

**DECLARATION OF COVENANTS, RESTRICTIONS,
EASEMENTS, AND CHARGES FOR THE COTTAGES HOMEOWNERS'
ASSOCIATION, INC.**

DECLARANT: THE COTTAGES AT PLUM POINT, LLC.

DATE OF DECLARATION: April 25, 2022

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**DECLARATION OF COVENANTS, RESTRICTIONS,
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ASSOCIATION, INC.**

Declaration made as of this 25th day of April, 2022, by The Cottages at Plum Point LLC, a New York Limited Liability Company, with offices at 68 Castle Street, Suite 1C, Geneva, New York 14456; hereinafter referred to as "Sponsor" or "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described in Article II of this Declaration which Declarant desires to (i) develop said property as a residential community of 29 single-family cottages, (ii) lease, subject to the terms of 99-year renewable ground leases, individual Lots to individual Cottage Owners, (iii) lease, subject to the terms of a 99-year renewable ground lease, to The Cottages Homeowners' Association, Inc. (the "HOA") for the right to possess, occupy, and use the Common Areas and amenities thereon with various permanent recreational lands, open spaces and other common facilities for the benefit of said community (the "Cottage Community"); and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said Cottage Community and for the maintenance of said recreational lands, open spaces and other common facilities; and, to this end, desires to subject the real property described in Article II to the covenants, restrictions, easements, and charges, hereinafter set forth, each and all of which is and are for the benefit of said Cottage Community and each Owner thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said Cottage Community to create an agency to which should be delegated and assigned the powers of maintaining and administering the Cottage Community property and improvements and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated HOA under the Not-For-Profit Corporation laws of the State of New York for the purpose of exercising the aforesaid functions;

NOW, THEREFORE, the Declarant, for itself, its successors and assigns, declares that the real property described in Article II is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, and charges (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I. DEFINITIONS

The following words when used in this Declaration, the By-Laws or in any instrument supplemental to this Declaration or the By-Laws, shall, unless the context otherwise prohibits, have the following meanings:

(a) "Association," "Homeowners Association," or "HOA" shall mean and refer to The Cottages Homeowners' Association, Inc.

- (b) "Board" shall mean and refer to the Board of Directors of the Association.
- (c) "By-Laws" shall mean and refer to the By-Laws governing the operation of the Association, the form of which is set forth in Exhibit B.
- (d) "Common Expenses" shall mean and refer to those expenses (including reserves) which are incurred or assessed by the Association in fulfilling its lawful responsibilities (herein sometimes referred to as "Assessment").
- (e) "Common Properties" or "Common Areas" shall mean and refer to certain areas of land as shown on the attached Site Plan which will be held in leasehold by the Association and any improvements on said areas of land which will be held in leasehold by the Association and which are intended to be devoted to the common use and enjoyment of the owners of The Properties and shall include, without limitation, water and sewer services, a Lakefront pavilion, a dock with up to 29 boat slips, kayak storage, a private road, trash storage, generator, community garden and dog run space.
- (f) "Cottage" shall mean and refer to all improvements and buildings situated upon a Lot. Unless the context clearly indicates otherwise, the term "Cottage" shall be deemed to include the term "Lot."
- (g) "Cottage Owner" or "Owner" shall mean and refer to the record owner of fee simple title to any Cottage (but not the Lot), including the Declarant with respect to any Unsold Cottage. Every Cottage Owner shall be treated for all purposes as a single owner for each Cottage held, irrespective of whether such ownership is joint, in common or tenancy by the entirety. Where such ownership is joint, in common or tenancy by the entirety, such collective ownership shall constitute one (1) Member.
- (h) "Declaration" shall mean and refer to this Declaration of Covenants, Restrictions, Easements, and Charges, as it may, from time to time, be supplemented, extended or amended in the manner provided for herein.
- (i) "Declarant" shall mean and refer to The Cottages at Plum Point, LLC, a New York Limited Liability Company and its successors and assigns, if such successors and assigns should acquire an undeveloped or developed but unsold portion of the Properties for the purpose of development including, without limitation, any mortgagee which has foreclosed or acquired by other means the interest of the Declarant.
- (j) "Ground Lease" shall mean and refer to such Ground Leases described in Article II of this Declaration.
- (k) "Lakefront pavilion" shall mean and refer to the pavilion leased and maintained by the Association as part of the Common Areas of the Association.
- (l) "Lot" shall mean and refer to any portion of the Property (with the exception of the Common Properties) under the scope of this Declaration, as shown on the Site Plan prepared by Costich Engineering and identified as a separate Lot. Unless the context clearly indicates otherwise, the term "Lot" is included in the term "Cottage."

(m) “Member” shall mean and refer to each holder of a membership interest in the Association as such interest is set forth in Article III. Each Member shall be entitled to one (1) vote.

(n) “Permitted Mortgage” shall mean and refer to any first mortgage covering a Cottage or Cottages or a mortgage encumbering an Unsold Cottage owned by Declarant or its designee.

(o) “Permitted Mortgagee” shall mean and refer to the holder of a Permitted Mortgage.

(p) “Properties” shall mean and refer to all such Properties described in Article II.

(q) “Rules and Regulations” shall mean and refer to Rules and Regulations of the Association governing the use and care of the Properties as may be set forth in this Declaration, the By-Laws or promulgated from time to time by the Board.

(r) “Unsold Cottage” shall mean and refer to any Cottages owned by the Declarant and any successors or assigns, other than for personal occupancy, until such time as the same have been sold.

(s) “Unoccupied Lot” shall mean and refer to any Lot owned by the Declarant until such time as the Unoccupied Lot has been subjected to a Ground Lease and a leasehold interest conveyed to a bona fide purchaser.

ARTICLE II. PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Properties. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is all those plots, pieces or parcels of land situate, lying and being in the Town of Milo, County of Yates, and State of New York, being more particularly bounded and described in Exhibit A annexed hereto as containing approximately 8.07 acres of land.

Section 2. Ground Lease and Improvements. Prior to conveyance of the first Cottage, the Declarant shall provide a renewable Ground Lease to the Association for the right to possess, occupy, and use the Common Areas and all improvements on the Common Areas for a term of 99 years. Declarant will also offer separate ground leases for the individual Lots and convey leasehold interests in the Lots to each Cottage Owner.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Formation of the Association. Pursuant to the Not-for-Profit Corporation Law of the State of New York, on April 20, 2022 the Association was formed to operate and maintain the Common Properties, manage the affairs of the Association, enforce this Declaration, the By-Laws and Rules and Regulations and to have such other specific rights, obligation, duties and functions as are set forth in this Declaration, the Certificate of Incorporation and the By-Laws of the Association, as such may be supplemented, extended or amended from time to time. Subject to the additional limitations provided in this Declaration, the Certificate of Incorporation and the By-Laws, the Association shall have all the powers and be subject to the limitations of a not-for-

profit corporation as contained in the New York State Not-for-Profit Corporation Law as the same may be amended from time to time.

Section 2. Membership. The Association shall have one class of membership interest. The Owner of a Cottage or Unsold Cottage on the Properties, which is subject to this Declaration, shall be a Member. All such Owners shall be deemed to automatically have become Members and there shall be no other qualification for membership. Declarant shall remain a Member as long as Declarant has not executed Ground Leases for every Unoccupied Lot.

Section 3. Voting Rights. Each Member is entitled to one vote irrespective of the number of Cottages or Unsold Cottages owned by a Member. When more than one person or entity holds such interest in the membership, the one vote attributable to such membership shall be exercised as such persons mutually determine but not more than one vote may be cast with respect to any such Member. No Member shall split or divide its votes on any motion, resolution or ballot. For the purposes of this section the Declarant shall have one (1) vote for each Unoccupied Lot.

Section 4. Transfer of Membership. Membership in the Association shall be appurtenant to, and may not be transferred, except in conjunction with the lawful sale or conveyance of a Cottage which is subject to this Declaration. No Owner shall be permitted to sell or convey his or her Cottage unless and until he or she shall have paid in full to the Board all unpaid Common Expenses and other amounts required by the Board to be paid and assessed by the Board against such Cottage. Upon such sale or conveyance, the seller of such Cottage shall relinquish his or her membership in the Association and the purchaser of such Cottage shall automatically become a Member, subject to this Declaration, the By-Laws and the Rules and Regulations.

ARTICLE IV. PROPERTY RIGHTS IN THE PROPERTIES

Section 1. Members' Easement of Enjoyment. Subject to the provisions of Article IV, Section 3, every Member and its permitted lessees and occupants of Cottages, and their respective family members and guests shall have a right and easement of enjoyment in and to The Common Areas and such easement shall be appurtenant to and shall pass with the interests of an Owner.

Except as otherwise specifically provided in this Declaration, the By-Laws or the Rules and Regulations promulgated by the Board, the Board may not impose any limitations upon the use and enjoyment of the Common Areas by Members and the permitted lessees and occupants of Cottages, and their respective family members. The Board may establish a limitation on guest privileges by guests of Members or permitted lessees or occupants of Cottages and the Board may establish a limitation on the use of the Common Areas for a party, meeting or other similar event. Except as otherwise specifically provided in this Declaration or in the By-Laws, the Board may not impose any fee for the use and enjoyment of the Common Areas by Members or permitted lessees or occupants of Cottages and their respective family members, other than assessments against a Member's Cottage, unless the Common Areas are used for a party, meeting or other similar event.

Section 2. Rights to Common Areas. Prior to conveyance of the first Cottage on the Properties, Declarant shall enter into a Ground Lease with the Association for the Common Area and for the improvements thereon. The Association's obligation for the maintenance and repair of the Common Areas shall be governed by the terms of the Association's Ground Lease, and subject to the following which shall be binding upon the Association, its successors and assigns:

In order to preserve and enhance the property values and amenities of the Properties, the Common Areas and all facilities now or hereafter built or installed thereon, shall at all times be maintained in good repair and condition and shall be operated in accordance with high standards. The maintenance and repair of the Common Areas shall include, but not be limited to, the maintenance, repair of damage and replacement to the following: internal roadways; sewer, and drainage lines; infrastructure and equipment enabling the delivery of electricity; any common sidewalks located on the properties; parking areas; fenced dog run, Lakefront area; outdoor lighting; any buildings leased by the Association; and painting of the exterior facade of any buildings leased by the Association. The Association shall also be responsible for snow removal of the internal roadways; snow removal of the parking areas; mowing of grass on the Lots and Common Areas; landscape maintenance on the Common Areas and refuse removal on the Properties.

This Section shall not be amended, as provided for in Article X, Section 2, to reduce or eliminate the obligation for maintenance and repair of the Common Areas.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to promulgate Rules and Regulations for the use and enjoyment of the Common Areas; and

(b) The right of the Association, as provided in its By-Laws to suspend the enjoyment rights of any Member for a period during which any assessment remains unpaid and for a period not to exceed thirty (30) days for any infraction of its Rules and Regulations; and

(c) The right of the Declarant and of the Association to grant and reserve easements and rights-of-way, in, through, under, over, upon and across the Properties including the Lots, for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, cable television, gas and other utilities, and the right of the Declarant to grant and reserve easements and rights-of-way, in, through, under, over, upon and across the Properties to serve any property brought under the scope of this Declaration; and

(d) The terms of the By-Laws and any Rules and Regulations promulgated by the Board of Directors regarding the Properties and Common Areas; and

(e) The right of the Declarant to use the Common Areas or to permit the Common Areas to be used by Declarant's designee or any prospective purchaser of a Cottage or any tenants of Unsold Cottages, without charge, in accordance with and subject to this Declaration, the By-Laws and any Rules and Regulations promulgated by the Board.

In addition, Declarant shall have the right, at any time when there shall be any Unoccupied Lots on the Properties, to use the Common Areas, without charge, for exhibitions or other promotional functions with respect to Declarant's sales programs, in accordance with and subject to this Declaration, the By-Laws, and the Rules and Regulations. In addition, Declarant reserves the right to use the Lakefront pavilion four (4) times per year in perpetuity for parties or other functions.

The provisions of Article IV, Section 3 may not be amended without the written consent of the Declarant or its successors and assigns.

Section 4. Disrepair of Lots. In the event the Cottage Owner of any Cottage on the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, including but not limited to the situation where such maintenance, repair and replacement functions are not otherwise directed by the provisions of this Declaration to be performed by the Association, upon direction of the Board of Directors, it shall have the right, through its agents and employees, to enter upon the Cottage and to repair, maintain and restore the Cottage and any other improvements erected thereon or to take whatever legal action it may deem necessary. The cost of such maintenance, repair and replacement shall be added to and become part of the assessments to which such Cottage is subject.

ARTICLE V. DEVELOPMENT OF THE COTTAGES AT PLUM POINT

Section 1. The Cottages at Plum Point. Declarant intends to develop 29 single-family Cottages on the approximate 8.07 acres comprising the Properties.

Section 2. The Cottages Homeowners' Association, Inc. Declarant intends to build and lease to the Association common facilities including but not limited to the Lakefront pavilion, lake dock and up to 29 boat slips, kayak storage, a dog run, community garden, and trash storage for the benefit of the Owners.

Section 3. Easement. Declarant does hereby establish and create, subject to this Declaration, for the benefit of the Association and for all Cottage Owners, and the permitted lessees and occupants of Cottages and their respective family members and guests and does hereby give, grant and convey to each of the aforementioned, the following easements, licenses, rights and privileges:

- (i) Right-of-way for ingress and egress by vehicles or on foot, in, through, over, under, upon and across the streets, roads, and all walks in the Properties for all purposes;
- (ii) Rights to connect with, maintain and make use of utility lines, wires, pipes, conduits, cable television lines, and drainage lines which may from time to time be in or along the streets and roads or other areas of the Properties.

Section 4. Reservation of Easements. Declarant reserves the easements, licenses, rights and privileges of a right-of-way in, through, over, under, upon and across the Properties, for the purpose of completing all construction and work under Sections 1 and 2 above and towards this end, reserves the right to grant and reserve easements and rights-of-way in, through, under, over, upon and across the Properties, for the installation, maintenance and inspection of lines and

appurtenances for public or private water, sewer, drainage, cable television, gas and other utilities and for any other materials or services necessary for the completion of the work. Declarant also reserves the right to connect with, maintain, and make use of the utility lines, wires, pipes, conduits, cable television lines, sewers and drainage lines which may from time-to-time be in or along the streets and roads or other areas of the Properties. In addition, Declarant, and any selling agent retained by Declarant, reserves the right to continue to use the Properties and any pavilions, sales offices, maintenance building, model Cottages, Unsold Cottages, signs, and parking spaces located on the Properties in its efforts to market Cottages constructed on the Properties for so long as there are any Unoccupied Lots remaining in the Properties. Declarant further reserves the right to maintain upon the Properties such facilities as may be required, convenient or incidental for the completion of its work under Section 1 above including, without limitation, a business office, storage area, construction trailers, construction equipment and supplies, for so long as there are any Unoccupied Lots remaining in the Properties. This Paragraph may not be amended without the written consent of the Declarant.

Section 5. Easement for Emergency Access. Declarant does hereby establish an easement of ingress and egress over the roadways, walkways, driveways, parking areas and all other Common Areas on the Properties for the benefit of all emergency vehicles and personnel including but not limited to police, fire, and medical purposes.

Section 6. Easement for Repair. The Board, the Association's managing agent, if any, or employee of the Association and any other person authorized by any of the foregoing, shall have, and the Common Areas shall be subject to, an easement in, to and through the Common Areas or any portion thereof in favor of the foregoing persons, (a) to operate, maintain, repair, alter, rebuild, restore and replace any of the Common Areas, including, without limitation, the maintenance of any sign identifying the Association located at the entrance thereto and any advertising and/or directional signs and (b) to perform any of their respective duties in accordance with the By-Laws.

Section 7. Rights of Access in Favor of the Association. Each Member shall afford to the Association, any managing agent and/or any other person authorized by any of the foregoing a right of access to his or her Cottage on reasonable notice at reasonable hours, on any day except Sundays and holidays (except that in an emergency situation such notice need not be given) for the purposes of performing any work required of the Association under this Declaration or the By-Laws of the Association.

Section 8. Future Easements. Declarant shall retain the right, so long as there are any Unoccupied Lots on the Properties, to place any easements in, to or under the Properties which Declarant shall deem necessary for the benefit of the Association and its Members.

ARTICLE VI. COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of Personal Obligation. The Declarant, for each Unoccupied Lot then subject to the Declaration of Covenants, Restrictions, Easements, and Charges owned by it within the Properties, hereby covenants and each Cottage Owner occupying a Lot by entering into a Ground Lease therefore or by purchasing the improvements thereon, whether or not it shall be expressed in any such Ground Lease or other conveyance, shall be deemed to covenant and agree,

to pay to the Association such Common Expenses as are fixed by the Association's Board of Directors and assessed to the Cottage Owners as hereinafter provided. All sums assessed by the Association but unpaid, and all interest thereon and cost of collection thereof as hereinafter provided, shall constitute additional Assessments, and shall be a personal obligation of the person who was the Cottage Owner of such Cottage at the time when the Common Expenses fell due.

Section 2. Purpose of the Assessment. The Common Expenses levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Properties and in particular for the improvement and maintenance of properties, services and faculties devoted to this purpose and related to the use and enjoyment of the Common Areas and of the Cottages situated upon the Properties, including, without limiting the foregoing, the payment of taxes (if any), insurance thereon, and repair, replacement and additions thereto, and the cost of labor, equipment, materials, services, management and supervision thereof.

Section 3. Basis for Assessments. The Association's Board of Directors shall, from time to time, but at least annually, fix and determine the budget representing the sum or sums necessary and adequate for the continued operation of the Association and shall send a copy of the budget and any supplement to the budget to each Cottage Owner prior to assessing the Cottage Owner's thereon.

Unless otherwise decided by the Board, the Board shall send a copy of the budget to each Cottage Owner prior to December 15th of each year.

The Board shall determine the total amount required, including the operational items such as insurance, repairs, reserves, maintenance and other operating expenses, as well as charges to cover any deficits from prior years and capital improvements approved by the Board. The total annual requirements and any supplemental requirements shall be allocated between, assessed to and paid by the Cottage Owners as follows:

Each Cottage Owner shall pay a portion of said requirements, the numerator of which shall be one (1) and the denominator of which shall be equal to the number of Lots on the Properties then subject to this Declaration. Declarant's obligation for such Common Expenses on Unoccupied Lots subject to this Declaration will be limited to the difference between the actual operating costs of the Association, including reserves on completed portions of the Common Areas, and the Common Expenses levied on the Cottage Owners based on a full occupancy full completion budget of all Cottages and Unoccupied Lots then subject to the Declaration. As used herein, the term "full occupancy budget" means the budget set forth in the CPS-7 Application as the same may be amended which reflects the expenses for a fully completed and fully occupied Properties. In no event, however, will the Declarant be required to make a deficiency contribution in an amount greater than it would otherwise be liable for if it were paying full assessments on Unoccupied Lots for the Unoccupied Lots then subject to the Declaration of Covenants and Restrictions. The amount of any deficiency shall not include uncollected maintenance charges from Cottage Owners and bad debit expenses. Any surplus funds, except reserve funds, shall be applied to reduce any deficiency in subsequent years. The sum due the Association from each individual Cottage Owner shall constitute a Common Expense of the Board of Directors and unpaid Common Expenses shall constitute the personal obligation of the Cottage Owner.

Section 4. Common Expenses. Unless the Board of Directors otherwise decides, each Owner shall pay:

(i) A monthly maintenance and improvement reserve payment of fifty dollars (\$50) to be held in the Reserve Account. Said amount will be increased annually as of the first day of each calendar year, commencing with the year 2023, by an amount equal to 2.5% of the like amount applicable in the preceding calendar year.

(ii) A common services assessment for the costs associated with the rents payable under the Ground Lease covering the Common Areas, and providing services and utilities and repair and maintenance as described in Article IV Section 2. In addition, such assessment will include the costs associated with insurance, hereinafter described in Article VII.

(iii) A special assessment for any resulting shortfall in the event that the Board of Directors reasonably determines that major (costing in excess of ten thousand dollars (\$10,000) in the aggregate) repairs and/or replacements are required in connection with any aspect of the Cottage Community that are not the specific responsibility of one of the Owners, and the Board of Directors reasonably determines that the balance in the Reserve Account does not contain sufficient funds to pay for the same. In no event may another special assessment be imposed within three years of the prior special assessment, unless otherwise agreed in writing by all Owners. Said amount constituting major repairs and/or replacements will be increased annually as of the first day of each calendar year, commencing with the year 2023, by an amount equal to 2.5% of the like amount applicable to the preceding calendar year.

Section 5. Due Dates; Duties of the Board of Directors. All Common Expenses shall be payable in advance as ordered by the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the Common Expenses against each Cottage and shall prepare a roster of the Cottages and Common Expenses applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Cottage Owner.

Unless the Board of Directors otherwise decides, the following common expenses shall be payable on the following schedules:

(i) The Owner shall pay the monthly maintenance and improvement reserve payment and the common services assessment, as respectively described in Section 4 (i) and (ii) of this Article, in four equal installments on the 15th day of January, April, July and October of each year.

(ii) The Owner shall pay a special assessment, as described in Section 4 (iii) of this Article, in two equal installments, with the first such installment being due and payable on the first day of the month that is the third full month following delivery of notice of such imposition, and the second such installment being due and payable on the first day of the month that is nine full months following delivery of such notice of imposition.

Section 6. Date of Commencement and Notice of Assessments. The Assessments provided for herein shall commence on the day a Ground Lease for the leasehold interest to the Common Areas is entered into between the Declarant and the Association, or such other date as may be determined by the Declarant. In the event Assessments do not commence at the time of the first sale of a Cottage on a Lot, each Owner shall be notified by the Declarant or the managing agent, if any, in writing at least ten (10) days prior to the commencement of Assessments.

Section 7. Change in the Basis of Assessments. The Association may change the basis of determining the Assessments by obtaining the consent of Owners by an affirmative vote of not less than sixty-seven percent (67%) of all Members whose Cottages are then subject to the Declaration at a regular or special meeting of Members, excluding those of the Declarant, except that until the earlier of: (i) ten years from the first annual meeting of the Association or (ii) such time that there are no Unoccupied Lots remaining in the Properties, any change in the basis of Assessments which adversely affects a substantial interest or right of the Declarant with respect to Unsold Cottages and/or Unoccupied Lots shall require the specific prior written consent of the Declarant, which consent shall not be unreasonably withheld.

Written notice shall be sent at least ten (10) and not more than fifty (50) days in advance of the date or initial date set for a vote to change the basis of determining Assessments to all Members. A written certification of any such change shall be executed by the Board and recorded in the office of the Yates County Clerk.

Any change in the basis of Assessments shall be equitable and nondiscriminatory.

Section 8. Effect of Non-Payment of Assessment, The Personal Obligation of the Cottage Owner; Remedies of the Association. If a Common Expense is not paid on the date when due, as fixed by the Board of Directors, then such Common Expense shall become delinquent and all interest thereon and cost of collection thereof as hereinafter provided, shall constitute additional Assessments, which shall bind such Cottage Owner, his heirs, devisees, personal representatives and assigns.

In the event any Cottage Owner fails to make payment of a Common Expense, the Cottage Owner who owns such Cottage shall be obligated to pay (a) a "late charge" equal to the lesser of 3% of the amount then due or \$25, if such amount remains unpaid for more than ten (10) days from their due date (although nothing herein shall be deemed to extend the period within which such amounts are to be paid) and (b) interest at the rate of 2% per month (but in no event in excess of the maximum rate permitted by law) on such unpaid amounts (less any "late charges" or "returned check fees" theretofore collected on such amounts) computed from the due date thereof, and (c) all expenses, including, without limitation, attorneys' fees paid or incurred by the Board or by any managing agent in any proceeding brought to collect such unpaid Common Expense arising from said unpaid Common Expense in the manner permitted by applicable law. In the event any Cottage Owner's failure to make payment is the result of a returned check due to insufficient funds in the Owner's bank account, the Cottage Owner shall be obligated to pay a "returned check fee" of forty dollars (\$40) for each returned check. All such "late charges," interest, expenses and "returned check fees" shall be added to and shall constitute Common Expenses payable by such Cottage Owner. The Board (on behalf of the Cottage Owners) shall have the right to bring an action to recover a money judgment for unpaid Common Expenses.

An owner delinquent in his or her financial obligations to the Association shall not be permitted to vote at any meeting of Owners and shall not be able to use the Common Areas other than for ingress and egress from his or her Cottage.

Section 9. Notice of Default. The Board, when giving notice to an Owner of a default in paying Assessments, must provide timely written notice to the Permitted Mortgagee of such default. The Mortgagee shall have the right to cure the Owner's default with respect to the payment of said Assessments at any time prior to the time title is conveyed pursuant to Section 1 of this Article.

Section 10. No Exemption or Waiver of Assessments. Every Owner shall pay the Assessments assessed against his or her Cottage and/or Lot when due and no Owner may exempt himself or herself from liability for the payment of Assessments so assessed by waiver of the use or enjoyment of any of the facilities or the Property or by the abandonment of his or her Cottage and/or Lot. However, no Owner shall be liable for the payment of any Assessments accruing subsequent to a sale, transfer or other conveyance by him or her of such Cottage made in accordance with the provisions of this Declaration and the By-Laws.

Section 11. Grantee to be Liable with Grantor for Unpaid Assessments. In any conveyance of a Cottage either by voluntary instrument or by operation of law or judicial proceedings, the grantee of the Cottage, and the grantee's successors, heirs and assigns, shall be jointly and severally liable with the grantor for any unpaid Assessments against the latter, assessed and due up to the time of the grant or conveyance without prejudice to the grantee's right to receive from the grantor the amounts paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Board setting forth the unpaid Assessments against the grantor and the grantee shall not be liable for any unpaid Assessments against the grantor in excess of the amount therein set forth.

Section 12. Right to Maintain Surplus. The Association shall not be obligated in any calendar or fiscal year to spend all the sums collected in such year by way of Assessments or otherwise, and may carry forward as surplus any balances remaining; nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the Assessments in the succeeding year, but may carry forward from year to year such surplus as the Board, in its absolute discretion, may determine to be desirable.

Section 13. Assessment Certificates. Upon written demand of an Owner, prospective purchaser, or lessee of a Cottage, the Board, shall, within fifteen (15) days of receipt of such written demand, issue, or provide for the issuance of a certificate in writing, signed by an Officer or designee of the Association, setting forth with respect to such Cottage, as of the date of such certificate: (i) whether all Assessments have been paid; (ii) the amount of such Assessments, including interest, late charges and costs, if any, due and payable as of such date; and (iii) whether any other amounts or charges are owing to the Association, e.g., for the cost of extinguishing a violation of this Declaration, the By-Laws and/or Rules and Regulations.

A reasonable charge, as determined by the Board, may be made for the issuance of such certificates. Any such certificate, when duly issued as herein provided, shall be conclusive and

binding with regard to any matter therein stated as between the Association and any bona fide purchaser or lessee of the Cottage with respect to which such certificate has been issued.

ARTICLE VII. ARCHITECTURAL CONTROL

Section 1. Initial Control by the Declarant. All initial building and landscaping plans and specifications for a Cottage or a Lot shall be approved, in writing, by the Declarant. No construction and/or grading shall commence on any Lot without such approvals. Without limiting the generality of the foregoing, if the Declarant enters into a Ground Lease for a Lot without a Cottage thereon, then prior to the grantee, its successors or assigns commencing construction of a Cottage or other improvement or beginning any landscaping on such Lot, plans and specifications must be approved in writing by the Declarant, in the Declarant's sole discretion.

Section 2. Control by Association. No improvements or change in use, or any additions, modifications or alterations to any existing improvements shall be made on any Lot without the prior written approval of the Board of Directors or any Architectural Committee.

Section 3. Requirements. Each Lot that is ground leased by the Declarant to a third party must include a Cottage, attached garage and approved landscaping. Only one outbuilding will be allowed on each Lot that is ground leased by the Declarant to a third party. However, on larger Lots (equal to or larger than six thousand square feet), the Board or Committee may permit a second outbuilding as long as such additional outbuilding will not be detrimental to the maintenance of the Properties. As used herein, the term "outbuilding" means and refers to any structure in excess of two feet tall, other than an approved stairway, deck or garage. Any purchase and installation of a Cottage on a Lot by a party other than the Declarant must be from the Board or Committee approved vendor.

Section 4. Submission of Plans. No building, deck, patio, fence, sign, statuary, wall or other structure, or change or alteration to the exterior of the Cottages or color of the Cottages or in the landscaping shall be commenced, erected, replaced, repaired or maintained upon the Properties, nor shall any exterior addition to, or change or alteration thereto, be made until the plans and specifications showing the nature, kind, shape, height, materials, color, means of implementation and locations of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by an architectural or landscaping committee composed of three or more representatives appointed by the Board as detailed in Article XVI, Section 3 of the Association By-Laws. All construction and other work within the Properties must be performed by contractors and/or subcontractors approved by the Board or architectural or landscaping committee in writing. To request approval by the Board or architectural or landscaping committee an Owner must submit reasonably detailed information regarding all aspects of the proposed installation.

Section 5. Written Notification of Approval or Disapproval. The Board or committee must respond within forty-five (45) days of such submission with either written approval or denial. The Board or Committee must provide reasons for any denial with a list of corrective changes that could lead to approval, where approval is deemed to be ultimately possible.

Section 6. Failure of the Board or Any Architectural Committee to Act. If any applicant has not received notice from the Board or any Architectural Committee approving (including qualified approval) or disapproving any plans within forty-five (45) days after submission pursuant to Section 3 hereof, said applicant may notify the Board in writing of a demand for a decision on the plans submitted. Such notice shall be sent by certified mail, return receipt requested. The plans shall be deemed approved by the Board or any Architectural Committee twenty (20) days after the date of receipt of such notice by the Board, if no decision is rendered by the Board or any Architectural Committee within said twenty (20) day period.

Section 7. Liability. No action taken by the Board, any Architectural Committee, any member of a committee, employee or agent thereof, shall entitle any person to rely thereon, with respect to conformity with laws, regulations, codes or ordinances, or with respect to the physical or other condition of any Cottage or other portion of the Property. Neither the Association, the Board, the Architectural Committee nor any member, committee member, employee or managing agent shall be liable to anyone submitting plans to them for approval or to any Owner or any other person, in connection with a submission of plans, or the approval or disapproval thereof, including without limitation, mistakes in judgment, negligence or nonfeasance. Every person or other entity submitting plans to the Board agrees, by submission of such plans to defend, indemnify and hold harmless the Association and the Board (and any officer, member of a committee, employee or managing agent thereof) from any action, proceeding, suit or claim arising out of, or in connection with, such submission.

Section 8. Completion of Work by the Board. In the event the Board deems it necessary to complete work previously commenced by an Owner, or to otherwise protect the appearance, value or structural integrity of a Cottage or the Lot, the cost for the completion of such work shall become a binding personal obligation of an Owner and an additional Assessment payable by such Owner, subject to the provisions of Article VI herein.

The provisions of this Article shall not apply to Declarant.

ARTICLE VIII. INSURANCE

Section 1. Common Areas. (a) The Board shall be required to obtain and maintain, to the extent obtainable and to the extent determined by the Board to be appropriate, the following insurance:

(i) fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements, insuring all of the Buildings owned by the Association, including contents therein, in an amount equal to the full replacement value of the Building owned by the Association;

(ii) workers' compensation and New York State disability benefits insurance for any employees;

(iii) fidelity insurance covering all officers, Board members, directors and employees of the Association and of the managing agent or agents who handle funds of the Association;

- (iv) directors' and officers' errors and omissions insurance; and
- (v) such other insurance as the Board may determine.

The premiums for all insurance referred to above and for the liability insurance referred to below shall be a Common Expense and shall be borne equally by the Members.

(b) The Board shall also be required to obtain and maintain, to the extent obtainable, comprehensive general liability insurance against claims for personal injury, death or property damage occurring upon, in or about the Common Areas and in such limits as the Board may from time to time determine, covering the Board, any managing agent appointed by the Board, each Board member and each Association Member and any lessee, occupant and family member. Until the first meeting of the Board of Directors following the first annual Cottage Owners meeting, such public liability insurance shall be in a single limit of \$1,000,000 covering all claims for bodily injury and for property damage arising out of one occurrence. Such public liability insurance shall commence on the date of the execution of the first Ground Lease for a Lot in the Properties.

(c) The Board shall provide timely written notice to the Permitted Mortgagee of any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

(d) Members shall not be prohibited from carrying other insurance for their own benefit, at their own expense, and the Board shall not be prohibited from carrying additional insurance, provided that any such policies shall contain waivers of subrogation, and further provided that the liability of the carriers issuing insurance obtained by the Board shall not be affected or diminished by reason of any such additional insurance carried by any Member.

Section 2. Notice of Fire or Other Casualty or Condemnation. In the event that a material portion of the Common Area or any part thereof is damaged or destroyed by fire or other casualty or is condemned, the Board shall provide timely written notice to the Permitted Mortgagee.

Section 3. Proceeds and Awards. Cottage owner or any other party has priority over any rights of the Permitted Mortgagee of the Cottage pursuant to its mortgage in the case of payment to the Cottage owner of any insurance proceeds or condemnation awards for losses or a taking of the Cottage and or Common Areas.

Section 4. Repair or Reconstruction of Common Area after Fire or Other Casualty or Condemnation. In the event that the Common Area or any part thereof is damaged or destroyed by fire or other casualty the Board will arrange for the prompt repair and restoration thereof and the Board, or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. If the insurance proceeds are less than sufficient to cover, or exceed, the cost of repairs and restoration, the deficit or surplus, as the case may be, will be borne equally by all Cottage Owners as a Common Expense or shared equally by all Cottage Owners, except that the

amount of any surplus payable to any Member pursuant to this Section 3 shall be lessened by the amount of any unpaid Common Expense against such Cottage Owner.

ARTICLE IX. USE OF PROPERTY

The use of a Cottage by a Member or other occupant shall be subject to the rules, regulations and provisions of this Declaration, the By-Laws and any Rules and Regulations of the Association as they may be added to or promulgated by the Board of Directors and the following covenants and restrictions:

(a) The Cottage and any area restricted to the Member's use shall be maintained in good repair and overall appearance.

(b) Any Member who mortgages or sells his Cottage shall immediately notify the Board of Directors providing the name and address of his mortgagee or new Cottage Owner.

(c) The Board of Directors shall, at the request of the mortgagee of the Cottage, report any delinquent assessments due from the Owner of such Cottage.

(d) No nuisances shall be allowed upon the Properties nor shall any use or practice be allowed which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents.

(e) No improper, offensive or unlawful use shall be made of the Properties or any part thereof, and all valid laws, zoning ordinances, the regulations of all governmental bodies having jurisdiction thereof, shall be observed.

(f) Regulations promulgated by the Board of Directors concerning the use of the Properties shall be observed by the Members.

(g) The Common Expenses shall be paid when due.

(h) All dogs and cats must be leashed and shall not be permitted to run loose, except dogs may be permitted to run loose in any dog run on the Properties constructed by Declarant or the Association. Cottage Owners shall be responsible for picking up and disposing of their pet's waste and for any damage caused by their pets to the Properties. Owners are only permitted to have up to two animals at their Cottages. Said animals are limited to dogs and cats. Pets may not impact the quiet enjoyment of other Cottage Owners. Fines for violating the foregoing are as follows: first violation — no fine, second violation — failure to pick up and properly dispose of pet waste or permitting pet to run loose, \$75.00, third and subsequent violations will incur a \$150.00 fine per violation.

(i) Posting of signs, advertisements or posters of any kind including "for sale" or "for rent" signs in or on the Common Areas, except as authorized and approved by the Board of Directors, are prohibited. Yard and garage sales are not permitted.

(j) No Cottage Owner shall move, remove, add or otherwise change the landscaping on the Common Area without the consent of the Board of Directors or any Architectural Committee.

(k) No Cottage may be removed from a Lot unless written notice is given to the Board of Directors or any Architectural Committee 30 days prior and the Cottage Owner replaces such removed Cottage within twelve (12) months of the removal with another Cottage subject to approval by the Board of Directors or any Architectural Committee.

(l) No Cottage Owner shall paint the exterior surfaces of windows, exterior facade of the Cottage, walls or doors opening out of his Cottage without the consent of the Board of Directors or any Architectural Committee.

(m) No Cottage Owner shall construct any improvements over the top of any underground service lines without first obtaining written approval from the Board of Directors or any Architectural Committee. No Cottage Owner shall construct any fence on a Lot, or any other structure, which obstructs access to service lines traversing or adjacent thereto.

(n) No person shall park an automobile or otherwise obstruct any Cottage Owner's use of ingress or egress to any driveway, garage, or parking space, nor may any Vehicle be parked on the Common Areas except in designated parking areas. No person shall park an automobile on the septic field as shown on the attached Site Plan. The driveway in front of each garage is restricted in use to the owner of the Cottage in which such garage is located. In addition, no boat, jet ski, trailer, off-track vehicle, camper, bus, truck, snowmobile or other commercial or recreational vehicle (collectively "Vehicles") may be parked in the Common Areas as well as irrevocably restricted areas except for unloading of trucks. No automobiles or Vehicles may be parked out in the open on a Lot unless the vehicle is in daily use and is temporarily parked.

(o) No repair of a Vehicle as referred in (n) above shall be made in any of the roadways, driveways or parking areas on the Common Areas, nor shall such areas be used for storage or overnight parking of any Vehicle as referred to in (n) above, without the written permission of the Board. There shall be no parking of vehicles on the roadways of the Properties.

(p) No person shall be permitted to use the Common Areas except in accordance with the Rules and Regulations established by the Association's Board of Directors.

(q) The Common Areas shall not be obstructed, littered, defaced or misused in any manner.

(r) Every Member shall be liable for any and all damage to the Common Areas and the property of the Association, which shall be caused by said Member, its permitted lessees and occupants of Cottages, their respective family members and guests and such other person for whose conduct the Member is legally responsible.

(s) Nothing shall be done or kept on the Properties which will increase the rate of insurance of the Common Areas or contents thereof without the prior written consent of the Board. No Member shall permit anything to be done or kept on the Properties which will result in the cancellation of insurance on the Common Areas or which would be in violation of any law.

(t) Declarant shall have the right to display signs for promotional, sales, exhibit and administrative purposes upon any portion of the Common Areas or upon any Unsold Cottage as long as there are any Unoccupied Lots on the Properties. Declarant shall have the right, the foregoing notwithstanding, to place permanent signs on Cottages of its choice, at sites chosen by Declarant. Declarant shall also have the right to install fencing and walls on the Cottages at perimeter sites chosen by Declarant. No Cottage Owner (other than Declarant) or tenant or other person on the premises shall remove, alter, change, interfere with or tamper with, in any way, said signs, walls or fences, which shall be maintained in good condition by the Association and its Board of Directors. The cost of such maintenance shall be treated as a Common Expense.

(u) Internal sidewalks and roadways shall be maintained by the Association, including the removal of snow. The cost of maintenance (snow removal from Common Areas) shall be a common expense and shall be included in the Assessments.

(v) The agents of the Board of Directors or the managing agent, and any contractor or workman authorized by the Board of Directors or the managing agent, may enter any Cottage at any reasonable hour of the day, or in the event of emergency, for the purpose of performing any work authorized pursuant to the Declaration and By-Laws of the Association.

(w) Keys:

- The Board of Directors or the managing agent may retain a pass-key to each Cottage for the purpose of performing any work authorized pursuant to the Declaration and By-Laws of the Association. The Cottage Owner shall not alter any lock or any door leading to his or her Cottage without the written consent of the Board of Directors or the managing agent. If such consent is given, the Board of Directors or the managing agent shall be provided with a key.
- If any key or keys are entrusted by a Cottage Owner or occupant or by his agent, servant, employees, licensee or visitor to any employee of the Board of Directors, whether for such Cottage or an automobile or other kind of personal property, the acceptance of the key shall be at the sole risk of such Cottage Owner or occupant, and the Board of Directors shall not be liable for injury, loss or damage of any nature whatsoever directly or indirectly resulting therefrom or connected therewith.

(x) **Vehicle Registration:** All Cottage Owners will be required to register each of their vehicles with the Board of Directors.

(y) Explosives: No Cottage Owner or any of his agents, servants, employees, licensees or visitors shall at any time bring into or keep in his Cottage any flammable, combustible or explosive fluid, material, chemical or substance, except for normal household use.

(z) Lakefront pavilion: No person shall be permitted to use the Lakefront pavilion except in accordance with the Rules and Regulations established by the Board of Directors. Limitations on number of guests may be imposed as determined by the Board of Directors. One or more Owner may reserve the pavilion for private use subject to the Rules and Regulations established by the Board of Directors. Unless the Board of Directors otherwise decides, reservation of the pavilion for private use must be for a specific period not to exceed three hours. Any applicable charge as determined by the Board of Directors must be paid at the time such reservation is booked and will be kept in the Reserve Account. Any use of the Lakefront area must not prohibit access to and use of any boat slips or watercrafts there stored.

(aa) Boat slips: Use of the boat slips shall be in accordance with the Rules and Regulations established by the Board of Directors. Declarant intends to provide up to twenty-nine (29) boat slips, however, Declarant cannot proceed with the installation of boat slips unless and until they are approved by the appropriate governmental agencies having jurisdiction over the Properties. The final number of boat slips constructed by Declarant, which may be fewer than 29 boat slips, will be determined by such governmental approvals. Each boat slip will either be 1) provided to all Cottage Owners if 29 boat slips are approved, with the costs of upkeep covered by the monthly HOA fees; or 2) to the extent fewer than 29 boat slips are approved, provided on a first-come, first serve basis to Cottage Owners based upon the date of signing of their contract of sale for a Cottage, with a monthly surcharge fee to each Cottage Owner with rights to use a boat slip. All boat slips will be HOA property.

(bb) The Board shall have the power to make such Rules and Regulations as may be necessary to carry out the intent of these use restrictions, and shall have the right to bring lawsuits to enforce the Rules and Regulations promulgated by it. Upon receipt, by the President of the Board of Directors or by the managing agent, of a signed written complaint alleging violation of any of the By-Laws or Rules as herein established or hereafter established or adopted by the Board of Directors, the President of the Board, or in his absence, the Vice President together with any two (2) members of the Board, without a formal meeting of the Board, shall make a determination as to the validity of the complaint. If in their determination the complaint is valid and justified the managing agent or Board member, if no agent, shall be directed to send written notice of such violation to the violator. If the violation is not corrected or eliminated within a period of three (3) days from the date of receipt of such notice, another notice will be sent levying a \$100.00 fine upon the violator. Such fine is to be considered as an additional assessment to the account of the violator and shall be treated as such regarding late penalties as elsewhere provided. If after imposition of a fine the violation is not corrected or eliminated, the Board of Directors may assess additional fines of \$100.00 each after serving written notice upon the violator as provided for above. If the violation results in loss of or damage to property classified as Common Area, the Board of Directors shall direct the Managing agent or the

Board, if no managing agent, to have said loss or damage repaired or replaced, and the actual cost of said repair or replacement shall be assessed to said violator as an additional assessment.

Any costs incurred by the Board of Directors to remedy or cure any violation of these By-Laws, the Rules or Regulations as herein or hereafter established, shall be an assessment charged to the violator in addition to the fifty dollar (\$50.00) fine(s) levied upon the violator. Fines may be levied against a Cottage Owner's tenant, and the Cottage Owner shall be jointly and severally liable with his tenant for the payment of same. In the event the Association institutes legal action for the collection of any fines, then the defendant shall be responsible for payment of attorney's fees of the Association plus interest and costs of suit.

The foregoing provisions shall not apply to Declarant unless required: (a) to comply with applicable municipal laws or regulations, or (b) to remedy any notice of violation. In the event it becomes necessary for Declarant to enforce any provisions of this Declaration, the By-Laws, Rules or Regulations, such Cottage Owner, tenant guest, or occupant will be required to reimburse Declarant or the Board for any costs incurred in connection herewith, including attorney's fees. The Cottage Owner shall at all times be and remain responsible for his tenant's actions or omissions.

ARTICLE X. DURATION, ENFORCEMENT AND AMENDMENT OF DECLARATION

Section 1. Duration and Amendment. This Declaration shall continue until April 24, 2121, unless otherwise expressly limited herein, after which time, said covenants and restrictions shall be automatically extended for ten (10) years, unless an instrument signed by sixty-seven (67%) percent of the Members, then subject to the Declaration, has been recorded, agreeing to change said covenants and restrictions in whole or in part.

Unless earlier terminated by the Members as currently provided, the Declaration will cease to be binding and effective at such time as the Ground Lease of the Common Areas ceases to be effective.

Unless specifically prohibited or different requirements are provided herein, this Declaration may be amended by an instrument signed by Members holding not less than sixty-seven (67%) percent of the then existing membership. Any amendment must be properly recorded to be effective.

Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition or deletion of, to or from this Declaration, the By-Laws or any Rules and Regulations shall be effective in any way against Declarant or its designee or any Unsold Cottage or Unoccupied Lot, as long as there are Unoccupied Lots on the Properties, unless Declarant has given its prior written consent thereto.

Declarant hereby reserves the right to amend, modify, add to or delete from this Declaration at any time without the requirement of obtaining the approval, consent or signature of the Board or any Members for the purpose of making any technical corrections or additions or any other changes that do not materially and adversely affect the Owners and their respective Permitted Mortgagees. Such amendment, modification, addition, or deletion of, to or from this Declaration,

duly executed, in form for recording, shall be recorded by Declarant against the Properties and theretofore subject to this Declaration.

Section 2. Declaration Runs with the Land, Enforceability. The covenants and restrictions of this Declaration shall run with, and bind the land, and shall inure to the benefit of, and be enforceable by the Association, any Member, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, by actions at law or by suits in equity. The easements, licenses, rights and privileges established and created with respect to the Properties by Section 3 of Article V shall be perpetual, run with the land, and shall survive any destruction, reconstruction and relocation of the physical structure, unless said provision is abrogated by the unanimous written consent of all the Members.

As it may be impossible to measure monetarily the damages which may accrue to the beneficiaries hereof by reason of a violation of this Declaration, and monetary damages will not adequately compensate for violations of this Declaration, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof,

In addition, or as an alternative, to an action at law or suit in equity, the Board may, with respect to any violation of this Declaration or the By-Laws or Rules and Regulations of the Association, and after affording the alleged violator a reasonable opportunity to appear and be heard, establish monetary and non-monetary penalties, the amount and/or severity of which shall be reasonably related to the violation and to the aim of deterring similar future violations by the same or any other person. Monetary penalties imposed against an Owner or occupant shall be deemed an Assessment against the Cottage of such Owner or against the Cottage occupied by such occupant, and, as such, shall constitute a personal obligation of the Owner and shall be collectible in the same manner as Assessments under Article VI of this Declaration. The Owner of a Cottage is solely responsible for the actions of the occupant(s) of such Cottage.

Each person or entity becoming a ground lessee of a Lot, or acquiring an interest in a Cottage or other portion of the Property, or otherwise occupying any portion of the Property (whether or not the instrument of transfer incorporates or refers to this Declaration) covenants and agrees, and for his or her heirs, successors and assigns, to observe, perform and be bound by the provisions of this Declaration, including personal responsibility for the payment of all charges which become due while he or she is the Owner or ground lessee thereof, and also covenants to incorporate this Declaration by reference in lease or other instrument further transferring an interest in such Cottage.

Section 3. No Waiver by Failure to Enforce. The failure of any beneficiary hereof to enforce any provision of this Declaration shall in no event be construed as a waiver of the right by that beneficiary or any other to do so thereafter, as to the same or a similar violation occurring prior or subsequent thereto. No liability shall attach to the Sponsor, the Association (or any officer, director, employee, managing agent, committee, committee member or other Owners) or to any other person or organization for failure to enforce the provisions of this Declaration.

Section 4. Obligation for Cost of Enforcement by Association. If the Board successfully brings an action to extinguish a violation or otherwise enforce the provisions of this

Declaration, the By-Laws or Rules and Regulations promulgated hereunder or thereunder, the costs of such action, including legal fees, shall become a binding, personal obligation of the violator. Each Owner is responsible for the costs of such action regardless of whether the violator is the Owner, a member of the Owner's family, guest, Lessee, licensee or invitee.

ARTICLE XI. COMPLIANCE AND ARBITRATION

Section 1. Compliance with the Rules of the Association. Pursuant to this Declaration and the By-Laws, should any Owner, members of such Owner's family, his or her employees, guests, lessees, licensees or other invitees fail to comply with any of the provisions of this Declaration, the By-Laws, the Certificate of Incorporation or the Rules and Regulations, and as such may be amended from time to time, the following procedures may be followed to obtain compliance:

(a) A committee of three (3) people shall be appointed by the Board and designated the Compliance Committee to serve at the pleasure of the Board.

(b) The Compliance Committee shall first undertake to obtain compliance informally, by discussing the violation or violations with the Owner of the Cottage responsible for the violator, and seeking to obtain future compliance or cessation of the ongoing violation or violations.

(c) Should this informal procedure prove unsatisfactory or not secure future compliance, the Compliance Committee shall then send a written notice to the violator, and if such person is not an Owner, to the Owner who brought such person onto the Property, notifying him of the claimed violation, requesting, as the case may be, either a correction of the violation, or an assurance that a similar violation will not occur in the future. Such notice shall establish a date for compliance.

(d) Should such notice obtain the requested compliance that will dispose of the matter, unless the same or a similar violation thereafter reoccurs.

(e) Should such notice not obtain the requested compliance within the time requested, the Compliance Committee shall then be authorized, at its discretion, to establish a monetary and/or non-monetary penalty, the amount and/or severity of which shall be reasonably related to the violation and to the aim of deterring similar violations in the future by the same or any other person. Such monetary penalties shall become a binding personal obligation of the violator, if an Owner, or the Owner responsible for such violator, if an Owner, or the Owner responsible for bringing such violator onto the Property. Failure to correct the condition or situation which leads to the first monetary, for a period of twenty (20) days after the initial monetary penalty becomes finally due and payable, shall constitute a second offense. Notice of the imposition of such monetary penalty or penalties shall be by certified mail, return receipt requested, to the violator and/or the Owner responsible for such violator, and shall be paid to the Association within (10) days following the date of the mailing of such notice, unless the violator, if an Owner, or the Owner responsible for such violator, requests the right to arbitrate the matter before the Arbitration Committee, as hereinafter set forth, within said ten (10) days. Should the monetary penalty not be paid within the ten (10) days, or if a request to arbitrate is not received

within the said ten (10) days, the amount of the fine shall be added to the Owner's Assessment on the first of the month following the termination of the ten (10) day period above set forth, and shall be collectible as such.

(f) The Arbitration Committee shall consist of the President of the Board, as Chairman of the Committee, and two (2) other Members who shall be appointed by the Board to serve at the pleasure of the Board.

(g) Should the violator, or the Owner responsible for the violator, request the right to arbitrate the imposition or amount of a monetary penalty, as above set forth, he or she shall do so in writing, directed to the Board, within ten (10) days of his or her receipt of notice sent by certified mail, return receipt requested, of the imposition of said monetary penalty. The Board shall promptly forward the same to the Arbitration Committee, which shall meet within twenty (20) days thereafter, on notice to the alleged violator, to hear and dispose of the matter. At such hearing, the alleged violator and/or the Owner responsible for such violator, and one (1) or more members of the Compliance Committee may be present and be heard. A decision on the matter shall be made by the Arbitration Committee, by a majority vote, within ten (10) days following said hearing, and shall be promptly communicated to the alleged violator and/or the Owner responsible for such violator, in writing. If the decision of the Arbitration Committee is to uphold the determination of the Compliance Committee, the provision relating to the payment and enforcement thereof set forth in Subparagraph (e) above shall apply. If their decision is in favor of the alleged violator, no fine will be imposed. The decision of the Arbitration Committee shall be final and binding upon all parties.

(h) In the event the violator is a person other than an Owner or member of such Owner's immediate family, copies of all notices required to be given, shall also be given to the violator under this Declaration, the By-Laws or the Certificate of Incorporation.

ARTICLE XII. GENERAL PROVISIONS

Section 1. Beneficiaries of Easements, Rights and Privileges. The easements, licenses, rights or privileges established, created and granted by this Declaration shall be for the benefit of and restricted solely to, the Declarant, the Association and the Owners of Cottages and Unsold Cottages constructed on the Properties; and any Owner may also grant the benefit of such easement, license, right or privilege to his tenants and guests and their immediate families for the duration of their tenancies or visits, subject in the case of the Common Areas to the Rules and Regulations of the Board of Directors, but the same is not intended nor shall it be construed as creating any rights in or for the benefit of the general public. This Declaration, and the rights of any and all parties claiming under it, are expressly made subject to any and all matters of record affecting such rights, including the rights of certain neighboring lot owners to use the waterfront area comprising a part of the Properties and the right of the adjacent Showboat Motel property to use a portion of the Properties for a septic field, as well as the continuing rights of the public to use Ulster Road. Nothing herein is intended to create, supplement or enhance any such rights of third parties as may actually exist on the date hereof, or to create any rights incidental thereto.

Section 2. Dissolution of Association. Any action to dissolve the Association after substantial destruction or condemnation or for other reasons must be agreed to by Permitted

Mortgagees that represent at least fifty-one percent (51%) of the votes of the Cottages subject to mortgages. The Board shall provide timely written notice of any such action to the Permitted Mortgagee.

Upon dissolution of the Association, its real and personal assets, including the Common Areas, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. In the event such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. No such disposition of the Association properties shall be effective to divest or diminish any right or title to any Member vested in him under the licenses, covenants and easements of this Declaration, or under any subsequently recorded covenants, deeds or other documents applicable to the Properties, except as may be otherwise provided in this Declaration or said covenants, deeds or other documents, as the case may be, nor shall any other party under any such deeds, covenants or other documents be deprived of any rights thereunder on account of such disposition.

Section 3. **Notices.** Any notice required to be sent to any Member or Cottage Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by certified mail return receipt requested, postpaid, to the last known address of the person who appears as Member or Cottage Owner on the records of the Association at the time of such mailing.

Section 4. **Administration.** The administration of the Association shall be in accordance with the provisions of the Association By-Laws which are made a part of this Declaration and attached hereto as Exhibit B.

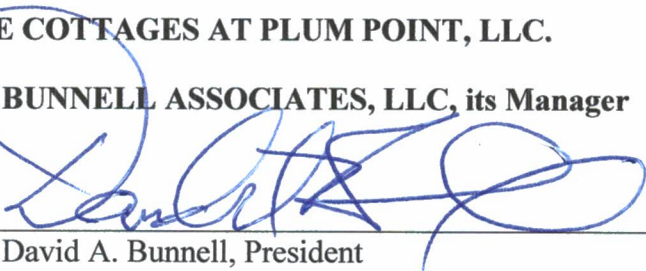
Section 5. **Severability.** Invalidity of any of the covenants, limitations or provisions of this Declaration by judgment or court order shall in no way affect any of the remaining provisions hereof and the same shall continue in full force and effect.

[Signatures continue on the following page]

DECLARANT:

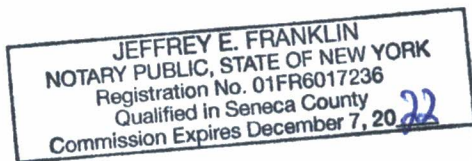
THE COTTAGES AT PLUM POINT, LLC.

By: BUNNELL ASSOCIATES, LLC, its Manager

By: 
David A. Bunnell, President

STATE OF NEW YORK)
 : ss.:
COUNTY OF ONTARIO)

On the 25th day of April, in the year 2022, before me, the undersigned, personally appeared DAVID A. BUNNELL, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



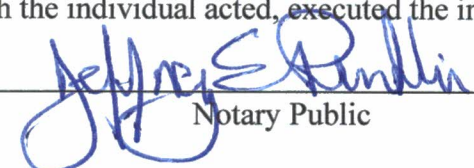

Notary Public

EXHIBIT A

Legal Description

Being the following-described 8.07-acre tract of land located in the Town of Milo, Yates County, New York, to wit:

Beginning at a point in the centerline of Plum Point Road marking the southwest corner of land now or formerly owned by Harold L. and Judith J. Sexton, as recorded in the Office of the Yates County Clerk in Liber 434 of Deeds at Page 296, and running thence the following courses and distances along the centerline of Plum Point Road;

- 1) N 73-12-00 W, for a distance of 116.59 feet to a point,
- 2) Westerly, along a curve to the left, having a delta angle of 24-25-10 and a radius of 875.00 feet, for an arc length of 372.93 feet to a point and
- 3) S 82-22-50 W, for a distance of 356.41 feet to a point marking a corner of land now or formerly owned by Jamie L. and Kevin J. Howell, as recorded in Liber 669 of Deeds at Page 102, thence the following courses and distances along land now or formerly owned by said Howell;
- 4) N 05-29-50 E, and passing through an iron pipe 25.41 feet distant and continuing on the same course, and passing through an iron pipe 422.16 feet distant and continuing on the same course 15.00 feet distant farther, comprising a total distance of 462.57 feet to a point and
- 5) S 86-26-30 E, for a distance of 125.14 feet to a point marking the southwest corner of land now or formerly owned by Jack D. Brown and David B. Hoey, as recorded in Liber 318 of Deeds at Page 115, thence the following courses and distances along land now or formerly owned by said Brown and Hoey;
- 6) S 76-58-11 E, for a distance of 314.12 feet to an iron pipe and
- 7) S 85-30-00 E, for a distance of 379.74 feet to a point marking the northwest corner of land now or formerly owned by Dennis J. Sweeney, as recorded in Liber 575 of Deeds at Page 160, thence;

8) S 04-30-00 W, along the west line of land now or formerly owned by said Sweeney, for a distance of 110.24 feet to a point, thence;

9) S 85-30-00 E, along the south line of land now or formerly owned by said Sweeney, along the south line of land now or formerly owned by one Dahlhaus, as recorded in Liber 529 of Deeds at Page 63, along the south line of land now or formerly owned by Anchorstar, as recorded in Liber 618 of Deeds at Page 108, and along the south line of land now or formerly owned by one Conner, as recorded in Liber 175 of Deeds at Page 294, for a total distance of 469.84 feet to a point, thence the following courses and distances along land now or formerly owned by said Conner,

10) N77-42-00 E, for a distance of 31.50 feet to a point and

11) N 04-30-00 E, for a distance of 101.14 feet to an iron pipe in the south line of land now or formerly owned by the aforementioned Jack D. Brown and David B. Hoey, as recorded in Liber 318 of Deeds at Page 115, thence the following courses and distances along the south line of land now or formerly owned by said Brown and Hoey;

12) S 85-30-00 E, for a distance of 109.05 feet to a point and

13) N 83-51-10 E, for a distance of 45.79 feet to a point in the shoreline of Seneca Lake, thence the following courses and distances along the shoreline of Seneca Lake;

14) S 24-26-00 E, for a distance of 60.45 feet to a point,

15) S 77-31-00 W, for a distance of 14 feet, more or less, to a point and

16) Southerty, for a distance of 92 feet, more or less, to a point marking the northeast corner of land now or formerly owned by Kathleen A. Cotter, as recorded in Liber 564 of Deeds at Page 205, thence;

17) N 85-37-50 W, along the north line of land now-or formerly owned by said Cotter, and passing through an iron pin 11 feet, more or less, distant and continuing on the same course, and passing through an iron pin 41.30 feet distant and continuing on the same course, and passing through an iron pin 64.20 feet distant and continuing on the same course 19.50 feet distant farther, comprising a total distance of 136.00 feet, more or less, to an iron

pin marking the northeast corner of land now or formerly owned by Theron L. Smith, as recorded in Liber 537 of Deeds at Page 61, thence;

18) N 88-58-26 W, along the north line of land now or formerly owned by said Smith and along the north line of land now or formerly owned by the aforementioned Harold L. and Judith J. Sexton, for a total distance of 553.35 feet to an iron pin, thence;

19) S 06-16-48 W, and continuing along the west line of land now or formerly owned by said Sexton, and passing through an iron pin 170.00 feet distant and continuing on the same course 31.38 feet distant farther, comprising a total distance of 201.38 feet to the point and place of beginning, comprising an area of 8.07 acres, more or less.

Which 8.07-acre tract of land is the same land that was conveyed to Grantor (formerly known as Plum Point Village, LLC) by Robert C. and Taryn P. Draxler by Deed dated January 31, 2019 and recorded at Liber 748, Page 332.

EXHIBIT B

BY-LAWS

OF

**THE COTTAGES
HOMEOWNERS' ASSOCIATION, INC.**

NIXON PEABODY, LLP

Attorneys for Sponsor
c/o Erica F. Buckley, Esq.
677 Broadway, 10th Floor
Albany, New York 12207

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BY-LAWS
OF
THE COTTAGES HOMEOWNERS' ASSOCIATION, INC.

A New York Not-for-Profit Corporation

ARTICLE I. NAME, LOCATION AND PRINCIPAL OFFICE

These are the By-Laws of The Cottages Homeowners' Association, Inc. hereinafter referred to as the "Association". The principal office of the Association shall be located in the City of Geneva, County of Ontario, and State of New York.

ARTICLE II. DEFINITIONS

The following words when used in these By-Laws shall, unless the context otherwise prohibits, have the meanings set forth below. All capitalized terms not otherwise defined herein shall have the same meaning as in the Declaration.

(a) "Association" shall mean and refer to The Cottages Homeowners' Association, Inc., a New York Not-for-Profit Corporation.

(b) "Board" shall mean and refer to the Board of Directors of the Association.

(c) "By-Laws" shall mean and refer to these By-Laws which govern the operation of the Association.

(d) "Common Expense" shall mean and refer to those expenses (including reserves) which are incurred or assessed by the Association in fulfilling its lawful responsibilities (herein sometimes referred to as ("Assessment")).

(e) "Common Properties" or "Common Areas" shall mean and refer to certain areas of land as shown on the attached Site Plan which will be held in leasehold by the Association and any improvements on said areas of land which will be held in leasehold by the Association and which are intended to be devoted to the common use and enjoyment of the owners of The Properties and shall include, without limitation, water and sewer services, a Lakefront pavilion, a dock with up to 29 boat slips, kayak storage, a private road, trash storage, generator, community garden and dog run space.

(f) "Declaration" shall mean and refer to the Declaration of Covenants, Restrictions, Easements, and Charges applicable to the Properties recorded among the land records in the Clerk of the County of Yates, New York as the same may, from time to time be amended.

(g) "Declarant" shall mean and refer to The Cottages at Plum Point, LLC, a New York Limited Liability Company and its successors and assigns, if such successors and assigns should acquire an undeveloped or developed but unsold portion of the Properties for the

purpose of development, including without limitation, any mortgagee which has foreclosed or acquired by other means the interest of the Declarant.

(h) "Cottage" shall mean and refer to each completed Cottage situated upon a Lot (as evidenced by issuance of a Certificate of Occupancy issued by the Town of Milo). Unless the context clearly indicates otherwise, the term "Cottage" shall be deemed to include the term "Lot."

(i) "Cottage Owner" or "Owner" shall mean and refer to the record owner of fee simple title to any Cottage (but not the Lot), including the Declarant with respect to any Unsold Cottage. Every Cottage Owner shall be treated for all purposes as a single owner for each Cottage held, irrespective of whether such ownership is joint, in common or tenancy by the entirety. Where such ownership is joint, in common or tenancy by the entirety, such collective ownership shall constitute one (1) Member.

(j) "Lakefront pavilion" shall mean and refer to the pavilion operated and maintained by the Association as part of the Common Areas of the Association.

(k) "Lot" shall mean and refer to any portion of the Property (with the exception of the Common Properties) under the scope of this Declaration, as shown on the Site Plan prepared by Costich Engineering and identified as a separate parcel. Unless the context clearly indicates otherwise, the term "Lot" is included in the term "Cottage."

(l) "Member" shall mean and refer to each holder of a membership interest in the Association as such interest is set forth in Article VI. Each Member shall be entitled to one (1) vote.

(m) "Permitted Mortgage" shall mean and refer to any first mortgage covering a Cottage or Cottages or a mortgage encumbering an Unsold Cottage then owned by Declarant or its designee.

(n) "Permitted Mortgagee" shall mean and refer to the holder of a Permitted Mortgage.

(o) "Properties" shall mean and refer to all those Properties described in Article II.

(p) "Statute" shall mean and refer the New York Not-for-Profit Corporation Law.

(q) "Unsold Cottage" shall mean and refer to any Cottages owned by the Declarant and any successors or assigns, until such time as the same have been sold for use, other than personal occupancy of the Declarant and any of its successors or assigns.

(r) "Unoccupied Lot" shall mean and refer to any Lots owned by Declarant until such time as the same have been subject to a Ground Lease and such leasehold interest conveyed to a bona fide purchaser.

ARTICLE III. PURPOSE

This Association is formed to operate, manage, maintain and control the Common Areas and to perform certain maintenance and repairs to the Properties as a Homeowners Association for the benefit of the Members of the Association.

ARTICLE IV. APPLICABILITY

All present and future Members, their family members, tenants, lessees, occupants, guests, licensees, agents, employees and any other person or persons that shall be permitted to use the Common Areas shall be subject to these By-Laws and to the Rules and Regulations issued by the Association to govern the conduct of its Members.

ARTICLE V. USE OF FACILITIES

The Common Areas shall be limited to the use by the Members, their family members and their guests. In the event that a Member shall lease or permit another to occupy his Cottage, however, the lessee or occupant shall at the option of the Member, be permitted to enjoy the use of the Common Areas in lieu of and subject to the same restrictions and limitations as said Member. Any Member, lessee or occupant entitled to the use of the Association facilities may extend such privileges to members of his family residing in his household by notifying the Secretary in writing of the names of any such persons and of the relationship of such Member, lessee or occupant to such persons. The Board may establish a limitation on guest privileges and/or establish a guest fee for the use of the Common Areas by guests of Members or permitted lessees or occupants of Cottages and their respective family members.

Declarant shall have the right, on an equal basis with other Members to use all or any of the Common Areas or permit all or any of the Common Areas to be used by Declarant's designee or any prospective purchaser of a Cottage or any tenants of Unsold Cottages, without charge, in accordance with and subject to these By-Laws and any Rules and Regulations promulgated by the Board. In addition, Declarant shall have the right, so long as there are Unoccupied Lots on the Properties to use all or any of the Common Areas without charge, for exhibitions or other promotional functions with respect to Declarant's sales programs. This provision regarding Declarant may not be amended without the written consent of the Declarant.

ARTICLE VI. MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. The Association shall have one class of membership interest as follows:

The Owner of a Cottage or Unsold Cottage on the Properties then subject to the Declaration shall be a Member of the Association whether such ownership is joint, in common or tenancy by the entirety. Each Member is entitled to one vote irrespective of the number of Cottages or Unsold Cottages owned by a Member. When more than one person or entity holds such interest in such membership, the one vote attributable to such Member shall be exercised as such persons mutually determine but not more than one vote may be cast with respect to any such Member. Declarant shall remain a Member as long as Declarant has not executed Ground Leases for every Unoccupied Lot.

Section 2. Suspension of Membership. The rights of a Member or permitted lessee or occupant of a Cottage, and their respective family members, guests and invitees, to the use and enjoyment of the Common Areas are subject to the payment of periodic Common Expenses levied by the Board, the obligation of which Common Expenses is imposed against each Member as provided for by Article VI of the Declaration. If a Member shall be in default in the payment of the Common Expenses assessed against such Member's Cottage, and fails to cure such default within five (5) days after receipt of written notice from the Board, the Board, in its sole discretion, shall have the option to prohibit all privileges of the Association by such Member, permitted lessee or occupant, and the respective family Members, guests and invitees of the foregoing, and until such Member is reinstated in good standing in the Association, to take such other legal action as may be permitted by applicable law or these By-Laws. In addition to the foregoing, any Member so in default shall be ineligible to be considered for membership to the Board and if on the Board shall be suspended thereto until such time as all Common Expenses, together with late charges, interest and expenses, if any, are paid to the Association. In no event, however, shall a Member's voting rights be suspended for non-payment of Common Expenses.

Section 3. Transfer of Membership. Membership in the Association shall be appurtenant to, and may not be transferred except in conjunction with the lawful sale or conveyance of a Cottage. No Owner shall be permitted to sell or convey his or her Cottage unless and until he or she shall have paid in full to the Board all unpaid Common Expenses and other amounts required by the Board to be paid and assessed by the Board against such Cottage. Upon such sale or conveyance, the seller of such Cottage shall relinquish his or her membership in the Association and the purchaser of such Cottage shall automatically become a Member, subject to this Declaration, the By-Laws and the Rules and Regulations.

ARTICLE VII. QUORUM, PROXIES AND WAIVERS

Section 1. Quorum. So many Members as shall represent at least fifty-one (51%) percent of all Members whose Cottages are then subject to the Declaration present in person or represented by written proxy shall be requisite to and shall constitute a quorum at all meetings of the Association for the transaction of business, except as otherwise provided by Statute, by the Declaration, the Certificate of Incorporation of the Association or by these By-Laws. If, however, such quorum shall not be present or represented at any meeting of the Association, the Members entitled to vote thereat, present in person or represented by written proxy, shall have the power to adjourn the meeting. At least 5 days written notice of such adjourned meeting shall be given to all Members. At such adjourned meeting any business may be transacted which might have been transacted at the meeting originally called. At such adjourned meeting, so many Members as shall represent at least thirty-three and one third (33-1/3%) percent of all Members whose Cottages are then subject to the Declaration shall constitute a quorum. If, however, such reduced quorum shall not be present or represented at such adjourned meeting of the Association, the Members entitled to vote thereat, present in person or represented by written proxy, shall have the power to adjourn the meeting and such adjourned meeting shall require at least twenty-five (25%) percent. At least 5 days written notice of such adjourned meeting shall be given to all Members.

Section 2. Vote Required to Transact Business. When a quorum is present at any meeting, the vote of a majority of the Members present in person or represented by written proxy shall decide any question brought before such meeting and such vote shall be binding upon all

Members, unless the question is one upon which by express provision of the Statute, Declaration, Certificate of Incorporation or of these By-Laws, a different vote is required, in which case such express provisions shall govern and control the decision of such question.

Section 3. Right to Vote. Members shall be entitled to vote either in person or by proxy at any meeting of the Association. Any such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof.

Section 4. Number of Votes. Each Member shall be entitled to one (1) vote irrespective of the number of Cottages owned by such Member. For the purposes of this section the Declarant shall have one (1) vote for each Unoccupied Lot.

Section 5. Proxies. All proxies shall be in writing signed by the Owner, and shall be filed with the Secretary prior to the meeting at which the same are to be used. A notation of such proxies shall be made in the minutes of the meeting.

Section 6. Waiver and Consent. Wherever the vote of the membership at a meeting is required or permitted by Statute or by any provision of the Declaration, Certificate of Incorporation or by these By-Laws to be taken in connection with any action of the Association, the meeting and vote of the membership may be dispensed with if all Members who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken.

Section 7. Place of Meeting. Meetings shall be held at any suitable place convenient to the Members as may be designated by the Board of Directors and designated in the notices of such meetings.

Section 8. Annual Meetings. The first annual meeting of the membership of the Association shall be held within one (1) year of the execution of the first Ground Lease for a Lot. Thereafter the annual meeting of the membership of the Association shall be held on such date as is fixed by the Board of Directors but at least on an annual basis. At such meetings there shall be elected by ballot of the membership a Board of Directors in accordance with the requirements of Article VIII of these By-Laws. The Members may also transact such other business as may properly come before the meeting.

Section 9. Special Meetings. It shall be the duty of the President to call a special meeting of the Association, if so directed by the Board of Directors, or upon the presentation to the Secretary of a petition signed by at least five (5) of the Members.

Section 10. Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held. Notice of the annual meeting shall be mailed to each Member at least ten (10) but not more than thirty (30) days prior to such meeting. Notice of any special meeting shall be mailed to each Member not less than forty-five (45) days prior to such meeting. The mailing of a notice in the manner provided in these By-Laws shall be considered notice served.

Section 11. Order of Business. The order of business at all meetings shall be as follows:

- (a) Roll call
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Report of officers
- (e) Report of committees
- (f) Appointment of inspectors of election (in the event there is an election)
- (g) Election of Directors (in the event there is an election)
- (h) Unfinished business
- (i) New business

ARTICLE VIII. BOARD OF DIRECTORS

Section 1. Number and Term. The number of Directors which shall constitute the whole Board shall be three (3) elected or sponsor-designated members. The initial Board, consisting of three (3) Directors, shall be designated by the Declarant to serve until the first annual meeting of the Association. At the first annual meeting and at all subsequent annual meetings, a total of three (3) Directors shall be elected or designated. All Directors, other than those designated by the Sponsor, shall be elected by the Members. The term of office of one of the Directors shall be fixed for three (3) years, the term of office of one of the Directors shall be fixed at two (2) years, and the term of office of one of the Directors shall be fixed at one (1) year. Separate ballots shall be conducted for each of the three terms of office. Each Member shall be entitled to cast one vote on each ballot. The, three, two or one nominee(s) on each of the ballots, as the case may be, receiving the highest number of votes on their ballot shall constitute the duly executed Board of Directors. At the expiration of the initial term of office of each respective Director, his successor shall be elected to serve a term of three (3) years. The Directors shall hold office until their successors have been elected and hold their first meeting. All Directors, other than those the Declarant shall have the right to designate, must be Members of the Association. As required by law, each Director shall be at least nineteen years of age. In no event shall any Member be eligible for election to the Board if such Member is then in default, beyond any applicable grace period, in the payment of Common Expenses or any other amounts required by the Board to be paid.

Section 2. Voting and Right of Declarant to Designate Certain Board Members.
In an election of Directors, each Member shall be entitled to one (1) vote.

The Declarant shall have the right to designate a majority of the total Directors, until the earlier of: (i) ten years from the first annual meeting of the Association; or (ii) such time that there are no Unoccupied Lots remaining in the Properties. The provisions of Article VIII Sections 1 and 2 may not be amended without the written consent of the Declarant.

Section 3. Vacancy and Replacement. If the office of any Director becomes vacant by reasons of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining Directors, though less than a quorum, at a special meeting of Directors duly called for this purpose, shall choose a successor, who shall hold office for the unexpired term in respect of which such vacancy occurred and until his successor is duly elected and qualified. In the event a Director appointed by Declarant resigns, the Declarant shall have the sole right to appoint another Director in his place.

Section 4. Removal. Directors may be removed for cause by an affirmative vote sixty-seven (67%) percent of the Members. No Director, other than a designee of the Declarant, shall continue to serve on the Board if, during his term of office, he shall cease to be a Member or no longer reside in the Member's Cottage as part of the immediate family. In the event a Declarant-designated member is removed for cause, the Declarant shall have the sole right to appoint another Director in his place.

Section 5. Powers.

(a) The property of the Association shall be managed by its Board of Directors, which may exercise all such powers of the Association and do all such lawful acts and things as are not by Statute, Declaration, Certificate of Incorporation or by these By-Laws, directed or required to be exercised or done by the Members personally. These powers shall specifically include, but not be limited to the following items:

(1) To determine and levy monthly assessments ("Assessments") to cover the cost of operating and maintaining the Common Areas and other maintenance requirements of the Association payable in advance. The Board of Directors may increase the monthly Assessments or vote a special assessment in excess of that amount, if required, to meet any additional necessary expenses.

(2) To collect, use and expend the Assessments collected to maintain, care for and preserve the Common Areas on the Properties and other maintenance requirements of the Association.

(3) To make repairs, restore or alter the Common Areas after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings.

(4) To open bank accounts and borrow money on behalf of the Association and to designate the signatories to such bank accounts.

(5) To collect delinquent Assessments by suit or otherwise, to abate nuisances and to enjoin or seek damages from Members for violations of the house rules or Rules and Regulations herein referred to.

(6) To make reasonable Rules and Regulations and to amend the same from time to time. Such Rules and Regulations and amendments thereto shall be binding upon the Members when the Board has approved them in writing and delivered a copy of such rules and all amendments to each Member. Such Rules and Regulations may without

limiting the foregoing, include reasonable limitations on the use of the Common Areas by guests of the Members as well as reasonable admission and other fees for such use.

(7) To impose fines or penalties upon any Member who violates the Declaration, its Rules and Regulations or By-Laws as per Article IX of the Declaration.

(8) To employ workers, contractors and supervisory personnel, and to purchase supplies and equipment, to enter into contracts to provide maintenance, refuse removal and other services, and generally to have the power of Directors in connection with the matters hereinabove set forth.

(9) To bring and defend actions by or against one or more Members any of their occupants and lessees pertinent to the operation of the Association and to assess special assessments to pay the cost of such litigation.

(10) To hire a managing agent to perform and exercise the powers of the Board of Directors in the management of the Properties.

(11) To execute, acknowledge and deliver (i) any declaration or other instrument affecting the Properties, which the Board deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution or requirement of any public authority, applicable to the occupancy, maintenance, demolition, construction, alteration, repair or restoration of the Properties (ii) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting the Properties which the Board deems necessary or appropriate.

(12) To obtain and review insurance for the Association.

(b) The Board of Directors may, by resolution or resolutions, passed by a majority of the whole Board, designate one or more committees, in addition to any committee required by these By-Laws, each of such committees to include at least one (1) Director, which, to the extent provided in said resolution or resolutions, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Association and may have power to sign all papers which may be required, provided the said resolution or resolutions shall specifically so provide. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. Committees established by resolution of the Board of Directors shall keep regular minutes of their proceedings and shall report the same to the Board as required.

(c) Notwithstanding anything to the contrary contained in these By-Laws so long as there are any Unoccupied Lots in the Properties, the Board of Directors may not, without the Declarant's prior written consent (i) make any addition, alteration or improvement to the Common Areas, or (ii) assess any Common Expense for the creation of, addition to or replacement of all or part of a reserve, contingency or surplus fund or, (iii) charge any special assessment for a non-budgeted item unless required by law, emergency, municipal agency or for the health and safety of the Association and its Members, (iv) hire any additional employees or enter into any service or maintenance contract for work not covered by contracts in existence on the date of the closing of the first Cottage or, (v) borrow money or otherwise create a security interest on behalf

of the Association or on any portion of the Association property or, (vi) increase or decrease the services or maintenance of the Association as set forth in the proposed first year budget of the Association, the Declaration of Covenants and Restrictions or the By-Laws or otherwise provide services in excess of those contemplated by the proposed first year budget or elsewhere in the CPS-7 Application or any amendments thereto, or, (vii) purchase any materials, equipment or other goods costing in excess of \$1,000 or (viii) increase the maintenance charges of the Association more than ten (10%) percent from the prior year's budget, unless required by law, emergency, municipal agency, the health and safety of the Association and its Members or if documentation is provided to the Declarant in the nature of a financial statement, bids from contractors or verified increases in utility rates evidencing the need for an increase greater than ten (10%) percent or (ix) utilize Association funds to commence a law suit against the Sponsor or any of its principals. In addition, so long as there are any Unoccupied Lots in the Properties, the Board and the Cottage Owners shall not take any action that will interfere, impair or adversely affect the rights of the Declarant to sell and construct any Unsold Cottages and lease any Unoccupied Lots. Declarant shall not use its veto power or control of the Board of Directors to reduce the level of services described in the CPS-7 Application or any amendments thereto or prevents required capital repairs or prevents expenditures required to comply with applicable laws or regulations. While Declarant is in control of the Board of Directors, no mortgage liens will be placed on the Common Areas without the consent of at least fifty-one (51%) percent of the Cottage Owners other than the Directors or Declarants' nominees. This subparagraph (c) may not be amended without the written consent of the Declarant.

Section 6. Compensation. Directors and officers, as such, shall receive no compensation for their services.

Section 7. Meetings.

(a) The first meeting of each Board newly elected by the Members shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practicable. The annual meeting of the Board of Directors shall be held at the same place as the annual meeting of Members and immediately after the adjournment of same, at which time the dates, places and times of regularly scheduled meetings of the Board shall be set.

(b) Regularly scheduled meetings of the Board may be held without special notice.

(c) Special meetings of the Board may be called by the President on two (2) days notice to each Director either personally or by mail. Special meetings shall be called by the President or Secretary in a like manner and on like notice on the written request of at least two (2) Directors.

(d) At all meetings of the Board, a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and an act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by Statute or by the Declaration or by these By-Laws. If a quorum shall not be present at any meeting of Directors, the Directors present

thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting until a quorum shall be present.

(e) Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

(f) Members of the Board may participate in a meeting by means of a conference telephone call or similar communications equipment by means of which all persons participating in such meeting can hear each other and such participation shall constitute presence at such meeting.

Section 8. Annual Statement. The Board of Directors shall furnish to all Members and shall present annually (at the annual meeting) and when called for by a vote of the Members at any special meeting of the Members, a full and clear statement of the business conditions and affairs of the Association, including a balance sheet and profit and loss statement verified by an independent public accountant and a statement regarding any taxable income attributable to the Members and a notice of the holding of the annual meeting of Association members.

Section 9. Fidelity Bonds. The Board of Directors shall require that all officers and employees of the Association (except Declarant or Declarant's representatives) handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be a Common Expense of the Association.

ARTICLE IX. OFFICERS

Section 1. Elective Officers. The officers of the Association shall be chosen by the Board and shall consist of a President, a Vice President, a Secretary, and a Treasurer. The Board of Directors may also choose one or more Assistant Secretaries and Assistant Treasurers and such other officers as in their judgment may be necessary. All officers must be either members of the Board of Directors or Members of the Association. The President may not hold more than one office.

Section 2. Election. The Board of Directors, at its first meeting after each annual meeting of Members, shall elect a President, a Vice President, a Secretary and a Treasurer. Only the President must be a member of the Board.

Section 3. Appointive Officers. The Board may appoint such other officers and agents as it shall deem necessary who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

Section 4. Term. The officers shall hold office for a period of one year or until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed with or without cause, at any time, by the affirmative vote of a majority of the Board of Directors, provided prior notice was given to all Board members that this item was

on the agenda for such meeting. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors.

Section 5. The President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the Members and the Board of Directors, shall be an ex-officio member of all standing committees, shall have general and active management of the business of the Association, shall see that all orders and resolutions of the Board are carried into effect and shall have such other powers and duties as are usually vested in the office of President of a corporation organized under the Not-for-Profit Corporation Law of the State of New York.

Section 6. The Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act and shall have such other powers and duties as are usually vested in the office of Vice President of a corporation organized under the Not-for-Profit Corporation Law of the State of New York.

Section 7. The Secretary. The Secretary and/or Assistant Secretary shall attend all sessions of the Board and all meetings of Members and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or by the President, under whose supervision he shall be.

Section 8. The Treasurer. The Treasurer shall have the custody of the Association funds and securities and shall keep full and accurate chronological accounts of receipts and disbursements in books belonging to the Association including the vouchers for such disbursements, and shall deposit all monies, and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. These duties may also be exercised by the managing agent, if any. However, such managing agent shall not replace the Treasurer.

He shall disburse the funds of the Association as he may be ordered by the Board, making proper vouchers for such disbursements and shall render to the President and Directors, at the regular meeting of the Board or whenever they may require it, an account of all his transactions as Treasurer, and of the financial condition of the Association.

He shall keep detailed financial records and books of account of the Association, including a separate account for each Member, which among other things, shall contain the amount of each Assessment, the date when due, the amount paid thereon and the balance remaining unpaid.

Section 9. Agreements, etc. All agreements and other instruments shall be executed by the President or such other person as may be designated by the Board of Directors.

ARTICLE X. NOTICES

Section 1. Definitions. Whenever under the provisions of the Declaration or of these By-Laws, notice is required to be given to the Board of Directors or to any Director or Association Member, it shall not be construed to mean personal notice; but such notice may be given in writing, by mail, by depositing the same in a post office or letter box in a postpaid sealed wrapper,

addressed to the Board of Directors, such Director, or Member, at such address as appears on the books of the Association.

Section 2. Service of Notice Waiver. Whenever any notice is required to be given under the provisions of the Declaration, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

ARTICLE XI. COMMON EXPENSES

Section 1. Personal Obligation of Assessments. The personal obligation of Common Expenses is governed by Section 1 of Article VI of the Declaration.

Section 2. Purpose of Common Expenses. The purpose of Common Expenses is as specified in Section 2 of Article VI of the Declaration.

Section 3. Basis of Common Expenses. The basis of the Common Expenses is as specified in Section 3 of Article VI of the Declaration.

Section 4. Date of Commencement of Common Expenses: Due Dates. The date of commencement and the due dates of Common Expenses are as specified in Section 4 of Article VI of the Declaration.

Section 5. Effect of Non-Payment of Common Expenses: Remedies of the Association. The effect of non-payment of Common Expenses and the remedies of the Association shall be as specified in Section 5 of Article VI of the Declaration.

Section 6. Intentionally Omitted.

Section 7. Checks. All checks or demands for money and notes of the Association shall be signed by the President and Treasurer, or by such other officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 8. Operating Account. There shall be established and maintained a cash deposit account to be known as the "Operating Account" into which shall be deposited the operating portion of all monthly and special Assessments as fixed and determined for all Members. Disbursements from said account shall be for the general needs of the operation including, but not limited to, wages, repairs, betterments, maintenance and other operating expenses of the community.

Section 9. Reserve Account. There shall be established and maintained a cash deposit account to be known as the "Reserve Account" into which shall be deposited the fifty dollar (\$50) monthly maintenance fee, any special assessments and any charges associated with the rental of the Lakefront pavilion.

Section 10. Other Accounts. The Board shall maintain any other accounts it shall deem necessary to carry out its purposes.

ARTICLE XII. INSURANCE

The insurance the Board of Directors is required to obtain and maintain on behalf of the Association shall be as provided for in Section 1, Article VIII of the Declaration. The procedure and requirements for repair or reconstruction of the Common Area shall be as provided for in Section 2 of Article VIII of the Declaration.

ARTICLE XIII. CONFLICTS OF INTEREST

The Board of Directors shall establish, and modify from time to time, a comprehensive policy with respect to conflicts of interest of Directors and Officers in compliance with the applicable requirement of the New York Business Corporation Law and New York Not for Profit Corporation Law, as amended. The Board of Directors may also establish, and modify from time to time, a conflicts of interest policy applicable to Members. Each such policy, as amended from time to time, is deemed incorporated by reference into these By-Laws.

ARTICLE XIV. AMENDMENTS

Except as otherwise provided, these By-Laws may be altered, amended or added to at any duly called meeting of Members provided: (1) that the notice of the meeting shall contain a full statement of the proposed amendment and (2) that the amendment shall be approved by vote of at least sixty-seven (67%) percent of the total Members whose Cottages are then subject to the Declaration. No amendment, however, shall affect or impair the validity or priority of the Members' interests and the interests of Permitted Mortgagees. Any amendment of a material adverse nature to Permitted Mortgagees must be agreed to by such mortgagees representing at least fifty-one percent (51%) of the votes of Cottages subject to mortgages. The Association shall provide timely written notice of any such amendment. Nor shall any amendment have the effect of infringing upon the Declarant's right to build and make membership in or use of the Association available to purchasers or lessees of no more than 29 Cottages on the Properties.

Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition or deletion of, to or from these By-Laws shall be effective in any way against Declarant or its designee or any Unsold Cottage or Unoccupied Lot, as long as there are any Unoccupied Lots on the Properties, unless Declarant has given its prior written consent thereto.

ARTICLE XV. SELLING, LEASING AND GIFTS OF COTTAGES

Section 1. Selling and Leasing Cottages. Any Cottage may be conveyed or leased by a Member, subject in all respects to the Ground Lease, but otherwise free of any restrictions except that (i) no Cottage Owner of a Cottage may lease the same for a period of more than 270 days in any calendar year and (ii) no Member shall convey, mortgage, pledge, hypothecate, sell or lease his Cottage unless and until all violations against the Cottage are removed and all unpaid Assessments assessed against the Cottage shall have been paid as directed by the Board of Directors. Such unpaid Assessments, however, may be paid out of the proceeds from the sale of a Cottage, or by the Grantee. Any sale or lease of a Cottage in violation of this section or the applicable Article of the Declaration shall be voidable at the election of the Board of Directors. Upon the written request of a Member or his mortgagee, the Board or its designee shall furnish a written statement of the status of any violation and the unpaid charges due from such Member

which shall be conclusive evidence of the payment of amounts assessed prior to the date of the statement. A reasonable charge may be made by the Board for the issuance of such statements.

The provisions of this section as they apply to unpaid Assessments shall not apply to the acquisition of a Cottage by a mortgagee who shall acquire such Cottage by foreclosure. In such event the unpaid Assessments against the Cottage which were assessed and became due prior to the acquisition of such Cottage by such mortgagee shall be collected from the buyer of the Cottage and paid to the Association if and when the Cottage is resold by such mortgagee. Such provisions shall, however, apply to any Assessments which are assessed and become due after the acquisition of such Cottage by the mortgagee and to any purchaser from such mortgagee.

Whenever the term "Cottage" is referred to in this Section, it shall include the Cottage, the Member's interest in the Association and the Member's interest in any Cottages acquired by the Association.

Section 2. Gifts, etc. Any Member may convey or transfer his Cottage by gift during his lifetime or devise his Cottage by will or pass the same by intestacy, subject in all respects to the Ground Lease, but otherwise without restriction.

ARTICLE XVI. INDEMNIFICATION

Section 1. Indemnification to Officers and Directors. To the fullest extent allowed by law, the Association shall indemnify any person, made a party to an action by or in the right of the Association to procure a judgment in its favor by reason of the fact that he, his testator or, intestate, is or was or has agreed to become a Director or Officer of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, or in connection with an appeal therein, except in relation to matters as to which such Director or Officer is adjudged to have breached his duty to the Association, as such duty is defined in Section 717 of the Not-For-Profit Corporation Law. To the extent allowed by law, the Association shall also indemnify any person, made, or threatened to be made, a party to an action or proceeding other than one by or in the right of the Association to procure a judgment in its favor, whether civil or criminal, including an action by or in the right of any other corporation, domestic or foreign, which he served in any capacity at the request of the Association by reason of the fact that he, his testator or intestate was a Director or Officer of the Association or served it in any capacity against judgment, fines, amounts paid in settlement, and reasonable attorneys' fees actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, if such Director or Officer acted, in good faith, for a purpose which he reasonably believed to be in the best interests of the Association and, in criminal actions or proceedings, in addition, had no reasonable cause to believe that his conduct was unlawful.

Section 2. Indemnification to Employees and Agents. The Association may, to the extent authorized from time to time by the Board or by a committee comprised of members of the Board, provide indemnification to employees or agents of the Association who are not Officers or Directors of the Association with such scope and effect as determined by the Board, or such committee.

Section 3. Indemnification to Others. The Association may indemnify any person to whom the Association is permitted by applicable law to provide indemnification or the advancement of expenses, whether pursuant to rights granted pursuant to, or provided by, the New York Not-For-Profit Corporation Law or other rights created by (i) a resolution of the Members, (ii) a resolution of Directors, or (iii) an agreement providing for such indemnification, it being expressly intended that these By-Laws authorize the creation of other rights in any such manner.

Section 4. Other Rights. The right to be indemnified and to the reimbursement or advancement of expenses incurred in defending a proceeding in advance of its final disposition authorized by this Article XVI shall not be exclusive of nor limit any other right which any person may have or hereafter acquire under any statute, provision of the Certificate of incorporation, By-Laws, agreement, vote of Members or disinterested Directors or otherwise.

Nothing contained in this provision shall limit any right to indemnification to which any Director or any Officer may be entitled to under any contract or under any law now or hereinafter enacted.

Section 5. Proceedings Initiated by Indemnified Representatives. Notwithstanding any other provision of this Article, the Association shall not indemnify under this Article an indemnified representative for any liability incurred in a proceeding initiated (which shall not be deemed to include counterclaims or affirmative defenses) or participated in as an intervenor or amicus curiae by the person seeking indemnification unless such initiation of or participation in the proceeding is authorized, either before or after its commencement, by the affirmative vote of a majority of the Directors. This section does not apply to a reimbursement of expenses incurred in successfully prosecuting or defending an arbitration under Section 8 of this Article or otherwise successfully prosecuting or defending the rights of an indemnified representative granted by or pursuant to this Article.

Section 6. Advancing Expenses. The Association shall pay the expenses (including attorneys' fees and disbursements) incurred in good faith by an indemnified representative in advance of the final disposition of a proceeding described in Section 1 of this Article or the initiation of or participation in which is authorized pursuant to Section 5 of this Article upon receipt of an undertaking by or on behalf of the indemnified representative to repay the amount if it is ultimately determined pursuant to Section 8 of this Article that such person is not entitled to be indemnified by the Association pursuant to this Article. The financial ability of an indemnified representative to repay an advance shall not be a prerequisite to the making of such advance.

Section 7. Securing of Indemnification Obligations. To further effect, satisfy or secure the indemnification obligations provided herein or otherwise, the Association may maintain insurance, obtain a letter of credit, act as self-insurer, create a reserve, trust, escrow, cash collateral or other fund or account, enter into indemnification agreements, pledge or grant a security interest in any assets or properties of the Association, or use any other mechanism or arrangement whatsoever in such amounts, at such costs, and upon such other terms and conditions as the Board of Directors shall deem appropriate. Absent fraud, the determination of the Board of Directors with respect to such amounts, costs, terms and conditions shall be conclusive against all security holders, officers and directors and shall not be subject to voidability.

Indemnified representative shall be entitled to indemnification within 30 days after a written request for indemnification has been delivered to the Secretary of the Association.

Section 8. Arbitration. Any dispute related to the right to indemnification, contribution or advancement of expenses as provided under this Article, except with respect to indemnification for liabilities arising under the Securities Act of 1933 that the Association has undertaken to submit to a court for adjudication, shall be decided only by arbitration in the closest metropolitan area to the location of the principal executive offices of the Association at the time, in accordance with the commercial arbitration rules then in effect of the American Arbitration Association, before a panel of three arbitrators, one of whom shall be selected by the Association, the second of whom shall be selected by the indemnified representative and third of whom shall be selected by the other two arbitrators. In the absence of the American Arbitration Association, or if for any reason arbitration under the arbitration rules of the American Arbitration Association cannot be initiated, or if one of the parties fails or refuses to select an arbitrator or if the arbitrators selected by the Association and the indemnified representative cannot agree on the selection of the third arbitrator within 30 days after such time as the Association and the indemnified representative have each been notified of the selection of the other's arbitrator, the necessary arbitrator or arbitrators shall be selected by the presiding judge of the court of general jurisdiction in such metropolitan area.

The party or parties challenging the right of an indemnified representative to the benefits of this Article shall have the burden of proof.

The Association shall reimburse an indemnified representative for the expenses (including attorneys' fees and disbursements) incurred in successfully prosecuting or defending such arbitration.

Any award entered by the arbitrators shall be final, binding and non-appealable and judgment may be entered thereon by any party in accordance with applicable law in any court of competent jurisdiction, except that the Association shall be entitled to interpose as a defense in any such judicial enforcement proceeding any prior final judicial determination adverse to the indemnified representative in a proceeding not directly involving indemnification under this Article. This arbitration provision shall be specifically enforceable.

Section 9. Contribution. If the indemnification provided for in this Article or otherwise is unavailable for any reason in respect of any liability or portion thereof, the Association shall contribute to the liabilities to which the indemnified representative may be subject in such proportion as is appropriate to reflect the intent of this Article or otherwise.

Section 10. Contract Rights; Amendment or Repeal. All rights under this Article shall be deemed a contract between the Association and the indemnified representative pursuant to which the corporation and each indemnified representative intend to be legally bound. Any repeal, amendment or modification hereof shall be prospective only and shall not affect any rights or obligations then existing.

Section 11. Reliance of Provisions. Each person who shall act as an indemnified representative of the Association shall be deemed to be doing so in reliance upon the rights provided in this Article.

ARTICLE XVII. GENERAL PROVISIONS

Section 1. Fiscal Year. The fiscal year of the Association shall be fixed by resolution of the Board of Directors and unless otherwise specified shall be based on the calendar year.

Section 2. Seal. The Association seal shall have inscribed thereon the name of the Association and the year of its incorporation under the laws of the State of New York. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any manner reproduced.

Section 3. Architectural Control. No improvement shall be made on any Lot that is ground leased by the Declarant to a third party without the prior written approval of the Board of Directors or any Architectural Committee. Each Lot ground leased by the Declarant to a third party must include a Cottage, attached garage and approved landscaping. Only one outbuilding will be allowed on each Lot ground leased by the Declarant to a third party. However, on larger Lots (equal to or larger than six thousand square feet), the Board or Committee may permit a second outbuilding as long as such additional outbuilding will not be detrimental to the maintenance of the Properties. As used herein, the term "outbuilding" means and refers to any permanent structure in excess of two feet tall, other than an approved stairway, deck or garage. No temporary structures shall be permitted. No building, deck, patio, fence, sign, statuary, wall or other structure, or change or alteration to the exterior of the Cottages or color of the Cottages or in the landscaping shall be commenced, erected, replaced, repaired or maintained upon the Properties, nor shall any exterior addition to, or change or alteration thereto, be made until the plans and specifications showing the nature, kind, shape; height, materials, color, means of implementation and locations of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by an architectural or landscaping committee composed of three or more representatives appointed by the Board and/or Declarant. The provisions of this paragraph shall not apply to the Declarant. A two-thirds majority of a quorum of the Board or Architectural Committee shall be required for approval of all of the above items.

The make-up and procedures applicable to an Architectural Committee is as follows:

(a) **Members of Architectural Committee.** The Architectural Committee shall consist of three (3) members; provided, however that such number may be increased or decreased by resolution of the Board. The Architectural Committee shall be initially composed of three (3) persons, each of whom shall be a representative of Declarant. After the first annual meeting of the Association at least one (1) member of the Architectural Committee shall be a Cottage Owner in the Properties (other than a representative of Declarant).

(b) **Rights of Appointment.**

(1) **By Declarant.** Declarant shall have the right to appoint a majority of the members of the Architectural Committee until the earlier of of: (i) ten years from the

first annual meeting of the Association; or (ii) such time that there are no Unoccupied Lots remaining in the Properties.

(2) By the Board. The Board shall have the right to appoint those members of the Architectural Committee which Declarant is not authorized to appoint until such time as Declarant's rights of appointment have expired, and thereafter the Board shall have the right to appoint and remove all members of the Architectural Committee. Architectural Committee members appointed by the Board shall serve for a term of one (1) year or until their respective successors are appointed.

(3) Notice of Appointment. Whenever an Architectural Committee member is appointed or removed while both Declarant and the Board have rights of appointment, written notice of such appointment or removal shall be given by the appointing party to the other party.

(c) Plans and Specifications. The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, landscaping plans, elevation drawings and description or samples of exterior material and colors prepared by a licensed professional engineer or registered architect. Until receipt by the Architectural Committee of any required plans and specifications, the Architectural Committee may postpone review of any plan submitted for approval. Decisions of the Architectural Committee and the reasons therefor shall be transmitted by the Architectural Committee to the Applicant at the address set forth in the application for approval, within forty-five (45) days after receipt by the Architectural Committee of all materials required by the Architectural Committee. The Architectural Committee shall provide, in addition to the reasons for any denial, a list of corrective changes that could lead to approval, where approval is deemed to be ultimately possible.

(d) Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

(1) The Architectural Committee or its duly authorized representative may at any time inspect any work for which approval of plans is required under this Section 3. However, the Architectural Committee's right of inspection of the work for which plans have been submitted and approved shall terminate sixty (60) days after the work has been completed and the respective Owner has given written notice to the Architectural Committee of its completion. The Architectural Committee's rights of inspection shall not terminate pursuant to this paragraph if plans for the work have not previously been submitted to and approved by the Architectural Committee or if waiting to the next season to inspect and item is required. If, as a result of such inspection, the Architectural Committee finds that the work was done without obtaining approval of the plans therefor or was not done in substantial compliance with the plans approved by the Architectural Committee, it shall notify the Owner in writing of his failure to comply with this Section within sixty (60) days from the inspection, specifying the particulars of noncompliance. The Architectural Committee shall have the authority to require the Owner to take such action as may be necessary to remedy the noncompliance.

(2) If upon the expiration of sixty (60) days from the date of such notification, the Owner has failed to remedy the noncompliance, the Architectural Committee shall notify the Board in writing of such failure. Upon notice and a hearing, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Cottage Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Board ruling is given to the Cottage Owner. If the Cottage Owner does not comply with the Board ruling within that period, the Board, at its option, may take whatever action it may have at law, in equity or in the Declaration or By-Laws including, without limitation, correcting or removing the non-compliance and charging the cost of all necessary work to correct or remove the noncompliance to the Cottage Owner as an additional Common Expense.

Section 4. Examination of Books and Records. Each Member, or their respective representatives and first mortgagees, shall be entitled to a reasonable examination of the books and records of the Association at any time during normal business hours upon reasonable notice to its Board of Directors. The Declaration, Certification of Incorporation and the By-Laws of the Association shall be available for inspection by any Member or first mortgagee at the principal office of the Association.

Section 5. Annual Report. The Board of Directors shall present annually to the members a report, verified by the President and Treasurer or by a majority of the directors, showing in appropriate detail the following:

(a) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year immediately preceding the date of the report.

(b) The principal changes in assets and liabilities including trust funds, during the year immediately pre-ceding the date of the report.

(c) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the year immediately preceding the date of the report, including separate data with respect to each trust fund held by or for the corporation.

(d) The expenses or disbursements of the corporation, for both general and restricted purposes, during the year immediately preceding the date of the report, including separate data with respect to each trust fund held by or for the corporation.

(e) The number of Members of the corporation as of the date of the report, together with a statement of increase or decrease in such number during the year immediately preceding the date of the report, and a statement of the place where the names and addresses of the current Members may be found. This report shall be filed with the minutes of the meeting of Members.

Section 6. Membership Certificates. Membership in the corporation may be evidenced by Certificates of Membership, in which case they shall be in such form and style as the Board of Directors may determine. The fact that the corporation is a nonprofit corporation shall be

noted conspicuously on the face of each certificate. They shall be signed by the President or a Vice President and by the Secretary or an Assistant Secretary, and shall bear the corporate seal.

Section 7. Construction. Whenever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, whenever the context so requires.

In the case of any conflict between the Certificate of Incorporation and these By-Laws, the Certificate of Incorporation shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

Section 8. Severability. Should any of the covenants, terms or provisions herein imposed be or become unenforceable at law or in equity, the remaining provisions of these By-Laws shall, nevertheless, be and remain in full force and effect.