

**BYLAWS**  
**OF**  
**ROSENWALD BUILDING OWNERS' ASSOCIATION, INC.**

**ARTICLE I**  
**Plan of Unit Ownership**

**Section 1.1. Applicability.** These Bylaws provide for governance of the Rosenwald Building Owners' Association, Inc., which has been created pursuant to the New Mexico Condominium Act. The Property, as described with further particularity in Exhibit A attached to the Declaration (hereinafter defined), is located in Bernalillo County, New Mexico, has been submitted to the provisions of the Condominium Act by recordation of the Declaration in the real estate records of Bernalillo County, New Mexico.

**Section 1.2. Definitions.**

(a) Association means the Rosenwald Building Owners' Association, Inc., and its successors.

(b) Condominium Instruments means the Condominium Declaration for Rosenwald Building Condominium, the Articles of Incorporation of the Association, these Bylaws, and Rules and Regulations of the Rosenwald Building Owners' Association, Inc., if any, as hereafter amended.

(c) Common Elements means and includes the items and areas of the Property described in Section 5.1 of the Declaration, and shall include the tangible personal property required for the maintenance and operation of the Condominium even though owned by the Association, as well as the items stated in the Condominium Act.

(d) Common Expenses include (1) expenses of administration, insurance, maintenance, operation, repair or replacement of Common Elements, and of the portions of Units to be maintained by the Association; (2) expenses declared common expenses by provisions of the Declaration or these Bylaws; and (3) any valid charge against the Condominium as a whole.

(e) Declarant means Chris Laforvara, a single man, Shannon Phillips, a married man dealing in his sole and separate property, David Hurwitz and Tamara Hurwitz. husband and wife, as tenants in common, and their successors and assigns.

(f) Declaration means the Condominium Declaration for Rosenwald Building Condominium, including any amendments thereto, filed for record with the County Clerk of Bernalillo County, New Mexico.

(g) Limited Common Elements means and includes those common elements which are for the use of a certain Unit or Units to the exclusion of other Units, as described in the Condominium Act and in the Declaration.

(h) Mortgagee means a holder of a first mortgage lien on an individual Unit.

(i) Unit Owner or Owner means Owners of Units in the Condominium.

(j) Capitalized terms not otherwise defined herein or in the Declaration and any amendments thereto, shall have the meanings defined in Section 47-7A-3 of the Condominium Act.

(k) References to the Condominium Act mean the New Mexico Condominium Act, being Sections 47-7A-1 *et seq.*, NMSA, 1978 Comp.

Section 1.3. Compliance. Pursuant to the provisions of Section 47-7C-2 of the Condominium Act, every Unit Owner and all those entitled to occupy a Unit shall comply with these Bylaws.

Section 1.4. Office. The office of the Condominium, the Association, and the Board of Directors shall be located at the Property or at such other place as may be designated from time to time by the Board of Directors.

## ARTICLE II

### Unit Owner's Association

Section 2.1. Composition. The Association shall consist of a New Mexico nonprofit corporation. The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, and arranging for the management of the Condominium and performing all of the other acts that may be required or permitted to be performed by the

Condominium Act and the Declaration. Except as to those matters which the Condominium Act specifically requires to be performed by the vote of the Unit Owners, the foregoing responsibilities shall be performed by the Board of Directors or Managing Agent as more particularly set forth in Article III of these Bylaws.

**Section 2.2. Membership.** Ownership of a Unit is required in order to qualify for membership in the Association. Any person, on becoming a Unit Owner, shall automatically become a member of the Association and be subject to these Bylaws. Such membership shall terminate without any formal Association action whenever such person ceases to own a Unit, but such termination shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with the Association during the period of ownership and membership in the Association, or impair any rights or remedies of the other Unit Owners, either through the Board of Directors or directly, as against a former Unit Owner and member arising out of or in any way connected with ownership and membership and the covenants and obligations incident thereto.

**Section 2.3. Annual Meetings.** The annual meetings of the Association shall be held on the fifteenth (15) day of November of each year (unless such date shall occur on a Saturday, Sunday or holiday, in which event the meeting shall be held on the succeeding Monday). At such annual meeting, the Board of Directors shall be elected by ballot of the Unit Owners in accordance with the requirements of Section 3.4 of these Bylaws.

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

**Section 2.5. Special Meetings.** The President shall call a special meeting of the Association members if so directed by resolution of the Board of Directors or upon a petition signed and presented to the Secretary by Unit Owners holding not less than twenty percent (20%) in interest of the votes in the Association. The notice of any special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 2.6. Notice of Meetings.** The Secretary shall mail to each Unit Owner a notice of each meeting of the Unit Owners at least ten (10) but not more than sixty (60) days prior to such meeting, stating the time, place and purpose thereof. The mailing of a notice of meeting in the manner provided in this Section and Section 11.2 of these Bylaws shall be considered service of notice.

**Section 2.7. Adjournment of Meetings.** If at any meeting of the Association members a quorum is not present, Owners of a majority of the Percentage Interests, as defined and described in the Declaration, who are present at such meeting in person or by proxy may adjourn the meeting to a time not less than forty-eight (48) hours after the time the original meeting was called.

**Section 2.8. Order of Business.** The order of business of all meetings of the Association members shall be as follows:

- (a) Roll call;
- (b) Proof of notice of meeting;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of Officers;
- (e) Reports of Board of Directors: Reports of committees;
- (f) Election of members of the Board of Directors (when so required);
- (g) Unfinished business;
- (h) New business;
- (i) Ratification of budgets and assessments (when so required).

**Section 2.9. Title to Units.** Title to a Unit may be taken in the name of one or more persons, in any manner permitted by law. The Association may acquire, hold and transfer full legal title to one or more Condominium Units in the Condominium in its own name.

**Section 2.10. Voting.**

(a) Voting at all meetings of the Association shall be on a percentage basis and the percentage of the vote to which each Unit Owner is entitled shall be the Percentage Interest assigned to such Unit in the Declaration. Where the ownership of a Unit is in more than one person, the person who shall be entitled to cast the vote of such Unit shall be the person named in a certificate executed by all of the owners of such Unit and filed with the Secretary of the Association. Such certificate shall be valid until revoked by a subsequent certificate similarly executed. In the absence of such named person from the meeting, the person who shall be entitled to cast the vote of such Unit shall be the person owning such Unit who is present. If more than one person owning such Unit is present then such vote shall be cast only in accordance with the agreement of a majority of them pursuant to Section 47-7C-10 of the Condominium Act.

(b) Except where a greater number is required by the Condominium Act, the Declaration or these Bylaws, the affirmative vote of Unit Owners holding a majority of the Percentage Interests represented in person or by proxy at a duly



convened meeting at which a quorum is present is required to adopt decisions at any meeting of the Association members.

(c) If the Declarant owns or holds title to one or more Units, the Declarant shall have the right at any meeting of Association members to cast the votes to which such Unit or Units are entitled.

(d) No Unit Owner may vote at any meeting or be elected to or serve on the Board of Directors if the Association has perfected a lien against his Unit and the amount necessary to release such lien has not been paid at the time of such meeting or election.

Section 2.11. Proxies. A vote may be cast in person or by proxy. Proxies shall be duly executed in writing, shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from the Unit Owner of such Unit. No proxy shall in any event be valid for a period in excess of one hundred eighty (180) days after the execution thereof.

Section 2.12. Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of Unit Owners entitled to cast twenty percent (20%) or more of the votes in the Association shall constitute a quorum at all meetings of the Association.

Section 2.13. Conduct of Meetings. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The then current edition of *Robert's Rules of Order* shall govern the conduct of all meetings of the Association when not in conflict with the Declaration, these Bylaws or the Condominium Act. Failure to follow *Robert's Rules of Order* shall not, without other grounds, invalidate any action taken. All votes shall be tallied by tellers appointed by the President.

### ARTICLE III Board of Directors

Section 3.1. Number and Qualification/Declarant Control Period. The affairs of the Association shall be governed by a Board of Directors. The Board of Directors shall be composed of three (3) persons, all of whom shall be Unit Owners or the legal

representative of Unit Owners, Mortgagees (or designees of Mortgagees) or designees of the Declarant; provided, however, Declarant shall designate, remove and replace the Directors of the Association until the earlier of (i) the expiration of the maximum time for Declarant control permitted by Section 47-7C-3 of the Condominium Act, or (ii) thirty (30) days after written notice by Declarant of its voluntary relinquishment of Declarant's rights to appoint and remove officers and members of the Board of Directors. The Declarant shall have the right, in its sole discretion, to replace such Directors as may be so designated, and to designate their successors. The time limit on the period of Declarant's control shall commence upon closing of the first Unit to be sold in any portion of the Condominium.

**Section 3.2 Powers and Duties.** The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are permitted by the Condominium Act, the Declaration or these Bylaws, and not required to be exercised and done by the Unit Owners. The Board of Directors shall have the power from time to time to adopt any Rules and Regulations (herein so called) deemed necessary for the benefit and enjoyment of the Condominium; provided, however, that such Rules and Regulations shall not be in conflict with the Condominium Act, the Declaration or these Bylaws. The Board of Directors shall delegate to one of its members or to a person employed for such purpose, the authority to act on behalf of the Board of Directors on such matters relating to the duties of the Managing Agent (as defined in Section 3.3 of these Bylaws), if any, which may arise between meetings of the Board of Directors, as the Board of Directors deems appropriate. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereinafter be adopted, the Board of Directors shall on behalf of the Association:

(a) Prepare an annual budget, in which there shall be established the assessment of each Unit Owner for the Common Expenses pursuant to Article V, herein.

(b) Make assessments against Unit Owners to defray the costs and expenses of the Condominium, establish the means and methods of collecting such assessments from the Unit Owners; and establish the period of the installment payment of the annual assessment for Common Expenses. Unless otherwise determined by the Board of Directors, the annual assessment against each Unit Owner for his proportionate share of the Common Expenses shall be payable in quarterly installments, each such installment to be due and payable in advance on the first day of each month for such quarter.

(c) Provide for the operation, care, upkeep and maintenance of the portion of the Property to be operated, cared for and maintained by the Association.

(d) Designate, hire and dismiss personnel necessary for the maintenance, operation, repair and replacement of the Common Elements and provide services for the Property and where appropriate, provide for the compensation of such personnel and for the purchase of equipment and supplies to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the Property.

(e) Collect the assessments against the Unit Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors, and use the proceeds to carry out the administration of the Property.

(f) Make and amend Rules and Regulations.

(g) Open bank accounts on behalf of the Association and designate the signatories thereon.

(h) Make, or contract for the making of, repairs, additions and improvements to or alterations of the Property and repairs to and restoration of the Property, in accordance with the Condominium Act, the Declaration and these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

(i) Enforce by legal means the provisions of the Declaration, these Bylaws and the Rules and Regulations and act on behalf of the Unit Owners with respect to all matters arising out of any eminent domain proceeding.

(j) Obtain and carry insurance against casualties and liabilities, as provided in Article VI of these Bylaws, pay the premiums therefor and adjust and settle any claims thereunder.

(k) Pay the cost of all authorized services rendered to the Association and not billed to individual Unit Owners or as otherwise provided for in Sections 5.1 and 5.2 of these Bylaws.

(l) Keep books with detailed accounts in chronological order of the receipts and expenditures affecting the Condominium Property, and the administration of the Condominium, specifying the expenses of maintenance and repair of the Common Elements and any other expenses incurred. Such books and vouchers accrediting the entries thereupon shall be available for examination by the Unit Owners, their duly authorized agents or attorneys, during general business hours on working days at the time and in the manner set and announced by the

Board of Directors for the general knowledge of the Unit Owners. All books and records shall be kept in accordance with accepted bookkeeping practices.

(m) Notify a Mortgagee of any default hereunder by the Unit Owner of the Unit subject to such Mortgage, in the event such default continues for a period exceeding sixty (60) days.

(n) Borrow money on behalf of the Association when required in connection with any instance relating to the operation, care, upkeep and maintenance of the Common Elements, provided, however, that the consent of Unit Owners representing a majority of Percentage Interests represented in person or by proxy at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to borrow any sum in excess of Five Thousand Dollars (\$5,000). If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this paragraph (n) is not repaid by the Association, a Unit Owner who pays to the creditor such proportion thereof as his Percentage Interest bears to the total Percentage interests in the Condominium, shall be entitled to obtain from the creditor a release of any judgment or other lien which such creditor shall have filed or shall have the right to file against the Unit of such Unit Owners.

(o) Acquire, hold and dispose of Units and mortgage the same if such expenditures and hypothecations are included in the budget adopted by the Association.

(p) In its sole discretion, designate from time to time certain Common Elements as Limited Common Elements and impose such restrictions and conditions on the use thereof as the Board of Directors deem appropriate.

(q) Do such other things and acts not inconsistent with the Condominium Act, the Declaration or these Bylaws which the Board of Directors may be authorized to do by a resolution of the Association.

**Section 3.3. Managing Agent.** The Board of Directors may employ for the Condominium a Managing Agent at a compensation established by the Board of Directors. The Managing Agent may be an Officer or Director of the Association provided that the compensation paid to such agent is the customary compensation payable to a managing agent for like properties in the greater Albuquerque metropolitan area.



#### Section 3.4. Election and Term of Office.

(a) At the first annual meeting of the Association, the term of office of one member of the Board of Directors shall be fixed at three (3) years, the term of office of one member of the Board of Directors shall be fixed at two (2) years, and the term of office of one member of the Board of Directors shall be fixed at one (1) year. At the expiration of the initial term of office of each member of the initial Board of Directors, a successor shall be elected to serve for a term of three (3) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

(b) Nominations for persons qualified to be members of the Board of Directors may be submitted from the floor at the meeting at which the election is held for each vacancy on the Board of Directors for which no more than one person has been nominated by petition or by the Nominating Committee.

Section 3.5. Removal or Resignation of Members of the Board of Directors. Except with respect to Directors designated by Declarant, at any regular or special meeting duly called, any one or more of the members of the Board of Directors may be removed with or without cause by the vote of Unit Owners representing a majority of the Percentage Interests present or participating by proxy, and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been Proposed by the Unit Owners shall be given an opportunity to be heard at the meeting. A member of the Board of Directors may resign at any time.

Section 3.6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Association shall be filled by a vote of a majority of the remaining Directors at a special meeting of the Board of Directors held for such purpose promptly after the occurrence of any such vacancy, even though the Directors present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Board of Directors for the remainder of the term of the member being replaced and until a successor shall be elected at the next annual meeting of the Association. Notwithstanding anything to the contrary in this Section or Section 3.5 of these Bylaws, so long as the Declarant owns more than fifty percent (50%) of the aggregate Percentage Interests, but in no event after the expiration of the maximum time permitted by Section 47-7C-3 of the Condominium Act, the Declarant shall designate the successor to any resigned or removed member previously designated by the Declarant.

Section 3.7. Organization Meeting. The first meeting of the Board of Directors following the annual meeting of the Association shall be held within seven (7) days thereafter, at such time and place as shall be fixed by the Association at the

meeting at which such Board of Directors shall have been elected. No notice shall be necessary to the newly elected members of the Board of Directors in order to legally constitute such meeting, providing a majority of the whole Board of Directors shall be present thereat.

**Section 3.8. Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but such meetings shall be held at least once every three (3) months during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, by mail, telephone, telegraph or hand delivery, at least ten (10) days prior to the day named for such meeting.

**Section 3.9. Special Meetings.** Special meetings of the Board of Directors may be called by the President on three (3) business days' notice to each Director, given by mail, telephone, telegraph or hand delivery, which notice shall state the time, place and purpose of the meetings. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and in like notice on the written request of at least two (2) Directors.

**Section 3.10. Waiver of Notice.** Any Director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time, place and purpose of such meeting. If all Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

**Section 3.11. Quorum of Board of Directors.** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

**Section 3.12. Fidelity Bonds.** Any requirements for fidelity bonds shall be determined by the Board of Directors.

**Section 3.13. Compensation.** No Director shall receive any compensation from the Association for acting as such.

Section 3.14. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book of the Board of Directors recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. The then current edition of *Robert's Rules of Order* shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Declaration, these Bylaws or the Condominium Act.

Section 3.15. Action without Meeting. To the extent allowed by the Condominium Act, any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

Section 3.16. Liability of the Board of Directors, Officers, Unit Owners and Association.

(a) The Association shall indemnify every Director or Officer, his or her heirs, executors and administrators, against all loss, cost and any action, suit or proceeding to which he may be made a party by reason of his being or having been a Director or Officer of the Association, except in matters of gross negligence or misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters in which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or misconduct in the performance of his duty as such Director or Officer in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such Director or Officer may be entitled. All liability, loss, damage, cost and expense incurred or suffered by the Association in connection with the foregoing indemnification provision shall be treated and handled by the Association as Common Expenses. Officers and members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association. The liability of any Unit Owner arising out of any contract made by the Officer or Board of Directors, or out of the aforesaid indemnity in favor of the members of the Board of Directors or Officers, or for damages as a result of injuries arising in connection with the Common Elements solely by virtue of the ownership of a Percentage Interest therein or for liabilities incurred by the Association, shall be limited to the total liability multiplied by the Percentage Interest of the Unit. Every agreement made by the Officers, the Board of Directors or the Managing Agent on behalf of the Association shall, if obtainable, provide that the Officers, the members of the Board of Directors or the Managing Agent, as the case may be, are



acting only as agents for the Association and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to the total liability multiplied by his Percentage Interest.

(b) The Association shall not be liable for any failure of water supply or other services that may be obtained by the Association or paid for as a Common Expense, or for injury or damage to person or property caused by the elements or by the Unit Owner of any Unit or any other person, or resulting from electricity, water, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment, unless caused by the negligence of the Association. The Association shall not be liable to any Unit Owner for loss or damage, by theft or otherwise, of any article which may be stored upon any of the Common Elements. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements or from any action taken by the Association to comply with any law, ordinance or with the order of directive of any municipal or other governmental authority.

Section 3.17. Common or Interested Directors. Each member of the Board of Directors shall exercise his powers and duties in good faith and with a view to the interests of the Condominium and the Association. No contract or other transaction between the Association and any of its Directors, or between the Association and any corporation, firm or association (including the Declarant) in which any of the Directors of the Association are directors or officers or are pecuniarily or otherwise interested, is either void or voidable because any such Director is present at the meeting of the Board of Directors or any committee thereof which authorized or approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subparagraphs exists:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board of Directors authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose, or

(b) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

Any common or interested Directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which



authorizes, approves or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction with like force and effect as if such Director were not such director or officer of such association or not so interested.

Section 3.18. Covenants Committee. The Board of Directors shall constitute or may appoint a Covenants Committee, to serve for the same term as the Board of Directors, in order to assure that the Condominium shall always be maintained in a manner:

- (a) providing for visual harmony and soundness of repair;
- (b) avoiding activities deleterious to the aesthetic or property values of the Condominium; and
- (c) promoting the general welfare of the Condominium.

(1) Powers. The Covenants Committee shall regulate the external design, appearance, use and maintenance of the Common Elements. The Covenants Committee shall have the power to issue a cease and desist request to a Unit Owner or such Unit Owner's guests, invitees, or lessees whose actions are inconsistent with the provisions of the Condominium Act, the Condominium Instruments, the Rules and Regulations or resolutions of the Board of Directors (upon petition of any Unit Owner or upon its own motion). The Covenants Committee shall from time to time, as required, provide interpretations of the Condominium Instruments, Rules and Regulations and resolutions pursuant to the intents, provisions, and qualifications thereof when requested to do so by a Unit Owner or the Board of Directors. Any action, ruling or decision of the Covenants Committee may be appealed to the Board of Directors and the Board of Directors shall always have the power to modify or reverse any such action, ruling or decision.

(2) Authority. The Covenants Committee shall have such additional duties, power and authority as the Board of Directors may from time to time provide by resolution.

#### ARTICLE IV Officers

Section 4.1. Designation. The principal officers of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary. The President and Vice President shall be members of the Board of

Directors. Any other Officers may, but need not, be Unit Owners or members of the Board of Directors.

Section 4.2. Election of Officers. The Officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors.

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

Section 4.4. President. The President shall be the chief executive officer of the Association; preside at all executive meetings of the Association and of the Board of Directors; and have all of the general powers and duties which are incident to the office of President of the corporation including without limitation the power to appoint committees from among the Unit Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 4.5. Vice President. The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors or by the President.

Section 4.6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors; have charge of such books and papers as the Board of Directors may direct; maintain a register setting forth the place to which all notices to Unit Owners and Mortgagees hereunder shall be delivered; and, in general, perform all duties incident to the office of Secretary of the corporation.

Section 4.7. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data; and be responsible for the deposit of all monies and other valuable effects in the name of the Board of Directors, the Unit Owners, the Association, or the Managing Agent, in such depositories as may from

to time be designated by the Board of Directors; and, in general, perform all duties incident to the office of Treasurer of the corporation.

**Section 4.8. Execution of Documents.** All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of Five Thousand Dollars (\$5,000), shall be executed by any two persons designated by the Board of Directors. All such instruments for expenditures or obligations of Five Thousand (\$5,000) or less may be executed by any one person designated by the Board of Directors.

**Section 4.9. Compensation of Officers.** No Officer who is also a Director shall receive any compensation from the Association for acting as such Officer.

## **ARTICLE V**

### **Operation of the Property**

**Section 5.1. Determination of Common Expenses and Assessments against Unit Owners.**

(a) **Fiscal Year.** The fiscal year of the Association shall be the calendar year unless otherwise determined by the Board of Directors.

(b) **Preparation and Approval of Budget.**

(1) On or before the first day of November of each year, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units as to which it is the responsibility of the Association to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Condominium Act, the Declaration, these Bylaws or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Condominium Property and the rendering to the Unit Owners of all related services.

(2) Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements. Within ten (10) days of the adoption of the budget, the Board of Directors shall send to each Unit Owner a copy of the budget, in a reasonably itemized form, which sets forth the amount of the Common Expenses and any special assessment payable by each Unit



Owner. Such budget shall constitute the basis for determining each Unit Owners' assessment for the Common Expenses of the Association, if ratified pursuant to Section 47-7C-3 of the Act.

(c) **Assessment and Payment of Common Expenses.** Subject to the provisions of Article IX of these Bylaws, the total amount of the estimated funds required for the operation of the Condominium set forth in the budget adopted by the Board of Directors and ratified by the Unit Owners shall be assessed against Unit Owners in proportion to their respective Percentage Interests, as defined and described in the Declaration, and shall be a lien against each Unit Owner's Unit as provided in Section 9.2 of these Bylaws and the Declaration. On or before the first day of each fiscal year, and quarterly thereafter, each Unit Owner shall be obligated to pay to the Board of Directors or the Managing Agent (as determined by the Board of Directors), one-quarter (1/4) of such assessment. Within sixty (60) days after the end of each fiscal year, the Board of Directors shall supply to all Unit Owners and to each Mortgagee and itemized accounting of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amount collected pursuant to the budget adopted by the Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall, if the Board of Directors deems advisable, be credited, according to each Unit Owner's Percentage Interest, to the next quarterly installments due from Unit Owners under the current fiscal year's budget, until exhausted. Any net shortage shall be assessed in accordance with each Unit Owner's Percentage Interest and shall be payable in full with payment of the next quarterly assessment due.

(d) **Reserves.** The Board of Directors may, in its sole discretion, accrue and maintain reasonable reserves for working capital, operations, contingencies and replacements. Extraordinary expenditures, not originally included in the annual budget, which may become necessary during the year shall be charged first against such reserves. If the reserves are inadequate for any reason, including non-payment of any Unit Owner's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed against the Unit Owners according to their respective Percentage Interests, and which may be payable in a lump sum or in installments, such assessment shall be a lien as of the effective date as set forth in Section 9.2 hereof.

(e) **Initial Budget and Capital Payment.**

(1) Upon taking office, the first Board of Directors elected or designated pursuant to these By-laws shall determine the budget, as defined in this



Section, for the period commencing sixty (60) days after such election and ending on the last day of the fiscal year in which such election or designation occurs. Assessments shall be levied and become a lien against the Unit Owners during such period as provided in paragraph (c) of this Section.

(2) Declarant, as the agent of the Board of Directors, will collect from each initial purchaser of a Unit at the time of settlement an "initial capital payment" equivalent to:

(i) the estimated quarterly assessment for Common Expenses for such purchaser's Unit; and

(ii) his Percentage Interest charges, if applicable. The Declarant will deliver the funds so collected to the Board of Directors to provide the necessary working capital for the Association.

(f) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expenses whenever the same shall be determined. In the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay each quarterly installment at the quarterly rate established for the previous fiscal year until notice of the quarterly payment, which is due more than thirty (30) days after such new annual or adjusted budget shall have been delivered.

(g) Accounts. All sums collected by the Board of Directors with respect to assessments against the Unit Owners or from any other source may be commingled into a single fund, but shall be held for each Unit Owner in accordance with his Common Expense liability.

(h) Special Declarant Rights. Declarant alone is responsible for expenses in connection with the portion of the Property subject to Special Declarant Rights as such term is defined in the Declaration. During the period when any Special Declarant Rights have yet to be exercised, the Association shall fairly and equitably determine the portion of any expenses concerning the Property which should be allocated to Declarant relating to the portion of the Property subject to the exercise of Special Declarant Rights. By example, and without limitation, in making such determination the Association shall recognize that for such purposes the Declarant shall not be responsible for or be required to contribute to that portion of any repair, maintenance or replacement costs (including any reserves therefor) which pertain to portions of the Common Elements comprising structures or pertaining to items

which should otherwise not fairly and reasonably be allocated to Declarant in connection with its reservation of Special Declarant Rights.

Section 5.2. Payment of Common Expenses. Each Unit Owner shall pay the Common Expenses assessed by the Board of Directors pursuant to the provisions of Section 5.1 of these Bylaws. No Unit Owner may be exempted from liability for such unit Owner's contribution toward Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of such party's Unit. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against such party's Unit after the date of recordation of a conveyance by him in fee of such Unit, provided notice is given to the Association prior to conveyance. Before or at the time of any such conveyance, all liens, unpaid charges and assessments shall be paid in full and discharged. The purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid assessments against the latter for his proportionate share of the Common Expenses up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling Unit Owner amounts paid by the purchaser therefor; provided, however, any such purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling Unit Owner within ten (10) working days following a written request therefor to the Board of Directors or Managing Agent and such Purchaser shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth; and provided, further, that each Mortgagee who comes into possession of a Unit by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Unit free of any claims for unpaid assessments or charges against such Unit which accrue before the time such Mortgagee comes into possession thereof, except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units including the mortgaged Unit.

Section 5.3. Collection of Assessments. The Board of Directors or the Managing Agent, at the request of the Board of Directors, shall take prompt action to collect any assessments for Common Expenses due from any Unit Owner which remain unpaid for more than thirty (30) days from the due date for payment thereof. Any assessment, or installment thereof, not paid within thirty (30) days after due date shall accrue a late charge in the amount of five percent (5%) of the overdue installment and interest at the rate of twelve percent (12%) per annum on the overdue installment from the date due until paid.

Section 5.4. Statement of Common Expenses. The Board of Directors shall promptly provide any Unit Owner, contract purchaser, or Mortgagee, so requesting the same in writing, with a written statement of all unpaid assessments for

Common Expenses due from such Unit Owner. The Board of Directors may impose a reasonable charge for the preparation of such statement to cover the cost of preparation to the extent permitted by the Condominium Act.

Section 5.5. Maintenance, Repair, Replacement and Other Common Expenses.

(a) By the Association. The Association shall be responsible for the maintenance, repair and replacement (unless, if in the opinion of not less than two-thirds (2/3rds) of the Board of Directors such expense was necessitated by the negligence or misconduct of a Unit Owner) of all of the Common Elements (including the Limited Common Elements) as defined herein or in the Declaration, whether located inside or outside of the Units, the cost of which shall be charged to all Unit Owners as a Common Expense.

(b) By the Unit Owners.

(1) Each Unit Owner shall keep such party's Unit and its equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all maintenance and upkeep which may at any time be necessary to maintain the good appearance and condition of such Unit. In addition, each Unit Owner shall be responsible for all damage to any other Units or to the Common Elements caused by the Unit Owner or such party's guests or invitees or resulting from such party's negligence or by the Unit Owner's failure to make any of the repairs required by this Section. Each Unit Owner shall perform the repair and upkeep responsibility in such manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit Owner shall promptly report to the Board of Directors or the Managing Agent any defect or need for repairs for which the Association is responsible.

(2) Any Unit Owner permitted by the Board of Directors to use a specific portion of the Common Elements for storage is responsible for the maintenance and care of such portion and shall use such portion in a safe and sanitary manner.

(c) Ambiguity. In the event of any question or ambiguity with respect to maintenance responsibilities, such responsibilities shall be determined by the majority vote of the Board of Directors.

(d) Manner of Repair and Replacement. All repairs and replacements shall be substantially similar to the original construction and installation and shall be of comparable quality as when new.



Section 5.6. Additions, Alterations or Improvements by the Board of Directors. Except during the period of Declarant control, whenever in the judgment of the Board of Directors improvements estimated to cost in excess of Five Thousand Dollars (\$5,000) during any period of twelve (12) consecutive months are considered necessary, the making of such additions, alterations or improvements shall be approved by a majority of the Unit Owners, and the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the cost thereof as a Common Expense. Any additions, alterations or improvements costing Five Thousand Dollars (\$5,000) or less during any period of twelve (12) consecutive months may be made by the Board of Directors without approval of the Unit Owners and the cost thereof shall constitute a Common Expense. Notwithstanding the foregoing, if, in the opinion of not less than two-thirds (2/3rds) of the members of the Board of Directors, such additions, alterations or improvements are exclusively or substantially exclusively for the benefit of the Unit Owner or Unit Owners requesting the same, such requesting Unit Owners shall be assessed therefor in such proportion as they jointly approve or, if they are unable to agree thereon, in such proportions as may be determined by the Board of Directors.

Section 5.7. Additions, Alterations or Improvements by Unit Owners. No Unit Owner shall make any structural addition, alteration or improvement in or to such party's Unit without the prior written consent of the Board of Directors. No Unit Owner shall alter the exterior appearance of his Unit, including the doors and windows, nor shall any Unit Owner alter the exterior of any building, without the prior written consent of the Board of Directors. The Board of Directors shall be obligated to answer any written request by a Unit Owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit within thirty (30) days after such request is delivered to each Director in writing. If any application to any governmental authority for permit to make any such structural addition, alteration or improvement in or to any Unit requires execution by the Association, and provided consent has been given by the Board of Directors, then the application shall be executed on behalf of the Association by the Board of Directors only, without, however, incurring any liability on the part of the Board of Directors or any of the Directors to any contractor, subcontractor or materialmen on account of such addition, alteration or improvement, or to any person having claim for injury or damage to property arising therefrom. The provisions of this Section 5.7 of these Bylaws shall not apply to Units owned by the Declarant until deeds of conveyance of such Units have been recorded; provided, however, that Declarant's construction or alterations shall be architecturally compatible with existing Units.

Section 5.8. Restrictions on Use of Units and Common Elements; Rules and Regulations.



(a) Each Unit and the Common Elements shall be occupied and used as follows:

(1) As specified in the Declaration.

(2) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Property or any part thereof without the prior written consent of the Board of Directors. No Unit-Owner shall permit anything to be done or kept in such party's Unit or in the Common Elements which will result in the cancellation of insurance on the Property or any part thereof or which would be in violation of any law, regulation or administrative ruling. No waste shall be committed in the Common Elements.

(3) In accordance with all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof and in accordance with the Covenants.

(4) No Unit Owner shall obstruct any of the Common Elements nor shall any Unit Owner store or place anything upon any of the Common Elements (except those areas designated for such storage by the Board of Directors) without the prior written approval of the Board of Directors. Nothing shall be altered or constructed in or removed from the Common Elements except upon the prior written consent of the Board of Directors or the Covenants Committee, as appropriate.

(5) No Unit Owner shall lease a Unit other than on a written form of lease requiring the lessee to comply with the Condominium Instruments and the Rules and Regulations, and providing that failure to comply constitutes a default under the lease. The Board of Directors may provide a suggested standard form of lease for use by Unit Owners. Each Unit Owner shall promptly, following the execution of any such lease, forward a conformed copy thereof to the Board of Directors. The foregoing provisions of this subparagraph shall not apply to the Declarant, or to a Mortgagee in possession of a Unit as a result of a foreclosure or other judicial sale or as a result of any proceeding in lieu of foreclosure, during the period of such Mortgagee's possession.

(6) Trailers, campers, recreational vehicles or boats may be parked on the Property only with the consent of the Board of Directors. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept upon the Property.

(7) The maintenance, keeping, boarding and/or raising of animals, livestock, poultry or reptiles of any kind, regardless of number shall be and is prohibited within any Unit or upon the Common Elements

(8) Except for such signs as may be posted by the Declarant for promotional or marketing purposes, no signs of any character shall be erected, posted or displayed upon, in, from any Unit or Common Elements without the prior written approval of the Board of Directors. The provisions of this subparagraph shall not be applicable to the institutional holder of any first mortgage which comes into possession of any Unit by reason of any remedies provided for in the mortgage, foreclosure of any mortgage or any deed of trust or other proceeding in lieu of foreclosure, but shall apply to any tenant or contract purchaser of such mortgage holder.

(9) Each Unit and the Common Elements shall be occupied and used in compliance with the Rules and Regulations which may be promulgated and amended by the Board of Directors. Copies of the Rules and Regulations shall be furnished by the Board of Directors to each Unit Owner. Amendments to the Rules and Regulations, prior to the time when the same shall become effective, shall be furnished to each Unit Owner.

Section 5.9. Right of Access. By acceptance of a deed of conveyance for a Unit, each Unit Owner thereby grants a right of access to his Unit, as provided by Section 47-7C-7 of the Condominium Act and the Declaration, to the Board of Directors or the Managing Agent, or any other person authorized by the Board of Directors or the Managing Agent, or any group of the foregoing, for the purpose of enabling the exercise and discharge of their respective power and responsibilities, including without limitation making inspections, correcting any condition originating in his Unit and threatening another Unit or the Common Elements, performing installations, alterations or repairs to the mechanical or electrical services to the Common Elements in a Unit or elsewhere in the Property, or to correct any condition which violates any mortgage; provided, however, that requests for entry for purposes of maintenance or repair are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. In case of emergency, such right of entry shall be immediate, whether the Unit Owner is present at the time or not.

Section 5.10. Utility Charges. The cost of utilities serving the Condominium shall be a Common Expense or shall be billed directly to the Unit Owners, as determined by the Board of Directors.

Section 5.11. Use of Common Elements. No Unit Owner shall place or store or cause or permit to be placed or stored on or in the Common Elements (other than in the areas designated as storage areas) any personal property of any kind unless approved by the Board of Directors.

## ARTICLE VI Insurance

Section 6.1. Coverage; Payment. The Board of Directors shall obtain and maintain fire and extended insurance coverage for all improvements of the Condominium sufficient to cover replacement costs; and shall obtain and maintain liability insurance covering personal injury death, and property damage in reasonable amounts as determined by the Board of Directors. The cost of premiums for insurance as aforesaid and any other insurance coverage obtained by the Board of Directors for the benefit of the Association shall be a Common Expense. Unit Owners may obtain additional insurance in their discretion.

## ARTICLE VII Repair and Reconstruction After Fire or Other Casualty

Section 7.1. When Repair and Reconstruction are Required. In the event of damage to or destruction of all or any portion of the buildings of the Condominium as a result of fire or other casualty, the Board of Directors shall arrange for and supervise the prompt repair and restoration of the buildings, but not including any furniture, furnishings, fixtures, equipment or other personal property supplied or installed by the Unit Owners in the Units. Notwithstanding the foregoing, each Unit Owner shall have the right to supervise the interior redecorating of such party's own Unit.

## ARTICLE VIII Mortgages

Section 8.1. Notice to Board of Directors. A Unit Owner who mortgages such party's Unit shall notify the Board of Directors of the name and address of his Mortgagee and shall file a conformed copy of the Note and Mortgage with the Board of Directors.

Section 8.2. Notice of Default, Casualty or Condemnation. The Board of Directors when giving notice to any Unit Owner of a default in paying an assessment for Common Expenses or any other default, shall simultaneously send a copy of such notice to the Mortgagee of such Unit, provided such assessment for Common Expenses is sixty (60) days or more past due.

Section 8.3. Notice of Amendment of Declaration and Bylaws. The Board of Directors shall give notice to all Mortgagees twenty (20) days prior to the date on which the Unit Owners, in accordance with the provisions of these Bylaws, materially amend the Condominium Instruments.

Section 8.4. Notice of Change in Managing Agent. The Board of Directors shall give notice to all Mortgagees twenty (20) days prior to changing from self-management to a Managing Agent.

Section 8.5. Mortgagees' Approvals. Unless all Mortgagees shall have given their prior written approval, and except as otherwise provided in any of the Condominium Instruments, neither the Association nor the Unit Owner shall:

- (a) Change the Percentage Interest or obligations of any Unit.
- (b) Subdivide, partition or relocate the boundaries of any Unit encumbered by a mortgage or the Common Elements of the Condominium.
- (c) By act or omission withdraw the submission of the Property to the Condominium Act, except as provided by the Condominium Instruments or the Condominium Act.

Section 8.6. Other Rights of Mortgagees. All Mortgagees or their representatives shall be entitled to request notice of and to attend meetings of the Association and shall have the right to speak thereat. All such Mortgagees shall have the right to examine the books and records of the Condominium, and to require the submission of annual financial reports and other budgetary information.



## ARTICLE IX Compliance and Default

Section 9.1. Relief. Each Unit Owner shall be governed by, and shall comply with, all of the terms of the Condominium Instruments and the Condominium Act as any of the same may be amended from time to time. In addition to the remedies provided in Section 47-7C-16 of the Condominium Act, a default by a Unit Owner shall entitle the Association, acting through its Board of Directors or through the Managing Agent, to the following relief;

(a) Additional Liability. Each Unit Owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by the act, neglect or carelessness of such Unit Owner or the act, neglect or carelessness of employees, agents or licensees of such Unit Owner, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Association. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any Unit or its appurtenances.

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

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

(d) Interest. In the event of a default by a Unit Owner in paying any sum due the Association with respect to such party's Unit (other than payment for Common Expenses which are addressed in Section 5.3 above) which default continues for a period in excess of thirty (30) days, the principal amount unpaid shall bear interest at the rate of eighteen percent (18%) per annum from the due date until paid.

(e) **Abating and Enjoining Violations by Unit Owners.** The violation of any of the Regulations adopted by the Board of Directors, the breach of any Bylaw contained herein or the breach of any provision of the Declaration or the Condominium Act shall give the Association the right, in addition to any other rights set forth in these Bylaws:

(1) to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Association shall not thereby be deemed guilty in any manner of trespass; or

(2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity the continuance of any such breach.

(f) **Legal Proceedings.** Failure to comply with any of the terms of the Declaration, these Bylaws and the Rules and Regulations shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure or the lien for payment of all assessments, writs of assistance, bills of attainder, any other relief provided for in these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board of Directors, the Managing Agent or, if appropriate, by an aggrieved Unit Owner and shall not constitute an election of remedies.

#### Section 9.2. Lien for Assessments.

(a) **Annual Assessments.** The total annual assessment of each Unit Owner for Common Expenses or any special assessment made pursuant to these Bylaws is hereby declared to be a lien levied against the Unit of such Unit Owner as provided in Section 47-7C-16 of the Condominium Act, which lien shall, with respect to annual assessments, be effective on the first day of each fiscal year of the Condominium and, as to special assessments, on the first day of the next month which begins more than fifteen (15) days after delivery to the Unit Owner of notice of such assessment. The Board of Directors or the Managing Agent may file or record such other or further document, to confirm the establishment and priority of such lien.

(b) **Acceleration.** Where an assessment against a Unit Owner is payable in installments, upon a default by such Unit Owner in the timely payment for sixty (60) days, the maturity of the remaining total of the unpaid installments of such

assessments may be accelerated, at the option of the Board of Directors, and the entire balance of the annual assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Unit Owner and such Unit Owner's Mortgagee by the Board of Directors or the Managing Agent.

(c) **Foreclosure of Lien.** The lien for assessment may be enforced and foreclosed in the manner provided by the laws of the State of New Mexico by action in the name of the Board of Directors, or the Managing Agent, acting on behalf of the Association. During the pendency of such suit, the Unit Owner shall be required to pay a reasonable rental for the Unit for any period prior to sale pursuant to any judgment or order of any court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the laws of the State of New Mexico.

(d) **Money Judgment.** A suit to recover a money judgment for unpaid contributions may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

**Section 9.3. Supplemental Enforcement of the Lien.** In addition to the proceedings at law or in equity for the enforcement of the lien established by the Declaration, these Bylaws or the Condominium Act, all of the Unit Owners may be required by the Declarant or the Board of Directors to execute bonds conditioned upon the faithful performance and payment of the installments of the lien established hereby.

**Section 9.4. Subordination and Mortgagee Protection.** Notwithstanding any other provisions hereof to the contrary, the lien of any assessment levied pursuant to these Bylaws upon any Unit (and any penalties, interest or assessments, late charges or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage made in good faith for value received; provided, however, that such Mortgage secures a loan made by an institutional lender; and provided, further, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Unit pursuant to a decree of foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser of the Unit at such sale from liability for any assessment thereafter becoming due nor from the lien of any such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.



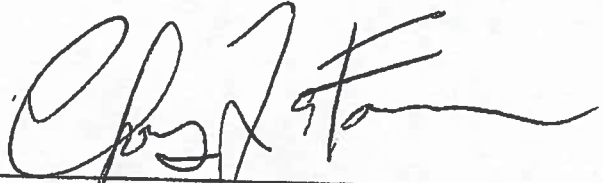
Section 11.3 Conflicts. The Board of Directors may enter into service contracts, insurance contracts, management contracts and other relationships with the Declarant, the Managing Agent, or one or more Unit Owners and pay such party a fee for the services rendered without such constituting a conflict of interest provided that the fee paid is the customary fee for such services within the greater Albuquerque metropolitan area.

Section 11.4. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

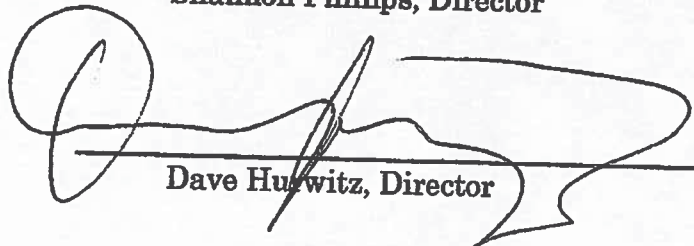
Section 11.5. Gender. The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

IN WITNESS WHEREOF, these Bylaws have been adopted by the unanimous written act and consent of the Board of Directors of the Association, this 9-20 day of ~~March~~, 2007.

*September*

  
Chris Laforana, Director

Shannon Phillips, Director

  
Dave Hurlwitz, Director

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Chris Laforanara, Director

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Shannon Phillips, Director

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Dave Hurwitz, Director