

**BYLAWS**  
**OF**  
**EPERNAY CONDOMINIUM**

**ARTICLE I**  
**Introductory Provisions**

- 1.1 Applicability. These Bylaws provide for the governance of the Association pursuant to the requirements of Section 3306 of the Act with respect to the Condominium created by the recording of the Declaration among the land records of Lehigh County.
- 1.2 Definitions. Capitalized terms used herein without definition shall have the meanings specified for such terms in the Declaration to which these Bylaws pertain or, if not defined therein, the meanings specified or used for such terms in the Act.
- 1.3 Compliance. Pursuant to the provisions of the Act, every Unit Owner and all Persons entitled to occupy a Unit shall comply with these Bylaws.
- 1.4 Office. The office of the Condominium, the Association, and the Executive Board shall be located at the Property or at such other place as may be designated from time to time by the Executive Board.

**ARTICLE II**  
**The Association**

- 2.1 Purpose. To do any lawful act concerning any and all business for which corporations may be incorporated under the Non-Profit Corporation Law of Pennsylvania including the management and maintenance of common areas within Epernay Condominium Homeowners Association and the imposition and collection of assessments to further that purpose.
- 2.2 Composition. The Association is hereby organized on the date hereof as a condominium unit owners' association pursuant to the Act. The Association shall consist of all of the Unit Owners acting as a group in accordance with the Act pursuant to the Declaration and these Bylaws. A person shall automatically become a member of the Association when he acquires legal title to a Unit. A Unit Owner cannot resign from membership or transfer membership except appurtenant to transfer of title to his Unit. Transfer of membership shall be automatic upon transfer of title, but the Association may treat the prior Unit Owner as the member until satisfactory evidence of the recording of the instrument transferring title is presented to the Secretary. The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium and performing all of the other acts that may be required or permitted to be performed by the Association pursuant to the Act and the Declaration. The

foregoing responsibilities shall be performed by the Executive Board or Managing Agent as more particularly set forth in these Bylaws.

2.3 Annual Meetings. The annual meetings of the Association shall be held on June 15 of each year unless such date shall occur on a legal or religious holiday, in which event the meeting shall be held on the succeeding day. At such annual meetings the Executive Board shall be elected by ballot of the Unit Owners in accordance with the requirements of Section 3.3 of these Bylaws and such other business as may properly come before the meeting may be transacted. At each annual meeting, the Treasurer shall present a financial report for the immediately preceding year.

2.4 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Unit Owners as may be designated by the Executive Board.

2.5 Special Meetings.

a. The President shall call a special meeting of the Association if so directed by resolution of the Executive Board or upon a petition signed and presented to the President by Unit Owners entitled to cast at least 20% of the votes in the Association. The notice of any special meeting shall state the time, place and purpose thereof. Such meeting shall be held within 45 days after receipt by the President of said resolution or petition; provided, however, if the purpose includes the consideration of the rejection of a budget or capital expenditure pursuant to Section 5.8 below, such meeting shall be held within 15 days after receipt by the President of said resolution or petition. No business shall be transacted at a special meeting except as stated in the notice.

b. Within sixty days after conveyance of 25% of the Units to Unit Owners other than the Declarant, a special meeting of the Association shall be held at which one member of the Executive Board designated by the Declarant shall resign (such members to be selected by the Declarant), and the Unit Owners, excluding the Declarant as a Unit Owner, shall thereupon elect one successor member of the Executive Board to act in the place and stead of the member resigning.

c. Within sixty days immediately preceding the date by which all Declarant appointed members of the Executive Board must resign pursuant to the Declaration, a special meeting of the Association shall be held at which all members of the Executive Board shall resign, and the Unit Owners, including the Declarant if the Declarant owns one or more Units, shall thereupon elect three successor members of the Executive Board to act in the place and stead of those resigning. Each member of the Executive Board shall serve a term of at least one (1) year and members of the Executive Board shall be elected annually by the Unit Owners.

d. Notwithstanding the foregoing, if any meeting required pursuant to subparagraphs b and c above could be held on the date an annual meeting of the Association is scheduled, then such meeting shall be held concurrently with such annual meeting.

2.6 Notice of Meetings. The Secretary shall give to each Unit Owner a notice of each annual or regularly scheduled meeting of the Association in the manner prescribed by §3308 of the Act at least ten but not more than sixty days, and of each special meeting of the Unit Owners at least ten but not more than sixty days, prior to such meeting, stating the time, place and purpose thereof and such other information as required pursuant to § 3308 of the Act. The notice for a meeting at which one or more members of the Executive Board are to be elected shall include a description of the nominating process described in Section 3.3b below. The giving of a notice of meeting in the manner provided in this Section and Section 8.1 of these Bylaws shall be considered service of notice.

2.7 Adjournment of Meetings. If at any meeting of the Association a quorum is not present, Unit Owners entitled to cast a majority of the votes represented at such meeting may adjourn the meeting to a time not less than forty-eight hours after the time for which the original meeting was called.

2.8 Voting. The number of votes in the Association to which each Owner is entitled shall be the votes assigned to his Unit in the Declaration. If the owner of a Unit is other than a natural person, the natural person who shall be entitled to cast the vote for such Unit shall be the person named in a certificate executed by such Unit Owner pursuant to its governing documents. If the owner of a Unit is a trust, the trustee or trustees shall be deemed to be the Unit Owner for voting purposes. Where the ownership of a Unit is in more than one Person, the natural person who shall be entitled to cast the vote of such Unit shall be the person named in a certificate executed by all of the owners of such Unit and filed with the Secretary or, in the absence of such named person from the meeting or the failure to execute and file such a certificate, the person who shall be entitled to cast the vote of such Unit shall be the person owning such Unit who is present. If more than one of the multiple owners is present, the votes allocated to that Unit may be cast only in accordance with their unanimous agreement. There shall be deemed to be unanimous agreement if any one of the multiple owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit. Such certificate shall be valid until revoked by a subsequent certificate similarly executed. Except where execution by owners of a Unit in the same manner as a deed is required and subject to the provisions of the Declaration, wherever the approval or disapproval of a Unit Owner is required, such approval or disapproval shall be made only by the natural person who would be entitled to cast the vote of such Unit at any meeting of the Association.

Except with respect to election of members of the Executive Board and except where a greater number is required by the Act, the Declaration or these Bylaws, the owners of Units holding more than fifty percent of the aggregate votes of those Unit Owners voting in person or by proxy at one time at a duly convened meeting at which a quorum is present is required to adopt decisions at any meeting of the Association. In all elections for Executive Board members, each Unit Owner shall be entitled to cast for each vacancy to be filled at such election the number of votes allocated to the Unit or Units owned by such Unit Owner. Those candidates for election receiving the greatest number of votes cast in such elections shall be elected and; if Executive Board members are being elected to unequal terms, the candidates receiving the highest number of votes shall be elected to the longest terms. If the Declarant owns or holds title to one or more Units, the Declarant shall have the right at any meeting of the Association to cast the votes to

which such Unit or Units are entitled. No votes allocated to a Unit owned by the Association may be cast. There shall be no cumulative or class voting except as expressly permitted under the Declaration or these Bylaws. Voting may be accomplished at the discretion of the Executive Board by written ballots to be deposited at such place and during such time as determined by the Executive Board.

2.9 Proxies. A vote may be cast in person or by proxy. If a Unit is owned by more than one Person, each Owner of the Unit may vote or register protest to the casting of votes by the other Owners of the Unit through a duly executed proxy. Such proxy may be granted by any Unit Owner in favor of only another Unit Owner, Posted Mortgagee or the Declarant. Proxies shall be duly executed in writing, shall be valid only for the particular meeting designated therein, and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked or void, in addition to situations set forth in the Act, only upon actual receipt by the person presiding over the meeting of written notice of revocation from the grantor(s) of the proxy, or when the presiding officer receives written notice of the death or judicially declared incompetence of a grantor of such proxy. No proxy shall be valid for a period in excess of one year after the execution thereof. A proxy is void if it is not dated, nor purports to be revocable without notice. Voting rights may be assigned to holders of Posted Mortgages as collateral for loans secured by such Posted Mortgages.

2.10 Quorum. Except as set forth below, the presence in person or by proxy of Unit Owners entitled to cast 50% of the votes in the Association at the commencement of a meeting shall constitute a quorum at all meetings of the Association. If a meeting is adjourned, the quorum at any meeting subsequent to an adjournment shall be deemed present throughout any such meeting of the Association if persons entitled to cast 30% of the votes in the Association are present in person or by proxy at the beginning of the meeting.

2.11 Conduct of Meetings. The President (or in his absence, a vice-president) shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Declaration, these Bylaws or the Act. All votes shall be tallied by tellers appointed by the President.

2.12 Action Without Meeting. At any time prior to the election any action by the Association required or permitted to be taken at any meeting may be taken without a meeting if Unit Owners of Units representing at least the required number of votes which would have been necessary in order to take such action had all Unit Owners been present at a meeting of the Association shall individually or collectively consent in writing to such action. Thereafter, such action without a meeting shall require the greater of the vote required above or the vote of two-thirds of all votes entitled to be cast by all Unit Owners. Any such written consent shall be filed with the minutes of the proceedings of the Association.

2.13 Documents and Records. Copies of the Declaration, Plats and Plans, Bylaws, Rules and

Regulations, contracts to which the Association is a party and all books, records and financial statements of the Association, including the minutes of Executive Board and Association meetings, shall be available for inspection in the offices of the Association during normal business hours or at other reasonable times upon the request of any Unit Owner or any holder, insurer or guarantor of any first mortgage which is a lien on any Unit in the Condominium.

### **ARTICLE III**

#### **Executive Board**

3.1 Number and Qualification. The affairs of the Association shall be governed by an Executive Board. The Executive Board shall be composed of a minimum of three (3) and a maximum of five (5) natural persons, all of whom shall be at least 18 years of age and Unit Owners, general partners or officers of a Unit Owner or designees of the Declarant. *one*

3.2 Delegation of Powers; Managing Agent. The Executive Board may employ for the Condominium a "Managing Agent" at a compensation established by the Executive Board. The Managing Agent shall perform such duties and services as the Executive Board shall authorize, including, but not limited to, all of the duties listed in the Act, the Declaration and these By-laws; provided, however, where a Managing Agent does not have the power to act under the Act, the Declaration or these Bylaws, such duties shall be performed as advisory to the Executive Board. The Executive Board may delegate to the Managing Agent all of the powers granted to the Executive Board by the Act, the Declaration and these Bylaws other than the following powers:

- (1) to adopt the annual budget, any amendment thereto any Common Expenses; or to assess
- (2) to adopt, repeal or amend Rules and Regulations;
- (3) to designate signatories on Association bank accounts;
- (4) to borrow money on behalf of the Association;
- (5) to acquire and mortgage Units;
- (6) to designate Reserved Common Elements.

Any contract with the Managing Agent must provide that it may be terminated with cause on no more than thirty days' written notice, without cause on no more than ninety days' written notice and the term of any such contract may not exceed one year.

#### 3.3. Election and Term of Office.

a. At the annual meetings of the Association, the term of office of any Executive Board member to be elected shall be one (1) year. The members of the Executive Board shall hold office until the earlier to occur of the election of their respective successors or their death, adjudication of incompetency, removal, or resignation. An Executive Board member may serve an unlimited number of terms and may succeed himself.

b. Persons qualified to be members of the Executive Board may be nominated for election only as follows:

(1) Any Unit Owner may submit to the Secretary at least five days before the meeting at which the election is to be held a nominating petition signed by at least ten Unit Owners, a statement that the person nominated is willing to serve on the Executive Board and a biographical sketch of the nominee. The Secretary shall mail or hand deliver the submitted items to every Unit Owner along with the notice of such meeting; and

(2) Nominations may be submitted from the floor at the meeting at which the election is held for each vacancy on the Executive Board for which no more than one person has been nominated by petition.

3.4 Removal or Resignation of Members of the Executive Board. Except with respect to members designated by Declarant, at any regular or special meeting of the Association duly called, any one or more of the members of the Executive Board may be removed with or without cause by Unit Owners entitled to cast a majority of all votes in the Association and a successor may then and there be elected to fill the vacancy thus created. Any Unit Owner proposing removal of a Board member shall give notice thereof to the Secretary. Any member whose removal has been proposed by a Unit Owner shall be given at least ten days' notice by the Secretary of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A member of the Executive Board may resign at any time, and shall be deemed to have resigned upon transfer of title to his Unit. Declarant shall have the right to remove and replace any or all members appointed by the Declarant at any time and from time to time until the required resignation date specified in the Declaration.

3.5 Vacancies. Except as set forth in Section 3.4 above with respect to members appointed by the Declarant, vacancies in the Executive Board caused by any reason other than the removal of a member by a vote of the Unit Owners shall be filled by a vote of a majority of the remaining members at a special meeting of the Executive Board held for such purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Executive Board until a successor shall be elected at the next annual meeting of the Association to serve the balance of the term of the vacancy. In the case of multiple vacancies, the member receiving the greatest number of votes shall be elected for the longest term.

3.6 Organization Meeting. The first meeting of the Executive Board following each annual meeting of the Association shall be held within ten days thereafter at such time and place as shall be fixed by the President (even if he is the outgoing President) at the meeting at which such Executive Board shall have been elected, and no notice shall be necessary to the newly elected members of the Executive Board in order legally to constitute such meeting, providing a majority of the whole Executive Board shall be present at such meeting.

3.7 Regular Meetings. Regular meetings of the Executive Board may be held at such time and place as shall be determined from time to time by a majority of the members, but such meetings shall be held at least once every six months during each fiscal year. Notice of regular meetings of the Executive Board shall be given to each member, by mail or telegraph, at least

three business days prior to the day named for such meeting.

3.8 Special Meetings. Special meetings of the Executive Board may be called by the President on at least three business days' notice to each member, given by mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Executive Board shall be called by the President or Secretary in like manner and on like notice on the written request of any member of the Executive Board.

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

3.10 Quorum of the Executive Board. At all meetings of the Executive Board a majority of the members shall constitute a quorum for the transaction of business, and the votes of a majority of the members present at a meeting at which a quorum is present shall constitute the decision of the Executive Board. If at any meeting of the Executive Board there shall be less than a quorum present, any member present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. Each member of the Executive Board shall be entitled to cast one vote. One or more members of the Executive Board may participate in and be counted for quorum purposes at any meeting by means of conference telephone or similar communication equipment by means of which all persons participating in the meeting can recognize and hear each other.

3.11 Compensation. No member of the Executive Board shall receive any compensation from the Association for acting as such, but may be reimbursed for any expenses incurred in the performance of his duties.

3.12 Conduct of Meetings. The President shall preside over all meetings of the Executive Board and the Secretary shall keep a minute book of the Executive Board, recording therein all resolutions adopted by the Executive Board and a record of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Executive Board when not in conflict with the Declaration, these Bylaws or the Act. Except for the meeting to adopt the budget, Unit Owners who are not Board members shall have no right to attend Executive Board meetings unless the Board decides otherwise. All Unit Owners may attend and be heard, but may not vote (except as a Board member) at the meeting at which the budget shall be reviewed by the Board for adoption. The Secretary shall give Unit Owners notice of such meeting.

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

3.14 Validity of Contracts with Interested Executive Board Members. No contract or other transaction between the Association and one or more of its Executive Board members or between the Association and any corporation firm, or association in which one or more of the Executive Board members of the Association are directors or officers, or are financially interested, shall be void or voidable because such Executive Board member or members are present at any meeting of the Executive Board or a committee thereof which authorized or approved the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:

(a) The fact that an Executive Board member is also such a director or officer or has such financial interest is disclosed or known to the Executive Board or committee and is noted in the minutes thereof, and the Executive Board or Committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such Executive Board member or members; or

(b) The Contract or transaction is made in good faith and is not unconscionable to the Association at the time it is authorized, approved or ratified.

3.15 Inclusion of Interested Executive Board Members in the Quorum. Any Executive Board member holding such director or officer position or having such financial interest in another corporation, firm or association may be counted in determining the presence of a quorum at a meeting of the Executive Board or a committee thereof which authorizes, approves or ratifies a contract or transaction of the type described in Section 3.14 hereof.

## **ARTICLE IV**

### **Officers**

4.1 Designation. The principal officers of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Executive Board. The Executive Board may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary. The President and Vice President shall be members of the Executive Board. Any other officers may, but need not, be Unit Owners or members of the Executive Board. An officer other than the President may hold more than one office.

4.2 Election of Officers. The officers of the Association shall be elected annually by the Executive Board at the organizational meeting of each new Board and shall hold office at the pleasure of the Executive Board.

4.3 Removal of Officers. Upon the affirmative vote of a majority of all members of the Executive Board, any officer may be removed, either with or without cause, and a successor may be elected at any meeting of the Executive Board called for such purpose.

4.4 President. The President shall be the chief executive officer of the Association; preside at all meetings of the Association and of the Executive Board; and have all of the general powers



and duties which are incident to the office of president of a stock corporation organized under the laws of Pennsylvania including without limitation the power to appoint committees from among the Unit Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association. The President shall cease holding such office at such time as he ceases to be a member of the Executive Board.

4.5 Vice President. The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Executive Board shall appoint some other member of the Executive Board 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 him by the Executive Board or by the President. The Vice President shall cease holding such office at such time as he ceases to be a member of the Executive Board.

4.6 Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Executive Board; have charge of such books and papers as the Executive Board may direct; maintain a register setting forth the place to which all notices to Unit Owners and holders of mortgagees on any Units hereunder shall be delivered; and, in general, perform all the duties incident to the office of secretary of a stock corporation organized under the laws of Pennsylvania. The Secretary shall, upon request, provide any Person or cause to be provided to any Person entitled thereto a written statement or certification of the information required to be provided by the Association.

4.7 Treasurer. The Treasurer shall have the responsibility for Association 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; and be responsible for the deposit of all monies in the name of the Executive Board, the Association or the Managing Agent, in such depositories as may from time to time be designated by the Executive Board; and, in general, perform all the duties incident to the office of treasurer of a stock corporation organized under the laws of Pennsylvania.

4.8 Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of \$10,000 shall be executed by any two officers of the Association. All such instruments for expenditures or obligations of \$10,000 or less may be executed by any one officer of the Association.

4.9. Compensation of Officers. No officer who is also a member of the Executive Board shall receive any compensation from the Association for acting as such officer, but may be reimbursed for any out-of-pocket expenses incurred in performing his duties; provided, however, the Secretary and Treasurer may be compensated for their services if the Executive Board determines such compensation to be appropriate.

**ARTICLE V**  
**Common Expenses; Budgets**

5.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by the Executive Board; provided, however, that the first fiscal year may begin anytime and end at the end of the calendar year.

5.2 Preparation and Approval of Budget.

5.2.1 On or before the first day of November of each year (or sixty days before the beginning of the fiscal year), the Executive Board shall adopt an annual budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units as to which it is the responsibility of the Executive Board to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Act, the Declaration, these Bylaws or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit Owners of all related services. Such budget shall also include such reasonable amounts as the Executive Board considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements. The budget shall segregate General Common Expenses and various types of Limited Expenses. The annual budget shall separately allocate to the Owners of Garage Units all costs associated with the operation, maintenance and repair of the Garages, including (but not limited to) the cost of providing electricity and ventilation to the Garages, the cost of providing any insurance coverage applicable only to the Garages, the cost of cleaning, operating, maintaining, repairing and replacing the Garage Limited Common Elements and the compensation (including salaries and fringe benefits), or the portion thereof allocable to the Garages, of persons who are employed to operate, clean, maintain and repair the Garages. The annual budget shall separately allocate to the Owners of Residential Units all costs associated with the cleaning, operating, maintaining, repairing and replacing of the Residential Limited Common Elements, including (but not limited to) the costs of electricity, heat, air-conditioning and ventilation to the Residential Limited Common Elements, the costs of cleaning, maintaining, repairing and replacing the Residential Limited Common Elements, the cost of providing any insurance coverage applicable only to the Residential Limited Common Elements and the compensation (including salaries and other fringe benefits) or portions thereof allocable to the Residential Limited Common Elements, of persons who are employed to operate, clean, maintain and repair the Residential Limited Common Elements. To the extent that the assessments and other cash income collected from the Unit Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus (if and to the extent not theretofore distributed to Unit Owners) or deficit, as the case may be, shall also be taken into account. Any surplus or deficit derived from the operation, service, repair, maintenance or replacement of the Garages shall be allocated solely to the Garage Unit Owners. Any surplus or deficit derived from the operation, service, repair, maintenance or replacement of the Residential Limited Common Elements shall be allocated solely to the Residential Unit

Owners.

5.2.2 On or before the next succeeding tenth day of November (or fifty days before the beginning of the fiscal year), the Executive Board shall make the budget available for inspection at the Association office and shall send to each Unit Owner a copy of the budget in a reasonably itemized form which sets forth the amount of the General Common Expenses, the Limited Expenses and any special assessment payable by each Unit Owner. Such budget shall constitute the basis for determining each Unit Owners' assessment for the Common Expenses and Limited Expenses of the Association and shall automatically take effect at the beginning of the fiscal year for which it is adopted, subject to Section 5.8 below.

5.2.3 The Executive Board shall make reasonable efforts to meet the deadlines set forth above, but such deadlines shall not be conditions precedent to the effectiveness of any budget.

5.2.4 The Executive Board shall deliver to all Unit Owners copies of each budget approved by the Executive Board and notice of any capital expenditure approved by the Executive Board promptly after either such approval.

5.3. Assessment and Payment of Common Expenses.

5.3.1 General Common Expenses. The Executive Board shall calculate the annual assessments for General Common Expenses against each Unit by multiplying (a) the total amount of the estimated funds required for the operation of the Property set forth in the budget adopted by the Executive Board for the fiscal year in question, after deducting any Limited Expenses and income expected to be received from sources other than Common Expense assessments and the operation of the Limited or Reserved Common Elements to which the Limited Expenses pertain, by (b) the Percentage Interest (expressed in decimal form) allocated to such Unit. 'Such assessments shall be adopted and assessed on an annual basis, but payable in equal monthly installments due and payable on the first day of each calendar month and shall be a lien against each Unit Owner's Unit as provided in the Act and the Declaration as of the date of non-payment by a Unit Owner of any installment when due. Within ninety days after the end of each fiscal year, the Executive Board shall prepare and deliver to each Unit Owner and to each Posted Mortgagee an itemized accounting of the Common Expenses and funds received during such fiscal year less expenditures actually incurred and sums paid into reserves. Any net shortage with regard to General Common Expenses, after application of reserves as the Executive Board may determine, shall be assessed promptly against the Unit Owners in accordance with their Percentage Interests and shall be payable in one or more monthly assessments, as the Executive Board may determine.

5.3.2 Limited Expenses. The Executive Board shall calculate the annual assessments for each category of Limited Expenses (such as Garage Limited Expenses and Residential Limited Expenses) against each Unit obligated to pay such Limited Expenses by multiplying (a) the total amount of the estimated funds required for such category of Limited Expenses set forth in the budget adopted by the Executive Board for the fiscal year in question, after deducting any income expected to be received from the operation of the Limited or Reserved Common

Elements to which such Limited Expenses pertain other than Limited Expense Assessments by (b) the share of such category of Limited Expenses (expressed in decimal form) allocated to each such Unit. Such assessments shall be adopted and assessed on an annual basis, but payable in equal monthly installments due and payable on the first day of each calendar month and shall be a lien against each Unit Owner's Unit as provided in the Act and the Declaration as of the date of non-payment by a Unit Owner of any installment when due. Within ninety days after the end of each fiscal year, the Executive Board shall prepare and deliver to each Unit Owner and to each Posted Mortgagee an itemized accounting of the Common Expenses and funds received during such fiscal year less expenditures actually incurred and sums paid into reserves. Any net shortage with regard to any category of Limited Expenses, after application of such reserves as the Executive Board may determine, shall be assessed promptly against the Unit Owners obligated to pay such Limited Expenses in accordance with their allocable share of such Limited Expenses and shall be payable in one or more monthly installments, as the Executive Board may determine.

**5.3.3 Reserves.** The Executive Board shall build up and maintain reasonable reserves for working capital, operations, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year may be charged first against such reserves. If the reserves are deemed to be inadequate for any reason, including non-payment of any Unit Owner's assessments, the Executive Board may at any time levy further General Common Expense and/or Limited Expense assessments, which shall be assessed against the Unit Owners either according to their respective Percentage Interests with regard to General Common Expenses or in accordance with allocable shares of Limited Expenses with regard to Limited Expenses (whichever is appropriate), and shall be payable in one or more monthly installments as the Executive Board may determine.

**5.4 Further Assessments.** The Executive Board shall serve notice on all Unit Owners of any further assessments as permitted or required by the Act, the Declaration and these Bylaws by a statement in writing giving the amount and reasons there-for, and such further assessments shall, unless otherwise specified in the notice, become effective with the next monthly installment which is due more than ten days after the delivery of such notice of further assessments. All Unit Owners so assessed shall be obligated to pay the amount of such assessments in such installments (if any) as determined by the Executive Board. Such assessments shall be a lien as set forth in the preceding Sections 5.3.1 and 5.3.2 as of the date of failure to pay any assessment or installment thereof when due.

**5.5 Initial Budget.** At or prior to the time assessments of Common Expenses commence, the Executive Board elected or designated pursuant to these Bylaws shall adopt the budget, as described in this Article, for the period commencing on the date the Executive Board determines that assessments shall begin and ending on the last day of the fiscal year in which such commencement date occurs. Assessments shall be levied and become a lien against the Unit Owners.

**5.6 Effect of Failure to Prepare or Adopt Budget.** The failure or delay of the Executive Board to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expenses as

herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay each monthly installment at the rate established for the previous fiscal year until the new annual or adjusted budget shall have been adopted.

5.7. Accounts; Audits. All sums collected by the Executive Board with respect to assessments against the Unit Owners or from any other source may be commingled into a single fund. All books and records of the Association shall be kept in accordance with good and accepted accounting practices, and the same shall be reviewed at least once each year by an independent accountant retained by the Executive Board, with financial statements delivered to the Unit Owners.

5.8 Payment of Common Expenses. Each Unit Owner shall pay the Common Expenses assessed by the Executive Board pursuant to the provisions of this Article V. No Unit Owner may exempt himself from liability for his contribution toward Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to the date of recordation of a conveyance by him in fee of such Unit. The purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid assessments against the latter for his proportionate share of the Common Expenses up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling Unit Owner amounts paid by the purchaser there-for; provided, however, that any such purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling Unit Owner within five days following a written request therefore to the Executive Board or Managing Agent and such purchaser shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth; and, provided further that each Permitted Mortgagee who comes into possession of a Unit by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Unit free of any claims for unpaid assessments or charges against such Unit which accrue prior to the time such holder or purchaser comes into possession thereof, except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units including the mortgaged Unit.

5.9 Collection of Assessments. The Executive Board or the Managing Agent, at the request of the Executive Board, shall take prompt action to collect any assessments for Common Expenses due from any Unit Owner which remain unpaid for more than thirty days from the due date for payment thereof. Any assessment or installments thereof not paid within five days after due shall accrue a late charge in the amount of five (5%) percent of the overdue assessment in addition to interest accruing at the rate of 15% per annum or such other rate as may be determined by the Executive Board from time to time.

5.10 Statement of Common Expenses. The Executive Board shall promptly provide any Unit Owner, contract purchaser or proposed Posted Mortgagee so requesting the same in writing with a written statement of all unpaid assessments for Common Expenses due from such Unit Owner. The Executive Board may impose a reasonable charge for the preparation of such statement to cover the cost of preparation to the extent permitted by the Act.

## **ARTICLE VI**

### **Compliance and Default**

6.1 Relief. Each Unit Owner shall be governed by, and shall comply with, all of the terms of the Declaration, these Bylaws, the Rules and Regulations and the Act, as any of the same may be amended from time to time. In addition to the remedies provided in the Act and the Declaration, a default by a Unit Owner shall entitle the Association, acting through its Executive Board or through the Managing Agent, to the following relief:

a. Additional Liability. Each Unit Owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or the act, neglect or carelessness of any members of his family or his employees, agents or licensees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Executive Board. Such liability shall include any increase in casualty insurance rates occasioned by improper use, misuse, occupancy or abandonment of any Unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.

b. Costs and Attorney's Fees. In any proceedings arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorney's fees as may be determined by the court.

c. No Waiver of Rights. The failure of the Association, the Executive Board or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, these Bylaws, the Rules and Regulations or the Act shall not constitute a waiver of the right of the Association, the Executive Board or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Executive Board or any Unit Owner pursuant to any term, provision, covenant or condition of the Declaration, these Bylaws, the Rules and Regulations or the Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Declaration, these Bylaws, the Rules and Regulations or the Act or at law or in equity.

d. Abating and Enjoining Violations by Unit Owners. The violation of any of the Rules and Regulations adopted by the Executive Board, the breach of any Bylaw contained herein or the breach of any provision of the Declaration or the Act shall give the Executive Board the right, in addition to any other rights: (a) to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any thing or condition (other than alteration or demolition of items of construction) that may exist therein contrary to the intent and meaning of the provisions hereof, and the Executive Board shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity the continuance of any such breach, including, without limitation, requiring the alteration or demolition of items of construction.

## **ARTICLE VII**

### **Amendments**

7.1 Amendments to Bylaws. Subject to the Declaration, these Bylaws may be modified or amended only by vote of Unit Owners entitled to cast a majority of the votes in the Association, except as otherwise expressly set forth herein or in the Act; provided, however, if any amendment would have a material effect upon any of the rights, privileges, powers and options of the Declarant, such amendment shall require the written approval of the Declarant. Additionally, if any amendment is necessary in the judgment of the Executive Board to cure any ambiguity or to correct or supplement any provision of these Bylaws that is defective, missing or inconsistent with any other provision hereof, or with the Act or the Declaration, then at any time and from time to time the Executive Board may effect an appropriate corrective amendment without the approval of the Unit Owners or the holders of any liens on all or any part of the Property, upon receipt by the Executive Board of an opinion from independent legal counsel to the effect that the proposed amendment is permitted by the terms of this sentence.

7.2 Amendments to the Declaration. Any two officers or Executive Board members of the Association may prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

## **ARTICLE VIII**

### **Miscellaneous**

8.1 Notices. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given upon delivery if delivered personally or two (2) business days after mailing if sent by registered or certified mail, return receipt requested, postage prepaid (or otherwise as the Act may permit), (i) if to a Unit Owner, at the single address which the Unit Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such Unit Owner, or (ii) if to the Association, the Executive Board or to the Managing Agent, at the principal office of the Managing Agent or at such other address as shall be designated by notice in writing to the Unit Owners pursuant to this Section. If a Unit is owned by more than one Person, each such Person who so designates a single address in writing to the Secretary shall be entitled to receive all notices hereunder.

8.2 Books and Records. Upon written request to the Secretary of the Association, Unit Owners, their authorized agents, Posted Mortgagees and servicers, insurers and guarantors of Posted Mortgages shall have the right to inspect current copies of the Declaration, bylaws, rules and regulations, books, records and financial statements of the Condominium and the Association.

8.3 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 Bylaws or the intent of any

provision thereof.

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