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**February 25, 2015**

Via Overnight Delivery

Executive Board  
Town House on the Square Condominium Association, Inc.  
C/o Consolidated Management Group, Inc.  
263 Boston Post Road  
Orange, CT 06477

FEB 27 2015

RE: Town House on the Square Condominium Association, Inc.

Dear Executive Board:

Enclosed please find the Original Recorded Amended and Restated Declaration and Original Amended ByLaws. The Declaration is recorded in Volume 9245 at page 165 of the New Haven Land Records.

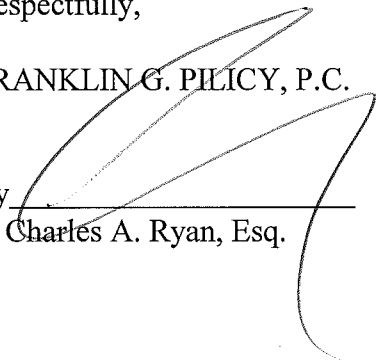
Also enclosed please find our statement for professional services and disbursements in connection with the Document revision project.

If you have any questions or concerns please do not hesitate to contact me at your convenience.

Respectfully,

FRANKLIN G. PILICY, P.C.

By

  
\_\_\_\_\_  
Charles A. Ryan, Esq.

Enc.



TOWN HOUSE ON THE SQUARE CONDOMINIUM  
NEW HAVEN, CONNECTICUT

## DECLARATION

This AMENDED DECLARATION was duly adopted by the Town House on the Square Condominium Association Inc., on the Eighth Day of January 2015.

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 Town House on the Square Condominium was established pursuant to Declaration recorded in Volume 2807, Page 250 of the New Haven Land Records.

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

Town House on the Square 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 01 DEFINITIONS

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

- Section 01.01 **ACT.** The Common Interest Ownership Act, Chapter 828, of the Connecticut General Statutes, as amended.
- Section 01.02 **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 01.03 **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 01.04 **ASSOCIATION.** Town House on the Square 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.
- Section 01.05 **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 01.06 **COMMON ELEMENTS.** All portions of the Common Interest Community other than the Units.
- Section 01.07 **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;
  - 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 01.08 **COMMON INTEREST COMMUNITY.** Town House on the Square Condominium.
- Section 01.09 **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 01.10 **DECLARATION.** The Amended and Restated Declaration.
- Section 01.11 **DIRECTOR.** A member of the Executive Board.
- Section 01.12 **DOCUMENTS.** The Declaration, Survey and Plans recorded and filed pursuant to the provisions of the Act, 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 01.13 **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 01.14 **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 01.15 **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 01.16 **FLOOR PLANS.** The floor plans filed with the initial Declaration, as amended.
- Section 01.17 **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 01.18 **LIMITED COMMON ELEMENTS.** A portion of the Common Elements allocated by this Declaration or by the operation of the Act 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 01.19 **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 01.20 **MANAGER.** A person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.
- Section 01.21 **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 01.22 **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 01.23 **PERSON.** An individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency or other legal or commercial entity.
- Section 01.24 **PLANS.** The plans filed with the initial Declaration, as amended, in the New Haven Land Records, incorporated herein by reference.
- Section 01.25 **PROPERTY.** The land, all improvements, and all easements, rights and appurtenances belonging thereto, which have been submitted to the provisions of the Act by the initial Declaration and prior amendments.
- Section 01.26 **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 01.27 **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 01.28 **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 01.29 **SURVEY.** The survey filed with the initial Declaration as Schedules and as filed with Amendments to the Declaration. The survey filed on the New Haven Land Records is incorporated by reference herein.
- Section 01.30 **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 01.31 **UNIT.** A physical portion of the Common Interest Community designated for separate ownership or occupancy, the boundaries of which are described in Section 4.4 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 01.32 **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 01.33 **UNIT, RESIDENTIAL.** One of the thirty four (34) separate Units.
- Section 01.34 **VOTES.** The votes allocated to each Unit as shown in Article 9.02(a) of this Declaration.

#### **ARTICLE 02 NAME AND TYPE OF COMMON INTEREST, COMMUNITY AND ASSOCIATION**

- Section 02.01 **COMMON INTEREST COMMUNITY.** The name of the Common Interest Community is Town House on the Square Condominium. The Common Interest Community is a Condominium.
- Section 02.02 **ASSOCIATION.** The name of the Association is Town House on the Square Condominium Association Inc. It is a nonstock corporation organized under the laws of the State of Connecticut.

#### **ARTICLE 03 DESCRIPTION OF LAND**

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

#### **ARTICLE 04 NUMBER OF UNITS; BOUNDARIES**

- Section 04.01 **NUMBER OF UNITS.** The Common Interest Community contains thirty four (34) Residential Units.
- Section 04.02 **IDENTIFICATION OF UNITS.** All Units are identified by number and are shown on the survey or plans or both on file in the New Haven Land Records and identified in Schedule A-2 attached hereto.
- Section 04.03 **DESCRIPTION OF BUILDINGS.** There are two (2) buildings, each building containing 17 residential units, having an aggregate of 34 residential units. Each building is 3 stories high. The principal material of which each building is constructed is set forth in Exhibit C to the initial Declaration. The Plans of the building drawn in accordance with the provisions of the Unit Ownership Act, are on file with the Clerk of the City of New Haven.

Section 04.04 **BOUNDARIES.** The boundaries of each Unit are located as shown on the Survey and Plans and are more particularly described as follows:

- a. Walls, floors, windows, exterior doors, skylights and ceilings are designated as boundaries of a Unit. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the Unit, and all other portions of the walls, floors, windows, exterior doors and ceilings are a part of the Common Elements.
- b. Inclusions: Each Unit shall include the spaces and Improvements lying within the boundaries described in Subsection 4.4(a) above, and shall also include any chutes, pipes, flues, ducts, wires, conduits and other facilities situated in the perimeter walls and ceilings of the Unit serving only that Unit. The Units were originally constructed without skylights. Any skylight on any Unit shall be considered a part of the Unit, including its outer most surface and frame. Each Unit Owner shall be responsible for maintenance, repair and replacement of skylights, to prevent leaks, and any water damage resulting from skylights.
- c. Exclusions: Except when specifically included by other provisions of Section 4.4, the following are excluded from each Unit: The spaces and Improvements lying outside the boundaries described in Subsection 4.4(a) above; and all chutes, pipes, flues, ducts, wires, conduits and other facilities running through any interior wall or partition for the purpose of furnishing utility and similar services to other Units or Common Elements or both.
- d. Inconsistency with Survey and Plans: If this definition is inconsistent with the Survey and Plans, then this definition shall control.
- e. 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.
- a. 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 are a part of the Unit notwithstanding their noncontiguity with the residential portions.

#### **ARTICLE 05 LIMITED COMMON ELEMENTS**

Section 05.01 **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 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. Exterior windows, window screening, storm doors, screen doors, exterior doors shall be Limited Common Elements of the Unit which they serve.
- f. Interstitial space above each Unit, the use of which is limited to the Unit or Units beneath it.
- g. Mail boxes 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 mail box key.
- h. Designated parking spaces, the use of which is limited to the Units to which they are assigned.
- i. Flues, the use of which are limited to the Unit in which their furnace is located. In the event of a multiple flue Chimney, each flue shall be a Limited Common Element of its Unit containing its furnace, while the flue will be a Limited Common Element for both Units.
- j. 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 05.02 **EXPENSES ALLOCATED TO 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.

Each Unit Owner shall be responsible for maintenance, repair and replacement of heating, ventilating and air conditioning components, plumbing servicing one unit exclusively, and washer machine (clothes and dishes) hoses. Each Unit Owner shall be responsible for maintenance, repair and replacement of all electrical switches, television, telephone electrical receptacles and light switches serving one unit exclusively. Each Unit Owner shall be responsible for his or her mail box and key, exterior doors and hardware, exterior screen doors, window hardware and screens, and electric light fixtures.

The Association shall be responsible for maintenance, repair and replacement of decks and balconies.

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.

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.

The maintenance of grounds in the Common Elements as well as the clearing of snow and ice from all walks and 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.

Each Unit Owner shall be responsible for removing all snow, leaves and debris from all porches, patios, 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.

The Association shall be responsible to clean dryer vents. The cost of same shall be assessed to the Unit Owners.

Section 05.03 **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 05.04 **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 Board of Directors.

#### **ARTICLE 06 MAINTENANCE, REPAIR AND REPLACEMENT**

Section 06.01 **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 06.02 **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 06.03 **LIMITED COMMON ELEMENTS.** Notwithstanding the provisions of Section 6.1 and Section 6.2, each Unit Owner shall be responsible for removing all snow, leaves and debris from all patios and decks, which are Limited Common Elements appurtenant to his or her Unit. If any such Limited Common Element is appurtenant to two or more Units, the owners of those Units will be jointly responsible for such removal. In addition, each Unit Owner shall be responsible for the maintenance, repair and replacement of those Limited Common Elements described in Article 5 subsections 5.1(d). Each Unit Owner shall be responsible for the maintenance, repair and replacement of other Limited Common Elements as set forth in Article 5, Subsection 5.2.

Section 06.04 **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 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 during winter months 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. 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 routine 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 06.05 **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 06.06 **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.

Section 06.07 **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 under Article 21; and
    - (iii) Bring an action against the Unit Owner for specific performance of the Unit Owner's duties under this Section 6.7.

Section 06.08 **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 07 SUBSEQUENTLY ALLOCATED LIMITED COMMON ELEMENTS**

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

**ARTICLE 08 DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS**

There are no remaining Development Rights or Special Declarant Rights.

**ARTICLE 09 MEMBERSHIP AND ALLOCATED INTERESTS**

Section 09.01 **ALLOCATION OF INTERESTS.** Schedule A-2, describing Unit numbers and addresses 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 09.02 **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 the following vote(s):
  - (i) One bedroom Units shall have 1 vote per Unit.
  - (ii) Two bedroom Units shall have 2 votes per Unit.
  - (iii) Three bedroom Units shall have 3 votes per Unit.
  - (iv) There shall be a total of 54 votes in the Association.
- b. Common Expense Liability. The liability for Common Expenses shall be shared in accordance with the unit's allocated interest in the condominium as set forth in Schedule A-2. Nothing contained in this Subsection shall prohibit certain common expenses from being apportioned to particular units under Article 19 of this Amended Declaration.
- c. Undivided Interest in the Common Elements. Each Unit's Undivided Interest in the Common Elements shall be equal to its Common Expense Liability.

Section 09.03 **MEMBERSHIP.** Every Unit owner shall be a member of the Association.

#### **ARTICLE 10 RESTRICTIONS ON USE, ALIENATION, OCCUPANCY AND LEASING**

Section 10.01 **USE AND OCCUPANCY RESTRICTIONS.** The following use restrictions apply to all Units and Common Elements:

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 New Haven. 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.

No noxious or offensive activities may be carried on in any Unit 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.

The use of Common Elements, Units and Limited Common Elements are subject to the ByLaws and the Rules of the Association.

Section 10.02 **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. A Unit may be leased; however, 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.

- Section 10.03 **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 10.04 **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 10.05 **NOTICE OF UNIT PURCHASE AND COPY OF EXECUTED CONVEYANCE DEED.** Every new Owner shall return to Town House on the Square 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 Town House on the Square 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 10.06 **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 New Haven Land Records. Such notice shall be indexed in the Grantor index of such land records in the name of the Association.
- Section 10.07 **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.
- Section 10.08 **PARKING AREA.** Parking Areas are restricted as follows: Parking Areas are restricted as a parking space for vehicles, specifically excluding, however, trucks, commercial vehicles and campers with capacities in excess of one ton or with more than four wheels.
- Section 10.09 **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 to the Association upon the terms and conditions hereinafter provided for. The provisions of this section shall not apply with respect to any sale, conveyance or lease by a Unit Owner of his interest to his spouse, to any of his children or to his parents or parent, or to his 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 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 or lessee and the terms and conditions of the sale or lease, including the price. The Association shall thereafter have a period of ten 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 said Unit, then within said ten day period the Board of Directors shall deliver or mail by registered mail to the Unit Owner an agreement to purchase said Unit upon said terms and condition. The price may be paid in cash and the sale shall be closed within forty-five days after the delivery of the notice of the Board's intention to exercise the right of first refusal. If the Association is going to lease said Unit, then within said ten day period the Board shall deliver or mail by registered mail to the Unit Owner an agreement to lease said Unit upon the same terms and conditions. The lease shall start within forty-five days after the delivery of the notice of intention to exercise the right of first refusal by the Board of Directors. If the Association shall take the lease on the Unit, it shall have the right to sub-lease the Unit. 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 Unit without regard to the right of first refusal. If the proposed transaction is a lease, however, the lease must state that the lessee agrees to abide by all of the terms and conditions and covenants of the Declaration of Condominium and these By-Laws and any rules and regulations as may hereafter be established from time to time by the Board of Directors of the Association.
- b. If the Board of Directors does not elect to exercise its right of first refusal within ten 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 New Haven.
- 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, sale or lease by the bank life insurance company, mortgage company or savings and loan association which shall so acquire title. Neither shall such provisions require the approval of the 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 or lease of a Unit in violation of this Article shall be voidable, by the Board of Directors, within five (5) years from the date of recording of the document evidencing such sale or lease. 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.

Section 10.10 **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 10.11 **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 10.12 **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 10.13 **ANTENNAS.** The Association may adopt Rules regulating and restricting the installation of antennas 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.

#### **ARTICLE 11 EASEMENTS, LICENSES**

- Section 11.01 **ENCUMBRANCES.** All easements or licenses to which the Common Interest Community is subject are listed as an Exhibit to the initial Declaration and included in Schedule A-2 of this Declaration. In addition, the Common Interest Community may be subject to other easements or licenses granted by the Declarant.
- Section 11.02 **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 12.01 **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 12.02 **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. 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 13.01 **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) After acquiring an adjoining Unit or an adjoining part of an adjoining Unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a Common Element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Common Interest Community. Removal of partitions or creation of apertures under this Subsection is not an alteration of boundaries.
  - (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.

**Section 13.02 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, following submission of complete plans to the Board of Directors. Said plans shall be prepared by a party experienced in performing the requested work and/or improvements. 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 13.03 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 14.01 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 14.02 **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 15.01 **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 15.02 **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 15.03 **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 15.04 **WHEN UNANIMOUS CONSENT IS REQUIRED.** Except to the extent expressly permitted or required by other provisions of the Act and this Declaration, no amendment may create or increase Special Declarant Rights, increase the number of Units, change the boundaries of any Unit, the Allocated Interests of a Unit, or the uses to which any Unit is restricted, in the absence of unanimous consent of the Unit Owners.
- Section 15.05 **EXECUTION OF AMENDMENTS.** Amendments to this Declaration required by the Act 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 15.06 **CONSENT OF HOLDERS OF SECURITY RIGHTS.** Amendments are subject to the consent requirements of Article 18.

#### **ARTICLE 16 AMENDMENTS TO BYLAWS**

The ByLaws may be amended in accordance with the provisions set forth in the ByLaws.

#### **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 18.01 **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 18.02 **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 forty five (45) 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 18.03 **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 18.04 **PRIOR CONSENT REQUIRED:**

- a. Document Changes. Notwithstanding any lower requirements permitted by this Declaration or the Act, 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) 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
  - (iv) Elements;
  - (v) Responsibility for maintenance and repairs;
  - (vi) 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);
  - (vii) Rights to use Common Elements and Limited Common Elements;

- (viii) 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);
  - (ix) Convertibility of Units into Common Elements or Common Elements into Units;
  - (x) Expansion or contraction of the Common Interest Community, or the addition, annexation or withdrawal of property to or from the Common Interest Community;
  - (xi) Insurance or fidelity bonds;
  - (xii) Leasing of Units;
  - (xiii) Imposition of restrictions on a Unit Owner's right to sell or transfer his or her Unit;
  - (xiv) Establishment of self management when professional management had been required previously by an Eligible Mortgagee of a Unit;
  - (xv) Restoration or repair of the project after a hazard damage or partial condemnation in a manner other than that specified in the Documents;
  - (xvi) Termination of the Common Interest Community after occurrence of substantial destruction or condemnation; and
  - (xvii) The benefits of mortgage holders, insurers or guarantors.
- b. Actions. Notwithstanding any lower requirements permitted by this Declaration or the Act, 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
  - (vii) Common Interest Community;
  - (viii) Create any additional improvements on any portion of the Common Elements which is subject to any Development Rights;
  - (ix) 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);
  - (x) Assign the future income of the Association, including its right to receive Common Expense assessments; and
  - (xi) Not repair or replace the Property.

(xii) 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 18.05 DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS.**

There are no remaining Development Rights or Special Declarant Rights.

**Section 18.06 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 18.07 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 18.08 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 18.09 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 19.01 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 19.02 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 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.
- 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.

Section 19.03 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, 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 material men'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 section 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 19.04 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 19.05 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 19.06 **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 19.07 **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 19.08 **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 19.09 **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 20.01 **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 20.02 **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 21.01 **COMPLIANCE WITH DOCUMENTS.** All Unit Owners, tenants, mortgagees and occupants of Units shall comply with the Documents. The acceptance of a deed 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 Documents are accepted and ratified by such Unit Owner, tenant, mortgagee or occupant, and all such provisions are covenants running with the land and shall bind any persons having at any time any interest or estate in such Unit.

Section 21.02 **ADOPTION OF AND AMENDMENT TO RULES.** Rules and Regulations concerning the use of the Units and the Common Areas may be made and amended by the Board of Directors in accordance with the provisions of Article 12 of the ByLaws.

## **ARTICLE 22 INSURANCE**

### **Section 22.01 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 actual cash value 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 (1) 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.
- 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 (1) 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 22.02 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) \$10,000, 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:

"Town House on the Square Condominium Association Inc. for the use and benefit of the Individual Owners."

**Section 22.03 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 22.04 **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 22.05 **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.
- c. 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.
- d. 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.
- e. 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.
- f. Section 22.9 – Premiums. Insurance premiums shall be a Common Expense.

**ARTICLE 23 DAMAGE TO OR DESTRUCTION OF PROPERTY**

Section 23.01 **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 23.02 **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(l) 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 23.03 **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 23.04 **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 23.05 **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 23.06 **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 23.07 **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 New Haven from the date of the recording of the original Declaration stating the names of the Unit Owners and the mortgagees.

Section 23.08 **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 24.01 **RIGHT TO NOTICE AND COMMENT.** Wherever the documents require that an action be taken after "Notice and Comment," and at any other time the Board of Directors determines, the Unit Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action shall be given to each Unit Owner in a Record and shall be delivered in accordance with the provisions of Article 3 of the ByLaws. The notice shall be given not less than ten (10) days before the proposed action is to be taken.

Section 24.02 **RIGHT TO NOTICE AND HEARING.** Whenever the Documents require that an action be taken after "Notice and Hearing," the following procedure shall be observed: The party proposing to take the action (e.g., the Board of Directors, a committee, an officer, the Manager, etc.) shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision-makers. The affected person shall be notified of the decision in the same manner in which notice of the meeting was given.

Section 24.03 **APPEALS.** Any person having a right to Notice and Hearing shall have the right to appeal to the Board of Directors from a decision of persons other than the Board of Directors by filing a written notice of appeal with the Board of Directors within ten (10) days after, being notified of the decision. The Board of Directors shall conduct a hearing within thirty (30) days, giving the same notice and observing the same procedures as were required for the original hearing.

## ARTICLE 25 OPEN MEETING

- Section 25.01 **ACCESS.** All meetings of the Board of Directors at which action is to be taken by vote at such meeting shall be open to the Unit Owners, except as hereafter provided.
- Section 25.02 **NOTICE.** Notice of every such meeting shall be given in accordance with the provisions of the ByLaws.
- Section 25.03 **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.

## ARTICLE 26 BOARD OF DIRECTORS

The affairs of the Association shall be governed by the Board of Directors in accordance with and subject to the limitations of the Declaration and the By-Laws. The Board of Directors may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community or to elect members of the Board of Directors or determine the qualifications, powers and duties, or terms of office of Board of Directors members, but the Board of Directors may fill vacancies in its membership in accordance with the provisions of 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 28.01 **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 28.02 **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 28.03 **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 28.04 **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.
- Section 28.05 **CONFLICT.** The Documents are intended to comply with the requirements of the Act and Chapter 602 of the Connecticut General Statutes. In the event of any conflict between the Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other Document, this Declaration shall control.
- Section 28.06 **EXECUTION OF DOCUMENTS.** The President or Secretary of the Association is responsible for preparing, executing, filing and recording amendments to the Documents.



#### SCHEDULE A-1 LEGAL DESCRIPTION OF LAND

All that certain piece or parcel of land, with the buildings and improvements thereon standing, situated in the City and County of New Haven and State of Connecticut, known as No. 285 Greene Street, and also being Reuse Parcel A-7 of the Wooster Square Redevelopment and Renewal Area as shown on a map entitled "Parcel A-7, Wooster Square Redevelopment Project, City of New Haven," scale 1"=40', prepared by Charles A. Cahn, Civil Engineer and Surveyor, dated July 1962, on file in the New Haven Town Clerk's office, and revised March 28th, 1972, bounded and described as follows:

Beginning at the Northeasterly corner of Hughes Place and Greene Street, said point being North 172,145.36 and East 553,774.56 on the Connecticut Geodetic Grid System;

Thence running South 87 degrees, 19 minutes, 23 seconds East 300.65 feet along the Northerly line of Greene Street;

thence running Northerly 2 degrees, 24 minutes, 37 seconds East 170.16 feet along land belonging now or formerly to Samuel P. Bolles;

thence running Southerly 86 degrees, 14 minutes, 23 seconds East 11.91 feet along land belonging now or formerly to Samuel P. Bolles:

thence running Northerly 2 degrees, 17 minutes, 24 seconds East 36.29 feet along land belonging now or formerly to Theresa E. Kautz;

thence running Northerly 87 degrees, 33 minutes, 23 seconds West 122.04 feet along land belonging now or formerly to Hary A. Cullom, et als;

thence running Northerly 2 degrees, 37 minutes, 12 seconds East 134.28 feet along land belonging now or formerly to Maria Spignesi;

thence running Northerly 87 degrees, 27 minutes, 06 seconds West 50.10 feet along the Southerly line of St. John Street;

thence running Southerly 2 degrees, 22 minutes, 54 seconds West 125.13 feet along land belonging now or formerly to Hughes and Stafford, et al;

thence running Northerly 87 degrees, 39 minutes, 17 seconds West 135.13 feet along land belonging now or formerly to Emeline H. Ives;

thence running Southerly 3 degrees, 57 minutes, 07 seconds West 214.04 feet along the Easterly line of Hughes Place to point and place of beginning.

Together with and said premises are subject to the covenants, restrictions and agreements contained in a Land Disposition Agreement made by and between The City of New Haven and The New Haven Redevelopment Agency and A. A. A. Realty, Inc., dated April 4, 1963 recorded in Volume 2175, page 435 of the New Haven Land Records.



SCHEDULE A-2 TABLE OF INTEREST

Address	Unit	Description and Number of Rooms	Approx. Square Footage	Limited Common Area Type	Percentage of Undivided Interest
Greene Street					
297	G-1	1BR - 1 BA - DA - LR	750	Patio	1.85%
299	G-2	2BR - 1 BA - DR - LR	1240	Deck	3.70%
293	G-3	1BR - 1 BA - DA - LR	750	Patio	1.85%
295	G-4	2BR - 1 BA - DR - LR	1240	Deck	3.70%
287	G-5	1BR - 1 BA - DA - LR	750	Patio	1.85%
289	G-6	2BR - 1 BA - DR - LR	1240	Deck	3.70%
283	G-7	1BR - 1 BA - DA - LR	750	Patio	1.85%
285	G-8	2BR - 1 BA - DR - LR	1240	Deck	3.70%
281	G-9	3BR - 2 BA - DA - LR	1615	Patio	5.60%
277	G-10	2BR - 1 BA - DR - LR	1240	Deck	3.70%
275	G-11	1BR - 1 BA - DA - LR	750	Patio	1.85%
273	G-12	2BR - 1 BA - DR - LR	1240	Deck	3.70%
271	G-13	1BR - 1 BA - DA - LR	750	Patio	1.85%
269	G-14	2BR - 1 BA - DR - LR	1240	Deck	3.70%
267	G-15	1BR - 1 BA - DA - LR	750	Patio	1.85%
265	G-16	2BR - 1 BA - DR - LR	1240	Deck	3.70%
263	G-17	1BR - 1 BA - DA - LR	750	Patio	1.85%

Hughes Place

1D	H-1	1BR - 1 BA - DA - LR	750	Patio	1.85%
1B	H-2	2BR - 1 BA - DR - LR - BL	1240	Deck	3.70%
1C	H-3	1BR - 1 BA - DA - LR	750	Patio	1.85%
1A	H-4	2BR - 1 BA - DR - LR	1240	Deck	3.70%
3D	H-5	1BR - 1 BA - DA - LR	750	Patio	1.85%
3B	H-6	2BR - 1 BA - DR - LR	1240	Deck	3.70%
3C	H-7	1BR - 1 BA - DA - LR	750	Patio	1.85%
3A	H-8	2BR - 1 BA - DR - LR	1240	Deck	3.70%
5	H-9	3BR - 2 BA - DA - LR	1615	Patio	5.60%
7B	H-10	2BR - 1 BA - DR - LR	1240	Deck	3.70%
7D	H-11	1BR - 1 BA - DA - LR	750	Patio	1.85%
7A	H-12	2BR - 1 BA - DR - LR	1240	Deck	3.70%
7C	H-13	1BR - 1 BA - DA - LR	750	Patio	1.85%
9B	H-14	2BR - 1 BA - DR - LR	1240	Deck	3.70%
9D	H-15	1BR - 1 BA - DA - LR	750	Patio	1.85%
9A	H-16	2BR - 1 BA - DR - LR	1240	Deck	3.70%
9C	H-17	1BR - 1 BA - DA - LR	750	Patio	1.85%

The room designations above are abbreviated as follows:

BR - Bedroom	DA - Dining Alcove
BA - Bathroom	LR - Living Room
DR - Dining Room	BL - Balcony