

**EXHIBIT A**

**TO MASTER DEED OF ANN ARBOR CITY APARTMENTS**

**BYLAWS**

**ARTICLE I**

**ASSOCIATION OF CO-OWNERS**

Ann Arbor City Apartments, a mixed use Condominium Project located in the City of Ann Arbor, Washtenaw County, Michigan, shall be administered by an Association of Co-owners which shall be a nonprofit corporation, hereinafter called the "Association", organized as a membership corporation under the applicable laws of the State of Michigan, and responsible for the management, maintenance, operation and administration of the Common Elements, easements and affairs of the Condominium Project in accordance with the Condominium Documents and the laws of the State of Michigan. These Bylaws shall constitute both the Condominium Bylaws referred to in the Master Deed and required by Section 3(9) of the Act and the Association Bylaws provided for under the Michigan Nonprofit Corporation Act. The Developer (or its successor as Developer) and each Co-owner shall be entitled to membership and no other person or entity shall be entitled to membership. The share of a Co-owner in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to its Unit. The Association shall keep current copies of the Master Deed, all amendments to the Master Deed, and other Condominium Documents for the Condominium Project available at reasonable hours to Co-owners, prospective purchasers, mortgagees and prospective mortgagees of Units in the Condominium Project. All Co-owners in the Condominium Project and all persons using or entering upon or acquiring any interest in any Unit therein or the Common Elements thereof shall be subject to the provisions and terms set forth in the aforesaid Condominium Documents.

**ARTICLE II**

**ASSESSMENTS**

All expenses arising from the management, administration and operation of the Association in pursuance of its authorizations and responsibilities as set forth in the Condominium Documents and the Act shall be levied by the Association against the Units and the Co-owners thereof in accordance with the following provisions:

**Section 1. Assessments for Common Elements.** All costs incurred by the Association in satisfaction of any liability arising within, caused by, or connected with the Common Elements or the administration of the Condominium Project shall constitute expenditures affecting the administration of the Project, and all sums received as the proceeds of, or pursuant to, any policy of insurance securing the interest of the Co-owners against liabilities or losses arising within, caused by, or connected with the Common Elements or the administration of the Condominium Project shall constitute receipts affecting the administration of the Condominium Project, within the meaning of Section 54(4) of the Act.

**Section 2. Determination of Assessments.** Assessments shall be determined in accordance with the following provisions:

- (a) **Budget.** The Board of Directors of the Association shall establish an annual budget in advance for each fiscal year and such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management, repair, decoration and replacement of the Common Elements, and maintenance of the

Condominium Project, including a reasonable allowance for contingencies and reserves. An adequate reserve fund for maintenance, repairs and replacement of those Common Elements that must be replaced on a periodic basis shall also be established in the budget and must be funded by regular monthly payments as set forth in Section 3 below rather than by special assessments. At a minimum, the reserve fund shall be equal to 10% of the Association's current annual budget on a noncumulative basis. Since the minimum standard required by this subsection may prove to be inadequate for this particular project, the Association of Co-owners should carefully analyze the Condominium Project to determine if a greater amount should be set aside, or if additional reserve funds should be established for other purposes from time to time. Upon adoption of an annual budget by the Board of Directors, copies of the budget shall be delivered to each Co-owner and the assessment for said year shall be established based upon said budget, although the failure to deliver a copy of the budget to each Co-owner shall not affect or in any way diminish the liability of any Co-owner for any existing or future assessments. Should the Board of Directors at any time determine, in the sole discretion of the Board of Directors: (1) that the assessments levied are or may prove to be insufficient: (a) to pay the costs of operation and management of the Condominium, (b) to provide replacements of existing Common Elements and/or Structural Elements, or (c) to provide additions to the Common Elements and/or Structural Elements not exceeding \$1,000.00 annually for the entire Condominium Project, or (2) in the event of emergencies or as required in connection with its reimbursement obligation contained in the Condominium Documentation, the Board of Directors shall have the authority to increase the general assessment or to levy such additional assessment or assessments as it shall deem to be necessary. The Board of Directors also shall have the authority, without Co-owner consent, to levy assessments pursuant to the provisions of Article V, Section 4 hereof. The discretionary authority of the Board of Directors to levy assessments pursuant to this subsection shall rest solely with the Board of Directors for the benefit of the Association and the members thereof, and shall not be enforceable by any creditors of the Association or the members thereof.

- (b) **Special Assessments.** Special assessments, in addition to those required in subsection (a) above, may be made by the Board of Directors from time to time and approved by the Co-owners as hereinafter provided to meet other needs or requirements of the Association, including, but not limited to: (1) assessments for additions to the Common Elements and/or Structural Elements of a cost exceeding \$1,000.00 for the entire Condominium Project per year, (2) assessments to purchase a Unit upon foreclosure of the lien for assessments described in Section 5 hereof, or (3) assessments for any other appropriate purpose not elsewhere herein described. Special assessments referred to in this subsection (b) (but not including those assessments referred to in subsection 2(a) above, which shall be levied in the sole discretion of the Board of Directors) shall not be levied without the prior approval of a Majority of the Unit Owners. The authority to levy assessments pursuant to this subsection is solely for the benefit of the Association and the members thereof and shall not be enforceable by any creditors of the Association or the members thereof.

**Section 3. Apportionment of Assessments and Penalty for Default.** Unless otherwise provided herein or in the Master Deed, all assessments levied against the Co-owners to cover expenses of administration shall be apportioned among and paid by the Co-owners in accordance with Article IV of the Master Deed, without increase or decrease for the existence of any rights to the use of Limited Common Elements appurtenant to a Unit. Annual assessments as determined in accordance with Article II, Section 2(a) above shall be payable by Co-owners in quarterly equal installments, or at such times as may be determined by the Board of Directors, commencing with acceptance of a deed to or a land contract vendee's interest in a Unit, or with the acquisition of fee simple title to a Unit by any other means.

The payment of an assessment shall be in default if such assessment, or any part thereof, is not paid to the Association in full on or before the due date for such payment. A reasonable automatic late charge as determined by the Board of Directors may be added to each installment in default for five or more days until each installment together with all applicable late charges is paid in full. The Board of Directors shall also have the right to apply a discount for assessments received by the Association on or before the date on which any such assessment falls due. Each Co-owner (whether one or more persons) including a land contract vendee, shall be, and remain, personally liable for the payment of all assessments (including automatic late charges and other fines for late payment and costs of collection and enforcement of payment) pertinent to its Unit which may be levied while such Co-owner is the owner thereof. Payments on account of installments of assessments in default shall be applied as follows: first, to costs of collection and enforcement of payment, including reasonable attorneys' fees; second, to any interest charges and fines for late payment on such installments; and third, to installments in default in order of their due dates.

**Section 4. Waiver of Use or Abandonment of Unit.** No Co-owner may exempt itself from liability for its contribution toward the expenses of administration or for payment of assessments to Ann Arbor City Apartments Association by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of its Unit.

**Section 5. Enforcement.**

- (a) **Remedies.** In addition to any other remedies available to the Association, the Association may enforce collection of delinquent assessments together with all applicable late charges, interest, fines, costs, advances paid by the Association to protect its lien, actual attorneys' fees (not limited to statutory fees) and other costs, by a suit at law for a money judgment or by foreclosure of the statutory lien that secures payment of assessments. In the event of default by any Co-owner in the payment of any installment of the annual assessment levied against its Unit, the Association shall have the right to declare all unpaid installments of the annual assessment for the pertinent fiscal year immediately due and payable. The Association also may discontinue the furnishing of any utilities or other services for which the Association has an obligation to provide and/or maintain to a Co-owner in default upon seven days' written notice to such Co-owner of its intention to do so. In a judicial foreclosure action, a receiver may be appointed to collect a reasonable rental for the Unit from the Co-owner thereof or any persons claiming under him. The Association may assess additional fines for chronic late payment or non-payment of assessments in accordance with the provisions of Article XIX, Section 4 and Article XX of these Bylaws which fines may be in addition to automatic late charges previously established. All of these remedies shall be cumulative and not alternative.
- (b) **Foreclosure Proceedings.** Each Co-owner, and every other person who from time to time has any interest in the Project, shall be deemed to have granted to the Association the unqualified right to elect to foreclose the lien securing payment of assessments either by judicial action or by advertisement. The provisions of Michigan law pertaining to foreclosure of mortgages by judicial action and by advertisement, as the same may be amended from time to time, are incorporated herein by reference for the purposes of establishing the alternative procedures to be followed in lien foreclosure actions and the rights and obligations of the parties to such actions. Further, each Co-owner and every other person who from time to time has any interest in the Project shall be deemed to have authorized and empowered the Association to sell or to cause to be sold the Unit with respect to which the assessment(s) is or are delinquent and to receive, hold and distribute the proceeds of such sale in accordance with the priorities established by applicable law. Each Co-owner of a Unit in the Project acknowledges that at the time of acquiring title to such Unit, it was notified of the provisions of this subsection and that it voluntarily, intelligently and knowingly waived notice of any proceedings brought by the

Association to foreclose by advertisement the lien for nonpayment of assessments and a hearing on the same prior to the sale of the subject Unit.

- (c) **Notice of Action.** Notwithstanding the foregoing, neither a judicial foreclosure action nor a suit at law for a money judgment shall be commenced, nor shall any notice of foreclosure by advertisement be published, until the expiration of 10 days after mailing, by first class mail, postage prepaid, addressed to the delinquent Co-owners(s) at it or their last known address, of a written notice that one or more installments of the annual assessment levied against the pertinent Unit is or are delinquent and that the Association may invoke any of its remedies hereunder if the default is not cured within 10 days after the date of mailing. Such written notice shall be accompanied by a written affidavit of an authorized representative of the Association that sets forth (i) the affiant's capacity to make the affidavit, (ii) the statutory and other authority for the lien, (iii) the amount outstanding (exclusive of interest, costs, attorney fees and future assessments), (iv) the legal description of the subject Unit(s), and (v) the name(s) of the Co-owner(s) of record. Such affidavit shall be recorded in the office of the Register of Deeds in the county in which the Project is located prior to commencement of any foreclosure proceeding, but it need not have been recorded as of the date of mailing as aforesaid. If the delinquency is not cured within the 10-day period, the Association may take such remedial action as may be available to it hereunder or under Michigan law. In the event the Association elects to foreclose the lien by advertisement, the Association shall so notify the delinquent Co-owner and shall inform him that he may request a judicial hearing by bringing suit against the Association. Any such lien is expressly subordinate to any first mortgage now or hereafter recorded against a Unit.
- (d) **Expenses of Collection.** The expenses incurred in collecting unpaid assessments, including late charges, interest, fines, costs, actual attorneys' fees (not limited to statutory fees), advances for taxes or other liens paid by the Association to protect its lien and other costs, shall be chargeable to the Co-owner in default and shall be secured by the lien on its Unit.

**Section 6. Liability of Mortgagee.** Notwithstanding any other provisions of the Condominium Documents, the holder of any first mortgage covering any Unit in the Project which comes into possession of the Unit pursuant to the remedies provided in the mortgage or by deed (or assignment) in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid Association assessments or charges against the mortgaged Unit which accrue prior to the time of acquisition of title to the Unit by such holder comes into possession of the Unit.

**Section 7. Developer's Responsibility for Assessments.** The Developer of the Condominium contemplates continued ownership and operation of the Residential Unit, and therefore shall be and remain responsible for payment of the Association assessments with respect to the Residential Unit notwithstanding any limiting provisions that otherwise may apply under the Condominium Act.

**Section 8. Property Taxes and Special Assessments.** All property taxes and special assessments, including capital improvement assessments, levied by any public taxing authority against the Units shall be assessed in accordance with Section 131 of the Act.

**Section 9. Personal Property Tax Assessment of Association Property.** The Association shall be assessed as the person or entity in possession of any tangible personal property of the Condominium owned or possessed in common by the Co-owners, and personal property taxes based thereon shall be treated as expenses of administration.

**Section 10. Construction Lien.** A construction lien otherwise arising under Act No. 497 of the Michigan Public Acts of 1980, as amended, shall be subject to Section 132 of the Act.

**Section 11. Statement as to Unpaid Assessments.** The purchaser of any Unit may request a statement of the Association as to the amount of any unpaid Association assessments thereon, whether regular or special. Upon written request to the Association accompanied by a copy of the executed purchase agreement pursuant to which the purchaser holds the right to acquire a Unit, the Association shall provide a written statement of such unpaid assessments, interest, late charges, fines, costs and other fees as may exist or a statement that none exist, which statement shall be binding upon the Association for the period stated therein. Upon the payment of that sum within the period stated, the Association's lien for assessments as to such Unit shall be deemed satisfied; provided, however, that the failure of a purchaser to request such statement at least 5 days prior to the closing of the purchase of such Unit shall render any unpaid assessments against the Condominium Unit, together with interest, costs, fines, late charges and attorney fees, and the lien securing same, fully enforceable against such purchaser and the Unit itself, to the extent provided by the Act. Under the Act, unpaid assessments constitute a lien upon the Unit and the proceeds of sale thereof prior to all claims except real property taxes and first mortgages of record.

### ARTICLE III

#### ARBITRATION AND LITIGATION

**Section 1. Scope and Election of Arbitration.** Disputes, claims, or grievances arising out of or relating to the interpretation or the application of the Condominium Documents, or any disputes, claims or grievances arising among or between the Co-owners and the Association, upon the election and written consent of the parties to any such disputes, claims or grievances (which consent shall include an agreement of the parties that the judgment of any circuit court of the State of Michigan may be rendered upon any award pursuant to such arbitration), and upon written notice to the Association, shall be submitted to arbitration and the parties thereto shall accept the arbitrator's decision as final and binding, provided that no question affecting the claim of title of any person to any fee or life estate in real estate is involved. The Commercial Arbitration Rules of the American Arbitration Association as amended and in effect from time to time hereafter shall be applicable to any such arbitration.

**Section 2. Judicial Relief.** In the absence of the election and written consent of the parties pursuant to Section 1 above, no Co-owner or the Association shall be precluded from petitioning the courts to resolve any such disputes, claims or grievances.

**Section 3. Election of Remedies.** Such election and written consent by Co-owners or the Association to submit any such dispute, claim or grievance to arbitration shall preclude such parties from litigating such dispute, claim or grievance in the courts.

### ARTICLE IV

#### INSURANCE

**Section 1. Extent of Coverage.** The Co-owners and the Association shall be obligated respectively to obtain the insurance coverage as follows:

- (a) **Responsibilities of Co-owners.** Each Co-owner shall be responsible for obtaining, at its sole cost and expense, fire and extended coverage and vandalism and malicious mischief insurance with respect to its Unit together with (as to the Residential Unit) the building and all other improvements therein, and (as to the Garage Unit) all those portions of the building and improvements therein which are not General Common Elements, and all Limited Common Elements, if any, appurtenant to its Unit and for its

personal property located therein or elsewhere within the Condominium Project. All such insurance shall be carried by each Co-owner in an amount not less than the maximum insurable replacement value, excluding foundation and excavation costs. Additionally, each Co-owner shall separately maintain and carry, at its sole cost and expense, commercial general liability insurance, covering claims for personal and bodily injury and property damage occurring in, on, under, within, upon or about its Unit, or as a result of operations, activities or inactivity thereon, insuring against hazards of premises/operation, products and completed operations, contractual liability, personal injury liability, and independent contractors, in such amounts as may be required by law and as from time to time shall be carried by prudent owners of similar mixed-use buildings in the City of Ann Arbor , but in all events for limits of not less than \$1,000,000 per occurrence with a general policy aggregate of \$2,000,000 for personal and bodily injury or property damage with at least an additional \$5,000,000 umbrella coverage. The commercial general liability insurance policy shall be endorsed to cover cross-liability claims of one insured against another, and shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of one insured on account of the negligent acts of another insured. Said policies shall be endorsed with a replacement cost coverage endorsement and an agreed amount clause and no co-insurance penalty shall be applicable. Said policies shall contain an inflation guard endorsement and a building ordinance or law endorsement provided same are commercially available. Each Owner shall name the other Owner as an additional insured under its commercial general liability insurance.

- (b) **Responsibilities of the Condominium Association.** The Association shall separately maintain and carry, at its sole cost and expense, fire and extended coverage and vandalism and malicious mischief insurance with respect to the General Common Elements (including without limitation the Structural Elements). Such insurance shall be carried by the Association in an amount not less than the maximum insurable replacement value, excluding foundation and excavation costs. Additionally, the Association shall maintain and carry, at its sole cost and expense, commercial general liability insurance, covering claims for personal and bodily injury and property damage occurring in, on, under, within, upon or about the General Common Elements (including without limitation the Structural Elements), or as a result of operations, activities or inactivity thereon, insuring against hazards of premises/operation, products and completed operations, contractual liability, personal injury liability (with exclusions (a) and (c) deleted), and independent contractors, in such amounts as may be required by law and as from time to time shall be carried by prudent owners of similar mixed-use buildings in the City of Ann Arbor , but in all events for limits of not less than \$1,000,000 per occurrence with a general policy aggregate of \$2,000,000 for personal and bodily injury or property damage with at least an additional \$5,000,000 umbrella coverage. The commercial general liability insurance policy shall be endorsed to cover cross-liability claims of one insured against another, and shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of one insured on account of the negligent acts of another insured.
- (c) **Premium Expenses.** All premiums upon insurance purchased by the Association pursuant to these Bylaws shall be expenses of administration to be paid by all Co-owners proportionately based on the percentages of value set forth in Article V of the Master Deed.
- (d) **Proceeds of Insurance Policies.** Proceeds of all insurance policies owned by the Association shall be received by the Association, held in a separate bank account and distributed to the Association, and the Co-owners and their mortgagees, as their interests may appear; provided, however, whenever repair or reconstruction of the Condominium

shall be required as provided in Article V of these Bylaws, the proceeds of any insurance received by the Association as a result of any loss requiring repair or reconstruction shall be applied for such repair or reconstruction.

- (e) **Deductible.** When a claim is made on any of the insurance policies maintained by the Association which is subject to a deductible amount, the deductible amount shall be paid by the Co-owner of the damaged Unit or appurtenant Limited Common Element sustaining the damage, except if the damage is to a Structural Element of the building, then the Association shall pay the deductible. In the case of damage to a General Common Element, the deductible shall be paid by the Association.
- (f) **Rating of Insurance Companies.** Insurance policies required by this Section shall be purchased from insurance companies authorized and licensed to transact business in the State of Michigan who shall hold a current Policyholder's Alphabetic and Financial Size Category Rating of not less than A/XII according to the then most current Best's Key Rating Guide or a substantially equivalent rating from a nationally-recognized insurance rating service. Each of the Owners agrees to cooperate to procure and maintain the insurance policies described in this Section. So long as any portion of the Condominium Property remains subject to the provisions of the Act, insurance on additions, alterations, improvements and betterments to individual Units shall be the responsibility of the Unit Owners. Each Unit Owner's policies (whether property or liability) shall be subject to and consistent with the provisions of this Article IV. No Owner shall be responsible for any premiums or other costs related to the insurance policies required to be carried by Unit Owners individually.
- (g) **Policy Requirements.** Each policy described in this Section: (i) shall provide, if available, that the knowledge or acts or omissions of any insured party shall not invalidate the policy as against any other insured party or otherwise adversely affect the rights of any other insured party under any such policy; (ii) shall name each Owner as a named insured thereunder and shall set forth each Owner's address for purposes of notices under the clause; and (iii) shall provide for a minimum of thirty (30) days' advance written notice of cancellation, non-renewal or material modification thereof to all named insureds and additional insureds thereunder, to any Mortgagee and to the holder of any recorded first mortgage or trust deed encumbering a Unit.
- (h) **Limits of Liability.** Limits of liability or types of insurance specified in this Section 1 shall be reasonable and prudent for an Owner of a mixed-use development similar to the Condominium and shall be reviewed by the Association, on behalf of the Owners, at least annually to determine if such limits, deductible amounts and types of insurance are reasonable and prudent in view of the type, place and amount of risk to be transferred, and to determine whether such limits, deductible amounts and types of insurance comply with the requirements of all applicable statutes (including, if applicable, the Act), laws, ordinances, codes, rules, regulations or orders and whether on a risk management basis, additional types of insurance or endorsements against special risks should be carried or whether required coverage or endorsements should be deleted. Replacement cost values shall be reviewed annually. Deductible amounts for insurance required under Section 1(e) shall be in such amounts as are customary or prevalent for an Owner of a mixed-use development similar to the Condominium; provided, however, that no deductibles shall exceed \$10,000.00 (or such other amount mutually agreed to by the Owners), and deductibles shall be on a per claim basis. Subject to the terms set forth in this Article IV, such limits shall be increased or decreased, deductible amounts increased or decreased or types of insurance shall be modified, if justified, based upon said annual review, and upon any such increase, decrease or modification, the Owners shall execute an instrument in recordable form evidencing such increase, decrease or modification.

Notwithstanding the foregoing, the City of Ann Arbor may in its discretion utilize its Self Insurance Retention program for not more than \$1,000,000 of its required general liability coverage insurance obligation as Co-owner of the Garage Unit, and for not more than \$100,000 of its required fire and extended coverage insurance obligation as Co-owner of the Garage Unit.

- (i) **Certificates.** Certificates delineating all forms of coverage and endorsements required hereunder shall be delivered to each Owner and the Association. Copies of such policies shall be delivered to each Owner upon request.
- (j) **Extra Charge or "Load".** In the event an Owner is subject to any extra charges or loads or expenses charged by the insurance carrier, including, without limitation, any general liability load or umbrella liability load as a result of any use or operation of the other Owner's portion of the Condominium in connection with any insurance policy maintained pursuant to this Article IV, then the Owner whose use or operation results in such loads, charges or expenses shall be liable therefor.

**Section 2. Authority of Association to Settle Insurance Claims.** Each Co-owner shall be responsible for the maintenance, receipt, settlement and application of all insurance carried or required to be carried by such Co-owner under this Article 4, subject to such Co-owner's obligations under Article 5. Each Co-owner, by ownership of a Unit in the Condominium Project, shall be deemed to appoint the Association as his true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of fire and extended coverage, vandalism and malicious mischief, liability insurance and workmen's compensation insurance, if applicable, on the General Common Elements, with such insurer as may, from time to time, provide such insurance for therefor. Without limitation on the generality of the foregoing, the Association as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit premiums therefor, to collect proceeds and to distribute the same to the Association, the Co-owners and respective mortgagees, as their interests may appear (subject always to the Condominium Documents), to execute releases of liability and to execute all documents and to do all things on behalf of such Co-owner and the Condominium as shall be necessary or convenient to the accomplishment of the foregoing Association-maintained insurance.

**Section 3. Indemnification.** To the extent allowed by law, each Co-owner shall indemnify, defend and hold harmless the other Co-owners, their agents, servants, employees, officers and directors, from damages (including reasonable attorney fees) which they may suffer as a result of causes of action, suits, claims or judgments in connection with loss of life, bodily injury and/or property damage arising from any occurrence (a) on a Co-owner's Unit, unless the same is caused by the negligence of the indemnitee, its agents, servants, employees, officers, directors, or contractors, and (b) elsewhere on the Condominium Premises other than the indemnitor Co-owner's Unit if such occurrence is occasioned wholly or partly by the negligence of the Co-owner, its agents, servants, employees, officers, directors, or contractors or any occurrence within such Co-owner's Unit or a Limited Common Element appurtenant thereto which occurrence gave rise to a claim against the other Co-owner in the Condominium. No provision of these bylaws shall be construed to waive or impair any rights or defenses related to governmental immunity.

**Section 4. Subrogation.** The Association, as to all policies which it obtains, and all Co-owners, as to all policies which they obtain, shall see that all property and liability insurance carried by the Association or any Co-owner contains appropriate provisions whereby the insurer waives its right of subrogation as to any claims against any Co-owner or the Association. Additionally, all general liability insurance policies shall name all Co-owners and the Association, and their mortgagees, as a group and any other entities as may reasonably be requested as additional insureds.



## ARTICLE V

### RECONSTRUCTION OR REPAIR

**Section 1. Determination to Reconstruct or Repair.** The determination to reconstruct or repair any part of the Condominium Premises that is damaged shall be made in accordance with and subject to the terms and conditions set forth below. If the Co-owner of the Residential Unit elects to reconstruct or repair its Unit, then to the extent of any damage to the Garage Unit, General Common Elements or Limited Common Elements, such areas must be reconstructed or repaired to substantially the same condition as existed prior to the casualty in a diligent manner so as to allow for the prompt reconstruction and repair of the Residential Unit.

**Section 2. Repair in Accordance with Plans and Specifications.** Any reconstruction or repair pursuant to Section 1 above shall be substantially in accordance with the Master Deed and the plans and specifications for the Project to a condition as comparable as possible to the condition existing prior to damage unless the Co-owners shall unanimously decide otherwise. The Co-owner of the Residential Unit shall have the right to make such modifications to the improvements within its Unit as are permitted by law and the PUD Development Agreement.

#### **Section 3. Co-owner Responsibility for Repair.**

- (a) **Definition of Co-owner Responsibility.** If the damage is only to a part of the contents of a Unit or a Limited Common Element relating to such Unit which are the responsibility of a Co-owner to maintain, repair and replace, it shall be the responsibility of the Co-owner to maintain, repair and replace such damage in accordance with subsection (b) hereof. In all other cases, the responsibility for maintenance, repair and replacement shall be that of the Association.
- (b) **Damage to Unit.** Each Co-owner shall be responsible for the maintenance, repair and replacement of the contents of its Unit and Limited Common Elements appurtenant to such Unit, including, but not limited to, floors, floor coverings, interior and exterior walls and roof (but not any Common Elements therein), light fixtures and all fixtures and equipment, whether free-standing or built-in. In the event damage to interior walls within a Co-owner's Unit, or to pipes, wires, conduits, ducts or other Common Elements therein, or to any fixtures and equipment within a Unit and/or its appurtenant Limited Common Elements is covered by insurance held by the Association, then the replacement or repair shall be the responsibility of the Association in accordance with Section 4 of this Article V; provided, however, any and all insurance deductible amount shall be paid by the Co-owner of the Unit and/or appurtenant Limited Common Element sustaining the damage. If any other items located within a Unit are covered by insurance held by the Association for the benefit of the Co-owner, the Co-owner shall be entitled to receive the proceeds of insurance relative thereto, and if there is a mortgagee endorsement, the proceeds shall be payable to the Co-owner and the mortgagee jointly.

**Section 4. Association Responsibility for Repair.** Except as otherwise provided in the Master Deed, the Association shall be responsible for the reconstruction, repair and maintenance of the General Common Elements including without limitation all Structural Elements of the Project. Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance, repair and reconstruction, the Association shall obtain reliable and detailed estimates of the cost to replace the damaged property in a condition as good as that existing before the damage. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction or repair required to be performed by the Association, or if at any time during such reconstruction or repair, or upon completion of such reconstruction or repair, the funds for the payment of the cost thereof are insufficient, assessment shall be made against all Co-owners for the cost of reconstruction or repair of the damaged property in

sufficient amounts to provide funds to pay the estimated or actual cost of repair. This provision shall not be construed to require replacement of mature trees and vegetation with equivalent trees or vegetation.

**Section 5. Timely Reconstruction and Repair.** If damage to Common Elements or a Unit adversely affects the appearance of the Project, the Association or Co-owner responsible for the reconstruction, repair and maintenance thereof shall proceed with replacement of the damaged property without delay, and shall complete such replacement within a reasonable time thereafter using its or his best efforts, after the date of the occurrence which caused damage to the property.

**Section 6. Coordination and Management of Reconstruction.** If and in the event of a fire or other casualty involving (i) damage to both the Garage Unit and the Residential Unit, or (ii) damage to the Garage Unit or the Common Elements which impacts the practical utilization of the Residential Unit for its intended purposes, even in the absence of damage to the Residential Unit, the repair or reconstruction of such damage shall be coordinated and managed by a project manager or construction manager selected and engaged by the Association. The utilization of such project manager or construction manager shall not relieve the respective Co-owners of the Garage Unit or the Residential Unit (or the Association as to General Common Elements) of their financial, insurance and other obligations under this Article V, but is intended to facilitate and assure the prompt and coordinated completion of all repair or reconstruction work within the Project. Notwithstanding the foregoing, the parties acknowledge and agree that any and all construction contracts with respect to the Garage Unit shall be subject to all applicable Federal, State and local statutes, regulations, rules and ordinances pertaining to construction of public buildings, including without limitation competitive bidding requirements.

**Section 7. Eminent Domain.** Section 133 of the Act shall control upon any taking by eminent domain.

**Section 8. Priority of Mortgagee Interests.** Nothing contained in the Condominium Documents shall be construed to give a Condominium Unit Owner, or any other party, priority over any rights of first mortgagees of Condominium Units pursuant to their mortgages in the case of a distribution to Condominium Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Condominium Units and/or Common Elements.

## ARTICLE VI

### USE AND OCCUPANCY RESTRICTIONS

All of the Units in the Condominium shall be held, used and enjoyed subject to the following limitations and restrictions:

**Section 1. Uses.** All Units and Common Elements shall be used only for the purposes consistent with the Parking Agreement, PUD Development Agreement, PUD Zoning and all applicable zoning and use ordinances and regulations. The Developer acknowledges and agrees that the City intends to operate the Garage Unit as a public parking deck, and reserves all rights to place signs and controls consistent with its typical operation of a public parking deck and not inconsistent with the Parking Agreement. The Garage Unit shall not be used for any purpose not customary or incidental to its use as a public parking deck.

**Section 2. Leasing and Rental.** A Co-owner may lease its Unit and improvements within a Unit or portions thereof for the purposes set forth in Section 1 of this Article VI without notice to or consent from any Co-owner or other person interested in the Project, except as otherwise provided in any mortgage on any Unit, and except that the Co-owner of the Residential Unit must comply with the

Affordable Housing Covenant. The terms of all leases, occupancy agreements and occupancy arrangements shall incorporate, or be deemed to incorporate, all of the provisions of the Condominium Documents. All Co-owners, including the Developer, waive their right as Owners of a Unit in the Project to receive from the Co-owner notice of its intent to lease its Unit and copy of the proposed lease form, as provided in Section 112 of the Act, except as may be required by the Affordable Housing Covenant.

**Section 3. Alterations and Modifications.** All installations, alterations and improvements to the Condominium Premises shall be subject to the terms of the Parking Agreement, the PUD Development Agreement, the PUD Zoning and applicable zoning and land use ordinances and regulations. No Co-owner shall in any way restrict access to any plumbing, water line, water line valves, water meter, fire compression system lines, or any other element that must be accessible to service the Common Elements or any element which affects an Association responsibility in any way. Should access to any facilities of any sort be required, the Association may remove any coverings or attachments of any nature that restrict such access and will have no responsibility for repairing, replacing or reinstalling any materials, whether or not installation thereof has been approved hereunder, that are damaged in the course of gaining such access, nor shall the Association be responsible for monetary damages of any sort arising out of actions taken to gain necessary access.

**Section 4. Activities.** No unlawful or offensive activity shall be carried on in any Unit or upon the Common Elements, Limited or General, nor shall anything be done which may be or become an annoyance or a nuisance to the Co-owners of the Condominium. No Co-owner shall do or permit anything to be done or keep or permit to be kept in its Unit or on the Common Elements anything that will increase the rate of insurance on the Condominium without the written approval of the Association, and each Co-owner shall pay to the Association the increased cost of insurance premiums resulting from any such activity or the maintenance of any such condition even if approved, which increased cost may be assessed to and collected from the Co-owner in the manner provided in Article II hereof. Each Co-owner shall be accountable to the other Co-owners for the conduct and behavior of its guests, tenants, employees, patrons, contractors, customers or invitees transacting business in or visiting its Unit; and any damage to the Common Elements (including Structural Elements) or personal property of another Co-owner, caused by such guests, tenants, employees, patrons or invitees, shall be repaired at the sole expense of the Co-owner with whom said guests, tenants, employees, patrons or invitees are transacting business or visiting. However, the owner of the Garage Unit shall not be responsible for any damage caused to Limited Common Elements appurtenant to the Residential Unit that are within or adjacent to the Garage Unit caused by guests, tenants, patrons or invitees transacting business or visiting the Garage Unit. Unit Co-owners, their tenants, employees, guests, invitees and patrons shall not in any way obstruct use of the Common Elements of the Project.

**Section 5. Special Performance Standards.** Without limiting the requirement that Developer comply with all provisions of the PUD Development Agreement, the PUD Zoning and all applicable zoning and land use ordinances and regulations, the Developer (and any successor Co-owner of the Residential Unit) shall be bound by and comply in all respects with the following, each of which shall be binding upon, and run with the ownership of the Residential Unit:

- (a) **Loading Zone.** Developer shall designate a loading zone with signage as shown on an approved PUD site plan in the public alley East of the Condominium Premises to accommodate moving trucks. Developer shall be responsible for ensuring that moving vans adhere to City restrictions for loading in a public alley and that the moving vans do not block access to adjoining businesses. Developer shall coordinate move-in and move-out times of residents, and the Residential Unit's use of the alley through the Association or its designated property manager.
- (b) **Dumpster, Trash and Recycling.** Developer shall limit dumpsters, and trash and recycling containers and bins from being placed in the alley for pick-up for more than four (4) hours on each day of collection (or other schedule that limits the time that dumpsters

and containers are in the alley, to be approved by the City Administrator). Developer shall be solely responsible for cleaning, maintaining and repairing any damage to the Trash Transit Easement Area established pursuant to Article VIII, Section 6 of the Master Deed. In particular, but not by way of limitation, Developer shall immediately clean up any spillage of trash, recycling, or the byproducts (liquid, solid or otherwise) of its use of the Transit Easement Area and the Trash Ramp after each use, shall keep in good condition and leak-free any dumpsters for, or containers or carts used to transport, trash and recycling. All containers and carts used for trash shall have rubber wheels, or other wheels approved by the City Administrator which minimize the impact of the containers and carts on the surface of the City's Unit. The Transit Easement Area and Trash Ramp shall be hosed down immediately following any spill and in any event not less than one time per week. Developer shall be responsible for compliance with Article VI, Section 12 of these Bylaws with respect to any hazardous materials and the disposal thereof.

**Section 6. Signs.** All exterior signs shall be of area and dimensions, color tones, materials, lighting and height as approved by the Association, as permitted by Ann Arbor City Ordinance. No billboard signs shall be erected within the Project unless approved by the Association. The placement of all signs in the Garage Unit shall be governed as set forth in Article VI, Section I and subject to the reasonable approval of the Board of Directors of the Association.

**Section 7. Rules and Regulations.** It is intended that the Board of Directors of the Association may make rules and regulations from time to time to reflect the needs and desires of the majority of the Co-owners in the Condominium. Reasonable regulations consistent with the Act, the Master Deed and these Bylaws and other applicable laws concerning the use of the Common Elements may be made and amended from time to time by any Board of Directors of the Association, including the first Board of Directors (or its successors) prior to the Transitional Control Date. Copies of all such rules, regulations and amendments thereto shall be furnished to all Co-owners after adoption; provided, however, that any rules and regulations, and amendments thereto duly adopted shall be binding upon all persons who have an interest in the Project irrespective of whether such persons actually receive a copy of the rules and regulations.

**Section 8. Right of Access of Association.** The Association or its duly authorized agents shall have access to each Unit and any Limited Common Elements appurtenant thereto from time to time, during reasonable working hours, upon notice to the Co-owner thereof, as may be necessary for the maintenance, repair or replacement of any of the Common Elements; provided that no access shall be permitted to the apartments within the Residential Unit without prior written permission of the Co-owner of Unit 2 and no such access shall interfere with the tenants of the Residential Unit. The Association or its agents shall also have access to each Unit and any Limited Common Elements appurtenant thereto at all times without notice as may be necessary to make emergency repairs to prevent damage to the Common Elements. It shall be the responsibility of each Co-owner to provide the Association means of access to its Unit and any Limited Common Elements or terraces appurtenant thereto during all periods of absence, and in the event of the failure of such Co-owner to provide means of access, the Association may gain access in such manner as may be reasonable under the circumstances.

**Section 9. Co-owner Maintenance.** Each Co-owner shall maintain its Unit and any Limited Common Elements appurtenant thereto for which he has maintenance responsibility in a safe, clean and sanitary condition. Each Co-owner shall also use due care to avoid damaging any of the Common Elements including, but not limited to, the telephone, water, gas, plumbing, electrical or other utility conduits and systems and any other elements in any Unit which are appurtenant to or which may affect any other Unit. Each Co-owner shall be responsible for damages or costs to the Association resulting from negligent damage to or misuse of any of the Common Elements by him, or his guests, agents, contractors or invitees. To the extent any such damages or costs are covered by insurance carried by the Association, the responsible Co-owner shall bear the expense of the deductible amount. Any costs or

damages to the Association may be assessed to and collected from the responsible Co-owner in the manner provided in Article II hereof.

In the event a Co-owner fails to maintain, repair or replace any items for which the Co-owner is responsible, the Association shall have the right, but not the obligation, to take whatever action or actions it deems desirable to so maintain, decorate, repair or replace any such improvements within a Unit or as part of a Limited Common Element, all at the expense of the Co-owner of the Unit. The right shall be conditioned upon ten (10) days' advance written notice to the Co-owner of the intention to take such action. Failure of the Association (or the Developer) to take any such action shall not be deemed a waiver of the Association's (or the Developer's) right to take any such action at a future time, nor shall the Developer or the Association be liable to any Co-owner or any other person for failure to take any such action. The Developer and the Association shall have easements in furtherance of the rights accorded them hereunder as set forth in the Master Deed and no exercise of such rights shall be deemed to be a trespass or other infringement of the rights of any Co-owner, lessee or other person and shall not render the Developer or the Association liable to any person whatsoever on account of such exercise. All costs incurred by the Association or the Developer in performing any responsibilities which are required in the first instance to be borne by any Co-owner shall be assessed against such Co-owner and shall be due and payable with the Co-owner's annual assessment installment next falling due. In addition, the lien for non-payment shall attach as in all cases of assessments and such assessments may be enforced by the use of all means available to the Association under the Condominium Documents and by law for the collection of assessments, including, without limitation, legal action, foreclosure of the lien securing payment and the imposition of fines. Any costs becoming assessable hereunder shall include not only the direct costs of maintenance, repair or replacement but shall also include such reasonable costs of collection and attorney's fees that are incurred by it in taking such action, but excluding any consequential or special damages.

**Section 10. Hazardous Materials.** No Co-owner shall use or permit the use of Hazardous Materials (as hereinafter defined) on, about, under or in its Unit, or the Condominium Project, except in the ordinary course of its usual business operations conducted thereon, and any such use shall at all time be in compliance with all Environmental Laws (as hereinafter defined). Each Co-owner shall indemnify the other Co-owners from and against all claims, including but not limited to, costs of investigation, litigation and remedial response arising out of any Hazardous Materials used or permitted to be used by such Co-owner, whether or not in the ordinary course of business. "Hazardous Materials" shall mean petroleum products, asbestos, polychlorinated biphenyls, radioactive materials and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law. "Environmental Laws" shall mean all laws which relate to or deal with human health or the environment, all as may be amended from time to time.

## ARTICLE VII

### MORTGAGES

[Intentionally Omitted]

## ARTICLE VIII

### VOTING

**Section 1. Vote.** Each Co-owner member of the Association shall be entitled to one vote for each Condominium Unit owned, the value of which vote shall equal the percentage of value allocated to the Unit owned by such Co-owner as set forth in Article V of the Master Deed. Voting shall be by percentage of value only unless otherwise provided in the Master Deed or these Bylaws. In the case of any Unit owned jointly by more than one Owner, the voting right appurtenant to that Unit may be exercised only as a single vote and may not be split. In the case of any Unit on which a separate condominium development has been created, the voting right appurtenant to that Unit may be exercised only by the board of directors or its designee for the association that administers that condominium development.

**Section 2. Eligibility to Vote.** No Co-owner, other than the Developer, shall be entitled to vote at any meeting of the Association until it has presented evidence of ownership of a Unit in the Condominium Project to the Association. The vote of each Co-owner may be cast only by the individual representative designated by such Co-owner in the notice required in Section 3 of this Article VIII below or by a proxy given by such individual representative.

**Section 3. Designation of Voting Representative.** Each Co-owner shall file a written notice with the Association designating the individual representative who shall vote at meetings of the Association and receive all notices and other communications from the Association on behalf of such Co-owner. Such notice shall state the name and address of the individual representative designated, the number or numbers of the Condominium Unit or Units owned by the Co-owner, and the name and address of each person, firm, corporation, partnership, association, trust or other entity who is the Co-owner. Such notice shall be signed and dated by the Co-owner. The individual representative designated may be changed by the Co-owner at any time by filing a new notice in the manner herein provided.

**Section 4. Quorum.** The presence in person or by proxy of a Majority of the Unit Owners in accordance with percentages of value of the Co-owners qualified to vote shall constitute a quorum for holding a meeting of the members of the Association. The written vote of any person furnished at or prior to any duly called meeting at which meeting said person is not otherwise present in person or by proxy shall be counted in determining the presence of a quorum with respect to the question upon which the vote is cast.

**Section 5. Voting.** Votes may be cast only in person or by a writing duly signed by the designated voting representative not present at a given meeting in person or by proxy; provided, however, that if and to the extent permitted by applicable law, votes may be cast electronically by email or other approved process. Proxies and any written votes must be filed with the Secretary of the Association at or before the appointed time of each meeting of the members of the Association. Cumulative voting shall not be permitted.

**Section 6. Majority.** A majority, except where otherwise provided herein, shall consist of Unit Owners holding more than 60% of the total percentages of value of all Units in the Project, qualified to vote and present in person or by proxy (or written vote, if applicable) at a given meeting of the members of the Association.

## ARTICLE IX

### MEETINGS

**Section 1. Place of Meeting.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Co-owners as may be designated by the Board of Directors. Meetings of the Association shall be conducted in accordance with Sturgis' Code of Parliamentary Procedure, Roberts Rules of Order or some other generally recognized manual of parliamentary procedure, when not otherwise in conflict with the Condominium Documents (as defined in the Master Deed) or the laws of the State of Michigan. If and to the extent approved in advance by a Majority of the members (as defined in Article VIII, Section 6) and permitted by applicable law, meetings of the Association may be held electronically or by telephone conference in lieu of in-person.

**Section 2. Annual Meeting.** Annual meetings of members of the Association shall be held on the second Wednesday of July each year at such time and place as shall be determined by the Board of Directors, or other such date as may be determined by the Board of Directors. At such meetings there shall be selected a Board of Directors in accordance with the requirements of Article X of these Bylaws. The Co-owners may also transact at annual meetings such other business of the Association as may properly come before them.

**Section 3. Special Meetings.** It shall be the duty of the President to call a special meeting of the Co-owners as directed by resolution of the Board of Directors or upon a petition signed by not less than 1/2 of the Co-owners in value presented to the Secretary of the Association. Notice of any special meeting shall state the time and place of such meeting and the purposes thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 4. Notice of Meetings.** It shall be the duty of the Secretary (or other Association officer in the Secretary's absence) to serve a notice of each annual or special meeting, stating the purpose thereof as well as of the time and place where it is to be held, upon each Co-owner of record, at least 5 days but not more than 60 days prior to such meeting. The mailing, postage prepaid, (or electronic transmission, if permitted by applicable law) of a notice to the representative of each Co-owner at the address shown in the notice required to be filed with the Association by Article VIII, Section 3 of these Bylaws shall be deemed notice served. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, shall be deemed due notice.

**Section 5. Adjournment.** If any meeting of Co-owners cannot be held because a quorum is not in attendance, the Co-owners who are present may adjourn the meeting to a time not less than 48 hours from the time the original meeting was called.

**Section 6. Order of Business.** The order of business at all meetings of the members shall be as follows: (a) roll call to determine the voting power represented at the meeting; (b) proof of notice of meeting or waiver of notice; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) reports of committees; (f) appointment of inspector of elections (at annual meetings or special meetings held for purpose of election of Directors or officers); (g) selection of Directors (at annual meeting or special meetings held for such purpose); (h) unfinished business; and (i) new business. Meeting of members shall be chaired by the most senior officer of the Association present at such meeting. For purposes of this Section, the order of seniority of officers shall be President, Vice President, Secretary and Treasurer.

**Section 7. Action Without Meeting.** Any action which may be taken at a meeting of the members may be taken without a meeting by written ballot of the members. Ballots shall be solicited in the same manner as provided in Section 4 for the giving of notice of meetings of members. Such solicitations shall specify (a) the number of responses needed to meet the quorum requirements; (b) the percentage of approvals necessary to approve the action; and (c) the time by which ballots must be

received in order to be counted. The form of written ballot shall afford an opportunity to specify a choice between approval and disapproval of each matter and shall provide that, where the member specifies a choice, the vote shall be cast in accordance therewith. Approval by written ballot shall be constituted by receipt within the time period specified in the solicitation of (i) a number of ballots which equals or exceeds the quorum which would be required if the action were taken at a meeting; and (ii) a number of approvals which equals or exceeds the number of votes or percentage of approvals which would be required for approval if the action were taken at a meeting at which the total number of votes cast was the same as the total number of ballots cast.

**Section 8. Consent of Absentees.** The transactions at any meeting of members, either annual or special, however called and noticed, shall be as valid as though made at a meeting duly held after regular call and notice, if a quorum was present either in person or by proxy; and if, either before or after the meeting, each of the members not present in person or by proxy, signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

**Section 9. Minutes, Presumption of Notice.** Minutes or a similar record of the proceedings of meetings of members, when signed by the President or Secretary, shall be presumed truthfully to evidence the matters set forth therein. A recitation in the minutes of any such meeting that notice of the meeting was properly given shall be *prima facie* evidence that such notice was given.

## ARTICLE X

### BOARD OF DIRECTORS

**Section 1. Number and Qualification of Directors.** The Board of Directors shall be comprised of four (4) persons. Directors shall serve without compensation.

**Section 2. Selection of Directors.** There are two (2) Units in the Project. Each Unit Owner shall be entitled to designate two (2) persons as Directors of the Association. One of the Directors designated by each of the Unit Owners may (but shall not be required to) provide written proxy to the other Director so designated, in which event the proxy-holder shall act on behalf of both such Directors. The City Administrator shall designate the two Directors for the Garage Unit..

**Section 3. Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all acts and things as are not prohibited by the Condominium Documents or required thereby to be exercised and done by the Co-owners.

**Section 4. Other Duties.** In addition to the foregoing duties imposed by these Bylaws or any further duties which may be imposed by resolution of the members of the Association, the Board of Directors shall be responsible specifically for the following subject to the voting requirements contained in these Bylaws:

- (a) To manage and administer the affairs of and to maintain the General Common Elements.
- (b) To levy and collect assessments from the members of the Association and to use the proceeds thereof for the purposes of the Association.
- (c) To carry insurance and collect and allocate the proceeds thereof.



(d) To rebuild improvements after casualty.

(e) To contract for persons, firms, corporations or other agents to assist in the management, operation, maintenance and administration of the General Common Elements.

(f) To acquire, maintain and improve, and to buy, operate, manage, sell, convey, assign, mortgage or lease any real or personal property (including any Unit in the Condominium and easements, rights-of-way and licenses) on behalf of the Association in furtherance of any of the purposes of the Association.

(g) To borrow money and issue evidences of indebtedness in furtherance of any or all of the purposes of the business of the Association, and to secure the same by mortgage, pledge, or other lien, on property owned by the Association; provided, however, that any such action shall also be approved by affirmative vote of a Majority of the Unit Owners.

(h) To make Rules and Regulations in accordance with Article VI, Section 9 of these Bylaws.

(i) To establish such committees as it deems necessary, convenient or desirable and to appoint persons thereto for the purpose of implementing the administration of the General Common Elements and to delegate to such committees any functions or responsibilities which are not by law or the Condominium Documents required to be performed by the Board.

(j) To enforce the provisions of the Condominium Documents.

**Section 5. Management Agent.** The Board of Directors may employ for the Association a professional management agent at reasonable compensation established by the Board to perform such duties and services as the Board shall authorize, including, but not limited to, the duties listed in Sections 3 and 4 of this Article, and the Board may delegate to such management agent any other duties or powers which are not by law or by the Condominium Documents required to be performed by or have the approval of the Board of Directors or the members of the Association. Initially, through the end of the Construction and Sales Period, any management agent engaged hereunder shall be such entity as the Developer may select.. At the conclusion of the Construction and Sales Period, the Developer or an affiliate of the Developer, may be selected by the Board of Directors to be the management agent at a market rate fee. In no event shall the Board be authorized to enter into any contract with a professional management agent, or any other contract providing for services by the Developer, sponsor or builder, in which the maximum term is greater than 3 years or which is not terminable by the Association upon 90 days' written notice thereof to the other party and no such contract shall violate the provisions of Section 55 of the Act.

**Section 6. Vacancies.** Vacancies in the Board of Directors shall be filled by designation of a new Director by the member of the Association which had designated the Director leaving office. Each person so selected shall be a Director until a successor is selected at the next annual meeting of the Association.

**Section 7. Removal.** At any regular or special meeting of the Association duly called with due notice of the removal action proposed to be taken, any one or more of the Directors may be removed with or without cause by the Association members respectively entitled to select such Directors; provided that no further action may be taken by the Board until such time a replacement Director has been appointed by the applicable Unit Owner.

**Section 8. First Meeting.** The first meeting of a newly elected Board of Directors shall be held within 10 days of selection at such place as shall be fixed by the Directors at the meeting at which such

Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, providing a majority of the whole Board shall be present.

**Section 9. Regular Meetings.** Regular meetings of the Board of Directors may be held at such times and places (including electronically or by telephone conference if permitted by applicable law) as shall be determined from time to time by a majority of the Directors, but at least one such meeting shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally, by mail, telephone, email or other electronic communication, or telegraph, at least 10 days prior to the date named for such meeting.

**Section 10. Special Meetings.** Special meetings of the Board of Directors may be called by the President on 10 days' notice to each Director, given personally, by mail, telephone, email or other electronic communication, or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of any Director.

**Section 11. Waiver of Notice.** Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be deemed a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**Section 12. Quorum.** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, less than a quorum is present, the majority of those present may adjourn the meeting to a subsequent time upon 24 hours' prior written notice delivered to all Directors not present. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for purposes of determining a quorum.

**Section 13. Fidelity Bonds.** The Board of Directors may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be expenses of administration.

**Section 14. Civil Actions.** The Association has the authority to commence civil actions on behalf of the Co-owners subject to the prior approval of no less than a Majority of the Unit Owners; provided, however, the Board of Directors of the Association shall be permitted, acting upon a majority vote of the Board, to bring a civil action to enforce the following: (i) provisions of the Condominium Master Deed and Bylaws and (ii) payment of assessments against and from the Co-owners.

## ARTICLE XI

### OFFICERS

**Section 1. Officers.** The principal officers of the Association shall be a President, Vice Presidents, a Secretary and a Treasurer. Any two offices except that of President and Vice President may be held by one person.

(a) President. The President shall be the chief executive officer of the Association. He or she reside at all meetings of the Association and of the Board of Directors. He or she shall have all of the general powers and duties which are usually vested in the office of the President of an association, including, but not limited to, the power to appoint committees from among the members of the Association from time to time as he or she may in his or her discretion deem appropriate to assist in the conduct of the affairs of the Association.

(b) Vice Presidents. One or more Vice Presidents in order of seniority 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 any Vice President is able to act, the Board of Directors shall appoint some other member of the Board to so do on an interim basis. Persons designated as a Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

(c) Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the members of the Association; he or she shall have charge of the corporate seal, if any, and of such books and papers as the Board of Directors may direct; and he or she shall, in general, perform all duties incident to the office of the Secretary.

(d) Treasurer. The Treasurer shall have responsibility for the Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He or she shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association, and in such depositories as may, from time to time, be designated by the Board of Directors.

**Section 2. Election.** The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

**Section 3. Removal.** Upon affirmative vote of a majority of the members of the Board of Directors, any officer may be removed either with or without cause, and his or her successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose. No such removal action may be taken, however, unless the matter shall have been included in the notice of such meeting. The officer who is proposed to be removed shall be given an opportunity to be heard at the meeting.

**Section 4. Duties.** The officers shall have such other duties, powers and responsibilities as shall, from time to time, be authorized by the Board of Directors.

## ARTICLE XII

### SEAL

The Association may (but need not) have a seal. If the Board determines that the Association shall have a seal, then it shall have inscribed thereon the name of the Association, the words "corporate seal", and "Michigan".

## ARTICLE XIII

### FINANCE

**Section 1. Records.** The Association shall keep detailed books of account showing all expenditures and receipts of administration which shall specify the maintenance and repair expenses of the Common Elements and any other expenses incurred by or on behalf of the Association and the Co-owners. Such accounts and all other Association records shall be open for inspection by the Co-owners and their mortgagees during reasonable working hours. The Association shall prepare and distribute to each Co-owner at least once a year a financial statement, the contents of which shall be defined by the Association. The books of account shall be audited or reviewed at least annually by qualified independent auditors; provided, however, that such auditors need not be certified public accountants nor does such audit need to be a certified audit. Any institutional holder of a first mortgage lien on any Unit in the Condominium shall be entitled to receive a copy of such annual financial statement within 90 days following the end of the Association's fiscal year upon request therefor. The costs of any such accounting expenses shall be expenses of administration.

**Section 2. Fiscal Year.** The fiscal year of the Association shall be an annual period commencing on such date as may be initially determined by the Directors. The commencement date of the fiscal year shall be subject to change by the Directors for accounting reasons or other good cause.

**Section 3. Bank.** Funds of the Association shall be initially deposited in such bank or savings association as may be designated by the Directors and shall be withdrawn only upon the check or order of such officers, employees or agents as are designated by resolution of the Board of Directors from time to time. The funds may be invested from time to time in accounts or deposit certificates of such bank or savings association as are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation and may also be invested in interest-bearing obligations of the United States Government.

## ARTICLE XIV

### LIMITATION AND ASSUMPTION OF LIABILITY OF VOLUNTEERS; INDEMNIFICATION

**Section 1. Limitation of Liability of Volunteers.** No Director or officer of the Association who is a volunteer Director or volunteer officer (as these terms are defined in the Michigan Nonprofit Corporation Act) of the Association shall be personally liable to the Association or its members for monetary damages for breach of his or her fiduciary duty as a volunteer Director or officer except for liability arising from: (a) any breach of the volunteer Director's or officer's duty of loyalty to the Association or its Members; (b) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (c) a violation of Section 551(1) of the Michigan Nonprofit Corporation Act; (d) any transaction from which the volunteer director or officer derived an improper personal benefit; or (e) an act or omission that is grossly negligent.

**Section 2. Assumption of Liability of Volunteers.** The Association further assumes liability for all acts or omissions of a volunteer Director, volunteer officer or other volunteer occurring on or after the effective date of this Article if all of the following are met: (a) the volunteer was acting or reasonably believed he or she was acting within the scope of his or her authority; (b) the volunteer was acting in good faith; (c) the volunteer's conduct did not amount to gross negligence or willful and wanton misconduct; (d) the volunteer's conduct was not an intentional tort; and (e) the volunteer's conduct was not a tort arising out of the ownership, maintenance, or use of a motor vehicle for which tort liability may

be imposed as provided in Section 3135 of the Insurance Code of 1956, Act No. 218 of Michigan Public Acts of 1956.

**Section 3. Indemnification of Volunteers.** The Association shall also indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, and whether formal or informal, other than an action by or in the right of the Association, by reason of the fact that the person is or was a volunteer Director, volunteer officer, or nondirector volunteer of the Association, against all expenses including attorney's fees, judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by the person in connection with the action, suit, or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Association or its members, and with respect to any criminal action or proceeding, if the person had no reasonable cause to believe that the conduct was unlawful. In the event of any claim for indemnification hereunder based upon a settlement by the volunteer Director, volunteer officer, or nondirector volunteer seeking such indemnification, the indemnification herein shall apply only if the Board of Directors (with any Director seeking indemnification abstaining) approves such settlement and indemnification as being in the best interest of the corporation. The indemnification and advancement of expenses provided by or granted pursuant to this Article shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement or expenses may be entitled under the Articles of Incorporation, the Bylaws, contractual agreement, or otherwise by law and shall continue as to a person who has ceased to be a volunteer Director or volunteer officer or nondirector volunteer of the corporation and shall inure to the benefit of the heirs, executors, and administrators of such person. At least ten (10) days prior to payment of any indemnification which it has approved, the Board of Directors shall notify all members thereof. The Association shall maintain insurance coverage to cover indemnification payments made pursuant to this Article XV.

## ARTICLE XV

### AMENDMENTS

**Section 1. Proposal.** Amendments to these Bylaws may be proposed by the Board of Directors of the Association acting upon the vote of the majority of the Directors or may be proposed by 1/2 or more of the Co-owners by instrument in writing signed by them.

**Section 2. Meeting.** Upon any such amendment being proposed, a meeting for consideration of the same shall be duly called in accordance with the provisions of these Bylaws.

**Section 3. Voting.** These Bylaws may be amended by the Co-owners at any regular annual meeting or a special meeting called for such purpose by an affirmative vote of a Majority of the Unit Owners. No consent of mortgagees shall be required to amend these Bylaws unless such amendment would materially alter or change the rights of such mortgagees, in which event the written approval of any mortgagee so affected shall be required.

**Section 4. When Effective.** Any amendment to these Bylaws shall become effective upon recording of such amendment in the office of the Washtenaw County Register of Deeds.

**Section 5. Binding.** A copy of each amendment to the Bylaws shall be furnished to every member of the Association after adoption; provided, however, that any amendment to these Bylaws that is adopted in accordance with this Article shall be binding upon all persons who have an interest in the Project irrespective of whether such persons actually receive a copy of the amendment, unless otherwise expressly provided to the contrary in the Condominium Documents.

## ARTICLE XVI

### COMPLIANCE

The Association of Co-owners and all present or future Co-owners, tenants, future tenants, or any other persons acquiring an interest in or using the facilities of the Project in any manner are subject to and shall comply with the Act, as amended, and the mere acquisition, occupancy or rental of any Unit or an interest therein or the utilization of or entry upon the Condominium Premises shall signify that the Condominium Documents are accepted and ratified. In the event the Condominium Documents conflict with the provisions of the Act, the Act shall govern.

## ARTICLE XVII

### DEFINITIONS

All terms used herein shall have the same meaning as set forth in the Master Deed to which these Bylaws are attached as an Exhibit or as set forth in the Act.

## ARTICLE XVIII

### REMEDIES FOR DEFAULT

Any default by a Co-owner shall entitle the Association or another Co-owner or Co-owners to the following relief:

**Section 1. Legal Action.** Failure to comply with any of the terms or provisions of the Condominium Documents shall be grounds for relief, which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien (if default in payment of assessment) or any combination thereof, and such relief may be sought by the Association or, if appropriate, by an aggrieved Co-owner or Co-owners.

**Section 2. Recovery of Costs.** In any proceeding arising because of an alleged default by any Co-owner, the Association or any Co-owner, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (not limited to statutory fees) as may be determined by the court, but in no event shall any Co-owner be entitled to recover such attorneys' fees.

**Section 3. Removal and Abatement.** The violation of any of the provisions of the Condominium Documents shall also give the Association or its duly authorized agent or any Co-owner the right, in addition to the rights set forth above, to enter upon the Common Elements, Limited or General, or into any Unit, where reasonably necessary, and summarily repair, remove and abate, at the expense of the Co-owner in violation, any structure, thing or condition existing or maintained contrary to the provisions of the Condominium Documents. The Association or any Co-owner exercising such right shall have no liability to any Co-owner arising out of the exercise of its repair, removal and abatement power authorized herein.

**Section 4. Assessment of Fines.** The violation of any of the provisions of the Condominium Documents by any Co-owner or tenant shall be grounds for assessment by the Association, acting through its duly constituted Board of Directors, of monetary fines for such violations in accordance with Article XX of these Bylaws.

**Section 5. Non-waiver of Right.** The failure of the Association or of any Co-owner to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Association or of any such Co-owner to enforce such right, provision, covenant or condition in the future.

**Section 6. Cumulative Rights, Remedies and Privileges.** All rights, remedies and privileges granted to the Association or any Co-owner or Co-owners pursuant to any terms, provisions, covenants or conditions of the aforesaid Condominium Documents 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 the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

**Section 7. Enforcement of Provisions of Condominium Documents.** A Co-owner may maintain an action against the Association and its officers and Directors to compel such persons to enforce the terms and provisions of the Condominium Documents. In such a proceeding, the Association, if successful, shall recover the cost of the proceeding and reasonable attorney fees, as determined by the court. A Co-owner may maintain an action against any other Co-owner for injunctive relief or for damages or any combination thereof for noncompliance with the terms and provisions of the Condominium Documents or the Act.

## ARTICLE XIX

### ASSESSMENT OF FINES

**Section 1. General.** The violation by any Co-owner, tenant, occupant or guest of any of the provisions of the Condominium Documents including any duly adopted rules and regulations shall be grounds for assessment by the Association, acting through its duly constituted Board of Directors, of monetary fines against the involved Co-owner. Such Co-owner shall be deemed responsible for such violations whether they occur as a result of his personal actions or the actions of his family, guests, tenants or any other person admitted through such Co-owner to the Condominium Premises.

**Section 2. Procedures.** Upon any such violation being alleged by the Board, the following procedures will be followed:

(a) **Notice.** Notice of the violation, including the Condominium Document provision violated, together with a description of the factual nature of the alleged offense set forth with such reasonable specificity as will place the Co-owner on notice as to the violation, shall be sent by first class mail, postage prepaid, or personally delivered to the representative of said Co-owner at the address as shown in the Notice required to be filed with the Association pursuant to Article VIII, Section 3 of these Bylaws.

(b) **Opportunity to Defend.** The offending Co-owner shall have an opportunity to appear before the Board and offer evidence in defense of the alleged violation. The appearance before the Board shall be at its next scheduled meeting, but in no event shall the Co-owner be required to appear less than 10 days from the date of the Notice. The offending Co-owner may, at his option, elect to forego the appearance as provided herein by delivery of a written response to the Board.

(c) **Default.** Failure to respond to the Notice of Violation constitutes a default.

(d) **Hearing and Decision.** Upon appearance by the Co-owner before the Board and presentation of evidence of defense, or, in the event of the Co-owner's default, the Board shall, by majority vote of a quorum of the Board, decide whether a violation has occurred. The Board's decision is final.

**Section 3. Amounts.** Upon violation of any of the provisions of the Condominium Documents and after default of the offending Co-owner or upon the decision of the Board as recited above, the following fines shall be levied: **[review amounts]**

(a) **First Violation.** No fine shall be levied.

(b) **Second Violation.** One Hundred Dollar (\$100.00) fine.

(c) **Third Violation.** Two Hundred Dollar (\$200.00) fine.

(d) **Fourth Violation and Subsequent Violations.** Three Hundred Dollar (\$300.00) fine.

Such fines may be modified, from time to time, upon the approval of the Board of Directors.

**Section 4. Collection.** The fines levied pursuant to Section 3 above shall be assessed against the Co-owner and shall be due and payable together with the regular Condominium assessment installment on the first of the next following month. Failure to pay the fine will subject the Co-owner to all liabilities set forth in the Condominium Documents including, without limitation, those described in Article II and Article XIX of the Bylaws.

## ARTICLE XX

### RIGHTS RESERVED TO DEVELOPER

Any or all of the rights and powers granted or reserved to the Developer in the Condominium Documents or by law, including the right and power to approve or disapprove any act, use, or proposed action or any other matter or thing, may be assigned by it to any other entity or to the Association; provided, however, that no such assignment shall relieve the Developer of its obligations and liabilities under the Condominium Documents without the prior written consent of the City in its sole discretion. Any such assignment or transfer shall be made by appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its consent to the acceptance of such powers and rights and such assignee or transferee shall thereupon have the same rights and powers as herein given and reserved to the Developer. Any rights and powers reserved or retained by Developer or its successors shall expire and terminate, if not sooner assigned to the Association, at the conclusion of the Construction and Sales Period as defined in Article III of the Master Deed. The immediately preceding sentence dealing with the expiration and termination of certain rights and powers granted or reserved to the Developer is intended to apply, insofar as the Developer is concerned, only to Developer's rights to approve and control the administration of the Condominium and shall not, under any circumstances, be construed to apply to or cause the termination and expiration of any real property rights granted or reserved to the Developer or its successors and assigns in the Master Deed or elsewhere (including, but not limited to, access easements, utility easements and all other easements created and reserved in such documents which shall not be terminable in any manner hereunder and which shall be governed only in accordance with the terms of their creation or reservation and not hereby).



## **ARTICLE XXI**

### **SEVERABILITY**

In the event that any of the terms, provisions or covenants of these Bylaws or the Condominium Documents are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants of such Condominium Documents or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

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