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**AMENDED AND RESTATED DECLARATION**  
**OF**  
**HIGHGATE CONDOMINIUM**

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**AMENDED AND RESTATED DECLARATION**  
**OF**  
**HIGHGATE CONDOMINIUM**

This AMENDED DECLARATION was duly adopted by the Highgate Condominium Association Inc., on the 1<sup>st</sup> day of June, 2020.

The Condominium Association has voted to adopt the Connecticut Common Interest Ownership Act Codified at Section 47-200 et Seq., of the Connecticut General Statutes as amended by Connecticut Public Act No. 09-225. Accordingly, the affairs of the Condominium Association shall be governed in accordance with the provisions of the Connecticut Common Interest Ownership Act (C.G.S. Chapter 828) as the same may be amended from time to time. (The Act)

The Highgate Condominium was established pursuant to Declaration recorded in Volume 306 Page 181 of the Watertown Land Records.

The Declaration and all amendments of Record are incorporated by reference into this Amended Declaration.

Highgate Condominium shall be governed by the provisions of this Amended and Restated Declaration, Amended ByLaws and as said Documents may be further amended at future dates.

**ARTICLE 1**  
**Definitions**

In the Documents, the following words and phrases shall have the following meanings:

Section 1.1 – Act. The Common Interest Ownership Act, Chapter 828, of the Connecticut General Statutes, as amended.

Section 1.2 – Allocated Interests. The undivided interest in the Common Elements, the Common Expense liability and the Votes in the Association, allocated to the Units in the Common Interest Community. The Allocated Interests are not changed by this Amended Declaration and Schedule A-2 is attached and a part of this Amended Declaration.

Section 1.3 – Assessment. The sums attributable to a unit and due to the Association pursuant to C.G.S. Section 47-257 of the Act, as amended.

Section 1.4 – Association. Highgate Condominium Association Inc., a nonstock corporation organized under the laws of the State of Connecticut. It is the Association of Unit Owners pursuant to the Act, as amended.

Section 1.5 – ByLaws. "ByLaws" means the Documents, however denominated, that contain the procedures for conduct of the affairs of the Association regardless of the form in which the Association is organized, including any amendments to the Documents.

Section 1.6 – Common Elements. All portions of the Common Interest Community other than the Units.

Section 1.7 – Common Expenses. Common Expenses shall mean and include (without limitation) the following:

- (a) Expenses of administration, maintenance, repair or replacement of Common Elements;
- (b) Expenses declared to be Common Expenses by the Documents or by the Act, as amended;
- (c) Expenses declared to be Common Expenses by the Association; and
- (d) Reasonable reserves, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association.

Section 1.8 – Common Interest Community. Highgate Condominium.

Section 1.9 – Damaged or Destroyed. A portion of the Common Interest Community is Damaged or Destroyed (suffers Damage or Destruction) if it suffers physical damage of a type and caused by an occurrence of a type covered by the casualty insurance required by Section 47-255 of the Act, as amended, or by this Declaration, or for which insurance carried by the Association is in effect.

Section 1.10 – Declaration. The Amended and Restated Declaration.

Section 1.11 – Director. A member of the Executive Board.

Section 1.12 – Documents. The Declaration, Survey and Plans recorded and filed pursuant to the provisions of the Act, as amended, the ByLaws and the Rules as they may be amended from time to time. Any exhibit, schedule or certificate accompanying a Document is part of that Document.

Section 1.13 – Eligible Insurer. An insurer or guarantor of a first Security Interest in a Unit which has notified the Association in writing of its name and address and that it has insured or guaranteed a first Security Interest in a Unit. Such notice shall be

deemed to include a request that the Eligible Insurer be given the notices and other rights described in Article 18.

Section 1.14 – Eligible Mortgagee. The holder of a first Security Interest in a Unit which has notified the Association, in writing, of its name and address; and that it holds a first Security Interest in a Unit. Such notice shall be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article 18.

Section 1.15 – Executive Board. The body, regardless of name, designated in the Declaration and By-Laws to act on behalf of the Association. "Executive Board" is sometimes called "Board of Directors" or "Board".

Section 1.16 – Floor Plans. The floor plans filed with the initial Declaration, as amended.

Section 1.17 – Improvements. Any construction or facilities existing or to be constructed on the land included in the Common Interest Community, including but not limited to buildings, paving, utility wires, pipes and light poles.

Section 1.18 – Limited Common Elements. A portion of the Common Elements allocated by this Declaration or by the operation of the Act, as amended, for the exclusive use of one or more but fewer than all of the Units. The Limited Common Elements in this Common Interest Community are described in Article 5 of this Declaration.

Section 1.19 – Majority of Unit Owners. The owners of more than 50% of the Votes in the Association. Any specified percentage, portion or fraction of Unit Owners, unless otherwise stated in the Documents, means such percentage, portion or fraction in the aggregate of the Votes.

Section 1.20 – Manager. A person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

Section 1.21 – Notice and Comment. The right of a Unit Owner to receive notice of an action proposed to be taken by the Association, and the right to comment thereon. These provisions are set forth in Section 24.1 of this Declaration.

Section 1.22 – Notice and Hearing. The right of a Unit Owner to receive notice of an action proposed to be taken by the Association and their right to be heard thereon. These provisions are set forth in Section 24.2 of this Declaration.

Section 1.23 – Person. An individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency or other legal or commercial entity.

Section 1.24 – Plans. The plans filed with the initial Declaration, as amended, in the Watertown Land Records, incorporated herein by reference.

Section 1.25 – Property. The land, all improvements, and all easements, rights and appurtenances belonging thereto, which have been submitted to the provisions of the Act, as amended, by the initial Declaration and prior amendments.

Section 1.26 – Record. "Record", used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Section 1.27 – Rule. "Rule" means a policy, guideline, restriction, procedure or regulation of the Association, however denominated, which is adopted by the Association, which is not set forth in the Declaration or ByLaws and which governs the conduct of persons or the use or appearance of property.

Section 1.28 – Security Interest. An interest in real property or personal property, created by contract or conveyance, which secures payment for performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.29 – Survey. The survey filed with the initial Declaration as Schedules and as filed with Amendments to the Declaration. The survey filed on the Watertown Land Records is incorporated by reference herein.

Section 1.30 – Trustee. The person which may be designated by the Board of Directors as the Trustee for the receipt, administration, and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses, and other like sources as defined in the ByLaws. If no Trustee has been designated, the Board of Directors acting by majority vote, as executed by the President and attested by the Secretary shall serve as the Trustee.

Section 1.31 – Unit. A physical portion of the Common Interest Community designated for separate ownership or occupancy, the boundaries of which are described in Section 4.3 of this Declaration. Units are designated on the Plans, the Survey, or in Schedule A-2 as a "Residential Unit". A Unit is designed primarily for use as a private residence. The use of Units is limited and regulated by the provisions of Article 10 and other provisions of this Declaration.



Section 1.32 – Unit Owner. The person or persons owning a Unit in fee simple absolute and an undivided interest in fee simple of Common Areas in the percentage specified and established in this Declaration.

Section 1.33 – Unit, Residential. One of the one hundred twenty-six (126) separate Units.

Section 1.34 – Votes. The votes allocated to each Unit.

## **ARTICLE 2**

### **Name and Type of Common Interest, Community and Association**

Section 2.1 – Common Interest Community. The name of the Common Interest Community is Highgate Condominium. The Common Interest Community is a Condominium.

Section 2.2 – Association. The name of the Association is Highgate Condominium Association Inc. It is a nonstock corporation organized under the laws of the State of Connecticut.

## **ARTICLE 3**

### **Description of Land**

The Common Interest Community and all additional land is situated in the Town of Watertown, Connecticut. A legal description of the Common Interest Community is attached to this Declaration as Schedule A-1.

## **ARTICLE 4**

### **Number of Units; Boundaries**

Section 4.1 – Number of Units. The Common Interest Community contains one hundred twenty-six (126) Residential Units.

Section 4.2 – Identification of Units. All Units are identified by number and are shown on the survey or plans or both on file in the Watertown Land Records and identified in Schedule A-2 attached hereto.

Section 4.2.2 – Description of Buildings as Originally Declared. The property consists mainly of 16 apartment house buildings, an in-ground swimming pool, a small asphalted basketball court, the various site improvements such as utilities and asphalt paving.

The buildings contain 126 Units. Eight of the buildings contain four one-bedroom flats each and four two-bedroom flats each. Four of the buildings contain four two-bedroom townhouses each and four three-bedroom townhouses each. Three

of the buildings contain eight one-bedroom flats each and one building contains six two-bedroom townhouses.

The exterior walls are constructed from brick, stone, wood and aluminum clapboards, and they are set upon concrete foundations. Three of the buildings (A, C, and D) are set upon slabs and the rest have basements. The roofs have asphalt shingles.

The interiors were originally constructed as finished with drywall on the ceilings and walls, and the floors are finished with hardwood, wall to wall carpet, vinyl tile and ceramic tile. The buildings are heated with hot water gas fired furnaces. The Units are also equipped with garbage disposals, refrigerators and stoves.

Four of the buildings (A, B, C, and D) utilize attic storage and the rest utilize basements. Washer hook-ups are provided in the common halls in buildings A, C, & D, and the rest have hook-ups in the basements, with the exception of building B which has hook-ups in each downstairs bathroom. Building B also has a combination community room/washroom which has hook-ups for six washer/dryer sets, a kitchenette (just sink and cabinets), a carpeted lounge area, and three full baths (one bath has a combination shower/tub and the other two have shower stalls).

Since the site is located at an elevation higher than most of the water mains in the town of Watertown, the domestic water supply is controlled by a compression tank system. An 80,000-gallon storage tank is replenished nightly from the public water main. A pump is used to bring water from the storage tank into a 3,000-gallon compression tank, and the pressure from the tank pushes the water up to the Units. There are two pumps that can be periodically alternated so that an adequate back-up is available. Sewage disposal is provided through the municipal system.

The pool is approximately 25 feet by 50 feet, and it is surrounded by a concrete deck and a four-foot-high chain link fence.

The complex is situated on a parcel of land containing approximately 45 acres. The land is stated on the easterly side of Cherry Avenue, Watertown, Connecticut, south of Belden Street. It has an overall rise up from road grade along Cherry Avenue to the east to an area where all improvements are situated. From the interior of the property the land has an overall slope down toward the east, and north, and commands an excellent view from several of the buildings.

56 one-bedroom, Single floor, 1 bath – 700 square feet  
32 two-bedroom, single floor, 2 baths – 1,000 square feet  
22 two-bedroom townhouses, 1 ½ baths – 1,200 square feet  
16 three-bedroom townhouses, 1 ½ baths – 1,300 square feet.

Section 4.3 – Boundaries. The boundaries of each Unit are the planes or surfaces located as shown on the Survey and Plans and are more particularly described in the balance of this Subsection. The outside-facing surfaces of elements or materials included within the Unit and the inside-facing surfaces of elements or materials excluded from the Unit define the boundaries of the Unit. An outside-facing surface is one which faces away from the interior of the Unit and towards a Common Element, another Unit or the outside of the Common Interest Community. An inside-facing surface is one which faces away from a Common Element, another Unit or the outside of the Common Interest Community and towards the interior of the Unit. Where elements or materials are not contiguous, planes extended from the applicable surfaces of such elements or materials are the boundaries of the Unit.

(a) Upper Boundary

- (i) The ceilings are the upper boundary of each Unit.
- (ii) The outside-facing surfaces of the following elements and materials define the Unit boundary, and the following elements and materials are included within the Unit:
  - (A) Lath;
  - (B) Furring;
  - (C) Wallboard;
  - (D) Plasterboard;
  - (E) Plaster, joint compound, and joint tape;
  - (F) Paneling;
  - (G) Tiles;
  - (H) Wallpaper;
  - (I) Finish trim, paint, and any other materials constituting any part of the finished surfaces of the ceilings;
  - (J) Ceiling hatchway doors, and their jambs, frames, hardware, and trim;
  - (K) Ventilation grilles and trim; and
  - (L) Ceiling lights outlets, switches and fixtures, including enclosures and trim.
- (iii) The inside-facing surfaces of the following elements and materials define the Unit boundary, and the following elements and materials are excluded from the Unit:
  - (A) Covered Structural elements, including studs, rafters, beams, and hardware;
  - (B) Visible Structural elements, beneath their finishes; and
  - (C) Skylights, frames, trim and hardware.

(b) Lower Boundary

- (i) The floors are the lower boundary of each Unit.
- (ii) The outside-facing surfaces of the following elements and materials define the Unit boundary, and the following elements and materials are included within the Unit:
  - (A) Tiles;
  - (B) Floorboards;
  - (C) Resilient finished floor covering, including, linoleum, asbestos, vinyl, and rolled plastic flooring material;
  - (D) Finished flooring, finish trim, and any other materials constituting any part of the finished surfaces of the floor;
  - (E) Finish trim, paint, and any other materials constituting any part of the finished surfaces of the floors;
  - (F) Ventilation grilles and trim;
  - (G) Switches, lights, outlets and fixtures, including enclosures and trim;
  - (H) Wall-to-wall installed carpet;
  - (I) Plumbing fixtures, including faucets, sinks, bathtubs, shower enclosures, and toilets; and
  - (J) Cabinets and enclosures.
- (iii) The inside-facing surfaces of the following elements and materials define the Unit boundary, and the following elements and materials are excluded from the Unit:
  - (A) Covered Structural elements, including rafters, joists, beams, and hardware;
  - (B) Visible Structural elements, beneath their finishes;
  - (C) Sub-flooring; and
  - (D) Poured concrete and Gypcrete floors.

(c) Vertical Boundary

- (i) The walls are the vertical boundaries of each Unit.
- (ii) The outside-facing surfaces of the following elements and materials define the Unit boundary, and the following elements and materials are included within the Unit:
  - (A) Lath;
  - (B) Furring;
  - (C) Wallboard;
  - (D) Plasterboard;

- (E) Plaster, joint compound, and joint tape;
  - (F) Paneling;
  - (G) Tiles;
  - (H) Wallpaper;
  - (I) Finish trim, paint, and any other materials constituting any part of the finished surfaces of the walls, with the exception that interior, and non-bearing partition walls are a part of the Unit;
  - (J) Ventilation grilles and trim;
  - (K) Wall lights, outlets, switches and fixtures, including enclosures and trim;
  - (L) Plumbing fixtures, including faucets, sinks, bathtubs, shower enclosures, and toilets; and
  - (M) Cabinets and enclosures.
- (iii) The inside-facing surfaces of the following elements and materials define the Unit boundary, and the following elements and materials are excluded from the Unit:
- (A) The unfinished surfaces of windows, sills, frames, trim, and hardware;
  - (B) The unfinished surfaces of exterior doors, jambs, sills, frames, trim, and hardware;
  - (C) Visible Structural elements, beneath their finishes; and
  - (D) Covered Structural elements, including studs, rafters, beams, poured concrete or masonry, and hardware;
- (d) Additional Inclusions. Each Unit will include the following, the surfaces of which constitute the boundaries of the Unit, whether or not such spaces are contiguous:
- (i) The spaces and Improvements lying within the boundaries described in Paragraphs 4.3(a),(b)&(c) above;
  - (ii) The spaces and the Improvements within such spaces containing electrical switches and outlets, circuit breakers, wiring, pipes, valves, ducts, conduits, smoke, fire, burglar and other alarm systems, sprinklers, meters, meter boxes and telecommunication systems serving such Unit exclusively, but located outside of the boundaries described in Paragraphs 4.3(a)(b)&(c) above.
  - (iii) Decorative elements affixed to and penetrating the walls, ceilings or floors; and
  - (iv) Any space heating, water heating, or air conditioning machinery or equipment, serving such Unit exclusively,

together with any pipes, wires, ducts, serving such machinery or equipment.

- (e) Additional Exclusions. Except when specifically included by other provisions of Section 4.3, the following are excluded from each Unit and are part of the Common Elements:
- (i) The spaces and Improvements lying outside of the boundaries described in Paragraphs 4.3(a)(b)&(c) above; and
  - (ii) All chutes, pipes, flues, ducts, wires, conduits, and other facilities running through or within any interior wall or partition of the Unit for the purpose of furnishing utility and similar services to one or more other Units or to Common Elements.
- (f) Easements for Structures Serving Other Units or Common Elements and Access. Units are subject to easements for Common Elements that are located inside the surfaces defining the ceiling, floor, and wall boundaries, such as common pipes, ducts, chases, and utility lines. The boundaries of these easements are the interior, unfinished surface of ceilings and enclosures of such elements, or the surfaces of such elements if not so enclosed, and the plane of the studs and framing, or if there is none, the surface of the wallboard away from the Unit of demising partition walls separating living area of such Unit from the enclosure for those elements, or the surface of the element if not enclosed. The Unit Owner and the Association have an easement for access for repair and maintenance over and through the adjoining Common Elements and Units, and an easement for pipes, ducts, utility ways and chases, access stairs, and fences passing through the other Units or Common Elements and serving the dominant Unit or Common Elements exclusively. Such physical structures, including party walls serving two Units or both a Unit and a Common Element, will be shared through a mutual nonexclusive easement of enjoyment for all purposes for which the Improvements and their replacements were intended. Reasonable access for repairs and Improvements to physical Improvements in Common Elements serving a Unit adjoining a Common Element or another Unit may be made by the Unit Owner of the dominant Unit or Limited Common Elements at reasonable times upon notice to any affected Unit Owner. Access for emergency repairs may be made through the Association at any time.
- (g) Monuments as Boundaries. Physical Improvements described as defining the boundaries will be monuments of title as described in Section 47-233 of the Act, regardless of the location of the boundary as shown on the Survey or Plans.

- (h) Guide to Interpretation. In applying or interpreting the Unit boundary definitions set out in this Section 4.3, the following principles should be used where the boundary definitions do not provide a clear answer:
- (i) Elements and materials that are visible from the outside of a Unit are part of the Common Elements.
  - (ii) Elements and materials that support the building in which a Unit is located or that keep that building weather-tight are part of the Common Elements.
  - (iii) Elements and materials that are visible from the interior of the Unit and that may be subject to change or redecoration without fundamental change to the Structure of the building in which a Unit is located are part of the Unit.
  - (iv) The hardware and supports necessary to operate any element, to permit it to move or function or to keep it in place are of the same character (Unit, Common Element, or Limited Common Element) as the element they serve.
- (i) Inconsistency with Plans. If the Plans are inconsistent with this definition, then this definition will control.
- (j) Inconsistency with Survey and Plans: If this definition is inconsistent with the Survey and Plans, then this definition shall control.
- (k) If construction, reconstruction repair, shifting, settlement, or other movement of any portion of the Improvements results either in the common areas encroaching on any Unit, or in a Unit encroaching in the common areas or another Unit, a valid easement shall be created for both the encroachment and its maintenance. The easement will extend for whatever period the encroachment exists.
- (l) Non-Contiguous Portions: Units may include special portions, pieces or equipment such as air conditioning compressors, meter boxes, utility connection structures and storage portions situated in buildings or structures that are detached or semidetached from the buildings containing the principal occupied portion of the Units. Such special equipment and storage portions, and the Garage, are a part of the Unit notwithstanding their noncontiguity with the residential portions.

## ARTICLE 5 Limited Common Elements

Section 5.1 – Limited Common Elements. The following portions of the Common Elements are Limited Common Elements assigned to the Units as stated:

- (a) If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.
- (b) Any shutters, awnings, window boxes, doorsteps, stoops, porches, decks, balconies, patios and all other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.
- (c) Stoops and steps at the entrances to each building, which provide access to less than all Units, the use of which is limited to the Units to which they provide access.
- (d) Heating, ventilating and air conditioning components and all electrical switches, television, telephone electrical receptacles and light switches serving one unit exclusively are Limited Common Elements of the Unit which they serve.
- (e) Storm windows, exterior windows, storm doors, exterior doors and slider doors, if any, shall be Limited Common Elements of the Unit which they serve.
- (f) Attic space above each Unit, the use of which is limited to the Unit beneath it.
- (g) Mailboxes and exterior lighting affixed to the building shall be Limited Common Elements allocated to the Unit served. Each Unit Owner shall be responsible for his or her mailbox key.
- (h) Common Hallways and Stairways, the use of which is limited to the Units to which they serve.
- (i) Designated parking spaces, the use of which is limited to the Units to which they are assigned as shown on the Survey and Plans or both.

As to each of the foregoing, a right of use is reserved as an appurtenance to the particular Unit or Units as described above. The fee ownership of the Limited Common Elements, however, is vested in all of the Unit Owners.

Section 5.2 – Easements to Limited Common Element. Each Unit Owner shall have a right to and an exclusive easement for the use of the Limited Common Element



allocated to the Unit owned by such party. The Fee ownership of the Limited Common Elements, however, shall be vested in all of the Unit Owners.

Section 5.3 – Compliance with Maintenance Standards. Each Unit Owner shall be responsible to comply with all written maintenance standards of the Association in order to prevent damage to units, Limited Common Elements, or Common Elements. Written maintenance standards may be established and amended from time to time by the Executive Board.

## **ARTICLE 6 Maintenance, Repair and Replacement**

Section 6.1 – Common Elements. The Association shall maintain, repair and replace all of the Common Elements except the portions of the Limited Common Elements which are required by this Declaration to be maintained, repaired or replaced by the Unit Owners.

Section 6.2 – Units. Each Unit Owner shall maintain, repair and replace, at his or her own expense, all portions of his or her Unit, except the portion to be maintained, repaired or replaced by the Association. By Rule, the Association may adopt additional standards concerning maintenance repair and replacement of Units for the purpose of avoiding adverse effects on the condition, use, or enjoyment of other Units or the Common Elements.

Section 6.3 – Limited Common Elements. The Condominium Association shall be solely responsible, except as otherwise provided herein, for all costs and expenses associated with the care, maintenance and upkeep of Limited Common Elements allocated to the Unit owned by such Owner.

- (a) Each Unit Owner's responsibilities shall include all costs for the inspection, maintenance, repair and/or replacement, as the case may be, of:
- (i) Exterior doors leading to common hallway, storm doors, screen doors and slider doors, if any;
  - (ii) Exterior windows, storm windows and screen windows on any unit;
  - (iii) Skylights, including hardware;
  - (iv) Garage door(s) and related mechanical system(s);
  - (v) Heating, ventilating and air conditioning components and washer machine (clothes and dishes) hook-ups (hoses);
  - (vi) All fixtures, electrical switches, television, telephone electrical receptacles and light switches serving one unit exclusively.
  - (vii) Mailbox key; and

(viii) Any improvements, of any nature, within basement areas including responsibility of remediation of Radon, if any, in basement areas. Each Unit Owner shall be responsible for any personal property stored in basement areas.

Each Unit Owner in buildings A, B, C and D, shall be responsible for the maintenance, repair and/or replacement of his or her attic space.

- (b) The Association shall be responsible for the maintenance, repair and/or replacement of:
- (i) Front stoops;
  - (ii) Porches, patios, decks and balconies; and
  - (iii) Exterior doors and windows that serve the common hallways.
- (c) In the event that a Limited Common Element is not maintained in conformance with the standards of the Common Interest Community, the Association, after notice and hearing, may repair, restore or maintain such Limited Common Element to the standards of the Common Interest Community. All expenses incurred by the Association shall be at the expense of the Unit Owner to which such Limited Common Element is allocated and shall be chargeable against the Unit as a Common Expense in accordance with this section.
- (d) If any such Limited Common Element is assigned to more than one Unit, the Common Expenses attributable to the Limited Common Element shall be assessed equally among the Units to which it is assigned.
- (e) The maintenance of grounds in the Common Elements as well as the clearing of snow and ice from all front walks and front steps shall be performed by the Association and shall be a Common Expense which shall be allocated to the Units in accordance with each Unit's percentage of the Common Expense Liability. The care of plantings, flowers and shrubs in the Common Elements shall be performed by the Association and shall be a Common Expense which shall be allocated to the Units in accordance with each Unit's percentage of the Common Expense Liability.
- (f) Each Unit Owner shall be responsible for removing all snow, leaves and debris from all porches, patios, rear steps, rear stoops, terraces, decks and balconies, if any, which are part of his or her Unit or a Limited Common Element allocated to his or her Unit.
- (g) Each Unit Owner with a dryer shall be responsible to clean his or her dryer vents during odd years (2021, 2023, etc...). Proof of same shall be provided to the Association during odd years and periodically upon request by the Executive Board.

Section 6.4 – Access. Any person authorized by the Executive Board shall have the right of access to all portions of the Property for the purpose of correcting any condition threatening a Unit or the Common Elements, for the purpose of performing installations, alterations or repairs and for the purpose of reading, repairing or replacing utility meters and related pipes, valves, wires and equipment, provided that requests for entry to a Unit or enclosed Limited Common Element are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner consistent with the availability of contractors and others employed or engaged by the Association. Such right of access may be exercised without Unit Owner notice if there is reason to believe a unit is not occupied in order to make certain heat is being maintained in the unit or its enclosed Limited Common Elements. In case of an emergency, no such request or notice is required and such right of entry shall be immediate, whether or not the Unit Owner is present at the time. If a Unit Owner fails to permit access to a Unit as reasonably requested by the Association, the Association may seek a court order to allow access to the unit without the Unit Owner's consent. In such case, any cost and attorney's fee of obtaining such court order shall be assessed to the Unit Owner's account. If a Unit is damaged as a result of access obtained under this Section, the Association will be responsible for the prompt repair of the Unit, except as provided in Subsection 19.2(f) and Subsection 19.2(i) of the Amended Declaration.

Section 6.5 – Repairs Resulting From Willful Misconduct, Gross Negligence and/or Failure to Comply with a Written Maintenance Standard. The cost to repair damage to any Unit or Common Element caused by willful misconduct, gross negligence or the failure to comply with a written Maintenance Standard promulgated by the Association by any Unit Owner, tenant, guest or invitee of a Unit Owner or tenant shall be assessed in accordance with Article 19.2(i) of this Amended Declaration.

Section 6.6 – Failure to Maintain, Repair and Replace.

- (a) If a Unit Owner unreasonably fails to Maintain, Repair or Replace his or her Unit or any other portion of the Common Interest Community for which the Unit Owner is responsible after the Unit Owner knew or should have known that such Maintenance, Repair or Replacement was needed, and such failure causes damage to another Unit or to the Common Elements, the Unit Owner shall reimburse the owner of the damaged Unit, and/or the Association, as the case may be, for the cost of repairing the damage in excess of any insurance proceeds received by the Association under its insurance policy, whether the portion results from the application of a deductible or otherwise.
- (b) If the Association unreasonably fails to Maintain, Repair or Replace the Common Elements or any other portion of the Common Interest Community for which it is responsible after the Association knew or should have known that such Maintenance, Repair or Replacement was needed, and such failure causes damage to a Unit,

- (i) If the damage is covered by the Association's insurance policy, the Association shall repair it in accordance with Article 22 of this Declaration; or
  - (ii) If the damage is not covered by the Association's insurance policy, the Association shall reimburse the Owner of the damaged Unit for the cost of repairing the damage.
- (c) If a Unit Owner fails to Maintain, Repair or Replace his or her Unit or any other portion of the Common Interest Community for which the Unit Owner is responsible and such failure creates a condition that threatens another Unit or the Common Elements, the Association may take such actions as are necessary to correct such condition without prior notice or with only such prior notice as can reasonably be given consistent with the threat. If the Association does take such action, the Unit Owner shall reimburse the Association for the cost of correcting the condition.
- (d) The Board or its designated Agent, shall have the sole discretion and authorization to enter any Unit during the months of November through April of each year for the purpose of determining whether the heat is on in the Unit and/or whether the Unit has been winterized. The Board of Directors shall have the sole discretion and authorization to turn heat on and/or winterize any Unit it determines is not heated and/or winterized. All costs, including reasonable attorney's fees, shall be assessed back to the Unit Owner.

Section 6.7 – Inspection, Repair and Replacement of High Risk Components.

- (a) Notwithstanding the provisions of this Article 6, the Executive Board may, from time to time, after Notice and Comment, determine that certain portions of the Units required to be maintained by the Unit Owners, or certain objects, fixtures or components within the Units, pose a particular risk of damage to other Units and to the Common Elements if they are not properly inspected, maintained, repaired or replaced. By way of example, but not of limitation, these portions, objects, fixtures or components might include smoke detectors, washer hoses, chimneys and water heaters. In this Section 6.7, those items determined by the Executive Board to pose such a particular risk are referred to as "High Risk Components."
- (b) At the same time that it designates a "High Risk Component" or at a later time, the Executive Board, after Notice and Comment, may require one or more of the following with regard to the High-Risk Component:
- (i) That it be inspected at specified intervals by the Association or an inspector or inspectors designated by the Association, or an

inspector or inspectors having particular licenses, training or professional certification.

- (ii) That it be replaced or repaired at specified intervals, or with reference to manufacturers' warranties, whether or not the individual component is deteriorated or defective.
  - (iii) That it be replaced or repaired with items or components meeting particular standards or specifications established by the Executive Board.
  - (iv) That when it is repaired or replaced, the installation include additional components or installations specified by the Executive Board.
  - (v) That it be repaired or replaced by contractors having particular licenses, training or professional certification or by contractors approved by the Association.
  - (vi) If the replacement or repair is completed by a Unit Owner, that it be inspected by a person designated by the Association, or an inspector or inspectors having particular licenses, training or professional certification.
- (c) The imposition of requirements by the Executive Board under Subsection 6.7(b) shall not relieve a Unit Owner of his or her obligations under Section 6.2 of this Article, including, but not limited to, the obligation to perform and pay for repairs, maintenance, and replacement.
- (d) If any Unit Owner fails to repair, maintain or replace a High-Risk Component, or have the High Risk Component inspected, in accordance with the requirements established by the Executive Board under this Section 6.7, the Association may, in addition to any other rights and powers granted to it under the Documents and the Act:
- (i) Enter the Unit in accordance with Section 6.4, and inspect, repair, maintain or replace the High-Risk Component, and charge the cost to the Unit Owner as a common expense attributable to the Unit under Section 19.2;
  - (ii) Fine the Unit Owner or the occupant of the Unit or both; and
  - (iii) Bring an action against the Unit Owner for specific performance of the Unit Owner's duties under this Section 6.7.

Section 6.8 – Conduct of Maintenance, Repair and Replacement by the Association. The Association, acting at the direction of the Executive Board, and not the Unit Owner of any affected Unit, shall have the exclusive authority to select, contract with, direct, retain and replace all contractors and vendors for all activities to Maintain, Repair and Replace portions of the Property for which funds of the Association are used or to be used.

**ARTICLE 7**  
**Subsequently Allocated Limited Common Elements**

Common Elements may be subsequently allocated as Limited Common Elements only in accordance with this Declaration.

**ARTICLE 8**  
**Development Rights and Special Declarant Rights**

There are no remaining Development Rights or Special Declarant Rights.

**ARTICLE 9**  
**Membership and Allocated Interests**

Section 9.1 – Allocation of Interests. Schedule A-2, describing Unit numbers and their Allocated Interests, is attached as an Exhibit to the initial Declaration, prior Amendments and this Amended Declaration. These interests have been allocated in accordance with the formulas set out in this Article 9. This Amended Declaration contains no change to the Allocation of Interests. The Allocation of Interests are shown on Schedule A-2 of this Amended Declaration.

Section 9.2 – Formulas for the Allocation of Interests. The interests allocated to each Unit have been calculated using the following formulas:

- (a) Votes. Each Unit in the Common Interest Community shall have one (1) vote.
- (b) Common Expense Liability. The percentage liability for Common Expenses allocated to each Unit is based on the relative floor area of each Unit as compared to the floor area of all of the Units in the Common Interest Community as set forth in Schedule A-2. Nothing contained in the Subsection shall prohibit certain common expenses from being apportioned to particular units under Article 19 of this Declaration.
- (c) Undivided Interest in the Common Elements. The percentage of the undivided interest in the Common Elements allocated to each Unit is based on the

relative floor area of each Unit as compared to the floor area of all of the Units in the Common Interest Community as set forth in Schedule A-2.

Section 9.3 – Membership. Every Unit owner shall be a member of the Association.

**ARTICLE 10**  
**Restrictions on Use, Alienation, Occupancy and Leasing**

Section 10.1 – Use and Occupancy Restrictions. The following use restrictions apply to all Units and Common Elements:

- (a) Each Unit is restricted to residential use as a single-family residence except, to the extent permitted by law, for home professional pursuits not requiring regular visits from the public or unreasonable levels of mail, shipping, trash or storage requirements. No sign indicating commercial uses may be displayed outside a Unit. A single-family residence is defined as a single housekeeping Unit, operating on a nonprofit, noncommercial basis, between its occupants, cooking and eating with a common kitchen and dining area, with no more overnight occupants than two per bedroom as designated on the plans on file with the building official of Watertown. The use of all condominium facilities is restricted to residents of the condominium. This means that only Unit Owners that reside at the condominium and/or tenants that reside at the condominium may use the condominium facilities.
- (b) No noxious or offensive activities may be carried on in any Unit or Common Element or Limited Common Element, nor may anything be done therein either willfully or negligently which may be or become an annoyance or nuisance to the other Unit Owners or occupants. Each Unit Owner will be obligated to maintain his own Unit and keep it in good order and repair.
- (c) No immoral, improper or offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all Governmental bodies having jurisdiction thereof shall be observed. Provisions of the laws, orders, rules, regulations or requirements of any Governmental agency having jurisdiction thereof relating to any portion of the Property shall be complied with, by and at the sole expense of the Unit Owners or the Association, whichever shall have the obligation to maintain or repair such portion of the Property.
- (d) No clothes, sheets, blankets, laundry of any kind, or any other articles shall be hung out or exposed on any part of the Common Elements. The Common Elements shall be kept free and clear of rubbish, debris and other unsightly material.

- (e) Draperies, blinds or curtains must be installed by each Unit Owner of all windows of a Unit and must be maintained on said windows at all times.
- (f) There shall be no obstruction of the Common Elements, nor shall anything be stored in the Common Elements without the prior written consent of the Board of Directors.
- (g) Except to the extent permitted by law, Unit Owners and residents shall not cause or permit anything to be hung or displayed on the outside windows or placed on the outside walls or Limited Common Elements of any of the Buildings; and no sign, awning, canopies, shutters or radio or television antennas shall be affixed to or placed upon the Limited Common Elements, Common Elements, exterior walls or roofs or any part thereof without the prior written consent of the Board of Directors.
- (h) No animals of any kind shall be kept in any Unit or in the Common Areas except one (1) household pet per Unit and subject to the Rules and Regulations as adopted by the Board of Directors.
- (i) The use of the swimming pool is limited to Unit Owners and their guests. Said use may be regulated by the Rules and Regulations of the Association, as amended.
- (j) The use of Common Elements, Units and Limited Common Elements are subject to the Declaration, ByLaws and the Rules of the Association.

Section 10.2 – Restrictions on Alienation.

- (a) A Unit may not be conveyed pursuant to a time-sharing plan as defined under Chapter 734b of the Connecticut General Statutes.
- (b) **Renting and Leasing.** A Unit may be leased; however, no Unit or part thereof, unless the same is owned by the Association, shall be rented or used for transient or hotel purposes, which is defined as: (i) rental for any period less than thirty (30) days; (ii) rental under which occupants are provided customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and similar services; or (iii) rental to roomers or boarders, that is, rental to one or more persons of a portion of a Unit only. No lease may be of less than an entire Unit. All lease agreements shall be in writing, shall provide that the tenant shall be subject in all respects to the provisions hereof, and to the rules and regulations promulgated from time to time by the Board, and shall provide that the failure by the lessee to comply with the terms of the Condominium



Organizational Documents and lawful rules and regulations shall be a default under the lease.

- (c) Notwithstanding anything to the contrary contained in Section 10.2(b) above, all leases and rental agreements shall be in writing and subject to the requirements of the Documents and the Association and may not be for a term of less than one (1) year. A copy of each lease must be delivered to the Association.
- (d) The Board of Directors shall not have the authority to approve or reject any tenant.
- (e) AirBnB's and similar housing arrangements are strictly prohibited.
- (f) The provisions of this Section 10.2 are subordinate to and subject to Section 10.6 below.

Section 10.3 – Rules and Regulations. Rules and Regulations concerning the use of the Units and the Common Areas may be made and amended from time to time by the Board of Directors in accordance with the provisions of the ByLaws.

Section 10.4 – Abatement and Enjoinment of Violations by Unit Owners. The violation of any Rule or Regulation adopted by the Board of Directors, or the breach of any obligation contained in the ByLaws, or the breach of any obligation contained in the Declaration, shall give the Board of Directors the right, in addition to any other rights set forth by the ByLaws to:

- (a) Enter the Unit in which, or as to which, such violations or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing, or condition that exists therein contrary to the intent and meaning of the provisions thereof, and the Board of Directors shall not thereby be guilty in any manner of trespass; or
- (b) Enjoin, abate or remedy the continuance of any such breach by appropriate equitable proceedings including mandatory injunction, there being no appropriate legal remedy, at the cost of the Unit Owner, with reasonable attorney's fees and related costs of any such proceedings.
- (c) By resolution, following Notice and Hearing, the Board of Directors may levy a fine in an amount to be established by the Board of Directors for each day that a violation of the Documents or Rules has previously occurred and/or persists after such Notice and Hearing, but such amount shall not exceed the amount necessary to ensure compliance with the rule or order of the Board of Directors. Collection of charges for damages or fines may be enforced against the Unit Owner(s) in the same manner as common charges.

Section 10.5 – Notice of Unit Purchase and Copy of Executed Conveyance Deed. Every new Owner shall return to Highgate Condominium Association Inc. c/o the property manager a copy of the fully executed conveyance deed and a completed "New Unit Owner Information Form" within ten (10) days of the date of the conveyance deed. The failure to provide the copy of the conveyance deed and the fully completed "New Unit Owner Information Form" shall constitute a violation of the Highgate Condominium Association Inc. Rules and may subject the Unit Owner to a fine for each day after the ten (10) day time period until the new Unit Owner fully complies with the requirements of this section.

Section 10.6 – Restriction on Leasing of Units. The Association may establish rules to restrict the leasing of residential units to the extent those rules are reasonably designed to meet first mortgage underwriting requirements of institutional lenders who regularly purchase or insure first mortgages on units in Common Interest Communities; provided no such restrictions shall be enforceable unless notice thereof is recorded on the Watertown Land Records. Such notice shall be indexed in the Grantor index of such land records in the name of the Association.

Section 10.7 – Association Right to take Direct Action against Tenants. The Association shall have the right to take direct action against tenants in accordance with the provisions of the ByLaws and/or the Act.

Section 10.8 – Parking Areas. Parking areas are subject to the rules of the Association.

Section 10.9 – Use Affecting Insurance. Nothing may be done or kept in any Unit that will increase the rate of insurance on any Improvements, or the contents of other Units, beyond the rates generally applicable to similar residential common interest communities, without prior written consent of the Executive Board. No Unit Owner may permit anything to be done or kept in his or her Unit which will result in the cancellation of insurance on any of the Improvements or the contents of other Units.

Section 10.10 – Compliance with Laws. Unit Owners and occupants of Units shall comply with all valid laws, ordinances, and regulations, including, but not limited to, zoning and land use regulations, of all governmental bodies having jurisdiction over the Common Interest Community and the Units, and Unit Owners and occupants of Units shall hold the Association and other Unit Owners harmless from all fines, penalties, costs, and prosecutions arising out of any noncompliance or other violation.

Section 10.11 – Rules Affecting the Use and Occupancy of Units. Except as required or permitted by other provisions of the Declaration, the Association may adopt Rules that affect the use or occupancy of Units only for one or more of the following purposes.

- (a) Prevention of any use of a Unit which violates the Declaration, ByLaws and/or Maintenance Standards; or
- (b) Regulation of any occupancy of a Unit which violates the Declaration or adversely affects the use and enjoyment of other Units or the Common Elements by other Unit Owners.

Section 10.12 – Antennas. The Association may adopt Rules regulating and restricting the installation of antennas, including satellite dishes, in the Common Interest Community. However, any such Rule, as it applies to the Units and Limited Common Elements, may not exceed the limitations set by the Federal Communications Act.

Section 10.13 – Right of First Refusal. No Unit Owner may effectively dispose of a Unit or any interest therein by sale or lease without first offering the same for sale or lease to the Association upon the terms and conditions hereinafter provided for. The provisions of this section shall not apply with respect to any sale, lease, or conveyance by a Unit Owner of his or her interest to his or her spouse, to any of his or her children or to his or her parents or parent, or to his or her brothers or sisters or any one or more of them.

- (a) The Unit Owner intending to make a bona-fide sale or lease of his or her Unit or any interest therein shall give to the Association written notice of such intention together with the name and address of the intended purchaser and the terms and conditions of the sale, including the price. The Association shall thereafter have a period of fifty-five (55) days within which they may buy or lease said Unit in the name of the Association upon the same terms and conditions as contained in the outside offer. If the Association is going to buy or lease said Unit, then within ten (10) days of receiving the above notice, the Board of Directors shall hand deliver or mail by certified mail return receipt requested to the Unit Owner an agreement to purchase/lease said Unit upon said terms and condition. The purchase price may be paid in cash or mortgage and the sale/lease shall be closed within forty-five (45) days after the delivery of the notice of the Board's intention to exercise this right of first refusal. Upon the failure of the Board of Directors to exercise said right of first refusal, the Unit Owner shall be free to sell or lease his or her Unit without regard to the right of first refusal.
- (b) If the Board of Directors does not elect to exercise its right of first refusal within ten (10) days after receipt of the notice described in subparagraph (a) of this Article, the Board of Directors shall promptly, upon the request of the Unit Owner, issue a certificate to be executed by the President and/or Secretary in recordable form, which certificate shall be delivered to the Unit Owner, within 15 days after Board action, indicating that the Association does not desire to exercise its right of first refusal. Said certificate may be recorded in the office of the Town Clerk of the City of Watertown.

- (c) The provisions of this Section shall not apply to a transfer to or a purchase by a bank, life insurance company, mortgage company or savings and loan association which acquires its title as a result of owning a mortgage upon the Unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings: nor shall such provisions apply to a transfer or sale by the bank life insurance company, mortgage company or savings and loan association which shall so acquire title. Neither shall such provisions apply to a purchaser who acquires title to a Unit at a duly authorized and advertised public sale with open bidding which is provided by law, such as, but not limited to execution sale, foreclosure sale, judicial or tax sale. Neither shall such provisions apply to any transfer pursuant to a Will or Intestate distribution.
- (d) Violation: Any purported sale, conveyance or transfer of a Unit in violation of this right of first refusal shall be voidable, by the Board of Directors, within five (5) years from the date of recording of the document evidencing such sale, conveyance, or transfer. At the election of the Board of Directors, the Association may take such other action against the parties to such transaction as permitted by law.

## ARTICLE 11 Easements, Licenses

Section 11.1 – Encumbrances. All easements or licenses to which the Common Interest Community is subject are listed as an Exhibit to the initial Declaration. In addition, the Common Interest Community may be subject to other easements or licenses granted by the Declarant.

Section 11.2 – Easement to Common Elements. Each Unit Owner shall have a non-exclusive right to use and a non-exclusive easement in and to the Common Elements for access to the Unit owned by such party and for all other purposes not prohibited by the Declaration, ByLaws or Rules of the Association.

## ARTICLE 12 Allocation and Reallocation of Limited Common Elements

Section 12.1 – Allocation of Limited Common Elements Not Previously Allocated. A Common Element not previously allocated as a Limited Common Element may be so allocated only by amendment to this Declaration.

Section 12.2 – Reallocation of Depicted Limited Common Elements. No Limited Common Element depicted on the Survey or Plans may be reallocated by an amendment to this Declaration pursuant to Article 12 except as part of a reallocation of boundaries of Units pursuant to Article 14 of this Declaration. Any such reallocation

shall be by an amendment to the Declaration executed by the Unit Owners between or among whose Units the reallocation was made. Such amendment shall require approval of all holders of security interests in the affected Units which approval shall be endorsed thereon. The persons executing the amendment shall provide a copy thereof to the Association, which shall record same if the amendment complies with the provisions of this Declaration and the Act, as amended. The amendment shall contain words of conveyance and shall be recorded in the names of the parties and the Common Interest Community. The parties executing the amendment shall be responsible for the preparation of the amendment and shall reimburse the Association for its reasonable attorney's fees in connection with the review of the amendment and for recording costs.

### **ARTICLE 13** **Additions, Alterations and Improvements**

#### Section 13.1 – Additions, Alterations and Improvements by Unit Owners.

- (a) No Unit Owner shall make any structural addition, structural alteration, or structural improvement in or to any portion of the Common Interest Community, nor shall any Unit Owner construct any improvements, or stain, paint or change the color or appearance of the exterior of any Unit, nor shall any Unit Owner construct improvements or change the color or appearance of Limited Common Elements, without the prior written consent thereto of the Board of Directors. The Board of Directors shall answer any written request by a Unit Owner for approval of any such proposed activity within sixty (60) days after such request is received by the Board of Directors. The Board of Directors shall review requests in accordance with the provisions of the Association's rules.
- (b) Subject to Subsection 13.1(a), a Unit Owner:
- (i) May make any other improvements or alterations to the interior of his Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Common Interest Community;
  - (ii) May not change the appearance of the Common Elements, or the exterior appearance of a Unit or any other portion of the Common Interest Community without permission of the Association;
  - (iii) May not remove or alter any intervening partition between 2 or more Unit, nor create apertures therein.
  - (iv) May not make any additions, alterations or improvements to any Unit or Common Element, except pursuant to prior written approval by the Board of Directors, which causes any increase in the premiums of any insurance policies carried by the Association or by the Owners of any Units other than those affected by such change.

(v) May finish the basement serving the Unit subject to the following:

- a. Permits must be obtained and certificates of occupancy obtained.
- b. Only electric heat is allowed. Gas heat is prohibited.
- c. The Association shall have the right to periodically inspect to improvement to ensure compliance with the governing documents and applicable laws/ordinances/codes.

Section 13.2 – Exterior Improvements and Landscaping Within Limited Common Elements. A Unit Owner may make exterior improvements within or as a part of Limited Common Elements provided they are undertaken with the prior written approval of the Board of Directors and following submission of complete plans prepared by a party experienced in performing the work and/or improvements to be made by the Unit Owner to the Board of Directors. No approval will be awarded without Notice and Comment given to the Unit Owners.

The applicant shall pay for the cost of preparation of the application, the cost of professional review, if deemed required by the reviewing entity and all costs of permits and fees connected with any right given under Article 13.

Section 13.3 – Additions, Alterations and Improvements by the Board of Directors. Subject to the limitations of Sections 19.4 of this Declaration, the Board of Directors may make any additions, alterations or improvements to the Common Elements which, in its judgment, it deems necessary.

## ARTICLE 14

### Relocation of Boundaries between Adjoining Units

Section 14.1 – Application and Amendments. Subject to approval of any structural changes pursuant to Article 13, the boundaries between adjoining Units may be relocated by an amendment to this Declaration on application to the Association by the Unit Owners of the affected Units. If the Unit Owners of the adjoining Units have specified a reallocation between their Units of their Allocated Interests, the application shall state the proposed reallocations. Unless, within sixty (60) days after the receipt of the application, the Board of Directors determines that the reallocations are unreasonable, the Association shall consent to the reallocation and prepare an amendment that identifies the Units involved, states the reallocations and indicates the Association's consent. The amendment shall be executed by those Unit Owners, contain words of conveyance between them, and the approval of all holders of Security Interests in the affected Units shall be endorsed thereon, and, on recordation, be indexed in the name of the grantor and the grantee, and in the grantee's index in the name of the Association.

Section 14.2 – Recording Amendments. The Association shall prepare and record surveys and plans necessary to show the altered boundaries between adjoining Units, and their dimensions and identifying numbers.

The applicants shall pay for the costs of preparation of the amendment including surveys and plans, and its recording and the reasonable consultant fees of the Association if the Board of Directors deems it necessary to employ a consultant.

## **ARTICLE 15** **Amendments to Declaration**

Section 15.1 – General. This Declaration may be amended only by vote or agreement of Unit Owners of Units to which at least sixty seven percent (67%) of the votes in the Association are allocated. This Declaration may also be amended in accordance with one (1) or more of the appropriate provisions of Section 47-236 of the Act, as amended.

Section 15.2 – Limitation of Challenges. No action to challenge the validity of an amendment adopted by the Association pursuant to this Article 15 may be brought more than one year after the amendment is recorded.

Section 15.3 – Recordation of Amendments. Every amendment to this Declaration shall be recorded in the town in which the Common Interest Community is located and is effective only on recordation. Any amendment except an amendment pursuant to Article 14 of this Declaration shall be indexed in the grantee's index in the name of the Common Interest Community and the Association and in the grantor's index in the name of the Common Interest Community.

Section 15.4 – When Unanimous Consent is Required. Except to the extent expressly permitted or required by other provisions of the Act, as amended, and this Declaration, no amendment may create or increase Special Declarant Rights, or increase the number of Units, change the boundaries of any Unit, the Allocated Interests of a Unit, in the absence of unanimous consent of the Unit Owners.

Section 15.5 – Execution of Amendments. Amendments to this Declaration required by the Act, as amended, to be recorded by the Association shall be prepared, executed, recorded and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the President of the Association.

Section 15.6 – Consent of Holders of Security Rights. Amendments are subject to the consent requirements of Article 18.

## **ARTICLE 16** **Amendments to ByLaws**

Section 16.1 – Amendments by Executive Board. Except as otherwise provided in Section 16.2, the Executive Board may amend the ByLaws by a vote of two-thirds of all of the members of the Executive Board at any meeting of the Executive Board duly called for such purpose. Before the Executive Board can adopt, amend or repeal any ByLaw, notice shall be given to all Unit Owners of the intention of the Executive Board to adopt, amend or repeal any ByLaw, which notice shall include the text of the proposed ByLaw and/or amendment and/or the text of the ByLaw to be repealed, as applicable, and the date on which the Executive Board will act on the proposed ByLaw, amendment or repeal after considering comments from Unit Owners.

Section 16.2– Amendments by Unit Owners. Only the Unit Owners (and not the Executive Board) shall have the power, by vote of Unit Owners of Units to which more than fifty percent (50%) of the Votes in the Association are allocated, to adopt, amend, or repeal any ByLaw that relates to or affects any of the following:

- (a) The qualifications, powers and duties or terms of office of members of the Executive Board;
- (b) The number of members of the Executive Board;
- (c) The manner of election of Executive Board members;
- (d) The timing or content of notices of meetings of Unit Owners, opportunities for Unit Owner comment at any meeting of the Executive Board or the Association, methods or procedures for voting or actions by Unit Owners without meeting or any provision of Article IV of these ByLaws; or
- (e) The manner or required vote to adopt, amend, or repeal any ByLaw, including, without limitation, any provision of this Section 16.2.

Section 16.3 – Execution of Amendments. Amendments to the ByLaws that have been duly adopted shall be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

## **ARTICLE 17 Termination**

Termination of the Common Interest Community may be accomplished only in accordance with Section 47-237 of the Act, as amended from time to time.

## **ARTICLE 18 Mortgagee Protection**

Section 18.1 – Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders of certain Security Interests and



others, as identified in Section 18.2. This Article is supplemental to, and not in substitution for, any other provisions of the Documents, but in the case of conflict, this Article shall control.

Section 18.2 – Definitions. As used in this Article, the following terms are defined:

- (a) **Percentage of Eligible Mortgagees.** Whenever in this Article the approval or consent of a specified percentage of Eligible Mortgagees is required, it shall mean the approval or consent by Eligible Mortgagees holding Security Interests in Units which in the aggregate have allocated to them such specified percentage of votes when compared to the total votes allocated to all Units then subject to mortgages held by Eligible Mortgagees.
- (b) **Mortgagee Consent if no Response.** If the Association sends notice of the proposed amendment or Association action to a Mortgagee by certified mail, return receipt requested, and the Mortgagee fails to respond within sixty (60) days, the Mortgagee is deemed to have given its consent. The Association may rely on the last recorded security interest of record in the land records in delivering or mailing notice to the holder of that interest.

Section 18.3 – Notice of Actions. The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Common Interest Community or any Unit on which there is a First Security Interest held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer, as applicable.
- (b) Any delinquency in the payment of Common Expense assessments owed by an owner whose Unit is subject to a First Security Interest held, insured, or guaranteed, by such Eligible Mortgagee or Eligible Insurer, which remains uncured for a period of sixty (60) days.
- (c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 18.4.
- (e) Any judgment rendered against the Association.

Section 18.4 – Prior Consent Required:

- (a) Document Changes. Notwithstanding any lower requirements permitted by this Declaration or the Act, as amended, no amendment of any material

provision of the Documents by the Association or Unit Owners described in this Subsection 18.4(a) may be adopted without the vote of at least 67% of the Unit Owners (or any greater Unit Owner vote required in this Declaration or the Act, as amended) and until approved in writing by at least 51% of the Eligible Mortgagees. "Material" includes, but is not limited to, any provision affecting:

- (i) Assessments, assessment liens or subordination of assessment liens;
- (ii) Voting rights;
- (iii) Reserves for maintenance, repair and replacement of Common Elements;
- (iv) Responsibility for maintenance and repairs;
- (v) Reallocation of interest in the Common Elements or Limited Common Elements (except that when Limited Common Elements are reallocated by agreement between Unit Owners, only those Unit Owners and only the Eligible Mortgagees with a Security Interest on such Units must approve such action);
- (vi) Rights to use Common Elements and Limited Common Elements;
- (vii) Boundaries of Units (except that when boundaries of only adjoining Units are involved, or a Unit is being subdivided, then only those Unit Owners and the Eligible Mortgagees with Security Interests on such Unit or Units must approve such action);
- (viii) Convertibility of Units into Common Elements or Common Elements into Units;
- (ix) Expansion or contraction of the Common Interest Community, or the addition, annexation or withdrawal of property to or from the Common Interest Community;
- (x) Insurance or fidelity bonds;
- (xi) Leasing of Units;
- (xii) Imposition of restrictions on a Unit Owner's right to sell or transfer his or her Unit;

- (xiii) Establishment of self-management when professional management had been required previously by an Eligible Mortgagee of a Unit;
  - (xiv) Restoration or repair of the project after a hazard damage or partial condemnation in a manner other than that specified in the Documents;
  - (xv) Termination of the Common Interest Community after occurrence of substantial destruction or condemnation; and
  - (xvi) The benefits of mortgage holders, insurers or guarantors.
- (b) Actions. Notwithstanding any lower requirements permitted by this Declaration or the Act, as amended, the Association may not take any of the following actions without the approval of at least 51% of the Eligible Mortgagees:
- (i) Convey or encumber the Common Elements or any portion thereof (as to which an 80% Eligible Mortgagee approval is required). (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community shall not be deemed a conveyance or encumbrance within the meaning of this clause);
  - (ii) Establish self-management when professional management had been required previously by any Eligible Mortgagee;
  - (iii) Restore or repair the Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Documents;
  - (iv) Terminate the Common Interest Community (as to which a 67% Eligible Mortgagee approval is required);
  - (v) Alter any partition or create any aperture between adjoining Units (when Unit boundaries are not otherwise being affected), in which case only the owners of Units affected and Eligible Mortgagees of those Units need approve the action;
  - (vi) Merge this Common Interest Community with any other Common Interest Community;
  - (vii) Create any additional improvements on any portion of the Common Elements which is subject to any Development Rights;

- (viii) Grant any easements, leases, licenses and concessions through or over the Common Elements (excluding, however, any utility easements servicing or to serve the Common Interest Community and excluding any leases, licenses or concessions for no more than one year);
- (ix) Assign the future income of the Association, including its right to receive Common Expense assessments; and
- (x) Not repair or replace the Property.
- (xi) Creation of Development Rights.

(c) The Association may not change the period for collection of regularly budgeted Common Expense Assessments to other than monthly without the consent of all Eligible Mortgagees.

Section 18.5 – Development Rights and Special Declarant Rights.

There are no remaining Development Rights or Special Declarant Rights.

Section 18.6 – Inspection of Books. The Association shall permit any Eligible Mortgagee or Eligible Insurer to inspect the Association's books and records during normal business hours.

Section 18.7 – Financial Statements. The Association shall provide each Eligible Mortgagee and each Eligible Insurer with a copy of its annual financial statement within 90 days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified accountant if an Eligible Mortgagee requests it, in which case the Eligible Mortgagee shall bear the cost of the audit.

Section 18.8 – Enforcement. The provisions of this Article are for the benefit of Eligible Mortgagees and Eligible Insurers, and may be enforced in law or in equity.

Section 18.9 – Attendance at Meetings. Any representative of an Eligible Mortgagee or Eligible Insurer may attend any meeting which a Unit Owner may attend.

Section 18.10 – Appointment of Trustee. In the event of damage or destruction under Articles 22 or 23 or Condemnation of all or a portion of the Common Interest Community, any Eligible Mortgagee may require that such proceeds be payable to a Trustee established pursuant to Section 23.5. Such Trustee may be required to be a corporate trustee licensed by the State of Connecticut. Proceeds shall thereafter be distributed pursuant to Article 23 or pursuant to a condemnation award. Unless otherwise required, the members of the Board of Directors acting by majority vote through the president may act as Trustee.

**ARTICLE 19**  
**Assessment and Collection of Common Expenses**

Section 19.1 – Apportionment of Common Expenses. Except as provided in Section 19.2, all Common Expenses shall be assessed against all Units in accordance with their percentage interest in the Association as shown in the initial Declaration, prior Amendments and Schedule A-2.

Section 19.2 – Common Expenses Attributable to Fewer than All Units.

- (a) If any Limited Common Element is assigned to more than one Unit, the Common Expenses attributable to the Limited Common Element shall be assessed equally among the Units to which it is assigned.
- (b) Any Common Expense for services provided by the Association to an individual Unit at the request of the Unit Owner shall be assessed against the Unit which benefits from such service.
- (c) Any insurance premium increase attributable to a particular Unit by virtue of activities in or construction of the Unit shall be assessed against that Unit.
- (d) Assessments to pay a judgment against the Association may be made only against the Units in the Common Interest Community at the time the judgment was rendered, in proportion to their Common Expense liabilities.
- (e) Fees, charges, late charges, fines and interest charged against a Unit Owner pursuant to the Documents and the Act, as amended, are enforceable as Common Expense assessments against the Unit or Units owned by such Unit Owner. The order in which payments are applied to fees, charges, late fees, fines and interest shall be established in a collection policy adopted by the Executive Board.
- (f) Portions of the cost of repairing or replacing Units allocated to individual Units under the provisions of Subsection 23.2(b) shall be assessed against the Unit or Units to which they are allocated. If the Association, or anyone acting at the direction of the Association, incurs any expense for maintenance, repair or replacement of any portion of a Unit, made or performed for the purpose of correcting a condition threatening a Unit or the Common Elements pursuant to Section 6.4 of the Declaration, the Association may assess that expense against the Unit Owner and the Unit, following Notice and Hearing to the affected Unit Owner.
- (g) All reasonable attorney's fees and costs incurred by the Association, with or without litigation, in collecting any sums due from a Unit Owner or enforcing

any provisions of the Documents against a Unit Owner or any occupant of his or her Unit are enforceable against his or her Unit as Common Expense assessments.

- (h) If any tax is imposed on the Association or upon any goods or services purchased by the Association by virtue of the use or occupancy of some, but less than all of the Units, including, but not limited to, the use of any Unit for the production of income, such tax shall be paid as a Common Expense and assessed exclusively against the Unit or Units whose use gives rise to the imposition of the tax. The assessment shall be allocated among the Units against which it is assessed in the same proportion as each Unit's share of liability for Common Expenses bears to the liability for Common Expenses of all Units against which the assessment is assessed.
- (i) Notwithstanding the provisions of Article 23.2(b) of this Declaration, if any common expense is caused by the willful misconduct, failure to comply with a written maintenance standard promulgated by the Association or gross negligence of any Unit Owner or tenant or a guest or invitee of a Unit Owner or tenant, the Association may, after notice and hearing assess the portion of that common expense in excess of any insurance proceeds received by the Association under its insurance policy, whether that portion results from the application of a deductible or otherwise, exclusively against that Owner's Unit.
- (j) Any common expense associated with the maintenance, repair or replacement of a Limited Common Element, where the cost of same is the responsibility of the Unit Owner pursuant to this Amended Declaration, shall be assessed against the Unit or Units to which the Limited Common Element is assigned. If any such Limited Common Element is assigned to more than one (1) Unit, the common expenses attributable to the Limited Common Element shall be assessed equally among the Units to which it is assigned. Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element may be assessed against the Unit or Units to which the Limited Common Element is assigned. If any such Limited Common Element is assigned to more than one (1) unit, the Common Expenses attributable to the Limited Common Element shall be assessed equally among the Units to which it is assigned. Notwithstanding anything to the contrary contained in this Declaration, all costs associated with the maintenance, repair and/or replacement of decks shall be common expenses assessed against all Unit Owners in accordance with the Units' percentage share of common expenses.
- (k) Any common expense assessed in accordance with Section 6.6 of this Declaration.

- (l) Portions of the cost of restoring Units allocated to individual Units under the provisions of Subsection 23.2(b) shall be assessed against the Unit or Units to which they are allocated.
- (m) Any Common Expenses associated with the Maintenance, repair or replacement of Limited Common Elements shall be assessed against the Unit to which it serves. Notwithstanding anything to the contrary contained in this Declaration, all costs associated with the maintenance, repair and/or replacement of decks shall be common expenses assessed against all Unit Owners in accordance with the Units' percentage share of common expenses.
- (n) Except as otherwise provided in this Article 19 and/or Article 22, any common expense incurred by the Association as a result of the negligence or willful misconduct of a Unit Owner, occupant, guest, or tenant shall be assessed to the Unit Account associated with the person.

Section 19.3 – Lien.

- (a) The Association has a statutory lien on a unit for any assessment attributable to that unit or fines imposed against its Unit Owner. Reasonable attorney's fees and costs, other fees, charges, late charges, fines and interest charged pursuant to subdivisions (10), (11) and (12) of subsection (a) of section 47-244 of the Act, as amended, and any other sums due to the Association under the Declaration, the Act, as amended, or as a result of an administrative, arbitration, mediation or judicial decision, are enforceable in the same manner as unpaid assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.
- (b) A lien under this section is prior to all other liens and encumbrances on a unit except (1) liens and encumbrances recorded before the recordation of the Declaration, (2) a first or second security interest on the Unit recorded before the date on which the assessment sought to be enforced became delinquent, and (3) liens for real property taxes and other governmental assessments or charges against the Unit. The lien is also prior to all security interests described in subdivision (2) of this subsection to the extent of (A) an amount equal to the common expense assessments based on the periodic budget adopted by the Association pursuant to subsection (a) of section 47-257, as amended, which would have become due in the absence of acceleration during the nine (9) months immediately preceding institution of an action to enforce either the association's lien or a security interest described in subdivision (2) of this subsection and (B) the Association's costs and attorney's fees in enforcing its lien. A lien for any assessment or fine specified in subsection (a) of this section shall have the priority provided for in this

subsection in an amount not to exceed the amount specified in subparagraph (A) of this subsection: This subsection does not affect the priority of mechanic's or materialmen's liens or the priority of liens for other assessments made by the Association.

- (c) Unless the Declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.
- (d) Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.
- (e) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the assessments becomes due; provided, that if an Owner of a Unit subject to a lien under this section files a petition for relief under the United States Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.
- (f) This section does not prohibit actions against Unit Owners to recover sums for which subsection (a) of this section creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.
- (g) A judgment or decree in any action brought under this section shall include costs and reasonable attorney's fees for the prevailing party.
- (h) The Association on request made in a record shall furnish to a Unit Owner a statement in recordable form setting forth the amount of unpaid assessments against the unit. The statement shall be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Executive Board and every Unit Owner.
- (i) The Association's lien may be foreclosed in like manner as a mortgage on real property.
- (j) In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Unit Owner of a unit that is rented pursuant to Connecticut General Statutes § 52-504 to collect all sums alleged to be due from that Unit Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's common expense assessments based on a periodic budget adopted by the Association pursuant to subsection (a) of section 47-257 of the Act, as amended.



- (k) If a holder of a first or second security interest on a unit forecloses that security interest, the purchaser at the foreclosure sale is not liable for any unpaid assessments against that unit which became due before the sale, other than the assessments which are prior to that security interest under subsection (b) of this section. Any unpaid assessments not satisfied from the proceeds of sale become common expenses collectible from all the Unit Owners, including the purchaser.
- (l) The Association may not commence an action to foreclose a lien on a unit under this section unless: (1) The Unit Owner, at the time the action is commenced, owes a sum equal to at least two (2) months of common expense assessments based on the periodic budget last adopted by the Association pursuant to subsection (a) of section 47-257 of the Act, as amended; (2) the Association has made a demand for payment in a record; and (3) the Executive Board has either voted to commence a foreclosure action specifically against that unit or has adopted a standard policy that provides for foreclosure against that unit.
- (m) Every aspect of a foreclosure, sale or other disposition under this section, including the method, advertising, time, date, place and terms, shall be commercially reasonable.

Section 19.4 – Budget Adoption and Ratification/ Ratification of Non-Budgeted Common Expense Assessments.

- (a) The Executive Board, at least annually, shall adopt a proposed budget for the common interest community for consideration by the Unit Owners. Not later than thirty (30) days after adoption of a proposed budget, the Executive Board shall provide to all the Unit Owners a summary of the budget, including any reserves, and a statement of the basis on which any reserves are calculated and funded. Simultaneously, the Board shall set a date not less than ten (10) days or more than sixty (60) days after providing the summary for either a meeting of the Unit Owners or a vote by ballot without a meeting to consider approval of the budget. If, at that meeting or in the vote by ballot, a majority of all Unit Owners, or any larger number specified in the Declaration votes to reject the budget, the budget is rejected; otherwise the budget is approved. The absence of a quorum at such meeting or participating in the vote by ballot shall not affect rejection or approval of the budget. If a proposed budget is rejected, the budget last approved by the Unit Owners continues until Unit Owners approve a subsequent budget.
- (b) The Executive Board, at any time, may propose a special assessment. Not later than thirty (30) days after adoption of a proposed special assessment, the Executive Board shall provide to all Unit Owners a summary of the assessment. Unless the Declaration or ByLaws otherwise provide, if such special assessment, together with all other special and emergency

assessments proposed by the Executive Board in the same calendar year, do not exceed fifteen percent (15%) of the Association's last adopted periodic budget for that calendar year, the special assessment is effective without approval of the Unit Owners. Otherwise, the Board shall set a date not less than ten (10) days or more than sixty (60) days after providing the summary for either a meeting of the Unit Owners or a vote by ballot without a meeting to consider approval of the special assessment. If, at such meeting or in the balloting, a majority of all Unit Owners votes to reject the assessment, the assessment shall be rejected; otherwise the assessment shall be approved. The absence of a quorum at such meeting or participating in the vote by ballot shall not affect the rejection or approval of the special assessment.

- (c) If the Executive Board determines by a two-thirds vote that a special assessment is necessary to respond to an emergency: (1) The special assessment becomes effective immediately in accordance with the terms of the vote; (2) notice of the emergency assessment must be provided promptly to all Unit Owners; and (3) the Executive Board may spend the funds paid on account of the emergency assessment only for the purposes described in the vote.

Section 19.5 – Certificate of Payment of Common Expense Assessments. The Association on written request shall furnish to a Unit Owner a statement in recordable form setting forth the amount of unpaid assessments against the Unit. The statement shall be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Board of Directors and every Unit Owner.

Section 19.6 – Monthly Payment of Common Expenses. All Common Expenses assessed under Sections 19.1, 19.2 and 19.4 shall be due and payable monthly unless the resolution adopting the assessment provides for some other schedule of payment.

Section 19.7 – Acceleration of Common Expense Assessments. In the event of default of a period of ten (10) days by any Unit Owner in the payment of any Common Expense assessment levied against his or her Unit, the Board of Directors shall have the right, after Notice and Hearing, to declare all unpaid assessments for the pertinent fiscal year to be immediately due and payable.

Section 19.8 – No Waiver of Liability for Common Expenses. No Unit Owner may exempt himself or herself from liability for payment of the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the assessments are made.

Section 19.9 – Personal Liability of Unit Owners. The Owner of a Unit at the time a Common Expense assessment or portion thereof is due and payable is personally liable for the assessment. Personal liability for the assessment shall not pass to a successor in title to the Unit unless he or she agrees to assume the obligation.

Section 19.10 – Association Funds. All Association funds shall be deposited only in federally insured banks.

Section 19.11– Association Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for common expenses and any prepayment of reserves shall be deposited into the reserve account or incorporated into the next annual budget thereby reducing future common expense assessments.

## **ARTICLE 20**

### **Association Borrowing and Assignment of Future Income**

Section 20.1 – Approval of Assignment. The Association may borrow money and assign its right to future income as security for the loan only after:

- (a) The loan transaction and the assignment have been approved by the Executive Board;
- (b) A majority of the Unit Owners vote in favor of or agree to the assignment; and
- (c) The Association has complied with the requirements of Section 20.2 of this Declaration.

Section 20.2 – Notice of Proposed Borrowing. At least fourteen (14) days before the closing of any loan to the Association, the Executive Board shall:

- (a) Disclose in a Record to all Unit Owners the amount and terms of the loan and the estimated effect of such loan on any Common Expense assessment; and
- (b) Afford the Unit Owners a reasonable opportunity to submit comments in a Record to the Executive Board with respect to such loan.

## **ARTICLE 21**

### **Persons and Units Subject to Documents**

Section 21.1 – Compliance with Community Documents. All Unit Owners, tenants, holders of Security Interests, and occupants of Units shall comply with the Community Documents. The acceptance of a deed or mortgage or the exercise of any incident of ownership or the entering into of a lease or the entering into occupancy of a Unit constitutes agreement that the provisions of the Community Documents are accepted and ratified by such Unit Owner, tenant, holder of a Security Interest, or occupant, and all such provisions recorded on the land records of the town or towns in which the Common Interest Community is located shall bind any Persons having at any time any interest or estate in such Unit.

Section 21.2 – Compliance with Laws. All Unit Owners, tenants, holders of Security Interests, and occupants of Units shall comply with all laws, ordinances, and governmental regulations applicable to the Common Interest Community or the activities of Persons within the Common Interest Community.

Section 21.3 - Adoption of Rules.

- (a) The Executive Board may adopt and amend Rules after Notice and Comment.
- (b) Rules concerning the Common Elements, including Limited Common Elements, may regulate any conduct, condition or activity, including use and occupancy.
- (c) Rules concerning the Units, may regulate any conduct, condition or activity that is not use and occupancy.
- (d) Rules concerning the Units may also regulate the use and occupancy of a Unit in order to:
  - (i) Exercise any power to make Rules expressly granted by this Declaration.
  - (ii) Prevent any use of a Unit that violates this Declaration

Section 21.4 – Scope of Rulemaking

- (a) Unless otherwise permitted or limited by the Declaration or the Act, the Executive Board may adopt Rules that affect the use or occupancy of Units only to:
  - (i) Regulate any occupancy of a Unit which violates the Declaration or adversely affects the use or enjoyment of other Units or the Common Elements by other Unit Owners; or
  - (ii) Restrict the leasing of Units to the extent those Rules are reasonably designed to meet first mortgage underwriting requirements who regularly purchase or insure first mortgages on units in common interest communities.
- (b) The Executive Board may adopt Rules affecting activities within Units that do not constitute use or occupancy.

- (c) The Executive Board may not adopt a Rule which contravenes an express provision of the Declaration or a right reasonably inferable from an express provision of the Declaration, but, subject to the provisions of Subsection 21.4(a), the Executive Board may adopt a Rule implementing, refining or applying an express provision of the Declaration so long as such Rule does not place an unreasonable limitation on a right granted by or reasonably inferable from an express provision of the Declaration.

Section 21.5 – Notice of Amendments to Rules. Following adoption, amendment or repeal of a Rule, the Association shall give all Unit Owners notice of its action and include with it a copy of any new or amended Rule.

Section 21.6 – Recording of Rules. Any Rule restricting the Leasing of Units shall be recorded on the Land Records. The Association shall request that the town clerk index any such Rule and any amendment to said Rules in the grantor's and in the grantee's index in the name of the Association.

Section 21.7 – Limitation of Challenges. No action to challenge the validity of a Rule or an amendment to a Rule adopted by the Executive Board pursuant to this Article may be brought more than one year after the Rule or amendment is recorded.

Section 21.8 – Abatement and Enjoinment of Violations by Unit Owners. The violation of any Rule or the breach of any provision of the Community Documents shall give the Association the right, after Notice and Hearing except in case of an emergency, in addition to any other rights set forth in this Declaration:

- (a) To enter the Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition (except for additions or alterations of a permanent nature that may exist therein) that creates a danger to the Common Elements or other Units contrary to the intent and meaning of the provisions of the Community Documents, and the Association shall not thereby be deemed liable for any manner of trespass;
- (b) To bring appropriate legal proceedings, either at law or in equity, to enjoin, abate or remedy the continuance of any such breach; or
- (c) To bring appropriate legal proceedings, either at law or in equity, for specific performance of the Community Documents and the Rules.

Section 21.9 - Suspension of Privileges for Non-Payment or Breach

- (a) If a Unit Owner fails to pay any Common Expense Assessment, the Executive Board, after Notice and Hearing, may suspend any right or privilege of the Unit Owner and all occupants of the Unit, except as provided in Subsection (c) below, until such assessment is paid.

- (b) If a Unit Owner or occupant of the Unit breaches any provision of the Community Documents, the Executive Board, after Notice and Hearing, may suspend any right or privilege of the Unit Owner and all occupants of the Unit, except as provided in Subsection (c) below, for a period not to exceed the longer of thirty days or until the breach is cured.
- (c) The suspension of any right or privilege under this Section:
- (i) Shall not deny a Unit Owner or other occupant of a Unit access to the Unit or the Limited Common Elements appurtenant to the Unit;
  - (ii) Shall not suspend a Unit Owner's right to vote or participate in meetings of the Association;
  - (iii) Shall not prevent a Unit Owner from seeking election as a director or officer of the Association;
  - (iv) Shall not permit the Association to withhold services provided to a Unit or a Unit Owner by the Association if the effect of withholding the service would be to endanger the health, safety or property of any Person;
  - (v) Shall not take effect until the Executive Board notifies the Unit Owner of its decision to suspend the use of the Common Elements; and
  - (vi) Shall not apply to the Declarant in the exercise of any Special Declarant Right.

**ARTICLE 22**  
**Insurance**

Section 22.1 – Coverage.

- (a) The Association shall maintain, as set forth in Sections 22.1 through 22.4, to the extent reasonably available and subject to reasonable deductibles:
- (i) Property insurance on the Common Elements, insuring against those risks of direct physical loss commonly insured against, which insurance, after application of any deductibles shall be not less than one hundred percent (100%) of the replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies;
  - (ii) Flood insurance in the event the condominium is located in a flood hazard area, as defined and determined by the National Flood Insurance Act, as amended, USC 42 Section 4101, P. L. 93-234; and

- (iii) Commercial general liability insurance, including medical payments insurance, in an amount determined by the Executive Board but not less than any amount specified in this Amended Declaration, covering all occurrences commonly insured against for bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements and of all Units; and
- (b) In the case of a building that contains Units divided by horizontal boundaries described in the Declaration, or by vertical boundaries that comprise or are located within common walls between Units, the insurance maintained under subdivision (i) of subsection (a) of this section, to the extent reasonably available, shall include the Units, and all improvements and betterments installed by Unit Owners; unless the Executive Board, after Notice and Comment, elect to maintain insurance coverage on less than all improvements and betterments, provided that in the event the Common Interest Community contains more than twelve (12) Units, the Executive Board shall:
  - (i) Prepare and maintain a schedule of the standard fixtures, improvements and betterments in the Units, including any standard wall, floor and ceiling coverings covered by the Association's property insurance policy;
  - (ii) Provide such schedule at least annually to the Unit Owners in order to enable Unit Owners to coordinate their homeowners insurance coverage with the coverage afforded by the Association's property insurance policy; and
  - (iii) Include such schedule in any resale certificate prepared pursuant to Section 47-270 of the Act, as amended.
- (c) If the insurance described in subsections (a) and (b) of this section is not reasonably available, the Association promptly shall cause notice of that fact to be given to all Unit Owners. The Association may carry any other insurance it considers appropriate to protect the Association or the Unit Owners.
- (d) Insurance policies carried pursuant to subsections (a) and (b) of this section shall provide that: (1) Each Unit Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association; (2) the insurer waives its right to subrogation under the policy against any Unit Owner or member of his household; (3) no act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to

recovery under the policy; and (4) if, at the time of a 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, subject to the provisions of this Amended Declaration.

- (e) Any loss covered by the property policy under subdivision (i) of subsection (a) and subsection (b) of this section shall be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Unit Owners and lien holders as their interests may appear. Subject to the provisions of subsection (h) of this section, the proceeds shall be disbursed first for the repair or replacement of the damaged property, and the Association, Unit Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or replaced, or the Common Interest Community is terminated.
- (f) An insurance policy issued to the Association does not prevent a Unit Owner from obtaining insurance for his or her own benefit.
- (g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the Association and, on request made in a record, to any Unit Owner or holder of a security interest. The insurer issuing the policy may not cancel or refuse to renew it until sixty (60) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Unit Owner and each holder of a security interest to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.
- (h) Duty to rebuild.
  - (i) Any portion of the Common Interest Community for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the Association unless:
    - (1) The Common Interest Community is terminated, in which case section 47-237 of the Act, as amended, applies,
    - (2) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety, or
    - (3) Eighty percent (80%) of the Unit Owners, including every Owner of a Unit or assigned Limited Common Element that



will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves, regardless of whether such excess is the result of the application of a deductible under insurance coverage, is a Common Expense.

- (ii) If the entire Common Interest Community is not repaired or replaced:
  - (1) The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community, and
  - (2) Except to the extent that other persons will be distributees:
    - i. The insurance proceeds attributable to Units and Limited Common Elements that are not rebuilt shall be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated, or to lien holders, as their interests may appear, and
    - ii. The remainder of the proceeds shall be distributed to all the Unit Owners or lien holders, as their interests may appear, in proportion to the Common Expense liabilities of all the Units.
- (iii) If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated on the vote as if the Unit had been condemned under subsection (a) of section 47-206 of the Act, as amended, and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting the reallocations.

Section 22.2 – Property Insurance.

(a) Property insurance covering:

- (i) The project facilities (which term means all buildings on the Property, including the Units and all fixtures, equipment and any improvements and betterments, whether part of a Unit or a Common Element, and such personal property of Unit Owners as is normally insured under building coverage), but excluding land, excavations, portions of foundations below the undersurface of the lowest basement floors,

underground pilings, piers, pipes, flues and drains and other items normally excluded from property policies; and

(ii) All personal property owned by the Association.

(b) Amounts.

(i) The project facilities for an amount equal to one hundred percent (100%) of their replacement cost at the time the insurance is purchased and at each renewal date.

(ii) Personal property owned by the Association for an amount equal to its actual cash value.

(c) Deductibles. The deductible may not exceed the lesser of

(i) \$25,000, adjusted from January 1, 2000 in accordance with the provision of Section 47-213 of the Act, as amended; or

(ii) 1% of the replacement cost of the project facilities.

(d) The Board of Directors is authorized to obtain appraisals periodically for the purpose of establishing said replacement cost of the project facilities and the actual cash value of the personal property, and the cost of such appraisals shall be a Common Expense.

(e) Risks Insured Against. The insurance shall afford protection against "all risks" of direct physical loss commonly insured against.

(f) The name of the insured shall be substantially as follows:

"Highgate Condominium Association Inc. for the use and benefit of the Individual Owners."

Section 22.3 – Liability Insurance. Liability insurance, including medical payments insurance, in an amount determined by the Board of Directors but in no event less than \$1,000,000, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements.

Other Provisions. Insurance policies carried pursuant to this Section shall provide that:

(a) Each Unit Owner is an insured person under the policy with respect to liability arising out of his or her interest in the Common Elements or membership in the Association.

- (b) The insurer waives its rights to subrogation under the policy against any Unit Owner or member of his or her household;
- (c) No act or omission by any Unit Owner, unless acting within the scope of his or her authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.
- (d) If, at the time of a 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.
- (e) The insurer may not cancel or refuse to renew the policy until sixty (60) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

Section 22.4 – Fidelity Bonds. The Association shall carry, or cause to be carried, a blanket fidelity bond for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The bond shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the manager at any time while the bond is in force and in no event less than the sum of three months assessments plus reserve funds. The bond shall include a provision that calls for thirty (30) days written notice to the Association, to each holder of a Security Interest in a Unit and to each servicer that services a FNMA-owned or FHLMC-owned mortgage on a Unit before the bond can be cancelled or substantially modified for any reason; except that if cancellation is for non-payment of premiums, only ten (10) days' notice shall be required.

Section 22.5 – Unit Owner Policies.

- (a) Other Insurance. An insurance policy issued to the Association does not prevent a Unit Owner from obtaining insurance for his or her own benefit.
- (b) Notice to Unit Owners. At least once in each calendar year, the Association shall give notice to each Unit Owner of the need to obtain individual coverage for repair costs that may be allocated against his or her Unit under the provisions of Subsection 19.2(i) and/or Subsection 19.2(f) and/or Subsection 23.2(b). However, the failure of the Association to furnish such notice shall not, in any way, prevent it from making the allocations provided for in those Subsections.

Section 22.6 – Workers' Compensation Insurance. The Board of Directors shall obtain and maintain Workers' Compensation Insurance to meet the requirements of the laws of the State of Connecticut.

Section 22.7 – Directors' and Officers' Liability Insurance. The Board of Directors shall obtain and maintain directors' and officers' liability insurance, if available, covering all of the Directors and officers of the Association in such limits as the Board of Directors may, from time to time, determine.

Section 22.8 – Other Insurance. The Association may carry other insurance which the Board of Directors considers appropriate to protect the Association or the Unit Owners.

Section 22.9 – Premiums. Insurance premiums shall be a Common Expense.

### **ARTICLE 23**

#### **Damage To or Destruction of Property**

Section 23.1 – Duty to Restore. Any portion of the Property for which insurance is required under Section 47-255 of the Act, as amended, or for which insurance carried by the Association is in effect, whichever is more extensive, shall be repaired or replaced promptly by the Association unless:

- (a) The Common Interest Community is terminated;
- (b) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- (c) Eighty percent (80%) of the Unit Owners, including every owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild.

#### Section 23.2 – Cost.

- (a) Except as Provided in Subsections 6.5, 19.2(i), 19.2(l) and/or 23.2(b), the cost of Repair or Replacement in excess of insurance proceeds shall be a Common Expense assessed against all Units under Section 19.1.
- (b) Except as Provided in Subsections 6.5 & 19.2(i) the cost of Repair or Replacement in excess of insurance proceeds resulting from a deductible in the property insurance coverage which does not exceed the limits set out in Subsection 22.2(c) or so much of the deductible that does not exceed that limit, shall be allocated as follows:

- (i) If the Repair or Replacement is entirely to the Common Elements, the excess shall be a Common Expense assessed against all Units under Section 19.1.
- (ii) If the Repair or Replacement is entirely to a single Unit, the excess shall be assessed against the affected Unit only, under Subsection 19.2(f).
- (iii) If the Repair or Replacement is to two or more Units or to one or more Units and the Common Elements, the excess shall be prorated among the affected Unit or Units and Common Elements as the case may be in the same proportion as the total cost of Repair or Replacement to each of the affected Units and Common Elements bears to the total cost of Repair or Replacement to all of the affected Units and Common Elements. In calculating this portion, the Association may rely on itemized bills or reports from the contractor or contractors making the repairs or on estimates prepared by an adjuster or construction estimator engaged by the company issuing the property insurance coverage required under Section 22.2 or engaged by the Association. The portion of the excess allocated to an affected Unit under this Subsection 23.2(b) (iii) shall be assessed against the Unit under Section 19.2(f). The portion of the excess allocated to the Common Elements shall be assessed against all Units under Section 19.

Section 23.3 – Plans. The Property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Board of Directors, a majority of Unit Owners and fifty-one percent (51%) of Eligible Mortgagees.

Section 23.4 – Replacement of Less Than Entire Property.

- (a) The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community;
- (b) Except to the extent that other persons will be distributees;
  - i. The insurance proceeds attributable to Units and Limited Common Elements that are not rebuilt shall be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated, or to lien holders, as their interests may appear; and

- ii. The remainder of the proceeds shall be distributed to all the Unit Owners or lien holders, as their interests may appear, in proportion to the Common Expense liabilities of all the Units;
- (c) If the Unit Owners vote not to rebuild any Unit, that Unit's Allocated Interests are automatically reallocated on the vote as if the Unit had been condemned under Subsection 47-206(c) of the Act, as amended, and the Association shall promptly prepare, execute and record an amendment to this Declaration reflecting the reallocations.

Section 23.5 – Insurance Proceeds. The insurance trustee, or if there is no insurance trustee, then the Association, shall hold any insurance proceeds in trust for the Association, Unit Owners and lien holders as their interests may appear. Subject to the provisions of Subsection 23.1(a) through Subsection 23.1(c), the proceeds shall be disbursed first for the repair or restoration of the damaged Property, and the Association, Unit Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Common Interest Community is terminated.

Section 23.6 – Certificates by the Board of Directors. A trustee, if any, may rely on the following certifications in writing made by the Board of Directors:

- (a) Whether or not damaged or destroyed Property is to be repaired or restored;
- (b) The amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

Section 23.7 – Certificates by Attorneys. If payments are to be made to Unit Owners or mortgagees, the Board of Directors, and the trustee, if any, shall obtain and may rely on an attorney's certificate of title or a title insurance policy based on a search of the Land Records of the Town of Watertown from the date of the recording of the original Declaration stating the names of the Unit Owners and the mortgagees.

Section 23.8 – Unit Owner Duty to Restore. Each Unit Owner has the responsibility to insure his or her Unit and the duty to restore, repair or replace his or her Unit following any damage or destruction to the Unit subject to the other provisions of this Article 23 and other provisions of the Declaration.

## **ARTICLE 24**

### **Right to Notice and Comments; Notice and Hearing**

Section 24.1 - Right to Notice and Comment. Before the Executive Board amends the ByLaws or the Rules, whenever the Community Documents require that an action be taken after Notice and Comment, and at any other time the Executive Board determines it

is in the interest of the Association to do so, the Association shall give Notice to the Unit Owners at least ten days before the date on which the Executive Board will act. The Notice shall include:

- (a) A statement that the Executive Board is considering an amendment to the ByLaws, or the Rules, or other action;
- (b) A copy of the text of the proposed amendment, addition or deletion; and
- (c) The date on which the Executive Board will act on the proposal after considering comments from the Unit Owners;

Section 24.2 - Procedures for Notice and Hearing – Generally

- (a) The procedures set out in this Section 24.2 shall be followed:
  - (i) Whenever the Community Documents require that an action be taken after Notice and Hearing; and
  - (ii) Before the Association brings an action or institutes a proceeding against a Unit Owner other than a Declarant, except if the action is brought to prevent immediate or irreparable harm or to foreclose a lien for an assessment attributable to a Unit or fines imposed against a Unit Owner pursuant to the Documents.
- (c) The hearing must be held during a regular or special meeting of Executive Board.
- (d) Not less than 10 business days prior to the hearing, the Association shall send written notice of the hearing to the Unit Owner, and to any other parties the Association considers appropriate.
  - (i) The notice shall be sent to the Unit Owner by certified mail, return receipt requested, and by regular mail.
  - (ii) The notice given under this Subsection 24.2(c) shall be in addition to any other notice of the meeting of the Executive Board required to be given by Association.
- (e) The notice shall include the following:
  - (i) The date, time and place of the hearing;

- (ii) A general description of the alleged violation or the nature of the claim against the Unit Owner;
  - (iii) Instructions as to how the Unit Owner can participate in the hearing and present the Unit Owner's position; and
  - (iv) A general explanation of the consequences of not participating in the hearing.
- (f) At the hearing, the Unit Owner shall have the right, personally or through a representative, to present information orally, in writing, or both, subject to reasonable rules of procedure established by the Executive Board to assure a prompt and orderly resolution of the issues. The Executive Board may also receive information from anyone else who, in the opinion of the Executive Board will assist it in making a decision. The hearing shall not be conducted as a formal trial. All information presented shall be considered in making a decision but shall not bind the decision makers.
- (g) The Executive Board shall make its decision and send notice of its decision within 30 days after the conclusion of the hearing.
- (h) The notice shall be sent to the Unit Owner by certified mail, return receipt requested, and by regular mail.

Section 24.3 - Procedures for Notice and Hearing – On the Request of a Unit Owner.

- (a) Any Unit Owner, other than the Declarant, seeking to enforce a right, grant or obligation imposed by the Act or the Community Documents against the Association or another Unit Owner, may submit a written request to the Association for a hearing. The request shall include:
- (i) A statement of the nature of the claim being made;
  - (ii) The names of the party or parties against whom the claim is being made; and
  - (iii) A reference to the provision or provisions of the Act or of the Community Documents on which the claim is based.
- (b) Not later than 30 days after the Association receives such request, it shall schedule a hearing to be held during a regular or special meeting of the Executive Board. The meeting must be held not more than 45 days after the Association receives the request.



- (c) Not less than 10 business days prior to the hearing, the Association shall send written notice of the hearing to the Unit Owner who requested the hearing, and it may be sent to any Unit Owner against whom a claim is being made and/or it may be sent to any other parties the Executive Board considers appropriate.
- (i) The notice shall be sent to the Unit Owner requesting the hearing by certified mail, return receipt requested and by regular mail;
  - (ii) The notice shall be sent to any other parties entitled to notice by regular mail; and
  - (iii) The notice given under this subsection shall be in addition to any other notice of the meeting of the Executive Board required to be given by the Community Documents or by applicable law.
- (d) The notice shall include the following:
- (i) The date, time and place of the hearing; and
  - (ii) If the notice is sent to anyone other than the Unit Owner who requested the hearing, it shall also include copies of any other material submitted by the Unit Owner requesting the hearing to the Association in connection with the request.
- (e) At the hearing, the Unit Owner requesting the hearing and the Unit Owner, if any, against whom the claim is made shall have the right, personally or through a representative, to present information orally, in writing, or both, subject to reasonable rules of procedure established by the Executive Board to assure a prompt and orderly resolution of the issues. The Executive Board may also receive information from anyone else which, in the opinion of the Executive Board, will assist it in making a decision. The hearing shall not be conducted as a formal trial. All information presented shall be considered in making a decision but shall not bind the decision makers.
- (f) The Executive Board shall make its decision and send notice of its decision within thirty days after the conclusion of the hearing.
- (i) The notice shall be sent to the Unit Owner requesting the hearing by certified mail, return receipt requested, and by regular mail; and
  - (ii) The notice shall be sent by regular mail to any other parties given notice of the hearing.

**ARTICLE 25**  
**Open Meeting**

Section 25.1 – Access. All meetings of the Board of Directors shall be open to the Unit Owners, except as hereafter provided.

Section 25.2 – Notice. Notice of every such meeting shall be given in accordance with the provisions of the ByLaws.

Section 25.3 – Executive Sessions. Meetings of the Board of Directors may be held in executive session, only in accordance with the provisions of the ByLaws concerning executive sessions and/or as provided by the Act, as amended.

## **ARTICLE 26 Board of Directors**

The Board of Directors shall have all of the powers and duties described in the ByLaws.

## **ARTICLE 27 Condemnation**

If any or all of the Common Interest Community is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking power shall be in accordance with Section 47-206 of the Act, as amended.

## **ARTICLE 28 Miscellaneous**

Section 28.1 – Captions. The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents or the intent of any provision thereof.

Section 28.2 – Gender. The use of the masculine gender refers to the feminine and neuter genders and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so requires.

Section 28.3 – Waiver. No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 28.4 – Invalidity. The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and in such event, all of the other provisions of the Documents shall continue in full force and effect.



**Schedule A-1**  
**Description of Land**

All that certain piece or parcel of land, with all of the improvements thereon, known as Highgate Apartments and situated in the Town of Watertown, County of Litchfield and State of Connecticut, bounded and described as follows, to wit:

Beginning at a point in the southerly line of Cherry Avenue at the intersection of the easterly line of Highgate Drive thence S51°14'E, 197.88 feet; thence N44°19'10"E, 210.39 feet; thence N56°43'50"W, 86.76 feet; thence N73°08'00"E, 150.0 feet; thence N16°50'W, 20.00 feet; thence N26°36'W, 47.22 feet, to a point in the westerly line of Belden Street; thence southeasterly along the southwesterly line of Belden Street; on the arc of a curve having a radius of 105.71 feet and a central angle of 54°24'05", a distance of 100.37 feet; thence S16°52'E, 163.24 feet; thence N73°08'E, 100.97 feet; thence S24°49'30"E, 337.49 feet; thence S17°42'30"E, 388.96 feet; thence S09°25'E, 357.81 feet; thence S09°36'50"E, 657.67 feet; thence S73°11'25"W, 1,370.15 feet; thence N08°35'38"W, 75.77 feet; thence S69°50'10"W, 117.92 feet; thence N09°13'40"W, 628.87 feet; thence N73°45'15"E, 202.25 feet; thence N34°17'05"E, 198.00 feet; thence N07°02'20"W, 136.46 feet; thence N51°01'50"E, 83.87 feet; thence N10°53'40"W, 263.76 feet; thence N16°49'50"W, 188.06 feet; thence N44°19'10"E, 582.72 feet; thence N51°14'W, 199.02 feet; thence N 45°36'20"E along the southerly line of Cherry Avenue 50.36 feet to the place and point of beginning.

The above premises are more particularly shown on a map entitled:

"Proposed Map of Property of Highgate Condominium, Cherry Ave., Watertown, Ct. Scale: 1"=40', June 16, 1981, Kratzert & Jones Civil Engineers – Land Surveyors – Site Planners, 1457 Meriden-Waterbury Turnpike, Milldale, Connecticut", Class A-2 Survey, and which map is recorded in the Office of the Town Clerk of Watertown, and which map is Exhibit "B" to the Declaration of Condominium.

Said premises are free of all encumbrances except:

1. Building lines, if established, and any and all provisions of any building zone ordinance and planning ordinance exacted by the Town of Watertown, and any and all provisions of any ordinance, municipal regulation, or public or private law.
2. Certain Leases pertaining to water pipe rights and well rights dated September 20, 1892, recorded in Volume 29, Page 203, dated July 29, 1909, recorded in Volume 40, Page 65, dated August 6, 1900, recorded in Volume 32, Page 182, dated September 28, 1905, recorded in Volume 36, Pages

216-217, dated February 12, 1909, recorded in Volume 40, Pages 2-3, all recorded in the Watertown Land Records. (May Affect).

3. Easement to The Connecticut Light & Power Company dated October 9, 1964, recorded in Volume 152, Page 492, of the Watertown Land Records.
4. Certain Agreements with the Watertown Fire District as recorded in Volume 152, Page 561, Volume 156, Page 430, Volume 161, Page 167, Volume 165, Page 452, and Page 455, all recorded in the Watertown Land Records.
5. Subject to any other utility easements as shown in the above entitled map, which is Exhibit B to the initial Declaration.

**Schedule A-2**  
**TABLE OF INTERESTS**

<b>Building and Unit Number</b>	<b>Approximate Square Feet</b>	<b>Unit Type</b>	<b>% of Interest in Undivided Common Elements</b>
<b>Building A</b>			
A 11	988	2	.818
A 12	720	1	.596
A 13	720	1	.596
A 14	988	2	.818
A 21	988	2	.818
A 22	720	1	.596
A 23	720	1	.596
A 24	988	2	.818
<b>Building B</b>			
B 11	1206	3	.998
B 12	1206	3	.998
B 13	1206	3	.998
B 14	1206	3	.998
B 15	1206	3	.998
B 16	1206	3	.998
<b>Building C</b>			
C 11	988	2	.818
C 12	720	1	.596
C 13	720	1	.596
C 14	988	2	.818
C 21	988	2	.818
C 22	720	1	.596
C 23	720	1	.596
C 24	988	2	.818
<b>Building D</b>			
D 11	988	2	.818
D 12	720	1	.596
D 13	720	1	.596
D 14	988	2	.818
D 21	988	2	.818
D 22	720	1	.596
D 23	720	1	.596
D 24	988	2	.818

Building and Unit Number	Approximate Square Feet	Unit Type	% of Interest in Undivided Common Elements
<b>Building E</b>			
E 11	1060	4	.877
E 12	783	5	.648
E 13	783	5	.648
E 14	1060	4	.877
E 21	1060	4	.877
E 22	783	5	.648
E 23	783	5	.648
E 24	1060	4	.877
<b>Building F</b>			
F 11	1060	4	.877
F 12	783	5	.648
F 13	783	5	.648
F 14	1060	4	.877
F 21	1060	4	.877
F 22	783	5	.648
F 23	783	5	.648
F 24	1060	4	.877
<b>Building G</b>			
G 11	1170	7	.969
G 12	1170	7	.969
G 13	1282	6	1.062
G 14	1282	6	1.061
G 15	1282	6	1.061
G 16	1282	6	1.061
G 17	1170	7	.969
G 18	1170	7	.969
<b>Building H</b>			
H 11	1060	4	.877
H 12	783	5	.648
H 13	783	5	.648
H 14	1060	4	.877
H 21	1060	4	.877
H 22	783	5	.648
H 23	783	5	.648
H 24	1060	4	.877

Building and Unit Number	Approximate Square Feet	Unit Type	% of Interest in Undivided Common Elements
<b>Building I</b>			
I 11	1170	7	.969
I 12	1170	7	.969
I 13	1282	6	1.061
I 14	1282	6	1.061
I 15	1282	6	1.061
I 16	1282	6	1.061
I 17	1170	7	.969
I 18	1170	7	.969
<b>Building J</b>			
J 11	1060	4	.877
J 12	783	5	.648
J 13	783	5	.648
J 14	1060	4	.877
J 21	1060	4	.877
J 22	783	5	.648
J 23	783	5	.648
J 24	1060	4	.877
<b>Building K</b>			
K 11	1170	7	.969
K 12	1170	7	.969
K 13	1282	6	1.061
K 14	1282	6	1.061
K 15	1282	6	1.061
K 16	1282	6	1.061
K 17	1170	7	.969
K 18	1170	7	.969
<b>Building L</b>			
L 11	1170	7	.969
L 12	1170	7	.969
L 13	1282	6	1.061
L 14	1282	6	1.061
L 15	1282	6	1.061
L 16	1282	6	1.061
L 17	1170	7	.969
L 18	1170	7	.969



Building and Unit Number	Approximate Square Feet	Unit Type	% of Interest in Undivided Common Elements
<b>Building M</b>			
M 11	1060	4	.877
M 12	783	5	.648
M 13	783	5	.648
M 14	1060	4	.877
M 21	1060	4	.877
M 22	783	5	.648
M 23	783	5	.648
M 24	1060	4	.877
<b>Building N</b>			
N 11	698	8	.578
N 12	698	8	.578
N 13	698	8	.578
N 14	698	8	.578
N 21	717	8	.594
N 22	717	8	.594
N 23	717	8	.594
N 24	717	8	.594
<b>Building O</b>			
O 11	698	8	.578
O 12	698	8	.578
O 13	698	8	.578
O 14	698	8	.578
O 21	717	8	.594
O 22	717	8	.594
O 23	717	8	.594
O 24	717	8	.594
<b>Building P</b>			
P 11	698	8	.578
P 12	698	8	.578
P 13	698	8	.578
P 14	698	8	.578
P 21	717	8	.594
P 22	717	8	.594

P 23	717	8	.594
P 24	717	8	.594

**TOTAL DWELLING UNITS = 126 UNITS 100.00%**

20	@	.877	sq. feet
20	@	.648	sq. feet
16	@	1.061	sq. feet
16	@	.969	sq. feet
12	@	.818	sq. feet
12	@	.596	sq. feet
12	@	.594	sq. feet
12	@	.578	sq. feet
6	@	.998	sq. feet

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