with the Energy Conservation Construction Code of New York State. The common wall between units has a sound insulation value of 50 STC sound transmission rating based on sound test reference RAL (Riverbank Acoustical Laboratories) TL89-383. Walls & ceiling are

painted drywall. Interior trim is pine painted white. Mouldings are colonial style with 3 1/4" casing & 5 1/4" baseboard. Window stools are included. Cove moulding is MDF 3 5/8" WM-49 (except garage).

- (ii) **Windows:** The windows are Ply Gem MW Pro Series vinyl double hung units. The manufacturer provides a limited lifetime warrantee against material defects. All windows will meet or exceed the requirements of the New York State Energy Conservation Code. The U-value is 0.33 and the R-value is 3/03.
- (iii) **Landmark Status:** There are no existing buildings on the site, so landmark status is not a concern.
- (2) **Parapets and copings:** There are no parapets or copings proposed on the buildings
- (3) **Chimneys and caps:** There will be no brick chimneys and caps. The fireplaces provided will vent vertically through the roof with caps. No fireplaces can be used for wood fires.
- (4) **Balconies and terraces:**
 - (i) Each unit will have an 8' x 14' Trex decked covered front porch and a 4' x 14' poured concrete pad for the rear porch.
 - (ii) Balustrades will be vinyl.
 - (iii) Railings will be vinyl.
 - (iv) There are no copings.
 - (v) The unit roof line to be extended to cover the deck with the soffits being vinyl.
 - (vi) There are no doors to balconies or terraces.
- (5) **Exterior entrances:**
 - (i) Exterior doors are Masonite Belleville Smooth Fiberglass doors. Front doors will be a BLS 21IG-2 (2 lite) with a U-factor/solar heat gain coefficient of 0.22/0.10 and rear doors will be BLS 9R15CIM (15 lite grilles between glass) with a U-factor/solar heat gain coefficient of 0.37/0.30. The garage doors will be fire doors from Masonite steel DP1030 Perma doors. Exterior locksets are Schlage Torino lever.

- (ii) There are no vestibules proposed.
 - (iii) There are no exterior stairs proposed except for the steps off the front porches.
 - (iv) All railings located on the front and rear porches will be vinyl.
 - (v) All mailboxes will be clustered near the private drive entrance as depicted on the approved site plan. There will be 16 total mail boxes clustered 62" high, 31" wide and 18" deep. This arrangement has been agreed upon with the US Postal Service.
 - (vi) Each entrance shall be lighted by a wall mounted CFL, compact fluorescent light, fixture controlled by a switch within the unit.
- (6) Service entrances: There are no service entrances proposed.
- (7) Roof and roof structures:
- (i) Type of Roofs:
 - (a) The roof system of the residential structures will consist of folding truss with interior load points at 16' o.c..
 - (b) There is no insulation in the roof structure. Insulation above the ceiling, below the roof will be fiberglass batt and shall have an R-value of 38.
 - (c) The roof sheathing will be 7/16" OSB sheathing with architectural roofing shingles.
 - (d) The expected useful life of the roofing shingles is 30 years with proper maintenance. The manufacturer provides a limited 30 year warrantee on these CertainTeed Landmark 30 year shingles. Roof sheathing and roof truss structures do not carry a material or labor guarantee.
 - (e) All flashing will be aluminum and will be installed and sealed at all roof to wall joints and at all roof penetrations. Flashing for plumbing vents will be of the neoprene boot type.
 - (ii) Drains:

- (a), (b) Aluminum eave gutters and downspouts will be installed as required and extended for proper drainage.
 - (iii) Skylights. There will be no skylights.
 - (iv) Bulkheads. There will be no bulkheads.
 - (v) Metal Work at roof levels: There will be no metal work at roof levels.
 - (vi) Rooftop facilities. There will be no rooftop facilities.
- (8) Fire escapes: There are no fire escapes planned for this project, since the units are all one story.
- (9) Yards and courts:
- (vii) Running along the front of all of the dwelling units will be a paved walkway consisting of precast concrete pavers with either a brick or stone pattern set on 4" of #2 crusher run. Each dwelling unit will have a 4' wide walk/patio running from the rear porch to the asphalt driveway.
 - (viii) Drainage from yards will be by sheet flow to swales and rock lined channels.
 - (ix) There are no railings in the yards
 - (x) There are no stairs associated with the yards.
 - (xi) There is no fencing associated with the yards.
 - (xii) There are no walls associated with the yards.
- (10) Interior stairs:
- (i) Each unit will have a single interior stairs leading from the main floor down to the basement floor. The stairs are not located in a common area.
 - (ii) The stairs will be enclosed by wood framing, drywall and painted.
 - (iii) The stairs will be wood framed stringers with wood rails.

- (iv) The stringers will be wood framed.
- (v) The treads will be wood.
- (vi) The risers will be wood.
- (vii) The stair handrails will be wood.
- (viii) There are no balustrades proposed.

(11) Interior doors and frames:

- (i) All interior doors will be Craftmaster Colonist hollow core white 6 panel textured doors. Exterior doors are Masonite Belleville Smooth Fiberglass doors. Front doors will be a BLS 21IG-2 (2 lite) with a U-factor/solar heat gain coefficient of 0.22/0.10 and rear doors will be BLS 9R15CIM (15 lite grilles between glass) with a U-factor/solar heat gain coefficient of 0.37/0.30. The garage doors will be fire doors from Masonite steel DP1030 Perma doors. Craftmaster provides a limited five year warranty against defect in materials or workmanship. All doors will be in compliance with the New York State Energy Conservation Construction Code with regard to energy efficiency and meet or exceed fire/safety standards. Interior and exterior locksets are Schlage Torino lever.
- (ii) There are no corridor doors and frames.
- (iii) There are no hall doors and frames.
- (iv) There are no roof doors proposed. The basement doors will be Craftmaster Colonist hollow core white 6 panel textured doors

(12) Elevators: There are no elevators proposed.

(13) Elevator cabs: There are no elevator cabs proposed.

(i) Auxiliary facilities

(1) Laundry Rooms

- (i) Each unit will have a laundry room ranging in size from 5'9" by 7'8" up to 5'9" by 8'8".

- (ii) Clothes washer to be provided by Brandy Bay Heights Condominium. The manufacturer is GE, Model GTWN7450DWW.
- (iii) Clothes dryer to be provided by Brandy Bay Heights Condominium. The manufacturer is GE, Model GTD5850GDWS.
- (iv) No room ventilation will be provided.
- (v) Dryer ventilation will be piped to the exterior of the units.

(2) Refuse Disposal

- (i) No incinerator will be provided.
- (ii) No compactor will be provided.
- (iii) Approvals by "authorities having jurisdiction" are not required.
- (iv) Refuse containers will be stored within the garages of each unit until collection day.
- (v) Refuse pick up and disposal is provided by Casalla Waste, a private hauler, and paid for by Brandy Bay Heights Condominium. Typically, refuse pick-up will occur weekly.

(j) Plumbing and drainage

- (1) **Water supply:** Water will be provided by the Town of Jerusalem from a water main extended from Central Avenue into the project. Each unit has a 1" HDPE SDR-11 water service to supply water for domestic use. The office/community center building will have a 2" HDPE SDR-11 water service with backflow preventer. Brandy Bay Heights Condominium will maintain all the water services from the curb box to the individual unit.
- (2) **Fire protection system:** Fire protection will be provided by the Branchport/Keuka Park Fire Department. Fire hydrants are located throughout the project.
 - (i) No standpipes will be provided
 - (ii) No hose racks, hoses and nozzles are provided on the site.

- (iii) Sprinklers are not provided.
 - (iv) Siamese connections are not provided.
- (3) Water storage tanks and enclosures: Not provided on site.
- (4) The Keuka Park Consolidated Water District provides water to the Town of Jerusalem. The water pressure in the area is approximately 128 psi. This water pressure is sufficient to meet peak-hour demands for all the units.
- (5) Sanitary sewer system
 - (i) The sanitary sewer system consists of 8" PVC sewer mains with concrete manholes extended from existing sanitary sewers. The Town of Jerusalem will own and will maintain the sanitary sewer mains, manholes and laterals to the units within the right-of-way and up to the first cleanout. Each unit will be serviced by a 4" PVC sanitary lateral. The portion of the 4" sanitary lateral running from the first cleanout to the unit is private and to be maintained by Brandy Bay Heights Condominium.
 - (ii) There are no sewage pumps on this project.
 - (iii) Sewage disposal is ultimately provided by Seneca Lake Pure Waters.
- (6) Permits required: The water distribution system and sanitary sewer collection system are constructed under a permit from the new York State Health Department.
- (7) Storm drainage system
 - (i-iii) The storm drainage system is constructed in accordance with the project plans and specifications. Storm water discharge from roof leaders will be discharged to splash blocks and/or daylight. The roadway drainage and adjacent driveways and lawn areas will drain to the swales, storm culverts and rock lined channels. The Brandy Bay Heights Condominium will own and maintain all proposed storm sewer improvements including swales, ditches and rock lined swales.
 - All of the storm water runoff collected in the storm sewer system, drains to the existing storm drainage system on Central Avenue.

The storm sewer materials shall be as noted:

Main: 24" diameter SICPP (smooth interior corrugated polyethylene pipe)

- (iv) There are no ejector pumps or sump pumps proposed for this project.

(k) Heating

- (1) Heating will be provided in each unit by a Trane Model TUCIB060A9361A or equal, forced-air furnace. This furnace provides 60,000 BTU output at 96% efficiency. The manufacturer warranty is five years parts and labor. The heat exchanger has a limited lifetime warranty. Hot water is manufactured by Rheem, model 82MV52-2, 50 gallon electric hot water heater. The manufacturers warranty is for six years limited tank and parts warranty. The furnace and hot water tank are located in the basement. The thermostat control for the furnace and A.C. unit is located in the hallway near the kitchen of each unit. The exterior walls shall have an R-value of R-21. The common walls shall have an R-value of R-13. R38 in the ceiling of each unit.

The heating system will be adequate to maintain comfortable temperatures in each unit. Each unit will have an A.C. cooling coil with an outside compressor.

(l) Gas supply

- (1) Natural gas is provided by New York State Electric and Gas (NYSEG). Gas mains to be located within easement granted to NYSEG with services to each unit.
- (2) Each unit will have their own gas meter and the owner of each unit will be responsible for the cost of their gas consumption.
- (3) Inside each unit, the gas lines will be ¾" to 1" flex pipe. Gas lines run to the furnace and fireplace.

(m) Air Conditioning

- (1) Each unit will be supplied with an individual Trane model number TTB3024D1000A or equivalent air conditioning unit. The compressor unit will be located outside of each unit, placed on a concrete pad located to the

rear, north or south ends of the dwelling units. The manufacturer's warranty is for 5 years parts only.

- (2) There is no single central system air conditioning system servicing all the units. Each unit has an individual air conditioning unit.
- (3) There are no central cooling towers or condensers.

(n) **Ventilation**

- (1) Kitchens will be provided with microwave ovens with integral fans located above the range, which are vented through the roof. All bathrooms will be provided with ceiling fans vented to the exterior, the output of these fans are rated at 70 cfm and are manufactured by Broan, model 679. Units with gas fireplaces will be vented to the outside. FMI is the manufacturer of the fireplace units. The model to be installed is the CD36 MCP-LS 36" LP gas with full chase vertical vent. The blower exhaust is rated at an output of 145 cfm. All units will have radon vents with fans. These fans will be from Nutone, model number IFRF in-line fans.

(o) **Electrical system**

- (1). Each unit is supplied with a 120/240 volt, single phase, 200 amp 40 circuit panel load center. There are approximately 13 circuits per unit. Five 20 amp breakers and eight 15 amp breakers. There are a minimum of 5 convenience outlets in each room. There are 2 GFI outlets in the kitchen, 1 GFI outlet in each bathroom and 1 GFI outlet located at the front and rear porch of each unit. There is adequate power in each unit to handle modern usage and appliances such as air conditioners, dishwashers and dryers. Each unit typically has 2 recessed lighting fixtures and 18 attached lighting fixtures.

Each unit is individually supplied electricity from the local utility. There will not be service switchgears. All wiring is Romex

(p) **Intercommunication and/or door signal systems, security closed circuit TV**

- (1) Each unit will be wired for cable TV. It is the responsibility of the individual unit owner, to have the cable TV service connected to their unit and to pay for the future service.

There will not be an intercom system.

(q) **Public area lighting**

- (1) Lighting will be provided by twelve pole mounted lights set along the private drive and adjacent to parking areas. The light pole will be no higher than 16' tall, square, steel poles from Rudd Lighting Direct. The light fixtures will be Aerodome AVV3 series, 400 Watt metal halide.
- (2) Each unit will have wall mounted white coach style fixtures located adjacent to the front and rear entry door and center above the garage door. All lighting fixtures will use CFLs, compact fluorescent lights and are compliant with the Code of New York State.

(r) **Garages and parking areas**

- (1) Each condominium unit has an attached 1.5-car garage. The floor of the garage is poured concrete. The driveway will be paved asphalt approximately 14' wide at the face of the garage to the edge of the private drive. The driveways are approximately 20' long and provide an additional exterior parking space for each dwelling unit. The walls and the ceiling of each garage have 5/8" type-x-fire-rated drywall. The inside walls have 5/8" type-x drywall providing a 1 hour rated wall. The interior garage man-door is a 90 minute rated insulated door and frame with self-closing hinges.
- (2) Additional parking spaces are provided at four locations spaced through out the project providing 16 additional parking spaces.
- (3) Parking spaces will be constructed of a 6" rolled layer of No. 2 Crusher Run Stone base, a 1.5" depth of NYSDOT type 3 Asphalt Binder and a 1" depth of NYSDOT Type 1A Asphalt Top.
- (4) Parking areas will be unattended.
- (5) The unit garages will not have additional ventilation equipment installed.
- (6) The unit garages will not have sprinklers systems installed for fire protection.
- (7) The garage floor will be sloped to allow drainage to sheet flow to the driveway leading up to each garage.

(s) **Swimming pool(s)**

- (1) There are no swimming pools provided in the project.

(t) **Tennis courts, playgrounds and recreation facilities**

- (1) There are no tennis courts provided at Brandy Bay Heights Condominium.
- (2) There are no playgrounds provided at Brandy Bay Heights Condominium.
- (3) A Gazebo and 4 picnic tables are provided. The gazebo is a 12' model, the picnic table are 6' in length with integral benches. The Gazebo and picnic tables are manufactured by Woodtex Products of Himrod New York. All structures are of pressure treated material and are to be set on concrete pads.

(u) **Permits and certificates**

- (1) Each unit will need to be issued building permits from the Town of Jerusalem. A temporary Certificate of Occupancy is required prior to transferring title to the new owner. The final Certificate of Occupancy is provided by the Town of Jerusalem once final grading and seeding has been completed adjacent to each unit, typically within 90 days of the issuance of the temporary Certificate of Occupancy. Permit for the construction of improvements will need to be obtained from the New York State Health Department and the Town of Jerusalem.

(v) **Violations**

- (1) There are no known violations as of the writing of this report.

(w) **Unit information**

- (1) There are no existing units at the time this report was written. The living units are as depicted on the Brandy Bay Heights Condominium floor plans attached. The typical units consist of:
 - (i) An entry way into a hall. The hall as a man door to the garage. Walls to be painted and have crown molding, colonial base and casing. Ceiling to be painted. Buyers to choose floor coverings/finishes, within a budget amount provided by Brandy Bay Heights Condominium.
 - (ii) An open dining, kitchen and great room. Walls to be painted and have crown molding, colonial base and casing. Ceiling to be painted.

Buyers to choose floor coverings/finishes, within a budget amount provided by Brandy Bay Heights Condominium.

- (iii) A master bedroom with bathroom and walk-in closet. Walls to be painted and have crown molding and colonial base and casing. Ceiling to be painted. Floors will have Shaw "Winsford" carpet with pad. This manufacturer provides a five year warranty.
- (iv) A second bedroom with closet and adjacent bathroom. Walls to be painted and have crown molding and colonial base and casing. Ceiling to be painted. Floors will have Shaw "Winsford" carpet with pad. This manufacturer provides a five year warranty.
- (v) A laundry room. Walls to be painted and have crown molding, colonial base and casing. Ceiling to be painted. Buyers to choose floor coverings/finishes, within a budget amount provided by Brandy Bay Heights Condominium.
- (vi) Front and rear covered porches on all the units
- (vii) 1.5 car garage
- (v) Each unit will have an electric range, microwave, dishwasher, refrigerator, garbage disposal washer and dryer. The washer manufacturer is GE, Model GTWN7450DWW. The dryer manufacturer is GE, Model GTD5850GDWS. The microwave is a Whirlpool, 1000 watt model WMH 31017, with a one year warranty. The garbage disposals will be GE GFC720F, ¼ HP.
- (viii) All bathroom fixtures including the toilet, sink, tub or shower stall.

(x) **Finish schedule of spaces other than units**

- (1) The community center building is depicted on the Brandy Bay Heights Condominium floor plans attached. The exterior finishes of the community center building will match those of the dwelling units in type and style. The community center shall have the following finishes:
 - (i) The entry way into the community center consists of a covered concrete pad, with a vinyl railing system and vinyl ceiling panels on the roof projection over the entry.

- (ii) A gathering room. The walls to be painted and have crown molding, colonial base and casing. Ceiling to be painted. Floors will have seamless vinyl flooring laid on ¼" luan.
- (iii) A library. Walls to be painted and have crown molding and colonial base and casing. Ceiling to be painted. Floors will have Shaw "Winsford" carpet with pad. This manufacturer provides a five year warranty.
- (iv) An office. Walls to be painted and have crown molding and colonial base and casing. Ceiling to be painted. Ceiling to be painted. Floors will have Shaw "Winsford" carpet with pad. This manufacturer provides a five year warranty.
- (v) A handicapped accessible bath. Walls to be painted and have crown molding and colonial base and casing. Ceiling to be painted. Floors will have seamless vinyl flooring laid on ¼" luan.
- (vi) A storage room. Walls to be painted and have crown molding and colonial base and casing. Ceiling to be painted. Floors will have seamless vinyl flooring laid on ¼" luan.

(y) **Safety and warning devices**

- (1) Fire, smoke and carbon monoxide detectors/alarms will be provided as required by the "New York State Uniform Fire Prevention and Building Code".
- (2) No handicapped provisions are required. All doors will be sized for handicapped passage.

(z) **Additional information required**

- (1) Refer to the attached plans for the unit floor plans, the approved site plans and the narrative description distinguishing units from common elements.

(aa) **Additional testing and/or monitoring**

- (1) There is no additional testing or monitoring required.

(bb) Further development

- (1) There are no additional units planned for this condominium.

(cc) Asbestos

- (1) All materials used in the construction of the units and improvements are new and no asbestos containing materials will be used.

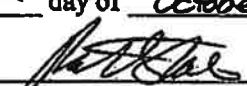
(dd) Lead-based paint

- (1) There will be no lead based paint used in the units.

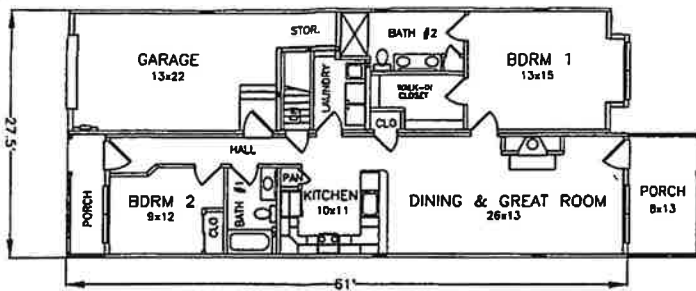
This statement is not intended as a guarantee or warranty of the physical condition of the project.


Kris E. Schultz, P.E.

Subscribed and sworn to before me this
24th day of October, 2013.

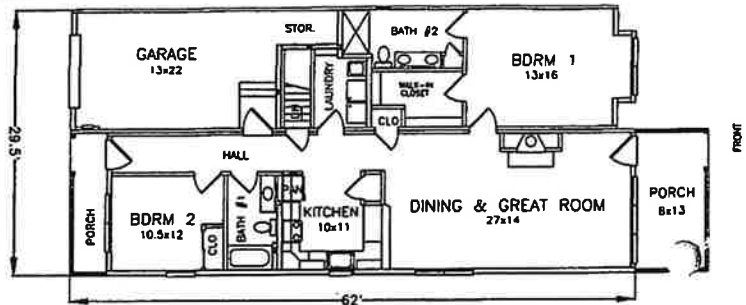

Notary Public

PATRICK S. LABER
Notary Public - State of New York
No. 01LA6214406
Qualified In Monroe County
My Commission Expires: December 7, 2013



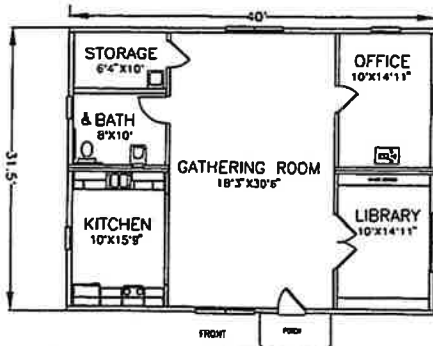
2869-PRESTIGE RANCH
First Floor Plan

1,611 SQ FT LIVING SPACE & GARAGE COMBINED
1,299 SQ FT LIVING SPACE NOT INCLUDING GARAGE



3070-PRESTIGE RANCH
First Floor Plan

1,755 SQ FT LIVING SPACE & GARAGE COMBINED
1,402 SQ FT LIVING SPACE NOT INCLUDING GARAGE



COMMUNITY CENTER BUILDING
First Floor Plan
1,260 SQ FT SPACE

Unit Designation	Address (Perth Yon, NY 14527)	CSL Number	Floor Plan	Square Footage (w/o garage)
1-A	3514 Central Avenue	72.50-1-1.1/1	3070-Prestige Ranch	1402
1-B	3518 Central Avenue	72.50-1-1.1/2	2869-Prestige Ranch	1299
1-C	3518 Central Avenue	72.50-1-1.1/3	2869-Prestige Ranch	1299
1-D	3520 Central Avenue	72.50-1-1.1/4	3070-Prestige Ranch	1402
2-A	3522 Central Avenue	72.50-1-1.1/5	3070-Prestige Ranch	1402
2-B	3524 Central Avenue	72.50-1-1.1/6	2869-Prestige Ranch	1299
2-C	3526 Central Avenue	72.50-1-1.1/7	2869-Prestige Ranch	1299
2-D	3528 Central Avenue	72.50-1-1.1/8	3070-Prestige Ranch	1402
3-A	3530 Central Avenue	72.50-1-1.1/9	3070-Prestige Ranch	1402
3-B	3532 Central Avenue	72.50-1-1.1/10	3070-Prestige Ranch	1402
3-C	3534 Central Avenue	72.50-1-1.1/11	3070-Prestige Ranch	1402
4-A	3536 Central Avenue	72.50-1-1.1/12	3070-Prestige Ranch	1402
4-B	3538 Central Avenue	72.50-1-1.1/13	2869-Prestige Ranch	1299
4-C	3540 Central Avenue	72.50-1-1.1/14	2869-Prestige Ranch	1299
4-D	3542 Central Avenue	72.50-1-1.1/15	3070-Prestige Ranch	1402
Common Areas	3512 Central Avenue	72.50-1-1		

TAX ACCOUNT CERTIFICATION

The undersigned, tax assessor of the Town of JERUSALEM, certifies the tax account tabulation set forth above conforms to the official tax assessment records of the units in the Brandy Bay Heights Condominium.

By: _____

Date: 8/14/13

REVISED	DATE	DESCRIPTION	BY

BRANDY BAY HEIGHTS
CONDOMINIUM
DECLARANT: MTS DEVELOPMENT, LLC

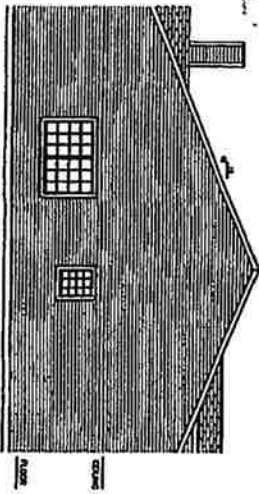
LOCATED AT THE
ERIEKA PARK SENIOR LIVING DEVELOPMENT
SITUATE IN
PART OF TOWN LOT 48, TOWNSHIP 1, RANGE 1, T12N AND CORSAHAM PURCHASE,
TOWN OF JERUSALEM, COUNTY OF YATES, STATE OF NEW YORK.

SCHULTZ ASSOCIATES
125 Broad Street, 10th Floor
Jersey City, NJ 07310
201-349-3750
www.schultzassociates.com

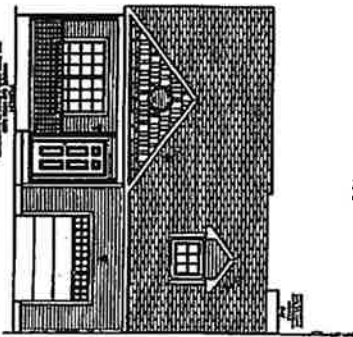
CONDOMINIUM FLOOR PLANS

DRAWN BY: CSB PROJECT NO. 13321
CHECKED BY: CSB ERIEKA PARK
SCALE: 1/4" = 1'-0" DWG. NO. C-2
DATE: 8/14/13

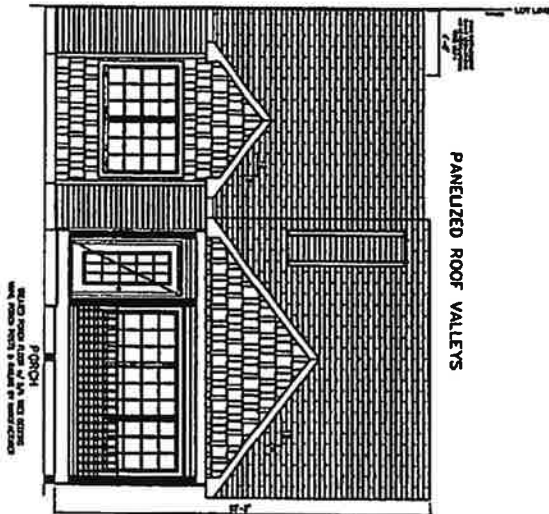
RIGHT ELEVATION



REAR ELEVATION



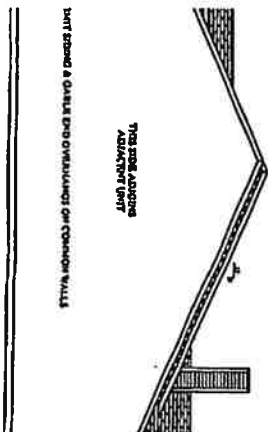
FRONT ELEVATION



NOTE: THIS ELEVATION IS A REPRESENTATION OF THE HOUSE AS IT WILL BE CONSTRUCTED. IT DOES NOT SHOW A HOUSE AS IT WILL BE CONSTRUCTED.

NOTE - ACTUAL HOUSE MAY VARY FROM ELEVATION

LEFT ELEVATION



THIS SIDE ADJACENT
ADJACENT UNIT

NOT SHOWING A GARAGE AND OVERHANGS ON COMMON WALLS

PAGE:

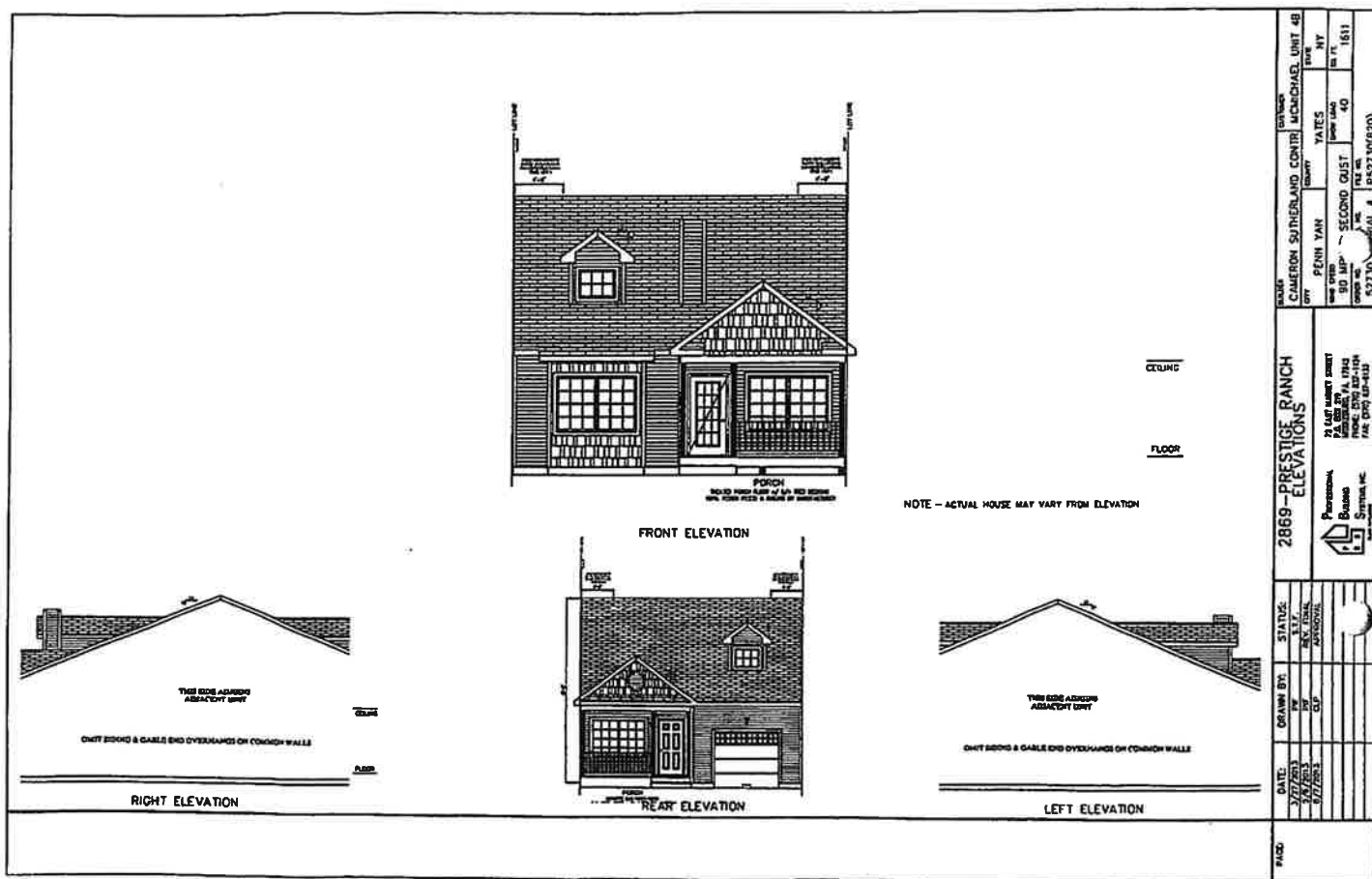
DATE:	DRAWN BY:	STATUS:
3/27/2013	PH	S.T.F.
3/28/2013	PH	REV. FINAL
5/6/2013	CLP	APPROVAL

3070-PRESTIGE RANCH ELEVATIONS



71 EAST MARKET STREET
P.O. BOX 576
MILLSBORO, PA. 17843
PHONE: (610) 637-1104
FAX: (610) 637-0133

DRAWER		CUSTOMER	
CAMERON SUTHERLAND CONTR.		MCMICHAEL UNIT 4A	
CITY	PENN YAN	COUNTY	YATES
STATE	NY	ZIP	1755
WIND SPEED	90 MPH 3 SECOND GUST	SNOW LOAD	40
ORDER NO.	52731	SERIAL NO.	P52731(820)



LOCATION MAP:

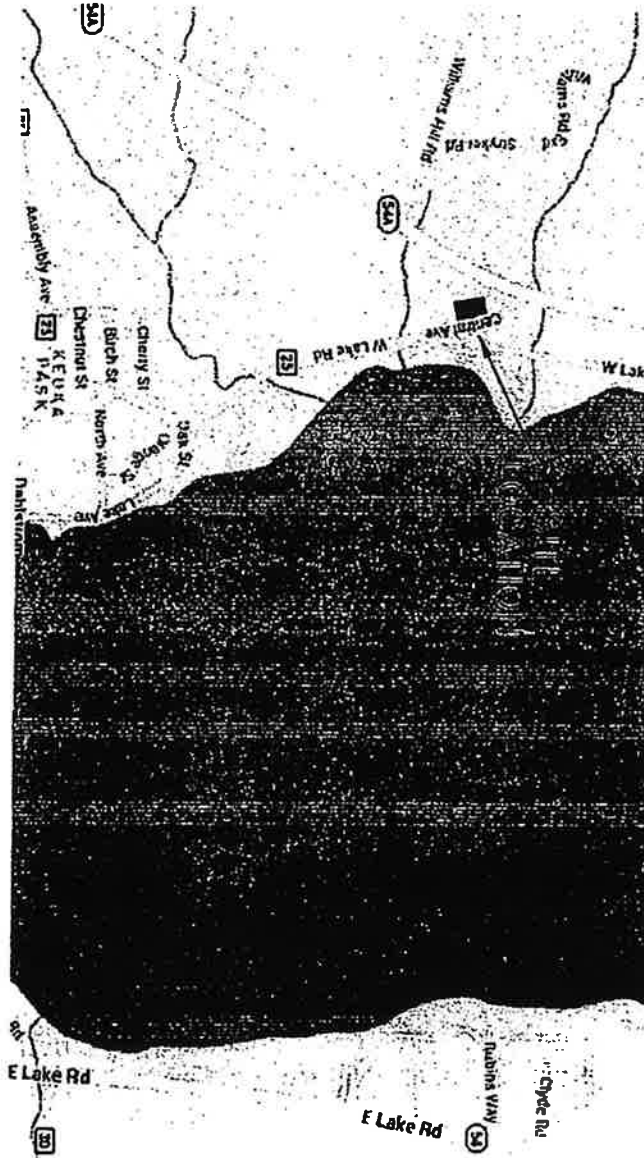


EXHIBIT A

PURCHASE AGREEMENT

**Exhibit A - Liens, Encumbrances and Other Title
Exceptions**

Exhibit B - Power of Attorney

Exhibit C - Extras, Upgrades, Changes or Deletions

Exhibit D - Limited Warranty

**PURCHASE AGREEMENT
BRANDY BAY HEIGHTS CONDOMINIUM**

This Agreement is made as of the ___ day of ___, 20___, by and between MTS Development, LLC, a New York limited liability company having its office at 3289 Howard Davis Road, Bluff Point, New York 14478, hereinafter called "Seller"; and _____, residing at _____, hereinafter called "Purchaser"; and Handelman, Witkowitz & Levitsky, LLP, with an address at 16 East Main Street, Rochester, New York 14614, hereinafter called "Escrow Agent".

WHEREAS, Seller is the owner of real property in the Town of Jerusalem, County of Yates, State of New York, being approximately 5.481± acres off of Central Avenue, which property is known or to be known as Brandy Bay Heights Condominium (hereinafter referred to as the "Property"); and

WHEREAS, the Property, including the improvements made or to be made thereon, has been declared a condominium known as the Brandy Bay Heights Condominium (the "Condominium"), pursuant to the provisions of Article 9-B of the Real Property Law of the State of New York, by a Declaration of Condominium establishing the Condominium (the "Declaration") recorded in the Yates County Clerk's Office on _____, 20__ in Liber _____ of Deeds at page ____; and

WHEREAS, the units in the Condominium are being offered for sale pursuant to an offering plan ("Offering Plan") filed with the Department of Law of the State of New York; and

WHEREAS, Purchaser is desirous of purchasing from Seller and Seller is desirous of selling to Purchaser a unit in the Condominium.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Seller and Purchaser mutually agree as follows:

1. **DESCRIPTION OF PREMISES:** Those certain premises known as Unit No. _____, together with an undivided 6.666___% interest in the Common Elements (as described in the Declaration) appurtenant thereto (together the "Unit"), as such Unit is designated and described in the Declaration.

The premises is or will be improved with a dwelling in accordance with Seller's plans and specifications for unit type _____ on file in the office of Seller, and which are incorporated into this Agreement by reference, exclusive of any "Extras" contained in Seller's model, except for those "Extras", changes or deletions, if any, set forth on Exhibit C attached. The Unit is projected to be completed by and the transfer of title to the Unit is projected to occur on or about _____, 20____.

SUBJECT however to the following: The deed, described below, to be delivered by Seller shall be sufficient to convey marketable title to the premises together with all rights of

Seller in and to any and all streets, roads, highways, alleys, driveways, easements and rights of way appurtenant thereto and subject to the following: restrictive covenants of record provided the same have not been violated, unless the enforcement of said covenants has been barred by Section 2001 of the Real Property Actions and Proceedings Law; water, sanitary sewer, drainage, electrical and telephone easements of record, provided said easements are or may be used to service the premises and provided the improvements do not encroach upon the easements; the title exceptions set forth in Exhibit A attached hereto and made a part hereof; and also the Declaration and the By-Laws for the Condominium, both of which are included in the Offering Plan for the Condominium, which Offering Plan Purchaser hereby acknowledges having received:

[] at least three (3) business days prior to the date hereof;

[] less than three (3) business days prior to the date hereof in which event Purchaser shall have until 4:00 p.m. of the seventh day following the date hereof, to rescind such purchase and to thereafter receive a return of all deposits made;

and which Offering Plan is incorporated herein by reference and made a part of this Agreement with the same force and effect as if set forth in full herein. Purchaser hereby agrees to be bound by the Declaration, By-Laws and any Rules and Regulations of the Condominium, as the same may be amended from time to time. Purchaser acknowledges that except as stated in this Agreement, and except as set forth in the Offering Plan, Purchaser has not relied upon any representations or other statements of any kind or nature made by Seller, its agents or otherwise.

2. **PRICE AND PAYMENT.** Seller agrees to sell the Unit to Purchaser, and Purchaser agrees to purchase the Unit from Seller for the price of \$ _____ payable as follows:

- a. Upon signing of this Agreement as a deposit
(10% of purchase price required, payable by
check payable to "Handelman, Witkowitz &
Levitsky, LLP Attorney Escrow Account/IOLA \$ _____
Brandy Bay Heights Escrow Account")
- b. Additional deposit for Extras
(NON-REFUNDABLE) \$ _____
- c. Upon delivery of the deed as hereinafter provided
by certified or cashier's check to the order of the
Seller \$ the Balance

**THE ABOVE PURCHASE PRICE MAY INCLUDE EXTRAS, ETC., IF ANY.
SEE SCHEDULE C ATTACHED.**

3. **CONTINGENCIES:** Purchaser makes this agreement subject to the following

contingencies. If any of these contingencies are not satisfied by the dates specified, then either Purchaser or Seller may cancel this agreement by written notice to the other and Purchaser's Deposit shall be returned (Check and complete applicable provisions).

[] (a) Mortgage Contingency. This agreement is subject to Purchaser obtaining and accepting a _____ mortgage loan commitment in an amount not to exceed \$_____ at an interest rate not to exceed _____ % for a term of _____ years. Purchaser will make application for such loan within five (5) days of acceptance of this Purchase Agreement and will notify Seller in writing when the mortgage application, if any, is made and, in due course, when it is accepted or rejected. If Purchaser does not receive a commitment for a mortgage loan within 60 days from the date of application and Purchaser so notifies the Sponsor in writing within five (5) days after the expiration of the 60-day period, the Purchase Agreement shall terminate upon such written notice to the Sponsor and the Sponsor shall cause the downpayment to be returned to Purchaser, with any interest earned thereon. The conditions of any such mortgage commitment shall not be deemed contingencies of this Agreement but shall be the sole responsibility of Purchaser. Acceptance of a written mortgage commitment by the Purchaser shall be deemed a waiver and satisfaction of this contingency. Purchaser agrees to use its best efforts to satisfy any contingencies and comply with any deadlines contained in such mortgage commitment. Notwithstanding anything to the contrary, Purchaser's financing commitment lapses or expires prior to closing of the purchase and sale, and the Purchaser has made a good faith effort to extend the financing commitment, then the Sponsor must offer Purchaser a right of rescission of the Purchase Agreement and a reasonable period of time to exercise such right of rescission.

[] (b) Sale Contract Contingency. This agreement is subject to Purchaser obtaining a contract for the sale of Purchaser's existing property located at _____ no later than _____. Unless and until Purchaser has removed this sale contingency in writing if Seller receives another acceptable purchase offer, Seller may notify Purchaser in writing that Seller wants to accept the other offer and Purchaser will then have _____ days to remove this sale contingency by written notice to the Seller. If Purchaser does not remove this sale contingency after receiving notice from Seller, Purchaser's rights under this agreement shall end, and Seller shall be free to accept the other purchase offer and Purchaser's Deposit shall be returned.

[] (c) Attorney Approval. This agreement is subject to the written approval of attorney for Purchaser within _____ days from date of acceptance (the "Approval Period"). If Purchaser's attorney makes written objection to the contract within the Approval Period, and such objection is not cured by written approval by all of the parties within the Approval Period, then either Purchaser or Seller may cancel this agreement by written notice to the other and any Deposit shall be returned to the Purchaser.

[] (d) Other Contingencies _____

4. **CHANGE.** Seller reserves the right to make such changes and/or substitutions in the construction as may be necessary because of the unavailability of materials through Seller's ordinary and usual sources of supply or as may be required by law provided the changes are of equal or better quality. Any other changes in construction which are not in accordance with the plans and specifications shall be made only if agreed to in writing by Seller and Purchaser and Seller shall be entitled to payment in addition to the sum set forth above for the performance of any "extras" or changes not included in such plans and specifications. The cost of any such extras and changes shall be added to the amount due on closing unless earlier payment is otherwise required by Seller, and shall not be refundable for any reason whatsoever.

5. **INSPECTION.** Before closing Purchaser shall have the right to inspect the Unit on reasonable notice to Seller.

6. **ACCESS AND POSSESSION.** Subject to the conditions set forth in this Section, Purchaser and Purchaser's agents shall be permitted to have access to the Unit and to the Condominium Property. For purposes of security, safety and protection, Purchaser agrees not to enter the Unit during the course of construction except by appointment with the Seller. If for valid reason an inspection of a property is required by the Purchaser, such inspection may be had by appointment, made in advance with the Seller. Seller or Seller's representative will accompany Purchaser through the inspection. Prior to closing, Purchaser will be entitled to a final inspection. The final inspection shall be made during normal business hours, Monday through Friday. If any items within the Unit remain to be completed or corrected, a list shall be made by Seller and signed by Purchaser, and the work shall be completed by Seller in a reasonable time before or after closing of title at Seller's discretion without an escrow of funds with respect to the items to be completed. If inspections are required during the course of construction by any mortgage or lending institution, such inspections must be made by appointment with an agent of Seller to be present during the inspection. Purchaser shall have possession and occupancy of the Unit on delivery of the deed.

7. **CONDOMINIUM MAP.** Seller shall furnish Purchaser with a condominium map made by a land surveyor duly licensed by the State of New York, showing the Condominium Property and the location of all buildings, improvements and other structures affecting the Condominium Property.

8. **MARKETABLE TITLE.** Seller shall give and Purchaser shall accept marketable title to the Unit subject only to (i) those liens and encumbrances set forth in Schedule A annexed hereto, (ii) the conditions of the standard title insurance policies written by such company, (iii) the above-described purchase money and/or assumed mortgage, if any, (iv) the conditions set forth in this Purchase Agreement, and (v) the provisions of the Declaration and the By-Laws of the Condominium. If so requested by the purchaser, the issuance to the purchaser (at the

purchaser's expense) of a binder for title insurance from Stewart Title Insurance Company or other title company licensed in the State of New York insuring (i) that such purchaser has good and marketable fee title to the Unit purchased, free and clear of all liens and encumbrances except those set forth above, and subject to the provisions of the Declaration and By-Laws and any mortgage executed or assumed by the purchaser, and (ii) that the Condominium was validly formed pursuant to Article 9-B of the Real Property Law.

If on the "Closing Date" (see Section 20 of this Agreement) there are violation(s), matters relating to title or lien(s) of record with respect to the Unit, such that Seller's title does not conform to this Agreement, Seller shall remove same prior to closing, and the Seller shall be entitled to an adjournment of the Closing Date for up to 60 days. However, and notwithstanding the foregoing, if the curing of such matter(s) will require litigation or an aggregate expenditure of one-half of one percent of the purchase price of the Unit or more (excluding any attorneys fees or any such title defects or determinations of any authority or regulatory association which existed on the date of presentation of the Offering Plan and are either known to the Seller or are a matter of public record) Seller may elect to cancel this Agreement and return Purchaser's down payment, with interest (if any), in which event Seller shall incur no further liability whatsoever to Purchaser.

9 CONDITION PRECEDENT TO CLOSING - FLOOR PLAN CERTIFICATION.

The parties acknowledge that the closing is conditional upon Seller, prior to closing, (i) recording an amendment to the Condominium Map with an architect's or engineer's certification that the plans previously filed or filed in the Yates County Clerk's Office with the amendment are the plans of the Unit as built and as on file with the Town of Jerusalem and (ii) obtaining a partial, temporary or permanent certificate of occupancy for the Unit(s) to be transferred.

10. ADJUSTMENTS AT CLOSING. There shall be prorated and adjusted as of the date of delivery of the deed: rentals, taxes computed on a fiscal year basis (including all items in the current County tax bill, except returned school taxes) and Condominium assessments ("common charges"). In addition, Purchaser shall, at Seller's request, pay, at the time of closing, the Condominium common charge on the Unit for the month following the month in which the closing occurs. The Purchaser will accept title subject to, and will pay, all assessments and installments of assessments for local improvements which are not payable as of the date of delivery of the deed and which, if any, appear on the current tax rolls. Seller will, at no cost to Purchaser, furnish Purchaser at closing with a certification from the Board of Managers or managing agent of the Condominium setting forth the payment status of Condominium common charges and assessments for the Unit.

11. COSTS. Seller shall pay for continuance of a "master" title search (i.e. a title search covering the entire Condominium property and which search shall remain in the possession of the title company and available for inspection by all purchasers of Units in the Condominium and their attorneys) to the time of closing. Purchaser shall be responsible for the payment of the premium of any title insurance desired or required by Purchaser or required by Purchaser's mortgagee. Purchaser shall pay for any fees incurred in recording of the deed and

power of attorney to the Condominium Board of Managers, and shall pay to Seller the cost of the required Real Estate Transfer Tax Stamp(s) to be affixed to the deed. Purchaser shall also be responsible for the bank's attorneys' fees in conjunction with any mortgage loan obtained, for the cost of recording the mortgage and any New York State Mortgage Tax incurred in conjunction with the obtaining of the mortgage. If Purchaser is afforded any mortgage tax credit pursuant to Section 339-ee-2 of the Real Property Law of the State of New York, Purchaser shall reimburse Seller for the amount of mortgage tax previously paid and for which Purchaser receives a credit at closing. If Purchaser assumes a portion of the existing mortgage on the Condominium Property, Purchaser shall reimburse Seller for the amount of the mortgage tax previously paid on the portion of the mortgage assumed. Purchaser shall also, at the time of closing, pay or reimburse Seller for a sum equal to two (2) months' Condominium common charges for the Unit to be conveyed to be utilized for the Condominium's working capital.

12. **FORM OF DEED.** The closing deed shall be in proper statutory form for recording, shall be Bargain and Sale with Covenant Against Grantor's Acts and Lien Covenant, shall be duly executed and acknowledged and shall contain such a description of the Unit as shall be accepted and/or approved by any title insurer of the premises and validly convey the Unit under New York State Law.

13. **POWER OF ATTORNEY TO BOARD OF MANAGERS.** At the closing of title and simultaneously with the delivery to the Purchaser of the deed conveying the Unit, Purchaser shall execute and acknowledge a Power of Attorney in the form annexed hereto and made a part hereof as Schedule B. Purchaser agrees at closing of title, to deliver such power of attorney to a representative of the Condominium Board of Managers.

14. **BINDING EFFECT OF DECLARATION, BY-LAWS, RULES AND REGULATIONS.** Purchaser hereby agrees to be bound by the Declaration, the By-Laws and the Rules and Regulations of the Condominium as the same may be amended from time to time.

15. **LIMITED WARRANTY.** The housing merchant's implied warranty, as contained in Section 777-a of the New York State General Business Law, will apply to this Agreement, except as limited and modified in the form included in the Offering Plan given to the Purchaser prior to the execution of this Agreement. Such limits and modifications are as follows:

(a) The Limited Warranty extends to the Initial Purchaser only.

(b) Limited Warranty requires that a court action brought to enforce any term of the Limited Warranty or any right conferred on Purchaser by the giving of the Limited Warranty, must be commenced within the time periods set forth in the Limited Warranty (see Section 9 of the Limited Warranty).

(c) The Limited Warranty provides a procedure which must be complied with when making any claim to Seller for repair and/or replacement. Failure to comply with this procedure will result in the loss of warranty coverage (see Section 8 of the Limited Warranty).

(d) The Limited Warranty provides Seller the right to inspect, test and repair any damage prior to the Purchaser being permitted to repair and/or replace the damage by use of an independent contractor. (See Section 8c of the Limited Warranty).

(e) The Limited Warranty excludes consequential and incidental damages.

(f) The Limited Warranty limits Seller's total liability under the warranty coverage provided.

(g) The Limited Warranty provides for arbitration in the event of a dispute. However, any decision resulting from such arbitration will not be binding on any party unless such party has consented in writing to be bound by such arbitration. (See Section 10 of the Limited Warranty).

NO OTHER WARRANTY, EXPRESSED OR IMPLIED, IS MADE IN CONNECTION WITH THIS AGREEMENT OR HOME. THE PURCHASER ACKNOWLEDGES THAT A WRITTEN COPY OF THE TERMS OF THE LIMITED WARRANTY HAS BEEN PROVIDED FOR THE PURCHASER'S EXAMINATION PRIOR TO THE TIME OF THE PURCHASER'S EXECUTION OF THIS AGREEMENT.

16. **ESCROW FOR COMPLETION.** In the event that the Unit shall not be fully completed at the time set by Seller for the closing of title, the same shall not constitute an objection to such closing provided that the lending institution granting Purchaser's mortgage shall issue an inspection report and an escrow fund be deposited by Seller with the lending institution if required under said report, and further provided that Purchaser shall have the right to delay the closing of title until a partial or temporary Certificate of Occupancy has been issued. The escrow fund or portions thereof shall be paid by the lending institution directly to Seller when the lending institution, in its sole discretion, deems specific items for which the escrow is held to be completed. Purchaser shall receive credit at closing for any funds so held in escrow.

17. **ESCROW TRUST FUND.**

(a) The law firm of Handelman, Witkowitz & Levitsky, LLP, with an address at 16 East Main Street, Rochester, New York 14614, telephone number 585.232.2225, shall serve as escrow agent ("Escrow Agent") for Sponsor and Purchaser. Escrow Agent has designated the following attorneys to serve as signatories: Steven M. Witkowitz. All designated signatories are admitted to practice law in the State of New York. Neither the Escrow Agent nor any authorized signatories on the account are the Sponsor, Selling Agent, Managing Agent, or any principal thereof, or have any beneficial interest in any of the foregoing.

(b) Escrow Agent and all authorized signatories hereby submit to the jurisdiction of the State of New York and its Courts for any cause of action arising out of the Purchase

Agreement or otherwise concerning the maintenance of release of the Deposit from escrow.

(c) The Escrow Agent has established the escrow account at Canandaigua National Bank, located in Rochester, New York ("Bank"), a bank authorized to do business in the State of New York. The escrow account is entitled "Handelman, Witkowitz & Levitsky, LLP Attorney Escrow Account/IOLA Brandy Bay Heights Escrow Account" ("Escrow Account"). The Escrow Account is federally insured by the FDIC at the maximum amount of \$250,000 per deposit. Any deposit in excess of \$250,000 will not be insured.

(d) All Deposits received from Purchaser shall be in the form of checks, money orders, wire transfers, or other instruments, and shall be made payable to or endorsed by the Purchaser to the order of Handelman, Witkowitz & Levitsky, LLP, as Escrow Agent.

(e) The Escrow Account is an interest bearing account. Interest earned on the account will be credited to the New York State Interest on Lawyer Account Fund ("IOLA"), in accordance with the provisions of New York Judiciary Law Section 497. Buyer will not receive credit for interest earned on the Escrow Account. No fees of any kind may be deducted from the Escrow Account, and the Sponsor shall bear all costs associated with the maintenance of the Escrow Account.

(f) Within five (5) business days after the Purchase Agreement has been tendered to Escrow Agent along with the Deposit, the Escrow Agent shall sign the Purchase Agreement and place the Deposit into the Escrow Account. Within ten (10) business days of the placing the deposit in the Escrow Account, Escrow Agent shall provide written notice to Purchaser and Sponsor, confirming the Deposit. The notice shall provide the account number and the initial interest rate to be earned on the Deposit. Any Deposits made for upgrades, extras, or custom work shall be initially deposited into the Escrow Account, and released in accordance to the terms of this Purchase Agreement.

(g) The Escrow Agent is obligated to send notice to the Purchaser once the Deposit is placed in the Escrow Account. If the Purchaser does not receive notice of such deposit within fifteen (15) business days after tender of the Deposit, he or she may cancel the Purchase Agreement within ninety (90) days after tender of the Purchase Agreement and Deposit to Escrow Agent. Complaints concerning the failure to honor such cancellation requests may be referred to the New York State Department of Law, Real Estate Finance Bureau, 120 Broadway, 23rd Floor, New York, N.Y. 10271. Rescission shall not be afforded where proof satisfactory to the Attorney General is submitted establishing that the Deposit was timely placed in the Escrow Account in accordance with the New York State Department of Law's regulations concerning Deposits and requisite notice was timely mailed to the Purchaser.

(h) All Deposits, except for advances made for upgrades, extras, or custom work received in connection with the Purchase Agreement, are and shall continue to be the Purchaser's money, and may not be comingled with any other money or pledged or hypothecated by Sponsor, as per GBL § 352-h.

(i) Under no circumstances shall Sponsor seek or accept release of the Deposit of a defaulting Purchaser until after consummation of the Plan, as evidenced by the acceptance of an post-closing amendment by the New York State Department of Law. Consummation of the Plan does not relieve the Sponsor of its obligations pursuant to GBL §§ 352-e(2-b) and 352-h.

(j) The Escrow Agent shall release the Deposit if so directed:

(i) pursuant to terms and conditions set forth in this Purchase Agreement upon closing of title to the Unit; or

(ii) in a subsequent writing signed by both Sponsor and Purchaser; or

(iii) by a final, non-appealable order or judgment of a court.

If the Escrow Agent is not directed to release the Deposit pursuant to paragraphs (i) through (iii) above, and the Escrow Agent receives a request by either party to release the Deposit, then the Escrow Agent must give both the Purchaser and Sponsor prior written notice of not fewer than thirty (30) days before releasing the Deposit. If the Escrow Agent has not received notice of objection to the release of the Deposit prior to the expiration of the thirty (30) day period, the Deposit shall be released and the Escrow Agent shall provide further written notice to both parties informing them of said release. If the Escrow Agent receives a written notice from either party objecting to the release of the Deposit within said thirty (30) day period, the Escrow Agent shall continue to hold the Deposit until otherwise directed pursuant to paragraphs (a) through (c) above. Notwithstanding the foregoing, the Escrow Agent shall have the right at any time to deposit the Deposit contained in the Escrow Account with the clerk of the county where the [unit/building] is located and shall give written notice to both parties of such deposit.

The Sponsor shall not object to the release of the Deposit to:

(i) a Purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an Amendment to the Plan; or

(ii) all Purchasers after an Amendment abandoning the Plan is accepted for filing by the Department of Law.

The Department of Law may perform random reviews and audits of any records involving the Escrow Account to determine compliance with all applicable statutes and regulations.

(k) Any provision of this Purchase Agreement or separate agreement, whether oral or in writing, by which a Purchaser purports to waive or indemnify any obligation of the Escrow Agent holding any Deposit in trust is absolutely void. The provisions of the Attorney General's

regulations and GBL §§ 352-e(2-b) and 352-h concerning escrow trust funds shall prevail over any conflicting or inconsistent provisions in the Purchase Agreement, Plan, or any amendment thereto.

(l) Escrow Agent shall maintain the Escrow Account under its direct supervision and control.

(m) A fiduciary relationship shall exist between Escrow Agent, and Purchaser, and Escrow Agent acknowledges its fiduciary and statutory obligations pursuant to GBL §§ 352-(e)(2-b) and 352-(h).

(n) Escrow Agent may rely upon any paper or document which may be submitted to it in connection with its duties under this Purchase Agreement and which is believed by Escrow Agent to be genuine and to have been signed or presented by the proper party or parties and shall have no liability or responsibility with respect to the form, execution or validity thereof.

(o) Sponsor agrees that it shall not interfere with Escrow Agent's performance of its fiduciary duties and statutory obligations as set forth in GBL §§ 352-(e)(2-b) and 352-(h) and the New York State Department of Law's regulations.

(p) Sponsor shall obtain or cause the selling agent under the Plan to obtain a completed and signed Form W-9 or W-8, as applicable, from Purchaser and deliver such form to Escrow Agent together with the Deposit and this Purchase Agreement.

(q) Prior to release of the Deposit, Escrow Agent's fees and disbursements shall neither be paid by Sponsor from the Deposit nor deducted from the Deposit by any financial institution under any circumstance.

(r) Sponsor agrees to defend, indemnify and hold Escrow Agent harmless from and against all costs, claims, expenses and damages incurred in connection with or arising out of Escrow Agent's responsibilities arising in connection with this Purchase Agreement or the performance or non-performance of Escrow Agent's duties under this Purchase Agreement, except with respect to actions or omissions taken or suffered by Escrow Agent in bad faith or in willful disregard of the obligations set forth in this Purchase Agreement or involving gross negligence of Escrow Agent. This indemnity includes, without limitation, disbursements and attorneys' fees either paid to retain attorneys or representing the hourly billing rates with respect to legal services rendered by Escrow Agent to itself.

18. **SELLER'S FAILURE TO CLOSE.** If title to the Unit does not close because of the default (willful or otherwise) of Seller or Seller's inability to convey title to the Unit in accordance with the terms of this Agreement, unless the closing date is otherwise provided for herein or mutually adjourned in writing, Purchaser may cancel this Agreement upon written notice of cancellation to Seller, and upon such cancellation, Seller shall refund to Purchaser all monies paid by Purchaser hereunder, neither party shall have any claim against the other and

both shall be released from all obligations hereunder.

19. **PURCHASER'S FAILURE TO TAKE TITLE.** If Purchaser fails to close title to the Unit after receiving at least 30 days' prior written notice to close from Seller (except for Seller's default or failure to obtain a commitment for the mortgage loan as contemplated herein), unless the closing date is otherwise provided for herein or mutually adjourned in writing, or if Purchaser fails to make prompt and proper application for the aforesaid mortgage or does not furnish Seller within five (5) days after Seller's written request with notice of whether such mortgage loan was granted or rejected, Seller shall send written notice to Purchaser affording Purchaser the opportunity to cure Purchaser's failure. If Purchaser does not cure such failure within 30 days after receipt of such notice, Seller may cancel this Agreement and recover for damages as follows: (i) Seller and Purchaser agree that Seller would suffer damage by Purchaser's failure to take title and that such damages, other than the actual costs incurred by Seller for any "extras", changes or modifications to the Unit which were contracted for by Purchaser, would be difficult to prove or to arrive at accurately. For that reason, Seller and Purchaser agree that if Purchaser fails to take title as hereinbefore stated, the Seller shall be entitled to liquidated damages in an amount equal to 10% of the contract price, excluding from the contract price solely for the purpose of computing liquidated damages the cost to Purchaser of any "extras", changes or modifications to the Unit which were contracted for by Purchaser. Seller shall be entitled to apply Purchaser's deposits to liquidated damages, provided that in no event shall Seller be entitled to retain any amount in excess of the liquidated damages; and (ii) in addition, Seller shall also be entitled to recover the actual costs incurred by Seller for any "extras", changes or modifications to the Unit which were contracted for by Purchaser. If this paragraph or any application thereof shall to any extent be invalid or unenforceable, it shall to the extent not found invalid or unenforceable be valid and be enforced as permitted by law.

20. **CLOSING OF TITLE.** The closing of title shall be held at the office of Seller's attorneys, Handelman, Witkowitz & Levitsky, LLP, or at such other place in the County of Yates, New York, as Seller may designate, at an hour and on a "Closing Date" to be specified by Seller by written notice to Purchaser, which shall be not earlier than 30 days after the giving of said notice, except that if the Unit shall not be ready for occupancy on such date, the closing may be postponed by Seller to a date to be set by Seller upon written notice mailed to Purchaser at Purchaser's address set forth above, and the Purchaser will not hold the Seller liable in any way for any claims, damages or expenses due to any delayed closing. In the event that such date is more than 120 days after the above closing date, Purchaser may cancel this Agreement by sending written notice to that effect to Seller, at Seller's address as set forth above, within 10 days of the date on which the notice of postponement of the closing was mailed by Seller to Purchaser, and in that event this Agreement shall become null and void and both parties shall be released from any liability hereunder, except that Seller shall refund to Purchaser the downpayment paid to Seller. Seller shall not be responsible for any delay in completing the Unit(s) if such delay is caused by the unavailability of materials, labor or transportation or by other causes beyond the control of Seller, and the refund to Purchaser of the downpayment or portion thereof in accordance with this Agreement, shall discharge and release Seller from any liability arising out of or resulting from such delay. The anticipated closing date is []

_____, 20____; or [] ____ days after issuance of the mortgage commitment referred to in Section 2 above.

If the Unit is damaged or destroyed by fire or other casualty prior to the closing of title, Seller shall have the option to (i) repair such damage at its cost and expense, in which event this Agreement shall remain in full force and effect and the time for closing shall be extended for up to 120 days to repair such damage; or (ii) return the downpayment to Purchaser and terminate this Agreement, in which case Purchaser shall have no further claim against Seller.

21. **THIS AGREEMENT SUBJECT AND SUBORDINATE TO BUILDING LOAN MORTGAGE.** Purchaser agrees that the provisions of this Agreement are and shall be subject and subordinate to the lien of any mortgage obtained by Seller to construct the buildings containing the Unit(s) and other improvements on the Condominium property. Such subordination shall be to the full extent of any advances or expenses made or incurred pursuant to such mortgage, whether or not such advances or expenses are voluntarily made by the lender. No further documentation need be executed by Purchaser to confirm this. Because of this subordination, Purchaser's right to purchase could be "cut off" by a foreclosing mortgage lender, who has a construction mortgage loan on the Unit which is in default. Before transferring title to the Unit to Purchaser, Seller shall pay off or discharge all mortgages on the Unit or obtain a release of the Unit from the lien of such mortgages.

22. **AGREEMENT MAY NOT BE ASSIGNED.** Purchaser may not assign this Agreement without the prior consent in writing of Seller. Any purported assignment of this Agreement in violation hereof shall be deemed null and void.

23. **NOTICES.** Any notice to be given hereunder shall be in writing and sent by certified mail, return receipt requested, to Purchaser at its address given above and to Seller at: Seller's address given above, (with a copy to Steven M. Witkowitz, Esq., Handelman, Witkowitz & Levitsky, LLP, 16 East Main Street, Rochester, New York 14614) or at such other address as either party may hereafter designate to the other in writing. The date of mailing shall be deemed to be the date of the giving of the notice, except that the date of actual receipt shall be deemed to be the date of the giving of any notice of change of address.

24. **DEFINITIONS.** The term "Purchaser" shall be read as "Purchasers" if more than one person be named herein as Purchaser, in which case their obligations shall be deemed joint and several.

25. **GENDER.** The use of the masculine gender in this Agreement shall be deemed to refer to the feminine gender whenever the context so requires.

26. **OTHER AGREEMENTS.** This Agreement supersedes any and all understandings and agreements between the parties and constitutes the entire understanding between them and no oral representations or statements shall be considered binding. However, in any conflict between this Agreement and the Offering Plan, the Offering Plan shall control.

27. **AMENDMENT OF AGREEMENT.** This Agreement may not be amended except by a written instrument signed by the party sought to be charged therewith or by the duly authorized agent of such party.

28. **BROKER.** Purchaser and Seller agree that _____ brought about this sale and Seller agrees to pay the entire broker's commission.

29. **CAPTIONS.** The captions in this Agreement are for convenience and reference only and in no way define, limit or describe the scope of this Agreement or the intent to any provision thereof.

30. **EXHIBITS.** The following exhibits are attached to and made a part of this Agreement:

☒ Schedule A - Liens, Encumbrances and Other Title Exceptions

☒ Schedule B - Power of Attorney

☒ Schedule C - Extras, Upgrades, Changes or Deletions

☒ Schedule D - Limited Warranty

☐ _____

31. **ACCEPTANCE.** Unless Seller accepts this Purchase Agreement within 20 days after receipt, this Agreement shall not become effective.

IN WITNESS WHEREOF, Purchaser has caused this instrument to be duly executed the day and year first above written.

Dated: _____

Purchaser

Purchaser

ACCEPTANCE: I hereby accept this offer and agree to sell on the terms and conditions set forth.

MTS Development, LLC

Dated: _____

By: _____

Name: _____

Its: _____

The undersigned, Escrow Agent, signs solely for the purpose of agreeing to Section 17 of this Purchase Agreement.

Handelman, Witkowicz & Levitsky, LLP

Dated: _____

By: _____

Name: _____

Its: _____

EXHIBIT A**BRANDY BAY HEIGHTS CONDOMINIUM
LIENS, ENCUMBRANCES AND OTHER
TITLE EXCEPTIONS**

1. The terms, conditions, covenants, easements and provisions of the Declaration and By-Laws, of the Brandy Bay Heights Condominium.
2. State of facts shown on the Condominium Map of the Premises made by Schultz Associates Engineers & Land Surveyors, P.C. as the same may be updated and revised from time to time to reflect completed improvements.
3. Zoning regulations and ordinances and any amendments thereto provided that neither the buildings in which the Unit is located nor its use as contemplated by the Plan are prohibited thereby.
4. New York State franchise taxes of any corporation in the chain of title, provided that any title company licensed to do business in the State of New York is willing to insure that such taxes will not be collected out of the Unit.
5. Sewer, water, electric, plumbing, heating, gas, telephone, television, and other utility easements and consents, if any, including the right to maintain and operate lines, wires, cables, pipes, conduits, poles and distribution boxes in, over, under, and upon the Property and the buildings in the Subdivision.
6. Future installments of special assessments for improvements.
7. Utility, drainage, sewer and water easements, rights of way, and agreements granted to or made with any utility company, municipality or other service provider.

All of the above shall survive delivery of the deed.

EXHIBIT B**BRANDY BAY HEIGHTS CONDOMINIUM
POWER OF ATTORNEY**

I (We) _____ the owner(s) of Unit No. _____ in the Condominium known as Brandy Bay Heights Condominium in the Town of Jerusalem, Yates County, New York designated and described in the Declaration of Condominium establishing Brandy Bay Heights Condominium dated _____, 20____, and recorded in the Yates County Clerk's Office in Liber _____ of Deeds at page _____, and on the Floor Plans on file in said office under Civil Index No. _____, do hereby nominate, constitute and appoint the members constituting the Board of Managers of the Brandy Bay Heights Condominium and their successors in office, jointly, true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution, to acquire in their own name, as members of the Board of Managers, or in the name of their designee, corporate or otherwise, on behalf of all owners of units in said property, in accordance with the respective common interests of said owners:

- (i) any unit whose owner desires to abandon the unit;
- (ii) any unit which shall be the subject of a foreclosure or other judicial sale or which may be deeded to the Board of Managers in lieu of such foreclosure or other sale;
- (iii) any other unit.

Any such unit acquired by the Board of Managers shall include the appurtenant interest of such unit in the common elements of the Condominium, (i.e. the interest attributable to the owner of such unit in the common elements of the Condominium in any other units (or proceeds from sale thereof) previously acquired by the Board of Managers, and the interests of such unit owner in all other assets of the Condominium).

I (We) further grant to the Board of Managers:

- the right to convey, sell, lease, mortgage, vote the votes appurtenant thereto (other than for the election of members of the Board of Managers) or otherwise deal with any such unit so owned or acquired by them, on terms as they may determine;
- the power to do all things with respect to such unit acquired which I(we) could do had this power of attorney not been granted; and
- the power to lease portions of the common elements on behalf of all Unit Owners.

- the right to act on my (our) behalf in any proceedings, negotiations, settlements or agreements relating to the condemnation, destruction, liquidation or termination of the Condominium or the Condominium Property.

The acts of a majority of such persons shall constitute the acts of said attorneys-in- fact.

This power of attorney shall be not affected by my(our) subsequent disability or incompetence.

This Power of Attorney shall be irrevocable.

IN WITNESS WHEREOF, I (we) have executed this Power of Attorney this ____ day of _____, 20__.

STATE OF NEW YORK

)

)SS.:

COUNTY OF YATES

)

On the ____ day of _____ in the year 20__, before me, the undersigned, personally appeared _____, 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/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT C

**BRANDY BAY HEIGHTS CONDOMINIUM
EXTRAS, UPGRADES, CHANGES OR DELETIONS**

The undersigned parties to the Purchase Agreement agree that Unit No. _____ which is the subject of the Agreement shall contain the following extras, "upgrades", changes or deletions, all of which are included in the purchase price as set forth in the Agreement:

[] None

Extra, Upgrade, Change
or Deletion

Amount Added to (Deducted from)
Purchase Price in Paragraph No. 2
of Purchase Agreement

The increase (decrease) in the purchase price to reflect the above extras, changes, additions or deletions [] is [] is not reflected in the purchase price as set forth at the beginning of this agreement.

Purchaser(s) acknowledges that if the Agreement is terminated for reasons other than Seller's default, any costs incurred by Seller for the acquisition, installation or removal of materials for such extras, upgrades, changes or deletions, prior to such termination, shall be deducted by Seller from Purchaser's deposit prior to any return of such deposit to Purchaser.

Purchaser also acknowledges that if completion of the Unit is delayed due to the unavailability of materials required to complete the installation of such extras, upgrades or changes, Purchaser will not delay the closing and will close the purchase solely on Seller's written assurance that the completion of such installation will be completed by Seller promptly after receipt of such materials.

Date _____ (Purchaser)

Date _____ (Purchaser)

Date _____ MTS Development, LLC

By _____

EXHIBIT D

BRANDY BAY HEIGHTS CONDOMINIUM
LIMITED WARRANTY

**BRANDY BAY HEIGHTS CONDOMINIUM
HOUSING MERCHANT
LIMITED WARRANTY**

NAME OF PURCHASER(S):

ADDRESS OF PURCHASER(S)

ADDRESS OF HOME WARRANTED:

NAME OF SELLER:

ADDRESS OF SELLER:

MTS Development, LLC
3289 Howard Davis Road
Bluff Point, New York 14478

WARRANTY DATE:

SELLER'S LIMIT OF
TOTAL LIABILITY:

80% of Contract Price; except that Seller must build
and deliver the Home in accordance with applicable
plans, specifications and codes.

**THIS LIMITED WARRANTY EXCLUDES
ALL CONSEQUENTIAL AND INCIDENTAL DAMAGES,
EXCEPT AS REQUIRED BY NEW YORK STATE LAW.**

**THIS LIMITED WARRANTY INCORPORATES THE PROVISION OF
SECTION 777-a OF THE NEW YORK STATE GENERAL BUSINESS LAW,
"HOUSING MERCHANTS IMPLIED WARRANTY", HOWEVER THIS
WARRANTY LIMITS AND MODIFIES THE HOUSING MERCHANT'S
IMPLIED WARRANTY. THERE ARE NO WARRANTIES WHICH
EXTEND BEYOND THE FACE OF THIS LIMITED WARRANTY.**

1. To Whom Given. This Limited Warranty is extended to Purchaser named on page 1, while the purchaser owns the Home. It does not extend to subsequent owners of the Home or other persons.
2. By Whom Made. This Limited Warranty is made exclusively by Seller whose name and address appear on page 1.
3. Final Inspection of the Home. Before Purchaser moves into the Home or accepts the deed, Seller will set up an appointment for final inspection of the Home with Purchaser. The purpose of this final inspection is to discover any defects or flaws of a visible or obvious nature--such as marks, chips, dents, cracks, or scratches--that may have occurred during the final stages of finishing the home, or any unfinished work caused by back-orders beyond Seller's control. Seller may also point out other defects known to have occurred during the construction process and that remain uncorrected at the time of the inspection.

All defects or flaws found on final inspection of the Home will be itemized on a Final Inspection Sheet, which will include a schedule for each item that will be corrected. The Final Inspection Sheet will be signed by Purchaser and Seller before occupancy of the Home or transfer of the deed.

When Purchaser moves into the Home or accepts the deed, Seller's responsibility is limited to:

- (a) completion of items shown on the Final Inspection Sheet, as provided in the Final Inspection Sheet, and
- (b) performance of warranty obligations under the provisions of this Limited Warranty, as listed below. The purpose of the Limited Warranty is to identify Seller's responsibilities for construction defects of a latent or hidden kind that would not have been found or disclosed on final inspection of the Home.

4. Limited Warranty. This Limited Warranty excludes all other warranties on the construction and sale of the Home and its components, both express and implied. There are no warranties which extend beyond the face hereof.

5. Warranty Coverages and Periods. The Warranty Period for all coverages begins on the Warranty Date shown on page 1. It ends at the expiration of the coverages shown below:

FIRST YEAR BASIC COVERAGE: for one year from the Warranty Date, the Home will be free from latent defects that constitute:

- (a) defective workmanship performed by Seller, an agent or Seller or subcontractor of Seller;
- (b) defective materials provided by Seller, an agent of Seller or subcontractor of Seller; or
- (c) defective design, provided by an architect, landscape architect, engineer, surveyor, or other design professional engaged solely by Seller.

Workmanship, materials, and design will be considered to be defective if they fail to meet or exceed the relevant standards and specifications of the Residential Code of New York State or if they fail to meet the Accepted Standards which are the Rochester Home Builders' Association Inc. Residential Construction Performance Guidelines as in effect from time to time.

TWO YEAR MAJOR SYSTEM COVERAGE: for two years from the Warranty Date, the Plumbing, Electrical, Heating, Cooling and Ventilation Systems of the Home which have been installed by Seller are warranted to be free from latent defects that constitute defective installation by Seller.

Installation will be considered to be defective if Seller's workmanship upon the installation fails to meet or exceed the relevant standards and specifications of the Residential Code of New York State and the Accepted Standards.

The Plumbing Systems means: gas supply lines and fittings; water supply, waste and vent pipes and their fittings; septic tanks and their drain fields; water, gas and sewer service piping, and their extensions to the tie-in of a public utility connection, or on-site well and sewage disposal system.

The Electrical System means: all wiring, electrical boxes, switches, outlets and connections up to the public utility connection.

The Heating, Cooling and Ventilation System means: all duct work, steam, water and refrigerant lines, registers, convectors, radiation elements and dampers.

All systems are exclusive of appliances, fixtures and items of equipment.

SIX YEAR MAJOR STRUCTURAL DEFECT COVERAGE: for six years from the Warranty Date, the Home will be free from latent defects that are Major Structural Defects, as defined below, and that constitute:

- (a) defective workmanship performed by Seller, an agent or Seller or subcontractor of Seller;
- (b) defective materials provided by Seller, an agent of Seller or subcontractor of Seller, or
- (c) defective design, provided by an architect, landscape architect, engineer, surveyor, or other design professional engaged solely by Seller.

Workmanship, materials, and design will be considered to be defective if they fail to meet or exceed the relevant standards and specifications of the Residential Code of New York State or if they fail to meet the Accepted Standards.

A Major Structural Defect is a defect resulting in actual physical damage to the following load-bearing portions of the home caused by failure of such load-bearing portions which affects their load-bearing functions to the extent that the Home becomes unsafe, unsanitary or otherwise unlivable: foundation systems and footings, beams, girders, lintels, columns, walls and partitions, floor systems, and roof framing systems.

Damage to the following non-load bearing portions of the Home do not constitute a Material Defect for the Material Defect coverage: roofing and sheathing; drywall and plaster; exterior siding; brick, stone and stucco veneer; floor covering material; wall tile and other wall coverings; non-load bearing walls and partitions; concrete floors in attached garages and basements that are built separately from foundation walls or other structural elements of the Home; electrical, plumbing, heating, cooling and ventilation systems; appliances, fixtures and items of equipment; paint; doors and windows; trim; cabinets; hardware; insulation.

6. **Exclusions from All Coverages.** The following are excluded from the Basic Coverage, Major System Coverage, and Major Structural Defect Coverage:

- (a) Loss or damage caused by workmanship performed by any person other than
(i) Seller, (ii) an agent of Seller, or (iii) a subcontractor of Seller.
- (b) Loss or damage caused by defective materials supplied by any person other than (i) Seller, (ii) an agent of Seller, or (iii) a subcontractor of Seller.

(c) Loss or damage caused by defective design provided by any person other than a design professional retained exclusively by Seller.

(d) Patent defects including defects shown on the Final Inspection Sheet and defects which an examination of the Home prior to acceptance of the deed or occupancy of the Home ought to have revealed.

(e) Defects in outbuildings including but not limited to detached garages and detached carports (except outbuildings which contain the plumbing, electrical, heating, cooling or ventilation systems serving the Home); site located swimming pools and other recreational facilities; driveways; walkways; patios; boundary walls; retaining walls; bulkheads; fences; landscaping (including sod, seeding, shrubs, trees and plantings); off-site improvements or any other improvements not a part of the Home itself.

(f) After the first year Basic Coverage, concrete floors of basements and concrete floor of attached garages that are built separately from foundation walls or other structural elements of the Home.

(g) Damage to real property which is not part of the Home covered by this Limited Warranty and which is not included in the purchase price of the Home.

(h) Any damage to the extent that it is caused or made worse by:

(i) negligence, improper maintenance, or improper operation by anyone other than Seller, its employees, agents, or subcontractors; or

(ii) failure by the Purchaser or anyone other than Seller, its employees, agents or subcontractors, to comply with the warranty requirements of manufacturers or suppliers of appliances, fixtures or items of equipment; or

(iii) failure of the Purchaser to give notice to Seller of any defects or damage within a reasonable time; or

(iv) changes in the grading of the ground by anyone other than Seller, its employees, agents or subcontractors; or

(v) changes, alterations or additions made to the Home by anyone after the Warranty Date shown on page 1; or

(vi) dampness or condensation due to failure of the Purchaser or occupant to maintain adequate ventilation.

(i) Any condition which does not result in actual physical damage to the Home.

(j) Loss or damage caused by or resulting from accidents, riot and civil commotion, fire, explosion, smoke, water escape, falling objects, aircraft, vehicles, Acts of God, lightning, windstorm, hail, flood, mudslide, earthquake, volcanic eruption, wind-driving water, and not reasonably foreseeable changes in the underground water table.

(k) Loss or damage caused by seepage of water unless such loss or damage is the direct result of a construction defect.

(l) Any damage caused by soil movement for which compensation is provided by legislation or which is covered by other insurance.

(m) Any damage which the Home Owner has not taken timely action to minimize.

(n) Normal wear and tear and normal deterioration.

(o) Insect damage.

(p) Bodily injury or damage to personal property.

(q) Failure of Seller to complete construction of the Home.

(r) Loss or damage when which arises while the Home is being used primarily for nonresidential purposes.

(s) Loss or damage due to abnormal loading on floors by the Home Owner which exceeds design loads as mandated by the Building Code.

(t) Costs of shelter, transportation, food, moving, storage or other incidental expenses related to relocation during repair.

(u) Consequential damages and incidental damages (except where required by state law).

(v) Any claim not filed in a manner set forth below in paragraph 8, "Step-by-Step Claims Procedures."

7. Warranty. If a defect occurs in an item covered by this Limited Warranty, Seller will repair, replace or pay the Purchaser the reasonable cost of repairing or replacing the defective item(s) within a reasonable time after Seller's inspection or testing discloses the problem. The choice among repair, replacement or payment is solely that of Seller.

In no event will Seller's total liability for deficiencies under this Limited Warranty exceed Seller's Limit of Total Liability, shown on page 1.

Repair, replacement or payment of reasonable cost for any Major Structural Defect is further limited to (1) the repair of damage to the load-bearing portions of the Home themselves which is necessary to restore their load-bearing function; and (2) the repair of those items of the Home damaged by the Major Structural Defect which made the Home unsafe, unsanitary or otherwise unlivable.

When Seller finishes repairing or replacing the defect or pays the reasonable cost of doing so, a full release of all legal obligations with respect to the defect must be signed and delivered to Seller.

8. Step-by-Step Claims Procedures.

(a) Written notice of any warranty claim must be made on the attached "Notice of Warranty Claim Form" and must be received by Seller, identified on page 1, no later than the first business day after warranty coverage on that item expires or if a longer period is required by law, such longer period. If this Notice of Warranty Claim Form is not properly completed and received by Seller by that deadline, Seller will have no duty to respond to any complaint or demand, and any or all claims may be rejected. NOTICE OF WARRANTY CLAIM IS NECESSARY TO PROTECT RIGHTS TO WARRANTY PERFORMANCE UNDER THIS LIMITED WARRANTY.

(b) No steps taken by Seller, Purchaser or any other person to inspect, test or correct defects will extend any time period under this Limited Warranty. The Seller's response to any complaint or request, other than a timely a properly completed Notice of Warranty Claim, will not impair, prejudice or otherwise affect any right of Seller, including but not limited to Seller's right to receive a timely and properly completed Notice of Warranty Claim.

(c) In response to a Notice of Warranty Claim, or any other complaint or request of the Purchaser, Seller and Seller's agents will have the right to inspect and test the portion of the Home to which the claim, complaint or request relates. The Purchaser and occupants of the Home must provide reasonable access to Seller and Seller's agents during normal business hours to complete inspection, testing and repair or replacement.

(d) The Seller will complete inspection and testing within a reasonable time under the circumstances, not to exceed 30 days after receipt of a timely and properly completed Notice of Warranty Claim Form. Upon completion of inspection and testing, Seller will determine whether to accept or reject the claim. If Seller rejects the claim, Seller will give written notice of that decision to the claimant at the address shown on the Notice of Claim Form. If Seller accepts the claim, Seller will take corrective action within a reasonable time under the circumstances and, upon completion, will give written notice of completion to the claimant at the address shown on the Notice of Claim Form. The Seller will use good faith efforts to process

and handle claims in a timely manner, but all time periods for repair or replacement of defects necessarily are subject to weather conditions, Acts of God, availability of materials, and other events beyond Seller's control.

9. Legal Actions.

(a) No claim or cause of action under this Limited Warranty may be commenced or asserted in any suit, action, or other legal proceeding against Seller in any Court or forum unless notice of the claim or cause of action has been received by Seller in a timely and properly completed Notice of Warranty Claim Form as provided in paragraph 8 above.

(b) No suit, action and proceeding against Seller under this Limited Warranty may be commenced in any Court or forum after the later of: (i) the date of expiration of the applicable warranty coverage under paragraph 5 of this Limited Warranty, or (ii) sixty calendar days after the Warrantor has given written notice of rejection of claim or completion of corrective action as provided in clause 8(d) above or, if a longer period is required by law, such longer period.

10. Arbitration.

(a) Any claim or cause of action under this Limited Warranty which may be commenced or asserted in any suit, action, or other legal proceeding against the Seller in any Court may be settled by arbitration in accordance with the rules of the American Arbitration Association, by mutual consent of Seller and Purchaser and judgment upon the award rendered by the Arbitrators may be entered in any Court having jurisdiction thereof.

(b) No attempt shall be made to arbitrate any controversy or claim, arising under this warranty unless notice of claim or cause of action has been received by the Seller in a timely and properly completed Notice of Warranty Claim Form as provided in paragraph 8 above.

(c) No arbitration proceeding shall be commenced against the Seller under this Limited Warranty after the later of: (i) the date of expiration of the applicable warranty coverage under paragraph 5 of this Limited Warranty, or (ii) sixty calendar days after the Warrantor has given written notice of rejection of claim or completion of corrective action as provided in clause 8(d) above or, if a longer period is required by law, such longer period.

(d) An arbitration entered into under this Limited Warranty shall not be final and binding upon Seller and Purchaser unless Seller and Purchaser agree in writing that such arbitrators decision will be binding and final.

11. General Provisions.

(a) This Limited Warranty may not be changed or amended in any way.

(b) This Limited Warranty is to be binding upon the Seller and the Purchaser, their heirs, executives, administrators, successors and assigns.

(c) Should any provision of the Limited Warranty be deemed unenforceable by a court of competent jurisdiction, the determination will not affect the enforceability of the remaining provisions.

(d) Use of one gender in this Limited Warranty includes all other genders, and use of the plural includes the singular, as may be appropriate.

(e) This Limited Warranty is to be governed in accordance with the laws of New York State.

NOTICE OF WARRANTY CLAIM FORM

Dear Home Owner:

To ask Seller to correct a defect in your Home that you think is covered by Seller's Limited Warranty, you must complete this form and deliver it to Seller. This is necessary to protect your rights to warranty performance under the Limited Warranty. Even if you believe that Seller is aware of the problem, fill out this form and deliver it to Seller.

The information you will need to fill out the form will be on page 1 of the Limited Warranty. However, if you do not know the answers to any questions, write "Don't know." Please do not leave any item blank.

Your Name: _____

Mailing Address: _____

Phone: _____

Limited
Warranty No.: _____

Warranty Date: _____

Describe the defect(s) which you think are covered by the Limited Warranty . Be sure to include when each defect first occurred or when you first noticed it. Use additional sheets, as necessary, to fully describe the problem: _____

Signature

Date

Signature

Date

EXHIBIT B
SAMPLE UNIT DEED

**BARGAIN AND SALE DEED
BRANDY BAY HEIGHTS CONDOMINIUM**

THIS INDENTURE made the ____ day of _____, 20__, between MTS Development, LLC, a New York limited liability company, having an office at 3289 Howard Davis Road, Bluff Point, New York 14478, the "Grantor" and _____, residing at _____, the "Grantee".

That the Grantor, in consideration of One and More Dollars (\$1.00 and more), lawful money of the United States, paid by the Grantee, does hereby grant and release unto the Grantee, the heirs or successors and assigns of the Grantee forever:

All that certain piece or parcel of real property, with the improvements therein contained, situate and being a part of the Brandy Bay Heights Condominium ("Condominium") in the Town Lot 49, Township 7, Range 1, Phelps and Gorham Purchase, Town of Jerusalem, County of Yates, State of New York, and designated as the following unit(s) (the "Unit") and undivided interest in the common elements of the Brandy Bay Heights Condominium:

Unit No. _____ together with a 6.666__% undivided interest in the Common Elements (as defined in the Declaration (defined below)).

The Unit above described is shown on the plans of the condominium certified by Kris Schultz, P.E., and filed in the Yates County Clerk's Office on the ____ day of _____, 2013, in Civil Index No. _____ and is defined and described in the Declaration of Condominium Establishing Brandy Bay Heights Condominium executed by the Grantor pursuant to Article 9-B of the New York Real Property Law dated _____, 2013, and recorded in the Yates County Clerk's Office on the ____ day of _____, 2013, in Liber ____ of Deeds at page (the "Declaration"). The Condominium is more particularly described as follows:

All that tract or parcel of land, situated in part of Town Lot 49, Township 7, Range 1, Phelps and Gorham Purchase, Town of Jerusalem, County of Yates, State of New York and more particularly described as follows:

Beginning at an iron pipe at the intersection of the west line of Penn Yan West Lake Road, also referred to as Central Avenue, with the south line of the former Horace Mills Estate, thence;

1. Southerly along the west line of Pen Yann West Lake Road, on a bearing of S 19°03'50" W, a distance of 164.89' to a concrete highway monument, thence;
2. Continuing southerly along the west line of Penn Yan West Lake Road, on a bearing of S 02°58'50" E, through an iron pin set 10.54' a total distance of 88.58' to a point, thence;
3. Continuing southerly along the west line of Penn Yan West Lake Road, on a bearing of S 20°11'00" W a distance of 400.32' to an iron pin, thence;

4. Westerly on a bearing of N 71°44'00" W, a distance of 380.00' to an iron pin, thence;
5. Northerly on a bearing of N 20°11'00" E, passing through an iron pin 320.07' distant, a total distance of 648.65' to an iron pin, thence;
6. Easterly on a bearing of S 71°44'00" E, a distance of 54.85' to an iron pipe, thence;
7. Continuing easterly on a bearing of S 71°34'58" E, a distance of 287.04' to a point, said point being the point and place of beginning.

The above description of the Condominium is intending to describe lands conveyed to Grantor from Steven McMichael, as recorded in liber May 17, 2013, in Liber 657 of Deeds, page 292. Said parcel containing 5.481 acres more or less measured to the west right-of-way of Penn Yan West Lake Road.

TAX ACCOUNT NUMBER: _____

TAX MAILING ADDRESS: _____

PROPERTY ADDRESS:

Unit No. _____
_____ Central Avenue
Penn Yan, New York 14527

TOGETHER WITH the appurtenances and all the estate and rights of the Grantor in and to the Unit;

TOGETHER WITH AND SUBJECT TO the provisions, benefits, rights, privileges, easements, burdens, covenants and restrictions of the Declaration and of the By-Laws of the Condominium recorded simultaneously with and as a part of the Declaration as the same may be amended from time to time by instruments recorded in the Office of the Clerk of Yates County which provisions, together with any amendments thereto, shall constitute covenants running with the land and shall bind any person having at any time any interest or estate in the Unit, as though such provisions were recited and stipulated at length herein;

TOGETHER with the benefits and subject to the burdens of other easements, agreements, rights of way and restrictive covenants of record, if any;

TO HAVE AND TO HOLD the same unto the Grantee, the heirs or successors and assigns of the Grantee, forever.

AND the Grantor covenants that the Grantor has not done or suffered anything whereby the said premises have been encumbered in any way whatsoever, except as aforesaid.

AND the Grantor, in compliance with Section 13 of the Lien Law, covenants that the Grantor will receive the consideration for this conveyance and will hold the right to receive such

consideration as a trust fund for the purpose of paying the cost of the improvement before using any part of the same for any other purpose.

AND the Grantee, by acceptance of this deed, accepts and ratifies the provisions of the Declaration and By-Laws of the Condominium recorded simultaneously with and as a part of the Declaration and the Rules and Regulations of the Condominium, as may be adopted from time to time, and agrees to comply with all the terms and provisions thereof as the same may be amended from time to time by instruments recorded in the Office of the Yates County Clerk.

The use for which the Unit is intended is that of a residence only, subject to the applicable governmental regulations and the restrictions contained in the Declaration.

The terms "Grantor" and "Grantee" shall be read as "Grantors" and "Grantees" whenever the sense of this deed so requires.

IN WITNESS WHEREOF, the Grantor has duly executed this deed the day and year first above written.

MTS Development, LLC

By: _____
Name: _____
Its: _____

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

On the ____ day of _____ in the year 20____, before me, the undersigned, a notary public in and for said state, personally appeared _____, 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/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT C

DECLARATION OF CONDOMINIUM

Schedule A - Description of Brandy Bay Heights Condominium Property

Schedule B – Description of the Buildings

**Schedule C – Schedule of Unit Designations/Tax Lot Numbers/Rooms/
Approximate Square Foot Areas/
Percentage Interest in Common Elements**

Schedule D – Condominium Map and Floor Plans

Schedule E – By-Laws (See Exhibit E of this Offering Plan)

**DECLARATION OF CONDOMINIUM
ESTABLISHING
BRANDY BAY HEIGHTS CONDOMINIUM**

**Town of Jerusalem, County of Yates, State of New York
Pursuant to Article 9-B of the Real Property Law of
the State of New York.**

NAME: Brandy Bay Heights Condominium

MADE BY: MTS Development, LLC
3289 Howard Davis Road
Bluff Point, New York 14478

DATED: _____, 2013

Prepared by:

**Ryan A. Lown, Esq.
Phillips Lytle LLP
1400 First Federal Plaza
Rochester, New York 14614**

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DECLARATION OF CONDOMINIUM
ESTABLISHING
BRANDY BAY HEIGHTS CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM (this "Declaration"), is made as of the ____ day of _____, 2013, by MTS Development, LLC, a New York limited liability company, having an office at 3289 Howard Davis Road, Bluff Point, New York 14478 (the "Sponsor").

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

ARTICLE I

SUBMISSION OF PROPERTY

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

ARTICLE II

DEFINITIONS

Section 2.01. Definitions.

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

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

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

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

"Community Building" shall mean and refer to the structure shown as the Community Building on the Condominium Map and Floor Plans that is part of the Common Elements.

"Condominium" shall mean and refer to Brandy Bay Heights Condominium.

"Condominium Map and Floor Plans" shall mean and refer to Condominium Map and Floor Plans prepared by Schultz Associates, Engineers and Land Surveyors P.C., and filed in the Recording Office under Civil Actions Index No. _____, as amended and supplemented from time to time. A copy of the Condominium Map and Floors Plans is attached hereto for reference purposes as Schedule D. Full-size prints of the Condominium Map and Floor Plans, as may be amended or supplemented from time to time, can be obtained at the Recording Office in the Civil Actions Index referenced above.

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

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

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

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

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

"Recording Office" shall mean and refer to the Yates County Clerk's Office.

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

"Sponsor" shall refer to MTS Development, LLC, its successors and assigns.

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

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

ARTICLE III

BUILDINGS

Section 3.01. Buildings. There will be 5 Buildings on the Property, consisting of 3 Buildings containing 4 Units each, 1 Building containing 3 Units and the Community Building. Schedule B contains a description of the Buildings including the materials of which each Building is constructed. The Buildings and their location on the Property are shown on the Condominium Map and Floor Plans.

ARTICLE IV

UNITS

Section 4.01. Number and Address of Units. There will be 15 Units contained within the Buildings, each of which includes a garage. The Units are designated as shown on Schedule C (Unit A-1, A-2, A-3, etc).

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

Section 4.03. Dimensions of Units. Each Unit is measured horizontally from the unexposed faces of the drywall at the exterior of the Unit to the unexposed faces of the drywall at the opposing wall either dividing the Unit from other Units or forming the exterior of the Building; except that in the basement level each Unit is measured horizontally from the inner surface of the masonry walls at the exterior of the Building and/or to the inner surfaces of the masonry walls at the opposite exterior or to the inner surface of the masonry walls dividing the Unit from other Units. Each Unit is measured vertically from the lower (unexposed surface of the concrete slab forming the basement floor of the unit up to the upper unexposed face of the drywall forming the ceiling of the upper most floor of the Unit, except that the garage portion of the Unit shall be measured vertically from the lower unexposed surface of the concrete slab forming the floor of the garage up to the upper unexposed face of the drywall forming the ceiling of the garage portion of the Unit. The door to the garage, including all mechanical parts and hardware (and electric door opener and handsets, if any) shall be part of the Unit. Doors, windows and interior walls which abut a Unit are part of the Unit. All pipes, wires and conduits

from the gas and electric meters to the Unit are part of the Unit. Any and all heating units, air conditioners and water heaters serving only one Unit, wherever located, are part of the Unit it serves.

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

Section 4.05. No Partition of Units. No Unit (including the interest in the common elements appurtenant thereto) shall be subject to partition by the Unit Owner.

ARTICLE V

COMMON ELEMENTS

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

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

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

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

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

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

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

(b) Action to Contest Condemnation. The Board of Managers shall have the exclusive right to contest any condemnation or eminent domain proceeding which is directed at taking any portion of the Common Elements or which touches upon, concerns or affects the use of the Common Elements. No Unit Owner or tenant of a Unit shall impair or prejudice the action of the Board of Managers in contesting such condemnation. Such restriction or prohibition shall not preclude a Unit Owner or tenant of a Unit from contesting the taking in such condemnation or eminent domain proceeding of the Unit owned or rented by such Unit Owner or tenant. In any action contesting a taking by condemnation or eminent domain proceeding, the Board of Managers shall request the court to set forth the allocation of the condemnation award among the Unit Owners affected, taking into account the respective percentage interest in the Common Elements, the effect of the taking on each Unit affected thereby and any other relevant factors.

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

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

If there shall be a surplus of such proceeds or if the Board of Managers or insurance trustee cannot reasonably repair, restore or replace the Common Elements taken, the proceeds shall be distributed among the Unit Owners and the percentage interests in the

Common Elements of the Condominium reallocated among the remaining Units (i) as the court shall have directed, or (ii) as provided in (e) below, (i.e., if there was no direction by the court), taking into account the respective percentage interests in the Common Elements of the Units affected thereby, the effect of the taking on each Unit affected thereby after the completion of any repair, restoration or replacement by the Board of Managers or insurance trustee and any other relevant factors. Any court direction as to such distribution shall be final. Any Unit Owner or tenant who wishes to contest a determination by the Board of Managers may do so by submitting the matter to the American Arbitration Association for a determination of a fair and proper distribution, or reallocation of percentage interests in the Common Elements, as the case may be, which shall be binding on the Board of Managers, and on all Unit Owners and tenants. The cost of such arbitration shall be borne solely by the Unit Owner or tenant submitting the matter for arbitration.

After any determination for reallocation of percentage interests in the Common Elements, the Unit Owners shall promptly prepare, execute and record an amendment to the Condominium Declaration reflecting such reallocation, which said Amendment need only be executed by Unit Owners affected and by a majority of the Board of Managers.

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

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

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

Section 5.05. Abandonment, Encumbrance, Conveyance or Transfer of Common Elements. The Common Elements shall not be abandoned, encumbered, conveyed, or transferred without the consent of all the Unit Owners, who shall vote upon written ballot which shall be

sent to every Unit Owner not less than 30 days nor more than 50 days in advance of the date or initial date of the canvass for voting on the proposed abandonment, encumbrance, conveyance or transfer. Any such abandonment, encumbrance, conveyance or transfer shall require the Consent of Eligible Mortgage Holders.

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

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

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

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

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

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

ARTICLE VI

THE CONDOMINIUM PROPERTY - USE, OPERATION, PRESERVATION, MAINTENANCE AND REPAIR

Section 6.01. Repairs and Maintenance Which Are the Responsibility of the Board of Managers. Except as otherwise provided in this Article VI, the Board of Managers shall be responsible for repair and replacement of the improvements on the Property, except for improvements which are part of the Units, including, without limitation, the maintenance, repair and replacement of: (i) lawn and landscaped areas; and to shrubbery and other plantings installed by the Sponsor or the Board of Managers on the Common Elements; but not for shrubbery, flower beds or other plantings installed by or at the direction of any Unit Owner or Unit occupant; (ii) sidewalks along roadways (unless maintained by the Town of Jerusalem); (iii) all driveway and walkways, including snow removal (not including front and rear porch attached to Units and steps leading from and to the front and rear porches, which are the Unit Owner's responsibility); (iv) water and sanitary sewer laterals servicing the Units from the Unit to the

point where it connects to the main; (v) ponds, culverts and surface drainage of storm water; (vi) the entrance monument and sign at the entrance of the Condominium; (vi) the exteriors of the Units including: trim, siding, roof and gutters; and (vii) fire hydrants, wires, conduits and public utility lines servicing the Units and for which a utility company or other entity is not responsible (whether or not such lines and facilities are on Common Elements); (viii) the Community Building; and (ix) the private roadway and parking areas shown on the Condominium Map and Floor Plans.

Buildings and Units. The Board of Managers shall repair and replace the Building exterior siding, gutters, roofs, and paint the exterior trim, and the exterior of window frames, door frames, and garage door frames which open from a Unit, and caulk the windows. The Board of Managers shall not repair, replace or maintain: (i) window glass or panes; (ii) doors entering the Unit; (iii) garage doors, garage door hardware, tracks or openers; (iv) any porches or steps leading from and to the front and rear porches; or (v) any part of a Unit. The Board of Managers shall be responsible for the repair, maintenance and replacement of all portions of a Building except for any portion of a Building which is part of the Unit.

Other Improvements. With respect to the other improvements on the Common Elements, the Board of Managers shall repair and replace all roadways and driveways on the Common Elements. The Board of Managers shall be responsible for all repair and maintenance of the Community Building.

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

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

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

The Board of Managers shall have an easement and right of access for maintenance and repairs as set forth in Section 8.03 of this Declaration.

Section 6.02. Repairs and Maintenance Which Are the Responsibility of the Unit Owners. Any maintenance, repair or replacement necessary to preserve the appearance and value of the Property made pursuant to Section 6.01 above but which is occasioned by a negligent or willful act or omission of a Unit Owner (including: (i) any family member, tenant, guest or invitee of such Unit Owner, (ii) any family member, guest or invitee of the tenant of such Unit Owner, and (iii) any guest or invitee of (a) any member of such Unit Owner's family, or (b) any family member of the tenant of such Unit Owner) or the Sponsor shall be made at the cost and expense of such Unit Owner or the Sponsor, as the case may be. If such maintenance,

repair or replacement is performed by the Board of Managers, it shall not be regarded as a common expense, but shall be deemed an assessment against the Unit of such Unit Owner and, as such, shall be a charge and continuing lien upon such Unit, shall constitute a personal obligation of the Unit Owner, and shall be collectible in the same manner as common charges and special assessments under this Declaration or under the By-Laws.

The Unit Owners shall be responsible for maintenance, replacement and repair of the front and rear porch attached to Units and steps leading from and to the front and rear porches, including snow removal. The Unit Owners shall also be responsible for maintenance, repair and replacement of windows, doors, garage, doors, doorbells, screens, storm doors, and air conditioner pads.

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

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

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

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

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

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

Section 6.07. Abatement and Enjoinment of Violations. The violation of the Rules or Regulations adopted by the Board of Managers, or the breach of any provision of this Declaration or of the By-Laws, shall give the Board of Managers (and each aggrieved Unit Owner with respect to any violation or breach by any other Unit Owner or by the Board of Managers) the right, in addition to any other rights set forth in this Declaration or in the By-Laws: (a) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity

and at the expense of the defaulting party, the continuance of any such breach; or (b) give the Board of Managers the right to establish a penalty in accordance with Section 6.09 below. Prior to exercising such right, the Board of Managers or Unit Owner or Unit Owners, as the case may be, shall, if reasonably possible, notify the Unit Owner and mortgagee (if known) of the Unit or Units involved and provide a reasonable amount of time for the cure of such violation or breach. In any case of flagrant or repeated violation by a Unit Owner (or one for whom such Unit Owner is responsible), such Unit Owner may be required by the Board of Managers to give sufficient surety for future compliance.

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

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

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

Section 6.10. Unit Owner Responsible for Tenants. Any lease of Unit shall provide for full compliance by the tenant with this Declaration and with the By-Laws and the Rules and Regulations.

ARTICLE VII

ALTERATION OF UNITS OR COMMON ELEMENTS

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

Section 7.02. Exterior Alterations to Units Require Approval of Board of Managers. No exterior addition, alteration or improvement, including change in color, shall be made to a Unit or Building without the written approval of the Board of Managers, obtained as provided in Sections 7.04 through 7.08 of this Declaration. Notwithstanding anything to the contrary contained herein, any changes, alterations or improvements made on the Property (including to any Unit, any Building or the Community Building) shall be done in conformance with and subject to the conditions set forth in (the "Site Approvals"): (i) the site plan approval adopted by the Town of Jerusalem on September 6, 2012, as amended from time to time, and (ii) the Stipulation of Settlement and Discontinuance filed in the matter of Donald A. Schneider v. Town of Jerusalem Zoning Board of Appeals, et al, Index No. 2012-0197. The Board of Managers shall maintain all Common Elements in conformance with the Site Approvals. The Board of Managers shall not approve any addition, alteration or improvement by a Unit Owner unless such addition, alteration or improvement is in conformance with the Site Approvals.

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

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

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

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

- (a) failure of such plans to comply with any protective covenants, conditions and restrictions contained in this Declaration, the By-Laws, or the Rules or Regulations;
- (b) failure to include information in such plans as requested;
- (c) objection to the site plan, exterior design, appearance or materials of any proposed improvements, including without limitation, colors or color scheme, finish, proportion, style of architecture, proposed parking, height, bulk or appropriateness;
- (d) incompatibility of proposed improvements or use of proposed improvements with existing improvements or uses in the vicinity;
- (e) failure of proposed improvements to comply with any zoning, building, health, or other governmental laws, codes, ordinances, rules and regulations, including the Site Approvals;
- (f) any other matter which in the judgment and sole discretion of the Board of Managers would render the proposed improvements, use or uses inharmonious or incompatible with the general plan of improvement of the Condominium, including any possible adverse impact on the use and enjoyment of the Property by any other Unit Owner(s).

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

Section 7.05. Written Notice of Disapproval. In any case where the Board of Managers disapproves any plans submitted hereunder, the Board of Managers shall so notify the

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

Section 7.06. Failure of Board of Managers to Act. If any applicant has not received notice of the Board of Managers approving or disapproving any plans within 45 days after submission thereof; said applicant may notify the Board of Managers in writing of that fact. Such notice shall be sent by certified mail, return receipt requested. The plans shall be deemed approved by the Board of Managers 15 days after the date of receipt of such second notice, if such second notice is given and the Board of Managers still has not approved or disapproved such plans with such 15 day period.

Section 7.07. Board of Managers' Right to Promulgate Rules and Regulations. The Board of Managers may from time to time promulgate rules and regulations governing the form and content of plans to be submitted for approval or with respect to the approval or disapproval of certain types of alterations, modifications, or improvements to the Common Elements or Units; provided, however, that no such rule or regulation shall be deemed to bind the Board of Managers to approve or disapprove any plans submitted for approval, or to waive the exercise of the Board of Manager's discretion as to such plans; and provided further that no such rule or regulation shall be inconsistent with the provisions of this Declaration, the By-Laws, or any applicable governmental law, code, ordinance, rule or regulation, or the Site Approvals.

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

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

Section 7.09. Interior Alterations to Units. Interior renovations or improvements to a Unit shall only be permitted if, prior to the commencement of work, the Unit Owner has

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

Section 7.10. Liability of Board of Managers. No action taken by the Board of Managers or any member, subcommittee, employee or agent thereof, shall entitle any person to rely thereon, with respect to conformity with laws, regulations, codes or ordinances, or with respect to the physical or other condition of any Building or other portion of the Property. Neither the Condominium, nor the Board of Managers, nor any member, subcommittee, employee or agent thereof shall be liable to anyone submitting plans to them for approval or to any Unit Owner, or any other person, in connection with any submission of plans, or the approval or disapproval thereof, including without limitation, mistakes in judgment, negligence or nonfeasance. Every person or other entity submitting plans to the Board of Managers agrees, by submission of such plans, that no action or suit will be brought against the Condominium or the Board of Managers (or any member, subcommittee, employee or agent thereof) in connection with such submission.

ARTICLE VIII

EASEMENTS

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

(a) Enjoyment - to enjoy all Common Elements, except as restricted or limited by Section 5.06 and subject to any Rules and Regulations adopted by the Board of Managers;

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

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

of the Unit Owners of all other Units to use in accordance with present use and present available facilities, the pipes, wires, ducts, cables, wires, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit.

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

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

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

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

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

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

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

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

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

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

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

ARTICLE IX

VOTING RIGHTS

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

ARTICLE X

COMMON CHARGES - ALLOCATION, LIEN AND LIABILITY

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

Section 10.02. Common Charges - Personal Obligation of Unit Owner and Lien on Unit. The common charges shall be paid when due. All sums assessed as common charges by the Board of Managers, but unpaid, together with any accelerated installments, late charges as may be established by the By-Laws, interest thereon at such rate as may be fixed by the Board of Managers from time to time, such rate not to exceed the maximum rate of interest then permitted by law, and reasonable attorneys' fees and other costs and expenses incurred in efforts to collect

such past due assessments, shall be the personal obligation of the Unit Owner and, to the extent permitted by law, shall constitute a lien upon the Unit prior to all other liens except: (i) tax or assessment liens on the Unit by the taxing subdivision of any governmental authority, including but not limited to State, County, Town and School District taxing agencies and (ii) all sums unpaid on any first mortgage of record encumbering the Unit and which is held by an Institutional Mortgagee as defined in Section 2.01 of this Declaration.

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

Except as provided above, in the case of any conveyance of a Unit either by voluntary instrument, operation of law or judicial proceeding in accordance with this Declaration or the By-Laws, the grantee of the Unit shall be jointly and severally liable with the former Unit Owner for any unpaid common charges against the Unit assessed and due up to the time of the grant or conveyance without prejudice to the grantee's right to recover from the former Unit Owner the amounts paid by the grantee therefor. "Grantee" as used herein shall not include either an Institutional Mortgagee or a purchaser of a Unit at a foreclosure sale of a mortgage held by an Institutional Mortgagee. No Unit Owner shall be liable for the payment of any common charges accruing subsequent to a sale, transfer or other conveyance by such Unit Owner of the Unit made in accordance with applicable laws or the provisions of this Declaration and the By-Laws of the Condominium.

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

ARTICLE XI

BOARD OF MANAGERS

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

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

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

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

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

ARTICLE XII

OBLIGATIONS, RESPONSIBILITIES COVENANTS, AND RESTRICTIONS

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

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

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

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

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

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

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

Section 12.08. No Animals, Birds and Insects. Except for either one (1) dog weighing less than 30 pounds, or one (1) cat or fish or birds kept in a cage, all to be owned by a Unit Owner or Unit occupant, no animals, birds or insects shall be kept or maintained in a Unit or other portion of the Property, except with the consent of the Board of Managers which may, from time to time: (i) impose reasonable rules and regulations setting forth the type and number of animals, birds and insects; and (ii) prohibit certain types of animals, birds or insects entirely. In any event, pets may be allowed outdoors only when accompanied by a responsible person and leashed. The Board of Managers shall have the right to require any Unit Owner (or any tenant of any Unit Owner, or any family member or guest of any Unit Owner or tenant) to dispose of any animal, bird or insect, if, in the opinion of the Board of Managers, acting in its sole discretion, such animal, bird or insect is creating a nuisance because, e.g., the Unit Owner does not clean up after the animal, the animal is too noisy, or the animal is not properly controlled. All Unit Owners must comply with the Town leash law. No dogs may be tied outdoors and left unattended.

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

Property unless approved by the Board of Managers. Notwithstanding the foregoing, no fence, wall or screen planting shall be maintained so as to obstruct sight lines for vehicular traffic.

Section 12.10. Garbage and Refuse Disposal. Except for building materials during the course of construction or repair of any approved improvements, no lumber, metals, bulk materials, rubbish, refuse, garbage, trash or other waste material (all of which are referred to hereinafter as "Trash") shall be kept, stored, or allowed to accumulate, outdoors on any portion of the Property, except in sanitary containers and screened from adjacent and surrounding property and for a period of time not to exceed 24 hours. Such containers may be placed in the open (for a period of time not to exceed 24 hours) within 24 hours of a scheduled pick up, at such place as is designated by the Board of Managers, so as to provide access to persons making such pick up. The Board of Managers may, in its discretion, adopt and promulgate reasonable rules and regulations relating to size, shape, color and type of containers permitted and the manner of storage of the same on any portion of the Property. All facilities for the storage or disposal of trash, shall be kept in a clean and sanitary condition.

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

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

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

Section 12.14. No Television and Communication Antennas. No outside television, radio, "C.B." or other communication antenna shall be erected on any Unit or other portion of the Property except for: (i) satellite dishes of such a size and in such a location as approved by the Board of Managers; or (ii) video antennas specifically permitted under the Telecommunications Act of 1996, 47 C.F.R. 1.4000, as amended from time to time.

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

Section 12.16. Residential Use Only. Except as provided in Section 12.17 below, the Property shall be used only for residential purposes and purposes incidental and accessory thereto; except that, prior to transfer of title by the Sponsor to all of the Property, the Sponsor may use one or more Units or other portions of the Property for model homes or as a real estate sales office.

Section 12.17. No Commercial and Professional Activity on Property. No wholesale or retail business, including any salon, studio, laboratory, home industry shall be conducted on the Property without the consent of the Board of Managers, except: (i) by the Sponsor in conjunction with the initial construction of the Development, or the lease or sale of Lots and Units; (ii) the conducting of business by the Owner by telephone, internet or electronic means; or (iii) as approved by the Board of Managers.

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

Section 10.13. No Oversized, Commercial, Recreational, or Unlicensed Vehicles, Camper Bodies, Boats or Trailers. Unless used in connection with the construction or sale of Units and Buildings by the Sponsor, or maintenance of the Property, or unless garaged or otherwise consented to by the Board of Managers, the following shall not be permitted on the Property: (i) oversized vehicles (vehicles which will not fit into a Unit's garage); (ii) commercial vehicles (as determined by the Board of Director's in its sole discretion); (iii) recreational vehicles; (iv) unlicensed motor vehicles of any type; (v) camper bodies; or (vi) boats or trailers.

Section 12.19. No Parking on Association Property. No parking on any Common Property shall be permitted; except that the Unit Owner or his family, tenants, guests or invitees may park on the Limited Common Element which is the driveway servicing the Unit Owner's Unit and at any of the designated parking spaces located on the Common Elements.

Section 12.20. No Clotheslines. No outdoor drying or airing of any clothing or bedding shall be permitted within the Property unless authorized by the Board of Managers.

Section 12.21. Lease of Entire Units Only. An Unit Owner shall not lease less than an entire Unit.

Section 12.22. Unit Lease Term. No lease of a Unit shall be for an initial term of less than twelve (12) months, except for leases for Units owned by Sponsor, which shall have no minimum term.

Section 12.23. No Operation of Snowmobiles, Motorcycles, All Terrain Vehicles or Similar Motor Vehicles. The operation of snowmobiles, motorcycles, all-terrain vehicles or similar vehicles is prohibited within the Property unless authorized by the Board of Managers. Notwithstanding the forgoing, legally licensed and registered motorcycles and golf carts are permitted to travel on the private roadway only when travelling to and from a Unit. Any permitted motorcycle or golf cart must be parked and stored inside a garage at all times.

Section 12.24. No Rock Salt. Unit Owners shall not use rock salt to deice patios, walks or stoops.

Section 12.25. Cooking Grills. Unit Owners shall not operate outdoor cooking grills on porches of the Units under any overhanging surface of the Unit or inside the garage of a Unit.

Section 12.26. Pools. No above ground pools are permitted to be constructed on the Property.

Section 12.27. Occupancy Restrictions/Fair Housing Act Compliance. Occupancy of the Units is restricted to persons 55 years of age or older, as set forth in the Fair Housing Act (Title VIII of the Civil Rights Act of 1968), as amended, 42 U.S.C. §§3601-3619, 3631, as it may be amended from time to time (the "Fair Housing Act"); and as implemented by any regulations promulgated pursuant thereto. The Condominium is intended and operated for occupancy by persons 55 years of age or older, as described in the Fair Housing Act. Provided that the Condominium qualifies as housing intended and operated for occupancy by persons 55 years of age or older under the Fair Housing Act, individuals under the age of 18 years old are not permitted to occupy a Unit in the Condominium, except that persons under the age of 55 are permitted to visit occupants of a Unit for a period of time which shall not be in excess of 7 consecutive days, and which shall not be for a period in excess of 14 total days for a calendar year.

Section 12.28. Use of Common Elements. Any Unit Owner(s), and their lessees, invitees, guests and the like, use of the Common Elements, including Community Building, shall be subject to the Rules and Regulations adopted by the Board of Managers from time to time.

ARTICLE XIII

AMENDMENT AND TERMINATION

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

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

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

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

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

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

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

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

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

ARTICLE XIV

GENERAL

Section 14.01. Service of Process. The Secretary of State is designated as agent of the Board of Managers upon whom process against it may be served. The address within this State to which the Secretary of State shall mail a copy of any process against the Board of Managers served upon him or her is at Brandy Bay Heights Condominium, 3612 Central Avenue, Penn Yan, New York 14527, as may be amended from time to time by an amendment to this Declaration or by written notice to the Department of State.

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

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

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

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

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

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

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

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

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

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

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

Section 14.03. Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the

remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

Section 14.04. Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 14.05. Captions. The captions herein are inserted only as a matter of convenience and reference, and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

Section 14.06. Gender. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine gender whenever the context so requires.

[Remainder of page intentionally left blank]

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

MTS DEVELOPMENT, LLC,
Sponsor

By: _____
Name: _____
Its: _____

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

On the _____ day of _____, in the year 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

SCHEDULE A

DESCRIPTION OF BRANDY BAY HEIGHTS CONDOMINIUM PROPERTY

All that tract or parcel of land, situated in part of Town Lot 49, Township 7, Range 1, Phelps and Gorham Purchase, Town of Jerusalem, County of Yates, State of New York and more particularly described as follows:

Beginning at an iron pipe at the intersection of the west line of Penn Yan West Lake Road, also referred to as Central Avenue, with the south line of the former Horace Mills Estate, thence;

- 1 Southerly along the west line of Pen Yann West Lake Road, on a bearing of S 19°03'50" W, a distance of 164.89' to a concrete highway monument, thence;
- 2 Continuing southerly along the west line of Penn Yan West Lake Road, on a bearing of S 02°58'50" E, through an iron pin set 10.54' a total distance of 88.58' to a point, thence;
3. Continuing southerly along the west line of Penn Yan West Lake Road, on a bearing of S 20°11'00" W a distance of 400.32' to an iron pin, thence;
4. Westerly on a bearing of N 71°44'00" W, a distance of 380.00' to an iron pin, thence;
5. Northerly on a bearing of N 20°11'00" E, passing through an iron pin 320.07' distant, a total distance of 648.65' to an iron pin, thence;
6. Easterly on a bearing of S 71°44'00" E, a distance of 54.85' to an iron pipe, thence;
7. Continuing easterly on a bearing of S 71°34'58" E, a distance of 287.04' to a point, said point being the point and place of beginning.

Intending to describe lands conveyed to Sponsor from Steven McMichael, as recorded in liber May 17, 2013, in Liber 657 of Deeds, page 292. All as shown on an instrument survey by Richard L. Willson last dated February 28, 2013. Said parcel containing 5.481 acres more or less measured to the west right-of-way of Penn Yan West Lake Road.

SCHEDULE B**DESCRIPTION OF THE BUILDINGS IN
BRANDY BAY HEIGHTS CONDOMINIUM**

The Property, upon completion, will have 5 Buildings located on it, consisting of 3 Buildings containing 4 Units each, 1 Building containing 3 Units and the Community Building. There will be a total of 15 Units within the Buildings. Each Unit within a Building will have an attached 1.5 car garage. All of the Units are 1 story in height with full basements, except under rear bedroom and bathroom area, where a crawl space will be provided. The garages will be slab on grade. The buildings are typically 23' from grade to roof peak. All Units may be entered at the first floor level. All Units have front and rear porches.

The structural system of each Unit is comprised of wood frame construction utilizing 2" by 10" wood joists on 16" centers with 2" by 6" stud exterior walls on 16" centers and 2" by 4" stud interior walls on 16" centers. The roof framing is wood trusses with particle board decking. The roofs are covered with tar paper and asphalt shingles. Drywall is used throughout the interior of the primary living space. The garage floors are concrete. Smoke detecting alarm devices and carbon monoxide alarms are installed in each Unit. The exterior walls and ceilings have fiberglass insulation with a vapor barrier. R-21 and R-13 insulation is utilized throughout the Units. The exterior siding is vinyl.

SCHEDULE C

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

UNIT*	TAX LOT NO.	ROOMS/ BATHROOMS **	APPROXIMATE SQUARE FOOT AREA	PERCENTAGE OF UNDIVIDED INTEREST IN COMMON ELEMENTS
1-A		5/2 - 2B, K, GD, L	1402	6.6666
1-B		5/2 - 2B, K, GD, L	1299	6.6666
1-C		5/2 - 2B, K, GD, L	1299	6.6666
1-D		5/2 - 2B, K, GD, L	1402	6.6666
2-A		5/2 - 2B, K, GD, L	1402	6.6666
2-B		5/2 - 2B, K, GD, L	1299	6.6666
2-C		5/2 - 2B, K, GD, L	1299	6.6666
2-D		5/2 - 2B, K, GD, L	1402	6.6666
3-A		5/2 - 2B, K, GD, L	1402	6.6666
3-B		5/2 - 2B, K, GD, L	1402	6.6666
3-C		5/2 - 2B, K, GD, L	1402	6.6666
4-A		5/2 - 2B, K, GD, L	1402	6.6666
4-B		5/2 - 2B, K, GD, L	1299	6.6666
4-C		5/2 - 2B, K, GD, L	1299	6.6666
4-D		5/2 - 2B, K, GD, L	1402	6.6667

* All Units have access to the adjoining porch, patio, driveway, front walkway, exterior lawn and landscaped areas.

** B-Bedroom, K-Kitchen, GD-Great Room and Dining Room, L - Laundry

SCHEDULE D
CONDOMINIUM MAP AND FLOOR PLANS

**BY-LAWS
OF
BRANDY BAY HEIGHTS CONDOMINIUM**

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**BY-LAWS
OF
BRANDY BAY HEIGHTS CONDOMINIUM**

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BY-LAWS
OF
BRANDY BAY HEIGHTS CONDOMINIUM

ARTICLE I

PLAN OF UNIT OWNERSHIP

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

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

"Building" shall mean and refer to the structures described on Schedule B of the Declaration and as more particularly described in Article III of the Declaration.

"Common Elements" shall mean all of the Property, including the Community Building and except for the Units, as more particularly described in Article V of the Declaration.

"Community Building" shall mean and refer to the structure shown as the Community Building on the Condominium Map and Floor Plans that is part of the Common Elements.

"Condominium" shall mean and refer to Brandy Bay Heights Condominium.

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

"Declaration" shall mean and refer the Declaration of Condominium Establishing Brandy Bay Heights Condominium recorded in the Recording Office and pursuant to which the Property is subjected to the provisions of Article 9-B of the Real Property Law of the State of New York.

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

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

"Recording Office" shall mean and refer to the Yates County Clerk's Office.

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

"Sponsor" shall refer to MTS Development, LLC, its successors and assigns.

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

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

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

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

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

ARTICLE II

UNIT OWNERS-VOTING RIGHT AND MEETINGS

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

vote with respect to such Unit if the Board of Managers has been notified in writing by the Owner of the Unit that such life estate tenant may exercise such right to vote.

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

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

Section 2.04 First Meeting and Annual Meetings; First Election of Board of Managers. The Sponsor will have control of the Board of Managers and shall appoint all members of the Board of Managers for five (5) years from the date of the recording of the Declaration or until the transfer of title to 50% of the Units, whichever shall first occur. After the transfer of title to 50% of the Units or the termination of said five (5) year period, the Sponsor shall notify all Unit Owners that the first meeting of Unit Owners shall be held within 30 days thereafter. At such meeting all Unit Owners, including the Sponsor, shall elect a new Board of Managers which shall consist of three (3) members. Annual meetings of the Unit Owners shall be held on the anniversary of such meeting of the Unit Owners as provided herein or on such other date and at such time convenient to the Unit Owners as shall be designated by the Board of Managers. At such meetings the Board of Managers shall be elected by ballot of the Unit Owners in accordance with the requirements of Section 3.04 of these By-Laws. Notwithstanding any contrary provision of these By-Laws, the Declaration, at said first election after five (5) years from the date of recording of the Declaration or transfer of title to 50% of the Units, and at each election thereafter, so long as the Sponsor of the Condominium shall continue to own Units having: (i) 30% or more interest in the Common Elements, the Sponsor shall have the right to appoint two (2) of the three (3) members of the Board of Managers; (ii) less than 30% of the common interests the Sponsor shall have the right to appoint one (1) of the three (3) members of the Board of Managers. When the Sponsor no longer owns Units having a 10% or more of the common interest, it shall have no further right to solely appoint any members of the Board of Managers. Members of the Board of Managers appointed by the Sponsor shall serve for a term of one year. All other members of the Board of Managers shall serve for terms as set forth in Section 3.04 below. The Unit Owners may transact such other business at such meeting as may properly come before them.

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

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

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

Section 2.08 Waiver and Consent. Whenever the vote of the Unit Owners at a meeting is required or permitted by any provision of the Declaration, statutes or of these By-Laws to be taken in connection with any action of the Condominium, the meeting and vote of Unit Owners may be dispensed with if all Unit Owners who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken.

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

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

Section 2.11 Inspectors of Election. The Board of Managers in advance of any meeting of Unit Owners, may appoint two (2) or more persons, who need not be Unit Owners, to act as inspectors of election at such meeting or any adjournment thereof. If inspectors of election are not so appointed prior to the meeting, the person presiding at such meeting may, and on the request of any Unit Owner entitled to vote thereat shall, appoint two (2) or more inspectors of election. In case any person appointed fails to appear or act, the vacancy may be filled in advance of the meeting by the Board of Managers or at the meeting by the person presiding thereat.

The inspectors of election shall (i) determine the Unit Owners entitled to vote at the meeting; (ii) determine the existence of a quorum and the validity and effect of proxies; (iii) receive ballots or determine votes or consents; (iv) hear and determine any challenges or

questions arising in connection with any Unit Owner's right to vote; (v) count and tabulate all votes, ballots or consents and determine the result thereof, and (vi) do such other acts as may be proper to conduct an election or vote with fairness to all Unit Owners.

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

- (a) Roll call.
- (b) Proof of notice of meetings.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Report of Board of Managers.
- (f) Reports of committees.
- (g) Election of Inspectors of Election (when so required).
- (h) Election of members of the Board of Managers (when so required).
- (i) Unfinished business.
- (j) New business.

ARTICLE III

BOARD OF MANAGERS

Section 3.01 Number and Qualification. The affairs of the Condominium shall be governed by a Board of Managers. The Board of Managers shall consist of three (3) persons designated by the Sponsor at the time the Declaration is recorded. Within 30 days after the initial transfer of title to 50% of the Units (other than to the Sponsor) or five (5) years after the recording of the Declaration, whichever first occurs, the first annual meeting of Unit Owners shall be held pursuant to Section 2.04 of these By-Laws for the purpose of electing a new Board of Managers. All members of the Board of Managers shall be Owners or spouses of Owners or mortgagees of Units or, in the case of partnership and limited liability company Owners or mortgagees, shall be members or employees of such partnership or limited liability company, or, in the case of corporate Owners or mortgagees, shall be officers, directors, shareholders, employees or agents of such corporations or, in the case of fiduciary Owners or mortgagees, shall be the fiduciaries or officers, agents or employees of such fiduciaries or, in the case of members of the Board of Managers designated by the Sponsor, such members shall be any designees of the Sponsor.

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

- (a) Determination and levying of annual assessments ("common charges") payable in monthly installments to cover the cost of common expenses required for the affairs of the Condominium, including without limitation, the operation and maintenance of the Property. The Board of Managers may increase the annual assessments or vote a special assessment in excess of that amount, if required, to meet any additional necessary expenses, but said increases can only be assessed among the Unit Owners pro rata according to their respective common interest.
- (b) Collection, use and expending the assessments collected to maintain, care for and preserve the Common Elements.
- (c) Operation, care, upkeep and maintenance of the Common Elements.
- (d) Purchasing or leasing or otherwise acquiring in the name of the Board of Managers, or its designee, corporate or otherwise, on behalf of all Unit Owners, Units offered for sale or lease or surrendered by their Owners to the Board of Managers.
- (e) Obtaining and maintaining insurance for the Property, pursuant to the provisions of Article VII hereof.
- (f) Purchasing of Units at foreclosure or other judicial sales in the name of the Board of Managers, or its designee, corporate or otherwise, on behalf of all Unit Owners.
- (g) Selling, leasing, mortgaging, repairing, maintaining, voting the votes appurtenant to (other than the election of members of the Board of Managers), or otherwise dealing with Units acquired by, and subleasing Units leased by, the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners.
- (h) Suspend the right to the use of the Common Elements except for ingress and egress to the Unit Owner's home, during any period in which such Unit Owner shall be in default in the payment of any assessment levied by the Condominium. Such rights may also be suspended after a notice and Hearing for a period not to exceed 60 days for an infraction of published rules and regulations.
- (i) Bringing and defending actions against Unit Owner(s) which are pertinent to the operation of the Condominium, and bringing actions on behalf of Unit Owners as provided for in Section 339-dd of the Real Property Law or in the Condominium Declaration.
- (j) Borrowing money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the Common Elements, provided, however that (i) the consent of at least 67% in number and in common interest of all Unit Owners, obtained at a meeting duly called and held for such purpose in accordance with the

provisions of these By-Laws, shall be required for the borrowing of any sum in excess of 5% of the amount of the then current annual budget of the Condominium and (ii) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Elements without the consent of the Unit Owner.

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

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

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

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

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

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

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

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

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

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

(u) Cause the Condominium to meet the requirements to be classified as housing intended and operated for occupancy by persons 55 years of age or older set forth in the Fair Housing Act (Title VIII of the Civil Rights Act of 1968), as amended, 42 U.S.C. §§3601-3619, 3631, as may be amended from time to time (the "Fair Housing Act").

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

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

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

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

Except for members of the Board of Managers initially appointed by the Sponsor, who shall serve until the first annual meeting of the Unit Owners as provided in Section 2.04 of these Bylaws or until replaced by the Sponsor, whichever first occurs, at the first annual meeting of the Unit Owners, and at any annual meeting at which the number of members of the Board of Managers is increased, the term of office of a majority of members of the Board of Managers shall be fixed at two (2) years, and the term of office of a minority of members of the Board of Managers shall be fixed at one (1) year. At the expiration of the initial term of office of each respective member of the Board of Managers, a successor shall be elected to serve for a term of two (2) years, so as to effectuate "staggered terms. The members of the Board of Managers shall hold office until their respective successors shall have been elected by the Unit Owners. Tie

votes shall be decided by a runoff election unless the parties tying agree to a drawing of lots. Voting shall be by secret ballot which shall:

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

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

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

Section 3.07 Vacancies. Vacancies in the Board of Managers caused by any reason other than the removal of a member thereof by a vote of the Unit Owners, shall be filled by vote of a majority of the remaining members at a special meeting of the Board of Managers held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum, and each person so elected shall be a member of the Board of Managers until the next annual meeting of the Unit Owners or until a successor is elected. Notwithstanding the above, if the vacancy occurs with respect to any member of the Board of Managers not designated by the Sponsor, the successor shall be a Unit Owner independent of the Sponsor. If the vacancy occurs with respect to any member of the initial Board of Managers as designated by the Sponsor, the Sponsor shall have the sole right to choose the successor to fill the unexpired portion of the term of such Manager.

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

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

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

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

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

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

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

Section 3.11 Liability of the Board of Managers. The members of the Board of Managers shall not be liable to the Unit Owners for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each of the members of the Board of Managers against all contractual liability to others arising out of contracts made by the Board of Managers on behalf of the Condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. It is intended that the members of the Board of Managers shall have no personal liability with respect to any contract made by them on behalf of the Condominium. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board of Managers or out of the aforesaid indemnity in favor of the members of the Board of Managers shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interests of all the Unit Owners in the Common Elements. Every agreement made by the Board of Managers or by a managing agent or manager, on behalf of the Condominium, shall provide that the members of the Board of Managers, or the managing agent or the manager, as the case may be, are acting only as agents for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total

liability thereunder as such Unit Owner's interest in the Common Elements bears to the interest of all Unit Owners in the Common Elements.

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

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

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

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

ARTICLE IV

OFFICERS

Section 4.01 Designation. The principal officers of the Condominium shall be the President, the Vice-President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Managers. The Board of Managers may appoint an assistant treasurer, and assistant secretary, and such other officers as in its judgment may be necessary. The President and Vice President, but no other officer, must be a member of the Board of Managers.

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

Section 4.03 Removal of Officers. Upon the affirmative vote of a majority of the members of the Board of Managers, any officer may be removed, either with or without cause,

and a successor to such officer may be elected at any regular meeting of the Board of Managers, or at any special meeting of the Board of Managers called for such purpose.

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

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

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

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

Section 4.08 Agreements, Contracts, Deeds, Checks, etc. All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed by any two (2) officers of the Condominium or by such other person or persons as may be designated by the Board of Managers.

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

ARTICLE V

COMMON CHARGES AND ASSESSMENTS- DETERMINATION, PAYMENT AND COLLECTION

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

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

If the common charge or assessment or installment thereof is not paid within 30 days after the due date (i) the common charge or assessment shall bear interest from the due date at such rate as may be fixed by the Board of Managers from time to time, such rate not to exceed the maximum rate of interest then permitted by law; (ii) the Board of Managers may accelerate the remaining installments, if any, of such common charges or assessments upon notice thereof to the Unit Owners which notice shall afford the Unit Owner not less than 10 days to pay such installments of common charges; and (iii) the Board of Managers may bring legal action against the Unit Owner personally obligated to pay the same or foreclose the lien on such Unit pursuant to, and in the manner provided by New York State Law. (In the event the Sponsor controls the Board of Managers, a decision to bring legal action against the Sponsor for failure to pay common charges or other assessments on the Units owned by the Sponsor may be made by a majority of those Unit Owners other than the Sponsor.) If the common charge or assessment or installment thereof is not paid within 60 days after the due date, the Board of Managers, if it has not previously done so, shall furnish prompt written notice of such delinquency, if requested, to any holder, insurer or guarantor of the mortgage on the Unit for which the payment of common charges or assessments is delinquent.

The cost of any such proceedings and other costs and expenses incurred in efforts to collect such past due common charges or assessments, including reasonable attorney's fees, shall be added to the amount of such common charge or assessment, accelerated installments, if any,

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

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

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

Section 5.04 Statement of Common Charges. Upon the written request of a Unit Owner, lessee or mortgagee with respect to the Unit owned by such Owner, leased by such lessee or upon which such mortgagee holds a mortgage, or any prospective purchaser, lessee, mortgagee or title insurer of such Unit, the Board of Managers, the Manager or the managing agent, shall promptly furnish a certificate in writing setting forth with respect to such Unit as of the date of such certificate, (i) whether or not the common charges due have been paid, (ii) the amount of such common charges, including interest and costs, if any, due and payable, and (iii) whether any other amounts or charges are owing to the Condominium, *i.e.*, for a special assessment for the cost of extinguishing a violation of the Declaration or rules and regulations. A reasonable charge, as determined by the Board of Managers, may be made for the issuance of this certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Board of Managers and any bona fide purchaser or lessee of, or lender on, or title insurer of, the Unit with respect to which the request was made.

Section 5.05 Adjustment of Common Charges and Special Assessments on Transfer. Unless otherwise agreed upon between the parties to the transfer, upon the transfer of a Unit, common charges, and any special assessments which (i) may be payable in installments or (ii) are specifically applicable to a defined period of time which has not expired, shall be adjusted between the grantor and grantee, with the grantor being entitled to reimbursement from the

grantee for the portion of any payment made by the grantor which is applicable to the remainder of the period in which the transfer occurred or to a subsequent period, and the grantee being entitled to a credit from the grantor for the portion of any unpaid payment assumed by the grantee which is applicable to the expired portion of the period in which the transfer occurred or to any prior period. Unless otherwise provided by the Board of Managers in the adoption, (i) a special assessment payable in installments shall be adjusted as if the installment payments apply to a period following the date due, the length of which shall be equal to the interim period between installment due dates and (ii) a special assessment payable in a single installment shall be the sole responsibility of the Owner of the Unit on the date which such assessment is initially due.

Section 5.06 Resale Assessment. Upon any resale of a Unit, the Grantee (Purchaser) thereof shall pay to the Condominium a Resale Assessment which shall be one hundred (\$100.00) dollars. "Resale" as referred to herein shall not include any transfer by inheritance, devise or gift or any transfer by foreclosure, deed in lieu of foreclosure, or pursuant to a decree in bankruptcy. These funds are not to be used to offset assessments.

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

Section 5.08 Reserve Accounts. The Board of Managers shall establish and maintain an adequate reserve account for the replacement of those common element improvements which the Board of Managers is obligated to maintain. Any reduction in such reserve account (or in any other reserve account for maintenance or repair of such improvements) to an amount which, if continued to be paid each year, would result in an accumulated total of less than the amount necessary to replace, repair or maintain, in accordance with the purpose of such reserve, at the projected time, those common improvements, requires the Consent of Eligible Mortgage Holders of 51% or more of the Units then subject to mortgages held by Eligible Mortgage Holders. Such reserve account shall be funded from common charges. Any funds collected or designated by the Board of Managers as reserves for the replacement of capital items shall be segregated from all other funds of the Condominium in one or more separate accounts. This shall not preclude the Board of Managers from segregating other portions of the Condominium funds in separate accounts for a specific purpose (e.g., reserves for non-capital items) or otherwise. If a separate bank account is established for these reserve funds, (i) at least two (2) members of the Board of Managers shall be required to sign any checks written on such account, (ii) no manager or managing agent shall have authority to draw checks on or to transfer funds from such account, and (iii) the bank in which such funds are deposited shall send copies of all statements directly to the Board of Managers, or persons designated by the Board of Managers.

(a) **Annual Review & Revision.** The Board of Managers shall review and revise a Reserve Study annually to reflect changes in costs, inflation and interest yield on

invested funds. Component information shall be amended to reflect new information received, component additions or deletions. With this revised information, a new Reserve Study projection shall be generated and used in conjunction with the Annual Budget process.

(b) **Reserve Account Funds.** The Reserve Account shall have two major funds, a Contingency Fund and a Replacement Fund. In addition to common charges, the Contingency Fund is funded by an amount equal to two (2) months' common charges for each Unit as it is initially sold by the Sponsor or \$100.00 for each Unit later resold (see By Laws § 5.06). The Replacement Fund is funded by common charges and shall include a "Percent Funded" factor (percent of actual reserve funds on hand versus the ideal of 100%). If Percent Funded balance is below 70%, the Board of Managers shall provide for a plan to systematically increase contributions to attain the 70% level without special assessments, if possible.

(c) **Permitted Uses of Reserve Funds.** The Contingency Fund is to be used only to cover unanticipated shortfalls in the annual Operating Budget. The Replacement Fund is to be used only for the repair and replacement of the specific components identified in a reserve study.

(d) **Borrowing Reserve Funds.** Under special circumstances, like an unanticipated Operating Budget shortfall, or an emergency, the Board of Managers may borrow from reserve funds. In such cases, the Board of Managers shall adhere to a strict repayment plan that will replace borrowed reserve funds within 12 months.

(e) **Investing Reserve Funds.** In order to reduce the amount of member contributions, the Board of Managers shall invest reserve funds to generate interest revenue that will be added to the reserve account. Unless otherwise approved by the Unit Owners, all investments will be Federal Deposit Insurance Corporation (FDIC) insured or guaranteed by the United States Government. Investments should take into consideration the repair and replacement schedule so that there is no loss of interest for early withdrawal. The Board of Managers shall review the reserve fund investment plan at least annually to ensure that the funds are receiving competitive yields and make prudent adjustments as needed. The Board of Managers may hire an investment counselor to assist in formulating an investment plan.

Section 5.09 Other Accounts. The Board of Managers shall maintain any other accounts it shall deem necessary to carry out its purposes.

ARTICLE VI

RECORDS AND AUDITS

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

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

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

ARTICLE VII

INSURANCE AND CASUALTY DAMAGE

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

(a) Fire and Casualty. The policy shall cover the interests of Board of Managers and all Unit Owners and mortgagees in the Property and the Units as their interests may appear. Coverage shall be for the full replacement value, (without deduction for depreciation) of all improvements on the Property, excluding (i) drywall, wall finishes, wall to wall carpeting or other flooring finishes, lighting fixtures, bathroom fixtures, appliances, wall coverings, all machinery servicing the Units, cabinets and counters, and (ii) the personal property of Unit Owners and occupants.

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

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

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

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

The policy shall contain the standard mortgagee clause in favor of mortgagees which shall provide that any loss shall be payable to a mortgagee as its interest shall appear;

subject, however, to the loss payment provisions in favor of the Board of Managers. The obligation to restore or reconstruct after damage due to fire or other insured peril supersedes the customary right of a mortgagee to have the proceeds of insurance coverage applied to the mortgage indebtedness.

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

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

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

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

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

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

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

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

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

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

Section 7.02 No Liability for Failure to Obtain Above Coverages. The Board of Directors shall not be liable for failure to obtain any of the coverages required by this Section or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are so available only at demonstrably unreasonable cost.

Section 7.03 Deductible. With respect to property insurance, the deductible shall apply to each occurrence, not each item of damage. The Board of Managers may pay the portion for which an individual Unit Owner is responsible, and the amount so paid, together with interest and costs of collection (including attorney's fees), shall be a charge and continuing lien upon the Unit involved, shall constitute a personal obligation of such Unit Owner, and shall be collectible in the same manner as common charges under Article X of the Declaration.

Section 7.04 Restoration or Reconstruction After Fire or Other Casualty; Responsibility for Insurance Deductible. In the event of damage to or destruction of any Unit or Units, insured through insurance obtained by or through the Condominium, as a result of fire or other casualty, the Board of Managers shall notify all mortgagees of such Unit or Units as indicated on the records of the Condominium and shall arrange for the prompt repair and restoration of the damaged property and the Board of Managers, or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments; provided, however, that if three-fourths (3/4) or more of the Units in a building are destroyed or substantially damaged and the Owners of 75% or more of all Units and of all Units in the Building decide within 90 days after such damage or destruction not to proceed with repair or restoration, the net proceeds of insurance policies, if any, shall be divided among the Unit Owners in proportion to the damage, as determined by the Board of Managers, to their insured property in relation to the total damage (including demolition) to all the insured property, provided, however, that no payment shall be

made to a Unit Owner until there has first been paid off out of such Owner's share of such funds all liens on such Owner's Unit.

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

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

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

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

The Board of Managers may, at its option, pay the deductible amounts for which an individual Unit Owner is responsible, and the amounts so paid, together with interest and costs of collection (including attorney's fees), shall be a charge and continuing lien upon the Unit involved, shall constitute a personal obligation of such Unit Owner, and shall be collectible in the same manner as a common expense under Article X of the Declaration.

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

Section 7.05 Insurance Carried by Unit Owners. Each Unit Owner has the right, at such Unit Owner's expense, to obtain insurance for such Unit Owner's benefit, including (1) fire, casualty and theft coverage for such Unit Owner's personal property and exclusions from coverage noted above, (2) coverage for such Unit Owner's personal liability within such Unit Owner's Unit and such Unit Owner's interest in the Common Elements and (3) fire and casualty insurance coverage for "improvements and betterments" to such Unit Owner's Unit which may not be covered by fire and casualty insurance obtained by or through the Board of Managers, provided, however, that (i) such policies contain waivers of subrogation, if available, and (ii) the liability of the carriers issuing insurance procured by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by the Unit Owner.

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

ARTICLE VIII

SELLING, MORTGAGING AND LEASING UNITS

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

Any lease or rental of a Unit shall be for a minimum of twelve (12) months, except for leases of Units owned by the Sponsor, which shall have no minimum term, shall be in such format and on such lease form, if any, as supplied by and approved from time to time by the Board of Managers, and shall provide for full compliance by the tenants with the Declaration, By-Laws and Rules and Regulations of the Condominium. The Owner shall be responsible for violations by such Owner's tenant should a tenant be in violation thereof at any time, the Board of Managers may send the Owner of the Unit which said tenant occupies written notice of such violation by certified or registered mail, return receipt requested. If the violation is not cured or eviction proceedings commenced against the tenant within fourteen (14) days after the Owner has received notice of such violation, or if the eviction proceedings are not reasonably diligently pursued thereafter, the Board of Managers may pursue any remedies which it may have under the Declaration or these By-Laws.

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

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

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

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

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

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

ARTICLE IX

AMENDMENT

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

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

(b) owners of 67% or more of the Units, in number and in common interest approve the change; and

(c) the consent of Eligible Mortgage Holders of 51% or more of the number of Residential Units subject to first mortgages held by Eligible Mortgage Holders; and

(d) the change is set forth as an amendment to the Declaration duly recorded in the Recording Office.

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

ARTICLE X

MISCELLANEOUS

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

Section 10.02 Conflicts: Compliance with Article 9-B. These By-Laws are set forth to comply with the requirements of Article 9-B of the Real Property Law of the State of

New York. In case any of these By-Laws conflict with the provisions of said Statute or of the Declaration, the provisions of the Statute or of the Declaration, whichever the case may be, shall control.

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

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

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

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

EXHIBIT E

CERTIFICATIONS

**Certification by Sponsor and Principals of Sponsor
Statement of Sponsor's Engineer
Certification Re Adequacy of Budget**

**CERTIFICATION OF SPONSOR
AND PRINCIPALS OF SPONSOR**

Re: Brandy Bay Heights Condominium
Town of Jerusalem, County of Yates, State of New York

The undersigned are the sponsor and the principals of the sponsor of the condominium offering plan ("Offering Plan") for the above captioned property.

We understand that we have primary responsibility for compliance with the provisions of Article 23-A of the General Business Law, the regulations promulgated by the Department of Law in Part 20, and such other laws and regulations as may be applicable.

We have read the entire Offering Plan. We have investigated the facts set forth in the Offering Plan and the underlying facts. We have exercised due diligence to form a basis for this certification. We jointly and severally certify that the Offering Plan does and that documents submitted hereafter by us which amend or supplement the Offering Plan will:

- (i) set forth the detailed terms of the transaction and be complete, current and accurate;
- (ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment;
- (iii) not omit any material fact;
- (iv) not contain any untrue statement of a material fact;
- (v) not contain any fraud, deception, concealment, suppression, false pretense or fictitious or pretended purchase or sale;
- (vi) not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;
- (vii) not contain any representation or statement which is false, where we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or (d) did not have knowledge concerning the representations or statement made.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

MTS Development, LLC,
sponsor

By: Fred M. Thomas
Name: Fred M. Thomas
Title: Member

Subscribed and sworn to
before me this 9th day
of August, 2013

Notary Public

RYAN LOWN
NOTARY PUBLIC, State of New York
Reg. No. 01LO6177056
Qualified in Monroe County
Commission Expires November 5, 2015

Fred M. Thomas
Fred M. Thomas, principal of sponsor

Subscribed and sworn to
before me this 9th day
of August, 2013

Notary Public

RYAN LOWN
NOTARY PUBLIC, State of New York
Reg. No. 01LO6177056
Qualified in Monroe County
Commission Expires November 5, 2015

Steven McMichael
Steven McMichael, principal of sponsor

Subscribed and sworn to
before me this 9th day
of August, 2013

Notary Public

RYAN LOWN
NOTARY PUBLIC, State of New York
Reg. No. 01LO6177056
Qualified in Monroe County
Commission Expires November 5, 2015

William H. Sutherland
William H. Sutherland, principal of sponsor

Subscribed and sworn to
before me this 9th day
of August, 2013

Notary Public

RYAN LOWN
NOTARY PUBLIC, State of New York
Reg. No. 01LO6177056
Qualified in Monroe County
Commission Expires November 5, 2015

CERTIFICATION OF SPONSOR'S ENGINEER

RE: BRANDY BAY HEIGHTS CONDOMINIUM,
TOWN OF JERUSALEM, COUNTY OF YATES, NEW YORK

The Sponsor of the offering plan, for condominium ownership of the captioned property, retained our firm to prepare a report describing the construction and/or renovation of the property (the "Report"). We visually inspected existing portions of the property, if any, on June 30, 2013, and we examined the site plans and specifications that were prepared by Kernahan Engineers, last revised August 8, 2012 and Clough Harbour & Associates, last revised June 24, 2013, and building architectural floor plans that were prepared by PBS Modular, last revised May 6, 2013, and prepared the Report dated July 8, 2013, a copy of which is intended to be incorporated into the offering plan so that prospective purchasers may rely on the Report.

We are licensed engineers in the State where the property is located.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 20 insofar as they are applicable to the Report.

We have read the entire Report and investigated the facts set forth in the Report and the facts underlying it with due diligence in order to form a basis for this certification. This certification is made for the benefit of all persons to whom this offer is made.

We certify that the Report:

- i. sets forth in narrative form the description and/or physical condition of the entire property as it will exist upon completion of construction, provided that the renovation and/or construction is in accordance with the plans and specifications which we examined;
- ii. in our professional opinion affords potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the description and/or physical condition of the property as it will exist upon completion of construction, provided that construction is in accordance with the plans and specifications which we examined;
- iii. does not omit any material fact;
- iv. does not contain any untrue statement of a material fact;
- v. does not contain any fraud, deception, concealment or suppression;

- vi. does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;
- vii. does not contain any representation or statement which is false, where we:
 - (a) knew the truth;
 - (b) with reasonable effort could have known the truth;
 - (c) made no reasonable effort to ascertain the truth; or
 - (d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by and have no beneficial interest in the sponsor and that our compensation for preparing this Report is not contingent on the conversion of the property to a condominium or on the profitability or price of the offering. This statement is not intended as a guarantee or warranty of the physical condition of the property.

Schultz Associates Engineers &
Land Surveyors, P.C.

By: 

Name: Kris E. Schultz, P.E.

Its: President

Subscribed and sworn to before me this
6th day of August, 2013


Notary Public

PATRICK S. LABER
Notary Public - State of New York
No. 01LA6214406
Qualified in Monroe County
My Commission Expires: December 7, 2013

DiNARDO REALTY CORP.

202 North Washington Street
 East Rochester, New York 14445
 Telephone: 585-235-6300 • Facsimile: 585-248-4999
 electronic mail: *bdinardo@dinardorealty.com*

August 11, 2013

Ryan A. Lown, Esq.
 Phillips Lytle LLP
 1400 First Federal Plaza
 Rochester, NY 14614

VIA: Electronic and United States Mail

CERTIFICATION ON ADEQUACY OF BUDGET
AUGUST 12, 2013
RE: BRANDY BAY HEIGHTS CONDOMINIUM HOMEOWNERS
ASSOCIATION
TOWN OF JERUSALEM, NEW YORK

The Sponsor of the Condominium Offering Plan for the captioned property retained my firm, DiNardo Realty Corp. to review the budget (hereinafter referred to as the "Budget") and the footnotes (hereinafter referred to as the "Footnotes") attached thereto containing projections of income and expenses for the first year of operations of the Brandy Bay Heights Homeowners Association (hereinafter referred to as the "Association").

Our experience in this field includes the current or previous management of the following multifamily communities which experience provides the basis of our analysis:

Oakmonte Apartment Homes, One Oakmonte Boulevard, Webster, New York (256 units)
 Park Titus Apartments, 455 Titus Avenue, Rochester, New York (56 units)
 Hill Court Apartments, 580 East Ridge Road, Rochester, New York (185 units)
 Ivy Ridge Apartments, Hudson Avenue, Rochester, New York (135 units)
 Club Apartments At Lac De Ville, 1111 Lac De Ville Boulevard, Rochester, New York (96 units)

I understand that I am responsible for complying with Article 23-A of the General Business law and the regulations promulgated by the Department of Law in Part 20 insofar as it is applicable to the Budget and Footnotes contemplated herein.

I have reviewed the Budget and investigated the facts set forth in said Budget and the facts underlying it with due diligence in order to form a basis for this certification. I also have relied on my experience in managing residential multifamily communities.

Individual or Corporate Member of:
 National Association of Realtors® • New York State Commercial Association of Realtors®
 • National Apartment Association® •

DINARDO REALTY CORP.

I certify that the projections in Budgets and Footnotes appear reasonable and adequate under existing circumstances, and the projected income will be sufficient to meet the anticipated operating expenses for the projected first year of operations.

I certify that the Budget:

- (i) Sets forth in detail the projected income and expenses for the first year of operations;
- (ii) Affords potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the first year of operations;
- (iii) Does not omit any material fact;
- (iv) Does not contain any untrue statement of a material fact;
- (v) Does not contain any fraud, deception, concealment, or suppression;
- (vi) Does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and
- (vii) Does not contain any representation or statement which is false, where I;
 - (a) knew the truth;
 - (b) with reasonable effort could have known the truth;
 - (c) made no reasonable effort could have known the truth; or
 - (d) did not have knowledge concerning the representation or statement

made.

I further certify that I am not owned or controlled by the sponsor. I understand that a copy of this certification is intended to be incorporated into the Offering Plan.

This statement is not intended as a guarantee or warranty of the income and expenses for the first year of operations.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. I understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

Very truly yours,

DiNardo Realty Corp.

Brian J. DiNardo

BJD/dr

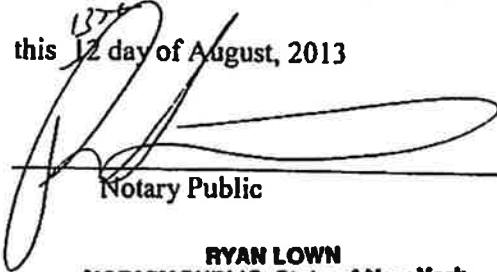
Individual or Corporate Member of:

National Association of Realtors® • New York State Commercial Association of Realtors®
• National Apartment Association® •

DIL...RDO REALTY CORP.

Subscribed to and sworn to me before

this ¹³⁷⁵12 day of August, 2013



Notary Public

RYAN LOWN
NOTARY PUBLIC, State of New York
Reg. No. 01LO6177056
Qualified in Monroe County
Commission Expires November 5, 2014

Individual or Corporate Member of:
National Association of Realtors® • New York State Commercial Association of Realtors®
• National Apartment Association® •



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
Attorney General

DIVISION OF ECONOMIC JUSTICE
Real Estate Finance Bureau

(212) 416 8966

Mts Development, LLC
c/o Phillips Lytle LLP
Attention: Ryan Down, Esq.
1400 First Federal Plaza
Rochester, NY 14614

March 14, 2014

RE: Brandy Bay Heights Condominium
File Number: CD130176
Date Amendment Filed: 02/19/2014
Receipt Number: 124769

Amendment No: 1
Filing Fee: \$225.00

Dear Sponsor:

The referenced amendment to the offering plan for the subject premises is hereby accepted and filed. The acceptance of this amendment does not extend the term of the offering. Any material change of fact or circumstance affecting the property or offering requires an immediate amendment.

Any misstatement or concealment of material fact in the material submitted as part of this amendment renders this filing void ab initio. This office has relied on the truth of the certifications of sponsor, sponsor's principals, and sponsor's experts, as well as the transmittal letter of sponsor's attorney.

Filing this amendment shall not be construed as approval of the contents or terms thereof by the Attorney General of the State of New York, or any waiver of or limitation on the Attorney General's authority to take enforcement action for violation of Article 23-A of the General Business Law or other applicable law. The issuance of this letter is conditioned upon the collection of all fees imposed by law. This letter is your receipt for the filing fee.

Very truly yours,

Kelly Maharaj

Kelly Maharaj
Assistant Attorney General

iff

FIRST AMENDMENT TO THE OFFERING PLAN
FOR
BRANDY BAY HEIGHTS CONDOMINIUM

Dated: February 19, 2014

The Offering Plan for the sale of Units in Brandy Bay Heights Condominium was accepted for filing on November 5, 2013.

1. PLAN DECLARED EFFECTIVE

The Offering Plan is declared effective by this Amendment based on the sale of three (3) Units or 20% of the Units. Attached to this Amendment as Exhibit A is the Sponsor's Affidavit.

2. NO OTHER MATERIAL CHANGES

There are no other material changes to the state of facts as set forth in the original Offering Plan except as indicated herein and in previous amendments.

MTS DEVELOPMENT, LLC, Sponsor

By: 

Name: Steven McMichael

Its: Member

EXHIBIT A

AFFIDAVIT IN SUPPORT OF AMENDMENT DECLARING
OFFERING PLAN EFFECTIVE

STATE OF NEW YORK)
)
COUNTY OF MONROE)

Steven McMichael, being duly sworn, deposes and says as follows:

1. I am a member of MTS Development, LLC, the Sponsor of the Offering Plan for Brandy Bay Heights Condominium (the "Condominium"), file number CD130176 which Offering Plan was accepted for filing by the New York State Department of Law on November 5, 2013.

2. All purchasers of Units in the Condominium who are counted for purposes of declaring the Offering Plan effective (i) are bona fide purchasers; (ii) are not purchasing as an accommodation to or for the account or benefit of the Sponsor or principals of the Sponsor; and (iii) have duly executed purchase agreements and have paid a downpayment as negotiated with the Sponsor.

3. There are no material changes to the budget for the first year's operation of the Condominium's property and affairs which have not been disclosed in a duly filed amendment to the Offering Plan.


4. All purchase agreements counted towards effectiveness are from bona fide purchasers who intend to occupy the dwelling unit.

5. None of the purchasers who are counted for the purpose of declaring the Offering Plan effective are the Sponsor, a principal of the Sponsor or the selling agent or managing agent or is related to the Sponsor, the selling or the managing agent or any principal of the Sponsor, the selling agent or the managing agent by blood, marriage or adoption, or as a business associate, an employee, a shareholder or a limited partnership.

6. The Units counted to meet the minimum percentage of sales required to declare the Offering Plan effective and the dates of the purchase agreements for the sale of such Units are as follows:

<u>Unit</u>	<u>Date of Purchase Agreement</u>
Unit 1-A	December 30, 2013
Unit 1-D	November 25, 2013
Unit 2-D	January 8, 2014

This affidavit is made with the knowledge that it will be part of an amendment to the Offering Plan for the above referenced Condominium and relied upon by the New York State Department of Law in accepting the amendment for filing and by purchasers of Units.



Steven McMichael

Subscribed and sworn to
before me this 27th day
of JANUARY, 2014.



Notary Public

RYAN LOWN
NOTARY PUBLIC, State of New York
Reg. No. 01LO6177056
Qualified in Monroe County
Commission Expires November 5, 2015



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
Attorney General

DIVISION OF ECONOMIC JUSTICE
Real Estate Finance Bureau

(212) 416-8966

November 5, 2013

Mts Development, LLC
c/o Phillips Lytle LLP
Attention: Ryan Lown, Esq.
1400 First Federal Plaza
Rochester, NY 14614

RE: Brandy Bay Heights Condominium
File Number: CD130176 Amount Offering \$3,868,500.00
Filing Fee: \$15,474.00 Receipt Number: 122837
Acceptance Date: 11/04/2013

Dear Sponsor:

The offering literature submitted for the subject premises is hereby accepted and filed. Unless extended by duly filed amendment, the effectiveness of the filing shall expire twelve months from this date. All advertising and solicitation material must be consistent with the contents of the filed offering literature. Any material change of facts or circumstances affecting the property or the offering requires an immediate amendment.

Any misstatement or concealment of material fact in the literature filed renders this filing void ab initio. This office has relied on the truth of the certification of sponsor, sponsor's principals and sponsor's experts, as well as the transmittal letter of sponsor's attorney.

The issuance of this letter is conditioned upon the faithful performance of all of the obligations of the sponsor, its agents and instrumentalities, which are required by law or set forth in the offering literature. If there is a failure or neglect to perform any such obligations when required, the effectiveness of this letter shall be suspended, and all offering and sales shall cease, pending further action by this office. Issuance of this letter is further conditioned on the collection of all fees imposed by law. This letter is your receipt for the above filing fee.

The filing of the offering literature shall not in any way be construed as approval of the contents or terms thereof by the Attorney General of the State of New York. Nor does it waive or limit the Attorney General's authority to take enforcement action for violation of Article 23-A of the General Business Law or other applicable provisions of law.

Very truly yours,

Kelly Maharaj

Kelly Maharaj
Assistant Attorney General / R.P.



**STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL**

**ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL**

**DIVISION OF ECONOMIC JUSTICE
REAL ESTATE FINANCE BUREAU**

November 3, 2014

(212) 416-6040

Mts Development, LLC
c/o Phillips Lytle LLP
Attention: Ryan Lown, Esq.
28 East Main Street Suite 1400
Rochester, NY 14614

RE: Brandy Bay Heights Condominium
File Number: CD130176 Amendment No: 2
Date Amendment Filed: 10/14/2014 Filing Fee: \$425.00
Receipt Number: 127566

Dear Sponsor:

The referenced amendment to the offering plan for the subject premises is hereby accepted and filed. This filing is effective for the greater of six months from the date of filing this amendment or twelve months from the acceptance of the original offering literature. However, any material change of fact or circumstance affecting the property or offering requires an immediate amendment, including amending the plan to disclose the most recent certified financial statement and budget, which should be done as soon as either of these documents is available.

Any misstatement or concealment of material fact in the material submitted as part of this amendment renders this filing void ab initio. This office has relied on the truth of the certifications of sponsor, sponsor's principals, and sponsor's experts, as well as the transmittal letter of sponsor's attorney.

Filing this amendment shall not be construed as approval of the contents or terms thereof by the Attorney General of the State of New York, or any waiver of or limitation on the Attorney General's authority to take enforcement action for violation of Article 23-A of the General Business Law or other applicable law. The issuance of this letter is conditioned upon the collection of all fees imposed by law. This letter is your receipt for the filing fee.

Very truly yours,

Carol Stephens
Assistant Attorney General

**SECOND AMENDMENT TO THE OFFERING PLAN
FOR
BRANDY BAY HEIGHTS CONDOMINIUM**

Dated: October 14, 2014

The Offering Plan for the sale of Units in Brandy Bay Heights Condominium was accepted for filing on November 5, 2013. The First Amendment to the Offering Plan was accepted for filing on March 14, 2014.

STATUS OF SALES

As of the date of this Second Amendment, the Sponsor has transferred title to 3 Units, and is not currently a party to any bona fide contracts for the sales of additional Units. A list of unsold Units is attached to this Second Amendment as Exhibit II-A.

FIRST CLOSING

The first closing of a Unit took place on March 14, 2014, at the offices of Mashewske Law Office, PLLC 105 Main Street Penn Yan, N.Y. 14527.

CERTIFICATE OF OCCUPANCY

A permanent certificate of occupancy was issued for the first building prior to the first closing of a Unit on September 3, 2013.

TAX ASSESSMENT

As of the 2014/2015 tax year each Unit has a separate assessment for real estate tax purposes.

DECLARATION RECORDING

The Declaration of Condominium was recorded in the Yates County Clerk's Office on March 14, 2014 in Book 669 of Deeds, page 165.

RESERVE/WORKING CAPITAL FUND

As of the date hereof, the amount of the reserve fund of Condominium is \$3,400.20. The reserve fund is being held at The Lyons National Bank located at 205 Liberty Street, Penn Yann, New York. As of the date hereof, the amount of the working capital fund of Condominium is \$1,799.04. . The working capital fund is being held at The Lyons National Bank located at 205 Liberty Street, Penn Yann, New York.

CONDOMINIUM COMMON CHARGES

The Condominium common charges remain at \$299.84 per month.

BUDGET

The current budget of the Condominium is the same budget as set forth in Schedule B of the Offering Plan, which budget remains current.

FINANCIAL STATEMENTS

The first fiscal year of the Condominium has not yet closed. As such, financial statements for its first full year of operation are not yet available.

SPONSOR'S FINANCIAL DISCLOSURE

A. The aggregate monthly common charges payable by the Sponsor on the unsold Units which it owns as of the date of this Second Amendment are approximately \$3,598.08 per month.

B. The aggregate monthly real estate taxes payable by the Sponsor on the unsold Units which it owns as of the date of this Second Amendment, based on the current tax rates, are approximately \$1,001.85 per month.

C. The unsold Units owned by the Sponsor are not occupied by tenants.

D. Other than as stated in (A) above, there are no financial obligations of the Sponsor to the Condominium, such as reserves and working capital fund payments and payments for repair and improvement obligations, now due or which will become due within the next twelve (12) months.

E. All unsold Units are subject a construction mortgage lien held by Lyons National Bank, 35 William Street Lyons, N.Y. 14489 in the original principal amount of \$1,173,000.00. The monthly payments \$4,398.75. This loan matures on September 1, 2015. There is a Unit release fee of \$75,000.00 at each Unit closing.

F. The Sponsor will pay the obligations set forth in (A) and (B) above out of the proceeds from the sale of the Units, or in the event the proceeds available from the sale of the Units is insufficient, from the Sponsor's own funds.

G. The Sponsor is current and has been current in the last twelve (12) months on all of the Sponsor's financial obligations relating to the Condominium.

H. The Sponsor and/or the principals of the Sponsor have no interest in and are not the sponsors of any other cooperatives, condominiums or homeowners associations.

LITIGATION

To the best of the Sponsor's knowledge, as of the date hereof, there are no lawsuits, administrative proceedings or other proceedings pending, the outcome of which may materially affect the offering, the property, the rights of home or Unit owners, the Sponsor's capacity to perform all of its obligations under the Offering Plan, the Condominium, or the operation of the Condominium.

SPONSOR CONTROL OF BOARD OF MANAGERS

The Sponsor is currently in control of the Board of Managers of Brandy Bay Heights Condominium. The Sponsor will have control of the Board of Managers so long as the Sponsor owns Units having 30% or more interest in the Common Elements. The Sponsor shall appoint all members of the Board of Managers for five (5) years from the date of the recording of the Declaration or until the transfer of title to 50% of the Units.

BOARD OF MANAGERS AND OFFICERS

The members of the Board of Managers and officers of the Condominium are:

President/Board Member: Steven McMichael. 3289 H. Davis Road, Bluff Point, NY 14478. Mr. McMichael is a principal of the Sponsor.

Secretary /Board Member: William H. Sutherland. 30 Northview Drive, Penn Yan, NY 14527. Mr. Sutherland is a principal of the Sponsor.

Treasurer/Board Member: Fred M. Thomas. 3598 Sid White Road, Keuka Park, NY 14478. Mr. Thomas is a principal of the Sponsor.

FIRST MEETING OF HOMEOWNERS

The first annual meeting of the Unit Owners is not yet scheduled. This meeting shall be held within 30 days after (i) Sponsor has transferred title to 50% of the Units; or (ii) five (5) years from the date of the recording of the Declaration; whichever first occurs.

PRICE INCREASE

Effective upon the filing date of this Amendment, the Sponsor is raising the prices of the unsold Units 2-B, 2-C, 4-B, 4-C, 2-A, 3-A, 3-B, 3-C, 4-A and 4-D by \$5,000.00 each. Attached hereto is a Revised Schedule A to the Offering Plan.

The offering prices of the Units as set forth in Revised Schedule A may only be increased or decreased by a duly filed amendment to this Offering Plan. Any prices which have been advertised may only be changed by duly filed amendment to this Offering Plan. Also, any increase in price from that which is shown on the Revised Schedule A (except for upgrades ordered by the purchaser) may be accomplished only by duly filed amendment to this Offering Plan. The Sponsor, however, may otherwise enter into agreement(s) with purchasers to sell one or more Units at prices lower than those set forth in revised Schedule A, as prices are negotiable.

OTHER CHANGES

The following are additional amendments to the Offering Plan:

A. **Page 11 Appliances:** The Security System will be installed by the Sponsor at no cost to the Purchaser if the Purchaser desires a system and accepts the monthly monitoring costs.

B. **Page 77 (c) (2) Site and Page 82 (g) (1) and (2) and (3):** Building #1 is constructed with basements and crawl spaces as described. Building #1 also has one legal egress window in each basement and no walk out doors. Building #2 has full double door walk out basements (except under the garage slabs) and each basement also has one additional window next to the walk out doors. Building #2 has no crawl spaces. Buildings #3 and #4 will have the same walk out basements as Building #2.

C. **Page 78 (c) (4) (i) Site and Page 91 (r) (1) Garages and Parking Areas:** All driveways are approximately 12' wide at the face of the garage to the edge of the private drive, not the stated 14' wide.

D. **Page 79 (d) Utilities:** Telephone Service is provided by Time Warner.

E. **Page 83 (4) (i) and (v) and (vi) Structural System - Balconies and Terraces:** Building #1 is constructed as described. All Units in Buildings #2, #3, and #4 will have a Balcony instead of a Front Porch. The Front Door of each Unit will access the Balcony. A Concrete Patio will be located under each Balcony at ground level. No Stairway will descend from the Balcony to the ground except as an owner upgrade if possible.

F. **Page 84 (5) (iii) Exterior Entrances:** Building #1 is as described. Buildings #2, #3, and #4 may have steps from the Balcony descending to the ground if possible and desired as an upgrade by the Buyer.

G. **Page 85 (9) (vii) and (viii) and (x) Yards and Courts:** Running along the front of all dwelling units will be a Concrete Walkway consisting of poured concrete with a broom finish. Drainage from yards will be by sheet flow to swales, rock lined channels, and underground drain pipes as required. See Page 83 and 84 above regarding stairs.

H. **Page 85 (10) (ii) Interior Stairs:** The stairs are not enclosed by wood framing,

drywall and painted. The stairs are wooden and are paint by owner ready.

I. Page 87 (l) (ii) and (iii) Laundry Room and Page 93 (v) Appliances: Clothes washer for Building #1 Units is Whirlpool, Model WTW4800XQ and the Clothes dryer for Building #1 Units is Whirlpool Model WED4800XQ. Similar quality models will be offered for Building #2, #3, and #4 Units, however the manufacturer has deleted some products and changed model numbers.

J. Page 89 (k) and (m) Heating and Air Conditioning: The installed furnace is a 80,000 BTU Comfort Maker Model Number N9MSED601714A1. The installed Air Conditioner is a Comfort Maker Model Number R-410A.

K. Page 90 (n) (1) Ventilation: No Units will have radon vents with fans as these are not code required. Radon vent pipes are in place if needed in the future.

L. Page 91 (q) (2) Public Area Lighting: The coach style fixtures are wall mounted bronze color, not white.

M. Page 93 (x) (1) (i) and (v) and (vi) Finish Schedule: The Community Center Building entry way consists of a covered Trex decked Porch with a vinyl railing system and vinyl ceiling panels on the roof projection over the entry. It also has a wheelchair ramp and a poured concrete sidewalk. There are two handicapped accessible baths. The storage room is for cleaning supplies and a utility sink.

N. Schedule A (Page 18) footnote (G) is hereby amended to read in its entirety: " Each Unit will be assessed and taxed as a separate tax lot, and the owner of each Unit will not be responsible for the payment of taxes on other Units. Also, each individual Unit will not be subjected to any lien arising from the non-payment of taxes on other Units."

O. Attached hereto as Exhibit II-B is a revised Brandy Bay Heights Condominium Report which replaces the report included in the Offering Plan (pages 76-95). Also attached hereto as Exhibit II-C is an updated Statement of Sponsor's Engineer which replaces the statement included in Exhibit E of the Offering Plan.

NO OTHER MATERIAL CHANGES

There are no other material changes to the state of facts as set forth in the original Offering Plan except as indicated herein and in previous amendments.

[Signature on the following page]

MTS DEVELOPMENT, LLC, Sponsor

By: 
Name: Steven McMichael
Its: Member

EXHIBIT II-A

UNSOLD UNITS

Unit Number

1-B
1-C
2-A
2-B
2-C
3-A
3-B
3-C
4-A
4-B
4-C
4-D

12 total unsold Units

AMENDED SCHEDULE A
BRANDY BAY HEIGHTS CONDOMINIUM
SALES PRICES AND ESTIMATED MONTHLY CHARGES
FOR THE FIRST YEAR OF OPERATION BASED ON OCCUPANCY OF ALL UNITS
PROJECTED CHARGES ARE FOR A PERIOD BEGINNING MARCH 1, 2014 - FEBRUARY 28, 2015
(Letters in parentheses designate footnotes which follow Schedule A)

(1) UNIT DESIGNATION	(2) ROOMS/ BATHS - ROOM TYPES		(3) APPROX. SQUARE FOOT AREA * (Habitable/Uninhabitable)		(4) OFFERING PRICE	(5) PERCENTAGE OF UNDIVIDED INTEREST IN COMMON ELEMENTS	(6) PROJECTED MONTHLY COMMON CHARGES	(7) PROJECTED MONTHLY/ YEARLY REAL ESTATE TAXES	(8) PROJECTE D TOTAL MONTHLY CARRYING CHARGES
(A)	(B)		(C)		(D)	(E)	(F)	(G)	(H)
1-A	5/2	2B, K, GD, L	1402	542	\$263,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
1-B	5/2	2B, K, GD, L	1299	477	\$248,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
1-C	5/2	2B, K, GD, L	1299	477	\$248,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
1-D	5/2	2B, K, GD, L	1402	542	\$263,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
2-A	5/2	2B, K, GD, L	1402	542	\$268,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
2-B	5/2	2B, K, GD, L	1299	477	\$253,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
2-C	5/2	2B, K, GD, L	1299	477	\$253,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
2-D	5/2	2B, K, GD, L	1402	542	\$263,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
3-A	5/2	2B, K, GD, L	1402	542	\$268,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
3-B	5/2	2B, K, GD, L	1402	542	\$268,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
3-C	5/2	2B, K, GD, L	1402	542	\$268,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
4-A	5/2	2B, K, GD, L	1402	542	\$268,900.00	6.6666	\$299.84	\$221.57/\$2,658.84	\$521.41
4-B	5/2	2B, K, GD, L	1299	477	\$253,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
4-C	5/2	2B, K, GD, L	1299	477	\$253,900.00	6.6666	\$299.84	\$195.07/\$2,340.84	\$494.91
4-D	5/2	2B, K, GD, L	1402	542	\$268,900.00	6.6667	\$299.84	\$221.57/\$2,658.84	\$521.41
TOTALS			20,412	7,740	\$3,918,500.00	100	\$4,497.60	\$3,138.05/\$37,656.60	\$7,635.65

EXHIBIT II-B

Revised Brandy Bay Heights Condominium Report

EXHIBIT II-C

Updated Statement of Sponsor's Engineer

BRANDY BAY HEIGHTS CONDOMINIUM REPORT

Description and Specifications of Condominium Property.

September 24, 2014

This report is prepared in accordance with Section 20.7 of the Attorney General's Regulations regarding the condominium offering plans. The site engineering including the design of the roads, utilities, and grading, along with the condominium site plans were prepared by Kernahan Engineers and Clough Harbour & Associates and building architectural floor plans were prepared by PBS Modular. This condominium report is provided by Schultz Associates, Engineers and Lands Surveyors, P.C.

(a) Location and Use of Property:

- (1) Brandy Bay Heights Condominium is located in the Town of Jerusalem, County of Yates, State of New York at 3612 Central Avenue, Penn Yan, NY. All condominium units front along the primary private roadway in the development.
- (2) Brandy Bay Heights is located in part of Town Lot 49, Township 7, Range 1, Phelps & Gorham Purchase, Town of Jerusalem, County of Yates, State of New York.
- (3) Zoning of the project is agricultural residential, with special use permits granted by Yates County Planning and the Town of Jerusalem Zoning Board.
- (4) The agricultural residential district allows, with the special use permit, multiple dwelling development if central water and sanitary sewer are available. The development shall provide spacing and orientation of dwelling units so as to ensure adequate light and air exposure.

(b) Status of Construction

- (1) Construction is currently ongoing at Brandy Bay Heights Condominiums. The stone base of the private drive has been installed at the time of the preparation of this report. The balance of site improvement and first 4 unit building and community center are to be constructed within the next 6 months. Full build out of the project is expected to be complete by the winter of 2014.
- (2) The class of construction is "Type VB" frame construction as outlined in the New York State Uniform Fire Prevention and Building Code. The Type of construction describes the fire-resistance rating requirements for building

elements per the 2007 Building Code of New York State, Chapter 6, section 601.

- (3) Currently residential Certificates of Occupancy have not been issued since no construction of dwelling units has commenced as of the date of this report.
- (4) NA

(c) **Site**

- (1) The site is approximately 5.481 acres. This area includes the area of the private drive.
- (2) The Sponsor will construct a total of 15 dwelling units and one office/ community center building. The four buildings containing the dwelling units will consist of three buildings with four units and one building with triple units. The fifth building, being the separate community center building. Each dwelling unit has 2 bedrooms or a master bedroom and a study. Building #1 is constructed with basements and crawl spaces as described. Building #1 also has one legal egress window in each basement and no walk out doors. Building #2 has full double door walk out basements (except under the garage slabs) and each basement also has one additional window next to the walk out doors. Building #2 has no crawl spaces. Buildings #3 and #4 will have the same walk out basements as Building #2. The garage will be slab on grade. All dwelling units have 2 baths. All dwelling units have a 1.5 car garage and driveway.
- (3) The private drive servicing the project will be maintained by Brandy Bay Heights Condominium. The private drive is to be constructed in accordance with the approved plans, which include 22' wide pavement with 24" wide shoulders on both sides. There will be 24" depth of compacted cobbles topped with a rolled layer of No. 2 Crusher Run Stone base, a 2.5" depth of NYSDOT type 3 Asphalt Binder and a 1.5" depth of NYSDOT Type 1A Asphalt Top. The shoulders will be 12" of compacted item 3 mix crushed gravel. The private drive pavement width will be increased three feet to 25 feet wide along the rear of the units to provide a three foot wide pedestrian walkway accompanied by white striping to separate the walkway from the roadway.
 - (i) Brandy Bay Heights Condominium owns and maintains all paved roadways within the project.
 - (ii) There is no curbing proposed within Brandy Bay Heights.

- (iii) **Brandy Bay Heights Condominium owns and maintains all storm sewers on site. Storm sewer piping will be 24" diameter SICPP (smooth interior corrugated polyethylene pipe) under the private drives. The roadway drainage and adjacent driveways and lawn areas will drain to the swales, storm culverts and rock-lined channels. The Brandy Bay Heights Condominium will own and maintain all proposed storm sewer improvements including swales, ditches and rock lined swales. There are no catch basins proposed.**
 - (iv) **Brandy Bay Heights Condominium owns and maintains all site lights. Lighting will be provided by twelve pole mounted lights set along the private drive and adjacent to parking areas. The light pole will be no higher than 16' tall, square, steel poles from Rudd Lighting Direct. The light fixtures will be Aerodome AVV3 series, 400 Watt metal halide.**
 - (v) **All items are in conformity with the local fire district and Town building codes per the approved plans.**
- (4) **All roads, sidewalks and ramps are considered part of the site improvements. Brandy Bay Heights Condominium owns and maintains all storm sewers. Brandy Bay Heights Condominium is responsible for maintenance or ownership of these improvements.**
 - (i) **Brandy Bay Heights Condominium owns and maintains the unit driveways. These driveways will be approximately 12' wide at the face of the garage to the edge of the private drive. The driveways are approximately 20' long. The unit driveways will have 6" of crusher run stone base, 1 1/2" of asphalt binder and 1" top asphalt.**
 - (ii) **Brandy Bay Heights Condominium does not own or maintain any curbing.**
 - (iii) **Brandy Bay Heights Condominium owns and maintains any storm sewers. Brandy Bay Heights Condominium does not own or maintain any catch basins.**
 - (iv) **Brandy Bay Heights Condominium owns and maintains all exterior site lights within the project. Lighting will be provided by twelve pole mounted lights set along the private drive and adjacent to parking areas. The light pole will be no higher than 16' tall, square, steel poles from Rudd Lighting Direct. The light fixtures will be Aerodome AVV3 series, 400 Watt metal halide.**
 - (v) **All items are in conformity with the local fire district and Town building codes.**

(d) **Utilities**

Electricity and natural gas is provided by New York State Electric and Gas (NYSEG). NYSEG will be responsible for electric cables, transformers and services to each condominium unit. Electric and gas consumption will be metered by each individual unit and billed to each individual condominium unit by NYSEG.

Telephone Service will be provided to each individual unit by Time Warner, at the owner's option. Time Warner will own and maintain all underground lines.

Individual units are wired for cable television connections. All unit owners have the option of connecting to cable service with the cable provider, Time Warner.

Refuse pick up and disposal is provided by Casalla Waste and paid for by Brandy Bay Heights Condominium.

The sanitary sewer system is constructed in accordance with the specifications of the Keuka Park Sewer District and the Town of Jerusalem. The Town of Jerusalem owns and will maintain the sanitary sewer mains, manholes and laterals to the units, within their easement. This includes all sanitary sewer improvements that serve the project. Brandy Bay Heights Condominium owns and maintains the sanitary laterals to each unit from the sanitary sewer easement line up to the building unit. Every unit shall have a separate lateral.

The sanitary sewer materials shall be as noted:

Main: 8" diameter PVC (polyvinyl chloride), SDR 35

Laterals and cleanouts: 4" diameter PVC (polyvinyl chloride), SDR 35; cast-iron cleanout-caps

Manholes: precast concrete with cast-iron frame and covers

The water distribution system is constructed in accordance with the Keuka Park Consolidated Water District and the Town of Jerusalem standards. The system relies on Town of Jerusalem water system pressure and will not require additional pumps to provide water for domestic and fire fighting purposes. The 6" HPDE SDR-11 watermain, valves, hydrants and water

services up to and including the curb box will be owned and maintained by the Town of Jerusalem. Fire hydrants are installed less than 500' apart.

Water will be separately metered to each unit and billed by the Town of Jerusalem. Brandy Bay Heights Condominium will maintain the 1" HDPE SDR-11 water services for each unit, from the curb box to the individual unit. The office/ community center building will have a 2" HDPE SDR-11 water service with backflow preventer.

The storm drainage system is constructed in accordance with the project plans and specifications. Storm water discharge from roof leaders will be discharged to splash blocks and/or daylight. The roadway drainage and adjacent driveways and lawn areas will drain to the swales, storm culverts and rock lined channels. The Brandy Bay Heights Condominium will own and maintain all proposed storm sewer improvements including swales, ditches and rock lined swales.

All of the storm water runoff collected in the storm sewer system, drains to the existing storm drainage system on Central Avenue.

The storm sewer materials shall be as noted:

Main: 24" diameter SICPP (smooth interior corrugated polyethylene pipe)

(e) **Sub-soil Conditions**

- (1) As identified in the USDA Natural Resources Conservation Service Soil Survey the prevalent soil types

Symbol	Name	Slope	Hydric	Type
Ob	Odessa Silty Clay Loam	6-12%	No	C/D
Sg	Schoharie Silty Clay Loam	12-20%	No	C/D

These soils offer suitable conditions for construction of roads, utilities, and homes. Seasonal high water tables are present in the soils. The contractors installing the development features will need to take precautions to de-water utility and foundation trenches. Foundation drains will be provided in the units with basements. The foundation drains, will drain to daylight.

Earthmoving and soil compaction shall be performed in accordance with the project plans and specifications. Building and roadway foundations will sit on soils that will have a minimum 2,000 psf capacity. This bearing capacity will support worst-case building and traffic loads. Topsoil from all pavement and building areas will be removed and stockpiled. Stockpiled topsoil will be redistributed to proposed lawn and landscape areas.

- (2) Moisture and ground water in this area has not been a problem and should be adequately handled by the standard construction methods such as damp-proofing and perimeter footer/foundation drains to daylight, which eliminates the chance of flooding due to ground water.
- (3) The site area covering the existing and proposed units will be located outside of a designated flood hazard zone per the FEMA regulated flood plane mapping, Community Panel No. 360959C 07, dated January 20, 1984.

(f) **Landscaping and Enclosures**

- (1) Brandy Bay Heights Condominium will be responsible for the maintenance of all site landscaping including but not limited to, lawn, berms, trees, grasses and storm water management facility vegetation on common and private property of the project site. All areas not covered by improvements or existing trees, will be covered with grass. The seed to consist of blue grass, rye grass and fescue mix appropriate for site conditions.
- (2) The buildings will be landscaped with various flowering and evergreen shrubs.
- (3) Additional trees associated with visual barriers will be planted along the south side of the site at 12' to 15' on center. There will also be trees placed for screening along the site frontage on Central Avenue. These trees are to be set at 8' on center. The site entrance sign will be placed within a shrub and flowerbed.
- (4) No fencing is existing or proposed for Brandy Bay Heights Condominium.
- (5) There are no gates in Brandy Bay Heights Condominium.
- (6) There are no garden walls in Brandy Bay Heights Condominium.
- (7) There are no retaining walls in Brandy Bay Heights Condominium.

- (8) There are no display pools or fountains in Brandy Bay Heights Condominium.

(g) **Building Size**

- (1) Building #1 is constructed with basements and crawl spaces as described. Building #1 also has one legal egress window in each basement and no walk out doors. Building #2 has full double door walk out basements (except under the garage slabs) and each basement also has one additional window next to the walk out doors. Building #2 has no crawl spaces. Buildings #3 and #4 will have the same walk out basements as Building #2. The garage will be slab on grade. The buildings are approximately 23 feet in height from first floor to the highest part of the roof.
- (2) Building #1 is constructed with basements and crawl spaces as described. Building #1 also has one legal egress window in each basement and no walk out doors. Building #2 has full double door walk out basements (except under the garage slabs) and each basement also has one additional window next to the walk out doors. Building #2 has no crawl spaces. Buildings #3 and #4 will have the same walk out basements as Building #2. The floor systems are 2 x 10 @ 16" o.c. with 5/8" O.S.B.
- (3) The office/community center building will have a full basement. Building #1 is constructed with basements and crawl spaces as described. Building #1 also has one legal egress window in each basement and no walk out doors. Building #2 has full double door walk out basements (except under the garage slabs) and each basement also has one additional window next to the walk out doors. Building #2 has no crawl spaces. Buildings #3 and #4 will have the same walk out basements as Building #2. The garage will be slab on grade.
- (4) All buildings are one story with the first floor to ceiling height of 8' floor to ceiling.
- (5) There are no equipment rooms.
- (6) There are no parapets on the buildings.

(h) **Structural System**

- (1) Exterior of buildings:

- (i) **Walls:** All buildings walls will be wood frame structures with vinyl siding on all exterior walls. Vinyl siding above decks is CertainTeed Monogram Double 4 Clapboard and siding on porch roof gables and all other gables over units, porches and dormers is CertainTeed Northwoods Single 9" Rough-Split Shakes. The exterior walls shall consist of 2X6 wood studs at 16" on center. Interior walls to be 2x4 wood studs at 16" on center. The walls shall be insulated with fiberglass batt insulation. The exterior walls shall have an R-value of R-21. The common walls shall have an R-value of R-13. Insulation above the ceiling, below the roof will be fiberglass batt and shall have an R-value of 38. The insulation is in compliance with the Energy Conservation Construction Code of New York State. The common wall between units has a sound insulation value of 50 STC sound transmission rating based on sound test reference RAL (Riverbank Acoustical Laboratories) TL89-383. Walls & ceiling are painted drywall. Interior trim is pine painted white. Mouldings are colonial style with 3 1/4" casing & 5 1/4" baseboard. Window stools are included. Cove moulding is MDF 3 5/8" WM-49 (except garage).
 - (ii) **Windows:** The windows are Ply Gem MW Pro Series vinyl double hung units. The manufacturer provides a limited lifetime warranty against material defects. All windows will meet or exceed the requirements of the New York State Energy Conservation Code. The U-value is 0.33 and the R-value is 3/03.
 - (iii) **Landmark Status:** There are no existing buildings on the site, so landmark status is not a concern.
- (2) **Parapets and copings:** There are no parapets or copings proposed on the buildings
- (3) **Chimneys and caps:** There will be no brick chimneys and caps. The fireplaces provided will vent vertically through the roof with caps. No fireplaces can be used for wood fires.
- (4) **Balconies and terraces:**
 - (i) Each unit will have an 8' x 14' Trex deck covered front porch and a 4' x 14' poured concrete pad for the rear porch. Building #1 is constructed as described. All Units in Buildings #2, #3, and #4 will have a Balcony instead of a Front Porch. The Front Door of each Unit will access the Balcony. A Concrete Patio will be located under each Balcony at ground level. No Stairway will descend from the Balcony to the ground except as an owner upgrade if possible.

- (ii) Balustrades will be vinyl.
- (iii) Railings will be vinyl.
- (iv) There are no copings.
- (v) The unit roof line to be extended to cover the deck with the soffits being vinyl. Building #1 is constructed as described. All Units in Buildings #2, #3, and #4 will have a Balcony instead of a Front Porch. The Front Door of each Unit will access the Balcony. A Concrete Patio will be located under each Balcony at ground level. No Stairway will descend from the Balcony to the ground except as an owner upgrade if possible.
- (vi) Building #1 is constructed as described. All Units in Buildings #2, #3, and #4 will have a Balcony instead of a Front Porch. The Front Door of each Unit will access the Balcony. A Concrete Patio will be located under each Balcony at ground level. No Stairway will descend from the Balcony to the ground except as an owner upgrade if possible.

(5) Exterior entrances:

- (i) Exterior doors are Masonite Belleville Smooth Fiberglass doors. Front doors will be a BLS 211G-2 (2 lite) with a U-factor/solar heat gain coefficient of 0.22/0.10 and rear doors will be BLS 9R15CIM (15 lite grilles between glass) with a U-factor/solar heat gain coefficient of 0.37/0.30. The garage doors will be fire doors from Masonite steel DP1030 Perma doors. Exterior locksets are Schlage Torino lever.
- (ii) There are no vestibules proposed.
- (iii) Building #1 is as described. Buildings #2, #3, and #4 may have steps from the Balcony descending to the ground if possible and desired as an upgrade by the Buyer.
- (iv) All railings located on the front and rear porches will be vinyl.
- (v) All mailboxes will be clustered near the private drive entrance as depicted on the approved site plan. There will be 16 total mail boxes clustered 62" high, 31" wide and 18" deep. This arrangement has been agreed upon with the US Postal Service.
- (vi) Each entrance shall be lighted by a wall mounted CFL, compact fluorescent light, fixture controlled by a switch within the unit.

(6) Service entrances: There are no service entrances proposed.

(7) Roof and roof structures:

(i) Type of Roofs:

(a) The roof system of the residential structures will consist of folding truss with interior load points at 16" o.c..

(b) There is no insulation in the roof structure. Insulation above the ceiling, below the roof will be fiberglass batt and shall have an R-value of 38.

(c) The roof sheathing will be 7/16" OSB sheathing with architectural roofing shingles.

(d) The expected useful life of the roofing shingles is 30 years with proper maintenance. The manufacturer provides a limited 30 year warrantee on these CertainTeed Landmark 30 year shingles. Roof sheathing and roof truss structures do not carry a material or labor guarantee.

(e) All flashing will be aluminum and will be installed and sealed at all roof to wall joints and at all roof penetrations. Flashing for plumbing vents will be of the neoprene boot type.

(ii) Drains:

(a), (b) Aluminum eave gutters and downspouts will be installed as required and extended for proper drainage.

(iii) Skylights. There will be no skylights.

(iv) Bulkheads. There will be no bulkheads.

(v) Metal Work at roof levels: There will be no metal work at roof levels.

(vi) Rooftop facilities. There will be no rooftop facilities.

(8) Fire escapes: There are no fire escapes planned for this project, since the units are all one story.

(9) Yards and courts:

- (vii) Running along the front of all dwelling units will be a Concrete Walkway consisting of poured concrete with a broom finish. Drainage from yards will be by sheet flow to swales, rock lined channels, and underground drain pipes as required. See Page 83 and 84 above regarding stairs.**
- (viii) Running along the front of all dwelling units will be a Concrete Walkway consisting of poured concrete with a broom finish. Drainage from yards will be by sheet flow to swales, rock lined channels, and underground drain pipes as required. See Page 83 and 84 above regarding stairs.**
- (ix) There are no railings in the yards**
- (x) There are no stairs associated with the yards. Running along the front of all dwelling units will be a Concrete Walkway consisting of poured concrete with a broom finish. Drainage from yards will be by sheet flow to swales, rock lined channels, and underground drain pipes as required. See Page 83 and 84 above regarding stairs.**
- (xi) There is no fencing associated with the yards.**
- (xii) There are no walls associated with the yards.**

(10) Interior stairs:

- (i) Each unit will have a single interior stairs leading from the main floor down to the basement floor. The stairs are not located in a common area.**
- (ii) The stairs are not enclosed by wood framing, drywall and painted. The stairs are wooden and are paint by owner ready.**
- (iii) The stairs will be wood framed stringers with wood rails.**
- (iv) The stringers will be wood framed.**
- (v) The treads will be wood.**
- (vi) The risers will be wood.**
- (vii) The stair handrails will be wood.**

(viii) There are no balustrades proposed.

(11) Interior doors and frames:

- (i) All interior doors will be Craftmaster Colonist hollow core white 6 panel textured doors. Exterior doors are Masonite Belleville Smooth Fiberglass doors. Front doors will be a BLS 21IG-2 (2 lite) with a U-factor/solar heat gain coefficient of 0.22/0.10 and rear doors will be BLS 9R15CIM (15 lite grilles between glass) with a U-factor/solar heat gain coefficient of 0.37/0.30. The garage doors will be fire doors from Masonite steel DP1030 Perma doors. Craftmaster provides a limited five year warranty against defect in materials or workmanship. All doors will be in compliance with the New York State Energy Conservation Construction Code with regard to energy efficiency and meet or exceed fire/safety standards. Interior and exterior locksets are Schlage Torino lever.
- (ii) There are no corridor doors and frames.
- (iii) There are no hall doors and frames.
- (iv) There are no roof doors proposed. The basement doors will be Craftmaster Colonist hollow core white 6 panel textured doors

(12) Elevators: There are no elevators proposed.

(13) Elevator cabs: There are no elevator cabs proposed.

(i) Auxiliary facilities

(1) Laundry Rooms

- (i) Each unit will have a laundry room ranging in size from 5'9" by 7'8" up to 5'9" by 8'8".
- (ii) Clothes washer for Building #1 Units is Whirlpool, Model WTW4800XQ and the Clothes dryer for Building #1 Units is Whirlpool Model WED4800XQ. Similar quality models will be offered for Building #2, #3, and #4 Units, however the manufacturer has deleted some products and changed model numbers.

- (iii) Clothes washer for Building #1 Units is Whirlpool, Model WTW4800XQ and the Clothes dryer for Building #1 Units is Whirlpool Model WED4800XQ. Similar quality models will be offered for Building #2, #3, and #4 Units, however the manufacturer has deleted some products and changed model numbers.
- (iv) No room ventilation will be provided.
- (v) Dryer ventilation will be piped to the exterior of the units.

(2) Refuse Disposal

- (i) No incinerator will be provided.
- (ii) No compactor will be provided.
- (iii) Approvals by "authorities having jurisdiction" are not required.
- (iv) Refuse containers will be stored within the garages of each unit until collection day.
- (v) Refuse pick up and disposal is provided by Casalla Waste, a private hauler, and paid for by Brandy Bay Heights Condominium. Typically, refuse pick-up will occur weekly.

(j) Plumbing and drainage

- (1) Water supply: Water will be provided by the Town of Jerusalem from a water main extended from Central Avenue into the project.. Each unit has a 1" HDPE SDR-11 water service to supply water for domestic use. The office/ community center building will have a 2" HDPE SDR-11 water service with backflow preventer. Brandy Bay Heights Condominium will maintain all the water services from the curb box to the individual unit.
- (2) Fire protection system: Fire protection will be provided by the Branchport/Keuka Park Fire Department. Fire hydrants are located throughout the project.
 - (i) No standpipes will be provided
 - (ii) No hose racks, hoses and nozzles are provided on the site.
 - (iii) Sprinklers are not provided.

- (iv) Siamese connections are not provided.
- (3) Water storage tanks and enclosures: Not provided on site.
- (4) The Keuka Park Consolidated Water District provides water to the Town of Jerusalem. The water pressure in the area is approximately 128 psi. This water pressure is sufficient to meet peak-hour demands for all the units.
- (5) Sanitary sewer system
 - (i) The sanitary sewer system consists of 8" PVC sewer mains with concrete manholes extended from existing sanitary sewers. The Town of Jerusalem will own and will maintain the sanitary sewer mains, manholes and laterals to the units within the right-of-way and up to the first cleanout. Each unit will be serviced by a 4" PVC sanitary lateral. The portion of the 4" sanitary lateral running from the first cleanout to the unit is private and to be maintained by Brandy Bay Heights Condominium.
 - (ii) There are no sewage pumps on this project.
 - (iii) Sewage disposal is ultimately provided by Seneca Lake Pure Waters.
- (6) Permits required: The water distribution system and sanitary sewer collection system are constructed under a permit from the new York State Health Department.
- (7) Storm drainage system
 - (i-iii) The storm drainage system is constructed in accordance with the project plans and specifications. Storm water discharge from roof leaders will be discharged to splash blocks and/or daylight. The roadway drainage and adjacent driveways and lawn areas will drain to the swales, storm culverts and rock lined channels. The Brandy Bay Heights Condominium will own and maintain all proposed storm sewer improvements including swales, ditches and rock lined swales.

All of the storm water runoff collected in the storm sewer system, drains to the existing storm drainage system on Central Avenue.

The storm sewer materials shall be as noted:

Main: 24" diameter SICPP (smooth interior corrugated polyethylene pipe)

- (iv) There are no ejector pumps or sump pumps proposed for this project.

(k) **Heating**

- (1) The installed furnace is a 80,000 BTU Comfort Maker Model Number N9MSED601714A1. The manufacturer warranty is five years parts and labor. The heat exchanger has a limited lifetime warranty. Hot water is manufactured by Rheem, model 82MV52-2, 50 gallon electric hot water heater. The manufacturers warranty is for six years limited tank and parts warranty. The furnace and hot water tank are located in the basement. The thermostat control for the furnace and A.C. unit is located in the hallway near the kitchen of each unit. The exterior walls shall have an R-value of R-21. The common walls shall have an R-value of R-13. R38 in the ceiling of each unit.

The heating system will be adequate to maintain comfortable temperatures in each unit. Each unit will have an A.C. cooling coil with an outside compressor.

(l) **Gas supply**

- (1) Natural gas is provided by New York State Electric and Gas (NYSEG). Gas mains to be located within easement granted to NYSEG with services to each unit.
- (2) Each unit will have their own gas meter and the owner of each unit will be responsible for the cost of their gas consumption.
- (3) Inside each unit, the gas lines will be ¾" to 1" flex pipe. Gas lines run to the furnace and fireplace.

(m) **Air Conditioning**

- (1) The installed Air Conditioner is a Comfort Maker Model Number R-410A. The compressor unit will be located outside of each unit, placed on a concrete pad located to the rear, north or south ends of the dwelling units. The manufacturer's warranty is for 5 years parts only.

- (2) There is no single central system air conditioning system servicing all the units. Each unit has an individual air conditioning unit.
- (3) There are no central cooling towers or condensers.

(n) **Ventilation**

- (1) Kitchens will be provided with microwave ovens with integral fans located above the range, which are vented through the roof. All bathrooms will be provided with ceiling fans vented to the exterior, the output of these fans are rated at 70 cfm and are manufactured by Broan, model 679. Units with gas fireplaces will be vented to the outside. FMI is the manufacturer of the fireplace units. The model to be installed is the CD36 MCP-LS 36" LP gas with full chase vertical vent. The blower exhaust is rated at an output of 145 cfm. No Units will have radon vents with fans as these are not code required. Radon vent pipes are in place if needed in the future.

(o) **Electrical system**

- (1). Each unit is supplied with a 120/240 volt, single phase, 200 amp 40 circuit panel load center. There are approximately 13 circuits per unit. Five 20 amp breakers and eight 15 amp breakers. There are a minimum of 5 convenience outlets in each room. There are 2 GFI outlets in the kitchen, 1 GFI outlet in each bathroom and 1 GFI outlet located at the front and rear porch of each unit. There is adequate power in each unit to handle modern usage and appliances such as air conditioners, dishwashers and dryers. Each unit typically has 2 recessed lighting fixtures and 18 attached lighting fixtures.

Each unit is individually supplied electricity from the local utility. There will not be service switchgears. All wiring is Romex

(p) **Intercommunication and/or door signal systems, security closed circuit TV**

- (1) Each unit will be wired for cable TV. It is the responsibility of the individual unit owner, to have the cable TV service connected to their unit and to pay for the future service.

There will not be an intercom system. The Security System will be installed by the Sponsor at no cost to the Purchaser if the Purchaser desires a system and accepts the monthly monitoring costs.

(q) **Public area lighting**

- (1) Lighting will be provided by twelve pole mounted lights set along the private drive and adjacent to parking areas. The light pole will be no higher than 16' tall, square, steel poles from Rudd Lighting Direct. The light fixtures will be Aerodome AVV3 series, 400 Watt metal halide.
- (2) Each unit will have wall mounted bronze color coach style fixtures located adjacent to the front and rear entry door and center above the garage door. All lighting fixtures will use CFLs, compact fluorescent lights and are compliant with the Code of New York State.

(r) **Garages and parking areas**

- (1) Each condominium unit has an attached 1.5-car garage. The floor of the garage is poured concrete. The driveway will be paved asphalt approximately 12' wide at the face of the garage to the edge of the private drive. The driveways are approximately 20' long and provide an additional exterior parking space for each dwelling unit. The walls and the ceiling of each garage have 5/8" type-x-fire-rated drywall. The inside walls have 5/8" type-x drywall providing a 1 hour rated wall. The interior garage man-door is a 90 minute rated insulated door and frame with self-closing hinges.
- (2) Additional parking spaces are provided at four locations spaced through out the project providing 16 additional parking spaces.
- (3) Parking spaces will be constructed of a 6" rolled layer of No. 2 Crusher Run Stone base, a 1.5" depth of NYSDOT type 3 Asphalt Binder and a 1" depth of NYSDOT Type 1A Asphalt Top.
- (4) Parking areas will be unattended.
- (5) The unit garages will not have additional ventilation equipment installed.
- (6) The unit garages will not have sprinklers systems installed for fire protection.
- (7) The garage floor will be sloped to allow drainage to sheet flow to the driveway leading up to each garage.

(s) **Swimming pool(s)**

- (1) There are no swimming pools provided in the project.

(t) **Tennis courts, playgrounds and recreation facilities**

- (1) There are no tennis courts provided at Brandy Bay Heights Condominium.
- (2) There are no playgrounds provided at Brandy Bay Heights Condominium.
- (3) A Gazebo and 4 picnic tables are provided. The gazebo is a 12' model, the picnic table are 6' in length with integral benches. The Gazebo and picnic tables are manufactured by Woodtex Products of Himrod New York. All structures are of pressure treated material and are to be set on concrete pads.

(u) **Permits and certificates**

- (1) Each unit will need to be issued building permits from the Town of Jerusalem. A temporary Certificate of Occupancy is required prior to transferring title to the new owner. The final Certificate of Occupancy is provided by the Town of Jerusalem once final grading and seeding has been completed adjacent to each unit, typically within 90 days of the issuance of the temporary Certificate of Occupancy. Permit for the construction of improvements will need to be obtained from the New York State Health Department and the Town of Jerusalem.

(v) **Violations**

- (1) There are no known violations as of the writing of this report.

(w) **Unit information**

- (1) There are no existing units at the time this report was written. The living units are as depicted on the Brandy Bay Heights Condominium floor plans attached. The typical units consist of:
 - (i) An entry way into a hall. The hall as a man door to the garage. Walls to be painted and have crown molding, colonial base and casing. Ceiling to be painted. Buyers to choose floor coverings/finishes, within a budget amount provided by Brandy Bay Heights Condominium.
 - (ii) An open dining, kitchen and great room. Walls to be painted and have crown molding, colonial base and casing. Ceiling to be painted. Buyers to choose floor coverings/finishes, within a budget amount provided by Brandy Bay Heights Condominium.

- (iii) A master bedroom with bathroom and walk-in closet. Walls to be painted and have crown molding and colonial base and casing. Ceiling to be painted. Floors will have Shaw "Winsford" carpet with pad. This manufacturer provides a five year warranty.
- (iv) A second bedroom with closet and adjacent bathroom. Walls to be painted and have crown molding and colonial base and casing. Ceiling to be painted. Floors will have Shaw "Winsford" carpet with pad. This manufacturer provides a five year warranty.
- (v) A laundry room. Walls to be painted and have crown molding, colonial base and casing. Ceiling to be painted. Buyers to choose floor coverings/finishes, within a budget amount provided by Brandy Bay Heights Condominium.
- (vi) Front and rear covered porches on all the units
- (vii) 1.5 car garage
- (v) Each unit will have an electric range, microwave, dishwasher, refrigerator, garbage disposal washer and dryer. Clothes washer for Building #1 Units is Whirlpool, Model WTW4800XQ and the Clothes dryer for Building #1 Units is Whirlpool Model WED4800XQ. Similar quality models will be offered for Building #2, #3, and #4 Units, however the manufacturer has deleted some products and changed model numbers. The microwave is a Whirlpool, 1000 watt model WMH 31017, with a one year warranty. The garbage disposals will be GE GFC720F, ¾ HP.
- (viii) All bathroom fixtures including the toilet, sink, tub or shower stall.

(x) **Finish schedule of spaces other than units**

- (I) The community center building is depicted on the Brandy Bay Heights Condominium floor plans attached. The exterior finishes of the community center building will match those of the dwelling units in type and style. The community center shall have the following finishes:
 - (+) The Community Center Building entry way consists of a covered Trex decked Porch with a vinyl railing system and vinyl ceiling panels on the roof projection over the entry. It also has a wheelchair ramp and a poured concrete sidewalk.

- (ii) A gathering room. The walls to be painted and have crown molding, colonial base and casing. Ceiling to be painted. Floors will have seamless vinyl flooring laid on ¼" luan.
- (iii) A library. Walls to be painted and have crown molding and colonial base and casing. Ceiling to be painted. Floors will have Shaw "Winsford" carpet with pad. This manufacturer provides a five year warranty.
- (iv) An office. Walls to be painted and have crown molding and colonial base and casing. Ceiling to be painted. Ceiling to be painted. Floors will have Shaw "Winsford" carpet with pad. This manufacturer provides a five year warranty.
- (v) There are two handicapped accessible baths. Walls to be painted and have crown molding and colonial base and casing. Ceiling to be painted. Floors will have seamless vinyl flooring laid on ¼" luan.
- (vi) A storage room. Walls to be painted and have crown molding and colonial base and casing. Ceiling to be painted. Floors will have seamless vinyl flooring laid on ¼" luan. The storage room is for cleaning supplies and a utility sink.

(y) **Safety and warning devices**

- (1) Fire, smoke and carbon monoxide detectors/alarms will be provided as required by the "New York State Uniform Fire Prevention and Building Code".
- (2) No handicapped provisions are required. All doors will be sized for handicapped passage.

(z) **Additional information required**

- (1) Refer to the attached plans for the unit floor plans, the approved site plans and the narrative description distinguishing units from common elements.

(aa) **Additional testing and/or monitoring**

- (1) There is no additional testing or monitoring required.

(bb) **Further development**

(1) There are no additional units planned for this condominium.

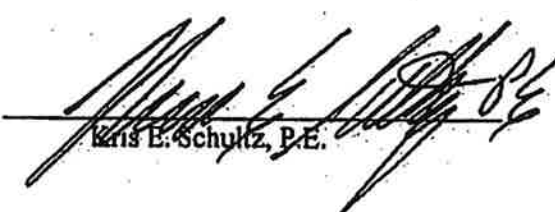
(cc) **Asbestos**

(1) All materials used in the construction of the units and improvements are new and no asbestos containing materials will be used.

(dd) **Lead-based paint**

(1) There will be no lead based paint used in the units.

This statement is not intended as a guarantee or warranty of the physical condition of the project.


Kris E. Schultz, P.E.

Subscribed and sworn to before me this
24th day of September, 20 14.



Notary Public

PATRICK S. LABER
Notary Public - State of New York
No. 01LA6214408
Qualified in Monroe County
My Commission Expires: December 7, 2017

CERTIFICATION OF SPONSOR'S ENGINEER

**RE: BRANDY BAY HEIGHTS CONDOMINIUM,
 TOWN OF JERUSALEM, COUNTY OF YATES, NEW YORK**

The Sponsor of the offering plan, for condominium ownership of the captioned property, retained our firm to prepare a report describing the construction and/or renovation of the property (the "Report"). We visually inspected existing portions of the property, if any, on June 30, 2013, and we examined the site plans and specifications that were prepared by Kernahan Engineers, last revised August 8, 2012 and Clough Harbour & Associates, last revised June 24, 2013, and building architectural floor plans that were prepared by PBS Modular, last revised May 6, 2013, and prepared the Report dated September 24, 2014, a copy of which is intended to be incorporated into the offering plan so that prospective purchasers may rely on the Report.

We are licensed engineers in the State where the property is located.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 20 insofar as they are applicable to the Report.

We have read the entire Report and investigated the facts set forth in the Report and the facts underlying it with due diligence in order to form a basis for this certification. This certification is made for the benefit of all persons to whom this offer is made.

We certify that the Report:

- i. sets forth in narrative form the description and/or physical condition of the entire property as it will exist upon completion of construction, provided that the renovation and/or construction is in accordance with the plans and specifications which we examined;
- ii. in our professional opinion affords potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the description and/or physical condition of the property as it will exist upon completion of construction, provided that construction is in accordance with the plans and specifications which we examined;
- iii. does not omit any material fact;
- iv. does not contain any untrue statement of a material fact;
- v. does not contain any fraud, deception, concealment or suppression;

- vi. does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;
- vii. does not contain any representation or statement which is false, where we:
 - (a) knew the truth;
 - (b) with reasonable effort could have known the truth;
 - (c) made no reasonable effort to ascertain the truth; or
 - (d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by and have no beneficial interest in the sponsor and that our compensation for preparing this Report is not contingent on the conversion of the property to a condominium or on the profitability or price of the offering. This statement is not intended as a guarantee or warranty of the physical condition of the property.

Schultz Associates Engineers &
Land Surveyors, P.C.

By: 

Name: Kris E. Schultz, P.E.

Its: President

Subscribed and sworn to before me this
24th day of September, 2014



Notary Public

PATRICK S. LABER
Notary Public - State of New York
No. 01LA6214406
Qualified in Monroe County
My Commission Expires: December 7, 2017

THIRD AMENDMENT TO THE OFFERING PLAN
FOR
BRANDY BAY HEIGHTS CONDOMINIUM

Dated: October 30, 2015

The Offering Plan for the sale of Units in Brandy Bay Heights Condominium was accepted for filing on November 5, 2013. The First Amendment to the Offering Plan was accepted for filing on March 14, 2014. The Second Amendment to the Offering Plan was accepted for filing on October 14, 2014.

STATUS OF SALES

As of the date of this Third Amendment, the Sponsor has transferred title to 10 Units, and is currently a party to 1 bona fide contracts for the sales of an additional Unit. A list of unsold Units is attached to this Second Amendment as Exhibit III-A.

RESERVE/WORKING CAPITAL FUND

As of the date hereof, the amount of the reserve fund of Condominium is \$8,835.00. The reserve fund is being held at The Lyons National Bank located at 205 Liberty Street, Penn Yan, New York. As of the date hereof, the amount of the working capital fund of Condominium is \$5,996.80. The working capital fund is being held at The Lyons National Bank located at 205 Liberty Street, Penn Yan, New York.

CONDOMINIUM COMMON CHARGES

The Condominium common charges remain at \$299.84 per month.

BUDGET

The current budget of the Condominium is the same budget as set forth in Schedule B of the Offering Plan, which budget remains current. A budget certification confirming the continued adequacy of the budget is included herein as Exhibit III-B.

FINANCIAL STATEMENTS

The financial statements for its first full year of operation are not yet available.

SPONSOR'S FINANCIAL DISCLOSURE

A. The aggregate monthly common charges payable by the Sponsor on the unsold Units which it owns as of the date of this Third Amendment are approximately \$1,499.20 per month.

B. The aggregate monthly real estate taxes payable by the Sponsor on the unsold Units which it owns as of the date of this Third Amendment, based on the current tax rates, are approximately \$975.35 per month.

C. The aggregate monthly rents received from tenants of all Units owned by the Sponsor which it rents are approximately \$1,500.00 per month. A certified rent roll is included herein as Exhibit III-C, which the undersigned certifies as true and accurate.

D. Other than as stated in (A) above, there are no financial obligations of the Sponsor to the Condominium, such as reserves and working capital fund payments and payments for repair and improvement obligations, now due or which will become due within the next twelve (12) months.

E. The unsold Units are not encumbered by any construction or other mortgages..

F. The Sponsor will pay the obligations set forth in (A) and (B) above out of the proceeds from the sale of the Units, or in the event the proceeds available from the sale of the Units is insufficient, from the Sponsor's own funds.

G. The Sponsor is current and has been current in the last twelve (12) months on all of the Sponsor's financial obligations relating to the Condominium.

H. The Sponsor and/or the principals of the Sponsor have no interest in and are not the sponsors of any other cooperatives, condominiums or homeowners associations.

LITIGATION

To the best of the Sponsor's knowledge, as of the date hereof, there are no lawsuits, administrative proceedings or other proceedings pending, the outcome of which may materially affect the offering, the property, the rights of home or Unit owners, the Sponsor's capacity to perform all of its obligations under the Offering Plan, the Condominium, or the operation of the Condominium.

SPONSOR CONTROL OF BOARD OF MANAGERS

The Sponsor is currently in control of the Board of Managers of Brandy Bay Heights Condominium. The Sponsor will have control of the Board of Managers so long as the Sponsor owns Units having 30% or more interest in the Common Elements.

BOARD OF MANAGERS AND OFFICERS

The members of the Board of Managers and officers of the Condominium are:

President/Board Member: Steven McMichael. 3289 H. Davis Road, Bluff Point, NY 14478. Mr. McMichael is a principal of the Sponsor.

Secretary /Board Member: William H. Sutherland. 30 Northview Drive, Penn Yan, NY 14527. Mr. Sutherland is a principal of the Sponsor.

Treasurer/Board Member: Phil Williams 3628 Central Avenue Penn Yan, NY 14527.

FIRST MEETING OF HOMEOWNERS

The first annual meeting of the Unit Owners was held on May 9, 2019.

CORRECTION
← MAY 19, 2015.
FMT

NO OTHER MATERIAL CHANGES

There are no other material changes to the state of facts as set forth in the original Offering Plan except as indicated herein and in previous amendments.

MTS DEVELOPMENT, LLC, Sponsor

By: 

Name: Steve McMichael

Its: Member

EXHIBIT III-A

UNSOLD UNITS

Unit Number

1-B

2-B

2-C

4-B

4-C - under contract

5 total unsold Units