

EXHIBIT D

BY-LAWS

for

HARBOR CLOSE
Condominium

ARTICLE I

Plan of Unit Ownership

Section 1. *Unit Ownership.* The property located on the south side of ^{New} Long Island Avenue, Village of Sag Harbor, Suffolk County, State of (hereinafter called the "Property") has been submitted to the provisions of Article 9-B of the Real Property Law of the State of New York by the Declaration recorded in the Office of the County Clerk of Suffolk County, Division of Land Records simultaneously herewith. The Condominium thereby created shall hereinafter be known as "Harbor Close Condominium" (hereinafter called the "Condominium").

Section 2. *Applicability of By-Laws.* The provisions of these By-Laws are applicable to the Property of the Condominium and to the use and occupancy thereof. The term "Property" as used herein shall include the land, the Building and all other improvements thereon (including the Units and the common elements), owned in fee simple absolute, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, all of which are intended to be submitted to the provisions of said Article 9-B of the Real Property Law of the State of New York.

Section 3. *Application.* All present and future owners, mortgagees, lessees and occupants of the Units and their employees; and any other persons who may use the facilities of the Property in any manner are subject to these By-Laws, the Declaration and the Rules and Regulations.

The acceptance of a deed of conveyance or the execution of a lease or the act of occupancy of a Unit shall constitute an agreement that these By-Laws, the Rules and Regulations and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified, and will be complied with.

Section 4. *Office.* The office of the Condominium and of the Board of Managers shall be located on the Condominium property.

ARTICLE II

Board of Managers

Section 1. *Number and Term.* The number of Managers which shall constitute the whole Board shall not be less than three (3) and not more than nine (9). Until succeeded by the Managers elected at the first annual meeting of Unit Owners, Managers need not be Unit Owners; thereafter, all

Managers shall be Unit Owners. So long as the Sponsor owns one (1) or more units, the Sponsor shall be entitled to have at least one (1) representative or designee as a member of the Board of Managers. Within the limits above specified, the number of Managers shall be determined by the Unit Owners at their annual meetings. The Managers shall be elected at the annual meeting of the members. At the first annual meeting of the association the term of office of one-third (1/3) of the Managers shall be fixed for three (3) years. The term of office of one-third (1/3) of the Managers shall be fixed at two (2) years, and the term of office of one-third (1/3) or the balance of the Managers shall be fixed at one (1) year. At the expiration of the initial term of office of each respective Manager his successor shall be elected to serve a term of three (3) years. The Managers shall hold office until their successors have been elected and hold their first meeting. But, in any event, at least one-third (1/3) of the terms of the members of the Board of Managers shall expire annually.

Section 2. *Powers and Duties.* The Board of Managers shall have the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things except as by law or by the Declaration or by these By-Laws may not be delegated to the Board of Managers by the Unit Owners. Such powers and duties of the Board of Managers shall include, but shall not be limited to, the following:

- (a) Operation, care, upkeep and maintenance of the common elements.
- (b) Determination of the common expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the Property.
- (c) Collection of the common charges from the Unit Owners.
- (d) Employment and dismissal of the personnel necessary for the maintenance and operation of the common elements.
- (e) Adoption and amendment of rules and regulations covering the details of the operation and use of the Property.
- (f) Opening of bank accounts on behalf of the Condominium and designating the signatories required therefor.
- (g) Purchasing or leasing or otherwise acquiring in the name of the Board of Managers, or its designee, corporate or otherwise, on behalf of

all Unit Owners, Units offered for sale or lease or surrendered by their owners to the Board of Managers.

(h) Purchasing of Units at foreclosure or other judicial sales in the name of the Board of Managers, or its designee, corporate or otherwise, on behalf of all Unit Owners.

(i) Selling, leasing, mortgaging (but not voting the votes appurtenant to), or otherwise dealing with Units acquired by, and subleasing Units leased by the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners.

(j) Organizing corporations to act as designees of the Board of Managers in acquiring title to or leasing of Units on behalf of all Unit Owners.

(k) Obtaining and reviewing of insurance for the Property, including the Units, pursuant to the provisions of Article VI, Section 2 hereof.

(l) Making of repairs, additions and improvements to or alterations of the Property and repairs to and restoration of the Property in accordance with the other provisions of these By-Laws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

Section 3. *Managing Agent and Manager.* The Board of Managers may employ for the Condominium a managing agent and/or a manager at a compensation established by the Board of Managers, to perform such duties and services as the Board of Managers shall authorize, including, but not limited to, the duties listed in subdivisions (a), (c), (d), (k) and (l) of Section 2 of this Article II. The Board of Managers may delegate to the manager or managing agent, all of the powers granted to the Board of Managers by these By-Laws other than the powers set forth in subdivisions (b), (e), (f), (g), (i) and (j) of Section 2 of this Article II.

Section 4. *First Board of Managers.* The first Board of Managers shall consist of persons designated by the Sponsor, who shall hold office and exercise all powers of the Board of Managers until the first annual meeting of Unit Owners. Any or all of said Managers shall be subject to replacement in the event of resignation or death in the manner set forth in Section 6 of this Article II.

Section 5. *Removal.* Managers may be removed for cause by an affirmative vote of a majority of the Unit Owners. No Manager shall continue to serve on the Board if, during his term of office, he shall cease to be a Unit Owner.

Section 6. *Vacancies.* Vacancies in the Board of Managers caused by any reason other than the removal of a member thereof by a vote of the Unit Owners shall be filled by vote of a majority of the remaining members at a special meeting of the Board of Managers held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum, and each person so elected shall be a member of the Board of Managers for the remainder of the term of the member so removed and until a successor shall be elected at the next annual meeting of the Unit Owners.

Section 7. *Organization Meeting.* The first meeting of the members of the Board of Managers following the annual meeting of the Unit Owners shall be held within ten (10) days thereafter, at such time and place as shall be fixed by the Unit Owners at the meeting at which such Board of Managers shall have been elected, and no notice shall be necessary to the newly elected members of the Board of Managers in order legally to constitute such meeting, providing a majority of the whole Board of Managers shall be present thereat.

Section 8. *Regular Meetings.* Regular meetings of the Board of Managers may be held at such time and place as shall be determined from time to time by a majority of the members of the Board of Managers, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Managers shall be given to each member of the Board of Managers, by mail or telegraph, at least three (3) business days prior to the day named for such meeting.

Section 9. *Special Meetings.* Special meetings of the Board of Managers may be called by the President on three (3) business days' notice to each member of the Board of Managers, given by mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Managers shall be called by the President or Secretary in like manner and on like notice on the written request of at least three (3) members of the Board of Managers.

Section 10. *Waiver of Notice.* Any member of the Board of Managers may at any time waive notice of any meeting of the Board of Managers in writing and such waiver shall be deemed equivalent to the giving of such

notice. Attendance by a member of the Board of Managers at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all the members of the Board of Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 11. *Quorum of Board of Managers.* At all meetings of the Board of Managers, a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board of Managers present at a meeting at which a quorum is present shall constitute the decision of the Board of Managers. If at any meeting of the Board of Managers there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called, may be transacted without further notice.

Section 12. *Fidelity Bonds.* The Board of Managers shall obtain adequate fidelity bonds for all officers and employees of the Condominium handling or responsible for Condominium funds. The premiums on such bonds shall constitute a common expense.

Section 13. *Compensation.* No member of the Board of Managers shall receive any compensation from the Condominium for acting as such.

Section 14. *Liability of the Board of Managers.* The members of the Board of Managers shall not be liable to the Unit Owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each of the members of the Board of Managers against all contractual liability to others arising out of contracts made by the Board of Managers on behalf of the Condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. It is intended that the members of the Board of Managers shall have no personal liability with respect to any contract made by them on behalf of the Condominium. It is understood and permissible for the original Board of Managers, who are members of the Sponsor, to contract with the Sponsor and affiliated corporations without fear of being charged with selfdealing. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board of Managers or out of the aforesaid indemnity in favor of the members of the Board of Managers shall be limited to such proportion of the total liability thereunder as his interest in the common elements bears to the interests of all the Unit Owners in the

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

ARTICLE III

Unit Owners

Section 1. *Annual Meetings.* Within thirty (30) days after either two (2) years from the conveyance of title to the first Unit or after the conveyance of title to twenty-eight (28) Units by Sponsor, whichever shall sooner occur, or such earlier time as Sponsor deems to be in the best interests of the parties the Sponsor shall call the first annual Unit Owners meeting. At such meeting the Board of Managers shall resign and a new Board shall be elected by the Unit Owners. Thereafter, annual meetings shall be held on the anniversary of such date each succeeding year. At such meetings there shall be elected by ballot of the Unit Owners a Board of Managers in accordance with the requirements of Article II of these By-Laws. The Unit Owners may also transact such other business of the Condominium as may properly come before them.

Section 2. *Place of Meeting.* Meetings of the Unit Owners shall be held at the principal office of the Condominium or at such other suitable place convenient to the Unit Owners as may be designated by the Board of Managers.

Section 3. *Special Meetings.* It shall be the duty of the President to call a special meeting of the Unit Owners as directed by the Board of Managers or upon a petition signed by a majority of the Unit Owners and having been presented to the Secretary. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Unit Owner of record, at least five (5) but not more than ten (10) days prior to such meeting. The mailing of a notice in the manner provided in these By-Laws shall be considered notice served.

Section 4. *Adjournment of Meetings.* If any meeting of Unit Owners cannot be held because a quorum has not attended, a majority in common

**HARBOR CLOSE CONDOMINIUM APARTMENTS
P.O. BOX 2612
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November 27, 2000

**BY-LAW CHANGES
NEW WORDING**

ARTICLE VI

Section 4. Payment of Common Charges. All Unit Owners shall be obligated to pay the common charges assessed by the Board of Managers pursuant to the provisions of Section 1 of this Article IV at such time or times as the Board of Managers shall determine. Common charges include assessed amounts to meet the common expenses of the Condominium and assessed amounts for repairs, reconstruction, additions, alterations or improvements.

All common charges not received within 10 days of the due date shall be assessed a late penalty of \$25.00. All common charges that are not received within 30 days of the due date shall incur interest at a rate of 2% per month (24% annually) from the due date of the common charge.

No Unit Owner shall be liable for the payment of any part of the common charges assessed against his Unit subsequent to a sale, transfer or other conveyance by him of such Unit, together with the appurtenant interests and penalties. In addition, any Unit Owner may, subject to the terms and conditions specified in these By-Laws, provided that his Unit is free and clear of liens and encumbrances other than permissible mortgages and statutory lien for unpaid common charges, convey his Unit, together with the appurtenant interests and penalties to the Board of Managers, or its designee, corporate or otherwise, on behalf of all other Unit Owners, and in such event be exempt from common charges thereafter assessed. A purchaser of a Unit shall be liable for the payment of common charges assessed, together with appurtenant interests and penalties, and other unpaid against such Unit prior to the acquisition by him of such Unit.

Section 5. Collection of Assessments. The Board of Managers shall assess common charges against the Unit Owners from time to time at least annually and shall take prompt action to collect any common charge due, together with appurtenant interest and penalties from any Unit Owner, which remains unpaid for more than thirty (30) days from the due date for payment thereof.

Section 6. Default in Payment of Common Charges. In the

event of default by any Unit Owner in paying to the Board of Managers the common charges as determined by the Board of Managers, such Unit Owner shall be obligated to pay interest at the legal rate on such common charges from the due date thereof, together with penalties and all expenses, including attorneys' fees, incurred by the Board of Managers in any proceeding brought to collect such unpaid common charges. The Board of Managers shall have the right and duty to attempt to recover such common charges, together with interest and penalties thereon, and the expenses of the proceedings, including attorneys' fees, in an action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit granted by Section 339-z of the Real Property Law of the State of New York, in the manner provided in Section 339-aa thereof.

Section 7. Foreclosure of Liens for Unpaid Common Charges. In any action brought by the Board of Managers to foreclose a lien on a Unit because of unpaid common charges, the Unit Owner shall be required to pay a reasonable rental for the use of his Unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board of Managers, acting on behalf of all Unit Owners, if so authorized by a vote of the Unit Owners, shall have power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage (but not to vote the votes appurtenant to), convey or otherwise deal with the same. A suit to recover a money judgment for unpaid common charges, together with appurtenant interests and penalties, shall be maintainable without foreclosing or waiving the lien securing the same.

Section 13. Additions, Alterations or Improvements by Unit Owners. No Unit Owner shall make any structural additions, alterations, or improvement in or to his Unit, or anything to the common elements or anything that would change the common elements without the prior written consent thereto of the Board of Managers. The Board of Managers shall have the obligation to approve or reject any complete written request by a Unit Owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit, within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board of Managers to the proposed addition, alteration or improvement. All complete requests must include a written request complete with details such as measurements, materials being used, colors, make and model #'s, etc. and complete drawings with measurements. The Unit Owner must supply the Board of Managers with insurance certificates issued to Harbor Close Condominium Apartments for all contractors doing work at the condominium showing liability insurance of not less than \$1,000,000 and workers' compensation insurance, along with the contractors' license numbers before any work may begin. Any application to any

department of the Village of Sag Harbor or any other government authority for a permit to make an addition, alteration or improvement in or to any Unit shall be executed by the Board of Managers only, without, however, incurring any liability on the part of the Board of Managers or any of them to any contractor, subcontractor or material man on account of such addition, alteration or improvement, or to any person having any claim for injury to person or damage or damage to property arising there from. For any violation of this section, the Unit Owner shall pay a penalty of \$500.00. This penalty must be paid within 10 days of notice of violation and is subject to interest of 2% per month (24% annually) from the due date of the penalty. In the event of a violation of this section, in addition to any other penalties, the Board of Managers is empowered to require the Unit Owner to restore everything to its original condition at full cost to the Unit Owner.

interest of the Unit Owners who are present at such meeting, either in person or by proxy, may adjourn and readjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called or such time as a quorum is present.

Section 5. *Order of Business.* The order of business at all meetings of the Unit Owners shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Report of Board of Managers.
- (f) Reports of committees.
- (g) Election of inspectors of election (when so required).
- (h) Election of members of the Board of Managers (when so required).
- (i) Unfinished business.
- (j) New business.

Section 6. *Title to Units.* Title to Units may be taken in the name of an individual or in the names of two (2) or more persons, as tenants in common or as joint tenants or as tenants by the entirety, or in the name of a corporation or partnership, or in the name of a fiduciary.

Section 7. *Voting.* The Owner or Owners of each Unit, or some person designated by such Owner or Owners to act as proxy on his or their behalf and who need not be an Owner, shall be entitled to cast the votes appurtenant to such Unit at all meetings of Unit Owners. The designation of any such proxy shall be made in writing to the Secretary, and shall be revocable at any time by written notice to the Secretary by the Owner or Owners so designating. Any or all of such Owners may be present at any meeting of the Unit Owners and (those constituting a group acting unanimously), may vote or take any other action as a Unit Owner either in person or by proxy. Each

Unit Owner (including the Sponsor, if the Sponsor shall then own one (1) or more Units) shall be entitled to cast one (1) vote on all matters put to a vote for each .0001 of interest in the common elements belonging to the Unit at all meetings of the Unit Owners for each Unit owned by such Unit Owner. A fiduciary shall be the voting member with respect to any Unit owned in a fiduciary capacity. Any Unit or Units owned by the Board of Managers or its designee shall not be entitled to a vote.

Section 8. *Majority of Unit Owners.* As used in these By-Laws the term "majority of Unit Owners" shall mean those Unit Owners present in person or by proxy and voting at any meeting of the Unit Owners, determined in accordance with the provisions of Section 7 of this Article III.

Section 9. *Quorum.* Except as otherwise provided in these By-Laws, the presence in person or by proxy of a majority of the common interests shall constitute a quorum at all meetings of the Unit Owners.

Section 10. *Majority Vote.* The vote of a majority of the common interests at a meeting at which a quorum shall be present shall be binding upon all Unit Owners for all purposes except where in the Declaration of these By-Laws or by law, a higher percentage vote is required.

ARTICLE IV

Officers

Section 1. *Designation.* The principal officers of the Condominium shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Managers. The Board of Managers may appoint an assistant treasurer, an assistant secretary, and such other officers as in its judgment may be necessary. The President and Vice President, but no other officers, need be members of the Board of Managers.

Section 2. *Election of Officers.* The officers of the Condominium shall be elected annually by the Board of Managers at the organization meeting of each new Board of Managers and shall hold office at the pleasure of the Board of Managers and until their successors are elected.

Section 3. *Removal of Officers.* Upon the affirmative vote of a majority of the members of the Board of Managers, any officer may be removed, either with or without cause, and his successor may be elected at any regular meeting of the Board of Managers, or at any special meeting of the Board of Managers called for such purpose.

Section 4. *President.* The President shall be the chief executive officer of the Condominium. He shall preside at all meetings of the Unit Owners and of the Board of Managers. He shall have all of the general powers and duties which are incident to the office of president of a stock corporation organized under the Business Corporation Law of the State of New York, including, but not limited to, the power to appoint committees from among the Unit Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Condominium.

Section 5. *Vice President.* The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Managers shall appoint some other member of the Board of Managers to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Managers or by the President.

Section 6. *Secretary.* The Secretary shall keep the minutes of all meetings of the Unit Owners and of the Board of Managers; he shall have charge of such books and papers as the Board of Managers may direct; and he shall in general perform all the duties incident to the office of secretary of a stock corporation organized under the Business Corporation Law of the State of New York.

Section 7. *Treasurer.* The Treasurer shall have responsibility for Condominium funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial data. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Board of Managers, or the managing agent, in such depositories as may from time to time be designated by the Board of Managers, and he shall, in general, perform all the duties incident to the office of treasurer of a stock corporation organized under the Business Corporation Law of the State of New York.

Section 8. *Agreements, Contracts, Deeds, Checks, etc.* All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed by any two (2) officers of the Condominium or by such other person or persons as may be designated by the Board of Managers.

Section 9. *Compensation of Officers.* No officer shall receive any compensation from the Condominium for acting as such.

ARTICLE V

Notices

Section 1. *Definition.* Whenever under the provisions of the Declaration or of these By-Laws, notice is required to be given to the Board of Managers, any manager, Unit Owner or mortgagee, it shall not be construed to mean personal notice; but such notice may be given in writing, by mail, by depositing the same in a post office or letter box; in a postpaid sealed wrapper, addressed to the Board of Managers, such manager or Unit Owner at such address as appears on the books of the Condominium.

Section 2. *Service of Notice—Waiver.* Whenever any notice is required to be given under the provisions of the Declaration, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

ARTICLE VI

Operation of the Property

Section 1. *Determination of Common Expenses and Fixing of Common Charges.* The Board of Managers shall from time to time, at least annually, prepare a budget for the Condominium, determine the amount of the common charges payable by the Unit Owners to meet the common expenses of the Condominium and allocate and assess such common charges among the Unit Owners according to their respective common interests. The common expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Managers pursuant to the provisions of Section 2 of this Article VI and the fees and disbursements of the Insurance Trustee. The common expenses may also include such amounts as the Board of Managers may deem proper for the operation and maintenance of the Property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the common expenses for any prior year. Until all Units are constructed and title thereto has been conveyed, the Board of Managers can reduce the amount of common charges allocated to the Units and payable by Unit Owners and the Sponsor (as owner of unsold Units). The Board of Managers shall advise all Unit Owners, promptly, in writing, of the amount of common charges payable by each of them, respectively, as determined by the Board of Managers, as aforesaid, and shall furnish copies of each budget on which such common charges are based, to all Unit Owners and to their mortgagees.

Section 2. *Insurance.* The Board of Managers shall be required to obtain and maintain the following insurance: (1) fire insurance with extended coverage, vandalism and malicious mischief endorsements, insuring the building containing the Units (including all of the Units and the bathroom and kitchen fixtures initially installed therein by Sponsor and any other personal property usual to the servicing and general occupancy, but not including furniture, furnishings, or other personal property supplied or installed by Unit Owners), together with all air-conditioning equipment and other service machinery initially installed contained therein and covering the interests of the Condominium, the Board of Managers and all Unit Owners and their mortgagees, as interest may appear, in the amount equal to the full replacement cost determined by the Board of Managers and approved by the mortgagees; each of said policies shall contain a Condominium Property Endorsement and a New York standard mortgage clause in favor of each mortgagee of a Unit which shall provide that the loss, if any, thereunder shall be payable to such mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Board of Managers and the Insurance Trustee, as herein provided; (2) workmen's compensation insurance; (3) a fidelity bond or bonds in sufficient amounts, to fully protect the interest of the Condominium, be carried on each member of the Board of Managers, officers of the Condominium, managing agent and managers including any person or persons handling or responsible for funds of the Condominium; (4) disability benefits insurance; and (5) such other insurance as the Board of Managers may determine. All policies of physical damage insurance shall provide that adjustment of loss shall be made by the Board of Managers with the approval of the Insurance Trustee, and that the total proceeds thereof, if \$10,000.00 or less, shall be payable to the Board of Managers and if more than \$10,000.00, shall be payable to the Insurance Trustee.

All policies of physical damage insurance shall contain waivers of subrogation and of any reduction of pro rata liability of the insurer as a result of any insurance carried by Unit Owners, or of invalidity arising from any acts of the insured or any Unit Owners, and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days' prior written notice to all of the insureds, including all mortgagees of Units. Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all mortgagees of Units at least ten (10) days prior to expiration of the then current policies.

The Board of Managers shall also be required to obtain and maintain, to the extent obtainable, public liability insurance in such limits as the Board of

Managers may from time to time determine, covering each member of the Board of Managers, the managing agent, the manager, and each Unit Owner. Such public liability coverage shall also cover cross liability claims of one insured against another.

Unit Owners shall not be prohibited from carrying other insurance for their own benefit provided that all such policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

Section 3. *Repair or Reconstruction After Fire or Other Casualty.* In the event of damage to or destruction of the Building containing the Units as a result of fire or other casualty unless seventy-five per cent (75%) or more of the Building is destroyed or substantially damaged and seventy-five per cent (75%) or more of the Unit Owners do not duly and promptly resolve to proceed with repair or restoration, the Board of Managers shall arrange for the prompt repair and restoration of the Building (including any damaged Units, and any kitchen or bathroom fixtures initially installed therein by Sponsor, but not including any wall, ceiling, or floor decorations or coverings or other furniture, furnishings, fixtures or equipment installed in the Units by the Unit Owners), and the Board of Managers or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance policies in appropriate progress payments for distribution to the contractors engaged in such repairs and restoration. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a common expense and the Board of Managers may assess all the Unit Owners for such deficit as part of the common charges.

If seventy-five per cent (75%) or more of the Building containing the Units is destroyed or substantially damaged and seventy-five per cent (75%) or more of the Unit Owners do not duly and promptly resolve to proceed with repair or restoration, the Property shall be subject to an action for partition at the suit of any Unit Owner or lienor, as if owned in common, in which event the net proceeds of sale, together with the net proceeds of insurance policies (or if there shall have been a repair or restoration pursuant to the first paragraph of this Section 3, and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration, then the excess of such insurance proceeds) shall be divided by the Board of Managers or the Insurance Trustee, as the case may be, among all the Unit Owners in proportion to their respective common interests, after first paying out of the share of each Unit Owner the amount of any unpaid liens on his Unit, in the

order of the priority of such liens.

The mortgagee has the option to be the Insurance Trustee so long as it holds a mortgage on any Unit.

Whenever in this Section 3 the words "promptly repair" or "promptly resolve" are used they shall mean not more than sixty (60) days from the date of damage or destruction.

Section 4. Payment of Common Charges. All Unit Owners shall be obligated to pay the common charges assessed by the Board of Managers pursuant to the provisions of Section 1 of this Article IV at such time or times as the Board of Managers shall determine.

No Unit Owner shall be liable for the payment of any part of the common charges assessed against his Unit subsequent to a sale, transfer or other conveyance by him of such Unit, together with the Appurtenant Interests. In addition, any Unit Owner may, subject to the terms and conditions specified in these By-Laws, provided that his Unit is free and clear of liens and encumbrances other than permissible mortgages and the statutory lien for unpaid common charges, convey his Unit, together with the "Appurtenant Interests" to the Board of Managers, or its designee, corporate or otherwise, on behalf of all other Unit Owners, and in such event be exempt from common charges thereafter assessed. A purchaser of a Unit shall be liable for the payment of common charges assessed and unpaid against such Unit prior to the acquisition by him of such Unit.

Section 5. Collection of Assessments. The Board of Managers shall assess common charges against the Unit Owners from time to time at least annually and shall take prompt action to collect any common charge due from any Unit Owner which remains unpaid for more than thirty (30) days from the due date for payment thereof.

Section 6. Default in Payment of Common Charges. In the event of default by any Unit Owner in paying to the Board of Managers the common charges as determined by the Board of Managers, such Unit Owner shall be obligated to pay interest at the legal rate on such common charges from the due date thereof, together with all expenses, including attorneys' fees, incurred by the Board of Managers in any proceeding brought to collect such unpaid common charges. The Board of Managers shall have the right and duty to attempt to recover such common charges, together with interest thereon, and the expenses of the proceeding, including attorneys' fees, in an action to recover the same brought against such Unit Owner, or by foreclo-

sure of the lien on such Unit granted by Section 339-z of the Real Property Law of the State of New York, in the manner provided in Section 339-aa thereof.

Section 7. *Foreclosure of Liens for Unpaid Common Charges.* In any action brought by the Board of Managers to foreclose a lien on a Unit because of unpaid common charges, the Unit Owner shall be required to pay a reasonable rental for the use of his Unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board of Managers, acting on behalf of all Unit Owners, if so authorized by a vote of the Unit Owners, shall have power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage (but not to vote the votes appurtenant to), convey or otherwise deal with the same. A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

Section 8. *Statement of Common Charges.* The Board of Managers shall promptly provide any Unit Owner so requesting the same in writing, with a written statement of all unpaid common charges due from such Unit Owner.

Section 9. *Maintenance and Repairs.*

(a) All maintenance of and repairs to any Unit, ordinary or extraordinary, and to the doors and windows, excepting the painting and decorating of the exterior doors and exterior window sashes, electrical (not in the walls), plumbing (not in the walls) and heating and air-conditioning fixtures within the Unit or belonging to the Unit Owner shall be at the Unit Owner's expense, excepting as otherwise specifically provided herein.

(b) All maintenance, repairs and replacements to the common elements as defined in the Declaration, and the painting and decorating of the exterior doors and exterior window sash shall be made by the Board of Managers and be charged to all the Unit Owners as a common expense, excepting to the extent that the same are necessitated by the negligence, misuse or neglect of a Unit Owner, in which case such expense shall be charged to such Unit Owner.

Section 10. *Balconies and Patios.* A balcony or patio to which there is direct access from the interior of a Unit, shall be for the exclusive use of the Owner of such Unit. Any such balcony or patio shall be kept free and clean of snow, ice and any other accumulation by the Owner of such Unit who shall also make all repairs thereto caused or permitted by his negligence,

misuse or neglect. All other repairs in, to or with respect to such balcony shall be made by the Board of Managers, as a common expense.

Section 11. *Restrictions on Use of Units.* In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of the Property shall be restricted to and shall be in accordance with the following provisions:

(a) The Units shall be used for residences only.

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

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

(d) No immoral, improper, offensive, or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be eliminated, by and at the sole expense of the Unit Owners, or the Board of Managers, whichever shall have the obligation to maintain or repair such portion of the Property.

(e) No portion of a Unit (other than the entire Unit) may be rented, and no transient may be accommodated therein.

Section 12. *Additions, Alterations or Improvements by Board of Managers.* Whenever in the judgment of the Board of Managers the common elements shall require additions, alterations or improvements costing in excess of \$10,000.00, and the making of such additions, alterations or improvements shall have been approved by a majority of the Unit Owners and by each holder of mortgages constituting first liens on 25 or more Units, the Board of Managers shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the cost thereof as a common charge. Any additions, alterations or improvements costing \$10,000.00 or less may be made by the Board of Managers without approval of the Unit Owners and the cost thereof shall constitute part of the common

expenses.

Section 13. *Additions, Alterations or Improvements by Unit Owners.* No Unit Owner shall make any structural addition, alteration, or improvement in or to his Unit, without the prior written consent thereto of the Board of Managers. The Board of Managers shall have the obligation to approve or reject any written request by a Unit Owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit, within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board of Managers to the proposed addition, alteration or improvement. Any application to any department of the Town of Southampton or to any other governmental authority for a permit to make an addition, alteration or improvement in or to any Unit shall be executed by the Board of Managers only, without, however, incurring any liability on the part of the Board of Managers or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having any claim for injury to person or damage to property arising therefrom. The provisions of this Section 13 shall not apply to Units owned by the Sponsor until such Units shall have been initially sold by the Sponsor and paid for.

Section 14. *Use of Common Elements and Facilities.* A Unit Owner shall not place or cause to be placed in the lobbies, vestibules, public halls, stairways or other common areas or common facilities, other than a balcony or patio to which such Unit Owner has direct access provided it is not deemed to be unsightly by the Board of Managers, and other than the areas designated as storage areas, any furniture, packages or objects of any kind. The public halls and stairways shall be used for no purpose other than for normal transit through them.

Section 15. *Right of Access.* A Unit Owner shall grant a right of access to his Unit to the manager and/or managing agent and/or any other person authorized by the Board of Managers, the manager or the managing agent, for the purpose of making inspections or for the purpose of correcting any condition originating in his Unit and threatening another Unit or a common element, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other common elements in his Unit or elsewhere in the Building in which the Unit is located, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency, such right of entry shall be immediate, whether the Unit Owner is present at the time or not. In the event of the exercise of the right of access provided in

this Section 15, any costs¹ for repairs shall be borne in accordance with the provisions of Section 9 of this Article VI.

Section 16. *Rules of Conduct.* Rules and regulations concerning the use of the Units and the common elements may be promulgated and amended by the Board of Managers with the approval of a majority of the Unit Owners. Copies of such rules and regulations shall be furnished by the Board of Managers to each Unit Owner prior to the time when the same shall become effective. Initial rules and regulations, which shall be effective until amended by the Board of Managers with the approval of a majority of the Unit Owners, are annexed hereto and made a part hereof as Exhibit A.

Section 17. *Water Charges and Sewer Rents.* Water shall be supplied to all of the Units and the common elements through one (1) or more building meters and the Board of Managers shall pay, as a common expense, all charges for water consumed on the Property, including the Units, together with all related sewer rents arising therefrom, promptly after the bills for the same shall have been rendered. In the event of a proposed sale of a Unit by the Owner thereof, the Board of Managers, on request of the selling Unit Owner shall execute and deliver to the purchaser of such Unit or to the purchaser's title insurance company, a letter agreeing to pay all charges for water and sewer rents affecting the Property as of the date of closing of title to such Unit promptly after such charges shall have been billed.

Section 18. *Electricity.* Electricity shall be supplied by the public utility company serving the area directly to each Unit through a separate meter and each Unit Owner shall be required to pay the bills for electricity consumed or used in his Unit. The electricity serving the common elements shall be separately metered, and the Board of Managers shall pay all bills for electricity consumed in such portions of the common elements, as a common expense.

ARTICLE VII

Mortgages

Section 1. *Notice to Board of Managers.* With the exception of any mortgage provided by Sponsor and executed and delivered in connection with the initial sale of the Unit, a Unit Owner who mortgages his Unit, shall notify the Board of Managers of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Board of Managers; the Board of Managers shall maintain such information in a book entitled "Mortgages of Units".

