

## BYLAWS

of

### ARRAY CONDOMINIUM ASSOCIATION

#### ARTICLE I

##### PLAN OF UNIT OWNERSHIP

1. CONDOMINIUM. The Property (the term “**Property**” as used herein means and includes the land, the building, all improvements and structures thereon) located in City of Durham and Durham County, North Carolina, known as the ARRAY CONDOMINIUM as has been, or will be, by Declaration, submitted to the provisions of the North Carolina Condominium Act (the “**Act**”), which Property is known as ARRAY CONDOMINIUM (the “**Condominium**”).

2. ASSOCIATION. In conjunction with the creation of the Condominium, there also has been incorporated under the laws of the State of North Carolina an association known as Array Condominium Association (the “**Association**”) which shall, pursuant to the provision of the Declaration, constitute the incorporated condominium owners’ association.

3. PERSONAL APPLICATION. All Owners, Co-owners, and their respective household members, tenants, and invitees and the employees and invitees of such tenants, and any other person who might use the facilities of the Property in any manner, are subject to the regulations set forth in these Bylaws and in the Declaration as they may be amended from time to time. The mere acquisition or use of any of the Units or any facilities on the Property is an act deemed to serve as acceptance and ratification of, and an agreement to comply with, the Articles, these Bylaws, and the Declaration, all as may be amended.

4. DEFINITIONS. Capitalized terms used in these Bylaws shall have the same meanings given them in the Declaration of Array Condominium unless otherwise expressly set forth herein.

#### ARTICLE II

##### VOTING; QUORUM; PROXIES

1. ELIGIBILITY. Any person who acquires title to a Unit in the Condominium shall be a member of the Association. There shall be one membership for each Unit owned. Transfer of Unit ownership, either voluntarily or by operation of law, shall terminate membership in the Association, and membership will become vested in the transferee. If Unit ownership is vested in more than one person, then all of the persons owning such Unit shall agree upon the designation of one of the Co-owners of such Unit to act as a member of the Association. If Unit ownership is vested in a corporation, limited liability company, partnership, trust, unincorporated association or other entity, said corporation, limited liability company, partnership, trust, unincorporated entity or other entity must designate an individual officer, manager, partner or employee to act as a member of the Association on behalf of such entity. Such designation shall be made in a certificate, signed by an officer, manager, partner or other authorized representative of such entity and delivered to the Secretary of the Association. Any such certificate shall be valid until revoked, superseded by a subsequent certificate or until there has been a change in ownership of the Unit. If no such certificate is delivered to the Secretary, the Association may recognize and rely upon the authority of any individual who states that he or she represents such entity with respect to matters involving the entity’s membership in the Association, including the right to vote, unless the lack of authority is clearly evident.

2. VOTING. Subject to the power of the Association to suspend the voting rights of Owners, each Unit shall be entitled to one (1) vote in the Association. Votes may be cast in person or by proxy or, when authorized by the Executive Board, by ballot.

3. MAJORITY VOTE. The casting of a majority of the votes at a meeting at which a quorum is present (whether in person, by ballot or when authorized, by proxy) shall be binding for all purposes unless a different percentage vote is required by the Declaration or otherwise in these Bylaws.

4. QUORUM. Except as otherwise provided in these Bylaws, the presence in person or by proxy or by ballot (when authorized as provided in Section 6 of this Article II) of 50% of the votes in the Association shall constitute a quorum.

5. PROXIES. Proxies must be filed with the Secretary before the appointed time of each meeting. A proxy must be dated or it is void. A proxy shall be terminated one year after its date unless the proxy specifies a shorter term.

6. BALLOTS. Voting by ballot without a meeting is permissible when authorized by the Executive Board. When the Executive Board has authorized voting by ballot, the Association shall send to every member a ballot which describes each proposed action and an opportunity to vote for or against each proposed action. All ballots must also contain the time by which a ballot must be received by the Association in order to be counted. Members may submit the ballots to the Association by electronic transmission, including electronic mail, provided that such electronic transmission includes information from which it can be determined that the electronic transmission was authorized by the member or the member's proxy. Each ballot which is presented at a meeting shall be counted in calculating the quorum requirements set out in Section 4 of this Article II; provided, however, that ballots shall not be counted in determining whether a quorum is present to vote upon matters that did not appear on the ballot.

### **ARTICLE III** **MEMBERS; MEETINGS**

1. ASSOCIATION RESPONSIBILITIES. The Unit Owners will constitute the members of the Association who will have, among other duties, the responsibility of electing the Executive Board. Except as otherwise provided, decisions and resolutions of the Association shall require approval by a majority vote as provided in Section 3 of Article II.

2. PLACE OF MEETINGS. Meetings of the Association shall be at such place, convenient to the Unit Owners, as may be designated by the Executive Board.

3. ANNUAL MEETINGS. There shall be one regular annual meeting of the Association. The annual meeting of the Association shall be held at the call of the President during the month of January or at such other time as Unit Owners representing 20% of the votes of the Association may agree upon. At such meeting, there shall be elected an Executive Board in accordance with the requirements of Section 3 of Article IV of these Bylaws. All meetings of the Association (annual and special meetings) shall be conducted in accordance with the most recent edition of *Robert's Rules of Order Newly Revised*.

4. SPECIAL MEETINGS. The Secretary shall call a special meeting of the Unit Owners as directed by the President, or by resolution of the majority of the Executive Board, or by a petition that has been signed by Unit Owners representing 20% of the total votes in the Association and presented to the Secretary. A notice of any special meeting shall state the time and place of such meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any

budget changes, and any proposal to remove a director or officer. No business shall be transacted at a special meeting except as stated in the notice.

5. NOTICE OF MEETINGS. The Secretary shall provide notice of each annual or special meeting to each Unit Owner of record, stating (i) the time and place where the meeting is to be held, (ii) the items on the agenda, (iii) the general nature of any proposed amendment to the Declaration or these Bylaws, (iv) any budget changes, and (v) any proposal to remove a director or officer. Notice shall be made by hand delivery or sent prepaid by United States mail to the mailing address of each Unit or by electronic mail to an electronic mail address provided to the Association in writing by the Unit Owner. Notice shall be delivered at least 10 days, but not more than 60 days, prior to such meeting.

6. QUORUM. The presence in person or by proxy of the Unit Owners representing fifty percent (50%) of the total votes in the Association shall represent a quorum. If business cannot be conducted at any meeting because a quorum of the Unit Owners is not present, that meeting may be adjourned to a later date by the affirmative vote of a majority of those present in person or by proxy. The quorum requirement at the next meeting shall be one-half of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

7. ORDER OF BUSINESS. The order of business at all annual meetings of the Association shall be as follows:

- a. Call to Order;
- b. Proof of Notice of Meeting or Waiver of Notice;
- c. Reading of Minutes of Preceding Meeting;
- d. Reports of Officers;
- e. Reports of Committees;
- f. Election of Executive Board Members;
- g. Budget Review;
- h. Unfinished Business; and
- i. New Business.

The order of business at a special meeting of the Association shall routinely include items (a) through (d) above, and thereafter, the agenda shall consist of those items (e) through (i) specified in the notice of meeting, if any.

#### **ARTICLE IV** **EXECUTIVE BOARD**

1. NUMBER AND QUALIFICATIONS. The affairs of the Association shall be governed by an Executive Board comprised of three (3) persons. During the Period of Declarant Control, the Declarant shall be entitled to appoint and remove officers and Executive Board members as set forth in Section 2.7 of the Declaration. After the termination of the Period of Declarant Control, the Unit Owners shall elect the members of the Executive Board according to these Bylaws; provided, however, that a majority of the Executive Board shall be Unit Owners.

2. GENERAL POWERS AND DUTIES. The Executive Board shall have the powers and duties necessary for the administration of the affairs of the Association, including all the powers set forth under N.C.G.S. § 47C-3-102 and the other powers granted to it by the Act and the Declaration, and, subject to applicable law, the Act, these Bylaws and the Declaration, may do all such acts and things not directed to be executed and done by the Unit Owners, the Declarant or another person. Without limiting the generality of the foregoing, the Executive Board shall have the following powers and shall cause the Association to perform the following duties:

- a. adopt and amend bylaws and Rules and Regulations for the Association;
- b. adopt and amend budgets for revenues, expenditures and reserves, and collect assessments from Unit Owners for Common Expenses, including without limitation, the collection, at the time of the initial sale of each Unit, one quarter (1/4) of the annual estimated assessment for the purpose of establish a working capital fund for the Association;
- c. hire and terminate managing agents and other employees, agents, and independent contractors for the maintenance, operation, repair and replacement of the Common Elements;
- d. institute, defend, or intervene in its name in litigations or administrative proceedings on matters affecting the Condominium, the Common Elements or the Association;
- e. make contracts and incur liabilities for the making of repairs, additions and improvements to or alterations of the Common Elements;
- f. establish and maintain an adequate reserve fund for periodic maintenance, repair and replacement of improvements to the Common Elements (which, fund shall be funded by contributions which are not less than the greater of 10% of the total Association budget for any year, including the reserve, or the minimum percentage at any time required by the Federal National Mortgage Association ("FNMA") and the interest on which shall remain a part of said reserve fund and shall not be used for general operating expenses);
- g. regulate the use, maintenance, repair, replacement, and modification of the Common Elements, including, without, limitation, performing or causing to be performed repairs caused by any natural disaster or man-made damage from funds held in the reserve account and any special assessment;
- h. cause additional improvements to be made as a part of the Common Elements;
- i. acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property; provided that Common Elements may be conveyed or subjected to a security interest only pursuant to N.C.G.S. § 47C-3-112;
- j. grant leases, licenses, and concessions through or over the Common Elements;
- k. impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Elements (other than the Limited Common Elements described in subsections N.C.G.S. § 47C-2-102(2) and (4)) and for services provided to Unit Owners;
- l. charge interest on unpaid assessments and impose charges for late payment of assessments, not to exceed the maximum amount allowable by law (N.C.G.S. § 47C-3-102(a)(11)) and, after notice and an opportunity to be heard, suspend privileges or services provided by the Association

(except rights of access to Units) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of 30 days or longer, and levy reasonable fines not to exceed the maximum amount allowed by law (N.C.G.S. § 47C-3-107.1) for violations of the Condominium Documents;

m. impose reasonable charges for the preparation of statements of unpaid assessments and charges;

n. provide for the indemnification of and maintain liability insurance for its officers, the directors on the Executive Board, employees and agents;

o. assign its right to future income, including the right to receive assessments for the Common Elements, if applicable;

p. obtain insurance for the Condominium, the Common Elements and the Association, pursuant to the provisions hereof and the provisions of the Condominium Documents;

q. make available, for inspection, upon request during normal working hours or under other reasonable circumstances, to Unit Owners, the holders, insurers or guarantors of any first mortgage on any Unit, current copies of the Condominium Documents and financial statements of the Association;

r. establish such advisory committees as the Executive Board may deem appropriate to assist in carrying out the duties above described;

s. improve the Common Elements, both real and personal, and to purchase real estate and personal property, including items of furniture, furnishings, fixtures and equipment for the foregoing;

t. pay taxes or assessments, if any, against all or any portion of the Common Elements as required;

u. publish the names and addresses of all Executive Board members and officers within 30 days of their election;

v. subject to the limitations in these Bylaws, act on behalf of the Unit Owners with respect to all matters arising out of any condemnation or eminent domain proceeding affecting the Common Elements;

w. enforce by legal means the provisions of the Condominium Documents, including, but not limited to, the Declaration, these Bylaws and the Rules and Regulations of the Association;

x. exercise all other powers that may be exercised in the State of North Carolina by legal entities of the same types as the Association; and

y. exercise any other powers necessary and proper for the governance and operation of the Association or to perform the other functions required by the Act and the Condominium Documents.

The Executive Board may not act on behalf of the Association to amend the Declaration, terminate the Condominium, or to elect members of the Executive Board (except as permitted by Section 4 of this Article IV) or determine the qualifications, powers and duties or terms of office of Executive Board members.

3. ELECTION OF EXECUTIVE BOARD MEMBERS.

a. Initial Board Appointed by Declarant. The members of the initial Executive Board shall be appointed by the Declarant. These appointments will be temporary and will continue only in accordance with the requirements of the Act relating to the Period of Declarant Control, which terminates no later than the earlier of: (i) 120 days after conveyance of 75% of the Units (including Units which may be created pursuant to Special Declarant Rights); (ii) two years after Declarant has ceased to offer Units for the sale in the ordinary course of business; or (iii) two years after any development right to add new Units, if any, was last exercised. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the Period of Declarant Control, but in that event, Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Executive Board, as described in recorded instruments executed by the Declarant, be approved by the Declarant before they become effective.

b. Transition Board. Within 60 days after the conveyance of 25% of the Units to other than Declarant, the Unit Owners shall have a special meeting to elect two members of the Executive Board.

c. Full Board Elected by Unit Owners. Not later than the termination of the Period of Declarant Control, the Unit Owners shall hold a special meeting to elect three (3) members to the first Executive Board fully elected by the Unit Owners as follows:

- (i) one member shall be elected having a one year term;
- (ii) one member shall be elected having a two year term; and
- (iii) one member shall be elected having a three year term.

The Executive Board members elected according to this procedure shall serve until the regular annual meeting in the year in which their terms expire. At each regular annual meeting after the special meeting when the full Executive Board is elected by the Unit Owners, the Unit Owners shall hold elections for any Executive Board seat opening as a result of the expiration of an Executive Board member's term, and all terms shall be three years. This method is intended to provide staggered elections for members of the Executive Board. The majority of the Executive Board members elected by the Unit Owners must be Unit Owners.

d. Publication of Board Members' Names. The Association shall publish the names and addresses of all Executive Board members within 30 days of their election.

4. VACANCIES. Vacancies in the Executive Board caused by reason other than the removal of a member of the Executive Board by a vote of the Association shall be filled by vote of the majority of the remaining members of the Executive Board (or, during the Period of Declarant Control, by appointment of Declarant) even though they may constitute less than a quorum; and, each person so elected shall be a member of the Executive Board until a successor is elected and qualified at the next meeting of the Association.

5. REMOVAL OF MEMBERS OF THE EXECUTIVE BOARD. At any annual or special meeting of the Association duly called and which a quorum is present, the Unit Owners may remove one or more of the members of the Executive Board, other than those members of the Executive Board appointed by Declarant, with or without cause by a vote of at least 50% of all Unit Owners present and entitled to vote at a meeting of Unit Owners at which a quorum is present. A successor may then and thereby be elected at such meeting by a majority vote to fill the vacancy. Any member of the Executive Board whose removal

has been proposed to the Association shall be given an opportunity to be heard at the meeting. No Board member who was a Unit Owner or representative of a Unit Owner at the beginning of their tenure shall continue to serve on the Executive Board if during the term of office, they or their principal or employer shall cease to be a Unit Owner (except as provided above regarding Declarant's appointees).

6. ORGANIZATIONAL MEETING. The first meeting of a newly elected Board shall be held within 10 days of election at a place named by the Executive Board, and no notice shall be necessary to the newly elected Executive Board members in order to constitute such a meeting, provided that a majority of the Executive Board shall be present.

7. REGULAR MEETINGS. Regular meetings of the Executive Board may be held at such time and place as shall be determined, from time to time, by a majority of the Executive Board, but at least one such meeting shall be held each fiscal year. Notice of regular meetings of the Executive Board shall be given by the Secretary or other person designated by the Executive Board, to each Executive Board member, personally or by mail, telephone, or electronic mail, at least 10 days prior to the day named for such meeting. At regular intervals the Executive Board shall provide the opportunity to the Unit Owners to attend a portion of the meeting of the Executive Board for the purpose of voicing their issues and concerns to the Executive Board. The Executive Board may place reasonable restrictions on the number of Unit Owners who speak on each side of any issue and on the time that Unit Owners may speak. All meetings of the Executive Board (regular and special) shall be conducted in accordance with the most recent edition of *Robert's Rules of Order Newly Revised*.

8. SPECIAL MEETINGS. Special meetings of the Executive Board may be called by the President on 3 days' notice to each Executive Board Member, given personally or by mail, telephone, or electronic mail, which notice shall state the time, place (as hereinabove provided), and the purpose of the meeting. Special meetings of the Executive Board shall be called by the President or Secretary in the same manner upon the written request of at least two Board members.

9. WAIVER OF NOTICE. Before or at any meeting of the Executive Board, any member of the Executive Board may, in writing, waive notice of such meeting. Attendance by an Executive Board member at any meeting of the Executive Board shall be a waiver of notice by him or her of the time, place and purpose thereof unless the member at the beginning of the meeting (or promptly upon his or her arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

10. BOARD QUORUM; ACTION. At all meetings of the Executive Board, a majority of the Executive Board members then in office immediately before a meeting begins shall constitute a quorum for the transaction of business, and acts of the majority of the Executive Board members present at a meeting at which a quorum is present shall be the acts of the Executive Board. If, at any meeting of the Executive Board, there is less than a quorum present, the majority of the Executive Board members present may adjourn the meeting. Any business which might have been transacted at the meeting as originally called may be transacted without further notice at any reactivated meeting provided such meeting has a quorum,

11. FIDELITY INSURANCE. The Association shall provide fidelity insurance covering all Board members, officers, employees of the Association and all other persons handling or responsible for Association in accordance with Section 8 of Article VII of these Bylaws.

12. COMPENSATION. No member of the Executive Board shall receive any compensation from the Association for acting as a Board member.

13. LIABILITY OF THE EXECUTIVE BOARD. It is intended that the members of the Executive Board shall have no personal liability with respect to any contract made by them on behalf of the Association. It is understood and permissible for the Executive Board, which may consist of members who are members of or employed by Declarant, to contract with Declarant and affiliated entities without fear of being charged with self-dealing.

14. INDEMNIFICATION. To the extent permitted by the provisions of the North Carolina Nonprofit Corporation Act in effect at the applicable time, each Executive Board member is hereby indemnified by the Association with respect to any liability and expense of litigation arising out of their activities as an Executive Board member. Such indemnity shall be subject to approval by the members of the Association only when such approval is required by the North Carolina Nonprofit Corporation Act.

15. STANDARD OF ACTION. The members of the Executive Board shall act according to the standards for directors of a nonprofit corporation set forth in N.C.G.S. § 55A-8-30, the provisions of which are incorporated herein by reference.

## **ARTICLE V** **OFFICERS**

1. DESIGNATION. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer all of whom shall be elected by the Executive Board. The Executive Board may appoint an Assistant Treasurer and Assistant Secretary, and such other officers as, in their judgment, may be necessary. Officers appointed by the Declarant need not be members of the Executive Board or the Association but officers elected by the Executive Board members after the Period of Declarant Control must be members of the Association and Executive Board members.

2. ELECTION OF OFFICERS. Until the Period of Declarant Control has ended, Declarant may appoint officers. Thereafter, the officers of the Association shall be elected annually by the Executive Board at the organizational meeting of each new Executive Board, and the officers shall hold office at the pleasure of the Executive Board.

3. REMOVAL OF OFFICERS. Until the Period of Declarant Control has ended, Declarant may remove officers. Thereafter, upon an affirmative vote of a majority of the members of the Executive Board, any officer may be removed either with or without cause, and their successor elected at any regular meeting of the Executive Board, or at any special meeting of the Executive Board called for such purpose.

4. PRESIDENT. The President shall be the chief executive officer of the Association. They shall preside at all meetings of the Association and of the Executive Board. They shall have all of the general powers and duties which are usually vested in the office of president of a condominium or incorporated Association, including but not limited to, the power to appoint committees from among the Unit Owners from time to time as they may, in their discretion, feel appropriate to assist in the conduct of the affairs of the Association.

5. VICE PRESIDENT. The Vice President shall take the place of the President and perform their duties when the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Executive Board shall appoint some other member of the Executive Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon them by the Executive Board.



6. SECRETARY. The Secretary shall keep the minutes of all meetings of the Executive Board and the minutes of all meetings of the Association, and the Secretary shall have charge of all books, records and papers of the Association.

7. TREASURER. The Treasurer shall have responsibility for 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. They 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 designated by the Executive Board. They shall, in general, perform all the duties customary and incident to the office of the Treasurer.

8. OFFICER DIRECTORY. The Association shall publish the names and addresses of all officers of the Association within 30 days of their election.

9. STANDARD OF ACTION. The officers shall act according to the standards for officers of a nonprofit corporation set forth in N.C.G.S. § 55A-8-42, the provisions of which are incorporated herein by reference.

## **ARTICLE VI** **OBLIGATIONS OF THE UNIT OWNERS**

1. PERIODIC ASSESSMENTS FOR COMMON EXPENSES. The Association shall have the power to levy, and all Unit Owners shall be obligated to pay, periodic assessments imposed by the Association to meet all Association Common Expenses. Payment of the periodic assessments shall be in equal monthly installments on or before the first day of each month, or in such other reasonable manner as the Executive Board shall designate so long as periodic assessments are levied and paid at least annually.

In addition to the periodic payments for assessments as described above, at the time of the initial closing of the sale of each Unit the buyer shall pay a working capital assessment for the purpose of establishing an operating reserve for the Association. The amount of this working capital assessment shall be equal to two (2) months' Common Expense assessment.

2. ASSESSMENTS TO REMAIN IN EFFECT UNTIL NEW ASSESSMENTS MADE. The omission by the Executive Board before the expiration of any year, to fix the assessments for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of the Declaration and Bylaws or a release of any Unit Owner from the obligation to pay the assessments, or an installment thereof, for that or any subsequent year, and the assessment fixed for the preceding year shall continue until a new assessment is fixed. No Unit Owner may exempt themselves from liability for their contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of their Unit.

3. SPECIAL ASSESSMENTS. All Unit Owners shall be obligated to pay special assessments imposed by the Association to meet the costs of, among other things, capital improvements, repair or replacement of the Common Elements, allocations to reserves and other extraordinary expenses. Such special assessments must be approved by the Executive Board but shall not be payable if 75% of the total votes of the Association vote against such assessment at a duly convened special meeting held within 45 days of delivery of notice of the special assessment to Unit Owners. If a vote against the proposed special assessment is not sustained, the special assessment shall be due and payable 10 days after expiration of the 45 day period in which the Unit Owners may consider action to veto a special assessment.

4. RECORDS. The Association shall keep detailed records of all receipts and expenditures and of all assets and liabilities. The Association shall provide to all Unit Owners at no additional charge within 75 days of the close of the fiscal year of the Association an annual income and expense statement and balance sheet. A compilation, review or audit may be required by a vote of the majority of the Executive Board or by the affirmative vote of a majority of the Unit Owners voting at an Association meeting at which there is a quorum. The Association shall make all its financial records and all other Association records, including records of Association meetings or Executive Board meetings available for examination by any Unit Owner (or such Owner's authorized agent) during reasonable business hours.

5. DEFAULT IN PAYMENT OF ASSESSMENTS.

a. Recovery of Past Due Assessments and Late Charges. The Executive Board shall take prompt action to collect any periodic and special assessments, or portions thereof, due from any Unit Owner which remains unpaid for more than 30 days from the due date for payment thereof. In the event of default by any Unit Owner in paying any assessments as determined by the Executive Board, such Unit Owner shall be obligated to pay a late charge of the greater of \$20.00 or 10% of the amount of the unpaid installment. The Executive Board shall have the right and duty to attempt to recover such assessments, together with interest thereon, in an action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit granted by N.C.G.S. § 47C-3-116.

b. Collection of Attorneys' Fees. Subject to the limitation on the amount of attorneys' fees that may be collected as set forth in N.C.G.S. § 47C-3-116(f)(12), the Association shall be entitled to recover the reasonable attorneys' fees and costs it incurs in connection with the collection of any assessments, late charges or other sums due by a Unit Owner to the Association, provided that a Unit Owner may not be required to pay attorneys' fees and court costs until the Unit Owner is notified in writing of the Association's intent to seek payment of attorneys' fees, costs and expenses as provided herein. The notice must be sent by first-class mail to the physical address of the Unit and the Unit Owner's address of record with the Association and, if different, to the address for the Unit Owner shown on the county tax records for the Unit. The Association shall make reasonable and diligent efforts to ensure that its records contain the Owner's current mailing address. If the Owner is a corporation or limited liability company, the statement shall also be sent by first-class mail to the mailing address of the registered agent for the corporation or limited liability company. There shall be no requirement that notice be mailed to an address which is known to be a vacant Unit or a Unit for which there is no United States postal address. The notice shall set out the outstanding balance due as of the date of the notice and state that the Owner has 15 days from the mailing of the notice by first-class mail to pay the outstanding balance without the attorneys' fees and court costs. If the Owner pays the outstanding balance within the 15-day period, then the Owner shall have no obligation to pay attorneys' fees, costs or expenses. The notice shall also inform the Owner of the opportunity to contact a representative of the Association to discuss a payment schedule for the outstanding balance as provided in Section 5.c. of this Article VI.

c. Installment Plans. The Association, acting through the Executive Board and in the Executive Board's sole discretion, may agree to allow payment of an outstanding balance in installments. Neither the Association nor the Unit Owner is obligated to offer or accept any proposed installment schedule. Reasonable administrative fees and costs for accepting and processing installments may be added to the outstanding balance and included in an installment payment schedule. Reasonable attorneys' fees may be added to the outstanding balance and included in an installment schedule after the Unit Owner has been given notice as required in Section 5.b. of this Article VI. Attorneys' fees incurred in connection with any request that the Association agree to accept payment of all or any part of sums due in installments shall not be included or considered in the calculation of fees chargeable under N.C.G.S. § 47C-3-116(f)(12).

d. Claim of Lien. The Association may file a claim of lien against an Owner's Unit in accordance with N.C.G.S. § 47C-3-116 for any assessment attributable to the Unit which remains unpaid for 30 days or more, provided that at least 15 days prior to filing the lien, the Association has mailed to the Owner a statement of the assessment amount due in the manner as provided N.C.G.S. § 47C-3-116(b). With regard to the subordinate nature of such liens as it relates to mortgages recorded prior to the recording of any evidence of such lien, the provisions of N.C.G.S. § 47C-3-116(d), as at any time amended shall be controlling.

6. STATEMENT OF ASSESSMENTS OR OTHER CHARGES. The Executive Board shall, within 10 days of a request and for a reasonable fee not to exceed \$10.00, provide any purchaser, Unit Owner, encumbrancer or prospective encumbrancer of a Unit so requesting the same in writing, with a written statement of all unpaid assessments or other charges due from the Owner of that Unit and the purchaser's liability therefor shall be limited to the amount as set forth in the statement.

7. MAINTENANCE AND REPAIR.

a. Each Unit Owner must perform work within their own Unit, which, if omitted, would adversely affect another Unit or the Common Elements. If the Unit Owner fails to perform such work, then such Unit Owner is responsible for the damages and liabilities caused by their failure.

b. All the repairs of the Units and of those items described in Section 3.3 of the Declaration shall be made by and at the expense of the Unit Owner.

c. All maintenance, repair and replacements to the Common Elements, unless otherwise provided in the Declaration, shall be made by the Association and shall be charged to all the Unit Owners as a Common Expense.

d. If damage for which a Unit Owner is legally responsible and which is not covered by insurance provided by the Association is inflicted on any Common Element or Limited Common Element, the Association may direct such Unit Owner to repair such damage or the Association may itself cause the repairs to be made and recover the costs thereof from the responsible Unit Owner.

e. If damage is inflicted on any Unit by an agent of the Association in the scope of their activities as such agent, then the Association is liable to repair such damage or to reimburse the Unit Owner for the cost of repairing such damages.

f. If the claim under Section 7.d. or 7.e. of this Article VI is \$500.00 or less, a hearing may be held before an adjudicatory panel to determine if the Unit Owner is responsible for damages to any Common Element or the Association is responsible for damages to any Unit. The panel shall give (i) notice of the charge to the party charged with causing damages, (ii) an opportunity to be heard and to present evidence, and (iii) notice of the decision. The adjudicatory panel may assess a liability for each damage incident not in excess of five hundred dollars (\$500.00) against the Unit Owner charged or the Association. Liabilities of Unit Owners so assessed shall be assessments secured by lien under N.C.G.S. 47C-3-116. Liabilities of the Association may be offset by the Unit Owner against sums owing the Association, and if so offset, shall reduce the amount of any lien of the Association against the Unit at issue.

8. UTILITIES. Certain utility services may be shared by more than one Unit, and those Unit(s) may also share such service(s) with the Common Elements. The Association shall maintain in its own name any utility account for a utility service which is shared by two or more Units or the Common Elements. The Association shall receive and pay the invoices for such shared utility service, and shall bill the Units in accordance with their Common Interest, or if such shared utility is submetered, then in

accordance with submeter readings. Such charges shall be deemed assessments under the Declaration and these Bylaws and shall be secured by a lien pursuant to N.C.G.S. § 47C-3-116.

9. SUBJECT TO DECLARATION. All Unit Owners, their tenants, invitees, or any other party occupying a Unit is subject to the terms and conditions of the Declaration.

10. USE OF COMMON ELEMENTS. A Unit Owner, or tenants or invitees thereof, shall not place or cause to be placed in the walkways, sidewalks, driveways, parking spaces, yards, passages, stairwells, or other common areas any furniture, packages or obstructions of any kind. Such areas shall be held in common for the enjoyment of the Unit Owners or their designated tenants and shall be used for no purpose other than for normal transit through or use of them.

11. RIGHT OF ENTRY.

a. A Unit Owner or designated tenant shall grant the right of entry to any person authorized by the Executive Board in case of any emergency originating in or threatening their Unit, whether or not the Unit Owner is present at the time.

b. A Unit Owner or designated tenant shall permit the Association, or its representatives, when so required, access and the right to enter their Unit and the Limited Common Elements allocated to such Unit for the purpose of performing installations, alterations, or repairs to the Common Elements when it is reasonably necessary to access said Common Elements through a Unit, provided that such requests for entry are made in advance and that such entry is at a time convenient to the Unit Owner or designated tenant. In case of emergency, the right of entry shall be immediate. To facilitate entry in the event of any such emergency, the Owner of each Unit, if required by the Association, shall deposit with the Association a key to such Unit or Limited Common Element.

c. A Unit Owner or designated tenant shall permit another Unit Owner or its representatives, access and the right to enter their Unit and the Limited Common Elements allocated to their Unit when reasonably necessary for the other Unit Owner to perform their maintenance, repair and replacement obligations as required under the Declaration, provided that such requests for entry are made in advance and that such entry is at a time convenient to the Unit Owner or designated tenant.

12. RULES AND REGULATIONS. In order to assure the peaceful and orderly use and enjoyment of the Units and Common Elements, the Executive Board may from time to time adopt, modify, and revoke in whole or in part such reasonable rules and regulations, to be called Rules and Regulations, governing the conduct of people on the Property. Such Rules and Regulations, upon adoption, and every amendment, modification, and revocation thereof, shall be delivered promptly to each Unit Owner by posting the same with postage prepaid addressed to the Unit Owner at the last registered address of the Unit Owner, or shall be delivered by electronic mail, and shall be binding upon all Unit Owners and the occupants of Units in the Condominium. The initial Rules and Regulations for the Condominium are as adopted by the Declarant and are attached hereto as Appendix I to these Bylaws.

15. ABATEMENT AND ENJOINMENT OF VIOLATIONS BY UNIT OWNERS. The violation or breach of any Rules and Regulations adopted by the Executive Board, these Bylaws, or the breach of any provisions of the Declaration shall give the Association the right, in addition to any other rights set forth in these Bylaws: (a) to enter the Unit in which such violation or breach exists and to remedy, at the expense of the defaulting Unit Owner, the violation or breach, and the representatives of the Association entering such Unit shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any

such breach and to recover the cost of such enforcement, including attorney's fees, and until such expense is recovered, it shall be a lien upon said Unit, which lien shall be inferior to the lien of all prior mortgages.

16. LITIGATION. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of 75% of the total votes of the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of the Declaration (including, without limitation, the foreclosure of liens) or these Bylaws; (b) the imposition and collection of assessments as provided herein; (c) proceedings involving challenges to *ad valorem* taxation; or (d) defense of claims in proceedings initiated against the Association and counterclaims brought by the Association in proceedings instituted against it. In the event any claim is made against Declarant or any litigation is instituted against Declarant, then the Association shall impose a special assessment against all members, other than the Declarant (if permitted by law), for the costs of the claim or litigation, including, without limitation, attorney's fees incurred, and funds from periodic assessments shall not be used for any such claim or litigation.

17. ENFORCEMENT. The Association is empowered to enforce the terms and provisions of the Declaration, these Bylaws, and the Rules and Regulations by any proceeding at law or equity allowable under the North Carolina Condominium Act. If an Owner has violated the terms and provisions of the Declaration, these Bylaws, or the Rules and Regulations, the Executive Board or an adjudicatory panel (that is appointed by the Executive Board and consists of members of the Association who are not officers of the Association or members of the Executive Board) has the power to conduct a hearing to determine if the Unit Owner should be fined or condominium privileges or services should be suspended. The Unit Owner charged shall be given written notice of the charge at least 10 days prior to the hearing, an opportunity to be heard and to present evidence at the hearing, and written notice of the decision within three days of the conclusion of the hearing. If a fine is imposed, the fine shall not exceed \$100.00 for each day occurring after the fifth day following the decision of the Executive Board or adjudicatory panel until the violation is cured. A fine under this section shall be an assessment secured by the lien established pursuant to the Declaration and N.C.G.S. § 47C-3-116. If a suspension of condominium privileges or services is imposed, such suspension may be continued without further hearing until the violation or delinquency is cured. A Unit Owner may appeal a decision of an adjudicatory panel to the full Executive Board by delivering written notice of appeal to the Executive Board within 15 days after receiving the written decision of the adjudicatory panel, and the Executive Board may affirm, vacate or modify the prior decision of the adjudicatory body.

18. PRE-LITIGATION MEDIATION. The Association shall notify members of the Association in writing each year that a member may initiate mediation under N.C.G.A. § 7A-38.3F for any dispute between the member and the Association (but specifically excluding disputes related solely to the failure to timely pay an assessment or any fines or fees associated with the levying or collection of an assessment). The Association shall publish such notice on the Association's website, but if the Association does not have a website, the Association shall publish the notice at the same time and in the same manner as the names and addresses of all officers and board members of the Association are published under Section 3.d. of Article IV of these Bylaws. If either the Association or a Unit Owner elects to initiate mediation pursuant N.C.G.A. § 7A-38.3F, the other party may decline to engage in the mediation for any reason.

## **ARTICLE VII** **INSURANCE**

Not later than the time of the first conveyance of a Unit to a person other than Declarant, the Association shall be required to obtain from generally acceptable insurance carriers which meet the requirements set forth in the FNMA Conventional Home Mortgage Selling Contract Supplement and the Federal Home Loan Mortgage Corporation ("FHLMC") Sellers Guide and shall continue to maintain, as

set forth below, in forms and amounts as hereinafter described, the following insurance, without prejudice to the right of a Unit Owner to obtain additional individual insurance at their own expense:

1. HAZARD INSURANCE. The Executive Board shall cause the Common Elements to be insured, as it may be constituted from time to time, against loss or damage due to all risks of direct physical loss commonly insured against, including fire and extended coverage perils, in an amount equal to the replacement value of the Common Elements as determined by the Executive Board upon recommendation made by the Condominium's insurer, it being understood that the Executive Board, at its discretion, may have an appraisal made of the Property for this purpose, or in the amount reasonably obtainable as it relates to certain perils. The Executive Board shall have the authority also to insure against other hazards and risks as it may deem desirable for protection of the Property. All hazard insurance shall cover the entire Property, excluding only the improvements and betterments installed by the Unit Owners and contents and furnishings of the individual Units.

a. All hazard insurance policies obtained by the Executive Board, shall designate the named insured as the Association, as Insurance Trustee for the benefit of all the Owners and their mortgagees collectively, as their respective interests may appear. In the event of loss or damage, all insurance proceeds shall be paid to the Association as Insurance Trustee, it being understood and acknowledged that the distribution of such proceeds shall be controlled by the Act.

b. All hazard insurance policies obtained by the Executive Board shall provide for the issuance of certificates of insurance to each Unit Owner. Each Certificate shall evidence the issuance of the master policy and shall indicate the amount of insurance covering the building within which the respective Unit is located. If a Unit is mortgaged, a certificate of insurance shall be issued to the mortgagee bearing a standard mortgagee endorsement, if requested.

c. If obtainable, all hazard insurance policies upon the Property shall include provisions providing that (i) each Unit Owner is an insured person under the policy with respect to liability arising out of their interest in the Common Elements or membership in the Association; (ii) the insurer waives any rights to subrogation under the policy against any Unit Owner, members of their household or such Unit Owner's employees; (iii) no act or omission by any Unit Owner, unless acting within the scope of their authority on behalf of the Association, will preclude recovery under the policy and (iv) if, at the time of loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

d. Each mortgagee of which the Executive Board has notice as herein provided shall be entitled to receive upon request a statement of the replacement value as determined according to these Bylaws. If any such mortgagee disagrees with the values assigned to the Property by such determination and presents an appraisal prepared at such mortgagee's expense showing higher values which has been performed by a qualified appraiser, then the Executive Board shall either adopt the higher value or shall cause a reappraisal to be made by a qualified appraiser approved by the Executive Board and by the appraisers who conducted the prior appraisals and the findings of the third appraiser shall be conclusive to determine such value for insurance purposes.

e. Each hazard insurance policy shall contain a loss payee provision designating the interest of the various mortgagees as to the various Units within the Condominium which are covered by the master policy. Such policies shall also provide that they shall not be canceled without giving thirty (30) days prior written notice to all such mortgagees as to whom the insurer has been given written notice.

2. PUBLIC LIABILITY INSURANCE AND UMBRELLA LIABILITY INSURANCE. The Executive Board shall cause to be obtained comprehensive public liability insurance with the minimum

coverages established by the Declaration, directors' and officers' liability insurance, and umbrella liability insurance with limits and provisions as it deems desirable and as may be obtainable. All such policies shall contain severability of interest clauses or endorsements extending coverage to liabilities of the Association to a Unit Owner and to liabilities of one Unit Owner to another Unit Owner.

3. PREMIUM. All premiums upon insurance policies purchased by the Association shall be assessed as Common Expenses to be paid by the Unit Owners through periodic assessment.

4. ADJUSTMENT. Each Unit Owner shall be deemed to have delegated to the Executive Board their right to adjust with insurance companies all losses under policies purchased by the Association, subject to the rights of mortgagees of such Unit Owners.

5. INSURANCE BY UNIT OWNERS. Each Unit Owner shall be responsible for obtaining, at their sole expense, certain insurance as provided in the Declaration.

6. SUBSTITUTION OF INSURANCE TRUSTEE. The Association, in its discretion, may decline to serve as Insurance Trustee and may appoint in its place any financial institution which is qualified and willing to act as Trustee and which also has offices in the county in which the Condominium lies. Any substitute Insurance Trustee appointed by the Association shall succeed to all of the powers and responsibilities vested in the Association as Insurance Trustee under the terms of these Bylaws.

7. ADDITIONAL POLICY REQUIREMENTS. No insurance policy obtained by the Association pursuant to this Article VII shall contain or be subject to the following: (a) terms of the insurance carrier's charter, by-laws or policy that permit contributions or assessments to be made against borrowers, FNMA or FHLMC or the designee of FNMA or FHLMC; or (b) terms of the carrier's charter, bylaws or policy that provide loss payments are contingent upon action by the carrier's board of directors, policyholders or members; or (c) policy provisions that include any limiting clauses (other than insurance conditions) which could prevent FNMA, FHLMC or the borrowers from collecting insurance proceeds. All insurance policies acquired pursuant to this Article VII must recognize any Substitute Insurance Trustee, if any.

8. FIDELITY INSURANCE. The Association shall provide fidelity insurance covering all Board members, officers, employees of the Association and all other persons handling or responsible for Association. If a management agent has the responsibility for handling or administering funds of the Association, the Association shall cause the management agent to maintain fidelity insurance coverage for its officers, employees and agents handling or responsible for funds, or administered on behalf of, the Association. Such fidelity insurance coverage shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time. Notwithstanding the foregoing, in no event, shall the coverage be less than a sum equal to three months aggregate assessments on all Units plus reserve funds. The fidelity insurance shall contain waivers by the insurers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. The premiums on the fidelity insurance purchased by the Association shall be paid by the Association as a Common Expense. The fidelity insurance shall provide that it may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 10 days' prior written notice to the Association or Insurance Trustee (as hereinafter defined). If required by a Lender, the fidelity policy must also provide that the servicer(s) for FNMA, on behalf of FNMA, will also receive such notice of cancellation or modification.

**ARTICLE VIII**  
**RECONSTRUCTION AND REPAIR**

In the event of casualty loss or damage to the Property, the Executive Board shall be responsible for applying the proceeds of all casualty insurance to the repair or reconstruction of the Property in accordance with under N.C.G.S. § 47C-3-113(h) unless (1) the Condominium is terminated; (2) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (3) the Unit Owners decide not to rebuild by a an 80% vote (including 100% approval of Owners of Units not to be rebuilt or Owners assigned to Limited Common Elements not to be rebuilt and including the required percentage of Lenders as set forth in Section 4(a)(1) of Article X). The Property shall be repaired in the following manner:

1. Any reconstruction or repair must follow substantially the original plans and specifications of the Property unless the Unit Owners holding 80% or more of the total votes in the Association and their mortgagees (and the required percentage of Lenders as set forth in Section 4(b) of Article X), if any, vote to adopt different plans and specifications.

2. The Executive Board shall promptly obtain estimates of the cost required to restore the damaged property to its condition before the casualty occurred, including soft costs such as professional fees and premiums for bids as the Executive Board deems necessary.

3. If the insurance proceeds paid to the Executive Board are insufficient to cover the cost of reconstruction, the deficiency shall be paid as a special assessment by the Unit Owners whose units are being reconstructed or repaired in proportion to the damage done to their respective Units.

4. The insurance proceeds received by the Executive Board and the mortgagees, and any special assessments collected to cover a deficiency in insurance shall constitute a construction fund from which the Executive Board shall disburse payment of the costs of reconstruction and repair. The first disbursements from the construction fund shall be insurance proceeds, and if there is a balance in the fund after payment of all costs of reconstruction and repair, it shall be distributed to the Unit Owners who paid special assessments in proportion to their payments. Any balance remaining after such distribution shall be retained by the Association.

**ARTICLE IX**  
**INSURANCE TRUST**

In the event of casualty loss to the Property, all insurance proceeds indemnifying the loss or damage shall be paid to the Association as Insurance Trustee. The Association, acting as Insurance Trustee, shall receive and hold all insurance proceeds in trust for the purposes stated in this Article, and for the benefit of the Association, the Unit Owners, and their respective mortgagees in the following share:

1. Insurance proceeds paid on account of loss or damage to the Common Elements only shall be held in the same proportion as the undivided interests in the Common Elements which are appurtenant to each of the Units.

2. Insurance proceeds paid on account of loss or damage to fewer than all of the Units, when the damage is to be restored, shall be held for the benefit of Unit Owners of the damaged Units and their respective mortgagees in proportion to the costs of repairing each damaged Unit.



3. Insurance proceeds paid when the entire Property is not to be restored shall be held for the benefit of all Unit Owners, and their respective mortgagees, the share of each being equal to the undivided share or interest in Common Elements appurtenant to the applicable Unit.

4. In the event a certificate of insurance has been issued to a Unit Owner bearing a mortgagee endorsement, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except for insurance proceeds required by the loan documents to be paid jointly to the Unit Owners and their respective mortgagees pursuant to the provisions of this Declaration.

## **ARTICLE X**

### **MORTGAGEES AND RIGHTS OF LENDERS**

1. **NOTICE TO BOARD.** At any time that a Unit Owner grants a first lien deed of trust or mortgage upon their Unit, they will provide the Association in writing with the name and contact information of the holder, insurer and guarantor of the first deed of trust or mortgage upon their Unit (each such identified holder, insurer or guarantor being a "Lender"). Each Unit Owner will promptly notify the Association of any change in the name or contact information of a Lender which holds a first deed of trust or mortgage on their Unit.

2. **AVAILABILITY OF CONDOMINIUM DOCUMENTS.** The Association shall make available to Unit Owners, lenders and the holders and insurers of the first deed of trust or mortgage on any Unit, current copies of the Declaration, these Bylaws, the Rules and Regulations and other books, records and financial statements of the Association. The Association shall also make available to prospective purchasers current copies of the Declaration, these Bylaws, the Rules and Regulations and the most recent annual audited financial statements of the Association, if such is prepared. As used herein, "available" means available for inspection upon request, during normal business hours. Upon written request from U.S. Department of Housing and Urban Development ("HUD"), Veterans Administration ("VA"), the Federal Housing Administration ("FHA"), Fannie Mae ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), or Government National Mortgage Association ("Ginnie Mae"), which has an interest or prospective interest in the Condominium, the Association shall prepare and furnish within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year.

3. **NOTICES OF ACTION TO LENDERS.** Each Lender will be entitled, and the Executive Board shall cause to be delivered, at least sixty (60) days prior written notice of the following:

a. Any proposed amendment of the Condominium Documents effecting a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto; (ii) the interests in the Common Elements or Limited Common Elements appertaining to any Unit or the liability for Common Expenses thereto; (iii) the Common Interests allocated to any Unit; or (iv) the purposes to which any Unit or the Common Elements are restricted;

b. Any proposed termination of the Condominium;

c. Any condemnation loss or any casualty loss which affects a material portion of the Condominium or which affects any Unit on which there is a first mortgage held, insured or guaranteed by a Lender;

d. Any delinquency in the payment of assessments or charges owed by a Unit Owner

subject to the mortgage that is held, insured or guaranteed by a Lender, where such delinquency has continued for a period of 60 days; or

e. Any lapse, cancellation or material modification of any insurance policy maintained by the Association pursuant to Article VII hereof; and

f. Any proposed action by the Association, the Board or the Owners which under the terms of any of the Condominium Documents requires the consent of all or any portion of the Lenders.

4. APPROVAL RIGHTS FOR LENDERS. The approval of Lenders shall be required in the instances below and as hereinafter set forth:

a. Termination of Condominium.

(i) Upon Casualty or Condemnation. Any election to terminate the Condominium after substantial destruction or a substantial taking in condemnation of the Property requires the approval of Lenders which hold mortgages on Units to which at least 51% of the votes of Units subject to mortgages are allocated.

(ii) In Absence of Casualty or Condemnation. The approval of Lenders which hold mortgages on Units to which at least 67% of the votes of Units subject to mortgages appertain shall be required to terminate the Condominium.

b. Restoration or Repair. Any restoration or repair of the Condominium after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications unless the approval is obtained of the Lenders which hold mortgages on Units to which at least 51% of the votes of Units subject to mortgages are allocated.

c. Amendment of Condominium Documents. The approval of the Lenders which hold first mortgages on Units to which at least 51% of the votes of Units subject to mortgages appertain, shall be required to materially amend any provisions of the Condominium Documents or to add any material provisions thereto, which establish, provide for, govern or regulate any of the following:

- (i) Voting;
- (ii) Assessments, assessment liens or subordination of such liens;
- (iii) Reserves for maintenance, repair and replacement of the Common Elements;
- (iv) Insurance or fidelity bonds;
- (v) Rights to the use of Common Elements;
- (vi) Responsibility for maintenance and repair of the Common Elements;
- (vii) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;
- (viii) Boundaries of any Unit;
- (ix) The interests in the Common Elements or Limited Common Elements;
- (x) Convertibility of Units into Common Elements or of Common Elements into Units;
- (xi) Leasing of Units;
- (xii) Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey their Unit in the Condominium;
- (xiii) Establishment of self-management by the Association where professional management has been required by HUD, VA, FHA, FNMA, FHLMC, or Ginnie Mae; or

- (xiv) Any amendment to a provision in the Condominium Documents which is for the express benefit of holders or insurers of first mortgages on Units.

5. MANNER OF NOTICE TO LENDERS. The Association shall deliver all notices and requests for approval to Lenders by certified or registered United States mail, postage prepaid, return receipt requested. If a Lender fails to respond to a request for approval within sixty (60) days after its receipt thereof, then the approval of the Lender shall be deemed granted.

## **ARTICLE XI** **AMENDMENTS**

Subject to the rights of Lenders as set forth in Section 4(c) of Article X hereof, these Bylaws may be amended only with the consent of Units Owners to which at least 75% percent of the votes in the Association are allocated. Provided, however, where a greater percentage of the vote of Unit Owners is expressly required in the Declaration, by the Act, the Association's Articles of Incorporation or these Bylaws to take action by the Unit Owners, these Bylaws may not be amended to decrease such greater percentage of votes without the consent of Unit Owners holding that greater percentage of votes.

Notwithstanding the foregoing, so long as the Declarant remains the Owner of one or more Units in this Condominium or during that period which is prior to the expiration of the Special Declarant Rights, these Bylaws shall not be amended so as to adversely affect the Declarant or impair in any way the Special Declarant Rights without the Declarant's written consent and joinder.

Notwithstanding the foregoing, these Bylaws may be amended by the Declarant or Association without the consent of any Owner in order to comply with any provisions of law or to correct manifest errors herein. In addition, for so long as Declarant has the right to appoint the majority of the members of the Executive Board of the Association and to the extent permitted by law, these Bylaws may be amended by the Declarant without the consent of any Owner in order to comply with the rules, regulations and policy statements promulgated and issued by HUD, the VA, FHA, FNMA, FHLMC or Ginnie Mae. Any permitted amendment by Declarant shall be effective upon execution by Declarant and recording of the amendment.

## **ARTICLE XII** **MISCELLANEOUS MATTERS**

1. GENDER; NUMBER. The use of the feminine or masculine gender in these Bylaws includes all genders, and when the context requires, the use of the singular includes the plural.

2. DEFINITIONS. Capitalized, defined terms used in these Bylaws shall have the meanings ascribed to them in the Declaration unless specifically set forth in these Bylaws.

3. EXECUTION OF DOCUMENTS. The President or Vice President and Secretary or Assistant Secretary are responsible for preparing, executing, filing and recording amendments to the Declaration and Bylaws, and shall be authorized to execute any other document which the Association may from time to time be required to execute. Notwithstanding the foregoing, the President or Vice President, without the joinder of the Secretary or Assistant Secretary, may execute amendments to the Declaration if the same is permitted by the Declaration and by North Carolina law.

4. NOTICES. All notices required by these Bylaws shall be hand delivered, sent by mail to the Association, or sent by electronic mail at the physical or electronic mail address of the President, and

to Unit Owners at the physical address of the Unit or at such other physical address or electronic address as may have been designated by such Unit Owner from time to time in writing to the Association. All notices from or to the Association shall be deemed to have been given when mailed or delivered, except notice of changes of address which shall be deemed to have been given when received.

5. CAPTIONS. The captions contained in these Bylaws are inserted as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision of the Bylaws.

6. INVALIDITY. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws.

7. CONFLICT. These Bylaws are set forth to comply with the requirements of the North Carolina Condominium Act, the Articles, and the Declaration, all as the same may be amended. In the event of any conflict between these Bylaws and the provisions of such Act or the Declaration, the provisions of such Act or the Declaration, as the case may be, shall control.

8. WAIVER. No restriction, condition, obligation, or covenant contained in these Bylaws shall be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the violations or breaches thereof which may occur.

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SECRETARY'S CERTIFICATE

The undersigned Secretary of Array Condominium Association hereby certifies that the above bylaws of Array Condominium Association were duly adopted by its board of directors at a meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
\_\_\_\_\_, Secretary

**APPENDIX I  
TO BYLAWS  
OF  
ARRAY CONDOMINIUM  
RULES AND REGULATIONS**

1. No Unit Owner shall:
  - (a) Hang garments, towels, rugs, or similar objects from the windows or balconies or from any of the facades of the Property; or
  - (b) Without permission of the Executive Board, park or store bicycles outside the designated bicycle storage area, or store scooters or other sports equipment in Common Elements or operate and park any vehicles so as to block access to the Building or the parking spaces; or
  - (c) Install wiring for electrical or telephone installations, television or radio antenna, air conditioning fixtures, or similar objects outside of their Unit or which protrudes through the walls or the roof of the Unit except as authorized by the Declaration or the Executive Board.
2. It shall be the responsibility of each Unit Owner to prevent any unclean, unsightly or unkempt condition in or around their Unit or elsewhere on the condominium grounds, which shall tend to substantially decrease the beauty of the condominium or the neighborhood as a whole.
3. No structure of a temporary character shall be placed upon the Property at any time.
4. No fish tanks larger than 5 gallons or waterbeds are allowed.
5. No grills or any other fires are allowed on stoops, forecourts or balconies.