

# CODE OF REGULATIONS

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Linden Green Condominium Association

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**LINDEN GREEN CONDOMINIUM  
CODE OF REGULATIONS**

Pursuant to the provisions of the Delaware Unit Property Act, Chapter 22 of Title 25  
Delaware Code of 1975, as amended

**ARTICLE I – GENERAL PROVISIONS**

**1. Identification of the Property.**

The Code of Regulations governs the operation, management and administration of certain property located at Skyline Drive, Golfview Drive, Valley Green Drive and Sandy Brae Drive, Mill Creek Hundred, New Castle County, Delaware, known as Linden Green Condominium, which has been submitted to the provisions of the Delaware Unit Property Act, Title 25, Chapter 22 of the Delaware Code of 1975, as amended (the "Act"), by the contemporaneous recording in the Office of the Recorder of Deeds in and for New Castle County, Delaware, of the Code of Regulations (the "Code"), of a Declaration In which reference is made to this Code of Regulations (the "Declaration") dated and recorded in Deed Record E, Volume 116, Page 278, and of the Declaration Plan referred to in said Declaration (the "Declaration Plan") as prepared and recorded in Microfilm No. 6102.

**2. Definition.**

The following words and terms shall herein have the meanings respectively ascribed thereto in the Declaration: The Common Elements, the Property, the Improvements, the Buildings, the Exterior Improvements, the Additional Improvements, the Proportionate Interests, the Declarant, the Construction Lender, the Council, the Units, the Unit Designations and the Unit Owners.

The term "Common Expense" when used herein and in the Declaration shall mean all the expense of administration, maintenance, repair and replacement of the Common Elements and the expenses of the Council in managing its business operation and affairs (as defined in the "Act") and in otherwise exercising its powers and duties hereunder and under the Act and Declaration, and all expenses agreed upon as common by all the Unit Owners or declared common by the Act, the Declaration or the Code of Regulations. The term "Common Expenses" also includes, by way of illustration and not of limitation:

- (a) The costs of the operation of the Property, the cost of the maintenance, repair, additions, alterations, improvements, and replacements thereof and thereto called for by the Council pursuant to this Code, the cost of repairs and restoration in excess of applicable insurance proceeds pursuant to Sections 1 and 2 of Article VIII hereof and all amounts necessary to discharge any mechanics liens arising as a result thereof
- (b) The compensation of employees and agents of the Council including without limitation the fees of counsel and independent accountants and the fees and expenses of the Insurance Trustee referred to in Section 8 of this Article I, and the costs of maintaining the offices of the Council, if any;
- (c) The premiums on all policies of insurance and fidelity bonds obtained by the Council.
- (d) The liabilities of the Council under contracts or otherwise imposed by law or resulting from or out of the settlement of Litigation.
- (e) The liabilities of all Unit Owners as described as Common Expenses in Section 3 of Article V hereof;

- (f) Such amounts as the Council deems proper for working capital, general operating reserves, reserves for replacements and contingencies and for payment of such taxes as may be assessed against the Common Elements or the Council;
- (g) Amounts expended by the Council in its own behalf to purchase, hold, repair and restore, sell, convey, mortgage (including the interest payable under any mortgage), lease or otherwise deal in Units acquired and held pursuant to Section 1 of Article X hereof and to pay the assessments for taxes, municipal claims and other charges assessed against such Units while Council is the owner thereof;
- (h) The charges for utilities, electric, heating fuel, water and sewer service to the Property, including the Common Areas and individual units, excepting however such services for which separate metering and separate billing is provided for individual Units, the cost of repairs, maintenance and replacement of the central heating units in the apartment buildings and in the townhouses;
- (i) Uncollectible assessments for Common Expenses;
- (j) The costs of suit which are Common Expenses under Section 5 of Article V hereof; and
- (k) Obligations undertaken by any nominee on behalf of or at the request of Council.

The term "Common Profits" when used herein and in the Declaration, shall mean the common profits of the Property, or of the Council less the expenses thereof, such as, by way of illustration and not limitation, any net profit from the leasing or resale of a Unit acquired by the Council pursuant to Section 1 of Article X hereof and from any leasing of any portion of the Common Elements.

**3. Administration of the Property.**

The administration of the Property and the operation, regulation and management of the Council shall be governed by this Code of Regulations, as the same may from time to time be amended.

**4. Persons Bound.**

- (a) This Code of Regulations shall inure to the benefit of and be binding upon the Declarant and its successors or assigns.
- (b) All present and future owners, mortgagees, leases and occupants of the Units and of the Common Elements, and their agents and employees, and any other person or entity who or which may use the facilities of the Property, are subject to and bound by the provisions of the Declaration, the Declaration Plan, the Code, the Rules from time to time in force pursuant to Section 7 of this Article I, and the deeds of such Units. The acceptance of a deed, mortgage or other instrument of conveyance relating to any Unit, or the entering into a lease or other agreement relating to a Unit, or the act of occupancy or use of any facilities of the Property, or the filing of a lien against the Property, or any of the Units therefore, shall constitute an agreement to be so subject and so bound and shall constitute an acceptance and ratification of the Declaration, the Declaration Plan, the Code and the Rules and the provisions of any deed to such Unit.

**5. Office.**

The Council shall maintain an office at the Property or at such other location within the State of Delaware as the Council may from time to time specify by resolution duly adopted.

6. Rules.

The initial rules governing the details of the use and operation of the Property and the use of the Common Elements have been adopted by the first members of the Council as named In the Declaration and have been executed and dated as of the date hereof by such members. Copies thereof shall be delivered to Unit Owners as Units are sold. The Council may amend such rules from time to time, subject to the right of a Majority of Unit Owners (as that term is defined in Section 6 of Article 2 hereof) by a resolution duly adopted at any duly convened meeting of Unit Owners, to change such rules. Copies of any such amendments or changes shall in each such case be promptly furnished by the Council to each Unit Owner. Such rules, as the same may from time to time be so amended or changed, are herein referred to as the "Rules".

7. Insurance Trustees.

An insurance trustee shall carry out the duties assigned to it under this Code. The insurance trustee shall be a national or state bank or trust company, or a bank and trust company, having trust powers, which does and is authorized to do business in the State of Delaware and has (and while so acting shall maintain) capital and surplus aggregating not less than \$5,000.00. The insurance Trustee shall serve as such until its appointment as such is terminated by the Council, or until it shall resign its appointment, and, in either case, until a successor meeting the foregoing qualifications has been appointed by the Council and has accepted such appointment. The same procedure shall apply in the case of subsequent termination by or resignations of one or more successor insurance trustees. The entity from time to time serving as such insurance trustee is hereinafter called the "Insurance Trustee". Any agreement between the Council acting in its own behalf or on behalf of the Joint Owners and the Insurance Trustee may be amended only by a writing executed in accordance with Section 10 of Article IV hereof, approved in writing by all mortgagees under Permitted Mortgages (as defined in Section 1 of Article IV hereof) who have theretofore notified the Insurance Trustee in writing of their names and addresses and by the Insurance Trustee, if it duties are affected Thereby.

## ARTICLE II – THE UNIT OWNERS

1. Annual Meeting of the Unit Owners.

The first annual meeting of the Unit Owners as such Unit Owners shall be called by the President promptly following the first date on which title to seventy-five percent of the Units shall have been conveyed by the Declarant to Unit Owners, other than Declarant, but in no event later than three years from the date hereof, regardless of the number of Units so conveyed. The Secretary shall thereupon give at least five and not more than thirty days written notice thereof to all Unit Owners and such meeting shall be held on the date specified in such notice. Thereafter, annual meeting shall be called by the President and held on the Third Monday in September of each year if a business day, and if not, then on the next succeeding business day. At each annual meeting, the Unit Owners shall elect by written, secret ballot the members of the Council, pursuant to and subject to such other business as may properly come before the meeting.

2. Special Meeting of the Unit Owners.

At any time after the first annual meeting of Unit Owners is held as provided in Section 1 of this Article II, the President shall promptly call special meetings of the Unit Owners when so directed by a resolution of the Council or by a petition signed by Unit Owners having Proportionate Interests aggregating thirty-three percent or more of the Proportionate Interests of all eligible Unit Owners specifying in each case the purpose thereof. No business shall be transacted at the meeting other than as specified in the notice thereof. No special meeting may be called except for the purpose of considering one or more particular items of business.

The first annual meeting of the Unit Owners shall be called as an organizational meeting at the time specified in Section 1 of this Article II, and shall be called in accordance with the requirements thereof pertaining to the calling of a special meeting. No special meeting may be called, except by the Council, prior to this first annual meeting of the Unit Owners.

**3. Notice of Meeting of the Unit Owners.**

The Secretary shall give notice of each annual and each special meeting of the Unit Owners to the Unit Owners (except as provided in Section 2 of Article X hereof) in accordance with the provisions of Section 1 of Article XII hereof, at least five and not more than thirty days prior to the meeting date. The notice shall specify the time and place of the meeting and, in the case of each special meeting, shall include the purposes thereof as specified in the resolution or petition pursuant to which it was called.

**4. Place of Meetings.**

Meetings of the Unit Owners shall be held at the Property or at such other suitable place convenient to the Unit Owners as may be specified by the Council in the notice thereof.

**5. Voting.**

(a) Except as otherwise provided in this Code at all meetings of the Unit Owners, there shall be allowed only one vote per unit regardless of the number of owners of a unit which vote shall be equal to the proportionate interest of that unit. Votes may be cast at all meetings either in person or by proxy. Only a Unit Owner or an officer of a corporate Unit Owner, or an occupant may be named as a proxy. All such proxies shall be in writing and shall be delivered to the Secretary prior to the vote, and shall be revocable at any time by written notice to the Secretary. No proxy shall be valid for more than one year from the date it was originally granted. The persons or entities from time to time entitled to exercise voting rights appurtenant to the Units shall be those shown at the time of reference on a voting list to be continuously maintained by the Secretary, which list shall be closed for each meeting at the close of business on the business day next preceding the meeting date. Said list shall reflect the Unit Owner of record of each Unit. In cases where a partnership, corporation or association is, or where more than one fiduciary, tenants in common, joint tenants or tenants by the entireties are the Unit Owner, such Unit Owner shall designate no more than two partners, corporate officers, associates, fiduciaries or tenants as those entitled to exercise the voting rights appurtenant to such Unit, which designation shall be reflected on such voting list and shall be controlled until canceled or superseded by such Unit Owner. In such event, if the constituent parties of the Unit Owner cannot agree upon the designation of such designee(s) or such designee(s) cannot agree upon the vote to be cast, then the said Unit Owner shall, until there shall be such an agreement or designation, be deemed not to have voted. The vote of each Unit Owner may only be cast as an entirety and may not be split or apportioned. Where a Unit is held in a fiduciary capacity, the fiduciary rather than the beneficiary shall be entitled to exercise the appurtenant voting rights. The voting list shall be kept at a place convenient to the Property and may be inspected during regular business hours by any Unit Owner, purchaser or Permitted Mortgagee, and it shall be produced and kept open to like inspection throughout each meeting of the Unit Owners. With respect to each of the Units owned by Declarant, Declarant may vote in the same manner as any other Unit Owner. Council shall not be considered as a Unit Owner for the purpose or voting, or quorum, nor shall it be eligible to vote.

(b) Voting by Mail. <sup>1</sup> Whenever the Unit Owners' passage of a resolution requires the approval by a majority or super-majority (including a unanimous vote) of the Unit Owners, Council may, in its sole and absolute

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<sup>1</sup> *Voting by Mail (entirety of paragraph b) added in amendment passed on July 6, 2017.*

discretion, following discussion of the resolution at a duly called meeting of the Unit Owners at which a quorum was achieved, direct that the Unit Owners' vote proceed by written ballot sent to each Unit Owner at said Unit Owner's address on record with the Council. The ballot shall be accompanied by the full text of the resolution and instructions for voting, including a deadline for the Council's receipt of returned ballots. The ballot and resolution may be accompanied by one or more of the following documents: an additional explanation of the resolution, a projection of its predicted financial impact on the condominium, a Council recommendation for or against adoption of the resolution, and a return envelope. A ballot not returned by the deadline will be treated as a vote against the adoption of the resolution unless the ballot has enclosed with it a Council recommendation for or against the resolution, in which case the unreturned or untimely returned ballot will be treated as a vote in accordance with the Council recommendation. A ballot with a conditional vote "for" or "against" the resolution shall be counted as ballot not returned. The returned ballots shall be retained by the Council for a period of no less than three (3) years from the date of the Unit Owners' meeting at which the resolution was discussed. The ballots shall be kept confidential, except that (i) the result of the balloting will be announced by prompt written notice to the Unit Owners, and (ii) following announcement of the result of the mail-in balloting, upon the written request of one or more Unit Owners, the vote shall be canvassed by a committee consisting of the Council President, one other member of the Council, and a Unit Owner not a member of the Council who certifies that he voted against the announced result, after which canvass and the announcement of the committee's finding, the ballots will be secured and only reviewed again by order of a court of competent jurisdiction

**6. Majority of Unit Owners**

The phrase "Majority of Unit Owners" as used herein means the owners of Units at the time of reference, having more than fifty (50%) percent of the assigned Percentage Interests in the Common Elements.

**7. Quorum.**

The presence at a meeting in person or by proxy of persons or entities having the right under Section 5 of this Article II to cast no less than twenty (20%) percent <sup>2</sup> of the votes appurtenant to all Units shall constitute a quorum and the acts of such meeting at which a quorum is present, which have been approved and adopted by a majority of such votes, shall be the acts of and shall be binding upon all the Unit Owners, for all purposes except where under the Act, the Declaration or this Code a higher percentage of vote is required. If less than a quorum is present at any meeting, a majority vote based on the number of the Unit Owners present in person or by proxy may adjourn the meeting from time to time. At any adjourned meeting at which a quorum is present any business may be transacted which could have been transacted at the meeting originally called, without further notice.

**8. Cost and Expenses of Ownership and Use of Units.**

Each Unit Owner shall be responsible for all costs and expenses of the ownership and use of his Unit, including by way of illustration and not of limitation:

- (a) all taxes, municipal claims and charges levied against his unit;
- (b) all utility services furnished to or used in his Unit, except those expenses included as Common expenses;
- (c) all assessments against the Unit pursuant to Article VI;

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<sup>2</sup> *Quorum reduced from 40% to 20% in amendment passed on July 6, 2017.*

- (d) interest and other costs and expenses under any Permitted Mortgage (as defined In Section 1 of Article IX hereof) affecting his Unit; and
- (e) all liens of any other nature as may be filed, recorded or imposed against his Unit.
- (f) the cost of any unreasonable, abusive or negligent use, or misuse of any utility including electric, heat, fuel, water or sewer, which ate provided as part of the common expense, shall be paid separately by such unit owner.

### ARTICLE III – THE COUNCIL

#### 1. Number and Qualifications. <sup>3</sup>

The Council shall initially consist of three (3) members. When the Condominium reaches seventy-five percent (75%) units sold and settled by Declarant or the three years from the date of this document, whichever arrives first, the Council will be expanded to a total of not more than five (5) members at the organizational meeting. Each Council member shall be a natural person and shall be a Unit Owner (including a director, officer or partner of the Unit Owner which is a corporation, association or partnership). A Unit Owner with a delinquent balance (past due more than 30 days) cannot apply for Council membership or serve on a committee.

#### 2. Powers and Duties.

Subject to the limitations and restrictions contained in the Act, the Declaration and this Code, the Council shall in the Declaration Plan or necessary to administer and manage the business operation and affairs of the Property. Such powers and duties of the Council shall include, by way of Illustration but not of limitation, the following:

- (a) The operation, maintenance, repair, improvement and replacement of the Common Elements, the Common Facilities heretofore defined and of any Unit which from time to time be owned in the name of the Council:
- (b) The determination of the Common Expenses and the Common Profits, if any:
- (c) The assessment and collection or the Common expenses and the distribution and application of the Common Profits, it any;
- (d) The payment of Common Expenses as may be incurred by or on behalf of the Project of the Council which shall be paid from such assessments and in the event any reserves have been established for anyone or more Common Expenses, may be paid in whole or in part from such reserve, as Council may determine.
- (e) The promulgation, distribution and enforcement of the Rules, subject to the right herein set forth of a Majority of Unit Owners to change any such Rules;

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<sup>3</sup> Article III, section 1 was revised under the amendment passed on December 8, 2021.

- (f) The power to engage and dismiss employees and to appoint and dismiss agents necessary for the management of the business, operation and affairs of the Property or of the Council and to define their duties and fix their compensation;
- (g) The power to enter into and to perform under contracts, deeds, leases and other written instruments or documents in the name of the Council and to authorize the execution and delivery thereof by its officers or assistant officers;
- (h) The power to open bank accounts and to designate the authorized signatories therefore;
- (i) The power to purchase, hold, sell, convey mortgage or lease any one or more Units in the name of the Council pursuant to Section 1 of Article X hereof;
- (j) The power to bring, prosecute, defend and settle litigation for and against itself, and the Property and to pay any adverse judgment entered therein, provided that it shall make no settlement which results in a liability against the Council or the Property in excess of \$25,000.00 without prior approval of the Majority of Unit Owners, provided, however, so long as Declarant has the privilege to elect or appoint a majority of the members of the Council, this figure shall be limited in amount to \$5,000.00;
- (k) The power to obtain and maintain insurance pursuant to Article VIII hereof;
- (l) The power to repair or restore the Property following damage or destruction, or a permanent taking by the power or a power in the nature of eminent domain or by an action or deed in lieu of condemnation, not resulting in a termination pursuant to Section 18 of the Declaration;
- (m) The power to own, purchase, lease, hold and sell or otherwise dispose of, on behalf of the Unit Owners, and in its own name or in the name of a nominee, items of personal property necessary to or convenient in the management of the business and affairs of the Council and in the operation and management of the Property, including, without limitation, furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies;
- (n) The power to lease portions of the Common Elements;
- (o) The power to invest any funds which the Council may have collected or received, in interest bearing accounts, which shall be, where feasible, insured by a federal agency,
- (p) The duty to keep adequate books and records as required by Section 1 of Article XI hereof,
- (q) The power to maintain its own offices to the extent it deems appropriate from time to time, and to pay the costs thereof.

The Council may employ a managing agent at compensation from time to time to established by the Council, to perform such duties and service as the Council shall authorize and direct. The Council may delegate to the managing agent the powers referred to in clauses (a), (b), (c), (e), (f) (except for the hiring or retaining of legal counsel, independent accountants and managing agents), (k), (l), (o), (p) and (r) of this Section 2. Except for the Declarant, said managing agent shall not be a Unit Owner or a constituent party of a Unit Owner, except if appointed pursuant to a resolution of Unit Owners having the affirmative vote of at least seventy-five percent at all the Unit Owners.

Beneficial ownership of any personal property from time to time held for the joint use and enjoyment of all the Unit Owners, whether situate in or upon the Common Elements or elsewhere, shall be vested in all the Unit Owners in accordance with their respective Proportionate Interests and the Council shall have the power and duty on their behalf to purchase or otherwise acquire, hold and lease, mortgage, sell or otherwise deal in, and to insure, repair or replace the same, as the Council shall from time to time determine.

**3. First Members of the Council.**

The first members to the Council shall be those persons designated by the Declarant who are named in the Declaration. The first members or their respective successors, if any, from time to time designated by the Declarant shall serve until the annual meeting next succeeding the date when Declarant is no longer entitled to appoint a majority of the members of Council and until their Successors have been elected and qualified.

**4. Election and Term of Office.**

At the first and at each subsequent annual meeting of Unit Owners held prior to the date of the special meeting referred to below in this Paragraph 4, one (or if there be five members of Council, then two) members of the Council shall be elected to serve until the next succeeding annual meeting or until the first annual meeting hereafter referred to in this section and until their respective successors are elected. During that period, the Declarant shall have the right to designate the remaining members of the Council, whose terms shall expire on the date of such special meeting. The first annual meeting as determined by the provisions of Article 11, paragraph 1, hereof shall be called as a special meeting of the Unit Owners and shall be promptly called by the President after seventy-five percent of all Units have been conveyed by the Declarant, for the purpose of electing members of the Council to succeed the members appointed by the Declarant, which members shall serve until the next succeeding annual meeting or Unit Owners and until their respective successors are elected.

At the next annual meeting of the Unit Owners following the date of the conveyance by the Declarant of the final Unit to be sold by the Declarant, the terms of all members of the Council shall expire. Thereafter, the term of each member of Council shall be one year except that the Unit Owners may at any time adopt a schedule of staggered terms of office for members of Council thereafter elected, but no term shall be for a period of less than one year or more than three years. A member of Council shall remain in office until his successor is elected and qualified.

**5. Election Procedures.**

A member shall be elected to Council by a majority vote of a duly constituted annual meeting or special meeting of Unit Owners called for the purpose. If no candidate for a given seat on the Council obtains a majority vote on the first ballot, then the candidate receiving the smallest vote shall be eliminated and another ballot taken, which procedure shall be repeated as often as necessary in order to maintain a majority vote for seat. All voting for Council members shall be by written and secret ballot supervised by three (3) inspectors of election appointed by the President from among the qualified voters present at such meeting.

**6. Removal of Members of the Council.** <sup>4</sup>

At any regular or special meetings of Unit Owners, any one or more of the members of the Council may be removed with or without cause by Unit Owners having sixty-six and two-thirds percent (66.67%) of the Proportionate Interests in the Common Elements. The said Unit Owners may then fill the vacancy thus created. All members of the Council whose removal has been proposed by the Unit Owners shall be given an opportunity to be heard at the meeting held to consider his/her removal. Additionally, any Council

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<sup>4</sup> Article III, section 6 was revised under the amendment passed on December 8, 2021.

member owing a delinquent balance (more than 30 days) or who has missed three (3) consecutive Council meetings must resign from the remainder of their term.

**7. Vacancies.**

Vacancies in the Council (other than vacancies in the term of any member to be designated by the Declarant under Sections 3 or 4 of this Article III which shall be filled by the Declarant caused by any reason other than the removal of a member thereof by a vote of the Unit Owners pursuant to Section 6 of this Article III, including without limitation by virtue of the expiration of the Declarant's right to designate a member of the Council under Section 4 of this Article III, shall be filled by a vote of a majority of the remaining members of the Council, even though less than a quorum, promptly after the occurrence thereof, and each person so elected shall be a member of the Council for the remainder of the term so filled.

**8. Organization Meeting of the Council.**

An organization meeting of the Council, including both the incumbent and newly elected members of the Council, shall be called by the President and held immediately following each annual meeting of the Unit Owners. The first item of business at such meeting shall be the election of officers among and by the newly elected Council members. This election shall be conducted by the incumbent President. Thereafter, the incumbent Council members shall proceed to conduct any other business which may be brought before the Council. This annual meeting shall then be adjourned for no less than ten (10) days nor more than twenty (20) days, to a generally convenient date, time and place as determined by majority vote of both incumbent and newly elected Council members. During the period of adjournment, the incumbent officers shall assist the newly elected officers in becoming familiar with the responsibilities, problems, procedures and techniques of their office. Upon resumption of the meeting following the period of adjournment, the incumbent officers shall make a final report to the Council. The incumbent Council members and officers shall then be regarded as having concluded their terms, and the newly elected Council members and officers shall alone constitute the Council and shall proceed to set dates for the regular meetings of the Council, and to transact such other business as may then come before the Council, including consideration of a budget for the coming year.

**9. Regular Meetings of the Council.**

Regular meetings of the Council shall be held at such times and places as the Council may from time to time determine, but in no event less frequently than once every six (6) months. At all times after the first annual meeting of Unit Owners, at least five (5) days written notice of the Council meetings shall be given to all members of the Council.

**10. Special Meetings of the Council.**

Special meetings of the Council may be called by the President or by two or more members of the Council, and held on notice by letter or telegram, mailed or delivered for transmission not later than three (3) days prior to the meeting date, specifying the time, place and particular purposes of the meeting. No business may be transacted at a special meeting other than as specified in the notice thereof unless all members attend or waive notice.

**11. Place of Meetings.**

Meetings of the Council shall be held at the Property or at such other place as the Council may specify.

**12. Waiver of Notice.**

Any notice of any meeting of the Council may be waived by any member thereof in writing prior to, at or subsequent to the meeting and attendance at the meeting shall constitute a waiver of notice thereof.

**13. Effect of Presence at Meetings of the Council.**

Any member of the Council present at any meeting thereof shall be deemed to have assented to any action taken thereat unless his dissent is entered on the minutes thereof or unless he shall file his written dissent with the Secretary at or immediately following the adjournment thereof, provided that no member may so dissent from any action for which he voted at the meeting.

**14. Quorum.**

Many of the members of the Council shall constitute a quorum at any meeting thereof, and the act of a majority of the members at a meeting at which a quorum is present at the time any vote is taken shall be the act of the Council. If less than a quorum is present at any meeting, a majority of those present may adjourn the meeting from time to time, and at any adjourned meeting at which a quorum is present any business may be transacted which could have been transacted at the meeting originally called, without further notice.

**15. Action by Written Consent.**

So long as the Council is composed entirely of designees of the Declarant pursuant to Section 3 of this Article III, the members of the Council may act by unanimous written consent in lieu of a meeting. Thereafter, unless authorized by vote of the Unit Owners, the Council shall act only at duly constituted meetings thereof.

**16. Council Committees.**

The Council may, from time to time, establish such one or more standing or ad hoc committee, as it may deem necessary or appropriate for the administration of the affairs of the Council or of the Condominium. Each such committee shall have the discretionary, decision-making or advisory powers with which the Council may invest it, provided, however, that the Council shall retain full responsibility for any acts undertaken by any committee within the authority granted to it. The members of any such committee shall be appointed from the members of Council or from those persons entitled to vote at any meeting of Unit Owners, or any combination thereof.

**17. Participation in Meetings by Communications Equipment.**

One or more members of the Council may participate in and be counted for quorum purposes at any meeting of the Council by means of conference telephone or similar communications equipment by means or which all persons participating in the meeting can hear each other.

**18. No Compensation of Members of the Council.**

No member of the Council shall be compensated for acting as such.

## ARTICLE IV – THE OFFICERS

**1. Number and Qualifications.**

The officers of the Council shall include a President, Treasurer, and Secretary and may include a Vice President and such other officers as the Council may from time to time determine. The offices of Treasurer and Secretary may be filled concurrently by the same person. All officers shall be chosen from among the members of the Council.

**2. Election, Term and Removal.**

The Officers shall be elected annually by a majority vote of the Council at its organization meeting and shall serve until the next following annual organization meeting of the Council and until their successors are

elected. Any officer may be removed at any time, with or without cause, by the Council at a special meeting called for said purpose and at which meeting said officer shall have an opportunity to be heard.

**3. Vacancy.**

Any vacancy in any office by reason of death, resignation, removal or otherwise, shall be promptly filled by majority vote of the Council, and the successor officer shall serve the balance of the term so filled.

**4. Assistant Officers.**

The Council may from time to time elect one or more assistant officers who shall serve at the pleasure of the Council. Assistant officers need not be members of the Council.

**5. President.**

The President shall be the chief executive officer. He shall preside at all meetings of Unit Owners and of the Council and shall have all powers and duties customarily vested in chief executive officers, including the power to execute, acknowledge, and deliver Instruments on behalf of the Council.

**6. Vice President.**

The Vice President, if any, shall exercise the powers and duties of the President in his absence or in the event of the President's incapacity to act, and he shall have such other duties as the Council or the President may impose.

**7. Treasurer.**

The Treasurer shall be the chief financial officer. He shall have charge and custody of the funds of the Council. The Treasurer shall keep detailed books and records of all assets, liabilities, receipts, and expenditures of the Council, specifying and itemizing therein (i) the costs and expenses of the maintenance, repair and replacement of the Common Elements and (ii) all other expenses incurred or revenues received by the Council. In pursuance of the Council's assessments of the Common Expenses against the Units and the Unit Owners, he shall keep an accurate record of such assessments and of the payment thereof by each Unit Owner. He shall deposit the funds of the Council in the name of the Council in such depositories as the Council may from time to time designate. He shall, on request, render to the Council an accounting of all his transactions as Treasurer and of the financial condition of the Council and in general he shall have the powers and duties customarily vested in chief financial officers.

The Treasurer and any other employee or agent of the Council handling its funds shall, if required by the Council, in addition to the bonding requirements set forth in Section 8 of Article VIII hereof, furnish bond in such form and amount and covering such risks as the Council shall require, the premium for which shall be a Common Expense. He shall comply with all requirements made of him by the Act.

**8. Secretary.**

The Secretary shall be responsible for giving any requisite notice of meetings and for keeping the minutes and for keeping the minutes of all meetings of the Unit Owners and of the Council. He shall maintain records of all calls, notices, waivers of notice and minutes of all meetings of the Unit Owners and of the Council, of all proxies to vote at meetings of the Unit Owners and of all written consents of the Council. He shall maintain the voting list required by Section 5 of Article II hereof and a list of all addresses submitted for notice purposes pursuant to Section 1 of Article XII hereof. The Secretary shall be the custodian of all the books and records of the Council other than those whose custody is placed herein in the Treasurer and in general shall have the powers and duties customarily vested in Secretaries.

9. **No Compensation of the Officers.**

No officer or assistant officer shall be compensated for acting as such unless authorized by resolution duly adopted at a meeting of the Unit Owners wherein the compensation to be paid any one or more of such officers is specifically stated. Nothing herein shall be deemed to prevent any officer from being reimbursed costs and expenses advanced or paid by said officer for the benefit of or on behalf of the Council.

10. **Execution of Instruments.**

No agreement, check, deed, lease, or other instrument shall be binding upon the Council unless entered into on its behalf by the Council and signed by two officers or by one officer and by one assistant officer or by one officer and any other person designated for such purpose by the Council.

## ARTICLE V – LIABILITY AND INDEMNIFICATION

1. **Liabilities of Members or Council and Officers.**

The members of the Council and the officers and any assistant officers of the Council;

- (a) shall not be liable to the Unit Owners as a result of their activities as such members, officers or assistant officers for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith;
- (b) shall have no personal liability in contract to any Unit Owner or any other person or entity under any agreement, instrument or transaction entered into by them in such capacity or capacities;
- (c) shall have no personal liability in tort to a Unit Owner or any other person or entity direct or imputed, except for their own willful misconduct or bad faith, for acts performed for them in such capacity or capacities; and
- (d) shall have no personal liability arising out of the use, misuse or condition of the Property, which might be any other way be assessed against or imputed to them as a result or by virtue of such capacity or capacities.

2. **Indemnification by Unit Owners.**

The Unit Owners shall indemnify and hold harmless any person and his heirs and personal representatives from and against any and all personal losses, liabilities and expenses, including counsel fees incurred or imposed or arising out of or in settlement of any threatened, pending or completed action, suit or proceedings, whether Civil, criminal, administrative or investigative instituted by any one or more Unit Owners or any other persons or entities, to which he shall be or shall be threatened to be made a party by reason of the fact that he is or was a member, officer or assistant officer of the Council, other than to the extent, if any, at such loss, liability or expense shall be attributable to his willful misconduct or bad faith, provided, in the case of any settlement, that the Council shall have approved the settlement, which approval shall not be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law by agreement or vote of Unit Owners or of the Council, or otherwise. The costs, if any, of the indemnification by the Unit Owners set forth in this Section 2 of Article V shall be paid by the Council on behalf of the Unit Owners, shall constitute a Common Expense and shall be assessed and collectible as such, and not otherwise.

**3. Liabilities of Individual Unit Owners.**

Each Unit Owner and any lessees, sub-lessees or occupants of said Unit shall be jointly and severally liable for losses, liabilities and expenses arising out of their own conduct or arising out of the ownership, occupancy, use, misuse or condition (except when the result of the condition affecting all or other parts of the Property) of said Unit.

**4. Language Concerning Liability in Agreements.**

It is intended that in every agreement, deed, lease or other instrument entered into by the Council the officers or assistant officers of the Council executing the same are acting only as agents for the Unit Owners and that the persons executing the same shall have no personal liability thereunder (except to the extent, if any, that they may also be Unit Owners at the time of any such liability is assessed), that any claim by the other party or parties thereto in respect thereto or to the subject matter thereof shall be asserted against the Council which shall act on behalf of the Unit Owners in respect thereto, and that any liability thereunder or in respect of the subject matter thereof shall be a Common Expense. Pursuant hereto, every agreement, deed, lease or other instrument entered into by the Council shall contain the following language or such other specific language as the Council may by resolution provide: "Any and all obligations contained herein or hereunder have been entered into on behalf of the Unit Owners by their duly authorized agents, and no such agent, as a member of the Council shall be held to any personal liability in connection with said obligation, and any person dealing with any such agent shall look solely to the Council for the payment of any claim hereunder, or for the performance hereof." All obligations and liabilities created by any such instrument shall be a Common Expense and shall be borne by those who are Unit Owners at the time such liability may be assessed by the Council as a Common Expense pursuant to Article VI hereof, for which assessment each such Unit Owner shall be liable only to the extent of his Proportionate Interest as therein provided.

**5. Costs of Suit in Actions Brought by One or More Unit Owners on Behalf of all Unit Owners.**

If any action is brought by one or more but less than all Unit Owners on behalf of all Unit Owners and recovery is had, the plaintiff's expense, including reasonable counsel fees, shall be a Common Expense, provided that if such action is brought against all other Unit Owners or against the Council, the officers, assistant officers, employees or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the Unit Owners, the plaintiff's expenses, including counsel fees, shall not be charged to or borne by the other Unit Owners, as a Common Expense or otherwise.

**6. Notice of Suit and Opportunity to Defend.**

Litigation instituted against the Council, or against the officers, assistant officers, employees or agents thereof in their respective capacities as such, or against the Property as a whole, shall be referred to the Council, which shall promptly give written notice thereof to the Unit Owners and the holders of any Permitted Mortgages (as defined in Section 1 of Article IX hereof). Such litigation shall be defended by the Council. The Unit Owners and such holders shall have no right to participate other than through the Council in such defense. Litigation instituted against one or more but less than all Unit Owners or Units alleging liabilities covered by Section 3 of this Article V shall be directed to such Unit Owners. Any Unit Owner who is served with legal process affecting solely his Unit or who receives knowledge thereof in any other fashion shall promptly give written notice thereof to the Council and to the holders or any Permitted Mortgages affected thereby. Such litigation shall be defended by such Unit Owner.

## ARTICLE VI – COMMON EXPENSES, COMMON PROFITS AND COLLECTIONS

### 1. Determination of Common Expenses and Common Profits.

The Council shall periodically (and in no event less than annually) determine by resolution duly adopted the estimated Common Expenses and Common Profits, if any, for the ensuing period, which determination shall be set forth in an appropriate budget. Each budget so adopted shall set forth the period covered thereby, specifically mentioning the commencement date and termination date thereof, and the total monthly assessment to be made against all Unit Owners as a group, in order to meet all budgeted financial requirements. Upon such occasions, the Council shall also report the Common Expenses incurred and the Common Profits, if any, received during the period then ended. Such determinations of Common Expenses and budgets shall include, without limitation, such amounts as the Council deems proper for working capital, general operating reserves and reserves for the future replacement of Common Elements, in an amount adequate for the purpose, casualty losses in excess of insurance coverage, litigation, uncollectible assessments, contingencies and the like. Such determinations shall be called "regular budget determinations".

The Council may also, by resolution duly adopted make interim determinations between such regular budget determinations, to the extent it may deem same necessary from time to time. Each such interim determinations shall specify:

- (a) whether any item included in a previous regular budget determination is affected thereby, and if so, to what extent. Such shall be called "revised budget determination", and/or
- (b) whether a non-budget item has been considered in such determination, and if so, the nature and amount thereof. Such shall be called "non-budget determinations".

For each revised budget determination, the Council shall, concurrently with each such determination, specify the extent to and amount by which the previously determined budget, and the total monthly assessments are affected thereby. The Council shall by resolution duly adopted accept such revised budget determination and establish the change, if any, in the monthly assessment previously declared pursuant to the regular budget determination.

For each non-budget determination, the Council by resolution, duly adopted, shall determine if a special assessment shall be declared, and if so the total amount, the time and mode of payment thereof.

### 2. Assessments of Common Expenses and Distribution of Common Profits to Unit Owners.

The Council shall, promptly following each determination of the Common Expenses, by resolution duly adopted, assess against each Unit the share chargeable to that Unit, on the basis of its Proportionate Interest of the Common Expenses theretofore incurred or the estimated future Common Expenses so determined. Each such assessment which may provide for the establishment of a reserve for future replacement of Common Elements, or for the addition to a previously established reserve, shall specify a separate monthly assessment for such purposes. The fund or funds so established for such purposes shall be maintained separately from all other funds and shall be used only for the purpose for which each such fund was established. Notice of such assessments shall be in writing and shall be promptly given to each Unit Owner in the same manner as is provided in the case of notices pursuant to Section I of Article XII hereof. Such assessments shall constitute the personal liability of the owner of the Unit so assessed. The Unit Owner shall be severally and not jointly liable for the payment of such assessments, but with respect to the portion thereof allocable to a given Unit, the Unit Owners and any lessees or sub-lessees thereof shall be jointly and severally liable thereof.

- (a) All assessments made pursuant to a regular budget determination shall be payable by the Unit Owners in equal monthly payments, the first payment to be due on the first day of the month of the budget period covered by such assessment, and the subsequent payments to be due on the first day or each month thereafter. The notice to Unit Owners of budgeted assessments shall set forth the number of monthly payments required to meet such assessment, the due date of each monthly payment and the amount thereof.
- (b) All assessments made pursuant to a revised budget determination shall be due and payable in the same fashion, and the notice thereof to Unit Owners shall specify what change is made in the monthly payments, the effective date of such change and the total period covered by such change.
- (c) All assessments made pursuant to a non-budget determination shall, unless otherwise specified in the notice thereof to Unit Owners, be payable by the Unit Owners within thirty (30) days from the date on which each such resolution is adopted. Council may permit the payment of any one or more such assessments as determined by Council to be paid in installments over a fixed period of time with fixed installment payment dates. In such case, the resolution determining any such assessment shall specifically state that installment payments be permitted and shall fix the amount of each installment and the respective due dates thereof.
- (d) Should any assessment resolution not otherwise specifically provide, then, without exception, all assessments against any Unit of whatever nature, and whether payable in lump sum or installments, shall until fully paid, together with interest thereon from and after each respective due date at the highest rate of interest then permitted, constitute a charge against such Unit, or if no due date is provided in the assessment resolution then from the thirtieth day following the adoption of such resolution. The Unit Owner's liability for any assessments under this Article VI shall not be abated due to any interruption in his right of occupancy of his Unit or for any other reason whatsoever, except as otherwise specifically set forth in this Article VI. No Unit Owner may exempt himself or his Unit from liability with respect to the Common Expenses by waiver of the enjoyment of the right to use any of the Common Elements, by abandonment of his Unit, or otherwise. The Council may, with respect to the Common Profits, after payment of all taxes due or accrued thereon;
  - (1) distribute them to Unit Owners, in accordance with their respective Proportionate Interests;
  - (2) apply them in reduction of Common Expenses theretofore incurred, or
  - (3) budget and apply them in reduction or estimated future Common Expenses.

Determinations of estimated Common Profits to be received in the ensuing period following the period of the budget under consideration shall be taken into account in such budget.

- (e) Any advance deposit held by the Council for the account of any Unit or any Unit Owner, as advances for Common Expense Assessments shall, upon conveyance of said Unit to a new Unit Owner, be automatically deemed, for all purposes, to be assigned to the new Unit Owner and shall thereupon be held by the Council for the account of the new Unit Owner. This assignment may not be defeated or changed, notwithstanding any demand or instruction to the contrary by either the old Unit Owner or the new Unit Owner individually, or by both of them jointly.

### 3. Collection of Delinquent Assessments.

It shall be the obligation of the Council to take prompt measures to collect assessments for Common Expenses and for any expenses incurred on advances made by the Council under Sections 4 and 5 of Article

XII hereof, together with accrued interest, which remains unpaid after thirty (30) days from the date of the adoption of the resolution pursuant to which they were made or from the installment dates established therefor, or from the date incurred or advanced, as the case may be. Any such delinquent assessment together with such accrued interest may be enforced by suit by the Council acting on behalf of the Unit Owners, including without limitation, the delinquent Unit Owner, in an action as provided in the Act. Such action, when filed, shall refer to the Act. Any judgment against a Unit Owner shall be enforceable in the same manner as is otherwise provided by law. The delinquent Unit Owner shall be obligated to pay:

- (a) All expenses of the Council, including reasonable attorney's fees, incurred in the collection of the delinquent assessment by legal proceedings or otherwise; and
- (b) any amounts paid by the Council for taxes or on account of superior liens or otherwise including all interest and penalties thereon, if any, to protect its lien. Said expenses and amounts, together with accrued interest at the rate specified, shall be deemed to constitute part of the delinquent assessment and shall be collectible as such.
- (c) If any assessment or monthly condominium fee shall remain unpaid for more than five days after due, the Unit Owner shall pay a late charge of not less than \$25.00 and not less than 1% per month service charge on all delinquencies more than 30 days overdue, which amounts may be increased from time to time by Council.

**4. Delinquent Assessments at the Time of Conveyance of a Unit Other Than at Execution Sale.**

Upon the voluntary sale or conveyance of a Unit or any other transfer of a Unit by gift, operation of law or otherwise, except a transfer to the Council as contemplated by Section 1 of Article X hereof, the grantee or transferee shall be jointly and severally liable with the grantor or transferor for all unpaid assessments for Common Expenses which under the Act and this Code are a charge against said Unit, and for unpaid assessments pursuant to Sections 4 and 5 of Article XII hereof as of the date of the sale, conveyance or transfer. Such joint and several liability shall be without prejudice to the grantee's or transferee's right to recover from the grantor or transferor the amount of such unpaid assessment which the grantee or transferee may be required to pay. Until any such assessments are paid, they shall continue to be a charge against the Unit and may be enforced in the manner set forth in the Act and in this Code. Any person who shall have entered into a written agreement to purchase a Unit shall be entitled to obtain a written statement from the Treasurer setting forth the amount of unpaid assessments charged against said Unit and its Unit Owners, and if such statement does not reveal the full amount of the unpaid assessments as of the date when it is rendered, neither the purchaser nor said Unit after any such transfer or conveyance shall be liable for the payment of an amount in excess of the unpaid assessments shown thereon, provided, however, that the former Unit Owner-grantor shall remain so liable. Any such excess which cannot be promptly collected from the former Unit Owner-grantor shall be reassessed by the Council as a Common Expense to be collected from all Unit Owners, including without limitation, the purchaser of said Unit, his successors and assigns. The new Unit Owner shall be liable, and the former Unit Owner shall not be liable for any assessments made after the date of transfer of title to a Unit, even though the common Expenses or the expenses incurred or the advances made by the Council under Sections 4 and 5 of article XI hereof for which such assessments are made relate in whole or in part to any period prior to the date of transfer of title.

**5. Delinquent Assessments at the Time of Execution Sale & Purchase of Units at Execution Sale of a Unit.**

In the event that title to a Unit is transferred at judicial sale pursuant to execution upon any lien against such Unit, the Council shall give notice in writing to the official conducting the sale or any unpaid assessments for Common Expenses which are a charge against such Unit, and for any expenses of or advances by the Council made pursuant to Sections 4 and 5 of Article XII hereof, which have not therefore been reduced to lien

pursuant to Section 3 of this Article VI and to the Act. Said expenses and advances shall be paid out of proceeds of the sale as provided by the Act prior to the distribution of any balance to the former Unit Owner against whom the execution issued. The purchaser at such judicial sale and the Unit Involved shall not be liable for unpaid assessments for Common Expenses and for any expense XII hereof which became due prior to the judicial sale of the Unit. Any such unpaid assessments which cannot be promptly collected from the former Unit Owner shall be reassessed by the Council as a Common Expense to be collected from all of the Unit Owners, including the purchaser who acquired title at the judicial sale and his successors and assigns. To protect its right to collect unpaid assessments for Common Expenses which are a charge against a Unit, and in order to recover any expenses of and advances by the Council pursuant to Sections 4 and 5 of Article XII hereof the Council may, on behalf of all the Unit Owners, purchase such Unit at judicial sale, provided such action is authorized by this affirmative vote of a majority of the members of the Council. The protection hereinabove afforded to the purchaser at judicial sale shall, as to all such unpaid assessments which became due prior to any of the hereinafter named events, be afforded to the Construction Lender and to any first mortgagee who comes into possession of a Unit:

- (a) pursuant to the remedies provided in the Construction Loan Mortgage or in any other said first mortgage; or
- (b) by deed or assignment in lieu of foreclosure. Said Construction Lender first mortgagee protection shall be afforded without any further action or approval of any nature being necessary. In any such specified event, (i) the first mortgagee shall give written notice to the Secretary or the Council of the occurrence thereof within ten (10) days of the event and (ii) the Construction Lender shall not be required to give written notice.

**6. Statements of Delinquent Assessments.**

In addition to the statements issuable to purchasers of Units under Section 4 or this Article VI, the Council provide a current statement of unpaid assessments for Common Expenses and for any expenses of and advances by the Council pursuant to Sections 4 and 5 of Article XII hereof in respect of a Unit, to the Unit Owner, to any person who shall have entered into a binding agreement to purchase the Unit and to the holder of any Permitted Mortgage (as defined in Section 1 or Article IX hereof) on request at reasonable intervals. In addition, any first mortgagee, upon request, is entitled to written notification from the Council of any unpaid assessments of any Unit, or of any default by a Unit Owner of any obligation under the Declaration or Code, in each case only in relation to the Unit covered by said first mortgage, which is not cured within sixty (60) days of notice of such delinquency or default to the Unit Owner.

**7. Reassessment of Uncollectible Assessments.**

In all cases where all or part of any assessments for Common Expenses and for any expenses of and advances by the Council pursuant to Sections 4 and 5 of Article XII hereof cannot be promptly collected from the person or entities liable therefor under this Code, the Council shall reassess the same as a Common expense, without prejudice to its rights of collection against such persons or entities.

**8. Developer.**

Shall not be required to pay any monthly assessment for the Common Expenses until after the transfer of title to seventy-five percent (75%) of the total number of units.

## ARTICLE VII – USE AND MAINTENANCE OF THE PROPERTY

### 1. Use of Property.

The Common Elements shall be used only for the purposes for which intended, as incidental to the use of the Units.

- (a) The use of the Units and the Common Elements shall be only in accordance with the provisions of:
  - (1) the Act, the Declaration, the Declaration Plan, this Code and the Rules
  - (2) all other applicable provisions of law and or any rules, regulations, orders, decrees or requirements of any governmental or quasi-governmental body or agency or board of fire underwriters; and;
  - (3) any covenants, conditions, and restrictions in the deed of any Unit to the Unit Owner.
- (b) No Unit Owner shall create a nuisance on the Property or engage in any use or practice which interferes with the peaceful possession or proper use of any of the Units or of the Common Elements.
- (c) No Unit Owner, tenant or occupant shall:
  - (1) make any installation which extends beyond the title lines of his Unit;
  - (2) paint or otherwise alter the structure, form or appearance of the exterior portion of any wall, window, door, balcony or balcony railing or partition, or fence which is visible from outside the title lines of his Unit, which shall not be unreasonably withheld, or;
  - (3) place any sign (other than a small name sign on the main entrance to his Unit), notice, advertisement or the like on any part of the Property which is visible from outside the title lines of his Unit, unless prior written approval of Council has been obtained, or;
  - (4) erect any T.V. antenna or communication reception device on the exterior or any Unit or building.
- (d) No Unit Owner shall do any work or perform any other act which would jeopardize the soundness or safety of the Property or impair any easement or hereditament without the unanimous consent of the Unit Owners affected thereby.
- (e) The drywall is a common element, but it is specifically provided that the painting, covering, care, repair, replacement and maintenance thereof shall be at the sole and exclusive cost of each unit owner into whose unit the drywall faces, but the Council shall at all times have the sole right to specify the quality, style and fire rating of all drywall in all units, and of all painting, covering, care, repair, replacement or maintenance thereof.

### 2. Maintenance and Repair of the Property.

The Council shall keep the Common Elements in a good state of preservation, repair and cleanliness and shall be responsible for the operation, maintenance, repair, improvement and replacement of the Common Elements and any personal property located within the Common Elements (other than personal property belonging to individual Unit Owners). Each Unit Owner, at his own cost and expense, shall keep his Unit in a good state of preservation, repair and cleanliness and shall be responsible (except for any repairs and reconstruction to be effected by the Council pursuant to Section 1 of Article III hereof) for the maintenance

and repair, whether structural or nonstructural, ordinary or extraordinary, at his expense, of his Unit and of any fixtures, equipment and personal property from time to time therein contained. Each Unit Owner shall keep all immediate entrance areas to his unit free and clear of significant accumulation of snow, ice and water. Compliance with the requirements of any governmental or quasi-governmental body or agency for maintenance, modification and repairs of, or additions to the Property shall be the responsibility of the Unit Owners or the Council, whichever has the obligation under this Article VII to maintain and repair the portions or the Property affected thereby.

**3. Liability of Unit Owners for Damage Caused to Common Elements.**

Each Unit Owner shall be liable to the Council for all damage to any of the Common Elements whether within or without his Unit, and to any fixtures or personal property contained within the Common Elements, caused by the act, omission, or negligence of said Unit Owner, his family, guests, employees, agents, lessees or licensees, to the extent not covered by the proceeds of any insurance carried by the Council.

**4. Increase in Insurance Cost.**

No Unit Owner shall use or permit the use of his Unit or of the Common Elements so as to cause any increase in the cost of insurance carried by the Council on the Property, and each Unit Owner shall be liable to the Council for any such increase to the extent occasioned by the use, misuse, occupancy or abandonment or his Unit.

**5. Right to Access to Units; Inspections; Repairs and Costs.**

The Council has a right to access to each Unit to:

- (a) inspect said Unit;
- (b) remove, correct or abate violations of the Act, the Declaration, this Code, the Rules, the laws of the State of Delaware or United States, as of any governmental subdivision thereof having jurisdiction, any rules, regulations, orders, decrees or requirements of any governmental or quasi-governmental body or agency or board of fire underwriters, or any mortgage affecting any Unit;
- (c) make repairs to said Unit if such repairs are reasonably necessary for public safety or to prevent damage to other Units or to the Common Elements;
- (d) maintain, repair or replace the Common elements contained therein or elsewhere in the Buildings to which access can be had therefrom; and
- (e) the costs of removing, correcting or abating any such violations and of making any such repairs, as provided in sub-paragraphs (c) and (d) above, to any such Unit shall be paid by the Unit Owner thereof to the Council on demand. Requests for access shall be made in advance, except in cases of emergency when such rights of access shall be immediate, whether or not the Unit Owner is present.

**6. Nuisance Uses, Practices, Conditions and Behaviors: <sup>5</sup>**

No use, practice, condition or behavior which, in the reasonable judgment of the Council, constitutes a nuisance or unreasonably interferes with the peaceful use and enjoyment of the Condominium by Unit Owners or their invitees shall be introduced or maintained (or permitted to be introduced or maintained) by any Unit Owner or tenant, or by any guest or invitee of any Unit Owner or tenant, within any Unit or on

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<sup>5</sup> Article VII, sections 6, 7 & 8 were renumbered to 9, 10 & 11 and the current text of sections 6, 7 & 8 was inserted under the amendment passed on November 14, 2017.

any other portion of the Condominium. By way of illustration, and not by way of limitation: (i) a nuisance use shall include any use that is unlawful, and any use that results in unreasonable or untimely noise or vibration, objectionable odor, pest infestation, a threat to the health or safety of persons, or an unreasonable risk of damage to property; (ii) a nuisance practice shall include any behavior, activity or omission that presents an unreasonable risk of the defined results hereinabove ascribed to a nuisance use, or results in a nuisance condition; (iii) a nuisance condition includes any condition that presents an unreasonable risk of the defined results hereinabove ascribed to a nuisance use, and, by way of further illustration, would include a defective condition (such as a leaking pipe or water appliance) within one's unit, a significant or unreasonable accumulation of garbage or refuse, flammable materials (including paper), human or animal waste or bodily fluids, caustic or explosive substances, poisons, fungus or mold; and (iv) a nuisance behavior includes dangerous, threatening, violent, obscene, lewd or obstreperous actions which a reasonable person would deem upsetting or alarming. In the event that any Unit Owner and/or tenant does not promptly cease or abate a violation of this Rule, the Council shall be entitled (but not required) to take any reasonable action to abate the hazard or nuisance, including any or all actions described in Article VII, Section 5, of the Code of Regulations or as provided under the Rules.

**7. Nuisance Conditions; Council's Right to Abate:**

In the event that the Council shall reasonably believe that there exists a nuisance condition as hereinabove defined, and that the condition poses such an immediate threat to human health and safety or poses such an imminent threat to property that the time required for usual Rule enforcement process of notification, hearing and appeal will expose persons and/or property to an unacceptable risk, the Council may (at its sole and absolute discretion, and without any obligation to do so or liability for not doing so) immediately take such reasonable measures as the Council deems prudent, in the Council's reasonable discretion, to abate the perceived nuisance condition, and shall bear no liability to the Unit Owner(s) or resident(s) whose unit(s) are entered or in which the measures are taken, for any direct or indirect consequences of such measures, including any alleged damage to the Unit(s) or personal property therein. The Council may, in its sole discretion, assess the cost of abatement measures against the owner(s) of the Unit(s) in which the hazard or nuisance originated or was maintained.

**8. Repeated Violations:**

In the event that a Unit Owner or resident repeatedly violates the Rules in this Section, and such violations appear to the Council to be willful, malicious, or beyond the demonstrated ability of the Unit Owner or resident to control (due to impairment by substance abuse, by way of illustration), and such violations materially degrade the livability of the Condominium or expose residents (including the Unit Owner or resident) and invitees to unreasonable risk of personal injury, death or significant damage to property, such that the Council believes that the non-compliant Unit Owner or resident should not continue to live at the condominium, the Council may petition the Court of Chancery for a declaratory judgment that the Unit Owner or resident is unwilling or unable to occupy his/her unit in conformity with the Rules, and a mandatory injunction barring the Unit Owner or resident from the Condominium.

**9. Additions, Alterations or Improvements to Units.**

No Unit Owner shall make or permit any structural change in, addition to, or alteration or improvement to his Unit, which would affect the structural integrity of the Property or of any part thereof without prior written consent of the Council, which consent shall be solely within the discretion of the Council.

If any such structural change, addition, alteration or improvement so consented to would result in rendering inaccurate the description of that Unit on the Declaration Plan, it shall not be undertaken until the Declaration Plan has been duly amended at said Unit Owner's expense. Requests for such consent shall be accompanied by detailed plans and specifications showing the proposed structural change, addition, alteration or improvement, and shall name the contractors or subcontractors to be employed. The Council

shall act upon a request for such consent within thirty (30) days after its receipt thereof, and shall be deemed to have acted favorably in cases where no response is made within said period. Any necessary governmental permits shall be a prerequisite for commencing any such work. Any application to any governmental authority for a necessary permit in connection with such proposed structural change, addition, alteration or improvement shall be made only by the Council as agent for and at the expense of such Unit Owner, without the Council incurring any liability thereunder to such authority or to any contractor, subcontractor or materialman or to any person having any claim for injury to person or damage to property arising therefrom. At all times during the course of such work the Council shall be entitled to inspect same, which inspection shall be at the cost of the requesting Unit Owner. In the event any Common Elements within or adjoining the Unit or Units are affected by such work, then the maintenance, repair and replacement of such Common Elements shall become the obligation of the said Unit Owner to the extent as if said Common Elements were part of the Unit. Each Unit Owner shall protect and indemnify the Council and the other Unit Owners against any mechanics' or materialmen's liens which may arise out of the performance of any such consented to changes, additions, alterations or improvements. In the event the Council deems it appropriate to secure expert advice in responding to any such request by a Unit Owner, the Council shall so inform the Unit Owner, whereupon, if said Unit Owner desires to pursue such request, the costs of said expert shall be paid by said Unit Owner (at such time as the Council shall fix) and the time for the Council to respond to such request shall be extended for an additional thirty (30) days. Any costs incurred by the Council based on a request of a Unit Owner pursuant to the terms of this Section 6 or Article VII, may be separately assessed against such Unit Owner as a special assessment.

In no event may any Unit Owner connect into any utility lines without the prior specific written consent of the Council. For this purpose, no consent shall be deemed to have been given by the Council in any other fashion.

10. Maintenance, Repairs, Additions, Alterations, Replacements or Improvements to Common Elements.

Except as otherwise provided in this Code and subject to the limitations of paragraph 16 of the Declaration, the Council may, pursuant to resolution duly adopted, cause to be effected any maintenance, repairs, additions, alterations, replacements or improvements to the Common Elements as it deems necessary or desirable, provided that in each case where the cost thereof is estimated by the Council to exceed Five Thousand Dollars (\$5,000.00), it shall have received the prior approval of a Majority of Unit Owners, by resolution duly adopted at any meeting of Unit Owners and further provided that so long as Declarant is entitled to nominate a majority of the members of the Council, said limit shall be Two Thousand Dollars (\$2,000.00), except that in a situation which Council or Declarant deems to be an emergency, these limits shall not apply.

11. Leases of Units.

Subject to the limitations and exemptions as set forth in paragraph 26 of the Declaration, a Unit may be rented as a whole, but not in part, from time to time by the Unit Owner thereof to any person or entity, but no transient tenants or occupants may be accommodated therein. All lessees and sub-lessees of any Unit, during their respective tenancies thereof, shall be jointly and severally liable with the Unit Owner of said Unit for all liabilities and for the performance of all obligations of the Unit Owners which may arise under the Act, the Declaration, this Code, the Rules, the deed to such Unit or any other pertinent instrument. Such liabilities or obligations may be enforced at any time during or after the term of such tenancy. The Council may, by incorporating same into the Rules, determine from time to time, the procedures by which it can enforce the privileges granted to it by paragraph 26 of the Declaration, and the types and duration of any notice periods to which any leases of Units may be entitled for failure to comply with any lease of a Unit or with the Declaration, Code of Regulations or Rules.

## ARTICLE VIII – DAMAGE OR DESTRUCTION, EMINENT DOMAIN, INSURANCE AND SALE UPON PARTITION

### 1. Damage to or Destruction of the Buildings or Taking of All or Part of the Property.

Promptly following the happening of any event resulting in any damage to or destruction of all or part of one or more of the several buildings comprising the Property or of the Property itself, or of a permanent taking, injury or destruction of all or part of one or more of the several buildings comprising the Property, or the Property itself by the power of or a power in the nature of eminent domain or by an action or deed in lieu or condemnation the following procedure shall be complied with.

(a) The Council shall determine whether the effect thereof on the one or more of the several buildings comprising the Property or on the Property.

(1) is insubstantial, in which event the provisions of Section 2 of this Article VII shall apply, or

(2) is substantially total in which case the Council shall promptly call or cause to be called a special meeting of Unit Owners directly affected by such damage or destruction to consider the question of whether repairs or restoration should be undertaken, whether a partition should be undertaken or whether a termination should result in accordance with the provisions of this Article VII and the Declaration.

(b) If at such special meeting called pursuant to subparagraph (a) (2) above, the Unit Owners owning seventy-five percent (75%) of the Units directly affected by any such damage or destruction (excluding the Units then owned by the Council) duly resolve not to proceed with repairs and restoration, the Council shall then cause to be undertaken such partition or such termination as may have been resolved at such special meeting.

(c) In the event that at such special meeting less than seventy-five percent (75%) of the Unit Owners directly affected by such damage or destruction resolve not to proceed with repair or restoration thereof, then the Unit Owners shall conclusively be deemed to have waived the right of partition or termination, and then the Council shall, pursuant to resolution duly adopted, cause the Property (including without limitation any fixtures which were included in any affected Unit on the date of the first sale thereof by the Declarant or replacements thereof, but excluding any other fixtures thereafter installed by or for any other Unit Owner, and including any personal property of the Council, or of all Unit Owners, but excluding any furniture, furnishings or other personal property whatsoever of one or more but less than all Unit Owners) to be promptly repaired and restored. Council shall use the net proceeds of insurance or the net award or other proceeds of any such talking for such repairs or restoration, and any deficiency shall be assessed against the Unit Owners, either as a Common Expense, to all Unit Owners, or as a special assessment to specified Unit Owners, all as provided in subsection (a) (3) of Section 2 of Article VIII.

(d) In any case where the said damages to property or condemnation award or payment shall exceed Twenty-Five Thousand Dollars (\$25,000.00), and if Council shall determine that the effect of said damages is substantially total or that such effect is insubstantial but would result in an assessment against the Unit Owners for costs of repair or replacement, then Council shall notify all Unit Owners of its determination within five (5) working days after making such determination. The Unit Owners may thereupon, within five (5) days thereafter, invoke the procedures set forth in Section 2 of Article II hereof for calling a special meeting of Unit Owners, which meeting shall be held within thirty (30) days after notice of such determination by Council. No mortgagee shall have the right to determine, or to participate in the determination as to whether or not any damages to the Property shall or shall not be repaired or restored.

**2. Repair and Restoration of Insubstantial Damage to or Destruction of the Building.**

In the case of a determination pursuant to clause (a) (1) of Section 1 of this Article VIII, the Council shall promptly so notify all affected Unit Owners, whereupon the Council, pursuant to resolution duly adopted, and/or the Unit Owners, as the case may be, having the responsibility under Section 2 of Article VII hereof for the repair and restoration of the portions of the Property affected thereby, shall promptly effect same.

(a) In the event that any such damaged part or all of the Property is to be repaired or restored (hereinafter called "Work") then the following procedures shall apply:

- (1) The Council shall, to the best of its ability prepare the following cost estimates:
  - (i) Administrative costs of the Council in completing the adjustment for the damages and in securing the proceeds or awards, in determining the disposition thereof, in effecting such disposition (including all Insurance Trustees' fees and costs).
  - (ii) All other items having a priority for payment out of such proceeds or awards in accordance with the provisions of Section 4 of Article VIII hereof.
  - (iii) The costs of the work for the Common Elements but in no event to consider or include the repair or restoration of damage for which no insurance coverage was provided.
  - (iv) The costs of tile work for tile damaged Units.
- (2) The Council and the Insurance Trustee shall jointly determine in accordance with the distribution provisions of Section 4 of Article VIII hereof the sums available for such work.
- (3) The remaining proceeds and awards received on account of damage to the Common Elements shall be available for the work on the Common Elements. In the event this sum is not sufficient, after giving credit for such sums as are available, if any, in accordance with the provisions of the following sub-paragraph (5) hereof, to complete all said work, the deficiency shall be assessed as a Common Expense in accordance with the procedure established for special assessments.
- (4) The remaining proceeds and awards received on account of damage to the Units shall be available for the work on the said Units. In the event this sum is not sufficient, after giving credit for such sums as are available, if any, in accordance with the provisions of the following sub-paragraph (5) hereof, to complete all said work, the deficiency to be assessed as a special assessment against the Unit Owners of Units subject to such damages. Such special assessment shall be allocated to each said Unit and the owner thereof in the same proportion as is the costs of the work in said Unit bears to the costs of all the work in all the damaged Units.
- (5) In the event after all costs as set forth in subparagraphs (1), (i), (ii) and (iii) above have been paid or provided for, there are any remaining funds from the insurance proceeds or awards for damages to the Common Elements, such excess shall be applied to the deficiencies, if any, as may exist for the costs of the work for repairing and restoring the damaged Units. In the event, after all costs as set forth in subparagraphs (1) (i), (ii) and (v) above, there are any remaining funds from the insurance proceeds or award for damages to the Units, such excess shall be applied to the deficiencies, if any, as may exist for the costs of the work for repairing and restoring the Common Elements.

(b) In the event, after making all payments as provided for in subparagraph (5) above:

- (1) there are any remaining funds from the insurance proceeds or awards for damages to the Common Elements, such excess shall be treated in the same manner as, but shall not for any

purpose be deemed to be a Common Profit and shall be distributed or allocated by the Council accordingly, provided, however, in the event of distribution to Unit owners, no Unit Owner shall have any priority in distribution over any rights of the Permitted Mortgagee of said Unit pursuant to the terms of said first mortgage loan.

(2) there are any remaining funds from the insurance proceeds or awards to any Units or Unit Owners, such excess shall be distributed to the Unit Owners (provided that no Unit Owner shall have any priority in distribution over any rights of the Permitted Mortgagee of said Unit pursuant to the terms of said first mortgage loans). The amount to be allocated in each Unit Owner (or to the first mortgagee of said Unit having any priority in distribution) shall be in the same proportion as the costs of the work in said Unit bears to the costs of all work in all the damaged Units.

(c) In the event that an endorsement has been issued to any Permitted Mortgagee with respect to a particular Unit, such sum, if any, as may be distributable in accordance with the provisions of this Code of Regulations shall be held for the benefit of the said Unit Owner and the said first mortgagee, as their interests may appear.

### 3. Property Insurance.

The Council shall, to the extent obtainable, continuously maintain fire insurance with extended coverage endorsements as to such hazards and with such deductible features as to the Common Elements as the Council may deem appropriate. Said coverage shall insure against loss to the Common Elements, each Unit (including without limitation all fixtures included therein on the date of the first sale thereof by the Declarant or replacements thereof), and all personal property of the Council, and shall insure the Council, each Unit Owner, each person who has entered into a binding agreement to purchase a Unit, and the holder of each Permitted Mortgage, (as defined In Section 1 of Article IX hereof), as their respective interests may appear. Said insurance shall be in an amount equal to the full insurable value, on a replacement basis, of the Buildings, all additions, improvements or alterations thereto and of the said personal property, without deduction for depreciation, and is hereinafter called the "Replacement Value". The policies evidencing such insurance shall contain mortgagee endorsements in favor of the holder of each Permitted Mortgage, which endorsements shall be in the standard Delaware form modified, however, to make the loss payable provision in favor of such holder expressly subject and subordinate to the loss payment provisions (as herein provided in this Code) in favor of the Insurance Trustee and the Council and shall provide for the waiver by such holders of any right to settle losses with insurers. Before obtaining or renewing any policy and at least once every two (2) years, the Council shall determine the Replacement Value based on one or more appraisals from a reputable insurance company or appraiser. The said appraisal shall separately establish the replacement Value of the basic specified unit.

The Common Elements shall be insured in the amount of such appraised Replacement Value and each Unit shall be insured in the amount of the appraised Replacement Value of that type Unit. The said insurance shall be maintained in one or more blanket policies, in the total amount of the total Replacement Value so established, which policies shall specify the amount of insurance allocated to each type property. The Council shall also carry such other property insurance, as it shall from time to time deem prudent, which insurance shall be in such amounts as the Council shall deem adequate. All policies of insurance carried pursuant to this Section 3 shall provide that the net proceeds thereof in the case of each loss shall be payable to the Council, if \$100,000.00 or less, and to the Insurance Trustee, if more than \$100,000.00. All such policies shall contain waivers, to the extent obtainable, of any defense based on co-insurance or invalidity arising from any acts of those whose interests are covered thereby.

4. Disbursements of Property Insurance Proceeds, Condemnation Awards & Proceeds of Sale upon Partition. The net proceeds of all property insurance policies and the net award or other net proceeds referred to in Section 10 of this Article VIII and the net proceeds of any sale upon partition pursuant to Paragraph 17 of the Declaration, shall be distributed by the Insurance Trustee or the Council, as the case may be, as follows:
- (a) In cases where partition proceedings are instituted, in accordance with the final decree in partition.
  - (b) In cases where a termination results pursuant to Section 1 of this Article VIII, in accordance with the provisions of said Paragraph 17.
  - (c) In cases governed by Section 2 of this Article VIII, the following order and priority of distribution shall prevail, to the extent funds are available for the purpose, each category to be paid or provided for in full prior to distribution of any subsequent category.
    - (1) Should the services of the insurance Trustee be invoked, then to pay or provide for all of its expenses in connection with the discharge of its duties.
    - (2) To pay or provide for the costs and expenses, direct and indirect, incurred by the Council in securing the proceeds or awards, in the administration of the process of repair and restoration, and in the distribution of the amounts thereof.
    - (3) in appropriate progress payments to the contractors, materialmen, engineers, architects or other persons engaged by the Council for the work and who have rendered services or furnished materials by such work, provided that where appropriate, waivers of mechanics' or materialmen's liens shall first be executed, and where possible, recorded.
    - (4) To the Unit Owners as provided in Section 2 of this Article VII and subject to limitations thereof.
  - (d) The insurance Trustee shall not be liable for the payment of premiums, for the replacement or renewal of insurance policies, for the sufficiency of the insurance coverage afforded, nor for the failure to collect insurance proceeds. Trustee shall hold the original policy or policies obtained by Council, and all endorsements thereto. All insured may inspect same during Trustee's normal business hours upon forty-eight (48) hours prior written notice to the Trustee. Trustee shall cooperate with the Council in all matters concerning the policy, provided that, insofar as practicable, Trustee shall be relieved of all duties capable of being discharged by others, and provided further that in no event shall Trustee be required to take any action on its own initiative, or at its own expense, or which may reasonably expose it to liability. Trustee shall accept instructions from and rely on information given by only the Council, including information as to the names of Unit Owners and their respective shares of any distribution; except that as to the names of mortgagees, Trustee may rely on a certificate given by an attorney-at-law which has examined the Land Records to ascertain the names of mortgagees of record within thirty (30) days prior to distribution to Unit Owners and mortgagees; and Trustee shall have absolutely no liability for the consequences or following such instructions or relying on such information or certificate, regardless of any notices given or claim made, valid or not, to the contrary. Nevertheless, in the event of any dispute regarding distribution or proceeds, which In the Trustee's sole and good faith discretion threatens it with liability, Trustee may discharge ill obligations hereunder by depositing the disputed amount with a Court of Law or Equity by means of interpleader. The Trustee shall, upon instruction of the Council to such effect, make distribution in accordance with the requirements of this Code of Regulations.

**5. Liability Insurance:**

The Council shall, to the extent obtainable, continuously maintain a comprehensive public liability (including without limitation water damage) insurance in respect to the ownership, operation or maintenance of the Property, the sidewalks abutting the Property and any personal property owned or controlled by Council, with such limits, which shall not be less than \$500,000.00 for personal injury or death as to any person and to all persons, medical payment insurance or \$1,000.00 per person and \$10,000.00 per occurrence, and \$500,000.00 for property damage for each occurrence, as the Council may determine before obtaining or renewing any policy. Said insurance shall cover the Council and each member and officer thereof, each Unit Owner, the occupants of Units, and the assistant officers, employees and agents (including any managing agent) of the Council provided, however, that such insurance shall not cover the liability of any Unit Owner for acts occurring solely within his Unit or away from the Property. Each policy evidencing such insurance shall also cover cross-liability claims of any one or more or group of insureds against any other one or more of group of insureds. As to any proceeds which might be payable to any person or entity covered by such insurance, the Council shall be the named insured in all such policies and the net proceeds thereof shall be paid to the Council, which shall distribute the same to those whose interests are covered thereby as their respective interests shall appear.

**6. General Insurance Provisions.**

All policies of insurance carried under Sections 3 and 5 of this Article VIII Shall, to the extent obtainable.

- (a) provide that all adjustments of loss shall be made only by the Council;
- (b) contain waivers by the insurers of all rights by way of subrogation to the claims or rights of anyone or more other named insureds or persons covered or benefited by such policies against any one or more other named insureds or persons so covered or benefited thereby provided, however, that the insurer may be subrogated to the rights of a mortgagee against its mortgagor arising under a Permitted Mortgage;
- (c) provide that the coverage afforded to any and all other named insureds or persons covered or benefited by such policies shall not be affected by the acts, negligence or omissions of any one or more named insureds or persons so covered or benefited thereby;
- (d) provide that the insureds' rights of cancellation are vested solely in the Council, that such policies shall not be cancelled or modified by the insurer without at least twenty (20) days prior written notice to the Council and to each Permitted Mortgagee, and that such policies shall not be cancelled or substantially modified except for additions to the Property or increases in coverage) by the Council without like notice to each Permitted Mortgagee;
- (e) provide that the coverage afforded thereby shall not be affected or diminished or result in contribution by reason of any additional insurance separately obtained by or for any Unit Owner (as permitted by Section 7 of this Article VIII), the occupant of any Unit, the Declarant, the holder of any permitted Mortgage, or any other person or entity;
- (f) provide that the coverage afforded thereby shall not be affected or diminished by failure of any Unit Owner or occupant of a Unit, to comply with any contractual obligations, either direct or implied, when such failure is beyond the reasonable control of the Council and;
- (g) contain the mortgagee clause as is standard in the State of Delaware which must be endorsed to provide that any proceeds shall be payable to the Council or to the Insurance Trustee, as herein elsewhere state, which subject to the other provisions of this Article VIII, shall be for the use and

benefit of the respective first mortgagees of each Unit as their interests may appear.

The Council shall immediately upon the receipt or any notice pursuant to subparagraph (d), mail or deliver copies thereof to each Unit Owner. Duplicate originals of all such insurance policies and renewals shall be issued by the insureds (at least ten (10) days prior to the renewal in case of each renewal) to the Council and to the Insurance Trustee. Certificates or memoranda of insurance shall be issued by the insurers to all others whose interests are covered thereby, including, without limitation, the holders of Permitted Mortgages in the case of property insurance. No Unit Owner shall do or permit any act which would void or impair the coverage afforded by said policies or which would result in an increase in the premium therefor, and each Unit Owner so doing or permitting shall be liable to the Council for the amount or any such increase.

**7. Separate Insurance by Unit Owners.**

The provisions of this Article VIII shall not be construed to prohibit any Unit Owner from carrying other separate insurance for his own benefit, such as, by way or illustration and not of limitation, fire insurance and extended coverage on fixtures and improvements not included in the Unit on the date of the first sale thereof by the Declarant, fire insurance and extended coverage on personal property and public liability insurance covering liabilities occurring solely within his Unit or away from the Property, which liabilities will not be covered by the insurance to be carried by the Council under Sections 3 and 5 of this Article VIII. Policies so carried by Unit Owners shall provide that the insurance carried thereunder shall not affect, alter or diminish coverage under the policies being carried by the Council, and shall provide coverage in addition thereto and shall provide a waiver of subrogation against all parties insured by the comprehensive public liability insurance maintained by the Council.

**8. Workmen's Compensation, Fidelity and Other Insurance.**

The Council, with the Council being the named insured, shall carry workmen's compensation, insurance in amounts as required by law and shall also carry fidelity insurance covering such officers, assistant officers, managers, trustees, employees, agents and volunteers of and for the Council and in such amounts as the Council shall deem necessary or advisable, but in no event less than one and one-half times the Council's annual operating expenses and reserves. The Council may also obtain and maintain such other types of insurance as it deems necessary or advisable for the protection of the Property or the Unit Owners, as well as for the protection of Council and its officers, assistant officers, employees and agents, including but not limited to errors and omissions insurance.

**9. Notice of Rights to Participate in Condemnation Proceedings.**

Whenever any proceedings are Instituted which could result in the permanent or temporary taking, injury or destruction of all or part of the Common Elements, by the power of or a power in the nature of eminent domain or by an action or deed In lieu of condemnation, the Council and each Unit Owner shall be entitled to notice thereof and the Council shall and the Unit Owners at their expense may participate in such proceedings. In any such proceedings, damages shall be determined for such taking, injury or destruction as a whole and not for each Unit Owner's interest therein. The award in such proceedings shall be payable to the Council alone and no Unit Owner nor mortgagee shall be entitled to demand or receive same except as in this Code provided.

**10. Awards in Condemnation or in Lieu of Condemnation.**

If all or part of the Property is permanently or temporarily taken, injured or destroyed by the power of or a power in the nature of eminent domain or by an action or deed In lieu of condemnation, the net award or

## Article IX – OWNERSHIP OF UNITS BY THE COUNCIL

### 1. Purchase of Units by the Council.

The Council may on behalf of all Unit Owners in its name or in the name of a nominee, purchase or otherwise acquire and hold title to any Unit or any interest therein to the extent permitted by Section 5 of Article VI hereof and Paragraph 15 of the Declaration. The Council may borrow all or part of the funds necessary to effect any such purchase and may create a mortgage against the Unit or give other security to secure the borrowing. So long as the Council or its nominee is the Unit Owner of any Unit so purchased, the Council shall have the power to hold, sell, convey, lease, mortgage as aforesaid and otherwise deal in and with such Unit, and in so doing shall be acting on behalf of all other Unit Owners.

### 2. Effect of Ownership of Units by the Council.

During the period when the Council or its nominee is in title to a Unit pursuant to Section 1 of Article IX hereof:

- (a) all taxes, municipal claims and other charges assessed against the Unit shall be paid by the Council and the amounts so paid together with all other expenses of purchasing, holding, selling, conveying, mortgaging, leasing or otherwise dealing with the Unit, shall constitute Common Expenses to be accessed against all other Unit Owners in accordance with their Proportionate Interests;
- (b) the Common Expenses and the Common Profits, if any, otherwise assessable and distributable to the owner of such Unit shall be assessed and distributed to the other Unit Owners, pro rata, in accordance with the respective Proportionate Interests of such other Unit Owners;
- (c) the voting rights appurtenant to the Unit shall be suspended and may not be exercised or counted for voting purposes and such Unit shall not be counted in determining a quorum for meeting purposes;
- (d) no notice of any meetings of Unit Owners or notices of assessments, budgets or the like need be given in respect to such Unit;
- (e) the sale, management, or disposal thereof shall be within the Council's sole authority and no prior authorization of Unit Owners is required therefor; and
- (f) the rights and obligations of Unit Owners in the event of a permitted partition proceeding or of a termination pursuant to Paragraph 18 of the Declaration shall be construed, allocated and borne as if such Unit was not included in the Property. The Council shall give all other Unit Owners prompt written notice both of each such purchase and of any disposition of any Unit so purchased.

## ARTICLE X – BOOKS, RECORDS AND REPORTS

### 1. Maintenance of Books and Records.

The Council shall maintain or cause the proper officers to maintain complete, accurate and current books and records adequate to reflect fully the operations, proceedings and financial condition of the Council and the operation and condition of the Property. Such books and records shall include, without limitation, the books and records to be maintained by the Treasurer under Section 7 and by the Secretary under Section 8

of Article IV hereof and the voting list and register of Permitted Mortgages to be maintained by the Secretary under Section 5 of Article hereof and Section 1 of Article X hereof.

**2. Access to Books and Records.**

The books and records referred to in Section 1 of this Article X shall be kept at the Property or at such other convenient location as the Council may from time to time determine by resolution duly adopted, and shall be available for examination during regular business hours upon reasonable notice, by the Unit Owners, by persons who have entered into binding written Agreements to purchase Units, by holders of Permitted Mortgages and by any Insurer issuing insurance pursuant to and in compliance with Article VIII hereof.

**3. Reports.**

The Council shall within sixty (60) days after the end of each year, starting with the year ending July 31, of the same year as the Declaration, provide to each Permitted Mortgagee, if requested in writing, and to each Unit Owner a report or receipt and disbursements of the Council for the year then ended, prepared by a certified public accountant. Such annual reports may contain such additional information and financial data as the Council deems appropriate, and the Council may, in its discretion, also provide special or periodic interim reports.

## **ARTICLE XI – MISCELLANEOUS**

**1. Notices.**

All notices shall be sent by registered or certified mail, post paid, addressed as follows:

- (a) to the Council, at the Property or at such other address (including without limitation the address of any managing agent) as the Council may from time to time designate by written notice to all Unit Owners and holders of Permitted Mortgages;
- (b) to the Unit Owners, at their respective addresses at the Property, or at such other addresses as they may from time to time designate by written notice to the Council; and
- (c) to the holder of Permitted Mortgages, at their addresses on the register to be maintained pursuant to Section I of Article X hereof, or at such other addresses as they may from time to time designate by written notice to the Council. All notices shall be deemed to have been given when so mailed, except notices of change of address shall be deemed to have been given when received.

**2. Effective Date.**

This Code becomes effective when it and the Declaration and the Declaration Plan have been duly entered of record in the Office of the Recorder of Deeds in and for New Castle County, Delaware.

**3. Interpretation.**

The provisions of this Code shall be liberally construed in order to effectuate a uniform plan for development and operation of a condominium project as expressed in the Declaration. The headings preceding the various paragraphs of this Code are intended solely for the convenience of readers hereof and shall not be deemed relevant in the interpretation of this Code.

This Code of Regulations shall, to all reasonable extent, be deemed to be consistent with and supplementary to the provisions of the Act. Any conflict between the Declaration and this Code of Regulations shall, if not otherwise resolvable, be resolved in favor of the Declaration. The unconstitutionality, legality, invalidity or non-conformance with the Act of any provision of this Code shall not affect the remaining portions thereof which shall thereupon be deemed of continuing validity, force and effect. Any provisions of this Code of Regulations which may not be directly or indirectly provided for or permitted by the Act, but which is not specifically prohibited by the Act, or by any other statute or rule of law, shall, if not enforceable under the Act, be deemed to be a contractual undertaking and obligation, voluntarily assumed, by each and every Unit Owner, as the entirety of Unit Owners may be constituted from time to time, and such contractual undertaking and obligation shall be in consideration of the said assumption by each and every other Unit Owner, and the same may be enforced in the same manner as any other contractual undertaking and obligation. No provision in this Code shall be deemed invalid, waived, abrogated or no longer enforceable by reason of the passage of time or of any failure to enforce same, irrespective of the length of time passed or the number of failures of enforcement of one or more such provisions.

**4. Noncompliance and Waiver.**

Any failure or threatened failure by a Unit Owner or occupier to comply with this Code and with the Rules and with the covenants, conditions and restrictions set forth in the Declaration or in the deed to each Unit, or in the Declaration Plan, shall be grounds for an action for the recovery or damages (including the costs of the Council's taking any action necessary to correct or remedy any such failure) or for injunctive relief, or both, maintainable by any member of the Council on behalf of the Council by the Council, or in a proper case, by any aggrieved Unit Owner or by the holder of a Permitted Mortgage aggrieved by any such failure of threatened failure. The Council shall have the right to do any acts and to take any steps necessary to correct or prevent any failure or threatened failure to so comply and shall have the right by itself or by its agents or employees to enter said Unit of said Unit Owner or occupier at all reasonable times for such purposes. The expenses incurred by or on behalf of the Council in any action taken pursuant hereto or pursuant to Section 5 of Article VII, hereof, together in each case with interest at the highest legal rate of interest then permitted, shall be promptly assessed by the Council against the Unit Owner of said Unit and shall be collectible and enforceable in accordance with the provisions of Article VI hereof. No restriction, condition, obligation or provision contained in the Act, the Declaration, the Declaration Plan, this Code, the Rules or in the deed to any Unit shall be deemed to have been abrogated or waived by reason of any failure, single or repeated, to enforce the same.

**5. Avoidance of Liens and Notices of Liens and Suits.**

Each Unit Owner shall pay all charges, claims, taxes or assessments against his Unit for which a lien could be filed before the same shall become delinquent and prior to the time when any lien could attach, and shall, within five (5) days of receipt of notice or of actual knowledge of the attaching of any lien (other than the lien of a Permitted Mortgage) or the filing of any suit or other proceeding against his Unit, give the Council written notice thereof. The Council may, but shall not be obligated to, advance any sums necessary to prevent the attaching of any lien against any Unit, except the lien of a Permitted Mortgage, and any amounts so advanced shall bear interest at the highest legal rate of interest then permitted from the date made. Such amounts shall be promptly assessed by the Council against such Unit Owner and shall be collectible and enforceable in accordance with the provisions of Article VI hereof.

**6. Parliamentary Procedure.**

All meetings of the Unit Owners or of the Council shall be conducted in accordance with Roberts Rules of Order, provided, however, that such rules may be waived by the affirmative vote of seventy-five percent (75%) of those persons attending a duly constituted meeting and entitled to vote thereat. The Council may appoint a Parliamentarian for any meeting or the Council, or of the Unit Owners.

7. **Number and Gender.**

The use of the pronoun "his" in this Code, when referring to a Unit or Unit Owner, shall be deemed to include and refer to all owners of a Unit, whether one or more than one, or whether male or female or a neuter entity, and unless specifically otherwise set forth shall, where there be more than one owner of a Unit, refer to all such owners jointly and severally.

**ARTICLE XII – AMENDMENTS**

1. **Amendments of the Code of Regulations.**

This Code of Regulations may be amended from time to time in accordance with the Act and for the purposes of accomplishing any special rights or privileges as provided in the Declaration, as set forth in said Declaration.

ESTABLISHED AND ADOPTED by the undersigned, being the first members of the Council named in the Declaration, this fifteenth day of September 1981.

STATE OF DELAWARE)  
:SS  
NEW CASTLE COUNTY)

BE IT REMEMBERED, that on this fifteenth day of September, 1981, personally came before me, the Subscriber, a Notary Public for the State of Delaware, H. Thomas Hannagan, Jr., Jack Hazen and Margaret Winstead show acknowledged themselves to be the members of the Council of Linden Green Condominium, and that they, as such members of Council, being authorized to do so, executed the foregoing Code of Regulations for Linden Green Condominium, for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(Carl L. Jester)  
Notary Public

My Commission Expires: March 21, 1982

# RESOLUTION OF THE COUNCIL MEMBERS OF THE LINDEN GREEN CONDOMINIUM ASSOCIATION

## DELINQUENCY ASSESSMENT, DELINQUENCY COLLECTION

WHEREAS, the Council Members of the Association are charged with the responsibility of collecting of condominium fees for common expenses from Unit Owners pursuant to Article VI, Section 4 of the Code of Regulations; and

WHEREAS Article VI, Section 2, (a) of the Code of Regulations states that the condominium fess shall be paid on the first day of each month. Failure to pay any condominium fees within (15) days of the due date shall constitute a default; and

WHEREAS, from time to time Unit Owners become delinquent in the payments of the their condominium fees and fail to respond to the demands from the Council and/or its managing agent to bring their accounts current; and

WHEREAS, Unit Owners defalcations constitute a hardship to the community as a whole and impede and impair the ability of Council to manage the affairs of the Association, and

WHEREAS, the Council deems it to be in the best interests of the Association to adopt a uniform and systematic procedure for dealing with delinquent accounts in a timely manner, and further believes it to be in the best interests of the Association to refer these accounts promptly to an attorney for collection so as to minimize the Association's loss of condominium fee revenue; and

WHEREAS the Council has retained the Association's attorney(s) to pursue all collection and other matters that the Council, acting through the Manager, may from time to time refer to them, and shall seek such legal advice as the Council may from time to time require;

NOW, THEREFORE, BE IT RESOLVED that pursuant to Article VI, Section 3. (b) of the Code of Regulations there is hereby levied upon any general monthly condominium fee (a "Monthly Fee") that is not paid in full within fifteen (15) days after the date which it was due (which amount and date shall not be deemed reduced or extended by any alleged defense, counterclaim, right of set-off or recumbent by any Unit Owner against whom the Monthly Fee was assessed a late fee in the amount of twenty-five dollars (\$25.00), to help defray expenses associated with the pursuit of delinquent accounts, and a monthly Finance charge of 1.5%, subject to any limitation imposed by law, accruing from the date when the Monthly Fee was first due and payable, which the Manager is authorized and directed to charge to and collect from any delinquent Unit Owner; and

BE IT FURTHER RESOLVED that, pursuant to Article VI, section 3.(b) of the Code of Regulations the Council has the authority to levy a late fee and finance charges for any Special Assessment duly passed by the Council and that is not paid in full on the date specified within the respective resolution. Both late fee and finance change amount and due date shall be stated within the notice of Special Assessment. The Manager is authorized and directed to charge to and collect same from any delinquent Unit Owner; and

BE IT FURTHER RESOLVED that, in the event that a Unit Owner payment of any Monthly Fee and/or Special Assessment with a dishonored personal check, the Council Treasurer may require payment by certified or cashier's check or money order for up to six (6) months following receipt of the first dishonored check and up to twelve (12) months following receipt of any subsequent dishonored check; and

BE IT FURTHER RESOLVED that the Manager is directed to send to any Unit Owner who is more than fifteen (15) days delinquent in the payment of Monthly Fees, Special Assessments, or other charges authorized by the Association's governing documents, (collectively, the "condominium Fees"), a written notice (hereinafter referred to as the "First Late Notice") of the late payment, the assessment of the late fee, and a request for immediate payment; and

BE IT FURTHER RESOLVED that the First Late Notice sent by the Manager to the delinquent Unit Owner shall also state that, unless the Unit Owner disputes the validity of the debt or any portion thereof within thirty (30) days after receipt of the notice, the debt will be assumed to be valid; and if the Unit Owner notifies the Manager in writing within that thirty-day period that the debt, or any portion thereof, is disputed and the basis therefore, the Manager will obtain verification of the debt (the account history) and a copy of such verification will be sent to the Unit Owner by the Manager; and

BE IT FURTHER RESOLVED that the Manager is directed to send to any Unit Owner who is more than forty-five (45) days delinquent in the payment of Condominium fees and late charges a written notice (Hereinafter referred to as the "Second Notice") advising the Unit Owner that, if the account is not paid in full within fifteen (15) days, Association may take any or all of the following actions: (i) placing a boot on and/or towing vehicle(s) of the Unit Owner or Unit occupant, members of their family, and visitors; (ii) report the delinquency to the appropriate credit bureaus; (iii) suspend any centrally supplied utility or services, (iv) post name and address delinquents, and (v) turn that matter over to the Association's attorney(s) for collection at the delinquent Unit Owner's expense (vi) not be able attend homeowners meetings or have voting privileges, including, but not limited to, a foreclosure action on any judgment obtained (if the Manager or Council deems foreclosure appropriate), without further notice; and

BE IT FURTHER RESOLVED that, if any person who resides in a Unit ("Unit Occupant") suffers from a medical condition that requires uninterrupted water, or other centrally supplied services ("Condition"), such Unit Occupant shall provide written notice to the Association and Manager of such Condition, substantiated by a letter from such Unit Occupant's personal physician, and shall pay a security deposit equal to the greater of one Monthly Fee or one month's water usage or both as determined by the Manager. Any Unit Occupant who fails to provide written notice of a Condition substantiated as provided above shall be prohibited, and the Owner and other occupants of such Unit and their family members shall be prohibited, from asserting any claim for interruption of utility and services as provided herein and shall be deemed to have released the Association and its agents and assignees from any liability related to interruption of utilities and services that result from the failure to provide notice, and the Unit Owner shall defend, indemnify and hold harmless the Council, the Manager and the Association, its agents and employees, from all and any of such claims; and

BE IT FURTHER RESOLVED that, if the Association refers a Unit Owner's delinquency in the payment of Condominium Fees to the Association's attorney for collection more than one time in any two (2) year period, (24 consecutive months), then Council shall have the right to accelerate the total amount of Condominium Fees due during the remainder of the fiscal year by instructing the Manager to send a notice of acceleration to the Unit Owner via certified mail, return receipt required, and the Unit Owner's failure to pay such total amount within thirty (30) days of such notice shall constitute a further default entitling Council to obtain a judgment against such Unit Owner including interest, court costs and legal fees and to seek foreclosure sale of the Unit on which such delinquency exists; and

BE IT FURTHER RESOLVED that the Manager is directed to consult with the Associations attorney(s) and turn over for collection immediately any account where the Unit Owner files or is the subject of a petition for relief in bankruptcy or a lender has commenced any action for foreclosure of its lien against a unit; and

BE IT FURTHER RESOLVED that, per Article VI, section 3. (a).(b), should any Condominium Fee remain unpaid for Sixty (60) days or more, the Council may suspend any centrally supplied utilities or services for the unit until payment in full or a payment agreement satisfactory to the Council has been agreed upon and accepted in writing by Association's attorney(s) or Manager; and

BE IT FURTHER RESOLVED that the following policies shall apply to all delinquent accounts turned over to the Association's attorney(s) for collection:

1. All contacts with a delinquent Unit Owner shall be handled through the Association's attorney(s). Neither the Manager nor any Association officer or director shall discuss the collection of the account directly with a Unit Owner after it has been turned over to the Association's attorney(s) unless one of the Association's attorney(s) is present or has consented to the contact.
2. All sums collected through the attorney(s) on a delinquent account shall be remitted to the Association in care of the Association's attorney(s) until the account has been brought current.
3. The Association's attorney(s) legal fees shall be assessed against each delinquent Unit Owner (including but not limited to repeat offenders) when the account is turned over to the Association's attorney(s) are consulted with respect to the delinquency (regardless of whether a legal action is filed). All legal fees and costs incurred in connection with a delinquent account shall be assessed against the delinquent Unit Owner and shall be collectable as an assessment as provided in Article VI section 3, (a) of the Code of Regulations.
4. Where at the expiration of the period specified in the Association's attorney(s) demand letter, and account remains delinquent and without a payment plan, or in the event of a default under the terms of payment, the Association's attorney(s) are authorized to take such further action as they, in consultation with the Council President, believe to be in the best interest of the Association, including but not limited to:
  - a. Filing suit against delinquent Unit Owners to obtain a judgment for monies due pursuant to Article VI, Section 3 (a) of the Code of Regulations and recording said judgment as a lien against the unit.
  - b. Filing for a wage garnishment to satisfy the full amount of any debt to the Association.
  - c. Executing on real or personal property of the Unit Owner, including without limit, pursuing sale of household furnishings, motor vehicle, personal property, and other assets of the delinquent Unit Owner.
  - d. Seeking Sheriff's Sale of the Unit after notice to the Unit Owner's mortgage lender if any.
  - e. Filing a proof of claim in bankruptcy; and

BE IT FURTHER RESOLVED that a copy of this resolution shall be mailed and/or delivered to all Unit Owners at their last know address, and that this resolution of Council shall be in full force and in effect May 31, 2009, of its promulgation to the absent members pursuant to the procedures in the Code of Regulations on file with the New Castle County Recorder of Deeds.

This resolution was adopted by the Council Members on February 23rd, 2009, and shall be effective on May 31, 2009.

President: Ronald R. Jones

ATTEST: Secretary Debbie Ann Shepherd

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Michael E. Kozikowski  
New Castle Recorder MISC

TAX PARCEL NUMBERS:  
08-042.20-033 and all "C" suffix variations thereof,  
being all 163 units of Linden Green Condominium

THIS DOCUMENT PREPARED BY AND  
RETURNABLE TO:  
RICHARD E. FRANTA, ATTY.  
1301 N. Harrison Street, Suite 102  
Wilmington, DE 19806

**CERTIFICATE OF AMENDMENT**  
**OF**  
**CODE OF REGULATIONS**  
**OF**  
**LINDEN GREEN CONDOMINIUM**

Made this 22nd day of JUNE, 2017, by the Council of LINDEN GREEN CONDOMINIUM, to memorialize the action of said Council taken at its meeting on June 13, 2017, pursuant to 25 Del. C. Sections 2207 and 2211 (3), and pursuant to Section 3, Subsection (c) of the Enabling Declaration Establishing a Plan of Condominium Ownership for Linden Green Condominium, dated September 15, 1981, and of record at the Office of the Recorder of Deeds in and for New Castle County, Delaware, indeed Record E, Volume 116, Page 278, to amend the Code of Regulations of Linden Green Condominium dated September 15, 1981, and of record at the Office of the Recorder of Deeds, aforesaid, in Deed Record E, Volume 116, Page 294 (said document as subsequently amended hereinafter referred to as the "Code of Regulations") in the following respects:

**FIRST:** Article II, Section 7, is hereby amended by striking the reference to "forty (40%) percent" and substituting "twenty (20%) percent," thus reducing the quorum requirement for meetings of the Unit Owners.

**SECOND:** Article II, Section 5, is hereby amended by re-designating the existing section, beginning with its second sentence, as Subsection (a), and adding the following new Subsection (b), entitled, "Voting by Mail":

**"(b) Voting by Mail. Whenever the Unit Owners' passage of a resolution requires the approval by a majority or super-majority (including a**

unanimous vote) of the Unit Owners, Council may, in its sole and absolute discretion, following discussion of the resolution at a duly called meeting of the Unit Owners at which a quorum was achieved, direct that the Unit Owners' vote proceed by written ballot sent to each Unit Owner at said Unit Owner's address on record with the Council. The ballot shall be accompanied by the full text of the resolution and instructions for voting, including a deadline for the Council's receipt of returned ballots. The ballot and resolution may be accompanied by one or more of the following documents: an additional explanation of the resolution, a projection of its predicted financial impact on the condominium, a Council recommendation for or against adoption of the resolution, and a return envelope. A ballot not returned by the deadline will be treated as a vote *against* the adoption of the resolution unless the ballot has enclosed with it a Council recommendation for or against the resolution, in which case the unreturned or untimely returned ballot will be treated as a vote *in accordance with the Council recommendation*. A ballot with a conditional vote "for" or "against" the resolution shall be counted as ballot not returned. The returned ballots shall be retained by the Council for a period of no less than three (3) years from the date of the Unit Owners' meeting at which the resolution was discussed. The ballots shall be kept confidential, except that (i) the result of the balloting will be announced by prompt written notice to the Unit Owners, and (ii) following announcement of the result of the mail-in balloting, upon the written request of one or more Unit Owners, the vote shall be canvassed by a committee consisting of the Council President, one other member of the Council, and a Unit Owner not a member of the Council who certifies that he voted against the announced result, after which canvass and the announcement of the committee's finding, the ballots will be secured and only reviewed again by order of a court of competent jurisdiction"

AS THUS AMENDED, the Code of Regulations of Linden Green Condominium shall remain in full force and effect.

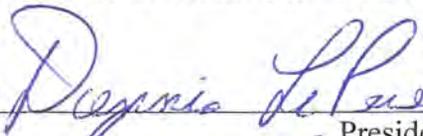
IN WITNESS WHEREOF, the said Council of Linden Green Condominium hath caused its name by DEANIS LEPERE to be hereunto set, duly attested by its

Secretary, the day and year first above written.

Sealed and Delivered  
In the Presence of:

THE COUNCIL OF LINDEN GREEN CONDOMINIUM

  
\_\_\_\_\_  
Witness

By:   
\_\_\_\_\_  
President

Attest:   
\_\_\_\_\_  
Secretary

**CERTIFICATE**

As required by Section 25 of the Declaration, Establishing a Plan of Condominium Ownership for Linden Green Condominium, I, Sydney Reader, do hereby certify: (i) that I am a member of the Council of Linden Green Condominium; (ii) that I was present at the meeting of said Council on June 13, 2017, when the foregoing Amendment to the Code of Regulations Linden Green Condominium was certified as having been duly enacted in accordance with the provisions of the Declaration of Linden Green Condominium; and (iii) said Amendment was duly enacted in accordance with the provisions of the Declaration of Linden Green Condominium and the Delaware Unit Property Act.

  
\_\_\_\_\_

STATE OF DELAWARE )  
 ) SS:  
NEW CASTLE COUNTY )

BE IT REMEMBERED, that on this 22nd day of June, 2017, personally came before me, the Subscriber, a Notary Public of the State and County, aforesaid, DENNIS LEPERE, President of the Council of Linden Green Condominium, a Condominium Council existing under the Delaware Unit Property Act, known personally to me to be such, and acknowledged this Indenture to be his act and deed as President of said Condominium Council, that the signature of the President is in his own proper handwriting, attested by the Council Secretary, and that his act of sealing, executing, acknowledging and delivering said Indenture was duly authorized by a resolution of the said Condominium Council.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.



Richard E. Franta  
Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF DELAWARE )  
 ) SS:  
NEW CASTLE COUNTY )

BE IT REMEMBERED, that on this 29th day of June, 2017, personally came before me, a Notary Public of the State and County, aforesaid, Sydney Reader, a member of the Council of Linden Green Condominium, a Condominium Council existing under the Delaware Unit Property Act, party to this Indenture, known personally to me to be such, and acknowledged the Certificate attached to this Indenture to be her act and deed.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.



Richard E. Franta  
Notary Public

My Commission Expires: \_\_\_\_\_

TAX PARCEL NUMBERS:  
08-042.20-033 and all "C" suffix variations thereof,  
being all 163 units of Linden Green Condominium

**CERTIFICATE OF AMENDMENT  
OF THE  
CODE OF REGULATIONS  
OF  
LINDEN GREEN CONDOMINIUM**

Made this 11/14 day of November 2017, by the Council of LINDEN GREEN CONDOMINIUM, to memorialize the action of said Council taken at its meeting on November 14, 2017, pursuant to 25 Del. C. Sections 2207 and 2211 (3), and pursuant to Section 3, Subsection (c) of the Enabling Declaration Establishing a Plan of Condominium Ownership for Linden Green Condominium, dated September 15, 1981, and of record at the Office of the Recorder of Deeds in and for New Castle County, Delaware, indeed Record E, Volume 116, Page 278, to amend the Code of Regulations of Linden Green Condominium dated September 15, 1981, and of record at the Office of the Recorder of Deeds, aforesaid, in Deed Record E, Volume 116, Page 294 (said document as subsequently amended hereinafter referred to as the "Code of Regulations") in the following respects:

**FIRST:** Article VII, Sections 6, 7, and 8 are hereby amended by re-designating the existing Sections in their entirety to appear as Article VII, Sections 9, 10, and 11.

**SECOND:** Article VII, Section 6, is hereby amended by re-adding the following new Section, entitled, "Nuisance Uses, Practices, Conditions and Behaviors":

*"6. Nuisance Uses, Practices, Conditions and Behaviors: No use, practice, condition or behavior which, in the reasonable judgment of the Council, constitutes a nuisance or unreasonably interferes with the peaceful use and enjoyment of the Condominium by Unit Owners or their invitees shall be introduced or maintained (or permitted to be introduced or maintained) by any Unit Owner or tenant, or by any guest or invitee of any Unit Owner or tenant, within any Unit or on any other portion of the Condominium. By way of illustration, and not by way of limitation: (i) a nuisance use shall include any use that is unlawful, and any use that results in unreasonable or untimely noise or vibration, objectionable odor, pest infestation, a threat to the health or safety of persons, or an unreasonable risk of damage to property; (ii) a nuisance practice shall include any behavior, activity or omission that presents an unreasonable*

*risk of the defined results hereinabove ascribed to a nuisance use, or results in a nuisance condition; (iii) a nuisance condition includes any condition that presents an unreasonable risk of the defined results hereinabove ascribed to a nuisance use, and, by way of further illustration, would include a defective condition (such as a leaking pipe or water appliance) within one's unit, a significant or unreasonable accumulation of garbage or refuse, flammable materials (including paper), human or animal waste or bodily fluids, caustic or explosive substances, poisons, fungus or mold; and (iv) a nuisance behavior includes dangerous, threatening, violent, obscene, lewd or obstreperous actions which a reasonable person would deem upsetting or alarming. In the event that any Unit Owner and/or tenant does not promptly cease or abate a violation of this Rule, the Council shall be entitled (but not required) to take any reasonable action to abate the hazard or nuisance, including any or all actions described in Article VII, Section 5, of the Code of Regulations or as provided under the Rules."*

**THIRD:** Article VII, Section 7, is hereby amended by re-adding the following new Section, entitled, "Nuisance Conditions: Council's Right to Abate":

*"7. Nuisance Conditions: Council's Right to Abate: In the event that the Council shall reasonably believe that there exists a nuisance condition as hereinabove defined, and that the condition poses such an immediate threat to human health and safety or poses such an imminent threat to property that the time required for usual Rule enforcement process of notification, hearing and appeal will expose persons and/or property to an unacceptable risk, the Council may (at its sole and absolute discretion, and without any obligation to do so or liability for not doing so) immediately take such reasonable measures as the Council deems prudent, in the Council's reasonable discretion, to abate the perceived nuisance condition, and shall bear no liability to the Unit Owner(s) or resident(s) whose unit(s) are entered or in which the measures are taken, for any direct or indirect consequences of such measures, including any alleged damage to the Unit(s) or personal property therein. The Council may, in its sole discretion, assess the cost of abatement measures against the owner(s) of the Unit(s) in which the hazard or nuisance originated or was maintained."*

**FOURTH:** Article VII, Section 8, is hereby amended by re-adding the following new Section, entitled, "Repeated Violations":

*"8. Repeated Violations: In the event that a Unit Owner or resident repeatedly violates the Rules in this Section, and such violations appear to the Council to be willful, malicious, or beyond the demonstrated ability of the Unit Owner or resident to control (due to impairment by substance abuse, by way of illustration), and such violations materially degrade the livability of the Condominium or expose residents (including the Unit Owner or resident) and invitees to unreasonable risk of personal injury, death or significant damage to property, such that the Council believes that the non-compliant Unit Owner or resident should not continue to live at the condominium, the Council may petition the Court of Chancery for a declaratory judgment that the Unit Owner or resident is unwilling or unable to occupy his/her unit in conformity with*

*the Rules, and a mandatory injunction barring the Unit Owner or resident from the Condominium."*

AS THUS AMENDED, the Code of Regulations of Linden Green Condominium shall remain in full force and effect.

IN WITNESS WHEREOF, the said Council of Linden Green Condominium hath caused its name by \_\_\_\_\_ to be hereunto set, duly attested by its Secretary, the day and year first above written.

Sealed and Delivered  
In the Presence of:

\_\_\_\_\_  
Witness

THE COUNCIL OF LINDEN GREEN CONDOMINIUM

By: [Signature] VP  
President  
ACTING PRESIDENT

Attest: [Signature]  
Secretary

**CERTIFICATE**

As required by Section 25 of the Declaration to Establishing a Plan of Condominium Ownership for Linden Green Condominium, I, Sydney Reader do hereby certify: (i) that I am a member of the Council of Linden Green Condominium; (ii) that I was present at the meeting of said Council on June 13, 2017, when the foregoing Amendment to the Code of Regulations Linden Green Condominium was certified as having been duly enacted in accordance with the provisions of the Declaration of Linden Green Condominium; and (iii) said Amendment was duly enacted in accordance with the provisions of the Declaration of Linden Green Condominium and the Delaware Unit Property Act.

[Signature]  
Signature

[Signature]  
Title



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 Michael E. Kozikowski T20220019234  
 New Castle Recorder MISC

08 TAX PARCEL NUMBERS:  
 80-042.20-033 and all "C" suffix variations thereof,  
 Being all 163 units of Linden Green Condominium

THIS DOCUMENT PREPARED BY  
 AND RETURNABLE TO:  
 Richard E. Franta, Atty.  
 1301 N. Harrison Street, Suite 102  
 Wilmington, DE 19806

**CERTIFICATE OF AMENDMENT**  
**OF THE**  
**CODE OF REGULATIONS**  
**OF**  
**LINDEN GREEN CONDOMINIUM**

Made this 11<sup>TH</sup> day of MARCH 11, 2022, by the Council of LINDEN GREEN CONDOMINIUM, to memorialize the unanimous action of said Council taken at its meeting of November 9, 2021, pursuant to Section 2211 (3) of the Delaware Unit Property Act (25 Del. C. Chapter 22) to amend the Code of Regulations of Linden Green Condominium dated September 15, 1981, and of record at the Office of the Recorder of Deeds in and for New Castle County, Delaware, in Deed Record E, Volume 116, Page 294, in the following respects:

**FIRST:** Article III, Paragraph 1, of the Code of Regulations entitled "Number and Qualifications," is hereby amended by striking the Section, from its title through the end of the paragraph and replacing the stricken language with the following provisions:

**"1. Number and Qualifications.**

The Council shall consist of at least three (3) but not more than five (5) members. Each Council member shall be a natural person and shall be a Unit Owner (including a director, officer or partner of the Unit Owner which is a corporation, association or partnership). A Unit Owner with a delinquent

balance (past due more than 30 days) cannot apply for Council membership or serve on a committee."

**SECOND:** Article III, Paragraph 6, of the Code of Regulations entitled "Removal of Members of the Council" is hereby amended by striking the Section, from its title through the end of the paragraph and replacing the stricken language with the following provisions:

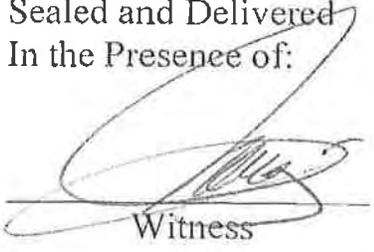
**"6. Removal of Members of the Council.**

At any regular or special meeting of Unit Owners, any one or more of the members of the Council may be removed with or without cause by Unit Owners having sixty-six and two-thirds percent (66.67%) of the Proportionate Interests in the Common Elements. The said Unit Owners may then fill the vacancy thus created. All members of the Council whose removal has been proposed by the Unit Owners shall be given an opportunity to be heard at the meeting held to consider his/her removal. Additionally, any Council member owing a delinquent balance (more than 30 days) or who has missed three (3) consecutive Council meetings must resign from the remainder of their term."

**AS THUS AMENDED,** the Code of Regulations of Linden Green Condominium shall remain in full force and effect.

**IN WITNESS WHEREOF,** the said Council of Linden Green Condominium hath caused its name by M. Leslee Coppage, its President, duly attested by its Secretary, the day and year first above written.

Sealed and Delivered  
In the Presence of:

  
Witness

THE COUNCIL OF LINDEN GREEN CONDOMINIUM

By:   
President

Attest:   
Secretary



STATE OF DELAWARE )  
 ) SS:  
NEW CASTLE COUNTY )

**BE IT REMEMBERED** that on this 11<sup>th</sup> day of March, 2022, personally came before me, the Subscriber, a Notary Public of the State and County, aforesaid, KONARD TUTUNDJI, a member of the Council of Linden Green Condominium, a Condominium Council existing under the Delaware Unit Property Act, party to this Indenture, known personally to me to be such, and acknowledged this Indenture to be his act and deed.

My Commission Expires: Infinite

JPC  
\_\_\_\_\_  
Notary Public



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Michael E. Kozikowski  
New Castle Recorder

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BYLAW DECL

**TAX PARCEL NUMBERS:**

08-042.20-033 and all "C" Suffix variations thereof, being all 163 units of Linden Green Condominium

**PREPARED BY AND RETURN TO:**  
Linden Green Condominium Assoc.  
C/O Common Cents Property Management  
501 Silverside Road, St 38  
Wilmington, DE 19809

**CERTIFICATE OF AMENDMENT  
OF  
CODE OF REGULATIONS  
OF  
LINDEN GREEN CONDOMINIUM**

Made this 30 day of December, 2024, by the Council of LINDEN GREEN CONDOMINIUM, to memorialize the unanimous action of said Council taken at its meeting on July 9, 2024, pursuant to Section 2211 (3) of the Delaware Unit Property Act (25 Del. C. Chapter 22) to amend the Code of Regulations of Linden Green Condominium dated September 15, 1981, and of the record at the Office of the Recorder of Deeds in and for New Castle County, Delaware, indeed Record E, Volume 116, Page 294, Amended July 6, 2017 as Instrument No. 20170706-0033895 and Amended on March 30, 2022 as Instrument No. 20220330-0035465, (said document as subsequently amended hereinafter referred to as the "Code of Regulations") in the following respects:

FIRST: Article II, Section 5, Sub-Section (b) is hereby amended by adding the following language "Voting by Mail/Electronic Ballot", "Whenever the Unit Owners' passage of a resolution requires the approval of a majority or supermajority (including a unanimous vote) of the Unit Owners, Council may, in its sole and absolute discretion, following discussion of the resolution at a duly called meeting of the Unit Owners at which a quorum was achieved, direct that the Unit Owners' vote proceed by either written ballot sent to each Unit Owners' postal address or hand deliver to physical address or email address on record with the Council. The ballot shall be accompanied by the full text of the resolution and instructions for voting, including a deadline for the Council's receipt of returned ballots. The ballot and resolution may be accompanied by one or more of the following documents: an additional explanation of the resolution, a projection of its predicted financial impact on the condominium, a Council recommendation for or against adoption of the resolution. A ballot not returned by the deadline will be treated as a vote against the adoption of the resolution unless the ballot has enclosed with it a Council

against the adoption of the resolution unless the ballot has enclosed with it a Council recommendation for or against the resolution, in which case the unreturned or untimely returned ballot will be treated as a vote in accordance with the Council recommendation. The results shall be retained by the Council for a period of no less than three (3) years from the date of the Unit Owners' meeting at which the resolution was discussed. The ballots shall be kept confidential, except that (i) the result for the balloting will be announced by prompt written notice via email or by hand delivery for those without an email address, to the Unit Owners, and (ii) following announcement of the results of the email balloting, upon the written request of one or more Unit Owners, the vote shall be canvassed by a committee consisting of the Council President, one other member of the Council, and a Unit Owner not a member of the Council who certifies that he or she voted against the announced result, after which canvass and the announcement of the committee's finding, the ballots will be secured and only reviewed again by order of a court of competent jurisdiction."

SECOND: Article II, Section 8, Subsection (a-f), is hereby amended by adding Subsection "g", "All new owners purchasing a unit at Linden Green Condominium will be charged a Capital Contribution fee of \$1,000.00 and investors \$2,000.00. The Capital Contribution will be added to the funding for capital improvements or maintenance of the common elements where Council deems necessary. "

THIRD: Article VI, Section 3, (c), entitled "Collection of Delinquent Assessments" is hereby amended by striking the Section from Subsection "C" and replacing the stricken language with the following provisions: ("c") "Monthly assessments are due on the 1<sup>st</sup> of the month and must be paid in full by the 15<sup>th</sup>. If not, a \$50.00 monthly late fee will be assessed until the Unit Owners' account is paid in full. "

FOURTH: Article VI, Section 3, is hereby amended by re-designating the existing section, beginning with Section 3, and adding the following new Subsection (d) "When an Owners' balance reaches \$1,000.00, Council will file in court to initiate a judgment against the unit owner to secure a lien before a foreclosure action may be filed."

FIFTH: Article VI, Section 3, is hereby amended by re-designating the existing section of the beginning with Section 3, and adding the following new Subsection (e), "Foreclosure Action", "When an Owner's balance remains unpaid and reaches a total of \$2,000 Council will initiate foreclosure proceedings to place a lien on the property, sell it at auction, and recover the balance owed plus any legal and court fees incurred in the process."

SIXTH: Article VI, Section 3, is hereby amended by re-designating the existing section, beginning with Section 3, and adding new Subsection (f), "When an Owners' balance reaches 60 days delinquent, said Owners' parking space number will be blacked out and remained blacked out until balance is paid in full."

SEVENTH: Article VI, Section 3, is hereby amended by re-designating the existing section, beginning with Section 3, and adding new Subsection (g), "No Unit Owner, Resident, or Guest shall not have access to the community pool unless the Unit Owner's account balance has been paid in full. If any balance remains after the end of the month, swimming privileges for that unit will be suspended until the balance is brought current."

Any Owner, Resident, or Guest of a unit with an unpaid balance CAN NOT be the pool guest of another unit.“

EIGHTH: Article VII, Section 2, “Maintenance and Repair of Property”, is hereby amended by re-designating the existing section, beginning with Section 2, and adding Subsection (a), “Residents are required to keep their patio and balcony free of mildew by cleaning the concrete yearly. If notified by the Council that the patio or balcony is covered in dirt or mildew, a letter will be sent to resolve the issue, and owners’ will be given 15 days to rectify the violation and avoid a violation fee for non-compliance.”

NINTH: Article VII, Section 2, “Maintenance and Repair of Property”, is hereby amended by re-designating the existing section, beginning with Section 2, adding Subsection (b), “Any Unit Owner who causes damage to an adjacent unit after being informed that damage has been caused, will have 30 days to resolve the cause of damage in their own unit and must repair damage caused in the adjacent unit. If the cause of damage is not repaired within the 30 days allowed along with the damage to the adjacent unit owner, the unit owner who caused the damage will be charged a violation fee of \$500.00 per month until proof is provided all repairs are complete by a licensed and insured contractor.”

TENTH: Article VII, Section 4, entitled, “Increase in Insurance Cost” is hereby amended by re-designating the existing Section 4, Subsection (a), “Owners unwilling to allow Council’s or Owner’s choice of a licensed and insured electrical contractor to upgrade the unit with the approved Alumiconn Wire Connector system to safeguard against electrical fire in the unit, will be charged monthly violation fee until the upgrade is completed. This applies only to the sections that have been selected for the current upgrade project. This is to avoid the offset or increase in the Association’s annual insurance premium.”

ELEVENTH: Article VII, Sections 6, entitled, “Nuisance Uses, Practices, Conditions and Behaviors”, is hereby amended by adding a new Subsection (a), “The Mandatory Pest Control program for Mid-rise Condo Units content has the following requirements: Mid-rise Condo Owners must hire a professional extermination company to spray the interior of their unit, and the pest control receipt must state the interior was treated. Non-compliance will result in a violation as stated below. Owners must submit a quarterly invoice/receipt to Council no later than 15 days after the end of each calendar quarter via the community website at <https://lindengreencondos.org/bugs>. Or, submit a hard copy using the 5426 Valley Green Dr. B-level collection box. Any Owner who does not submit their quarterly invoice/receipt will be fined as stated below. All fines will be posted to the Owner’s HOA statement. There will be no exceptions to the assessment of the fine for failure to treat the unit or submit quarterly receipts/invoices.

- First Violation \$100;
- Second Violation \$200 plus Owner loses their parking space;
- Third Violation \$500 plus Owner loses their parking space;
- Future Violations: \$500 plus Owner loses their parking space;

Any Owner who is an on/off again offender, the violation will move to the next

level each time a quarterly treatment is not performed and/or a copy of the invoice is not provided.

The Violation clock **does not restart** at the beginning of each year.

TWELFTH: Article XI, Section 1, entitled, "Notices" is hereby amended by re-designating the existing Section 1, to read as follows: "All notice shall be sent by (i) first class postal mail, (ii) email address of unit owner on record, (iii) hand delivery to the property address, addressed as follows:" Subsections A, B, and C remain the same.

**AS AMENDED**, the Code of Regulations of Linden Green Condominium shall remain in full force and effect.

THE REMAINING OF THIS PAGE IS DELIBERTELY LEFT BLANK

**IN WITNESS WHEREOF**, the said Council of Linden Green Condominium has caused its name by M. Leslee Coppage, its President, to be hereunto set, duly attested by its Secretary, the day and year first above written.

Sealed and Delivered THE COUNCIL OF LINDEN GREEN In the Presence of:  
CONDOMINIUM

Kimberly A. Hryciuk  
Witness

By: May L. Coppage  
President

Attest: Camela J. Delack  
Secretary

**CERTIFICATE**

As required by Section 25 of the Declaration Establishing a Plan of Condominium Ownership for Linden Green Condominium I, Frances Hackman, do hereby certify: (i) that I am a member of the Council of Linden Green Condominium; (ii) that I was present at the tabulation of ballots submitted by the Unit Owners; and (iii) said Amendment was duly enacted in accordance with the provision of Code of Regulations of Linden Green Condominium.

Frances Hackman  
Frances Hackman

STATE OF DELAWARE )

) SS.

NEW CASTLE COUNTY)

BE IT REMEMBERED, that on this 30<sup>th</sup> day of December, 2024, personally came before me, the Subscriber, a Notary Public of the State and County, aforesaid, M. Leslee Coppage, President of the Council of Linden Green Condominium, a Condominium Council existing under the Delaware Unit Property Act, known personally to me to be such, and acknowledge this Indenture to be her act and deed as President of said Condominium Council, that the signature of the President is in her own proper handwriting, attested by the Council Secretary, and that her act of sealing, executing acknowledging and delivering said Indenture was duly authorized by a resolution of the said Condominium Council.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

Kimberly A. Hrycak  
NOTARY PUBLIC  
STATE OF DELAWARE  
My Commission Expires October 7, 2026

*Kimberly A. Hrycak*

Notary Public

My Commission Expires: 10/7/2026

STATE OF DELAWARE )

) SS.

NEW CASTLE COUNTY)

BE IT REMEMBERED, that on this 30<sup>th</sup> day of December, 2024, personally came before me, the Subscriber, a Notary Public of the State and County, aforesaid, Frances Hackman, a member of the Council of Linden Green Condominium, a Condominium Council existing under the Delaware Unit Property Act, party to this Indenture, known personally to me to be such, and acknowledged the Certificate attached to this Indenture to be her act and deed.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

Kimberly A. Hrycak  
NOTARY PUBLIC  
STATE OF DELAWARE  
My Commission Expires October 7, 2026

*Kimberly A. Hrycak*

Notary Public

My Commission Expires: 10/7/2026