

## ARTICLE 9

### MAINTENANCE; INSURANCE; ASSESSMENTS

Section 9.1. Maintenance. Generally, the maintenance, repair and replacement of the Units and common elements shall be allocated between the Unit Owners and the Association in accordance with Section 1603-107(a) of the Condominium Act, subject to the following provisions:

(a) Units. Each Unit Owner shall furnish and be responsible for, at such Unit Owner's own expense, all the maintenance, repairs and replacements to such Unit Owner's own Unit. All maintenance and repairs to any water heaters, bathroom and kitchen fixtures and appliances, window glass, doors, screens and installations of the Unit, if any, including without limitation carpeting, finish flooring, utility lines, light, power, sewage, telephones, and all other accessories considered a part of the Unit area, shall be maintained at the owner's expense. Every Unit Owner must, at such Unit Owner's own expense, maintain heat at sufficient levels to protect the common elements (sprinkler, water pipes, etc.) from damage. Every Unit Owner shall perform promptly all maintenance and repair work on such Unit Owner's Unit which if omitted would affect the Condominium in its entirety, the common elements, or other Unit(s), and shall be expressly responsible for any damages or liabilities resulting from such Unit Owner's failure to do so. If any Unit Owner fails to perform such maintenance or repair after reasonable notice from the Association, the Association through its officers or Manager shall have the right but not the obligation to enter the Unit and perform such maintenance or repair in the name of the Unit Owner; the Association, after notice to the Unit Owner and opportunity to be heard before the Executive Board, shall be entitled to assess the expense thereof as a service charge due in full at the time of the next regular monthly payment.

(b) Limited Common Elements. The Association shall furnish and be responsible for all the maintenance, repairs and replacements to the limited common elements; provided, however, that the Unit Owner of any Unit having a limited common element deck, balcony, patio or porch shall perform all normal maintenance and repair, including keeping such limited common elements free and clear of snow and ice and in a neat and clean appearance and condition. The Association may assess expenses for maintaining limited common elements exclusively against the Unit or Units benefitted (limited common expense), provided that structural repairs and replacements shall be treated as common expenses.

(c) Common Elements. The Association shall furnish and be responsible for all the maintenance, repairs and replacement of all common elements, except as

provided above. Such maintenance shall be provided at the direction of the Manager or Executive Board, and shall be a common expense. A Unit Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any common element damaged through such Unit Owner's negligence, misuse or neglect.

(d) No Obstruction of Drainage and Other Infrastructure. Whether undertaken by Unit Owners or the Association, any work to maintain, repair or replace Units or common elements shall be undertaken in such a manner so as to avoid obstruction of any surface water drainage areas and other approved infrastructure, including other drainage facilities, water, sewer and any other underground utility lines and facilities.

Section 9.2. Insurance. The Association, through its Executive Board, shall obtain and maintain as a common expense such master policies of insurance for the Condominium as are required by the Bylaws.

Section 9.3. Assessments. Each Unit Owner shall pay to the Association, or its authorized representative, monthly, or as otherwise required by the Association, such Unit Owner's proportionate share, as assessed by the Executive Board, of the expenses of maintenance, repair, replacement, insurance, administration and operation of the common elements and of any reserves for operation, maintenance or replacement established by the Executive Board. Such proportionate share shall be equivalent to the Common Expense Liability as set forth in Schedule B attached hereto, except that common expenses which, in the judgment of the Executive Board of the Association, benefit fewer than all of the Units may be assessed exclusively against the benefitted Units. Payment thereof shall be in such amount and at such times as may be provided by the Bylaws or the Rules and Regulations of the Association and shall be subject to annual review. In the event of the failure of a Unit Owner to pay such assessments when due, the amount thereof shall constitute a lien on the interest of such Unit Owner, as provided in Section 1603-116 of the Condominium Act. The obligation to pay any amounts required by the provisions hereof shall commence no later than sixty (60) days after the sale of the first Unit.

Section 9.4. Working Capital Fund. The Declarant shall establish a working capital fund for the Association equal to a minimum of two (2) months estimated Common Expense Liability for each Unit. Each Unit's share of the working capital fund shall be collected from the Unit purchaser upon the initial transfer of title from the Declarant to the purchaser and shall be transferred to the Association for deposit into a separate working capital account. The amount paid by the Unit purchaser shall not be considered as advance payment of the normal Common Expense Liability and no Unit Owner shall be entitled to a refund of these monies by the Association upon the

subsequent conveyance of such Unit Owner's Unit or otherwise. Upon transfer of control of the Association to the Unit owners pursuant to Section 8.3 hereof, the Declarant shall pay each unsold Unit's share of the working capital fund to the Association. When any such unsold Unit is sold, the Declarant shall be entitled to reimbursement for the Unit's prepaid share. The working capital fund shall not be used for any purpose until after such transfer of control.

## ARTICLE 10

### EMINENT DOMAIN

#### Section 10.1. Acquisition of Unit.

(a) If a Unit is acquired by eminent domain, or if part of a Unit is acquired by eminent domain leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must compensate the Unit Owner for such Unit Owner's Unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that Unit's allocated interests are automatically reallocated to the remaining Units in proportion to the respective allocated interests of those Units before the taking, and the Association shall promptly prepare, execute, and record an amendment to the Declaration reflecting the reallocations. Any remnant of a Unit remaining after part of a Unit is taken under this subsection shall be thereafter a common element.

(b) Except as provided in subsection (a), if part of a Unit is acquired by eminent domain, the award must compensate the Unit Owner for the reduction in value of the Unit and its interest in the common elements whether or not any common elements are acquired. Upon acquisition: (1) that Unit's allocated interests are reduced in proportion to the reduction in the size of the Unit; and (2) the portion of the allocated interests, votes, and common expense liability divested from the partially acquired Unit, if any, are automatically reallocated to that Unit and the remaining Units in proportion to the respective allocated interests of those Units before the taking, with the partially acquired Unit participating, if appropriate, in the reallocation on the basis of its reduced allocated interests.

Section 10.2. Acquisition of Common Elements. If part of the common elements are acquired by eminent domain, the Association, through its Executive Board, shall represent the Unit Owners in any proceedings, negotiations, settlements or agreements as their attorney in fact, and the portion of the award attributable to the common elements taken must be paid to the Association. Any portion of the award attributable to the

acquisition of a limited common element must be equally divided among the owners of the Units to which that limited common element was allocated at the time of acquisition. Each Unit Owner shall be deemed to have delegated to the Executive Board such Unit Owner's right to negotiate or settle with any entity seizing any of the common elements by eminent domain.

Section 10.3. Court Decree. The court decree shall be recorded in the Registry of Deeds.

Section 10.4. Priority of Liens. Notwithstanding anything to the contrary in this Declaration, the Bylaws or the Rules and Regulations of the Association, lien holders on any Unit, common element, or limited common element shall have a lien on any such awards in order of priority of their respective liens.

## ARTICLE 11

### MORTGAGES OF UNITS; RIGHTS OF MORTGAGEES

Section 11.1. Right to Mortgage. Each Unit Owner shall have the right to mortgage or encumber such Unit Owner's own respective Unit together with the Common Element Interest, Common Expense Liability and voting rights (the "Allocated Interests") appurtenant to such Unit. Except as otherwise permitted by Section 1603-112 of the Condominium Act and subject to this Declaration, no Unit Owner shall have the right or authority to mortgage or otherwise encumber in any manner whatsoever the common elements or any part thereof except such Unit Owner's own Unit and such Unit Owner's own respective Allocated Interests appurtenant to such Unit Owner's Unit. A Unit Owner who mortgages such Unit Owner's Unit shall notify the Executive Board in writing of the name and address of such Unit Owner's mortgagee(s) and shall file a conformed copy of the note and mortgage with the Board.

Section 11.2. Mortgage Foreclosure. Any mortgagee of a Unit holding a recorded first mortgage on a Unit that obtains title to the Unit pursuant to the remedies provided in the mortgage, or through a completed foreclosure of the mortgage, or through deed (or assignment) in lieu of foreclosure, shall take the Unit with the Allocated Interests appurtenant thereto free of such claims and liens for unpaid assessments for common expenses, interest and costs levied against such Unit which accrue prior to the acquisition of title to such Unit by the mortgagee, other than the proportionate share of the common expenses which become due and payable from and after the date on which the mortgagee shall acquire title to the Unit through a completed foreclosure or deed (or assignment) in lieu of foreclosure.

Section 11.3. Rights of Eligible Mortgage Holders.

(a) Pursuant to the requirements of Section 1602-119 of the Condominium Act, the Association shall send reasonable prior written notice by prepaid United States mail to Eligible Mortgage Holders of the consideration by the Association of the following proposed actions:

(1) The termination of the Condominium pursuant to Section 1602-118 of the Condominium Act;

(2) A change in the allocated interest of a Unit, a change in the boundaries of a Unit or a subdivision of a Unit;

(3) The merger or consolidation of the Condominium with another condominium;

(4) The conveyance or subjection to a security interest of any portion of the common elements;

(5) The proposed use of any proceeds of hazard insurance required to be maintained by the Association under Section 1603-113, Subsection (a) of the Condominium Act, for purposes other than the repair or restoration of the damaged property;

(6) The adoption of any proposed budget by the Executive Board under Section 1603-113, Subsection (c) of the Condominium Act, and of the date of the scheduled Unit Owners meeting to consider ratification thereof; a summary of the proposed budget shall accompany this notice; and

(7) Any default in the performance or payment by a Unit Owner of any obligations under the Declaration, including, without limitation, default in the payment of Common Expense Liabilities.

An "Eligible Mortgage Holder" means the holder of a recorded first mortgage on a Unit which has delivered written notice to the Association by prepaid United States mail, return receipt requested, or by delivery in hand securing a receipt therefor, which notice shall state the mortgagee's name and address, the Unit Owner's name and address, and the identifying number of the Unit, and shall state that the mortgage is a recorded first mortgage. Such notice shall be deemed to have been given reasonably prior to the proposed action if sent at the time notice thereof is given to the Unit Owners.

(b) In the event of any proposed actions described in subsection (a), paragraphs (1), (2), (3), (4), or (5) hereinabove, an Eligible Mortgage Holder shall have the right, but not the obligation, in place of the Unit Owner to cast the votes allocated to that Unit or give or withhold any consent required of the Unit Owner for such action by delivering written notice to the Association with a copy to the Unit Owner prior to or at the time of the taking of the proposed action, which notice shall be sent by prepaid United States mail, return receipt requested, or by delivery in hand. Failure of the Eligible Mortgage Holder to so exercise such rights shall constitute a waiver thereof and shall not preclude the Unit Owner from exercising such right. In the event of any default described in subsection (a), paragraph (7) hereinabove, the Eligible Mortgage Holder shall have the right, but not the obligation, to cure such default.

(c) In addition, an Eligible Mortgage Holder or its representative shall have the right to attend Association and Executive Board meetings for the purposes of discussing the matters described in subsection (a), paragraphs (1) through (6) hereinabove.

(d) Approval of amendments of a material nature to the Condominium Documents must be obtained from Eligible Mortgage Holders who represent at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders. A change to any of the following would be considered as material:

- (1) voting rights;
- (2) assessments, assessment liens or the priority of assessment liens;
- (3) reserves for maintenance, repair and replacement of common elements;
- (4) responsibility for maintenance and repairs;
- (5) reallocation of interests in the common elements or limited common elements, or rights to their use, except pursuant to the exercise of development rights by the Declarant;
- (6) redefinition of any Unit boundaries, except pursuant to the exercise of development rights by the Declarant;