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Party1: 285 JEFFERSON LLC  
Party2: 287 JEFFERSON CONDOMINIUM

Record and Return To:

STEPHEN P ETHIER  
10 EAST HARRISON STREET  
SARATOGA SPRINGS NY 12866

**DECLARATION, BY-LAWS AND RULES AND REGULATIONS**

**FOR**

**287 JEFFERSON CONDOMINIUM**

**City of Saratoga Springs, County of Saratoga, New York**

2007034650  
9/6/2007 11:42:41 AM  
DEED AGREEMENT

Kathleen A Marchione Saratoga Co Clerk

RECORDED

A/A

Stephen P. Ethier

10 East Harrison St  
Saratoga Springs NY

12866

**DECLARATION**

This Declaration constitutes a statement of Sponsor's intention to hereby submit the 287 Jefferson Condominium, City of Saratoga Springs, County of Saratoga, New York, to the provisions of Article 9-B of the Real Property Law of the State of New York, hereinafter referred to the terms and provisions hereof shall bind the Grantor and Grantor's successors and assigns forever.

NAME: 287 JEFFERSON CONDOMINIUM

SPONSOR: 285 JEFFERSON LLC

DATE OF DECLARATION: Sept 06, 2007

**DECLARATION**

**287 JEFFERSON CONDOMINIUM**

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**DECLARATION**

**ESTABLISHING**

**287 JEFFERSON CONDOMINIUM**

For the Premises described in Schedule A attached hereto in the City of Saratoga Springs, County of Saratoga, New York, pursuant to Article 9-B of the Real Property Law of the State of New York.

285 Jefferson LLC, 10 East Harrison Street, Saratoga Springs, New York 12866, (hereinafter referred to as the "Sponsor"), does hereby declare:

**W I T N E S S E T H :**

**ARTICLE I**

**Section 1.01 Definitions.** The following capitalized words, phrases or terms when used in this Declaration, shall, unless the context otherwise prohibits, have the following meanings.

- a. **Board of Managers.** Those persons elected by the Owners, and/or initially appointed by the Sponsor, to administer the affairs of the Condominium. The Board of Managers may sometimes be referred to as the "Board."
- b. **Book of Mortgagees.** Record of Mortgagees as reported by the Sponsor of Sponsor's closing attorney to the Board of Managers at the time of each closing, or upon a resale of a Home by an Owner, as may be reported by the Purchaser of such Home at time of taking title. The Secretary of the Board of Managers shall be responsible for maintaining the Book of Mortgages. Every First Mortgage shall have the right, upon written notification to the Secretary, to have its name and address as set forth in such notification, entered into the Book of Mortgagees.
- c. **Buildings.** One structure constructed on the land in which are located either ten (10) Units or fourteen (14) Units; one garage building in which are located thirteen (13) bays; and one garage building in which are located eleven (11) bays. All such Buildings are collectively referred to as the "Buildings."
- d. **By-Laws.** The governing documents for the operation of the Condominium, Schedule E of this Declaration, as they may be supplemented, extended or amended from time to time in the manner provided therein.

- e. **Common Charges.** The amounts assessed by the Board of Managers to the Owners of the Units for the Common Expenses of the Condominium pursuant to this Declaration.
- f. **Common Elements.** All of the property comprising the Condominium, except the Units, as more particularly defined in Article VI of this Declaration.
- g. **Common Expenses.** The expenses for operating the Condominium Property, including reserves, which the Board of Managers may establish from time to time, for the repair or replacement of Common Elements and Limited Common Elements.
- h. **Common Interest.** The undivided proportionate interest of ownership appertaining to each Unit as set forth in Schedule C of this Declaration. The Common Interest is the basis for determining, among other things, an Owner's (i) liability for a share of the Common Expenses, and (ii) a share of any distribution of funds upon termination of the Condominium.
- i. **Condominium.** 285 Jefferson Condominium, Saratoga Springs, New York.
- j. **Condominium Property.** The Lands, the Buildings and all improvements existing or as may be erected thereon, including the Common Elements and Limited Common Elements, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, all of which are intended to be submitted to the provisions of Article 9-B of the Real Property Law of the State of New York.
- k. **Declaration.** This instrument creating the 287 Jefferson Condominium as it may be supplemented, extended or amended from time to time in the manner provided herein.
- l. **First Mortgage.** The First Mortgage granted on a Unit to a bank, federal savings and loan association, life insurance company, pension fund, trust company or other institutional lender, licensed mortgage banker or broker, or an individual or the Sponsor by an Owner.
- m. **First Mortgagee.** The original First Mortgagee, its representatives, assigns, or any other holder of a First Mortgage on a Unit.
- n. **Land.** The Land referred to in the survey and more particularly as set forth in Schedule A of this Declaration.
- o. **Limited Common Element.** Those portions of the Common Elements which, pursuant to Section 6.01 hereof, are restricted in use to specific Owners.
- p. **Member.** Each holder of a membership interest in the Condominium, as such interests are set forth in Article V of this Declaration.

- q. **Mortgagee.** Any Mortgagee, its representatives or assigns, servicing agent or other holder of a mortgage on a Unit.
- r. **Offering Plan.** The Offering Plan filed with the New York State Department of Law relating to the 287 Jefferson Condominium.
- s. **Owner.** The person or persons owning a Unit in fee simple, together with an undivided interest in the Common Elements as set forth in Schedule C of this Declaration. An Owner may be one or more individuals, corporations, partnerships or trusts, or any legal entity or any combination of the foregoing. All such Owners are collectively called "Owners."
- t. **Property.** All Property subject to this Declaration.
- u. **Purchase Agreement.** The agreement to purchase a Unit pursuant to the Offering Plan, the general form of which was set forth in the Offering Plan, the general form of which was set forth in the Offering Plan.
- v. **Purchaser.** A person who has executed a Purchase Agreement, which has also been executed by the Sponsor.
- w. **Rules and Regulations.** The Rules and Regulations of the Condominium governing the use and care of the Property and facilities as may be set forth in this Declaration, the Condominium By-Laws, or as may be promulgated from time to time by the Board of Managers of the Condominium.
- x. **Site Plan.** The Site Plan or Plans relating to the Condominium as filed in the office of the Saratoga County Clerk.
- y. **Sponsor.** 285 Jefferson LLC, its successors and assigns.
- z. **Unit.** Any space designated as a Unit in this Declaration, consisting, generally of a specific Unit and an appurtenant undivided interest in the Common Elements, as set forth in Schedule C of this Declaration. All of such Units are collectively referred to as the "Units."
- aa. **Unsold Units.** Any Unit owned by the Sponsor or its designee, other than a Unit purchased by and for the use of any affiliate of the Sponsor or held by the Sponsor for personal use or investment.
- bb. **Voting Owner or Member.** The Owner of a Unit. In the event a Unit is owned by more than one person, the Voting Owner or Member shall be the person named in a Voting Certificate signed by all Owners of such Unit and filed with the Secretary of the Board of Managers. If such certificate is not on file, the person first named on the deed by which title is obtained shall be the person considered the Voting Owner or Member.

cc. **Workforce Housing Units.** A dwelling unit which has a sales price that results in a monthly housing cost (including mortgage, insurance, property taxes and home association costs, if any) that does not exceed one-twelfth of thirty-five percent (35%) of the maximum annual income for a household earning eighty percent (80%) of Area Median Income (Moderate Income) or one hundred percent (100%) of Area Median Income (Middle Income. Area Median Income means the median household income as established by HUD for the Albany-Schenectady-Troy Metropolitan Statistical Area.

## ARTICLE II

### SUBMISSION OF PROPERTY

**Section 2.01. Submission of Property.** The Sponsor hereby submits the land described in Schedule A, attached hereto and made a part hereof, together with the Buildings and other improvements thereon erected, or to be erected, together with all easements, rights and appurtenances belonging thereto to the provisions of Article 9-B of the Real Property Law of the State of New York.

## ARTICLE III

### NAME OF CONDOMINIUM

**Section 3.01. Name.** The Condominium shall be known as the "285 Jefferson Condominium" sometime hereinafter referred to as the "Condominium."

## ARTICLE IV

### BUILDING

**Section 4.01. Buildings.** The "Buildings," as hereinafter referred to, are two (2) residential Buildings, one (1) Building has ten (10) Units and another Building has fourteen (14) Units and two Garage buildings, one with thirteen (13) bays and the other with eleven (11).

Schedule B, attached hereto and made a part hereof, contains a description of the Buildings, including the number of stories and materials of which the Buildings are constructed.

**ARTICLE V**

**UNITS**

**Section 5.01. Number of Units.** There are twenty-four (24) Units and twenty-four (24) Garage Bays in four (4) Buildings in the Condominium, all of which are residential in nature.

**Section 5.02. Designations, Plans and Location of Units.** Annexed hereto and made a part hereof as Schedule C is a list of all Units in the Buildings, their postal designations, locations, number of rooms, percentage of interest in the Common Elements and Limited Common Elements to which each has immediate access (as shown on the floor plans of the Buildings, certified by Peter Loyola, Licensed Landscape Architect in the State of New York, filed in the office of the Clerk of the County of Saratoga simultaneously with this Declaration). If such floor plans do not include a certified statement by such architect that such plans fully and fairly depict the layout, location and approximate dimensions of any particular Unit or Units as built, there shall be recorded prior to each first conveyance of such particular Unit or Units an Amendment to this Declaration, to which shall be attached a certified statement by a licensed professional landscape architect, certifying that the plans theretofore filed, or filed simultaneously with such Amendment, fully and fairly depict the layout, location, postal designations and approximate dimensions of those particular Unit(s) as built. Annexed hereto and made a part hereof as Schedule D is a site plan or survey showing the designation and location of the Units within the Buildings.

**Section 5.03. Dimensions of Units.** Each residential Unit is measured horizontally from the exterior surface of the drywall of all opposite walls and vertically from the lower surface of the concrete slab or sub-floor forming the floor up to the exterior surface of the drywall forming the ceiling of the Unit. All pipes, wires, cables, conduits, connections, fittings and other fittings from the electric meters, together with all doors, windows, interior walls, cabinets, fixtures and appliances within the Unit and the air conditioning condensers located outside the Unit on Common Property, are part of the Unit.

**Section 5.04. Ownership of Units.** Each Unit will be sold to one or more parties with each Owner obtaining fee ownership to the Unit acquired and the appurtenant undivided interest in the Common Elements as set forth in Schedule C of this Declaration. Upon acquiring title in such manner, such Purchaser shall become a Member of 287 Jefferson Condominium and will remain such so long as such Unit is owned by such Owner.

**Section 5.05. Use of Units/Parking Areas.**

- a. Except as otherwise provided in the Declaration, the Units shall be used for residential purposes only and purposes incidental and accessory thereto. This shall not prohibit an Owner or occupant from maintaining an office within his

Unit, providing no extraordinary traffic results, there are not alterations or modifications to the exterior of the Unit and no signs or other evidence of such office are displayed in any window, on the exterior of the Unit or Building or anywhere on the Property.

- b. An Owner may only lease the entire Unit and not a portion thereof. The initial term shall be not less than one (1) year. All leases must be in writing and shall be subject to this Declaration and the Condominium By-Laws. Copies of all leases must be given to the Condominium Board of Managers or the Managing Agent if there be one.
- c. The enclosed Garage Bays shall be assigned to each Unit Owner and the outdoor parking spaces within the Property shall be limited in use to the occupants of Units and guests, subject to such spaces being assigned to specific Units by the Sponsor or the Board of Managers. If outdoor spaces are not initially assigned by the Sponsor, the Board of Managers has the right to assign spaces if the Board, in its sole discretion, deems such assignments desirable or necessary.
- d. Notwithstanding anything herein to the contrary, so long as the Sponsor has one or more Unsold Units, Sponsor may use Units for sales offices, models and the storage of supplies and equipment and it may lease Units to potential Purchasers for such period as the Sponsor and such potential Purchaser shall agree upon.

**Section 5.06. No Partition of Units.** No Unit (including the interest in the Common Elements appurtenant thereto) shall be subject to partition by the Owner. However, the foregoing shall not be construed as prohibiting any combination of Units as provided in Section 7.01 of this Declaration or any structural alterations or changes in the number of rooms in a Unit upon application to the approval from the Board of Managers as provided for in Article VII of this Declaration.

## ARTICLE VI

### COMMON ELEMENTS

**Section 6.01. Limited Common Elements.** Subject to the right of the Board of Managers to enter upon any restricted area for maintenance, repair or improvements of a Unit or Common Element and subject to the rules of the Board of Managers (see Article XI of By-Laws attached hereto as Schedule E), the following portions of the Common Elements are restricted in use as specified below:

- a. Assigned enclosed Garage Bays;
- b. outdoor parking spaces, if assigned;
- c. mailbox assigned to specific Unit; and
- d. deck or patio appurtenant to a specific Unit.

**Section 6.02. Interest in Common Elements.** Title to Common Elements shall be held by Owners as tenants in common. The interest of each of the Units shall be equal, as set forth in Schedule C of this Declaration. The percentage of interest of each Unit in the Common Element has been determined by the Sponsor in accordance with New York Real Property Law Section 339-i-1 (iii).

The interest in Common Elements as expressed herein shall have a permanent character and shall not be altered without the consent of all Owners affected, as well as their Mortgagees, expressed in a duly recorded amendment hereto and recorded in the Saratoga County Clerk's Office.

The undivided interest in the Common Elements shall not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instruments.

Upon completion of construction of the twenty-four (24) Units, Sponsor shall amend this Declaration by amending Schedule C, setting forth the percent of Common Interest of each Unit "as build," if there is a substantial change.

**Section 6.03. Common Elements to Remain Undivided.** The Common Elements shall remain undivided, and no Owner shall bring any action for partition or division unless otherwise provided by law, or unless consented to by all Owners and First Mortgagees.

**Section 6.04. Abandonment or Encumbrance of Common Elements.** The Common Elements shall not be abandoned or encumbered without the consent of all the Owners, who shall vote by secret ballot. Notice of such proposed abandonment or encumbrance shall be sent by certified mail, return receipt requested, to every Owner not less than ten (10) days nor more than fifty (50) days in advance of the canvass thereof. Written notice of any such proposed abandonment or encumbrance shall also be sent to all First Mortgagees whose names appear on the records of the Condominium by certified mail, return receipt requested, not less than ten (10) days nor more than fifty (50) days prior to the date set for voting on the proposed abandonment or encumbrance. No such abandonment or encumbrance shall be made if any First Mortgagee advises the Board of Managers in writing, prior to the date set for voting on the proposed abandonment or encumbrance, that it is opposed to such abandonment or encumbrance, which opposition shall not be unreasonable.

Notwithstanding the foregoing, the Board of Managers shall have the power to grant easements, rights of way or licenses for utilities, cable television or other similar services across, over, through, on or in the Common Elements, with or without consideration, for the benefit of the Owners.

**Section 6.05. Condemnation or Eminent Domain.** Notwithstanding Section 6.02 above, if a Unit or Units, or the Common Elements, or any portion thereof is taken by condemnation or eminent domain, the following shall apply:

- a. **Action to Contest Condemnation.** The Board of Managers shall have the exclusive right to contest any condemnation or eminent domain proceeding which is directed at taking any portion of the Common Elements or which touches upon, concerns or affects the use of the Common Elements. No Owner or tenant of a Unit shall impair or prejudice the action of the Board of Managers in contesting such condemnation. Such restriction or prohibition shall not preclude an Owner or tenant of a Unit from contesting the taking in such condemnation or eminent domain proceeding of the Unit owned or rented by such Owner or tenant. In any action contesting a taking by condemnation or eminent domain proceeding, the Board of Managers shall request the court to set forth the allocation of the condemnation award amount the Owners affected, taking into account the respective percentage interests in the Common Elements, the effect of the taking on each Unit affected thereby and any other relevant factor.
  
- b. **Partition Action in Lieu of Continuation of Condominium after Partial Taking by Condemnation.** If any condemnation or eminent domain proceeding results in a partial taking of the Property, then the Property or so much thereof as shall remain shall be subject to an action for partition as provided for by Section 339-t of the Real Property Law, as said Section may be amended from time to time. In such event, the net proceeds of sale, together with the net proceeds of the award from the condemnation or eminent domain shall be considered one fund and shall be divided among all the Owners in proportion to their respective Common Interests; provided, however, that no payment shall be made to an Owner until there has first been satisfied out of such Owner's share of such net proceeds all liens on such Owner's Unit known to the Board of Managers, in order of their priority.
  
- c. **Distribution of Condemnation Awards for Taking of Common Elements.** Except as provided in (b) above and any award obtained by an Owner for his Unit as further provided in (a) above, in the event all or part of the Common Elements are taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to the trustee (as defined in Article XII of the By-laws) selected by the Board of Managers if the award is more than \$50,000 and to the Board of Managers if the award is \$50,000 or less. The Board of Managers or the trustee, as the case may be, shall arrange for the repair, restoration or replacement of such Common Elements to the extent reasonable possible, and shall disburse the proceeds of such award to the contractors engaged in such repair and restoration.

If there shall be a surplus of such proceeds, or if the Board of Managers or trustee determine the Common Elements taken cannot reasonably be repaired, restored or replaced, the proceeds shall be distributed among the Owners and the percentage interest in the Common Elements reallocated among the remaining Units as the court shall have directed, or as provided in (d) below, if there was no direction by the court, taking into account the

respective percentage interests in the Common Elements of the Units affected thereby, the effect of the taking on each Unit affected thereby after the completion of any repair, restoration or replacement by the Board of Managers or trustee and any other relevant factors. Any court direction as to such distribution shall be final. Any Owner or tenant who wishes to contest a determination by the Board of Managers for the distribution of such proceeds may do so by submitting the matter to the American Arbitration Association for the determination of a fair and proper distribution, or reallocation of percentage interests in the Common Elements, as the case may be, which shall be binding on the Board of Managers, and on all Owners and tenants. The cost of such arbitration shall be borne solely by the Owner or tenant submitting the matter for arbitration.

- d. **Reallocation of Common Interests.** Subject to the direction of any court as described in (c) above, if an entire Unit is so taken, or if part of a Unit is taken such that the remaining portion may not be practically or lawfully used for any purpose permitted by this Declaration, that Unit's entire interest in the Common Elements shall be automatically reallocated to the remaining Units in proportion to the respective Common Element interest to those Units before the taking. The Condominium shall prepare, execute and record an amendment hereto reflecting the reallocation. If part of a Unit is so taken, such that the remaining portion may be practically and lawfully used for the purpose permitted by this Declaration, the interest in the Common Elements of such Unit shall be reduced in proportion to the reduction in size of the Unit in a manner consistent to the reduction in size of the Unit; the portion of the interest in the Common Element so divested shall be automatically reallocated to all the remaining Units in proportion to the respective Common Element interests of those Units before the taking, with the partially taken Unit participating in the reallocation on the basis of its reduced interest in the Common Elements.
- e. After any determination for reallocation of percentage interests in the Common Elements, the Board of Managers shall promptly prepare, execute and record an amendment to this Declaration in the Office of the Saratoga County Clerk reflecting such reallocation, which said Amendment need only be executed by Owners affected and by a majority of the Board of Managers.
- f. **Condemnation Provisions Subject to Existing Law.** All provisions of this Section 6.05 are subject to interpretation in accordance with the law in effect at the time of any condemnation or eminent domain proceedings. Should all or any portion of the provisions of this Section 6.05 be deemed illegal at such time, the distribution of proceeds, rights with respect to partition and allocation of percentage interests in the Common Elements after a partial taking, shall be as a court of law shall determine.

**ARTICLE VII**

**ALTERATION OF UNITS OR COMMON ELEMENTS**

**Sections 7.01. Increases in Size of Units.**

- a. Any Owner or Owners shall have the right to combine adjacent Units owned by such Owner or Owners, so long as (i) the Common Interest appurtenant to such Units after such combination shall equal in total the Common Interest applicable to the Unit or Units combined prior to combination; (ii) the written consent of the Board of Managers is obtained pursuant to Sections 7.04 through 7.08 of this Declaration; (iii) the written consent of any Mortgagee of the affected Units is obtained, if required; (iv) such proposed combination is in all respects lawful under the terms and provisions of their Real Property Law of the State of New York in effect at the time of the combination; and (v) such combination is in compliance with all governmental laws, codes, ordinances and regulations.
- b. Among the factors to be considered by the Board of Managers in determining whether or not to consent to such combination are adequacy of the size, shape and location of all Units after such combination, the structural soundness of the Building during and after the performance of the necessary improvements, and any other factors which may affect the appearance or value of the Building or which are set forth in Section 7.05 hereof.
- c. The cost of any such combination shall be the sole responsibility of the Owner or Owners of the Units being combined.
- d. Any such combination shall become effective upon the recording in the Saratoga County Clerk's Office of an amendment to this Declaration (which amendment shall include, as appropriate, any necessary changes to the text of this Declaration, any site plan attached hereto or any "as built" plan or plans previously recorded), certified to by the Board of Managers and by the Owners and Mortgagees, if required, of the Units so combined, together with the filing of floor plans of the Unit so combined, together with the certification by tax authorities of tax lot numbers conforming to the new Unit.

**Section 7.02. No Other Additions or Structural Alterations to Units.** No structural alterations shall be made to a Unit which would impair the structural soundness of any Unit or Building or which would cause an adverse material effect on the exterior appearance or value of the Building in which the Unit is located. This Section 7.02 shall not apply to additions or alterations made by the Sponsor (so long as any proposed improvements by the Sponsor comply fully with all governmental laws, codes, ordinances, regulations and the proposed improvements are lawful under the terms and provisions of the Real Property Law of the State of New York in effect at the time of the improvement). This Section shall not be amended without the written consent of the Sponsor as long as the Sponsor has Unsold Units.

**Section 7.03. Additions, alterations and improvements of Common Elements.**

- a. The Board of Managers shall have the right, at its option, to make or cause to be made such additions, alternations and improvements to the Common Elements as, in its opinion, may be beneficial or necessary, subject however, to the requirement that, if the addition, alteration or improvement is not required by law and shall cost more that five percent (5%) of the then current estimated annual budget (including reserves), such addition, alteration or improvement must be approved by more than sixty-seven percent (67%) in number and in Common Interest of the Owners voting at a meeting duly called pursuant to the By-Laws. Such expenses shall constitute Common Expenses. Additions, alterations or improvements which are required by law or which cost five percent (5%) or less of the Condominium's then current estimated annual budget may be made by the Board of Manager without the consent of the Owners and the cost thereof shall constitute a part of the Common Expenses. Before undertaking such work, the Board may require the consent in writing of such Owners and the holders of First Mortgages thereon, whose rights, in the sole opinion of the Board, may be prejudiced by such addition, alteration or improvement.
- b. No Owner may, (i) install any major appliance which, because of its energy consumption, weight, noise or size, may be deemed by the Board of Managers to unreasonably or materially adversely affect the Property or other Owners or occupants, or (ii) make any structural addition, alteration or improvement in his Unit or (iii) make any changes in or to the Common Elements or Limited Common Elements without the prior written approval of the Board of Managers.
- c. Notwithstanding anything to the contrary contained in this Declaration or the By-Laws, so long as the Sponsor continues to have Unsold Units representing ten percent (10%) or more of the Common Elements, but in no event later than two (2) years from the date of the recording of this Declaration, the Board of Managers may not, without Sponsor's prior written consent, make any such additions, alterations or improvements, except for necessary repairs. However, such consent shall not be unreasonably withheld.

**Section 7.04. Submission of Plans to Board of Managers.** The plan or plans for any addition, alteration or improvement to a Unit, Common Element, or Limited Common Element proposed by a Unit Owner (other than the Sponsor) pursuant to Sections 7.01 through 7.03 above shall be in such form as the Board of Managers may require, and shall be submitted to, reviewed and approved by the Board of Managers. No application shall be filed with any governmental authority for a permit covering an addition, alteration or improvement to be made in a Unit unless approved and executed by the Board of Managers, without, however, incurring any liability on the part of the Board of Managers, or any one of them, to any contractor, subcontractor, supplier, architect or engineer, by reason of such addition, alteration or improvement or to any

person having any claim for injury to person or damage to property arising therefrom and such owner agrees to defend, indemnify and forever hold the Board harmless for any liability or expenses incurred by the Board in connection therewith. The Board of Managers may charge and collect a reasonable fee for the examination of plans submitted for approval, including any fees which may be charges by architects, engineers or attorneys retained by the Board of Managers in connection with the review of such plans.

In connection with any installation or work done by an Owner, the Board of Managers may require that the Owner obtain such insurance coverage, and in such amounts, as the Board of Managers may deem proper.

The provisions of these Paragraphs shall not apply to an Unsold Unit until a deed to such Unit has been delivered to a Purchaser thereof.

The Board of Managers may adopt simplified review procedures for any such additions, alterations or improvements which it shall deem minor.

The Board of Managers may disapprove such plans for any of the following reasons:

- a. Failure of such plans to comply with any of the provisions, terms and conditions contained in this Declaration, the Condominium By-Laws, or the Condominium Rules and Regulations;
- b. Failure to include information in such plans, as requested by the Board of Managers;
- c. Incompatibility of proposed improvements or use of proposed improvements with existing improvements;
- d. Failure of proposed improvements to comply with any zoning, building, health, or other governmental law, codes, ordinances, rules and regulations, including the Real Property Law of the State of New York;
- e. Failure of the applicant to furnish to the Board proof satisfactory to the Board that insurance (including, but not limited to, liability insurance protecting the Board) in form and amount as required by the Board has been obtained and will be maintained for an approximate period of time by the applicant; and
- f. Any other matter which in the judgment and sole discretion of the Board of Managers it would render a decision concerning the proposed improvements, their use or uses, including any possible adverse impact on their use and enjoyment of the Property by any other Owner.

**Section 7.05. Written Notification.**

- a. Upon approval or qualified approval by the Board of Managers of any plans submitted pursuant to this Section, the Board of Managers shall notify the applicant in writing of such approval or qualified approval, which notification shall set forth any qualifications or conditions of such approval, shall file a copy of such plans as approved in the Condominium's permanent records (together with such qualifications or conditions, if any) and, if requested by the applicant, shall provide the applicant with a copy of such plans bearing a notation of such approval or qualified approval. Approval of any such plans shall not be deemed a waiver of the right of the Board of Managers to disapprove similar plans or any of the features or elements included therein, if such plans, features or elements are subsequently submitted for approval by other Owners.
- b. Once plans have been approved, they may not be revoked unless the Board of Managers determined that (i) the work currently being performed is not in substantial conformity with the approved plans; (ii) adequate insurance is not being maintained by the applicant; or (iii) appropriate permits have not been obtained, maintained and/or complied with.
- c. In any case where the Board of Managers disapproves any plans submitted hereunder, the Board of Managers shall notify the applicant in writing, together with a statement of the grounds upon which such action was based. In any such case, the Board of Managers shall, if requested and if practicable, make reasonable efforts to assist and advise the applicant so that acceptable plans can be prepared and resubmitted for approval.

**Section 7.06. Failure of Board to Act.** If any applicant has not received notice of the Board of Managers approving or disapproving any plans within sixty (60) days after submission thereof, said applicant may notify the Board in writing of that fact. Such notice shall be sent by certified mail, return receipt requested. The plans shall be deemed approved by the Board twenty (20) days after the date of receipt of such second notice, if no decision is rendered by the Board within said twenty (20) day period.

**Section 7.07. Board of Managers Right to Promulgate Rules and Regulations.** The Board of Managers may, from time to time, promulgate rules and regulations governing the form and content of plans to be submitted or procedure for such submissions, provided, however, that no such rule or regulation shall be deemed to bind the Board to approve or disapprove any plans submitted, or to waive the exercise of the Board's discretion as to the appropriateness of such plans; and provided further that no such rule or regulation shall be inconsistent with the provisions of this Declaration, the Condominium By-Laws or any applicable governmental law, code, ordinance, rule or regulation.

**Section 7.08. Applications for Permits and Insurance.** Any application to any governmental authority to make installation, addition, alteration or improvement to the Common Elements, Limited Common Elements, or any Unit shall be executed by the Board of Managers only. However, applications for any such installation, addition, alteration or improvement proposed by an Owner pursuant to Sections 7.01 through 7.03 above shall be at the sole cost and expense of such Owner, and provided further, that this Article VII shall in no event be construed to result in the Board of Managers incurring any liability whatsoever to any Owner, contractor, subcontractor, material men, architect or engineer on account of such installation, addition, alteration or improvement proposed by an Owner, or to any person having any claim for injury to person or Property arising therefrom, and such Unit Owners agree to defend, indemnify and forever hold the Board harmless for any liability or expenses incurred by the Board in connection therewith, including reasonable attorneys' fees.

In connection with any installation of work done by an Owner, the Board of Managers may require that the Owner obtain such insurance coverage, in such amounts, as the Board of Managers deems proper.

**Section 7.09. Completion of Work by Board of Directors.** In the event the Board of Managers deems it necessary to complete work previously commenced by an Owner or to otherwise protect the appearance, value or structural integrity of the Buildings and Condominium Property, such amounts shall become a binding personal obligation of the Owner involved and a lien against his Unit.

**Section 7.10. Liability of Board of Managers.** No action taken by the Board of Managers or any member, subcommittee, 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 conditions of any Building or other portion of the Property. Neither the Condominium, nor the Board of Managers, nor any member, subcommittee, employee or agent thereof shall be liable to anyone submitting plans to them for approval or to any Owner, or any other person, in connection with any 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 of Managers agrees, by submission of such plans, that no action or suit will be brought against the Condominium or the Board of Managers (or any member, subcommittee, employee or agent thereof) in connection with such submission.

## ARTICLE VIII

### EASEMENTS

**Section 8.01. Utilities, Pipes and Conduits.** Each Owner shall have such easement of access to other Units and to the Common Elements, and each Unit shall be subject to such easement, as is reasonably necessary for such Owner to maintain, repair and replace, as necessary, in such Owner's Unit, the pipes, wires, cables, conduits,

connections and fittings running from the meters or equipment servicing such Unit to the Unit, if any. Each Owner shall also have an easement in common with the Owners' present available facilities, all pipes, wires, cables, conduits, connections, fittings, public utility lines, and other Common Elements located in any of the other Units and serving the Unit or Units of such Owner. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use, in accordance with present use and present available facilities, the pipes, wires, cables, conduits, connections, fittings, public utility lines and other Common Elements serving such other Units and located in such Unit.

**Section 8.02. Access by Board of Managers.** The Board of Managers Managing Agent or Director and/or other person authorized by the Board of Managers, the Managing Agent or Director, shall have the right of access to each Unit for the purpose of making inspections or for the purpose of correcting any condition originating in such Unit and threatening another Unit or a Common Element, or for the purpose of performing electrical services or other Common Elements in such Unit or elsewhere in the Building, or to correct any condition which violates the provisions of any mortgage covering another Unit, the cost of which shall be a Common Expense. Requests for entry will be made in advance and any such entry will be at a time reasonably convenient to the Owner or occupant. In case of an emergency, such right of entry shall be immediate, whether the Owner or occupant is present at the time or not or whether the time is convenient or not.

**Section 8.03. Sponsor's Easement for Marketing and Improvement Purposes.**

- a. The Sponsor reserves the right to grant and reserve easements and rights of way for the installation, maintenance, repair, replacement and inspection of utility lines, wires, pipes and conduits, including, but not necessarily limited to, water, electric, telephone, sewer and cable television to service the Units, or to service other improvements;
- b. The Sponsor reserves the right, with respect to its marketing of Units, to maintain a sales office and/or permit a sales agent to maintain a sales office until all Units are sold and to use the Common Elements for the ingress and egress of itself and prospective Purchasers and other licensees or invitees;
- c. The Sponsor reserves the right to maintain a construction office on the site and use the Property for ingress and egress for itself, contractors and/or subcontractors as may be necessary to complete improvements and/or construction; and
- d. The Sponsor reserves the right to grant to itself or to others such other easements and rights of way as may be reasonably needed for the orderly development of the Property, including the right to use unassigned parking spaces.

With respect to its exercise of the above rights, the Sponsor agrees (i) to repair within a reasonable time any damage to the Common Elements resulting from construction; and (ii) to hold the Condominium harmless from all liabilities resulting solely from the Sponsor's acts or omissions.

**Section 8.04. Easement for Encroachments.** The Owners agree that if any portion of a Unit or the Common Elements (whether restricted in use to an individual Owner or not) encroaches or shall hereinafter encroach upon another Unit or the Common Elements as a result of (i) the original construction or settling or shifting of the Building; or (ii) any repair or restoration by the Board of Managers of the Building, any Unit or the Common Elements; or (iii) any construction after a partial or total destruction as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, a valid easement for the encroachment and the maintenance of the same shall and does exist. Such easements as provided in this Section shall exist so long as the Building shall stand.

**Section 8.05. Easement for Necessity.** Each Unit shall have and each Unit shall be subject to, all easements of necessity in favor of such Unit or in favor of other Units and the Common Elements.

**Section 8.06. Easements to Owners for Maintenance of Air Conditioning Equipment.** Each Owner shall have an easement over the Property for the maintenance, repair and replacement, as necessary of air conditioning equipment, such as condensers located on the Property outside the Unit and serving such Owner's Unit. Air conditioning equipment is considered a part of the Unit and the Owner of such is responsible for the cost of maintenance, repair and replacement of it, together with the cost of any damage or destruction to the Property and other Common or Limited Common Elements resulting from servicing and replacement.

**Section 8.07. Sponsor's Consent.** No provision of this Article VIII may be amended without the prior written consent of the Sponsor (or its successors or assigns) as long as the Sponsor has any Unsold Units.

## ARTICLE IX

### VOTING RIGHTS

**Section 9.01. Voting Rights.** For all voting purposes, at any meeting of Owners, the Voting Owners shall be entitled to one (1) vote for each Unit Owned.

**ARTICLE X**

**COMMON CHARGES – ALLOCATION, LIEN AND LIABILITY**

**Section 10.01. Allocation of Common Charges.** Except as otherwise permitted in this Section of this Declaration or the By-Laws, the Common Expenses shall be charged by the Board of Managers to the Owners, according to their respective percentage interests in the Common Elements. Notwithstanding the foregoing, the Board of Managers may elect to specially allocate and apportion expenses between Owners based upon special or exclusive availability or use of certain portions of the Common Elements by certain Owners.

**Section 10.02. Unit Services and utilities Funded through Common Charges.** Water, sewer and refuse removal shall be a Common Expense. Electricity is separately metered for individual Units, and the cost of the electricity so metered shall be at the sole expense of the Owner.

**Section 10.03. Right to Maintain Surplus.** The Condominium shall not be obligated in any calendar year to spend all sums collected in such year by way of Common Charges or otherwise, and may carry forward as surplus any balances remaining; nor shall the Condominium be obligated to apply any such surpluses to the reduction of the amount of the Common Charges in the succeeding year, but may carry forward from year to year such surplus as the Board of Managers, in its absolute discretion, may determine to be desirable for the greater financial security and more efficient effectuation of the purposes of the Condominium.

**Section 10.04. Common Charges: Personal Obligation of Owner and Lien on Unit.** Common Charges shall commence the date of recording of the first deed transferring title to a Unit. Each Owner must pay Common Charges in accordance with Sections 339-i-1 (iii) and (m) of the New York State Condominium Act. The Common Charges shall be paid when due. All sums assessed as Common Charges by the Board of Managers but unpaid, together with any accelerated installments, late charges and fees for violations or of Rules and Regulations as may be established by the By-Laws and interest thereon at such rate as may be fixed by the Board of Managers from time to time (such rate not to exceed the maximum rate of interest then permitted by law) shall be the personal obligation of the Owner and shall constitute a lien upon the Unit.

**Section 10.05. No Exemption or Waiver of Common Charges.** Every Owner, including the Sponsor, shall pay the Common Charges assessed against him when due and no Owner may exempt himself from liability for the payment of the Common Charges assessed against him by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of his Unit. However, no Owner shall be liable for the payment of any Common Charges accruing subsequent to a sale, transfer or other conveyance by him of such Unit made in accordance with Section 339-x of the Real Property Law or in accordance with the provisions of this Declaration and the By-Laws. An Owner may, by conveying his Unit and his Common Interest to the Board of Managers on behalf of all other Owners, exempt himself from Common Charges thereafter accruing.

**Section 10.06. Notice of Default.** The Board of Managers, when giving notice to an Owner of a default in paying Common Charges or other default, may, at its option, or shall, at the request of the Mortgagee, send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has theretofore been furnished to the Board of Managers. The Mortgagee shall have the right to cure the Owner's default with respect to the payment of Common Charges or other default of the Owner which could result in a lien against the Unit of such Owner.

**Section 10.07. Statement of Common Charges.** Upon the written request of an Owner, lessee, Mortgagee or title insurer of a Unit (or any prospective Purchaser, lessee, mortgagee or title insurer of such Unit), or the agent or agents of any of the foregoing, the Board of Managers, the Director or the Managing Agent, shall within fifteen (15) days of receipt of such written request, issue a certificate, in writing, signed by an Officer or designee of the Board of Managers, setting forth with respect to such Unit as of the date of such certificate, (i) whether or not the Common Charges due have been paid; (ii) the amount of such Common Charges, including interest and costs, if any, due and payable as of such date; and (iii) whether any other amounts of charges are owing to the Condominium, e.g. for a special assessment, or for the cost of extinguishing a violation of this Declaration, the By-Laws or Rules and Regulations.

A reasonable charge, as determined by the Board of Managers, may be made for the issuance of such certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Condominium and any bona fide Owner, Purchaser, lessee, Mortgagee or title insurer of the Unit with respect to which the certificate was given.

**Section 10.08. Lien for Common Charges, Priority, Exoneration of Grantor and Grantee.** The Board of Managers, on behalf of the Unit Owners, shall have a lien on each Unit for the unpaid Common Charges thereof, together with interest and late charges thereon, prior to all other liens except only (i) liens for taxes on the Unit in favor of any assessing school district, special district, county, city, or other taxing unit, and (ii) all sums unpaid on a First Mortgage of record. Upon the sale or conveyance of a Unit such unpaid common Charges shall be paid out of the sale proceeds or by the Grantee. Any Grantor or Grantee of a Unit shall be entitled to a statement from the Board of Managers or Managing Agent, if there be one, setting forth the amount of the unpaid Common Charges accrued against the Unit and neither such Grantor nor Grantee shall be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid Common Charges against such Unit accrued prior to such conveyance in excess of the amount therein set forth.

**Section 10.09. Lien for Common Charges, Duration, Foreclosure.** The lien for past due Common Charges shall be effective from and after the filing in the office of the Saratoga County Clerk a verified notice of lien stating the name and address of the Property, the Liber and Page of record of the Declaration, the name of the recorded Owner of the Unit, the Unit designation, the amount and purpose for which due and the date when due, and shall continue in effect until all sums secured thereby, with the interest and late charges thereon, shall have been fully paid or until expiration of six (6)

years from the date of filing, whichever first occurs. Upon such payment, the Unit Owner shall be entitled to an instrument duly executed and acknowledged certifying to the fact of payment. Such lien may be foreclosed by suit authorized by and brought in the name of the Board of Directors, acting on behalf of the Unit Owners, in like manner as a mortgage of real property, without the necessity, however, of naming as a party defendant any person solely by reason of his owning a Common Interest with respect to the Property. In any such foreclosure the Owner shall be required to pay a reasonable rental for the Unit for any period prior to sale pursuant to judgment of foreclosure and sale and the plaintiff in such foreclosure shall be entitled to the appointment of the receiver to collect the same. The Board of Managers, acting on behalf of all Owners shall have the power to bid on the Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid Common Charges shall be maintainable without foreclosing or waiving the lien securing the same and foreclosure shall be maintainable notwithstanding the pendency of suit to recover a money judgment.

Notwithstanding any other provisions of this Article X, if a municipal corporation acquires title to a Unit as a result of tax enforcement proceedings, such municipal corporation shall not be liable for and shall not be subject to suit for recovery of the Common Charges applicable to such Unit during the period while title to such Unit is held by the municipal corporation or for the payment of any rental for the Unit under the provisions of this Section, except to the extent of any rent arising from such Unit received by such municipal corporation during such period.

Except as herein specifically provided, nothing contained herein shall affect or impair or release the Unit from the lien for such Common Charges or impair or diminish the rights of the Board of Managers on behalf of all Unit Owners.

**Section 10.10. Grantee to be Liable with Grantor for Unpaid Common Charges.** In any conveyance of a Unit either by voluntary instrument, operation of law or judicial proceeding in accordance with this Declaration or the By-Laws, the Grantee of the Unit shall be jointly and severally liable with the former Owner for any unpaid Common Charges against the latter, assessed and due up to the time of the grant or conveyance without prejudice to the Grantee's right to recover from the former Owner the amounts paid by the Grantee therefore. "Grantee" as used herein shall not include either the holder of a mortgage of record or a Purchaser of a Unit at a foreclosure sale, or a person who obtains title to a Unit by means of a deed in lieu of foreclosure.

**ARTICLE XI**

**BOARD OF MANAGERS**

**Section 11.01. Board of Managers.** The affairs of the Condominium shall be governed and controlled pursuant to the Condominium By-Laws (attached hereto as Schedule E and made a part hereof) by the Board of Managers which shall be elected, serve and have the duties and powers as provided in the By-Laws.

**Section 11.02. Administration.** The administration of the Condominium, the Building and Land described herein shall be in accordance with the provision of this Declaration and with the provisions of the By-Laws.

**Section 11.03. Power of Attorney to the Board of Managers.** Each Owner shall grant to the persons who shall from time to time constitute the Board of Managers, an irrevocable Power of Attorney, coupled with an interest to acquire title to or lease any Unit whose Owner desires to surrender, sell or lease the same, or which may be the subject of a foreclosure or other judicial sale in the name of the Board of Managers or its designee, corporate or otherwise, on behalf of all Owners, and to convey, sell, lease, mortgage, vote the votes appurtenant thereto or otherwise deal with any such Unit so acquired, or to sublease any Unit so leased by the Board of Managers.

**Sections 11.04. Acquisition of Units by the Board of Managers.** In the event any Owner shall surrender such Owner's Unit, together with (i) the undivided interest in the common Elements appurtenant thereto; (ii) the interest of such owner in any other Units acquired by the Board of Managers or its designee on behalf of all Owners or the proceeds of the sale or lease thereof, if any; and (iii) the interest of such Owner in any other assets of the Condominium (hereafter collectively called the "Appurtenant Interests") pursuant to the provisions of Section 339-x of the Real Property Law of the State of New York, or in the event the Board of Managers shall purchase at a foreclosure or other judicial sale, a Unit together with the appurtenant interests, title to any such Unit, together with the appurtenant interests shall be held by the Board of Managers or its designee, corporate or otherwise, on behalf of all Owners, in proportion to their respective Common Interests. The lease covering any Unit leased by the Board of Managers, or its designee, on behalf of all Owners, shall be held by the Board, or its designee, on behalf of all Owners in proportion to their respective Common Interests.

**Section 11.05. Sponsor's Written Consent Necessary for Certain Action Taken by Board of Managers.** Notwithstanding anything to the contrary contained in this Declaration, so long as the Sponsor shall continue to have Unsold Units representing ten percent (10%) or more of the Common Elements, but in no event later than two (2) years from the date of recording this Declaration, the Board of Managers may not, without the Sponsor's written consent, which consent will not unreasonably be withheld: (i) make any addition, alteration or improvements to the Common Elements or to any Unit owned by the Condominium, except for necessary repairs; or (ii) assess any Common Charges for the creation of, addition to, or replacement of all or part of a reserve, contingency or surplus fund in excess of any amount equal to the proportion of

the then existing budget which the amount of reserves in the initial budget of estimated expenses for the Condominium bears to the total amount of such initial budget of estimated expenses; or (iii) hire any employee in addition to the employees, if any, provided for in the initial budget; or (iv) enter into any services or maintenance contract for work not covered by contracts in existence on the date of the first closing of title to the Unit, or not contemplated by the initial budget; or (v) borrow money on behalf of the Condominium or (iv) reduce the quantity or quality of services or maintenance of the Property. This Section shall not be amended without the written consent of the Sponsor, so long as Sponsor continues to have Unsold Units representing ten percent (10%) or more of the total number of Units.

## ARTICLE XII

### OBLIGATIONS, RESPONSIBILITIES, COVENANTS AND RESTRICTIONS

**Section 12.01. All Owners, Tenants and Occupants Subject to Condominium Documents which Run with the Land.** All present or future Owners, tenants, Occupants, or any other person that might use the Units or the facilities of the Property in any manner, are subject to the provisions of this Declaration, the By-Laws, and the Rules and Regulations of the Condominium, as they may be amended from time to time, together with the provisions of the Declaration, By-Laws, and the Rules and Regulations of the 287 Jefferson Condominium.

**Section 12.02. Units to be Properly Maintained.** Owners shall maintain their Units in good repair and overall appearance.

**Section 12.03. Common Charges to be Paid.** All Unit Owners have an obligation to pay the amount due for Common Charges and special assessments promptly when due.

**Section 12.04. Mortgages on Units.** Any Owner who mortgages his Unit shall promptly provide the Board of Managers with the name and address of the Mortgagee.

**Section 12.05. No Nuisances.** No nuisances shall be allowed upon the Property nor shall any use or practice be allowed which is a source of annoyance to occupants or which interferes with the peaceful possession and proper use of the Property by its occupants.

**Section 12.06. Pets.** Except for pets owned by the initial Purchaser of a Unit at the time such initial Purchaser entered into a contract for the purchase of a Unit (as set forth in such contract, no pets (including replacement after the demise or disposition of any pet owned by a Unit Owner at the time of entering into a contract for the purchase of a Unit) shall be kept or maintained in any Unit or other portion of the Property without the written consent of the Board of Managers.

The Board of Managers reserves the right to prohibit pets and take action to have a pet removed from the Condominium that is deemed a nuisance or otherwise disturbs other occupants. Pets may not be allowed on

the premises unleashed and may not be tied or leashed to any portion of any Building or other areas outside the Unit.

**Section 12.07. No Unlawful Use.** No unlawful use shall be made of the Property, or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

**Section 12.08. Leasing of Units.** An Owner may only lease the entire Unit and not a portion thereof. The initial term shall be not less than one (1) year. All leases must be in writing, shall be subject to this Declaration, the Condominium By-Laws and Rules and Regulations. Copies of all leases must be given to the Condominium Board of Managers or the Managing Agent if there be one. No leasing is permitted by Owners of Workforce Housing Units. All such Units must be Owner occupied.

**Section 12.09. Owner Responsible for Tenant.** The Owner of the Unit shall be responsible for full compliance by the tenant with this Declaration, the By-Laws and Rules and Regulations and shall be responsible for providing the tenant with copies of such documents. Should a tenant be in violation thereof at any time, the Board of Managers shall so notify the Owner of such Unit occupied by such tenant, in writing, by certified mail, return receipt requested. If the violation is not cured or eviction proceedings commenced by the Owner against the tenant within five (5) days after the Owner has received notice of such violation, or if eviction proceedings commenced are not diligently pursued thereafter, the Board of Managers may pursue any remedies it may legally have and may assess the cost of the same as a charge against the Owner's Unit.

**Section 12.10. Obligation to Maintain Utility Service.** Regardless of whether the Unit is occupied, the Owner thereof shall be obligated to maintain sufficient utility service to prevent damage to other Units or to the Common Elements. If such service is not maintained by the Owner, the Board of Managers shall have the right to immediately arrange for such service, upon such notice to the Owner as is practical under the circumstances and without notice in emergency situations. If such service must be arranged by the Board of Managers, any cost incurred shall be collectible in the same manner as Common Charges and shall constitute a lien on the Unit involved and a personal obligation of the Owner.

**Section 12.11. Rules and Regulations.** Rules and Regulations promulgated by the Board of Managers concerning the use of Property shall be observed by the Owners and occupant, provided, however, that copies of such Rules and Regulations are furnished to each Owner and Occupant prior to the time said Rules and Regulations become effective. Each Owner shall have the responsibility of providing copies of such Rules and Regulations to any and all employees and tenants using any Unit owned by such Owner.

**Section 12.12. Right of First Mortgagee to Make Payment of Charges.** First Mortgagees may (i) jointly or singly pay taxes or other charges that are in default and that may, or have become, charges against the Condominium; and (ii) pay overdue premium on hazard insurance policies or secure new hazard insurance coverage for the Condominium in the event of lapse of a policy.

First Mortgagees making such payments are due immediate reimbursement from the Condominium, corporation or trust.

### ARTICLE XIII

#### WORKFORCE HOUSING

**Section 13.01. Definition.** A Workforce Housing Unit is a dwelling Unit which has a sales price that results in a monthly housing cost (including a mortgage, insurance, property taxes and home association costs, if any) that does not exceed one-twelfth or thirty-five percent (35%) of the maximum annual income for a household earning eighty percent (80%) of Area Median Income (Moderate Income) or one hundred percent (100%) of Area Median Income (Middle Income). (A copy of the Workforce Housing Declaration is annexed to this Declaration as Schedule G.

**Section 13.02. Units.** The Workforce Housing Units are numbers 1, 3, 4, 6, 21, 23 and 24.

**Section 13.03. Procedure to Purchase.** In addition to the procedure to purchase a Unit as set forth in the Plan, the Purchaser of a Workforce Housing Unit must be qualified by the Office of Planning and Urban Development of the City of Saratoga Springs, New York.

**Section 13.04. Re-Sale.** Any subsequent re-sale of a Unit shall be governed by the terms and conditions of the Workforce Housing Declaration.

### ARTICLE XIV

#### AMENDMENT AND TERMINATION

**Section 13.01. Amendment.** Subject to other provisions of this Declaration, this Declaration may be modified, altered or amended at any duly called meeting of Members, provided that written notice of the meeting, containing a full statement of the proposed modification, alteration or amendment has been sent to all Members, and to all holders of First Mortgages on Units who have requested notification of any such proposed action, listed on the books and records of the Condominium, no less than ten (10) days nor more than fifty (50) days prior to the date of the meeting; and provided, further that:

1. if the proposed modification, alteration or amendment is of an immaterial nature, at least sixty-seven percent (67%) of the total Voting Members approve the change and less than fifty-one percent (51%) of the holders of First Mortgages on the Units, of any, advise the Condominium, in writing, within thirty (30) days from date of notice, that they are opposed to such proposed modification, alteration or amendment, which opposition must not be unreasonable.
2. if the proposed modification, alteration or amendment is of a material nature, at least sixty-seven (67%) of the total Voting Members approved the change, and at least fifty-one (51%) of the holders of First Mortgages on the Units, of any, approve the change. Any of the following would be considered to be material change:
  - (a) Voting;
  - (b) Assessments, assessment liens or subordination of such liens;
  - (c) Insurance of fidelity bonds;
  - (d) Reserves for maintenance, repair and replacement of Common Elements;
  - (e) Responsibility for maintenance and repairs;
  - (f) Expansion or contraction of the condominium regime or the addition, annexation or withdrawal of the Property to or from the regime;
  - (g) Boundaries of any Unit;
  - (h) Convertibility of Units into common areas or of Common Elements in to Units;
  - (i) Rights to use of the Common Elements;
  - (j) The interests in the general or Limited Common Elements;
  - (k) Leasing of Units;
  - (l) Imposition of any right of first refusal or similar restriction on the right of any Owner to sell, transfer or otherwise convey his Unit; or
  - (m) Establishment of self-management of the Condominium where professional management has been required by any of the agencies or corporations.

3. When Owners are considering termination of the legal status of the Condominium for reasons other than substantial destruction or condemnation of the Property, the eligible holders of first mortgages representing at least sixty-seven percent (67%) of the mortgaged Units must agree.
4. An instrument evidencing the change is duly recorded in the Office of the Saratoga County Clerk as an amendment to the Declaration. Such instrument need not contain the written consent of the required number of Owners, but shall contain a certification by the Board of Managers that the consents required by this Section for such change have been received and filed with the Board of Managers.

So long as the Sponsor has Unsold Units representing ten percent (10%) or more interest in the Common Elements or two (2) years from the recording of this Declaration, whichever first occurs, the prior written consent of the Sponsor shall be required for any amendment which adversely affects a substantial interest or right of the sponsor (as determined by the Sponsor in its sole judgment) to become effective, which consent may not be unreasonably withheld.

**Section 13.02. Amendment for Filing of Supplemental Floor.**

Notwithstanding the foregoing, the Sponsor may execute and record Amendment(s) to this Declaration at any time until it no longer has any Unsold Units for the purpose of filing supplemental floor plans of Units, as described in Real Property Law Section 339-p and Section 5.02 of this Declaration. Such Amendment(s) need only be signed by the Sponsor, and attached thereto shall be the verified statement of a registered architect or licensed professional engineer described in the aforementioned Sections of the Real Property Law and of this Declaration.

**Section 13.03. Termination.** The Condominium shall continue until (i) termination by casualty loss, condemnation or eminent domain, as more particularly provided in Section 6.05 at the Declaration; or (ii) such time as withdrawal of the Property from the provisions of the New York Condominium Act, as provided in Section 339-t of the Real Property Law, is authorized by a vote of at least eighty percent (80%) in number and in Common Interest of all Owners and Mortgagees. In the event said withdrawal is authorized as foresaid, the Property shall be subject to an action for partition by any Owner or lienor as if owned in common, in which event the net proceeds of sale shall be divided among all Owners in proportion to their respective Common Interests, provided, however, that no payment shall be made to an Owner until there has first been paid from out of his share of such net proceeds all liens on his Unit, in the order of priority of such liens.

**ARTICLE XIV**

**GENERAL**

**Section 14.01. Notice.** All notices hereunder shall be in writing and, unless otherwise expressly provided, shall be sent by mail, by depositing same in a post office or letter box, in a postpaid sealed wrapper, addressed, if to the Board of Managers, at the Office of the Board of Managers, and if to an Owner or Mortgagee, to the address of such Owner or Mortgagee as appears on the books of the Association, and to the Sponsor to the address of the Sponsor as it appears on the books of the Condominium. All notices shall be deemed to have been given when mailed, except notices of change of address, which shall be deemed to have been given when received. Whenever any notice is required to be given under the provisions of this Declaration, 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 of such notice.

The Board of Managers may, from time to time, by written notice to all Owners and Mortgagees of record, and without the necessity of amending this Declaration, provide for different and/or additional addresses for notice.

**Section 14.02. Invalidity.** The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

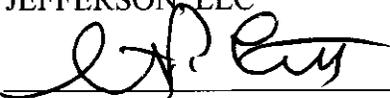
**Section 14.03. Waiver.** No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**Section 14.04. Headings and Captions.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

**Section 14.05. Gender.** The use of the masculine gender in this Declaration shall be deemed to refer to the feminine and/or neutral gender whenever the context so requires, and the use of the singular shall be deemed to include the plural whenever the context so requires.

**IN WITNESS WHEREOF**, the Sponsor has caused this Declaration to be executed this 6 day of Sept, 2007

285 JEFFERSON, LLC

By: 

Stephen P. Ethier

STATE OF NEW YORK

SS.:

COUNTY OF SARATOGA

On the 6 day of September in the year <sup>2007 *Ymur*</sup>~~2006~~ before me, the undersigned, personally appeared Stephen P. Ethier, 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.

*Gretchen M. Wescott*

Notary Public

GRETCHEN M. WESCOTT  
 Notary Public, State of New York  
 No. 04WE6108129  
 Qualified in Saratoga County  
 Commission Expires April 12, 2008

LIENS, ENCUMBRANCES AND OTHER TITLE EXCEPTIONS

1. The terms, conditions, covenants, easements and provisions of this Declaration and the By-Laws relating to the Condominium, including, but not limited to, are:
  - a. each Owner shall have such easement of access to other Units and to the Common Elements, and each Unit shall be subject to such easement as is reasonably necessary for such Owner to maintain, repair and replace, as necessary, such Owner's Unit including, if any, the pipes, wires, cables, conduits, connections and fittings running from the meters or equipment servicing such Unit to the Unit. Each Owner shall also have an easement in common with the Owners of all other Units to use, in accordance with present use and present available facilities, all pipes, wires, cables, conduits, connections, fittings, public utility lines, and other Common Elements located in any of the other Units and serving the Unit of such Owner. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use, in accordance with present use and present available facilities, the pipes, wires, cables, conduits, connections, fittings, public utility lines and other Common Elements serving such other Units and located in such Unit.
  - b. The Board of Managers, Managing Agent or Director and/or other persons authorized by the Board of Managers, the Managing Agent or Director, shall have the right of access to each Unit for the purpose of making inspections or for the purpose of correcting any condition originating in such Unit and threatening another Unit or a Common Element, or for the purpose of performing installation, alterations or repairs to the mechanical or electrical services or other Common Elements in such Unit or elsewhere in the Building, or to correct any condition which violates the provisions of any mortgage covering another Unit, the cost of which shall be a Common Expense.
  - c. If any portion of a Unit, Building or the Common Elements (whether restricted in use to an individual Owner or not) encroaches or shall hereinafter encroach upon another Unit or the Common Elements as a result of (i) the original construction or settling or shifting of the Building or Common Elements; or (ii) any repair or restoration by the Board of Managers of the building, any Unit or Common Elements; or (iii) any construction after a partial or total destruction as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, a valid easement for the encroachment and the maintenance of the same shall and does exist. Such easements as provided in this Section shall exist so long as the Units, the Buildings or the Common Elements shall stand.
  - d. Each Unit shall have, and each Unit shall be subject to, all easements of necessity in favor of such Unit or in favor of other Units and the Common Elements.

- e. Easements and rights retained by the Sponsor as set forth in the Declaration.
2. State of facts shown on a survey of the land and Buildings provided such facts do not render title unmarketable.
3. Zoning, regulations and ordinances, and any amendments thereto, provided that neither the Buildings in which the Units are located nor the use as contemplated by the Plan are prohibited thereby.
4. New York State franchise taxes of any corporation in the chain of title, provided that First American Title Insurance Corporation, or other title company authorized to do business in the State of New York that is willing to insure that such taxes will not be collected out of the Unit.
5. Sewer, water, electric, plumbing, heating, telephone, television and other utility easements and consents, if any, then or thereafter recorded, including the right to maintain and operate line, pipes, ducts, wires, cables, conduits, connections, fittings, poles and distribution boxes in, over, under and upon the Property and the Buildings.
6. Leases or tenancies, and service, maintenance and license agreements affecting the Units or portions of the Property, if any.
7. Water charges (but the Sponsor will be obligated to pay all such charges through the date preceding the date of the first closing of title to a Unit).
8. Future installments of special assessments for improvements payable to special assessments for improvements payable to special assessing districts, City, School and /or County Taxes.
9. Utility easements, rights of way and agreements granted to or made with Verizon, National Grid, the City of Saratoga Springs, or any other utility companies or municipalities, or the cable television franchisee.
10. The lien of a purchase money mortgage, if any, obtained by Purchaser to finance the purchase of the Unit.
11. No title is insured to any land lying within the bed or right of way of any street or road passing through or abutting the premises. Rights of others to use any such roads across the premises insured is an exception.
12. Standard exceptions contained in the form of title insurance policy then issued by First American Title Insurance Corporation, or such title insurance company insuring Purchaser's title to the Unit.

**ALL OF THE ABOVE SHALL SURVIVE THE DELIVERY OF THE DEED.**

**SCHEDULE A****285 Jefferson Street**

**ALL THAT CERTAIN PARCEL OF LAND** located on the westerly side of Jefferson Street in the City of Saratoga Springs, Saratoga County, New York and which said parcel is more particularly bounded and described as follows:

**BEGINNING** at a point marked by an iron rod found set in the westerly bounds of Jefferson Street, which said point marks the southeasterly corner of the lands of the grantors hereto, and which said point also marks the northeasterly corner of lands conveyed by Daniel E. and Vilma McCall to Stephen P. Ethier by deed dated February 2, 2002 and recorded in the Saratoga County Clerk's Office on April 8, 2002 in Book 1609 of Deeds at page 36; running thence from the point of beginning in a general westerly direction and along the northerly line of said lands of Ethier, North 75 deg. 43 min. 15 sec. West for a distance of 253.20 feet to a point marked by an iron rod found set at the northwesterly corner thereof, and which said point is the easterly line of lands conveyed by Raphael Lynch, as Executor of the Last Will and Testament of Iffiemira Troita to Roy H. Washington by deed dated January 6, 1977 and recorded in said Clerk's Office on January 26, 1977, in Book 967 of Deeds at page 227; running thence in a general northerly direction along said lands of Washington, North 14 deg. 53 min. East for a distance of 83.87 feet to a point, and which said point is located at a distance of 83.88 feet, measured in a general southerly direction along the westerly line of the grantors hereto on a course of South 14 deg. 53 min. West from the northwesterly corner of said lands; running thence in a general easterly direction and through the lands of the grantors hereto, South 75 deg. 43 min. 15 sec. East for a distance of 253.20 feet to a point in the westerly bounds of Jefferson Street, and which said point is located at a distance of 83.88 feet, measured in a general southerly direction along said street bounds on a course of South 14 deg. 53 min. West, from the northeasterly corner of the lands of said grantors; running thence in a general southerly direction along said street bounds, South 14 deg. 53 min. West for a distance of 83.87 feet to the point of beginning.

Containing 21,234.7 square feet or 0.487 acres of land, more or less.

**ALSO, ALL THAT CERTAIN PIECE OR PARCEL OF LAND**, situate on the west side of Jefferson Street in the City of Saratoga Springs, N.Y., and more particularly described as follows:

**BEGINNING** at the southeast corner of lands of George Schermmerhorne (formerly DeWitt Monroe) and running thence southerly 82 feet 3 inches, more or less, to a point along the west side of Jefferson Street; thence running westerly at about right angles to Jefferson Street 250 feet, more or less, to a point; thence running northerly and on a line parallel with the west side of Jefferson Street 82 feet 3 inches, more or less, to the lands

of the above named Schermerhorne; thence running easterly and along the lands of Schermerhorne 250 feet, more or less, to the place of beginning.

It being the intention of the party of the first part to transfer to the parties of the second part herein a lot 82 feet 3 inches on Jefferson Street and approximately 250 feet deep and being northerly part of premises as described in a deed from Florence McCall dated December 4, 1936, to the party of the first part herein and recorded in the Saratoga County Clerk's Office on January 28, 1937 in Book 390 at page 115.

**ALSO, ALL THAT CERTAIN LOT, PIECE OR PARCEL OF LAND, situate, lying and being in the City of Saratoga Springs, Saratoga County, New York, bounded and described as follows, to wit:**

"Lot numbered 1, pt B in Section 23, Block K as shown on the Assessor's Map of the Inside Tax District of the City of Saratoga Springs, N.Y. Being the same premises assessed to Charles H. Bender on the 1936 Tax Roll of the said City of Saratoga Springs, N.Y."

**ALSO, ALL THAT TRACT, PIECE OR PARCEL OF LAND, situate in the City of Saratoga Springs, County of Saratoga, and State of New York, bounded as follows: On the North by property formerly of DeWitt C. Monroe; on the South by property formerly of Eugene McCall; on the East by Jefferson Street and on the West by property lately owned by the estate of William P. Carpenter, deceased. It is intended to convey by this deed a lot 50 feet front on Jefferson Street and 250 feet deep being a lot taken from the property heretofore deeded to DeWitt C. Monroe by Anna Morrison by deed dated September 8, 1911, and recorded in the Saratoga County Clerk's Office September 20, 1911, in Book of Deeds 277 at page 473. The foregoing premises are identified on the tax records of the City of Saratoga Springs as Section 23, Block K, Lot 2 PTA."**

**ALSO, ALL THAT PARCEL OF LAND situate on the west side of Jefferson Street in the City of Saratoga Springs, New York, commencing at the southeast corner of property owned by Daniel E. McCall and Vilma McCall and running thence in a southerly direction along Jefferson Street a distance of about 42 feet to the lands of James Van Deusen; running thence in a westerly direction along Van Deusen property a distance of about 250 feet to a point; running thence in a northerly direction and parallel to Jefferson Street a distance of about 42 feet to lands of McCall; running thence in an easterly direction along said lands a distance of about 250 feet to Jefferson Street being the point or place of beginning.**

The premises are also known as tax lots numbered 178.52-2-7; 178.52-2-8; 178.44-3-12; 178.44-3-13; and 178.44-3-10.2 as shown on the Tax Map of the City of Saratoga Springs for the year 2005.

**SCHEDULE B**

**DESCRIPTION OF BUILDINGS**

There will be a total of two (2) residential Buildings making a total of twenty-four (24) Units, all for residential use only. One Building shall consist of ten (10) Units and the other fourteen (14) Units. All first floor Units (14 of the 21 Units) shall be handicapped accessible and adaptable.

Also there will be a total of twenty-four (24) Garage Bays located in the two (2) Garage Buildings. One Building shall house thirteen (13) Garage bays and the other eleven (11) Garage Bays.

The foundation system will be poured concrete footings 8" thick x 16" wide (2500 PSI) with poured concrete frost walls 8" thick x 4' high (3000PSI).

The roof structure will be of wood truss construction, N.Y.S. certified wood trusses at 24" O.C. 9/12 pitch and main roof 5/12 pitch, ½' aspanite roof decking, one (1) layer 15" felt, one (1) layer 25 year fiberglass asphalt shingles with aluminum drip edge, aluminum ridge vent at peak. Furthermore, the Sponsor warrants the installation of the shingles for six years.

## SCHEDULE C

**UNIT DESIGNATIONS  
PERCENTAGE INTEREST IN COMMON ELEMENTS  
TAX ACCOUNT NUMBERS**

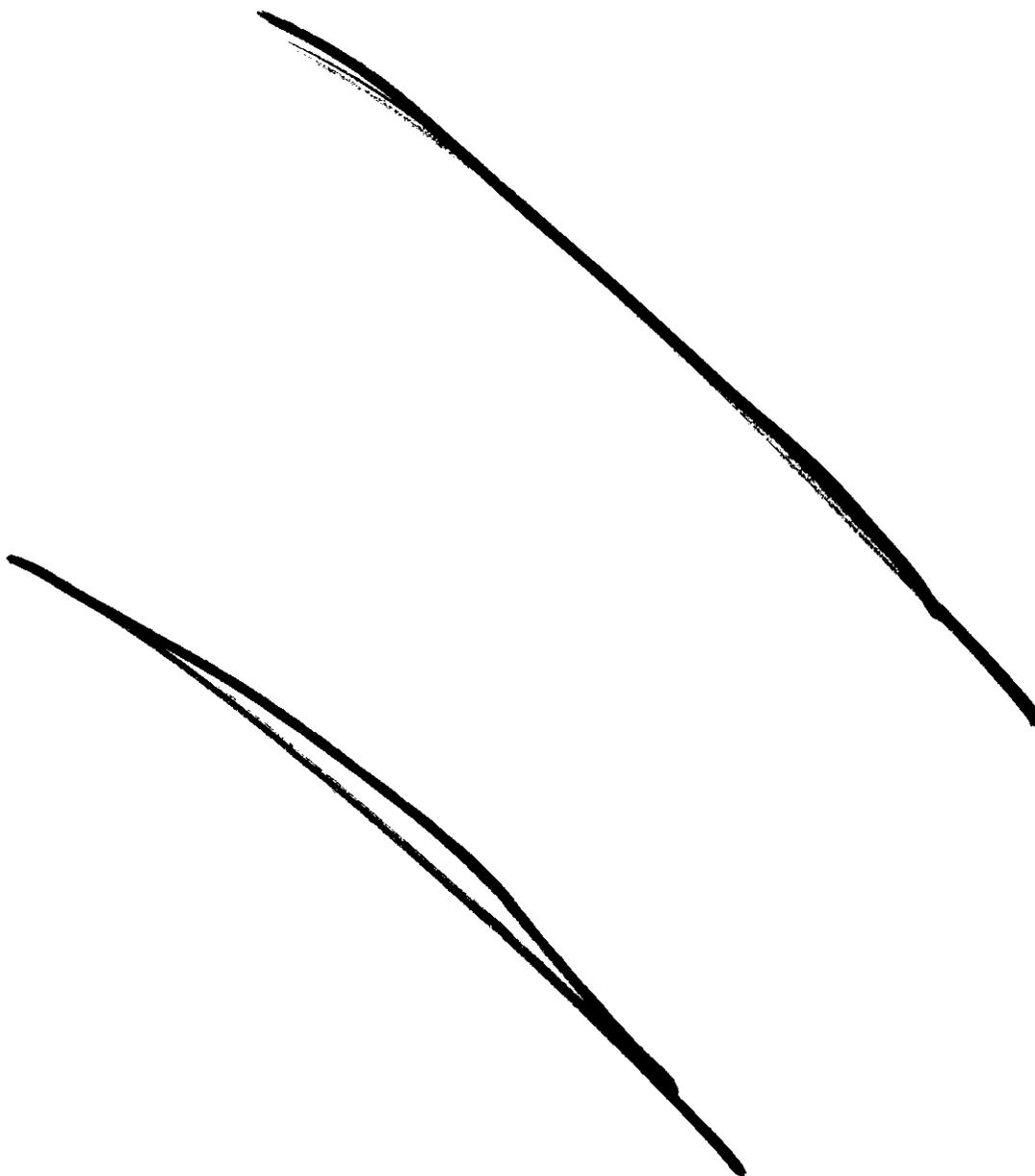
<u>Unit Number and Postal Address; Number of Rooms</u>	<u>Percent Interest</u>	<u>Tax Account Number</u>
Unit 1, 287-291 Jefferson Street Saratoga Springs, New York 12866	2.66%	Unassigned
Unit 2, 287-291 Jefferson Street Saratoga Springs, New York 12866	2.97%	Unassigned
Unit 3, 287-291 Jefferson Street Saratoga Springs, New York 12866	2.66%	Unassigned
Unit 4, 287-291 Jefferson Street Saratoga Springs, New York 12866	2.66%	Unassigned
Unit 5, 287-291 Jefferson Street Saratoga Springs, New York 12866	3.17%	Unassigned
Unit 6, 287-291 Jefferson Street Saratoga Springs, New York 12866	2.66%	Unassigned
Unit 7, 287-291 Jefferson Street Saratoga Springs, New York 12866	4.70%	Unassigned
Unit 8, 287-291 Jefferson Street Saratoga Springs, New York 12866	4.70%	Unassigned
Unit 9, 287-291 Jefferson Street Saratoga Springs, New York 12866	4.76%	Unassigned
Unit 10, 287-291 Jefferson Street Saratoga Springs, New York 12866	4.76%	Unassigned
Unit 11, 287-291 Jefferson Street Saratoga Springs, New York 12866	6.86%	Unassigned
Unit 12, 287-291 Jefferson Street Saratoga Springs, New York 12866	6.86%	Unassigned
Unit 13, 287-291 Jefferson Street Saratoga Springs, New York 12866	7.52%	Unassigned

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Unit 14, 287-291 Jefferson Street Saratoga Springs, New York 12866	7.52%	Unassigned
Unit 15, 287-291 Jefferson Street Saratoga Springs, New York 12866	2.91%	Unassigned
Unit 16, 287-291 Jefferson Street Saratoga Springs, New York 12866	2.66%	Unassigned
Unit 17, 287-291 Jefferson Street Saratoga Springs, New York 12866	4.70%	Unassigned
Unit 18, 287-291 Jefferson Street Saratoga Springs, New York 12866	4.70%	Unassigned
Unit 19, 287-291 Jefferson Street Saratoga Springs, New York 12866	4.70%	Unassigned
Unit 20, 287-291 Jefferson Street Saratoga Springs, New York 12866	4.70%	Unassigned
Unit 21, 287-291 Jefferson Street Saratoga Springs, New York 12866	2.66%	Unassigned
Unit 22, 287-291 Jefferson Street Saratoga Springs, New York 12866	3.19%	Unassigned
Unit 23, 287-291 Jefferson Street Saratoga Springs, New York 12866	2.66%	Unassigned
Unit 24, 287-291 Jefferson Street Saratoga Springs, New York 12866	2.66%	Unassigned

[179]

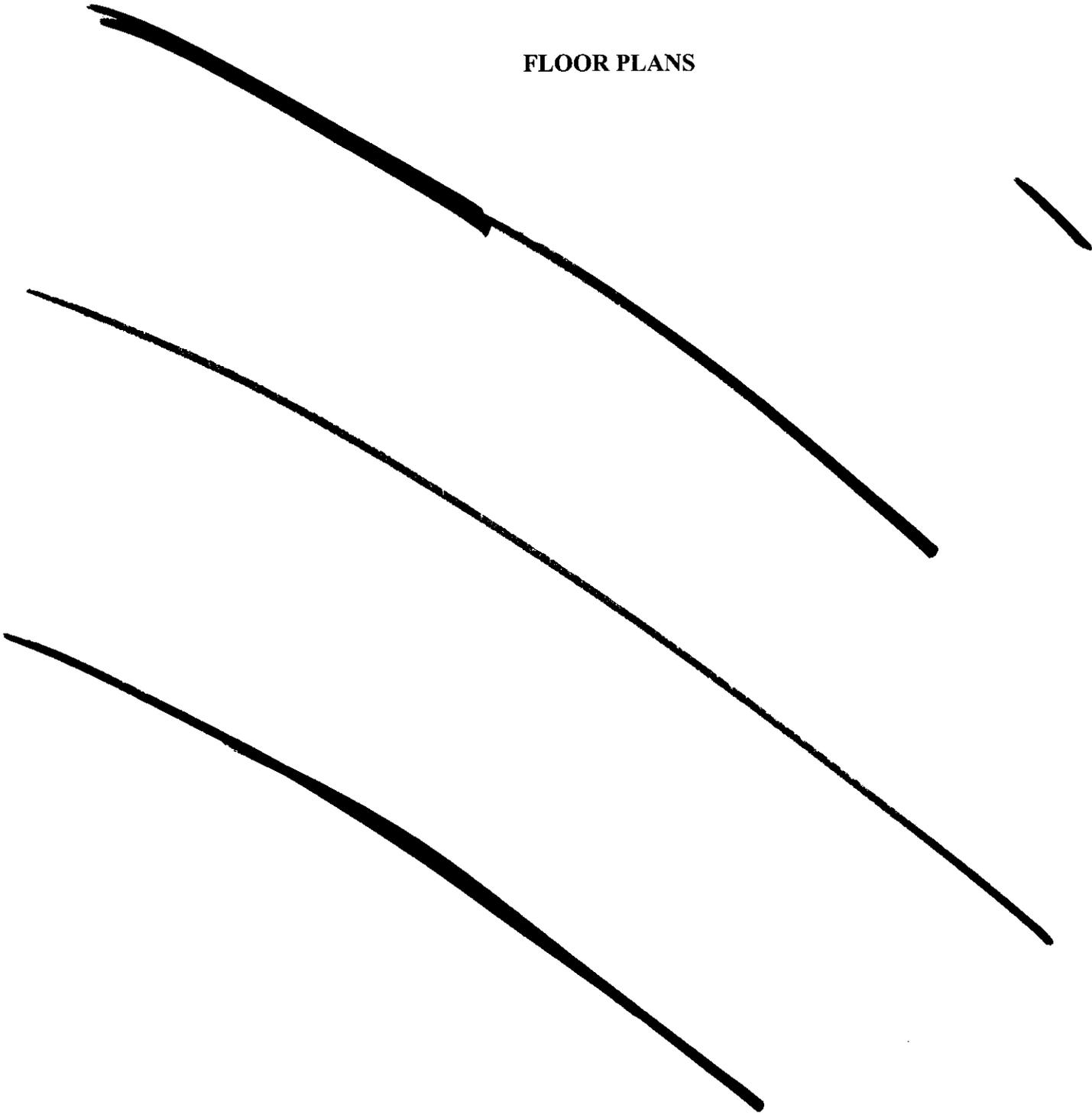
**SCHEDULE D – SITE PLAN**  
**287 JEFFERSON CONDOMINIUM**



[180 -186]

**SCHEDULE E**

**FLOOR PLANS**



**JEFFERSON STREET CONDOMINIUMS  
REVISIONS TO SITE PLAN  
285 JEFFERSON STREET  
SARATOGA SPRINGS, NEW YORK  
LAYOUT PLAN**



REVISION NUMBER	REVISION DESCRIPTION
1	Locations for Affordable Units Added to Drawing
2	Letter of Credit Amounts Revision, Changes to Notes

Designed By	MMW
Drawn By	MMW
Checked By	PAL
Approved By	PAL
Project No.	111-341
Project Date	07-05-06



**Building Requirements**

MAX. NUMBER OF UNITS ALLOWED: 26 (1 Unit/3,000 sf of Lot)  
NUMBER OF UNITS PROPOSED: 24

**Parking Requirements**

REQUIRED: 36 SPACES - OFF STREET (11.5 SPACES/UNIT W/ 2 HANDICAP)

**Building/Pavement Greenspace Calcs.**

PROPOSED: 36 SPACES - OFF STREET (24 GARAGE SPACES + 12 LOT SPACES, INCLUDING 2 HANDICAP)

TOTAL AREA: 1.701 ACRES (74,106±)

REQUIRED:  
MAX. % OF LOT TO BE OCCUPIED BY PRINCIPAL BUILDING: 25 %  
MAX. % OF LOT TO BE OCCUPIED BY ACCESSORY BUILDING: 15 %  
MIN. % GREEN SPACE (PERMEABLE): 15 %

PROPOSED:  
PRINCIPAL BUILDINGS: 18,530± sf (25.0% OF LOT)  
ACCESSORY BUILDINGS: 7,932± sf (10.7% OF LOT)  
PAVEMENTS & DRIVEWAYS: 19,676± sf (26.6% OF LOT)  
GREENSPACE: 27,292± sf (37.7% OF LOT)



**Site Statistics**

178.44-3-10.2 (INNER DIST.)  
178.44-3-11 (INNER DIST.)  
178.44-3-13 (INNER DIST.)  
178.52-2-7 (OUTER DIST.)  
178.52-2-8 (OUTER DIST.)  
178.52-2-19.12 (OUTER DIST.)

TAX PARCEL NUMBERS:  
\* ALL TAX PARCELS TO BE MERGED INTO ONE PARCEL

ZONING: UR-4  
MIN. LOT SIZE: 3,000 sf/UNIT

MIN. FRONTAGE: 100'  
MIN. 1ST FLOOR AREA: ONE STORY - 1,800 sf  
TWO STORY - 1,200 sf  
FRONT - 25'  
REAR - 25'

PRINCIPAL BUILDING SETBACKS:  
ONE SIDE - 20'  
TOTAL SIDE - 45'  
BETWEEN PRINCIPAL BUILDINGS - 40'

ACCESSORY SETBACKS:  
FRONT - 25'  
REAR - 5'  
PRINCIPAL BLDG. - 10'

UTILITIES:  
MUNICIPAL SEWER  
MUNICIPAL WATER

**NOTES**

1. Property line survey prepared by Charles T. Nacy, Licensed Land Surveyor, 32 John Street, Queensbury, New York 12804-8411. Survey dated 11-28-05.
2. Based on NYS (National Wetlands Inventory) Mapping and NYS DEC Wetland Mapping, there are no NYS Freshwater or National Wetlands on the Property. Re: S-1 for Map.
3. A Homeowner's Association will be established and will be responsible for the maintenance of the property and stormwater structures. Liens may be taken against the owner for failure to make fee payments for the maintenance of the site.

**CITY OF SARATOGA SPRINGS PLAN NOTES**

- 1) ALL WORK MUST CONFORM TO ALL FEDERAL, STATE AND CITY CODES, SPECIFICATIONS, ORDINANCES, RULES AND REGULATIONS BASED FOR CONTOURS AND BENCHMARKS ARE TO BE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM, 1928.
- 2) ALL REFUSE, DEBRIS AND MISCELLANEOUS ITEMS TO BE REMOVED SHALL BE LEGALLY DISPOSED OF OFF SITE BY THE CONTRACTOR TO A LOCATION APPROVED BY THE CITY ENGINEER.
- 3) THE CONTRACTOR MUST SET UP A PRE-CONSTRUCTION MEETING WITH THE CITY ENGINEER PRIOR TO ANY CONSTRUCTION. CONSTRUCTION INSPECTIONS BY THE CITY ENGINEER OR A DESIGNATED REPRESENTATIVE ARE REQUIRED. THE COST OF SUCH INSPECTIONS IS THE RESPONSIBILITY OF THE APPLICANT/DEVELOPER. AN ESCROW ACCORDING TO THE CITY ENGINEER'S REQUIREMENTS MUST BE ESTABLISHED PRIOR TO ANY CONSTRUCTION.
- 4) THE CONTRACTOR MUST OBTAIN A STREET OPENING PERMIT FROM THE DEPARTMENT OF PUBLIC WORKS FOR ANY WORK WITHIN THE STREET OR RIGHT OF WAY OF ANY CITY STREET, ROAD OR ALLEY.
- 5) ALL PORTS OF CONSTRUCTION INGRESS OR EGRESS SHALL BE MAINTAINED TO PREVENT TRACKING OR FLOWING OF SEDIMENT OR DEBRIS INTO A PUBLIC RIGHT OF WAY.
- 6) NO CERTIFICATE OF OCCUPANCY WILL BE ISSUED UNTIL ALL SITE WORK HAS BEEN COMPLETED IN ACCORDANCE WITH THE APPROVED PLANS, AND AN "AS-BUILT" DRAWING HAS BEEN PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY ENGINEER.

**PHASING PLAN**

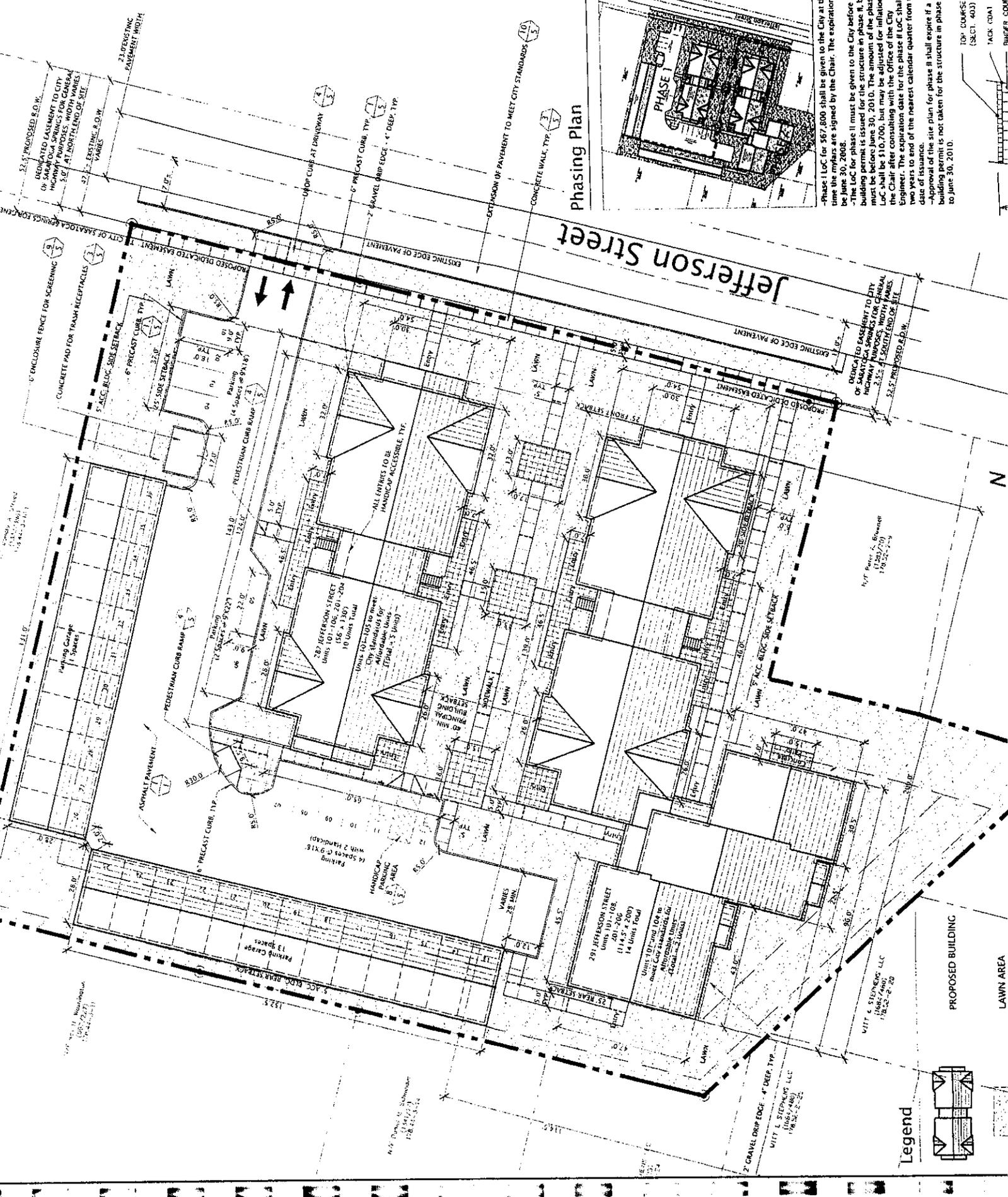
Phase I LOC for \$67,800 shall be given to the City at the time the plans are signed by the Chair. The expiration shall be June 30, 2010.

Phase II must be given to the City before a building permit is issued for the structure in phase II, but must be before June 30, 2010. The amount of the phase II LOC shall be \$110,700, but may be adjusted for inflation by the Chair after consulting with the Office of the City Engineer. The expiration date for the phase II LOC shall be two years to end of the nearest calendar quarter from the date of issuance.

Approval of the site plan for phase II shall expire if a building permit is not taken for the structure in phase II prior to June 30, 2010.

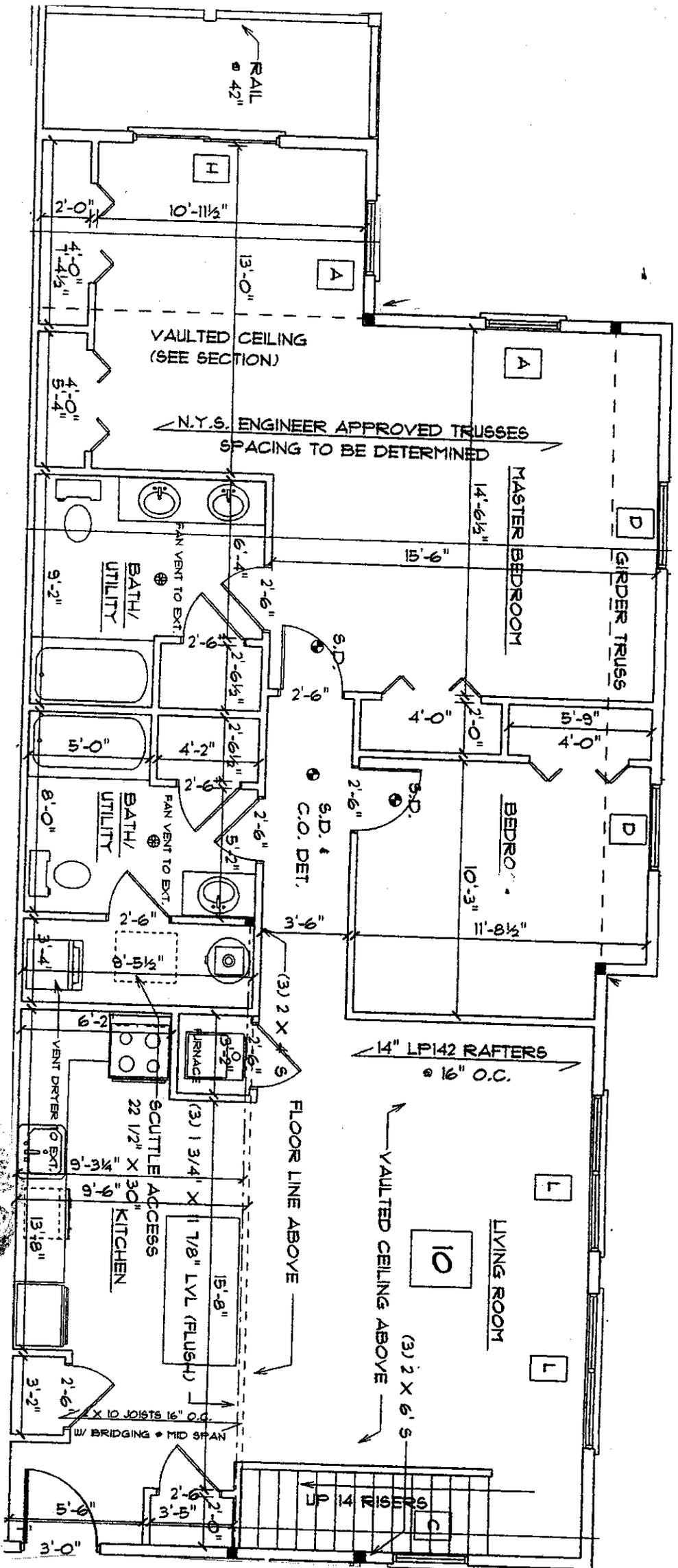
**Legend**

- TOP COURSE - N.Y.S. D.O.T. TYPE 7
- PAVEMENT TYPE
- PAVING LOT
- 1" = 1'-1/2"
- 8" = 10'



**Legend**

- TOP COURSE - N.Y.S. D.O.T. TYPE 7
- PAVEMENT TYPE
- PAVING LOT
- 1" = 1'-1/2"
- 8" = 10'



UNIT 10

APPROXIMATELY 1575 SQUARE FEET

FLOOR PLAN CERTIFICATION

This floor plan is an accurate copy of the portion of the building known as 287 Jefferson Condominium and designated as Unit No. 10, 287-291 Jefferson Street, Saratoga Springs, New York, 12866, which fully and fairly depicts the layout, Unit designation and APPROXIMATE dimensions of this particular Unit, as built, the location of which is set forth on plans approved by the City of Saratoga Springs and filed in the Office of the Saratoga County Clerk.

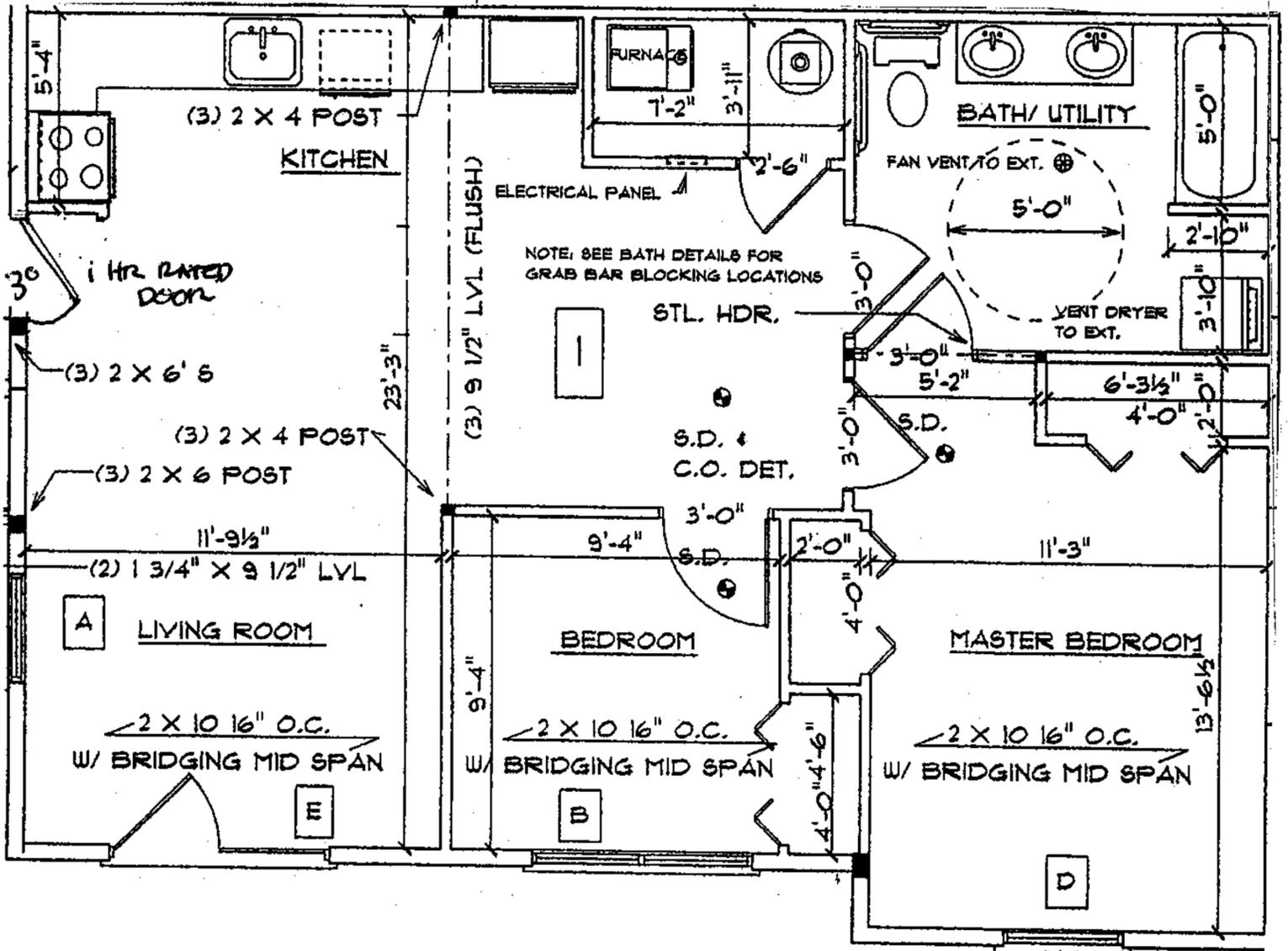


By: Margery A. Brown  
 New York State Licensed Professional  
 Engineer or Registered Architect  
 License No. 66007

Sworn to before me this  
24th day of September, 2007.

Margery A. Brown  
 Notary Public

MARGERY A. BROWN  
 NOTARY PUBLIC, STATE OF NEW YORK  
 NO. 018R4652361  
 QUALIFIED IN SARATOGA COUNTY  
 MY COMM. EXPIRES 12/31/09



UNIT 1

APPROXIMATELY 899 SQUARE FEET

FLOOR PLAN CERTIFICATION

This floor plan is an accurate copy of the portion of the building known as 287 Jefferson Condominium and designated as Unit No. 1, 287-291 Jefferson Street, Saratoga Springs, New York, 12866, which fully and fairly depicts the layout, Unit designation and APPROXIMATE dimensions of this particular Unit, as built, the location of which is set forth on plans approved by the City of Saratoga Springs and filed in the Office of the Saratoga County Clerk.



*Michael P. Perrini*

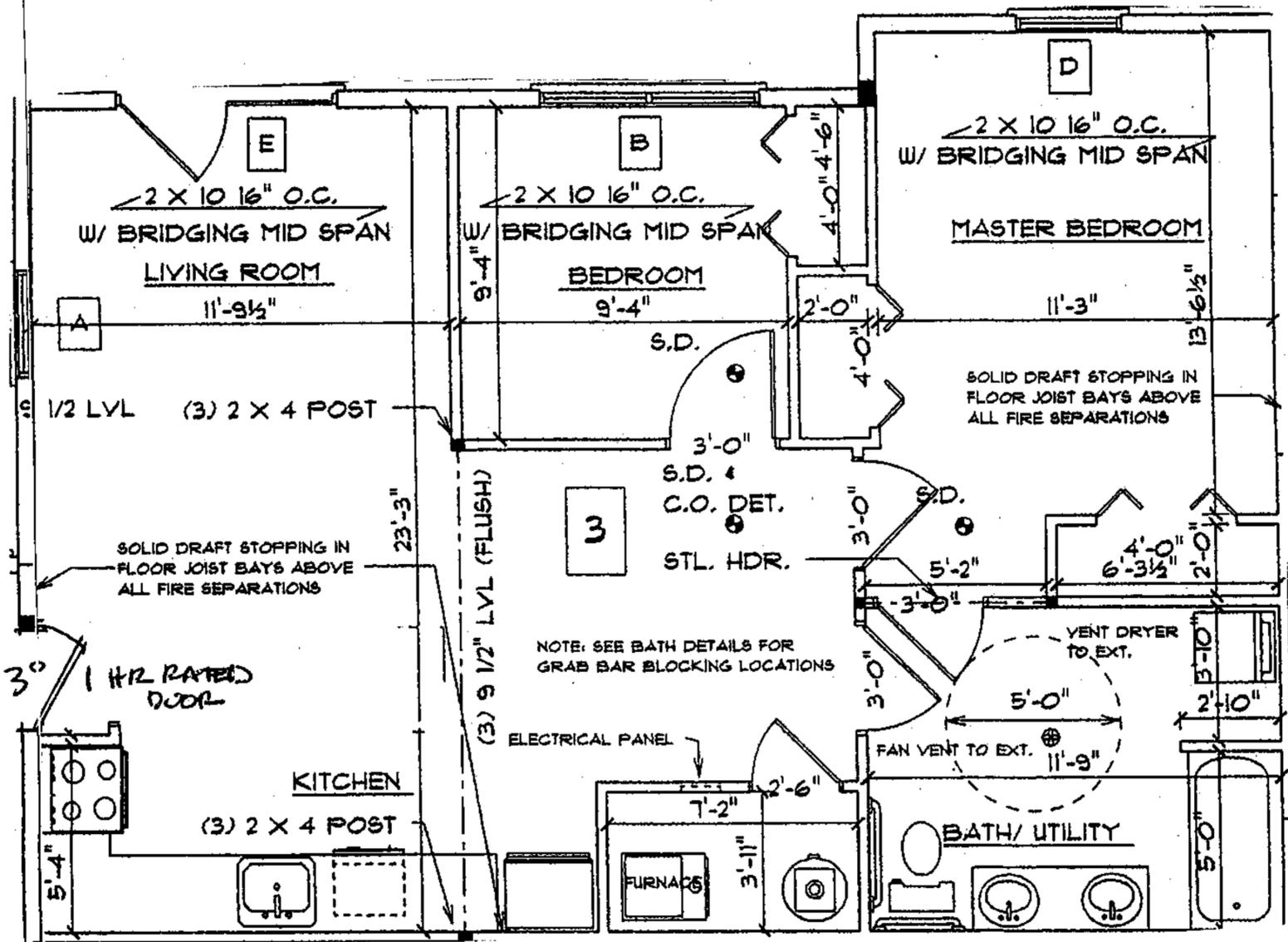
By: Michael P. Perrini

New York State Licensed Professional Engineer or Registered Architect License No. 16007

Sworn to before me this 4th day of September, 2007.

*Margery A. Brown*  
Notary Public

**MARGERY A. BROWN**  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01BR4652361  
QUALIFIED IN SARATOGA COUNTY  
MY COMM. EXPIRES 7/31/09



UNIT 3

APPROXIMATELY 899 SQUARE FEET

FLOOR PLAN CERTIFICATION

This floor plan is an accurate copy of the portion of the building known as 287 Jefferson Condominium and designated as Unit No. 3, 287-291 Jefferson Street, Saratoga Springs, New York, 12866, which fully and fairly depicts the layout, Unit designation and APPROXIMATE dimensions of this particular Unit, as built, the location of which is set forth on plans approved by the City of Saratoga Springs and filed in the Office of the Saratoga County Clerk.

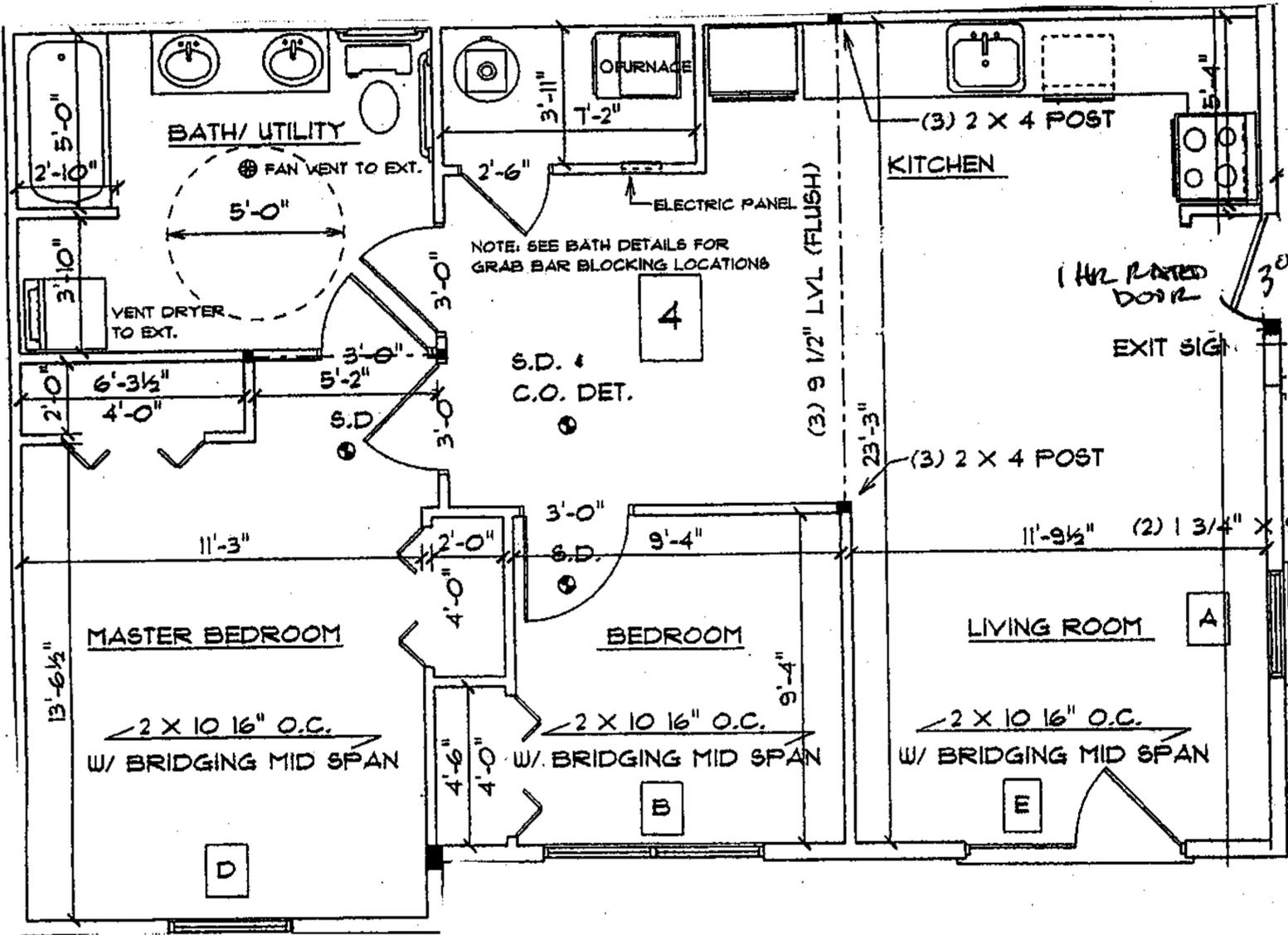
By: Michael P. Perr

New York State Licensed Professional Engineer or Registered Architect License No. 16007

Sworn to before me this 4th day of September, 2007.

Margery A. Brown  
Notary Public

MARGERY A. BROWN  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01BR4652361  
QUALIFIED IN SARATOGA COUNTY  
MY COMM. EXPIRES 7/31/09



UNIT 4

APPROXIMATELY 900 SQUARE FEET

FLOOR PLAN CERTIFICATION

This floor plan is an accurate copy of the portion of the building known as 287 Jefferson Condominium and designated as Unit No. 4, 287-291 Jefferson Street, Saratoga Springs, New York, 12866, which fully and fairly depicts the layout, Unit designation and APPROXIMATE dimensions of this particular Unit, as built, the location of which is set forth on plans approved by the City of Saratoga Springs and filed in the Office of the Saratoga County Clerk.

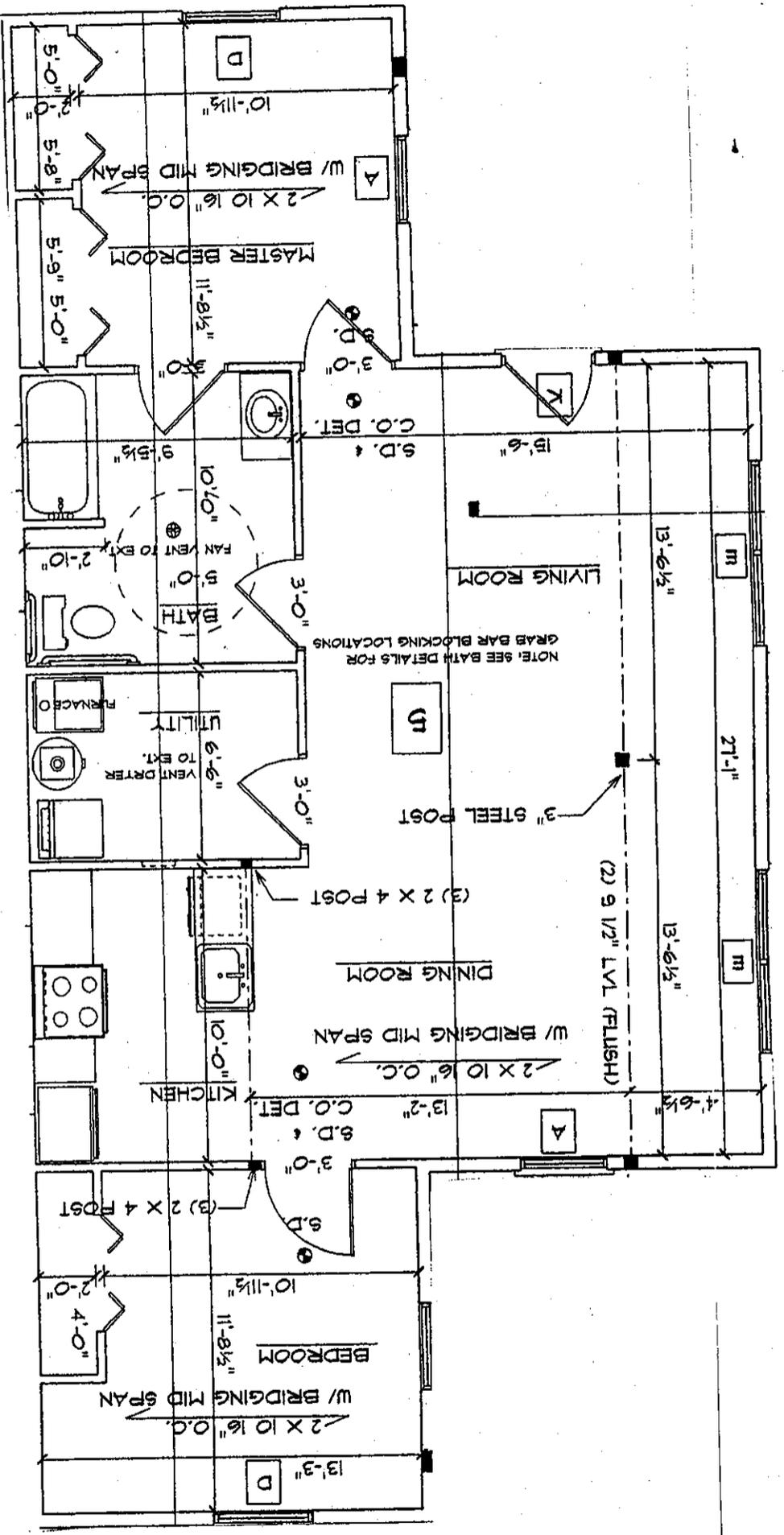
*Michael P. Perri*  
 By: Michael P. Perri

New York State Licensed Professional  
 Engineer or Registered Architect  
 License No. 16007

Sworn to before me this  
4th day of September, 2007.

*Margery A. Brown*  
 Notary Public

MARGERY A. BROWN  
 NOTARY PUBLIC, STATE OF NEW YORK  
 NO. 01BR4652361  
 QUALIFIED IN SARATOGA COUNTY  
 MY COMM. EXPIRES 7/31/09



UNIT 5  
 APPROXIMATELY 1062 SQUARE FEET

FLOOR PLAN CERTIFICATION

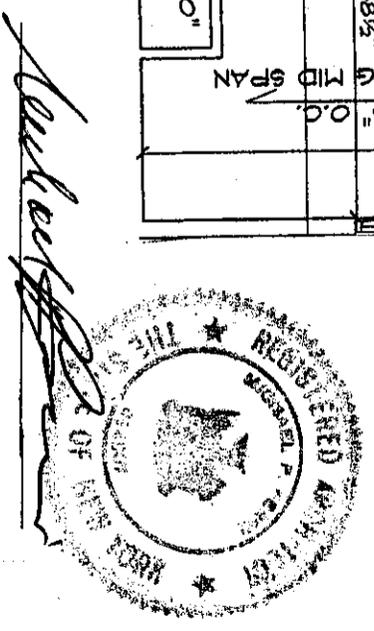
This floor plan is an accurate copy of the portion of the building known as 287 Jefferson Condominium and designated as Unit No. 5, 287-291 Jefferson Street, Saratoga Springs, New York, 12866, which fully and fairly depicts the layout, Unit designation and APPROXIMATE dimensions of this particular Unit, as built, the location of which is set forth on plans approved by the City of Saratoga Springs and filed in the Office of the Saratoga County Clerk.

Sworn to before me this 4<sup>th</sup> day of September, 2007.

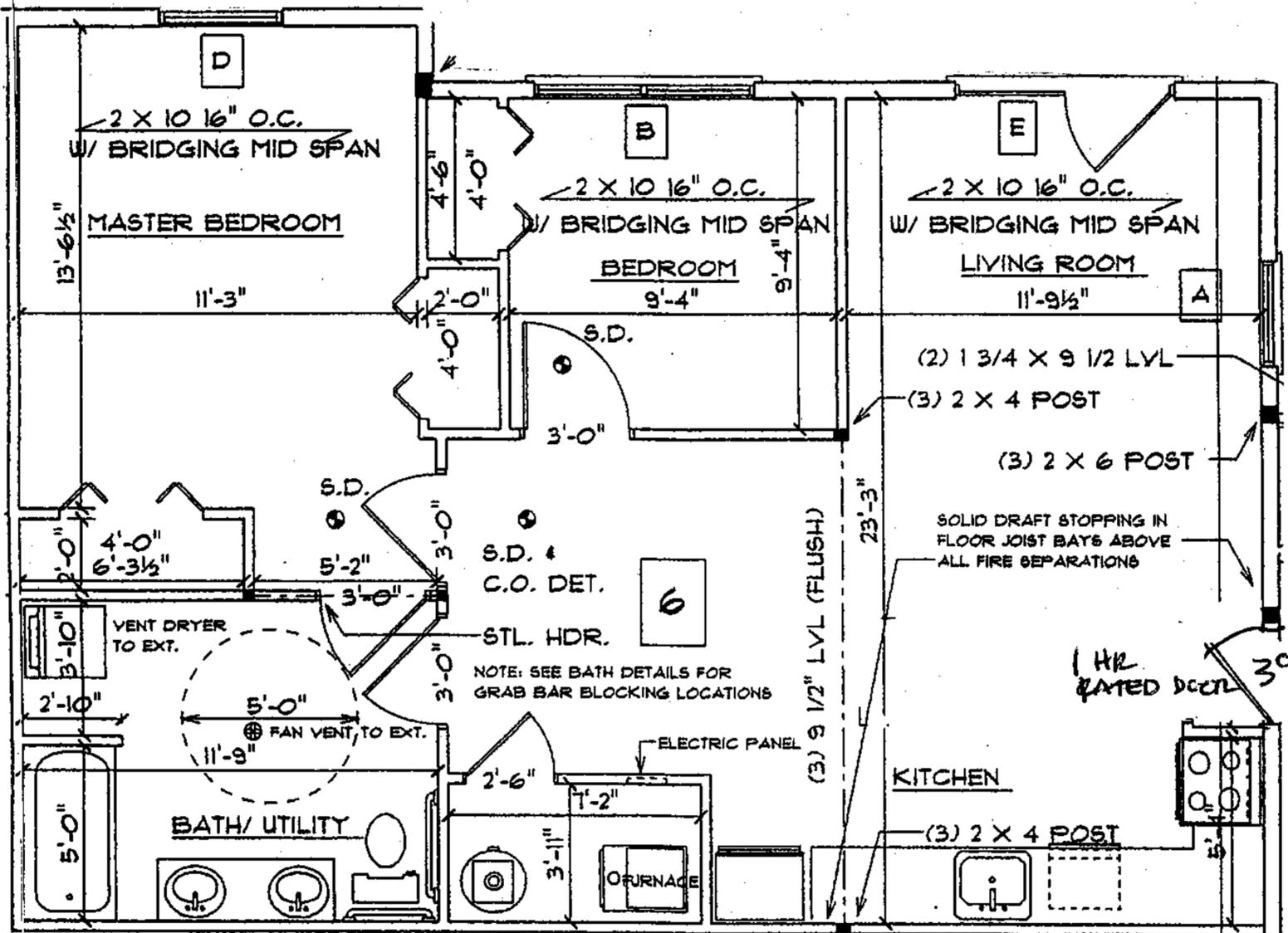
*Margery A. Brown*

New York State Licensed Professional Engineer or Registered Architect  
 License No. 16007

By: Michael P. Penn



MARGERIE A. BROWN  
 NOTARY PUBLIC, STATE OF NEW YORK  
 NO. 018R4652361  
 QUALIFIED IN SARATOGA COUNTY  
 MY COMM. EXPIRES 7/31/08



UNIT 6

APPROXIMATELY 900 SQUARE FEET

FLOOR PLAN CERTIFICATION

This floor plan is an accurate copy of the portion of the building known as 287 Jefferson Condominium and designated as Unit No. 6, 287-291 Jefferson Street, Saratoga Springs, New York, 12866, which fully and fairly depicts the layout, Unit designation and APPROXIMATE dimensions of this particular Unit, as built, the location of which is set forth on plans approved by the City of Saratoga Springs and filed in the Office of the Saratoga County Clerk.

*[Signature]*  
 By: Michael P. Perri

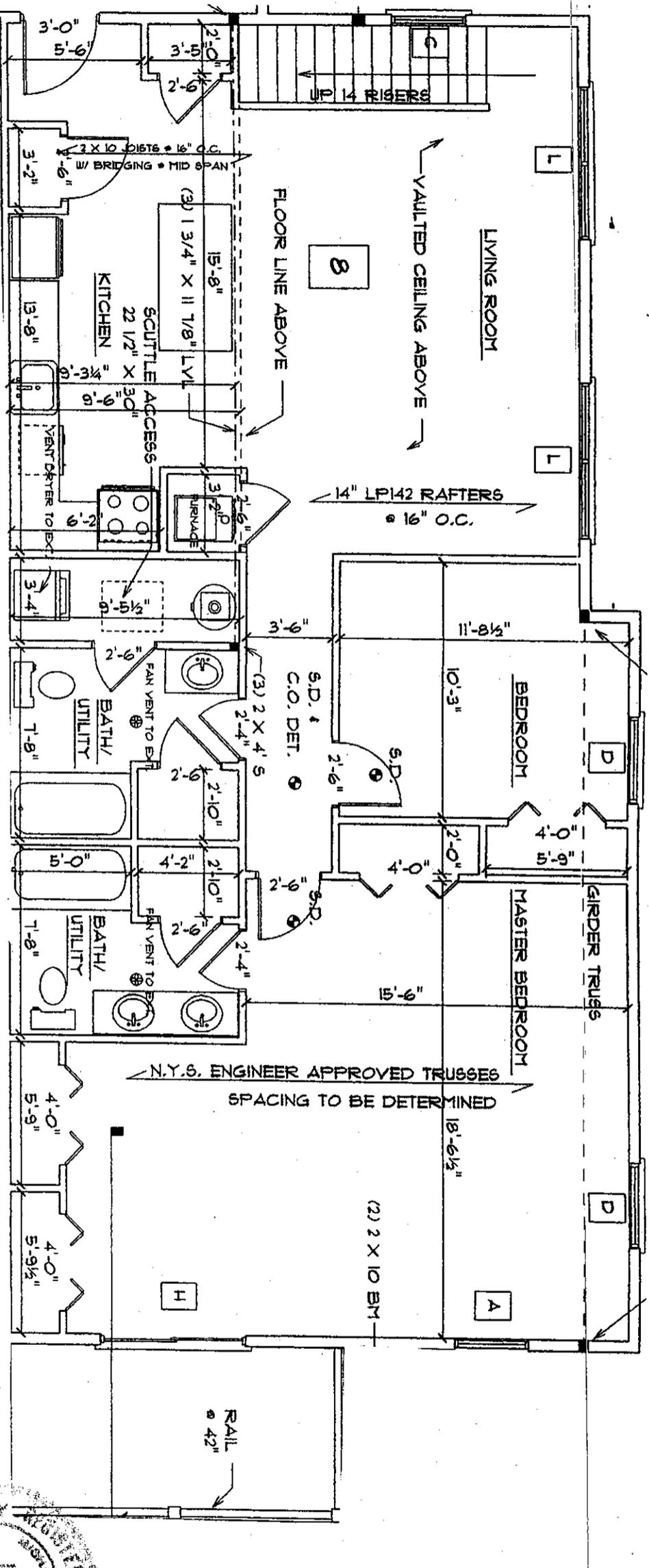
New York State Licensed Professional  
 Engineer or Registered Architect  
 License No. 16007

Sworn to before me this  
4<sup>th</sup> day of September, 2007.

*[Signature]*  
 Notary Public

MARGERY A. BROWN  
 NOTARY PUBLIC, STATE OF NEW YORK  
 NO. 01BR4652361  
 QUALIFIED IN SARATOGA COUNTY  
 MY COMM. EXPIRES 7/31/09





UNIT 8  
 APPROXIMATELY 1571 SQUARE FEET (MEASUREMENTS)  
 FLOOR PLAN CERTIFICATION

This floor plan is an accurate copy of the portion of the building known as 287 Jefferson Condominium and designated as Unit No. 8, 287-291 Jefferson Street, Saratoga Springs, New York, 12866, which fully and fairly depicts the layout, Unit designation and APPROXIMATE dimensions of this particular Unit, as built, the location of which is set forth on plans approved by the City of Saratoga Springs and filed in the Office of the Saratoga County Clerk.

Sworn to before me this 14th day of September, 2007.

*Margery A. Brown*

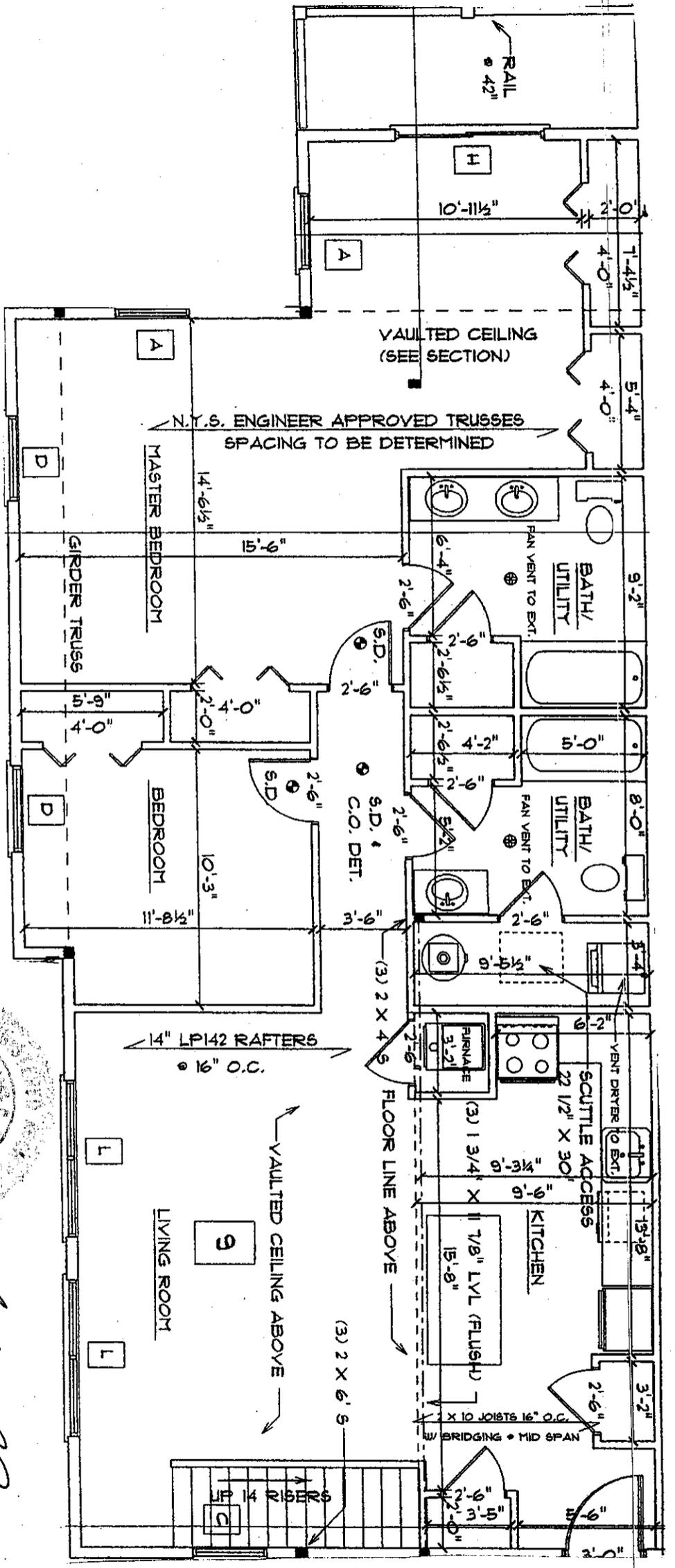
By: Michael P. Perry

*Michael P. Perry*

New York State Licensed Professional Engineer or Registered Architect  
 License No. 16007



MARGERY A. BROWN  
 NOTARY PUBLIC, STATE OF NEW YORK  
 NO. 01BR4652361  
 QUALIFIED IN SARATOGA COUNTY  
 MY COMM. EXPIRES 2/21/09



UNIT 9

APPROXIMATELY 1555 SQUARE FEET (INCLUDING LOFT)

FLOOR PLAN CERTIFICATION



By: Margery A. Brown  
Margery A. Brown  
 P.E.

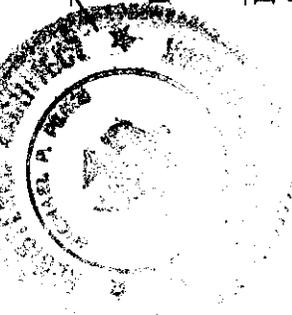
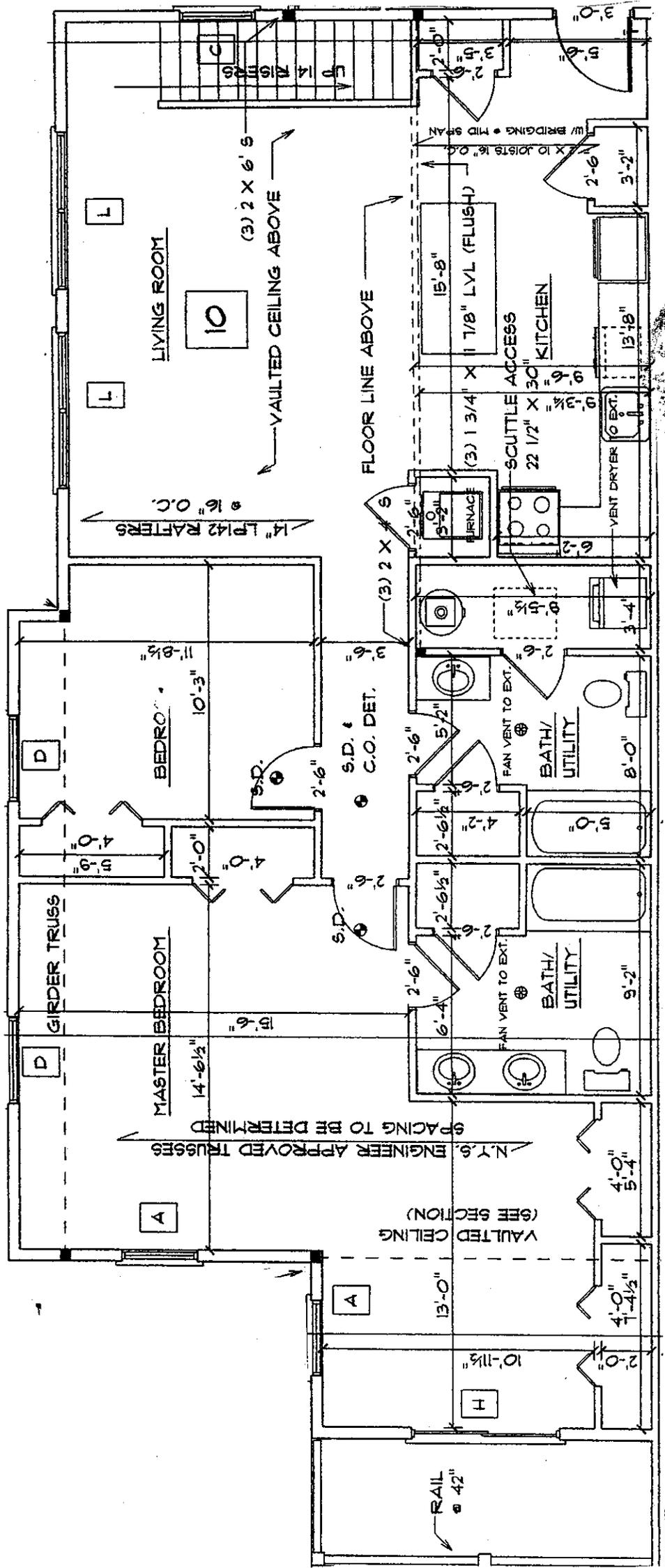
New York State Licensed Professional  
 Engineer or Registered Architect  
 License No. 16007

This floor plan is an accurate copy of the portion of the building known as 287 Jefferson Condominium and designated as Unit No. 9, 287-291 Jefferson Street, Saratoga Springs, New York, 12866, which fully and fairly depicts the layout, Unit designation and APPROXIMATE dimensions of this particular Unit, as built, the location of which is set forth on plans approved by the City of Saratoga Springs and filed in the Office of the Saratoga County Clerk.

Sworn to before me this  
4th day of September, 2007.

Margery A. Brown

MARGERY A. BROWN  
 NOTARY PUBLIC, STATE OF NEW YORK  
 NO. 01BR4652361  
 QUALIFIED IN SARATOGA COUNTY  
 MY COMM. EXPIRES 7/21/09



By: *Michael P. Perrin*  
 Michael P. Perrin

UNIT 10

APPROXIMATELY 1555 SQUARE FEET

FLOOR PLAN CERTIFICATION

New York State Licensed Professional  
 Engineer or Registered Architect  
 License No. 6007

This floor plan is an accurate copy of the portion of the building known as 287 Jefferson  
 Condominium and designated as Unit No. 10, 287-291 Jefferson Street, Saratoga Springs,  
 New York, 12866, which fully and fairly depicts the layout, Unit designation and  
 APPROXIMATE dimensions of this particular Unit, as built, the location of which is set forth on  
 plans approved by the City of Saratoga Springs and filed in the Office of the Saratoga County

Sworn to before me this  
 12th day of September, 2007.

*Margery A. Brown*  
 Notary Public

MARGERY A. BROWN  
 NOTARY PUBLIC, STATE OF NEW YORK  
 NO. 01684652361  
 QUALIFIED IN SARATOGA COUNTY  
 MY COMM. EXPIRES 7/31/13

[187]

**SCHEDULE F**  
**BY-LAWS**  
**OF**  
**287 JEFFERSON CONDOMINIUM**

**John J. Carusone, Jr.**  
**Attorney for Sponsor**  
**491 Broadway**  
**Saratoga Springs, New York 12866**  
**(518) 584-3240**

---

**BY-LAWS**

**287 JEFFERSON CONDOMINIUM**

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**BY-LAWS**

**287 JEFFERSON CONDOMINIUM**

**ARTICLE I**

**PLAN OF OWNERSHIP**

**Section 1.01. Name.** The Land described in Schedule A of the Declaration recorded or to be recorded in the Office of the Clerk of Saratoga County, New York, and the appurtenances thereof, including the Buildings (as hereinafter defined) and other improvements constructed on said land (hereinafter defined) and other improvements constructed on said land (hereinafter collectively called the "Property"), have been or prior to conveyance of the first Unit shall be, submitted by 285 Jefferson LLC, (hereinafter referred to as the "Sponsor") to the provisions of Article 9-B of the Real Property Law of the State of New York by the Declaration and shall be known as "287 Jefferson Condominium" (hereinafter called the "Condominium").

**Section 1.02. Applicability of By-Laws.** The provisions of these By-Laws are applicable to the Property of the Condominium and to the use and occupancy thereof.

**Section 1.03. Personal Application.** All present and future Owners (hereinafter referred to as "Owners"), Mortgagees, lessees and occupants of Units and their employees, invitees and any other persons who may use the facilities of the Property in any manner are subject to these By-Laws, the Declaration and the Rules and Regulations (as hereinafter defined).

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

**Section 1.04. Office.** The Office of the Condominium and the Board of Managers shall be located at the address of the President of the Board of Managers, or, at the office of the Managing Agent, if there be one.

**ARTICLE II**

**DEFINITIONS**

**Section 2.01. Definitions.** All capitalized words and terms herein shall have the meanings given them in the Declaration.

**ARTICLE III**

**VOTING RIGHTS**

**Section 3.01. Voting.** The Owner(s) of a Unit (including the Board of Managers if it holds title to any Units and the Sponsor, if the Sponsor shall be entitled to one or more Unsold Units) shall be entitled to cast one vote for each Unit owned by such Owner at all meetings of Owners, but the Board of Managers shall not cast any of its votes for the election of any member to the Board.

**Section 3.02. Right to Vote.** At any meeting of Owners, every Owner having the right to vote shall be entitled to vote in person, by mail ballot or by proxy.

**Section 3.03. Proxies.** All proxies shall be in writing and shall be filed with the Secretary at least forty-eight (48) hours prior to the meeting at which the same are to be used. Such proxies shall only be valid for such meetings or subsequent adjourned meetings thereof. A notation of such proxies shall be made in the minutes of the meeting. The Board of Managers shall have the authority to circulate proxies to Owners for use at a meeting of Owners.

**Section 3.04. Voting Regulations.** The Board of Managers may make such regulations, consistent with the terms of the Declaration, these By-Laws and the applicable laws of the State of New York, as it deems advisable for any meeting of the Owners in regard to proof of ownership, evidence of the right to vote, the appointment and duties of inspectors of election, registration of Voting Owners for voting purposes, the establishment of representative voting procedures and such other matters concerning the conduct of meetings and voting as it shall deem appropriate.

**Section 3.05. Corporate Owner.** Any votes of a corporate Owner may be cast by the Voting Owner who shall be an officer of such corporation.

**Section 3.06. Joint or Common Ownership.** If a Unit is owned by more than one (1) person as joint tenants, tenants by the entirety or as tenants in common, the persons owning such Unit shall file with the Secretary of the Board of Managers a certificate naming the Voting Owner, and reach agreement as to the matter being voted upon and shall be the Voting Owner for their Unit. A fiduciary shall be the Voting Owner with respect of any Unit owned in a fiduciary capacity.

**Section 3.07. Sponsor's Right to Assign its Vote.** The Sponsor may assign its right to vote to any person, corporation, association, trust, partnership or other entity, and such assignee and any future assignee, of such right to vote may make successive like assignments, upon compliance with applicable law.

## ARTICLE IV

### MEETINGS OF OWNERS

**Section 4.01. Annual Meetings.** Upon transfer of title to fifty-one (51%) of the Units or two (2) years after the recording of the Declaration, whichever shall first occur, the Sponsor shall notify all Owners that the first meeting shall be held within thirty (30) days thereafter. At such meeting all Owners, including the Sponsor, shall elect a five (5) member Board of Managers, three (3) to hold office for two (2) years and two (2) to hold office for one (1) year. Following the first election of the Board of Managers, the term of office for all Board members shall be two (2) years. Notwithstanding anything herein to the contrary, so long as the Sponsor shall continue to have Unsold Units totaling ten percent (10%) or more interest in the Common Elements, the Sponsor shall have the right to appoint one (1) of the five (5) members of the Board of Managers, who shall serve for a term of one (1) year (see Section 5.01 of these By-Laws). The annual meeting of the Owners shall be held on the same date as the first meeting of the Board in each succeeding year, at a time to be determined by the Board of Managers (unless such date should fall on a legal holiday or weekend, in which event it may be held on the next succeeding day which is not a legal holiday or weekend). At such meetings the Board of Managers shall be elected by ballot of the Owners in accordance with the requirements of Section 5.04 of these By-Laws. The Owners may transact such other business at such meeting as may properly come before them.

**Section 4.02. Place of Meetings.** Meetings of the Board of Managers and the Owners shall be held at a suitable place convenient to the majority of Owners, as may be designated by the Board of Managers.

**Section 4.03. Special Meetings.** It shall be the duty of the President to call a special meeting of the Owners if so directed by resolution of the Board of Managers or upon a petition presented to the Secretary, signed by not less than Forty Percent (40%) of the Owners, in the aggregate. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 4.04. Notice of Meetings.** It shall be the duty of the Secretary to mail by first class, postage prepaid, a notice of each annual or special meeting of the Owners at least ten (10) days, but not more than fifty (50) days prior to such meeting, stating the purpose thereof, as well as the time and place where it is to be held, to each Owner of record, at his Unit or at such other address as such Owner shall have designated by notice in writing to the Secretary, and to all Mortgagees of a Unit who have requested the same. Notwithstanding the foregoing, if the purpose of any meeting shall be to act upon a

proposed amendment to the Declaration or these By-Laws, the notice of meeting shall be mailed at least ten (10) days, but not more than fifty (50) days, prior to such meeting. The mailing of a notice of meeting shall be in the manner provided in this Section and shall be considered service of notice.

**Section 4.05. Waiver or Notice.** Whenever under any provisions of these By-Laws, the terms of any agreement or instrument, or law, the Condominium or the Board of Managers or any committee thereof is authorized to take any action after notice to any person or persons or after the lapse of the prescribed period of time, such action may be taken without notice and without the lapse of such period of time, if at any time before or after such action is completed the person or persons entitled to such notice or entitled to participate in the action to be taken or, in the case of an Owner, by his or her duly authorized attorney-in-fact, submit a signed waiver of notice of such requirements. The attendance of any Owner at a meeting, in person or by proxy, without protesting at the commencement of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him.

**Section 4.06. Waiver or Consent.** Whenever the vote of Owners at a meeting is required or permitted by any provision of the Declaration, Statutes or of these By-Laws to be taken in connection with any action of the Condominium, the meeting and vote of Owners may be dispensed with if all Owners 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 4.07. List of Owners.** A list of Owners and Voting Owners as of the record date, certified by the corporate officer responsible for its preparation, shall be produced at any meeting of Owners upon the request there or prior thereto of any Owner. If the right to vote at any meeting is challenged, the inspectors of election, or person presiding thereat, shall require such list of Owners to be produced as evidence of the right of the persons challenged to vote at such meeting, and all persons who appear from such list to be Voting Owners entitled to vote thereat may vote at such meeting.

**Section 4.08. Quorum.** Except as otherwise provided in these By-Laws, the presence in person, by mail ballot or by written proxy of Voting Owners having fifty-one percent (51%) of the total authorized votes of all the Owners shall constitute a quorum at all meetings of the Owners. If, however, such quorum shall not be present or represented by any meeting of Owners, the Voting Owners entitled to vote thereat, present in person or represented by written proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting originally called.

**Section 4.09. Majority Vote.** Members of the Board of Managers elected at any meeting of the Owners shall, except as otherwise provided by law of these By-Laws, be elected by a plurality of votes cast by Voting Owners. All other actions shall be taken by vote of a majority of Voting Owners at a meeting at which a quorum shall be present

except where in the Declaration or these By-Laws, or by law, a higher percentage vote, or other vote, is required. The Term "majority of Voting Owners" shall mean those

Voting Owners having more than fifty-one percent (51%) of the total authorized votes of all Owners present in person, by mail ballot or by proxy and voting at any meeting of the Owners, determined in accordance with the provisions of Section 3.01 of these By-Laws.

**Section 4.10. Inspectors of Election.**

- a. The Board of Managers, in advance of any meeting of Owners, may appoint two (2) or more persons, who need not be Owners, to act as inspectors of election at such meeting or any adjournment thereof. If inspectors of election are not so appointed prior to the meeting, the person presiding at such meeting may appoint two (2) or more inspectors of election. In case any person appointed fails to appear to act, the vacancy may be filled in advance of the meeting by the Board of Managers or at the meeting by the person presiding thereat.
- b. The inspectors of election shall (i) determine the Owners entitled to vote at the meeting; (ii) determine the existence of a quorum and the validity and effect of mail ballots and proxies; (iii) receive ballots or determine votes or consents; (iv) hear and determine any challenges or questions arising in connection with any Owner's right to vote; (v) count and tabulate all votes, ballots or consents and determine the result thereof; and (vi) do such other acts as may be proper to conduct an election or vote with fairness to all Owners.

**Section 4.11. Order of Business at Meetings.** The order of business at all meetings of the Unit Owners shall follow Roberts Rules of Order and be as follows:

- a. Roll Call
- b. Proof of Notice of Meeting
- c. Reading of Minutes of Preceding Meeting
- d. Reports of Officers
- e. Report of Board of Managers
- f. Reports of Committees
- g. Election of Inspectors of Election (when so required)
- h. Election of Members of the Board of Managers (when so required)
- i. Unfinished Business

- j. New Business.

## ARTICLE V

### BOARD OF MANAGERS

#### Section 5.01. Number and Qualifications.

- a. The affairs of the Condominium shall be governed by a Board of Managers. The Board of Managers shall be five (5) persons; but shall initially consist of three (3) persons designated by the Sponsor. Within thirty (30) days after the initial transfer of title to forty percent (40%) of Units, or two (2) years after the recording of the Condominium Declaration, whichever first occurs a fourth (4<sup>th</sup>) and fifth (5<sup>th</sup>) person shall be elected by the Owners other than the Sponsor.
- b. Successors to Board member shall be elected by the Owners, including the Sponsor at the first meeting of Owners held pursuant to Section 4.01 of these By-Laws.
- c. Thereafter the Board of Managers shall be composed of five (5) persons, and all of whom shall be (i) Owners; (ii) spouses of Owners; (iii) Mortgagees of Units; (iv) in the case of partnership Owners or Mortgagees, shall be members or employees of such partnership, or, in the case of corporate Owners or Mortgagees, shall be officers, Directors, shareholders, employees or agents of such corporations; or, (v) in the case of fiduciary Owners or Mortgagees, shall be the fiduciaries or officers, agents or employees of such fiduciaries or, in the case of the Sponsor, shall be designees of the Sponsor.
- d. Operation, care, upkeep and maintenance of the Common Elements.
- e. Making of repairs, additions and improvements to, or alterations of, the Property, and making of repairs to, and restoration of, the Property in accordance with the other provisions of these By-Laws after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings, or as a result of the Board of Managers determining such repairs are reasonably necessary.
- f. Entering into and upon the Units when necessary and at as little inconvenience to the occupant as possible in connection with the maintenance, care and preservation of the Property.

- g. Purchasing or leasing or otherwise acquiring in the name of the Board of Managers, or its designee, corporate or otherwise, on behalf of all Owners, Units offered for sale (whether, on behalf of foreclosure or otherwise) or lease or surrendered by their Owners to the Board of Managers.
- h. Obtaining and maintaining insurance for the Property, including the Units, pursuant to the provisions of Article XII of these By-Laws.
- i. Selling, leasing, mortgaging, repairing, maintaining, voting the votes appurtenant to (other than the election of members of the Board of Managers), or otherwise dealing with Units acquired by, and subleasing Units leased by the Board of Managers or its designee, corporate or otherwise, on behalf of all Owners.
- j. Organizing corporations to act as designees of the Board of Managers in acquiring title to or leasing of Units on behalf of all Owners.
- k. Leasing of portions of the Common Elements and granting of licenses for services or equipment, such as vending machines, deemed to be of common benefit.
- l. Bringing and defending actions by or against more than one Owner which are pertinent to the operation of the Condominium and bringing actions on behalf of Owners as provided for in Section 339-dd of the Real Property Law or in the Declaration.
- m. Borrowing money on behalf of the Condominium when required in connections with the operation, care, repair, upkeep and maintenance of the Common Elements, provided, however, that (i) the consent of at least sixty-seven percent (67%) in number and in Common Interest of all Owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these By-Laws, shall be required for the borrowing of any sum in excess of ten percent (10%) of the amount of the current annual budget of the Condominium; and (ii) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Elements without the consent of the Owner. If any sum borrowed by the Board of Managers on behalf of the Condominium pursuant to the authority contained in this subsection is not repaid by the Board, an Owner who pays to the creditor such proportion thereof as his interest in the Common Elements bears to the interest of all the Owners in the common Elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against the Owner's Unit.
- n. Adoption of reasonable Rules and Regulations or amendments thereto, covering the details of operation and use of the Property. Such Rules and Regulations and amendments shall be binding upon the Owners when the

Board has adopted them in writing. A copy of such rules and all amendments thereto shall be delivered to each Owner and/or occupant.

- o. Collections of delinquent assessments by suit or otherwise, abatement of nuisances and the enjoinder and/or seeking of damages from the Owners for violations of the Rules and Regulations herein referred to, of the Declaration or these By-Laws.
- p. Employing and terminating the employment of employees and independent contractors, purchasing supplies and equipment, entering into contracts and generally having the powers of Director in connection with the matters hereinabove set forth. Any contracts entered into shall be terminable upon not more than ninety (90) days notice without penalty.
- q. Establishing reserves for the repair and replacement of the Common Elements. The amount of such reserves shall be as the Board of Managers deems to be appropriate and shall be sufficient to meet the reasonable requirements of existing or proposed lenders, holders and insurers of first mortgages on the Units.
- r. Approving leases to Units in the Condominiums.
- s. Complying with any change in New York Law as it may affect the Condominium.
- t. Assigning or reassigning in its sole discretion, the use of parking spaces, as may be required from time to time.
- u. Granting, with or without consideration, easements, rights of way or licenses for utilities or other similar services across the Common Elements.
- v. Reviewing and rendering decisions on the applications submitted pursuant to Article VII of the Declaration for proposed alterations of the Units, Common Elements or Limited Common Elements.

Notwithstanding anything to the contrary contained in these By-laws, so long as the Sponsor shall continue to have Unsold Units representing ten percent (10%) or more of the Common Elements, but in no event later than two (2) years from the date of the recording of the Declaration, the Board of Managers may not, without the Sponsor's prior written consent, except for necessary repairs, (i) make any addition, alteration or improvement to the Common Elements or to any Unit owned by the Condominium; or (ii) assess any Common Charges for the creation of, addition to, or replacement of all or part of a reserve, contingency or surplus fund in excess of an amount equal to the proportion to the then existing budget which the amount of reserves in the initial budget of estimated expenses bears to the total amount of such initial budget of estimated expenses; or (iii) hire any employee in addition to the employees, if any, provided for in the initial budget of the Condominium, except as may be necessary to maintain the

quantity of maintenance or services; or (iv) enter into any maintenance or service contract for work not provided for in the initial budget of estimated expenses; or (v) borrow money on behalf of the Condominium; or (vi) reduce the quantity or quality of services or maintenance of the Property.

**Section 5.02. Nomination.** Nominations for election to the Board of Managers shall be made by a Nominating Committee which shall be appointed by the Board of Managers. Nominations may also be made from the floor at the annual meeting of the Owners or by write-in. The Nominating Committee shall make as many nominations for election to the Board of Managers as it shall, in its sole discretion, determine, but not less than the number of vacancies as are to be filled as provided below.

**Section 5.03. Election and Term of Office.**

1. At the first annual meeting of Unit Owners, subject to the right of the Sponsor to elect or appoint Manager(s) as provided in Section 5.01 hereof, a new Board of Managers shall be elected.
2. At such meeting and any subsequent elections, the Sponsor shall not cast its votes to elect more than a simple majority of Managers and, at any election held after two (2) years from the date of recording of the Declaration. The Sponsor shall not cast its votes to elect a majority of Managers. At each annual meeting thereafter, the Owners shall replace those Managers whose terms have expired and elect such successor Manager whose terms have expired and elect such successor Manager for a term of two (2) years. Voting shall be by secret written ballot which shall:
  - a. set forth the number of vacancies to be filled;
  - b. set forth the names of those nominated to fill such vacancies; and
  - c. contain space for a write-in or nomination from the floor for each vacancy.
3. Other than persons appointed by the Sponsor, the term of office of the Managers shall be two (2) years or until their successors are elected, except that the term of office of three (3) Managers elected at the first annual meeting of the Owners shall be for one (1) year.

**Section 5.04. Removal of Members of the Board of Managers.** At any regular or special meeting of Owners, any one or more of the members of the Board of Managers elected by the Owners may be removed with or without cause by a majority of the Owners (other than the Sponsor) and a successor may then and there or thereafter be elected by the Owners to fill the vacancy thus created. Any member of the Board of Managers whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting. Members of the Board of Managers appointed by the Sponsor may be removed without cause only by the Sponsor, and then thereafter replaced by the Sponsor.

**Section 5.05. Resignation of Members of the Board of Managers.** A member of the Board of Managers may resign at any time by giving written notice to the Board, or to the President or Secretary of the Condominium. Unless otherwise specified in a letter of resignation, the resignation shall take effect immediately upon receipt thereof by the Board, President or Secretary, as the case may be, and acceptance of the resignation shall not be necessary to make it effective.

**Section 5.06. Vacancies.** Vacancies in the Board of Managers caused by any reason other than the removal of a member thereof by a vote of the Owners, shall be filled by vote of a majority of the remaining members of the Board at a special meeting of the Board of Managers held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum, and each person so elected shall be a member of the Board of Managers until the next annual meeting of the Owners or until a successor is elected. Notwithstanding the above, if the vacancy occurs with respect to any Member of the Board of Managers not designated by the Sponsor, the successor shall be an Owner independent of the Sponsor and further if, the vacancy occurs with respect to any member of the initial Board of Managers as designated by the Sponsor, the Sponsor shall have the sole right to choose the successor to fill the unexpired portion of the term of the board member.

**Section 5.07. Meetings.** Organizational, regular and special meetings of the Board of Managers shall be held as follows:

- a. **Organizational Meeting.** The first meeting of each Board newly elected by the Owners 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 at such date, time and place as may be practicable.
- b. **Regular Meetings.** Regular meetings of the Board of Managers may be held at such time and place as shall be determined from time to time by a majority of the members of the Board of Managers, but at least one (1) such meeting shall be held each quarter during each fiscal year. Notice of regular meetings of the Board of Managers shall be given to each member of the Board of Managers personally, by mail, or by telegram.
- c. **Special Meeting.** Special meetings of the Board may be called by the President or any two (2) Directors on five (5) days notice to each member either personally or by mail or telegram, which notice shall state the time, place and purpose of the meeting. 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) members of the Board of Managers.

Any member of the Board of Managers may at any time waive notice of any meeting of the Board of Managers in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Managers at any meeting of the Board without protesting prior to the conclusion of the meeting the lack of notice shall constitute a waiver of notice by him of the time and place

thereof. If all the members of the Board of Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**Section 5.08. Quorum of Board of Directors.** At all meetings of the Board of Managers, a majority of the members thereof shall constitute a quorum for the transaction of business, and, except as may be otherwise specifically provided by statute or by the Declaration or by these By-Laws, the votes of a majority of the members of the Board of Managers present at a meeting at which a quorum is present shall constitute a decision of the Board of Managers. If at any meeting of the Board of Managers there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time, without notice other than announcement at a meeting, until a quorum shall be present. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

**Section 5.09. No Compensation.** No member of the Board of Managers shall receive any compensation from the Condominium for acting as such. Any member may be reimbursed for his actual reasonable expenses incurred in the performance of his duties, providing prior approval has been granted by resolution of the Board. A member who serves the Board in any other capacity, however, may receive compensation therefor if otherwise entitled thereto, providing prior approval has been granted by resolution of the Board.

**Section 5.10. Fidelity Bonds.** The Board of Managers shall obtain adequate fidelity bonds for all officers and employees of the Condominium handling or responsible for the Condominium and Condominium funds as set forth in Article XII of these By-Laws.

**Section 5.11. Managing Agent and Director.** The Board of Managers may employ for the Condominium a Managing Agent and/or a manager at a compensation established by the Board of Managers, to perform such duties and services as the Board of Managers shall authorize, including, but not limited to, the duties listed in subsections (c), (d), (e), (f), and (p) of Section 5.01 of these By-Laws. The Board of Managers may delegate to the manager or Managing Agent all of the powers set forth in subsections (a), (b), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (r), (s), (t), and (u) of Section 5.01 of these By-Laws. Any contract entered into with a Managing Agent shall provide that the Managing Agent shall carry his own liability insurance in such amounts as the Board shall deem adequate and shall include the Condominium as a named insured, that the Managing Agent shall provide fidelity bonding for himself and his employees and also provide that such contract may be terminated by the Condominium without penalty upon not more than ninety (90) days notice, if without cause, and, if with cause upon not more than thirty (30) days notice. No such management agreement shall be for a term of more than two (2) years and shall not be renewable without the consent of both parties.

**ARTICLE VI**

**OFFICERS**

**Section 6.01. Designation.** The principal officers of the Condominium shall be the President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board of Managers. The Board of Managers may appoint any assistant treasurer, an assistant secretary and such other officers, as in its judgment may be necessary.

**Section 6.02. Election and Appointment of Officers.** The elected officers of the Condominium shall be elected annually by the Board of Man at the organizational meetings of each new Board of Managers and shall hold office at the pleasure of the Board of Managers. Appointive officers shall be appointed at such time and shall hold their office for such terms as the Board of Managers shall determine from time to time.

**Section 6.03. Removal of Officers.** Upon the affirmative vote of a majority of the members of the Board of Managers, any officer may be removed, either with or without cause, one cause being nonattendance of three (3) successive meetings, except for reasons beyond the member's control, and a successor to such office may be elected at any regular meeting of the Board of Managers, or at any special meeting of the Board of Managers called for such purpose.

**Section 6.04. Resignation of Officers.** Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or any later time specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6.05. President.** The President shall be the chief executive officer of the Condominium. He shall preside at all meetings of the Owners and of the Board of Managers. He shall have all of the general powers and duties which are incident to the office of President under the Business Corporation Law of the State of New York, including, but not limited to, the power to appoint committees from among the Owners, from time to time, as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Condominium. The President may not also simultaneously hold any other office, except in an emergency.

**Section 6.06. Vice President.** The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Managers shall appoint some other member of the Board of Managers to act in place of the President on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon such officer by the Board of Managers or by the President.

**Section 6.07. Secretary.** The Secretary shall keep the minutes of all meetings of the Owners and of the Board of Managers; shall record all votes and the minutes of all proceedings in a book to be kept for that purpose; shall have charge of such books and papers as the Board of Managers may direct; shall give or cause to be given, notice of all

meetings of Owners and in special meetings of the Board of Managers; and shall, in general, perform all the duties incident to the office of Secretary under the Business Corporation Law of the State of New York or as are properly required of him by the Board of Managers.

**Section 6.08. Treasurer.** The Treasurer shall have the responsibility for Condominium funds and securities and shall be responsible for keeping full and accurate financial records and books of accounting showing all receipts and disbursements, and for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name of the Board of Managers or the Managing Agent, in such depositories as may from time to time be designated by the Board of Managers, and shall, in general, perform all the duties incident to the office of Treasurer under the Business Corporation Law of the State of New York, or as are properly required of him by the Board of Managers.

**Section 6.09. Duties of Officers May be Delegated.** In the event of the absence or disability of any officer of the Condominium, or in the event of a vacancy in any office or for any other reason that the Board of Managers may deem sufficient, the Board of Managers, except as otherwise provided by laws, may temporarily delegate the powers or duties of any officer to any other officer or to any member of the Board of Managers.

**Section 6.10. Agreements, Contracts, Deeds, Checks and Other Instruments.**

- a. All agreements, contracts, deeds, leases, checks and other instruments of the condominium shall be executed by any two (2) officers of the Condominium or by such other person or persons as may be designated by the Board of Managers.
- b. All contracts and other agreements entered into on behalf of the Condominium shall contain, among other, provisions set forth in Section 7.01-b. hereof.

**Section 6.11. Compensation of Officers.** No officer shall receive any compensation from the Condominium for acting in his capacity as a member of the Board of Managers. However, any officer may be reimbursed for his actual reasonable expenses incurred in the performance of his duties as an officer, providing prior approval has been granted by resolution of the Board. An officer who serves the Condominium in any other capacity, however, may receive compensation therefor if otherwise entitled thereto, providing prior approval has been granted by resolution of the Board.

**ARTICLE VII**

**LIABILITY OF BOARD OF MANAGERS AND OWNERS**

**INDEMNIFICATION OF MANAGERS AND OFFICERS**

**Section 7.01. Liability of the Board of Managers and Owners.**

- a. The members of the Board of Managers shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise, except of their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the members of the Board of Managers against all contractual liability to others arising out of contracts made by the Board of Managers on behalf of the Condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. It is intended that the members of the Board of Managers shall have no personal liability with respect to any contract made by them on behalf of the Condominium. It is also intended that the liability of any Owner arising out of any contract made by the Board of Managers shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interests of all the Owners in the Common Elements.
- b. Every contract agreement or commitment made by the Board of Managers or by the Managing Agent or the manager, on behalf of the Condominium shall provide that the members of the Board of Managers, or the Managing Agent, or the manager, as the case may be, are acting only as agents for the Owners and shall have no personal liability thereunder (except as Owners), and that each Owner's liability thereunder shall be limited to such proportion of the total liability as his interest in the Common Elements bears to the interest of all Owners in the Common Elements.

**Section 7.02. Right of Indemnification.** Each member of the Board of Managers and officer of the Condominium, whether or not then in office, and any person whose testator or intestate was such a Manager or officer, shall be indemnified by the Condominium for the defense of, or in connection with, civil or criminal actions or proceedings, or appeals therein, in accordance with and to the fullest extent permitted by law.

**Section 7.03. Other Rights of Indemnification.** The right of indemnification herein provided shall not be deemed exclusive of any other rights to which any such Manager, Officer or other person may now or hereafter be otherwise entitled and specifically, without limiting the generality of the foregoing, shall not be deemed exclusive of any rights, pursuant to statute or otherwise, of any such Manager, officer or other person in any such action or proceeding to have assessed or allowed in his favor, against the Condominium or otherwise, his costs and expenses incurred therein or in connection therewith or any part thereof.

**ARTICLE VIII**

**COMMITTEES**

**Section 8.01. Committees Acting on Behalf of the Board of Managers.** The Board of Managers may, by resolution or resolutions, passed by a majority of the entire Board, designate one or more committees, each of such committees to consist of at least three (3) Owners, at least one of whom shall be a member of the Board of Managers which, to the extent provided in said resolution or resolutions, shall have, and may exercise, the powers of the Board of Managers in the management of the business and affairs of the Condominium and may have power to sign all papers which may be required, provided the said resolution or resolutions shall specifically so provide. However, no such committee shall have or be given the power to (i) determine the Common Charges and expenses required for the affairs of the Condominium; or (ii) adopt or amend the Rules and Regulations covering the details of the operation and use of the Property. 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 Managers. Committees established by resolution of the Board of Managers shall keep regular minutes of their proceedings and shall report the same to the Board of Managers as required.

**Section 8.02. Committees of Members.** The committees of the Condominium shall be the nominating Committee, the Rules and Regulations Committee and such other committees as the Board of Managers shall deem desirable. Each committee shall consist of a chairman and two (2) or more members and shall include a member of the Board of Managers except that the Nominating Committee need not include a member of the Board of Managers.

**Section 8.03. Rules.** Each committee may adopt rules of its government not inconsistent with the terms of the resolution of the Board of Managers designating the committee or the rules adopted by the Board of Managers.

**ARTICLE IX**

**COMMON CHARGES AND ACCOUNTS**

**Section 9.01. Determination of Common Charges.** The Board of Managers 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 Condominium and shall send (i) a copy of the proposed budget to all Owners at least thirty (30) days prior to the adoption thereof, and (ii) a copy of the adopted budget and any supplement thereto to every Owner and such Mortgagees as shall have requested the same. The Board of Managers shall determine the total amount required, including the operational items such as insurance, repairs, reserves, betterments, maintenance of the Common Elements and any other operating expenses, as well as charges to cover any deficits from

prior years. Except as is otherwise provided for in the Declaration, the total annual requirements shall be assessed as a single sum against all Units and each Owner of said Units shall pay his proportionate share as set forth in Schedule C of the Declaration of any such charges. The Board of Managers, by unanimous vote of the entire Board, may elect to allocate and apportion expenses between Owners of Units, based on the special or exclusive availability or use of the Common Elements to which such expenses have been applied. Said Common Charges or assessments shall be payable monthly in advance or as ordered by the Board of Managers. Special assessments, should such be required, shall be levied and paid in the same manner as herein above provided for regular Common Charges.

**Section 9.02. Condominium Funds.** The funds of the Condominium shall be deposited in its name with such banks, trust companies or other depositories as the Board of Managers may from time to time designate. All checks, notes, drafts and other negotiable instruments of the Condominium shall be executed by any two (2) officers of the Condominium or by such other person or persons as may be designated by the Board of Managers from time to time. No officers, employees or agents of the Condominium, alone or with others, shall have power to make any checks, notes, drafts or other negotiable instruments in the name of the Condominium or to bind the Condominium thereby, except as provided in these By-Laws.

**Section 9.03. 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 Common Charges and special assessments as fixed and determined for all Units. 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 Common Elements and for the purchase, lease, sale or other expenses resulting from the purchase or lease of Units.

**Section 9.04. Capital Reserve Account.** Any funds collected or designated by the Board of Managers as reserves for the replacement of capital items shall be segregated from all other funds of the Condominium in one or more separate account. This shall not preclude the Board of Managers from segregating other portions of the Condominium funds in separate accounts for specific purposes (e.g., reserves for non-capital items) or otherwise.

**Section 9.05. Other Accounts.** The Board shall maintain any other accounts it shall deem necessary to carry out its purposes.

## ARTICLE X

### RECORDS AND AUDIT

**Section 10.01. Records and Reports.** The Board of Managers, or the Managing Agent, shall keep detailed records of the actions of the Board of Managers and the Managing Agent, minutes of the meetings of the Board of Managers, minutes of the meetings of the Owners, and financial records and books of account of the

Condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each Unit which, among other things, shall contain the amount of each assessment of Common Charges and each special assessment, if any, against such Unit, the date when due, the amounts paid thereon, the date such payment was made and the balance remaining unpaid.

**Section 10.02. Annual Report.** An annual report of the receipts and expenditures of the Condominium, prepared by an independent public accountant, shall be rendered by the Board of Managers to all Owners, and to all Mortgagees of Units who have requested the same, and to the Department of Law of the State of New York, within four (4) months from the end of each fiscal year. In the event that any substantial irregularities or any defalcation shall be uncovered by such accountant in the course of any such review, such matters shall be promptly reported to each member of the Board of Managers, and to the Owners by such accountant. In addition, when called for by a vote of the Owners at any special meeting of the Owners, the Board of Managers shall furnish, to the Owners, a full and clear statement of the business conditions and affairs of the Condominium, 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 Owners.

The cost of the annual report and other services required by this Section 10.02 and these By-Laws shall be paid by the Board of Managers as a Common Expense.

**Section 10.03. Inspection of Records.** Every Owner, or his representative and Mortgagee, shall be entitled to examine the books and records of the Condominium during regular business hours upon reasonable notice to the Board of Managers, but not more than once a month.

**Section 10.04. Availability of Records and Legal Documents.** The Board of Managers shall make available for inspection upon reasonable notice and during normal business hours, to existing and prospective Purchasers, tenants, and mortgagees, mortgage insurers and mortgage guarantors, current copies of the Condominium's Declaration, By-Laws, Rules and Regulations, budget, schedule of assessments and any other books, records and financial statements of the Condominium. The Board may furnish copies of such documents to such parties and may charge a reasonable fee to cover the cost of furnishing such copies.

## ARTICLE XI

### THE CONDOMINIUM PROPERTY: USE, OPERATION, PRESERVATION, MAINTENANCE, AND REPAIR

**Section 11.01. Repairs and Maintenance which are the Responsibility of the Board of Directors.** All maintenance, repairs and replacement to the Limited Common Elements, such as the decks and patios, and the Common Elements of the Property, including, but not necessarily limited to, exterior walls, roof and roof members and

foundations, as well as all maintenance, repairs and replacements to any pipes, wires, conduits, connections, fittings, and public utility lines, including without limitation so much of any pipes, wires, conduits and public utility lines as are located in the Common Elements but serve one or more Units shall be a Common Expense, except as provided in Section 11.02 of these By-Laws. The Board of Managers shall repair all plumbing stoppages and make electrical repairs occurring in the Common Elements. The Board of Managers of the Condominium shall provide snow removal from the walkways, parking areas, private roadway or any other ingress or egress to and from the Property and/or the Units, lawn and shrub care and refuse removal and shall be responsible for the maintenance, repair and replacement of the parking areas and private roadway.

Notwithstanding, the above, until the private roadway is deeded to the Association, the Sponsor shall be responsible for all maintenance and repairs, including snow plowing, of such roadway.

All irrevocably Limited Common Elements shall be maintained by the Board of Managers except, where such repair or replacement is necessitated because of the negligence or misuse or neglect of the Owner or occupant to which the Common Element is limited in use, or the negligence, misuse or neglect of any family member, tenant, guest or invitee of such Owner, in which event such Owner shall make such repairs or replacements at his own expense.

The Condominium shall not be responsible for the maintenance, repair or replacement of the air conditioning condenser equipment serving the Unit, located on the Common Elements (see Section 8.06 of the Declaration and Section 11.02 of these By-Laws).

**Section 11.02. Repairs and Maintenance which are the Responsibility of the Owners.** All maintenance (including painting and decorating of the interior of the Units, windows and all glass breakage and entry doors (except painting of the exterior surface doors which open from a Unit and exterior trim of windows, which painting is the responsibility of the Board of Managers), repairs to pipes, wires and conduits located in or which are part of and service the same Unit, and repair, maintenance and replacement of air conditioning condenser located on the Common Elements serving the Unit, shall be made by the respective Owners at their own expense.

Any maintenance, repair or replacement necessary to preserve the appearance and value of the Property made pursuant to Section 9.01 of these By-Laws, but which is occasioned by a negligent or willful act or omission of an Owner or by any family member or tenant of such Owner, or by any guest or invitee of such Owner or member of such Owner's family, or tenant of such Owner, shall be made at the cost and expense of such Owner. If such maintenance, repair or replacement is performed by the Board of Managers, it shall not be regarded as a Common Expense, but shall rather be considered a special expense allocable to the specific Unit and such cost shall be added to that Owner's Common Charges, and, as part of those Common Charges, shall constitute a lien on the Unit to secure the payment thereof .

In the event that an Owner fails to make any maintenance or repair which is necessary to protect any of the Common Elements, or any other Unit, the Board of Managers shall have the right to make such maintenance or repair within ten (10) days of the Owner's receipt of written notice, or oral or written notice of shorter duration in the event of an emergency, and to charge the Owner for the cost of all such maintenance or repair to the Owner's Unit or for all repairs to any Common Elements restricted in use to such Owner. In the event the Owner fails to make prompt payment, the Board of Managers shall be entitled to bring suit thereon, and in such event, the Owner shall be liable for reasonable attorneys' fees and costs of such suit or proceeding, together with interest on all sums due. Failure to make prompt payment may result in a lien being placed on the dwelling Unit by the Board of Managers.

**Section 11.03. Quality of Maintenance and Repairs.** All repairs, painting and maintenance, shall be carried out in such manner so as to conform to the materials, style and color initially provided by the Sponsor as near as practicable, taking into account the fact that, because of time passing, it may not be possible or economically feasible to obtain the materials or quality of workmanship necessary to conform to the materials and style of the structure as it was originally built.

**Section 11.04. Right of Access.** An Owner, or tenant, shall be deemed to have granted a right of access to his Unit to the Board of Managers, Managing Agent or manager and/or other person authorized by the Board of Managers, the Managing Agent or manager, for the purpose of making inspections or for the purpose of correcting any condition originating in the Unit of such Owner and threatening another Unit or a Common Element, or for the purpose of performing installation, alterations or repairs to the mechanical or electrical services or other Common Elements in such Unit or elsewhere in the Building, or to correct any condition which violates the provisions of any mortgage covering another Unit, the cost of which shall be a Common Expense. Requests for entry will be made in advance and any such entry will be at a time reasonably convenient to the Owner or occupant. In case of an emergency, such right of entry shall be immediate, whether the Owner or occupant is present at the time or not. Any damage to the entry door or lock, incurred as a result of an emergency entry, shall be a Common Expense.

**Section 11.05. Combining of Units.** Owners shall not combine Units or parts thereof, other than as provided in Article V and Article VII of the Declaration.

**Section 11.06. No Obstruction of Common Elements and Facilities.** An Owner shall not place, or cause to be placed in the Common Elements or Common Facilities, other than the areas designated as storage areas (if any), any furniture, packages or objects of any kind, except as provided in the Rules and Regulations attached hereto and made a part hereof. The walkways and parking areas shall be used for no purpose other than of normal transit through them unless otherwise provided for in the Rules and Regulations. The Common Elements and facilities shall be used only for those purposes for which they are reasonably suited.

**Section 11.07. Rules of Conduct.** Rules and Regulations concerning the use of the Units and the Common Elements may be promulgated and amended by the Board of Managers. Copies of such Rules and Regulations shall be furnished by the Board of Managers to each Owner prior to the time when the same shall become effective. Initial Administrative Rules and Regulations, which shall be effective until amended by the Board of Managers, may be found as Schedule A of these By-Laws. Any Owner leasing his Unit is obligated to make the tenant or tenants fully aware of these By-Laws, the Declaration, Administrative Rules and Regulations, and any amendments thereto.

Nuisance activity shall not be allowed on the Property nor shall any use or practice be allowed which is the source of annoyance to its occupants or which interfere with the peaceful possession or proper use of the property by its occupants.

No unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with by and at the sole expense of the Owners or the Board of Managers, whichever shall have the obligation to maintain or repair such portion of the Property.

**Section 11.08. Abatement and Enjoinment of Violations.** The violation of any Rules or Regulations adopted by the Board of Managers, or the breach of any By-Laws contained herein, or the breach of any provisions of the Declaration, shall give the Board of Managers the right, in addition to any other rights set forth in these By-Laws: (i) to enter the Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Managers shall not hereby be deemed guilty in any manner of trespass; or (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; or (iii) to establish a penalty in accordance with Section 11.10 below. If after thirty (30) days written notice of any such violation or breach has been given to the Board of Managers by one or more Owners, and the Board has failed to take any action to remedy such violation or breach, then one or more aggrieved Owners shall have the right to enjoin, abate or remedy the continuance of any such breach by appropriate legal proceedings at law or in equity. Prior to exercising such right, the Board of Managers shall, if reasonably possible, notify the Owner and mortgagee (if known) of the Unit or Units involved and provide a reasonable amount of time for the cure of such violation or breach.

ARTICLE XII

INSURANCE AND RECONSTRUCTION

**Section 12.01. Insurance to be Carried.** The Board of Managers shall obtain and maintain (i) fire and casualty insurance; (ii) liability insurance; (iii) Directors' and Officers' liability insurance; (iv) fidelity bond; and (v) workers' compensation insurance.

The Board of Managers may also obtain such other insurance as it shall deem necessary or desirable from time to time.

The coverage shall be as follows:

- a. **Fire and Casualty.** The policies shall cover the interests of the Condominium, the Board of Managers and all Owners and Mortgagees as their interests may appear. Coverage shall be for the full replacement cost of the Units and other improvements (without deduction for depreciation) excluding the Land and foundations, with a maximum deductible of \$2,500.00, under the "single entity" concept, i.e., covering the Units as initially built, including fixtures, installations or additions comprising a part of the Building within the unfurnished interior surfaces of the perimeter walls, floors and ceilings of the individual Units, together with the air conditioning condenser mounted within a Common Element outside of the Unit, as initially installed in accordance with the original plans and specifications, if any, or replacements thereof by the individual Owner.

The policy shall have the following provisions, endorsements and coverage: (i) extended coverage, including debris removal, (ii) contingent liability from building laws endorsement, increased cost of construction, vandalism, malicious mischief, windstorm and water damage; (iii) inflation guard; (iv) coverage for loss of Common Charges from Owners forced to vacate because of fire or other insured-against casualty; (v) waiver of any right to claim by way of subrogation against individual Owners and the members of their households and families, tenants, the officers of the Condominium and individual members of the Board of Managers; (vi) an exclusion from the "no other insurance" clause of individual Owners' policies so that the insurance purchased by the Board of Managers shall be deemed primary coverage and any policies obtained by individual Owners or Mortgagees shall be deemed excess coverage and that the insurance obtained by the Board of Managers shall in no event be brought into "contribution" with insurance purchased by individual Owners or Mortgagees; (vii) a provision that the policy cannot be cancelled, invalidated or suspended because of the act or neglect of someone over whom the insured has no control; (viii) cross-liability giving the Owners the right to sue the Board of Managers and vice versa with the insuring company agreeing to defend the defendant; (ix) a provision that the policy may not be cancelled (except for the nonpayment of premium which shall be cause for cancellation upon ten (10) days written notice), substantially modified, invalidated or suspended, without at least

thirty (30) days prior written notice to all of the insured, including all Mortgagees of Units reported to the insurance carrier or its agent, any deductible shall apply only to each occurrence rather than to each item of damage; (x) a provision that adjustment of loss shall be made with the Board of Managers, or if an Insurance Trustee has been appointed, with its written consent; (xi) a provision that any right of the insurer to elect to restore damage in lieu of cash settlement may not be exercised without the consent of the Insurance Trustee, if there be one, or the Board of Managers, if no Insurance Trustee; and (xii) the policy shall contain the standard New York mortgage clause in favor of each Mortgagee of a Unit which shall provide that any loss shall be payable to the mortgagee as its interest shall appear, subject, however, to the loss payment provisions in favor of the Board of Managers and the Insurance Trustees set forth in this Section 12.01 and/or Sections 12.02 of these By-Laws.

Prior to obtaining any new fire and casualty insurance policy, the Board of Managers shall obtain an appraisal as to the full replacement value (without deduction for depreciation) of the improvements on the Property (exclusive of land, foundations and improvements made by present or prior Owners or occupants) for the purpose of determining the amount of fire and casualty insurance to be effected pursuant to this Section.

The proceeds of all policies of physical damage insurance shall be payable to the Board of Managers, if they are \$50,000 or less, and, if in excess of \$50,000 to an Insurance Trustee (bank, trust company or law firm) selected by the Board of Managers to be applied for the purpose of repairing, restoring or rebuilding, unless otherwise determined by the Owners as hereinafter set forth. (This \$50,000 limit shall automatically be increased each calendar year by eight percent (8%) over the limit of the previous year.) The policy must provide that any right of the insurer to elect to restore damage in lieu of cash settlement may not be exercised without the consent of the Insurance Trustee. The obligation to restore or reconstruct after damage due to fire or other casualty supersedes the customary right of a Mortgagee to have the proceeds of insurance coverage applied to the mortgage indebtedness.

The amount of fire insurance to be maintained until the first meeting of the Board of Managers following the first annual meeting of the Owners shall be in at least the sum of \$2,000,000.00.

Each Owner and such Owner's known Mortgagee shall be named insured on the policy and shall receive, at the time of purchase and at the time a new policy is obtained or an existing policy renewed, a certificate evidencing proof

of insurance coverage. Duplicate originals of the policy and of all renewals of the policy shall be furnished to all known Mortgagees.

- b. **Flood Insurance.** If, at any time any portion of the Property is determined to be located in an area identified by the Federal Secretary of Housing and Urban Development as having special flood hazards, the Board of Managers shall obtain, if available, a policy of flood insurance covering the Units and other insurable improvements on the Property or portion thereof located entirely or partially in the flood hazard area. Such coverage shall be the maximum coverage available under the National Flood Insurance Program, or one hundred percent (100%) of the replacement cost of all such Units and other insurable property, whichever is less.
- c. **Liability.** The liability insurance shall cover the Board of Managers, the officers of the Condominium, the Managing Agent, if any, and all Owners, but not the liability of Owners arising from occurrences within such Owner's Unit or within any Limited Common Elements exclusive to such Owner's Unit. The policy shall include the following endorsement: (i) comprehensive general liability, including libel, slander, false arrest, and invasion of privacy; (ii) personal injury; (iii) medical payments; (iv) cross-liability under which the rights of a named insured under the policy shall not be prejudiced with respect to such insured's action against another named insured; (v) "severability of interest" precluding the insurer from denying coverage to an Owner because of negligent acts of the Board of Managers or any other Owner; (vi) contractual liability; (vii) water damage liability; (viii) hired and non-owner vehicle coverage; (ix) liability for the property of others; (x) host liquor liability coverage with respect to events by the Condominium; (xi) deletion of the normal products exclusion with respect to events sponsored by the Condominium; (xii) a provision that the policy may not be cancelled, substantially modified, invalidated or suspended, without at least thirty (30) days prior written notice to all of the insured, including all Mortgagees of Units reported to the insurance carrier or its agent, any deductible shall apply only to each occurrence rather than to each item of damage, except for nonpayment of premium, which shall be cause for cancellation upon ten (10) days written notice; and (xiii) a provision that adjustment of loss shall be made with the Board of Managers.

Until the first meeting of the Board of Managers elected by the Owners, this public liability insurance shall be in a combined single limit of \$1,000,000 covering all claims for bodily injury and property damage arising out of a single occurrence.

- d. **Umbrella (Excess) Liability.** The Board of Managers may obtain a policy with a minimum of \$1,000,000 excess liability. This policy should include, if available, excess Directors and Officers liability and provide \$10,000 retained limit.

- e. **Director and Officer Liability.** The Director and Officer liability insurance shall cover the “wrongful” acts of a member of the Board of Managers or officer of the Condominium. The policy shall be on a “claims made” basis so as to cover all prior officers and members of the Board of Managers, and any deductible provision shall apply only to each occurrence rather than to each item of damage. The policy shall provide for “participation” by the Condominium or by the members of the Board of Managers or officers of the Condominium only to the minimum extent permitted by law or applicable governmental regulation.
- f. **Fidelity Bond.** The fidelity bond shall cover all members of the Board of Managers, officers and employees of the Condominium (if any) who handle Condominium funds. The bond shall name the Condominium as Obligee, and shall be in an amount of not less than twenty-five percent (25%) of the Condominium’s annual budget, plus reserves, in the custody of the Board of Managers but in no event less than a sum equal to three (3) months’ aggregate Common Charges on all Units, plus reserves. It shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of “employee” or similar expression and shall provide that the bond shall not be cancelled or substantially modified (including cancellation for non payment of premium) without at least thirty (30) days prior written notice to the Board of Managers

If the Condominium hires a property manager as an employee of the Condominium, such manager shall be added to the Condominium’s bond. In the event a professional property manager is retained by the Condominium, such professional property manager, serving the Condominium under contract (not as an employee of the Condominium), shall maintain a fidelity bond in the same amounts as the Condominium, naming the Condominium as the Obligee, and provide the Board of Managers with a copy of such bond.

Until the first meeting of the Board of Managers elected by the Owners, the coverage shall be at least \$50,000 for dishonest acts and \$50,000 for forgery.

- g. **Workers’ Compensation.** Workers’ compensation insurance shall be obtained covering the employees of the Condominium as well as any other person performing work on behalf of the Condominium, including the elected and appointed members of the Board of Managers.
- h. **No Liability for Failure to Obtain Above Coverage.** The Board of Managers shall not be liable for failure to obtain any of the coverage required by this Section or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is so available only at demonstrably unreasonable cost.

- i. **Deductible Amounts.** The deductible amount, if any, on any insurance policy purchased by the Board of Managers shall be a Common Expense, provided, however, that the Board of Managers may assess any deductible amount necessitated by the gross negligence or wantonly malicious act of an Owner against such Owner. The Condominium may pay the deductible portion for which an Owner is responsible, and the amount so paid, together with interest and costs of collection (including attorneys' fees) shall be a charge and continuing lien upon the Unit involved, shall constitute a personal obligation of the Owner, and shall be collectible in the same manner as Common Charges and assessments under the Declaration and these By-Laws.
- j. **Owners' Insurance.** Owners shall not be prohibited from carrying other insurance for their own benefit provided that all such policies shall contain waivers of subrogation and further provide that the liability of the carriers issuing insurance obtained by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by any Owner.

**Section 12.02. Insurance Trustee.** The Insurance Trustee shall be any bank, trust company or law firm located in the State of New York, designated by the Board of Managers. All fees and disbursements of the Insurance Trustee shall be paid by the Board of Managers and shall constitute a Common Expense. In the event the Insurance Trustee resigns or fails to qualify, the Board of Managers shall designate a new Insurance Trustee which shall be a bank, trust company or law firm located in the State of New York.

**Section 12.03. Insurance Review.** The Board of Managers shall review all insurance coverage for adequacy at least once a year.

**Section 12.04. Repair or Reconstruction after Fire or Other Casualty.** In the event of damage to or destruction of the Building or Common Elements as a result of fire or other casualty (unless seventy-five percent (75%) or more of the Units are destroyed or substantially damaged and seventy five percent (75%) or more of the Owners in number and in Common Interest do not duly and promptly resolve to proceed with, repair and, restoration), the insurance proceeds, if any, shall be payable to the Board of Managers if they do not exceed the limit established pursuant to Section 12.01 hereof; and if in excess of such limit, then to the insurance Trustee as the Board of Managers shall select, subject to a reasonable approval of the mortgagees' representative, if any. The Board of Managers shall notify all Mortgagees of such Units as indicated on the record of the Condominium and shall arrange for the prompt repair and restoration of the Building (including any damaged Units), and the Board of Managers 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 excess of the insurance proceeds shall constitute a Common Expense and the Board of Managers shall assess all the Owners for such deficit and for a completion bond for such deficit as part of the Common Charges.

Any repair or restoration as hereinabove described shall be in substantial accordance with the plans and specifications of the damaged improvements as originally built. Any proposed substantial deviation therefrom shall require a written consent of First Mortgagees on the Condominium records holding mortgages on Units which have at least fifty-one percent (51%) of the votes of all Units affected.

If there shall have been a repair or restoration pursuant to the first paragraph of this Article, and the amount of the insurance proceeds shall have exceeded the cost of such repair or restoration, then the excess of such insurance proceeds shall be divided by the Board of Managers or the Insurance Trustee, as the case may be, among all the Owners, subject to the rights of holders of mortgages encumbering such Units in proportion to their respective Common Interests after first paying out of the share due each Owner such amounts as may be required to reduce unpaid liens on such Unit in the order of priority of such liens.

If seventy-five percent (75%) or more of the Units are destroyed or substantially damaged as determined by the Board of Managers and seventy-five percent (75%) or more of the Owners in number and in Common Interest do not duly and promptly resolve to proceed with repair and restoration, the Property shall be subject to an action for partition upon the suit on any Owner or lienor, as if owned in common pursuant to Article 9-B of the Real Property Law of the State of New York or any successor provision as then in effect. In such event, the net proceeds of sale, together with the net proceeds of insurance policies shall be held in escrow by the Board of Managers or the Insurance Trustee, as the case may be, shall be divided among all Owners, subject to the rights of holders of mortgages encumbering such Units, in proportion to their respective Common Interests, after first applying the share of the net proceeds of such sale otherwise payable to any Owner to the payment of any liens on his Unit, in the order of the priority of such liens in accordance with New York Condominium Act, Section 339 or any successor provision as then in effect.

Whenever in this Article the words "promptly repair" are used, it shall mean repairs are to begin, weather permitting, not more than sixty (60) days from the date the Insurance Trustee notified the Board of Managers and the Owners that it holds proceeds of insurance sufficient to pay the estimated costs of such work; or not more than ninety (90) days after the Insurance Trustee notifies the Board of Managers and the Owners that such funds are insufficient to pay said estimated costs and advises them of the amount of the required completion bond, if necessary, or in the event there is no Insurance Trustee, not more than sixty (60) days from the date of receipt by the Board of Managers of insurance funds on account of such damage or destruction, and wherever the words "promptly resolve" are used, it shall also mean not more than sixty (60) days from the date of receipt of said insurance funds.

**Section 12.05. Actions Which May Increase Insurance Rates Prohibited.**

Under no circumstances shall an Owner permit or suffer anything to be done or left in such Owner's Unit or storage area, if any, which will increase rates on such Unit or on any Unit or on the Common Elements.

**ARTICLE XIII**

**SELLING, MORTGAGING AND LEASING UNITS**

**Section 13.01. Selling and Leasing Units.** Any Unit may be conveyed by its Owner free of any restriction subject only to the following:

1. No Owner shall convey, sell, mortgage, pledge, hypothecate or lease his Unit unless and until all due and unpaid Common Charges and special assessments against his Unit shall have been paid to the Board of Managers. However, such unpaid Common Charges may be paid out of the proceeds of the sale of a Unit or by the Grantee. Further, an Owner may convey his Unit and Common Interest appurtenant thereto, to the Board of Managers on behalf of all Owners free of any cost to the Board or the Owners and upon such conveyance such Owner shall not be liable for any Common Charges thereafter accruing against such Unit.
2. The Owner(s) of any Unit shall give the Board of Managers thirty (30) days prior written notice of any conveyance or sale of such Unit, and shall comply with following requirements:
  - a. Supply the transferees or Mortgagee with a copy of the Declaration, By-Laws, Rules and Regulations, current budget, last audited financial statement and a current budget, last audited financial statement and a current balance sheet, along with all amendments thereto.
  - b. Supply the transferee or mortgagee with certifications, signed by a member of the Board of Managers, or its designee that:
    - (aa) the Unit is in compliance with the architectural control standards of the Condominium;
    - (bb) all Common Charges and special assessments have been paid to date; and the survey of the Condominium property has not materially changed, or, if there have been material changes a certification as to such changes.
  - c. Cause the transferee to execute, acknowledge and deliver to the Board of Managers a Power of Attorney in the form originally appearing in the Plan of Condominium Offering for the 287 Jefferson Condominium.
  - d. Comply with all statutes, ordinances and governmental rules and regulations in effect at the time the conveyance, sale, pledge or mortgage.
  - e. In the case of mortgaging a Unit, furnish the Board of Managers, in writing, the name and address of the mortgage.

3. All renting or leasing of Units shall be in accordance with the provisions set forth in Section 12.08 of the Declaration.

The provision of this Section shall not apply to the acquisition, sale or lease of a Unit by a Mortgagee who shall acquire title to such Unit by foreclosure or by deed in lieu of foreclosure. Such provision shall apply, however, to any purchase from such Mortgage.

**Section 13.02. Mortgaging of Units and Notice to Board of Managers.** An Owner shall have the right to mortgage his Unit without restriction. An Owner who mortgages his Unit shall notify the Board of Managers in writing of the name and address of the Mortgagee. The Board of Managers shall maintain such information in a book entitled "Book of Mortgagees". No Owner shall mortgage, pledge or hypothecate his Unit unless and until all unpaid Common Charges assessed against his Unit which are due and payable have been paid to the Board of Managers.

**Section 13.03. No Severance of Ownership.** No Owner shall execute any deed, mortgage or other instrument conveying or encumbering title to such Owner's Units without including the appurtenant Common Interests, it being the intention hereof to prevent severance of the Common Interest from the Unit. Any such deed, mortgage or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described. No part of the appurtenant Common Interests of any Unit may be sold, transferred or otherwise disposed of, except as part of a sale, transfer or other disposition of the Unit to which such interests are appurtenant, or as part of a sale, transfer or other disposition of such part of the appurtenant Common Interests of all Units.

**Section 13.04. Gifts and Devises.** Any Owner shall be free to convey or transfer his Unit by gift, or to devise his Unit by will, or to pass the same by intestacy, without restriction.

**Section 13.05. Waiver of Right of Partition with Respect to such Units as are acquired by the Board of Managers, or its Designee, on Behalf of all Owners as Tenants In Common.** In the event that a Unit shall be acquired by the Board of Managers, or its designee, on behalf of all Owners as tenants in common, all such Owners shall be deemed to have waived all rights of partition with respect to such Unit and if the Board should so elect, the Owner shall be deemed to have authorized and empowered the Board of Managers, to institute legal proceedings to evict the purported tenant in the name of said Owner, as the purported landlord.

**Section 13.06. Garage Bays.** In order to provide for the orderly and proper use of the Garage Bays, the Garage Bays shall be restricted to and be in accordance with the following provisions:

- a. Except for the rights of the Sponsor and/or the Sales Agent to use unsold Garage Bays, the Garage Bays may be used only for storage of materials and vehicles.

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- b. Garage Bays shall only be owned by Owners of Units.
- c. Garage Bay Owners may only lease the Garage Bays to other Owners or to the tenant of Owner's Unit. Garage Bays may not be utilized by non-residents unless they are Owners of Units.
- d. No illegal activities shall occur in the Garage Bays.

## ARTICLE XIV

### AMENDMENT

**Section 14.01. Amendments to By-Laws.** Except as hereinafter provided otherwise, these By-Laws may be modified, altered, amended or added to at any duly called meeting of Owners in the same manner as the Declaration, in accordance with Section 13.01 of the Declaration.

Section 13.01, insofar as it provides that so long as the Sponsor has Unsold Units, the Sponsor may vote the votes appurtenant thereto; Section 11.05 insofar as it provided that, so long as Sponsor has Unsold Units representing ten percent (10%) or more interest in the Common Elements, Sponsor shall be entitled to appoint specified numbers of members of the Board of Managers; Section 11.05, insofar as it provides that the Board of Managers may not exercise certain powers without the Sponsor's prior written consent so long as the Sponsor shall continue to have Unsold Units totaling ten percent (10%) or more of the Units; and this Section 14.01, however, may not be amended without the consent in writing of the Sponsor so long as the Sponsor shall have one or more Unsold Unit.

## ARTICLE XV

### RULES: COMPLIANCE AND ARBITRATION

**Section 15.01. Compliance with Rules of Condominium set forth in the Declaration, the Rules and Regulations and/or the By-Laws.** Should any Owner, members of their families, their employees, guests, lessees or other invitees fail to comply with any of the provisions of these By-Laws, the Declaration and/or the Rules and Regulations, the following procedures may be followed to obtain compliance:

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

- b. The Compliance Committee shall first undertake to obtain compliance with the Rules and Regulations, informally, by discussing violations of the same with the persons violating them, and seeking to obtain future compliance, or corrections of the on-going violations.
- c. Should this informal procedure prove unsatisfactory or not secure future compliance, the Compliance committee shall then send a written notice to the person violating a rule or regulation, notifying him of the claimed violations, and requesting, as the case may require, either a correction of the violation, or an assurance that similar violations will not occur in the future. Such notice shall establish a date for compliance.
- d. Such notice should contain the requested compliance that will dispose of the matter.
- e. Should such notice not obtain the requested compliance within the time requested, the Compliance Committee shall then be authorized, at its discretion, to propose a monetary and/or non-monetary penalty, the amount and/or severity of which shall be reasonable related to the violation and to the aim of deterring similar violations in the future by the same or any other person. Such fine shall become a binding personal obligation of the violator, if an Owner, or the Owner responsible for such violator. Failure to correct the condition or situation which led to the first fine, for a period of twenty (20) days after the initial fine becomes finally due and payable, shall constitute a second offense. Notice of the imposition of such fine or fines shall be mailed to the violator, and/or the Owner responsible for such violator, and shall be paid to the Condominium within ten (10) days thereafter, unless the violator, if an Owner or the Owner responsible for such violator, requests the right to arbitrate the matter within ten (10) days, as hereafter set forth, before the Arbitration Committee. Should he not pay the fine, or request the right to arbitrate it, and if the violator is an Owner, or a family member, tenant, guest, employee or other invitee of said Owner, the amount of the fine shall be added to such Owner's Common Charges on the first of the month following the termination of the ten (10) day period above set forth, and shall be a lien upon the Owner's Unit.
- f. The Arbitration Committee shall consist of the President of the Board of Managers, as chairperson of the committee and two (2) other members of the Board of Managers who shall be appointed by the Board of Managers to serve at the pleasure of the Board of Managers.
- g. Should the violator, or Owner responsible for such violator, request the right to arbitrate imposition or extent of a fine, as above set forth, he shall do so in writing, directed to the Board of Managers, within ten (10) days of his receipt of notice of the imposition of said fine. The Board of Managers 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 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. If the Arbitration Committee's decision is to uphold the determination of the Compliance Committee, the provisions relating to the payment and enforcement thereof, set forth in subparagraph (e) above shall apply. If the Arbitration Committee's decision is in favor of the alleged violator, no fine will be imposed. The decision of the Arbitration Committee shall, to the extent permitted by law, be final and binding upon all parties.

- h. In the event the violator is a person other than an Owner or a member of such Owners' immediate family, copies of all notice required to be given to violators under this Section shall also be given to the Owner of the Unit responsible for such violator.

**Section 15.02. Other Rules and Regulations.** The Board of Managers may promulgate such other Rules and Regulations, from time to time, as may be necessary to preserve and enhance the Condominium Property.

## ARTICLE XVI

### MERGER

**Section 16.01. Merger.** Upon a merger or consolidation of the Association with another association of Condominium regime, as provided in the Association's Certificate of Incorporation, this Declaration, By-Laws, or New York State Law, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association, may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association, may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving or consolidated association may administer the Covenants and Restrictions established by this Declaration within the Property, together with the Covenants and Restrictions established upon any other properties. No such merger or consolidation, however, shall affect any revocation, change or addition to the Covenants and Restriction established by this Declaration with the Property, except as hereinafter provided.

Notwithstanding the above, no merger shall occur without the approval of seventy five percent (75%) of the members of the Condominium regime, by the recording of the supplemental Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens with respect to the additional property in the office of the Saratoga County

Clerk and by filing a copy of the supplemental Declaration with the New York State Department of Law. The supplemental Declaration may contain such complementary additions and modification of this Declaration as may be necessary to reflect the different character, if any, of the added property as are not inconsistent with the scheme of this Declaration. In no event, however, shall such supplemental Declaration revoke, modify or add to the covenants, Conditions and Restrictions establishing this Declaration with the Property.

## ARTICLE XVII

### MISCELLANEOUS

**Section 17.01. Notices.** All notices hereunder shall be in writing and sent by certified mail, return receipt requested by depositing same in a post office or letter box, in a postpaid sealed wrapper, addressed, if to go to an Owner or Mortgagee, to the address of such Owner or Mortgagee as appears on the books of the Condominium. All notices shall be deemed to have been given when mailed, except notices of change of address, which shall be deemed to have been given when received. 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.

**Section 17.02. Conflicts.** Compliance with Article 9-B. These By-Laws are set forth to comply with the requirements of Article 9-B of the Real Property Law of the State of New York. In case any of these By-Laws conflict with the provisions of said statute or of the Declaration, the provisions of the statute or of the Declaration, whichever the case may be, shall control.

**Statute 17.03. No Waiver for failure to enforce.** No restriction, condition obligation or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

**Statute 17.04. Gender.** The use of the masculine gender in these By-Laws shall be deemed to include the masculine, feminine or neuter and the use of the singular shall be deemed to include the plural, whenever the context so requires.

**Statute 17.05. Headings and Captions.** The headings and captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws, or the intent of any provisions thereof.

**Statue 17.06. Severability.** Should any part of these By-Laws be deemed void or become unenforceable at law or in equity, the validity, enforceability or effect of the balance of these By-Laws shall be impaired or affected in any manner.

Schedule G

AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS OF STEPHEN ETHIER 285 JEFFERSON STREET

This Amended and Restated Declaration (hereinafter referred to as the "Declaration") made the \_\_\_ day of February, 2006, by Stephen Ethier of 147 Regent Street, Saratoga Springs, new York, 12866, (hereinafter referred to as "Ethier"); and

WHEREAS, Ethier recognizes that the promotion and implementation of affordable housing is in the best interest of the City of Saratoga Springs; and

WHEREAS, Ethier is the owner of certain property located in the City of Saratoga Springs as hereinafter described; and

WHEREAS, Ethier desires that thirty percent (30%) of the dwelling units to be constructed on the above referenced property shall be workforce housing units as hereinafter defined; and

WHEREAS, Ethier has deemed it desirable to set forth herein certain covenants and restrictions which will affect the above referenced property; and

WHEREAS, the Declaration amends and restates the Declaration dated September 19, 2005, and filed in the Saratoga County Clerk's Office on September 19, 2005, in Book 1732 of Deeds at page 275;

NOW, THEREFORE, Ethier, for himself and for his heirs, successors and assigns, voluntarily declares that the real property hereinafter described is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and furthermore voluntarily confers upon the City of Saratoga Springs the authority herein specified.

SECTION I: DEFINITIONS.

The following words when capitalized and used in this Declaration shall, unless the context otherwise prohibits, have the following meanings:

A. Project: The multi-family buildings containing condominium units to be constructed on the real property described in Section III.

B. City: The City Council of the City of Saratoga Springs.

C. Workforce Housing Unit: A dwelling unit which has a sales price that results in a monthly housing cost (including mortgage, insurance, property taxes and home association costs, if any) that does not exceed one-twelfth of thirty-five percent

(35%) of the maximum annual income for a household earning eighty percent (80%) of Area Median Income (Moderate Income) or one hundred percent (100%) of Area Median Income (Middle Income).

Area Median Income means the median household income as established by HUD for the Albany-Schenectady-Troy Metropolitan Statistical Area.

Income Eligible Household means a Household earning less than eighty percent (80%) of Area Median Income (Moderate Income) or one hundred percent (100%) of Area Median Income (Middle Income).

In calculating the cost of units, the following relationship between unit size and Household size shall apply:

Efficiency Units:	1 person Household
One-Bedroom Units:	1.5 person Household (average of one and two person Household incomes)
Two-Bedroom Units:	3 person Household
Three-Bedroom Units:	4.5 person Household (average of four and five person Household incomes)
Four-Bedroom Units:	6 person Household.

D. Market Unit: A dwelling unit which is not a Workforce Housing Unit.

**SECTION II:**

This Declaration shall be effective only if at the time of the construction of the Project the property described in Section III below is located in the zone known as Urban Residential – 4 as set forth in the City of Saratoga Springs Zoning Ordinance in effect as of the date of this Declaration.

**SECTION III: PROPERTY SUBJECT TO THIS DECLARATION.**

285 Jefferson Street – Tax Identification Numbers 178.52-2-7; 178.52-2-8; 178.44-3-12; 178.44-3-13; 178.44-3-10.2 as more particularly described in Schedule A annexed hereto.

**SECTION IV: WORKFORCE HOUSING UNITS.**

Twenty (20%) percent of the dwelling units to be constructed by Ethier in the Project shall be Workforce Housing Units for Moderate Income purchasers as defined in

Section I above and ten (10%) percent for Middle Income purchasers as defined in Section I above. All other units shall be Market Units. Prior to commencement of the Project, Ethier shall advise the City or such agency as shall be designated by the City to administer the Workforce Housing portion of the Project, those units which shall be Workforce Housing Units. Any deed conveying a Workforce Housing Unit shall recite that it is subject to this Declaration and shall be signed by both the purchaser(s) and the City or such agency as it may designate. The said deed shall recite the actual consideration.

**SECTION V: WORKFORCE HOUSING PURCHASER(S).**

Any purchaser(s) of a Workforce Housing Unit shall first be qualified as an eligible purchaser(s) by the Office of Planning and Economic Development of the City of Saratoga Springs or such other agency as may be designated by the City who shall indicate in writing that the proposed purchaser(s) is so qualified. No Workforce Housing Unit may be sold to any person who will not reside in that unit year-round, or to any person who is claimed as a dependent on another person's federal or state tax return.

**SECTION VI: RESALE.**

The resale price will be determined by the Office of Planning and Economic Development of the City of Saratoga Springs or such other agency as may be designated by the City who shall consider the following shared-interest in the proceeds of resale formula.

At the time of the initial sale of the Workforce Housing Unit, the City will determine the Buyer's Interest and the City's Interest based upon current Market Value determined by appraisal as if the property was unrestricted. The Buyer's Interest will be the percentage that the initial sales price constitutes of the current full market value at time of initial sale. The City's Interest will be the remainder interest; that is, the Subsidy Amount (Market Value minus Buyer's Price) divided by the Market Value at time of initial sale.

At the time of resale, the resale price shall be the Buyer's Interest multiplied by the current Market Value as an unrestricted unit at time of resale. The Office of Planning and Economic Development shall determine the Market Value of the unit by appraisal, the cost to be borne by the seller.

**SECTION VII: ENFORCEMENT.**

This Declaration may be enforced by the City or by any agency designated by it.

**SECTION VIII: AMENDMENTS.**

This Declaration may be amended by the City provided, however, that any such amendments be accepted for filing by the Attorney General of the State of New York.

**SECTION IX: DURATION.**

This Declaration shall be binding upon each purchaser of a Workforce Housing Unit, his successors and/or assigns.

**SECTION X: ACCEPTANCE.**

By its signature on this Declaration the City of Saratoga Springs hereby accepts the terms hereof and agrees to enforce them.

THE CITY OF SARATOGA SPRINGS

By: \_\_\_\_\_

  
\_\_\_\_\_  
STEPHEN ETHIER

STATE OF NEW YORK

SS.:

COUNTY OF SARATOGA

On this \_\_\_\_\_ day of \_\_\_\_\_, 2006, before me the undersigned, personally appeared \_\_\_\_\_ 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/she executed the same in his/her capacity and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK

SS.:

COUNTY OF SARATOGA

On this 6<sup>th</sup> day of February, 2006, before me the undersigned, personally appeared STEPHEN ETHIER 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.

*Ma G. De...*  
Notary Public

