

OTETIANA
COVE
HOMEOWNERS
ASSOCIATION

DECLARATION
&
BY-LAWS



State of New York, County of Ontario as:
I, MATTHEW J. HOOSE, Clerk of the County of Ontario of the County Court of said County and of the Supreme Court both being Courts of Record having a common seal.

Do HEREBY CERTIFY that I have compared this copy with the original filed or recorded in this office and that the same is a correct transcript thereof and of the whole of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County and Courts

Matthew J. Hoose

Facsimile signature used pursuant to Sec. 903 of County Law

6015

*R/R Duncan R. Farnley
80 Linden Drive
Rochester, N.Y. 14625*

DECLARATION
OF
COVENANTS, RESTRICTIONS, EASEMENTS AND LIENS
OF
OTETIANA COVE HOMEOWNERS ASSOCIATION, INC.

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DECLARATION
of
COVENANTS, RESTRICTIONS, EASEMENTS AND LIENS
of
OTETIANA COVE HOMEOWNERS ASSOCIATION, INC.

THIS DECLARATION is made this 14th day of July,
1993, by and between OTETIANA COVE, INC. a New York Corporation
(hereinafter referred to as "Declarant") and is accepted and
agreed to by OTETIANA COVE HOMEOWNERS ASSOCIATION, INC.
(hereinafter called "Association").

WHEREAS, Declarant has heretofore acquired the fee simple
interest in the land described below, in Article I, Section 1.13
hereof, said land in its entirety being hereinafter referred to
as the "Properties"; and

WHEREAS, the Association is a New York not-for-profit
Corporation formed for the purposes described in its Certificate
of Incorporation and to be operated and governed in accordance
with this Declaration and the By-Laws of the Association;

NOW, THEREFORE, Declarant hereby declares that all of the
Properties, together with any and all improvements thereon and
appurtenances thereunto, shall be held, sold and conveyed subject
to the following covenants, restrictions, easements, liens, and
conditions which are for the purpose of protecting the value and
desirability of, and which shall run with, burden and bind, the
Properties for and during the period of time specified hereafter
and all parties having any right, title, lien, or interest to or

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in the Properties or any part thereof, their distributees, executors, administrators, successors, and assigns forever, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

1.01. "Association" shall refer to the OTETIANA COVE HOMEOWNERS ASSOCIATION, INC. and its successors and assigns, which shall own the Common Areas and Facilities and maintain the Properties as hereafter provided.

1.02. "Board of Directors" shall refer to the duly elected board of directors of the Association from time to time in accordance with the by-laws of the Association.

1.03. "Commercial Vehicle" shall refer to any vehicle not intended or adapted primarily for private passenger transportation and shall include, without limitation, any pick-up truck, van, or jeep-type vehicle with lettering, markings, or insignia identifying it with a commercial enterprise or activity, or any vehicle equipped with a snowplow or other attachment adapting it to use in connection with such an enterprise or activity, whether or not it is actually being so used.

1.04. "Common Areas and Facilities" shall refer to all real estate within the "Properties" as hereinafter defined in Section 1.13 conveyed or to be conveyed by Declarant to the Association,

and all easements and facilities maintained by the Association for the common use and enjoyment of the Lot Owners.

1.05. "Declarant" shall refer to OTETIANA COVE, INC., and its successors and assigns if such successors or assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development.

1.06. "Lot" shall refer to any plot of land shown upon any filed plat map or subdivision map of the Properties, or any resubdivision map of all or a portion of the same.

1.07. "Member" shall refer to any Owner of a Lot within the Properties. Lot Owners automatically become members of the Association as set forth in Article V.

1.08. "Note" shall refer to any note, bond, debenture or other evidence of indebtedness issued and sold by the Association.

1.09. "Note Holder" shall refer to the holder of any Note given by the Association, and all trustees or other representatives of one or more such holders.

1.10. "Occupant" shall refer to any person occupying a Townhouse for a period of twelve hours or more or overnight even if for a period of less than twelve hours, and shall include without limitation, Owners, their families, guests, or other invitees and any tenant other other renter and his or her family, guests or other invitees.

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1.11. "Owner" shall refer to the record owner, whether one or more persons or entities, of the title to any Lot which is part of the Properties, but excluding those having such interest merely as security for the performance of any obligation.

1.12. "Party Wall" shall refer to any wall which is common to and separates two Townhouses.

1.13. "Properties" shall refer to the real property described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Gorham, County of Ontario and State of New York, lying between the East Lake Road and Canandaigua Lake and more particularly bounded and described as follows: Beginning at a point in the westerly boundary of East Lake Road at an iron set in the line between the Town of Canandaigua and the Town of Gorham, running thence N 81° 01' 20" W, a distance of 470.70 feet to a point; thence S 8° 58' 40" W, a distance of 135.00 feet to a point; thence N 81° 01' 20" W, a distance of 75.00 feet to a point; thence N 17° 42' 42" W, a distance of 92.55 feet to a point; thence S 48° 28' 40" W, a distance of 366.09 feet to a point; thence S 35° 52' 20" E, a distance of 55.91 feet to a point; thence S 64° 20' 40" W, a distance of 138.96 feet to an iron set in the highwater mark on the shore of Canandaigua Lake; running thence S 15° 12' 50" E, along the shore of Canandaigua Lake a distance of 90.31 feet to a point; thence S 82° 16' 20" E, a distance of 285.80 feet to a point; thence N 48° 28' 40" E, a distance of 56.67 feet to a point; thence S 81° 01' 20" E, a distance of 190.63 feet to a point; thence N 30° 55' 20" E, a distance of 100.00 feet to a point; thence S 81° 01' 20" E, a distance of 150.00 feet to a point in the westerly boundary of East Lake Road; thence N 30° 55' 20" E, a distance of 197.34 feet along the westerly boundary of East Lake Road to a point; thence N 30° 53' 40" E, a distance of 226.40 feet along the westerly boundary of East Lake Road to the point and place of beginning.

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1.14. "Recreational Vehicle" shall refer, without limitation, to any motor home, camper, house trailer, tent trailer, boat, dune buggy, go-cart, snowmobile, dirt bike, or other vehicle intended, designed or adapted primarily for recreational use or purposes.

1.15. "Single or One Family Occupancy" shall refer to the residential occupancy by no more than two (2) unrelated adults or four (4) adults all related to one another as either brother, sister, stepbrother, stepsister, mother, father, husband, wife, daughter, son, stepdaughter, stepson, together with any number of their children, all of whom are related to each other as brother or sister, or stepbrother or stepsister. The foregoing shall include adopted and licensed agency approved or placed foster children.

1.16. "Townhouse" or "dwelling unit" shall refer to the improvement constructed upon any Lot, subject to this Declaration, for use as a single or one family residence.

ARTICLE II

COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS

2.01. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot within the Properties, hereby covenants, by acceptance of a deed therefor, and whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Association: (1) annual assessments or

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charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The covenant in this Section shall not constitute a guarantee, or promise of any kind by Declarant to pay any assessment, or any other obligations, other than Declarant's obligation to the Association as set forth in the Offering Plan filed with the New York State Department of Law. The annual and special assessments together with late charges, interest and costs, and reasonable attorney's fees incurred in the collection of same shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Said continuing lien shall be subordinate only to the lien of real property taxes levied against the Lot and to the lien of a first mortgage as hereinafter defined and provided in Section 2.09. Each such assessment, together with late charges, interest, costs and reasonable attorneys' fees, shall be the personal obligation of the person who is the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

2.02. Purpose of Assessments. Assessments levied by the Association shall be used exclusively (i), to pay all principal and interest, when due, on all sums borrowed by the Association to the extent required under any agreement with the Note Holders referred to in Section 2.11; (ii) to operate, maintain, repair,

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improve, construct, reconstruct and preserve, on a non-profit basis, the Common Areas and Facilities owned or maintained by the Association, including, without limitation, the private drives and parking areas, sidewalks, underground sewer and water lines and landscaping, all exclusively for the benefit of its Members, their guests, tenants and invitees; (iii) to maintain, repair, reconstruct, replace and preserve, on a non-profit basis, the residential Lots, and the Townhouses constructed thereon, for the purpose of preserving the exterior appearance and configuration of said Lots and Townhouses, including, but not limited to, all exterior (outside) walls, foundations, windows (excluding all glass breakage and screen repair or replacement), exterior doors (excluding storm and screen doors), party walls, roof and roof members, facia and exterior trim, exterior lights, gutters and down spouts, walks and parking areas, trees, shrubs and grasses, and other exterior improvements, excluding, nevertheless, any patio or deck, exclusively for the benefit of the Owners thereof. Except for the structural portion of the party walls and roof members, there shall be no obligation on the part of the Association to maintain, repair, reconstruct, replace or preserve any part of the interior of any Townhouse or any fixtures or mechanical systems (including, but not limited to, heating, chimney, electrical, plumbing, or air-conditioning); (iv) to pay premiums for insurance as hereafter provided in Article III; and (v) to provide all necessary and reasonable services to

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Association Members incidental to the foregoing and also including, but not limited to, snow and rubbish removal, management, and general overhead.

In the event that the need for maintenance or repair is caused through the willful act of an Owner, his family, tenants, guests, or invitees, and not paid for by him or his insurance, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which his Lot is subject.

2.03. Maximum Annual Assessment. Until June 1, 1994, the maximum annual assessment shall be Twelve Hundred Dollars (\$1200.00) per Lot. Thereafter, the maximum annual assessment may be increased as follows:

(a) from and after June 1, 1994, the maximum annual assessment may be increased without a vote of the membership in any fiscal year by up to ten percent (10%).

(b) From and after June 1, 1994, the maximum annual assessment per Lot may be increased by a greater amount than ten percent (10%) by a vote of two-thirds (2/3) of the Members, present in person or by proxy, at a meeting duly called for such purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

2.04. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special

assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members, present in person or by proxy, at a meeting duly called for such purpose.

2.05. Notice and Quorum for Any Action Authorized Under Section 2.03 or 2.04. Written notice of any meeting called for the purpose of taking any action authorized under Section 2.03 or 2.04 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The presence of Members, in person or by proxy, entitled to cast two-thirds (2/3) of all the votes of the membership shall constitute a quorum.

2.06. Uniform Equal Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate equal for all Lots and may be collected in monthly installments.

2.07. Date of Commencement of Annual Assessments and Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the recording of this Declaration, and shall be prorated according to the number of months remaining in the fiscal year.

The annual assessments for the first fiscal year shall not exceed the amount set forth in Section 2.03 above, but may be

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fixed at a lower amount and adjusted upward or downward from time to time in Declarant's sole discretion, as frequently as, but no more frequently than, monthly, by the Declarant based upon actual operating expenses for the preceding month or other prior equivalent period, subject always to said maximum, so that the aggregate of said monthly assessments shall not exceed the maximum for the first fiscal year. In so fixing the monthly assessments from time to time, Declarant may also take into account in its estimate of operating expenses for the period to which such assessments are to be applied any deficit from previous periods and any anticipated expense not previously incurred. The Board of Directors shall fix the amount of subsequent annual assessments for each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, and unless otherwise provided, the Association shall collect each month from the Owner of each Lot one-twelfth (1/12) of the annual assessment for such Lot. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

2.08. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within fifteen (15) days after the due date, it shall bear a late charge as provided in the By-Laws of the Association, and if not paid within thirty (30) days after the due date, the assessment shall also bear interest from the date of delinquency at the rate specified in the Association By-Laws but in no event in excess of the prevailing legal maximum rate per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against such Owner's Lot, or both, and late charges, interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of liens against real property, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage foreclosure on real property and such Owner hereby expressly grants to the Association a power of sale in connection with the foreclosure of said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The

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Association, acting on behalf of the Lot Owners shall have the power to bid for the interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same; and to subrogate so much of its right to such liens, as may be necessary or expedient, to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting Owner's portion of the premium for fire and other hazard insurance. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas and Facilities, or abandonment of his Lot, or by renunciation of membership in the Association. An Owner may give to the Association, nevertheless, subject to acceptance thereof by the Association, a deed in lieu of foreclosure.

2.09. Subordination of the Association Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage given to any bank, savings bank, savings and loan association, pension fund, or other institutional lender or Declarant. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of any first mortgage, given as above provided, and provided that the Association is made a party defendant in such foreclosure action, shall extinguish the lien of such assessments as to payments which became due prior to the foreclosure sale and transfer. No foreclosure sale or transfer shall relieve such Lots from

liability for any assessments thereafter becoming due or from the lien thereof.

2.10. Exempt Property. All properties dedicated to, and accepted by, a local municipality or authority shall be exempt from the assessments created herein. However, no land or improvements devoted to use for single or one family occupancy shall be exempt from said assessments.

2.11. Loans to the Association. The Board of Directors of the Association, within the limitations imposed by Section 2.03, may borrow monies from time to time, so long as the repayment of the principal borrowed and the interest thereon shall be accomplished within a term of five (5) years. Loans that shall require repayment over a longer term shall first be approved by two-thirds (2/3) of the votes of the Members present in person or by proxy at a meeting duly called for this purpose.

In order to secure the repayment of any and all sums borrowed by it from time to time, the Association is hereby granted the right and power (i) to assign and pledge revenues received, and to be received by it under any provisions of this Declaration, provided that no such assignment or pledge shall be made without the prior consent of two-thirds (2/3) of the votes held by the Members of the Association, including Declarant, cast at a meeting duly called for such purpose in accordance with the By-Laws, and (ii) to enter into agreement with Note Holders with respect to the collection and disbursement of funds, and (iii) to

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apply funds received by the Association first to the payment of principal and interest, when due, on such loans; and (iv) to establish such collection, payment and lien enforcement procedures as may be required by Note Holders.

2.12. Reserves and Surplus. The Board of Directors of the Association may establish, from time to time, reserves for such lawful purposes as, in its sole discretion, it may determine necessary to be desirable for the greater financial security of the Association and the effectuation of its purposes. The Association shall not be obligated to spend, in any fiscal year, all the sums collected in such year, and may carry forward as surplus any balances remaining; nor shall the Association be obligated to apply any such surplus to the reduction of the amount of the annual assessment in the succeeding year, but may carry forward the same from year to year.

2.13. Contractual Authority. The Association shall be entitled to contract with any corporation, firm or other entity for the performance of the various duties imposed on the Association hereunder and the performance by any such entity shall be deemed the performance of the Association hereunder.

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ARTICLE III

INSURANCE

3.01. Physical Damage Insurance. The Declarant, for each lot owned within the Properties, hereby irrevocably nominates, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to nominate irrevocably, the Association as Trustee with authority to obtain and maintain fire insurance and extended coverage for all Townhouses, insuring the buildings and fixtures, in an amount sufficient to cover the full replacement cost thereof. Such policies of physical damage insurance shall be written in the name of the Association, as Trustee for each Lot Owner, and shall contain waivers of subrogation and of any reduction of pro rata liability of the insurer as a result of any insurance carried by any Lot Owner or of invalidity arising from any acts of the insureds or any Lot Owner, and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days prior written notice to all of the insureds, including any mortgagee of any Lot.

Each policy shall contain a New York standard mortgagee clause in favor of any first mortgagee, only, of any Lot, which shall provide that the loss, if any, thereunder shall be payable to such first mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Association hereinafter set forth. All such policies shall

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provide that adjustment of loss shall be made by the Association with the approval of the Lot Owner, and that the net proceeds thereof shall be payable to the Association.

The premiums for all such insurance obtained by the Association shall be part of the common expenses included in the annual assessment.

Lot Owners shall not be prohibited from carrying additional insurance for their own benefit, provided that such policies contain waivers of subrogation and further provided that the liability of the carrier issuing insurance procured by the Association shall not be affected or diminished by reason of any such additional insurance carried by any Lot Owner.

In the event of damage to or destruction of any Townhouse, as a result of fire or other casualty, the Owner, with the concurrence of his first mortgagee, if any, upon receipt of the insurance proceeds by the Association, shall contract to rebuild or repair such damaged or destroyed Townhouse.

Upon receipt of the insurance proceeds, and prior to making any other disbursement, the Association shall first pay the expenses incurred, if any, including the reasonable charges for the services of any public adjuster and of any attorney employed by the Association to secure payment of such proceeds.

No disbursements for reconstruction or repair shall be made, nevertheless, unless the Association is first directed by a written certificate of the Owner, or his designated architect or

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engineer, stating that the sums to be paid are due and properly payable for such reconstruction or repair, and stating the following information as to each disbursement:

- (1) Name and mailing address of payee;
- (2) Amount of payment;
- (3) Purpose of payment.

Upon the failure or refusal of the first mortgagee and the Owner to proceed with the reconstruction or repairs within thirty (30) days after written notice and demand, such portion of the proceeds as may be necessary to discharge the interest of the first mortgagee, if any, shall be paid over by the Association to such mortgagee, upon the tender by said mortgagee of a duly executed discharge of the mortgage in recordable form.

The Association is hereby irrevocably authorized by the Owner to use the balance of insurance proceeds, remaining after discharge of any first mortgage interest, to reconstruct the "exterior portion" of such Townhouse so damaged or destroyed, in conformance with the original plans and specifications of such Townhouse, which "exterior portion" shall include those items defined in Section 2.02(iii) hereof. Provided, however, the Association may also, in the discretion of the Board of Directors, restore the heating system inside the unit to the extent necessary to preserve said exterior portion.

No disbursement for reconstruction and repair of the "exterior portion" of such Townhouse shall be made unless the

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Association is first directed by a written certificate of an architect or engineer, employed by the Association to supervise such reconstruction or repair, stating that the sums to be paid are due and properly payable for such reconstruction or repair of the "exterior portion" and stating the following information as to each disbursement:

- (1) Name and mailing address of payee;
- (2) Amount of payment;
- (3) Purpose of payment;

In the event the cost to reconstruct the "exterior portion" of such Townhouse shall exceed the balance of insurance proceeds after the payment of expenses and the discharge of the first mortgagee's interest, the cost to reconstruct the "exterior portion" in excess of the balance shall be an expense of the specific Owner of such Townhouse and shall be paid within thirty (30) days after notice and demand therefor. In default of payment thereof, the excess cost, together with interest, costs and reasonable attorneys' fees, shall become a charge on the land and shall become a continuing lien upon the lot against which such additional cost was incurred. Such lien may be enforced in the same manner as the lien for annual and special assessments as provided under Article II hereof.

Prior to the reconstruction or rebuilding of the "exterior portion" of such destroyed Townhouse, the Association may, but shall not be required to, employ an architect or

engineer to supervise the same, and based upon the original plans and specifications for such Townhouse, advertise for sealed bids and may thereafter negotiate with any contractor for the reconstruction or repair of such Townhouse's "exterior portion."

In the event the cost of reconstruction or repair of the "exterior portion" of such Townhouse, including the reasonable cost for services of any architect, engineer or attorney employed by the Association to pursue the reconstruction and repair of the "exterior portion" of such Townhouse, is less than the insurance proceeds received by the Association, then, and in such event, the proceeds remaining, after payment of costs, shall be paid to the Owner upon the tender to the Association by such Owner of a duly executed release of liability and accountability for the use of such insurance proceeds.

All insurance proceeds paid on any loss claim shall be first deposited in a bank or other financial institution, in an interest bearing account insured by a Federal governmental agency, with provision that such proceeds, or any part thereof, may only be withdrawn upon the signature of at least two members of the Board of Directors or their designee.

Notwithstanding the foregoing provisions of this Section 3.01, it is further provided that the requirement for the maintenance of insurance on a Townhouse shall not apply to any Townhouse acquired by the Veteran's Administration or Federal Housing Administration under a mortgage foreclosure during the

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period of ownership by either of said Veteran's Administration or Federal Housing Administration.

The initial amount of physical damage insurance allocated to a particular Townhouse shall be at least in such amount as may be required by any first mortgagee of such Townhouse, but in no event in an amount less than the full replacement cost thereof. Any Lot Owner may, upon written request, and at his expense, direct the Association to increase insurance coverage on his particular Townhouse to such amount as the carrier selected by the Association is willing to underwrite. The amount of such insurance coverage shall be increased annually to cover the increase, if any, in the replacement cost of each Townhouse.

Only the Association, as Trustee, the Lot Owner, and his first mortgagee shall be named insureds. Assignment of the policy or of the proceeds of the policy, in the event of loss, shall be prohibited.

The Association may consult with, and employ, an attorney of its choice with respect to any question relating to its duties or responsibilities hereunder and shall not be liable for any action taken or omitted by it in good faith or on advice of counsel. The Association shall be reimbursed for all expenses incurred by it in connection with its duties under this Article provided as a charge against the insurance proceeds, except for

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such expenses incurred as a result of bad faith or willful misconduct.

3.02. Public Liability Insurance. The Association shall obtain broad form public liability insurance covering the Common Areas and Facilities and all of the Lots, excluding, nevertheless, liability coverage for the interior of any Townhouse or private patio or deck area, in a single limit amount of not less than One Million Dollars (\$1,000,000.00) covering claims for bodily injury or death and Two Hundred Fifty Thousand Dollars (\$250,000.00) covering all claims for property damage arising out of any one occurrence. Premiums for public liability insurance shall be part of the common expense payable out of annual assessments provided under Article II hereof.

3.03. Other Insurance. The Association may secure such other forms of insurance coverage as its Board of Directors may, from time to time direct, to be paid for as a common expense.

ARTICLE IV

PROPERTY RIGHTS

4.01. Every Member shall have a right and easement of enjoyment in and to the Common Areas and Facilities and such easement shall be appurtenant to and shall pass with the transfer of title to any Lot. All such rights and easements are subject, nevertheless, to the rights of the Association:

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(a) To limit the number of Members' guests or invitees using the Common Areas and Facilities; and

(b) To borrow money for the purpose of improving the Common Areas and Facilities and in aid thereof to mortgage or grant security interests in Association property, provided that no such mortgage or security interest shall be granted without the prior consent of two-thirds (2/3) of the votes held by the Members of the Association, including Declarant, cast at a meeting duly called for such purpose in accordance with the By-Laws; and

(c) To grant easements or rights of way to the Town of Gorham or any of its districts or to any public utility corporation or public or municipal agency.

ARTICLE V

MEMBERSHIP - VOTING RIGHTS

5.01. The Association shall have as Members only Owners of Lots. All Owners, upon becoming such, shall be deemed automatically to have become Members and there shall be no other qualification for membership. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

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5.02. Declarant, as an Owner of one or more lots, shall be a Member of the Association.

5.03. All Members, so long as the same shall qualify under this Article V, and under the By-Laws of the Association, shall be entitled to vote on each matter submitted to a vote at a meeting of Members subject to the following exceptions and conditions:

(a) As long as Declarant owns or holds nine (9) or more Lots, or until five (5) years from the date Declarant transfers the first Lot to an Owner, whichever period expires first, Declarant shall be entitled to elect a majority of the directors of the Association.

(b) When any Lot is owned by more than one person or entity, as tenants by the entirety, or in joint tenancy, or tenancy in common, or any other manner of joint or common ownership or interest, such persons or entities, as Owners of a single Lot shall collectively constitute a member of the Association and be entitled to cast only one vote as such. If such person or entities cannot jointly agree as to how such vote should be cast, no vote shall be allowed with respect to such Member.

(c) In no event, after five (5) years from the date of recording this Declaration, may Declarant, its successors or assigns, cast a majority of the votes for the election of any member of the Board of Directors of the Association;

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nevertheless, so long as Declarant, its successors or assigns, shall own two (2) or more Lots within the period of ten (10) years from the date of recording this Declaration, then and in such event, it shall have the right to designate one member of the Board of Directors.

ARTICLE VI

EASEMENTS

6.01. Each Townhouse Lot shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed, which easement shall continue as long as said encroachments exist. In the event any building containing two or more Townhouses is partially or totally destroyed and then rebuilt, the Owners of the Townhouses so affected agree that minor encroachments of parts of the adjacent Townhouses due to construction shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist.

6.02. There is hereby created a blanket easement upon, across, over and under all of said Properties for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water lines, water meter vaults, storm and sanitary sewers, cable television, gas, telephone and electric lines. By virtue of this easement, it shall be expressly permissible for the Declarant or the

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Association or utility or other entity responsible for the providing of electrical, telephone, water, sewer, gas, or cable television, service to erect and maintain the necessary underground pipes, vaults, conduits and other necessary equipment at or below grade on said Properties and to affix and maintain electric, cable television, and telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said Townhouses. An easement is further granted to all police, fire protection and ambulance personnel and all similar emergency service personnel to enter upon the Properties in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter in or cross over the Properties, and to enter any Townhouse, during reasonable hours, and upon request when occupied except in an emergency, to inspect and to perform the duties of maintenance and repair of the Townhouses or Common Facilities as provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, water lines, cable television, telephone, gas or electric lines, or other utilities may be installed or relocated on said Properties except as initially designed, laid out and approved by the Declarant or thereafter approved by Declarant or the Board of Directors of the Association. If any public utility or municipal department or district furnishing a service covered by the general easement

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herein requests a specific easement in the form of a separate recordable document, Declarant shall have the right to grant such easement on said Properties without conflicting with the terms hereof. The easements provided for in this in this Article VI shall in no way affect any other recorded easement on said premises.

6.03. Easements and rights-of-way are hereby expressly reserved to Declarant, its successors and assigns, in, on, over, and under the "easement area," as hereinafter defined, of each lot submitted to this Declaration for the following purposes:

(a) For the erection, installation, construction and maintenance of (i) wires, lines and conduits, and the necessary or proper attachments in connection with the transmission of electricity, telephone, television cables and other utilities and other similar facilities, and (ii) storm-water drains, land drains, public and private sewers, pipe lines for supplying gas, water and heat, and for any other public or quasi-public utility facility, service or function, whether above ground or underground; and

(b) For slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with the slope ratios approved by Declarant, its successors and assigns, or which might create erosion or sliding problems, or change, obstruct or retard drainage flow.

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Declarant and its respective agents, successors and assigns, shall have the right to enter upon all parts of the easement area of each Lot for any of the purposes for which said easement and rights-of-way are reserved.

Declarant shall also have the right, at the time of, or after grading any street, road or drive, or any part thereof, to enter upon any adjoining Townhouse Lot and grade the portion of such Lot adjacent to the street, road or drive to a slope of 2 to 1, but there shall be no obligation on Declarant to do such grading or to maintain the slope.

6.04. The term "easement area," as used herein, shall mean and refer to (i) those areas on each Lot with respect to which easements are shown on the recorded subdivision plat relating thereto, or (ii) if no easements are shown on any such plat, to all of the land within the lot lines of each Lot at the front and rear of the Lot which is not covered by any portion of the Townhouse or appurtenant structure.

ARTICLE VII

PARTY WALLS

7.01. Each wall which is built as a part of the original construction of the Townhouse upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and the general rules of law regarding party walls and liability

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for property damage due to willful acts or omissions shall apply thereto.

7.02. The cost of repair and maintenance of the structural portion of a party wall shall be a common expense to be paid for out of the general funds of the Association derived from annual assessments. If a party wall is so extensively damaged or deteriorated, however, so that all or a substantial portion thereof has to be reconstructed, and there are no insurance proceeds, or insufficient insurance proceeds, to cover the cost of reconstruction, then to that extent the cost shall be deemed a capital improvement which may be paid for out of the general reserve funds of the Association or from the proceeds of a special assessment, or a combination of both.

ARTICLE VIII

GENERAL COVENANTS - USE RESTRICTIONS

8.01. Each Lot, improved with a Townhouse, shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof, and shall be used for single family residential purposes only.

8.02. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant or the builder of the Townhouses to maintain during the period of construction and sale of said Townhouses, upon such portion of

the premises as Declarant deems necessary, such vehicles, structures and facilities as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the construction and sale of said Townhouses, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office.

8.03. No planting or gardening shall be done, and no fences, hedges, or walls shall be erected or maintained upon said Properties except as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Board of Directors of the Association or their designated representative. No trimming, cutting, watering, fertilizing, or modifying of plantings, trees, foliage, or shrubs planted around the dwellings or elsewhere upon the Properties shall be done by anyone other than employees of the managing agent or of the Association, or persons duly authorized by the Board of Directors to perform such work. The sidewalks shall not be obstructed, encumbered or used for any purpose other than ingress and egress to and from the Townhouses. The driveways and parking areas shall be used only for ingress and egress and parking of private motor vehicles. Except for the right of ingress and egress, the Owners of Lots are hereby prohibited and restricted from using any of said Properties outside the exterior building lines, and front and rear yard areas, if any, except as may be allowed by this Declaration or by the Board of Directors of the Association.

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It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners of Lots included in the Properties subject to this Declaration.

8.04. Modifications or additions of any kind to the exterior of a Townhouse, either to the structure or the appearance thereof, including, but not limited to, color, materials, texture, dimensions, size, location, or configuration of, exterior siding and trim, awnings, lights, doors, windows, mechanical devices, T.V. antennas, chimneys, flower boxes, mail boxes, flags, bunting, storage structures, or other exterior features, shall not be made without the express prior written consent of the Board of Directors of the Association.

8.05. Each owner shall maintain, clean and keep free from unsightly objects, the entry or entries and the patio or deck, if any, of his Townhouse and Lot.

8.06. There shall be no organized sports activities on the Properties and no picnicking or fires except as may be expressly permitted from time to time by the Board of Directors. Owners shall not place or leave lawn furniture, picnic tables, charcoal grills or other similar items on the Common Areas except as expressly permitted by the Board and then only for such duration as the Board specifies. The Board, or its designees, contractors or employees may remove and dispose of any such items without any liability to the Owners thereof.

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8.07. No animals or reptiles of any kind shall be raised, bred, or kept on the Properties, except Owners may keep household pets inside their Townhouses. No more than one dog, cat, or other household domesticated pet shall be kept in any one Townhouse, however, and any dog or cat must be kept on a leash at all times when outside of a Townhouse on the Properties. No dog, cat, or other animal may be kept or left unattended on the grounds or in a pen or other enclosure outside of a Townhouse at any time, whether or not chained, caged, or tethered. Any pet waste shall be properly disposed of by the owner of the Townhouse in which the pet is kept. No pet waste shall be deposited or left anywhere on the grounds. The Board of Directors, may, in their sole discretion, require that any animal which a majority of the Directors deem to be a nuisance, or which has been kept in violation of any of these restrictions, or the owner of which has repeatedly failed to observe and comply with these restrictions or any rules promulgated by the Directors in connection therewith, be permanently removed from the Properties upon three (3) days written notice to the owner or occupant harboring the same. With respect to dogs, only an Owner or Occupant for a lease or rental period of four consecutive months or more may keep a dog in his Townhouse, and then only with advance written permission from the Board of Directors. Application to the Board of Directors for such a permit shall be accompanied by a security deposit of One Hundred Dollars (\$100.00) which shall be retained

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by the Board as long as the dog is kept in the Townhouse. If the Owner or Occupant violates any provision of this paragraph, or if the dog causes any damage to the Common Areas or Facilities or to any Townhouse exterior or the foundation plantings, or the owner of the dog fails to pick up and properly dispose of any dog waste, the Board of Directors, in their sole and absolute discretion may retain all or any portion of said security deposit as a forfeiture for such violation or as compensation in whole or in part for such damage, but in no event shall such retention be deemed to be liquidated damages. All dogs must be kept on a leash at all times when outside of a Townhouse, and any violation of this provision shall result in immediate and automatic forfeiture of the security deposit for such animal. Any dog, cat, or other animal found on the properties outside of a Townhouse which is not on a leash or in a cage or similar restraint, or which has been left unattended, may be summarily removed by the Association or the Managing Agent, or their employees, and delivered to the custody of any local or municipal authority with power to impound the same, without any liability on the part of the Association, its directors, agents, or employees, for such removal.

8.08. The maximum speed limit for all vehicles within the Properties shall be fifteen (15) MPH.

8.09. No commercial vehicles shall be parked or stored on any portion of the Properties, except for vehicles temporarily on

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the premises for the purpose of making deliveries or providing services to the Townhouses or in connection with the maintenance of the Common Facilities.

8.10. No abandoned or unregistered vehicle shall be parked, left, or stored upon the Properties or any portion thereof.

8.11. No recreational vehicle shall be operated, driven, parked or stored on any portion of the Properties, except that vehicles such as motor homes (but not mobile homes), campers, and trailers may be parked for durations of no more than four (4) hours and then not more than once in any twenty-four (24) hour period, the intention being that such vehicles may be brought onto the Properties only temporarily for purposes such as loading or unloading but not for off-road use, overnight parking or for parking or storage for longer periods. Specifically, no dune buggies, dirt bikes, go-carts, snowmobiles, or similar recreational vehicles may be operated or driven at any time on any portion of the Properties.

8.12. No sign, advertisement, notice, or other lettering shall be exhibited, inscribed, painted, affixed, or placed or permitted to remain on the exterior of any Townhouse or Lot, or in the windows of a Townhouse. Provided, however, Declarant shall have the right during the construction and sales period to place such signs as its officers or directors may elect in connection with and for the purposes of offering the Townhouses to the public for sale or for rent, and further provided that

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Declarant shall have the right (but not the obligation) to design, fabricate and install one or more permanent signs in locations of its choice identifying the development. Maintenance of the latter sign(s) shall be the responsibility and at the expense of the Association excepting only repairs or replacements thereof during the first year after erection of such sign(s) necessitated by reason of defective materials or workmanship in the original installation.

8.13. All trash, rubbish and refuse shall be placed only in proper receptacles therefor, and all trash or garbage cans shall be kept inside except on pick-up days.

8.14. No occupant of a Townhouse shall carry on any illegal, noxious or offensive activity therein or create or make any noise or disturbance or objectional odor which shall unreasonably interfere with the use and enjoyment of any other Townhouse or so as to constitute a nuisance. No occupant or other person shall play any musical instrument or sound reproduction equipment either inside a Townhouse or elsewhere on the Properties between the hours of 11 p.m. and 8 a.m.

8.15. The Board of Directors, or its contractors, employees or designees shall have a right of access to any Townhouse for the purpose of making inspections, repairs, replacements, or improvements, or to remedy certain conditions which would result in damage to other portions of the building, upon reasonable notice to the Owner except in the case of an emergency.

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8.16. Nothing shall be done or kept in any Townhouse which will increase the rate of insurance for any building, or which will result in the cancellation of such insurance, maintained by the Association on the Properties.

8.17. The Board of Directors may, from time to time, adopt additional rules and regulations governing the use of the Common Areas and Facilities and the conduct of all residents and guests on the Properties. No action shall be taken by the Association or its Board which in any manner would discriminate against any Owner or Owners in favor of other Owners.

ARTICLE IX

ZONING AND SPECIFIC RESTRICTIONS

9.01. This Declaration shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or the laws, rules, or regulations of any governmental authority, or by specific restrictions of record. In the event of any conflict, the most restrictive provision of such laws, rules, regulations, restrictions of record, or this Declaration shall be taken to govern and control.

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ARTICLE X

DURATION AND AMENDMENT

10.01. The restrictions contained in this Declaration shall run with and bind the Properties, shall inure to the benefit of and shall be enforceable by Declarant, the Association and the Owner of any Lot included in the Properties, their respective legal representatives, distributees, successors and assigns until the 31st day of December in the year 2018, after which time said Restrictions shall be automatically extended for successive periods of ten (10) years.

10.02. This Declaration may be amended only by a vote of not less than two-thirds (2/3) of the Lot Owners, present in person or by proxy at a meeting duly called for such purpose at which a quorum is present and acting throughout. For purposes of this Section only, such a quorum shall be eighty percent (80%) of the votes entitled to be cast by Members of the Association as defined in Article V hereof. No amendment shall be effective until recorded in the form of a duly executed Certificate of Amendment in the Office of the Clerk of Ontario County, New York, or in such other place of recording as may be appropriate at the time of the execution of such instrument. After December 31, 2018, this Declaration may be amended or terminated in its entirety at a meeting duly called for such purpose by a vote of not less than a majority of all of the votes of the Lot Owners as defined in Article V hereof. Such amendment or termination shall

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not become effective until recorded in the form of a duly executed Certificate of Amendment or Termination in the Clerk's Office of Ontario County, New York, or in such other place of recording as may be appropriate at the time of the execution of such instrument.

ARTICLE XI

GENERAL

11.01. Violation of or breach of any covenant, restriction, or easement herein contained shall give Declarant, or the Association, their respective legal representatives, distributees, successors and assigns, in addition to all other remedies, the right to enter the land upon or as to which such violations or breach exist and summarily to abate and remove, at the expense of the Owner thereof, any structure, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof; and the said parties shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal. Nothing herein contained shall be deemed to affect or limit the rights of the Owners of the Lots within the Properties to enforce these covenants, restrictions, easements and liens by appropriate judicial proceedings.

11.02. The failure of the Declarant, the Association, or the Owner of any Lot included in the Properties, their respective legal representatives, distributees, successors and assigns, to

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enforce any covenant, restriction, easement or lien herein contained shall, in no event, be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

11.03. No covenant or restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

11.04. The determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

11.05. Damages shall not be deemed adequate compensation for breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof shall be entitled to relief by way of injunction as well as any other available relief either at law or in equity.

11.06. Any party to a proceeding who succeeds in enforcing a covenant, restriction, easement or lien or enjoining the violation of a covenant, restriction or easement against a Lot Owner may be awarded a reasonable attorney's fee and the costs and disbursements of such proceeding against such Lot Owner.

11.07. The Board of Directors of the Association where specifically authorized herein to act, shall have the right to construe and interpret the provisions of this Declaration, and of the By-Laws, and in the absence of any adjudication by a court of competent jurisdiction to the contrary, its construction or

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interpretation shall be final and binding as to all persons or property benefited or bound by such provisions. Any conflict between any construction or interpretation made by the Board of Directors and any other person or entity to enforce the provisions hereof and of the By-Laws shall be resolved in favor of the construction or interpretation by the Board.

The Board of Directors, to the extent specifically provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration and of the By-Laws. In so adopting and promulgating such rules and regulations, and in making any finding, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Board shall take into consideration the best interests of the Owners and of the Properties to the end that the Properties shall be preserved and maintained as a high quality community.

In granting any permit, authorization, or approval as herein defined, the Board may impose any conditions or limitations thereon as it shall deem advisable under the circumstances in each case in light of the considerations set forth in the immediately preceding paragraph hereof.

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11.08. The headings of the Articles or any Section herein are for convenience only and shall not affect the meanings or interpretation of the contents thereof.

11.09. No violation of any of these covenants, restrictions, easements and liens shall defeat or render invalid the lien of any first mortgage or building loan made in good faith and for value upon any portion of the Properties; provided, however, that any mortgagee in actual possession, or any purchaser at any mortgagee's foreclosure sale shall be bound and subject to these covenants, restrictions, easements and liens as fully as any other Owner of any portion of the Properties.

11.10. Each grantee accepting a deed, lease or other instrument conveying any interest in any Lot, whether or not the same incorporates or refers to this Declaration, covenants for himself, his distributees, successors and assigns to observe, perform and be bound by this Declaration and the By-Laws and to incorporate the same by reference in any deed or other conveyance of all or any portion of his interest in any real property subject hereto.

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ONTARIO COUNTY CLERK'S OFFICE

RECORDING PAGE

Document Type: AMENDMENT TO DECLARATION OF COVENANTS, RESTRICTIONS & EASEMENTS Property Location: TOWN OF GORHAM

Party(ies): Mortgagor/Assignor/Grantor

Party(ies): Mortgagee/Assignee/Grantee

OTETIANA COVE, INC.
101 WALNUT STREET
ROCHESTER, NY 14608

Record & Return To:
PAUL T. RUBERY, ESQ.
322 E. MAIN STREET, PO BOX 401
PALMYRA, NY 14522

Number of Pages:
(including Recording Page) 4

Taxable Mortgage Amount or Consideration
Amount: \$0

Abstract prepared/updated by:

937/331 ✓

Clerk's Recording Office Use Only Below This Line

INSTRUMENT NUMBER

615

MORTGAGE SERIAL NUMBER

Recorded on April 29, 1999 at 10:00 AM,
Book 1014 of Deeds, Page 515

MORTGAGE TAX

Mortgage Amount \$ _____

Basic Mortgage Tax \$ _____

Special Additional
Mortgage Tax \$ _____

TRANSFER TAX NUMBER

REAL ESTATE TRANSFER TAX

Tax Amount \$ _____

Customer: Monroe Dick

Recorded by Rosemary Keefe
Acting Deputy Clerk

This sheet constitutes the Clerk's endorsement by Section 316 A (5) of the Real Property Law of the State of New York

*** DO NOT DETACH ***

LIBER 1014 PAGE 515

Robert F. Mack
County Clerk

FORM: CC RP-01 12/97

Comments: _____

In the Matter of the Amendment of the Declaration of Covenants, Restrictions Easements and Liens of the Otetiana Cove Homeowners Association, Inc. Filed in the Ontario County Clerk's Office in Liber 939 of Deeds at Page 331.

LIBER 1014 PAGE 516

Otetiana Cove, Inc., the Declarant does hereby amend the above Declaration of Covenants, Restrictions, Easements and Liens of Otetiana Cove Homeowners Association, Inc. as follows:

Article II Covenant for Annual and Special Assessments

2.02. Purpose of Assessments.

Assessments levied by the Association shall be used exclusively (i), to pay all principal and interest, when due, on all sums borrowed by the Association to the extent required under any agreement with the Note Holders referred to in Section 2.11; (ii) to operate, maintain, repair, improve, construct, reconstruct and preserve, on a non-profit basis, the Common Areas and Facilities owned or maintained by the Association, including, without limitation, the private drives and parking areas, sidewalks, underground sewer and water lines and landscaping, all exclusively for the benefit of its Members, their guests, tenants and invitees; (iii) to maintain, repair, reconstruct, replace and preserve, on a non-profit basis, the residential Lots, and the Townhouses constructed thereon, for the purpose of preserving the exterior appearance and configuration of said Lots and Townhouses, including, but not limited to, all exterior (outside) walls, foundations, windows (excluding all glass breakage and screen repair or replacement), exterior doors (excluding storm and screen doors), party walls, roof and roof members, fascia and exterior trim, exterior lights, gutters and down spouts, walks and parking areas, trees, shrubs and grasses, and other exterior improvements, excluding nevertheless, any patio, exclusively for the benefit of the Owners thereof. Except for the structural portion of the party walls and roof members, there shall be no obligation on the part of the Association to maintain, repair, reconstruct, replace or preserve any part of the interior of any Townhouse or any fixtures or mechanical systems (including, but not limited to, heating, chimney, electrical, plumbing, or air-conditioning); (iv) to pay premiums for insurance as hereafter provided in Article III; and (v) to provide all necessary and reasonable services to Association Members incidental to the foregoing and also including, but not limited to, snow and rubbish removal, managements, and general overhead.

In the event that the need for maintenance or repair is caused through the willful act of an Owner, his family tenants, guests, or invitees, and not paid for by him or his insurance, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which his Lot is subject.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 16th day of April, 1998. 1999

Diane Amideo

OTETIANA COVE, INC. BY David Rocco, President

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STATE OF NEW YORK)
) SS:
COUNTY OF Monroe)

On April 16, 1999, before me, the subscriber personally came DAVID ROCCO, who, being by me duly sworn, did depose and say that he is the PRESIDENT of OTETIANA COVE, INC., the corporation described in and which executed the foregoing instrument and that he signed his name thereto by authority of the Board of Directors of said Corporation.

DIANE AMEDEO
NOTARY PUBLIC, State of New York
Qualified in Monroe County
Commission Expires Jan. 27, 2001

Diane Amedeo
Notary Public

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OTETIANA COVE, INC.

101 WALNUT STREET
ROCHESTER, NY 14608

October 20, 1998

LIBER 1014 PAGE 518

To Whom It May Concern:

The Otetiana Cove, Inc. does hereby consent to the Amendment of the Declaration and By-Laws of the Otetiana Cove Homeowners Association as follows:

Article II, Section 2.02, of the Declaration is amended to read as follows:

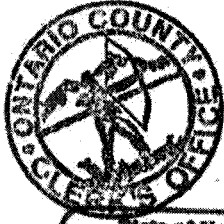
2.02. Purpose of Assessments. Assessments levied by the Association shall be used exclusively (i) to pay all principal and interest, when due, on all sums borrowed by the Association to the extent required under any agreement with the Note Holders referred to in Section 2.11; (ii) to operate, maintain, repair, improve, construct, reconstruct and preserve, on a non-profit basis, the Common Areas and Facilities owned or maintained by the Association, including, without limitation, the private drives and parking areas, sidewalks, underground sewer and water lines and landscaping, all exclusively for the benefit of its Members, their guests, tenants and invitees; (iii) to maintain, repair, reconstruct, replace and preserve, on a non-profit basis, the residential Lots, and the Townhouses constructed thereon, for the purpose of preserving the exterior appearance and configuration of said Lots and Townhouses, including, but not limited to, all exterior (outside) walls, foundations, windows (excluding all glass breakage and screen repair or replacement), exterior doors (excluding storm and screen doors), party walls, roof and roof members, fascia and exterior trim, exterior lights, gutters and down spouts, walks and parking areas, trees, shrubs and grasses, and other exterior improvements, excluding nevertheless, any patio, exclusively for the benefit of the Owners thereof. Except for the structural portion of the party walls and roof members, there shall be no obligation on the part of the Association to maintain, repair, reconstruct, replace or preserve any part of the interior of any Townhouse or any fixtures or mechanical systems (including, but not limited to, heating, chimney, electrical, plumbing, or air-conditioning); (iv) to pay premiums for insurance as hereafter provided in Article III; and (v) to provide all necessary and reasonable services to Association Members incidental to the foregoing and also including, but not limited to, snow and rubbish removal, management, and general overhead.

In the event that the need for maintenance or repair is caused through the willful act of an Owner, his family tenants, guests, or invitees, and not paid for by him or his insurance, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which his Lot is subject.

Sincerely,



David Rocco
President



State of New York, County of Ontario ss
I, MATTHEW J. HOOSE, Clerk of the County of Ontario of the County
Court of said County and of the Supreme Court both being Courts of
Record having a common seal.

Do HEREBY CERTIFY that I have compared this copy with the orig-
inal filed or recorded in this office and that the same is a correct tran-
script thereof and of the whole of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the
seal of said County
and Courts

Matthew J. Hoose

Facsimile signature used pursuant to Sec. 803 of County Law

BY-LAWS AND RULES OF OTETIANA COVE HOMEOWNERS ASSOCIATION INC.

TOWN OF GORHAM, NEW YORK

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ARTICLE I
GENERAL

Section 1. The Property, the Declaration and the
the Association

The Declarant, Otetiana Cove, Inc., has subjected the property known as Otetiana Cove Subdivision, Town of Gorham, Ontario County, New York (the "Property") to a Declaration of Covenants, Restrictions, Easements and Liens (the "Declaration") of Otetiana Cove Homeowners Association, Inc. (the "Association"), which Declaration has been recorded in the Office of the Ontario County Clerk. The Association is a New York not-for-profit corporation formed for the purpose of maintaining, operating and managing the Common Areas and Facilities in said Subdivision and the exteriors of the Townhouses constructed on the Lots in said Subdivision. All of the Lot Owners in the Subdivision constitute the members of the corporation as provided in Article V of the Declaration.

Section 2. Applicability of By-Laws to Association
Property.

The provisions of these By-Laws are applicable to the Property of the Association and the Lot Owners and to the use and occupancy thereof. The term "Property" as used herein shall include the land, the Buildings and all other improvements thereon owned in fee simple absolute by the Association and the Lot Owners, and all easements, rights and appurtenances belonging thereto, including the obligation of the Association to maintain the exteriors of the Townhouses and the right to enforce the

covenants and restrictions set forth in the Declaration, and all other property, personal or mixed, intended for use in connection therewith, being the Common Areas and Facilities as defined in Article I of the Declaration, and the Lots and Townhouses as defined therein.

Section 3. Persons Subject to By-Laws

All present and future owners, mortgagees, lessees and occupants of Townhouses and their agents or employees, and any other persons who may use the facilities of the Property in any manner are subject to these By-Laws, the Declaration and the Rules and Regulations.

The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a Townhouse shall constitute an agreement that these By-Laws, the Rules and Regulations, and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified, and will be complied with.

Section 4. Office

The office of the Association and of the Board of Directors shall be located at 3600 East Lake Road, Canandaigua, New York 14424.

ARTICLE II

BOARD OF DIRECTORS

Section 1. Number and Qualification

The affairs of the Association shall be governed by a Board of Directors, which shall consist of three (3) board members. The Board of Directors shall consist of such persons as shall have been designated by the Declarant until the first meeting of the Lot Owners. Thereafter, the Board of Directors shall be composed of three persons all of whom shall be owners or spouses of Lot Owners, or in the case of partnership owners or mortgagees, shall be members or employees of such partnership, or in the case of corporate owners, shall be officers, stockholders or employees of such corporations, or in the case of fiduciary owners, shall be the fiduciaries or officers or employees of such fiduciaries. Within thirty (30) days after closing of title to nine of the Lots, but in no event later than five years from the closing of title to the first Lot, the Declarant shall call the first meeting of Lot Owners, at which time all of the Lot Owners, including the Declarant, shall elect a new three-person Board of Directors. At and after the first meeting of Lot Owners the Declarant shall not elect more than one member of the Board without the consent of the majority of Lot Owners, other than Declarant.

Section 2. Powers and Duties

The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the

Association and may do all such acts and things except as by law or by the Declaration or by these By-Laws may not be delegated to the Board of Directors by the Lot Owners. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

(a) Operation, care, upkeep, repair and maintenance of the Property.

(b) Determination of the common expenses and adoption of a proposed budget, annually, required for the affairs of the Association including, without limitation, the operation and maintenance of the Property.

(c) Collection of the assessments for common expenses from the Lot Owners.

(d) Employment and dismissal of the personnel necessary for the maintenance and operation of the Property.

(e) Adoption and amendment of rules and regulations covering the details of the operation and use of the Property.

(f) Opening of bank accounts on behalf of the Association and designating the signatories required therefor.

(g) Acquiring in the name of the Association, or its designee, corporate or otherwise, Townhouses and Lots surrendered by their owners to the Board of Directors.

(h) Purchasing of Townhouses and Lots at foreclosure or other judicial sales in the name of the Association, or its designee, corporate or otherwise.

(i) Selling, leasing, mortgaging, voting the votes appurtenant to (other than for the election of members of the Board of Directors), or otherwise dealing with Townhouses and Lots acquired by, and subleasing Townhouses leased by the Association or its designee, corporate or otherwise.

(j) Organizing corporations to act as designees of the Association in acquiring title to or leasing of Townhouses and Lots.

(k) Obtaining of insurance for the Property, including the Townhouses pursuant to the provisions of Article III of the Declaration and of Article V, Section 2 hereof.

(l) Making of repairs, additions and improvements to or alterations of the Property and repairs to and restoration of the Property consistent with the other provisions of these By-Laws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

(m) Levying fines against Lot Owners for violation of the Declaration, these By-Laws and/or the Rules and Regulations established by it to govern the conduct of the Lot Owners, provided, however, that no fine may be levied in an amount in excess of \$25.00 for any one violation. But for each day a violation continues after notice, it shall be considered a separate violation. Such fines may be collected as if they were assessments owed by the Lot Owner(s) against whom the fines were levied. Where a Lot Owner is fined for an infraction of the Declaration, By-Laws, or Rules and Regulations and fails to pay

the fine within ten (10) days after notification thereof, the Board may levy an additional fine or fines to enforce payment of the initial fine. Where a unit owner persists in violating the Declaration, By-Laws, or Rules and Regulations, the Board may require him to post a bond to secure future compliance with the same.

(n) Controlling the use of all Common Areas and Facilities of the Property.

(o) Borrowing money when required in connection with the operation, care, upkeep and maintenance of the Common Areas and Facilities or the Townhouse exteriors, provided, however, that (i) the consent of at least sixty-six and two-thirds percent (66 2/3%) of all Lot Owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these By-Laws, shall be required for the borrowing of any sum in excess of \$10,000.00, and (ii) no lien to secure repayment of any sum borrowed may be created on the Common Area and Facilities without such consent of the Lot Owners.

(p) So long as the Declarant or its designee shall continue to own one or more Lots, the Board of Directors may not, without the Declarant's prior written consent, (i) make any addition, alteration or improvement to the Common Areas and Facilities or to any Townhouse, (ii) hire any employee in addition to the employees referred to in the Offering Plan, or (iii) enter into any service or maintenance contract for work not covered by the budget for the first year of operation of the

Association as set forth in the Offering Plan, or budgets for subsequent years of operation as set forth in Amendments to the Plan, or (iv) borrow money on behalf of the Association. Moreover, during this period, any contingency reserve assessment cannot exceed twenty percent (20%) of the total yearly budget in any given year without the Declarant's consent.

(q) Taking all other necessary and proper actions for the sound management of the Association and fulfillment of the terms and provisions of the Declaration.

Section 3. Managing Agent and Manager

The Board of Directors may employ for the Association a managing agent and/or a manager at a compensation established by the Board, to perform such duties and services as the Board shall authorize, including, but not limited to, the duties listed in subdivisions (a), (c), (d), (k), and (l) of Section 2 of this Article II. The Board may delegate to the manager or managing agent, all of the powers granted to the Board by these By-Laws other than the powers set forth in subdivisions (b), (e), (f), (g), (h), (i), (j), (m), (n), (o), and (q) of Section 2 of this Article II.

Section 4. Election and Term of Office

At the first annual meeting of the Lot Owners, the term of office of one member of the Board of Directors shall be fixed at three years, the term of office of one member of the Board shall be fixed at two years, and the term of office of one member of

the Board shall be fixed at one year. At the expiration of the initial term of office of each respective member of the Board, his successor shall be elected to serve for a term of three years. Each member of the Board shall hold office until his respective successors shall have been elected by the Lot Owners, provided, however, that a Board member shall be deemed to have resigned whenever such member, his spouse, or the firm, corporation or other entity he is associated with, enters into a contract for the resale of the Lot which qualified such individual to become a member of the Board. This provision shall not affect a Board member appointed or otherwise designated by the Declarant, unless and until the Declarant enters into a contract to sell the last remaining unit held by it.

Notwithstanding anything to the contrary contained in this paragraph, within thirty (30) days after the closing of title to nine (9) of the lots, but in no event later than five years from the closing of title to the first Lot, the Declarant shall call a meeting of the Lot Owners, at which time all the Lot Owners, including the Declarant, shall elect a new Board. After the first meeting of Lot Owners, the Declarant shall not elect more than one member of the Board without the consent of the majority of Lot Owners.

Section 5. Removal of Members of the Board of Directors

At any annual or special meeting of Lot Owners, any one or more of the members of the Board of Directors may be removed with or without cause by a majority of the Lot Owners and a successor

may then or thereafter be elected to fill the vacancy thus created. Any member of the Board whose removal has been proposed by the Lot Owners shall be given an opportunity to be heard at the meeting.

Section 6. Vacancies

Vacancies in the Board of Directors caused by any reason other than the removal of a member thereof by a vote of the Lot Owners, shall be filled by a vote of a majority of the remaining Board members at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum, and each person so elected shall be a member of the Board until a successor shall be elected at the next annual meeting of the Lot Owners.

Section 7. Organization Meeting

The first meeting of the members of the Board of Directors following the annual meeting of the Lot Owners shall be held within ten (10) days thereafter, at such time and place as shall be fixed by the Lot Owners at the meeting at which such Board shall have been elected, and no notice shall be necessary to the newly elected members of the Board in order legally to constitute such meeting, providing a majority of the whole Board shall be present thereat.

Section 8. Regular Meetings

Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the members of the Board, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the Board shall be given to each member of the Board, by mail, at least three business days prior to the day named for such meeting.

Section 9. Special Meetings

Special meetings of the Board of Directors may be called by the President on two business days notice to each member of the Board, given by mail, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of any member of the Board.

Section 10. Waiver of Notice

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

Section 11. Quorum of Board of Directors

At all meetings of the Board of Directors, a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board present at a meeting at which a quorum is present shall constitute the decision of the Board. If at any meeting of the Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called, may be transacted without further notice.

Section 12. Fidelity Bonds

The Board of Directors shall, in their discretion, obtain adequate fidelity bonds for all officers and employees of the Association handling or responsible for Association funds. The premiums on such bonds shall constitute a common expense.

Section 13. Compensation

No member of the Board of Directors shall receive any compensation from the Association for acting as such.

Section 14. Liability of the Board of Directors

The members of the Board of Directors shall not be liable to the Lot Owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the members of the Board against all contractual

liability to others arising out of contracts made by the Board on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. It is intended that the members of the Board shall have no personal liability with respect to any contract made by them on behalf of the Association. Every agreement made by the Board or by the managing agent or by the manager on behalf of the Association shall provide that the members of the Board, or managing agent, or the manager, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder.

ARTICLE III.

LOT OWNERS

Section 1. Annual Meetings.

Within thirty (30) days after the closing of title to nine (9) of the Lots, but in no event later than five years from the closing of title to the first Lot, the Declarant shall call the first annual meeting of the Lot Owners and notify all of the Lot Owners thereof. The meeting shall be held within thirty (30) days thereafter. At such meeting, persons appointed by the Declarant shall resign as members of the Board of Directors, and all the Lot Owners, including Declarant, shall elect a new Board. Declarant shall be entitled to elect one of the three directors at such meeting, and the other Lot Owners shall elect the other two or shall elect all three if Declarant waives his right to

elect one director. The director elected by Declarant, if any, shall be the one elected for a term of one year. Thereafter, the annual meetings of the Lot Owners shall be held on the 15th day of June of each succeeding year, unless such date shall occur on a Saturday, Sunday, or holiday, in which event, the meeting shall be held on the succeeding Monday. At such meeting the Board shall be elected by secret ballot of the Lot Owners in accordance with the requirements of Section 4 of Article II of these By-Laws. So long as the Declarant shall own five or more Lots, the Declarant shall be entitled to elect at least one member of the Board who shall serve for a term of one year. The Lot Owners may transact such other business at such meeting as may properly come before them.

Section 2. Place of Meeting

Meetings of the Lot Owners shall be held at the principal office of the Association, if any, or at such other suitable place convenient to the Lot Owners as may be designated by the Board.

Section 3. Special Meetings

It shall be the duty of the President to call a special meeting of the Lot Owners, if so directed by resolution of the Board of Directors, or upon a petition signed and presented to the Secretary by not less than twenty-five percent (25%) of the Lot Owners. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No

business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meetings

It shall be the duty of the Secretary to mail a notice of each annual or special meeting of the Lot Owners, at least ten (10) but not more than twenty (20) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Lot Owner of record, at his Townhouse at Otetiana Cove or at such other address as such Lot Owner shall have designated by written notice to the Secretary. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

Section 5. Adjournment of Meetings.

If any meeting of Lot Owners cannot be held because a quorum has not attended, a majority of the Lot Owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 6. Order of Business

The order of business at all meetings of the Lot Owners shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting.
- (c) Reading of minutes of preceding meeting.

- (d) Reports of officers.
- (e) Report of Board of Directors.
- (f) Reports of committees.
- (g) Appointment of inspectors of election (when so required).
- (h) Election of members of the Board of Directors (when so required).
- (i) Unfinished business.
- (j) New business.

Section 7. Title to Lots.

Title to Lots may be taken in the name of an individual or in the names of two or more persons, as tenants in common or as joint tenants or as tenants by the entirety, or in the name of a corporation or partnership, or in the name of a fiduciary.

Section 8. Voting

The Owner or Owners of each Lot, or some person designated by such Owner or Owners to act as proxy on his or their behalf and who need not be an Owner, shall be entitled to cast the vote appurtenant to such Lot at all meetings of the Lot Owners. Voting shall be by secret ballot for all matters to be voted upon unless waived by a majority of Lot Owners as defined below in Section 9 of this Article III. The designation of any proxy shall be made in writing to the Secretary, and shall be revocable at any time by written notice to the Secretary by the Owner or Owners so designating. Any or all of such Owners may be present

at any meeting of the Lot Owners and (those constituting a group acting unanimously), may vote or take any other actions as a Lot Owner either in person or by proxy. The total number of votes of all Lot Owners shall be eighteen (18) and each Lot Owner (including the Declarant and the Board of Directors, if the Declarant shall then own, or the Board, or its designee, shall then hold title to one or more Lots) shall be entitled to cast one vote at all meetings of the Lot Owners for each Lot owned. A fiduciary shall be the voting member with respect to any Lot owned in a fiduciary capacity.

Section 9. Majority of Lot Owners

As used in these By-Laws, the term "majority of Lot Owners" shall mean those Lot Owners having more than fifty percent (50%) of the total authorized votes of all Lot Owners present in person or by proxy and voting at any meeting of the Lot Owners, determined in accordance with the provisions of Section 8 of this Article III.

Section 10. Quorum

Except as otherwise provided in these By-Laws, the presence in person or by proxy of Lot Owners having one-half (1/2) of the total authorized votes of all Lot Owners shall constitute a quorum at all meetings of Lot Owners.

Section 11. Majority Vote.

The vote of a majority of Lot Owners at a meeting at which a quorum shall be present shall be binding upon all Lot Owners for

all purposes except where in the Declaration or these By-Laws, or by law, a higher percentage vote is required.

ARTICLE IV.

OFFICERS.

Section 1. Designation

The principal officers of the Association shall be the President, the Vice President, the Secretary, and the Treasurer, all of whom shall be elected by the Board of Directors. The Board may appoint an assistant treasurer, an assistant secretary, and such other officers as in its judgment may be necessary. The President and Vice President must be, but no other officers need be, members of the Board.

Section 2. Election of Officers

The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office at the pleasure of the Board.

Section 3. Removal of Officers.

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

Section 4. President

The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Lot Owners and the Board of Directors. He shall have all of the general powers and duties which are incident to the office of president, including, but not limited to, the power to appoint committees from among the Lot Owners from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Vice President

The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board or by the President.

Section 6. Secretary.

The Secretary shall keep the minutes of all meetings of the Lot Owners and of the Board of Directors; he shall have charge of such books and papers as the Board may direct; and he shall, in general, perform all the duties incident to the office of secretary.

Section 7. Treasurer.

The Treasurer shall have the responsibility for the Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Board of Directors, or the managing agent, in such depositories as may from time to time be designated by the Board, and he shall, in general, perform all the duties incident to the office of treasurer.

Section 8. Agreements, Contracts, Deeds, Checks, Etc

All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by any two officers of the Association or by such other person or persons as may be designated by the Board of Directors.

Section 9. Compensation of Officers.

No officer shall receive any compensation from the Association for acting as such.

ARTICLE V.

OPERATION OF THE PROPERTY

Section 1. Determination of Common Expenses and Fixing Assessments

The Board of Directors shall, from time to time, and at least annually, prepare a budget for the Association, determine the amount of assessments payable by the Lot Owners to meet the common expenses of the Association, and equally assess the Lot Owners for the same. The expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board pursuant to the provisions of Section 2 of this Article V and the fees and disbursements of the Insurance Trustee. The expenses may also include such amounts as the Board may deem proper for the operation and maintenance of the Property, including, without limitation, an amount for working capital, amounts for establishing and accumulating a reserve fund for capital replacements and expenditures, and an amount to make up any deficit in the expenses for any prior year. The expenses may also include such amounts as may be required for the acquisition by the Association or its designee, corporate or otherwise, of any Lot whose Owner has elected to surrender such Lot, or of any Lot which is to be sold at a foreclosure or other judicial sale. The Board shall advise all Lot Owners promptly, in writing, of the amount of the assessment payable by each of them, respectively, as determined by the Board, as aforesaid, and shall

furnish copies of each budget on which such assessments are based, to all Lot Owners. Additions, alterations, or improvements not covered by the capital replacement reserve and costing more than \$1,000.00 in any one year, must be approved by a majority of the Lot Owners.

Section 2. Insurance

The Board of Directors shall be required to obtain and maintain, to the extent obtainable, the following insurance: (a) fire insurance with extended coverage, vandalism and malicious mischief endorsements, insuring the buildings (but excluding machinery, fixtures, furniture, furnishings, or other improvements or betterments owned, supplied or installed by Lot Owners), together with all heating and airconditioning equipment and other fixtures and service machinery contained therein or appurtenant thereto and as installed by Declarant in conformity with the plans and specifications for the original construction of the buildings, and covering the interests of the Association, the Board of Directors and all Lot Owners and their mortgagees, as their respective interests may appear, in an amount equal to the full replacement value of the buildings, without deduction for depreciation; each of said policies shall contain a New York standard mortgagee clause in favor of each mortgagee of a Lot which shall provide that the loss, if any, thereunder shall be payable to such mortgagee as its interest may appear, subject however, to the loss payment provisions in favor of the Board of Directors acting as the Insurance Trustee; (b) workmen's

compensation insurance for any employees of the Association; and (c) such other insurance as the Board may determine. All such policies shall provide that adjustment of loss shall be made by the Board and that the net proceeds thereof shall be payable to the Board.

The amount of casualty insurance for physical damage to the buildings to be maintained until the first meeting of the Board following the first annual meeting of the Lot Owners shall be in at least the sum of \$1,204,000.00.

All policies of physical damage casualty insurance shall contain waivers of subrogation and waivers of any defense based on co-insurance or of invalidity arising from any acts of the insured, and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days prior written notice to all of the insureds, including all mortgagees of Lots. If requested in writing, and if available from the insurance carrier, the Board shall deliver duplicate originals of all such policies of physical damage casualty insurance and of all renewals thereof, together with proof of payment of premiums, to all mortgagees of Lots making such request at least ten (10) days prior to expiration of the then current policies. Prior to obtaining any such policy of insurance or any renewal thereof, the Board shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the buildings, without deduction for depreciation, for the purpose of determining the amount of

insurance to be procured and maintained pursuant to this Section. In the alternative, the Board may accept the opinion of a duly licensed casualty insurance agent as to the full replacement value of the buildings in determining the amount of insurance to be carried each year, or may secure such coverage under an "agreed amount replacement value" policy each year, as it shall deem appropriate and in the best interests of the Lot Owners.

Until the first meeting of the Board following the first annual meeting of the Lot Owners, the public liability insurance will be \$1,000,000.00 single limit comprehensive coverage for personal injury or property damage in respect of any one occurrence.

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

Section 3. Repair or Reconstruction After Fire or Other Casualty.

In the event of damage to or destruction of any or all of the buildings as a result of fire or other casualty (unless 75% or more of the buildings are destroyed or substantially damaged and 75% or more of the Lot Owners do not duly and promptly resolve to proceed with repair or restoration), the Board shall arrange for the prompt repair and restoration of any or all of

the buildings (excluding, however, any wall, ceiling or floor decorations or coverings or other furniture, furnishings, fixtures, or equipment installed by Lot Owners in their Townhouses), and the Board shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute an Association expense, and the Board may assess all of the Lot Owners for such deficit as part of the next annual assessment or may levy a special assessment for the same if approved by the Lot Owners in accordance with Article II of the Declaration.

If 75% or more of the total value of the buildings are destroyed or substantially damaged and 75% or more of the Lot Owners do not duly and promptly resolve to proceed with repair or restoration, the net proceeds of insurance policies (or if there shall have been a repair or restoration pursuant to the first paragraph of this Section 3, and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration, then the excess of such insurance proceeds) shall be divided by the Board of Directors among all the Lot Owners in proportion to their respective interests, after first paying out of the share of each Lot Owner the amount of any unpaid liens on his Lot, in the order of the priority of such liens.

Section 4. Payment of Assessments

All Lot Owners shall be obligated to pay the assessments assessed by the Board of Directors pursuant to the provisions of Section 7 of Article V at such time or times as the Board shall determine. The Board may impose a late charge on any assessment which has not been paid within fifteen (15) days of the due date. Such late charge shall be in the amount from time to time determined and fixed by the Board and set forth in a notice to all Lot Owners at least thirty (30) days prior to the first assessment period in which said late charge is to become effective.

No Lot Owner shall be liable for the payment of any part of the assessments assessed against his Lot subsequent to a sale and transfer or other conveyance by him of such Lot.

Section 5. Collection of Assessments

The Board of Directors shall assess the Lot Owners from time to time and at least annually for projected Association expenses and shall take prompt action to collect any assessment due from any Lot Owner which remains unpaid for more than thirty (30) days from the due date for payment thereof.

Section 6. Default in Payment of Assessments

In the event of default by any Lot Owner in payment to the Board of Directors of the assessments as determined by the Board, such Lot Owner shall be obligated to pay the maximum legal interest rate on such assessments from the due date thereof,

together with accrued late charges, and all expenses, including attorneys' fees, incurred by the Board in any proceeding brought to collect such unpaid assessments. The Board shall have the right and duty to attempt to recover such assessments, together with interest thereon, late charges, and the expenses of the proceeding, including attorneys' fees, in an action to recover the same brought against such Lot Owner, or by foreclosure of the contractual lien on such Lot created by the Declaration, Article II, Section 2.01, in the manner provided in Section 2.08 thereof.

Section 7. Foreclosure of Liens for Unpaid Assessments

In any action brought by the Board of Directors to foreclose a lien on a Lot because of unpaid assessments, the Lot Owner shall be required to pay a reasonable rental for the use of his Lot and Townhouse, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. A suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same.

Section 8. Statement of Assessments

The Board of Directors shall promptly provide any Lot Owner so requesting the same in writing, with a written statement of all unpaid assessments due from such Lot Owner.

Section 9. Abatement of Violations by Lot Owners

The violation of any rule or regulation adopted by the Board of Directors, or the breach of any By-Law contained herein, or

the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these By-Laws: (a) to enter the Townhouse or Lot in which, or as to which, such violations or breach exists and summarily to abate and remove, at the expense of the defaulting Lot Owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

Section 10. Maintenance and Repair

(a) All maintenance of and repairs to any Lot, structural or nonstructural, ordinary or extraordinary (other than maintenance of and repairs to the exterior of a Townhouse as provided in the Declaration, Article II, Section 2.02, and not necessitated by the negligence, misuse or neglect of the Owner of such Townhouse), shall be made by the Owner of such Lot; each Lot Owner shall be responsible for all damages to any and all other Townhouses, Lots, and/or to the Common Areas and Facilities, that are a consequence of his failure to perform such maintenance and/or repairs.

(b) All maintenance, repairs, and replacements to the Common Areas and Facilities and to the exteriors of the Townhouses (unless necessitated by the negligence, misuse or neglect of a Lot Owner, in which case such expense shall be charged to such Lot Owner), shall be made by the Board of

Directors and shall be an Association expense as set forth in Article II of the Declaration.

Section 11. Restrictions on Use of Townhouses and Lots

In order to provide for congenial occupancy of the Property and for the protection of the value of the property, the use of the Property shall be restricted to and shall be in accordance with the following provisions:

- (a) Townhouses and Lots shall be utilized for single family residential purposes only.
- (b) The Common Areas and Facilities shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Lots.
- (c) No nuisances shall be allowed on the Property nor shall any use or practice be allowed which is a source of annoyance or which interferes with the peaceful possession or proper use of the Property by its Owners and occupants. See also, the Rules and Regulations, annexed to these By-Laws.
- (d) No immoral, improper, offensive, or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of

the Property, shall be corrected or removed with, by, and at the sole expense of the Lot Owners or the Board of Directors, whichever shall have the obligation to maintain or repair such portion of the Property.

(e) No portion of a Townhouse may be rented, but the entire dwelling unit may be rented as provided in Article VII.

Section 12. Additions, Alterations, or Improvements by the Board of Directors

Whenever in the judgment of the Board of Directors the Common Areas and Facilities shall require additions, alterations, or improvements costing in excess of \$1,000.00 and the making of such additions, alterations, or improvements shall have been approved by a majority of the Lot Owners, the Board shall proceed with such additions, alterations, or improvements and shall assess all Lot Owners for the cost thereof. Any additions, alterations, or improvements costing \$1,000.00 or less may be made by the Board without approval of the Lot Owners and the cost thereof shall constitute part of the Association expenses.

Section 13. Additions, Alterations, or Improvements by Lot Owners

No Lot Owner shall make any structural addition or alteration to his Townhouse without the prior written consent thereto of the Board of Directors, which consent shall not be unreasonably withheld. The Board shall have the obligation to

answer any written request by a Lot Owner for approval of a proposed structural addition, alteration or improvements to such Lot Owner's Townhouse, within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board to the proposed addition, alteration, or improvement. Any application to any department of the Town, or to any other governmental authority for a permit to make an addition, alteration, or improvement in or to any Townhouse shall be executed by the Board, without, however, incurring any liability on the part of the Board or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having any claim for injury to person or damage to property arising therefrom. The provisions of this Section 13 shall not apply to Lots owned by the Declarant.

No Lot Owner shall construct any additions to the exterior of his Townhouse, make structural changes to any of the Common Areas or Facilities, or excavate or otherwise alter the same. No Lot Owner shall paint the exterior of his Townhouse, exterior doors or doorways, porches, steps or stoop, or change the exterior lights, without the prior consent of the Board for color and design.

Section 14. Use of Common Areas and Facilities

A Lot Owner shall not place or cause to be placed in or on the Common Areas or Facilities other than an area to which such

Lot Owner has sole access, any furniture, packages, merchandise, or objects of any kind.

Section 15. Right of Access.

A Lot Owner shall permit the manager and/or the managing agent and/or any other person authorized by the Board of Directors, the manager or the managing agent, to have access to his Townhouse and Lot for the purpose of making inspections or for the purpose of correcting any condition originating in his Townhouse and threatening another Townhouse or a Common Facility, or to correct any condition which violates the provision of any mortgage covering another Lot, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Lot Owner. In case of an emergency, such right of entry shall be immediate, whether the Owner is present at the time or not.

Section 16. Rules of Conduct

Rules and regulations concerning the use of the Townhouses, Lots and the Common Areas and Facilities may be promulgated and amended by the Board of Directors with the approval of a majority of the Lot Owners. Copies of such rules and regulations shall be furnished by the Board to each Lot Owner prior to the time when the same shall become effective. Initial rules and regulations, which shall be effective until amended, supplemented, repealed or modified by the Board or by a vote of a majority of the Lot Owners, are annexed hereto and made a part hereof as Exhibit A.

Section 17. Water Charges and Sewer Rents

Water shall be supplied to the Lots through a separate meter for each Townhouse, and water consumption and sewer rents shall be paid for by each Lot Owner as direct charges. If the Association uses water from hose bibs on individual Townhouse meters for maintenance of the Common Areas, the cost of such consumption shall be deemed an Association expense and the affected Lot Owners shall be reimbursed for such usage determined either by using a temporary submeter or utilizing a reasonable method of estimating such consumption.

Section 18. Gas and Electricity

Gas and electricity shall be supplied by the public utility company serving the area directly to each Lot and Townhouse through a separate meter and each Lot Owner shall be required to pay the bill for gas and electricity consumed or used in his Townhouse.

Section 19. Heating and Air Conditioning

The cost of heating and air conditioning servicing an individual Townhouse, including repairs to and maintenance of furnaces, heat pumps, water heaters, and air conditioners, and replacements of the same including duct work, shall be borne exclusively by the Lot Owner.

ARTICLE VI.

MORTGAGES

Section 1. Notice to Board of Directors

A Lot Owner who mortgages his Lot, shall notify the Board of Directors of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Board; the Board shall maintain such information in a book entitled "Mortgages of Lots."

Section 2. Notice of Unpaid Assessments

The Board of Directors, whenever so requested in writing by a mortgagee of a Lot, shall promptly report any unpaid assessments or any default by the Owner of the mortgaged Lot.

Section 3. Notice of Default

The Board of Directors, when giving notice to a Lot Owner of a default in paying assessments or other default, shall send a copy of such notice to each holder of a mortgage covering such Lot whose name and address has theretofore been furnished to the Board.

Section 4. Examination of Books

Each Lot Owner and each mortgagee of a Lot shall be permitted to examine the books of account of the Association at reasonable times, on business days, but not more often than once a month.

ARTICLE VII.

SALES, LEASES, AND MORTGAGES OF LOTS/TOWNHOUSES

Section 1. Leasing of Townhouses

No Lot Owner may lease his Townhouse except in accordance with the following provisions:

(a) No Lot Owner shall lease his Townhouse for a period of less than thirty (30) days without prior written consent of the Board of Directors. Such consent may not be unreasonably withheld.

(b) Any lease must be consistent with the Declaration, By-Laws, and Rules and Regulations of the Association, as the same may be amended from time to time and must provide that the lessee must comply therewith. Said lease must further provide that if the lessee fails to comply with the aforementioned provisions, the Board of Directors shall have the power to terminate such lease and/or bring a summary proceeding to evict the lessee in the name of the lessor.

(c) Said lease must further provide that it may not be modified, amended, extended or assigned, without prior written consent of the Board of Directors and that the lessee shall not sublet the demised premises or any part thereof without prior written consent of the Board.

(d) Said lease must further provide that if the lessor fails to pay assessments or special assessments assessed against the Lot Owner, the Board of Directors can evict the lessee on not

less than thirty (30) days prior written notice of foreclosure of the lien on such Lot granted by the Declaration.

(e) A copy of said lease shall be delivered to the Board of Directors, to be kept in the permanent records of the Association.

(f) Leases made in violation of these provisions shall be voidable in the discretion of the Board of Directors. If the Board so elects, the lessor shall be deemed to have authorized the Board to institute legal proceedings to evict the lessee in the name of the Owner as lessor, and the Owner shall reimburse the Board for all costs incurred in connection therewith, including reasonable attorneys' fees.

(g) This Section 1 shall not apply to Declarant or any Lots owned by Declarant.

Section 2. No Severance of Ownership.

No Lot Owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his Lot without including therein the appurtenant membership interest in the Association, it being the intention hereof to prevent any severance of such interest. Any such deed, mortgage or other instrument purporting to convey title to the Lot, without including the membership interest in the Association, shall be deemed and taken to include the interest so omitted, even though the same shall not be expressly mentioned or described therein.

Section 3. Payment of Assessments

No Lot Owner shall be permitted to convey, mortgage, pledge, hypothecate, sell, or lease his Lot unless and until he shall have paid in full to the Board of Directors all unpaid assessments and special assessments, if any, theretofore assessed by the Board against his Lot and until he shall have satisfied all unpaid liens against such Lot, except permitted mortgages.

Section 4. Sale and Mortgage of Lots

Lot Owners shall be free to sell or mortgage their Lots without restriction to any person, corporation, partnership or other legal entity, subject, however, to the terms, covenants, conditions, restrictions and liens established by the Declaration and these By-Laws.

ARTICLE VIII.

EMINENT DOMAIN

Section 1. Condemnation

In the event of a taking in condemnation or by eminent domain of all of the Common Areas and Facilities or so much thereof that one or more Lot Owners is deprived of access to his Lot, the award made for such taking shall be payable to the Board of Directors acting in its capacity as the Insurance Trustee. The Board shall, in such event, acting as the Insurance Trustee, disburse the net proceeds of such award in the same manner as they are required to distribute insurance proceeds where there is

no repair or restoration of the damage, as provided in Section 3 of Article V of these By-Laws.

If only a portion of the Common Areas and Facilities is taken in condemnation or by eminent domain which taking does not result in the deprivation of access by any Owner to his Lot, the award made for such taking shall belong to the Association.

Section 2. Condemnation of Part of a Townhouse/Lot

Where part of a Townhouse or Lot has been taken by eminent domain, the Board of Directors shall adjust such loss with the affected Lot Owner. Any such settlement shall not be effective unless approved by the Mortgagee(s) of the affected Lot.

Section 3. Award for Lots, Townhouses, Fixtures and Relocation Allowance

Where all or part of the Property is taken by eminent domain, each Lot Owner shall have the exclusive right to claim all of the award made for his Lot, Townhouse, fixtures installed therein, and any relocation, moving expense, or other allowance of a similar nature.

ARTICLE IX.

RECORDS

Section 1. Records and Audits

The Board of Directors or the managing agent shall keep detailed records of the actions of the Board and the managing agent, minutes of the meetings of the Board, minutes of the meetings of the Lot Owners, and financial records and books of

account of the Association, including a chronological listing of receipts and expenditures, as well as a separate account for each Lot which, among other things, shall contain the amount of each assessment against such Lot, the date when due, the amounts paid thereon, and the balance remaining unpaid. A written annual report prepared and certified by an independent certified public accountant, summarizing all receipts and expenditures of the Association shall be rendered by the Board to all Lot Owners and to all mortgagees of Lots who have requested the same, promptly after the end of each fiscal year.

Section 2. Fiscal Year

The fiscal year of the Association shall be from June 1 of _____ each year to May 31 of the following year.

ARTICLE X.

MISCELLANEOUS

Section 1. Notices

All notices hereunder shall be sent by certified mail to the Board of Directors in care of the managing agent, or if there be no managing agent, to the office of the Board, or to such other address as the Board may hereafter designate from time to time by notice in writing to all Lot Owners and to all mortgagees of Lots. All notices by the Board to any Lot Owner shall be sent by regular first class mail or hand delivered to the address of the Lot or to such other address as may have been designated in writing by the Lot Owner. All notices to mortgagees shall be

sent by first class mail to their respective addresses, as designated by them, in writing, to the Board. All notices shall be deemed to have been given when mailed, or delivered, except notices of change of address which shall be deemed to have been given when received.

Section 2. Invalidity

The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

Section 3. Captions

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws, or the intent of any provision thereof.

Section 4. Gender and Number

The use of the masculine gender in these By-Laws shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 5. Waiver

No restriction, condition, obligation, or provision contained in these By-Laws or in the Rules and Regulations shall be deemed to have been abrogated or waived by reason of any

failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

Section 6. Insurance Trustee

The Insurance Trustee shall be the Board of Directors. The Board shall pay the fees and disbursements it incurs while acting as Insurance Trustee, and such fees and disbursements shall constitute an expense of the Association.

Section 7. References to Declarant

Whenever a reference is made to the Declarant, such reference shall be deemed to include any corporation, subsidiary, or other entity wholly controlled by the Declarant and designated to act in its place and stead concerning any matter pertaining to Ownership, leasing or mortgaging of the Lots and Townhouses, or to the operation of the Property, or both.

ARTICLE XI

AMENDMENTS TO BY-LAWS

Section 1. Procedure; Consent of Declarant.

Except as hereinafter provided otherwise, these By-Laws may be modified or amended by the vote of sixty-six and two thirds percent (66 2/3%) of all Lot Owners present in person or by proxy at a meeting of Lot Owners duly called and held for such purpose. Section 1 of Article III, insofar as it provides that the Declarant, so long as it is the Owner of five or more Lots, shall be entitled to elect at least one member of the Board of

Directors, Section 8 of Article III, insofar as it provides that the Declarant, so long as it is the Owner of one or more Lots, may vote the votes appurtenant thereto, Section 13 of Article V, insofar as it provides that the provisions of such section shall not apply to any Lots owned by the Declarant, Section 1 of Article VII, insofar as it provides that the Declarant shall be exempt from the provisions of said Section 1 of Article VII, and this Section 1 of Article XI, however, may not be amended without the consent in writing of the Declarant, so long as the Declarant shall be the Owner of one or more Lots.

Section 2. Recording.

No amendment to these By-Laws shall become effective until it is recorded in the Ontario County Clerk's Office.

ARTICLE XII.

CONFLICTS

Section 1. Conflicts

These By-Laws are set forth to supplement and carry out the intent of the Declaration. In case any of these By-Laws conflict with the provisions of the Declaration, the provisions of the Declaration shall control.

E X H I B I T A
OF
THE BY-LAWS
OF
ONTETIANA COVE HOMEOWNERS ASSOCIATION

RULES AND REGULATIONS OF THE ASSOCIATION

1. Each Lot Owner shall keep his Townhouse and Lot in a good state of preservation and cleanliness. He shall not allow anything whatever to fall from the windows or doors nor shall he sweep or throw any dirt or other substance upon the grounds. Refuse shall be placed in proper containers in such manner and at such times and places as the Board of Directors or its agent may direct.

2. The sidewalks and entrances must not be obstructed or encumbered or used for any purpose other than ingress and egress to and from the Townhouses in the buildings. The driveways and parking areas in front of the Lots shall be used only for parking of private motor vehicles. All other driveways shall be used only for access to the parking areas. The parking areas shall be used only for parking of private motor vehicles. No organized sports activities, picnics, barbeques, or outdoor fires are allowed unless the Board of Directors designates specific areas for such activities, or any of them, or grants a special permit for a particular event. Lot Owners shall not leave lawn furniture, picnic tables, charcoal grills or the like, on the lawn areas. The Board of Directors, or the managing agent, or the employees of either, may remove and dispose of any such items

so left without any liability to the Owners thereof. No planting or gardening shall be done by any Lot Owner without the express written consent of the Board of Directors and then only in areas specifically designated by the Board for such purposes. No fences, hedges, or walls shall be erected or installed by any Lot Owner anywhere on the property.

3. Employees of the Lot Owners may not gather or lounge in the parking areas, driveways or elsewhere on the grounds.

4. Supplies, goods and packages of every kind are to be delivered in such manner as the Board of Directors or its agents may prescribe, and the Board is not responsible for the loss or damage of any such property, notwithstanding such loss or damage that may occur through the negligence of employees of the Board or managing agent.

5. Lot Owners shall not cause or permit any disturbing noises or objectionable odors to be produced within or to emanate from their Lots.

6. Lot Owners shall not permit or keep in their Lots any inflammable, combustible or explosive material, chemical, or substance.

7. Water closets and other water apparatus in the Buildings shall not be used for any purpose other than those for which they were designed, nor shall any sweepings, rubbish, rags or other articles be thrown into same. Any damage resulting from misuse of any water closets or other apparatus in a Townhouse shall be repaired and paid for by the Owner of such Lot.

8. No sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted, or affixed by any Lot Owner on any part of the outside of any Building, hung from windows or placed on a window sill, without the prior written consent of the Board of Directors.

9. No awnings, aerals or other projections shall be attached to the outside walls of the Buildings, and no blinds, shades or screens shall be attached to, hung or used on the exterior of any window or door of a Townhouse, without the prior written consent of the Board of Directors.

10. Lot Owners, their employees, customers, and visitors shall not at any time or for any reason whatsoever enter upon the roof of any building, without the prior written consent of the Board of Directors.

11. The Board of Directors, or its designee, shall have the right of access to any Lot for the purpose of making inspections, repairs, replacements, or improvements, or to remedy certain conditions which would result in damage to other portions of the building. In the event it finds vermin, insects, or other pests, it may take such measures as it deems necessary to control or exterminate same.

12. Nothing shall be done or kept in any Townhouse or on the Common Areas which will increase the rate of insurance for any building or contents thereof, without the prior written consent of the Board of Directors. No Lot Owner shall permit anything to be done or kept in his Townhouse or on the Common

Areas which will result in the cancellation of insurance on any building or contents thereof or which would be in violation of any law. No waste shall be committed in the Property.

13. No noxious or offensive activity shall be carried on in any Townhouse or in the Common Areas, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to other Lot Owners or occupants.

14. No animals or reptiles of any kind shall be raised, bred, or kept in any Townhouse or in or on the Common Areas, except that one dog (as hereafter provided), cat, or other household domesticated pet may be kept in a Townhouse provided it is not kept, bred, or maintained for any commercial purpose, and further provided that any such pet causing or creating a nuisance or disturbance or noise which, in the sole opinion of a majority of the Board of Directors constitutes an unreasonable interference with the use or enjoyment of any other Townhouse, or of the Common Areas, shall be permanently removed from the Property upon three (3) days written notice to the Owner or occupant harboring such pet. No pet may be kept in a pen or enclosure outside of a Townhouse. Any dog found on the Property which is not on a leash may be summarily removed by the Board of Directors or the managing agent, or their employees, and delivered to the custody of any local or municipal authority with power to impound the same, without any liability on the part of the Board, its agents or employees for such removal. Any pet

kept in violation of these restrictions shall be permanently removed from the Property.

15. The maximum speed limit for all vehicles within the Property shall be fifteen (15) MPH.

16. No commercial vehicles shall be parked or stored on any portion of the Property, except for vehicles temporarily on the premises for the purpose of making deliveries or providing services to the Townhouses or in connection with the maintenance of the Common Areas or Facilities.

17. No abandoned or unregistered vehicle shall be parked, left, or stored upon the Property or any portion thereof.

18. No recreational vehicle shall be parked or stored on any portion of the Property, except for durations of no more than four (4) hours and then not more than once in any twenty-four (24) hour period, the intention being that such vehicles may be brought onto the property only temporarily for purposes such as loading or unloading but not for overnight parking or storage for longer periods.

19. No "For Sale", "For Rent", or "For Lease" signs or other window displays or advertising are permitted on any part of the Property, except with written approval of the Board of Directors. The right is reserved by the Declarant and the Board to place "For Sale", "For Rent", or "For Lease" signs on any unsold or unoccupied Townhouses, and the right is hereby given to any mortgagee, who may become the Owner of any Townhouse, to place such signs on any Townhouse owned by such mortgagee.

20. If any key or keys are entrusted by a Lot Owner or occupant or by a member of his family or by his agent, servant, employees, licensee or visitor to an employee of the Board of Directors, whether for such Townhouse or an automobile, truck or other item of personal property, the acceptance of the key shall be at the sole risk of such Lot Owner or occupant, and the Board shall not be liable for injury, loss or damage of any nature whatsoever directly or indirectly resulting therefrom or connected therewith.

21. No Lot Owner shall alter, impair or otherwise affect the Common Areas or Facilities without the prior written consent of the Board of Directors.

22. Complaints regarding services or operation of the Association shall be made in writing to the Board of Directors or managing agent.

23. Any consent or approval given under these Rules and Regulations may be added to, amended, or repealed at any time by resolution of the Board of Directors.

24. A Lot Owner may apply to the Board of Directors for a temporary waiver of one or more of the foregoing rules. Such temporary waiver may be granted by a majority of the Board, for good cause shown, if, in the Board's judgment, such temporary waiver will not interfere with the purposes for which the Association was formed.

25. These Rules and Regulations may be supplemented from time to time, repealed or modified by a majority vote of the

Board of Directors. No such additional or modified Rule or Regulation shall take effect until communicated in writing to the Lot Owners. Any Rule or Regulation adopted by the Board can be repealed or otherwise superseded by a vote of a majority of the Lot Owners.