

FIRST AMENDED AND RESTATED
BY-LAWS
OF
THE HAMPTON CLUB CONDOMINIUM ASSOCIATION, INC.

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ARTICLE I

NATURE OF BY-LAWS

1.01. Purpose. These By-Laws are intended to govern the administration of The Hampton Club Condominium Association, Inc. (from now on called the "Association"), a nonprofit corporation organized under Title 15A of the New Jersey Statutes Annotated, and to provide for the management, administration, utilization and maintenance of the Common Elements of The Hampton Club Condominium (from now on called the "Condominium") described in the First Amended and Restated Master Deed for The Hampton Club Condominium (from now on called the "Master Deed").

1.02. Definitions. Unless the context clearly indicates otherwise, all definitions set forth in the Master Deed or in N.J.S.A. 46:8B-3 are incorporated herein by reference.

1.03. Fiscal Year. The fiscal year of the Association shall be September 1 through August 31, or as may otherwise be determined by its Board of Directors.

1.04. Principal Office. The principal office of the corporation is initially located c/o Midstate Management Corp., 405 Omni Drive, Somerville, New Jersey 08776.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

2.01. Members. Every person, firm, association, corporation or other legal entity that is a record Owner or Co-Owner of the fee simple title to any Unit incorporated within the Condominium shall be a Member of the Association; provided, however, that any person, firm, association, corporation or other legal entity that holds such title or interest merely as a security for the performance of an obligation (including, but not limited to, mortgagees or trustees under deeds of trust) shall not be a Member of the Association. In

spite of the preceding, the Developer has one membership in the Association for each Unit, completed or planned, incorporated within the Condominium and which has not been conveyed to an individual purchaser.

2.02. Associate Members. Every person who is entitled to possession and occupancy of a Unit as a tenant or lessee of a Unit Owner shall be an Associate Member of the Association, but shall not be entitled to any vote with respect to Association matters.

2.03. Change of Membership. The transfer of membership in the Association appurtenant to a particular Unit shall be automatically accomplished by recordation in the Middlesex County Clerk's Office of a deed or other instrument establishing record title to the Unit in a new Owner. The membership of the prior Unit Owner shall thereupon be terminated.

2.04. Rights of Membership. Every person who is entitled to membership in the Association pursuant to the provisions of the Certificate of Incorporation and these By-Laws, including any Associate Member, shall be privileged to use and enjoy the General Common Elements, subject, however, to the right of the Association to:

- A. promulgate, adopt, publish and enforce Rules and Regulations governing such use and enjoyment;
- B. suspend the use and enjoyment of the General Common Elements as provided in Section 2.05 of this Article II; and
- C. transfer all or part of the General Common Elements, other than any Building in which any Unit(s) are contained, and grant easements, licenses and other property rights with respect to the General Common Elements as provided in Section 6.01N. of Article VI hereof; and
- D. designate portions of the General Common Elements as Reserved Common Elements as provided in Section 4.05 of the Master Deed.

In spite of the foregoing, any Unit Owner acquiring title to a Unit from anyone other than the Developer shall not be privileged to use and enjoy the Common Elements (other than to have access to his Unit) or exercise any other rights of membership in the Association until such time as such new Unit Owner

serves upon the Association in the manner provided in Section 15.12 of the Master Deed a certified true copy of the deed or other instrument establishing record title to the Unit in the new Owner. Likewise, a Unit Owner shall not be privileged to use and enjoy the Common Elements or exercise any other rights of membership in the Condominium Association until such Unit Owner has paid to the Association the working capital contribution required by Section 2.06 of these By-Laws and any escrow deposit and/or membership fee for the Association that has been imposed pursuant to Sections 2.07 and 2.08, respectively, of these By-Laws. The failure of a Unit Owner to comply with the foregoing conditions precedent to entitlement to exercise rights of membership shall in no way relieve such Unit Owner from the obligations appurtenant to membership in the Association.

2.05. Suspension of Rights. The membership and voting rights of any Member may be suspended by the Board for any period during which any assessment against the Unit to which his membership is appurtenant remains unpaid in part or in full; but, upon payment of such assessments, and any interest accrued thereon, by cash, money order or certified or collected funds, his rights and privileges shall be immediately and automatically restored; provided that Section 2.10 of these By-Laws shall govern the restoration of voting rights.

If Rules and Regulations have been promulgated, adopted and published as authorized by the Condominium Act, the Master Deed and/or these By-Laws, the membership rights and privileges (other than voting rights) of any person in violation thereof may be suspended at the discretion of the Board for a period not to exceed thirty (30) days for any single violation. If the violation is of a continuing nature, such rights and privileges may be suspended indefinitely until such time as the violation is abated. No such action shall, however, be taken by the Board of Directors until the Unit Owner is afforded an opportunity for a hearing consistent with the principles of due process of law.

2.06. Contribution to Working Capital. Each Unit Owner shall pay to the Association upon acquisition of title to his Unit a nonrefundable and non-transferable contribution to the working capital of the Association of five hundred dollars (\$500.00) at the time of the acquisition to provide the

Association with a working capital reserve. For so long as a majority of the Directors of the Condominium Association's Board of Directors is appointed by the Developer, these funds may only be used for working capital unless a majority in interest of the Unit Owners other than the Developer affirmatively votes to approve a different permitted use. Thereafter, use of such funds shall be determined by the Board of Directors. Payment of such contribution shall be a condition precedent to the exercise of rights of membership in the Association upon the initial sale or subsequent transfer of title to a Unit. Any unpaid working capital contribution shall be deemed a lien on the Unit in the same manner as any unpaid Common Expenses attributable to such Unit.

2.07. Escrow Deposit. The Board of Directors may at any time require a Unit Owner to deposit and maintain with the Association in escrow an amount not to exceed one-twelfth (1/12) of the estimated or then current annual Common Expense assessment, which escrow deposit shall be held by the Association and applied in the event of a default by the Unit Owner in the payment of any type of assessment, fine or other charge levied by the Board against his Unit. Such escrow, if imposed, shall be held by the Association in an interest-bearing account, with interest to accrue to the benefit of the Association, and shall be refundable or assignable upon the sale of the Unit, without interest, to the extent the deposit is not applied to defaulted Common Expense assessments. The Board of Directors may impose this escrow requirement on less than all of the Unit Owners as it deems appropriate in its sole and absolute discretion.

2.08. Membership Fees. The Board of Directors may impose upon a Unit Owner, upon acquisition of title to his Unit from the Developer or otherwise, a one time, nonrefundable and nontransferable fee for membership in the Association in an amount to be determined by the Board of Directors by formal resolution, but not to exceed two-hundred and fifty dollars (\$250.00). Use of such funds shall be determined by the Board of Directors. Any unpaid membership fee shall be deemed a lien against the Unit in the same manner as any unpaid Common Expense assessment levied against the Unit. In spite of the foregoing, no membership fee shall be

imposed for so long as the Developer appoints a majority of the Directors of the Association.

2.09. Votes. Each Unit Owner shall be entitled to such vote for each Unit to which he holds title in accordance with the Unit's allocated interest in the Common Elements of the Condominium as is provided in Article V of the Master Deed. When more than one person holds title, the vote for each Unit shall be exercised as the Co-Owners among themselves determine. When one or more Co-Owners sign a proxy or purports to vote for his or her Co-Owners, such vote shall be counted unless one or more of the other Co-Owners is present and objects to such vote(s); or, if not present, submits a proxy or objects in a writing delivered to the Secretary of the Association before the vote is counted. If Co-Owners disagree as to the vote, the vote shall be split equally among the Co-Owners.

2.10. Member in Good Standing. A Member shall be deemed to be in good standing, entitled to vote in person or by proxy at any meeting of the Association, entitled to vote on any issue submitted to a mail ballot, eligible to serve as a Director and eligible for appointment to any committee created by these By-Laws or the Board of Directors if, and only if, at least thirty (30) calendar days prior to the date fixed for such meeting, the date fixed for the counting of ballots or the date of appointment, as the case may be, he has fully paid, by cash, money order or certified or collected funds, all installments due for assessments made or levied against him and/or his Unit by the Board of Directors as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and/or his Unit as well as any working capital contribution, escrow deposit or membership fee for which he is liable.

2.11. Proxies. Proxy ballots shall be permitted with respect to all elections of Directors, all amendments to the Certificate of Incorporation, the Master Deed or these By-Laws, or any other matter which properly comes before the membership of the Association. All proxies shall be in writing, bear the original signature of the Unit Owner (or in the case of joint owners by any one

of them), or the original signature of his or their duly authorized representative(s), and delivered to the Secretary of the Association, or such other person as the President may designate, at least 24 hours prior to the opening of the polls or the commencement of the meeting at which ballots are to be cast, whichever is applicable. Proxies may be revoked at any time prior to the opening of the polls or the call for a vote at a meeting, whichever is applicable, and no proxy shall be voted on after eleven (11) months from its date unless said proxy provides for a longer period, not to exceed three (3) years from the date of execution. All proxies shall be substantially in the form prescribed by the Board of Directors, and if not in such form, may be deemed invalid, which determination shall be made in the sole and absolute discretion of the Judges of Election appointed by the Board of Directors of the Association. In spite of the foregoing, the Board of Directors may by its Rules and Regulations or by adoption and publication to the membership of a policy resolution permit proxies to be given by a Member by facsimile transmission, telegram or cable or their equivalent; however, until such time as such a Rule or Regulation or policy resolution so permitting is duly promulgated, adopted and published, no such form of proxy shall be permitted. Any valid proxy given for a meeting of the membership shall remain in full force and effect for any adjourned date of such a meeting and new proxies may be received for an adjourned meeting.

ARTICLE III

MEETINGS OF UNIT OWNERS

3.01. Place of Meetings. All meetings of the Unit Owners of the Association shall be held at the Condominium or at such other place as may be designated by the Board of Directors.

3.02. Annual Meetings. All annual meetings of the Unit Owners of the Association shall be held on the day and month of the year to be established by the Board. At each annual meeting subsequent to the Transition Elections held in accordance with Section 4.03 hereof, the election of Directors shall take place. If the election of Directors shall not be held at the annual meeting or any adjournment of such meeting, the Board shall cause the election to be held at a special meeting as soon thereafter as may be convenient. At such special

meeting the Unit Owners may elect the Directors and transact other business with the same force and effect as at an annual meeting duly called and held. All proxies validly received for the originally scheduled meeting shall remain in full force and effect for any such adjourned meeting or special meeting and new proxies may be received for any such subsequent meeting.

3.03. Special Meetings. Following the Transition Elections, special meetings of Unit Owners may be called by the President whenever he deems such a meeting advisable, or shall be called by the Secretary upon the order of the Board or upon the written request of Members representing not less than twenty-five (25%) percent of all votes entitled to be cast at such meeting. Such request shall state the purpose(s) of such meeting and the matter(s) proposed to be acted upon. Unless Unit Owners representing at least fifty (50%) percent of all votes entitled to be cast request such a meeting, no special meeting may be called to consider any matter which is substantially the same as a matter voted upon at any meeting of the Unit Owners held during the preceding twelve (12) months, which determination shall be made in the sole and absolute discretion of the Board of Directors.

3.04. Notice of Meeting. Except as otherwise provided by law or Section 4.03 herein, notice of each meeting of Unit Owners, whether annual or special, shall be given not less than ten (10) calendar days, nor more than ninety (90) calendar days before the day on which the meeting is to be held, to each Unit Owner at his last known address, by delivering a written or printed notice thereof to said Unit Owner or by mailing such notice via the United States Postal Service, first class mail, postage prepaid. If mailed as aforesaid, notice shall be deemed given when so mailed. Every such notice shall state the time, place and purpose(s) of the meeting. Notice of any meeting of Unit Owners shall not be required to have been sent to any Unit Owners who shall attend such meeting in person or by proxy. Notice of any adjourned meeting of the Unit Owners shall not be required to be given except when expressly required by law or in the event the time and place to which the meeting is adjourned is not announced at the meeting adjourned. Except where otherwise expressly required

by law, no publication of any notice of a meeting of Unit Owners shall be required.

3.05. Quorum and Adjourned Meetings. At any meeting of the Unit Owners, Members (including the Developer or its representatives) holding twenty-five percent (25%) of the aggregate authorized votes and present in person or by proxy shall constitute a quorum for the transaction of business except where otherwise provided by law. In the absence of a quorum, the Members present in person or by proxy and entitled to vote, may, by majority vote, adjourn the meeting from time to time until a quorum shall be present in person or by proxy. At any such adjourned meeting at which a quorum may be present any business may be transacted which might have been transacted at the meeting originally called.

3.06. Organization. At each meeting of the Association, the President, or, in his absence, the Vice President, or in the absence of both of them, a person chosen by a majority vote of the Members in good standing, entitled to vote and present in person or represented by proxy, shall act as a chairperson, and the Secretary, or in, his absence, a person whom the chairperson shall appoint, shall act as Secretary of the meeting.

3.07. Voting on Questions. Only Unit Owners who are Members in good standing shall be entitled to vote on any question submitted to the membership. Unless a different vote is mandated by law, the Master Deed, the Certificate of Incorporation and/or these By-Laws, a majority of votes present in person or by proxy at any duly constituted meeting of the membership and entitled to vote on the question presented shall be sufficient on those questions submitted to a vote of the membership. The vote on any question need not be taken by ballot, unless: (i) the chairperson of the meeting determines a ballot to be advisable; (ii) a majority of the votes present at the meeting and entitled to vote on the question determine that the vote on the question submitted shall be taken by ballot; or (iii) so required by law or the Condominium's governing documents.

3.08. Voting in Elections of Directors. Only Unit Owners who are members in good standing shall be entitled to vote. The election of Directors shall be conducted by written ballot. If, at any meeting at which an election is held, more than twice the number of candidates to be elected are nominated, then,

there shall be two (2) ballots for membership. At the end of the first ballot, the field of nominees shall be reduced so that there are twice as many candidates as there are positions to be filled, with the persons receiving the fewest votes being eliminated from the ensuing ballot. A second ballot shall be held, and, on the second ballot, the persons receiving the plurality of votes will be deemed to be elected in order to fill the vacant positions. If there are not more than twice the number of nominees for the number of positions to be filled, then there shall be one ballot, with the persons receiving the highest numbers of votes being elected in order to fill the vacancies on the Board of Directors. If ever applicable, candidates polling the highest numbers of votes will be considered elected for the longest period of years. Election of Directors at all meetings shall be in accordance with this Section 3.08.

3.09. Ballot by Mail. The Board of Directors, in lieu of calling a membership meeting, may submit any question or election, other than a Transition Election, to a vote of the membership by a ballot by mail. No ballot by mail shall be valid or tabulated unless the signature of the Unit Owner(s) submitting the ballot has been verified on the ballot in accordance with such procedures as may be established by the Board of Directors by a formal policy resolution. The Board of Directors shall appoint judges to tabulate the ballots, whose report shall be included in the minute book. In order to conduct a ballot by mail for a question submitted to a vote of the membership, the Board of Directors shall serve a notice upon all Members in good standing which shall: (i) state with specificity the terms of the motion(s) or question(s) upon which the vote is to be taken; (ii) state the date by which ballots must be received in order to be counted; (iii) provide an official ballot for the purposes of the vote; and (iv) state the date upon which the action contemplated by the motion(s) or question(s) shall be effective, which date shall be not less than ten (10) calendar days after the date ballots must be received. No actions contemplated by a motion or question submitted to a ballot by mail shall be taken unless a majority in voting interest of all Members in good standing and entitled to vote submit ballots approving such action.

In order to conduct a ballot by mail for an election of Directors (other than a Transition Election), the Board of Directors shall serve a notice upon all Members which shall: (i) provide an official ballot for the purposes of the election; and (ii) state the date by which the ballot must be received in order to be counted.

3.10. Judges. If at any meeting of the Unit Owners a vote by ballot shall be taken, the chairperson of such meeting shall appoint two (2) persons to act as judges with respect to the ballots. With regard to a ballot by mail, the President of the Association shall appoint two (2) persons to act as judges with respect to same. Each judge so appointed shall first subscribe an oath to execute faithfully the duties of a judge with strict impartiality and according to the best of his ability. Such judges shall decide upon the qualifications of voters and shall report the number of votes represented at the meeting or participating in a mail ballot and entitled to vote on the question presented, shall conduct and accept the votes and, when the voting is completed, shall ascertain and report the number of votes respectively for and against the questions. Reports of judges shall be in writing and subscribed and delivered by them to the individual named to serve as the Secretary of the meeting or, in the case of a mail ballot, the Secretary of the Board of Directors. The judges need not be Members of the Association and any officer or Director of the Association may be a judge on any question, other than a vote for or against his election to any position with the Association or any other question in which he may be directly interested.

3.11. Order of Business. The order of business at the annual meeting of the Unit Owners or at any special meetings insofar as practicable shall be:

- A. calling of the roll and certifying the proxies;
- B. proof of notice of meeting and waiver of notice;
- C. reading and disposal of any unapproved minutes;
- D. appointment of Judges of Election, if appropriate;
- E. election of Directors, if appropriate;
- F. receiving reports of officers;
- G. receiving reports of committees;

- H. old business;
- I. new business; and
- J. adjournment.

ARTICLE IV

BOARD OF DIRECTORS

4.01. Qualifications. The following criteria shall be qualifications for nomination, appointment or election to a Directorship:

A. Membership in Good Standing: Membership in good standing shall be a qualification for any nominee or appointee to a Directorship except for the Developer, an Affiliate of the Developer or a transferee of Special Developer Rights pursuant to Article XIV of the Master Deed.

B. Representation: Partnerships, corporations, fiduciaries or co-owners holding memberships in good standing may designate individuals to be eligible for nomination, appointment, or election as Directors in accordance with the following qualifications:

- i) Partnership designees shall be members, employees or agents of the partnership;
- ii) Corporate designees shall be officers, stockholders, employees or agents of the corporation; and
- iii) Fiduciary designees shall be fiduciaries, officers, or employees of the fiduciary.

Co-Owners holding a membership in good standing may designate any one but only one of them to be eligible for nomination, appointment, or election as a Director; however, in the case of any disagreement, the express consent of a majority of such Co-Owners shall be required.

4.02. Number. The Board of Directors shall consist of five (5) Directorships, designated as Directorships A, B, C, D and E.

4.03. Transition Elections. Only Unit Owners other than the Developer shall be entitled to vote for and elect Directors A and B in accordance with the provisions of Article III of these By-Laws. Directors C, D and E shall be

appointees of the Developer and shall serve at the pleasure of the Developer until the Transition Elections herein specified are required.

Within thirty (30) days after the Unit Owners other than the Developer hold title to two hundred and thirty-four (234) Units, which is seventy-five percent (75%) of the total number of Units within the Condominium, the President shall call a special meeting of the membership of the Association for the purpose of holding an election (from now on called the "First Transition Election"). At this special meeting, Unit Owners other than the Developer shall be entitled to vote for and elect Directors C and D in accordance with the provisions of Article II of these By-Laws, and the Developer shall continue to be entitled to appoint Director E, who shall serve at the pleasure of the Developer.

In spite of the foregoing, if Unit Owners other than the Developer do not hold title to two hundred and thirty-four (234) Units (or seventy-five percent (75%) of the Units) incorporated within the Condominium by December 31, 2001, the President of the Association shall, within thirty (30) days thereafter, cause a special meeting of the membership of the Association to be called for the purpose of offering Unit Owners other than the Developer the opportunity to elect a majority of the Directors of the Board of Directors. The Unit Owners other than the Developer, Affiliates of the Developer and transferees of Special Developer Rights pursuant to Article XIV of the Master Deed, by a majority vote of all such Unit Owners may, but shall not be obligated to, agree to prematurely accept control of the Board of Directors by agreeing to elect a majority of the Directors as provided by N.J.A.C. 5:26-8.4(d).

Within thirty (30) days after all Units are owned by Unit Owners other than the Developer (other than Affiliates of the Developer and/or transferees of Special Developer Rights pursuant to Article XIV of the Master Deed), the President shall again call a special meeting of the membership of the Association for the Second Transition Election at which Unit Owners shall be entitled to vote for and elect Director E in accordance with the provisions of Article III hereof; provided that the Developer shall be entitled in its

discretion to relinquish directorship E at the time of the First Transition Election or anytime thereafter prior to the conveyance of the last Unit.

In spite of anything in this Section 4.03 to the contrary, it is the intent and purpose of this Section 4.03 to comply with the provisions of N.J.S.A. 46:8B-12.1(a) regarding the election of Directors by Unit Owners other than the Developer. Any specific number of Units referred to herein that must be conveyed by the Developer in order to trigger the Transition Elections is based upon the Developer fully developing the Property so as to consist of the three hundred and twelve (312) Units that are presently governmentally approved for development upon the Property. Should the number of Units be legally changed from three hundred and twelve (312), then the First Transition Election, if not required to have taken place, shall have its threshold redetermined so that once seventy-five (75%) of the revised total number of Units have been conveyed, it shall be triggered.

In all instances, the revised total number of Units shall be based upon Units incorporated as part of Condominium by the Master Deed, as same may be legally amended, regardless of whether the Units are actually completed, in the process of construction or merely unbuilt "paper" Units. Also, in the event that the aforesaid percentages result in less than a whole number when applied to the applicable Unit total, the threshold shall always be the next highest whole number.

Notice of all special meetings called pursuant to this Section for the purpose of holding Transition Elections shall be give not less than twenty (20) nor more than thirty (30) calendar days prior to the date of the meeting.

4.04. Term of Office. Directors A and B serving as of the date these By-Laws are adopted shall serve terms ending on January 31, 2002. Thereafter, Directors A and B shall serve two (2) terms ending on January 31 of each even numbered year.

Developer-appointed Directors C and D shall serve until their successors have been qualified and elected at the First Transition Election held pursuant to Section 4.03 herein. Directors C and D elected at the First Transition Election shall serve terms expiring on January 31 of the odd numbered year

following their election; provided, however, in the event the First Transition Election is held in an odd numbered year, their initial term shall run until January 31 of the next odd numbered year thereafter. Thereafter, Directors C and D shall serve two (2) year terms ending on January 31 of each odd numbered year.

Developer-appointed Director E shall serve until his successor has been qualified and elected at the Second Transition Election. The first unit-Owner elected Director E shall serve a term expiring on January 31 of the odd numbered year following his/her election; provided, however, in the event the Second Transition Election is held in an odd numbered year, his/her initial term shall run until January 31 of the next odd numbered year thereafter. Thereafter, Director E shall serve a two (2) year term ending on January 31 of each odd numbered year.

Once all Transition Elections have occurred, it is intended that Unit Owner-elected Directors A and B shall serve two (2) year terms ending on December 31 of each even numbered year and Unit Owner-elected Directors C, D and E shall serve two (2) year terms ending on December 31 of each odd numbered year.

4.05. Removal of Directors Elected by Unit Owners other than the Developer; Election of Successors. At any duly held and constituted regular or special meeting of the Unit Owners, any one or more Directors elected by Unit Owners other than the Developer, Affiliates of the Developer or transferees of Special Developer Rights pursuant to Article XIV of the Master Deed may be removed with or without cause by vote of a majority in interest of Unit Owners other than the Developer, Affiliates of the Developer or transferees of Special Developer Rights pursuant to Article XIV of the Master Deed present in person or by proxy and in good standing provided that the notice of the meeting expressly includes a vote on such removal as being an item of business to be acted upon at such meeting. A successor or successors may then and there be elected by a majority of the remaining Directors (including Directors appointed by the Developer or a transferee of Special Developer Rights pursuant to Article XIV of the Master Deed) to fill the vacancy thus created. Any such replacement

Director or Directors shall be chosen from amongst Unit Owners other than the Developer, Affiliates of the Developer or transferees of Special Developer Rights pursuant to Article XIV of the Master Deed. Such replacement Director or Directors shall be elected as Directors for the remainder of the term of the Director whose term he is filling and until his successor is duly qualified and elected. Except as hereinafter provided, a Unit Owner-elected Director whose removal has been proposed as aforesaid shall be given an opportunity to be heard at the meeting at which action on his removal is to be considered. In the event that all of the Unit Owner-elected Directors are removed, successors shall be elected by the Unit Owners other than the Developer, Affiliates of the Developer and transferees of Special Developer Rights pursuant to Article XIV of the Master Deed in the manner set forth in Article IV, Section 4.03 herein to fill the vacancies thus created. In spite of anything contained in this Section 4.05, in the event a Unit Owner-elected Director fails to be a member in good standing for a period in excess of thirty (30) consecutive days after notice of his lack of good standing, such Director shall be deemed automatically removed as a Director without the necessity of a vote of the membership. A replacement Director for any such automatically removed Director shall then be chosen in accordance with Section 4.06 of these By-Laws. For purposes of this Section 4.05, a Director shall be deemed not in good standing if he is delinquent in the payment of any Common Expense assessment or installment thereof, regardless of type, or in the payment of any other monetary obligation owed to the Association or if he has failed to abate or otherwise cure any violation of the Condominium's governing documents of which he has notice. The provisions of this Section 4.05 shall not apply to any Director appointed by the Developer or a transferee of Special Developer Rights pursuant to Article XIV of the Master Deed.

4.06. Vacancies. In the event of a vacancy on the Board of Directors for a Directorship filled by the vote of Unit Owners other than the Developer, where such vacancy occurs for any reason other than removal by a vote of Unit Owners other than the Developer, Affiliates of the Developer and transferees of Special Developer Rights pursuant to Article XIV of the Master Deed as provided in

Section 4.05 of this Article IV, such vacancy shall be filled by a vote of a majority of the remaining Directors, including the appointees of the Developer or transferees of Special Developer Rights pursuant to Article XIV of the Master Deed, at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy. Each person so elected shall be a Director for the remainder of the term of the Director whose term he is filling and until his successor shall have been duly elected and qualified. In spite of the foregoing, until the first Transition Election, the Developer shall have the right to fill all vacancies on the Board by appointment. Vacancies on the Board for Directorships to be filled by the vote of Unit Owners other than the Developer shall only be filled with Unit Owners other than the Developer, whether same be appointed or elected.

ARTICLE V

TRANSACTION OF BUSINESS BY THE

BOARD OF DIRECTORS

5.01. Express and Implied Powers and Duties. The property, affairs and business of the Association shall be managed by the Board of Directors which shall have all those powers granted to it by the Certificate of Incorporation, the Master Deed, these By-Laws, and by law.

5.02. Developer's Protective Provisions. After control of the Board of Directors has become vested in Directors elected by Unit Owners other than the Developer, Affiliates of the Developer or transferees of Special Developer Rights pursuant to Article XIV of the Master Deed, and so long as the Developer, an Affiliate of the Developer acquiring title from the Developer or from another Affiliate of the Developer or a transferee of Special Developer Rights pursuant to Article XIV of the Master Deed owns at least one (1) Unit and holds same for sale in the ordinary course of business, the following shall apply:

- A. Neither the Association nor its Board of Directors shall take any action that will impair or adversely affect the rights of the Developer or cause the Developer to suffer any financial, legal or other detriment, including but not limited to any direct or indirect

interference with the sale of Units, or the assessment of the Developer for capital improvements.

- B. The Association and its Board of Directors shall continue the same level of maintenance, operation and services as provided immediately prior to the assumption of control of the Association and the Board of Directors by Unit Owners other than the Developer.

The aforementioned protective provisions shall be construed in accordance with and not in derogation of N.J.S.A. 46:8B-12.1 of the New Jersey Condominium Act and N.J.A.C. 5:26-8.4 of the regulations promulgated pursuant to the New Jersey Planned Real Estate Development Full Disclosure Act, N.J.S.A. 45:22A-1 et seq.

5.03. Meetings of the Board of Directors; Notices; Waiver of Notice. The first annual meeting of the Board of Directors shall be held within ten (10) days after the first annual meeting of the Unit Owners and at such time and place as shall be fixed by a majority of the Board of Directors. Thereafter, 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 Board of Directors, but at least two (2) meetings shall be held each year. Notice of regular meetings of the Board of Directors shall be given to each Director by telephone, mail, or telegram at least three (3) days prior to the day of the meeting. Special meetings of the Board of Directors may be called by the President on three (3) calendar days notice to each Director given by telephone, mail or telegram, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or the Secretary in like manner and on like notice on the written request of at least three (3) Directors. Any Director may, at any time, waive notice of any meeting of the Board of Directors in writing and such waiver shall be deemed equivalent to the giving of notice. Actual attendance by Directors at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board of Directors, no notice shall be required as to the Directors and any business may be transacted at such meeting.

5.04. Quorum and Adjourned Meetings. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of a majority of the Directors present and voting at a meeting at which a quorum is present shall constitute a valid decision. If at any meeting of the Board there shall be less than a quorum present, the majority of those present shall adjourn the meeting to a new date. At any such adjourned meeting at which a quorum is present, any business which may have been transacted at the original meeting may be transacted without further notice to Directors.

5.05. Joinder in Meetings by Approval of Minutes. The transaction of any business at any meeting of the Board, however called and noticed, or wherever held, shall be as valid as if transacted at a meeting duly held after regular call and notice, if: (i) a quorum is present; and (ii) either before or after the meeting, each Director signs a written waiver of notice, or a consent to the holding of the meeting, or an approval of the minutes thereof or of the resolution or act adopted at such meeting. All such waivers, consents or approval shall be in writing and filed with the Secretary and made a part of the minutes of the meeting even though filed subsequent thereto.

5.06. Non-Waiver. All the rights, duties and privileges of the Board shall be deemed to be continuing and shall not be exhausted by any single act or series of acts. To the same extent, the failure to use or employ any remedy or right hereunder or hereafter granted shall not preclude its exercise in the future nor shall any custom bind the Board.

5.07. Consent in Lieu of Meeting and Vote. In spite of anything to the contrary in these By-Laws, the Certificate of Incorporation or the Master Deed, the entire Board of Directors shall waive the power to take action on any matter on which it is authorized to act, without the necessity of a formal meeting and vote if the entire Board, or all the Directors empowered to act, whichever the case may be, shall consent in writing to such action and provided further such action falls with an exception to the open meeting requirements of any applicable law.

5.08. Open Meetings; Notice; Minutes; Location. In spite of anything to the contrary herein or in the Master Deed or Certificate of Incorporation, all meetings of the Board of Directors, except conference on working sessions at which no binding votes are to be taken or any others expressly exempted by applicable law, shall be open to attendance by all Unit Owners. In spite of the foregoing, the Board of Directors may exclude or restrict attendance at those meetings of the Board of Directors dealing with the following:

- A. any matter the disclosure of which would constitute an unwarranted invasion of individual privacy;
- B. any pending or anticipated litigation or contract negotiations;
- C. any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his or her ethical duties as a lawyer; or
- D. any matter involving the employment, promotion, discipline, or dismissal of a specific employee of the Association.

Adequate notice of any open meeting shall be given to all Unit Owners. Unless otherwise specified by applicable law, adequate notice shall mean written advance notice of at least forty-eight (48) hours giving the date, time, location and to the extent known, the agenda of any regular, special, or rescheduled meeting. Such notice shall accurately state whether formal action may or may not be taken. The notice shall be:

- A. prominently posted in at least one place within the Condominium reserved for such or similar announcements;
- B. mailed, telephoned, telegraphed or hand-delivered to at least two (2) newspapers designated by the Board of Directors; and
- C. filed with the Association's Secretary or administrative officer or agent responsible for administering the Association's business office.

At least once a year, with seven (7) days following the Association's Annual Meeting, the Board of Directors shall post and maintain posted throughout the year, at the location specified in A. aforesaid, notice of all scheduled open meetings of the Board of Directors for the ensuing twelve (12) month period.

In the event that a meeting of the Board of Directors of the Association is required to deal with such matters of urgency and importance that delay, for the purpose of providing forty-eight (48) hours advance notice, would result in substantial harm to the interests of the Association, the notice shall be deemed adequate if it is provided as soon as possible following the calling of the meeting.

The Board of Directors shall keep reasonably comprehensible minutes of the proceedings at each of its meetings required to be open to all Unit Owners. Such minutes shall reflect the time and place of the meeting, the Directors present, the subjects considered, the actions taken, the vote of each Director, and any other information required by the Association's governing documents and/or applicable law. Such minutes shall be made available to all Unit Owners within not more than thirty (30) calendar days after the date of the meeting at which same were taken; provided, however, copies of such minutes shall be made available to all Unit Owners before the next meeting of the Board of Directors that is required to be open to all Unit Owners.

All meetings of the Board of Directors that are required by law to be open for attendance by Unit Owners shall be held at a location within the Condominium or, if there is no suitable meeting room within the Condominium, at a suitable meeting room either elsewhere within the City of New Brunswick or in an adjoining municipality. A meeting room shall not be deemed to be suitable if it is not large enough for a reasonable number of Unit Owners who might wish to attend an open meeting.

ARTICLE VI

POWERS AND DUTIES OF BOARD OF DIRECTORS

6.01. General Powers and Privileges. The Board of Directors shall have these powers, which include but which are not necessarily limited to the following, together with such other powers as may be provided herein or in the Master Deed, or the Certificate of Incorporation, or which may be necessarily implied.

- A. to employ, by contract or otherwise, a manager, managing agent or an independent contractor to oversee, supervise and carry out the responsibilities of the Board of Directors. Said manager, managing agent or independent contractor shall be compensated upon such terms as the Board of Directors deems necessary and proper;
- B. to employ any person, firm or corporation to repair, maintain or renovate the Common Elements of the Condominium; lay pipes or culverts; bury utilities; put up lights or poles; erect signs and traffic and safety controls of various sorts within the Condominium;
- C. to employ professional counsel and to obtain advice from persons, firms or corporations such as, but not limited to, landscape architects, architects, engineers, lawyers and accountants;
- D. to employ or contract for water and sewer, electricity and gas or other forms of utilities, cable or master antenna television;
- E. to promulgate, adopt, amend and publish rules and regulations covering the details of the operation and use of the Units and the Common Elements, including but not limited to pet controls;
- F. to secure full performance by Unit Owners or occupants of all items of maintenance for which they are responsible;
- G. to set minimum standards for floor coverings installed by all Owners of Units, with the exception of the Developer, Affiliates of the Developer and transferees of Special Developer Rights pursuant to Article XIV of the Master Deed;
- H. to coordinate the plans of Unit Owners and occupants of Units for moving their personal effects or property into the Unit or out of it, with a view toward scheduling such movements so that there shall be a minimum of inconvenience to others;

- I. to establish and enforce Rules and Regulations for parking by and the assignment of parking spaces to Unit Owners, subject to the provisions of the Master Deed, Certificate of Incorporation and these By-Laws;
- J. to arrange for security protection as deemed appropriate and desired by the members;
- K. to enforce obligations of the Unit Owners and do anything and everything necessary and proper for the sound management of the Condominium, including the right to bring or defend lawsuits to enforce the terms, conditions and restrictions contained in the Master Deed, these By-Laws, or any Rules and Regulations;
- L. to borrow and repay monies giving notes, mortgages or other security upon such term or terms as it deems necessary;
- M. to invest and reinvest monies, sue and be sued, collect interest, dividends, and capital gains; exercise rights; pay taxes; make and enter into contracts; enter into leases or concessions; make and execute any and all proper affidavits for various purposes; compromise any action without leave of court; and all other powers contained herein, and those necessary and incidental thereto;
- N. to grant or obtain easements, licenses and other property rights with respect to the General Common Elements in a manner not inconsistent with the rights of Unit Owners;
- O. to purchase or lease or otherwise acquire in the name of the Association or its designees, corporate or otherwise, on behalf of all Unit Owners within the Condominium, Units offered for sale or lease or surrendered by the Unit Owners to the Board of Directors provided that the foregoing shall not be construed to constitute a right of first refusal and provided further that the Board of Directors shall not exercise this power while a

majority of the Directors are appointed by the Developer and/or a transferee of Special Developer Rights pursuant to Article XIV of the Master Deed;

- P. to purchase Units within the Condominium at foreclosure or other judicial sales in the name of the Association or its designees, corporate or otherwise, on behalf of all Unit Owners; provided, however, that the Board of Directors shall not exercise this power while a majority of the Directors are appointed by the Developer and/or a transferee of Special Developer Rights pursuant to Article XIV of the Master Deed;
- Q. to sell, lease, mortgage (but not vote the votes appurtenant thereto) or otherwise deal with Units acquired by the Association, and sublease any such Units leased by the Association or its designees, on behalf of all Unit Owners;
- R. to bring and defend actions by or against one or more Unit Owners which are pertinent to the operation of the Condominium, the health, safety or general welfare of the Unit Owners, or any other legal action to which the Unit Owners may consent in accordance with these By-Laws;
- S. to create, appoint members to and disband such committees, other than those otherwise required by these By-Laws, as shall from time to time be deemed appropriate or necessary to aid the Board of Directors in the discharge of its duties, functions and powers;
- T. to impose upon some but not necessarily all Unit Owners the requirement of an escrow deposit as set forth in Article II, Section 2.07 hereof; and
- U. to impose upon Unit Owners at the time of acquisition of title to a Unit a one time, nonrefundable, nontransferable fee of up to \$250 for

membership in the Condominium Association as set forth in Article II, Section 2.08 hereof.

6.02. Duties and Responsibilities. It shall be the affirmative and perpetual obligation and duty of the Board of Directors to perform the following:

- A. to cause the General and Limited Common Elements to be maintained according to accepted standards and as set forth in the Master Deed, including, but not limited to such maintenance, painting, replacement and repair work as may be necessary, lawn maintenance and clearing of snow from roadways and such other areas for which the Association is responsible or as the Board may deem appropriate. All repairs and replacements shall be substantially similar to the original application and installation and shall be of first class quality;
- B. to investigate, hire, pay, supervise and discharge the personnel necessary to be employed, and provide the equipment and materials necessary, in order to properly maintain and operate the Common Elements. Compensation for the services of such employees (as evidenced by certified payroll) shall be considered an operating expense of the Association;
- C. to cause to be kept a complete records of all its acts and corporate affairs and to present a summary report thereof to the Members at the annual meeting or at any special meeting when requested in writing at least twenty-one (21) days in advance by Members entitled to cast at least twenty-five (25%) percent of the total votes of the Association;
- D. to allocate common surplus or make repairs, additions, improvements to, or restoration of the Common Elements in accordance with the provisions of these By-Laws and the Master Deed after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;

- E. to take such action as may be necessary to comply promptly with any and all orders or requirements affecting the premises maintained by the Association placed thereon by any federal, state, county or municipal authority having jurisdiction thereover, and order of the Board of Fire Underwriters or other similar bodies;
- F. to name and designate an Insurance Trustee, who shall not be a Member of the Condominium Association, a principal or employee of the Developer or the manager, for the purpose of receiving and disbursing all insurance proceeds in excess of \$100,000 that are payable to the Condominium Association in accordance with Article XI of the Master Deed. In the absence of such an appointment, the Board of Directors shall be responsible for the disposition of all insurance proceeds;
- G. to collect from each Unit Owner at the time he acquires title to his Unit a nonrefundable, nontransferable contribution to the working capital of the Association as set forth in Article II, Section 2.06 hereof;
- H. to establish a Judiciary Committee as hereinafter provided in Article XII;
- I. to establish a Covenants Committee as hereinafter provided in Article X;
- J. to manage the fiscal affairs of the Association as hereinafter provided in Article VII; and
- K. to place and keep in force all insurance coverages required to be maintained by the Association, and applicable to its property and members, including, but not limited to:
 - (i) Physical Damage Insurance. To the extent available in the normal commercial marketplace, broad form insurance against loss by fire and against loss by lightning, windstorm and other risks normally included within all risk extended coverage, including vandalism and malicious mischief, insuring all Common Elements,

together with all service machinery appurtenant thereto as well as common personalty and supplies belonging to the Association, and also insuring any fixtures, equipment or other personal property inside of a Unit that would be encumbered by a Mortgage on the Unit whether or not such fixture, equipment or other personal property are part of the Common Elements. Such insurances shall cover the interests of the Association, the Board, the Developer, all Unit Owners and any Permitted Mortgage Holder who has requested the Association in writing to be named as loss payee, as their respective interests may appear, in an amount equal one hundred percent (100%) of the insurable replacement costs of the Condominium's improvements required to be insured as herein provided, including the individual Units, but excluding land, foundations, or other items that are usually excluded from insurance coverage. Each policy shall contain a standard mortgagee clause in favor of each applicable Permitted Mortgage Holder, which shall provide that the loss, if any, thereunder, shall be payable to each applicable Permitted Mortgage Holder, its successors and assigns as their interest may appear, subject to the loss payment provisions set forth in Article XI of the Master Deed. The aforesaid mortgagee clause shall name as mortgagee either the Federal National Mortgage Association (FNMA) or its servicer in the event FNMA holds mortgages on any Units. When a servicer is named as a mortgagee, its name must be followed by the phrase "its successors and assigns". When a majority of the Board is elected by the Unit Owners other than the Developer, prior to obtaining any renewal of a policy of physical damage insurance, the Board shall obtain an appraisal or other written evaluation of an insurance broker licensed to conduct business in New

Jersey or other qualified expert as to the insurable replacement cost of the Condominium's improvements required to be insured as herein provided for the purposes of determining the amount of insurance to be effected pursuant to this subparagraph. The amount of any deductible shall be determined by the Board, in its sole discretion; provided, however, such deductible shall not be greater than the lesser of \$10,000 or one percent (1%) of the policy face amount. Funds, to cover deductibles shall be included in the Association's operating reserve account.

- (ii) Public Liability Insurance. To the extent obtainable in the normal commercial marketplace, public liability insurance for personal injury and death from accidents occurring within the Common Elements (and any other areas which the Board may deem advisable), and the defense of any actions brought by injury or death of a person or damage to property, occurring within such Common Elements, and not arising by reason of any act or negligence of any individual Unit Owner. Said insurance shall be in such limits as the Board may, from time to time, determine, covering each member of the Board, the managing agent, the manager, and each one insured against another. Until the first meeting of the Board following the first annual meeting, such public liability insurance shall be in a single limit of not less than \$1,000,000 covering all claims for personal injury or property damage arising out of any one occurrence. The Board shall review such limits once a year.
- (iii) Directors and Officers Liability Insurance. Liability insurance indemnifying the Directors and Officers of the Association against the liability for errors and omissions occurring in connection with the performance of their duties, with any deductible amount to be in the sole discretion of the Board.

- (iv) Workers Compensation Insurance. Workers compensation and New Jersey disability benefits insurance as required by law.
- (v) Vehicular Liability Insurance. To the extent obtainable in the normal commercial marketplace, vehicular liability insurance to cover all motor vehicles, if any, owned or operated by the Association.
- (vi) Flood Insurance. Flood hazard insurance in the event any of the insurable Common Elements and Unit betterments existing at the time of the initial conveyance of a Unit from the Developer are located within a federally designated zone of greater than minimal flood hazard.
- (vii) Other Insurance. Such other insurance as the Board may determine to be appropriate.

All policies shall: (i) provide that adjustment of loss shall be made by the Board of Directors with the approval of the Insurance Trustee, if any, and that the net proceeds thereof, if \$100,000.00 or less shall be payable to the Board, and if more than \$100,000.00 shall be payable to the Insurance Trustee if any; (ii) require that the proceeds of physical damage insurance be applied to the restoration of the insured property as is required by the Master Deed and these By-Laws; (iii) to the extent obtainable contain agreed amount and inflation guard endorsements, construction code endorsement, demolition cost endorsement, contingent liability from operation of building laws endorsement and increased cost of construction endorsement; (iv) provide that the insurance will not be prejudiced by any act or omission of individual Members that are not under the control of the Association; (v) provide that the policy will be primary, even if insurance covering the same loss is held by any Member(s); (vi) to the extent obtainable contain waivers of subrogation and waivers of any defense based on co-insurance or of invalidity arising from any acts of the insured; and (vii) provide that such policies may not be cancelled without at

least thirty (30) days prior written notice to all of the named insureds, including all Unit Owners and Notice Mortgagees.

Any insurance maintained by the Board may provide for such deductible amount as the Board may determine. In spite of any other provisions of this subparagraph, the Association shall not be required to provide any type or amount of insurance not commonly available in the normal commercial marketplace.

All policies shall show the named insured as: "The Hampton Club Condominium Association, Inc., for the use and benefit of the individual owners" or the Association's Insurance Trustee, if any. The "loss payable" clause must show the Association or the Insurance Trustee, as a trustee for each Unit Owner, Permitted Mortgagee Holder or other loss payee. Also, the policies must require the insurer to notify in writing the Association, its Insurance Trustee and each Notice Mortgagee or other entity named in the mortgagee clause at least thirty (30) days before it substantially changes the Association's coverage.

The premiums for any and all insurance coverage maintained by the Association shall be a Common Expense of the Association.

Unit Owners shall not be prohibited from carrying 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 Unit Owner.

ARTICLE VII

FISCAL MANAGEMENT

7.01. Annual Common Expense Assessments. The Board of Directors shall have the duty to collect from each Unit Owner, his heirs, administrators, successors and assigns, as annual Common Expense assessments, the proportionate part of the Common Expenses assessed against such Unit Owner as provided in the Master Deed, the Certificate of Incorporation, these By-Laws, and in accordance with applicable law.

7.02. Determination of Common Expenses. The amount of monies for Common Expenses deemed necessary by the Board of Directors and the manner of expenditure thereof, including but not limited to the allocation thereof, shall be a matter for the sole discretion of the Board of Directors.

7.03. Disbursements. The Board of Directors shall take and hold the funds as collected and shall disburse the same for the purposes and in the manner set forth herein and as required by the Master Deed, Certificate of Incorporation, and applicable law.

7.04. Depositories. The depository of the Association shall be such a bank or banks as shall be designated from time to time by the Board of Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such parties as are authorized by the Board, provided that a management agreement may include among its provisions authority for the manager to sign checks on behalf of the Association for payment of the obligations of the Association, if the proper fidelity bond is furnished to the Association.

7.05. Accounts. The receipts and expenditures of the Association shall be Common Expense assessments and Common Expenses respectively, and shall be credited and charged to accounts under the following classifications as the Board shall deem appropriate, all of which expenditures shall be Common Expenses:

- A. Current expenses, which shall include expenditures within the year for which the budget is made, including reasonable allowances for contingencies and working funds. Current expenses may not include expenditures chargeable to reserves. At the end of each year, the unexpended amount remaining in this account shall be applied to reduce the assessments for current expenses for the succeeding year, distributed to the current membership in the same manner as assessed and/or allocated and transferred to the Association's reserve for deferred maintenance and/or reserve for repair and replacement as the Board shall determine in its sole and absolute discretion.
- B. Reserve for deferred maintenance, which shall include funds for maintenance items that occur less frequently than annually.
- C. Reserve for repair and replacement, which shall include funds for repair or replacement of the Common Elements and those portions of the Common Elements for which repair or replacement is required because of damage, depreciation or obsolescence. The amounts in this account shall be allocated among each of the separate categories of replacement items.
- D. Reserves for capital improvements, which shall include the funds to be used for capital expenditures or for acquisition of additional personal property that will be part of the Common Elements.
- E. Operations, which shall include all funds from the use of the Common Elements or from any other sources. Only the additional direct expense required by any revenue producing operation will be charged to this account, and any surplus from any operation or otherwise shall be used to reduce the assessments for current expenses for the succeeding year, distributed to the current membership in the same manner as assessed, and/or allocated and

transferred to the Association's reserve for deferred maintenance and/or reserve for repair and replacement as the Board shall determine in its sole and absolute discretion. Losses from operations or otherwise shall be met by special assessments against Unit Owners, which assessments may be made in advance in order to provide a working fund.

- F. Working capital, consisting of those nonrefundable and non-transferable contributions assessed upon each Owner upon acquisition of title to a Unit imposed under Article II, Section 2.06, which may be utilized by the Board in its reasonable discretion to meet unanticipated or other expenses of the Association (but not in order to reduce the Annual Common Expense Assessment).
- G. Escrow deposits paid by each Owner to be applied in the event of a default in payment of Common Expense assessments by that Owner if imposed under Article II, Section 2.07.

The Board of Directors shall not be required to physically segregate the funds held in the above accounts except for reserves for deferred maintenance, reserves for replacement and repair, escrow deposits, if any, and bulk real estate tax reserves, which funds must be maintained in separate accounts. The Board may, in its sole discretion, maintain the remaining funds in one or more consolidated accounts. As to each consolidated account, the division into the various accounts set forth above need be made only on the Association's records.

7.06. Reserves. The Board of Directors shall not be obligated to expend all of the revenues collected in any accounting period, and must maintain reasonable reserves for, among other things, repairs, replacements, emergencies, contingencies of bad weather or uncollectible accounts. In spite of anything herein to the contrary, the Board of Directors in its determination of the Common Expenses and the preparation of a budget shall specifically designate and identify that portion of the Common Expenses which is to be assessed against the

Unit Owners as a capital contribution and is allocable to reserves for each separate Common Element. The amounts assessed and collected for the reserves shall be kept in one or more interest-bearing savings accounts, or certificates of deposit and shall not be utilized for any purpose other than that which was contemplated at the time of the assessment. The foregoing shall not be construed to mean that the Board of Directors shall not be permitted to keep additional cash on hand, in a checking or petty cash account, for the necessary discharge of its functions.

7.07. Notice of Common Expense Assessment. Prior to the due date of the first Common Expense assessment installment for any given fiscal year of the Association, the Board of Directors shall give written notice to each Unit Owner and Notice Mortgagee of the amount estimated by the Board of Directors for Common Expenses of the Association for such ensuing fiscal year, which notice shall include the Unit Owner's proportionate liability for such Common Expenses and the amount of monthly installments thereof that the Unit Owner is obligated to pay to the Association. In the event the annual Common Expense assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board and nothing herein shall serve to prohibit or prevent the Board from imposing an Emergency Common Expense assessment in the case of any immediate need for emergency which cannot be met by reserve funds allocated for such contingency.

7.08. Acceleration of Assessment Installment Upon Default. If a Unit Owner shall be in default in the payment of an installment on any type of assessment, the Board shall notify the delinquent Unit Owner if such default exceeds thirty (30) calendar days that the remaining installments of the assessment shall be accelerated if the delinquent installment has not been paid by a date stated in the notice, which date shall not be less than five (5) business days after personal service of the notice to the Unit Owner or not less than ten (10) business days after the mailing of such notice to him by registered or certified mail at the last address that he has officially given to the Association. If

such notice is given and the default shall continue for a period of thirty (30) calendar days after the payment date in the notice, then the Board shall be required to accelerate the remaining installments of the assessment and notify the delinquent Unit Owner that a Claim of Lien for the accelerated amount shall be filed on or after the date stated in the notice of acceleration if the accelerated balance has not then been paid. The Claim of Lien for such accelerated assessment as permitted by law shall then be filed if the delinquent assessment has not been theretofore paid and the Board may, if permitted by law, also notify any holder of a Mortgage encumbering the Unit affected by such default and/or publish appropriate notice of such delinquency to the membership of the Association. If said default continues for a period of sixty (60) calendar days after a Claim of Lien is filed, then the Board may foreclose the foregoing lien pursuant to law and/or commence a suit against the appropriate parties to collect the assessment.

7.09. Late Fees, Interest and Counsel Fees. The Board at its option shall have the right, to the extent permitted by applicable law, in connection with the collection of any type of assessment or other charge to impose a late charge of any reasonable amount and/or interest at the legal maximum rate permitted by law for the payment of delinquent real estate taxes, if such payment is made after a date certain stated in a written notice to the Unit Owner. In the event that the Board shall effectuate collection of said assessments or charges by resort to counsel and/or the filing of a Claim of Lien, the Board may add to the aforesaid assessments or charges a reasonable sum as counsel fees, plus the reasonable costs for preparation, filing and discharge of the lien, in addition to such other costs as may be allowable by law.

- A. In the case of any action or proceeding brought or defended by the Association or the Board pursuant to the provisions of these By-Laws, the reasonable costs and expenses of preparation and litigation, including attorneys fees, shall be a Common Expense allocated to all Unit Owners.

- B. Money judgments recovered by the Association in any action or proceeding brought hereunder, including costs, penalties or damages shall be deemed a special fund to be applied to: (1) the payment of unpaid litigation expenses; (2) refunding to the Unit Owners the cost and expenses of litigation advanced by them; (3) Common Expenses, if the recovery thereof was the purpose of the litigation; (4) repair or reconstruction of the Common Elements if recovery of damages to same was the motivation for the litigation; and (5) any amount not applied to (1), (2), (3) and (4) above shall be at the discretion of the Board treated either as: (i) a common surplus which shall be allocated and distributed pursuant to the provisions of Article VI of the Master Deed or (ii) a set off against the annual Common Expense assessment generally. In spite of the foregoing, if a Unit Owner(s), the Board or any other person or legal entity affected by any such distribution shall assert that the damages sustained or the diminution in value suffered by a Unit Owner(s) was disproportionate to his or their interest in the Common Elements, in that event the matter shall be submitted to binding arbitration to be decided in accordance with the procedures set forth in Article XV hereof.
- C. All Common Expenses received and to be received by the Board, for the purpose of paying any judgment obtained against the Association or the Board and the right to receive such funds, shall constitute trust funds and the same shall be expended first for such purpose before expending any part of the same for any other purpose.
- D. In the event that a Unit Owner(s) succeeds in obtaining a judgment or order against the Association or the Board, then in addition to any other sums to which said Owner(s) would

otherwise be entitled by such judgment or order, he or they shall also be entitled to the restitution or recovery of any sums paid to the Board as assessments for litigation expenses in relation to said action or proceeding.

7.10. Power of Attorney to Permitted Mortgage Holder. In the event the Board shall not cause the enforcement procedures provided in Sections 7.08 and 7.09 of Article VII above to be implemented within the time provided, any Permitted Mortgage Holder for any Unit as to which there shall be such unpaid Common Expense assessments is hereby irrevocably granted a power of attorney to commence such actions and to invoke such other remedies, all in the name of the Association. This power of attorney is expressly stipulated to be coupled with an interest in the subject matter.

7.11. Annual Audit. The Board shall submit the books, records, and memoranda of the Association to an annual audit by an independent certified public accountant, who shall audit same and render a report thereon in writing to the Board and in summary form to the Unit Owners and such Notice Mortgagees or other persons, firms or corporations as may be entitled to same. While the Developer appoints a majority of the Directors of the Board, it shall have an annual audit of association funds prepared by an independent accountant, a copy of which shall be delivered to each Unit Owner within ninety (90) days of the expiration of the fiscal year of the Association. In addition, at all times, the Association's annual audited financial statement shall be available, within 120 days of the Association's fiscal year end, to the holder, insurer, or guarantor of any First Mortgage who submits a written request for same. Association audits shall cover the operating budget and reserve accounts. The cost of such audits occurring while the Developer appoints a majority of the Directors of the Board may be included as a Common Expense of the Association.

7.12. Examination of Books. Each Unit Owner shall be permitted to examine the books of account of the Board by appointment at a reasonable time on business days; provided, however, that the Treasurer has been given at least ten

(10) days prior written notice of the Unit Owner's desire to make such an examination.

7.13. Fidelity Bonds. Fidelity bonds shall be required by the Board for all persons handling or responsible for Association funds. The amount of such bonds shall be determined by the Board. The premiums on such bonds shall be paid by the Association.

For so long as the Developer appoints a majority of the Directors on the Board, it shall post a fidelity bond or other guarantee acceptable to the New Jersey Department of Community Affairs in an amount equal to the annual budget. For the second and succeeding years of the Association, the bond or other guarantee shall include accumulated reserves. The premium or costs of such fidelity bond or other guarantee shall be borne by the Developer and shall not be treated as a Common Expense of the Association.

ARTICLE VIII

OFFICERS

8.01. Designation. The principal officers of the Association shall be a President, a Vice-President, both of whom shall be members of the Board, a Secretary and a Treasurer. The Board may also appoint such other Assistant Treasurers and Assistant Secretaries as in its judgment may be necessary. Any two (2) offices, except that of President and Vice-President, may be held by one person.

8.02. Election of Officers. The officers of the Association shall be elected annually by the Board at the first Board of Directors meeting following each annual meeting and such officers shall hold office at the pleasure of the Board.

8.03. Removal of Officers. Upon an affirmative vote of a majority of the full number of Directors, any officer may be removed, either with or without cause, after opportunity for a hearing, and his successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

8.04. Duties and Responsibilities of Officers.

- A. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board. He shall have all of the general powers and duties which are usually vested in the office of President of an Association.
- B. 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 shall appoint some other Director to so do 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.
- C. The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the members of the Association; 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 the Secretary.
- D. The Treasurer shall have the responsibility for the custody of Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit of the Association in such depositories as may from time to time be authorized by the Board.

8.05. Other Duties and Powers. The Officers shall have such other duties, power's and responsibilities as shall, from time to time, be authorized by the Board.

8.06. Eligibility of Directors. Nothing herein contained shall prohibit a Director from being an Officer.

ARTICLE IX
COMPENSATION, INDEMNIFICATION AND
EXCULPABILITY OF OFFICERS, DIRECTORS,
AND COMMITTEE MEMBERS

9.01. Compensation. No compensation shall be paid to the President or the Vice-President or any Director, or Committee Member for acting as such Officer, Director, or Committee Member. The Secretary and/or Treasurer (except for Developer appointees) may be compensated for their services if the Board determines that such compensation is appropriate. Nothing herein stated shall prevent any Officer or Director, or Committee Member from being reimbursed for out-of-pocket expenses or compensated for services rendered in any other capacity to or for the Association, provided, however, that any such expenses incurred or services rendered shall have been authorized in advance by the Board.

9.02. Indemnification. Each Director, Officer or Committee Member of the Association shall be indemnified by the Association against the actual amount of net loss including counsel fees, reasonably incurred by or imposed upon him in connection with any action, suit or proceeding to which he may be a party by reason of his being or having been a Director, Officer, or Committee Member of the Association, except as to matters for which he shall be ultimately found in such action to be liable for gross negligence or willful misconduct. In the event of a settlement of any such case, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified had not been guilty of gross negligence or willful misconduct.

9.03. Exculpability. In accordance with N.J.S.A. 15A:2-8c, directors and officers of the Association shall not be personally liable to the Association or its members for damages for breach of any duty owed to the Association or its

members except for any breach of duty based upon an act or omission (1) in breach of such person's duty of loyalty to the Association or its members, (2) not in good faith or involving a knowing violation of law or (3) resulting in receipt of such person of an improper personal benefit. Committee members who are not directors and officers of the Association shall be similarly exculpated from liability. Each Unit Owner shall be bound by the good faith actions of the Board, Officers and Committee Members of the Association, in the execution of the duties of said directors, Officers and Committee Members. Nothing contained herein shall be construed also as to exculpate members of the Board of Directors appointed by the Developer from discharging their fiduciary responsibilities.

ARTICLE X

COVENANTS COMMITTEE

10.01. Purpose. The Board of Directors shall establish a Covenants Committee, consisting of three (3) Unit Owners appointed by the Board of Directors, each to serve for a term of one (1) year, in order to assure that the Condominium shall always be maintained in a manner:

- A. providing for architectural consistency, visual and aesthetic harmony and soundness of repair;
- B. avoiding activities deleterious to the aesthetic or property values of the Condominium;
- C. furthering the comfort of the Unit Owners, their guests, invitees and lessees; and
- D. promoting the general welfare and safety of the Condominium community.

10.02. Powers. The Covenants Committee shall have the following powers:

- A. to propose to the Board of Directors, for promulgation, adoption and publication as Rules and Regulations, standards regulating, amongst other things, the external design, appearance, use and maintenance of Units and Common Elements within the Condominium so as to assure architectural consistency, visual and aesthetic

harmony, soundness of repair and maintenance of standards established by the Developer;

- B. to propose to the Board of Directors, for promulgation, adoption and publication as Rules and Regulations, such standards as it deems appropriate and/or necessary governing the use of the Units and the Common Elements within the Condominium in order to assure adherence to the limitations placed upon the use of the Units and the Common Elements by the Condominium's governing documents;
- C. to propose to the Board of Directors, for promulgation, adoption and publication as Rules and Regulations, such measures as it shall, from time to time, deem appropriate and aimed toward assuring that the covenants, conditions, restrictions, etc. of the Condominium are faithfully observed;
- D. to issue cease and desist notices to any Member, his guests, invitees, lessees, etc., any of whose acts or failure to act is deemed inconsistent with the Condominium's governing documents. Such notices may be issued by the Covenants Committee on its own initiative or as a result of a petition by a Member. Any such cease and desist notice shall expressly provide the opportunity for a hearing pursuant to Article XII of these By-Laws and no action may be taken by the Covenants Committee without first giving the person upon whom the notice is served at least ten (10) calendar days prior written notice thereof and affording him the opportunity to be heard with respect to the violations asserted; and
- E. to give advisory interpretations, from time to time, as requested by the Board of Directors relative to provisions of the Condominium's Governing Documents and resolutions of the Board of Directors as to the intent thereof.

10.03. Authority. Any Rules and Regulations proposed by the Covenants Committee shall have no force or effect until reviewed, adopted and published by the Board of Directors in the manner provided in Article XVI of the Master Deed. In addition to those express powers set forth in Section 10.02 of these By-Laws, the Covenants Committee shall have such additional duties, powers and authority as the Board of Directors may from time to time provide, including the right to impose fines as provided in Section 11.02 of these By-Laws. The Board of Directors may relieve the Covenants Committee of any of its duties, powers and authority either generally or on a case by case basis by vote of a majority of the Board's then current full authorized membership. The Covenants Committee shall carry out its duties and exercise its powers and authority in the manner provided for in the Association's Rules and Regulations and/or by resolution of the Board of Directors.

ARTICLE XI

ENFORCEMENT

11.01. Enforcement. The Board of Directors shall have the power, at its sole option, to enforce the terms of this instrument or any rule or regulation promulgated pursuant thereto, by any or all of the following: self-help; sending notice to the offending party to cause certain things to be done or undone; restoring the Association to its original position and charging the breaching party with the entire cost or any part thereof; complaint to the duly constituted authorities; or by taking any other action before any court, summary or otherwise, as may be provided by law.

11.02. Fines. The Association, acting through its Board of Directors, is hereby empowered to impose reasonable fines upon Unit Owners for failure to comply with the provisions of the Master Deed, these By-Laws and/or any Rules and Regulations duly promulgated, adopted and published by the Association but subject to such limitations, conditions and parameters are established by the New Jersey Condominium Act, as amended, and/or any other applicable law.

11.03. Waiver. No restriction, condition, obligation or covenant contained in these By-Laws shall be deemed to have been abrogated or waived by reason of the failure to enforce the same irrespective of the number of violations or breaches thereof which may occur.

11.04. Cause of Action Against Association. Unit Owners shall have a cause of action, to the extent permitted by the laws of this State, against the Association for its failure to act in accordance with the Master Deed, Certificate of Incorporation, these By-Laws, any Rules or Regulations governing the Condominium or any formal decisions of the Association. In spite of the foregoing, the Association shall not be liable in any civil action brought by or on behalf of an Owner to respond in damages as a result of bodily injury to the Owner occurring on or within the Condominium unless the Association caused such bodily injury to the Owner within or upon the Condominium by its willful, wanton or grossly negligent act of commission or omission. The foregoing shall be construed in accordance with and not in derogation of N.J.S.A. 2A:62A-12 et seq.

ARTICLE XII

JUDICIARY COMMITTEE

12.01. Establishment and Purpose. The Board of Directors shall establish a Judiciary Committee to provide a forum for aggrieved parties to seek a review of cease and desist notices issued by the Covenants Committee and to provide a mechanism for alternative resolution of housing related disputes between Members and other Members or tenants. The Judiciary Committee shall be comprised of three (3) Unit Owners appointed by the Board of Directors to serve for terms of one (1) year. No sitting Member of the Covenants Committee shall be appointed to serve simultaneously as a member of the Judiciary Committee. In addition, at any given time, one and only one member of the Judiciary Committee shall be a sitting Director. This committee member's term shall automatically expire should he no longer serve as a Director at any point during his one (1) year term. In the event a matter before the Judiciary Committee involves a matter in which a member of the Judiciary Committee has an interest, such member(s) of the

Judiciary Committee affected shall be disqualified from participating as to that particular matter and the Board of Directors shall select an eligible Unit Owner to temporarily serve on the Judiciary Committee with regard to that particular matter.

12.02. Authority. The Judiciary Committee shall have the authority to review any cease and desist notices issued by the Covenants Committee at the request, timely made, of an aggrieved party and to resolve disputes amongst eligible parties seeking the involvement of the Judiciary Committee, all in accordance with the procedures set forth herein and as same may be supplemented by Rules and Regulations promulgated, adopted and published by the Board of Directors.

12.03. Procedures. Any Member or tenant of a Member seeking to bring a matter before the Judiciary Committee (from now on called the "Petitioner") shall do so in the following manner:

- A. The Petitioner shall file with the Judiciary Committee a written statement (from now on called the "Petition") setting forth in detail the matter being presented. In the case of cease and desist notices issued by the Covenants Committee, the Petition must include a copy of the cease and desist notice. Also, in the case of cease and desist notices, any Petition must be received by the Judiciary Committee within ten (10) business days of service upon the Petitioner of such cease and desist notice.
- B. Within the ten (10) business days of its receipt of the Petition, the Judiciary Committee shall provide any Member or tenant complained about by a Petitioner or, in the case of a cease and desist notice, the Covenants Committee (from now on collectively referred to as the "Respondent"), with a copy of the Petition.

- C. The Respondent shall prepare a written response and file same with the Judiciary Committee within fourteen (14) business days of Respondent's receipt of a copy of the Petition.
- D. The Judiciary Committee shall review the written submissions of the Petitioner and the Respondent and shall conduct such other inquiry as it deems appropriate. The Judiciary Committee shall then make every effort to informally resolve the dispute between the parties in an amicable fashion.
- E. In the event a matter pending before the Judiciary Committee cannot be informally and amicably resolved within ten (10) business days of the date by which the Respondent was to have filed with the Judiciary Committee its written response or any mutually agreed upon extension not to exceed sixty (60) calendar days from the expiration of the aforesaid ten (10) business days, the Judiciary Committee shall hold a formal hearing upon ten (10) business days notice to the Petitioner and the Respondent. At such hearing, the Petitioner and the Respondent shall be permitted to be represented by counsel and shall further be permitted, directly or through counsel, to make such statements as they each desire and to present testimony, writings or other exhibits. The Judiciary Committee shall conduct the hearing according to procedures established by it for the conduct of all such hearings, but, in all events, shall receive documents, statements and evidence without regard to the rules of the evidence that would be applicable in a formal legal proceeding. The Judiciary Committee shall endeavor, in good faith, to render a written decision within five (5) business days of the conclusion of the formal hearing. A copy of the decision shall be served upon the Petitioner, the Respondent and the Board of Directors by the Judiciary Committee.

- F. A decision of the Judiciary Committee shall become final ten (10) business days after it is served upon the Board of Directors. Prior to the expiration of the aforesaid ten (10) business days, the Board of Directors may review the decision and, in its sole and absolute discretion accept, reject or modify, in whole or in part, the decision, including, but not limited to, any recommendation of the Judiciary Committee regarding imposition and/or allocation of costs. To the extent the Board of Directors determines that it is appropriate for the cost of the hearing to be assessed against one or more of the parties, it shall cause such costs to be assessed or a Miscellaneous Condominium Common Expense assessment and notice of same shall be served upon the responsible party or parties setting forth the terms of payment of the sums so assessed. In the event the Board of Directors modifies or rejects the decision of the Judiciary Committee, it shall reduce its determination to writing and serve a copy of same upon the Judiciary Committee, the Petitioner and the Respondent as the final disposition of the matter in question. The failure of the Board of Directors to modify or reject the decision of the Judiciary Committee as aforesaid by serving notice of same within ten (10) business days of service upon it of a copy of the Judiciary Committee's decision shall be deemed an affirmation by the Board of Directors of the decision of the Judiciary Committee.
- G. The prevailing party under the final decision may enforce compliance with any decision of the Judiciary Committee and/or the Board of Directors by instituting suit in any court of competent jurisdiction. The cost of any such litigation,

including reasonable legal fees, shall be borne by the parties in such a manner as the court deems equitable.

12.04. Obligation to Provide Alternative Procedure for Dispute Resolution.

Either through the Judiciary Committee established by this Article XII or otherwise, the Association shall, at all times, provide a fair and efficient procedure for the resolution of housing related disputes between individual Unit Owners and the Condominium Association and between different Unit Owners that shall be a readily available alternative to litigation.

ARTICLE XIII

AMENDMENTS

Subject to the restrictions in Article XIII of the Master Deed regarding the rights of Notice Mortgagees, these By-Laws, or any of them, may be altered or repealed, or new By-Laws may be made, at any meeting of the Association duly held for such purpose, and previous to which written notice to Unit Owners of the exact language of the amendment or of the repeal shall have been sent, a quorum being present, by an affirmative vote of 51% in number and in interest of the votes entitled to be cast in person or by proxy, except that the obligation or the proportionate responsibility for the payment of Common Expenses with respect to Units or the Common Elements may not be changed by reason of any such new By-Law, amendment or repeal.

ARTICLE XIV

CONFLICT; INVALIDITY

14.01. Conflict. In spite of anything to the contrary herein, if any provision of these By-Laws is in conflict with or contradiction of the Master Deed, the Certificate of Incorporation or with the requirements of any law, then the requirements of said Master Deed or law shall be deemed controlling.

14.02. Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the enforceability or affect the remaining provisions of the By-Laws.

ARTICLE XV

ARBITRATION

Any arbitration provided for in these By-Laws shall be conducted before one arbitrator in Middlesex County, New Jersey by the American Arbitration Association, in accordance with its rules then obtaining and the decision rendered in such arbitration shall be binding upon the parties and may be entered in any court having jurisdiction. All expenses of arbitration hereunder including the fees and expenses of counsel and experts shall be Common Expenses.

ARTICLE XVI

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words "The Hampton Club Condominium Association, Inc."

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