

MASTER DEED

FOR

OCEAN PLAZA NORTH CONDOMINIUMS

L36
137

COUNTY OF MONMOUTH	
CONSIDERATION _____	
RTF EXEMPT	add'l RTF _____
DATE <u>3-29-00</u>	BY <u>MB</u>



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Prepared by: 
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TABLE OF CONTENTS

MASTER DEED FOR OCEAN PLAZA NORTH CONDOMINIUMS

	PAGE
<u>ESTABLISHMENT OF CONDOMINIUM</u>	-2-
ARTICLE I	
DEFINITIONS	-2-
1.00. <u>General</u>	-2-
1.01. [INTENTIONALLY OMITTED]	-2-
1.02. <u>"Affiliate"</u>	-2-
1.03. <u>"Amendment and Supplement"</u>	-3-
1.04. [INTENTIONALLY OMITTED]	-3-
1.05. <u>"Board" or "Board of Directors"</u>	-3-
1.06. <u>"Building"</u>	-3-
1.07. <u>"By-Laws"</u>	-3-
1.08. <u>"Certificate of Incorporation"</u>	-3-
1.09. <u>"Common Elements"</u>	-3-
1.11. <u>"Condominium"</u>	-4-
1.12. <u>"Condominium Act"</u>	-4-
1.13. <u>"Condominium Association" or "Association"</u>	-4-
1.14. <u>"Developer"</u>	-4-
1.15. <u>"First Mortgage"</u>	-4-
1.16. <u>"General Common Elements"</u>	-4-
1.17. <u>"Institutional Lender"</u>	-4-
1.18. <u>"Lease"</u>	-4-
1.19. <u>"Limited Common Elements"</u>	-5-
1.20. <u>"Master Deed"</u>	-5-
1.21. <u>"Member"</u>	-5-
1.22. <u>"Mortgage"</u>	-5-
1.23. <u>"Mortgage Holder"</u>	-5-
1.24. <u>"Notice Mortgagee"</u>	-5-
1.25. <u>"Owner" or "Unit Owner"</u>	-5-
1.26. <u>"Permitted Mortgage"</u>	-5-
1.27. [INTENTIONALLY OMITTED]	-6-
1.28. [INTENTIONALLY OMITTED]	-6-
1.29. [INTENTIONALLY OMITTED]	-6-
1.30. [INTENTIONALLY OMITTED]	-6-
1.31. <u>"Reserved Common Elements"</u>	-6-
1.32. <u>"Rules and Regulations"</u>	-6-
1.33. <u>"Unit"</u>	-6-
ARTICLE II	
GENERAL DESCRIPTION OF THE CONDOMINIUM	-6-
2.01. <u>The Condominium</u>	-6-
2.02. <u>Recordation of the Master Deed.</u>	-6-
2.03. <u>Expandability and Incorporation of</u> <u>Additional Phases and/or Improvements</u>	-7-
ARTICLE III	
DESCRIPTION OF UNIT	-8-

3.01.	<u>Boundary</u>	-8-
3.02.	<u>Items Included in Unit</u>	-9-
3.03.	<u>Interior Partitions</u>	-10-
ARTICLE IV		
DESCRIPTION	OF COMMON ELEMENTS	-10-
4.01.	<u>General Common Elements</u>	-10-
4.02.	<u>Limited Common Elements</u>	-14-
4.03.	<u>Cleaning, Maintenance, Repair and Replacement Of Limited Common Elements</u>	-14-
4.04.	<u>Rights to Use Limited Common Elements</u>	-15-
4.05.	<u>Condominium Association's Regulation of Use, Cleaning, Maintenance, Repair and/or Replacement of Limited Common Elements</u>	-15-
4.06.	<u>Reserved Common Elements</u>	-15-
ARTICLE V		
ESTATE ACQUIRED AND MEMBERSHIP INTEREST		-16-
5.01.	<u>Estate Acquired</u>	-16-
5.02.	<u>Proportionate Interest In Common Elements</u>	-16-
5.03.	<u>Dilution of Proportionate Interest in Common Elements Appurtenant to Units in the Event of Developer's Exercise of Reserved Right to Incorporate Additional Phases and Units as Part of Condominium</u>	-18-
5.04.	<u>Voting</u>	-19-
5.05.	<u>No Partition</u>	-19-
5.06.	<u>Membership in the Condominium Association</u>	-19-
5.07.	<u>Compliance by Owners</u>	-19-
ARTICLE VI		
ASSESSMENTS		-20-
6.01.	<u>Covenant to Pay Assessments</u>	-20-
6.02.	<u>Liability for Assessments</u>	-20-
6.03.	<u>Annual Common Expense Assessments</u>	-21-
6.04.	<u>Notice of Annual Common Expense Assessments</u>	-21-
6.05.	<u>Use of Annual Common Expense Assessments</u>	-22-
6.06.	<u>Allocation of Common Expenses: Obligations of the Developer</u>	-22-
6.07.	<u>Annual Common Expense Assessment Not Made</u>	-23-
6.08.	<u>Due Dates of Annual Common Expense Assessment</u>	-23-
6.09.	<u>Emergency Common Expense Assessment</u>	-23-
6.10.	<u>Special Common Expense Assessment</u>	-24-
6.11.	<u>Capital Improvement Common Expense Assessment</u>	-25-
6.12.	<u>Exemption from Capital Improvement Common Expense Assessments</u>	-25-
6.13.	<u>[INTENTIONALLY OMITTED]</u>	-26-
6.14.	<u>Additional Common Expense Assessment for Real Estate Taxes Assessed on a Bulk Basis</u>	-26-
6.15.	<u>Miscellaneous Common Expense Assessments</u>	-28-
6.16.	<u>Certificate of Payment</u>	-29-
6.17.	<u>Interest in Common Surplus</u>	-29-

ARTICLE VII		
MAINTENANCE RESPONSIBILITIES		-29-
7.01.	<u>Responsibilities of Unit Owners.</u>	-29-
7.02.	<u>Responsibilities of the Association - General</u>	-30-
7.03.	<u>[INTENTIONALLY OMITTED]</u>	-31-
7.04.	<u>Rights of the Association.</u>	-31-
7.05.	<u>Damage Due to Negligence, Omission or Misuse.</u>	-32-
ARTICLE VIII		
EASEMENTS		-32-
8.01.	<u>Unit Owner Easements.</u>	-32-
8.02.	<u>Developer's Easements.</u>	-34-
8.03.	<u>Condominium Association Easements</u>	-36-
8.04.	<u>Mortgage Holder Easements.</u>	-37-
8.05.	<u>Municipal Easements.</u>	-37-
ARTICLE IX		
ADMINISTRATION AND POWERS OF ATTORNEY		-38-
9.01.	<u>Administration of the Condominium.</u>	-38-
9.02.	<u>Developer's Power of Attorney.</u>	-38-
9.03.	<u>Association's Power of Attorney.</u>	-39-
ARTICLE X		
RESTRICTIONS		-40-
10.01.	<u>General Covenants and Restrictions.</u>	-40-
10.02.	<u>[INTENTIONALLY OMITTED]</u>	-46-
ARTICLE XI		
REQUIRED INSURANCE AND DISPOSITION OF PROCEEDS		-46-
11.01.	<u>Insurance.</u>	-46-
11.02.	<u>Disposition of Insurance Proceeds.</u>	-46-
11.03.	<u>Insurance Proceeds Less Than or Equal to \$25,000.</u>	-46-
11.04.	<u>Insurance Proceeds Greater than \$25,000.</u>	-47-
11.05.	<u>Responsibility of Unit Owner.</u>	-48-
11.06.	<u>Insurance Proceeds Insufficient.</u>	-48-
11.07.	<u>Excess Insurance Proceeds.</u>	-49-
11.08.	<u>Assignment to Mortgage Holder.</u>	-49-
ARTICLE XII		
EMINENT DOMAIN		-50-
12.01.	<u>General.</u>	-50-
12.02.	<u>Notice and Participation of Unit Owners.</u>	-50-
12.03.	<u>Allocation of Awards.</u>	-50-
12.04.	<u>Re-Allocation Following Condemnation.</u>	-50-
12.05.	<u>Allocation of Proceeds Derived from Acquisition of Common Elements.</u>	-51-
ARTICLE XIII		
PROTECTIVE PROVISIONS FOR THE BENEFIT OF MORTGAGE HOLDERS		-51-
13.01.	<u>General.</u>	-51-
13.02.	<u>Prior Written Approval of 51% of Notice</u>	

	<u>Mortgagees</u>	-52-
13.03.	<u>Prior Written Approval of 67% of Notice Mortgagees</u>	-53-
13.04.	<u>Implied Approval of Notice Mortgagees Assumed.</u>	-53-
13.05.	<u>Additional Notices.</u>	-54-
13.06.	<u>No Partition.</u>	-54-
13.07.	<u>Common Expense Lien Subordinate.</u>	-54-
13.08.	<u>Maintenance and Inspection of Records.</u>	-55-
13.09.	<u>[INTENTIONALLY OMITTED]</u>	-55-
13.10.	<u>Liability for Common Expense Assessments.</u>	-55-
13.11.	<u>Management Agreements.</u>	-55-
13.12.	<u>Common Expense Default.</u>	-56-
ARTICLE XIV		
DEVELOPER'S	RIGHTS AND OBLIGATIONS	-56-
14.01.	<u>Ratification, Confirmation and Approval of Agreements.</u>	-56-
14.02.	<u>Rights Reserved to Developer.</u>	-56-
14.03.	<u>Transfer of Special Developer Rights.</u>	-61-
14.04.	<u>Liability of Transferor.</u>	-61-
14.05.	<u>Transfer of Rights Requested.</u>	-62-
14.06.	<u>Foreclosure, Bankruptcy, Receivership.</u>	-62-
14.07.	<u>[INTENTIONALLY OMITTED]</u>	-62-
14.08.	<u>Ineffectiveness</u>	-62-
ARTICLE XV		
GENERAL	PROVISIONS	-63-
15.01.	<u>Duration.</u>	-63-
15.02.	<u>Amendment of Master Deed.</u>	-63-
15.03.	<u>Termination.</u>	-64-
15.04.	<u>Enforcement.</u>	-64-
15.05.	<u>Maintenance by Municipality.</u>	-65-
15.06.	<u>Validity.</u>	-65-
15.07.	<u>Waiver.</u>	-65-
15.08.	<u>Gender and Number.</u>	-66-
15.09.	<u>Rule Against Perpetuities.</u>	-66-
15.10.	<u>Conflict.</u>	-66-
15.11.	<u>Notice - Unit Owners and Members.</u>	-66-
15.12.	<u>Notice-Condominium Association.</u>	-67-
15.13.	<u>Requests for Consent, Approval or Permission.</u>	-68-
ARTICLE XVI		
CONDOMINIUM	RULES AND REGULATIONS	-68-
16.01.	<u>Authority.</u>	-68-
16.02.	<u>Publication.</u>	-68-
16.03.	<u>Enforcement and Fines.</u>	-69-

LIST OF EXHIBITS

- "A" Metes and Bounds Description of the Property
- "B" Property Survey
- "C" Site Plan
- "D-1" Metes and Bounds Legal Description for Limited Common Element of Unit No. 1
- "D-2" Metes and Bounds Legal Description for Limited Common Element of Unit No. 2
- "D-3" Metes and Bounds Legal Description for Limited Common Element of Unit No. 3
- "E" Certificate of Incorporation of Ocean Plaza North Condominium Association, Inc.
- "F" By-Laws of Ocean Plaza North Condominium Association, Inc.
- "G" Schedule of Proportionate Interest in Common Elements

**MASTER DEED
FOR
OCEAN PLAZA NORTH CONDOMINIUMS**

THIS MASTER DEED is made this 29th day of MARCH, 2000, by **1910 HOLDINGS, L.L.C.**, a New Jersey Limited Liability Company, having an mailing address of P.O. Box 130, Monmouth Beach, New Jersey 07750 (from now on called the "Developer").

W I T N E S S E T H

WHEREAS, Developer is the owner of the fee simple title to certain unimproved real property situated in the **Township of Ocean, County of Monmouth and State of New Jersey**, consisting of approximately 3.808 acres of land being known and designated as **Lot 22, Block 34** on the tax map of the **Township of Ocean**, being more particularly described by a metes and bounds description appended hereto as Exhibit "A" and being graphically depicted on that certain survey prepared by **Azimuth Land Surveying Co., Inc.**, dated **September 24, 1999** (from now on called the "Survey") a copy of which is appended hereto as Exhibit "B", (the aforesaid described and depicted real property, in its unimproved state, shall from now on be referred to as the "Property"); and

WHEREAS, the Developer, as of the date first above-written, proposes to develop **retail and office complex** upon the Property, as depicted in that area shown on that certain **"Condominium Map of Ocean Plaza North Condominiums"** prepared by **Nelson Engineering Associates, Inc.**, dated **March 16, 2000**, (from now on referred to collectively as the "Condominium Map"), and to establish the condominium form of ownership for the Property and the aforesaid improvements pursuant to the provisions of the New Jersey Condominium Act, N.J.S.A. 46:8B et. seq., under the name **OCEAN PLAZA NORTH CONDOMINIUMS** (from now on referred to as the "Condominium"); and

WHEREAS, the developer, simultaneous with the recording of this Master Deed shall cause to be filed with the office of the Monmouth County Clerk a map depicting the condominium as required by N.J.S. 46:23-9.10 and :23-9.11; and

WHEREAS, it is the intention of the Developer that the Condominium will include **three (3)** structures (from now on called "Buildings"), each Building of which shall be a "Unit", as the term is defined herein and which Buildings is located or will be substantially located as shown on the applicable portions of the Site Plan; and

WHEREAS, the Developer has established **OCEAN PLAZA NORTH CONDOMINIUMS**, a New Jersey nonprofit corporation, for the

administration, operation and management of the Condominium and the improvements therein intended for the common use and enjoyment of the owners of the Units, all as provided for by law, this Master Deed, the Certificate of Incorporation and/or the By-Laws and/or the Rules and Regulations of **OCEAN PLAZA NORTH CONDOMINIUMS**, and

WHEREAS, all owners of the Units in the Condominium will automatically be members of **OCEAN PLAZA NORTH CONDOMINIUMS**, and subject to the Certificate of Incorporation, By-Laws and Rules and Regulations of same.

THEREFORE, WITNESSETH:

ESTABLISHMENT OF CONDOMINIUM. The Developer does hereby submit, declare and establish, in accordance with the New Jersey Condominium Act, N.J.S.A. 46:8B.1 et seq., the condominium form of ownership for the Property, the existing buildings thereon, together with all improvements developed in the process of being developed and/or proposed for development thereon, such improvements being graphically depicted on the applicable portions of the Site Plan.

ARTICLE I DEFINITIONS

1.00. General. The following words and terms, when used in this Master Deed, the Certificate of Incorporation, the By-Laws and/or the Rules and Regulations, shall have the following meanings, unless the context in which same are utilized clearly indicates otherwise. Unless the context clearly indicates otherwise, all definitions set forth in N.J.S.A. 46:8B-3 are incorporated herein by reference and the definitions set forth herein shall be used in conjunction therewith.

1.01. [INTENTIONALLY OMITTED]

1.02. "Affiliate" means any entity which controls, is controlled by or is under common control with the Developer. An entity "controls" the Developer if the entity: (i) is an officer, director or employer of the Developer; (ii) directly owns, controls, holds the power to vote or holds proxies representing more than thirty five (35%) percent of the Developer, (iii) controls in any manner the election of the majority of the directors of the Developer or (iv) has contributed more than thirty five (35%) percent of the capital of the Developer. An entity is "controlled by" the Developer if the Developer: (i) is a general partner, officer, director or employer of the entity, (ii) directly owns, controls, holds the power to vote or holds proxies representing more than thirty five (35%) percent of the voting interest in the entity, (iii) controls in any manner the election

of a majority of the directors of the entity or (iv) has contributed more than thirty five (35%) percent of the capital of the entity. Control does not exist if the powers described in this section are held solely as security for an obligation and are not exercised.

1.03. "Amendment and Supplement" to the Master Deed shall mean and refer to the documentary supplementation to this instrument permitted and required by **Article XIV** of this Master Deed to be recorded by the Developer in the **Monmouth County Clerk's Office** in connection with the Developer's exercise of one or more of its reserved rights established in **Subsections 14.02 A and 14.02 B**.

1.04. [INTENTIONALLY OMITTED]

1.05. "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Condominium Association and any reference herein or in the Certificate of Incorporation, By-Laws and/or Rules and Regulations to any power, duty, right of approval or any other right of the Condominium Association shall be deemed to refer to the Board and not the membership of the Condominium Association, unless the context expressly indicates the contrary.

1.06. "Building" shall mean and refer to each enclosed structure and structural improvements appurtenant thereto that is incorporated by this Master Deed or any Amendment and Supplement hereto as part of the Condominium.

1.07. "By-Laws" shall mean and refer to the By-Laws of the Condominium Association, a copy of which document is attached hereto as Exhibit "E" together with all future amendments and/or supplements thereto.

1.08. "Certificate of Incorporation" shall mean and refer to the Certificate of Incorporation of the Condominium Association, a copy of which is attached hereto as Exhibit "F", together with all future amendments and/or supplements thereto.

1.09. "Common Elements", when used alone, shall mean and refer to the "General Common Elements", "Limited Common Elements" and "Reserved Common Elements", collectively.

1.10. "Common Expenses" shall, subject to the provisions of **Article VI** hereof, mean and refer to all those expenses anticipated by N.J.S.A. 46:8B-3(e), in addition to all expenses, including reserves, incurred or assessed by the Condominium Association, or its directors, officers, agents or employees, in the lawful performance of their respective duties or powers.

1.11. "Condominium" shall mean and refer to: (i) the Property that has been submitted to the Condominium form of ownership and that has been incorporated as part of the Condominium by the terms of this Master Deed or any Amendment and Supplement hereto; (ii) all improvements now or hereinafter constructed in, upon, over or through the Property that have been incorporated as part of the Condominium as aforesaid, regardless of whether such improvements are shown on any Exhibit hereto but provided such improvements have been expressly incorporated as part of the Condominium by the terms of this Master Deed or an Amendment and Supplement hereto; and (iii) all rights, roads, waters, privileges and appurtenances thereto belonging or appertaining; and (iv) the entire entity created by the execution and recording of this Master Deed or any Amendments and Supplements thereto.

1.12. "Condominium Act" shall mean and refer to the provisions of N.J.S.A. 46:8B-1 et seq., and all applicable amendments and supplements thereto.

1.13. "Condominium Association" or "Association" shall mean and refer to **OCEAN PLAZA NORTH CONDOMINIUM ASSOCIATION, INC.**, a New Jersey nonprofit corporation, formed or about to be formed to administer, manage and operate the common affairs of the Condominium and to maintain, repair and replace the General and Limited Common Elements of the Condominium, all as provided for in this Master Deed and/or the Certificate of Incorporation and/or the By-Laws of the Condominium Association.

1.14. "Developer" shall mean and refer to **1910 Holdings, L.L.C.**, a New Jersey limited liability company, its successors and assigns, and includes any successor to the Developer contemplated by **Article XIV** of this Master Deed.

1.15. "First Mortgage" shall mean and refer to the first or paramount Mortgage, the lien of which encumbers a Unit.

1.16. "General Common Elements" shall have the same meaning as "Common Elements" pursuant to N.J.S.A. 46:8B-3(d), except as same may be modified by the provisions of **Article IV** hereof and shall specifically include the "Common Area" consisting of 5,985.6 square feet, as designated on Exhibit "C".

1.17. "Institutional Lender" shall mean and refer to any bank, mortgage banker, trust company, insurance company, savings and loan association, pension fund or other financial institution or governmental agency providing, acquiring, insuring, guaranteeing or proposing to provide, acquire, insure or guarantee Mortgages.

1.18. "Lease" shall mean and refer to any agreement for the leasing, rental, use or occupancy of a Unit of the Condominium, other than the conveyance of title thereto and regardless of the

name given to such agreement.

1.19. "Limited Common Elements" shall have the same meaning as "limited common elements" pursuant to N.J.S.A. 46:8B-3(j), except as same may be modified by the provisions of **Article IV** hereof. The Limited Common Elements shall include the areas designated as the Cross Access Easements designated on Exhibit "C"; however, the Limited Common Elements shall be subject to the Cross Access Easement as provided for in this Master Deed.

1.20. "Master Deed" shall mean this Master Deed for **OCEAN PLAZA NORTH CONDOMINIUMS**, together with all Amendments and Supplements hereto, recorded in the office of the **Clerk of Monmouth County**.

1.21. "Member" shall mean all those Unit Owners who are members of the Condominium Association as provided in **Article V** of the Certificate of Incorporation.

1.22. "Mortgage" shall mean and refer to the duly recorded instrument and underlying obligation giving rise to a mortgage lien upon any Unit.

1.23. "Mortgage Holder" shall mean and refer to the holder of record of a Permitted Mortgage or one who insures or guarantees any Permitted Mortgage.

1.24. "Notice Mortgagee" shall mean and refer to any Institutional Lender holding a First Mortgage which has requested notice of certain matters as more particularly detailed in **Article XIII** of this Master Deed.

1.25. "Owner" or "Unit Owner" shall mean and refer to the record owner or co-owners, whether one or more persons, firms, associations, corporations or other legal entities, of the fee simple title to a Unit incorporated as part of the Condominium as shown in the records of the **Monmouth County Clerk's Office**, but, in spite of any applicable theory of mortgage, shall not mean or refer to a mortgagee or trustee under a Mortgage or deed of trust unless and until such mortgagee or trustee has acquired title to any such Unit pursuant to foreclosure proceedings or any proceeding in lieu of foreclosure. The terms Owner and Unit Owner also shall not mean or refer to any lessee or tenant of an Owner or Unit Owner.

1.26. "Permitted Mortgage" shall mean and refer to any Mortgage that is held by an Institutional Lender or other private lender which is a purchase money First Mortgage held by the Developer or any other seller of a Unit. It shall also mean and include any other Mortgage, the lien of which, by the express terms of the Mortgage, is subordinate to any and all existing or future

Common Expense liens imposed against Units by the Condominium Association. Any acquisition, construction, permanent or other Mortgage placed by the Developer upon all or a portion of any one or more parcels comprising the Property, and/or any Unit owned by it, shall also be deemed a Permitted Mortgage so long as same is expressly made subordinate to this Master Deed and provides a mechanism for securing partial releases for Units and their respective appurtenant interest in the Common Elements encumbered by same, incrementally or in bulk.

1.27. [INTENTIONALLY OMITTED]

1.28. [INTENTIONALLY OMITTED]

1.29. [INTENTIONALLY OMITTED]

1.30. [INTENTIONALLY OMITTED]

1.31. "Reserved Common Elements" shall mean and refer to those portions of the General Common Elements, if any, that the Board may designate as available to less than all Unit Owners and for use of which a charge may be imposed pursuant to **Article IV** hereof.

1.32. "Rules and Regulations" shall mean those rules and regulations of the Condominium Association that may be promulgated, adopted, amended and published by same, together with all future amendments or supplements thereto.

1.33. "Unit" shall mean a part of the Condominium designated and intended for independent ownership and use, all as more specifically described in **Article III** hereof, and shall not be deemed to include any part of the General Common Elements or Limited Common Elements situated within or appurtenant to a Unit.

ARTICLE II GENERAL DESCRIPTION OF THE CONDOMINIUM

2.01. The Condominium. Upon the recording of this Master Deed, the Condominium shall consist of the unimproved land comprising the Property, same being graphically depicted on the of the Survey and Site Plan appended hereto as Exhibits "B" and "C" and all improvements now in existence or hereafter constructed, together with all site improvements to the Property, all as graphically depicted upon the applicable portions of the Survey and

Site Plan that appear as Exhibits "B" and "C" of this Master Deed, in addition to all rights, privileges, roads, waters and appurtenances thereto belonging or appertaining.

2.02. Recording of the Master Deed. Upon the recording of this Master Deed in the **Monmouth County Clerk's Office**, the Developer shall be the Owner of every Unit then incorporated within the Condominium, including its appurtenant proportionate interest in the Common Elements, and, in spite of anything else in this Master Deed to the contrary, shall have the right to advertise, promote, develop, construct, sell, convey, lease, or otherwise dispose of each such Unit as it may deem appropriate in its sole discretion.

2.03. Incorporation of Additional Phases and/or Improvements. The Developer hereby expressly reserves the right, but by so doing in no way obligates itself, to incorporate as part of the Condominium, from time to time hereafter, additional Units. This reserved right is hereby expressly declared by the Developer to include the right but not the obligation of the Developer to develop such additional Units by: developing, constructing and/or otherwise establishing thereon additional Buildings containing additional Units along with roadways, walkways and other attendant site improvements as have been or may hereafter be governmentally approved for development thereon and/or developing, constructing and/or otherwise establishing thereon such attendant site improvements as have been or may hereafter be governmentally approved for development thereon. The incorporation of said additional Buildings, Units and/or other improvements as part of the Condominium shall be by the recording of one or more Amendments and Supplements to this Master Deed in the **Monmouth County Clerk's Office** pursuant to **Article XIV** hereof. All parcels of the Property, Buildings, Units, site improvements and/or other improvements incorporated as herein provided as part of the Condominium, either by the recording of this Master Deed or an Amendment and Supplement hereto in the **Monmouth County Clerk's**

Office, shall be deemed a part of the Condominium and all references to the Condominium in this Master Deed, the Certificate of Incorporation and/or the By-Laws and/or the Rules and Regulations shall be understood to include such additional property, Buildings, Units, site improvements and/or other improvements once same are incorporated as part of the Condominium by the recording of an Amendment and Supplement to this Master Deed in the **Monmouth County Clerk's Office.**

Should the Developer elect to exercise its right to incorporate additional phases or improvements, it shall do so in such ways so as not to unreasonably restrict or limit the Unit Owners' existing usage of their property, or their rights to usage of the Limited Common Elements allocated to each Unit or the General Common Elements. In the case of the incorporation of additional phases or improvements, the Developer shall be solely responsible for all costs of such development and improvements, including, but not limited to, installation/hook up of utilities, completion of additional General Common Elements, Limited Common Elements, and all engineering, legal and other expenses associated with the cost of such improvements. **Further, the Developer shall have the right to amend the Master Deed in connection with future improvements to the Property such that the Cross Access Easement shown on the Site Plan within the Unit No. 1 Limited Common Element line may be removed, so long as the owners of Unit No. 2 and Unit No. 3 shall retain adequate access to the Common Area (as designated on Exhibit "C") for purposes of ingress and egress to the Condominium, and across and through the remaining Cross Access Easements.**

ARTICLE III

DESCRIPTION OF UNITS

3.01. Boundary. The approximate dimensions, areas and locations of the Buildings and Units incorporated within the

Condominium are shown graphically on **Exhibit "C"** hereof, as same may be amended and supplemented as herein provided by one or more Amendments and Supplements hereto. Each Unit is intended to contain all space within the area bounded as follows:

BOTTOM: The bottom of each Unit is a horizontal plane along and coincident with the lowermost surface of the floor joists (on the lowermost level of a Unit where a Unit has more than one level) and extending in every direction to the point where it closes with a side of such Unit.

TOP: The top of each Unit is an imaginary plane along and coincident with the uppermost surface of the roof (on the uppermost level of the ceiling above the ceiling joist on a Unit where a Unit has more than one level) and extending in every direction to the point where it closes with every side of such Unit.

SIDES: The sides of each Unit are imaginary vertical planes along and coincident with the outermost surfaces of the perimeter walls and, in the event all or a portion of the perimeter walls are constructed of cinderblock or poured concrete, an imaginary plane along and coincident with the outermost surface of the cinderblock or poured concrete perimeter walls. Where no wall exists, the side is an imaginary vertical plane along and coincident with the exterior surface of the windows or doors located on the perimeter of such Unit. The sides of each Unit are bounded by the bottom and top of the Unit.

3.02. Items Included in Unit. Each Unit, regardless of type, also includes all appliances, fixtures, doors, door frames, door mechanisms, mechanical systems, window panes, window frames, window mechanisms, door and/or window screens, interior walls and partitions, interior stairways, gypsum board or other facing material on the walls and ceilings thereof, the subflooring and floors (including all flooring tile, ceramic tile, finished flooring, carpeting and padding) and all other improvements located within the boundaries of the Unit, as set forth in **Section 3.01**,

which are exclusively appurtenant to such Units, although all or part thereof may not be located within the Unit, and shall include, but not be limited to, the following individual appurtenances to the extent that same serve an individual Unit only and not any other Unit or any portion of the Common Elements:

- A. so much of the common plumbing, heating or ventilating system as extends into the Unit;
- B. any electrical wires which extend into the Unit and any fixtures, switches, outlets and circuit breakers;
- C. all master antenna or cable television wiring which extends into the Unit and which is not owned by the entity providing the master antenna or cable television service;
- D. all utility meters not owned by the public utility agency supplying the service to the Unit;
- E. all equipment, appliances, machinery, mechanical or other systems which serve the Unit exclusively, whether or not same are located within or without the Unit;
- F. all storage areas located within a Unit, if any, which provide storage exclusively for the Unit;
- G. water heater serving the Unit exclusively;
- H. any central air conditioning, heating or ventilating system serving the Unit exclusively, ; and
- I. any fireplace, chimney or flue (except for the exterior surface material of the chimney which shall be part of the Common Elements).

3.03. Interior Partitions. Interior partitions and other non-bearing walls within the confines of each Unit may, from time to time, be removed or replaced by the Unit Owners. If a Unit Owner removes or replaces any interior partitions or walls, no amendment of the Master Deed will be necessary or required. No Unit may be partitioned or subdivided without the prior written

approval of any Mortgage Holder for such Unit and the Board of Directors. None of the foregoing approvals shall apply to a Unit owned by the Developer prior to the initial conveyance of that Unit by the Developer to another Unit Owner.

3.04 Special Provisions Regarding Limited Common Element Lines. Notwithstanding anything contained in this Master Deed to the contrary, the parties acknowledge that there is currently a sign existing within the Limited Common Element line for Unit No. 3, which sign presently bears signage for the "Bennigans" restaurant. The owner of Unit No. 1 shall be permitted to maintain that sign notwithstanding the fact that it is located within the Limited Common Element line for Unit No. 3. Any future improvements or changes to said excluded sign, shall be in accordance with municipal requirements and approvals, if any.

ARTICLE IV

DESCRIPTION OF COMMON ELEMENTS

4.01. General Common Elements. All appurtenances and facilities and other items incorporated as part of the Condominium but which are not part of the Units described in **Article III** or part of the Limited Common Elements described in **Section 4.02** shall comprise the General Common Elements. The General Common Elements shall also include by way of description but not by way of limitation:

- A. the Property described in Exhibit "A" and shown on Exhibit "B", whether improved or unimproved, submitted to this Master Deed and incorporated as part of the Condominium by the recording of this Master Deed or an Amendment and Supplement hereto in the **Monmouth County Clerk's Office** but not falling within the boundaries of any Unit;
- B. all private streets, roadways, curbs, common walkways and common sidewalks, if any, developed, constructed or otherwise established upon a portion

walkways and common sidewalks, if any, developed, constructed or otherwise established upon a portion of the Property that has been incorporated as part of the Condominium, provided such improvements have likewise been incorporated as part of the Condominium, regardless of whether such improvements are reflected on the Survey and Site Plan appended hereto as Exhibits "B" and "C", as same may be amended and/or supplemented from time to time as herein provided by one or more Amendments and Supplements hereto;

- C. all lawn or landscaped areas and shrubbery as well as any unimproved and/or un-landscaped area within a portion of the Property incorporated as part of the Condominium by this Master Deed or any one or more Amendments and Supplements hereto, but not within the boundaries of a Unit or the Limited Common Element appurtenant to each Unit;
- D. common utility conduits, common sewer laterals and other common utility lines (not owned by a public utility or other utility entity), any underground sprinkler system and waterways, any of which are developed, constructed or otherwise established upon a portion of the Property are incorporated as part of the Condominium, provided same are likewise incorporated as part of the Condominium, regardless of whether same are reflected on the Survey and Site Plan appended hereto as Exhibits "B" and "C", as same may be amended and/or supplemented from time to time as herein provided by any one or more Amendments and Supplements hereto, and provided same are not within the boundaries of a Unit or the Limited Common Element appurtenant to each Unit, all subject to the easements and provisions set forth in **Article VIII** hereof;
- E. public connections and meters for gas, electricity,

telephone, water and other utilities that are not owned by the public utility or other entities providing such services and that are established upon portions of the Property incorporated as part of the Condominium, provided same are likewise incorporated as part of the Condominium and are not within the boundaries of a Unit or the Limited Common Element appurtenant to each Unit, regardless of whether same are reflected on the Survey and Site Plan appended hereto as Exhibits "B" and "C", as same may be amended and/or supplemented from time to time as herein provided by any one or more Amendments and Supplements hereto;

- F. common exterior lighting and other facilities necessary to the upkeep and safety of the Buildings and grounds of the Condominium, provided such improvements are established upon portions of the Property incorporated as part of the Condominium and further provided such improvements have likewise been incorporated as part of the Condominium and, are not within the boundaries of a Unit or the Limited Common Element appurtenant to each Unit, but regardless of whether the aforesaid improvements are reflected on the Survey and Site Plan appended hereto as Exhibits "B" and "C", as either one or both of same may be amended and/or supplemented from time to time as herein provided by any one or more Amendments and Supplements hereto;
- G. all tangible personal property which may be owned by the Condominium Association and which is required exclusively for the operation, maintenance and administration of the Condominium;
- H. all other facilities or elements of any improvement developed, constructed or otherwise established upon portions of the Property incorporated as part

of the Condominium, provided same are likewise incorporated as part of the Condominium and are not within the boundaries of a Unit or the Limited Common Element appurtenant to each Unit, regardless of whether same are reflected on the Survey or the Site Plan appended hereto as Exhibit "B" and "C", as either one or both of same may be amended and/or supplemented from time to time as herein provided by one or more Amendments and Supplements hereto;

- I. any easement or other right which may now or hereafter be granted for the benefit of the Unit Owners(s) or others for access to or use of the General or Limited Common Elements or for any other purpose and not included within the Condominium; and
- J. any common amenities or facilities, if any, developed or otherwise established upon portions of the Property, incorporated as part of the Condominium, provided same are likewise incorporated as part of the Condominium, regardless of whether same are reflected on the Survey and Site Plan appended hereto as Exhibit "B" as same may be amended and/or supplemented from time to time by one or more Amendments and Supplements hereto.

4.02. Limited Common Elements. The Limited Common Elements shall include, generally, by way of description and not by way of limitation, any portion of the Common Elements to which there is direct and exclusive access from an appurtenant Unit and which shall be for the exclusive and perpetual use of such Unit. The Limited Common Elements are shown on the Site Plan attached hereto as Exhibit "C". The Limited Common Elements for each Unit are shown within the bounded areas around each particular Unit on the Site Plan. Attached hereto as Exhibits "D-1", "D-2" and "D-3" are the metes and bounds legal descriptions for the Limited Common

Elements around Units 1, 2 and 3, respectively. The Limited Common Elements shall include, but be subject to the areas shown as the **Cross Access Easements** for purposes of ingress and egress to the other units and through the Condominium as set forth in this Master Deed. In spite of the fact that certain portions of certain utility distribution systems may serve a particular Unit exclusively (by way of example, but not limitation, so much of a gas line, water pipe, sanitary sewer pipe, electrical conduit, etc. that runs from a common lateral or individual meter to the Unit), any such portion of such a system that is not owned by the utility provider or is outside the Unit shall be deemed a Limited Common Element.

4.03. Cleaning, Maintenance, Repair and Replacement of Limited Common Elements. The Owner of a Unit having exclusive use of any Limited Common Element shall be responsible to pay the cost and expenses of any maintenance, repairs or replacement of that Limited Common Element, including capital improvements of same. All cleaning, maintenance, and such repairs and replacements as are described in the preceding sentence of Limited Common Elements shall be the responsibility and financial obligation of the Unit Owner who has exclusive use of such Limited Common Elements and whose Unit has such Limited Common Elements as an appurtenance. The obligations of the owner of a unit described herein, shall apply equally to the Limited Common Elements described in Section 4.02, above.

4.04. Rights to Use Limited Common Elements. A Unit Owner's right to use the Limited Common Elements appurtenant to his Unit may not be transferred apart from the conveyance of title to his Unit.

4.05. Condominium Association's Regulation of Use, Cleaning, Maintenance, Repair and/or Replacement of Limited Common Elements. The Condominium Association shall have the right to promulgate, adopt, amend, publish and enforce such Rules and Regulations as it may deem appropriate and/or necessary to regulate

a Unit Owner's use, cleaning, maintenance, repair and/or replacement of the Limited Common Elements for which Unit Owners are responsible so as to assure the health, safety and general welfare of all Unit Owners as well as maintain aesthetic and visual harmony within the Condominium. Such Rules and Regulations may include but shall not be limited to schedules, standards, specifications, materials, colors, manufacturers, etc.

4.06. Reserved Common Elements. The Board of Directors shall have the power in its discretion to: (i) designate from time to time certain Common Elements as "Reserved Common Elements;" (ii) grant reserved rights therein to the Association or to any or less than all of the Unit Owners; (iii) establish a reasonable charge to such Unit Owners for the use and maintenance thereof; and (iv) promulgate, adopt, amend, publish and enforce such Rules and Regulations as it shall deem appropriate governing the use thereof. Such designation by the Board shall not be construed as a sale or disposition of the Common Elements. Any fee paid for such reserved rights shall be paid to the Association and shall be available for use by the Association in the same manner as Common Expense assessments. In spite of the foregoing, no part of the Common Elements shall be designated as Reserved Common Elements for exclusive use by non-Unit Owners, except for non-Unit Owners who are lessees in occupancy. Under such circumstances, the Unit Owner must accept, in writing, primary responsibility and liability for any Common Element that is to be designated as a Reserved Common Element for exclusive use by the Unit Owner's lessee before such designation can be made for the benefit of a lessee.

ARTICLE V

ESTATE ACQUIRED AND MEMBERSHIP INTEREST

5.01. Estate Acquired. The Owner of each Unit shall have such an estate therein as may be acquired by grant, by purchase or by operation of law, including an estate in fee simple, and shall acquire as an appurtenance thereto an undivided proportionate interest in the Common Elements of the Condominium, which shall not be divisible from the Unit to which it appertains.

5.02. Proportionate Interest In Common Elements. The relative proportionate interest in the Common Elements of the Condominium appurtenant to each Unit incorporated within the Condominium, expressed as a percentage of the whole in accordance with N.J.S.A. 46:8B-9(g), is set forth in **Exhibit "G"** hereof, as same may be amended and/or supplemented from time to time as herein provided by one or more Amendments and Supplements hereto. Such interest represents the relative approximate gross area of each Unit incorporated within the Condominium at any given time as a percentage of the aggregate approximate gross areas as aforesaid of all Units then incorporated within the Condominium. As reflected on Exhibit "G" hereof, as same may be amended and/or supplemented from time to time as herein provided by one or more Amendments and Supplements hereto, **the Developer has, in consultation with its architect but in the Developer's sole and absolute discretion, arbitrarily determined an approximate gross area for each Unit incorporated within the Condominium.** The appurtenant relative proportionate interest in the Common Elements for each Unit incorporated within the Condominium at any given point in the future, shall be expressed as a percentage and calculated utilizing the approximate gross area allocated to the Units as determined by the Developer by calculation pursuant to the following formula:

$$100\% \times \frac{\text{Developer's Allocated Approximate Gross Area for Unit}}{\text{Sum of Developer's Allocated Approximate Gross Area for all Units Incorporated Within Condominium}}$$

The relative proportionate interest of each Unit incorporated within the Condominium expressed as a percentage in Exhibit "G" hereof, as same may be amended and/or supplemented from time to time as herein provided by one or more Amendments and Supplements hereto, has been rounded to the nearest one-hundredth of a percent in order to avoid an interminable series of digits. In addition,

the proportionate interest appurtenant to one or more of the Units has been arbitrarily adjusted to a percentage necessary to apportion the entirety of the Common Elements. Subject to the provisions of **Article XII** hereof regarding eminent domain, the approximate gross area allocated to a Unit by the Developer for purposes of calculating its relative proportionate interest in the Common Elements of the Condominium shall remain fixed once the Unit is incorporated within the Condominium either by the recording of this Master Deed or an Amendment and Supplement hereto as herein provided and shall in no way be affected by any "as built" or other measurement and/or calculation of the Unit's actual gross area that is either lesser or greater than the approximate gross area arbitrarily established by the Developer, in its sole and absolute discretion, and allocated to the Units. Accordingly, subject to **Article XII** of this Master Deed pertaining to eminent domain and subject to the potential dilution of a Unit's proportionate interest in the Common Elements of the Condominium affected by the Developer's exercise of its reserved right to incorporate additional Units as part of the Condominium as herein provided, the proportionate interest in the Common Elements appurtenant to each Unit shall remain fixed. Each Unit's appurtenant relative proportionate interest in the Common Elements of the Condominium shall be used, in addition to such other uses as may be provided in this Master Deed, to allocate the division of proceeds, if any, resulting from any casualty loss, eminent domain proceedings or from any other disposition of the Common Elements.

5.03. Dilution of Proportionate Interest in Common Elements Appurtenant to Units in the Event of Developer's Exercise of Reserved Right to Incorporate Additional Units as Part of Condominium. Pursuant to **Article XIV** hereof, the Developer has reserved the right to incorporate one or more additional Units, as well as the governmentally-approved improvements thereon, including additional Buildings and Units, as part of the Condominium. Accordingly, until such time as the Developer's reserved rights as

aforesaid have been fully exercised, have expired and/or have been expressly abandoned, the proportionate interest in the Common Elements of the Condominium appurtenant to Units incorporated as part of the Condominium shall be subject to dilution based upon the Developer's exercise of such rights as aforesaid by the recording of one or more Amendments and Supplements to this Master Deed as herein provided.

As each such Amendment and Supplement to this Master Deed is recorded, it shall, by its express terms, indicate that the incorporation of additional Units within the Condominium has resulted in the necessity of a recalculation of the proportionate interest in the Common Elements appurtenant to Units then incorporated as part of the Condominium as of the recording of such Amendment and Supplement. The Developer shall, as part of any Amendment and Supplement pursuant to which it exercises its reserved rights to incorporate additional Units as part of the Condominium, amend and/or supplement Exhibit "G" hereof as appropriate to reflect the reapportioned appurtenant interest in the Common Elements of the Condominium as the Condominium is then constituted at the time of the recording of the Amendment and Supplement. Such reapportionment shall be in accordance with the formula and other pertinent provisions of **Section 5.02** of this Master Deed.

5.04. Voting. Each Unit Owner in good standing shall be entitled to cast a vote for each Unit to which he holds title, which vote shall be equal in weight to the then current relative proportionate interest in the Common Elements as if Unit No. 2 has been developed. The Developer shall be entitled to cast all votes for Units owned by it.

5.05. No Partition. Subject to the provisions of this Master Deed, the Certificate of Incorporation, the By-Laws and the New Jersey Condominium Act, the Common Elements shall remain undivided and no Unit Owner(s) shall bring any action for partition or division thereof. In addition, the undivided proportionate

interest in the Common Elements shall not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even if such interest is not expressly mentioned or described in the deed of conveyance or other instrument of conveyance or encumbrance.

5.06. Membership in the Condominium Association. Upon acceptance of a deed to a Unit, each Unit Owner shall automatically become a Member of the Condominium Association and shall be a Member for so long as he shall hold legal title to his Unit, subject to all provisions of this Master Deed, the New Jersey Condominium Act, the Certificate of Incorporation, the By-Laws and the Rules and Regulations which may now or hereafter be established for or by the Condominium Association.

5.07. Compliance by Owners. Each Owner or occupant of a Unit shall comply with, and shall assume ownership or occupancy subject to statutes, rules and regulations, resolutions, ordinances or other judicial, legislative or executive "law" of governmental authorities having jurisdiction over the Condominium, the provisions of this Master Deed, the Certificate of Incorporation, the By-Laws, the Rules and Regulations and any other documents, as well as any amendments or supplements to the foregoing. Failure to comply with any of the foregoing shall be grounds for commencement of an action for the recovery of damages, or for injunctive relief, or both, by the Developer, the Condominium Association or any Unit Owner in any court or administrative tribunal having jurisdiction of any person or persons, firm or corporation violating or attempting to violate or circumvent any of the aforesaid and against any Unit Owner to enforce any lien created by this Master Deed or any covenant contained herein. Failure by the Developer, the Condominium Association or any Unit Owner to enforce any covenant herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to thereafter enforce the same.

ARTICLE VI ASSESSMENTS

6.01 Covenant to Pay Assessments. Every Unit Owner, by acceptance of a deed or other conveyance of a Unit, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Condominium Association all assessments contemplated in this Master Deed or the By-Laws.

6.02. Liability for Assessments. No Unit Owner may waive or otherwise avoid liability for Common Expenses by non-use of the Common Elements. Each assessment and all fines and other charges assessed against a Unit or a Unit Owner shall be a continuing lien upon the Unit against which they were assessed or the Unit owned by the Unit Owner against whom they were assessed and shall also be the joint and several personal obligation of the Owner(s) of such Unit at the time when the assessment, fine or other charge fell due, and of each subsequent record Owner of such Unit, except as otherwise contemplated by **Article XIII** of this Master Deed or N.J.S.A. 46:8B-21, together with such interest thereon and cost of collection thereof (including reasonable attorney's and paraprofessional fees). Liens for unpaid assessments, fines or other charges may be foreclosed by suit brought in the name of the Condominium Association in the same manner as a foreclosure of a mortgage on real property. Suit to recover a money judgment for unpaid assessments, fines or other charges may be maintained without waiving the lien securing the same.

6.03. Annual Common Expense Assessments. It shall be an affirmative and perpetual obligation of the Board of Directors to fix annual Common Expense assessments in an amount at least sufficient to maintain the Common Elements and to otherwise maintain and operate the Condominium as contemplated by this Master Deed, the By-Laws or as required by the Condominium Act. The amount of monies for Common Expenses of the Condominium Association deemed necessary by the Board of Directors and the manner of their expenditure shall be determined in the sole discretion of the Board

of Directors. Nothing contained in this paragraph 6.03 shall be deemed to relieve the Unit Owners of their responsibility to maintain their respective units, including Limited Common Elements.

6.04. Notice of Annual Common Expense Assessments. At least thirty (30) days in advance of the due date of the first annual Common Expense assessment installment for each fiscal year, the Board of Directors shall cause to be prepared a list of the Units and the annual Common Expense assessments applicable to each, according to the names of the Unit Owners. This list shall be kept in the office of the Condominium Association or its managing agent and shall be open to inspection upon the request of any Unit Owner. Written notice of the annual Common Expense assessment shall be given to every Unit Owner in the manner provided by Section 15.11 of Article XV of this Master Deed.

6.05. Use of Annual Common Expense Assessments. The annual Common Expense assessment levied by the Board of Directors shall be used exclusively for promoting the health, safety, pleasure and welfare of the Members of the Condominium Association, including, but without limitation: (a) street lighting; refuse and/or recyclable collection; (b) snow clearing from roadways, parking areas and common sidewalks; (c) landscaping of unimproved Common Elements; (d) maintenance, repair and replacement of the Common Elements, including roadways, maintenance and repair of all fences and walls within the Condominium and not within a Unit; (e) payment of applicable common taxes and common insurance premiums; (f) all costs and expenses incidental to the operation and administration of the Condominium Association; and (g) such other items as may from time to time be deemed appropriate by the Board of Directors; provided that the annual Common Expense assessment shall not be used for capital improvements subject to **Section 6.11** of this Master Deed. For purposes of this **Section 6.05**, the term Common Elements shall specifically exclude Limited Common Elements as the individual Unit Owners shall be solely responsible for the Limited Common Elements benefitting their respective Units.

6.06. Allocation of Common Expenses: Obligations of the Developer. The annual Common Expense assessment shall be allocated among all Units incorporated within the Condominium. Each such Unit shall be assessed a proportionate share of the annual Common Expense assessment determined by the Unit's then current proportionate (percentage) interest in the Common Elements of the Condominium as set forth in Exhibit "G" hereof and as same may be amended and/or supplemented from time to time as herein provided by one or more Amendments and Supplements hereto. Until the conveyance of title to the first Unit, the Developer shall be solely responsible for all Common Expenses. Following the first conveyance, the Owners of Units to whom title has been conveyed shall be responsible for their proportionate share of all Common Expenses, and the Developer shall be responsible for payment of all Common Expenses assessed against Units which have not been conveyed to an individual purchaser.

6.07. Annual Common Expense Assessment Not Made. If an annual Common Expense assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior year's assessment. Any installments of such presumed annual assessments shall be due upon each installment payment date until a new annual Common Expense assessment is made.

6.08. Due Dates of Annual Common Expense Assessment. Annual Common Expense assessments shall be made for a yearly period to be determined by the Board of Directors and shall be payable in advance in monthly installments due upon the first day of each month or in such other installments and upon such other due dates as it may establish. Upon the conveyance of title to a Unit, the portion of the then current annual Common Expense assessment payable by the new Unit Owner shall be an amount which bears the same relationship to the annual Common Expense assessment as the remaining number of months in the then current annual assessment period bears to twelve (subject to any Common Expense assessment installments for which a new Unit Owner may be liable pursuant to N.J.S.A. 46:8B-21). Such first annual assessment or portion

thereof for which a new Unit Owner is liable shall be immediately due upon the acquisition of title by the purchaser of the Unit.

6.09. Emergency Common Expense Assessment. In the event the regular annual Common Expense assessment proves to be insufficient for an immediate need or emergency, the Board of Directors may amend the budget and assessment and levy an Emergency Common Expense assessment. The determination of an immediate need or emergency shall be in the sole and absolute discretion of the Board of Directors. Notice of any such amendment of the budget and assessment resulting from such immediate need or emergency and the levying of an Emergency Common Expense assessment shall be in writing and sent by mail or delivered to every Unit Owner, as provided in **Section 15.11 of Article XV** of this Master Deed. Such notice shall specify the due date(s) of any Emergency Common Expense assessment or any installment(s) thereof. Within thirty (30) days of any Emergency Common Expense assessment, the Board of Directors shall memorialize, by written resolution, the factual basis for and the fact of the Emergency Common Expense assessment. Any Emergency Common Expense Assessment shall not apply to the Limited Common Elements as the individual Unit Owners shall be responsible for the cost of any and all expenses necessitated by repairs to the Limited Common Elements benefitting their Unit.

6.10. Special Common Expense Assessment. In addition to the other Common Expense assessments authorized herein, in any assessment year, the Board of Directors may levy a Special Common Expense assessment, to defray in whole or in part the cost of any reconstruction, unexpected repair or replacement of an existing capital improvement to the Common Elements, not determined by the Board of Directors to constitute an emergency or immediate need, but for which funds held in reserve are inadequate, or for any other lawful purpose except new capital improvements subject to **Section 6.11**, hereof. If a Special Common Expense assessment for an assessment year exceeds the sum of \$15,000.00 increased by the percentage of increase in the Consumer Price Index for all Urban

Consumers since 1999, it shall be authorized by the prior assent of an affirmative vote of **sixty percent (60%)** in interest of the affected Members in good standing. This vote shall be taken at a meeting duly called for such purpose. Written notice of such meeting, stating the purpose of the meeting, shall be sent to all Unit Owners at least ten (10) days in advance. The due date(s) of any Special Common Expense assessment or any installment(s) thereof shall be fixed in the resolution authorizing such Special Common Expense assessment. Any Special Common Expense Assessment shall not apply to the Limited Common Elements as the individual Unit Owners shall be responsible for the cost of any and all expenses necessitated by repairs to the Limited Common Elements benefitting their Unit.

6.11. Capital Improvement Common Expense Assessment. In addition to the other Common Expense assessments herein authorized, the Board of Directors may levy, in any assessment year, a Capital Improvement Common Expense assessment for the purpose of acquiring or constructing a new capital improvement. If, during any assessment year, a Capital Improvement Common Expense assessment exceeds the sum of \$15,000.00 increased by the percentage of increase in the Consumer Price Index for all Urban Consumers since 1999, it shall be authorized by the prior assent of an affirmative vote of **sixty percent (60%)** in interest of the affected Members in good standing. This vote shall be taken at a meeting duly called for this purpose. Written notice of such meeting, stating the purpose of the meeting, shall be sent to all Unit Owners no less than ten (10) days in advance. The due date(s) of any Capital Improvement Common Expense assessment, or any installment(s) thereof, shall be fixed in the resolution authorizing the Capital Improvement Common Expense assessment. Any Capital Improvement Common Expense Assessment shall not apply to the Limited Common Elements as the individual Unit Owners shall be responsible for the cost of any and all expenses necessitated by repairs to the Limited Common Elements benefitting their Unit.

6.12. Exemption from Capital Improvement Common Expense Assessments. In spite of anything to the contrary herein, no Mortgage Holder shall be required to pay any assessments for new capital improvements, whether by way of regular, special, capital improvement or any other Common Expense assessment. This provision may not be amended without the written consent of Developer and every Notice Mortgage Holder. Any Capital Improvement Common Expense Assessment shall not apply to the Limited Common Elements as the individual Unit Owners shall be responsible for the cost of any and all expenses necessitated by repairs to the Limited Common Elements benefitting their Unit.

6.13. [INTENTIONALLY OMITTED]

6.14. Additional Common Expense Assessment for Real Estate Taxes Assessed on a Bulk Basis. In spite of anything to the contrary contained in this Master Deed, the Certificate of Incorporation, the By-Laws or in any Mortgage requiring the establishment of an escrow for the payment of real estate taxes and until such time as the **Township of Ocean** assesses and bills Units for real estate taxes on a per-Unit rather than a bulk basis, the Board of Directors may and hereby is empowered to assess and collect from all Unit Owners, as an Additional Common Expense assessment separate and apart from all other Common Expense assessments, regular, special or other, authorized by this Master Deed, such amounts as may be necessary to pay or create a reserve for paying real estate taxes estimated or assessed by the **Township of Ocean** relative to the Condominium on a bulk basis. Furthermore, in spite of anything contained in this Master Deed or the By-Laws with regard to assessment and collection of other Common Expense assessments authorized or required by this Master Deed, Additional Common Expense assessments and collections thereof for the purpose of paying real estate taxes estimated or assessed by the **Township of Ocean** relative to the Condominium on a bulk basis may be assessed and collected in such a manner and with such frequency as

the Board of Directors, in its sole and absolute discretion, deems necessary to pay, in a timely fashion, such bulk real estate tax estimates or assessments. To the extent deemed appropriate by the Board of Directors, in its sole and absolute discretion, Additional Common Expense assessments levied hereunder for the purpose of paying estimated or assessed real estate taxes estimated or assessed by the **Township of Ocean** relative to the Condominium on a bulk basis may be collected in advance of the actual date upon which such estimated or assessed real estate taxes are due in order to create an escrow for the prompt payment of such taxes. With regard to the payment of bulk real estate taxes, until such time as the **Township of Ocean** assesses the property on a Unit basis, the taxes shall be apportioned as follows: each Unit Owner shall be responsible for their proportionate share of real property taxes for the land assessment based upon the percentages set forth in Exhibit G, using the percentages applicable as if Unit No. 2 had been developed (i.e. Unit No. 1 23.355%; Unit No. 2 56.919%; and Unit No. 3 19.726%). The tax assessment for all improvements shall be borne by the owner of the Unit upon which the improvements exist.

Any and all Additional Common Expense assessments collected by the Condominium Association as authorized hereunder for the purpose of paying bulk real estate taxes shall be held in escrow by the Condominium Association in a segregated account until such amounts are required to be paid to the **Township of Ocean**.

Each Unit Owner's liability for Additional Common Expense assessments authorized hereunder for the payment of bulk real estate taxes estimated or assessed by the **Township of Ocean** relative to the Condominium shall be allocated based upon the then current proportionate liability for Common Expense assessments of Units then incorporated within the Condominium that are the subject of any such bulk estimate or assessment or such other equitable basis of allocation as the Board of Directors deems appropriate in its sole and absolute discretion.

Once the **Township of Ocean** commences assessment and billing of real estate taxes on a per-Unit rather than a bulk basis, the Condominium Association shall promptly refund, without interest, to the applicable Unit Owners, their respective bulk real estate tax escrow balance, if any, being held by the Condominium Association. Furthermore, once the **Township of Ocean** commences assessment and billing of real estate taxes on a per-Unit rather than a bulk basis, the Condominium Association shall have no further responsibility for any real estate taxes assessed against Units of the Condominium unless it becomes the record Owner of a Unit(s).

Any and all remedies available to the Condominium Association pursuant to this Master Deed, the By-Laws and/or applicable law for the collection of other delinquent Common Expense assessments shall be equally available to the Condominium Association for the collection of a delinquent Additional Common Expense assessment assessed for the purpose of paying bulk real estate taxes estimated or assessed by the **Township of Ocean** relative to the Condominium. This shall include, but not be limited to, the filing of a Claim of Lien and, if necessary, the foreclosure of such lien.

In the event a Unit Owner sells his Unit prior to the point in time that the **Township of Ocean** commences assessment and billing for real estate taxes assessed relative to the Condominium on a per-Unit rather than a bulk basis, no amounts paid by such Unit Owner to the Condominium Association for real estate taxes shall be refundable to the former Unit Owner by the Condominium Association regardless of the fact that such amounts might be held in escrow and not yet paid to the **Township of Ocean** and regardless of the fact that such amounts may have been paid to the **Township of Ocean** for real estate taxes for a period that will include a portion of time during which the former Unit Owner no longer held title to the Unit. Instead, entitlement to all such amounts,

including any refund of same once the Units are assessed and billed for real estate taxes on a per Unit basis, shall run with title to the Unit. Accordingly, Unit Owners selling their Units prior to the point in time that the **Township of Ocean** commences assessment and billing of real estate taxes on a per-Unit basis must make any desired financial adjustments for amounts paid to the Condominium Association for real estate taxes with the purchaser of the Unit. No such adjustment between a Unit Owner and the purchaser shall have any effect upon the Condominium Association and its ability to assess and collect from the current Unit Owner any and all amounts representing that Unit's proportionate share of assessed or estimated bulk real estate taxes.

6.15. Miscellaneous Common Expense Assessments. Any and all fines, late charges, costs of collection (including reasonable attorneys' and paraprofessional fees), interest on unpaid assessments, capital contributions, membership fees, escrow deposits or any other sums required to be paid to the Condominium Association by a Unit Owner by the provisions of this Master Deed, the By-Laws, the Certificate of Incorporation, the Rules and Regulations of the Condominium Association or any duly adopted Resolution of the Board of Directors shall be deemed Common Expense assessments which each Unit Owner has covenanted and agreed to pay according to the provisions of **Section 6.01** of this Master Deed and for which each Unit Owner is liable according to the provisions of **Section 6.02** of this Master Deed and shall be collectible by the Condominium Association in the same manner as other assessments pursuant to the provisions hereof and N.J.S.A. 46:8B-21.

6.16. Certificate of Payment. The Condominium Association shall, upon the written request to it, issue to any Unit Owner or purchaser of a Unit prior to completion of a voluntary sale of same a certificate signed by an officer of the Condominium Association showing the amount of unpaid assessments levied against the Unit in question by the Condominium Association. Such certificate shall be issued within ten (10) business days of

the Condominium Association's receipt of the written request. In addition, the holder of a Mortgage on a Unit or any other holder of a record lien encumbering a Unit may likewise request and receive such a certificate from the Condominium Association. Anyone entitled to request and receive such a Certificate, other than the Unit Owner at the time of issuance of such certificate, and who relies upon the certificate shall be entitled to rely thereon and his liability for assessments levied by the Condominium Association up to the date of issuance of the certificate shall be limited to the amounts set forth therein in the event he acquires title to the Unit subsequent to the issuance of the certificate.

6.17. Interest in Common Surplus. Any common surplus of the Condominium Association resulting from an excess of income over expenses that the Board, in its sole and absolute discretion, opts to refund to Unit Owners pursuant to **Article VII** of the By-Laws, shall be allocated among the Members in the same manner as those expenses were assessed.

ARTICLE VII MAINTENANCE RESPONSIBILITIES

7.01. Responsibilities of Unit Owners. Each Unit Owner is responsible to perform all of the maintenance, repairs and replacements that may be required within the boundaries of his own Unit, including the Limited Common Elements, at his own expense, and in accordance with the requirements of this Master Deed, the By-Laws and any Rules and Regulations of the Association. Unit Owners are similarly responsible for all of the improvements appurtenant to their Units and located within the boundaries of same including by way of example but not by way of limitation those improvements described in **Section 3.02** of this Master Deed.

In addition, each Unit Owner shall be responsible to perform at his own expense all of the maintenance, repairs and replacements that may be required for improvements appurtenant to his Unit, as such improvements are defined in **Section 3.02** herein, which are not located within the boundaries of his Unit as set

forth in **Section 3.01**, when the following conditions are met:

- A. the improvement is accessible without a breaking or intrusion into the Common Elements or any other Unit; and
- B. the improvement is not functionally connected with a Common Element or a component of an integrated system which serves more than one Unit.

The cutting, removal or other disturbance of wallboard or any similar material within the Unit Owner's own Dwelling in order to gain access shall not be considered "a breaking or intrusion" as aforesaid.

Each Unit Owner is responsible to promptly report to the Board of Directors, in writing, any defect or need for maintenance, repairs and/or replacements, the responsibility for which is that of the Association.

7.02. Responsibilities of the Association - General. The Association shall furnish the maintenance, repairs and replacements that are required for the functioning of any common plumbing, common mechanical, common electrical, common sewer or common water supply systems. It shall furnish all maintenance, repairs and replacements required for the General Common Elements as such are defined in **Section 1.16** herein, including, but not limited to the roadways, common sidewalks and common walkways. All of the expenses of the Association in discharging the aforesaid responsibilities shall be Common Expenses. Claims relative to defects in Common Elements shall be processed in accordance with N.J.A.C. 5:25-5-5 regarding warranty coverage and claims.

The Association shall also furnish the maintenance, repairs and replacements that are required for any improvement appurtenant to a Unit, as such improvements are defined in **Section 3.02** herein, not located within the boundaries of the Unit and not meeting the conditions set forth in **Section 7.01** herein. The expenses incurred by the Association in doing so shall be levied against the Owner of that Unit.

As set forth above in **Section 7.01**, each individual Unit Owner shall be solely responsible for the cost of maintenance, repairs and replacements to all improvements contained within the Limited Common Elements benefitting each respective Unit.

7.03. **[INTENTIONALLY OMITTED]**

7.04. Rights of the Association. The Association may effect emergency maintenance, repair and/or replacement to any Unit or Limited Common Element for which the Unit Owner is responsible but which the Unit Owner has failed to perform, but the expenses incurred by the Association in doing so shall be levied against the Owner of that Unit. The Association may also effect non-emergency maintenance, repair and/or replacement to any Unit or Limited Common Element for which the Unit Owner is responsible but which the Unit Owner has failed to perform and charge the reasonable expenses of the repair to the Unit Owner, but only if (i) any such failure by the Unit Owner will have a material and adverse impact upon any other portion of the Condominium and (ii) the Unit Owner responsible for such maintenance, repair and/or replacement has failed to remedy the situation within thirty (30) days after the Association has given the Unit Owner written notice of the need for such maintenance, repair and/or replacement.

7.05. Damage Due to Negligence, Omission or Misuse. If, due to the negligent act or omission of or misuse by a Unit Owner, his employee(s), agent(s), invitee(s), visitor (whether authorized or unauthorized by the Unit Owner), damage shall be caused to the Common Elements or to a Unit(s) owned by others, or maintenance, repairs or replacements shall be required which would otherwise be a Common Expense, the Unit Owner so responsible shall pay for such damage and be liable for any damages, liability, costs and expenses, including attorney's and paraprofessional fees, caused by or arising out of such circumstances.

ARTICLE VIII

EASEMENTS

8.01. Unit Owner Easements. Every Unit Owner, his successors and assigns, shall have the following perpetual easements with respect to the Condominium:

- A. A non-exclusive easement in, upon, over, under, across and through the Common Elements to keep, maintain, use, operate, repair and replace improvements within his Unit in their original positions and in every subsequent position to which they change by reason of the gradual forces of nature and the elements;
- B. An exclusive easement for the existence and continuance of any encroachment by improvements within his Unit upon any adjoining Unit or upon any Common Elements, now existing or which may come into existence hereafter as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of such improvements, so that any such encroachment may remain undisturbed so long as the improvements stand;
- C. A non-exclusive public easement for the Unit Owners and all customers, employees, business invitees and other persons upon, under, over and across all Common Elements and Limited Common Elements appurtenant to other Units, for unlimited ingress and egress amongst the Units and ingress/egress to public roadways, provided such rights of ingress and egress do not unreasonably interfere with any other Unit Owners usage of their property;
- D. An easement in common with the Owners of all other Units to use any and all pipes, wires, ducts, cables, conduits, public utility lines, television systems, master antenna facilities or other General Common Elements located within any of the other

Units and/or in, upon, under or over the Common Elements and serving his Unit;

E. A perpetual but non-exclusive easement in, over and through the General Common Elements to use any and all common roadways, common walkways and other common facilities within the Condominium, subject to the right of the Board of Directors to:

(i) promulgate, adopt, publish and enforce Rules and Regulations for the use and enjoyment thereof;

(ii) suspend this easement right (other than for access to his Unit and the Limited Common Elements appurtenant thereto, if any) for any period during which any Common Expense assessment remains unpaid, or for any period during which any infraction of its published Rules and Regulations continues, it being understood that any suspension for either non-payment of any assessment or a breach of Rules and Regulations of the Condominium Association shall not constitute a waiver or discharge of the Unit Owner's obligation to pay the assessment; and

(iii) designate portions of the General Common Elements as Reserved Common Elements pursuant to Article 4.06 of this Master Deed;

F. A non-exclusive easement for access to or use of the General Common Elements within the Condominium or for any other purposes not prohibited by this Master Deed, the By-Laws or the Rules and Regulations, which easement is for the benefit of all Owners and occupants of Units in the Condominium and their invitees.

8.02. Developer's Easements. The Developer, its respective successors and assigns shall have the following easements with respect to the Condominium:

- A. A blanket but nonexclusive easement in, upon, through, under and across the Condominium for the purpose of conducting any and all reasonable activities ordinarily associated with or related to development and/or construction, including but not limited to excavation, grading and other site preparation as well as construction, erection or other establishment of governmentally approved improvements upon the Property. This easement shall continue until the Developer has incorporated within the Condominium all Units proposed for incorporation within the Condominium (or allowed its reserved rights to incorporate additional Units to expire or abandoned same), has received plenary and final certificates of occupancy or certificates of completion, as applicable, for all Units and other improvements constructed by it within the Condominium and has been released from its obligations relative to the improvements constructed by it within the Condominium under the terms of any performance and/or maintenance bond. The Developer shall not, except in the case of an emergency, exercise this easement to enter a Unit or upon any Limited Common Element appurtenant to a Unit without prior notice to and permission from the Unit Owner and at a time reasonably convenient to the Unit Owner. Neither Unit Owners nor the Board of Directors shall unreasonably preclude the Developer from exercising its easement rights herein established.
- B. A blanket but nonexclusive easement in, upon, over, through, under and across the Condominium for such

purposes as may be reasonably necessary for the Developer or its agents to discharge any service, warranty, repair, maintenance, replacement or other similar obligation it may have with respect to any Unit(s) and/or the Common Elements. Neither Unit Owners nor the Board of Directors shall unreasonably preclude the Developer from exercising its easement rights herein established. This easement shall be conterminous with the term of the Developer's service, warranty, repair, maintenance, replacement or other similar obligations; and

- C. A blanket but nonexclusive easement in, upon, over, across and through the Common Elements for the purpose of conducting any and all reasonable activities ordinarily associated with or related to offering Units for sale and/or lease. This easement shall be conterminous with the Developer's ownership of the last Unit owned by it and not initially conveyed to an Owner who is not an Affiliate of the Developer; and
- D. A perpetual, blanket and nonexclusive easement in, upon, over, under, across and through the Common Elements, Unit Lot Areas, for surface water runoff and drainage caused by natural forces and elements, grading or the improvements located within the Condominium. No individual Unit Owner shall directly or indirectly interfere with or alter the drainage and runoff patterns and systems within the Condominium.

The various Developer's Easements identified in this **Section 8.02**, shall be exercised and used in such a manner as they will not unreasonably interfere with the use of the property by the Unit Owners. Further, any damages caused by the Developer in using the rights set forth herein shall be repaired at the Developer's cost

and expense.

8.03. Condominium Association Easements The Condominium shall also be subject to the following easements:

- A. The Condominium Association shall have a perpetual exclusive easement for the maintenance of any Common Elements, including those which presently or may hereafter encroach upon a Unit; and
- B. The Condominium Association, through the Board of Directors or any manager or managing agent, or their respective agents or employees, shall have the perpetual but non-exclusive right of access to each Unit to: (i) inspect same, (ii) remedy any violations of the provisions of this Master Deed, the By-Laws or any Rules and Regulations of the Condominium Association, and (iii) perform any operations required in connection with the maintenance, repair, replacement, administration or management of or to the Common Elements, any Unit or any equipment, facilities or fixtures affecting or serving Unit(s) or the Common Elements; provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency, such right of entry shall be immediate, whether the Unit Owner is present at the time or not.

8.04. Mortgage Holder Easements. Any Mortgage Holder, its officers, agents and employees, shall have a blanket, perpetual and nonexclusive easement to enter the Condominium or any part thereof to inspect the condition and repair of the Common Elements or any Unit encumbered by a First Mortgage owned, insured or guaranteed by it. This right shall be exercised only during reasonable daylight hours and then, whenever practicable, only after advance written notice to and with the permission of the Board of Directors (for Common Elements) and the Unit Owner (for a

Unit).

8.05. Municipal Easements. The Condominium is subject to a blanket, perpetual but nonexclusive easement of unobstructed ingress to and egress from, access to and travel within, upon, over, under, across and through same to the Township of Ocean, its respective officers, agents, and employees (but not the public in general), and all police, fire and ambulance personnel in the proper performance of their respective duties (including but not limited to emergency or other necessary maintenance, repair and/or replacement to a Unit which the Unit Owner had failed to perform) and for emergency or other necessary maintenance, repair and/or replacement of the Common Elements which the Association has failed to perform. Except in the event of emergencies, the rights accompanying this easement shall be exercised only during reasonable daylight hours and then, whenever practicable, only after advance notice to and with permission of the Board of Directors (for Common Elements) and/or the Unit Owner(s) directly affected thereby.

8.06 Utility Easements. The Condominium is subject to a blanket, perpetual but nonexclusive easement of unobstructed ingress to and egress from, access to and travel within upon, over, under, across and through same for the purpose of the installation, maintenance, repair, service and replacement of all sewer, water, power and telephone pipes, lines, mains, conduits, poles, transformers, meters, master television antennas, cable television systems and any and all other equipment or machinery necessary or incidental to the proper functioning of any utility systems serving the Condominium, which easement shall be for the benefit of any governmental agency, utility company or other entity which requires same for the purpose of furnishing one or more of the foregoing services.

ARTICLE IX
ADMINISTRATION AND POWERS OF ATTORNEY

9.01. Administration of the Condominium. The

administration of the Condominium shall be by the Condominium Association in accordance with the provisions of the New Jersey Condominium Act, this Master Deed, the Certificate of Incorporation, the By-Laws, the Rules and Regulations and any other agreements, documents, amendments or supplements to the foregoing which have been or may be duly adopted or subsequently required by: (a) applicable statutes, regulations, resolutions, ordinances or orders of any governmental entity having jurisdiction of the lands that are incorporated as part of the Condominium or the Condominium itself; (b) any title insurance company licensed to do business in the State of New Jersey insuring or proposing to insure title to the lands that are incorporated as part of the Condominium or to any Unit within the Condominium; or (c) any Institutional Lender owning, holding, servicing, insuring or guaranteeing or proposing to provide, own, hold, service, insure, guarantee or acquire a First Mortgage loan, the lien of which encumbers or is proposed to encumber a Unit within the Condominium.

9.02. Developer's Power of Attorney. The Developer hereby reserves for itself, its successors and assigns, for a period of five (5) years from the date the first Unit is conveyed by the Developer to the initial individual purchaser thereof, or until Developer conveys title to the last Unit within the Condominium to the initial individual purchaser thereof, whichever occurs first, the right to execute on behalf of all contract purchasers, Unit Owners, mortgagees, other lien-holders or parties claiming a legal or equitable interest in the Condominium, any such agreements, documents, amendments or supplements to the documents described in **Section 9.01** of this Master Deed which may be required for the reasons or by the entities set forth in **Section 9.01** of this Master Deed.

By execution of a contract to initially purchase a Unit within the Condominium from the Developer, by execution of a deed to any Unit within the Condominium initially conveyed by the Developer or by the acceptance of any other legal or equitable

interest in the Condominium, each and every contract purchaser, Unit Owner, mortgagee, or other lien-holder or party having a legal or equitable interest in the Condominium does automatically and irrevocably name, constitute, appoint and confirm the Developer, its successors and assigns, as its attorney-in-fact for the purpose of executing such agreements, documents, amendments or supplements required as set forth in **Section 9.01** of this Master Deed, subject to the limitations set forth in this **Section 9.02**.

The power of attorney aforesaid is expressly declared and acknowledged to be coupled with an interest in the subject matter hereof and the same shall run with the title to any and all Units and be binding upon the heirs, personal representatives, successors and assigns of any of the foregoing parties. Further, this power of attorney shall not be affected by the death or disability of any principal and is intended to deliver all right, title and interest of the principal in and to said power. This power of attorney shall be vested in the Developer, its successors and assigns until the Developer's initial conveyance of all Units or the expiration of its stated term.

9.03. Association's Power of Attorney. By execution of a contract to initially purchase a Unit within the Condominium from the Developer, by execution of a deed to any Unit within the Condominium initially conveyed by the Developer or by the acceptance of any other legal or equitable interest in the Condominium, each and every such contract purchaser, Unit Owner, mortgagee, or other lien-holder or party having a legal or equitable interest in the Condominium does automatically and irrevocably name, constitute, appoint and confirm the Condominium Association as attorney-in-fact for the following purposes: (i) to acquire title to or lease any Unit whose owner desires to surrender, sell or lease the same, and, in the name of the Condominium Association or its designees, corporate or otherwise, on behalf of all Unit Owners, to convey, sell, lease, mortgage (but not to vote the votes appurtenant thereto) or otherwise, dispose of

any such Units so acquired or to sublease any Units so leased by the Condominium Association; (ii) to prepare, execute and record any amendments to the Master Deed required by **Article XII** hereof; and (iii) to prepare, execute and record any amendments to the Master Deed made pursuant to **Article XV** hereof.

The power of attorney aforesaid is expressly declared and acknowledged to be coupled with an interest in the subject matter hereof and the same shall run with the title to any and all Units and be binding upon the heirs, personal representatives, successors and assigns of any of the foregoing parties. Further, this power of attorney shall not be affected by the death or disability of any principal and is intended to deliver all right, title and interest of the principal in and to said power.

ARTICLE X
RESTRICTIONS

10.01. General Covenants and Restrictions. The Condominium is subject to the following restrictions:

- A. To the extent that equipment, facilities and fixtures within any Unit(s) shall be connected to similar equipment, facilities or fixtures affecting or serving other Unit(s) or the Common Elements, then their use by individual Unit Owners shall be subject to this Master Deed, the By-Laws and the Rules and Regulations of the Condominium Association.
- B. The Common Elements shall be used for the furnishing of the services and facilities for which they are reasonably intended and suited and which are incident to the use and occupancy of the Units.
- C. No Unit Owner shall have the right to mortgage or encumber his Unit, unless such mortgage or encumbrance is a Permitted Mortgage. No other mortgages or encumbrances shall be permitted without the prior written consent of the Board of

Directors, which consent shall not be unreasonably withheld.

- D. All property taxes, special assessments and other charges imposed by any taxing authority are to be separately assessed against and collected on each Unit as a single parcel as provided by the New Jersey Condominium Act. In the event that for any year such taxes are not separately taxed to each Unit but are taxed on all or a portion of the lands and improvements incorporated within the Condominium on a bulk basis, then each Unit Owner shall pay his proportionate share thereof based upon his Unit's then current appurtenant proportionate interest in the Common Elements of the Condominium or, in the sole and absolute discretion of the Board of Directors, such other equitably allocated share thereof, the aforesaid being in accordance with **Section 6.14** of this Master Deed.
- E. Each Unit Owner shall pay for his own telephone and other utilities that are separately metered or billed to him by the utility company providing the service in question. Utilities that are not separately metered or billed or that serve the Common Elements shall be treated as part of the Common Expenses.
- F. No service or maintenance of any automobile or other vehicle shall be performed anywhere within the Condominium except as might be permitted by the Condominium Association's Rules and Regulations.
- G. **[INTENTIONALLY OMITTED]**
- H. **[INTENTIONALLY OMITTED]**
- I. There shall be no obstruction of the Common Elements nor shall anything be stored in or upon the Common

Elements except as permitted by the Rules and Regulations of the Condominium Association, without the prior written consent of the Board of Directors. No porch, landing, steps, patio, terrace, balcony, stoop or deck of a Dwelling shall be used for the storage of any item unless expressly permitted by the Condominium Association's Rules and Regulations or unless such storage has received the prior written approval of the Board of Directors.

J. No portion of the Common Elements or other portion of the Condominium shall be used or maintained for the dumping of rubbish or debris. In addition, compost piles are not permitted. Trash, garbage, recyclables and excess materials of any kind shall not be placed or stored within or about the Condominium, including within any Unit, except as permitted by the Condominium Association's Rules and Regulations. The Condominium Association may, by Rule or Regulation, specify the type of containers to be utilized when trash, garbage, recyclables or other excess materials are placed for collection. In any event, all such containers shall be stored within the Dwelling or other permitted area except on collection days.

K. **[INTENTIONALLY OMITTED]**

L. No Unit Owner or occupant shall build, erect, plant, place and/or maintain any matter or thing upon, in, over or under the General or Limited Common Elements of the Condominium or his Unit's Lot Area without prior written consent of the Board of Directors or unless expressly permitted by the Rules and Regulations of the Condominium Association; provided, however, under no circumstances shall any outdoor shed or similar facility be erected or placed within the Condominium (including a Unit's Lot Area).

M. No Unit Owner (other than the Developer) shall

25

paint, decorate or otherwise change the appearance of the exterior of his Unit, any Building or any portion of the Common Elements unless expressly permitted by the Condominium Association's Rules and Regulations or approved in advance in writing by the Board of Directors. The foregoing shall be deemed to include an otherwise permitted alteration of the interior of the Unit that will result in a change in exterior appearance of a Building or portion of the Common Elements.

N. Each Unit Owner shall be responsible for cleaning (interior and exterior), maintenance, repair and replacement of all windows of his Unit as well as any doors serving his Unit, including those doors leading onto any porch, landing, steps, balcony, deck, terrace, patio or stoop adjacent to his Unit. The terms "window" and "door" shall be deemed to include all portions of each, including, but not necessarily limited to the frames, screens, glass, operating mechanism, hardware, etc. The Condominium Association, by Rules and Regulations, may establish maintenance schedules and standards in this regard as well as standards applicable to types of materials, styles, manufacturers, colors, etc., all in order to preserve and promote soundness of repair and visual aesthetic and architectural harmony.

O. Nothing shall be done or kept within any Unit within the Condominium that will increase the rates of any insurance for which the Association is responsible beyond the regular rates ordinarily applicable without the prior written consent of the Board of Directors. No Unit Owner shall permit anything to be done or kept within his Unit that will result in the cancellation of any insurance for which the Condominium Association is responsible or that will violate any law.

P. [INTENTIONALLY OMITTED]

Q. Nothing shall be done within or any Unit or on or to the Common Elements of the Condominium which will impair the structural integrity of any Unit, Building or any other improvement.

R. No exterior loudspeakers, including those contained in portable radios or television sets, shall be permitted within the Condominium except as may be expressly permitted by the Rules and Regulations of the Condominium Association. No unshielded floodlights or exterior antenna or similar device shall be installed by any Unit Owner within or upon portion of a Unit or upon any portion of the Common Elements without the prior written permission of the Board of Directors or as expressly permitted by the Rules and Regulations of the Condominium Association.

S. No vehicles larger than a panel truck and no commercial vehicle, mobile home, recreational vehicle, boat, boat trailer or the like, nor any unlicensed, inoperative, unused or disabled vehicle of any type shall be parked within any part of the Condominium except: those vehicles temporarily within the Condominium for the purpose of servicing the Condominium or one of the Units or those vehicles parked in an area designated for such vehicles, if any, all subject to the Rules and Regulations of the Condominium Association. The Board of Directors, through Rules and Regulations, may further define those vehicles that are permitted or prohibited within the Condominium. This restriction is not applicable to the Developer in its exercise of its development rights relative to the property.

Notwithstanding the provisions of this **Section 10.1 S**, each Unit Owner shall be permitted to park two (2) commercial vans and either two (2) additional commercial vans or two (2) commercial box trucks (no larger than

21') within the boundaries of the Limited Common Element benefitting that Unit Owner's Unit. This proviso is made subject to any limitations imposed by governmental authorities.

T. Except for designated parking areas, if any, there shall be no parking of vehicles within the General Common Elements.

U. There shall be no parking of vehicles on any roadway or street within the Condominium except as may be permitted by the Rules and Regulations of the Condominium Association.

V. [INTENTIONALLY OMITTED]

W. [INTENTIONALLY OMITTED]

X. No noxious, unlawful, unsightly or offensive activities shall be carried on within the Condominium, including within any Unit, nor shall anything be done either wilfully or negligently which may be or become an unreasonable annoyance or nuisance to others or unreasonably interferes with the peaceful possession and proper use of the Units and Common Elements of the Condominium by its residents. The foregoing shall not be construed so as to impede the Developer in its development of the Property.

Y. [INTENTIONALLY OMITTED]

Z. No immoral, improper, offensive or unlawful use shall be made of any Unit or portion of the Common Elements; and all applicable laws, including by way of example and not by way of limitation, zoning ordinances, building codes and regulations of all governmental agencies having jurisdiction of the Condominium, shall be observed.

10.02. [INTENTIONALLY OMITTED]

ARTICLE XI

REQUIRED INSURANCE AND DISPOSITION OF PROCEEDS

11.01. Insurance. As required by N.J.S.A. 46:8B-14(d) and (e), the Board of Directors shall obtain and continue in effect blanket property insurance on the Common Elements in an amount equaling replacement value (exclusive of land, foundations or slabs, excavations and such other items as are usually excluded from insurance coverage), but without prejudice to the rights of the Owner of any Unit to obtain individual Unit insurance at his own cost. In addition, the Board of Directors shall obtain and continue such other amounts of insurance coverage as may be required by the provisions of the By-Laws and in such amounts as are prescribed therein, if any. Premiums for all such insurance coverage, except for individual Unit coverage, shall be a Common Expense to be included in the annual Common Expense assessment.

11.02. Disposition of Insurance Proceeds. If any Building, improvement or Common Element or any part thereof is damaged or destroyed by fire or casualty, the repair, restoration or ultimate disposition of any insurance proceeds shall be in accordance with the provisions of this **Article XI**.

11.03. Insurance Proceeds Less Than or Equal to \$25,000.

If the insurance proceeds derived from an insured loss amount to \$25,000.00 or less, the Board of Directors shall contract with a licensed contractor or contractors of its choice to rebuild or repair such damaged or destroyed portions of the Condominium in conformance with the original plans and specifications therefor, or if adherence to such original plans and specifications is deemed impracticable in the sole and absolute discretion of the Board of Directors, then in conformance with revised plans and specifications, provided such repairs or rebuilding shall be of a quality and kind substantially equivalent to the original construction. The Board of Directors shall accept bids only in specific amounts and shall not enter into any cost-plus or other sliding scale arrangement for compensation to the contractor.

11.04. Insurance Proceeds Greater than \$25,000. If the

insurance proceeds derived from an insured loss exceed \$25,000.00, all such insurance proceeds shall be paid directly to an Insurance Trustee, as may be designated by the Board of Directors, as trustee for all Permitted Mortgage Holders holding Mortgages and all Unit Owners, as their respective interests may then appear. Disbursement of such funds shall be made only upon the signatures of a majority of the members of the Board of Directors in accordance with the following:

- A. Upon notification of the receipt of insurance proceeds by the Insurance Trustee or at such earlier date as may be determined appropriate by the Board of Directors, in its sole and absolute discretion, the Board of Directors shall enter into a contract for a specific dollar amount with a licensed contractor or contractors for the repair or rebuilding of all of the damaged or destroyed portions of the Condominium, as nearly as practicable to the original plans and specifications thereof and in accordance with all applicable building codes.
- B. The Board of Directors shall enter into said contract with a licensed contractor or contractors which shall have provisions for periodic disbursements of funds by the Insurance Trustee. Disbursements to the contractor shall be made subject to the prior presentation of an architect's certificate and contractor's requisition containing such provisions as may be appropriate under the circumstances and deemed suitable by the Board of Directors.
- C. The Board of Directors shall employ an architect or other qualified party to supervise the repair and rebuilding to ensure that such work, services and supplies are of proper quality and that construction is completed in a workmanlike manner

and according to plans and specifications.

11.05. Responsibility of Unit Owner. If the damage is only to those parts of a Unit for which the responsibility for maintenance, repair and replacement is that of the Owner, then that Owner shall be responsible for reconstruction and repair, but the proceeds of any insurance that may have been obtained by the Condominium Association as a result of such damage shall be made available to the Unit Owner for such purpose upon such terms and conditions as the Board of Directors may impose in its sole and absolute discretion. Subject to the provisions of this Master Deed, in all other instances the responsibility of reconstruction and repair after casualty shall be that of the Condominium Association.

11.06. Insurance Proceeds Insufficient. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair of damaged or destroyed portions of the Condominium, or if at any time during or upon completion of reconstruction and repair, the funds for payment of the costs thereof are insufficient, Special Common Expense assessments shall be made against all Owners whose Units were damaged or destroyed in sufficient amounts to provide funds for the payment of such costs. If only Limited Common Elements and no Units are damaged or destroyed, the Special Common Expense assessment shall be levied only against those Units entitled to use of such Limited Common Elements. If only General Common Elements and no Units are damaged or destroyed, the Special Common Expense assessment shall be levied against all Units. Anything to the contrary in this Master Deed or the By-Laws notwithstanding, such Special Common Expense assessments shall be in proportion to the Unit Owner's percentage interest in the Common Elements relative to the aggregate interest in the Common Elements of all Units specially assessed. The foregoing provisions of this Section 11.06 are applicable to the repairs and reconstruction to be undertaken by the Condominium Association and do not cover damages to those portions of the Unit for which the responsibility of maintenance and repair and the

costs thereof is that of the Unit Owner.

11.07. Excess Insurance Proceeds. If the amount of available insurance proceeds should exceed the cost of any such reconstruction or repair, the excess shall be retained by the Condominium Association and applied by it to either reduce the Common Expenses or held as reserves; provided, however, any portion of the excess insurance proceeds attributable to damage or destruction for which a Unit Owner is individually responsible for repair or reconstruction shall be paid to said Unit Owner or, if there is a mortgage endorsement as to an affected Unit, then to the Unit Owner and the Unit mortgagee jointly. Any excess insurance proceeds attributable to a casualty, loss or damage to a Limited Common Element shall be turned over to the Unit Owner of the Unit which the Limited Common Element benefits, subject, however, to that Unit Owner's requirement to turn the same over to such Unit Owner's mortgagee, if any and if required.

11.08. Assignment to Mortgage Holder. In the event the Condominium Association determines not to repair or rebuild the damaged or destroyed property in accordance with N.J.S.A. 46:8B-24, any insurance proceeds payable to a Unit Owner as a result of damage or destruction of his Unit or interest in the Common Elements or both are hereby assigned and shall be paid to any appropriate Mortgage Holder(s), as their interests may appear, for application to the appropriate mortgage indebtedness and the excess, if any, shall be paid to the appropriate Unit Owners, all in accordance with N.J.S.A. 46:8B-24.

ARTICLE XII EMINENT DOMAIN

12.01. General. This Article shall be deemed to be supplemental to and not in derogation of the provisions of N.J.S.A. 46:8B-25.

12.02. Notice and Participation of Unit Owners. If the Common Elements or any part thereof shall be taken, injured or destroyed by eminent domain, each affected Unit Owner shall be

entitled to notice of such taking and to participate through the Condominium Association in the proceedings incident thereto.

12.03. Allocation of Awards. Any awards made in connection with such proceedings shall be collected by the Condominium Association and applied or distributed by it in accordance with and **Sections 5.02 and 12.04** of this Master Deed, unless the award or decree provides to the contrary.

12.04. Re-Allocation Following Condemnation.

A. Units Rendered Uninhabitable. Upon acquisition by the condemning authority, each affected Unit's entire appurtenant proportionate interest in the Common Elements of the Condominium and its proportionate liability for Common Expenses shall be automatically reallocated to the remaining Units on the same basis as their respective proportionate interests and liability were initially established. The Condominium Association, acting through its Board of Directors, shall promptly prepare, execute and record an amendment to this Master Deed reflecting such reallocations. Any remnant of a Unit which has been rendered uninhabitable remaining after a part of a Unit is taken under this subsection shall thereafter be a Common Element.

B. Units Remaining Habitable. Upon acquisition by the condemning authority, the appurtenant proportionate interest in the Common Elements of the Condominium and corresponding proportionate liability for Common Expenses of each affected Unit shall remain unchanged.

12.05. Allocation of Proceeds Derived from Acquisition of Common Elements. If a part of the Common Elements is acquired by eminent domain, the award must be paid to the Condominium Association. The Condominium Association shall divide any portion

of the award not used for any restoration or repair of the remaining Common Elements among the Unit Owners in proportion to their respective proportionate interest in the Common Elements before the taking, but the portion of the award attributable to the acquisition of any Limited Common Element must be equitably divided, unless the award provides otherwise, among the Owners of the Units to which that Limited Common Element was allocated at the time of acquisition based upon the relative proportionate entitlement of the affected Owners to the acquired Limited Common Elements.

ARTICLE XIII
PROTECTIVE PROVISIONS FOR THE BENEFIT OF MORTGAGE HOLDERS

13.01. General. "Notice Mortgagee" shall mean and refer to any Mortgage Holder holding a First Mortgage which has given written notice to the Condominium Association in the manner provided in **Section 15.12** of this Master Deed of its desire to have notice of those matters that are the subject of **Sections 13.02 through 13.06 and 13.09** of this Master Deed. Any such notice must state the name of the Mortgage Holder and the address to which notices to be sent to it should be directed and must sufficiently identify the Unit for which the Notice Mortgagee is the Mortgage Holder of a First Mortgage. It shall be the obligation of the Notice Mortgagee to keep the Condominium Association informed of any change of address to which required notices should be sent. The Condominium Association shall be deemed to have fulfilled its obligations hereunder and a Notice Mortgagee shall be deemed to have been given any required notice hereunder so long as the Condominium Association can establish that it served the notice in question in the manner provided herein directed to the Notice Mortgagee at the last address given by it to the Condominium Association in the manner provided herein. The manner in which the Condominium Association shall give the notices required to Notice Mortgagees pursuant to this **Article XIII** shall be via United States

Postal Service by certified mail, with return receipt requested and sufficient prepaid postage affixed thereto, addressed to the last address of the Notice Mortgagee identified to the Condominium Association as provided herein.

13.02. Prior Written Approval of 51% of Notice Mortgagees. The prior written approval of at least fifty-one percent (51%) of the Notice Mortgagees is required for any material amendment to this Master Deed or to the By-Laws or Certificate of Incorporation of the Condominium Association, including, but not limited to, any amendment which would change any provision relating to:

- A. Reallocation of interests in the General or Limited Common Elements or rights to their use (except as expressly contemplated by **Articles II and XIV** of this Master Deed);
- B. Boundaries of any Unit (except as contemplated by **Section 14.02 D.** of this Master Deed);
- C. Convertibility of Units into Common Elements or vice versa (except as expressly contemplated by **Articles II and XIV** of this Master Deed);
- D. Expansion or contraction of the Condominium, or the addition, annexation or withdrawal of land to or from the Condominium (except as expressly contemplated by **Articles II and XIV** of this Master Deed);
- E. Imposition of any restrictions upon a Unit Owner's right to sell or transfer his Unit;
- F. Restoration or repair of the Condominium (after damage, destruction or condemnation) in a manner other than that specified in this Master Deed;
- G. Any action to terminate the legal status of the Condominium as a Condominium after substantial damage or condemnation occurs;
- H. Any provisions that expressly benefit Notice

Mortgagees; or

- I. Assessment allocations (except as expressly contemplated by **Articles VI and XIV** of this Master Deed), assessment liens or subordination of assessment liens.

The notice given to Notice Mortgagees pursuant to **Section 13.01** of this Master Deed with regard to any proposed material amendment as aforesaid must include a copy of the proposed amendment.

13.03. Prior Written Approval of 67% of Notice Mortgagees. The prior written approval of at least sixty-seven percent (67%) of the Notice Mortgagees is required before the effectuation of any decision by the Unit Owners to terminate the legal status of the Condominium as a Condominium for reasons other than substantial destruction or condemnation.

13.04. Implied Approval of Notice Mortgagees Assumed. In spite of the requirements of prior written approval of Notice Mortgagees provided in **Sections 13.02 and 13.03** of this Master Deed, provided that the Condominium Association serves notice on Notice Mortgagees of those matters that are the subject of **Sections 13.02 and 13.03** of this Master Deed in the manner provided in **Section 13.01** of this Master Deed, the Condominium Association may assume implied approval of any Notice Mortgagee failing to submit a written response to any notice given within fifteen (15) days after it receives such notice as provided herein and so long as the notice was delivered by certified mail as indicated by a signed return receipt.

13.05. Additional Notices. Any Notice Mortgagee shall also be entitled to timely written notice of:

- A. Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing the Notice Mortgagee's loan; and no Unit Owner or other party shall have priority over

such Notice Mortgagee with respect to the distribution to such Unit(s) of the proceeds of any condemnation award or settlement in the event of condemnation or with respect to the distribution to such Unit(s) of any insurance proceeds in the event of casualty loss;

- B. A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Condominium Association; and
- C. Any proposed action that requires the consent of a specified percentage of Notice Mortgagees.

13.06. No Partition. No Unit in the Condominium may be partitioned or subdivided without the prior written approval of any Notice Mortgagee holding a Mortgage for such Unit.

13.07. Common Expense Lien Subordinate. Any lien the Condominium Association may have on any Unit in the Condominium for the payment of Common Expense assessments, regardless of nature, attributable to such Unit is subordinate to the lien or equivalent security interest of any First Mortgage on the Unit recorded prior to the date any such Common Expense assessment became due. However, if a mortgagee of a First Mortgage or other purchaser or a Unit obtains title to such Unit as a result of foreclosure of the First Mortgage, such acquirer of title, his successors and assigns shall be liable for the share of Common Expenses or other assessments by the Condominium Association pertaining to such Unit or chargeable to the former Unit Owner which became due prior to acquisition of title as a result of the foreclosure. Such unpaid shares of Common Expenses and other assessments shall be deemed to be Common Expenses collectible from all of the remaining Unit Owners including such acquirer, his successors and assigns.

13.08. Maintenance and Inspection of Records. The Condominium Association shall maintain current copies of this Master Deed, the Certificate of Incorporation, the By-Laws and the Rules and Regulations of the Condominium Association, and any

Association, and any respective amendments thereto, as well as its own books, records and financial statements and have same reasonably available for inspection by Unit Owners and Permitted Mortgage Holders. Any Permitted Mortgage Holder shall, upon prior written request: (i) be permitted to inspect the documents, books and records of the Condominium Association during normal business hours; and (ii) receive an annual unaudited financial statement of the Condominium Association within ninety (90) days following the end of any fiscal year of the Condominium Association.

13.09. [INTENTIONALLY OMITTED]

13.10. Liability for Common Expense Assessments. Any Mortgage Holder that obtains title to a Unit as a result of foreclosure of a First Mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser in a foreclosure sale, or their respective successors and assigns, shall be liable for the share of Common Expenses or other assessments by the Condominium Association pertaining to such Unit or chargeable to the former Unit Owner which became due prior to acquisition of title.

13.11. Management Agreements. Any management agreement for the Condominium entered into by or on behalf of the Condominium Association shall be terminable by the Condominium Association, with or without cause, upon thirty (30) days prior written notice thereof. The term of any such agreement shall not exceed one (1) year.

13.12. Common Expense Default. In spite of the absence of any express provision to such effect in any Mortgage instrument, in the event that there is any default in the payment of any installment of any Common Expense assessment, regular or otherwise, for a Unit, any Mortgage Holder holding a Permitted Mortgage which encumbers such Unit shall be entitled to declare such Mortgage in default in the same manner that is permitted by such Mortgage with respect to any default in the payment of real estate taxes.

ARTICLE XIV
DEVELOPER'S RIGHTS AND OBLIGATIONS

14.01. Ratification, Confirmation and Approval of Agreements. The fact that some or all of the officers, Directors, Members or employees of the Condominium Association and the Developer may be identical, and the fact that the Developer or its nominees have heretofore or may hereafter enter into agreements with the Condominium Association or with third parties will not invalidate any such agreements and the Condominium Association; and its Members, from time to time, will be obligated to abide by and comply with the terms and conditions thereof. The purchaser of a Unit and the acceptance of the deed therefor by any party shall constitute the ratification, confirmation and approval by such purchaser, its heirs, legal representatives, successors and assigns of the propriety and legality of said agreement(s), or any other agreements authorized and permitted by the New Jersey Condominium Act, this Master Deed, the Certificate of Incorporation or the By-Laws of the Condominium Association.

14.02. Rights Reserved to Developer. In spite of anything to the contrary in this Master Deed or the Certificate of Incorporation or By-Laws of the Condominium Association, the Developer hereby reserves the following rights for itself, its successors and any assigns:

- A. The right, but not the obligation, for a period of ten (10) years from the date it initially conveys title to the first Unit within the Condominium to a purchaser, to develop some or all of undeveloped portions of the Property with improvements not incorporated as part of the Condominium by the express terms of this Master Deed at the time of its recording in the **Monmouth County Clerk's Office**. The specific improvements included in the Developer's development of portions of the Property, including the type, character, design, quantity, etc. of any site improvements (including

roadways), Buildings and Units shall be in the sole and absolute discretion of the Developer, subject only to the approval of and regulation by all governmental authorities having jurisdiction over such development. The Developer's right of development hereby reserved shall include the right, in the event the Developer exercises such reserved rights of development, to incorporate all Buildings constructed and all other improvements as Units and Common Elements, respectively, of the Condominium. Such right shall be exercised and discharged by the Developer by its recording in the **Monmouth County Clerk's Office** of appropriate Amendments and Supplements to this Master Deed expressly incorporating the additional residential dwellings and other improvements into the Condominium as Units and Common Elements, respectively. Such Amendments and Supplements shall include such amendatory, supplemental or replacement exhibits as are necessary, if any, to graphically identify the additional Buildings, Units and Common Elements, as required by N.J.S.A. 46:8B-9(d) and (e); to reapportion the proportionate interest in the Common Elements of the Condominium appurtenant to each Unit then incorporated into the Condominium in accordance with **Article V** of this Master Deed and N.J.S.A. 46:8B-9(g). Any such Amendments and Supplements shall not be operative until duly recorded in the **Monmouth County Clerk's Office**. The aforesaid reallocation of each Unit's appurtenant proportionate interest in the Common Elements of the Condominium shall not be deemed to constitute a restricted reduction of interest under **Article XIII**

of this Master Deed. Such Amendments and Supplements and the changes effected thereby, including the aforesaid reallocation of the proportionate interest in the Common Elements appurtenant to the Units, shall be fully binding upon all contract purchasers, Unit Owners and all holders of Mortgages encumbering Units within the Condominium. Nothing contained herein shall be construed to authorize or permit annexation or incorporation of any other lands to the Condominium except by amendment duly adopted pursuant to **Article XV** of this Master Deed.

By acceptance of a deed to any Unit or by the acceptance of any other legal or equitable interest in the Condominium, each and every such contract purchaser, Unit Owner, mortgagee or other lienholder or party having a legal or equitable interest in the Condominium does automatically and irrevocably name, constitute, appoint and confirm the Developer, its successors and assigns, as attorney-in-fact for the purpose of executing such Amendments and Supplements to this Master Deed and any other instrument(s) necessary to effect the foregoing rights reserved to the Developer. The power of attorney aforesaid is expressly declared and acknowledged to be coupled with an interest in the subject matter hereof and the same shall run with the title to any and all Units and be binding upon the heirs, personal representatives, successors and assigns of any of the foregoing parties. Further, said power of attorney shall not be affected by the death or disability of any principal and is intended to deliver all rights, title and interest of the principal in and to said

power.

Nothing contained in this Master Deed shall preclude the Developer from exercising its reserved rights established by this **Subsection 14.02 A.** in the same Amendment and Supplement in which it exercises its rights reserved in **Subsection 14.02B.** hereof.

- B. The right, for a period of ten (10) years from the date it initially conveys title to the first Unit within the Condominium to a purchaser, subject to obtaining any required governmental approvals, to increase or decrease the number of Units within a particular Building based upon market demand.

The right of the Developer hereby reserved shall be exercised by the Developer by its recording in the **Monmouth County Clerk's Office** of appropriate Amendments and Supplements to this Master Deed. Such Amendments and Supplements shall include such amendatory, supplemental or replacement exhibits as are necessary, if any, to graphically identify Units and Common Elements, as required by N.J.S.A. 46:8B-9(d) and (e); to reapportion the proportionate interest in the Common Elements of the Condominium appurtenant to each Unit then incorporated into the Condominium in accordance with **Article V** of this Master Deed and N.J.S.A. 46:8B-9(g). Any such Amendments and Supplements shall not be operative until duly recorded with the **Monmouth County Clerk's Office**. The aforesaid reallocation of each Unit's appurtenant proportionate interest in the Common Elements of the Condominium shall not be deemed to constitute a restricted reduction of interest under

Article XIII of this Master Deed. Such Amendments and Supplements and the changes effected thereby, including the aforesaid reallocation of the proportionate interest in the Common Elements appurtenant to the Units, shall be fully binding upon all contract purchasers, Unit Owners and all holders of Mortgages encumbering Units within the Condominium.

By acceptance of a deed to any Unit or by the acceptance of any other legal or equitable interest in the Condominium, each and every such contract purchaser, Unit Owner, mortgagee or other lienholder or party having a legal or equitable interest in the Condominium does automatically and irrevocably name, constitute, appoint and confirm the Developer, its successors and assigns, as attorney-in-fact for the purpose of executing such Amendments and Supplements to this Master Deed and any other instrument(s) necessary to effect the foregoing right reserved to the Developer. The power of attorney aforesaid is expressly declared and acknowledged to be coupled with an interest in the subject matter hereof and the same shall run with the title to any and all Units and be binding upon the heirs, personal representatives, successors and assigns of any of the foregoing parties. Further, said power of attorney shall not be affected by the death or disability of any principal and is intended to deliver all rights, title and interest of the principal in and to said power.

Nothing contained in this Master Deed shall preclude the Developer from exercising its reserved right established by this **Subsection 14.02 B.** in

the same Amendment and Supplement in which it exercises its rights reserved in **Subsection 14.02**

B. hereof.

14.03. Transfer of Special Developer Rights. No special rights created or reserved to the Developer under this Master Deed (from now on called "Special Developer Rights") may be transferred except by an instrument evidencing the transfer recorded in the office of the **Clerk of Monmouth County**, New Jersey. The instrument shall not be effective unless executed by the transferee.

14.04. Liability of Transferor. Upon transfer of any Special Developer Right, the liability of the transferor is as follows:

- A. A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations imposed upon it. Lack of privity does not deprive any Unit Owner of standing to bring an action to enforce any obligation of the transferor.
- B. If a transferor retains any Special Developer Right, or if a successor to any such Special Developer Right is an Affiliate of the Developer, the transferor is subject to liability for all obligations and liabilities imposed on a Developer by law or by this Master Deed arising after the transfer and is jointly and severally liable with the successor for the liabilities and obligations of the successor which relate to the Condominium.
- C. A transferor that retains no Special Developer Rights has no liability for any act or omission or any breach of a contractual or warranty obligation arising from the exercise of any such Special Developer Right by a successor Developer which is not an affiliate of the transferor.

14.05. Transfer of Rights Requested. Unless otherwise

provided in a mortgage instrument or deed of trust, in case of foreclosure of a mortgage, sale by a trustee under a deed of trust or sale under any bankruptcy or receivership proceedings of any Units or interests in the Condominium owned or held by the Developer, a person or entity acquiring title to all the Units or interests being foreclosed or sold, as applicable, but only upon its request, succeeds to all Special Developer Rights, or only to any such Special Developer Rights to maintain models, sales offices and signs. The judgment or instrument conveying title shall provide for transfer of only the Special Developer Rights requested.

14.06. Foreclosure, Bankruptcy, Receivership. Upon foreclosure, sale by a trustee under a deed of trust, or sale under any bankruptcy or receivership proceedings, of all Units in the Condominium owned by Developer:

- A. the Developer ceases to have any Special Developer Rights, and
- B. the period of Developer control terminates, unless the judgment or instrument conveying title provides to the contrary.

14.07 [INTENTIONALLY OMITTED]

14.08. Ineffectiveness. Nothing in this Article XIV subjects any successor to a Special Developer Right to any claims against or other obligations of a transferor other than claims and obligations arising under this Master Deed.

ARTICLE XV GENERAL PROVISIONS

15.01. Duration. The provisions of this Master Deed shall be perpetual in duration, shall run with title to and bind all of the land included in the Condominium and shall inure to the benefit of and be enforceable by the Condominium Association and the Unit Owners, their respective successors, assigns, heirs, executors, administrators and personal representatives, except that

the covenants and restrictions set forth in **Section 10.01** shall have an initial term of forty (40) years from the date this Master Deed is recorded in the office of the **Monmouth County Clerk**, at the end of which period such covenants and restrictions shall automatically be extended for successive periods of ten (10) years each, unless Unit Owners owing at **sixty percent (60%)** in interest of the Common Elements of the Condominium at the time of expiration of the initial period or of any extension period shall sign an instrument or instruments (which may be in counterparts) in which they shall agree to change said covenants and restrictions in whole or in part; but no such agreement shall become binding unless written notice containing the terms of the proposed agreement is sent to every Unit Owner at least thirty (30) days in advance of the action taken in authorizing said agreement.

15.02. Amendment of Master Deed. Except for those provisions herein that expressly provide otherwise, this Master Deed may be amended at any time after the date hereof by a vote of those Unit Owners in good standing owning at least **sixty percent (60%)** of the interest in the Common Elements of the Condominium, at any meeting of the Condominium Association duly held in accordance with the provisions of the By-Laws. No amendment shall be effective until recorded in the **Monmouth County Clerk's Office**.

No amendment shall materially adversely affect any Unit Owner's rights to public ingress/egress across any Common Element, Limited Common Element, any Cross Access Easement (except as expressly provided in this Master Deed) or otherwise substantially interfere with the Unit Owner's ability to operate their existing business on the property, nor shall such amendment exclude any Unit Owner from operating a business that is otherwise permitted pursuant to law (e.g. by way of example, no amendment to the Master Deed may be made prohibiting the operation of a particular type of business, unless such amendment is approved by the unanimous vote of the Unit Owners). This Section is by way of supplement to and not in

derogation of the powers of amendment reserved to Developer pursuant to **Articles IX and XIV** hereof. In the alternative, an amendment may be made by an agreement, signed and acknowledged by all of the Unit Owners in the manner required for the execution of a deed, and such amendment by agreement shall be effective when recorded in the office of the **Clerk of Monmouth County**. In spite of the foregoing, any amendment so requiring it under the provisions of **Article XIII** hereof, shall also have the prior written approval of **fifty-one (51%)** percent of the Notice Mortgagees.

15.03. Termination. In spite of anything to the contrary herein, an amendment, deed of revocation or other document shall be effective to terminate the condominium form of ownership hereby established only upon the written approval of non-Developer Unit Owners owning at least **sixty percent (60%)** in interest of the Common Elements of the Condominium and the written approval of the Developer, for so long as it holds one (1) Unit for sale in the ordinary course of business.

15.04. Enforcement. Enforcement of this Master Deed shall be by any appropriate proceeding in law or equity in any court or administrative tribunal having jurisdiction over any person or persons, firm or corporation violating or attempting to violate any covenant herein contained either to restrain or enjoin such violation or threatened violation or to recover damages and against any Owner to enforce any lien created by this Master Deed or any covenant herein contained. Failure by the Condominium Association or any Member thereof to enforce any covenant herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to thereafter enforce the same.

15.05. Maintenance by Municipality. In the event the Condominium is not maintained in reasonable order and condition, the **Township of Ocean** shall have the right, but not the obligation, to enter upon and maintain it. The assumption of such maintenance

responsibility shall be in accordance with the procedure set forth in N.J.S.A. 40:55D-43(b). The cost of same shall be assessed, enforced and collected in accordance with the provisions of N.J.S.A. 40:55D-43(c). In spite of any limitations as to the applicability of N.J.S.A. 40:55D-43(b) and (c) to the maintenance of "open space," provisions of this Section shall be deemed to apply to all maintenance obligations as set forth in this Master Deed. The cost of such maintenance by the municipality shall be assessed pro rata against the Owners of each Unit affected thereby, shall become a lien and tax on each such Unit and shall be enforceable by the **Township of Ocean** the manner provided by law with respect to real estate taxes assessed directly against each such Unit. The **Township of Ocean** shall have no obligation to proceed as set forth herein and the Condominium Association will hold the **Township of Ocean** harmless for any liability arising from the Township of Ocean's actions or failure to act with respect to the maintenance of the Common Elements. All of the above provisions are subject and subordinate to the provisions of N.J.S.A. 40:55D-43 and any amendments and/or supplements thereto.

15.06. Validity. The invalidity of any provision of this Master Deed, the Certificate of Incorporation, By-Laws or Rules and Regulations of the Condominium Association shall not be deemed to impair or affect the validity or enforceability of the remainder of the Master Deed, Certificate of Incorporation, By-Laws or Rules and Regulations of the Condominium Association and all other provisions of the Master Deed, Certificate of Incorporation, By-Laws or Rules and Regulations of the Condominium Association shall continue in full force as if such invalid provisions had never been included.

15.07 Waiver. No provision contained in this Master Deed shall be deemed to have abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

15.08 Gender and Number. The use of the masculine gender in this Master Deed shall be deemed to refer to the feminine

gender and the use the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

15.09 Rule Against Perpetuities. If any provision of this Master Deed, the Certificate of Incorporation, By-Laws or Rules and Regulations of the Condominium Association shall be interpreted to constitute a violation of the rule against perpetuities, such provision shall be deemed to remain in effect until the death of the last survivor of the now living descendants of Robert F. Kennedy, deceased, former Senator of the State of New York, plus twenty-one (21) years thereafter.

15.10. Conflict. In the event any provision of this Master Deed is in conflict with any mandatory provision of any applicable federal, State, County or municipal statute, regulation, resolution, ordinance or other judicial, legislative or executive "law", the terms of such statute, regulation, ordinance or other law shall govern. In the event any provision of this Master Deed is in conflict with any provision of the Certificate of Incorporation, the By-Laws or the Rules and Regulations of the Condominium Association, the provision of the Master Deed shall govern.

15.11. Notice - Unit Owners and Members. Unless express provision to the contrary is made in this Master Deed, the Certificate of Incorporation, By-Laws or Rules and Regulations of the Condominium Association, any notice permitted or required to be given to or served upon any Unit Owner or Member under the provisions of this Master Deed, the Certificate of Incorporation, By-Laws or Rules and Regulations of the Condominium Association shall be deemed to have been properly given or served when same is mailed via the United States Postal Service, with sufficient prepaid first class postage affixed thereto, addressed to the Unit Owner or Member at his last known mailing address as reflected in the records of the Condominium Association at the time of such mailing. Notice to one of two or more co-owners of a Unit shall constitute notice to all co-owners thereof. It shall be the obligation of every Unit Owner and Member to immediately notify the

Condominium Association in writing of any change of address for purposes of notices to which it is entitled pursuant to the terms of this Master Deed, the Certificate of Incorporation, By-Laws or Rules and Regulations of the Condominium Association. Such notification of a change of address to the Condominium Association shall be given to the Condominium Association in writing in the manner provided for notices to the Condominium Association in **Section 15.12** of this Master Deed. Until such time as a Unit Owner gives contrary notice to the Condominium Association in the manner herein provided, the Condominium Association shall be entitled to conclusively presume that the address of a Unit is the record address of the Owner of the Unit.

Valid notices may also be given to Unit Owners and Members by: (i) personal delivery to any occupant of the Unit of the Owner or Member over fourteen (14) years of age or (ii) affixing said notice or sliding same under the front entrance door of the Unit.

15.12. Notice-Condominium Association. Unless expressly provided to the contrary in this Master Deed, the Certificate of Incorporation, By-Laws or Rules and Regulations of the Condominium Association, any notice permitted or required to be given to or served upon the Condominium Association under the provisions of this Master Deed, the Certificate of Incorporation, By-Laws or Rules and Regulations of the Condominium Association shall be deemed to have been properly given to or served upon the Condominium Association when same is mailed via the United States Postal Service by certified mail, with return receipt requested and sufficient prepaid postage affixed thereto, addressed to the current corporate Registered Agent of the Condominium Association as reflected in the official records of the New Jersey Secretary of State as of the date such notice is mailed.

15.13. Requests for Consent, Approval or Permission. To the extent that this Master Deed, the Certificate of Incorporation, By-Laws or Rules and Regulations of the Condominium Association

provides that certain actions not be taken without the consent, approval or permission of the Condominium Association or its Board of Directors, any request for such consent, approval or permission shall be submitted in the manner provided for notices pursuant to **Subsection 15.12** herein unless the Board of Directors by its Rules and Regulations establishes a different manner.

ARTICLE XVI

CONDOMINIUM RULES AND REGULATIONS

16.01. Authority. The Board of Directors shall be and hereby is empowered to promulgate, adopt, amend and enforce such Condominium Association Rules and Regulations as it, in its sole and absolute discretion, deems necessary and proper to effectuate the provisions of this Master Deed, including, by way of description but not by way of limitation, those deemed necessary and proper to ensure that Unit Owners perform in accordance with those covenants and restrictions imposed upon them and discharge and perform those obligations and duties for which they are responsible.

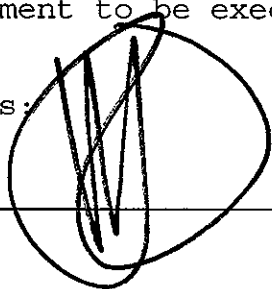
16.02. Publication. No Condominium Association Rule or Regulation promulgated and adopted by the Board of Directors subsequent to a Unit Owner's acquisition of title to a Unit shall be deemed to be effective as to a particular Unit Owner until written notice of same has been given to the Unit Owner pursuant to **Section 15.11** of this Master Deed. Once such notice is given, the Condominium Association shall have no further obligation to publish adopted Condominium Association Rules and Regulations other than to maintain a current compilation of same available for inspection during regular business hours at the Condominium Association's principal office. There shall be a rebuttable presumption that a purchaser acquiring title to a Unit has actual notice of all Condominium Association Rules and Regulations adopted as of the date title is acquired. To rebut this presumption of actual notice, a Unit Owner must be able to establish by clear and convincing legally competent evidence in any enforcement proceeding

that a copy of the Rule or Regulation that the Condominium Association is seeking to enforce was not being maintained and available for inspection as aforesaid by not later than the date on which the Unit Owner acquired title to the Unit.

16.03. Enforcement and Fines. Enforcement of the Condominium's Association's Rules and Regulations shall be as provided in **Section 15.04** of this Master Deed and the Condominium Association By-Laws and shall include the ability to impose fines for violations.

IN WITNESS WHEREOF, the Developer has caused this instrument to be executed the day and year first above written.

Witness:



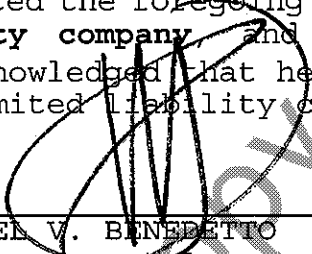
1910 Holdings, L.L.C.

By: 

Solomon Dwek, Managing Member

STATE OF NEW JERSEY)
) SS:
COUNTY OF MONMOUTH)

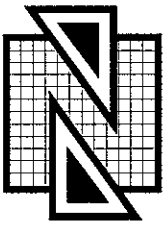
On the 29 day of **MARCH**, 2000, before me personally came SOLOMON DWEK, to me known to be the person who executed the foregoing instrument, and who, being by me duly sworn, did depose and say that he is a **Member** of **1910 Holdings, L.L.C.**, a limited liability company; and that he executed the foregoing instrument in the name of said **limited liability company**, and that he had authority to sign the same, and acknowledged that he executed the same as the act and deed of said limited liability company.



MICHAEL V. BENEDETTO
An Attorney at Law
of the State of New Jersey

EXHIBIT "A"
Metes and Bounds Description of the Property

Not Certified Copy



Nelson Engineering Associates, Inc.

464 Broadway Long Branch, NJ 07740 (732) 263-1400 FAX: (732) 263-0556

February 22, 2000
Revised March 16, 2000
NEAI File #990805

METES & BOUNDS DESCRIPTION OF TAX LOT 22, TAX BLOCK 34 TOWNSHIP OF OCEAN MONMOUTH COUNTY, NEW JERSEY

Beginning at a point in the westerly right-of-way line of New Jersey State Highway Route 35, said point further being described as the northeast corner of Tax Lot 22, Tax Block 34, as shown and delineated on a certain map entitled, "Condominium Map of Ocean Plaza North Condominiums, Lot 22, Block 34, Township of Ocean, Monmouth County, New Jersey", prepared by Clifford E. Schoenberger, PLS, for the firm of Nelson Engineering Associates, Inc., latest date March 16, 2000. Thence from said beginning point;

1. South $01^{\circ} 50' 50''$ West, along the westerly right-of-way line of New Jersey State Highway Route 35, a distance of 306.84 to a point at the southeast corner of Tax Lot 22. Thence;
2. North $88^{\circ} 09' 10''$ West, along the southerly property line of Tax Lot 22, a distance of 554.34 feet to a point at the southwest corner of Tax Lot 22. Thence;
3. North $00^{\circ} 08' 50''$ West, along the westerly property line of Tax Lot 22, a distance of 285.66 feet to a point at the northwest corner of Tax Lot 22. Thence;
4. North $89^{\circ} 40' 50''$ East, along the northerly property line of Tax Lot 22, a distance of 564.69 feet to the point and place of beginning.

Containing 165,699.9 Sq. Ft.

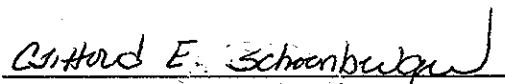

Clifford E. Schoenberger
Professional Land Surveyor
NJ License No. 31664

EXHIBIT "B"
Property Survey

Not Certified Copy

RM 036302 MICHAEL V. BELLEDETTO, ESQ.
TO SOLOMON DWECK, OR HIS ASSIGNS, TO
RED BANK TITLE AGENCY, INC., TO CHICAGO
TITLE INSURANCE COMPANY, TO
COMMUNITY BANK OF NEW JERSEY, ITS
SUCCESSORS AND/OR ASSIGNS,

OWN HEREON
X MAP.

I HEREBY CERTIFY THAT THIS IS A TRUE AND ACCURATE
SURVEY MADE ON THE PREMISES AND THAT THERE ARE NO
APPARENT ENCROACHMENTS EXCEPT AS SHOWN HEREON.



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SURVEY OF

LOT 22; BLOCK 34

OCEAN TOWNSHIP, MONMOUTH COUNTY, N.J.

EUGENE AMRON N.J.P.E. & L.S. #8357

WILLIAM H. ZIEMAN, JR. N.J.L.S. #18259

Azimuth Land Surveying Co., Inc.

CONSULTING ENGINEERING • LAND SURVEYING • LAND PLANNING
90 MONMOUTH ROAD • P.O. BOX 202 • OAKHURST, NJ 07755
(908) 222-0431 • (908) 222-1473 • FAX (908) 571-0461

DRAWN BY

OS

CHECKED BY

WZ

DATE

9-24-99

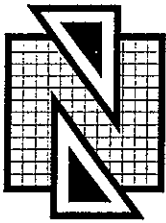
EXHIBIT "C"
Site Plan

Not Certified Copy

EXHIBIT "D-1"

METES AND BOUNDS LEGAL DESCRIPTION FOR LIMITED COMMON ELEMENT OF
UNIT NO. 1

Not Certified Copy



Nelson Engineering Associates, Inc.

464 Broadway Long Branch, NJ 07740 (732) 263-1400 FAX: (732) 263-0556

February 22, 2000
Revised March 16, 2000
NEAI File # 990805

**METES & BOUNDS DESCRIPTION
FOR LIMITED COMMON ELEMENT OF
LEASE UNIT NO. 1
PORTION OF
TAX LOT 22, TAX BLOCK 34
TOWNSHIP OF OCEAN
MONMOUTH COUNTY, NEW JERSEY**

Beginning at a point in the westerly right-of-way line of New Jersey State Highway Route 35, said point further being described as the southeast corner of Tax Lot 22, Tax Block 34 as shown and delineated on a certain map entitled "Condominium Map of Ocean Plaza North Condominiums, Lot 22, Block 34, Township of Ocean, Monmouth County, New Jersey", prepared by Clifford E. Schoenberger, PLS, for the firm of Nelson Engineering Associates, Inc., latest date March 16, 2000. Thence from said beginning point;

1. North 88° 09' 10" West, partially along the southerly property line of Tax Lot 22, a distance of 253.98 feet to a point. Thence;
2. North 01° 50' 50" East, a distance of 50.00 feet to a point. Thence;
3. South 88° 09' 10" East, a distance of 8.40 feet to a point. Thence;
4. North 01° 50' 50" East, a distance of 155.23 feet to a point. Thence;
5. South 87° 57' 26" East, a distance of 46.03 feet to a point. Thence;
6. South 01° 50' 50" West, a distance of 65.07 feet to a point. Thence;
7. South 88° 09' 10" East, a distance of 149.54 feet to a point. Thence;
8. South 66° 21' 05" East, a distance of 53.85 feet to a point in the westerly right-of-way line of New Jersey State Highway Route 35. Thence;
9. South 01° 50' 50" West, along the westerly right-of-way line of New Jersey State Highway 35, a distance of 120.00 feet to the point and place of beginning.

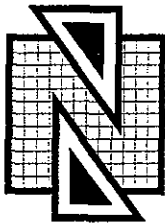
Containing 37,300.8 Sq. Ft.

Clifford E. Schoenberger
Clifford E. Schoenberger
Professional Land Surveyor
NJ License No. 31664

EXHIBIT "D-2"

METES AND BOUNDS LEGAL DESCRIPTION FOR LIMITED COMMON ELEMENT OF
UNIT NO. 2

Not Certified Copy



Nelson Engineering Associates, Inc.

464 Broadway Long Branch, NJ 07740 (732) 263-1400 FAX: (732) 263-0556

February 22, 2000
Revised March 16, 2000
NEAI File # 990805

METES & BOUNDS DESCRIPTION
FOR LIMITED COMMON ELEMENT OF
LEASE UNIT NO. 2
PORTION OF
TAX LOT 22, TAX BLOCK 34
TOWNSHIP OF OCEAN
MONMOUTH COUNTY, NEW JERSEY

Beginning at a point at the northwest corner of Tax Lot 22, Tax Block 34, as shown and delineated on a certain map entitled, "Condominium Map of Ocean Plaza North Condominiums, Lot 22, Block 34, Township of Ocean, Monmouth County, New Jersey", prepared by Clifford E. Schoenberger, PLS, for the firm of Nelson Engineering Associates, Inc., latest date March 16, 2000. Thence from said beginning point;

1. North 89° 40' 50" East, along the northerly property line of Tax Lot 22, a distance of 315.44 feet to a point. Thence;
2. South 00° 19' 10" East, a distance of 92.25 feet to a point. Thence;
3. South 01° 50' 50" West, a distance of 155.23 feet to a point. Thence;
4. North 88° 09' 10" West, a distance of 8.40 feet to a point. Thence;
5. South 01° 50' 50" West, a distance of 50.00 feet to a point in the southerly property line of Tax Lot 22. Thence;
6. North 88° 09' 10" West, along the southerly property line of Tax Lot 22, a distance of 300.36 feet to the southwesterly corner of Tax Lot 22. Thence;
7. North 00° 08' 50" West, along the westerly property line of Tax Lot 22, a distance of 285.66 feet to the point and place of beginning.

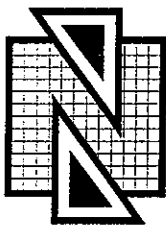
Containing 90,906.5 Sq. Ft.

Clifford E. Schoenberger
Clifford E. Schoenberger
Professional Land Surveyor
NJ License No. 31664

EXHIBIT "D-3"

METES AND BOUNDS LEGAL DESCRIPTION FOR LIMITED COMMON ELEMENT OF
UNIT NO. 3

Not Certified Copy



Nelson Engineering Associates, Inc.

464 Broadway Long Branch, NJ 07740 (732) 263-1400 FAX: (732) 263-0556

February 22, 2000
Revised March 16, 2000
NEAI File # 990805

METES & BOUNDS DESCRIPTION
FOR LIMITED COMMON ELEMENT OF
LEASE UNIT NO. 3
PORTION OF
TAX LOT 22, TAX BLOCK 34
TOWNSHIP OF OCEAN
MONMOUTH COUNTY, NEW JERSEY

Beginning at a point in the westerly right-of-way line of New Jersey State Highway Route 35, said point further being described as the northeast corner of Tax Lot 22, Tax Block 34, as shown and delineated on a certain map entitled, "Condominium Map of Ocean Plaza North Condominiums, Lot 22, Block 34, Township of Ocean, Monmouth County, New Jersey", prepared by Clifford E. Schoenberger, PLS, for the firm of Nelson Engineering Associates, Inc., latest date March 16, 2000. Thence from said beginning point;

1. South 01° 50' 50" West, along the westerly right-of-way line of New Jersey State Highway Route 35, a distance of 121.84 feet to a point. Thence;
2. South 70° 02' 45" West, a distance of 53.85 feet to a point. Thence;
3. North 88° 09' 10" West, a distance of 149.54 feet to a point. Thence;
4. North 01° 50' 50" East, a distance of 40.07 feet to a point. Thence;
5. North 87° 57' 26" West, a distance of 46.03 feet to a point. Thence;
6. North 00° 19' 10" West, a distance of 92.25 feet to a point in the northerly property line of Tax Lot 22. Thence;
7. North 89° 40' 50" East, partially along the northerly property line of Tax Lot 22, a distance of 249.25 feet to the point and place of beginning.

Containing 31,504.0 Sq. Ft.

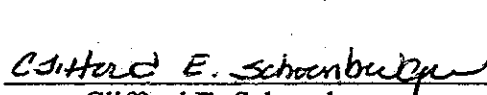

Clifford E. Schoenberger
Professional Land Surveyor
NJ License No. 31664

EXHIBIT "E"
Certificate of Incorporation of
Ocean Plaza North Condominium Association, Inc.

Not Certified Copy

CERTIFICATE OF INCORPORATION

FOR

OCEAN PLAZA NORTH
CONDOMINIUM ASSOCIATION, INC.

DATED: MARCH 15, 2000

File and Return to:

MICHAEL V. BENEDETTO, ESQ.
ANSELL, ZARO, GRIMM & AARON, P.C.
1500 Lawrence Avenue
Ocean Township, New Jersey 07712

ANSELL ZARO
GRIMM & AARON
ATTORNEYS AT LAW
1500 LAWRENCE AVENUE
OCEAN TOWNSHIP, NJ 07712
(732) 828-1000

FILED

MAR 15 2000

This is to certify that, there is hereby organized a corporation under and by virtue of N.J.S.A. 15A:2-8, The New Jersey Domestic Nonprofit Act of the New Jersey Statutes. **State Treasurer**

ARTICLE I

The name of the corporation is "OCEAN PLAZA NORTH CONDOMINIUM ASSOCIATION, INC." hereinafter called the "Association".

ARTICLE II

The principal office of the Association is located at 1500 Lawrence Avenue, Ocean, New Jersey.

ARTICLE III

Michael V. Benedetto, Esquire, of Ansell, Zaro, Grimm & Aaron, P.C., located at 1500 Lawrence Avenue, Ocean Township, New Jersey 07712, is hereby appointed the initial registered agent of this Association. The mailing address of the registered agent is 1500 Lawrence Avenue, Ocean Township, New Jersey 07712.

ARTICLE IV

Purpose and Powers of the Association

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for the maintenance, preservation and control of the Common Elements within that certain tract of property described in the Exhibits of a certain Master Deed entitled "Master Deed for Ocean Plaza North Condominium" recorded or intended to be recorded in the Office of the Clerk of Monmouth County, as same may be amended and supplemented as therein provided and to promote the health, safety and welfare of the Units within the above described property and for these purposes:

- A. to exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Master Deed and in the By-Laws of the Association, as they both may be amended and supplemented from time to time as therein provided, said Master Deed and By-Laws being incorporated herein, as if set forth at length;
- B. to fix, levy, collect and enforce payment by any lawful means of all charges or assessments pursuant to the terms of said Master Deed and By-Laws of the Association; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;
- C. to acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise

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dispose of real or personal property in connection with the affairs of the Association;

- D. to borrow money, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and
- E. to have and to exercise any and all powers, rights and privileges which a corporation organized under the Nonprofit Corporation Law of the State of New Jersey by law may now or hereafter have or exercise.

ARTICLE V Membership

Every person or entity who is a record owner of a fee interest in any Unit which is subject to the Master Deed and qualifies in accordance with the By-Laws shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Ownership of any such Unit shall be the sole qualification for membership. Upon termination of the interest of the Unit owner, his membership shall automatically terminate and shall be transferred and shall inure to the new Unit Owner succeeding him in interest.

ARTICLE VI Board of Directors

The affairs of this Association shall be managed by a Board of Directors. The initial Board of Directors shall be composed of three (3) persons who need not be members of the Association. The number of Directors may be changed pursuant to the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successors are:

Michael V. Benedetto
1500 Lawrence Avenue
Ocean, NJ 07712

Solomon Dwek
200 Wall Street
West Long Branch, NJ 07764

Giuseppe LaMarca
c/o Grilmarc, L.L.C.
2001 Route 35
Oakhurst, NJ 07755

The method of electing Directors shall be set forth in the By-Laws of the Association.

ARTICLE VII
Distribution of Assets

Upon dissolution, the assets of the Association shall be distributed in accordance with each Unit's appurtenant proportionate interest in the Common Elements of the Condominium.

ARTICLE VIII
Duration

The Association shall exist perpetually.

ARTICLE IX
Amendments

Amendment of this Certificate shall require the assent of sixty (60%) percent of the members of the Association.

IN WITNESS WHEREOF, for the purpose of forming this nonprofit corporation under the laws of the State of New Jersey, the undersigned, the incorporator of this Association, has executed this Certificate of Incorporation this 15th day of March, 2000.

Andrea R. Martinez
ANDREA R. MARTINEZ
WITNESS

MICHAEL V. BENEDETTO
MICHAEL V. BENEDETTO, ESQ.
INCORPORATOR

STATE OF NEW JERSEY)
S.S.:
COUNTY OF MONMOUTH)

BE IT REMEMBERED, that on this 15th day of March, 2000 before me, the subscriber, Notary Public of the State of New Jersey, personally appeared MICHAEL V. BENEDETTO, who, I am satisfied is the person named in and who executed the within Instrument, and thereupon acknowledged that he signed, sealed and delivered the same as his act and deed, for the uses and purposes therein expressed.

Michelle J. Carson

MICHELLE J. CARSON
A Notary Public of New Jersey
My Commission Expires April 3, 2002

F:\USERS\MYGROUP\YESHIVA\Hooters\Condominium\Ocean Plaza North.INC.wpd

EXHIBIT "F"
By-Laws of Ocean Plaza North Condominium Association, Inc.

Not Certified Copy

BY-LAWS
OF
OCEAN PLAZA NORTH CONDOMINIUM ASSOCIATION, INC.

Not Certified Copy

TABLE OF CONTENTS

ARTICLE I - NATURE OF BY-LAWS	PAGE
1.01 Purpose	1
1.02 Definitions	1
1.03 Fiscal Year	1
1.04 Principal Office.....	1
ARTICLE II - MEMBERSHIP AND VOTING RIGHTS	
2.01 Members	1
2.02 Associate Members	2
2.03 Change of Membership	2
2.04 Rights of Membership	2
2.05 Suspension of Rights	3
2.06 Contribution to Working Capital	4
2.07 Escrow Deposit	5
2.08 Membership Fees	6
2.09 Votes	6
2.10 Member in Good Standing	7
2.11 Proxies	7
ARTICLE III - MEETINGS OF UNIT OWNERS	
3.01 Place of Meetings	8
3.02 Annual Meetings	8
3.03 Special Meetings	9
3.04 Notice of Meeting	10
3.05 Quorum and Adjourned Meetings	10
3.06 Organization	11
3.07 Voting on Questions	11
3.08 Voting in Election of Directors	11
3.09 Ballot by Mail	12
3.10 Judges	13
3.11 Order of Business	14
ARTICLE IV - BOARD OF DIRECTORS	
4.01 Qualifications	14
4.02 Number	15
4.03 Transition Elections	15
4.04 Term of Office	19
4.05 Removal of Directors Elected by Unit Owners other than the Developer; Election of Successors.....	20
4.06 Vacancies	22
ARTICLE V - TRANSACTION OF BUSINESS BY THE BOARD OF DIRECTORS	
5.01 Express and Implied Powers and Duties	23
5.02 Developer's Protective Provisions	23
5.03 Meeting of the Board of Directors; Notices; Waiver	

of Notice	24
5.04 Quorum and Adjourned Meetings	25
5.05 Joinder in Meetings by Approval of Minutes	25
5.06 Non-Waiver	25
5.07 Consent in Lieu of Meeting and Vote	25
5.08 Open Meetings; Notice; Minutes	26
ARTICLE VI - POWERS AND DUTIES OF BOARD OF DIRECTORS	
6.01 General Powers and Privileges	26
6.02 Duties and Responsibilities	29
ARTICLE VII - FISCAL MANAGEMENT	
7.01 Annual Common Expense Assessments	35
7.02 Determination of Common Expenses	35
7.03 Disbursements	35
7.04 Depositories	36
7.05 Accounts	36
7.06 Reserves	38
7.07 Notice of Common Expense Assessment	39
7.08 Acceleration of Assessment Installment Upon Default	39
7.09 Interest and Counsel Fees	40
7.10 Power of Attorney to Permitted Mortgage Holder	42
7.11 Annual Audit	42
7.12 Examination of Books	43
7.13 Fidelity Bonds.....	43
ARTICLE VIII - OFFICERS	
8.01 Designation	43
8.02 Election of Officers	44
8.03 Removal of Officers	44
8.04 Duties and Responsibilities of Officers	44
8.05 Other Duties and Powers	45
8.06 Eligibility of Directors	45
ARTICLE IX - COMPENSATION, INDEMNIFICATION AND EXCULPABILITY OF OFFICERS, DIRECTORS AND COMMITTEE MEMBERS	
9.01 Compensation	45
9.02 Indemnification	46
9.03 Exculpability	46
ARTICLE X - COVENANTS COMMITTEE	
10.01 Purpose	47
10.02 Powers	47
10.03 Authority	48
ARTICLE XI - ENFORCEMENT	
11.01 Enforcement	49
11.02 Fines	49
11.03 Waiver	49
11.04 Cause of Action Against Association	50
ARTICLE XII - JUDICIARY COMMITTEE	

12.01 Establishment and Purpose	50
12.02 Authority	51
12.03 Procedures	51
12.04 Obligation to Provide Procedure for Dispute Resolution	54
ARTICLE XIII - AMENDMENTS	54
ARTICLE XIV - CONFLICT; INVALIDITY	
14.01 Conflict	55
14.02 Invalidity	55
ARTICLE XV - ARBITRATION.....	55
ARTICLE XVI - CORPORATE SEAL.....	55

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BY-LAWS
OF
OCEAN PLAZA NORTH CONDOMINIUM ASSOCIATION, INC.

ARTICLE I
NATURE OF BY-LAWS

1.01. Purpose. These By-Laws are intended to govern the administration of Ocean Plaza North Condominium Association, Inc. (from now on called the "Association"), a nonprofit corporation organized under Title 15A of the New Jersey Statutes Annotated, and to provide for the management, administration, utilization and maintenance of the Common Elements of Ocean Plaza North Condominium (from now on called the "Condominium") described in the Master Deed for Ocean Plaza North Condominium (from now on called the "Master Deed").

1.02. Definitions. Unless the context clearly indicates otherwise, all definitions set forth in the Master Deed or in N.J.S.A. 46:8B-3 are incorporated herein by reference.

1.03. Fiscal Year. The fiscal year of the Association shall be determined by its Board of Directors.

1.04. Principal Office. The principal office of the corporation is initially located c/o Ansell Zaro Grimm & Aaron, P.C., 1500 Lawrence Avenue, Ocean, New Jersey 07755, Attention: Michael V. Benedetto, Esq.

ARTICLE II
MEMBERSHIP AND VOTING RIGHTS

2.01. Members. Every person, firm, association, corporation or other legal entity that is a record Owner or Co-Owner of the fee

1703

simple title to any Unit incorporated within the Condominium shall be a Member of the Association; provided, however, that any person, firm, association, corporation or other legal entity that holds such title or interest merely as a security for the performance of an obligation (including, but not limited to, mortgagees or trustees under deeds of trust) shall not be a Member of the Association. In spite of the preceding, the Developer has one membership in the Association for each Unit, completed or planned, incorporated within the Condominium and which has not been conveyed to an individual purchaser.

2.02. Associate Members. Every person who is entitled to possession and occupancy of a Unit as a tenant or lessee of a Unit Owner shall be an Associate Member of the Association, but shall not be entitled to any vote with respect to Association matters.

2.03. Change of Membership. The transfer of membership in the Association appurtenant to a particular Unit shall be automatically accomplished by recordation in the Monmouth County Clerk's Office of a deed or other instrument establishing record title to the Unit in a new Owner. The membership of the prior Unit Owner shall thereupon be terminated.

2.04. Rights of Membership. Every person who is entitled to membership in the Association pursuant to the provisions of the Certificate of Incorporation and these By-Laws, including any Associate Member, shall be privileged to use and enjoy the General Common Elements, subject, however, to the right of the Association to:

- A. promulgate, adopt, publish and enforce Rules and Regulations governing such use and enjoyment;
- B. suspend the use and enjoyment of the General Common Elements as provided in Section 2.05 of this Article II; and
- C. transfer all or part of the General Common Elements, other than any Building in which any Unit(s) are contained, and grant easements, licenses and other property rights with respect to the General Common Elements as provided in Section 6.01N. of Article VI hereof; and
- D. designate portions of the General Common Elements as Reserved Common Elements as provided in Section 4.06 of the Master Deed.

In spite of the foregoing, any Unit Owner acquiring title to a Unit from anyone other than the Developer shall not be privileged to use and enjoy the Common Elements (other than to have access to his Unit) or exercise any other rights of membership in the Association until such time as such new Unit Owner serves upon the Association in the manner provided in Section 15.12 of the Master Deed a certified true copy of the deed or other instrument establishing record title to the Unit in the new Owner. Likewise, a Unit Owner shall not be privileged to use and enjoy the Common Elements or exercise any other rights of membership in the Condominium Association until such Unit Owner has paid to the Association any working capital contribution, escrow deposit and/or membership fee for the Association that has been imposed pursuant to these By-Laws. The failure of a Unit Owner to comply with the foregoing conditions precedent to entitlement to exercise rights of membership shall in no way relieve such Unit Owner from the obligations appurtenant to membership in the Association.

2.05. Suspension of Rights. The membership and voting rights of any Member may be suspended by the Board without the necessity for a prior hearing for any period during which any assessment against the Unit to which his membership is appurtenant remains unpaid in part or in full; but, upon payment of such assessments, and any interest accrued thereon, by cash, money order or certified

or collected funds, his rights and privileges shall be immediately and automatically restored; provided that, Section 2.10 of these By-Laws shall govern the restoration of voting rights.

If Rules and Regulations have been promulgated, adopted and published as authorized by the Condominium Act, the Master Deed and/or these By-Laws, the membership rights and privileges (other than voting rights) of any person in violation thereof may be suspended at the discretion of the Board for a period not to exceed thirty (30) days for any single violation. If the violation is of a continuing nature, such rights and privileges may be suspended indefinitely until such time as the violation is abated. No such action shall, however, be taken by the Board of Directors until the Unit Owner is afforded an opportunity for a hearing consistent with the principles of due process of law.

2.06. Contribution to Working Capital. Each Unit Owner shall pay to the Association upon acquisition of title to his Unit a non-refundable and non-transferable contribution to the working capital of the Association in an amount of \$500 at the time of the acquisition. Such sum may be used for working capital and any other lawful purpose and need not be replenished if it is used for such purpose. Payment of such contribution shall be a condition precedent to the exercise of rights of membership in the Association upon the initial sale or subsequent transfer of title to a Unit. Any unpaid working capital contribution shall be deemed a lien on the Unit in the same manner as any unpaid Common Expenses attributable to such Unit. In spite of the foregoing, where the transfer of title to a Unit is from the Developer to an Affiliate of the Developer, from one Affiliate of the Developer to another Affiliate of the Developer or from the Developer or an Affiliate of the Developer to a successor of the Developer who is a transferee of Special Developer Rights pursuant to Article XIV of the Master Deed, no such contribution to working capital shall be due relative to such transfer of title.

2.07 Escrow Deposit. The Board of Directors may at any time require a Unit Owner (other than the Developer, an Affiliate of the

Developer and/or a transferee of any Special Developer Rights pursuant to Article XIV of the Master Deed) to deposit and maintain with the Association in escrow an amount not to exceed one-sixth (1/6) of the estimated or then current annual Common Expense assessment, which escrow deposit shall be held by the Association and applied in the event of a default by the Unit Owner in the payment of any type of assessment, fine or other charge levied by the Board against his Unit. Such escrow shall be held by the Association in an interest-bearing account, with interest to accrue to the benefit of the Association, and shall be refundable or assignable upon the sale of the Unit, without interest, to the extent the deposit is not applied to defaulted Common Expense assessments. The Board of Directors may impose this escrow requirement on less than all of the Unit Owners as it deems appropriate in its sole and absolute discretion.

2.08. (INTENTIONALLY OMITTED)

2.09. Votes. Each Unit Owner shall be entitled to such vote for each Unit to which he holds title as is provided in Article V of the Master Deed. When more than one person holds title, the vote for each Unit shall be exercised as the Co-Owners among themselves determine. When one or more Co-Owners sign a proxy or purports to vote for his or her Co-Owners, such vote shall be counted unless one or more of the other Co-Owners is present and objects to such vote(s); or, if not present, submits a proxy or objects in a writing delivered to the Secretary of the Association before the vote is counted. If Co-Owners disagree as to the vote, the vote shall be split equally among the Co-Owners.

2.10. Member in Good Standing. A Member shall be deemed to be in good standing, entitled to vote in person or by proxy at any meeting of the Association, entitled to vote on any issue submitted to a mail ballot, eligible to serve as a Director and eligible for appointment to any committee created by these By-Laws or the Board of Directors if, and only if, at least ten (10) calendar days prior to the date fixed for such meeting, the date fixed for the counting

of ballots or the date of appointment, as the case may be, he has fully paid, by cash, money order or certified or collected funds, all installments due for assessments made or levied against him and/or his Unit by the Board of Directors as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and/or his Unit as well as any working capital contribution, escrow deposit or membership fee for which he is liable.

2.11. Proxies. Proxy ballots shall be permitted with respect to all elections of Directors, all amendments to the Certificate of Incorporation, the Master Deed or these By-laws, or any other matter which properly comes before the membership of the Association. All proxies shall be in writing, bear the original signature of the Unit Owner (or in the case of joint owners by any one of them), or the original signature of his or their duly authorized representative(s), and delivered to the Secretary of the Association, or such other person as the President may designate, at least 24 hours prior to the opening of the polls or the commencement of the meeting at which ballots are to be cast, whichever is applicable. Proxies may be revoked at any time prior to the opening of the polls or the call for a vote at a meeting, whichever is applicable, and no proxy shall be voted on after eleven (11) months from its date unless said proxy provides for a longer period, not to exceed three (3) years from the date of execution. All proxies shall be substantially in the form prescribed by the Board of Directors, and if not in such form, may be deemed invalid, which determination shall be made in the sole and absolute discretion of the Judges of Election appointed by the Board of Directors of the Association. In spite of the foregoing, the Board of Directors may by its Rules and Regulations or by adoption and publication to the membership of a policy resolution permit proxies to be given by a Member by facsimile transmission, telegram or cable or their equivalent. Until such time as such a Rule or Regulation or policy resolution so permitting is duly promulgated, adopted and published, no such form of proxy shall be

permitted. Any valid proxy given for a meeting of the membership shall remain in full force and effect for any adjourned date of such a meeting and new proxies may be received for an adjourned meeting.

ARTICLE III
MEETINGS OF UNIT OWNERS

3.01. Place of Meetings. All meetings of the Unit Owners of the Association shall be held at the Condominium or at such other place as may be designated by the Board of Directors.

3.02. Annual Meetings. All annual meetings of the Unit Owners of the Association shall be held on the day and month of the year to be established by the Board, except that the first such annual meeting shall be held not more than thirteen months following the incorporation of the Association. At each annual meeting subsequent to the Transition Elections held in accordance with Section 4.03 hereof, the election of Directors shall take place. If the election of Directors shall not be held at the annual meeting or any adjournment of such meeting, the Board shall cause the election to be held at a special meeting as soon thereafter as may be convenient. At such special meeting the Unit Owners may elect the Directors and transact other business with the same force and effect as at an annual meeting duly called and held. All proxies validly received for the originally scheduled meeting shall remain in full force and effect for any such adjourned meeting or special meeting and new proxies may be received for any such subsequent meeting.

3.03. Special Meetings. Following the Transition Elections, special meetings of Unit Owners may be called by the President whenever he deems such a meeting advisable, or shall be called by the Secretary upon the order of the Board or upon the written request of Members representing not less than twenty-five (25%) percent of all votes entitled to be cast at such meeting. Such request shall state the purpose(s) of such meeting and the matter(s) proposed to be acted upon. Unless Unit Owners representing at least fifty (50%) percent of all votes entitled to

be cast request such a meeting, no special meeting may be called to consider any matter which is substantially the same as a matter voted upon at any meeting of the Unit Owners held during the preceding twelve (12) months, which determination shall be made in the sole and absolute discretion of the Board of Directors.

3.04. Notice of Meeting. Except as otherwise provided by law or Section 4.03 herein, notice of each meeting of Unit Owners, whether annual or special, shall be given not less than ten (10) calendar days, nor more than ninety (90) calendar days before the day on which the meeting is to be held, to each Unit Owner at his last known address, by delivering a written or printed notice thereof to said Unit Owner or by mailing such notice via the United States Postal Service, first class mail, postage prepaid. If mailed as aforesaid, notice shall be deemed given when so mailed. Every such notice shall state the time, place and purpose(s) of the meeting. Notice of any meeting of Unit Owners shall not be required to have been sent to any Unit Owners who shall attend such meeting in person or by proxy. Notice of any adjourned meeting of the Unit Owners shall not be required to be given except when expressly required by law or in the event the time and place to which the meeting is adjourned is not announced at the meeting adjourned. Except where otherwise expressly required by law, no publication of any notice of a meeting of Unit Owners shall be required.

3.05. Quorum and Adjourned Meetings. At any meeting of the Unit Owners, Members (including the Developer or its representatives) holding fifty (50%) of the aggregate authorized votes and present in person or by proxy shall constitute a quorum for the transaction of business except where otherwise provided by law. In the absence of a quorum, the Members present in person or by proxy and entitled to vote, may, by majority vote, adjourn the meeting from time to time until a quorum shall be present in person or by proxy; provided, however, that such adjournment shall not be less than two (2) full days, nor more than fifteen (15) days. Written notice of such adjournment shall be given and the same

shall provide at least forty eight (48) hours in advance, the time, date, location and, to the extent known, the agenda of the meeting. At any such adjourned meeting at which a quorum may be present any business may be transacted which might have been transacted at the meeting originally called.

3.06 Organization. At each meeting of the Association, the President or, in his absence, the Vice President, or in the absence of both of them, a person chosen by a majority vote of the members in good standing, entitled to vote and present in person or represented by proxy, shall act as a chairperson, and the Secretary, or in his absence, a person whom the chairperson shall appoint, shall act as Secretary of the meeting.

3.07. Voting on Questions. Only Unit Owners who are Members in good standing shall be entitled to vote on any question submitted to the membership. Unless a different vote is mandated by law, the Master Deed, the Certificate of Incorporation and/or these By-Laws, a majority of votes present in person or by proxy at any duly constituted meeting of the membership and entitled to vote on the question presented shall be sufficient on those questions submitted to a vote of the membership. The vote on any question need not be taken by ballot, unless: (i) the chairperson of the meeting determines a ballot to be advisable; (ii) a majority of the votes present at the meeting and entitled to vote on the question determine that the vote on the question submitted shall be taken by ballot; or (iii) so required by law or the Condominium's governing documents.

3.08. Voting in Elections of Directors. Only Unit Owners who are members in good standing shall be entitled to vote. The election of Directors shall be conducted by written ballot. If, at any meeting at which an election is held, more than twice the number of candidates to be elected are nominated, then, there shall be two (2) ballots for membership. At the end of the first ballot, the field of nominees shall be reduced so that there are twice as many candidates as there are positions to be filled, with the persons receiving the fewest votes being eliminated from the

ensuing ballot. A second ballot shall be held, and, on the second ballot, the persons receiving the plurality of votes will be deemed to be elected in order to fill the vacant positions. If there are not more than twice the number of nominees for the number of positions to be filled, then there shall be one ballot, with the persons receiving the highest numbers of votes being elected in order to fill the vacancies on the Board of Directors. If ever applicable, candidates polling the highest numbers of votes will be considered elected for the longest period of years. Election of Directors at all meetings shall be in accordance with this Section 3.08.

3.09. Ballot by Mail. The Board of Directors, in lieu of calling a membership meeting, may submit any question or election, other than a Transition Election, to a vote of the membership by a ballot by mail. No ballot by mail shall be valid or tabulated unless the signature of the Unit Owner(s) submitting the ballot has been verified on the ballot in accordance with such procedures as may established by the Board of Directors by a formal policy resolution. The Board of Directors shall appoint judges to tabulate the ballots, whose report shall be included in the minute book. In order to conduct a ballot by mail for a question submitted to a vote of the membership, the Board of Directors shall serve a notice upon all Members in good standing which shall: (i) state with specificity the terms of the motion(s) or question(s) upon which the vote is to be taken; (ii) state the date by which ballots must be received in order to be counted; (iii) provide an official ballot for the purposes of the vote; and (iv) state the date upon which the action contemplated by the motion(s) or question(s) shall be effective, which date shall be not less than ten (10) calendar days after the date ballots must be received. No actions contemplated by a motion or question submitted to a ballot by mail shall be taken unless a majority in voting interest of all Members in good standing and entitled to vote submit ballots approving such action.

In order to conduct a ballot by mail for an election of

Directors (other than a Transition Election), the Board of Directors shall serve a notice upon all Members which shall: (i) provide an official ballot for the purposes of the election; and (ii) state the date by which the ballot must be received in order to be counted.

3.10. Judges. If at any meeting of the Unit Owners a vote by ballot shall be taken, the chairperson of such meeting shall appoint two (2) persons to act as judges with respect to the ballots. With regard to a ballot by mail, the President of the Association shall appoint two (2) persons to act as judges with respect to same. Each judge so appointed shall first subscribe an oath to execute faithfully the duties of a judge with strict impartiality and according to the best of his ability. Such judges shall decide upon the qualifications of voters and shall report the number of votes represented at the meeting or participating in a mail ballot and entitled to vote on the question presented, shall conduct and accept the votes and, when the voting is completed, shall ascertain and report the number of votes respectively for and against the questions. Reports of judges shall be in writing and subscribed and delivered by them to the Secretary of the meeting or, in the case of a mail ballot, the Secretary of the Board of Directors. The judges need not be Members of the Association and any officer or Director of the Association may be a judge on any question, other than a vote for or against his election to any position with the Association or any other question in which he may be directly interested.

3.11. Order of Business. The order of business at the annual meeting of the Unit Owners or at any special meetings insofar as practicable shall be:

- A. calling of the roll and certifying the proxies;
- B. proof of notice of meeting and waiver of notice;
- C. reading and disposal of any unapproved minutes;
- D. appointment of Judges of Election, if appropriate;
- E. election of Directors, if appropriate;
- F. receiving reports of officers;
- G. receiving reports of committees;
- H. old business;

- I. new business; and
- J. adjournment.

ARTICLE IV
BOARD OF DIRECTORS

4.01. Qualifications. The following criteria shall be qualifications for nomination, appointment or election to a Directorship:

A. Membership in Good Standing: Membership in good standing shall be a qualification for any nominee or appointee to a Directorship except for the Developer, an Affiliate of the Developer or a transferee of Special Developer Rights pursuant to Article XIV of the Master Deed.

B. Representation: Partnerships, corporations, fiduciaries or co-owners holding memberships in good standing may designate individuals to be eligible for nomination, appointment, or election as Directors in accordance with the following qualifications:

- i) Partnership designees shall be members, employees or agents of the partnership;
- ii) Corporate designees shall be officers, stockholders, employees or agents of the corporation; and
- iii) Fiduciary designees shall be fiduciaries, officers, or employees of the fiduciary.

Co-Owners holding a membership in good standing may designate any one but only one of them to be eligible for nomination, appointment, or election as a Director; however, in the case of any disagreement, the express consent of a majority of such Co-Owners shall be required.

4.02. Number. The Board of Directors shall initially consist of three (3) Directorships, designated as Directorships A, B and C.

4.03. Directors. Each Unit Owner shall be entitled to initially elect one Director.

4.04. Term of Office. Developer-appointed Directors A and B shall serve until their respective successors have been qualified and elected. Directors A and B shall serve terms expiring at the annual meeting of the membership held in the second calendar year following their appointment. Thereafter, Directors A and B shall

serve for two-year terms.

Director C shall serve until their successors have been qualified and elected at next annual meeting of the membership.

4.05. Removal of Directors Elected by Unit Owners other than the Developer; Election of Successors. At any duly held and constituted regular or special meeting of the Unit Owners, any one or more Directors elected by Unit Owners other than the Developer, Affiliates of the Developer or transferees of Special Developer Rights pursuant to Article XIV of the Master Deed may be removed with or without cause by vote of a majority in interest of Unit Owners other than the Developer, Affiliates of the Developer or transferees of Special Developer Rights pursuant to Article XIV of the Master Deed present in person or by proxy and in good standing provided that the notice of the meeting expressly includes a vote on such removal as being an item of business to be acted upon at such meeting. A successor or successors may then and there be elected by a majority of the remaining Directors (including Directors appointed by the Developer or a transferee of Special Developer Rights pursuant to Article XIV of the Master Deed) to fill the vacancy thus created. Any such replacement Director or Directors shall be chosen from amongst Unit Owners other than the Developer, Affiliates of the Developer or transferees of Special Developer Rights pursuant to Article XIV of the Master Deed. Such replacement Director or Directors shall be elected as Directors for the remainder of the term of the Director whose term he is filling and until his successor is duly qualified and elected. Except as hereinafter provided, a Unit Owner elected Director whose removal has been proposed as aforesaid shall be given an opportunity to be heard at the meeting at which action on his removal is to be considered. In the event that all of the Unit Owner-elected Directors are removed, successors shall be elected by the Unit Owners other than the Developer, Affiliates of the Developer and transferees of Special Developer Rights pursuant to Article XIV of the Master Deed in the manner set forth in Article IV, Section 4.03 herein to fill the vacancies thus created. In spite of anything contained in this Section 4.05, in the event a Unit Owner-elected

Director fails to be a member in good standing for a period in excess of thirty (30) consecutive days after notice of his lack of good standing, such Director shall be deemed automatically removed as a Director without the necessity of a vote of the membership or an opportunity for a hearing. A replacement Director for any such automatically removed Director shall then be chosen in accordance with Section 4.06 of these By-Laws. For purposes of this Section 4.05, a Director shall be deemed not in good standing if he is delinquent in the payment of any Common Expense assessment or installment thereof, regardless of type, or in the payment of any other monetary obligation owed to the Association or if he has failed to abate or otherwise cure any violation of the Condominium's governing documents of which he has notice. The provisions of this Section 4.05 shall not apply to any Director appointed by the Developer or a transferee of Special Developer Rights pursuant to Article XIV of the Master Deed.

4.06. Vacancies. In the event of a vacancy on the Board of Directors, such vacancy shall be filled by a vote of a majority of the remaining Directors, or if no such majority exists, by the majority vote of the Unit Owners.

ARTICLE V
TRANSACTION OF BUSINESS BY THE
BOARD OF DIRECTORS

5.01. Express and Implied Powers and Duties. The property, affairs and business of the Association shall be managed by the Board of Directors which shall have all those powers granted to it by the Certificate of Incorporation, the Master Deed, these By-Laws, and by law.

5.02. Developer's Protective Provisions. After control of the Board of Directors has become vested in Directors elected by Unit Owners other than the Developer, Affiliates of the Developer or transferees of Special Developer Rights pursuant to Article XIV of the Master Deed, and so long as the Developer, an Affiliate of the Developer acquiring title from the Developer or from another Affiliate of the Developer or a transferee of Special Developer Rights pursuant to Article XIV of the Master Deed owns at least one

(1) Unit and holds same for sale in the ordinary course of business, the following shall apply:

- A. Neither the Association nor its Board of Directors shall take any action that will impair or adversely affect the rights of the Developer or cause the Developer to suffer any financial, legal or other detriment, including but not limited to any direct or indirect interference with the sale of Units, or the assessment of the Developer for capital improvements.
- B. The Association and its Board of Directors shall continue the same level of maintenance, operation and services as provided immediately prior to the assumption of control of the Association and the Board of Directors by Unit Owners other than the Developer.

The aforementioned protective provisions shall be construed in accordance with and not in derogation of N.J.S.A. 46:8B-12.1 of the New Jersey Condominium Act and N.J.A.C. 5:26-8.4 of the regulations promulgated pursuant to the New Jersey Planned Real Estate Development Full Disclosure Act, N.J.S.A. 45:22A-1 et seq.

5.03. Meeting of the Board of Directors; Notices; Waiver of Notice. The first annual meeting of the Board of Directors shall be held within ten (10) days after the first annual meeting of the Unit Owners and at such time and place as shall be fixed by a majority of the Board of Directors. Thereafter, 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 Board of Directors, but at least two (2) meetings shall be held each year. Notice of regular meetings of the Board of Directors shall be given to each Director by telephone, mail, or telegram at least three (3) days prior to the day of the meeting. Special meetings of the Board of Directors may be called by the President on three (3) calendar days notice to each Director given by telephone, mail or telegram, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or the Secretary in like manner and on like notice on the written request of at least two (2) Directors. Any Director may, at any time, waive notice of any meeting of the Board

of Directors in writing and such waiver shall be deemed equivalent to the giving of notice. Actual attendance by Directors at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board of Directors, no notice shall be required as to the Directors and any business may be transacted at such meeting.

5.04. Quorum and Adjourned Meetings. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of a majority of the Directors present and voting at a meeting at which a quorum is present shall constitute a valid decision. If at any meeting of the Board there shall be less than a quorum present, the majority of those present shall adjourn the meeting to a new date, which adjournment shall not be less than two (2) days. At any such adjourned meeting at which a quorum is present, any business which may have been transacted at the original meeting may be transacted without further notice to Directors.

5.05. Joinder in Meetings by Approval of Minutes. The transaction of any business at any meeting of the Board, however called and noticed, or wherever held, shall be as valid as if transacted at a meeting duly held after regular call and notice, if: (i) a quorum is present; and (ii) either before or after the meeting, each Director signs a written waiver of notice, or a consent to the holding of the meeting, or an approval of the minutes thereof or of the resolution or act adopted at such meeting. All such waivers, consents or approval shall be in writing and filed with the Secretary and made a part of the minutes of the meeting even though filed subsequent thereto.

5.06. Non-Waiver. All the rights, duties and privileges of the Board shall be deemed to be continuing and shall not be exhausted by any single act or series of acts. To the same extent, the failure to use or employ any remedy or right hereunder or hereafter granted shall not preclude its exercise in the future nor shall any custom bind the Board.

5.07. Consent in Lieu of Meeting and Vote. In spite of

anything to the contrary in these By-Laws, the Certificate of Incorporation or the Master Deed, the entire Board of Directors shall waive the power to take action on any matter on which it is authorized to act, without the necessity of a formal meeting and vote if the entire Board, or all the Directors empowered to act, whichever the case may be, shall consent in writing to such action and provided further such action falls within an exception to the open meeting requirements of N.J.S.A. 46:8B-13.

5.08. Open Meetings; Notice; Minutes. In spite of anything to the contrary herein or in the Master Deed or Certificate of Incorporation, all meetings of the Board of Directors, except those expressly exempted by N.J.S.A. 46:8B-13 or N.J.A.C. 5:20-1.1 et seq., as same may be amended from time to time, shall be open to attendance by all Unit Owners. The aforesaid regulation, N.J.A.C. 5:20-1.1 provides that the Board of Directors may restrict or exclude attendance at those meetings, or portions of meetings, at which any of the following matters are to be discussed:

1. Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy;
2. Any pending or anticipated litigation or contract negotiations;
3. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer; or
4. Any matter involving the employment, promotion, discipline or dismissal of a specific officer or employee of the association.

In accordance with N.J.S.A. 46:8B-13, adequate notice of meetings required to be open shall be given by the Board of Directors in the manner specified by N.J.A.C. 5:20-1.1 et. seq. In accordance with N.J.S.A. 46:8B-13, minutes of any meeting required

thereunder to be open shall be taken and copies of those minutes shall be made available to all Unit Owners before the next open meeting. To the extent that any portion of N.J.S.A. 46:8B-13 is repealed, judicially stayed or adjudicated invalid or to the extent any portion of N.J.A.C. 5:20-1.1 et seq. is repealed, judicially stayed or adjudicated invalid, the corresponding portion of this Section 5.08 shall be deemed automatically commensurately repealed, stayed or invalidated without the necessity of any action by the Board of Directors of the Association.

ARTICLE VI

POWERS AND DUTIES OF BOARD OF DIRECTORS

6.01. General Powers and Privileges. The Board of Directors shall have these powers, which include but which are not necessarily limited to the following, together with such other powers as may be provided herein or in the Master Deed, or the Certificate of Incorporation, or which may be necessarily implied.

- A. to employ, by contract or otherwise, a manager, managing agent or an independent contractor to oversee, supervise and carry out the responsibilities of the Board of Directors. Said manager, managing agent or independent contractor shall be compensated upon such terms as the Board of Directors deems necessary and proper;
- B. to employ any person, firm or corporation to repair, maintain or renovate the Common Elements of the Condominium; lay pipes or culverts; bury utilities; put up lights or poles; erect signs and traffic and safety controls of various sorts within the Condominium;
- C. to employ professional counsel and to obtain advice from persons, firms or corporations such as, but not limited to, landscape architects, architects, engineers, lawyers and accountants;
- D. to employ or contract for water and sewer, electricity and gas or other forms of utilities, cable or master antenna television;
- E. to promulgate, adopt, amend and publish rules and regulations covering the details of the operation and use of the Units and the Common Elements, including but not limited to pet controls;
- F. to secure full performance by Unit Owners or occupants of

- all items of maintenance for which they are responsible;
- G. to coordinate the plans of Unit Owners and occupants of Units for moving their personal effects or property into the Unit or out of it, with a view toward scheduling such movements so that there shall be a minimum of inconvenience to others;
 - H. to establish and enforce Rules and Regulations for parking, subject to the provisions of the Master Deed, Certificate of Incorporation and these By-Laws;
 - I. to arrange for security protection as deemed appropriate and desired by the members;
 - J. to enforce obligations of the Unit Owners and do anything and everything necessary and proper for the sound management of the Condominium, including the right to bring or defend lawsuits to enforce the terms, conditions and restrictions contained in the Master Deed, these By-Laws, or any Rules and Regulations;
 - L. to invest and reinvest monies, sue and be sued, collect interest, dividends, and capital gains; exercise rights; pay taxes; make and enter into contracts; enter into leases or concessions; make and execute any and all proper affidavits for various purposes; compromise any action without leave of court; and all other powers contained herein, and those necessary and incidental thereto;
 - M. to transfer, grant or obtain easements, licenses and other property rights with respect to the General Common Elements in a manner not inconsistent with the rights of Unit Owners;
 - N. to purchase or lease or otherwise acquire in the name of the Association or its designees, corporate or otherwise, on behalf of all Unit Owners within the Condominium, Units offered for sale or lease or surrendered by the Unit Owners to the Board of Directors provided that the foregoing shall not be construed to constitute a right of first refusal and provided further that the Board of Directors shall not exercise this power while a majority of the Directors are appointed by the Developer;
 - O. to purchase Units within the Condominium at foreclosure or other judicial sales in the name of the Association or its designees, corporate or otherwise, on behalf of all Unit Owners; provided, however, that the Board of Directors shall not exercise this power while a majority of the Directors are appointed by the Developer and/or a transferee of Special Developer Rights pursuant to

Article XIV of the Master Deed;

- P. to sell, lease, mortgage (but not vote the votes appurtenant thereto) or otherwise deal with Units acquired by the Association, and sublease any such Units leased by the Association or its designees, on behalf of all Unit Owners;
- Q. to bring and defend actions by or against one or more Unit Owners which are pertinent to the operation of the Condominium, the health, safety or general welfare of the Unit Owners, or any other legal action to which the Unit Owners may consent in accordance with these By-Laws;
- R. to create, appoint members to and disband such committees, other than those otherwise required by these By-Laws, as shall from time to time be deemed appropriate or necessary to aid the Board of Directors in the discharge of its duties, functions and powers;
- S. to impose upon some but not necessarily all Unit Owners the requirement of an escrow deposit as set forth in Article II, Section 2.07 hereof; and
- T. to impose upon Unit Owners at the time of acquisition of title to a Unit a one time, nonrefundable, non-transferable fee of up to \$500 for membership in the Condominium Association as set forth in Article II, Section 2.08 hereof.

6.02. Duties and Responsibilities. It shall be the affirmative and perpetual obligation and duty of the Board of Directors to perform the following:

- A. to cause the Common Elements to be maintained according to accepted standards and as set forth in the Master Deed, including, but not limited to such maintenance, painting, replacement and repair work as maybe necessary, common area lawn maintenance and clearing of snow from roadways and other areas for which the Association is responsible as the Board may deem appropriate. All repairs and replacements shall be substantially similar to the original application and installation and shall be of first class quality;
- B. to investigate, hire, pay, supervise and discharge the personnel necessary to be employed, and provide the equipment and materials necessary, in order to properly maintain and operate the Common Elements. Compensation for the services of such employees (as evidenced by certified payroll) shall be considered an operating

expense of the Association;

- C. to cause to be kept a complete records of all its acts and corporate affairs and to present a summary report thereof to the Members at the annual meeting or at any special meeting when requested in writing at least twenty-one (21) days in advance by Members entitled to cast at least twenty five (25%) percent of the total votes of the Association;
- D. to allocate common surplus or make repairs, additions, improvements to, or restoration of the Common Elements in accordance with the provisions of these By-Laws and the Master Deed after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;
- E. to take such action as may be necessary to comply promptly with any and all orders or requirements affecting the premises maintained by the Association placed thereon by any federal, state, county or municipal authority having jurisdiction thereover, and order of the Board of Fire Underwriters or other similar bodies;
- F. to name and designate an Insurance Trustee, who shall not be a Member of the Condominium Association, a principal or employee of the Developer or the manager, for the purpose of receiving and disbursing all insurance proceeds in excess of \$25,000 that are payable to the Condominium Association in accordance with Article XI of the Master Deed. In the absence of such an appointment, the Board of Directors shall be responsible for the disposition of all insurance proceeds;
- G. to collect from each Unit Owner at the time he acquires title to his Unit a nonrefundable, nontransferable contribution to the working capital of the Association as set forth in Article II, Section 2.06 hereof;
- H. [INTENTIONALLY OMITTED]
- I. [INTENTIONALLY OMITTED]
- J. to manage the fiscal affairs of the Association as hereinafter provided in Article VII; and
- K. to place and keep in force all insurance coverages required to be maintained by the Association, and applicable to its property and members, including, but not limited to:
 - (i) Physical Damage Insurance. To the extent available in the normal commercial marketplace, broad form

insurance against loss by fire and against loss by lightning, windstorm and other risks normally included within all risk extended coverage, including vandalism and malicious mischief, insuring all Common Elements and Unit existing at the time of the Unit's initial conveyance from the Developer, together with all service machinery appurtenant thereto as well as common personalty and supplies belonging to the Association, and covering the interest of the Association, the Board, the Developer, all Unit Owners and any Permitted Mortgage Holder who has requested the Association in writing to be named as loss payee, as their respective interests may appear, in an amount equal to the full replacement value of the Common Elements (exclusive of land, foundations and footings), and Unit betterments existing at the time of the initial conveyance from the Developer, without deduction for depreciation. Each policy shall contain a standard mortgagee clause in favor of each applicable Permitted Mortgage Holder, which shall provide that the loss, if any, thereunder, shall be payable to each applicable Permitted Mortgage Holder, its successors and assigns as their interest may appear, subject to the loss payment provisions set forth in Article XI of the Master Deed. When a servicer is named as a mortgagee, its name must be followed by the phrase "its successors and assigns". When a majority of the Board is elected by the Unit Owners other than the Developer, prior to obtaining any renewal of a policy of fire insurance, the Board shall obtain an appraisal or other written evaluation of an insurance broker licensed to conduct business in New Jersey or other qualified expert as to the full replacement value of the Common Elements and Unit betterments existing at the time of the initial conveyance of the Unit from the Developer, without deduction for depreciation, for the purposes of determining the amount of fire insurance to be effected pursuant to this subparagraph. The amount of any deductible and the responsibility for payment of same shall be determined by the Board, in its sole discretion.

- (ii) Public Liability Insurance. To the extent obtainable in the normal commercial marketplace, public liability insurance for personal injury and death from accidents occurring within the Common Elements (and any other areas which the Board may deem advisable), and the defense of any actions brought by injury or death of a person or damage to property, occurring within such Common Elements,

and not arising by reason of any act or negligence of any individual Unit Owner. Said insurance shall be in such limits as the Board may, from time to time, determine, covering each member of the Board, the managing agent, the manager, and each one insured against another. Until the first meeting of the Board following the first annual meeting, such public liability insurance shall be in a single limit of not less than \$1,000,000 covering all claims for personal injury or property damage arising out of any one occurrence. The Board shall review such limits once a year.

- (iii) Directors and Officers Liability Insurance. Liability insurance indemnifying the Directors and Officers of the Association against the liability for errors and omissions occurring in connection with the performance of their duties, with any deductible amount to be in the sole discretion of the Board.
- (iv) Workers Compensation Insurance. Workers compensation and New Jersey disability benefits insurance as required by law.
- (v) Vehicular Liability Insurance. To the extent obtainable in the normal commercial marketplace, vehicular liability insurance to cover all motor vehicles, if any, owned or operated by the Association.
- (vi) Flood Insurance. Flood hazard insurance in the event any of the insurable Common Elements and Unit betterments existing at the time of the initial conveyance of a Unit from the Developer are located within a federally designated zone of greater than minimal flood hazard.
- (vii) Other Insurance. Such other insurance as the Board may determine to be appropriate.

All policies shall: (i) provide that adjustment of loss shall be made by the Board of Directors with the approval of the Insurance Trustee, if any, and that the net proceeds thereof, if \$25,000.00 or less shall be payable to the Board, and if more than \$25,000.00 shall be payable to the Insurance Trustee if any; (ii) require that the proceeds of physical damage insurance be applied to the restoration of the insured property as is required by the Master Deed and these By-Laws; (iii) to the extent obtainable

contain agreed amount and inflation guard endorsements, construction code endorsement, demolition cost endorsement, contingent liability from operation of building laws endorsement and increased cost of construction endorsement; (iv) provide that the insurance will not be prejudiced by any act or omission of individual Members that are not under the control of the Association; (v) provide that the policy will be primary, even if insurance covering the same loss is held by any Member(s); (vi) to the extent obtainable contain waivers of subrogation and waivers of any defense based on co-insurance or of invalidity arising from any acts of the insured; and (vii) provide that such policies may not be canceled without at least thirty (30) days prior written notice to all of the named insureds, including all Unit Owners and Notice Mortgagees.

Any insurance maintained by the Board may provide for such deductible amount as the Board may determine. In spite of any other provisions of this subparagraph, the Association shall not be required to provide any type or amount of insurance not commonly available in the normal commercial marketplace.

All policies shall show the named insured as: "Ocean Plaza North Condominium Association, Inc.," for the use and benefit of the individual owners" or the Association's Insurance Trustee, if any. The "loss payable" clause must show the Association or the Insurance Trustee, as a trustee for each Unit Owner, Permitted Mortgagee Holder or other loss payee. Also, the policies must require the insurer to notify in writing the Association, its Insurance Trustee and each Notice Mortgagee or other entity named in the mortgagee clause at least thirty (30) days before it substantially changes the Association's coverage.

The premiums for any and all insurance coverage maintained by the Association shall be a Common Expense of the Association.

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

carried by any Unit Owner.

ARTICLE VII
FISCAL MANAGEMENT

7.01. Annual Common Expense Assessments. The Board of Directors shall have the duty to collect from each Unit Owner, his heirs, administrators, successors and assigns, as annual Common Expense assessments, the proportionate part of the Common Expenses assessed against such Unit Owner as provided in the Master Deed, the Certificate of Incorporation, these By-Laws, and in accordance with applicable law.

7.02. Determination of Common Expenses. The amount of monies for Common Expenses deemed necessary by the Board of Directors and the manner of expenditure thereof, including but not limited to the allocation thereof, shall be a matter for the sole discretion of the Board of Directors.

7.03. Disbursements. The Board of Directors shall take and hold the funds as collected and shall disburse the same for the purposes and in the manner set forth herein and as required by the Master Deed, Certificate of Incorporation, and applicable law.

7.04. Depositories. The depository of the Association shall be such a bank or banks as shall be designated from time to time by the Board of Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such parties as are authorized by the Board, provided that a management agreement may include among its provisions authority for the manager to sign checks on behalf of the Association for payment of the obligations of the Association, if the proper fidelity bond is furnished to the Association.

7.05. Accounts. The receipts and expenditures of the Association shall be Common Expense assessments and Common Expenses respectively, and shall be credited and charged to accounts under the following classifications as the Board shall deem appropriate, all of which expenditures shall be Common Expenses:

- A. Current expenses, which shall include expenditures within the year for which the budget is made, including

reasonable allowances for contingencies and working funds. Current expenses may not include expenditures chargeable to reserves. At the end of each year, the unexpended amount remaining in this account shall be applied to reduce the assessments for current expenses for the succeeding year, distributed to the current membership in the same manner as assessed and/or allocated and transferred to the Association's reserve for deferred maintenance and/or reserve for repair and replacement as the Board shall determine in its sole and absolute discretion.

- B. Reserve for deferred maintenance, which shall include funds for maintenance items that occur less frequently than annually.
- C. Reserve for repair and replacement, which shall include funds for repair or replacement of the Common Elements and those portions of the Common Elements for which repair or replacement is required because of damage, depreciation or obsolescence. The amounts in this account shall be allocated among each of the separate categories of replacement items.
- D. Reserves for capital improvements, which shall include the funds to be used for capital expenditures or for acquisition of additional personal property that will be part of the Common Elements.
- E. Operations, which shall include all funds from the use of the Common Elements or from any other sources. Only the additional direct expense required by any revenue producing operation will be charged to this account, and any surplus from any operation or otherwise shall be used to reduce the assessments for current expenses for the succeeding year, distributed to the current membership in the same manner as assessed, and/or allocated and transferred to the Association's reserve for deferred maintenance and/or reserve for repair and replacement as the Board shall determine in its sole and absolute discretion. Losses from operations or otherwise shall be met by special assessments against Unit Owners, which assessments may be made in advance in order to provide a working fund.
- F. Working capital, consisting of those nonrefundable and non-transferable contributions assessed upon each Owner upon acquisition of title to a Unit imposed under Article II, Section 2.06, which may be utilized by the Board in its reasonable discretion to meet unanticipated or other expenses of the Association (but not in order to reduce the Annual Common Expense Assessment).

- G. Escrow deposits paid by each Owner to be applied in the event of a default in payment of Common Expense assessments by that Owner if imposed under Article II, Section 2.07; and
- H. Bulk real estate tax reserve, which shall be those funds collected by the Association pursuant to Article VI of the Master Deed for the purpose of enabling the Association to pay to the Township of Ocean amounts estimated or assessed and billed as real estate taxes on a bulk basis until such time as the Township of Ocean assesses and bills real estate taxes for the Units of the Condominium on a per-Unit rather than a bulk basis.

The Board of Directors shall not be required to physically segregate the funds held in the above accounts except for reserves for deferred maintenance, reserves for replacement and repair, escrow deposits, if any, and bulk real estate tax reserves, which funds must be maintained in separate accounts. The Board may, in its sole discretion, maintain the remaining funds in one or more consolidated accounts. As to each consolidated account, the division into the various accounts set forth above need be made only on the Association's records.

7.06. Reserves. The Board of Directors shall not be obligated to expend all of the revenues collected in any accounting period, and must maintain reasonable reserves for, among other things, repairs, replacements, emergencies, contingencies of bad weather or uncollectible accounts. In spite of anything herein to the contrary, the Board of Directors in its determination of the Common Expenses and the preparation of a budget shall specifically designate and identify that portion of the Common Expenses which is to be assessed against the Unit Owners as a capital contribution and is allocable to reserves for each separate Common Element. The amounts assessed and collected for the reserves shall be kept in one or more interest bearing savings accounts, or certificates of deposit and shall not be utilized for any purpose other than that which was contemplated at the time of the assessment. The foregoing shall not be construed to mean that the Board of Directors shall not be permitted to keep additional cash on hand, in a checking or petty cash account, for the necessary discharge of

its functions.

7.07. Notice of Common Expense Assessment. Prior to the due date of the first Common Expense assessment installment for any given fiscal year of the Association, the Board of Directors shall give written notice to each Unit Owner and Notice Mortgagee of the amount estimated by the Board of Directors for Common Expenses of the Association for such ensuing fiscal year, which notice shall include the Unit Owner's proportionate liability for such Common Expenses and the amount of monthly installments thereof that the Unit Owner is obligated to pay to the Association. In spite of the foregoing, if no such notice is given prior to the commencement of the fiscal year in question, until such time as notice of an assessment is given, an assessment shall be presumed to have been made in the amount of the last prior year's assessment and installments on such assessment shall be due based upon the same frequency and schedule as previously established until changed by a notice of assessment. In the event the annual Common Expense assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board and nothing herein shall serve to prohibit or prevent the Board from imposing an Emergency Common Expense assessment in the case of any immediate need for emergency which cannot be met by reserve funds allocated for such contingency.

7.08. Acceleration of Assessment Installment Upon Default. If a Unit Owner shall be in default in the payment of an installment on any type of assessment, the Board shall notify the delinquent Unit Owner if such default exceeds thirty (30) calendar days that the remaining installments of the assessment shall be accelerated if the delinquent installment has not been paid by a date stated in the notice, which date shall not be less than five (5) business days after personal service of the notice to the Unit Owner or not less than ten (10) business days after the mailing of such notice to him by registered or certified mail at the last address that he has officially given to the Association. If such notice is given and the default shall continue for a period of thirty (30) calendar days after the payment date in the notice, then the Board shall be

required to accelerate the remaining installments of the assessment and notify the delinquent Unit Owner that a Claim of Lien for the accelerated amount shall be filed on or after a date certain stated in the notice of acceleration if the accelerated balance has not then been paid. The Claim of Lien for such accelerated assessment as permitted by law shall then be filed if the delinquent assessment has not been theretofore paid and the Board may, if permitted by law, also notify any holder of a Mortgage encumbering the Unit affected by such default and/or publish appropriate notice of such delinquency to the membership of the Association. If said default continues for a period of sixty (60) calendar days after a Claim of Lien is filed, then the Board may foreclose the foregoing lien pursuant to law and/or commence a suit against the appropriate parties to collect the assessment.

7.09. Interest and Counsel Fees. The Board at its option shall have the right in connection with the collection of any type of assessment, or other charge, to impose a late charge of any reasonable amount and/or interest at the legal maximum rate permitted by law for the payment of delinquent real estate taxes, if such payment is made after a date certain stated in such notice. In the event that the Board shall effectuate collection of said assessments or charges by resort to counsel and/or the filing of a Claim of Lien, the Board may add to the aforesaid assessments or charges a sum or sums of twenty (20%) percent of the gross amount due as counsel fees, plus the reasonable costs for preparation, filing and discharge of the lien, in addition to such other costs as may be allowable by law.

- A. In the case of any action or proceeding brought or defended by the Association or the Board pursuant to the provisions of these By-Laws, the reasonable costs and expenses of preparation and litigation, including attorneys fees, shall be a Common Expense allocated to all Unit Owners.
- B. Money judgments recovered by the Association in any action or proceeding brought hereunder, including costs, penalties or damages shall be deemed a special fund to be applied to: (1) the payment of unpaid litigation

expenses; (2) refunding to the Unit Owners the cost and expenses of litigation advanced by them; (3) Common Expenses, if the recovery thereof was the purpose of the litigation; (4) repair or reconstruction of the Common Elements if recovery of damages to same was the motivation for the litigation; and (5) any amount not applied to (1), (2), (3) and (4) above shall be at the discretion of the Board treated either as: (i) a common surplus which shall be allocated and distributed pursuant to the provisions of Article VI of the Master Deed or (ii) a set off against the annual Common Expense assessment generally. In spite of the foregoing, if a Unit Owner(s), the Board or any other person or legal entity affected by any such distribution shall assert that the damages sustained or the diminution in value suffered by a Unit Owner(s) was disproportionate to his or their interest in the Common Elements, in that event the matter shall be submitted to binding arbitration to be decided in accordance with the procedures set forth in Article XV hereof.

- C. All Common Expenses received and to be received by the Board, for the purpose of paying any judgment obtained against the Association or the Board and the right to receive such funds, shall constitute trust funds and the same shall be expended first for such purpose before expending any part of the same for any other purpose.
- D. In the event that a Unit Owner(s) succeeds in obtaining a judgment or order against the Association or the Board, then in addition to any other sums to which said Owner(s) would otherwise be entitled by such judgment or order, he or they shall also be entitled to the restitution or recovery of any sums paid to the Board as assessments for litigation expenses in relation to said action or proceeding.

7.10. Power of Attorney to Permitted Mortgage Holder. In the event the Board shall not cause the enforcement procedures provided in Sections 7.08 and 7.09 of Article VII above to be implemented within the time provided, any Permitted Mortgage Holder for any Unit as to which there shall be such unpaid Common Expense assessments is hereby irrevocably granted a power of attorney to commence such actions and to invoke such other remedies, all in the name of the Association. This power of attorney is expressly stipulated to be coupled with an interest in the subject matter.

7.11. Annual Financials. The Board shall submit the books, records, and memoranda of the Association to an annual compilation

report by an independent certified public accountant, who shall prepare same and render a report thereon in writing to the Board and in summary form to the Unit Owners and such Notice Mortgagees or other persons, firms or corporations as may be entitled to same. A copy of the reports shall be delivered to each unit owner within ninety (90) days of the expiration of the fiscal year. The reports shall cover the operating budget and reserve accounts. The cost of such reports shall be included as a Common Expense of the Association. Any member may request either an annual review or audit of the Association's financial affairs. However, if such request is without cause, the cost of same shall be borne by the Unit Owner requesting such review or audit. Further, in the event the review or audit discloses that the financial affairs of the Company are substantially the same as set forth in the compilation report, the Unit Owner requesting such review or audit shall be responsible for the cost of same. In the event the review or audit reveals a material misstatement, the cost of such review or audit shall be borne by the Association.

7.12. Examination of Books. Each Unit Owner shall be permitted to examine the books of account of the Board by appointment at a reasonable time on business days; provided, however, that the Treasurer has been given at least ten (10) days prior written notice of the Unit Owner's desire to make such an examination.

7.13. Fidelity Bonds. If requested by a majority of the Board, fidelity bonds shall be required for all persons handling or responsible for Association funds. The amount of such bonds shall be determined by the Board. The premiums on such bonds shall be paid by the Association.

ARTICLE VIII OFFICERS

8.01. Designation. The principal officers of the Association shall be a President, a Vice-President, both of whom shall be members of the Board, a Secretary and a Treasurer. The Board may also appoint such other Assistant Treasurers and Assistant Secretaries as in its judgment may be necessary. Any two (2)

offices, except that of President and Vice-President, may be held by one person.

8.02. Election of Officers. The officers of the Association shall be elected annually by the Board at the first Board of Directors meeting following each annual meeting and such officers shall hold office at the pleasure of the Board.

8.03. Removal of Officers. Upon an affirmative vote of a majority of the full number of Directors, any officer may be removed, either with or without cause, after opportunity for a hearing, and his successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

8.04. Duties and Responsibilities of Officers.

- A. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board. He shall have all of the general powers and duties which are usually vested in the office of President of an Association.
- B. The Vice-President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board shall appoint some other Director to so do 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.
- C. The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the members of the Association; he shall have charge of such books and papers as the Board may direct; and he shall, in general, perform all the duties incident to the office of the Secretary.
- D. The Treasurer shall have the responsibility for the custody of Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit of the Association in such depositories as may from time to time be authorized by the Board.

8.05. Other Duties and Powers. The Officers shall have such

other duties, power's and responsibilities as shall, from time to time, be authorized by the Board.

8.06. Eligibility of Directors. Nothing herein contained shall prohibit a Director from being an Officer.

ARTICLE IX

COMPENSATION, INDEMNIFICATION AND EXCULPABILITY OF OFFICERS, DIRECTORS, AND COMMITTEE MEMBERS

9.01. Compensation. No compensation shall be paid to the President or the Vice-President or any Director, or Committee Member for acting as such Officer, Director, or Committee Member. The Secretary and/or Treasurer (except for Developer appointees) may be compensated for their services if the Board determines that such compensation is appropriate. Nothing herein stated shall prevent any Officer or Director, or Committee Member from being reimbursed for out-of-pocket expenses or compensated for services rendered in any other capacity to or for the Association, provided, however, that any such expenses incurred or services rendered shall have been authorized in advance by the Board.

9.02. Indemnification. Each Director, Officer or Committee Member of the Association shall be indemnified by the Association against the actual amount of net loss including counsel fees, reasonably incurred by or imposed upon him in connection with any action, suit or proceeding to which he may be a party by reason of his being or having been a Director, Officer, or Committee Member of the Association, except as to matters for which he shall be ultimately found in such action to be liable for gross negligence or willful misconduct. In the event of a settlement of any such case, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified had not been guilty of gross negligence or willful misconduct.

9.03. Exculpability. In accordance with N.J.S.A. 15A:2-8c, directors and officers of the Association shall not be personally

liable to the Association or its members for damages for breach of any duty owed to the Association or its members except for any breach of duty based upon an act or omission (1) in breach of such person's duty of loyalty to the Association or its members, (2) not in good faith or involving a knowing violation of law or (3) resulting in receipt of such person of an improper personal benefit. Committee members who are not directors and officers of the Association shall be similarly exculpated from liability. Each Unit Owner shall be bound by the good faith actions of the Board, Officers and Committee Members of the Association, in the execution of the duties of said directors, Officers and Committee Members. Nothing contained herein shall be construed also as to exculpate members of the Board of Directors appointed by the Developer from discharging their fiduciary responsibilities.

ARTICLE X

[INTENTIONALLY OMITTED]

ARTICLE XI ENFORCEMENT

11.01. Enforcement. The Board of Directors shall have the power, at its sole option, to enforce the terms of this instrument or any rule or regulation promulgated pursuant thereto, by any or all of the following: self-help; sending notice to the offending party to cause certain things to be done or undone; restoring the Association to its original position and charging the breaching party with the entire cost or any part thereof; complaint to the duly constituted authorities; or by taking any other action before any court, summary or otherwise, as may be provided by law.

11.02. Fines. The Board shall have the power to levy fines against any Unit Owner(s) for violation(s) of any rule or regulation of the Association or for any covenants or restrictions contained in the Master Deed or By-Laws, except that no fine may be levied for more than \$50.00 for any one violation; provided, however, that for each day a violation continues after notice it

shall be considered a separate violation. Collection of the fines may be enforced against any Unit Owner(s) involved as if the fine were a Common Expense owed by the particular Unit Owner(s). In spite of the foregoing, before any fine is imposed by the Board, the Unit Owner involved shall be given at least ten (10) days prior written notice and afforded an opportunity to be heard, with or without counsel, with respect to the violation(s) asserted, all as provided for in Article XII of these By-laws.

11.03. Waiver. No restriction, condition, obligation or covenant contained in these By-Laws shall be deemed to have been abrogated or waived by reason of the failure to enforce the same irrespective of the number of violations or breaches thereof which may occur.

11.04. Cause of Action Against Association. Unit Owners shall have a cause of action, to the extent permitted by the laws of this State, against the Association for its failure to act in accordance with the Master Deed, Certificate of Incorporation, these By-Laws, any Rules or Regulations governing the Condominium or any formal decisions of the Association. In spite of the foregoing, the Association shall not be liable in any civil action brought by or on behalf of an Owner to respond in damages as a result of bodily injury to the Owner occurring on or within the Condominium unless the Association caused such bodily injury to the Owner within or upon the Condominium by its willful, wanton or grossly negligent act of commission or omission. The foregoing shall be construed in accordance with and not in derogation of N.J.S.A. 2A:62A.12 et seq.

ARTICLE XII

[INTENTIONALLY OMITTED]

ARTICLE XIII AMENDMENTS

Subject to the restrictions in Article XIII of the Master Deed regarding the rights of Notice Mortgagees, these By-Laws, or any of them, may be altered or repealed, or new By-Laws may be made, at

any meeting of the Association duly held for such purpose, and previous to which written notice to Unit Owners of the exact language of the amendment or of the repeal shall have been sent, a quorum being present, by an affirmative vote of 51% in number and in interest of the votes entitled to be cast in person or by proxy, except that: (i) the first annual meeting may not be advanced, (ii) the first Board (including replacements in case of vacancies) may not be enlarged or removed, (iii) the obligation or the proportionate responsibility for the payment of Common Expenses with respect to Units or the Common Elements may not be changed by reason of any such new By-Law, amendment or repeal, or (iv) no such new By-Law, amendment or repeal shall in any way affect the Developer, including any successor of the Developer, unless the Developer, or its successor, has given its prior written consent thereto.

ARTICLE XIV

CONFLICT; INVALIDITY

13.01. Conflict. In spite of anything to the contrary herein, if any provision of these By-Laws is in conflict with or contradiction of the Master Deed, the Certificate of Incorporation or with the requirements of any law, then the requirements of said Master Deed or law shall be deemed controlling.

13.02. Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the enforceability or affect the remaining provisions of the By-Laws.

ARTICLE XV

ARBITRATION

Any arbitration provided for in these By-Laws shall be conducted before one arbitrator in Monmouth County, New Jersey by the American Arbitration Association, in accordance with its rules then obtaining and the decision rendered in such arbitration shall be binding upon the parties and may be entered in any court having jurisdiction. All expenses of arbitration hereunder including the fees and expenses of counsel and experts shall be Common Expenses.

ARTICLE XVI
CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words "Ocean Plaza North Condominium Association, Inc."

EXHIBIT "G"
Schedule of Proportionate Interest in Common Elements

Prior to the construction of any improvements on Unit No. 2, for purposes of the Master Deed, the proportionate interest in common elements shall be allocated as follows:

Unit No. 1	54.212%
Unit No. 2	0.000%
Unit No. 3	45.788%

Once Unit No. 2 has been developed, the proportionate interest in common elements shall be:

Unit No. 1	23.355%
Unit No. 2	56.919%
Unit No. 3	19.726%