

# DRAFT 2 FOR DISCUSSION

## AMENDED AND RESTATED MASTER DEED

### NAUTICAL NOOK CONDOMINIUM

THIS AMENDED AND RESTATED MASTER DEED has been executed on \* \_\_\_\_\_, 2018, on behalf of Nautical Nook Condominium Association, a Michigan non-profit corporation, (hereinafter referred to as "Association"), represented by its officers who are fully empowered and qualified to act on behalf of said Association pursuant to the provisions of the Michigan Condominium Act, Act 59 of the Public Acts of 1978, as amended, including, but not limited to, those amendments contained in Act 538 of the Public Acts of 1982, Act 113 of Public Acts of 1983, Act 538 of the Public Acts of 1983, Act 31 of Public Acts 1987, Act 36 of Public Acts of 1998, Act 379 of Public Acts of 2001, Act 283 of Public Acts 2002, Act 369 of Public Acts 2012, Act 134 of Public Acts 2013, Act 170 of Public Acts 2015, and Act 233 of Public Acts 2016 (hereinafter referred to as the "Act").

#### RECITALS:

A. The Association desires to amend and restate the master deed recorded in Liber 1403 Pages 631-693, on April 27, 1990, Ottawa County Records, as amended.

B. The Association has prepared and executed this Amended and Restated Master Deed, together with the Amended and Restated Condominium Bylaws attached hereto as Exhibit A and the Condominium Subdivision Plan recorded as part of the master deed as Exhibit B in Liber 1403 Pages 681-690, as amended on June 5, 1990, in Liber 1411 Pages 980-986, pages 984-987, copies of which are attached hereto as Exhibit B, to accomplish these purposes.

#### ARTICLE 1 DEDICATION

This Condominium Project was established as Nautical Nook Condominium (sometimes hereinafter referred to as the "Condominium Project") as a condominium project under the Act. The Condominium Project shall be held, conveyed, hypothecated, encumbered, leased, rented, occupied, improved and in every manner utilized subject to the provisions, covenants, conditions, restrictions and obligations set forth in this Amended and Restated Master Deed (including Exhibits A & B hereto) and to the provisions of the Act. All of the provisions, covenants, conditions, restrictions and

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obligations set forth in this Amended and Restated Consolidating Master Deed (including Exhibits A and B hereto) has and shall run with the real property included in the Condominium Project and shall burden and benefit the Association and all persons acquiring or owning an interest in the Condominium Project, or in the real property hereby dedicated to the Condominium Project, and their grantees, successors, assigns, heirs and personal representatives.

### ARTICLE II LEGAL DESCRIPTION

The real property dedicated to the Condominium Project is legally described as follows:

That part of the Southwest 1/4 of the Southeast 1/4 of Section 12, Town 5 North, Range 16 West, Park Township, Ottawa county, Michigan described as beginning at a point on the North and South 1/4 line of section 12 distant North 01 degree 10 minutes 16 seconds West 335.00 feet from the South 1/4 corner of Section 12 and proceeding thence North 01 degree 10 minutes 16 seconds West 987.05 feet along the North and South 1/4 line of said section; thence North 89 degrees 51 minutes 37 seconds East 1074.58 feet; thence South 00 degrees 49 minutes 42 seconds East 495.36 feet; thence North 89 degrees 50 minutes 26 seconds East 59.00 feet; thence south 00 degrees 49 minutes 42 seconds East 90.00 feet; thence North 89 degrees 50 minutes 27 seconds East 209.00 feet; thence South 00 degrees 49 minutes 42 seconds East 75.09 feet; thence South 89 degrees 50 minutes 04 seconds West 209.00 feet; thence south 00 degrees 49 minutes 42 seconds East 660.46 feet; thence along the South line of section 12, south 89 degrees 48 minutes 30 seconds West 66.00 feet; thence North 00 degrees 49 minutes 42 seconds West 299.97 feet; thence South 89 degrees 48 minutes 30 seconds West 402.46 feet; thence North 01 degree 10 minutes 16 seconds West 65.00 feet; thence South 89 degrees 48 minutes 30 seconds West 228.99 feet; thence South 01 degree 10 minutes 16 seconds East 30.00 feet; thence south 89 degrees 48 minutes 30 seconds West 430.00 feet to the point of beginning, containing 25.96 acres except any park taken, used or deeded for road purposes.

Together with and subject to easements, restrictions, and governmental limitations of record, and easements set forth on the Condominium Subdivision Plan attached as Exhibit B hereto or as declared and reserved in Article VII below.

### ARTICLE III DEFINITIONS

When used in any of the Condominium Documents (as hereinafter defined), or in any contract, deed, mortgage, lien, easement or other instrument affecting the Condominium Project or the establishment or transfer of any interest therein, the following terms shall carry the definitions which follow them unless the context clearly indicates to the contrary:

- (a) "Act" means the Michigan Condominium Act, being Act 59 of the

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Public Acts of 1978, as amended, including, but not limited to, amendments contained in Act 538 of the Public Acts of 1982 and in Act 113 of the Public Acts of 1983.

(b) "Association" means Nautical Nook Condominium Association, a not-for-profit corporation organized under the laws of the State of Michigan, of which all Co-owners are and shall be Members and which shall administer, operate, manage and maintain the Condominium Project. Any action required of or permitted to the Association shall be exercisable by its Board of Directors unless explicitly reserved to the Members by the Condominium Documents or the laws of the State of Michigan, and any reference to the Association shall, where appropriate, also constitute a reference to its Board of Directors.

(c) "Association Bylaws" means the corporate bylaws of the Association.

(d) "Common elements," where used without modification, means both the general and limited common elements, as defined in Article V hereof.

(e) "Condominium Bylaws" means Exhibit A hereto, the Bylaws for the Condominium Project setting forth the rights and obligations of the Co-owners and required by Sections 3(8), 53 and 54 of the Act to be recorded as part of the Master Deed.

(f) "Condominium Documents" means and includes this Master Deed, Exhibits A and B hereto, and the Articles of Incorporation, Bylaws and the Rules and Regulations, if any, of the Association.

(g) "Condominium Premises" means and includes the land and the buildings, all improvements and structures thereon, and all easements, rights and appurtenances belonging to the Condominium Project as described above.

(h) "Condominium Project" means Nautical Nook Condominium, a Condominium Project established pursuant to the Act.

(i) "Condominium Subdivision Plan" means Exhibit B hereto.

(j) "Condominium unit" or "unit" each means that portion of the Condominium Project designed and intended for separate ownership and use, as described on Exhibit B hereto.

(k) "Co-owner," "Owner" or "Member" each means a person, firm, corporation, partnership, trust or other legal entity or any combination thereof who or which owns legal or equitable title to a condominium unit within the Condominium Project and, therefore, is a Member of the Association.

(l) "Developer" means D & M Builders, Inc., a Michigan corporation, which prepared and executed the Master Deed and Consolidating Master Deed and includes its successors and assigns.

(m) "Master Deed" means the Master Deed, Consolidating Master Deed and this Amended and Restated Master Deed, including Exhibits A and B hereto, both of which are hereby incorporated by reference and made a part hereof.

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Terms not defined herein, but defined in the Act, shall carry the meanings given them in the Act unless the context clearly indicates to the contrary. Whenever any reference herein is made to one gender, the same shall include a reference to any and all genders where such a reference would be appropriate; similarly, whenever a reference is made herein to the singular, a reference shall also be included to the plural where such a reference would be appropriate, and vice versa.

### ARTICLE IV TITLE AND NATURE

The Condominium Project is known as Nautical Nook Condominium, Ottawa County Subdivision Plan No. 36. The architectural plans for the Condominium Project were filed with and approved by the Township of Park, Ottawa County, Michigan. The improvements contained in the Condominium Project, including the number, boundaries, dimensions and area of each unit, are set forth completely in the Condominium Subdivision Plan attached hereto as Exhibit B. Each building in the Condominium Project contains individual units to be used for residential purposes, and each unit has been designed and intended for separate ownership and use, as evidenced by individual entrances from and exits to a common element of the Condominium Project. Each Co-owner in the Condominium Project shall have an exclusive right to occupy his unit and shall have undivided and inseparable rights to share with other Co-owners the use and enjoyment of common elements.

### ARTICLE V COMMON ELEMENTS

The common elements of the Condominium Project and the respective responsibilities for maintenance, decoration, repair or replacement thereof are as follows:

A. *General Common Elements.* The general common elements are:

- (1) The land described in Article II hereof, including the roads, sidewalks, parking areas, lawns, landscaping and yards, and all rights appertaining thereto;
- (2) The electrical wiring throughout the Condominium Project, including that contained within unit walls, up to the point of connection with, but not including, electrical fixtures, plugs and switches within any unit;
- (3) The telephone wiring throughout the Condominium Project;
- (4) The plumbing network throughout the Condominium Project, including that contained within unit walls, up to the point of connection with plumbing fixtures within any unit;
- (5) The water distribution system, storm water discharge and detention system and sanitary sewer system throughout the Condominium Project;
- (6) Foundations, supporting columns, unit perimeter walls and other walls as shown on Exhibit B (including windows, screens and doors therein), roofs, ceilings, floor construction between building levels, and any space between the ceiling and the roof, between the ground or foundation and the ground level construction, between the basement level and the ground level construction and between the ground or foundation and the basement level construction;

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(7) The gas line network throughout the Condominium Project, including that contained in any unit walls, up to the point of connection with gas fixtures in any unit;

(8) Any television cable network or facilities that may from time to time be installed in the Condominium Project;

(9) All chimneys that may from time to time exist in the Condominium Project; and

(10) Such other elements of the Condominium Project not herein designated as general or limited common elements which are not enclosed within the boundaries of any unit, and which are intended for common use by all the Co-owners or are necessary to the existence, upkeep and safety of the Condominium Project.

Some or all the utility lines, systems (including mains and service leads) and equipment and the cable television system described above may be owned by the local public authority or by the company that is providing the pertinent service. Accordingly, such utility lines, systems and equipment and the cable television system shall be general common elements only to the extent of the Co-owners' interest therein, if any.

B. *Limited Common Elements.* The limited common elements, which, except as otherwise provided in this Subsection B, shall be appurtenant to the unit or units to which they are attached or adjacent or which they service (or which they are deemed by Exhibit B to benefit) and limited in use to the owners of such unit or units, or their designee, are:

(1) Each garage, together with the individual driveway in front of each garage. One garage has been assigned to each unit in the Condominium Project;

(2) Each individual patio, porch, skylight, dock, and deck in the Condominium Project;

(3) Three and four-season rooms;

(4) The interior surfaces of a unit and limited common element perimeter walls (including the interior surfaces of windows, screens and doors therein), and the interior surfaces of the ceilings and floors contained within a unit or the appurtenant limited common elements;

(5) Each individual fireplace combustion chamber, if any, in the Condominium Project;

(6) Each individual walkway in the Condominium Project; and

(7) Each individual crawl space, if any, in the Condominium Project.

(8) The pipes, ducts, wiring and conduits supplying service for electricity, gas, water, sewage, telephone, television and/or other utility or telecommunication services located within a Condominium Unit and supplying service to that unit alone.

C. *Upkeep of Common Elements and Appliances; Payment of Utility Bills.* The respective responsibilities for the maintenance, decoration, repair and replacement of the common elements, of certain appliances and for the payment of utility bills are as follows:

(1) The cost of decorating and maintaining, but not of repairing or

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replacing, except in case of Co-owner fault, all surfaces referred to in Article V. B(2) above shall be borne by the Co-owner of the unit to which such limited common elements appertain.

(2) The cost of decorating, maintaining, repairing and replacing the items referred to in Article V. B (3), as well as the water heater, garage door opener, internal unit plumbing, dishwasher, refrigerator, stove, oven, garbage disposal, heating and air-conditioning equipment, lighting and other items servicing a unit that are not common elements, whether or not they are within the unit they service, shall be the sole responsibility of the Co-owner whose unit is serviced by such items.

(3) A Co-owner who requests an alteration or modification of a general or limited common element, as set forth in ARTICLE VII, Section 1 (d), shall be responsible for the cost of construction. The maintenance, repairs and replacements of any alteration or modification of a general common element or a limited common element approved by the Board of Directors, as set forth in ARTICLE VII, Section 1 (d) shall be the Co-owner or Association as designated by the Board of Directors. The approved modification and party responsible for the construction, maintenance, repairs and replacements of any alteration or modification of a general common element or a limited common element shall be set forth as an amendment to this Master Deed. The Co-owners may by a two-thirds (2/3) majority vote adopt a further amendment to this master deed to change party responsible for the maintenance, repairs and replacements of the alteration or modification.

(4) Except as provided above, the cost of maintaining, decorating, repairing and replacing all general and limited common elements shall be borne by the Association, unless the need for maintenance, repair or replacement is due to the act or neglect of a Co-owner or his agent, guest, invitee, family Member or pet, for which such Co-owner shall be wholly responsible. Except as otherwise provided herein or in the Condominium Bylaws, any damage caused to a unit or its contents by the maintenance or by repair activities of the Association shall be repaired at the expense of the Association.

(5) Each Co-owner shall be responsible for payment of the utilities attributable to his unit.

Any maintenance, repair or replacement (the cost of which is to be borne by the Co-owner) may, if not performed by the Co-owner, be performed by or under the direction of the Association, and the cost may be assessed against the responsible Co-owner and a lien placed upon the unit and enforced in the same manner as any other assessment lien.

D. *Use of Common Elements.* No Co-owner shall use his unit or the common elements in any manner inconsistent with the purposes of the Condominium Project or in any manner which will interfere with or impair the rights of any other Co-owner in the use and enjoyment of his unit or the common elements.

E. *Environmental Control Committee.* As provided in Article VII, Section 1(d) of the Condominium Bylaws, the decoration and maintenance of all common elements, except the decoration of those common elements located solely within a unit (but this

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exception shall not include windows or other portions visible from the exterior), are subject to such written standards as may be established by the Board of Directors or its Environmental Control Committee, if the Board determines to appoint such a Committee.

### ARTICLE VI UNIT DESCRIPTION AND PERCENTAGE OF VALUE

A. *Description.* A complete description of each unit, with elevations therein referenced to an official benchmark of the United States Geological Survey sufficient to relocate accurately the space enclosed by the description without reference to the structure itself, is set forth in the Condominium Subdivision Plan. Each unit in the Condominium Project, as described in the Condominium Subdivision Plan, shall include: (1) with respect to each unit basement, if any, all that space contained within the unpainted surfaces of the basement floor and walls and the uncovered underside of the first-floor joists, and (2) with respect to the upper floors of units, all that space contained within the interior finished, unpainted walls and ceilings and from the finished subfloor, all as shown on the floor plans and sections in Exhibit B hereto and delineated with heavy outlines, but (3) not any common elements contained therein.

B. *Percentages of Value.* The total value of the project is 100%. The percentage of value assigned to each unit is equal. This percentage of value shall be determinative of the proportionate share of each unit in the proceeds and expenses of administration, the value of such unit's vote at meetings of the Association of Co-owners, and of such unit's undivided interest in the common elements (which is hereby allocated to each unit).

### ARTICLE VII EASEMENTS

Easements for Maintenance and Related Matters.

(1) If all or any portion of a unit or common element encroaches upon another unit or common element due to shifting, settling or moving of a building, or of a foundation or support, or due to survey errors, construction deviations, reconstruction, replacement, renovation or repair, reciprocal easements, respectively benefitting and burdening each such unit or common element, shall exist for the maintenance of such encroachment for so long as such encroachment exists, and for maintenance thereof after rebuilding in the event of any destruction.

(2) Perpetual easements shall also exist to, through, over, under and across the Condominium Premises, including all units and interior walls, (a) in favor of the Association and all Co-owners for the maintenance and repair (including replacement) of common elements and (b) in favor of the various utility companies providing service, as may be reasonable for the installation and continuing maintenance and repair (including replacement) of all utilities in the Condominium Project, including, but not necessarily limited to, light, heat, power, sewer, water, security system, cable TV system, storm water discharge and detention and communications, which utilities are sometimes collectively referred to in this Article VII as "utilities" or "utility services."

(3) Every portion of a unit which contributes to the structural support of a building shall be burdened with an easement of structural support for the benefit of the

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common elements.

## ARTICLE VIII AMENDMENT

Except as otherwise expressly provided in this Amended and Restated Consolidating Master Deed or in the Act, the Condominium Project shall not be terminated, vacated, revoked or abandoned except as provided in the Act, nor may any of the provisions of this Master Deed or Exhibit B be amended (but Exhibit A hereto may be amended as therein provided) except as follows:

A. (1) The Condominium Documents may be amended without the consent of Co-owners or Mortgagees for any purpose if the amendment does not materially alter or change the rights of a Co-owner or Mortgagee. The Association of Co-owners shall have the right to amend the Condominium Documents for such a purpose. Amendments modifying the types and sizes of unsold units and their appurtenant common elements, showing minor architectural variances and modifications to a unit, correcting survey or other errors made in the Condominium Documents, or for the purpose of facilitating mortgage loan financing for existing or prospective Co-owners and to enable the purchase or insurance of such mortgage loans by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Veterans Administration, the Department of Housing and Urban Development, or by any other institutional participant in the secondary mortgage market which purchases or insures mortgages, shall be examples of amendments which do not materially alter or change the rights of a Co-owner or Mortgagee. Amendments to comply with any Federal, State law or regulation may be made by the Board of Directors without the consent of Co-owners or Mortgagees.

(2) This Amended and Restated Consolidating Master Deed, the Condominium Bylaws, and the Condominium Subdivision Plan may be amended even if the amendment will materially alter or change the rights of the Co-owners or Mortgagees, with the consent of not less than two-thirds of the Co-owners in number and value and two-thirds of the First Mortgagees. For such purposes, a First Mortgagee shall have one vote for each mortgage held. However, an Owner's Unit dimensions or Limited Common Elements may not be modified without that Owner's consent, nor may the method or formula used to determine the percentage of value of Units in the Project for other than voting purposes be modified without the consent of each affected Owner and Mortgagee.

(3) In Addition to the Mortgagees' right to vote as set forth in (2), First Mortgagees are entitled to vote on amendments to the condominium documents under the following circumstances:

(a) Termination of the Condominium Project.

(b) A reallocation of responsibility for maintenance, repair, replacement, or decoration for a condominium unit, appurtenant limited common elements, or the general common elements from the Association of Co-owners to the condominium units subject to the First Mortgagee's mortgage.

(c) Elimination of a requirement for the Association to maintain insurance on the project as a whole or a condominium unit subject to the First



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Mortgagee's mortgage or reallocation of responsibility for obtaining or maintaining, or both, insurance from the Association of Co-owners to the condominium units subject to the First Mortgagee's mortgage.

(d) The modification or termination of an easement benefiting the condominium unit subject to the First Mortgagee's mortgage

(e) The partial or complete modification, imposition, or removal of leasing restrictions for condominium units in the Condominium Project.

(4) The restrictions contained in this Article VIII on Amendments shall not in any way affect the rights of the Developer as set forth elsewhere in this Master Deed.

(5) Co-owners of record shall be notified in writing of proposed amendments not less than ten (10) days before the amendment is recorded at their addresses reflected on the Condominium records.

B. (1) An amendment to this Master Deed shall not be effective until the amendment is recorded.

(2) A copy of the recorded amendment shall be delivered to each Co-owner.

C. A person causing or requesting an amendment to the Condominium Documents shall be responsible for costs and expenses of the amendment, except for amendments based upon a vote of a prescribed majority of Co-owners, the costs of which shall be deemed expenses of administration.

D. Members and First Mortgagees of record and all other Mortgagees, when all Mortgagee's consents are required, shall be notified of proposed amendments not less than ten (10) days before the amendment is recorded. A copy of each amendment to these Condominium Bylaws shall be furnished to every Member after recording; provided, however, that any amendment to these Bylaws that is adopted in accordance with this Article or the Act shall be binding upon all persons who have an interest in the project irrespective of whether such persons receive a copy of the amendment.

### ARTICLE IX CONTROLLING LAW

The provisions of the Act, and of the other laws of the State of Michigan, shall be applicable to and govern this Master Deed and all activities related hereto.

The Association is recording this amended and restated consolidating master deed to be effective pursuant to the Michigan Condominium Act.

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Nautical Nook Condominium Association

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Its: President

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Its: Secretary

STATE OF MICHIGAN  
COUNTY OF OTTAWA

Acknowledged before me in Ottawa County, Michigan, on \* \_\_\_\_\_, 2018, by \* and \*,  
President and Secretary, respectively, of Nautical Nook Condominium Association, a  
Michigan nonprofit corporation, on behalf of the corporation.

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Notary Public, State of Michigan  
County of Ottawa  
My commission expires: \_\_\_\_\_

Drafted by and return to:

Kenneth W. Doss  
Doss Law, PLC  
192 West 33<sup>rd</sup> Street  
Holland, Michigan 49423-5805  
616-396-9793

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## **EXHIBIT A**

### **AMENDED AND RESTATED CONDOMINIUM BYLAWS**

#### **OF**

### **NAUTICAL NOOK CONDOMINIUM**

#### **ARTICLE I THE CONDOMINIUM**

Section 1. Organization. Nautical Nook Condominium, a residential condominium located in the Township of Park, Ottawa County, Michigan (the "Condominium"), shall be administered by Nautical Nook Condominium Association (NNCA), which has been organized as a nonprofit corporation under the laws of the State of Michigan. NNCA will be responsible for the management, maintenance, operation and administration of the common elements, easements and, generally, the affairs of NNCA in accordance with the Amended and Restated Master Deed, these Amended and Restated Bylaws, the Articles of Incorporation, Bylaws, Rules and Regulations of NNCA, and the laws of the State of Michigan.

Section 2. Compliance. All co-owners (who shall be "members" of NNCA as provided in Article II, Section 1, below; the terms "member" and "co-owner" are used interchangeably herein), mortgagees, tenants and all other persons who may in any manner use, enter upon or acquire any interest in NNCA Premises, or any Condominium unit, shall be subject to and comply with the provisions of the Act, the Amended and Restated Master Deed, these Amended and Restated Condominium Bylaws, and the Articles of Incorporation, Bylaws, Rules and Regulations of NNCA including, without limitation, any provision thereof pertaining to the use and operation of NNCA premises and NNCA. The acceptance of a deed or conveyance, the taking of a mortgage, the execution of a lease, the act of occupying a unit, or presence in NNCA shall constitute an acceptance of the provisions of these documents and an agreement to comply therewith.

Section 3. Purpose of Bylaws. These Amended and Restated Bylaws govern the general operation, maintenance, administration, use, and occupancy of NNCA, and all such activities shall be performed in accordance with the provisions hereof.

#### **ARTICLE II MEMBERSHIP AND VOTING**

Section 1. Membership. Each co-owner of a Condominium unit shall be a Member of NNCA during the term of such ownership, and no other person or entity shall be entitled to Membership. Neither Association Membership nor the share of a Member in NNCA funds and assets shall be assigned, pledged or transferred in any manner, except as an appurtenance to a Condominium unit, and any attempted assignment, pledge, or transfer in violation of this provision shall be wholly void.

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Section 2. Voting Rights. Except as limited in the Master Deed and in these Bylaws, the Members owning each unit shall collectively be entitled to one vote when voting by number and one vote, the value of which shall equal the total percentage of value assigned to the unit or units owned by them in Article VI. B. of the Master Deed, when voting by value. (Voting, when required or permitted herein or elsewhere in NNCA Documents, shall be by number, except in those instances where voting is specifically required to be by value, or both by value and by number, and shall be conducted on a non-cumulative basis).

Section 3. Persons Entitled to Vote. If one person owns a unit, he/she shall establish Membership in NNCA and his/her right to vote by presenting evidence of his/her ownership. If more than one person owns a unit, or the unit is leased, one person per address shall be entitled to exercise the unit's Membership in NNCA, to cast the one vote for the unit, and to receive all notices and other communications from NNCA.

Section 4. Method of Voting. Votes on a specific issue may be cast in person. In addition, any person entitled to vote at any meeting may also appear and vote via telecommunications equipment, as provided by Article II, Section 6 of NNCA Bylaws, or appear and vote (either specifically on an issue or by the general designation of a person to cast a vote) by written proxy. Proxies may be made by any person entitled to vote. They shall be valid only for the particular meeting designated, and any adjournment thereof, and must be filed with NNCA before the appointed time of the meeting.

Section 5. Majority. At any meeting of the Members, at which a quorum is present, fifty-one percent (51%) in number of the members voting, whether in person, by telecommunications, or by proxy, on any matter, shall constitute a majority for the approval of such matter, except as otherwise required herein, by the Amended and Restated Master Deed or by law.

## ARTICLE III MEETINGS AND QUORUM

Section 1. Annual Meeting of Members. Following the first meeting of Members, and in addition to subsequent meetings called for the purpose of electing directors, an Annual Meeting of Members shall be held each year on the day specified in the Association Bylaws and at a time and place as determined by the Board of Directors. At least ten (10) days prior to the date of an annual meeting, written notice of the time, place, and purpose of such meeting shall be sent by first-class mail, postage prepaid, personal delivery, or electronic transmission to each person entitled to vote at the meeting.

Section 2. Special Meetings of Members. It shall be the duty of the President to call a special meeting of the members upon a petition signed by one-third (1/3) of the members in number and presented to the Secretary of NNCA or upon the direction of a majority of the Board of Directors. Notice of any special meeting shall state the time and place of such meeting and the purposes thereof and shall be given at least ten (10) days prior to the date of the such meeting in the same manner as for an annual meeting. No business shall be transacted at a special meeting except as stated in the notice.

Section 3. Quorum of Members. Unless otherwise provided herein, the presence, in person or by proxy, of fifty-one percent (51%) in number and value of the members entitled to vote shall constitute a quorum of members. If a quorum shall not be present

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at any meeting, the members present may adjourn the meeting for not more than thirty (30) days.

## ARTICLE IV ADMINISTRATION

Section 1. Board of Directors. The business, property and affairs of NNCA shall be managed by a Board of Directors consisting of not less than three (3) persons nor more than seven (7) members.

Section 2. Powers and Duties. The Board of Directors shall have all powers and duties necessary for the administration of the affairs of NNCA and may do all things which are not prohibited by law or NNCA Documents or required thereby to be done by the members. The powers and duties to be exercised by the Board shall include, but shall not be limited to, the power and duty:

(a) To manage and administer the affairs of and to NNCA, all appurtenances thereto and the common elements, property and easements thereof;

(b) To levy and collect assessments against and from the members of NNCA and to use the proceeds therefrom for the purposes of NNCA, and to enforce assessments through liens and foreclosure proceedings where appropriate;

(c) To carry insurance and to collect and allocate the proceeds thereof;

(d) To restore, repair or rebuild NNCA, or any portion thereof, after occurrence of casualty and to negotiate on behalf of all of the members in connection with the taking of the common elements of NNCA, or any portion thereof, by eminent domain;

(e) To contract for and employ, and to discharge, persons or business entities to assist in the management, operation, maintenance and administration of NNCA;

(f) To make reasonable rules and regulations governing the use and enjoyment of NNCA by members and their tenants, guests, employees, invitees, families and pets and to enforce such rules and regulations by all legal methods, including, without limitation, imposing fines and late payment charges, or instituting eviction or legal proceedings;

(g) To own, maintain and improve, and to buy, sell convey, grant, assign, transfer, mortgage or lease (as landlord or tenant), or otherwise deal in any real or personal property, including, but not limited to, any condominium unit, easements, rights-of-way, licenses or any other real property, whether or not contiguous to NNCA, to benefit the members of NNCA and to further any of the purposes of NNCA;

(h) To borrow money and issue evidence of indebtedness in furtherance of any and all of the purposes of the business of NNCA, and to secure the same by mortgage, pledge or other lien on Association property; provided, however, that any such action shall first be approved by the affirmative vote of more than two-thirds (2/3) of NNCA members in number and in value at a meeting of the members duly called;

(i) To establish such committees as it deems necessary, convenient or desirable and to appoint persons thereto, to administer NNCA and to delegate to such committees any functions or responsibilities which are not by law or NNCA Documents required to be performed by the Board;

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(j) To make rules and regulations or to enter into agreements with institutional lenders, or both, for the purpose of obtaining mortgage financing for members which is acceptable for purchase by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association or any other agency of the federal government, the State of Michigan, the County of Ottawa, the Township of Park, or any other agency or unit of government;

(k) To enforce the provisions of the Master Deed, of these Condominium Bylaws, and of the Articles of Incorporation, Bylaws, Rules and Regulations of NNCA and to sue on behalf of NNCA or the members and to assert, defend or settle claims on behalf of the members with respect to NNCA;

(l) To do anything required of or permitted to it as administrator of said Condominium by NNCA Master Deed or Condominium Bylaws or by Act No. 59 of the Public Acts of 1978, as amended, including, but not limited to, those amendments contained in Act No. 538 of the Public Acts of 1982, and in Act No. 113 of the Public Acts of 1983;

(m) In general, to enter into any kind of activity, to make and perform and contract and to exercise all powers necessary, incidental or convenient to the administration, management, maintenance, repair, replacement and operation of NNCA and to the accomplishment of any of the purposes thereof not forbidden, and with all powers conferred upon nonprofit corporations by the laws of the State of Michigan.

Provided, however, that neither the Board nor NNCA shall, by act or omission, abandon, partition, subdivide, encumber, sell or transfer the common elements, or any of them, unless at least two-thirds (2/3) of the First mortgagees (based upon one vote for each mortgage owned) and two-thirds (2/3) of the members in number and value have consented thereto. The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by NNCA shall not be deemed a transfer for these purposes.

Section 3. Managing Agent. The Board of Directors may employ, at a compensation established by it, a Managing Agent for NNCA to perform such duties and services as the Board shall authorize, including, but not limited to, the powers and duties set forth in Section 2 of this Article. In no event shall the Board be authorized to enter into a contract with a professional Managing Agent under which the maximum term is greater than two (2) years or which is not terminable by NNCA upon sixty (60) days' written notice

Section 4. Officers. NNCA Association Bylaws shall provide for the designation, number, terms of office, qualifications, manner of election, duties, removal and replacement of the officers of NNCA and may contain any other provisions pertinent to Association officers not inconsistent herewith. Officers may be compensated, but only upon the prior affirmative vote of a majority of the Members.

Section 5. Indemnification of Officers and Directors. NNCA shall indemnify every Association director and officer against all expenses (including attorneys' fees), judgment, fines and amounts paid in settlement actually and reasonably incurred by him/her as a consequence of being made a party to or being threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil,

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criminal, administrative or investigative, by reason of being or having been a director or officer of NNCA, except in such cases wherein he/she is adjudged guilty of willful and wanton misconduct or gross negligence in the performance of his/her duties or adjudged to have not acted in good faith and in a manner he/she reasonably believed to be in the best interest of NNCA and its members and with respect to any criminal action or proceeding, he/she is adjudged to have had no reasonable cause to believe that his/her conduct was unlawful; provided that if a director or officer claims reimbursement or indemnification hereunder based upon his/her settlement of a matter, he/she shall be indemnified only if the Board of Directors (with any director seeking reimbursement abstaining) approves such settlement and reimbursement as being in the best interests of NNCA and, if a majority of the members requests it, such approval is based on an opinion of independent counsel supporting the propriety of such indemnification and reimbursement. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights such director or officer may have. The Board of Directors shall notify all members that it has approved an indemnification payment at least ten (10) days prior to making such payment.

## **ARTICLE V OPERATION OF THE PROPERTY**

Section 1. Personal Property. NNCA shall be assessed as the person or entity in possession for any tangible personal property of NNCA owned or possessed in common by the co-owners, and personal property taxes based thereon shall be treated as expenses of administration.

Section 2. Costs and receipts to be common. All costs incurred by NNCA to satisfy any liability arising within, or caused by or in connection with, the common elements, or caused by or in connection with the administration of NNCA shall be expenses of administration and all sums received as proceeds of, or pursuant to, any insurance policy carried by NNCA securing the interest of the members against liabilities or losses arising within caused by or connected with, the common elements or the administration of NNCA shall be receipts of administration.

Section 3. Books of Account. NNCA shall keep or cause to be kept detailed books of account showing all expenditures and receipts (including both general and special expenses ~~or~~ and receipts of administration) concerning the administration of NNCA. Such books of account shall specify the maintenance and repair expenses of the common elements and any other expenses incurred on behalf of NNCA and members. The members and their mortgagees may inspect the books of account, records, and contracts at convenient times during normal working hours on normal working days at a place NNCA designates. Whenever NNCA has annual revenues greater than \$20,000.00, the books, records, and financial statements shall be audited or reviewed by a certified public accountant, as defined in section 720 of the occupational code, 1980 PA 299. MCL 339.720. The audit or review shall be performed in accordance with the statements on auditing standards or the statements on standards for accounting and review services, respectively, of the American Institute of certified public accountants. The cost of such audit, or review, and all accounting expenses, shall be an expense of administration. NNCA may opt out of the requirements of an audit or review on an annual basis by an affirmative vote of a majority of its members by any means permitted under NNCA's bylaws. Any institutional holder of a mortgage lien on any Condominium unit who so requests shall be given a copy of the review or audit report within thirty (30) days following the receipt of the request or whenever the

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review or audit is completed, whichever is later. At least once a year, NNCA shall prepare and distribute to each member a statement of its financial condition, the contents of which shall be defined by NNCA.

Section 4. Regular Monthly Assessments. The Board of Directors shall establish an annual budget in advance for each fiscal year for NNCA, and such budget shall contain the Board's estimate of the funds required to defray the expenses of administration for the forthcoming year, as those items are defined by these Bylaws, and all other common expenses. The budget also shall allocate and assess all such common charges against all members in accordance with the percentage of value allocated to each unit by the Master Deed, without increase or decrease for the existence of any rights to the use of limited common elements appurtenant thereto. The general common expenses shall consist, among other things, of such amounts as the Board may deem proper for the operation, management and maintenance of NNCA property under the powers and duties delegated to it hereunder, and may include, without limitation, amounts to be set aside for working capital of NNCA, for a general operating fund, for a reserve fund and for meeting any deficit in the common expense budget for any prior year, collected from members via an ACH transfer. The budget shall establish an adequate reserve fund for maintenance, repair and replacement of the general and limited common elements, which fund shall be financed by regular monthly payments rather than by special assessments. The Board shall advise each member in writing of the amount of common charges payable by him/her and shall furnish copies of each budget on which such common charges are based to all members, although failure to deliver a copy of the budget to each member shall not affect any member's liability for any existing or future assessments. Should the Board of Directors at any time determine, in its sole discretion, that the assessments levied are or may prove to be insufficient: (a) to pay the operation and management costs of NNCA, (b) to provide for the maintenance, repair or replacement of existing common elements, (c) to provide additions to the common elements not exceeding \$5,000 annually, or (d) to provide for emergencies, the Board may increase the general assessments or levy such additional assessment or assessments, and apportion them, as it deems necessary. Members shall pay all assessments levied in accordance with this Section 4 in twelve (12) equal monthly installments, commencing with acquisition of title to a unit by any means.

Section 5. Special Assessments. Special assessments in addition to those provided for in Section 4 above, may be levied by the Board of Directors from time to time, following approval by the members as hereinafter provided, to meet other needs, requirements or desires of NNCA, including, but not limited to: (a) assessments for capital improvements or additions to the common elements at a cost exceeding \$5,000 per year; (b) assessments to purchase a unit upon foreclosure of a lien for assessments, as described in Section 6 hereof; or (c) assessments for any other appropriate purpose not elsewhere herein described. Special assessments referred to in this Section 5 (but not including those assessments referred to in Section 4 above which shall be levied in the sole discretion of the Board of Directors) shall not be levied without the prior approval of more than two-thirds (2/3) of all members in value and in number, which approval shall be granted only by a vote of the members taken at a meeting of the members called in accordance with the provisions of Article III hereof.

Section 6. Collection of Assessments. Each member, whether one or more persons, shall be and shall remain personally obligated for the payment of all



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assessments levied with regard to his/her unit during the time that he is the owner thereof, and no member may exempt him/herself from liability for his/her contribution toward the expenses of administration by waiver of the use or enjoyment of any of the common elements or by the abandonment of his/her unit. If any member defaults in paying the assessed common charges, interest at the maximum legal rate shall be charged on such assessment from the due date thereof and further penalties or proceedings may be instituted by the Board of Directors in its discretion. If such assessment, or any part thereof, is not paid on or before the due date established by the Board of Directors for such payment, then such payment shall be in default. The Board of Directors may, but need not, report such a default to any mortgagee of record. Any mortgagee of a Condominium unit may consider a default in the payment of any assessment a default in the payment of its mortgage. Unpaid assessments shall constitute a lien upon the unit prior to all other liens except tax liens and sums unpaid on a first mortgage of record. NNCA may enforce collection of delinquent assessments by a suit at law for a money judgment or by foreclosure of the lien that secures payment of assessments. Each member, and every other person, except a first mortgagee, who from time to time has any interest in NNCA shall be deemed to have granted to NNCA the unqualified right to elect to foreclose, such lien either by judicial action or by advertisement (in accordance with the provisions of Chapter 32 of the Michigan Revised Judicature Act, as amended). The provisions of Michigan law pertaining to foreclosure of mortgages by judicial action and by advertisement, as the same may be amended from time to time, are incorporated herein by reference for the purposes of establishing the alternative procedures to be followed in lien foreclosure actions and the rights and obligations of the parties to such actions. NNCA is hereby granted what is commonly known as a "power of sale." Each member and every other person, except a first mortgagee, who from time to time has any interest in NNCA shall be deemed to have authorized and empowered NNCA to sell or to cause to be sold at public auction the unit with respect to which the assessment is delinquent and to receive, hold and distribute the proceeds of such sale in accordance with the priorities established by applicable law. Each member acknowledges that when he acquired title to his/her unit, he was notified of the provisions of this Section and that he voluntarily, intelligently and knowingly waived notice of any proceedings brought by NNCA to foreclose by advertisement the lien for nonpayment of assessments and a hearing on the same prior to the sale of the subject unit. Notwithstanding the foregoing, neither a judicial foreclosure action nor a suit at law for a money judgment shall be commenced, nor shall any notice of foreclosure by advertisement be published, until ten (10) days have expired after the mailing by certified mail, return receipt requested and postage prepaid, addressed to the delinquent member at his/her last known address, of a written notice that an assessment, or any part thereof, levied against his/her unit is delinquent and that NNCA may invoke any of its remedies hereunder if the default is not cured within ten (10) days after the date of mailing. A written affidavit of an authorized representative of NNCA that sets forth (a) the affiant's capacity to make the affidavit, (b) the statutory and other authority for the lien, (c) the amount outstanding (exclusive of interest, costs, attorneys' fees and future assessments), (d) the legal description of the subject unit, and (e) the name of the member of record, shall accompany such written notice. Such affidavit shall be recorded in the Office of the Ottawa County Register of Deeds prior to the commencement of any foreclosure proceeding, but it need not have been recorded as of the date of mailing the notice. If the delinquency is not cured within the ten (10) day period, NNCA may take such remedial action as may be available to it hereunder or under Michigan law. In the event

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NNCA elects to foreclose the lien by advertisement, NNCA shall so notify the representative of the delinquent member designated in Article II, Section 3, above, and shall inform such representative that he may request a judicial hearing by bringing suit against NNCA. The expenses incurred in collecting unpaid assessments, including interest, costs, reasonable attorneys' fees (not limited to statutory fees) and advances for taxes or other liens paid by NNCA to protect its lien, shall be chargeable to the member in default and shall be secured by the lien on his/her unit. If any member defaults in the payment of any installment of the annual assessment levied against his/her unit, NNCA shall have the right to declare all unpaid installments of the annual assessment for the pertinent fiscal year immediately due and payable. In a judicial foreclosure action, the court may appoint a receiver to collect a reasonable rental for the unit from the member owning it or any persons claiming under him/her, and each member hereby covenants to the appointment of such a receiver. NNCA may also stop furnishing any services to a member in default upon seven (7) days' written notice to such member of its intent to do so. A member in default in the payment of any assessment shall not be entitled to vote at any meeting of NNCA, so long as such default continues.

If the holder of a first mortgage on a Condominium unit obtains title to the unit by foreclosing the mortgage, accepting a deed in lieu of foreclosure or similar remedy, or any other remedy provided in the mortgage; such person, and its successors and assigns, or other purchaser at a foreclosure sale, shall not be liable for unpaid assessments chargeable to the unit which became due prior to the acquisition of title to the unit by such person; provided, however, that such unpaid assessments shall be deemed to be common expenses collectible from all of the members, including such person, its successors and assigns, and that all assessments chargeable to the unit subsequent to the acquisition of title shall be the responsibility of such person as hereinbefore provided with respect to all members. When a member is in arrearage to NNCA for assessments, NNCA may give written notice of arrearage to any person occupying his/her unit under a lease or rental agreement, and such person, after receiving the notice, shall deduct from rental payments due the member the arrearage and future assessments as they fall due and pay them to NNCA. The deductions shall not be a breach of the rental agreement or lease by the occupant.

NNCA may purchase a unit at any foreclosure sale hereunder.

Section 7. Maintenance and Repair. As provided in the Master Deed, NNCA shall maintain and repair the general common elements, whether located inside or outside the units, and the limited common elements, to the extent set forth in the Master Deed. The costs thereof shall be charged to all the members as a common expense, unless necessitated by the negligence, misuse or neglect of a member, in which case such expense shall be charged to such member. NNCA or its agent shall have access to each unit from time to time during reasonable working hours, upon notice to the occupant thereof, for the purpose of maintenance, repair or replacement of any of the common elements located therein or accessible therefrom. NNCA or its agent shall also have access to each unit at all times without notice for making emergency repairs necessary to prevent damage to other units, the common elements, or both.

Each member shall provide NNCA means of access to his/her unit and any limited common elements appurtenant thereto during all periods of absence, and if such member fails to provide a means of access, NNCA may gain access in such manner as may be reasonable under the circumstances and shall not be liable to such

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member for any necessary damage to his/her unit or any limited common elements appurtenant thereto caused thereby or for the repair or replacement of any doors or windows damaged in gaining such access, the costs of which damage shall be borne by such member. Unless otherwise provided herein or in the Master Deed, damage to a unit or its contents caused by the repair or maintenance activities of NNCA, or by the common elements, shall be repaired at the expense of NNCA.

All other maintenance and repair obligations shall, as provided in the Master Deed, rest on the individual member. Each member shall maintain his/her unit and any limited common elements appurtenant thereto for which he has maintenance responsibility in a safe, clean and sanitary condition. Each member shall also use due care to avoid damaging any of the common elements, including, but not limited to, the telephone, water, gas, plumbing, electrical or other utility conduits and systems and any other elements in any unit which are appurtenant to or which may affect any other unit. Each member shall be responsible for damages or costs to NNCA resulting from negligent damage to or misuse of any of the common elements by him/her, his/her family, guests, agents or invitees, unless such damages or costs are actually reimbursed from insurance carried by NNCA, in which case there shall be no such responsibility (if reimbursement to NNCA is excluded by virtue of a deductible provision, the responsible member shall bear the expense to the extent of the deductible amount, anything else in these Bylaws to the contrary notwithstanding). Any costs or damages to NNCA that are herein or elsewhere in NNCA Documents assigned to the individual member may be assessed to and collected from the responsible member in the manner provided for regular assessments in Article V, Section 4, hereof.

The provisions of this Section 7 shall be subject to those of Article VI, Sections 1-3, in the event of repair or replacement on account of a casualty loss.

Section 8. Taxes. All special assessments and property taxes shall be assessed against the individual units and not upon the total property of NNCA or any part thereof. Taxes and special assessments which have become a lien against the property of NNCA in the year of its establishment (as provided in Section 131 of the Act) shall be expenses of administration and shall be paid by NNCA. Each unit shall be assessed a percentage of the total bill for such taxes and assessments equal to the percentage of value allocated to it in the Master Deed, and the members owning those units shall reimburse NNCA for their unit's share of such bill within ten (10) days after they have been tendered a statement therefor. -

Section 9. Documents to be Kept. NNCA shall keep current copies of the approved Master Deed, all amendments thereto, and all other Condominium Documents available for inspection at reasonable hours by members, prospective purchasers and prospective mortgagees of Condominium units.

Section 10. Reserve for Major Repairs and Replacement. NNCA shall maintain a reserve fund for major repairs and replacement of common elements in an amount equal to at least ten percent (10%) of NNCA's current annual budget on a noncumulative basis. Moneys in the reserve fund shall be used only for major repairs and replacement of common elements. THE MINIMUM STANDARDS REQUIRED BY THIS SECTION MAY PROVE INADEQUATE FOR A PARTICULAR PROJECT. NNCA members should carefully analyze NNCA Project to determine if a greater amount should be set aside, or if additional reserve funds should be established for other purposes.

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Section 11. Statement of Unpaid Assessments. Pursuant to the provisions of the Act, the purchaser of any unit may request a statement from NNCA as to the outstanding amount of any unpaid assessments thereon, whether regular or special. Upon written request to NNCA accompanied by a copy of the executed purchase agreement pursuant to which the purchaser holds a right to acquire a unit, NNCA shall provide a written statement of such unpaid assessments as may exist or a statement that none exist, which statement shall be binding upon NNCA for the period stated therein. Upon the payment of that sum within the period stated, NNCA's lien for assessments as to such unit shall be deemed satisfied; provided, however, that the failure of a purchase to request such statement at least five (5) days prior to the closing of the purchase or such unit shall render any unpaid assessment and the lien securing the same fully enforceable against such purchaser and the unit itself.

### **ARTICLE VI INSURANCE; REPAIR OR REPLACEMENT**

Section 1. Insurance. NNCA shall carry all-risk property coverage and liability insurance (including, without limitation, Directors' and Officers' coverage), workers' compensation insurance, if applicable, and such other insurance coverage as the Board may determine to be appropriate with respect to the ownership, use and maintenance of the general and limited common elements of NNCA and the administration of Condominium affairs. Such insurance shall be carried and administered in accordance with the following provisions:

(a) All such insurance shall be purchased by NNCA for the benefit of NNCA, the members and their mortgagees, as their interests may appear, and provision shall be made for the issuance of certificates of insurance with mortgagee endorsements to the mortgagees of members' units. It shall be each member's responsibility to obtain insurance coverage for his/her personal property located within his/her unit or elsewhere in NNCA and for his/her personal liability for occurrences within his/her unit or upon limited common elements appurtenant to his/her unit, a loss assessment equal to NNCA's policy deductible, and also for alternative living expenses. NNCA shall have absolutely no responsibility for obtaining such coverage. NNCA and all members shall use their best efforts to see that all property and liability insurance carried by NNCA or any member shall contain appropriate provisions whereby the insurer waives its right of subrogation as to any claims against any member or NNCA, and, subject to the provisions of Article V, Section 7, hereof, NNCA and each member hereby waive, each as to the other, any right of recovery for losses covered by insurance. The liability of carriers issuing insurance obtained by NNCA shall not, unless otherwise required by law, be affected or diminished because of any additional insurance carried by any member, and vice versa.

(b) All common elements of NNCA shall be insured against fire and other perils covered by a standard all-risk coverage endorsement in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, as determined annually by the Board of Directors of NNCA. Such coverage shall also include interior walls within any unit and the pipes, wires, conduits and ducts contained therein and shall further include all fixtures, equipment and trim within a unit which were furnished with the unit by the Developer (or such replacements thereof as do not exceed the cost of such original items adjusted to replacement costs). Any improvements a member makes within his/her unit shall be covered by insurance obtained by him/her at his/her expense; provided that, if NNCA elects to include such

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improvements under its insurance coverage, any additional premium cost to NNCA attributable thereto shall be assessed to and borne solely by said member and collected as a part of the assessment levied against said member under Article V, Section 4 hereof. An improvement includes an addition or upgrade to a unit or common element, including but not limited to, such as a dock, skylight, three (3) or four (4) season room, or finished lower level, made by the member.

(c) Public liability insurance shall be carried in such limits as the Board may from time to time determine to be appropriate, and shall cover NNCA, each member, director and officer thereof, and any management agent.

(d) All premiums upon insurance policies purchased by NNCA pursuant to these Bylaws shall be expenses of administration, except as otherwise provided in Subsection (b) above.

(e) Proceeds of all insurance policies owned by NNCA shall be received by NNCA, held in a separate account, and distributed to NNCA, the members and their mortgagees, as their interest may appear; provided, however, whenever Section 3 of this Article requires the repair or reconstruction of NNCA, any insurance proceeds received by NNCA as a result of any loss requiring repair or reconstruction shall be applied for such purpose. Hazard insurance proceeds shall never be used for any purpose other than for repair, replacement or reconstruction of the project unless all of the holders of the mortgages on units in NNCA have given their prior written approval.

(f) All insurance carried by NNCA shall, to the extent possible, provide for cross-coverage of claims by one insured against another.

(g) Fidelity bonds may be required by the Board of Directors from all persons handling or responsible for Association funds, the amount of such bonds shall be determined by the Board in its sole discretion, and the premium for such bonds shall be a general expense of NNCA.

Section 2. Appointment of Association. Each member, by ownership of a unit in NNCA, shall be deemed to appoint NNCA as his/her true and lawful attorney-in-fact to act in connection with all matters concerning insurance pertinent to NNCA and the common elements thereof. Without limitation on the generality of the foregoing, NNCA as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit premiums therefor, to collect proceeds and to distribute the same to NNCA, the members and respective mortgagees, as their interests may appear (subject always to NNCA Documents), to execute releases of liability, and to execute all documents and to do all things on behalf of such members and NNCA as shall be necessary or convenient to accomplish the foregoing.

Section 3. Reconstruction or Repair. If any part of the Condominium shall be damaged, the determination of whether or not, and how, it shall be reconstructed or repaired shall be made in the following manner:

(a) If a common element or a unit is damaged, such property shall be rebuilt or repaired if any Condominium unit is tenantable, unless the Members unanimously vote that the Condominium shall be terminated and each holder of a mortgage lien on any Condominium unit has given its prior written approval of such termination.

(b) If the Condominium is so damaged that no unit is tenantable, and if each holder of a mortgage lien on any unit in the Condominium has given its prior written

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approval to the termination of the Condominium, the damaged property shall not be rebuilt and the Condominium shall be terminated, unless all the Members in value and in number agree to reconstruction by vote or in writing within ninety (90) days after the destruction.

(c) Any reconstruction or repair shall be performed substantially in accordance with the Master Deed and the plans and specifications for the Condominium to a condition as similar as possible to the condition existing prior to damage, unless the Members and each holder of a mortgage lien on any Condominium unit shall unanimously decide otherwise.

(d) If the damage is only to a part of a unit which it is the responsibility of a Member to maintain and repair, it shall be the responsibility of the Member to repair such damage in accordance with subsection (e) hereof. In all other cases, the responsibility for reconstruction and repair shall be that of the Association. The Association promptly shall notify each holder of a mortgage lien on any of the Condominium units if any unit or any part of the common elements is substantially damaged or destroyed.

(e) Each Member shall be responsible for the reconstruction and repair of the interior of his unit, including, but not limited to, floor coverings, wall coverings, window shades, draperies, interior trim installed by the Member and not part of the original trim, furniture, light fixtures and all appliances, whether freestanding or built-in, and items deemed to be the responsibility of the individual Member by Article V. C. of the Master Deed. If damage is covered by insurance held by the Association, then the reconstruction or repair thereof shall be the responsibility of the Association in accordance with subsection (g). The Member shall be responsible for any insurance policy deductible whether the policy is carried by the Association or the Member. If any other interior portion of a unit, or item therein, is covered by insurance held by the Association for the benefit of the Member, the Member shall be entitled to receive the proceeds of insurance relative thereto, and if there is a Mortgagee endorsement, the proceeds shall be payable to the Member and the Mortgagee jointly, without any change to the obligations set forth in this subsection (e).

(f) NNCA shall be responsible for the reconstruction and repair of the common elements, and for any incidental damage to a unit and the contents thereof caused by the reconstruction or repair thereof. Immediately after a casualty occurs causing damage to property for which the Association has the responsibility of maintenance, repair and reconstruction, the Association shall obtain reliable and detailed estimates of the cost to return the damaged property to a condition as good as that existing before the damage.

(g) Any insurance proceeds received, whether by the Association or a Member, shall be used for reconstruction or repair when reconstruction or repair is required by these Bylaws. If the insurance proceeds are not sufficient to pay the estimated costs of reconstruction or repair required to be performed by the Association, or if at any time during such reconstruction or repair, or upon completion of such reconstruction or repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against all Members for the cost of reconstruction or repair of the damaged property in sufficient amounts to provide funds to pay the estimated or actual cost of repair. Such assessments shall be levied in the same manner as the regular monthly assessments, as set forth in Article V, Section 4, hereof.

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Section 4. Eminent Domain. The following provisions shall control upon any taking by eminent domain:

(a) NNCA, acting through its Board of Directors, may negotiate on behalf of all members for any taking of common elements. Any negotiated settlement shall be subject to the approval of more than two-thirds (2/3) of the members in number and in value and shall thereupon be binding on all members.

(b) If an entire unit is taken by eminent domain, the award for such taking shall be paid to NNCA for the benefit of the owner of such unit and the mortgagee thereof, as their interests may appear. After acceptance of such award by the member and his/her mortgagee, they shall be divested of all interest in NNCA. The undivided interests in the common elements belonging to the member whose unit has been taken shall thereafter appertain to the remaining units, including those restored or reconstructed under the provisions of this section.

(c) If any condemnation award shall become payable to any member whose unit is not wholly taken by eminent domain, then such award shall be paid by the condemning authority to NNCA on behalf of such member and his/her mortgagee, as their interests may appear. If only a part of any unit is taken, NNCA shall, if practical, use the award to rebuild the same to the extent necessary to make it habitable and remit the balance of the condemnation proceeds attributable to such unit to the owner and mortgagee thereof, as their interests may appear.

(d) If any portion of NNCA other than any unit is taken, the condemnation proceeds relative to such taking shall be paid to NNCA, and the affirmative vote of more than fifty percent (50%) of the members in number and in value at a meeting duly called shall determine whether to rebuild, repair or replace the portion so taken or to take such other action as they deem appropriate. If no such affirmative vote is obtained, such condemnation proceeds shall be remitted to the members and their respective mortgagees, as their interests may appear, in accordance with their respective percentages of value set forth in Article VI of the Master Deed.

(e) If NNCA Project continues after a taking by eminent domain, then the remaining portion of NNCA Project shall be resurveyed and the Master Deed amended accordingly, and, if any unit shall have been taken, then Article VI. ~~E.~~ of the Master Deed shall be amended to reflect such taking and to proportionately readjust the percentages of value of the remaining members based upon a continuing value for NNCA of one hundred percent (100%). Such amendment may be effected by an officer of NNCA duly authorized by the Board of Directors without the necessity of execution or specific approval thereof by any members, but only with the prior written approval of all holders of mortgage liens on individual units in the project.

(f) If any Condominium unit, or any portion thereof, or the common elements or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, NNCA promptly shall so notify each holder of a mortgage lien on any of NNCA units.

(g) If the taking of a portion of a Condominium unit makes it impractical to rebuild the partially taken unit to make it habitable, then the entire undivided interest in the common elements appertaining to that Condominium unit shall thenceforth appertain to the remaining Condominium units and shall be allocated to them in

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proportion to their respective undivided interests in the common elements. The remaining portion of that Condominium unit shall thenceforth be a common element.

(h) Votes in NNCA of members and liability for future expenses of administration appertaining to a Condominium unit taken or partially taken (as provided in Subsection g hereof) by eminent domain shall thenceforth appertain to the remaining Condominium units and shall be allocated to them in proportion to their relative voting strength by value in NNCA.

Section 5. Construction Liens. The following provisions shall control the circumstances under which construction liens may be applied against NNCA or any unit thereof.

(a) Except as provided below, a construction lien for work performed on a Condominium unit or upon a limited common element may attach to the unit upon or for the benefit of which the work was performed.

(b) A construction lien for work authorized by NNCA may attach to each unit only to the proportional extent that the member owning the unit is required to contribute to the expenses of administration as provided by NNCA Documents.

(c) A construction lien may not arise or attach to a unit for work performed on the common elements not contracted by NNCA.

If a member is advised or otherwise learns of a purported construction lien contrary to the foregoing, he shall immediately notify the Board of Directors. Upon learning of the purported construction lien, the Board shall take appropriate measures to remove any cloud on the title of units improperly affected thereby.

Section 6. Notice to FHLMC. If any mortgage in NNCA is held by the Federal Home Loan Mortgage Corporation ("FHLMC"), then NNCA shall give FHLMC written notice at such address as it may, from time to time, direct of any loss to or taking of the common elements of NNCA, if the loss or taking exceeds Ten Thousand Dollars (\$10,000.00) in amount.

Section 7. Mortgagees. Nothing contained in NNCA Documents shall be construed to give a Condominium unit owner, or any other party, priority over any rights of mortgagees of Condominium units pursuant to their mortgages in the case of a distribution to condominium unit owners of insurance proceeds or condemnation awards for losses to or a taking of Condominium units, common elements or both.

## **ARTICLE VII USE AND OCCUPANCY RESTRICTIONS; ENFORCEMENT**

Section 1. Establishment of Restrictions. To provide for congenial occupancy of NNCA, and for the protection of the value of the units, the use of Condominium property shall be subject to the following limitations:

(a) No Condominium unit shall be used for other than single-family residential purposes and the common elements shall be used only for purposes consistent with the use of single-family residences. A family shall mean one person or a group of two or more persons related by bonds of consanguinity, marriage or legal adoption, or a functional family which means a group of two or more people, including their children and children domiciled with them, having a relationship which is functionally equivalent to a family. The relationship must be of a permanent and distinct character with a demonstrable and recognizable bond characteristic of a cohesive



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unit of family. Functional family does not include a group of individuals where the common living arrangement or basis for the establishment of the housekeeping unit is temporary or not that of a family. The definition of family shall not be construed in a manner that is discriminatory on the basis of familial status or marital status as defined by the Fair Housing Act and the Elliott-Larsen Civil Rights Act. The Keating Memorandum standards, as set forth in Federal Register/Vol. 63, No. 245, as may be amended, shall be used to establish occupancy standards. Excepted from these restrictions are family members requiring in-home care for medical or age reasons and who submit appropriate medical information to the Board of Directors for the Board of Directors review to determine if the exception is valid and not for purposes of avoiding these restrictions.

(b) Home occupations are not permitted unless a written application is submitted and approved by the Board of Directors. No application shall be approved unless the home occupation is conducted entirely within the residence and participated in solely by members of the immediate family residing in the residence, which do not generate unreasonable traffic by members of the general public and do not change the residential character of the building. If an application for a home occupation is approved by the Board of Directors, the Board of Directors shall have the right to withdraw the approval at any time if the Board of Directors determines that the use violates the provisions of this section and any rules and regulations which the Board of Directors may adopt from time to time. The foregoing restrictions in this paragraph as to use shall not be construed in such manner as to prohibit a co-owner from: (a) maintaining his/her personal professional library; (b) keeping his/her personal business or professional records or accounts; or (c) handling his/her personal business or professional telephone calls or correspondence.

(c) No person may occupy a unit, whether as owner or member of the household, licensee or regular guest who has been convicted of an MCL 750.520b criminal sexual conduct crime within ten (10) years of the date of occupancy. NNCA shall have the right to rely upon the Michigan State Sex Offender Registry to verify a conviction. If an occupant or proposed occupant denies the conviction, NNCA will conduct a further investigation. The further investigation will be paid for by the occupant or proposed occupant; however, if the investigation confirms that NNCA's initial investigation was incorrect, NNCA will pay for the cost of the additional investigation. If this provision is violated, NNCA shall give notice to the co-owner that such occupancy is in violation of this paragraph. The co-owner must give NNCA adequate assurances that the violation has been cured and that all future occupancies shall comply with this paragraph.

If adequate assurance is not given or the person is not removed from the unit, NNCA shall have the right to place the unit for sale as agent for the co-owner. The sales price and terms of sale shall be in the sole discretion of the Board of Directors of NNCA. The net proceeds of the sale will be paid to the co-owner and the Mortgagee(s) of the co-owner's unit, if there is a mortgagee or are mortgagees.

d) No member shall alter the exterior appearance or structurally modify his/her unit (including interior walls through or in which there exist easements for support or utilities) or change any of the limited or general common elements from the way it or they were originally constructed by the Developer, including, without limitation, painting the exterior, installing lights, arials, awnings, doors, shutters or other exterior attachments or modifications, nor shall any member damage, modify or

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make attachments to common element walls between units, which alterations in any way impair the sound-conditioning properties thereof, without the express written approval of the Board of Directors. The Board of Directors, in its sole discretion, may disapprove any such request. However, it may only approve such alterations as do not impair the structural soundness, safety, utility, integrity or appearance of NNCA. The Board of Directors may appoint an Environmental Control Committee and may delegate to it responsibility for establishing rules relating to the appearance of units and common areas, and the approval of the construction, maintenance and repair thereof. Even after approval, a member shall be responsible for all damages to any other units and their contents or to the common elements resulting from any such alteration.

No antennas, including "dish" antennas, or aerials may be installed anywhere on NNCA property unless expressly allowed by Federal, State, or Local law or in such locations as approved by the Board of Directors in rules and regulations adopted by the Board of Directors. Prior written approval by the Board of Directors will be required for all antenna or aerial installations unless such approval is barred by Federal, State, or Local law. In the event that prior written approval by the Board of Directors to install an antenna or aerial is not allowed by Federal, State, or Local law, the member will notify the Board of Directors of the antenna or the aerial installation in a timely fashion. The member shall be responsible for all damages to any unit and their contents or to the common elements resulting from the installation of an antenna or aerial.

(e) No immoral, improper, unlawful or offensive activity shall be carried on in any unit or upon the limited or general common elements, nor shall anything be done which may be or become an annoyance or a nuisance to other members, nor shall any unreasonably noisy activity be carried on in any unit or on the common elements. No member owning any unit shall do or permit anything to be done or keep or permit to be kept in his/her unit or on the common elements anything that will increase the insurance rate on NNCA without the written approval of NNCA. Each member who is the cause thereof shall pay to NNCA the increased cost of insurance premiums resulting from any such activity or the maintenance of any such condition.

(f) Neither the limited nor general common elements shall be used to store supplies, materials, personal property, trash or refuse of any kind, except as designated by NNCA. Trash receptacles shall be maintained in areas designated therefore at all times and shall not be permitted elsewhere on the common elements except for such short periods of time as may be reasonably necessary to permit the periodic collection of trash. The common elements shall not be used in any way for the drying, shaking or airing of clothing or other fabrics. Automobiles may only be washed in areas approved by NNCA. In general, no activity shall be carried on nor condition maintained by a member, either in his/her unit or upon the common elements, which unreasonably spoils the appearance of NNCA.

(g) Sidewalks, yards, landscaped areas, driveways, roads, parking areas, halls, stairs and, in general, all of the common elements, shall not be obstructed in any way nor shall they be used for purposes other than for which they are reasonably and obviously intended. No bicycles, vehicles, chairs or benches may be left unattended on or about the common elements, without the prior written consent of the Board of Directors. Use of any recreational facilities in NNCA by any persons requiring supervision may be limited to such times and in such manner as NNCA shall determine by duly adopted regulations.

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(h) No member shall use, or permit any occupant, agent, employee, invitee, guest or member of his/her family to use, any firearms, air rifles, pellet guns, BB guns, bows and arrows or other similar dangerous weapons, projectiles or devices anywhere on or about NNCA Premises.

(i) No signs or other advertising devices shall be displayed which are visible from the exterior of a residential unit or on the common elements, including "For Sale" signs, without written permission from NNCA, which permission, shall not be unreasonably withheld.

(j) Reasonable regulations consistent with the Act, the Master Deed and these Bylaws concerning the use of the common elements may be made and amended from time to time by any Board of Directors of NNCA, including the Board of Directors appointed by the Incorporator and its successors. Copies of all such regulations and amendments thereto shall be furnished to all members and shall become effective ten (10) days after mailing or delivery thereof to the designated voting representative of each member. Any such regulation or amendment may be revoked at any time by the affirmative vote of more than fifty percent (50%) of all members in number and in value at any duly convened meeting of NNCA, except that the members may not revoke any regulation or amendment prior to the first meeting of NNCA.

(k) No member shall perform any landscaping or plant any trees, shrubs or flowers or place any ornamental materials upon the common elements without the express written approval of the Board of Directors.

(l) No unsightly condition shall be maintained upon any balconies, porches or decks and only furniture and equipment consistent with ordinary balcony, porch or deck use shall be permitted to remain there during seasons when such areas are reasonably in use, and no furniture or equipment of any kind shall be stored in such areas during seasons when they are not reasonably in use.

(m) No animal, birds or fowl may be kept or maintained in any unit except for one dog or one cat or a pair of caged birds of a size and type approved by the Board. Such approval if given may be revoked at any time by the Board. No exotic, savage, or aggressive animal shall be kept anywhere on NNCA premises and no animal may be kept or bred for commercial purposes. Common household pets permitted by NNCA shall be kept only in compliance with the Rules and Regulations promulgated by the Board and must always be kept under such care and restraint as not to be obnoxious on account of noise, odor, or unsanitary conditions. An animal shall always be accompanied by the owner, or another person; the animal shall be leashed, and the person shall have control of the leash. No animal shall be permitted to run loose upon the common elements, limited or general, and the owner of each pet shall be responsible for cleaning up after it. NNCA may also, without liability to the owner of the pet, remove or cause any animal to be removed from the premises which NNCA determines to be in violation of the restrictions imposed by this section or which otherwise proves to be a nuisance or annoyance to other residents. Any person who causes or permits any animal to be brought to or kept on the premises shall indemnify and hold NNCA harmless from any loss, damage or liability which NNCA may sustain as a result of the presence of such an animal on the premises. All pets must be licensed in accordance with the laws of the State of Michigan and County of Ottawa; must have all required vaccinations; and have documentation proving that the requirements have been met.

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(n) Vehicles are limited to two (2) in a two-stall garage and one (1) parked in the driveway and in a one (1) stall garage one (1) in the garage and one (1) parked in the driveway. Parking spaces are assigned, as provided in NNCA Documents, to particular units, and any parking space once assigned to said unit shall thereafter be reserved to the use of the unit to which it was originally assigned and to the exclusion of the other units. Any non-assigned parking areas shall be for the general use of the members' guests as set forth in rules and regulations adopted by the Board of Directors. In the event a shortage of parking spaces arises, NNCA may allocate or assign parking spaces from time to time on an equitable basis. No house trailers, commercial vehicles, boat trailers, boats, campers, camping vehicles, camping trailers, snowmobiles, snowmobile trailers or motor vehicles or trailers other than automobiles may be parked or stored on NNCA premises, unless parked in a unit's garage; provided, however, that campers and similar vehicles may be kept at NNCA for a period of less than twenty- four (24) hours without obtaining NNCA's prior written approval for loading and unloading for going to and coming back from camping trips. Commercial vehicles and trucks shall not be parked in or about NNCA (except as provided above) unless and while making deliveries or pickups in the normal course of business. No automobiles or similar vehicles which are not licensed and in operating condition shall be permitted at any time.

Nothing may be housed in a unit's garage which causes vehicles to be parked outside the garage or beyond the limits listed above.

(o) A co-owner shall lease or rent or allow occupancy of a unit only in compliance with ARTICLE VIII as hereinafter set forth. Occupancy is defined as anyone who occupies or resides in a unit for a period of sixty (60) days or more during a period of twelve (12) consecutive months.

(p) None of the restrictions contained in this Article VII shall apply to NNCA in furtherance of its powers and purposes set forth herein and in its Articles of Incorporation and Bylaws as the same may be amended from time to time.

Section 2. Enforcement. Failure to comply with any of the terms of the Act, the Master Deed, these Condominium Bylaws, the Articles of Incorporation, Bylaws or Rules and Regulations of NNCA, shall be grounds for relief, which may include, without limitation, an action to recover sums due for such damages, injunctive relief, and any other remedy that may be appropriate to the nature of the breach. The failure of NNCA to enforce any right, provision, covenant or condition which may be granted by the Act, the Master Deed, these Condominium Bylaws, the Articles of Incorporation, Bylaws or Rules and Regulations of NNCA shall not constitute a waiver of the right of NNCA to enforce such right, provision, covenant or condition in the future.

### ARTICLE VIII LEASING

Section 1. Notice of Desire and Intent. A member who desires to rent or lease his/her Condominium unit for any term shall provide notice of such desire to the Board of Directors at least ten (10) days before presenting a lease form to a potential lessee. At the same time, the member shall provide to the Board a copy of the exact lease form proposed, so that the Board may review it for compliance with NNCA Documents. Tenants and non-co-owner occupants shall comply with all the conditions of NNCA Documents and all of the provisions of the Act, and all leases and rental agreements shall so state. The Board shall advise the member of any deficiencies in the lease

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form, and the member shall correct such deficiencies as directed by the Board before presenting a copy of the lease form to a potential lessee

## Section 2. Additional Restrictions on Leasing.

(a) No member shall lease less than an entire unit in NNCA, and no tenant of a unit shall be permitted to occupy a unit, except under written lease, the initial term of which is at least one (1) year, unless specifically approved in writing by the Board of Directors. Anyone not an immediate family member shall be a tenant and all provisions of this Article VIII shall apply to an occupant.

(b) The Board may require a security deposit from any member as a condition of the approval of any lease.

(c) Tenant shall review the Master Deed with Bylaws prior to entering into the lease and shall provide a written acknowledgement, in a form provided by NNCA, that tenant has reviewed the Master Deed with Bylaws and agrees to abide by the terms of the Master Deed.

(d) Copies of the signed lease and any related documents shall be provided to the Board of Directors by the member within 7 days after the lease has been signed by tenant.

## Section 3. Non-Co-Owner Compliance.

(a) All non-co-owner occupants shall comply with all the terms and conditions of NNCA Documents and the provisions of the Act.

(b) If NNCA determines that a non-co-owner occupant has failed to comply with the conditions of NNCA Documents, or the provisions of the Act, NNCA shall take the following action:

(i) NNCA shall advise the appropriate member by certified mail of the alleged violation by a person occupying his/her unit;

(ii) The member shall have fifteen (15) days after receipt of the notice to investigate and correct the alleged breach or advise NNCA that a violation has not occurred; ~~and~~

(iii) If after fifteen (15) days NNCA believes that the alleged breach has not been cured or may be repeated, it may institute on its behalf, an action for eviction against the non-member occupant and, simultaneously, for money damages against the member and non-member occupant for breach of the conditions of NNCA Documents or of the Act. The relief set forth in this Section may be by any appropriate proceeding. NNCA may hold both the non-member occupant and the member liable for any damages caused to NNCA and the member shall be responsible for costs incurred by NNCA, including reasonable attorney fees. In addition, the member may be fined by NNCA, as set forth in Article XII.

(iv) When a member is in arrearage to NNCA for assessments, NNCA may give written notice of the arrearage to the tenant occupying a member's unit under a lease arrangement or rental agreement and the tenant, after receiving such notice, shall deduct from rental payments due the member the full arrearage and future assessments as they fall due and shall pay NNCA. Such deduction shall not be a breach of the rental agreement or lease by the tenant. If the tenant, after being notified,

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fails or refuses to remit rent otherwise due the co-owners of NNCA, then the co-owners may do the following:

- (a) Issue a statutory notice to quit for non-payment of rent to the tenant and shall have the right to enforce that notice by summary proceeding.
- (b) Initiate proceedings pursuant to subsection (b) (i)-(iii) of this Section 3.

## ARTICLE IX MORTGAGES

Section 1. Mortgage of Units. No member owning any unit may mortgage his/her unit or any interest therein without the approval of NNCA except to a bank, pension fund, insurance company, savings and loan association, credit union or other institutional lender. The approval of any other mortgage may be arbitrarily withheld; provided, that nothing herein shall be construed to prevent the member from accepting a purchase money mortgage as a part of the purchase price of a unit nor prevent a member from accepting a purchase money mortgage from a subsequent approved purchaser.

Section 2. Notice of Mortgage. A member who mortgages a unit shall notify NNCA of the name and address of his/her mortgagee, and NNCA shall maintain such information in a book entitled "Mortgages of Units".

Section 3. Notice of Default. NNCA shall give to the holder of any mortgage covering any unit in the project written notification of any default in the performance of the obligations of the member owning such unit that is not cured within sixty (60) days.

Section 4. Notice of Insurance. NNCA shall notify each mortgagee appearing in said book of the name of each company insuring NNCA against fire, perils covered by extended coverage, and vandalism and malicious mischief and the amounts of such coverage.

Section 5. Notice of Meetings. Upon request submitted to NNCA, any institutional holder of a mortgage lien on any unit in NNCA shall be entitled to receive written notification of every meeting of the members of NNCA and to designate a representative to attend such meeting.

Section 6. Acquisition of Title by Mortgagee. As provided in Article v, Section 6, any first mortgagee who obtains title to a unit pursuant to the remedies provided in the mortgage, or a deed in lieu thereof, shall not be liable for such unit's unpaid assessments which accrue prior to acquisition of title by the first mortgagee.

## ARTICLE X AMENDMENTS

Section 1. Amendments. Proposed Amendments to these Bylaws may be proposed by the Board of Directors of the Association acting upon the vote of a majority of the Directors or by one-third (1/3) or more in number of the Members by an instrument in writing signed by them.

Section 2. Meeting to Be Held. If such an amendment is proposed, a meeting for consideration of the same shall be duly called in accordance with the provisions of the Condominium Documents.

Section 3. Amendments. These Bylaws may be amended, altered, changed,

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added to, or repealed only in the manner prescribed by ARTICLE VIII of the Master Deed.

## ARTICLE XI DEFINITIONS

All terms used herein shall have the same meaning as set forth in the Act or as set forth in the Master Deed to which these Condominium Bylaws are attached as an exhibit.

## ARTICLE XII REMEDIES FOR DEFAULT

Section 1. Relief Available. Any default by a member shall entitle NNCA or another member or members to the following relief:

(a) Failure to comply with any of the terms or conditions of NNCA Documents shall be grounds for relief, which may include, without limitation, an action to recover sums due for damages, for injunctive relief, for foreclosure of lien (if in default in payment of an assessment) or any combination thereof, and such relief may be sought by NNCA, or, if appropriate, by an aggrieved member or members. NNCA, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (not limited to statutory fees) as may be determined by the Court, but in no event shall any member be entitled to recover such attorneys' fees.

(b) In any proceeding arising because of an alleged default by any member, NNCA, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (not limited to statutory fees) as may be determined by the Court, but in no event shall any member be entitled to recover such attorneys' fees.

(c) Such other reasonable remedies as provided in the rules and regulations promulgated by the Board of Directors, including, without limitation, the levying of fines against members after notice and opportunity for hearing, as provided in NNCA rules and regulations, and the imposition of late charges for nonpayment of assessments.

(d) The violation of any of the provisions of NNCA Documents shall also give NNCA or its duly authorized agents the rights set forth above, to enter, where reasonably necessary, upon the limited or general common elements, or into any unit, and summarily remove and abate, at the expense of the violating member, any structure, thing or condition existing or maintained contrary to the provisions of NNCA Documents.

Section 2. Failure to Enforce and Action by Member. The failure of NNCA or of any member to enforce any right, provision, covenant or condition which may be granted by NNCA Documents shall not constitute a waiver of the right of NNCA or of any such member to enforce such right, provision, covenant or condition in the future. If a member brings an action against NNCA to enforce NNCA Documents or for any other reason and does not prevail, NNCA shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (not limited to statutory fees) as may be determined by the Court, but in no event shall any member be entitled to recover such attorneys' fees.

Section 3. Rights Cumulative. All rights, remedies and privileges granted to NNCA or any member or members pursuant to any terms, provisions, covenants or conditions of NNCA Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude

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the party exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

Section 4. Hearing. Prior to the imposition of any fine or other penalty hereunder, the offending member shall be given a reasonable opportunity to appear before the Board and be heard. Following any such hearing the Board shall prepare a written decision and place it in the permanent records of NNCA.

## ARTICLE XIII ARBITRATION

Section 1. Submission to Arbitration. Any dispute, claim or grievance arising out of or relating to the interpretation or application of the Master Deed, Bylaws or Management Agreement, if any, or to any disputes, claims or grievances arising among or between the members or between such members and NNCA shall, upon the election and written consent of all the parties to any such dispute, claim or grievance, and written notice to NNCA, be submitted to arbitration, and the parties thereto shall accept the arbiter's decision as final and binding, and it shall be enforceable against the party in a court of competent jurisdiction. The Commercial Arbitration Rules of the American Arbitration Association, as amended and in effect from time to time hereafter, shall be applicable to such arbitration.

The arbiter may be either an attorney acceptable to both parties or a panel of three (3) individuals, at least one (1) of whom shall be an attorney. The panel shall be composed of one (1) individual appointed by the member and one (1) individual appointed by the Board of Directors of NNCA. These two panelists will then promptly agree on the third member of the panel. No member who is a natural person may appoint him/herself or a member of his/her household to the panel. No corporate member may appoint one of its directors, officers, shareholders or employees to the panel. Neither may a member serve on behalf of the Board. The arbitration costs shall be borne by the losing party to the arbitration. The arbiter may require a reasonable deposit to ensure payment of costs. Such deposit shall be placed in escrow in the name of the arbiter as trustee in the name of the matter at issue.

Section 2. Effect of Election. Election by members or NNCA to submit any such dispute, claim or grievance to arbitration shall preclude such parties from litigating such dispute, claim or grievance in the courts. Any appeal from an arbitration award shall be deemed a statutory appeal.

Section 3. Preservation of Rights. No member shall be precluded from petitioning the courts to resolve any dispute, claim or grievance in the absence of election to arbitrate.

## ARTICLE XIV SEVERABILITY

If any of the terms, provisions, or covenants of these NNCA Condominium Bylaws or other NNCA Condominium Documents are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants of such documents or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

## ARTICLE XV CONFLICTING PROVISIONS



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In the event of a conflict between the provisions of The Act (or other laws of the State of Michigan) and any Condominium Document, The Act (or other laws of the State of Michigan) shall govern. In the event of any conflict between the provisions of any one or more Condominium Documents, the following order of priority shall prevail, and the provisions of NNCA Document having the highest priority shall govern:

- (1) The Master Deed, including NNCA subdivision Plan;
- (2) these Condominium Bylaws;
- (3) the Articles of Incorporation of NNCA;
- (4) the bylaws of NNCA, and
- (5) the Rules and Regulations of NNCA.