

THE PROMONTORY CORPORATION

5530-5532 South Shore Drive  
Chicago, Illinois 60637  
773.493.5599  
www.miespromontoryapartments.com

**BYLAWS OF  
THE PROMONTORY CORPORATION**

Effective Date: November 10, 2013\_\_\_\_\_

**ARTICLE I**

**Purpose**

The primary purpose of the Corporation shall be to provide residences for Members, who shall be entitled, solely because of their Membership, to Proprietary Leases for units in the building and improvements constructed on the real estate commonly known as 5530- 5532 South Shore Drive, Chicago, Illinois 60637 (collectively, the "Building" or the "Property").

**Offices**

The principal office of the Corporation shall be located at 5530-5532 South Shore Drive, Chicago, Illinois (the "Promontory Apartments"). The Corporation may have such other offices within the State of Illinois, as the business of the Corporation may require.

The registered office of the Corporation required by the Illinois General Not-For-Profit Corporation Act of 1986 (the "Act"), as amended, shall be maintained in the State of Illinois and may, but need not, be identical with the principal office in the State of Illinois. The address of the registered office may be changed by the Board of Directors.

**ARTICLE II**

**Members**

Section 1. Class of Members

The Corporation shall have one class of Members. All voting rights and other rights, interests, and privileges of each Member shall be equal. No Membership in the Corporation shall be authorized except in connection with the execution of a Proprietary Lease by a Member and the Corporation, subject to the provisions, covenants, and agreements contained in the Proprietary lease and these Bylaws.

Section 2. Definition of a Member

A Member is (a) a person who has been approved for occupancy of an Apartment, or of two Apartments combined into a single residence, in the Promontory Apartments or (b) a corporation or trust for which a representative or beneficiary has been similarly approved, provided that in each case such person, corporation or trust executes an Apartment Lease for said Apartment or Apartments in a form determined by the Corporation and agrees to abide by the House Rules adopted by the Corporation. (Although the terms "person", "representative" and "beneficiary" are used in these Bylaws in the singular, they should nevertheless be understood to include the plural meaning of each term.)

Section 3. Initial Members of the Corporation

Intentionally deleted as moot.

Section 4. Application to Purchase Certificates of Membership

An application to purchase a Certificate of Membership that is submitted after the recording of the Articles of Incorporation shall be presented on a form of Member Application prescribed by the Board of Directors. All such applications shall be acted upon promptly by the Board of Directors. The Board of Directors shall request, in said application and in an oral interview with the applicant subsequent to the submission of the written application, any information reasonably relevant to (a) the applicant's purpose in applying to purchase a Certificate of Membership in the Corporation and (b) the applicant's ability to meet the financial obligations specified in the Proprietary Lease. In any case in which the actual occupants of the Apartment will be a representative or beneficiary of the applicant, the Board may request an oral interview with said representative or beneficiary as well as with the applicant. No person shall be disqualified from purchasing a Certificate of Membership or occupying an Apartment on the basis of race, gender, color, creed, national origin, religion, ancestry or sexual preference.

Section 5. Termination of Certificates of Membership for Cause

In the event that the Proprietary Lease between the Corporation and a Member covering one or more Apartments in the Promontory shall be terminated by the Corporation because of breach or default under Paragraph 15(a) or 15(c) of the Proprietary Lease, the right of the Member to own certificates of Memberships in the Corporation shall terminate. At its election, the Board of Directors may sell the Certificate of Membership of the defaulting Member at a public or private sale. After payment of all sums owed to the Corporation, plus all attorneys' fees and legal costs arising from the acts of default and the sale of the Share, the balance shall be paid first to any lender under a Recognition Agreement and the remainder to the former Member.

All Members shall pay assessments as set forth in the Proprietary Leases. No Member may be

exempt from liability for any assessment by waiver of the use or enjoyment of any of the common elements or by abandonment of his, her, or its unit.

## ARTICLE III

### Meetings of Members

#### Section 1. Annual Meeting of the Members

The annual meeting of the Members shall be called by the Board of Directors to be held in October of each year.

#### Section 2. Special Meetings of the Members

At the request in writing of (a) a majority of the Board of Directors or (b) the holders of not less than twenty percent (20%) of all the outstanding Certificates of Membership of the Corporation, a special meeting of the Members may be called by the President, the Secretary, or the Board of Directors. Any such request shall state the purpose or purposes of the proposed meeting, and business transacted at the meeting shall be confined to the purpose or purposes stated in the request.

#### Section 3. Place of Meetings

The Board of Directors may designate any place within the Township of Hyde Park in Chicago in the State of Illinois as the place of meeting for any annual meeting or for any special meeting of the Members that is called by the Board of Directors. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal office of the Corporation.

#### Section 4. Notice of Meetings-Annual and Special

Not less than twenty (20) days nor more than thirty (30) days before the date of the annual meeting and not less than seven (7) nor more than ten (10) days before a special meeting, written or printed notice stating the place, day and hour of the meeting and in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered, by or at the direction of the President, or the Secretary, or the Board of directors, to each Member of record entitled to vote at such a meeting. Such notice shall be deemed to be delivered when deposited in the United States mail, postage prepaid, in a sealed envelope addressed to the Member at his/her address as it appears on the records of the Corporation. Additional notices shall be posted, within the indicated time frames, at various locations in the common areas of the Promontory Apartments.

#### Section 5. Closing of Transfer Books or Fixing of Record Date

The Board of Directors of the Corporation may close its Membership transfer books for a period not exceeding twenty (20) and not less than ten (10) days prior to the date of any meeting of the Members, or, in lieu thereof, may fix in advance a date, not exceeding twenty (20) and not less

than ten (10) days prior to the date of any meeting of the Members, as the record date for the determination of Members entitled to notice of, or to vote at, such meeting. If the transfer books are not closed and no record date is fixed by the Board of Directors, the date on which notice of the meeting is mailed shall be the record date for the determination of Members entitled to vote at such meeting. Transferees of certificates of Membership that are transferred after the record date shall not be entitled to notice of or to vote at such meeting.

Section 6. Voting Lists

After the Membership transfer books are closed or the record date is determined as provided above, the Secretary of the Corporation shall make, at least seven (7) days before each meeting of the Members, a complete list of the Members entitled to vote at such meeting and his/her address. For a period of seven (7) days prior to such meeting, said list shall be kept on file at the principal office of the Corporation and shall be subject to inspection by any Member at any time during usual business hours. The original certificates of Membership ledger or transfer book, or a duplicate thereof kept in this State, shall be prima facie evidence of the Members entitled to examine such list or Certificate of Membership ledger or transfer book or to vote at any meeting of Members.

Section 7. Quorum

One third of the outstanding certificates of Membership of the Corporation, represented in person or by proxy, shall constitute a quorum at any meeting of the Members except as may be otherwise provided by statute, by the Articles of Incorporation, or by these Bylaws. If less than one third of the outstanding certificates of Membership are represented at said meeting, a majority of the certificates of Membership so represented may adjourn the meeting without further notice.

Section 8. Proxies

At all meetings of the Members, a Member may vote in person or by proxy executed in writing by either the Member or, by the Member's duly authorized attorney-in-fact. All proxy votes for a given meeting shall be filed with the Secretary on a form approved by the Board of Directors for the meeting before the meeting is convened. The proxy is valid for the stated meeting only. No Member shall hold more than five proxies.

Section 9. Voting of Certificates of Membership

Except for the 122nd Certificate of Membership, the Certificate of Membership for each of the 121 Apartments in the Promontory Apartments shall be entitled to one (1) vote upon each matter submitted to a vote of the Members. The 122nd Certificate of Membership, which is held in common by all Members, shall have no vote.

Section 10. Voting of Certificates of Membership by Certain Persons

- (a) Certificates of Membership standing in the name of another corporation (domestic

or foreign) or trust may be voted by such officer, agent, proxy, trustee, or beneficiary as is designated by such corporation or trust and has been approved by the Board of Directors.

- (b) Certificates of Membership standing in the name of a receiver may be voted by such receiver. Certificates of Membership held by or under the control of a receiver but not standing in the name of the receiver may be voted by such a receiver without the transfer thereof into his/her name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.
- (c) Members whose Certificates of Membership are pledged for financing the member's Apartment shall be entitled to vote such Certificates of Membership.

Section 11. Manner of Acting of Members

When a quorum is present or represented at any meeting of the Members, the vote of a majority of the Certificates of Membership present in person or represented by proxy shall decide any question on the agenda of such meeting, unless the question is one upon which by express provision of the applicable statutes or the Articles of Incorporation or of these Bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question.

Section 12. Order of Business at Meetings of the Members

The order of business at all meetings of the Members shall include the following:

- (a) Determination of quorum;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Approval of minutes of preceding meeting;
- (d) Introduction of new Members;
- (e) Reports of officers;
- (f) Reports of committees;
- (g) Report of manager or managing agent;
- (h) Report of Elections Committee;
- (i) Unfinished Business;
- (j) New Business;
- (k) Proposals from the Board; and
- (l) Suggestions from Members.

In the case of special meetings of the Members, items (a) and (b) shall be applicable and thereafter the agenda shall consist of the items specified in the Notice of the Meeting.

Section 13. Manner of Handling Suggestions from Members

- (a) In order to ensure that Members who happen not to be at the meeting shall have an opportunity to consider the issues involved in the item of new business, only a motion to refer the issue to any committee for evaluation and recommendations shall be entertained.
- (b) When such a motion is passed and such a committee is established, the recommendations of the committee shall be reported in writing to the Members by the Board of Directors together with the announcement of a special meeting to consider the recommendations. The special meeting may, but need not, be held in conjunction with the next meeting of the Board of Directors.
- (c) Although a vote on any issue presented by the recommendations of the committee may ordinarily be held at the special meeting, the Board of Directors may determine that a particular vote is of sufficient importance to be put to all Members (in a written ballot conducted by mail).

**ARTICLE IV**

**Directors**

Section 1. Powers and Duties

The business and affairs of the Corporation, which relate to the land and Building shall be managed by its Board of Directors, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute the Articles of Incorporation or by the Bylaws reserved to the Members. The powers of the Board of Directors, subject to the provisions of the Proprietary Lease, shall include, but not be limited to:

- (a) Accepting or rejecting applications for (i) purchase of a Certificate of Membership in the Corporation and (ii) admission to occupancy of an Apartment.
- (b) Preparing and adopting an annual operating budget in accordance with Article VII, Sections 4-6 below.
- (c) Establishing monthly charges prescribed in the Apartment Lease, based on an annual operating budget formally adopted by the Board.
- (d) Engaging an agent or employees for the management of the Property under such terms as the Board may determine.
- (e) Terminating Certificate of Membership ownerships and Proprietary Leases for cause.

- (f) Promulgating such house rules ("House Rules") pertaining to the use and occupancy of the Property as may be deemed proper and which are consistent with these Bylaws, the Articles of Incorporation and the Proprietary Lease.
- (g) Obtaining adequate and appropriate types of insurance.
- (h) Keeping detailed, accurate records of the receipts and expenditures affecting the use and operation of the Property.
- (i) Purchasing Certificates of Membership and leasing Apartments.
- (j) Carrying out the Corporation's obligations under any contract or lease to which the Corporation is a party.

Section 2. Restrictions of Board of Directors

The Board of Directors shall make no changes to the Building and grounds that shall adversely affect the Landmark status of the Promontory Apartments.

Section 3. Conversion from Promontory Apartments Trust

Intentionally deleted as moot.

Section 4. Membership on the Board of Directors

- (a) Number. The number of Directors of the Corporation shall be five (5).
- (b) Qualifications. Each Director shall be a Member of the Corporation and shall reside on the Property. No Member shall be eligible for election or re- election as a Director if at the time of the election such Member is in arrears for the payment of any rents or charges due to the Corporation that are required by Section 15(c) of the Proprietary Lease.
- (c) Terms of Office. All Directors shall be elected for three (3) year terms. Directors may serve a maximum of two (2) consecutive three (3) year terms. Directors who have completed their maximum number of terms on the Board of Directors are eligible for election or appointment to fill a vacancy after one year has elapsed.
- (d) Nominating Procedures. On the first business day in September of each year, the Election Committee appointed by the Board shall determine the number of upcoming vacancies on the Board of Directors and shall send to all Members a letter soliciting nominations for membership on the Board along with a nominating form for that purpose. The nominating form shall request biographical information about the nominee and a statement as to why the nominator believes the Member will make a good Director. It shall be signed by at least four Members other than

the nominee. A Member may nominate him/herself or another Member. The Election Committee shall interview those duly nominated to confirm their willingness to stand for election and to inform them of the duties and responsibilities of the position.

- (e) Election Procedures. The Election Committee shall host an informal candidates' seminar within ten (10) days following the annual meeting. The Election Committee shall distribute to all Members the biographical information and statements required in the preceding paragraph for all candidates. The Election Committee shall develop a ballot listing the names of all candidates and distribute said ballot to the Members no later than November 15.
- (f) Voting. Voting shall proceed by mail. The election ballots must be placed in a sealed envelope with the signature of the voter on the envelope and returned to the Office of the Building postmarked within ten (10) days of its distribution. The management company shall tally the votes. The results of the election shall be posted in the office of the building one day following the close of the election. The nominating forms, petitions and election ballots shall be retained for a period of one year by the Board of Directors and shall be subject to review upon written request by any Member during usual business hours.
- (g) Time of Taking Office. Each newly elected member of the Board of Directors shall take office within ten (10) days of the date of his/her election.

Section 5. Regular Meetings of the Board of Directors

- (a) Definition. For purposes of this Article IV, "meeting of the Board of Directors" means any gathering of a quorum of the members of the Board of Directors held for the purpose of discussing business of the Corporation.
- (b) Meeting Notices. Notices of meetings of the Board shall be posted in entranceways, elevators, or other conspicuous places in the building of the Corporation at least seventy two (72) hours prior to the meeting of the Board.
- (c) First Meeting. The first meeting of each newly constituted Board of Directors shall be held within ten (10) days after the announcement of the election results.
- (d) Additional Meetings. The Board shall hold at least five (5) meetings per year.

Section 6. Special Meetings of the Board of Directors

- (a) Authority to Call. Special meetings of the Board of Directors may be called by or at the request of the president or a majority of Directors.
- (b) Place of Meeting. The person or persons authorized to call special meetings of the



Board of Directors may fix any place within the Township of Hyde Park in Chicago in the State of Illinois, as the place for holding any special meeting of the Board of Directors called by them.

- (c) Notice of Special Meetings. Notice of any special meeting shall be given at least seventy two (72) hours prior to the meeting by written notice delivered to the Directors in person and posted in the Office of the Building, the elevators, and the laundry room. The purpose of the meeting shall be specified in the notice.

#### Section 7. Conduct of Meetings

- (a) Open Meetings. Meetings of the Board shall be open to any Member with the following exceptions:
  - (i) Litigation. Any portion of a meeting in which the Directors discuss litigation when an action against or on behalf of the Corporation has been filed and is pending in a court or administrative tribunal, or when the Board finds that such an action is probable or imminent.
  - (ii) Employee Matters. Any portion of a meeting in which the Directors consider information regarding appointment, employment or dismissal of an employee.
  - (iii) Member Violations. Any portion of a meeting in which the Directors discuss violations of rules and regulations of the Corporation by Members or persons for whom the Member is responsible under the Proprietary Lease of the Corporation.
- (b) Recordings. Any Member may record by audio tape or other means the proceedings at such meetings or portions thereof required to be open by this Section, if a request has been made to the Board of Directors within 48 hours before the meeting. Any recording made shall not be considered an official act of the meeting.

#### Section 8. Quorum

A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. If there is no quorum, the meeting must be rescheduled within 15 days.

#### Section 9. Manner of Acting

The act of a majority of the Directors shall be the act of the Board of Directors, except as provided elsewhere in the Bylaws.

#### Section 10. Vacancies

Vacancies on the Board of Directors, caused by any reason other than the removal of a Director

by a vote of the Members, shall be filled by a vote of the majority of the remaining Directors, even though they may constitute less than a quorum. Each person so elected shall be a Director until a successor is elected by the Members at the next annual election.

Section 11. Removal of a Director

At any annual or special meeting of the Members duly called, any one or more of the Directors elected by the Members may be removed with or without cause by a vote of two-thirds of the Members of record, and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

Section 12. Informal Action of Directors

Any action required to be taken at a meeting of the Board of Directors, or any other action that may be taken at a meeting of the Board of Directors or at a meeting of a committee thereof, may be taken without a meeting if consent in writing, setting forth the action so taken, shall be signed by all of the Directors and all of the non-director committee members entitled to vote on the subject matter, or by all the members of such committee, as the case may be.

Section 13. Compensation

No Director shall receive compensation for services rendered as a Director.

Section 14. Conflict of Interest

- (a) Purpose. The purpose of this Section is to ensure that (i) no contract or other transaction between the Promontory Corporation and any other corporation or legal entity and (ii) no act of the Promontory Corporation shall be affected or invalidated by the fact of any Director's interest in another corporation or legal entity.
- (b) Definition. Any Director who has any interest, pecuniary or otherwise, in another corporation or legal entity may not vote to authorize any contract, transaction, or other act by involving such corporation or legal entity, or the members, shareholders, officers or directors thereof, except that such a Director may be counted in determining the existence of a quorum at any meeting of the Board of Directors.
- (c) Disclosure. A Director individually, or any firm or legal entity of which the Director is a member, may be a party to, or may have a pecuniary interest in any contract, transaction, or other act of this corporation if the Director's interest is timely disclosed before the meeting at which the contract, transaction, or other act is authorized by the Board. The Director's interest shall be reported in the minutes of that meeting.

Section 15. Proprietary Lease

- (a) Form of Lease. The Board of Directors shall adopt a formal Proprietary Lease to be used by the Corporation for the leasing of all dwelling units in the Building. These Proprietary Leases shall be for terms, with or without provisions for renewals, and shall contain restrictions, limitations, and provisions with respect to assignment, subletting, and transfer of Certificates of Membership in the Corporation to which the leases are appurtenant, as well as any other terms, provisions, conditions, and covenants as the Board of Directors may determine.
- (b) Subsequent Forms. After a Proprietary Lease in the form adopted by the Board of Directors has been executed and delivered by the Corporation, all proprietary leases subsequently executed and delivered shall be in the same form, except with respect to the amount of assessments payable, unless any change or alteration is approved by Members comprising at least two-thirds of the then authorized Membership.
- (c) Fees on Assignment. The Board of Directors shall have the authority, before an assignment or subletting of a Proprietary Lease is approved, to fix and collect any reasonable fee to cover actual expenses and attorney's fees of the Corporation, a service fee of the Corporation, and any other conditions as it may determine, in connection with each proposed assignment.
- (d) Assignment. Proprietary leases shall be assigned or transferred only in compliance with the terms, conditions, or provisions of the Proprietary Leases on file in the principal office of the Corporation or with the Managing Agent of the Property.
- (e) Assignment of Lease and Transfer of Shares. No assignment of any lease or transfer of any Membership in the Corporation shall take effect as or against the Corporation for any purpose until:
  - (i) an assignment in appropriate form has been executed and delivered to the Corporation;
  - (ii) the assignee has assumed and agreed to perform and comply with all covenant and conditions of the assigned lease;
  - (iii) the Membership to which the lease is appurtenant has been transferred to the assignee;
  - (iv) all amounts due have been paid to the Corporation, and
  - (v) all necessary consents have been obtained.
- (f) Lost Certificates of Membership and Proprietary Leases. In the event any

Proprietary Lease or Certificate of Membership is lost, stolen, destroyed, or mutilated, the Board of Directors may authorize the issuance of a new Certificate of Membership or Proprietary lease, require the holder of the Certificate or Lease to make an affidavit or affirmation setting forth the facts as to the loss, destruction, or mutilation, and to give the Corporation a bond, in a reasonable amount as it directs, indemnifying the corporation against any liability or loss that is sustained by the issuance of a new Certificate or Proprietary Lease.

- (g) Corporation's Lien. The Corporation shall at all times have a lien on each Certificate of Membership, Proprietary Lease, and the dwelling unit pertaining thereto, for all unpaid assessments, and for reasonable attorney's fees incurred to collect amounts for enforcement of the lien. On default of any obligation, the Corporation shall have the right to foreclose the lien in a manner provided by applicable law.
- (h) Collateral Pledges. Notwithstanding anything to the contrary contained herein, a purchaser of a Certificate of Membership ("Borrower") may secure a loan (the "Loan") from a lending institution ("Lender") to purchase a Certificate of Membership with a collateral pledge of the Certificate of Membership and a collateral assignment of the lease ("Lease") of that certain unit in the Building to which such holder of the certificate is entitled by virtue of ownership of the Certificate of Membership (the "Unit"), provided, however, that if the Board of Directors shall so request in writing to Lender and Borrower, Lender's agreement or agreements with such Borrower relating to such Loan (the "Loan Documents") shall be in such form and substance as the Board of Directors approve. The Certificate of membership and Borrower's interest under the Lease to be pledged by Borrower to Lender are sometimes hereinafter collectively referred to as the "Collateral". The Board of Directors shall have the right and power to (a) enter into agreements ("Agreements") on behalf of the Corporation not inconsistent with the terms hereof as the Board of Directors shall deem necessary and advisable, which agreements define the relationship between the Corporation and Lender with respect to the security interest of Lender in the Collateral and Lender's rights and obligations in the event of Borrower's default under the Loan, the Lease, the Certificate of Membership, the Bylaws, all agreements to be in form and substance as the Board of Directors shall approve.

## ARTICLE V

### Officers

#### Section 1. Number

The principal Officers of the Corporation shall be a President, a Vice- President/Treasurer, and a Secretary, all of whom shall be elected by and from the Board of Directors.

Section 2. Election and Terms of Office

The Officers of the Corporation shall be elected annually by the Board of Directors at the first meeting of the newly elected Board of Directors. If the election of Officers shall not be held at such meeting, such election shall be held by the time of the second meeting of the newly elected Board of Directors. Each Officer shall hold office (a) until his/her successor shall have been duly elected and shall have qualified, (b) until his/her death, (c) until he/she shall resign or (d) until he/she shall have been removed in the manner hereinafter provided in Section 3 below.

Section 3. Removal of Officers

Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and such Officer's successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose.

Section 4. Vacancies

A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors at any meeting until the next election.

Section 5. The President

The President shall be the principal executive Officer of the Corporation. He/She shall preside at all meetings of the Members and of the Board of Directors. The President may sign, with the Secretary or any other proper Officer of the Corporation authorized by the Board of Directors, certificates of Membership of the Corporation, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. The Vice President/Treasurer

- (a) In the absence of the President or in the event of his/her inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice President may sign, with the Secretary, certificates for certificates of Membership of the Corporation; and shall perform such other duties as may be assigned to him/her by the President or by the Board of Directors. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis.
- (b) The Vice President shall also serve as the Treasurer of the Corporation. In that capacity, the Treasurer shall be responsible for the maintenance of the financial and insurance records of the Corporation. As Chair of the Finance Committee, the Treasurer shall submit the annual budget to the Board and the Members, supervise

the preparation and filing of the corporate tax return, distribute an annual accounting of income and expenses to the Members, and perform such other duties as relate to the financial operations of the Corporation.

Section 7. The Secretary

The Secretary shall (a) keep the minutes of the meetings of the Members and the Board of Directors in one or more books provided for that purpose; (b) keep a book of resolutions approved by the Board of Directors or the Members; (c) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (d) be custodian of the corporate records; (e) keep a register of the post office address of each Member; (f) sign with the President or Vice President, certificates for certificates of Membership of the Corporation, the issue of which shall have been authorized by resolution of the Board of Directors; (g) have general charge of the Membership transfer books of the Corporation; and (h) generally perform all duties incident to the office of Secretary and such other duties as may be assigned to him/her by the President or by the Board of Directors.

## ARTICLE VI

### Committees

Section 1. Definition

A committee acts as an advisory body to the Board of Directors. A committee may make recommendations to the Board. The Board of Directors may delegate to a committee the authority to exercise certain powers or perform certain duties. A committee may only exercise the authority specifically delegated to it by the Board. Members of any and all committees shall be appointed by the Board of Directors.

Section 2. Types of Committee

There shall be two types of committees:

- (a) Standing committees; and
- (b) **Special** committees established by the Board of Directors for the purpose and the terms deemed necessary.

Section 3. Standing Committees

The **standing** committees **may** include, but not be limited to: Rules and Covenants, Finance, Capital Improvements, Elections, and Social. The general and specific charges of each committee shall be determined by the Board of Directors. Each standing committee shall be chaired by a Director.

Section 4. Special Committees

The Board of Directors may appoint to any {ad hoc} special committee any Member or other person it deems necessary for the work of the committee.

Section 5. Meetings

Meetings of committees may be, but are not required to be, open to any Member. **If meeting minutes are taken, they shall be made available to all Members.**

## ARTICLE VII

### Contracts, Loans, Checks and Deposits

Section 1. Contracts

The Board of Directors may authorize any Officer(s) or agent(s) to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 2. Loans

No loans, mortgages or other forms of indebtedness shall be issued or incurred in the name of the Corporation unless authorized by action of the Board of Directors. If the amount borrowed exceeds the sum of One Hundred Thousand Dollars (\$100,000.00) adjusted for inflation using the year 2000 as a base year, or brings the total indebtedness to over Two Hundred Fifty Thousand Dollars (\$250,000.00) adjusted for inflation using the year 2000 as a base year, a simple majority of the holders of outstanding Certificates of Membership must vote to approve such action in a written vote conducted by mail.

Section 3. Payments

All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such Officer(s) or agent(s) of the Corporation, and in such manner as shall be determined by the Board of Directors.

Section 4. Annual Accounting

The Board of Directors shall supply annually to all Members an itemized accounting of income and expenses for the preceding year actually incurred or paid, and showing the net excess or deficit of income over expenses, plus reserves. The Board of Directors shall arrange for a yearly independent certified audit.

Section 5. Budgets

The Board of Directors shall prepare and distribute to all Members at least thirty (30) days prior to the adoption thereof by the Board of Directors a detailed proposed annual budget, setting forth with particularity all anticipated common expenses by category, including preventive maintenance, as well as all anticipated assessments and other income. The budget shall also set forth anticipated changes in assessments.

Section 6. Reserves

All budgets adopted by the Board of Directors shall provide for reasonable reserves for capital expenditures and anticipated maintenance for repair or replacement of the common elements as defined in the Property Lease. To this end, the Board of Directors shall maintain a long-term capital reserve plan that is updated at least every three years. To determine the amount of reserves appropriate for the Corporation, the Board of Directors shall take into consideration the following:

- (a) The repair and replacement cost and the estimated useful life, of the property which the Corporation is obligated to maintain, including but not limited to structural and mechanical components, surfaces of the buildings, common elements, and energy systems and equipment;
- (b) The current and anticipated return on investment of Corporation funds;
- (c) Any independent reserve study that the Corporation may obtain;
- (d) The financial impact on Members and the market value of the Certificates of Membership of any assessment increase needed to fund reserves; and/or
- (e) The ability of the Corporation to obtain financing or refinancing.

The Board and any management company holding reserve funds of the Corporation shall at all times maintain fidelity insurance for an amount necessary to protect the funds of the Corporation in its possession or control against loss of funds by theft or malfeasance. The Board and the management company shall separate the reserve fund from the operating fund of the Corporation and, in the case of the managing agent, from similar funds of other homeowner associations or cooperatives.

Section 7. Investment Policy

The Board of Directors shall adopt a prudent investment policy.



## ARTICLE VIII

### Books and Records

#### Section 1. Records

The Board of Directors shall keep and maintain the following records or true and complete copies of these records, at the Corporation's principal office or such place as may be designated by the Board of Directors:

- (a) The articles of incorporation, bylaws and plats of survey, and all amendments of these.
- (b) The rules and regulations of the Corporation.
- (c) Minutes of all meetings of the Corporation, its Board of Directors and committees having any of the authority of the Board for the immediately preceding seven (7) years.
- (d) All current policies of insurance of the Corporation.
- (e) All contracts, leases, and other agreements then in effect to which the Corporation is a party or under which the Members have obligations or liabilities.
- (f) A current listing of the names and addresses of all Members entitled to vote and a written record of any action taken pursuant to Article III, Section 10 above.
- (g) Ballots and proxies related to ballots for all matters voted on by the Members during the immediately preceding twelve (12) months, including, but not limited to, the election of members of the Board of Directors.
- (h) The books and records of account for the Corporation's current and ten (10) immediately preceding fiscal years, including, but not limited to, itemized and detailed records of all receipts and expenditures.

#### Section 2. Inspection

All books and records of the Corporation may be inspected, examined or copied, at the Member's expense, by any Member entitled to vote, or the agent or attorney of a Member, for any proper purpose during usual business hours. In order to exercise this right, a Member or his agent or attorney must submit a written request to the Board of Directors or its authorized agent, stating with particularity the records sought to be examined and purpose. The Corporation shall make the requested records available within thirty (30) days.

## ARTICLE IX

### Fiscal Year

The fiscal year of the Corporation shall begin on the first (1st) day of January in each year and end on the thirty-first day of December of the same year. The fiscal year herein established shall be subject to change by the Board of Directors should corporate practice subsequently dictate.

## ARTICLE X

### Indemnification

#### Section 1. Actions by Third Parties

The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the name of the Corporation) by reason of the fact that he or she is or was a Director, officer, employee or agent of the Corporation, or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees and legal costs), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, if such person acted in good faith and in a manner that he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation; and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption (a) that the person did not act in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation or (b) with respect to any criminal action or proceeding, that the person had reasonable cause to believe his or her conduct was unlawful.

#### Section 2. Action By or in the Name of the Corporation

The Corporation shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by or in the name of the Corporation to procure a judgment in its favor by reason of the fact that such person is or was a Director, officer, employee or agent of the Corporation, or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, or against expenses (including attorneys' fees and legal costs) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit, if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation.

No indemnification shall be made regarding any claim, issue or matter as to which a person shall

have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the Corporation, unless, and only to the extent that the Court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper.

Section 3. Expenses

To the extent that a Director or Officer of the Corporation has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in Sections 1 and 2, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorney's fees and legal costs) actually and reasonably incurred by him or her in connection therewith.

Section 4. Authorization of Indemnification

Any indemnification under Sections 1 and 2 shall be made by the Corporation (a) as ordered by a court, or (b) as ordered by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or if such a quorum is not obtainable, by a quorum of disinterested directors.

Section 5. Right Not Exclusive

The indemnification provided by this Article X (a) shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any (i) agreement, (ii) vote of Members, (iii) vote of disinterested directors, or (iv) otherwise, as to action in his or her official capacity while holding such office; (b) shall continue as to a person who has ceased to be a director or officer, and (c) shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 6. Insurance

The Corporation shall purchase and maintain insurance on behalf of any person who is or was a Director or Officer of the Corporation, or who is or was serving at the request of the Corporation as a Director or Officer of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of the Article X.

## ARTICLE XI

### Amendment

Subject to the other limitations set forth in these Bylaws or in the Proprietary Lease, these

Bylaws may be amended by a majority of the Members of record by written ballot conducted by mail and subsequent to discussion of the proposed amendment at any annual or special meeting of the Members. Amendments may be proposed by the Board of Directors or by a petition signed by at least twenty percent (20%) of the Members. A statement of any proposed amendment shall accompany the notice of any annual or special meeting at which such proposed amendment is to be discussed.

## ARTICLE XII

### **Dissolution or Conversion**

When it is determined by an affirmative vote of the Board of Directors that the Building is no longer habitable, the Board of Directors shall inform the Members of the Corporation and seek authorization to dissolve the Corporation, sell the Building and land, pay or otherwise satisfy all debts of the Corporation and distribute the remaining assets pro rata to the Members of the Corporation. For purposes hereof, the Building shall not be deemed to be habitable if the cost to renovate or repair the Building and remove or correct any illegal or dangerous or life-threatening condition of the Building exceeds the aggregate of (i) the Corporation's cash on hand, (ii) reserves, (iii) any loans made or to be made to the Corporation and (iv) special assessments.

Such action as described above shall require the approval of not less than two-thirds (2/3) of the Members of the Corporation. Upon approval of the Members, the sale of the Building and land and the pro rata distribution of the remaining assets must be completed not later than one (1) year thereafter. During such one (1) year period, no Member shall be permitted to sell his/her Certificate of Membership or assign his/her Proprietary Lease. In the event the sale of the Building and land has not occurred within said one (1) year time period, the approval of two-thirds (2/3) of the Members shall be required to extend the time period to sell and liquidate said assets.