

Tax Map & Parcel Nos. 3-34 14.14 7.00  
(All Units); 3-34 14.14 8.00 Units C-E,  
C-2A, C-2B, C-2C, C-2D, C-2E & C-2F  
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(MRSF)

## **THE AMENDED AND RESTATED HENLOPEN CODE OF REGULATIONS**

**WHEREAS**, The Henlopen Condominium Council, Inc. (hereinafter the “Association”), and the members thereof, being owners of units in The Henlopen Condominium, a condominium in Lewes and Rehoboth Hundred, Sussex County, Delaware, are bound by a certain Code of Regulations dated November 20, 1973, which is of record in the Office of the Recorder of Deeds, in and for Sussex County, Delaware, in Deed Book 722, Page 484, et seq.; as amended by a Revised and Amended Code of Regulations dated January 13, 1981, of record in the Office aforesaid in Deed Book 1044, Page 92, et seq.; as further amended by a Revised and Amended Code of Regulations dated February 15, 1989, of record in the Office aforesaid in Deed Book 1630, Page 88, et seq.; as further amended by a Revised and Amended Code of Regulations dated December 16, 2005, of record in the Office aforesaid in Deed Book 3246, Page 63, et seq.; and as further amended by a Revised and Amended Code of Regulations dated September 10, 2008, of record in the Office aforesaid in Deed Book 3615, Page 259, et seq. (hereinafter collectively referred to as “Code of Regulations”); and

**WHEREAS**, said Code of Regulations is applicable to The Henlopen Condominium, the Declaration for which is dated November 20, 1973, and recorded in the Office of the Recorder of Deeds, in and for Sussex County, Delaware, in Deed Book 722, Page 447, et seq., as amended by an Amendment to Declaration dated November 14, 1980, of record in the Office aforesaid in Deed Book 1035, Page 16, et seq., and the original Declaration Plan for which is of record in the Office aforesaid in Plot Book 8, Page 767, et seq.; and

**WHEREAS**, pursuant to the authority established in the Code of Regulations, Article XII, Section 2., the Code of Regulations may be amended by the governing Council for the Association, provided that no amendment to the Code of Regulations shall be recorded or shall become effective until a copy of the proposed amendment has been sent to each unit owner at least forty-five (45) days prior to the proposed effective date of the amendment and provided that a special meeting is not called by the unit owners and a vote conducted thereat whereby a majority of the total unit owner votes entitled to be cast rescind the amendment passed by the Council;

**WHEREAS**, the Council passed amendments to the following sections of the Code of Regulations at meetings held on the stated dates, all of which were duly and properly noticed in accordance with the Code of Regulations and applicable Delaware law:

- (1) Article VII, Section 1.C.(d) on July 17, 2010;
- (2) Article IX, Section 2 (a)(3) on September 4, 2010;
- (3) Article X, Section 1 (d) on July 17, 2010;
- (4) Article X, Section 4 (a) on November 20, 2010;
- (5) Article XI, Section 4 on July 17, 2010;
- (6) Article XV, Section 1. (d) on September 4, 2010;
- (7) Article XV, Section 2. (d) on September 4, 2010; and
- (8) Article XV, Section 2. (f) on September 4, 2010.

**WHEREAS**, the above listed amendments passed by the Council were sent to all unit owners in the Association on August 10, 2010, September 13, 2010, and December 13, 2010, respectively, and no special meetings were called by the unit owners in response thereto and, accordingly, no votes to rescind the amendments were successfully conducted by the unit owners at any special meetings;

**NOW THEREFORE**, The Henlopen Condominium Council, Inc., by and through the governing Council pursuant to the authority recited above, does hereby amend the Code of Regulations in its entirety and substitutes in place thereof the following THE AMENDED AND RESTATED HENLOPEN CODE OF REGULATIONS:

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# **THE AMENDED AND RESTATED HENLOPEN CODE OF REGULATIONS**

## **ARTICLE I**

### **IDENTIFICATION OF PROPERTY**

This Amended and Restated Henlopen Code of Regulations governs administration and management of THE HENLOPEN, located at Lakeview Street and Grenoble Place, Rehoboth Beach, Sussex County, Delaware, a condominium project submitted to the provisions of Title 25, Chapter 22 of the Delaware Code, known as the Unit Property Act, by Declaration dated the 20th day of November, 1973, and recorded in the Office of the Recorder of Deeds, in and for Sussex County, in Deed Book 722, Page 447, as amended by Amendment to Declaration dated November 14, 1980, of record in the Office, aforesaid, in Deed Book 1035, Page 16. A detailed plan of the project appears in a Declaration Plan prepared by H. D. Nottingham & Associates, Inc., Architects dated the 31st day of August, 1973, and recorded in the aforesaid office of the Recorder of Deeds, in Plot Book 8, Page 767, et seq.

The administration of THE HENLOPEN shall be governed by a Code of Regulations, a true and correct copy of which and all duly adopted amendments of which shall be duly recorded. (25 Del. C. 1953, § 2206; 54 Del. Laws, c. 282.)

## **ARTICLE II**

### **PURPOSE OF THE CODE OF REGULATIONS**

The code of regulations provides the means by which such governing regulations are adopted for the regulation and management of the property, including such amendments thereof as may be adopted from time to time by the Council. The maintenance and repair of the common elements and the making of any additions or improvements thereto shall be carried out only as provided in the code of regulations. (25 Del. C. 1953, § 2205; 54 Del. Laws, c. 282.)

## **ARTICLE III**

### **POWERS OF THE COUNCIL**

Subject to the limitations and restrictions contained in the Unit Property Act and the Henlopen Declaration, the Council shall on behalf of the unit owners:

(a) Have the power to manage the business operations and affairs of the property and for such purposes to engage employees and appoint agents and to define their duties and fix their compensation, enter into contracts, leases, and other written instrument or documents and to authorize the execution thereof by officers elected to the Council; and;

(b) Have such incremental powers as appropriate to the performance of their duties (25 Del. C. 1953, § 2212; 54 Del. Laws, c.282)

## ARTICLE IV

### OWNERS MEETINGS; NOTICE THEREOF; EFFECTIVE VOTE; ORDER OF BUSINESS; QUORUM; RULES OF PROCEDURE

#### ***1. Meetings of Unit Owners.***

(a) The purpose of the annual meeting of the unit owners shall be for the incumbent Council to report to and discuss with the unit owners the Council's conduct of business for the year preceding, to transact such other business as may come before the unit owners assembled, and to elect members to the Council for the coming year (refer to Article V 4). The annual meeting of the unit owners shall take place on a Saturday which shall be no earlier than September 15 and no later than October 30 of each year, at such generally convenient time and location as may be specified by the President of the Council in a notice sent to each unit owner no sooner than sixty (60) days before and no later than thirty (30) days before the date of the meeting.

(b) The purpose of the special meeting is to transact the particular item or items of business specified in the notice for calling the special meeting. No business shall be transacted except that specified in the notice unless ninety-five (95) percent of all unit owners, either present or represented by proxy, are present at the meeting, and it shall be determined by a majority of such unit owners that additional business be transacted. Special meetings of the unit owners shall be called promptly by the President of the Council whenever the Council so directs, or when the Council is presented with a petition signed by unit owners representing twenty-five (25) percent of the total unit owner vote entitled to be cast, subject to limitations set forth herein below. A notice of any such meeting shall be sent to each unit owner no sooner than thirty (30) days before and no later than fourteen (14) days before the date of the meeting, except that special meetings called under circumstances designated in good faith by the Council as constituting an emergency may be held as soon as the Council shall decide, after the posting of notice in the main lobby and south tower lobby entrances of the Condominium and making a reasonable effort to contact unit owners by telephone. Any such notice shall specify a date, time and location of the meeting, and shall state with particularity the business to be transacted.

(c) The Council shall send meeting notices and an agenda for the meeting as described in subparagraph (a) or (b) above to a currently listed permanent home address and/or a currently listed electronic mail address of each unit owner on record with the Building Manager unless a unit owner requests otherwise in writing relative to any notice to him or her, or, unless an emergency has been identified by the Council as provided in Article IV 1.(b), above.

## **2. Quorum.**

(a) The presence in person or by proxy of any number of unit owners who hold in the aggregate fifty-one (51) percent or more of the total unit owner votes entitled to be cast, shall constitute a quorum for the transaction of business by the unit owners so represented.

(b) To permit the determination of a quorum all unit owners shall, upon arrival at the meeting, identify their presence to the Secretary of the Council or personnel of the Council to whom the responsibility has been delegated. Unit owners holding proxies shall register them with the Secretary of the Council PRIOR to the commencement of the meeting at which the proxy is to be used.

(c) If any meeting of unit owners cannot be convened because a quorum has failed to attend or be represented, the President may call another meeting at a time no less than twenty-four (24) hours from the time set for the original meeting.

## **3. Vote Necessary for Resolution.**

Except as otherwise specifically provided in the Unit Property Act, the Henlopen Declaration or elsewhere in these Code of Regulations, the vote of a majority of the aggregate percentage of the total units represented in person and by proxy at a meeting shall be sufficient to adopt any duly proposed resolution or motion. One vote may be cast for each unit so represented, and may be cast by any person in whose name all or part of title to the unit is held. Votes of units standing in the name of the Council are not entitled to be cast.

## **4. Ballots and Proxies.**

Unit owners, at any unit owner meeting, may vote by written ballot. Written ballots must be on a form prescribed by the Secretary of the Council, which provides for anonymity for the voter. Further, any unit owner may be represented and may vote at any unit owners meeting by proxy. Proxies must be in writing and on a form prescribed by the Secretary of the Council, which provides for anonymity for the voter. The Secretary of the Council shall include ballots and proxies in all notices of annual or special meetings sent to the unit owners. Unit owners may designate their proxies to be voted by the Secretary of the Council at the direction of the Council, or by another unit owner who will be present at the meeting. Proxies must be registered with the Secretary of the Council PRIOR to the commencement of the meeting at which the proxy is to be used. The proxy need not be surrendered until the election for which it is to be used takes place.

## **5. Order of Business.**

The order of business at all unit owners meetings insofar as pertinent or necessary shall be as follows:

President's Call to Order  
Identification of Quorum  
Report of Officers

Removal of Members of Council  
Nominations for New Members of Council  
Election of Members of Council  
Report of Committees  
Unfinished Business  
New Business  
Adjournment

**6. Rules of Procedure.**

Unit owners meetings may be conducted in accordance with the latest edition of Robert's Rules of Order Newly Revised, as modified by vote of Council from time to time.

**ARTICLE V**

**ELECTION OF COUNCIL MEMBERS; TERM OF OFFICE;  
VACANCIES; ELECTION PROCEDURES; LIABILITY**

**1. Number and Qualifications of Members.**

There shall be seven (7) members of the Council, who shall be unit owners, and who shall govern the affairs of the condominium.

**2. Term of Office.**

(a) Each of the seven Council members shall serve for a term of two years. Three members shall be elected in the first year and four members shall be elected in the second year of successive years, in accordance with the procedures described herein below.

(b) The term of each member of the Council shall be subject to the right of the unit owners to remove him, after he has had an opportunity to be heard, with or without cause, at the annual meeting of unit owners or any special meeting called for that purpose, but no Council member shall be removed by less than fifty-one percent (51%) of the total unit owner vote entitled to be cast.

(c) The term of any member of the Council shall automatically terminate upon the conveyance by deed or leasehold interest assignment of the member's ownership, wherein the member no longer holds ownership in at least one unit in The Henlopen Condominium.

**3. Vacancies.**

Vacancies on the Council caused by removal, either at the annual meeting of the unit owners or a special meeting called for that purpose, shall be filled by vote of the unit owners following the vote for removal. Procedures for such a vote will be consistent with the Election Procedures followed at the annual meeting of unit owners. If no successor is selected by the unit owners at such meeting, the Council shall, as early as practicable thereafter solicit the interest of unit owners in serving through an inquiry sent to each unit owner, and shall meet thereafter, to select a successor by majority vote of the Council. Vacancies caused by any other reason, including, but not limited to, death, incapacity, resignation or automatic termination under Article V (2)(c), shall be filled by majority vote of the Council. Any successor Council member shall hold office for the duration of the unexpired term of the member replaced.

#### **4. Election Procedures.**

(a) Election of Council members shall take place each year at the annual meeting of unit owners (refer to Article IV (1)(a)). The voting shall be supervised by three (3) Election Inspectors appointed by the Council at the Council Meeting immediately preceding the annual meeting of unit owners.

(b) Once a Quorum (refer to Article IV (2)) is established (refer to Article IV 5.), election of Council members shall be by written ballots and proxies. All written ballots and proxies (refer to Article IV (5)) shall be on forms provided by the Secretary of the Council. The ballots and proxies shall be constructed in a manner that provides for voter anonymity. Information accompanying the ballots and proxies must provide for the signature of the owner or holder of the owner's proxy and the unit owner's unit number. Ballots and proxies not conforming to the criteria herein set forth shall be invalid.

(c) The written ballots for members of the Council shall be validated for eligibility in accordance with Article IV (3) above, by the Election Inspectors who shall tabulate the election results and report them to the Secretary of the Council. The proxies, held by the Council or by individual owners, shall be validated for eligibility in accordance with Article IV (4) above. Proxies held by the Council shall be voted by the Secretary of the Council at the direction of a majority of the Council. The Election Inspectors shall tabulate the election results and report them to the Secretary of the Council.

(d) The Candidate receiving the greatest number of the eligible votes cast shall be elected to fill the first Council vacancy. The candidate receiving the second greatest number of the eligible votes cast shall be elected to fill the second Council vacancy, and so on, until all existing vacancies are filled. In the case of a tie vote for the last available Council position, the voting owners present determine the winner by balloting until a majority vote is obtained. The candidate with the greatest number of votes gains the remaining seat on the Council.

(e) Following the tabulation of the election results by the Election Inspectors, these results shall be handed over to the Secretary of the Council who will announce, to the owners in attendance, the names of the elected members of the Council.

#### **5. Liability of the Council Members.**

The members of the council shall not be liable to the unit owners for any mistake of judgment, negligence, or other reason, except for their own individual willful misconduct or bad faith. The unit owners shall defend, indemnify, and hold harmless each of the Council's members against all contractual, tort, or other liability to others arising out of contracts made or actions taken by the Council on the unit owners' behalf, unless such contract or action shall have been made in bad faith or willfully contrary to the provisions of the Declaration, this Code of Regulations, or other governing documents. The cost of such defense and indemnification shall be a proper common expense for which the Council may levy a special assessment to defray such cost.

## ARTICLE VI

### ELECTION OF COUNCIL OFFICERS

Upon conclusion of the annual unit owners meeting the newly constituted Council shall meet, and, as a first order of business, shall elect from its members a President, a Secretary, and a Treasurer. The President of the outgoing Council shall conduct such election. Officers shall be elected by a majority vote of the members of the newly constituted Council present.

## ARTICLE VII

### DUTIES, TERM, AND COMPENSATION FOR COUNCIL OFFICERS AND MEMBERS

#### ***1. Council Officers' Duties.***

##### **A. President.**

The President shall preside at all meetings of the Council and at all meetings of the unit owners. He shall have the powers and duties generally associated with the office of the President of an association of individuals including, but not limited to, the power to appoint the chairs for the following standing committees: Budget and Finance, Engineering and Building, Safety-Fire-Security, and Architecture/Design Review. The President's duties also include, but are not limited to, the power to appoint other committees from time to time from among the Council members and/or any unit owners willing to assist in the conduct of the condominium's affairs. The Council shall authorize the execution of all arrangements for services, water, gas, electricity, trash disposal, insurance, security, maintenance, repairs, reconstruction, and all other contracts relating to the common elements or to the project as a whole to the President (refer to Article III).

##### **B. Secretary**

(a) The Secretary shall prepare and keep the minutes of all meetings of unit owners and of the Council to identify the subject matter of the business before the Council and the determinations reached by the Council. Minutes of Open Council Meetings shall be sent to Council members within one month of the meeting for review. The minutes may be voted on by phone, E-mail, or any other electronic communication method as long as any decision reached is by unanimous consent of all Council members. The Secretary shall send reviewed or approved minutes of the Open Council Meetings to the owners within one month following the Open Council Meeting. The Secretary shall maintain such minutes as a permanent document among the records of the Council. The Secretary shall have the responsibility for the maintenance of all documents pertinent to the functioning of the Council, and shall in general perform the duties incident to the office of Secretary in an association of individuals.

(b) The Secretary shall be responsible for assuring the timely notice to unit owners of all meetings of unit owners (both annual meetings and special meetings), the preparation of proxy forms and their inclusion in the notices to unit owners, and the preparation and

availability of appropriate ballots for use at the meetings of unit owners.

(c) The Secretary shall, after discussion with the Council, vote all proxies assigned to the Council, as provided in Article V (4)(c).

(d) The Secretary shall have custody of the election results for a minimum of ninety (90) days. Other election material may be destroyed immediately following validation by Election Inspectors as provided in Article V (4)(c).

### **C. Treasurer**

(a) The Treasurer shall comply with the requirements of the Unit Property Act of the State of Delaware governing the responsibilities of the fiscal officer of the Council. He shall have custody of all personal property jointly owned by the unit owners, including funds, securities, and evidence of audit, at least annually, of the fiscal affairs of the Condominium. The Treasurer shall Chair the Budget and Finance Committee.

(b) Within thirty (30) days after the annual unit owners meeting the Treasurer shall prepare for the Council a detailed estimate of the common expenses for the coming year, together with the resultant monthly assessment due from each owner. When a new Treasurer has been elected, he shall be assisted, as needed, by the past Treasurer and/or other members of the Council. After approval or revision by the Council, a copy of the estimated budget and the monthly assessment shall be sent to each unit owner. The unit owners shall have fourteen (14) days after delivery in which to require that a special meeting be called for the purpose of discussing and approving or disapproving the estimated budget and assessments. Such a special meeting may be called subject to the provisions of Article IV (1)(b). If no such meeting is called, the estimated budget and assessments shall be deemed approved. Each and every item of cost, expense or reserve shown on the budget thus accepted shall be deemed a valid common expense of the unit owners.

(c) The Treasurer shall, within three (3) days after being directed and authorized by the Council to make additional special assessments expressly and only for expenses not foreseen or accurately forecast in the initial estimate, prepare an explanation of same for prompt delivery by the Secretary to each unit owner. The unit owners shall have fourteen (14) days after such delivery to require that a special meeting be called for the purpose of discussing and approving or disapproving the special assessment. Such a special meeting may be called subject to the provisions of Article IV (1)(b). If no such meeting is called the special assessment shall be deemed approved.

(d) The Treasurer shall be responsible for collecting all monthly assessments and special assessments from the unit owners, and all other income, rents, and proceeds due to the Council for the common benefit of the unit owners. He shall deposit and keep funds so collected in such account or accounts as the Council may direct. No withdrawals shall be made from said accounts except upon the signature of either the President, Treasurer, Building Manager, or other authorized Council member on the check and two other authorized signatures on the corresponding invoice approving the check. All invoices must be approved by the Building Manager or other appropriate Council members. A signer of the invoice cannot be a signer of the check.

(e) The Treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the common elements specifying and itemizing the maintenance, repair, and replacement expenses of the common elements and any other expenses incurred. Such records shall be available for examination by the unit owners during regular business hours. In accordance with the actions of the Council assessing common

expenses against the units and unit owners, he shall keep an accurate record of such assessments and of the payment thereof by each unit owner. (25 Del. C. 1953, § 2218; 54 Del. Laws, c. 282.)

(f) In the President's absence, the Treasurer shall act as President Pro Tem at any duly convened meeting of the Council or the unit owners.

## **2. Delegation of Council Officer's Duties.**

The performance of, but not the responsibility for, any Council Officer's duties may be delegated by the Council to any suitable person employed by the Council, if the officer so requests for valid reasons.

## **3. Term, Removal, and Vacancies of Council Officers.**

Each officer shall serve for a term of one year. However, the President can serve only four consecutive one year terms. He would be eligible to serve as President following two years of not holding that office. Each officer's term is subject to the Council's right to remove any member as an officer by a majority vote of a quorum of the Council, after he has had an opportunity to be heard, with or without cause, at any meeting of the Council called for that purpose. The resultant officer vacancy shall then be filled, as early as practicable, by a majority vote of a quorum of the Council. Membership on the Council may be terminated only by removal action of the owners, as provided for in Article V (2)(b).

## **4. Compensation of Council Members.**

No Council Members shall be paid any compensation for his services in such capacity, including travel and attendance at regular meetings of the Council. Council Members may however, be reimbursed for travel and other expenses incident to assignments from the Council and their performance of other condominium business necessitating such travel. It shall be the responsibility of the Treasurer to administer the receipts for such expenses and the reimbursement payments therefore.

# **ARTICLE VIII**

## **MEETINGS OF THE COUNCIL; QUORUM REQUIREMENTS; VOTING**

### **1. Meetings.**

(a) Upon completion of the Council meeting provided for in Article VI to follow the annual unit owners meeting, the Council shall reconvene no later than thirty (30) days thereafter for the principal purpose of approving or revising the budget estimate for the following year prepared by the Treasurer, as provided in Article VII (C)(b).

(b) Regular meetings of the Council shall take place at intervals of four (4) months or less. It shall be a regular order of business at each Council meeting that a generally convenient date, time and place for the Council's next meeting will be determined by a majority vote of the members present. A notice and agenda of such determined meeting should also be sent to each unit owner no later than fourteen (14) days before the meeting.

(c) Additional meetings of the Council shall be called whenever the President deems such meetings are necessary, or whenever he is presented with the written requests of two

other Council members. Whenever such meetings are determined to be necessary, the President shall assure that a reasonable effort is made to contact each member by telephone concerning the reason for the meeting and to determine a generally convenient date, time and location. In addition, unless the emergent nature of the meeting precludes, a notice and agenda of the meeting shall be sent to each unit owner. All business appropriate to the Council's responsibilities may be transacted at such meetings whenever a quorum of the members is present.

(d) All meetings of unit owners or meetings of the Council shall be open to all other unit owners governed by the same Council; provided, however, that where a portion of any meeting of unit owners or any Council is reserved for consultations with legal counsel, or for personnel matters relating to employees of the Council, such portion of the meeting shall be excluded from this provision (refer to the Unit Property Act).

## **2. Quorum.**

(a) The presence of four (4) Council members shall constitute a quorum for the transaction of business by the Council.

(b) If any meeting of the Council cannot be convened because a quorum has failed to attend, the President may call for a new meeting at a time not less than twenty-four (24) hours thereafter.

## **3. Voting.**

The vote of a majority of the Council members present and voting at a Council meeting shall be sufficient for the transaction of business by the Council.

## **4. Minutes.**

The Council shall maintain written minutes of all meetings of unit owners or the Council. The minutes shall be made available to all unit owners and Council members (68 Del. Laws, c. 115, §1:69 Del. Laws, c. 94, § 1.).

# **ARTICLE IX**

## **RENTALS; LEASING PROCEDURES; DURATION OF RENTALS**

### **1. Renting of Units by Owners.**

(a) Owners of residential units may rent or lease their units for non-commercial, residential use; providing, that such rentals shall be on the express condition of full adherence by the renting occupants to the Henlopen Declaration, the Code of Regulations, and any other document issued by the Council governing rules and conduct incident to the operation and maintenance of the Henlopen Condominium.

(b) Owners of commercial units may rent or lease their units subject to the limitations on use described at Section 7 (Restrictions on Use) of the Henlopen Declaration, and, limitations on space configurations described at Section 5 (ii) of the Henlopen Declaration.

(c) All unit owners shall be responsible for adherence by their tenants to this Code

of Regulations and to the restrictions found at Section 7 of the Henlopen Declaration against any acts or actions detrimental to other units or the occupants thereof, or which may adversely affect insurance rates applicable to the Henlopen Condominium.

## **2. Leasing Procedures.**

(a) Any and all rentals of a residential unit must be in the form of a written lease which shall:

(1) Specifically state the requirement for tenants to abide by THE AMENDED AND RESTATED HENLOPEN DECLARATION and THE AMENDED AND RESTATED HENLOPEN CODE OF REGULATIONS as a condition of such lease;

(2) Specifically describe the occupancy limitations for the unit and the restriction against any tenant's pet in the unit; and,

(3) Specifically state the names of the tenants and the requirement for tenants to place a deposit for the issuance of security devices and/or security keys, refundable upon return of the security devices and/or security keys.

(b) Consistent with the provisions of Article XV, SECURITY REQUIREMENTS, herein, a copy of each lease so executed must be forwarded to the Building Manager prior to the commencement of the rental period, to facilitate performance by the Building Manager of his duty to permit entry into any unit only to persons authorized by the unit owner, as provided in Article XV (2)(e).

## **3. Duration of Rentals.**

No rental of any unit shall be for a period of less than one week.

# **ARTICLE X**

## **ARCHITECTURAL RESTRICTIONS; WORK ON COMMON ELEMENTS AND UNITS**

### **1. Architectural Restrictions.**

(a) It shall be the responsibility of the Council to repair, maintain and enhance the common elements of the condominium. The Council may delegate to the Building Manager and staff all or any part of its duties and powers with respect to the upkeep of the common area but may not delegate its responsibilities therefore. The Council may, from time to time, contract with any firm, person or corporation for the performance of any maintenance, replacement, repair or reconstruction within the common elements.

(b) No unit owner or occupant shall paint, decorate, or otherwise adorn any of the common elements (refer to the Henlopen Declaration section 5 "Description of Units and Common Elements) without first obtaining the written permission each year of the Council to ensure that the proposed changes are compatible with the common appearance of the condominium.

(c) Unless a unit owner or occupant receives written approval by the Council, the

unit owner or occupant shall not begin any work within the unit to include the following:

(1) Structural installation or alteration, such as addition, removal, movement, modification or alteration of walls, columns, beams, within the unit which could change the interior configuration of the unit or affect any common elements (as defined in section 5, (a), iii COMMON ELEMENTS of the Henlopen Declaration), any other unit, or any other part of the Condominium building; or

(2) Other structural installation or alteration, including the addition, removal, movement, rerouting, modification, or other alteration of any part of the plumbing, electrical, exhaust, ventilation, or communication system; or

(3) Any other change in the unit, including acoustical, which could affect any common element, any other unit or any other part of the Condominium building.

(d) No unit owner or occupant shall make any structural installation or alteration or any change referred to in subsection 1 (c) above, within a unit without first receiving the written approval of the Council. A unit owner or occupant desiring to make such structural installation or alteration shall first so notify the Council in writing, and shall furnish the Council with such further information and drawings as may be requested. The Council shall, within thirty (30) days from receipt of the notification deliver its decision to the unit involved, and shall be justified in resolving all doubts regarding duress, safety considerations, and adverse impact to the common elements and/or other units within the condominium of the proposed installation or alteration. The Council may establish architectural review guidelines applicable to work within units and provide for the enforcement of such guidelines by the Building Manager and staff.

Upon the Council's approval, the installation or alteration may proceed, subject to the right of the Council at any time thereafter to conclude that an objection should have been made. If the Council so concludes, it shall cause the installation to be removed or the alteration to be changed back and shall bear the expense therefore. In addition, the Council shall reimburse the unit owner for the original cost of the installation or alteration; provided, that the unit owner shall bear all costs without reimbursement for removing or changing any installation or alteration which varies materially from the plans submitted to the Council, or for which the Council had not given written approval. Similarly, any costs resulting from restoration made necessary by a unit owner's violation of (c) above will be borne solely by the unit owner, or will be assessed solely against the unit if it is necessary for the Council to have the restoration made.

## ***2. Work on Common Elements and Units.***

(a) Any need or suspected need for repair, maintenance or replacement of any common element from within a unit (refer to the Henlopen Declaration section 5 (i)) shall be promptly brought to the attention of the Building Manager by the owner or occupant of that unit. Whenever such work is required within a unit, the employees or agents of the Council shall have the unhindered right to enter, leave, and move about in the unit as frequently and to whatever extent is necessary to accomplish the work, consistent with the easements for such purposes statutorily provided by the Unit Property Act, and by the Henlopen Declaration. Similarly, the Council and/or its delegated employees shall have the right to inspect each unit once every year to ascertain its condition in consideration of the health and safety concerns of all units and the common areas of the condominium.

(b) Emergency work in any unit and essential work in any unoccupied unit may be accomplished without advance notice. All other work within occupied units will be

scheduled with the occupant with every reasonable regard for the occupant's convenience. All entries into an unoccupied unit by Council employees or agents will be recorded in a Unit Entry Register maintained in the Building Manager's office, identifying the purpose of the entry, the person entering, and the authorization for such entry. The Unit Entry Register shall be available to the inspection of all unit owners.

Each unit owner is required to furnish the Building Manager a security device(s) for all locks on the unit entry door to facilitate the Council's statutory easement for entry into the unit for the purposes described herein. Such security devices shall remain in the custody of the Building Manager, subject to the security procedures described hereinafter at Article XV.

(c) Any damage to a unit or the unit owner's or occupant personal property which occurs in the course of repairs, maintenance or replacement of the common elements by the Council shall be reported to the Council as soon as discovered. If reasonably satisfied that the damage was attributable to the work performed by employees or agents of the Council, the Council shall make a reasonable reimbursement therefore.

(d) Any maintenance, replacement or repair to the common elements made necessary by an act or acts of the unit owner, occupant, or invitee of the unit owner other than such as may occur in the course of normal, careful usage resulting in normal wear and tear, shall be assessed solely to the unit owner involved.

(e) In the event that the Council fails to maintain the condominium in accordance with its duties hereunder, any unit owner or mortgagee shall have the right to compel the specific performance of the Council in the Court of Chancery of the State of Delaware. Should the Council fail to undertake reasonable action for emergency repairs within twenty-four (24) hours of receiving notice of the need therefore, the unit owner and mortgagee may cause the same to be made and seek reimbursement from the Council in the Superior Court of the State of Delaware. All doubts shall be resolved by the Court in favor of the good faith, business judgment and decision of the Council.

### ***3. Common Elements - Upkeep and Costs.***

(a) The costs of materials, labor, services, supplies, and any other expenses incurred to repair, maintain, replace or reconstruct the common elements shall be common expenses and shall be paid by the Treasurer from assessments collected and reserves created or funds received into the Council's accounts. All such expenditures must be authorized by the Council, either in approval of the Treasurer's estimated annual budget, or by specific consideration and approval of expenditure items.

(b) The Council shall have the power to borrow funds and pledge or mortgage property to secure the same for maintenance, repair or replacements to meet emergencies, or when appreciable economies can be achieved through bulk purchase, avoidance of costly incremental contracts, or other economies of scale.

### ***4. Work in Units by Unit Owners.***

(a) Each unit owner must promptly, at the unit owner's expense, perform all maintenance and repair work within the unit owner's own unit, exclusive of common elements, which, if not performed, would or might cause damage to any portion of the common elements or to any portion of any other unit, including the contents thereof. The Council may direct a unit owner to so perform. Each unit owner shall be strictly liable for damage and personal injury caused by failure to so perform. When there is a dispute between unit owners regarding liability for damages to a unit and a common element neither caused

nor contributed to such damages, the Council will maintain a position of neutrality and will not make a determination of negligence or liability.

(b) The Condominium's maintenance staff is responsible solely for maintenance of the common elements. All repairs, maintenance, and replacements required in connection with any unit exclusive of the common elements shall be the responsibility solely of the individual unit owner. Employees of the Condominium maintenance staff are employees of the Council, and not of the unit owners. The Council, therefore, through the Building Manager, may, but is not required to undertake or arrange for maintenance repairs within a unit, which repairs are the unit owner's responsibility. In instances where such work of a minor nature is performed for unit owner by the Council staff, the unit owner shall be billed accordingly for all parts required and at a labor rate established from time to time by the Council. In instances where the Building Manager agrees to arrange for work within a unit owner's unit to be performed by an outside contractor, craftsman or service person, the resulting timeliness, quality, and cost of such work shall be a matter solely between the unit owner and the individual(s) employed. Similarly, the Council and its employees shall assume no responsibility for the cleanliness or other condition of the unit and its contents attributable to the work performed in such circumstances.

(c) Any work performed within a unit as described in Article X (4) above shall be governed by the architectural restrictions set forth in Section I (a), (b), (c), and (d) of this Article.

## ***5. Construction Using Insurance or Condemnation Proceeds.***

(a) In the event of damage to or destruction of all or any part of a building or of any common element as a result of any casualty against which the Council has obtained insurance, the Council shall arrange for the prompt repair and restoration thereof, to the extent that the same were considered in determining the replacement value of the building for insurance purposes, or are otherwise covered by the insurance coverage obtained. (Carpeting, furniture, household equipment and other furnishings and decorations shall be the responsibility of the unit owners, to the extent not covered by the Council's insurance). The insurance trustee or Council, as the case may be, shall disburse the insurance proceeds to the contractors engaged in such repair and restoration in appropriate progress payments.

The foregoing provisions are subject to the condition that no such work shall begin or continued nor shall any disbursements be made if the condominium or any part thereof is validly the subject of any suit or partition by reason of the damage or destruction. Such suit to be effective must be brought within seven (7) days after the occurrence of the damage or destruction, otherwise the right to partition shall be conclusively deemed waived.

(b) In the event of damage to or destruction of any building or other common element as a result of taking under the power of eminent domain, the Council shall to the extent practical and possible arrange for the prompt repair and restoration of the remainder thereof, and shall disburse proceeds received as payment to the contractors engaged in such repair and restoration in appropriate progress installments. Such proceeds as are not needed for repair and restoration shall be divided among the unit owners in the same manner as insurance and salvage proceeds would be divided after a casualty and as the result of a suit for partition and shall be paid to the unit owners or their mortgagees in accordance with the terms of the applicable mortgage documents; provided, however, that where the taking of a common element under power of eminent domain disproportionately and materially diminishes the value of any unit or units in comparison with any others, as determined in the sole but good faith, reasonable discretion of Council, then the proceeds shall be divided and distributed so

as to equalize such disproportionate diminution.

## ARTICLE XI

### COLLECTION OF COMMON EXPENSES

#### **1. Statutory Requirements.**

(a) The Unit Property Act of the State of Delaware (25 Del. C. Chapter 22), provides that all sums assessed against any unit by resolutions duly adopted by the Council shall constitute the personal liability of the unit owner, and shall, until fully paid, together with interest thereon, constitute a charge against the unit enforceable by an action at law.

(b) The Unit Property Act further describes as one of several duties of the Council, the statutory obligation for the assessment and collection of funds from unit owners for the payment of common expenses.

#### **2. Budget and Assessments in Advance.**

The Council, through its Treasurer, shall have the power and authority to prepare a budget for each year in advance and to make monthly assessments each month in advance for the common expenses anticipated in such budget, subject only to the right of the unit owners to call a special meeting (refer to Article IV 1.b) for the purpose of discussing and approving or disapproving the budget when the Treasurer presents his annual estimate of common expenses, as provided in Article VII 1.C.(b) No objection shall be made to any assessment on the basis that the expenses, which such assessment is intended to meet, have not yet been incurred. Nor shall funds for Council's statutory duties be objected to. The budget and monthly assessments therefore shall provide for the creation of reserves to meet unforeseen contingencies or to provide for expenses which may not be incurred until a determined time in the future beyond the one year period during which the budget will be in force.

#### **3. Manner of Paying Assessments.**

Monthly and special assessments shall be paid by check, cash or money order sent to the Treasurer on or before the date when such assessments are due. Payment by check shall not be deemed received by the Treasurer unless and until the proceeds thereof are actually collected. Unit owners who fail to pay monthly assessments, maintenance repairs, or special assessments on the due date will be charged a late penalty. The amount of the late penalty may be adjusted from time to time by the Council as circumstances require. A late penalty so assessed shall constitute a personal liability of the unit owner, in addition to the monthly assessment due, enforceable by an action at law as provided by 1 (a) of this Article.

#### **4. Notice to Mortgagee of Default in Payment of Assessments.**

The Council, when giving notice to a unit owner of a default in the unit owner's payment of the monthly assessment for common expenses, or any other default, shall send a copy of such notice to each holder of a mortgage covering such unit owner's unit if the Council elects to do so.

### **5. Acceleration of Assessments upon Default.**

In the event that the monthly assessment or any special assessment of any unit owner, including late charges, remains unpaid for a period of more than thirty (30) days, the Council shall have the right to call in writing for immediate payment of all sums past due and all assessments scheduled to become due during the remainder of the calendar year, as if this aggregate amount had originally been due and payable in full. It shall be the duty of the Council to take any and all of the steps available within the law to collect the amount due.

### **6. Effect of Unpaid Assessments on Use of Unit.**

So long as any monthly assessment or special assessment is due and unpaid, the unit subject to such assessment shall not be sold or encumbered, nor shall any rental or lease thereon be entered or assigned, nor shall any existing lien or encumbrance be extended or increased, except with the Council's written consent, and any rents, common profits or other income rights with respect to such unit shall be deemed assigned to the Council as security. This paragraph shall be subject to such rights as may be then vested in the institutional first mortgagee of such unit, if any.

### **7. Suspension of Utilities and Services as Penalty.**

So long as any monthly assessment or special assessment is due and unpaid, the Council shall have the right to suspend any centrally supplied utility, or any service for the unit subject to such assessment. No such suspension shall reduce the affected unit's liability for common expenses during the time of such suspension or thereafter.

### **8. Settlement; Expenses of Collection.**

Every unit owner whose account is forwarded to an attorney and/or to the Courts for collection of unpaid assessments or late charges, or enforcement of any covenant, regulation, obligation or restriction, shall be liable for all Court costs and for a reasonable attorney's fee, the same as if such costs and fee were part of the original amount due, except that no interest shall be calculated on the costs and fee. Interest at the legal rate upon the unpaid balance of the assessment shall be charged in accordance with 25 Del. C. Sec. 2233, as amended from time to time. The Council shall have the right to settle any claim against a unit owner, occupant or other person or legal entity for such amount and on such terms as the Council believes to be in the condominium's best interests.

## **ARTICLE XII**

### **PROMULGATION AND AMENDMENT OF RULES AND REGULATIONS**

#### **1. Rules of Conduct.**

The Council may from time to time promulgate and amend rules and regulations governing the details of the use and operation of the property and the use of the common elements subject to the right of a majority of the unit owners to change any such actions.

## **2. Adoption and Amendment of Code of Regulations.**

(a) As provided in the Unit Property Act of the State of Delaware, the Council has the authority to make, alter, amend, and repeal the Code of Regulations, subject to the right of a majority of the unit owners to change any such actions. (25 Del. C. Section § 2207 ; 54 Del. Laws, c. 282.)

(b) No amendment to the Code of Regulations shall be recorded or become effective until a copy thereof has been sent for the inspection of each unit owner at least forty-five (45) days prior to the proposed effective date of the amendment(s). At any time before the proposed effective date of the amendment or amendments, the unit owners may cause a special meeting, (refer to Article IV 1.b), to be held at which one or more of the amendments proposed may be rescinded by a majority of the total unit owner vote entitled to be cast. If no such special meeting is called, the proposed changes to the Code of Regulations shall be deemed approved.

(c) Unit owners are not authorized or empowered to promulgate or amend the Code of Regulations, or any rules governing the operation of the condominium, except to change any such actions by the Council, as provided herein.

(d) A modification or amendment of this Code of Regulations shall become effective only if such modification or amendment is recorded in the Office of the Recorder of Deeds, in and for Sussex County, Delaware.

## **ARTICLE XIII**

### **TRANSFER OR ENCUMBRANCE OF A UNIT; COUNCIL'S ACQUISITION BY RIGHT OF FIRST REFUSAL; UNRESTRICTED SALES**

#### **1. By Right of First Refusal.**

Any unit owner who desires to make or accept a bona fide offer for the transfer or encumbrance of his unit or any interest therein which transfer or encumbrance is subject to the restrictions on transfer set forth in the Henlopen Declaration, 9(a), shall condition same upon obtaining the proper waiver of the rights of first refusal held by the Council and its assigns. In the event that the unit owner enters into a contract based on such an offer, he shall notify the Council by delivering to the Council a fully executed copy of the contract showing the names, residential addresses, and places of business of all the parties thereto, and showing as well the names, residential addresses, and places of business of all parties having a beneficial interest therein.

Promptly, upon receipt of such contract, the Council shall send to each unit owner notification of the contract, together with the Council's recommendation as to whether acquisition of the unit in the Council's name is desirable in the best interests of the condominium. If, within ten (10) days from the receipt of such notification, the Council is directed in written response to acquire the unit by ninety percent (90%) of the unit owners as required by the Henlopen Declaration (refer to Section 9a, "Restrictions of Transfer of Unit"), the Council shall initiate action for such acquisition. In the absence of such direction, the Council shall promptly send, to the unit owner, a notice of the contract, or his designated representative, a written statement that all of the provisions of the Henlopen Declaration

(refer to section 9 (a) and the Code of Regulations restricting transfer have been satisfied as to same, and that the right of first refusal is waived; provided:

That if the Council continues to believe that acquisition of the unit is in the best interests of the condominium, the Council shall call a special meeting of the unit owners pursuant to the provisions of Article IV (l)(b), herein, to assure the owners' cognizance of the Council's reasoning for acquisition. Action by the Council to proceed with acquisition of the unit shall require such direction by ninety percent (90%) of the votes of all unit owners. Absent this direction the Council shall waive its rights of first refusal; provided:

That any unit owner, upon receipt of the Council's notification concerning the contract for the unit, as provided above, shall have the right to request the Council's assignment of its right of first refusal, which request shall be addressed in writing to the Council within ten (10) days of the Council's notification to the owners. In the absence of direction to the Council by the owners for the Council's acquisition of the unit, as provided above, the Council shall assign its right of first refusal to the unit owner whose request is received by the Council. If more than one unit owner properly files a request for the Council's assignment of its right of first refusal within ten (10) days of the Council's notification to the owners, a lottery will be conducted at the direction of the President of the Council to determine the unit owner who shall receive the Council's assignment.

Failure of the Council to furnish a statement of its waiver of its right of first refusal within thirty (30) days of receipt of an owner's notification of entry into a contract shall in no way impair the unit owner's right to proceed with the transfer of encumbrance of his unit or interest therein. However, the unit owner shall in any case transfer his unit or interest only in strict adherence with the terms and conditions of the contract as to which he has given notice. No subsequent material modification of the terms of any lease, bond, note, mortgage, or other conveyance of any interest shall be permitted except with the prior written consent of the Council. Any transfer or conveyance which violates the provisions restricting same shall be subject to the right of the Council or its assignee, within sixty (60) days after Council has discovered this violation, to acquire the unit or interest from the then owner thereof but such right shall in no event extend for a period longer than one (1) year from the date of the violation.

If on the other hand, the Council is directed to make the acquisition, or if its right of first refusal is assigned, then as soon as practicable, and in all events within thirty (30) days after its receipt of the proposed contract either the Council or its assigns shall enter into a binding agreement with the unit owner who posted such contract, which agreement shall contain all the terms and conditions of the posted contract except that the Council or its assigns shall be permitted to sublease or otherwise transfer its interest in the unit without the unit owner's consent, and except that Council shall not be required to comply with terms of a personal nature, including but not limited to terms calling for an exchange of property not owned by Council, but in lieu of any such bona fide terms Council shall substitute payment in money equal to the fair market value of the personal terms. Settlement shall be held in accordance with the posted contract, and time shall be of the essence, except that in no event shall the Council or its assigns be required to settle sooner than twenty (20) days after the unit owners' vote if taken. In the event that Council or its assigns shall default in performance of the contract, then the unit owner involved shall, in addition to his remedies at law, be entitled to transfer or encumber his unit without restriction at any single time within 180 days next following such default.

If the Council is duly directed to acquire a unit, the Council shall make the acquisition in its name and the cost thereof shall be assessed against all unit owners as a common expense.

The restriction on transfer of a unit herein described shall not apply to any unit standing in the name of the Council.

## **2. *By Purchase at Unrestricted Sale.***

(a) The Council may, if authorized by a unit owner vote of ninety percent (90%) or more of the votes cast, acquire by purchase as a common expense any unit offered for sale under circumstances constituting an exception to the restrictions on transfer contained in the Henlopen Declaration.

(b) The Council may, if authorized by unit owner vote of a majority of the votes cast, acquire by purchase as a common expense any unit offered for sale under circumstances making its acquisition necessary in order to protect the Council's lien for unpaid assessments thereon.

## **3. *Power to Borrow on and Dispose of Units.***

The Council may, if authorized by a majority of the unit owners, borrow money to accomplish any of the aforesaid acquisitions. Management and disposition of any unit or units standing in the Council's name may be accomplished by the Council without prior authorization of the unit owners.

# **ARTICLE XIV**

## **SUIT BY AND AGAINST UNIT OWNERS**

The Council shall have the sole and exclusive right as a common expense, to bring, prosecute, settle, arbitrate and defend claims, suits, governmental proceedings and other actions of a legal nature brought by or against all of the unit owners or the Council, or which could have been brought by or against ninety percent (90%) of the unit owners or more, or the Council. Any person or entity wishing to bring suit against all of the unit owners is authorized to effectuate service thereon by serving any member of the Council, provided, however, that the person or entity so making service shall thereby be deemed to consent and agree that the liability of each unit owner as to any judgment subsequently rendered against the unit owners shall be limited to his percentage interest in the common elements multiplied times the judgment, and further, as to any unit owner not a resident of the State of Delaware, that such service shall be sufficient to establish only in rem jurisdiction and not personal jurisdiction, the same as if the unit of such non-resident had been attached. Council shall within seven (7) days after being requested to sue or defend by any unit owner, either consent to such request in writing or else waive the exclusive right to sue or defend in writing; except that said seven (7) day period may be extended to twenty (20) days if Council desires to and does call a meeting of the unit owners to consider such request. Upon waiver by Council of its exclusive right to sue or defend with respect to any particular situation, any unit owner may proceed, alone or with others, to sue or defend on his own or their own behalf. Any judgment which is rendered against one or more, but less than all, of the unit owners for a liability which would have supported entry of judgment against the Council or all unit owners, shall be deemed a common expense and shall be borne by all of the unit owners.

## ARTICLE XV

### SECURITY REQUIREMENTS

#### **1. *Controlled Entry to the Condominium.***

(a) Whereas the Council cannot guarantee the safety of persons or property on the condominium premises, it shall be the responsibility of the Council to establish procedures for the reasonable control of entry into the condominium limited to unit owners, guests, tenants and other authorized occupants, authorized tradespersons and other business personnel engaged in legitimate activities incident to the operation of the condominium or related to any unit therein. The Council shall provide for security personnel to implement such controlled entry, provide for a security-key system and establish procedures to facilitate its operation.

(b) Permanent key(s) security devices for entry into the garage and other entrances into the condominium will be furnished to each unit owner through the Building Manager's office in accordance with the procedures established, and will be recorded with the numbers of the security device(s) so issued to identified persons. Temporary security devices shall be issued to all other authorized unit occupants and shall be similarly recorded. Security devices will be issued to authorized tenants upon payment of an established deposit, refundable upon return of the key(s), and such issuance will be recorded in like manner.

(c) No unit owner shall make the security devices issued to him or her available to any other person for use when the owner is not in residence. Any legitimate requirement for the issuance of a security key to a guest, tenant, or other occupant of a unit authorized by the unit owner, or to any authorized tradesperson or other business personnel, shall be accommodated by the recorded issuance of such security devices by the Building Manager's office in accordance with (b) above.

(d) These requirements are critical to the effectiveness of the security procedures of the condominium in the best interests of all unit owners, since they provide for the Building Manager to verify that all users of units of unit owners have been properly authorized by a unit owner.

#### **2. *Unit Entry Register.***

(a) As provided in Article X (2)(b), a Unit Entry Register will be maintained in the Building Manager's office to record any entry into an unoccupied unit by any Council Member, condominium employee, guest of a unit owner, or authorized trade or business personnel, identifying the emergency or other purpose of such entry, the person entering, and the authorization for such entry. The Unit Entry Register will be available to the inspection of each unit owner, as it pertains to the owner's unit.

(b) To facilitate the effectiveness of the Unit Entry Register as an instrument for enhancing the security of the owners' units, it shall be the responsibility of each unit owner to advise the Building Manager of any authorization given by the unit owner for entry into the owner's unit during the unit owner's absence for any occupancy, or for any repair, custodial, or other purpose. When possible, written notice should be furnished. In the absence thereof, a telephoned notice must be given to the Building Manager, who will record such notice as authorization received for entry into the unit, and for issuance of security device(s) to the unit

as required to the authorized person.

(c) As provided at Article X (2)(b), each unit owner is required to furnish to the Building Manager a security device(s) for all locks on the entry door of the unit owner's unit. Such security devices shall remain in the custody of the Building Manager in accordance with the Council's statutory easement for emergency and other required entry as described herein. Any unit owner desiring the Building Manager to furnish unit key(s) or security device(s) to an authorized occupant shall provide an additional set of key(s) or security device(s) to the Building Manager for this purpose.

(d) The Unit Entry Register and procedures are not intended for recording the stay of renters to whom the unit owner had leased his or her unit, since the copy of the lease received by the Building Manager in advance of the rental period, as provided at Article IX, (2)(b), will serve as the required evidence of the owner's authorization for the use of the unit, and such use will be recorded in the separate tenant registry. The Building Manager must, however, be advised in advance by the unit owner of the use of the owner's unit by guests or other occupants to provide the assurance of their authorized presence necessary for issuance of security and/or unit key(s) or security devices. The fact that such persons arrive with key(s) or security devices to a unit in their possession does not, in the absence of such notice to the Building Manager, assure they are legitimate holders of such key(s) or security device(s).

(e) If the Building Manager has not received appropriate notice of authorized entry by any person into a unit, it shall be the duty of the Building Manager to deny entry into the unit by such person after a reasonable effort to contact the owner.

(f) As cited in Section 1 (d), above, the availability to the Building Manager of advance evidence of the authorizations of all users to of a unit owner's unit is critical to the effectiveness of the condominium's security efforts for the protection of all unit owners.

### ***3. Compromise of Security Entrances; Adherence to Security Regulations.***

(a) Any action taken to circumvent the security locking of any entrance door to the condominium by blocking or otherwise preventing such doors to lock is a serious violation of security procedures designed for the protection of all unit owners and their properties, as well as for the common areas. Violators shall be liable for any damage or harmful action to persons or property resulting from any unauthorized entry as a consequence of such violation.

(b) The Council shall pursue every available action at law or in equity for injunctive and other relief or remedy to assure adherence to all security requirements, as provided by the Delaware Unit Property Act (25 Del. C. Section §2210).

### ***4. Garage - Parking Restrictions.***

One parking space in the condominium garage is available to each unit owner. In periods of less than full occupancy unit owners having more than one vehicle will be permitted to park the additional vehicle in the garage provided, that the unit owner shall notify the Building Manager of such additional vehicle, with its identification and further provided, that such extra vehicle must be removed immediately upon notification of space need by the Building Manager or members of the guard staff. In periods of high occupancy, when parking permits are required for all vehicles parked in the garage, the restriction to one parking space per unit owner will be strictly enforced. Violators will be solely responsible for

the cost and any hardship occasioned by the necessity for enforcement actions, such as towing, booting, or other immobilization of the unauthorized vehicles.

## ARTICLE XVI

### COMPLIANCE WITH CODE OF REGULATIONS AND ADMINISTRATIVE PROVISIONS; DUE PROCESS PROCEDURES

#### **1. *Compliance with Code of Regulations.***

(a) "Each unit owner shall comply with the code of regulations and with such rules governing the details of the use and operation of the property and the use of the common elements as may be in effect from time to time and with the covenants, conditions and restrictions set forth in the Henlopen Declaration or in the deed to his unit or in the declaration plan." (Title 25, Chapter 22 of the Delaware Code (Unit Property Act), provides at Section § 2209)

(b) "Failure to comply with the code of regulations and with such rules governing the details of the use and operation of the property and the use of the common elements as may be in effect from time to time and with the covenants, conditions and restrictions set forth in the Henlopen Declaration or in deeds of units or in the declaration plan shall be grounds for an action for the recovery of damages or for injunctive relief or both maintainable by any member of the council on behalf of the council or the unit owners or in a proper case by an aggrieved unit owner or by any person who holds a mortgage lien upon a unit and is aggrieved by any such noncompliance." (25 Del. C. Section §2210)

(c) Costs resulting to the Council through initiation of legal action and the pursuit thereof against an owner for enforcement of the provisions of the Henlopen Declaration, the Code of Regulations, the Henlopen Declaration Plan, Rules of Conduct or any covenant, condition, obligation or restriction, shall be assessed against the unit of that owner, as provided under Article IX (8).

#### **2. *Due Process Procedures.***

Any unit owner who feels that he or she is aggrieved by any of the provisions herein or by their application in the owner's instance; or by the provisions or application of any of the governing documents of THE HENLOPEN; or by any action or omission of the Council or its employees or agents, may address his or her concern in writing for resolution to the President of the Council. Such correspondence should describe with the greatest practicable specificity the nature and substance of the owner's concern, and should describe the action or actions desired for correction. The President shall reply to the owner in writing, within fourteen (14) days identifying his consideration of the grievance presented in an effort to resolve the matter, and the action or actions taken if any. If the President's response is not satisfactory to the owner, the owner may make a written request to the Council through the Secretary for the opportunity to make a personal presentation of the grievance to the Council in as timely a manner as is possible at a regular Council meeting. Such opportunity will be provided to the owner who will be advised of the date of the next scheduled Council meeting, and of a time at which the owner may meet with the Council during that meeting. Thereafter the Council shall expeditiously advise the owner in writing through the Secretary of the Council's determination(s). There is no administrative appeal to the Council's final decision.

## ARTICLE XVII

### MISCELLANEOUS

#### **1. *Invalidity.***

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

#### **2. *Waiver.***

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

#### **3. *Gender.***

The use of the masculine gender in this Code of Regulations shall be deemed to refer to not only the masculine gender but to the feminine gender as well. The use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

#### **4. *Laws of Delaware.***

This Code of Regulations shall be governed by the Laws of the State of Delaware.

#### **5. *Headings.***

The headings herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Code of Regulations, or the intent of any provision thereof.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, The Henlopen Condominium Council, Inc., by and through its governing Council, has caused these presents to be signed by its President and its corporate seal to be hereunto affixed, attested by its Resident Manager on this 6<sup>th</sup> day of April A.D. 2011.

**THE HENLOPEN CONDOMINIUM COUNCIL, INC.**

By: [Signature]  
Frederic G. Berner, Jr., President

(Corporate Seal)

Attest: [Signature]  
Jerry B. Ligouri, Resident Manager

STATE OF DELAWARE :  
: SS.  
COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 6<sup>th</sup>, day of April, A.D. 2011, personally came before me, The Subscriber, a Notary Public for the State and County aforesaid, Frederic G. Berner, Jr., President of The Henlopen Condominium Council, Inc., a corporation of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and Deed, and the act and Deed of the said corporation; that the signature of the President is in his own proper handwriting; that the seal affixed is the common and corporate seal of the said corporation duly affixed by its authority; and that the act of signing, sealing, acknowledging and delivering the said Indenture was first duly authorized by the Council of the said corporation.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.



Notary Public: Jennifer Hope Klein  
Type or Print Name of Notary: Jennifer Hope Klein  
Commission Expires: 1-12-12