

**DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR CHARLOTTEVILLE**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR CHARLOTTEVILLE ("Declaration") is made as of the date set forth on the signature page hereof by Charlotteville Development Ltd., a company incorporated, duly organized, and existing under the laws of The Bahamas ("Declarant").

*This Declaration contains certain affirmative obligations (i.e., positive covenants) requiring the payment of money. Each deed conveying a Unit within Charlotteville to an Owner shall provide that such Owner takes title to the Unit subject to the use that the Association may assess and collect assessments, fees, and other charges as provided in this Declaration. By accepting a deed or entering into a contract of sale for any portion of Charlotteville, each Owner, on behalf of himself or herself and his or her successors and assigns, is deemed to covenant and agree to pay such assessments, fees, and charges.*

**PART ONE  
INTRODUCTION TO THE COMMUNITY**

*The Declarant, as the developer of Charlotteville, establishes this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance, and preservation of Charlotteville as a master planned community.*

**Article I  
Creation of the Community**

1.1. Purpose and Intent.

The Declarant, as the owner of the real property described in Exhibit "A," intends by Recording this Declaration to establish a general plan of development for the planned community known as Charlotteville. This Declaration provides a flexible and reasonable procedure for Charlotteville future expansion as Declarant deems appropriate and provides for overall development, administration, maintenance, and preservation of Charlotteville. An integral part of the development plan is the creation of Charlotteville Community Association Ltd., an association comprised of all owners of real property in Charlotteville, to own, operate, and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referenced in this Declaration.

1.2. Binding Effect.

All property described in Exhibit "A," and any additional property which is made a part of Charlotteville as a Neighbourhood or otherwise in the future by a Recorded Supplemental Declaration shall be owned, conveyed, and used subject to all of the provisions of this Declaration which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of Charlotteville, their heirs, successors, successors-in-title, and assigns.

This Declaration, as it may be amended, shall be enforceable by Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns. Declarant and the Association may enforce both the positive and negative covenants, agreements and obligations set forth in this Declaration. All Owners may enforce the negative covenants set forth herein. The benefit of all such covenants, agreements and obligations shall be annexed to and run with the Declarant's Retained Land.

Wherever any provision of this Declaration may be subject to the Rule against Perpetuities, then a perpetuity period of 80 years from the date of this Declaration shall apply in each and every case unless a shorter period shall be required by law in particular circumstances, in which case such shorter period shall apply only in respect of such circumstances.

### 1.3. Governing Documents.

Charlotteville's Governing Documents consist of:-

- this Declaration and each Recorded Supplemental Declaration;
- Conveyance of Unit by Declarant to Owner;
- Memorandum of Association of Charlotteville Community Association Ltd.;
- Articles of Association of Charlotteville Community Association Ltd.;
- Restrictions and Stipulations for Charlotteville;
- Architectural Guidelines described in Article IV; and
- the Association's Board of Directors' resolutions,

all as they may be amended from time to time.

Some Neighbourhoods within Charlotteville may be subject to additional covenants, restrictions, and easements, which a Neighbourhood Association may administer. In such case, if there is a conflict between or among the Governing Documents and any such additional covenants or restrictions, or the governing documents or policies of any such Neighbourhood Association the Governing Documents shall control, in the absence of anything to the contrary contained in any Supplemental Declaration establishing such Neighbourhood.

Nothing in this Section shall preclude any Supplemental Declaration or other Recorded covenants applicable to any portion of Charlotteville from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration and, in such case, the more restrictive shall control.

The Governing Documents apply to all Owners and occupants of property within Charlotteville, as well as to their respective tenants, guests, licensees and invitees. Any lease on a Unit shall provide that the tenant and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents.

This Declaration shall be construed under and in accordance with the laws of The Bahamas and the Owners shall submit to the exclusive jurisdiction of the Courts of The Bahamas. If any court should determine that any provision of this Declaration is unenforceable, invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision. Each provision of this Declaration is hereby declared to be severable and shall remain in full force and effect notwithstanding the judicial declaration of the unenforceability, invalidity or invalid application of any other provision of this Declaration.

Throughout the Governing Documents, there are diagrams to illustrate the concepts discussed and to aid in the reader's comprehension. Such diagrams are for illustrative purposes only. In the event of a conflict between any diagram and the text of the Governing Documents, the text shall control.

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Diagram 1.1 identifies the various Governing Documents and their functions.

<b>GOVERNING DOCUMENTS</b>	
<b>Memorandum of Association</b> -----▶ (filed with the Registrar of Companies)	establishes the Association as a non-profit corporation under Bahamian law
<b>Articles of Association</b> -----▶ (filed with the Registrar of Companies)	govern the Association's internal affairs, such as voting rights, elections, meetings, officers, etc.
<b>Declaration</b> -----▶ (Recorded in the Registry of Records)	creates obligations which are binding upon the Association and all present and future owners of property in Charlotteville
<b>Conveyance</b> -----▶ (Recorded in the Registry of Records)	deed conveying title in a Unit or Units by Declarant to an Owner
<b>Supplemental Declaration</b> -----▶ (Recorded in the Registry of Records)	may amend this Declaration and/or add property to Charlotteville as a Neighbourhood or otherwise which may include imposing additional or separate obligations or restrictions on such property or Neighbourhood
<b>Architectural Guidelines</b> -----▶ (Declarant adopts)	establish architectural standards and guidelines for improvements and modifications to Units, including structures, landscaping, and other items on Unit
<b>Restrictions and Stipulations</b> -----▶	govern use of property, activities, and conduct within Charlotteville
<b>Board Resolutions</b> -----▶ (Board adopts)	establish rules and regulations, policies, and procedures for internal governance and Association activities, and to regulate operation and use of Common Area

## Article II Concepts and Definitions

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Terms imparting the singular number only shall include the plural and vice versa. A reference to any gender includes a reference to all other genders. Capitalized terms shall be defined as set forth below.

"Affiliate" or "Affiliated Company": In relation to another company, a company that directly or indirectly controls, is controlled by, or is under common control with, such other company and for greater certainty shall include a company directly or indirectly controlled or in which any Director of New Dimension Properties Ltd. has a direct or indirect interest;

"Architectural Guidelines": The architectural, design, and construction guidelines and review procedures adopted pursuant to Article IV, as they may be amended.

"Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contracts, or agreements.

"Articles" or "Articles of Association": The Articles of Association of Charlotteville Community Association Ltd. filed with the Registrar of Companies of The Bahamas, as they may be amended.

"Association": Charlotteville Community Association Ltd., a non-profit corporation organized under the laws of The Bahamas, its successors or assigns.

"Bahamas" or "The Bahamas": The sovereign and independent country known as "the Commonwealth of The Bahamas," and the term "Bahamian" shall be construed accordingly.

"Base Assessment": Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.1.

"Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the Articles and generally serving the same role as the board of directors under Bahamian corporate law.

"Building Envelope Area": The portion of each Unit designated as the area in which a dwelling and all related improvements, with the exception of building components as may be set forth in the Architectural Guidelines, must be located.

"Change in beneficial ownership": Shall mean a change in the primary right to occupy, or receive the rents and profits of a Unit.

"Class "B" Control Period": The period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board as provided in Section 3.5 of the Articles. The Class "B" Control Period shall terminate on the first to occur of the following:

- (a) when Declarant no longer owns any portion of Charlotteville; or
- (b) when, in its discretion, the Class "B" Member so determines.

"Common Area": All real and personal property, including easements, which the Association owns, leases, or otherwise holds possessory or use rights in for the common (although, not necessarily exclusive) use and enjoyment of the Owners. The term shall include the Limited Common Area, as defined below.

"Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development or other original construction costs unless Members representing a majority of the total Class "A" vote of the Association approve.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing at Charlotteville, or the minimum standards established pursuant to the Architectural Guidelines, Restrictions and Stipulations, and Board resolutions, whichever is the highest standard. The Declarant initially shall establish such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within Charlotteville change.

"Declarant": Charlotteville Development Ltd., a company incorporated, duly organized, and existing under the laws of The Bahamas, or any successor or assign who takes title to any portion of the Declarant's Retained Land or the property described in Exhibit "A" for the purpose of development and/or sale and who, in either case, is designated as Declarant in a Recorded instrument which the immediately preceding Declarant executes.

"Declarant's Retained Land": Property owned by the Declarant or an Affiliated Company adjacent to or adjoining the Property.

"Limited Common Area": A portion of the Common Area primarily benefiting one or more, but less than all, Neighbourhoods, as more particularly described in Article XIV.

"Member": A Person subject to membership in the Association pursuant to Section 6.2.

"Memorandum of Association": Charlotteville Community Association Ltd.'s Memorandum of Association, filed with the Registrar of Companies of The Bahamas, as it may be amended.

"Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. The term "Mortgagee" shall include both a beneficiary and a holder of a Mortgage.

"Neighbourhood": Any property comprising a part of the Declarant's Retained Land or property comprising a group of Units designated as a separate Neighbourhood for purposes of sharing Limited Common Areas and/or receiving other benefits or services from the Association which are not provided to all Units, and/or for the purpose of electing directors to the Board. A Neighbourhood may consist of more than one housing type and may include noncontiguous parcels of property. If the Association provides benefits or services to less than all Units within a particular

Neighbourhood, then the benefited Units shall constitute a sub-Neighbourhood and the cost of such services shall be levied against just the benefited Units.

Where the context permits or requires, the term Neighbourhood shall also refer to the Neighbourhood Committee (established in accordance with the Articles) or Neighbourhood Association, if any, having concurrent jurisdiction over the property within the Neighbourhood. Neighbourhood boundaries may be established and modified as provided in Section 6.4.

"Neighbourhood Assessments": Assessments levied against the Units in a particular Neighbourhood or Neighbourhoods to fund Neighbourhood Expenses, as described in Section 8.2.

"Neighbourhood Association": A condominium association or other owners association, if any, having jurisdiction over any Neighbourhood concurrent with (but subject to) the jurisdiction of the Association. Nothing in this Declaration shall require the creation of any Neighbourhood Associations.

"Neighbourhood Expenses": The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Neighbourhood or Neighbourhoods, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Neighbourhood(s).

"Owner": One or more Persons who hold the fee simple title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation, unless such party takes fee simple title to the Unit free from any right of redemption. If a Unit is sold under a contract of sale, and the contract specifically so provides, the purchaser (rather than the fee simple owner) will be considered the Owner. In the event that a trustee holds title to a Unit for the benefit of a trust, both the trustee and any beneficiary of a trust shall be considered, and shall have the obligations of, an Owner.

"Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.

"Property" or "Charlotteville": The real property described in Exhibit "A," and where the context so admits, shall include Neighbourhood Property.

"Record," "Recording," or "Recorded": To file, the filing of, or filed of record, a legal instrument in the Registry of Records of The Bahamas, or such other place as may be designated as the official location for recording deeds, plats, and similar documents affecting title to real estate.

"Restrictions and Stipulations": The Restrictions and Stipulations for the use, occupancy and enjoyment of Charlotteville, contained in the Governing Documents including (but without limitation) the Restrictions and Stipulations set out in Exhibit "B" as they may be supplemented, modified, and repealed pursuant to Article III.

"Special Assessment": Assessments levied in accordance with Section 8.4.

"Specific Assessment": Assessments levied in accordance with Section 8.5.

"Supplemental Declaration": A Recorded instrument which may amend this Declaration, and/or subject additional property to this Declaration, designate Neighbourhoods, designate Voting Groups, and/or impose additional or separate restrictions and obligations on the land described in such instrument.

"Unit": A portion of Charlottesville, whether improved or unimproved, which may be independently owned and is intended for development, use, and occupancy as a residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon and shall include each and every part thereof.

"Voting Group": Owners within one or more Neighbourhoods who vote on a common slate for election of directors, as more particularly described in Section 6.4(b) or, if the context so indicates, the group of Members whose Units are represented thereby

## **PART TWO CREATION AND MAINTENANCE OF COMMUNITY STANDARDS**

*The standards for use and conduct, maintenance, and architecture at Charlottesville are what give the community its identity and make it a place that people want to call "home. " Each Owner and resident in upholding such standards can take pride in the results of that common effort. This Declaration establishes procedures for adopting, modifying, applying, and enforcing such standards while providing the flexibility for the community standards to evolve as Charlottesville changes and grows over time.*

### **Article III Use and Conduct**

#### **3.1. Framework for Regulation.**

The Governing Documents establish, as part of the general plan of development for Charlottesville, a framework of covenants, easements, restrictions, and rules which govern Charlottesville. Within that framework, the Declarant, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technology. Therefore, this Article establishes procedures for creating, modifying, and expanding the Restrictions and Stipulations for Charlottesville.

#### **3.2. Rule Making Authority.**

(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Declarant delegates to the Board, and the Board may create, modify, cancel, limit, create exceptions to, or expand the Restrictions and Stipulations. The Board shall send notice by mail to all Owners concerning any proposed action at least five business days prior to the Board meeting at which



such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken. Such action shall become effective, after compliance with subsection (c) below, unless the Class "B" Member, if any, disapproves.

(b) Prior to any action taken under this Section becoming effective, the Board shall send a copy of the new Restrictions and Stipulations and any necessary explanation of any changes, to each Owner. The effective date shall be not less than 30 days following distribution to Owners. The Association shall provide, without cost, a copy of the Restrictions and Stipulations then in effect to any requesting Member or Mortgagee.

(c) No action taken under this Article shall have the effect of modifying, repealing, or expanding the Architectural Guidelines or any provision of this Declaration other than the Restrictions and Stipulations for Charlotteville. In the event of a conflict between the Architectural Guidelines and the Restrictions and Stipulations, the Architectural Guidelines shall control.

(d) The procedures required under this Section 3.2 shall not apply to the enactment and enforcement of administrative rules and regulations governing use of the Common Area, pursuant to Board resolution, unless the Board chooses in its discretion to submit to such procedures. Examples of such administrative rules and regulations shall include, but not be limited to, hours of operation of a recreational facility, speed limits on private roads, and the method of allocating or reserving use of a facility (if permitted) by particular individuals at particular times. The Board may adopt such rules and regulations by resolution.

### 3.3. Owners' Acknowledgment and Notice to Purchasers.

All Owners are given notice that use of their Units and the Common Area is limited by the Restrictions and Stipulations as amended, expanded, and otherwise modified from time to time. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and that the Restrictions and Stipulations may change from time to time. Copies of the current Restrictions and Stipulations may be obtained from the Association.

### 3.4. Protection of Owners and Others.

Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Restrictions and Stipulations for Charlotteville, all Restrictions and Stipulations shall comply with the following provisions:

(a) Similar Treatment. Similarly situated Owners shall be treated similarly; however, the Restrictions and Stipulations may vary by Neighbourhood.

(b) Household Composition. No restriction or stipulation shall interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair use of the Common Area.

(c) Activities Within Dwellings. No restriction or stipulation shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance.

(d) Allocation of Burdens and Benefits. No restriction or stipulation shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.

(e) Alienation. No restriction or stipulation shall prohibit leasing or transfer of, or any beneficial interest in, any Unit. A requirement that an Owner be in full compliance with the Governing Documents, or if not currently in full compliance, that the Owner remedy or pay for the violation in the manner requested by the Board, prior to applying to Declarant to transfer or lease the Owner's Unit, or beneficial interest in the same, shall not be construed as a prohibition on leasing or transfer. The Association may require a minimum lease term of up to 12 months or limit the number of times per year a Unit may be leased.

(f) Abridging Existing Rights. No restriction or stipulation shall require an Owner to dispose of personal property that was in or on a Unit prior to the adoption of such rule if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the Unit, and shall not apply to subsequent Owners who take title to the Unit after adoption of the rule.

(g) Reasonable Rights to Develop. No restriction or stipulation, or action by the Association or Board shall unreasonably impede Declarant's rights to develop, market, or transfer any property within Charlotteville.

(h) Interference with Private Amenities. No Association rule or action shall interfere with the use, operation, marketing, or transfer of any Private Amenity.

The limitations in subsections (a) through (g) of this Section 3.4 shall only limit rulemaking authority exercised under Section 3.2; they shall not apply to amendments to this Declaration adopted in accordance with Article XVIII.

## **Article IV**

### **Architecture and Landscaping**

#### 4.1. General.

No structure or thing shall be placed, erected, or installed upon any Unit and no improvements or other work (including staking, clearing, excavation, grading, and other site work; exterior alterations of existing improvements; or planting or removal of landscaping) shall take place within Charlotteville, except in compliance with this Article and the Architectural Guidelines.

No approval shall be required to repaint the exterior of a structure in accordance with the originally approved colour scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of his or her Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structure shall be subject to approval.

All dwellings constructed on any portion of Charlotteville shall be designed by and built in accordance with the plans and specifications of a licensed architect unless Declarant or its designee otherwise approves in its sole discretion.

This Article shall not apply to Declarant's activities, nor to Units owned by Declarant, nor to activities of the Association during the Class "B" Control Period.

#### 4.2. Architectural Review.

(a) By Declarant. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of Charlotteville, acknowledges that, as the developer of Charlotteville and as an owner of portions of Charlotteville, the Declarant has a substantial interest in ensuring that the improvements within Charlotteville enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article shall be commenced on such Owner's Unit unless and until Declarant or its designee has given its prior written approval for such activity, which approval may be granted or withheld in Declarant's or its designee's sole discretion. Each Owner is advised to obtain approval from Declarant or its designee pursuant to this Article prior to applying for any governmental agency approval, since obtaining prior governmental agency approval in no way guarantees approval from Declarant or its designee.

No Owner shall submit an application to Declarant or its designee for approval pursuant to this Article unless the Owner is in full compliance with the Governing Documents. If an Owner seeking approval in accordance with this Article is not currently in full compliance with the Governing Documents, the Owner shall first remedy or pay for the violation in the manner requested by the Board. The Declarant or its designee shall be entitled to refuse to accept or consider any application submitted by an Owner who is in violation of the Governing Documents.

In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in Declarant's interest and shall owe no duty to any other Person. The Declarant's rights reserved under this Article shall continue so long as Declarant owns any portion of

Charlotteville or any portion of Neighbourhood Property, unless earlier terminated in a written instrument executed and Recorded by Declarant.

In its sole discretion, the Declarant may designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

The Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to (i) a design review board appointed by the Board of Directors (the "Architectural Review Committee" or "ARC"), or (ii) a committee comprised of architects, engineers, or other persons who may or may not be Members of the Association. Any such delegation shall be in writing specifying the scope of responsibilities delegated. It shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of the foregoing entities shall be limited to such matters as Declarant specifically delegates to it.

(b) Architectural Review Committee. Upon delegation by Declarant or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the ARC, shall assume jurisdiction over architectural matters. The ARC, when appointed, shall consist of at least two persons who shall serve and may be removed and replaced in the Board's discretion. The members of the ARC need not be Members or representatives of Members, and may, but need not, include architects, engineers, or similar professionals, who may be compensated in such manner and amount, if any, as the Board may establish.

Unless and until such time as the Declarant delegates all or a portion of its reserved rights to the ARC or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

(c) Fees; Assistance. For purposes of this Article, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer." The Reviewer may establish and charge reasonable fees for review of applications and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget.

#### 4.3. Guidelines and Procedures.

(a) Architectural Guidelines. The Declarant may prepare the initial Architectural Guidelines, which may contain general provisions applicable to all of Charlotteville as well as specific provisions which vary from Neighbourhood to Neighbourhood. The Architectural Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the Reviewer in considering applications. The Architectural Guidelines are not the exclusive

basis for decisions of the Reviewer and compliance with the Architectural Guidelines does not guarantee approval of an application.

The Declarant shall have sole and full authority to amend the Architectural Guidelines as long as it owns any portion of the Property or has a right to expand Charlotteville pursuant to Article IX, notwithstanding a delegation of reviewing authority to the ARC, unless Declarant also delegates the power to amend to the ARC. Upon termination or delegation of Declarant's right to amend, the ARC shall have the authority to amend the Architectural Guidelines with the consent of the Board.

Any amendments to the Architectural Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive.

The Reviewer shall make the Architectural Guidelines available to all Owners. In Declarant's discretion, such Architectural Guidelines may be Recorded, in which event the Recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Architectural Guidelines was in effect at any particular time.

(b) Procedures. Except as otherwise specifically provided in the Architectural Guidelines, no activities shall commence on any portion of Charlotteville until an application for approval has been submitted to and approved by the Reviewer. Such application shall include plans and specifications showing site layout, structural design, exterior elevations, exterior materials and colours, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Architectural Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations shall not be subject to review so long as made in good faith and in accordance with the procedures set forth herein.

The Reviewer shall make a determination on each application within 30 days after receipt of a completed application and all required information. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

Until expiration of Declarant's rights under this Article, the ARC shall notify Declarant in writing within three business days after the ARC has approved any application within the scope of matters delegated to the ARC by Declarant. The notice shall be accompanied by a copy of the application and any additional information which Declarant may require. Declarant shall have 10 days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the ARC.

The Reviewer shall notify the applicant in writing of the final determination on any application within ten days after making such determination or, with respect to any ARC determination subject to Declarant's veto right, within ten days after the earlier of: (i) receipt of notice of Declarant's veto or waiver thereof; or (ii) expiration of the 10 day period for exercise of Declarant's veto. In the case of disapproval, the Reviewer shall specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the Reviewer fails to respond in a timely manner, approval shall be deemed to have been given, subject to Declarant's right to veto pursuant to this Section. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Architectural Guidelines unless a written variance has been granted pursuant to Section 4.5. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the mail carrier. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project for which plans have been approved within one year after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within two years of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant, or any aggrieved Owner. Without limiting the enforcement remedies available, Declarant or the Association shall have the right to complete construction on a Unit on behalf of the violating Owner and to assess the costs thereof to the Owner as a Specific Assessment.

The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

#### 4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Reviewer may refuse to approve similar proposals in the future. Approval of applications or

plans, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

4.5. Variances.

The Reviewer may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

4.6. Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of Charlotteville; they do not create any duty to any Person. Review and approval of any application pursuant to this Article may be based solely on aesthetic considerations. The Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighbouring property owners.

Declarant, the Association, the Board, the ARC or any other committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage, or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Unit. In all matters, the Board, the ARC, and the members of each shall be defended and indemnified by the Association as provided in Section 7.6.

4.7. Building Envelopes.

Each Unit contains or shall contain a Building Envelope Area that must comply with the standard Ministry of Works setbacks viz: ten (10) feet from each side boundary lines and fifteen (15) feet from the front and back boundary lines. Construction outside the Building Envelope Area is prohibited. Building Envelope Areas may not be altered in any way without the written consent of Declarant for so long as Declarant owns property within Charlotteville.

4.8. Combining Units.

To the extent permitted by Bahamian law, and subject to the express written consent of Declarant for so long as Declarant owns property within Charlotteville, two or more contiguous

Units may be consolidated and treated as a single Unit for all purposes, including architectural control, assessments, and voting rights, provided that:

- (a) the Units to be consolidated each are owned by the same Owner;
- (b) only one dwelling has been or will be constructed on the consolidated Units, which shall be used exclusively for single-family occupancy;
- (c) the location of the dwelling on the consolidated Units and re-designation or adjustment of the Building Envelope Area shall be subject to Declarant's approval;
- (d) the Owner of the consolidated Units executes all documents necessary and required by Bahamian law or any governmental entity.

#### 4.9. Certificate of Compliance.

Any Owner may request that the Reviewer issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Architectural Guidelines. The Reviewer shall either grant or deny such request within 30 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

### **Article V Maintenance and Repair**

#### 5.1. Maintenance of Units.

Each Owner shall maintain his or her Unit and all landscaping and improvements comprising the Unit in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighbourhood pursuant to any Supplemental Declaration.

In the event of a catastrophe (i.e., any event or act causing loss, damage, or destruction, whether of human or environmental origin), the Association shall repair or provide for the repair of any damage to such areas lying outside the boundaries of a Unit. The Association shall allocate such repair costs among all Owners as a Common Expense or among the Owners in the benefited Neighbourhood as a Neighbourhood Expense, as appropriate; provided however, the Association shall have the right to assess the total repair costs as a Specific Assessment against the Unit Owner(s) responsible for the damage. In the event that more than one Owner is responsible for the damage, the Association shall allocate the total repair costs between or among the responsible Owners in such proportion as the Association, in its reasonable judgment, determines to reflect each Owner's responsibility for the damage.



In the event that any Owner fails to maintain his or her Unit in accordance with the Community-Wide Standard, such maintenance may be performed by the Association, or by Declarant, acting in its sole discretion, in that order. Such maintenance costs shall be assessed against the benefited Owner as a Specific Assessment.

The Association may assume maintenance responsibility for property within any Neighbourhood, in addition to that designated by any Supplemental Declaration, either by agreement with the Neighbourhood or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of maintenance pursuant to this paragraph shall be assessed as a Neighbourhood Assessment only against the Units within the Neighbourhood to which the services are provided.

### 5.2. Maintenance of Neighbourhood Property.

Any Neighbourhood Association shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants.

Any Neighbourhood Association shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjoining or adjacent Common Area or public right of way lying between the boundary of its common property and any wall, fence, or curb located on the Common Area or public right of way within ten feet of its boundary.

Upon Board resolution, Owners within each Neighbourhood shall be responsible for paying, through Neighbourhood Assessments, the costs of operating, maintaining, and insuring certain portions of the Area of Common Responsibility within, adjoining or adjacent to such Neighbourhood. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way, and greenspace between the Neighbourhood and adjoining or adjacent public roads, or other Common Areas, private streets within the Neighbourhood, and lakes or ponds within the Neighbourhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Neighbourhoods which are similarly situated shall be treated the same.

The Association may assume maintenance responsibility for property within any Neighbourhood, in addition to that designated by any Supplemental Declaration, either by agreement with the Neighbourhood or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of maintenance pursuant to this paragraph shall be assessed as a Neighbourhood Assessment only against the Units within the Neighbourhood to which the services are provided.

### 5.3. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the Community-Wide Standard.

By taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry casualty and property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures or landscaping on or comprising his or her Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IV. The Owner shall pay any costs not covered by insurance proceeds.

This Section shall apply to any Neighbourhood Association responsible for common property within the Neighbourhood in the same manner as if the Neighbourhood Association were an Owner and the common property were a Unit. Additional Recorded covenants applicable to any Neighbourhood may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within such Neighbourhood.

### **PART THREE COMMUNITY GOVERNANCE AND ADMINISTRATION**

*This Declaration establishes the Association as a mechanism by which each Owner is able to participate in the governance and administration of Charlotteville. While many powers and responsibilities are vested in the Association's board of directors in order to facilitate day-to-day management and operation, some decisions are considered of such importance that they are reserved for the Association's membership -- the owners of property in Charlotteville.*

#### **Article VI The Association and its Members**

##### 6.1 Function of Association.

The Association is the entity responsible for management, maintenance, operation, and control of the Area of Common Responsibility. Unless otherwise specifically provided, the Association is also the primary entity responsible for enforcing the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Bahamian law.

##### 6.2 Membership.

Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(c) and in the Articles, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, or trustee, or by the

individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

### 6.3. Voting.

The Association shall have two classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 6.2, except that there shall be only one vote per Unit. No vote shall be exercised for any property which is exempt from assessment under Section 8.8. All Class "A" votes shall be cast as provided in Section 6.3(c) below.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The Class "B" Member may appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in the Articles. Additional rights of the Class "B" Member are specified in the relevant sections of the Governing Documents. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the Articles.

The Class "B" membership shall terminate upon the earlier of:

- (i) two years after expiration of the Class "B" Control Period; or
- (ii) when, in its discretion, the Declarant so determines and declares in writing to the Association.

Upon termination of the Class "B" membership, the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Unit which it owns.

In recognition of the different character and intended use of the property subject to such Supplemental Declaration, Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Units within any property made subject to this Declaration pursuant to Article IX. These classes shall have such rights, privileges, and obligations as specified in such Supplemental Declaration.

(c) Exercise of Voting Rights. Each Member is entitled personally to exercise the vote for his or her Unit; provided, where there is more than one Owner of such Unit, the vote for such Unit shall be exercised as the Co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

### 6.4 Neighbourhoods and Voting Groups.

(a) Neighbourhoods. Any Neighbourhood may request that the Association provide a higher level of service than that which the Association generally provides to all Neighbourhoods

or may request that the Association provide special services for the benefit of Units in such Neighbourhood. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Units within the Neighbourhood, the Association shall provide the requested services.

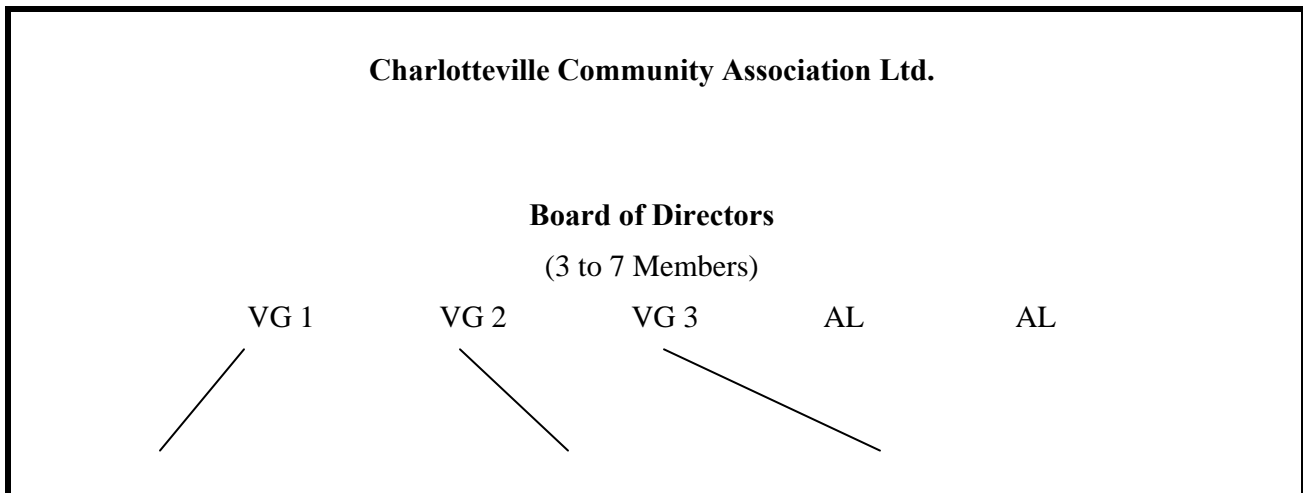
The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Unit to all Neighbourhoods receiving the same service), shall be assessed against the Units within such Neighbourhood as a Neighbourhood Assessment.

Exhibit "A" to this Declaration, and each Supplemental Declaration submitting additional property to this Declaration shall initially assign the submitted property to a specific Neighbourhood (by name or other identifying designation), which Neighbourhood may be then existing or newly created. So long as it has the right to subject additional property to this Declaration pursuant to Section 9.1, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to re-designate Neighbourhood boundaries. However, two or more existing Neighbourhoods shall not be combined without the consent of Owners of a majority of the Units in the affected Neighbourhoods.

(b) Voting Groups. Declarant may designate Voting Groups consisting of one or more Neighbourhoods for the purpose of electing directors to the Board. Voting Groups may be designated to ensure groups with dissimilar interests are represented on the Board and to avoid some Members being able to elect the entire Board due to the number of Units in such Neighbourhoods. Following termination of the Class "B" Control Period, the number of Voting Groups within Charlotteville shall not exceed the total number of directors to be elected by the Class "A" Members pursuant to the Articles.

The Members representing the Neighbourhoods within each Voting Group shall vote on a separate slate of candidates for election to the Board. Each Voting Group shall elect an equal number of directors.

Diagram 6.1 illustrates the organizational structure of the Association and the manner in which Members and Voting Groups will elect the Board of Directors after the Class "B" Control Period. The number of directors (five), Neighbourhoods (five), and Voting Groups (three) shown in the illustration are for demonstrative purposes only; the actual number may be different.



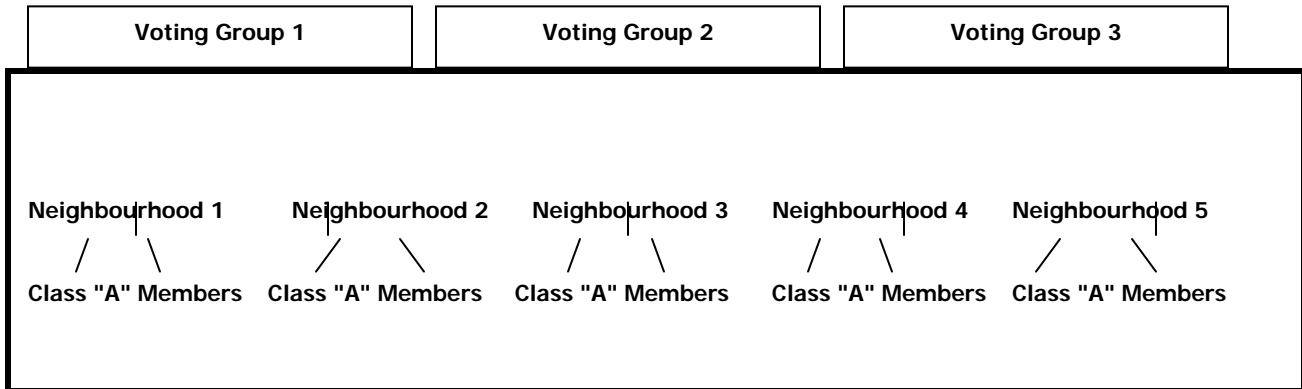


Diagram 6.1 - Association Organizational Structure

## Article VII Association Powers and Responsibilities

### 7.1. Acceptance and Control of Association Property.

(a) The Association, through action of its Board, may acquire, hold, lease (as lessor or lessee), operate, and dispose of corporeal and incorporeal personal property and real property. The Association may enter into leases, licenses, or operating agreements for portions of the Common Area, for such consideration or no consideration as the Board deems appropriate, to permit use of such portions of the Common Area by community organizations and by others, whether non-profit or for profit, for the provision of goods or services for the general benefit or convenience of owners, occupants, and residents of Charlotteville.

(b) Declarant and its designees may convey or lease to the Association, and the Association shall accept "as is," personal property and fee simple title, leasehold, or other property interests in any real property, improved or unimproved, described in Exhibit "A" Upon Declarant's written request, the Association shall reconvey to Declarant any unimproved portions of the Common Area which Declarant originally conveyed to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

(c) The Association shall be responsible for management, operation, and control of the Common Area, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate.

### 7.2. Maintenance of Area of Common Responsibility.

The Association shall maintain, in accordance with the Community-Wide Standard, the Area of Common Responsibility, which shall include, but need not be limited to:

- (a) all portions of and structures situated on the Common Area;

- (b) landscaping within or abutting roads or rights-of-way within Charlotteville;
- (c) any roads, footpaths or bridges within Charlotteville that are not publicly maintained;
- (d) entry features serving Charlotteville;
- (e) environmental protection areas within or directly serving Charlotteville;
- (f) water re-use facilities and community stormwater drainage systems within or directly serving Charlotteville;
- (g) all ponds, streams, and/or wetlands which serve as part of the stormwater drainage system for Charlotteville, including improvements and equipment installed therein or used in connection therewith;
- (h) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, a covenant to share costs, or any contract or agreement for maintenance thereof entered into by the Association; and
- (i) any property and facilities which Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. Such property and facilities shall be identified by written notice from Declarant to the Association and will remain part of the Area of Common Responsibility maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property which it does not own.

The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Members representing 75% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced except with Declarant's prior written approval as long as Declarant owns any property described in Exhibit "A" of this Declaration.

The costs associated with maintenance, repair, and replacement of the Area of Common Responsibility shall be a Common Expense; provided, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other Recorded covenants, or agreements with the owner(s) thereof. Maintenance, repair, and replacement of Limited Common Areas shall be a Neighbourhood Expense assessed to the Neighbourhood(s) to which the Limited Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

7.3. Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) property insurance covering "risks of direct physical loss" for all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage (or comparable coverage by whatever name denominated) may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) Employers liability insurance, if and to the extent required by Bahamian law;

(iv) Directors and officers liability coverage;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-quarter of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation;

(vi) Hurricane, seawave, surge, typhoon, and other tropical storm and weather related insurance; and

(vii) Such additional insurance as the Board, in the exercise of its business judgment, determines advisable.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Neighbourhood, obtain and maintain property insurance on the insurable improvements within such Neighbourhood which insurance shall comply with the requirements of Section 7.3(a)(i). Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Unit insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses, except that (i) premiums for property insurance on Units within a Neighbourhood shall be a Neighbourhood Expense; and (ii) premiums for insurance on Limited Common Areas may be included in the Neighbourhood Expenses of the Neighbourhood(s) to which such Limited Common Areas are assigned unless the Board reasonably determines that other treatment of the premiums is more appropriate.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Nassau, Bahamas. All Association policies shall provide for a certificate of insurance to be furnished to the Association.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighbourhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Articles, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

- (i) be written with a company authorized to do business in The Bahamas;
- (ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Neighbourhood shall be for the benefit of the Owners within the Neighbourhood and their respective Mortgagees, as their interests may appear;
- (iii) not be brought into contribution with insurance purchased by Owners occupants, or their Mortgagees individually;



(iv) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);

(vii) provide a waiver of subrogation under the policy against any Owner or household member of an Owner;

(vii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(iv) an endorsement requiring at least 60 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) a cross liability provision; and

(vi) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless the Members representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are

available. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Units within the insured Neighbourhood, as appropriate, and placed in a capital improvements account.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.3(a).

#### 7.4. Compliance and Enforcement.

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in Section 3.24 of the Articles. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines which shall constitute a charge upon the violator's Unit. (In the event that any occupant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(ii) suspending an Owner's right to vote;

(iii) suspending any Person's right to use any recreational facilities serving the Common Area or serving Charlotteville; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit or the use of utility easements;

(iv) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;

(v) exercising self-help or taking action to abate any violation of the Governing Documents occurring on a Unit in a non-emergency situation;

(vi) imposing a "stop work" order on any construction, improvement, modification, or work in progress upon a Unit in violation of the Governing Documents;

(vii) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of the Governing Documents and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Association or its designee shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed, and any such action shall not be deemed a trespass;

(viii) without liability to any Person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the Architectural Guidelines from continuing or performing any further activities in Charlotteville; and

(ix) levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in Section 3.24 of the Articles of Association:

(i) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

(ii) taking action to abate a violation of the Governing Documents on the Common Area at any time or taking action to abate a violation on a Unit in an emergency situation; or

(iii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may Record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment. If a Neighbourhood Association fails to perform its maintenance responsibilities, the Association may perform such maintenance and assess the costs as a Specific Assessment against all Units within such Neighbourhood. Except in an emergency situation, the Association shall provide the Owner or Neighbourhood Association with reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

(b) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources (after conferring with the Reviewer in respect of the Architectural Guidelines and the Community-Wide Standard, as appropriate); or

(iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to pursue enforcement shall not be construed as a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction, or rule.

The Association, by contract or other agreement, may enforce applicable governmental ordinances. Governmental authorities may enforce ordinances within Charlotteville for the benefit of the Association and its Members.

#### 7.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its Members.

In exercising the rights and powers of the Association, making decisions on behalf of the Association, and conducting the Association's affairs, Board members shall be subject to, and their actions shall be judged in accordance with, the standards set forth in Section 3.25 of the Articles.

#### 7.6. Indemnification of Officers, Directors, and Others.

Subject to Bahamian law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Bahamian law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers, directors, and committee members shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers, directors, or committee members may also be Members of the Association).

The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

#### 7.7. Safety and Security.

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in Charlotteville. The Association may, but shall not be obligated to, maintain or support certain activities within Charlotteville designed to enhance the level of safety or security which each person provides for himself or herself and his or her property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within Charlotteville, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to Charlotteville, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in any case prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Unit that the Association, its Board, and committees, and Declarant are not insurers or guarantors of security or safety and that each Person within Charlotteville assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

7.8. Powers of the Association Relating to Neighbourhoods and Neighbourhood Associations.

The Association shall have the power to veto any action taken or contemplated to be taken by any Neighbourhood or Neighbourhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard, including, but not limited to, a Neighbourhood's request for special or higher level of services from the Association pursuant to Section 6.4(a). The Association also shall have the power to require specific action to be taken by any Neighbourhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefor.

A Neighbourhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighbourhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighbourhood Association and levy Specific Assessments to cover the costs, as well as an administrative charge and sanctions

7.9 Provision of Services.

The Association may provide, or provide for, services and facilities for the Members and their Units, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may include the costs thereof in the Association's budget as a Common Expense and assess it as part of the Base Assessment if provided to all Units. By way of example, such services and facilities might include landscape maintenance, pest control service, cable television service, security, caretaker, transportation, fire protection, utilities, and similar services and facilities.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing contracts for services in its discretion, unless the provision of such services is otherwise required by the Governing Documents. Non-use of services provided to all Owners or Units as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

7.10. Relationships with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with any neighbouring property or Private Amenity to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

**Article VIII  
Association Finances**

This Article contains positive covenants (affirmative obligations), such as the Association's right to levy and collect assessments and the continuing obligation of each Unit Owner to pay assessments, which are enforced in accordance with Bahamian law. Each Owner takes title to a Unit within Charlotteville subject to the use that the Association may assess and collect assessments, fees, and other charges as provided in this Declaration. By accepting a deed or entering into a contract of sale for any portion of Charlotteville, each Owner, on behalf of himself or herself and his or her successors and assigns, is deemed to covenant and agree to pay such assessments, fees, and charges.

8.1. Budgeting and Allocating Common Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.2. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units, as authorized in Section 8.5.

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Diagram 8.1 illustrates the various funding sources available to the Association:

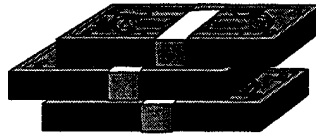
**ASSOCIATION FUNDS**

**General Operating Fund**  
**Reserve Fund for Repair and Replacement of Capital Items**



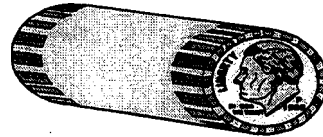
**PRIMARY SOURCES OF INCOME**

**Base Assessments**  
**Neighbourhood Assessments**  
**Special Assessments**  
**Specific Assessments**  
**Declarant Subsidy (if any)**



**SECONDARY SOURCES OF INCOME**

**Facilities Rental**  
**Monetary Penalties**  
**Interest on Reserves**  
**and Delinquent Assessments**  
**Late Charges**



The Association is authorized to levy Base Assessments equally against all Units subject to assessment under Section 8.5 to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.



Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.6(b)), which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner at least 30 days prior to the effective date of such budget. The budget shall automatically become effective unless disapproved at a meeting by Members representing at least 75% of the total Class "A" votes in the Association and/or by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in Section 2.4 of the Articles. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or if the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

At the request of the Declarant, the Association shall be authorized to collect any Owner's obligation for dues or fees payable to the Declarant directly from the Owners, either in conjunction with or separately from the collection of assessments payable to the Association. In such event, the Association shall deliver the collected funds directly to the Declarant or deposit the funds in such accounts as the Declarant shall authorize. If an Owner fails to pay his or her dues or fees to the Association by the due date, the Association, on behalf of the delinquent Owner, may pay the amount due to the Declarant. The Association shall then have a continuing charge against the delinquent Owner's Unit pursuant to Section 8.7 to secure payment of such delinquent dues or fees, as well as interest, late fees (subject to the limitations of Bahamian law), and costs of collection (including attorneys' fees).

## 8.2. Budgeting and Allocating Neighbourhood Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighbourhood Expenses for each Neighbourhood on whose behalf Neighbourhood Expenses are expected to be incurred during the coming year. Each such budget shall include any costs for additional services or a higher level of services which the Owners in such Neighbourhood have approved pursuant to Section 6.4(a) and any contribution to be made to a reserve fund pursuant to Section 8.3. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the

Units, and the amount required to be generated through the levy of Neighbourhood and Special Assessments against the Units in such Neighbourhood.

The Association is hereby authorized to levy Neighbourhood Assessments equally against all Units in the Neighbourhood which are subject to assessment under Section 8.6 to fund Neighbourhood Expenses; provided, if so specified in the applicable Supplemental Declaration or if so directed by petition signed by a majority of the Owners within the Neighbourhood, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Units in proportion to the benefit received.

The Board shall cause a copy of the Neighbourhood budget and notice of the amount of the Neighbourhood Assessment for the coming year to be delivered to each Owner in the Neighbourhood at least 30 days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Neighbourhood by Owners of a majority of the Units in the Neighbourhood to which the Neighbourhood Assessment applies. However, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least 10% of the Units in such Neighbourhood. This right to disapprove shall only apply to those line items in the Neighbourhood budget which are attributable to services requested by the Neighbourhood and shall not apply to any item which the Governing Documents require to be assessed as a Neighbourhood Assessment.

If the proposed budget for any Neighbourhood is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

The Board may revise the budget for any Neighbourhood and the amount of any Neighbourhood Assessment from time to time during the year, subject to the notice requirements and the right of the Owners of Units in the affected Neighbourhood to disapprove the revised budget as set forth above.

All amounts collected by the Association as Neighbourhood Assessments shall be held in trust for and expended solely for the benefit of the Neighbourhood for which they were collected and shall be accounted for separately from the Association's general funds.

### 8.3 Budgeting for Reserves.

The Board shall prepare and review at least annually a reserve budget for the Area of Common Responsibility and for each Neighbourhood for which the Association maintains capital items as a Neighbourhood Expense. The budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1 a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect to both amount and timing by annual contributions over the budget period.

### 8.4 Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment shall be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Neighbourhood if such Special Assessment is for Neighbourhood Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Members (if a Common Expense) or Owners (if a Neighbourhood Expense) representing more than 50% of the total votes allocated to Units which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists.

Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

#### 8.5. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to Units upon request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 7.8). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with the Articles, before levying any Specific Assessment under this subsection (b).

The Association may also levy a Specific Assessment against the Units within any Neighbourhood to reimburse the Association for costs incurred in bringing the Neighbourhood into compliance with the provisions of the Governing Documents, provided the Board gives prior written notice to the Owners of Units in the Neighbourhood and an opportunity for such Owners to be heard before levying any such assessment.

#### 8.6. Authority to Assess Owners: Time of Payment.

Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the month in which Declarant conveys the Unit to any Owner, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment and Neighbourhood Assessment, if any,

levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Neighbourhood Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

#### 8.7. Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a contract of sale for any portion of Charlotteville, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Bahamian law), late fees as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a charge upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Neighbourhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) Declarant's Option to Fund Budget Deficits. During the Class "B" Control Period, Declarant may satisfy its obligation, if any, for assessments on Units which it owns either by

paying such assessments in the same manner as any other Owner, or by paying the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. Unless Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year.

Regardless of Declarant's election, Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class "B" Control Period, Declarant shall pay assessments on its unsold Units in the same manner as any other Owner.

#### 8.8. Charge for Assessments.

The Association shall have a charge against each Unit to secure payment of delinquent assessments, as well as interest, late fees (subject to the limitations of Bahamian law), and costs of collection (including attorneys' fees). Such charge shall be superior to all other charges, except (a) the charges of all taxes, assessments, and other levies which by law would be superior, and (b) the charge of any Recorded first Mortgage (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such charge, when delinquent, may be enforced by suit, judgment, the exercise of any remedy reserved and contained in the Deed of Conveyance by the Declarant of each Unit to secure the "Rentcharge" (as defined therein), or exercise of any power of sale or other statutory, legal, or equitable remedy and shall be secured by the "Rentcharge".

The Association may bid for the Unit at any sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following exercise of any of its remedies: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the charge securing the same.

Sale or transfer of any Unit shall not affect the assessment charge or relieve such Unit from the charge for any subsequent assessments.

#### 8.9. Exempt Property.

The following property shall be exempt from payment of Base Assessments, and Special Assessments:

- (a) All Common Area and such portions of the property owned by Declarant as are included in the Area of Common Responsibility;
- (b) Any property dedicated to and accepted by any governmental authority or public or private utility; and

(c) Property which any Neighbourhood Association owns for the common use and enjoyment of its members, or owned by the members of a Neighbourhood Association.

In addition, Declarant or the Association, in its discretion, may exempt any property used for educational, religious, or charitable purposes from the obligation to pay Base Assessments, Neighbourhood Assessments, and Special Assessments.

## **PART FOUR COMMUNITY DEVELOPMENT**

*The Declaration reserves various rights to the developer in order to facilitate the smooth and orderly development of Charlotteville and to accommodate changes in the master plan which inevitably occur as a community the size of Charlotteville grows and matures.*

### **Article IX Expansion of the Community**

#### 9.1. Expansion by Declarant.

Declarant may from time to time subject to the provisions of this Declaration all or any portion of the Declarant's Retained Land or other property by Recording a Supplemental Declaration describing the additional property to be subjected. A Supplemental Declaration Recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to expand Charlotteville pursuant to this Section shall expire when the Declarant no longer owns any portion of Charlotteville or 20 years after this Declaration is Recorded, whichever is earlier. Until then, Declarant may transfer or assign this right to any Person who is the developer of at least a portion of the real property subjected to the provisions of this Declaration. Any such transfer shall be memorialised in a Recorded instrument executed by Declarant.

The Declarant may remove the Restrictions and Stipulations applicable to any Unit or Units in Charlotteville for the purpose of creating a roadway leading from any roadway forming a part of Charlotteville to any Neighbourhood property which shall be declared or designated a Neighbourhood.

Nothing in this Declaration shall be construed to require Declarant or any successor to subject additional property to this Declaration.

#### 9.2. Expansion by the Association.

The Association may also subject additional property to the provisions of this Declaration by Recording a Supplemental Declaration describing the additional property. Any such Supplemental Declaration shall require the affirmative vote of Members representing more than 50% of the Class

"A" votes of the Association represented at a meeting duly called for such purpose and the consent of the owner of the property. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's consent shall be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property, and by Declarant, if Declarant's consent is necessary.

### 9.3 Additional Covenants and Easements.

Declarant may subject any portion of the Declarant's Retained Land to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Neighbourhood Assessments. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property..

### 9.4 Effect of Filing Supplemental Declaration.

A Supplemental Declaration shall be effective upon Recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration as if the same had originally formed part of the Property.

## **Article X Additional Rights Reserved to Declarant**

### 10.1 Withdrawal of Property.

Declarant reserves the right to amend this Declaration, for the purpose of removing any portion of Charlotteville which has not yet been improved with structures from the coverage of this Declaration, provided such withdrawal does not reduce the total number of Units then subject to the Declaration by more than ten percent (10%). Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

### 10.2 Marketing and Sales Activities.

Declarant may construct and maintain upon portions of the Common Area such facilities and activities as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units, and sales offices. Declarant shall have an easement for access to and use of

such facilities at no charge. Declarant shall promptly repair, at its own expense, any damage to the Common Area resulting from its exercise of the rights and easements set forth in this Section.

10.3. Right to Develop.

Declarant and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in Charlotteville acknowledges that Charlotteville is a master planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge, or otherwise object to (a) changes in uses or density of property outside the Neighbourhood in which such Person holds an interest, or (b) changes in the land use plan for Charlotteville as it relates to property outside the Neighbourhood in which such Person holds an interest.

10.4. Rights to Stormwater Runoff and Water Reclamation.

Declarant hereby reserves for itself and its designees, all rights to ground water, surface water, and storm water runoff within Charlotteville, and each Owner agrees, by acceptance of a deed to a Unit, that Declarant shall retain all such rights. Such right shall include an easement over Charlotteville for access, and for installation and maintenance of facilities and equipment to capture and transport such water and runoff.

10.5. Right to Approve Additional Covenants.

No Person shall Record any declaration of covenants, conditions, and restrictions, or declaration of condominium or similar instrument affecting any portion of Charlotteville without Declarant's review and written consent. Any instrument Recorded without such consent shall be void and of no force and effect unless subsequently approved by Declarant in a signed, Recorded consent.

10.6. Right to Approve Changes in Community Standards.

No amendment to or modification of any Board resolutions, Restrictions and Stipulations, or Architectural Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns the Declarant's Retained Land or property subject to this Declaration or which may become subject to this Declaration in accordance with Article IX.

10.7. Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's special rights and obligations set forth in this Declaration or the Articles may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the Articles. No such transfer or assignment shall be effective unless it is in a written



instrument Declarant signs and Records. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to Record any assignment unless necessary to evidence Declarant's consent to such exercise.

10.8. Exclusive Rights to Use Name of Development.

No Person shall use the name " Charlotteville " or any derivative of such name or in logo or depiction in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name " Charlotteville " in printed or promotional matter where such term is used solely to specify that particular property is located within the Properties and the Association shall be entitled to use the words " Charlotteville " in its name.

10.9. Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the property within Charlotteville, including Units, and a perpetual non-exclusive easement of access throughout Charlotteville to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The Person exercising this easement shall promptly repair, at such Person's own expense, any damage resulting from such exercise.

10.10. Termination of Rights.

The rights contained in this Article shall not terminate until Declarant's Recording of a statement declaring such termination.

**PART FIVE  
PROPERTY RIGHTS WITHIN THE COMMUNITY**

*The nature of living in a planned community, with its ongoing development activity, requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, Declarant, the Association, and others within or adjacent to the community.*

**Article XI  
Easements**

11.1. Easements in Common Area.

Declarant grants to each Owner and his or her licensees or invitees a non-exclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The Board's right to:
  - (i) adopt rules regulating use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
  - (ii) suspend the right of an Owner to use recreational facilities serving the Properties (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to the Articles;
  - (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;
  - (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;
  - (v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees, and guests upon payment of use fees established by the Board and designate other areas and facilities within the Area of Common Responsibility as open for the use and enjoyment of the public;
  - (vi) mortgage, pledge, or hypothecate any or all of the Association's real or personal property as security for money borrowed or debts incurred; and
- (d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Limited Common Areas", as described in Article XIV.

An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

#### 11.2 Easements for Access.

(a) Roads and Roadways. Declarant grants to each Owner and his or her licensees and invitees a non-exclusive right and easement to pass and repass along, over and upon all roadways within Charlotteville at all times by day or night with or without vehicles of any description for all purposes connected with the use and enjoyment of such Owner's Unit for a private residence, or as may otherwise be permitted pursuant to this Declaration, but not for any other purpose, in all cases subject to re-routing, abandonment, diversion or variation in the width

or location of the same by the Declarant at any time within the perpetuity period, and also subject to the Declarant's and the Board's right to adopt rules regulating such rights.

Any Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

### 11.3 Easements of Encroachment.

Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjoining or adjacent Common Area and between adjoining or adjacent Units or any Unit and any Private Amenity due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

### 11.4. Easements for Utilities, Etc.

(a) Installation and Maintenance. Declarant reserves for itself, so long as Declarant owns any property described in Exhibit "A" of this Declaration, and grants to the Association and all utility providers, perpetual non-exclusive easements throughout Charlotteville (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) installing and/or upgrading utilities and infrastructure to serve Charlotteville, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, cart paths, pathways and trails, drainage systems, street lights, and signage on property which Declarant owns or within public rights-of-way or easements reserved for such purpose on Recorded plats;

(ii) re-routing roadways and streets within the Properties;

(iii) inspecting, maintaining, repairing, and replacing the utilities, infrastructure, and other improvements described in Section 11.4(a)(i); and

(iv) access to read utility meters.

(b) Provision for Services. Declarant grants to each Owner a non-exclusive right and easement to the free passage and running of water, soil, electricity and telephone or other communication through any channels, drains, wires and pipes serving the Unit of such Owner and the right to make any connections thereto and to enter into and upon any adjoining or adjacent property for the purpose of maintaining, repairing, renewing and cleansing the same or making such connections.

(c) Specific Easements. Declarant also reserves for itself the non-exclusive right and power to grant and Record such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described in Exhibit "A". The Owner of any property to be burdened by any easement granted pursuant to this subsection (c) shall be given written notice in advance of the grant. The location of the easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

(d) Minimal Interference. All work associated with the exercise of the easements described in subsections (a), (b), and (c) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

#### 11.5 Easements for Maintenance, Emergency, and Enforcement.

Declarant grants to the Association easements over Charlotteville as necessary to enable the Association to fulfil its maintenance responsibilities under Section 7.2. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance, and to inspect for the purpose of ensuring compliance with and enforcing the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

#### 11.6 Easements for Pest Control.

Declarant and the Association shall have an easement upon, across, above, and under the Common Area for dispensing pesticides and over all other portions of Charlotteville for the dispersal of pesticides dispensed on the Common Area in order to control insects and vermin.

## **Article XII Environmental Protection Areas and Issues**

#### 12.1. Surface Water Management System.

(a) An Owner or Neighbourhood Association shall in no way deny or prevent ingress and egress by Declarant or the Association to such drainage areas for maintenance or landscape purposes. The right of ingress and egress, and easements therefor are hereby specifically reserved and created in favor of Declarant, the Association, or any appropriate governmental or quasi-governmental agency that may reasonably require such ingress and egress.

(b) No Unit shall be increased in size by filling in any water retention or drainage areas on which it abuts. Owners shall not fill, dike, rip-rap, block, divert, or change the established drainage ways without the prior written consent of the Association and Declarant.

(c) Water management for any Unit or Neighbourhood shall be provided in accordance with the overall drainage system for the Properties. Surface water drainage and management, including, but not limited to, storm water treatment and storage capacity, shall conform to the overall drainage system requirements and permits, if any, for the Properties and meet with the approval of Declarant and applicable governmental agencies.

(d) No wells may be drilled, dug, or installed within any Unit or Neighbourhood except by the Declarant or with Declarant's written consent.

(e) No dangerous poisonous or objectionable effluent shall be discharged on or about the Unit of a kind calculated to or that does in fact contaminate or pollute any water lying upon or below the surface of the same or any adjoining or adjacent property and to take all such measures as may be necessary to ensure that any effluent so discharges will not be corrosive or otherwise harmful to or otherwise affect the condition of such water or cause the same to be less potable than would otherwise be the case and at the Owner's expense to the satisfaction of The New Providence Development Company Limited as the owner of the neighbouring property or its assigns or the Declarant and the Association to remove and otherwise dispose of any such effluent in a proper manner.

#### 12.2. Open Space and Buffers.

Any property conveyed, leased or dedicated to the Association, which is designated as open space, landscape buffer, environmental protection area, or conservation area on any plat, permit, or other Recorded document, shall be owned and maintained by the Association in a natural open condition. The Association or any subsequent owner shall not do anything that diminishes or destroys the open space, buffer, environmental preserve area, or conservation area, and such areas shall not be developed for any purpose except that which improves or promotes the use and enjoyment of such areas as open space.

#### 12.3. Effluent Disposal and Water Supply.

By purchasing or occupying a Unit, each Owner understands and irrevocably consents to the possibility of irrigation of the Common Area, other areas within the Properties, with treated effluent, provided that the effluent emanates from an approved treatment plant with a current operating approval from the appropriate governmental agency.

Declarant, its designees, successors, or assigns shall have the exclusive right to develop and utilize the ground and surface water resources of the Properties for any legal purpose, including the distribution and use of such water beyond the Properties. Such right shall include an easement over the Properties for access, and for installation and maintenance of facilities and equipment to capture and transport ground water, surface water, and stormwater runoff. The

conveyance of any Unit to an Owner does not include the right to develop or utilize the ground, surface, or storm water resources within such Unit.

Declarant or its designee may establish programs for reclamation of stormwater runoff and wastewater for appropriate uses within or outside the Properties and may require Owners and occupants of Units to participate in such programs to the extent reasonably practical. No Owner or occupant shall have any right to compensation for water claimed or reclaimed from his or her Unit. Additionally, the Board may establish restrictions on or prohibit outside use of potable water within the Properties.

#### 12.4. Management of Hurricanes and Other Natural Disasters.

The Properties are located in a hurricane vulnerability zone. The Association shall have the authority to prepare disaster management plans and educational information regarding hurricane threats and other natural disasters. The Association may, but shall not be obligated to, take reasonable precautions to mitigate the hardship caused by foreseeable natural disasters through development of disaster management plans. The Board may establish preparations for the Association and its Members, budgeting, staffing, and coordination with local authorities and with contractors, suppliers, and insurers. The expense of developing, updating, and implementing the disaster management plan, if any, shall be included as a Common Expense in the Association's budget.

No Owner shall install any hurricane or storm shutters on any structure except as approved in accordance with Article IV of this Declaration or unless such shutters conform to those pre-approved or pre-authorized by Declarant and the Board. Such approved or authorized hurricane or storm shutters may be used or operated, and other storm precautions may be taken to protect structures on a Unit only during periods of official Hurricane Watches or Warnings for the area of which the Properties form a part.

### **Article XIII Water Rights**

#### 13.1. Assumption of Risk of Water Treatment Facility and Indemnification.

Each Owner acknowledges that the existence and operation of a Water and Sewerage Facility (if any), within Charlotteville may have an impact upon the Owner's Unit and the Charlotteville community. Each Owner, by its purchase of a Unit within Charlotteville, and each occupant of a Unit, hereby expressly assumes the risk of noise, odor, view impairment, nuisance and other inconvenience, and any resulting personal injury or property damage caused by or related to the maintenance and operation of a Water Facility.

Each Owner agrees that Declarant, the Association, and any of Declarant's affiliates or agents shall not be liable to any Owner or any other Person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss or damage arising from nuisance, personal injury, destruction of property, trespass, loss of enjoyment, or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise related to

the presence, maintenance, and operation of a Water and Sewerage Facility within, adjoining or adjacent to, Charlotteville, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, any of Declarant's affiliates or agents, or the Association. The Owner hereby agrees to indemnify and hold harmless Declarant, Declarant's affiliates and agents, and the Association against any and all such claims by Owner's, tenants, invitees, licensees and others upon such Owner's Unit.

13.2. Wells, Interference with Water Supply.

Ground water wells are prohibited within Charlotteville without Declarant's prior written consent. No Person shall take any action which impacts, obstructs, or otherwise interferes with the supply of water to the Units by or from the Water Facility.

**Article XIV**  
**Limited Common Areas**

14.1. Purpose.

Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Neighbourhood. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, and other portions of the Common Area within a particular Neighbourhood. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be an expense allocated among the Owners in the Neighbourhood to which the Limited Common Areas are assigned.

14.2. Designation.

Initially, any Limited Common Area shall be designated as such in the deed conveying or leasing such area to the Association or on the subdivision plat relating to such Common Area; provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Units and/or Neighbourhood so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area, and Limited Common Area may be reassigned upon approval of the Board and the vote of Members representing a majority of the total Class "A" votes in the Association, including a majority of Class "A" votes within the Neighbourhood(s) affected by the proposed assignment or reassignment. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, any such assignment or reassignment shall also require Declarant's written consent.

14.3. Use by Others.

Upon approval of a majority of Owners of Units within the Neighbourhood to which any Limited Common Area is assigned, the Association may permit other Owners of Units in other

Neighbourhoods to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighbourhood Expenses attributable to such Limited Common Area.

**Article XV**  
**Party Walls and Other Shared Structures**

15.1. General.

Each wall, fence, driveway, or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure.

15.2. Maintenance; Damage and Destruction.

The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

**PART SIX**  
**RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY AND INDEMNITY**

*The growth and success of Charlotteville as a community in which people enjoy living, working, and playing require attention to and understanding of relationships within the community and with our neighbours, and protection of the rights of others who have an interest in the community.*

16.1. General.

Each such Owner agrees that neither Declarant, the Association, nor any of Declarant's affiliates or agents shall be liable to an Owner or any other person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment, or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise related to the proximity of such Owner's Unit to any recreational facility within Charlotteville or any Neighbourhood property or the use of such facilities. The Owner hereby agrees to indemnify and hold harmless



Declarant, Declarant's affiliates and agents, and the Association against any and all claims by Owner's, tenants, licensees, invitees and others upon such Owner's Unit.

## **PART SEVEN CHANGES IN THE COMMUNITY**

*Communities such as Charlotteville are dynamic and constantly evolving as circumstances, technology, needs and desires, and laws change, as the residents age and change over time, and as the surrounding community changes. Charlotteville and its Governing Documents must be able to adapt to these changes while protecting the things that make Charlotteville unique.*

### **Article XVI Changes in Common Area**

#### 17.1. Condemnation.

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least 75% of the total Class "A" votes in the Association and of Declarant, as long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1) by any governmental authority having the power of expropriation, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking, Declarant, so long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1, and Members representing at least 75% of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3(c) regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

#### 17.2. Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action to partition any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring

and disposing of tangible personal property nor from acquiring and disposing or partitioning of real property which may or may not be subject to this Declaration.

17.3. Transfer or Dedication of Common Area.

The Association may dedicate portions of the Common Area to The Bahamas or to any governmental or quasi-governmental entity or charity.

**Article XVII**  
**Changes in Beneficial Ownership of Units**

18.1. Condition to Transferring or Leasing Units or Changing Beneficial Ownership of Units.

No Owner shall apply to Declarant pursuant to the terms of this Article to transfer or lease the Owner's Unit or to perform any other action which would result in a change in beneficial ownership of a Unit unless the Owner is in full compliance with the Governing Documents. If an Owner desiring to transfer or lease a Unit or to perform any other action which would result in a change in beneficial ownership of a Unit is not currently in full compliance with the Governing Documents, the Owner shall first remedy or pay for the violation in the manner requested by the Board. Declarant shall be entitled to refuse to accept or consider any application to transfer or lease a Unit or to perform any action which would result in a change in beneficial ownership of a Unit from any Owner who is in violation of the Governing Documents.

18.2. Notice of Intent to Transfer or Lease.

Prior to any lease or conveyance of a Unit or any other proposed transfer, conveyance, or action which would result in a change in beneficial ownership of a Unit the Owner shall give Declarant written notice of the Owner's intent to convey or lease such Unit or to engage in such other transfer, conveyance, or action resulting in a change in beneficial ownership of such Unit, together with an executed copy of the proposed contract or agreement or transfer/lease application identifying each prospective individual transferee or lessee, and if the prospective transferee or lessee is a corporation, each prospective occupant, if known. Declarant may specify the form of transfer/lease application to be used. The notice shall also be accompanied by such additional information as Declarant may reasonably require.

18.3 Owner's Notice to Association of Transfer or Lease; Owner's Continuing Obligations.

(a) In the event that the Owner consummates the lease or sale of the Unit or consummates the contract or agreement resulting in a change in beneficial ownership of a Unit, such Owner shall give the Association written notice of the name and address of the purchaser, lessee, or transferee; the date of transfer of title or beneficial ownership or date of commencement of the lease; and such other information as the Association may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon

which such notice is received by the Association, notwithstanding the transfer of title or beneficial ownership. In the event of a lease, the Owner shall remain fully responsible for his or her obligations under the Governing Documents, including assessment obligations, during the duration of the lease.

18.4. Leasing Provisions.

Leasing of Units shall be governed by the following provisions:

(a) Definition. Regardless of the terminology, structure, or arrangement which an Owner or a third party utilizes in any agreement to characterize a lease, "leasing," as used in this Section, is defined as regular, exclusive occupancy of a Unit by any person other than the Owner, for which the Owner or any designee of the Owner receives any consideration or benefit, including, but not limited to, rent, a fee, service, gratuity, or emolument. For purposes of this Section, if a Unit is owned by a trust and the beneficiary of the trust is occupying the Unit, that Unit shall not be considered to be leased.

(b) General. All leases shall be in writing and must be in a form approved by the Association, which may include limitations on terms of such leases. There shall be no subleasing of Units or assignment of leases without the Association's prior written approval. Within ten days after executing a lease agreement for the lease of a Unit, the Owner shall give written notice to the Association, together with a copy of the lease, the name of the lessee, and such additional information as the Association may reasonably require. The Owner must make available to the lessee copies of the Declaration, the Articles, any rules or regulations pursuant to Board resolutions, and the Restrictions and Stipulations.

(c) Contents of Lease. Each Owner acknowledges and agrees that any lease of his or her Unit shall be deemed to contain the following language and that if such language is not expressly contained in the lease, then such language shall be incorporated into the lease by existence of this covenant. Any lessee, by occupancy of a Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(i) The lessee shall comply with all provisions of the Declaration, the Articles, such rules and regulations and the Restrictions and Stipulations and shall control the conduct of all other occupants and guests of the leased Unit in order to ensure their compliance.

(ii) Any violation of the Declaration, the Articles, such rules and regulations or the Restrictions and Stipulations by the lessee, any occupant of a leased Unit, or any person living with the lessee, is deemed to be a default under the terms of the lease and shall authorize the Owner to terminate the lease without liability and to evict the lessee in accordance with Bahamian law. The Owner hereby delegates and assigns to the Association the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, the Articles, such rules and regulations and the Restrictions and Stipulations, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner. In the event that the Association proceeds to evict the lessee, any costs

associated with the eviction, including attorneys' fees and court costs, shall be assessed as a Specific Assessment against the Unit and the Owner.

(iii) The lessee agrees to be personally obligated, to the extent of its rental obligations under the lease, for the payment of all unpaid assessments against the Unit which become delinquent during the term of the lease and any other period of the lessee's occupancy or which become due as a consequence of the conduct of the lessee or other occupants of the Unit. Nothing herein shall be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(iv) Upon the Association's request, the lessee shall pay to the Association all unpaid assessments, as lawfully determined and payable during the term of the lease and any other period of the lessee's occupancy; provided, however, the lessee need not make such payments to the Association in excess of or prior to the due dates for rental payments unpaid at the time of the Association's request. All such payments made by the lessee shall reduce, by the same amount, the lessee's obligation to make rental payments to the lessor. If the lessee fails to comply with the Association's request to pay assessments, the lessee shall pay to the Association late charges, fines, interest, and costs of collection, including, but not limited to, reasonable attorneys' fees actually incurred, to the same extent the lessee would be required to make such payments to the Association if the lessee were the Owner of the Unit during the term of the lease and any other period of the lessee's occupancy.

#### 18.5. Declarant's Right to Approve Form of Conveyance Document.

Each document purporting to transfer title to any Unit within Charlottesville shall be submitted to Declarant or its designee for review and approval as to form and content, for the limited purpose set forth below, prior to execution. The purpose of Declarant's approval rights pursuant to this Section is to maintain a uniform scheme of development for Charlottesville by ensuring that each form of conveyance of a Unit contains the necessary and appropriate terms and provisions to pass the burden of positive (or affirmative) covenants to each subsequent transferee. So long as the document of conveyance accomplishes this objective, Declarant shall not unreasonably withhold its approval of the document.

### **Article XVIII Amendment of Declaration**

#### 19.1. By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, until termination of the Class "B" membership, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, to make, purchase, insure, or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any governmental agency.

However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

In addition, so long as Declarant owns property described in Exhibit "A" for development as part of the Properties, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon the rights of more than 10% of the Owners.

19.2. By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing 75% of the total Class "A" votes in the Association, and Declarant's consent, so long as Declarant owns any property subject to this Declaration.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

19.3. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the Articles, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances of itself operate to amend any provisions of this Declaration.

19.4. Exhibit.

Exhibit "A" attached to this Declaration is incorporated by this reference and amendment of such exhibit shall be governed by this Article. All other exhibits (if any) are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

**Article XIX**  
**Notices**

20.1. How Notice is Given.

(a) To Owners or Mortgagees. Except as otherwise provided in this Declaration, any notice required to be given to any Member or Mortgagee under the provisions of this Declaration shall be given by (i) personal delivery; (ii) mail, with proper postage prepaid to the last known address of the recipient; (iii) telephone communication, either directly to the Owner or Mortgagee or to a person at the Owner's or Mortgagee's office or home who would reasonably be expected to communicate such notice promptly to the Owner or Mortgagee; or (iv) facsimile, computer, fibreoptics, or other electronic communication device, with confirmation of transmission to the last known number of the recipient. All such notices shall be given at the Owner's or Mortgagee's telephone number, fax number, electronic mail address, Owner's Unit address or Mortgagee's business address, or sent to such other address or number which the Owner or Mortgagee has designated by notice in writing to the Association pursuant to this Section.

(b) To Declarant, Association, Board, Committee, or any managing or designated agent. Except as otherwise provided in this Declaration, any notice required to be given to Declarant, the Association, the Board, any committee, or managing agent under the provisions of this Declaration shall be given by any of the methods described in subsection (a) above, with confirmation of receipt, if applicable, at Declarant's, the Association's, or the managing agent's telephone number, fax number, electronic mail address, registered or principal office, or at such other address or number as shall be designated by notice in writing to the Members pursuant to this Section.

20.2. Notice to Co-Owners.

Notice to one of two or more co-Owners of a Unit shall constitute notice to all co-Owners.

IN WITNESS WHEREOF the Declarant has caused  
its Common Seal to be hereunto affixed this day of  
, 2004

The Common Seal of the said CHARLOTTEVILLE DEVELOPMENT LTD. was affixed hereto by Dale Bronstein the President and a Director of the said Company and the said Dale Bronstein affixed his signature hereto in the presence of:

CONSENT OF ASSOCIATION

The undersigned, Charlottesville Community Association Limited, hereby consents and agrees to be bound by the terms and provisions of this Declaration of Covenants, Conditions, and Restrictions for Charlottesville this                      day of                      ,2004

**IN WITNESS WHEREOF,** the Association has caused its Common Seal to be hereunto affixed this                      day of,                      , 2004.

The Common Seal of CHARLOTTEVILLE COMMUNITY ASSOCIATION LIMITED was affixed hereto by Dale Bronstein the President and a Director of the said Company and the said Dale Bronstein affixed his signature hereto in the presence of:

**EXHIBIT "A"**

**Land Initially Submitted**



## EXHIBIT "B"

### **Restrictions and Stipulations for Charlotteville**

The following restrictions shall apply to all of Charlotteville until such time as the Board amends, modifies, repeals, or limits such restrictions pursuant to Article III of the Declaration of Covenants, Conditions, and Restrictions for Charlotteville, as it may be amended ("Declaration"). All capitalized terms shall have the same meaning as set forth in Article II of the Declaration, unless the context indicates otherwise.

1. General. Charlotteville shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by Declarant to assist in the sale of Property, offices for any property manager retained by the Association, or business offices for Declarant or the Association) consistent with the Declaration and any Supplemental Declaration.

2. Restricted Activities. The following activities are prohibited within Charlotteville unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Parking any vehicles in a manner that will block pathways, thoroughfares, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, in places other than enclosed garages; provided, construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area;

(b) Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit; however, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the Unit. Pets shall be registered, licensed, and inoculated as required by law;

(c) Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Any activity which violates governmental laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;

- (f) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;
- (g) Outside burning of trash, leaves, debris, or other materials;
- (h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes which are equipped with an automatic muting feature restricting the alarm to a maximum period of twenty minutes;
- (i) Use and discharge of firecrackers and other fireworks;
- (j) Dumping grass clippings, leaves, sewage, rubbish, fouled bilges, or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within Charlotteville, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant may dump and bury rocks and trees removed from a building site on such building site, provided that the depth of any such dumping pit does not adversely affect the water table;
- (k) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;
- (l) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent;
- (m) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Units which it owns;
- (n) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years;
- (o) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment;
- (p) Any business, trade, garage sale, moving sale, rummage sale or similar activity. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee,

compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant with respect to its development and sale of Charlotteville or its use of any Units which it owns within Charlotteville;

(q) Capturing, trapping, or killing of wildlife within Charlotteville, except in circumstances posing an imminent threat to the safety of persons using Charlotteville;

(r) Any activities which materially disturb or destroy the vegetation, or air quality within Charlotteville or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(s) Conversion of any garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article IV of the Declaration;

(t) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the externally visible portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article IV of the Declaration. This shall include, without limitation, signs, basketball hoops, swing sets, and similar sports and play equipment; clotheslines or other clothes drying facilities; garbage cans; woodpiles; above-ground swimming pools, animal pens, or fences of any kind.

Standard TV antennas and satellite dishes which are one meter in diameter or less shall be permitted at Charlotteville; however, such over-the-air reception devices shall comply with all Architectural Guidelines, screening requirements, and other applicable Board resolutions or Restrictions and Stipulations pertaining to the location and manner of installation. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of Charlotteville, should any master system or systems be utilized by the Association and require such exterior apparatus;

(aa) Without Declarant's prior written approval, granting any easement, license, right of way, or permission for access through or across such Owner's Unit to other Unit Owners or the public-at-large for the purpose of ingress, egress, or through-traffic, whether or not such Owner receives a fee, compensation, or other form of consideration in return.

3. Prohibited Conditions. The following shall be prohibited within Charlotteville:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of Charlotteville;

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair;

(c) Mobile homes or temporary buildings or structures of any kind other than sheds or workshops to be used only for the works incidental to the erection of any permanent buildings on a Unit;

(d) Septic tanks;

(e) Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within Charlottesville , except that Declarant and the Association shall have the right to draw water from such sources; and