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**HARBOR AT WHITTEN AND DUSTIN CONDOMINIUM ASSOCIATION
Hampton, New Hampshire 03842**

**RESTATEMENT OF BY- LAWS OF HARBOR AT WHITTEN AND
DUSTIN CONDOMINIUM ASSOCIATION**

ARTICLE I PLAN OF OWNERSHIP

1. **Purpose.** The administration of the Condominium shall be governed by these By-Laws which are annexed to the Declaration of Condominium of Hampton Harbor Condominium and are made a part thereof, and all present and future holders of any interest in the Condominium shall hold said interest subject to the New Hampshire Condominium Act (RSA 356-B), to the Declaration, these By-Laws and the Rules promulgated hereunder.

2. **Definitions.** Terms not defined herein or in the Declaration shall have the meanings specified in Section 3 of the Condominium Act.

3. **By-Laws' Applicability.** The provisions of these By-Laws are applicable to the Property, and the use, occupancy, sale, lease or other transfer thereof. All present and future owners, tenants, future tenants, their guests, licensees, servants, agents, employees and any other person who shall use the Condominium, shall be subject to these By-Laws and to the Rules of the Condominium. The acceptance of a deed of conveyance at the entering into a lease or the act of occupancy of a Unit or any other portion of the Condominium shall constitute an acknowledgment that such owner, tenant or occupant has accepted and ratified these By-Laws, the provisions of the Declaration and the Rules and will comply with them.

4. **Office.** The office of the Condominium and of the Board of Directors shall be located at the Condominium or at such other place as may be designated from time to time by the Board of Directors.

ARTICLE II UNIT OWNERS' ASSOCIATION

1. **Composition.** All of the Unit Owners, acting as group in accordance with the Condominium Act, the Declaration and these By-Laws, shall constitute the "Unit Owners"

association" which shall have the responsibility of administering the Condominium, establishing the means and methods of collecting the assessments for Common Expenses, arranging for the management of the Condominium, and performing all of the acts that may be required to be performed by the Unit Owners' Association by the Condominium Act. Except as to those matters, which the Act specifically requires to be performed by the vote of the Unit Owners, the Board of Directors (as more particularly set forth in Article III) shall perform the administration of the Condominium.

2. Voting. Each Unit which has been conveyed or rented by the Declarant shall be entitled to the number of votes equal to the Percentage Interest assigned to such Unit in the Declaration. Since Unit Owner may be more than one person, if only one of such persons is present at a meeting of the Association that person shall be entitled to cast the votes appertaining to that Unit. But if more than one of such persons is present, the vote appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting. As applied to a person which is not a natural person, the word "person" shall be deemed for the purpose of this Section to include, without limitation any one natural person having authority to execute deeds on behalf of such person which is not a natural person and which is, either alone or in conjunction with another person or persons, a Unit Owner. Except where a greater number is required by the Condominium Act, the Declaration, or these By-Laws, a majority of the votes of Unit Owners present, in good standing and entitled to vote is required to adopt decisions at any meeting of the Unit Owners' Association.

3. Place of Meeting. Meetings of the Unit Owners' Association shall be held at the principal office of the Condominium or at such other suitable place as may be designated by the Board of Directors and stated in the notice of meeting.

4. Annual Meetings. At least one meeting shall be held annually at a time and date chosen by the Board of Directors and Owners at the preceding annual meeting. The notice of meeting shall be communicated in writing to all Unit Owners in accordance to Article II, 6. At the annual meeting, the Owners shall conduct and vote on the regular business of the Association and elect the Board of Directors. Election of the Board of Directors shall be by a ballot of the Owners in accordance with the requirements of Article III. At the annual meeting the Board of Directors shall present and adopt a budget in accordance with Article V(1)(h) herein. The Clerk of the Association shall, at least 21 days in advance of any annual or regularly scheduled meeting, and at least 7 days in advance of any other meeting, provide to each unit owner notice of the time, place, and purpose or purposes of such meeting in conformity with RSA 356-B:37-a. The minimum time to give notice may be reduced or waived for a meeting called to deal with an emergency. Purposes of the meeting shall include any budget changes or proposal to remove an officer or member of the Board of Directors. The clerk or other duly authorized officer of the Unit Owners' Association, who shall also be a member of the Board of Directors of the Unit Owners' Association, shall prepare an affidavit which shall be accompanied by a list of the addresses of all unit owners currently on file with the association and shall attest that notice of the association meeting was provided to all unit owners on that list in a manner conforming to RSA 356-B:37-a. A copy of the affidavit and unit owners list shall be available at the noticed

meeting for inspection by all owners then in attendance and shall be retained with the minutes of that meeting. The affidavit required in this section shall be available for inspection by unit owners for at least 3 years after the date of the subject meeting.

5. Special Meetings. An association shall hold a special meeting of unit owners to address any matter affecting the unit owners or the association if its president, a majority of the Board of Directors, or unit owners having at least 33 percent, of the votes in the association request that the clerk call the meeting. If the association does not notify unit owners of a special meeting within 30 days after the requisite number or percentage of unit owners request the clerk to do so, the requesting members may directly notify all the unit owners of an informational meeting, the purpose of which shall be to present the issue to fellow residents and unit owners. Only matters described in the meeting notice required by RSA 356-B:37-a may be considered at a special meeting.

6. Notice of Meeting. Notice of all meetings of the Unit Owners' Association shall be sent to all owners of record, at least twenty-one (21) days in advance of any meeting. Said Notice shall state the time, place and purpose of the meeting and shall be sent in accordance with New Hampshire RSA 356-B:37-a which allows regular First Class Postage or electronic mail to an address provided by a Unit Owner else hand delivery, First Class Postage or delivery service to the mailing address of each unit.

7. Voting requirements. An Owner shall be deemed to be in good standing and entitled to vote at any annual meeting or at any special meeting of the Unit Owners' Association if and only if, he shall have fully paid all assessments made or levied and due against him and his Condominium Unit by the Board of Directors as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and against his Condominium Unit, at least three (3) days prior to the date fixed for such annual or special meeting.

8. Proxies.

(a) The votes appertaining to any unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the unit owner, or, in cases where the unit owner is more than one person, by or on behalf of all such persons. A person may not cast undirected proxies representing more than 10 percent of the votes in the association. The proxy or proxies shall list the name of the person who is to vote. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the unit owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated or if it purports to be revocable without the required notice. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy. The Board of Directors shall deliver to the unit owners, together with their notice of meeting and agenda, proxy forms bearing a control number, which the Board of Directors shall correlate to the list of all unit owners then entitled to vote. At the noticed meeting, the Board of Directors shall recover all proxies and compare them to the control list maintained for that purpose. Any proxies which are on a form other than that provided by the

Board of Directors or which do not correlate with the control list maintained by the Board of Directors shall be disregarded for purposes of determining whether a quorum was present at the meeting and for purposes of casting any vote at that meeting; provided, however, this paragraph shall not apply if the condominium is comprised of time sharing interests.

(b) The Board of Directors shall retain all proxies delivered to the Board of Directors and all independent written confirmation of any such proxies for inspection by the unit owners for a period of not less than 3 years from the date of the Unit Owners' Association meeting.

9. Quorum. A quorum shall be deemed to be present throughout any meeting of the Unit Owners, until adjourned, if persons entitled to cast more than 33 1/3 percent of the total votes are present at the beginning of such meeting.

10. Order of Business. The order of business at all meetings of the unit Owners' Association may be as follows: (a) roll call; (1) recitation of proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) report of Board of Directors; (f) election of directors, if applicable; (g) unfinished business; and (11) new business any of which may be waived.

11. Conduct of Meeting. The President, or his designated alternative, shall preside over all meetings of the Unit Owners' Association, the Clerk shall keep the minutes of the meeting and shall record all transactions occurring, and all resolutions adopted at the meeting. Roberts Rules of Order shall govern generally the conduct of all meetings of the unit Owners' Association when not in conflict with the Declaration, these By-Laws or the Condominium Act.

12. Meetings by Telephonic, Video, or Other Conferencing Process. The association, committees thereof, and the Board of Directors may meet by telephonic, video, or other conferencing process, provided that the requirements of RSA 356-B:37-c are also met.

13. Voting Without a Meeting. The association may conduct a vote without a meeting. In that event, the following requirements apply:

(a) The association shall notify the unit owners, in the manner prescribed by RSA 356-B:37-a, that the vote will be taken by ballot and deliver a paper or electronic ballot to every unit owner entitled to vote on the matter.

(b) The ballot shall:

(i) Set forth each proposed action and provide an opportunity to vote for or against the action.

(ii) Indicate the number of responses needed to meet the quorum requirements.

(iii) State the percent of votes necessary to approve each matter other than election of directors.

(iv) Specify the time and date by which a ballot must be delivered to the association to be counted, which time and date may not be fewer than 10 days after the date the association delivers the ballot.

(v) Describe the time, date, and manner by which unit owners wishing to deliver information to all unit owners regarding the subject of the vote may do so.

(c) Except as otherwise provided in the Declaration or By-Laws, a ballot is not revoked after delivery to the association by death or disability or attempted revocation by the person that cast that vote.

(d) Approval by ballot pursuant to this section is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.

ARTICLE III BOARD OF DIRECTORS

1. Powers and Duties. The affairs and business of the Condominium shall be managed by a Board of Directors (sometimes hereinafter referred to as the "Board") which shall have all of the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things as are not by the Condominium Act or by these By-Laws directed to be exercised and done by the Unit Owners' Association. The Board of Directors shall have the power from time to time to adopt any Rules deemed necessary for the enjoyment of the Condominium provided such Rules shall not be in conflict with the Condominium Act, the Declaration or these By-Laws. The Board of Directors may delegate to one of its members the authority to act on behalf of the Board of Directors on all matters, which might arise between meetings of the Board of Directors. In addition to the general duties imposed by these By-Laws, the Board of Directors shall have the power to, and be responsible for, the following:

(a) Preparation of an annual budget, in which there shall be established the assessment of each Owner for the Common Expenses.

(b) Making assessments against Owners to defray the Common Expenses of the Condominium, establishing the means and methods of collecting such assessments from the Owners, collecting said assessments, depositing the proceeds thereof in a bank depository, which it shall approve, and using the proceeds to carry out the administration of the Property. Unless otherwise determined by the Board of Directors, the annual assessments against each owner for his proportionate share of the Common Expenses shall be payable in full or in equal monthly installments, each such installment to be due and payable on the first day of each month for said month. In the event the annual Common Expense assessment proves to be insufficient, the budget assessment may be amended at any time by the Board provided that nothing herein shall serve to prohibit or prevent the Board from imposing a lump sum assessment in the case of any immediate need or emergency.

(c) Providing for the operation, care, upkeep, replacement and maintenance of all the Common Area and services of the Condominium, including but not limited to trash collection,

snow removal, and water, electrical, telephone and any other necessary utility service for the Common Area.

(d) Designating, hiring and dismissing the personnel necessary for the maintenance, operation, repair and replacement of the Common Area, and providing services for the Property, and where appropriate, providing for the compensation of such personnel and for the purchase or use of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment, if purchased, shall be deemed the common property of the Owners.

(e) Making and amending Rules, respecting the use of the Property and enforcing the provisions of the Declaration, these By-Laws and such Rules, and bringing any proceedings, which may be instituted on behalf of the Owners.

(f) Obtaining and maintaining insurance against casualties and liabilities, as provided in Article VI of these By-Laws, and paying the premiums therefore and making, or contracting for the making of repairs, additions, and improvements to, or alterations to the property and repairs to and restoration of the Property, in accordance with the other provisions of these By-Laws after damage or destruction by fire or other casualty.

(g) Maintaining books of account showing the receipts and expenditures of the unit Owners' Association.

(h) Obtaining an audited or reviewed financial statement within 120 days at the end of each fiscal year.

(i) To do such other things and acts not inconsistent with the Condominium Act or with the Declaration, which it may be, authorized to do by a resolution of the Unit Owners' Association.

(j) The Board of Directors shall have the right to assess any Unit Owner who fails, or whose tenants fails, to adhere to any RULE or BYLAW after being notified in writing of being in violation of said RULE or BYLAW. The unit owner shall immediately comply and/or remedy the violation after notification. Any such assessment shall not exceed \$100.00 per violation and the total amount of any assessment shall not exceed \$500.00. All of said assessments shall be set at the sole discretion of the Board of Directors and shall constitute special assessment against the unit.

(k) According to the Condominium Act RSA 356-B:46 paragraphs IX and X added in 1994, the Board of Directors are authorized to terminate a delinquent unit owner(s) common privileges and cease supplying delinquent unit and unit owner(s) any services normally supplied and paid for by the owners.

(l) According to the Condominium Act RSA 356-B:46-a, effective January 1, 1998, the Board of Directors are authorized to take all rent paid by a tenant to delinquent unit owner(s) upon 60 days notice.

2. Managing Agent. The Board of Directors may employ, or contract with, a professional manager or management firm ("Manager") for a fee or compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize, including, but not limited to, the duties listed in Section I of this Article III. The Board of Directors may delegate to the Manager all of the powers granted to the Board of Directors by these By-Laws; provided that any actions by the Manager with respect to the powers set forth in paragraph (b) Section I of this Article III shall require the written consent of the Board of Directors. The term of any employment contract for a Manager may not exceed two (2) years, and any such employment contract shall provide, inter alia, that such agreement may be terminated without penalty and without cause upon no more than ninety (90) days written notice.

2-A. Required Managing Agent Disclosures.

If the Board of Directors has delegated certain powers and duties to a managing agent, the managing agent shall disclose any referral fees received from contract work performed on behalf of the association to the Board of Directors prior to the next regularly scheduled board meeting, unless the terms of any referral fees are disclosed in the managing agent's contract with the Unit Owners' Association, in which case disclosure of fees actually received shall not be required. The managing agent also shall disclose to the Board of Directors the amount and purpose of any fees, other than maintenance fees, received from a unit owner, unless the terms of any such fees are disclosed in the managing agent's contract with the Unit Owners' Association, in which case disclosure of fees actually received shall not be required. Any contractor licensed by the state of New Hampshire who performs work for a unit owner shall disclose on the bill any referral fee paid by the contractor.

3. Number of Directors and Selection of Board. The Board of Directors shall be composed of five (5) persons. Directors shall consist only of Owners or spouses of Owners, or, where a Person that is an Owner is not a natural person, any natural person having authority to execute deeds in behalf of such person.

4. Election and Term of Office. At the Annual Meeting the Directors whose terms have expired shall be elected by a vote of the Unit Owners' Association. Each Director shall have a term of two (2) years such that one year two (2) Directors positions shall be open for election and the following year three (3) Directors positions shall be open for election. Officers shall be elected annually by and may be removed and/or replaced by the Board of Directors.

5. Organization meeting. The first meeting of the members of the Board of Directors following the annual meeting of the Unit Owners' Association shall be held within ten (10) days after the annual meeting at such place as shall be fixed by the directors at the meeting at which such directors were elected, and no notice shall be necessary to the newly elected directors in order legally to constitute such meeting, providing a majority of the whole Board shall be present thereat.

6. Regular meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors, but at least

two (2) such meetings shall be held during each twelve (12) month period after the annual meeting of the Unit Owners' Association. Notice of regular meetings of the Board of Directors shall be given to each director, personally or by mail, telephone or email, at least five (5) business days prior to the day named for such meeting, except that no notice shall be required for a regular meeting held immediately after, and at the same place as the annual meeting of the Association.

7. Special meetings. The President on five (5) business days' notice to each director may call special Meetings of the Board of Directors. Such notice shall be given personally or by mail, telephone or electronic mail, and such notice shall state the time, place and purpose of tile meeting. Special meetings of the Board of Directors shall be called by the President or Clerk in like manner and on like notice on the written request of at least two (2) directors.

8. Requirement Related to Board Meetings. The following requirements apply to meetings of the Board of Directors and committees of the association authorized to act for the association:

(a) For purposes of this section, a gathering of board members at which the board members do not conduct association business is not a meeting of the Board of Directors. The Board of Directors and its members may not use incidental or social gatherings of board members or any other method to evade the open meeting requirements of this section.

(b) Not less than once each quarter, and at such additional times as may be specified in the condominium By-Laws, the Board of Directors shall, subject to the provisions of RSA 356-B:37-d, hold an open regular meeting during which unit owners shall be afforded a reasonable opportunity to comment on any matter affecting the association. At its discretion, the Board of Directors may meet in a meeting not open to unit owners provided the meeting is recorded and the recording is made available to unit owners for up to 30 days upon request.

(c) Unless the meeting is included in a schedule given to the unit owners or the meeting is called to deal with an emergency, the clerk or other officer specified in the By-Laws shall give notice of each meeting of the Board of Directors to each board member and to the unit owners. The notice shall be given at least 10 days before the meeting and shall state the time, date, place, and agenda of the meeting.

(d) If any materials are distributed to the Board of Directors before the meeting, the Board of Directors at the same time shall make copies of those materials reasonably available to unit owners, except that the Board of Directors need not make available copies of unapproved minutes or matters that are to be considered in executive session.

9. Board of Directors' Quorum. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the acts of the majority of the directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, those present may adjourn the meeting from time to time. At any such adjourned meeting, any

business, which might have been transacted at the meeting as originally called, may be transacted without further notice.

10. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a director by a vote of the Unit Owners Association shall be filled by vote of the majority of the remaining directors, at a special meeting of the Board of Directors held for that purpose promptly after the occurrence of any such vacancy, even though the directors present at such meeting may constitute less than a quorum of the Board; and each person so elected shall be a director for the remainder of the term of the director so replaced.

11. Removal of Directors. Notwithstanding any provision of the Declaration or By-Laws to the contrary, unit owners present in person or by proxy at any meeting of the unit owners at which a quorum is present, may remove any member of the Board of Directors, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal, provided that:

(a) The unit owners may not consider whether to remove a member of the Board of Directors by the unit owners at a meeting of the unit owners unless that subject was listed in the notice of the meeting.

(b) At any meeting at which a vote to remove a member of the Board of Directors is to be taken, the member or officer being considered for removal shall have a reasonable opportunity to speak before the vote.

12. Availability of records. The Board of Directors, upon request, shall make available to all Owners, mortgagees, and to insurers or guarantors of any mortgage on a Unit current copies of the declaration, bylaws, other rules concerning the condominium and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

13. Licenses and Easements. The Board of Directors on behalf of the Unit Owners' Association shall have the power and authority to grant permits, licenses and easements over the Common Area for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium.

14. Compensation. No director shall receive any compensation from the Condominium for acting as such, but shall be entitled to reimbursement for any out of pocket expenses.

15. Conduct of Meetings and Minutes of Meetings. The President, or, in his absence, a president pro tem elected by the Board, shall preside over all meetings of the Board of Directors and the Clerk shall keep the minutes of the meetings of the Board of Directors recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.. The Board of Directors shall make copies of the minutes of all meetings available to the unit owners within 60 days of the meeting or 15 days of the date such minutes are approved by the board, whichever occurs first. The association may opt to provide the minutes

electronically or publish them on the association website, in which case the owners shall be informed of the web address.

16. Report of Board of Directors. The Board of Directors shall present at each annual meeting, and when called for by vote of the Unit Owners' Association at any special meeting of the Association, a full and clear statement of the business and condition of the Condominium.

17. Fidelity Bonds. The Board of Directors shall require that all offices, directors, agents and employees of the Unit Owners' Association or of any Manager handling or responsible for funds furnish adequate fidelity bonds. The total amount of fidelity bond coverage shall be no less than the lesser of (a) the estimated maximum amount of funds, including reserve funds, in the custody of the Unit Owners' Association or the Manager at any given time during the term of the bond, or (b) three (3) months aggregate assessments on all Units plus reserve funds. The premiums on such bonds shall constitute a Common Expense.

18. Dispensing with Vote. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consents shall be filed with the minutes of the proceedings of the Board of Directors. The clerk shall record the results of any votes conducted or actions taken pursuant to a conference call or telephone poll of the director, and shall publish results of any such votes or action in minutes of the next Board of Directors meeting.

19. Liability of the Board of Directors. The members of the Board of Directors shall not be liable to the Owners' for any mistake of judgment, negligence, or otherwise except for their own individual misconduct or bad faith. The Owners shall indemnify and hold harmless each of the Directors from and against all contractual liability to others arising out of contract; made by the Board of Directors on behalf of the Owners unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By- Laws. It is intended that the members of the Board of Directors shall have no personal liability (except as Owners) with respect to any contract made by them on behalf of the Owners, unless made in bad faith or due to willful misconduct or contrary to such provisions. It is also intended that the liability of any Owner arising out of any contract made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board of Directors shall be limited to such proportion of the total liability thereunder as his Unit's percentage of common interest bears to the total percentage of common interest of all Units. Every written agreement made by the Board of Directors or by the Manager on behalf of the Owners shall, if obtainable, provide that the members of the Board of Directors or the Manager, as the case may be, are acting only as agents for the Owners and shall have no personal liability thereunder (except as Owners), and that each Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his Unit's percentage of common interest bears to the total percentage of all Units. The Owners shall indemnify any person who was or is a party or is threatened to be made a party to any action, suit, or proceeding, whether or not based on contract, or by reason of the fact that he is or was a Director, or officer, for expenses (including attorney's fees), judgments, fines and amounts paid in settlement incurred by him in connection with such action, suit or proceeding unless he acted in bad faith or was guilty of willful misconduct.

20. Actions Prohibited by the Board of Directors. The Board of Directors shall not:

(a) Amend the Declaration except as otherwise provided by Board of Directors by RSA 356-B as amended.

(b) Amend the By-Laws.

(c) Terminate the Unit Owners' Association.

(d) Elect members of the Board of Directors but may fill vacancies in its membership for the unexpired portion of any term or, if earlier, until the next regularly scheduled election of executive board members.

(e) Determine the qualifications, powers, and duties, or terms of office of members of the Board of Directors.

(f) An officer shall not directly receive any salary or compensation from the association for the performance of duties as an officer or board member and shall not in any other way benefit financially from service to the association.

(g) If annually approved by a 2/3 majority of the voting interests present at a properly called meeting of the association, the association may waive the requirements of paragraph (vi).

21. Executive Session. The Board of Directors and association committees may hold an executive session only during a regular or special meeting of the board or a committee. No final vote or action may be taken during an executive session. An executive session may be held only to:

(a) Consult with the association's attorney.

(b) Discuss existing or potential litigation or mediation, arbitration, or administrative proceedings.

(c) Discuss labor or personnel matters.

(d) Discuss contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the association at a disadvantage or prevent public knowledge of the matter to be discussed if the Board of Directors or a committee determines that public knowledge would violate the privacy of any person.

22. Duty of Care Required by the Board Members. In the performance of their duties, officers and members of the Board of Directors appointed by the declarant shall exercise the degree of care and loyalty to the association required of a trustee. Officers and members of the Board of Directors not appointed by the declarant shall exercise the degree of care and loyalty to

the association required of an officer or director of a corporation organized under RSA 292, and are subject to the conflict of interest rules governing directors and officers under RSA 292. The standards of care and loyalty described in this paragraph apply regardless of the form in which the association is organized.

ARTICLE IV OFFICERS

1. Designation. The three (3) principal officers of the Condominium Board of Directors shall be a President, a Clerk, and a Treasurer who shall be elected by the Board.

2. Election of Officers. The officers of the Condominium Board of Directors shall be elected by the Board of Directors and thereafter at the next meeting of the newly elected Board of Directors, the Board shall elect three (3) principal officers who shall hold office at the pleasure of the Board. Any vacancy in an office shall be filled by the Board at a regular meeting or special meeting called for such purpose.

3. Removal of Officers. Notwithstanding any provision of the Declaration or By-Laws to the contrary, unit owners present in person or by proxy at any meeting of the unit owners at which a quorum is present, may remove any officer elected by the unit owners, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal, provided that:

(a) A member appointed by the declarant may not be removed by a unit owner vote during the period of declarant control.

(b) The unit owners may not consider whether to remove an officer elected by the unit owners at a meeting of the unit owners unless that subject was listed in the notice of the meeting.

(c) At any meeting at which a vote to remove an officer is to be taken, the member or officer being considered for removal shall have a reasonable opportunity to speak before the vote.

4. President. The President shall be the chief executive officer; he, or his designated alternate, shall preside at meetings of the Unit Owners' Association, and, if present, at meetings of the Board of Directors, and shall be an ex officio member of all committees; he shall have general and active management of the business of the Condominium and shall see that all orders and resolutions of the Board are carried into effect. He shall have all of the general powers and duties, which are usually vested in, or incident to the office of President of a stock corporation organized under the laws of the State of New Hampshire.

5. Clerk. The Clerk, or his designated alternate, shall attend all meetings of the Board of Directors and all meetings of the Unit Owners' Association, shall record the minutes of all proceedings in the Record Book of the Condominium and shall perform like duties for committees when respired. The clerk shall keep the Record Book current and in his custody. He shall give, or cause to be given, notice of all meetings of the Unit Owners' Association, the Board

and committees and shall perform such other duties as may be prescribed by the Board or President. The Clerk shall compile and keep current at the principal office of the Condominium, a complete list of the Owners and, if provided by the Owner, their last known post office addresses. This list shall be open to inspection by all Owners and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days.

6. Treasurer. The Treasurer shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all monies and other valuable personal property in such depositories as may be designated by the Board. He shall disburse funds as ordered by the Board, where possible taking proper vouchers for such disbursements, and shall render to the President and directors, at the regular meetings of the Board, or whenever they may require it, an account of transactions and the financial condition of the Condominium.

7. Agreements, Contracts, Deeds, Checks, etc. All agreements, contracts, deeds, leases, checks and other instruments of the Condominium for expenditures or obligations may be executed by any Officer of the Condominium or by such other person or persons as may be designated by the Board of Directors.

8. Compensation of Officers. No officer shall receive any compensation from the Condominium for acting as such, but shall be entitled to reimbursement for any out of pocket expenses.

ARTICLE V OPERATION OF THE PROPERTY

1. Determination of Common Expenses and Assessments Against Owners.

(a) **Fiscal Year.** The fiscal year of Condominium shall consist of the twelve (12) month period commencing on July 1st of each year and terminating on June 30th of the succeeding year. The final year herein established shall be subject to change by the Board of Directors.

(b) **Preparation and Approval of Budget.** Each year the Board of Directors shall adopt a budget for the Condominium containing an estimate of the total amount which it considers necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Area and any parts of the units as to which it is the responsibility of the Board of Directors to maintain, repair, and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Condominium Act, the Declaration, these By-Laws or a resolution of the Unit Owners' Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and rendering to the Owners of all related services. Such budget shall also include such reasonable Reserves as the Board of Directors considers necessary to provide a general operating reserve, and reserves for contingencies and replacements.

(c) **Assessment and Payment of Common Expenses.** The total amount of the estimated funds required for the operation of the Property set forth in the budget for the fiscal year adopted by the Board of Directors shall be assessed against the Owners of Units which have been conveyed or which are situated on Convertible Land which has been converted by the Declarant as of July 1st of each fiscal year. Assessments shall be made against each Owner in proportion to the percentage of interest in the Unit Owners' Association appertaining to the Owner's Unit, and shall be a lien against, each Owner's Condominium Unit when perfected in accordance with the Condominium Act. Within one hundred twenty days after the end of each fiscal year, the Board of Directors shall supply to all Owners an audited financial statement. Any amount accumulated in excess of the amount required for actual expense and budgeted reserves shall, in the discretion of the Board of Directors, either be returned to the Owners in accordance with each Owner's votes in the Unit Owner's Association, be credited according to each Owner's votes in the Association to the next installment due from Owners under the current fiscal year's budget, until exhausted, or be added to reserves. Any net shortage shall, if the Board of Directors deems it advisable, be added according to each Owner's percentage of interest in the Unit Owners' Association to the installments due in the succeeding six (6) months after the rendering of the accounting.

(d) **Reserves.** The Board of Directors shall build up and maintain an adequate operating reserve and reserve for replacement of the Common Area, which shall be funded by regular monthly payments, as provided for in subsection (c). At the end of each fiscal year, all funds accumulated during such year for reserves for replacement of Common Area shall be placed in a separate bank account, segregated from the general operating funds, and used only for such purposes. If for any reason, including nonpayment of any Owner's assessment, the reserves are inadequate, the Board of Directors may at any time levy a further assessment, which shall be assessed against the Owners according to their respective votes in the Unit Owners' Association, and which shall be payable in a lump sum or in installments as the Board of Directors may determine. The Board of Directors shall serve notice of any such further assessment on all Owners by a statement in writing giving the amount and reasons therefore, and such further assessment shall, unless otherwise specified in the notice, become effective with the next payment which is due not more than ten (10) days after the delivery or mailing of such notice of further assessment. All Owners shall be obligated to pay the adjusted amount or, if the additional assessment is not payable in installments, the amount of such assessments.

(e) **Investment of Funds.** The Board of Directors shall have the power to invest and reinvest the funds of the Association in safe, conservative investments. The Board of Directors shall have the duty to vote and adopt an investment policy that reflects the objectives of safety, liquidity and income return, in that order of priority. The Board shall, at least annually, report to the members the type, amount, rate of return and location of all investments of the Association.

(f) **Initial Assessment.** Upon the transfer or sale of any unit at Harbor at Whitten and Dustin Condominium Association the buyer of said unit will be assessed the sum of One Thousand (\$1,000) dollars as a contribution to the capital of the association and/or an operating reserve. This assessment is to be collected at closing by the selling or conveying party or his agent and is to be delivered to the Unit Owners' Association or its agent within 5 days of recording of the unit deed.

(g) Effect of Failure to Prepare or Adopt Budget. The failure or delay of than Board of Directors to prepare or adopt the annual budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner's obligation to pay his allocable share of the Common Expenses as herein provided, whenever the same shall be determined, and in the absence of any annual budget or adjusted budget, each owner shall continue to pay the monthly charge at the then existing monthly rate established for the previous fiscal period until a new annual or adjusted budget shall have been adopted.

(h) Adoption of Budgets and Special Assessments. Notwithstanding anything to the contrary:

(i) The Board of Directors, at least annually, shall adopt a proposed budget for the Unit Owners' Association for consideration by the unit owners. Not later than 30 days after adoption of a proposed budget, the Board of Directors shall provide to all the unit owners a summary of the budget, including any reserves, and a statement of the basis on which any reserves are calculated and funded. Simultaneously, the board shall set a date not less than 10 days or more than 60 days after providing the summary for a meeting of the unit owners to consider ratification of the budget. Unless at that meeting 2/3 of all unit owners or any larger number specified in the Declaration reject the budget, the budget is ratified, whether or not a quorum is present. If a proposed budget is rejected, the budget last ratified by the unit owners continues until the unit owners ratify a subsequent budget.

(ii) The Board of Directors, at any time, may propose a special assessment. Except as otherwise provided in paragraph (iii) herein, the assessment is effective only if the Board of Directors follows the procedures for ratification of a budget described in paragraph (i) herein and the unit owners do not reject the proposed assessment.

(iii) If the Board of Directors determines by a 2/3 vote that a special assessment is necessary to respond to an emergency:

(a) The special assessment becomes effective immediately in accordance with the terms of the vote.

(b) Notice of the special assessment shall be provided promptly to all unit owners.

(c) The Board of Directors may spend the funds paid on account of the special assessment only for the purposes described in the vote.

2. Payment of Common Expenses. All Owners shall be obligated to pay the Common Expenses assessed by the Board of Directors pursuant to the provisions of Section I of this Article V. No Owner may exempt himself from liability for his contribution toward Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit. No Owner shall be liable for the payment of any part of the Common Expenses assessed against his Condominium Unit subsequent to a sale, transfer or other conveyance by him of such Condominium Unit. The purchaser of a Condominium Unit or a successor owner by

virtue of such transfer or other conveyance shall be jointly and severally liable with the selling Owner for all unpaid assessments against the Unit Expenses up to the time of the conveyance, without prejudice to the purchaser's right to recover from the selling Owner the amount paid by the purchaser therefore; provided, however, that any such selling Owner or purchaser shall be entitled to a recordable statement from the Board of Directors or the Manager setting forth the amount of unpaid assessments against the Unit and such purchaser shall not be liable for, nor shall the Condominium Unit conveyed be subject to a lien for any unpaid assessments in excess of the amount therein set forth; failure to furnish or make available such a statement within fourteen (14) days from receipt of such request shall extinguish the lien for unpaid assessments. Payment of a fee of Fifty Dollars (\$50.00) or the maximum allowable under the Condominium Act, whichever is greater, shall be required as a prerequisite for issuance of such a statement.

3. Collection of Assessments. The Board of Directors shall take prompt action to collect any assessments for Common Expenses due from any Owner, which remains unpaid for more than sixty (60) days from the due date for payment thereof.

(a) Recordable Statement Fee. Prior to the transfer of any unit the unit owner shall obtain a Condominium Fee Statement from the Association. The charge for such a statement shall be Fifty (\$50.00) dollars.

(b) Failure to obtain a Condominium Fee Statement as described above, prior to the sale, conveyance, devise or mortgage of a unit may result in a \$100.00 fine assessed against the unit and payable to the Association and will constitute a lien against said unit.

4. Maintenance and Repair.

(a) By the Board of Directors. Except as otherwise provided in Section 4(b) below, the Board of Directors shall be responsible for the maintenance, repair and replacement (unless necessitated by the negligence, misuse or neglect of an Owner, or of a person gaining access with said Owner's actual or implied consent, in which case such expenses shall be charged to such Owner) of all the Common Area, whether located inside or outside of the Units, the costs of which shall be charged to all Owners as a Common Expense.

(b) By the Owner. Except for the portions of his Unit to be maintained, repaired and replaced by the Board of Directors, each Owner shall be responsible for the maintenance, repair and replacement, at his own expense, of his Unit, and any part thereof including but not limited to, any interior walls, finished interior surface of ceiling and floors; kitchen and bathroom fixtures and appliances, and those parts of the heating and air conditioning, plumbing and electrical systems which are wholly contained within his Unit and serve no other. Each Owner shall be responsible for performing the normal maintenance for any Limited Common Area which is appurtenant to his Unit, including keeping it in a clean and sanitary condition, and shall make, at his own expense, all repairs thereto, beyond normal maintenance, caused or necessitated by his negligence, misuse or neglect. Each Owner shall keep the interior of his Unit and its equipment and appurtenances in good order and condition and shall do all redecorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of his Unit. In addition, each Owner shall be responsible for all damage to any and all

other Units or to the Common Area resulting from his failure to make any of the repairs required to be made by him in this section. Each Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other Owners. Each Owner shall promptly report to the Board of Directors, or the Manager, any defects or need for repairs for which the Board of Directors is responsible.

(c) **Manner of Repair and Replacement.** All repairs and replacements shall be of first class quality. The Board of Directors shall determine the method of approving payment vouchers for all repairs and replacements.

5. Additions, Alterations or Improvements by Board of Directors. Whenever in the judgment of the Board of Directors the Common Area shall require additions, alterations or improvements costing in excess of Ten Thousand Dollars (\$10,000.00) during any period of twelve (12) consecutive months, and the making of such additions, alterations or improvements shall have been approved by Owners having a majority of the percentage of common interest, the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all Owners for the cost thereof as a Common Expense. The Board of Directors without approval of the Owners may make any additions, alterations or improvements costing Ten Thousand Dollars (\$10,000.00) or less during any period of twelve (12) consecutive months and the cost thereof shall constitute a part of the common expense. Notwithstanding the foregoing, if in the opinion of not less than 80 percent of the members of the Board of Directors such additions, alterations or improvements are exclusively or substantially exclusively for the benefit of an Owner or a limited number of Owners requesting the same, such requesting Owners shall be assessed therefore in such proportion as they jointly approve or, if they are unable to agree thereon, in such proportions as may be determined by the Board of Directors.

6. Additions, Alterations or Improvements by Owners. No Owner shall make any structural additions, alteration or improvement in or to his Unit without the prior written consent thereto of the Board of Directors. No Owner shall paint, decorate or otherwise change the external appearance of his Unit, including the doors and windows, or of any fence, or of any exterior surface of the building, without the prior written consent thereto of the Board of Directors. The Board of Directors shall be obligated to answer any written request by an Owner for approval of such proposed structural addition, alteration or improvement of such external change within thirty (30) days after such request, and the failure to do so within the stipulated time shall constitute a consent by the Board of Directors to the proposed addition, alteration or improvement or change.

7. Restrictions on Use of Units. To assist the Condominium in providing for congenial occupancy, and the protection of the value of the Units, it is necessary that the Board of Directors have the right and authority to exercise reasonable control over the use of the Units. Violation of the following enumerated prohibitions shall not be permitted, and the Board of Directors is hereby authorized to take all steps necessary to prevent or discontinue any violations thereof, all at the expense of the violator:

(a) No advertisements or posters of any kind shall be posted in or on the Property except as authorized by the Board.

(b) No clothing, laundry, rugs or wash shall be hung from or spread upon or from any window or exterior portion of a Unit or in or upon any Common Area. All refuse and trash shall be placed in locations specifically designated by the Board, and no garbage or trash shall be permitted to remain in public view.

(c) No animals, livestock or poultry of any kind shall be raised, bred or kept in any unit or in the common area or limited common area without the express permission of the Board of Directors or Manager, as the case may be. Said written permission shall only be granted to Owners for tropical fish, not more than two (2) cats, one (1) licensed dog less than 80 pounds or two (2) licensed dogs with a combined weight of 80 pounds or less. The following breeds of dogs are not permitted: German Shepherd, Doberman Pincher, Rottweiler, and Pit Bull. Said Owners shall be responsible for the cleanup and elimination of all animal waste and for any infestation or extermination costs related to permitted animals. Said written permission shall be revoked upon any three written complaints or a serious, individual, founded complaint by other owners. Tenants without a lease shall not be allowed to have pets on the property at any time. Tenants with a lease are allowed to have pets on the property with the approval of the owner and written permission of the Board of Directors. Any violation of the pet rules will result in revocation of permission at the discretion of the Board of Directors.

(d) Owners, tenants and guests shall exercise extreme care to avoid unnecessary noise or the use of musical instruments, radios, televisions and amplifiers that may disturb others.

(e) No nuisances shall be allowed on the Property nor shall any use or practice be allowed which is an annoyance or which interferes with the peaceful possession or proper use of the Condominium by others.

(f) The interior of all units shall be maintained in a sanitary condition, free from objectionable odors, free from insect and/or rodent infestations and shall not be in a condition that has an unreasonable risk of fire hazard. If any interior of a unit is found by the Board to be in such a condition, the Board shall provide the unit owner fifteen (15) days to abate the condition else the Board has discretion to have the offending condition abated and all charges for such action shall be chargeable to such unit owner and subject to collection under the rules herein including, but not limited to, Article XII herein.

(g) No Owner, tenant or guest shall allow the installation of wiring for electrical or telephone use, television antennae, air conditioning unit or other machine or equipment which protrudes through the walls or the roof of any building or is otherwise visible on the exterior of a building except as presently installed or as authorized by the Board.

(h) No Unit or Common Area of the Condominium may be used for any unlawful, immoral or improper purpose.

(i) Nothing shall be done in any Unit or in, on, or to the Common Area, which may impair the structural integrity of the property, or which would structurally change a building or improvements thereon except as provided in the Declaration or these By-Laws. Nothing shall be

altered or constructed in or removed from the Common Area, except upon the written consent of the Board of Directors.

(j) No one shall place or cause to be placed in any hallway, corridor, lobby, stairs or stairway, walkway, driveway, parking area or other Common Area any bicycles, furniture, packages or objects of any kind. These areas shall be used only for normal transit through them (or, where appropriate, vehicular parking in them).

(k) No tenant or guest shall direct or engage any employee of the Condominium on any private business, nor shall he direct, supervise or in any manner attempt to assert control over any such employee.

(l) No activity shall be done or maintained in any Unit or upon any Common Area, which will increase the rate of insurance on any Unit or Common Area or result in the cancellation of insurance thereon, unless such activity is first approved in writing by the Board of Directors. No waste shall be permitted in the Common Area.

(m) In the use of the Units and the Common Area of the Condominium, Owners shall obey and abide by all valid laws, ordinances and zoning and other governmental regulations affecting the same and all applicable Rules adopted by the Board. The Common Area shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of the Units.

8. Right to Access. An Owner shall grant a right of access to his Unit to the Board of Directors and the Manager and to any other person authorized by the Board for the purpose of making inspections or for the purpose of correcting any conditions originating in his Unit and threatening another Unit or Common Area, and for the purpose of performing installation, alterations or repairs to the mechanical or electrical services or other Common Area in his Unit or elsewhere in the building, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Owner. In case of any emergency, such right of entry shall be immediate whether the Owner is present at the time or not.

9. Rules. Rules concerning the operation and use of the Common Area may be promulgated and amended by the Board of Directors, provided that such rules are not contrary to or inconsistent with the Condominium Act, the Declaration or these By-Laws. Copies of the Rules shall be furnished by the Board of Directors to each Owner prior to the time when the same shall become effective.

ARTICLE VI INSURANCE

1. Insurance Required. Pursuant to Section 43 of the Condominium Act, the Board of Directors shall obtain (i) a master casualty policy affording fire and extended coverage in an amount equal to the full replacement value of the structures within the Condominium; (ii) a master liability policy covering the Association, the Board, the Manager and agents or employees of the foregoing with respect to the Condominium, and all Owners and other persons entitled to occupy any portion of the Condominium; and (iii) such other policies as specified herein below;

which insurance shall be governed by the following provisions to the extent obtainable or possible:

(a) Fire insurance with standard extended coverage endorsement, vandalism and malicious mischief endorsements insuring all the buildings in the Condominium including without limitation all portions of the interior of such buildings are for insurance purposes normally deemed to constitute part of the building and customarily covered by such insurance, such as heating and air conditioning and other service machinery, interior walls, all finished wall surfaces, ceiling and floor surfaces including any wall to wall floor coverings, bathroom and kitchen cabinets and heating and lighting fixtures, except for improvements made by individual Owners which exceed a total value of One Thousand Dollars (\$1,000.00) and are not reported to the insurer, such insurance to be in an amount at least equal to the replacement value of the buildings and to be payable to the board as trustee for the Owners and their mortgagees as their respective interests may appear.

(b) Public liability insurance in such amounts as the Board may from time to time determine, but in no event shall the limits of liability be less than One Million Dollars (\$1,000,000.00) for bodily injury and property damage per occurrence, insuring the Association and all individuals referred to in Section I above, against any liability to anyone, and with cross liability coverage with respect to liability claims of anyone insured thereunder against any other insured thereunder. The insurance, however, shall not insure against individual liability for negligence occurring within a Unit or within the Limited Common Area to which a Unit has exclusive use.

(c) Workmen's compensation insurance as required by law.

(d) Such other insurance as the Board may determine.

2. General Insurance Provisions.

(a) The Board shall deal with the insurer or insurance agent in connection with the adjusting of all claims under insurance policies provided for under Paragraph I above and shall review with the insurer or insurance agent, at least annually, time coverage under said policies, said review to include an appraisal of improvements within the Condominium, and shall make any necessary changes in the policy provided for under Paragraph I (a) above (prior to the expiration date set forth in any agreed amount endorsement contained in said policy) in order to meet the coverage requirements of such Paragraph.

(b) The Board shall be required to make every effort to see that all policies of physical damage insurance provided for under Paragraph I above (i) shall contain waivers of subrogation by the insurer as to claims against the Association, its employees and agents, members of the Board, the Manager, Owners and members of the family of any Owner who reside with said Owner, except in cases of arson and fraud; (ii) shall contain a waiver of defense of invalidity or prejudice on account of the conduct of any of the Owners over which the Association has "no control"; (iii) shall contain a waiver of defense of invalidity or prejudice by failure of the insured, or Owners collectively, to comply with any warranty or condition with

regard to any portion of the Condominium over which the insured, or Owners collectively, have no control; (iv) shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days written notice to all of the insureds thereunder and all mortgagees of Units in the Condominium; (v) shall provide that in no event shall the insurance under said policies be brought into contribution with insurance purchased individually by Owners or their mortgagees; (vi) shall exclude policies obtained by individual Owners for consideration under any "no other insurance" clause; and (vii) shall provide that until the expiration of thirty (30) days after the insurer gives notice in writing, to the mortgagee of any Unit, the mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such Unit, the other Owners, the Board of Directors, or any of their agents, employees or household members, nor canceled for non-payment of premiums.

3. Individual Policies. Any Owner and any mortgagee shall obtain at his own expense additional insurance (including a "condominium unit-owner's endorsement" for improvements and betterments to a Unit made or acquired at the expense of the Owner). Such insurance should contain the same waiver of subrogation provision as that set forth in Section 2(b) of this Article VI. It is also required that each Owner obtain, in addition to the insurance hereinabove provided to be obtained by the Board of Directors, an "H06 Condominium Insurance Policy" or equivalent, to insure against any and all damage to the dwelling including ceilings, walls and flooring, loss or damage to personal property used or incidental to the occupancy of the Unit, additional living expense, vandalism or malicious mischief, theft, personal liability and the like.

(a) Each Owner shall obtain said required "H06 Condominium Insurance Policy" as additional insurance for his own benefit and at his own expense. Copies of all such policies (except policies covering only personal property, owned or supplied by individual owners) shall be filed with the Association, upon request.

(b) Said required "H06 Condominium Insurance Policy" shall insure all personal property presently or hereafter located in his Unit or Limited Common Area, any furniture, attached and free-standing cabinets, floor coverings including wall to wall carpeting, area carpeting, laminated flooring, hardwood or tile, appliances and other personal property not covered in the master policy.

(c) The unit boundaries are as defined in the Declaration of Condominium.

(d) Each Owner shall obtain said required "H06 Condominium Insurance Policy" liability insurance with respect to his ownership and/or use of his Unit.

(e) The "H06 Condominium Insurance Policy" shall include the following minimum coverage amount (the amount of personal property coverage is at the discretion of the Owner):

Dwelling:	\$50,000
Liability:	\$500,000 each Occurrence
Medical Payments to Others:	\$5,000 each Person

4. Notice to Unit Owners. When any policy of insurance has been obtained by or on behalf of the Unit Owners' Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each unit owner by the officer required to send notices of meetings of the Unit Owners' Association. Such notices shall be sent in accordance with RSA 356-B:37-a.

ARTICLE VII REPAIR, AND RECONSTRUCTION AFTER, FIRE, CONDEMNATION OR OTHER CASUALTY

1. When Repair and Reconstruction are Required. Subject to the provisions of the Declaration, in the event of damage to or destruction of all or part of the buildings in the Condominium as a result of fire or other casualty or by condemnation, the Board of Directors shall arrange for and supervise the prompt repair and restoration of the damaged or destroyed portion of the buildings. Notwithstanding the foregoing, each owner shall have the right to supervise the redecorating work in his own Unit.

2. Procedure for Reconstruction and Repair.

(a) Immediately after a fire or other casualty causing damage to a building, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the damage to a condition as good as that existing before such casualty. Such cost may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

(b) If the proceeds of insurance are not sufficient to defray the said estimated costs of reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments in sufficient amounts to provide payment of such costs shall be made against the Owners in proportion to their respective votes in the Unit Owners' Association.

(c) Any such reconstruction or repair shall be substantially in accordance with the original plans and specifications under which the damaged building was originally constructed. This subsection (c) may not be waived or amended by the Unit Owners without the written approval of Eligible Mortgage Holders holding mortgages on Units, which have at least 51 percent of the votes of Units subject to mortgages held by the Eligible Mortgage Holders.

(d) Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction is substantially in accordance with original plans and specifications under which the damaged building was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the building (as reconstructed) shall stand.

3. Disbursements of Construction Funds.

(a) The net proceeds of insurance collected on account of a casualty and the funds collected by the Board of Directors from assessments against Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair by the Board of Directors.

(b) The construction fund shall be paid by the Board of Directors in appropriate progress payments, to such contractors, suppliers and personnel engaged in performing the work or supplying the materials or services and reconstruction and repair by the Board of Directors.

(c) It shall be presumed that the first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds; and if there is a balance in the construction fund after the payment of all the cost of the reconstruction and repair for which the fund is established, such balance shall be distributed to the Owners.

(d) When the damage is to both the Common Area and Units, the insurance proceeds shall, to the extent practical, be applied first to the cost of repairing the Common Area, and the balance to the cost of repairing the units.

ARTICLE VIII SALES, LEASES AND ALIENATION OF UNITS

1. No Severance of Ownership. No Owner shall execute any deed, lease, mortgage or instrument conveying or mortgaging the title to his Unit without including therein the undivided interest of such Unit in the Common Area, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, lease, mortgage, or other instrument purporting to affect one or more of such interests, without including all such interest, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. Except to the extent otherwise expressly provided by the Declaration, these By-Laws or the Condominium Act, the undivided interest in the Common Area allocated to any Unit shall not be altered, and any purported transfer, encumbrance, or other disposition of that interest without the Unit to which it appertains shall be void.

2. Payment of Assessment. No Owner shall be permitted to convey, mortgage, sell, lease, give or devise his Unit unless and until he (or his personal representative) shall have paid in full to the Board of Directors all unpaid Common Expenses theretofore assessed by the Board of Directors with respect to this Unit, except as provided in Section 2 of Article V, and shall have satisfied all unpaid liens with respect to his Unit, except mortgages. The Board of Directors shall promptly furnish to any Owner (or his devisee or personal representative) requesting the same in writing pursuant to this Section, a recordable statement certifying whether or not such Owner is then obligated for any outstanding assessments previously levied against that Owner's Unit and the amount if any, then outstanding. In the event that the Unit is subject to outstanding expenses previously levied against such Unit, the statement shall certify any waiver of, or failure or refusal to exercise, the right of the Unit Owners' Association to prevent the disposition. Failure or refusal to furnish such a statement within seven (7) days of receipt of such request by the Board or Manager, shall make the above-mentioned prohibition inapplicable to any such disposition of the

Unit. Any such statement shall be binding on the Association, the Board of Directors and every Owner. Payment of a fee not exceeding the maximum amount allowable under the Condominium Act shall be required as a pre-requirement to the issuance of such a statement.

3. Leases. Unit Owners desiring to rent units for a period of three months or more must use standard form Harbor @ Whitten & Dustin Association RESIDENTIAL LEASE AGREEMENT, signed by both owner and renter along with a copy of the Harbor @ Whitten & Dustin Condominium Association Resident and Guest Rules signed by the renter. In addition, it is strongly recommended that unit owner conduct a tenant background check prior to executing said lease. The Board of Directors will provide a list of tenant background research agencies upon request. Unit Owners, leasing their units, hereby agree that they are liable for the actions of their tenants and are responsible for unpaid assessments and fines incurred by their tenants. Unit Owners will, and after notification by the Board of Directors that a tenant has repeatedly violated the rules, regulations or by-laws of the Association, initiate eviction proceedings against said tenants. Failure to provide upon request the signed lease or signed copy of the resident and guest rules as specified above or otherwise comply with this paragraph shall constitute a violation of the by-laws and shall result in an assessment of five hundred dollars (\$500.00). A new assessment will be levied each month until the Unit Owner is compliant with this section of By-Laws. Unit Owners are required to use the standard form Harbor @ Whitten & Dustin Condominium Association RESIDENTIAL LEASE AGREEMENT in its entirety, which conforms to current New Hampshire law and contains the following specifications:

- (a) Leases must specify the full names of all proposed tenants authorized to occupy the leased unit.
- (b) No sublease of any unit shall be permitted.
- (c) Leases shall state that the unit owner is responsible for the payment of all condominium assessments.
- (d) Leases must contain the following statement(s):

“THIS LEASE WILL TERMINATE AND EVICTION PROCEEDINGS WILL BE INITIATED, UPON NOTIFICATION THAT THE TENANT HAS REPEATEDLY VIOLATED THE RULES OR BYLAWS OF THE CONDOMINIUM ASSOCIATION.”

ARTICLE IX AMENDMENT TO THE BY-LAWS

1. Amendments. Except as otherwise provided in the Condominium Act and herein, these By-Laws may be modified or amended either (i) by a vote of at least fifty-one percent (51%) of the percentage common interest owned by the Owners cast in person or by a proxy at a meeting duly held in accordance with the provisions hereof, provided that Notice of the proposed amendment shall have been given to each Owner simultaneously with the notice of such meeting, or (ii) pursuant to a written instrument duly executed by Owners holding at least fifty one percent (51%) of the percentage common interest. No amendment to the By- Laws or Rules may

be adopted which could interfere with the construction, display, sale, lease or other disposition of such Unit or Units.

2. Recording. A modification or amendment of these By-Laws shall become effective only when it has been duly evidenced in accordance with the provisions of Section 356-B:11 of the Condominium Act.

3. Conflicts. No modification or amendment of these By-Laws may be adopted which shall be inconsistent with the provisions of the Condominium Act or with the provisions of the Declaration. A modification or amendment once adopted and recorded as provided for herein shall then constitute part of the official By-Laws of the Condominium and all Owners shall be bound to abide by such modification or amendment.

4. Approval of Mortgagees.

Any amendment to the condominium instruments requiring approval of mortgagees on units may be satisfied by the recording of an affidavit by the president of the association that written request for such approval was sent to the last known address of any mortgagee and that mortgagee failed to respond within 60 days.

ARTICLE X MORTGAGES

1. Notice to Board. To comply with Article IX, Section 4 above, the unit Owner shall, upon request, notify the Board of the name and address of his mortgagee.

2. Notice of Action. Upon written request to the Unit Owners' Association, identifying the name and address of the holder, insurer or guarantor and the Unit number or address, any Eligible Mortgage Holder or Eligible Insurer or Guarantor will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a first mortgage held, insured, or guaranteed by such Eligible Mortgage holder or Eligible Insurer or Guarantor, as applicable;

(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Eligible Insurer or Guarantor, which remains uncured for a period of 60 days.

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Owners' Association;

(d) Any proposed action which the Declaration, these By-Laws or the Condominium Act, requires the consent of a specified percentage of mortgage holders.

3. Notice of Default. The Board may give written notice to an owner of any default by the Owner in the, performance of any obligations under the Act, Declaration or By-Laws, and, if such default is not cured within thirty (30) days, may send a copy of such notice to each holder of

a mortgage covering such Unit whose name and address has theretofore been furnished to the Board.

ARTICLE XI NOTICE

1. Manner of Notice. The Association shall deliver any notice required to be given to unit Owners to any mailing or electronic address a unit Owner designates. If the unit Owner does not/has not designated an address, the Association shall deliver notices by hand delivery, United States mail postage paid, or commercially reasonable delivery service to the mailing address of each unit.

2. Waiver of Notice. Whenever any notice is required to be given under the provisions of statutes, of the Declaration or of these lay-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated herein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of the Condominium Act.

ARTICLE XII COMPLIANCE AND DEFAULT

1. Relief. Each Owner shall be governed by, and shall comply with, all of the terms of the Declaration, these By-Laws and the Rules and any amendments of the same. A default by an Owner shall entitle the Unit Owners' Association acting through the Board of Directors or the Manager, to the following relief.

(a) **Legal Proceedings.** Failure to comply with any of the terms of the Declaration, these By-Laws, and the Rules shall be grounds for relief which may include without limiting the same, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, and any other relief provided for in these By-Laws or any combination thereof, and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought to by the Unit Owners' Association, the Board of Directors, the Manager, or, if appropriate, by the aggrieved Owner. Nothing contained herein shall be deemed to limit the right of any Owner to commence legal proceedings against the Unit Owners' Association for any violation of the Declaration or these By-Laws.

(b) **Additional Liability.** Each Owner shall be liable for the expenses of all maintenance, repair or replacement rendered necessary by his acts, neglect or carelessness or the act, neglect or carelessness of any member of his family or his tenants, guests, employees, agents or invitees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of any Unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by an insurance company of its rights of subrogation.

(c) **Costs of Attorney Fees.** In any proceeding arising out of any alleged default by Unit Owner, the Unit Owners' Association or Board of Directors shall be entitled to recover the costs of the proceeding, including reasonable attorneys' fees where the Unit Owner is found by

the Court to be in breach of any obligation under this Declaration, these By-Laws or Rules established by the Board of Directors.

(d) Owner to enforce any right, provision, covenant, or condition which may be granted by the Declaration, these By-Laws or the Rules shall not constitute a waiver of the right of the Association, the Board of Directors or any Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors or any Owner pursuant to any term, provision, covenant or condition of the Declaration or the Rules shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such privileges as may be granted to such party by the Declaration, these By-Laws or the Rules, or at law or in equity.

(e) Interest. In the event of a default by any Owner, which continues for a period in excess of thirty (30) days, such Owner shall be obligated to pay interest in the amounts due at the highest rate permitted by law, or at eighteen percent (18%), whichever is less, per annum from the due date thereof. In addition, the Board of Directors shall have the authority to impose a late payment charge on such defaulting Owners in an amount not to exceed \$15.00, or six cents (\$.06) per dollar on any amount so overdue, whichever is greater.

(f) Abatement and Enjoinment of Violations by Owners. The violation of any rule or regulation adopted by the Board of Directors, or the breach of any By-Laws contained herein, or the breach of any provision of the Declaration, shall give the Board of Directors or the Manager the right, in addition to any other rights set forth in these By-Laws: (a) to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning or provisions hereof, and the Board of Directors or Manager shall not thereby be deemed guilty in any manner of trespass; (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; or (c) to suspend or limit the right of the Owner committing the violation to use any part of the Common Area during the continuance of such violation in accordance with NH RSA 356-B:46 (IX) and (X) as also stated in Article III, Section 1 (k) and (l) herein.

2. Lien for Assessments.

(a) The total regular assessments of each Owner for the Common Expenses of any special assessment levied pursuant to these By-Laws is hereby declared to be a lien levied against the Unit of such Owner as provided in the Condominium Act, which lien shall, with respect to regular assessments, be effective on July 1st of each fiscal year of the Condominium and, as to special assessments, on the first day of the next month which begins more than seven (7) days after delivery to the Owner of notice of such special assessments.

(b) In any case where an assessment against an Owner is payable in installments, upon a default by such Owner in the payment of any single installment, which continues for ten (10) days after written notice of such default has been sent to the Owner, the maturity of the remaining total of the unpaid installments of such assessments, may be accelerated, at the option

of the Board of Directors, and the then balance owing may be declared due and payable in full by the service of notice to such effect upon the defaulting Owner by the Board of Directors or Manager.

(c) The lien for assessments shall include costs and attorneys' fees as provided for Section 1 of this Article and the lien contribution may be foreclosed in the manner provided by the laws of the State of New Hampshire for the foreclosure of power of sale mortgages or by suite brought in the name of the Board of Directors, acting on behalf of the Unit Owners' Association. During the pendency of such proceedings or suit the Owner shall be required to pay a reasonable rental for the Unit for any period prior to sale pursuant to any judgment or order of the court having jurisdiction over such sale.

(d) Suits to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same, and foreclosure shall be available without bringing suit to recover a money judgment.

ARTICLE XIII RELEASE OF UNITS

In the event of the resale of a Unit or any interest therein by a Unit Owner (other than the Declarant) the President or such other officer or officers as the Board of Directors may from time to time specify shall, upon the written request of any prospective owner and within fourteen (14) days thereof, furnish to the prospective owner:

1. A statement as provided for in Article VIII (2) hereof.
2. A statement of any capital expenditures and major maintenance expenditures anticipated within the current or succeeding two fiscal years.
3. A statement of the status and amount of any reserve for the major maintenance or replacement fund and any portion of such fund earmarked for any specified project by the Board of Directors.
4. A copy of the income statement and balance sheet of the Association for the last fiscal year for which such statement is available.
5. A statement of the status of any pending suits or judgments in which the Association is a party defendant.
6. A statement setting forth what insurance coverage is provided for all Unit Owners by the Association and what additional insurance coverage would normally be secured by each individual unit owner.

ARTICLE XIV COMPLIANCE, CONFLICT AND MISCELLANEOUS PROVISIONS

1. **Compliance.** These By-Laws are set forth in compliance with the requirements of the Condominium Act.

2. Severability. These By-Laws are set forth to comply with the requirements of the State of New Hampshire. In case any of the By-Laws are a conflict with the provisions of any of its statutes, the provisions of the statutes will apply. If any provisions of these By-Laws or any section sentence, clause, phrase or word or the application thereof in any circumstance is held invalid, the validity of the remainder of these By-Laws shall not be affected thereby and to this end, the provisions hereof are declared to be severable.


3. Waiver. No restriction, condition, obligation or provision of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

4. Captions. The captions contained in these By-Laws are for convenience only and are not part of these By-Laws and are not intended in any way to limit or enlarge the terms and provisions of these By-Laws.

5. Gender, etc. Whenever in these By-Laws the context so requires the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

IN WITNESS WHEREOF, Harbor at Whitten and Dustin Condominium Association has caused these By-Laws to be executed this 23rd day of May, 2019 and further certifies that this Amendment to the Declaration of Condominium has been approved by more than fifty percent (50%) of the unit owners by votes cast in person or by proxy at a meeting duly noticed and held on May 11, 2019.

By:



(Signature)

Title: Treasurer, Board of Directors

Linda Trabucco
(Print Name)

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

On this 25th day of May, 2019, before me, the undersigned officer, personally appeared the above-named Linda Trabucco, duly authorized as Treasurer, Board of Directors of Harbor at Whitten and Dustin Condominium Association, known to me to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purpose therein contained.


RONALD J. SEVIGNY
Notary Public - New Hampshire
My Commission Expires January 14, 2020

