

**BYLAWS  
OF  
PIER 3  
CONDOMINIUM ASSOCIATION**



INDEX

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ARTICLE 1

INTRODUCTORY PROVISIONS

**1.01 APPLICABILITY.** These Bylaws provide for the governance of the Association pursuant to the requirements of Section 3306 of the Act with respect to the Condominium created by the recording on September 6, 1986 of the Declaration of Condominium in the office of the Department of Records in and for Philadelphia County, Pennsylvania in Deed Book FHS 566, at page 474, said Declaration having been amended and restated pursuant to an Amended and Restated Declaration of Condominium recorded in said Department of Records on \_\_\_\_\_, 1994 in Deed Book \_\_\_\_\_ at page \_\_\_\_\_.

**1.02 DEFINITIONS.** Capitalized terms used herein without definition shall have the meanings specified for such terms in the Declaration to which these Bylaws pertain or, if not defined therein, the meanings specified or used for such terms in the Act.

**1.03 COMPLIANCE.** Every Unit Owner and all persons entitled to occupy a Unit shall comply with these Bylaws. The acceptance of a deed to any Unit and/or the entering into occupancy or use of any Unit shall constitute (i) an acceptance and ratification of these Bylaws and the Declaration, and (ii) an agreement to be bound by and comply with the provisions of these Bylaws and the Declaration as either or both may, from time to time, be amended.

**1.04 OFFICE.** The office of the Condominium, the Association and the Executive Board shall be located at the Property or at such other place in the Commonwealth of Pennsylvania as may be designated from time to time by the Executive Board.

ARTICLE 2

THE ASSOCIATION

**2.01 COMPOSITION.** The Association has been organized as a Pennsylvania non-profit corporation. The membership of the Association shall consist of all Unit Owners acting as a group in accordance with the Act, the Declaration and these Bylaws. The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium and performing all of the other acts that may be required or permitted to be performed by the Association pursuant to the Act, the Declaration and the Association's Articles of Incorporation. Subject to the provisions of the Act, the foregoing responsibilities shall be performed by the Executive Board, or any Managing Agent retained for such purpose by the Executive Board as more particularly set forth in these Bylaws. Upon becoming a Unit Owner, such person, firm, partnership, corporation, association or other entity shall automatically become a member of the Association and shall remain a member thereof until he shall cease to be a Unit Owner. The foregoing shall not include persons or entities who hold an interest in a Unit merely as security for the performance of an obligation.

**2.02 ANNUAL MEETINGS.** The annual meetings of the Association shall be held on any day during the first fifteen (15) days of April of each year which is not a holiday. At such annual meetings the members of the Executive Board shall be elected by ballot of the Unit Owners in accordance with the requirements of Section 3.04 of these Bylaws (subject to the provisions of Article VIII of the Declaration dealing with Declarant Control) and such other business as may properly come before the meeting may be transacted.

**2.03 PLACE OF MEETINGS.** Meetings of the Association shall be held at such suitable place in the Commonwealth of Pennsylvania convenient to the Unit Owners as may be designated by the Executive Board.

## 2.04 SPECIAL MEETINGS.

(1) The President shall call a special meeting of the Association if so directed by resolution of the Executive Board or upon petition signed and presented to the Secretary by Unit Owners entitled to cast at least twenty percent (20%) of the votes in the Association. The notice of any special meeting shall state the time, place and purpose thereof. Such meeting shall be held within thirty (30) days after receipt by the President of said resolution or petition. No business shall be transacted at a special meeting except as stated in the notice.

(2) Within sixty (60) days after conveyance of twenty-five percent (25%) of the Units to Unit Owners other than Declarant, a special meeting of the Association shall be held at which the Unit Owners other than Declarant shall have the right to elect two (2) members of the Executive Board, to serve together with the three (3) members of the first Executive Board designated by Declarant, and such five (5) members shall serve until the meeting of the Association described in Section 2.04(3) hereof.

(3) Within one hundred eighty (180) days after conveyance of seventy-five percent (75%) of the Units to Unit Owners other than Declarant, a special meeting shall be held at which all of the then members of the Executive Board shall resign, and the Unit Owners, including the Declarant if the Declarant owns one or more Units, shall thereupon elect successor members of the Executive Board to act in the place and stead of those resigning. Such successor members shall serve until the next annual meeting of the Association.

(4) Notwithstanding the foregoing, if any meeting required pursuant to subparagraphs (2) or (3) above could be held on the date an annual meeting of the Association is scheduled, then such meeting shall be held concurrently with such annual meeting.

2.05 NOTICE OF MEETINGS. The Secretary shall give to each Unit Owner written notice of each annual or regularly scheduled meeting of the Association, and of each special meeting of the Unit Owners, at least ten (10) but not more than sixty (60) days prior to such meeting, stating the time, place and purpose thereof. The giving of written notice of meeting in the manner provided in this Section and Section 8.01 of these Bylaws shall be considered service of notice. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any budget or assessment changes, and any proposal to remove an Executive Board member or officer.

2.06 ADJOURNMENT OF MEETINGS. If at any meeting of the Association a quorum is not present, Unit Owners entitled to cast a majority of the votes represented at such meeting may adjourn the meeting to a time not less than seventy-two (72) hours after the time for which the original meeting was called.

2.07 VOTING. The voting rights of Unit Owners shall be computed on the basis of each Unit Owner's Percentage Interest. The number of votes which each Unit Owner shall be entitled to cast at any meeting of the Association shall be determined by multiplying such Unit's Percentage Interest by 10,000, with an aggregate of one million (1,000,000) votes for all Unit Owners. If the Unit Owner is a corporation, joint venture, partnership or unincorporated association, the natural person who shall be entitled to cast the vote for such Unit shall be the person named in a certificate executed by such entity pursuant to its governing documents. If the Unit Owner is a trust, the trustee or trustees shall be deemed to be the owner for voting purposes. Where the ownership of a Unit is in more than one person, the person who shall be entitled to cast the vote of such Unit shall be the person named in a certificate executed by all of the Owners of such Unit and filed with the Secretary or, in the absence of such named person from the meeting, the person who shall be entitled to cast the vote of such Unit shall be the person owning such Unit who is present. If more than one person owning such Unit is present, then such vote shall be cast only in accordance with their unanimous agreement pursuant to Section 3310(a) of the Act. There shall be deemed to be unanimous agreement if any one of the multiple Owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Unit. Such certificate shall be valid until revoked by a subsequent certificate similarly executed. Subject to the requirements of the Act, wherever the approval or disapproval of a Unit Owner is required by the Act, the Declaration or these Bylaws, such approval or disapproval shall be made only by the person who would be entitled to cast the vote of such Unit at any meeting of the Association. Except with respect to election of members of the Executive Board, and except where a greater number is required by the Act, the Declaration or these Bylaws, a vote of fifty-one percent (51%) of the votes of all Unit Owners present in person or by proxy at a duly convened meeting of the Association at which a quorum is present in person or by proxy is required to adopt



decisions by the Association. In all elections for members of the Executive Board, each Unit Owner shall be entitled to cast all of the votes allocated to its Unit for each vacancy to be filled at such election. Those candidates for election receiving the greatest number of votes cast in such elections shall be elected. If the Declarant owns or holds title to one or more Units, the Declarant shall have the right at any meeting of the Association to cast the votes to which such Units are entitled. No votes allocated to a Unit owned by the Association may be cast. No Unit Owner who has defaulted in the payment of his Common Expense Assessments for a period of more than thirty (30) days, shall be entitled to vote in person or by proxy. There shall be no cumulative or class voting.

**2.08 PROXIES.** A vote may be cast in person or by proxy. If a Unit is owned by more than one person, each Owner of the Unit may vote or register protest to the casting of votes by the other Owners of the Unit through a duly executed proxy. Such proxy may be granted by any Unit Owner in favor of only another Unit Owner, a holder of a mortgage on the Unit, or the Declarant. All proxies (i) shall be duly executed in writing; (ii) shall be valid only for the particular meeting designated therein; (iii) must be filed with the Secretary before the appointed time of the meeting; (iv) shall be deemed revoked only upon actual receipt by the person presiding over the meeting of written notice or revocation from the grantor(s) of the proxy; (v) shall not be valid for a period in excess of eleven (11) months after the execution thereof; and (vi) shall be void if it is not dated or purports to be revocable without notice.

**2.09 QUORUM.** Except as set forth below, the presence at the commencement of a meeting in person or by proxy of those of Unit Owners holding at least twenty percent (20%) of the votes in the Association which may be cast for the election of the Executive Board shall constitute a quorum at all meetings of the Association. If a meeting is adjourned pursuant to Section 2.06 above, a quorum at any rescheduled meeting shall be deemed present throughout such meeting of the Association if each Unit Owner is given at least forty-eight (48) hours' prior notice of such meeting, and if persons entitled to cast ten percent (10%) of the votes which may be cast for the election of the Executive Board are present in person or by proxy at the beginning of the meeting.

**2.10 CONDUCT OF MEETINGS.** The President (or in his absence, the Vice-President) shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Declaration, these Bylaws or the Act. All votes shall be tallied by tellers appointed by the officer presiding over the meeting.

**2.11. AGREEMENTS IN LIEU OF MEETING.** The Unit Owners may, at the discretion of the Executive Board, elect members of the Executive Board by mailed-in ballots in lieu of an election meeting, and may otherwise act by written agreement in lieu of a meeting, provided that written notice of the matter or matters to be determined by such Unit Owners is given to each Unit Owner at the addresses and within the time periods set forth in Sections 2.05 and 8.01 hereof. Any determination as to the matter or matters to be determined pursuant to such notice by the number of persons that would be able to determine the subject matter at a meeting shall be binding on the Association. Any such notice shall set forth a time period during which time a response may be made thereto and shall be filed with the Secretary of the Association.

### ARTICLE 3

#### EXECUTIVE BOARD

**3.01 NUMBER AND QUALIFICATION.** The affairs of the Association shall be governed by an Executive Board, which shall at all times be composed of natural persons. The first Executive Board shall consist of three (3) persons, and Declarant shall have the right to designate any and all officers and members of the first Executive Board. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units to Unit Owners other than Declarant, the Executive Board shall be expanded to five (5) members, and two (2) of the five (5) members shall be elected by Unit Owners other than Declarant. Each successive Executive Board shall be composed of five (5) members. Beginning with the election of the members described in Section 2.04(3) hereof, and at all times thereafter, at least three (3) members of the Executive Board shall be Unit Owners. The natural persons named in a certificate filed by an entity pursuant to Section 2.07 as having the right to vote on behalf of such entity, and the trustee of a trust which owns a Unit, shall be deemed Unit Owners for purposes of serving as member(s) of the Executive Board. Members of the Executive Board who are appointed by Declarant need not be Unit Owners.

**3.02 POWERS AND DUTIES OF EXECUTIVE BOARD.** The Executive Board shall have all of the powers and duties necessary for the administration of the affairs of the Association as required under the Act and the Declaration.

**3.03 DELEGATION OF POWERS; MANAGER.** The Executive Board may employ for the Condominium a Manager at a reasonable compensation established by the Executive Board. The Manager shall perform such duties and services as the Executive Board shall authorize, including, but not limited to, all of the duties listed in the Act, the Declaration and these Bylaws; provided, however, that where a Manager does not have the power to act under the Act, the Declaration or these Bylaws, such duties shall be performed as advisory to the Executive Board. The Executive Board may delegate to the Manager all of the powers granted to the Executive Board by the Act, the Declaration and these Bylaws other than the following powers:

- Expenses; (1) to adopt the annual budgets and any amendments thereto or to assess any Common
- (2) to adopt, repeal or amend Rules and Regulations;
- accounts; (3) to designate signatories on Association bank
- (4) to borrow money on behalf of the Association;
- (5) to acquire and mortgage Units or to mortgage Common Elements; or
- (6) to elect members of the Executive Board and/or officers of the Association.

Any contract with the Manager shall provide that it may be terminated by the Association without cause on no more than ninety (90) days' written notice. The term of any such contract shall be for one (1) year, and may be renewable on a year-to-year basis.

**3.04 ELECTION AND TERMS OF OFFICE.**

(1) Subject to Article VIII of the Declaration, the election of the Executive Board shall be held at the annual meetings of the Association. The term of office of any member of the Executive Board to be elected (except as set forth in Sections 2.04(2), 2.04(3) and 3.05 hereof) shall be fixed at two (2) years. The members of the Executive Board shall hold office until the earlier to occur of the election of their respective successors or their death, adjudication of incompetency, removal, or resignation. A member of the Executive Board may serve an unlimited number of terms and may succeed himself.

(2) Subject to the provisions of Section 3.05 hereof, persons qualified to be members of the Executive Board may be nominated for election only by the submission to the Secretary, by any Unit Owner, at least thirty (30) days before the meeting at which the election is to be held, of a nominating petition signed by Unit Owners owning in the aggregate at least ten (10) Units, together with a statement that the person nominated is willing to serve on the Executive Board and a biographical sketch of the nominee; provided, that if nominating petitions are not so received for each vacancy on the Executive Board, then nominations for that number of positions as to which petitions have not been received may be taken from the floor at the election meeting. The Secretary shall mail or hand deliver materials submitted in accordance with the foregoing provisions to every Unit Owner along with the notice of such meeting; and

**3.05 REMOVAL OR RESIGNATION OF MEMBERS OF THE EXECUTIVE BOARD.** Except with respect to members designated by Declarant, at any regular or special meeting of the Association duly called, any one or more of the members of the Executive Board may be removed with or without cause by Unit Owners entitled to cast a majority of all votes in the Association and a successor may then and there be elected to fill the vacancy thus created. Any Unit Owner proposing removal of a member shall give notice thereof to the Secretary. Any member whose removal has been proposed by a Unit Owner shall be given at least ten (10) days' notice by the Secretary of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A member of the Executive

Board may resign at any time and, if such member is a Unit Owner, shall be deemed to have resigned upon transfer of title to his Unit. Declarant shall have the exclusive right to remove and replace any or all members appointed by Declarant at any time and from time to time until the required resignation date specified in Article IX of the Declaration.

**3.06 VACANCIES.** Except as set forth in Section 3.05 above with respect to members appointed by Declarant, vacancies in the Executive Board caused by any reason other than the removal of a member by a vote of the Unit Owners shall be filled by a vote of a majority of the remaining members of the Executive Board at a special meeting of the Executive Board held for such purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Executive Board for the remainder of the term of the member being replaced and until a successor shall be elected at the next annual meeting of the Association at which such seat is to be filled upon expiration of the term of his predecessor. In the case of multiple vacancies, the member receiving the greatest number of votes shall be elected for the longest term.

**3.07 ORGANIZATION MEETING.** The first meeting of the Executive Board following each annual meeting of the Association, shall be held within ten (10) days thereafter at such time and place as shall be fixed by the President (even if he is the outgoing President) at the meeting at which such Executive Board shall have been elected, and no notice shall be necessary to the newly elected member of the Executive Board in order legally to constitute such meeting, if a majority of the members of the Executive Board shall be present at such meeting.

**3.08 REGULAR MEETINGS.** Regular meetings of the Executive Board may be held at such time and place as shall be determined from time to time by a majority of the members, but such meetings shall be held at least once every four (4) months during each fiscal year. Notice of regular meetings of the Executive Board shall be given to each member, by mail or telecopy, at least seven (7) business days prior to the day named for such meeting.

**3.09 SPECIAL MEETINGS.** Special meetings of the Executive Board may be called by the President on at least three (3) business days' notice to each member, given by mail or telecopy, which notice shall state the time, place and purpose of the meeting. Special meetings of the Executive Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) members of the Executive Board. All meetings of the Executive Board shall be held at such suitable place in Philadelphia, Pennsylvania and convenient to the Board members as may be designated by the President.

**3.10 WAIVER OF NOTICE.** Any member may at any time, in writing, waive notice of any meeting of the Executive Board, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any meeting of the Executive Board shall constitute a waiver of notice by him of the time, place and purpose of such meeting. If all members are present at any meeting of the Executive Board, no notice shall be required and any business may be transacted at such meeting.

**3.11 QUORUM OF THE EXECUTIVE BOARD.** At all meetings of the Executive Board a majority of the members shall constitute a quorum for the transaction of business, and the votes of a majority of the members present at a meeting at which a quorum is present shall constitute the decision of the Executive Board. If at any meeting of the Executive Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such rescheduled meeting at which a quorum is present, any business which might have been transacted at the meeting originally called can be transacted without further notice. One or more members of the Executive Board shall be entitled to participate in and be counted for quorum purposes at any meeting by means of conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other.

**3.12 COMPENSATION.** No member of the Executive Board shall receive any compensation from the Association for acting as such, but may be reimbursed for any out-of-pocket expenses incurred in the performance of his duties.

**3.13 CONDUCT OF MEETINGS.** The President shall preside over all meetings of the Executive Board and the Secretary shall keep a minute book of the Executive Board's meetings, recording therein all resolutions adopted by the Executive Board and a record of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Executive Board if and to the extent not in conflict with the Declaration, these Bylaws or the Act.

3.14 ACTION WITHOUT MEETING. Any action by the Executive Board required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Executive Board shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Executive Board.

3.15 VALIDITY OF CONTRACTS WITH INTERESTED MEMBERS OF THE EXECUTIVE BOARD. No contract or other transaction between the Association and one (1) or more of the members of the Executive Board or between the Association and any corporation, firm or association in which one (1) or more of the members of the Executive Board are directors or officers, or are financially interested, shall be void or voidable because such Board member or members are present at any meeting of the Executive Board which authorized or approved the contract or transaction or because his or their votes are counted, if either (i) the fact that a member of the Executive Board is also such a director or officer or has such financial interest is disclosed or known to the Executive Board and is noted in the minutes thereof, and the Executive Board authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such member or members; or (ii) the contract or transaction is made in good faith and is not unconscionable to the Association at the time it is authorized, approved or ratified.

3.16 INCLUSION OF INTERESTED MEMBERS OF THE EXECUTIVE BOARD IN THE QUORUM. Any member of the Executive Board holding such director or officer position or having such financial interest in another corporation, firm or association may be counted in determining the presence of a quorum at a meeting of the Executive Board or a committee thereof which authorizes, approves or ratifies a contract or transaction of the type described in Section 3.15 hereof.

#### ARTICLE 4

#### OFFICERS

4.01 DESIGNATION. The principal officers of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be members of, and shall be elected by the Executive Board. The Executive Board may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary, and such officers need not be members of the Executive Board. An officer other than the President may hold more than one office.

4.02 ELECTION OF OFFICERS. All officers shall be elected annually by the Executive Board at the organization meeting of each new Executive Board and shall hold office at the pleasure of the Executive Board.

4.03 REMOVAL OF OFFICERS. Except as provided in Article IX of the Declaration, upon the affirmative vote of a majority of all members of the Executive Board, any officer may be removed, either with or without cause, and a successor may be elected at any meeting of the Executive Board called for such purpose.

4.04 PRESIDENT. The President shall be the chief executive officer of the Association, preside at all meetings of the Association and of the Executive Board and have all of the general powers and duties which are incident to the office of president of a non-profit corporation organized under the laws of Pennsylvania, including without limitation the power to appoint such committees from among the Unit Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association. The President shall cease holding such office at such time as he ceases to be a member of the Executive Board.

4.05 VICE PRESIDENT. The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Executive Board shall appoint some other member of the Executive Board to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be delegated or assigned him by the Executive Board or by the President. The Vice President shall cease holding such office at such time as he ceases to be a member of the Executive Board.

**4.06 SECRETARY.** The Secretary shall keep the minutes of all meetings of the Association and of the Executive Board, have charge of such books and papers as the Executive Board may direct, maintain a register setting forth the places to which all notices to Unit Owners and holders of mortgages on any Units hereunder shall be delivered and, in general, perform all the duties incident to the office of secretary of a corporation organized under the laws of Pennsylvania. The Secretary shall, upon request, provide any person, or cause to be provided to any person entitled thereto a written statement or certification of the information required to be provided by the Association pursuant to Sections 3315(g), 3407(a) and 3407(b) of the Act and Sections 5.10 and 5.12 below. The Secretary shall cease holding such office at such time as he ceases to be a member of the Executive Board. Except as otherwise provided in the Act, the Declaration or these Bylaws, one or more functions of the Secretary may be delegated to the Manager by the Executive Board.

**4.07 TREASURER.** The Treasurer shall have the responsibility for the safekeeping of Association funds and securities, be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data, and be responsible for the deposit of all monies in the name of the Association, in such depositories located in the Commonwealth of Pennsylvania and insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation as may from time to time be designated by the Board and, in general, perform all the duties incident to the office of treasurer of a corporation organized under the laws of Pennsylvania. The Treasurer shall cease holding such office at such time as he ceases to be a member of the Executive Board. Except as otherwise provided in the Act, the Declaration or these Bylaws, one or more functions of the Treasurer may be delegated to the Manager by the Executive Board.

**4.08 EXECUTION OF DOCUMENTS.** All agreements, contracts, deeds, leases, and recordable instruments shall be executed by the President or the Vice-President, and attested by the Secretary or Assistant Secretary, of the Association. Checks written on the accounts of the Association may be executed by any one (1) officer of the Association who is a member of the Executive Board or by the Manager, if such authority is conferred upon the Manager by the Executive Board.

**4.09 COMPENSATION OF OFFICERS.** No officer who is also a member of the Executive Board shall receive any compensation from the Association for acting as such officer, but may be reimbursed for any out-of-pocket expenses incurred in performing his duties; provided, however, the Secretary and Treasurer may be reasonably compensated for their services if the Executive Board determines such compensation to be appropriate.

## ARTICLE 5

### BUDGETS

**5.01 FISCAL YEAR.** The fiscal year of the Association shall be the calendar year unless otherwise determined by the Executive Board; provided, however, that the first fiscal "year" shall commence at the time when the Executive Board determines that Assessments shall begin, and shall end on the last day of the calendar year during which such commencement date occurs.

#### 5.02 PREPARATION AND APPROVAL OF BUDGET.

(1) On or before the fifteenth (15th) day of November of each year (or forty-five (45) days before the beginning of the fiscal year if the fiscal year is other than the calendar year), the Executive Board shall adopt an annual budget for the Association containing an estimate of the total amount considered necessary during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit Owners of all related services. Such budget shall also include such reasonable amounts as the Executive Board considers necessary to provide a general operating reserve and reserves for contingencies and replacements. The budget shall segregate General Common Expenses and Limited Expenses.

(2) Promptly following the adoption by the Executive Board of the annual budget for the next fiscal year, the Executive Board shall make the budget available for inspection at the Association office and shall send to each Unit Owner a copy of the budget in an itemized form that sets forth the amount of the General Common Expenses and Limited Expenses. Such budget shall constitute the basis for determining each Unit Owner's Annual

Assessments for General Common Expenses and Limited Expenses, and shall automatically take effect at the beginning of the fiscal year for which it is adopted, subject to Sections 5.06 and 5.10 below.

(3) The Executive Board shall make reasonable efforts to meet the deadline set forth in Section 5.02(1) above, but compliance with such deadline shall not be a condition precedent to the effectiveness of any budget.

#### 5.03 ASSESSMENT AND PAYMENT OF GENERAL COMMON EXPENSES AND LIMITED EXPENSES.

(1) **GENERAL COMMON EXPENSES AND LIMITED EXPENSES.** The Executive Board shall calculate the Annual Assessment for General Common Expenses and Limited Expenses against each Unit by multiplying (i) the total amount of the estimated funds required for the operation of the Common Elements and Limited Common Elements and reserves set forth in the budget adopted by the Executive Board for the fiscal year in question, by (ii) the Percentage Interest (expressed in decimal form) allocated to such Unit. All Annual Assessments shall be deemed to have been adopted and assessed on a monthly basis payable on the first day of each calendar month, and shall be a lien against each Unit Owner's Unit as provided in the Act and the Declaration. Any net shortage with regard to General Common Expenses or Limited Expenses, after application of such reserves as the Executive Board may determine, may be assessed promptly against the Unit Owners as provided below and may be payable in one or more monthly assessments, or may be included within the budget for the subsequent fiscal year, as the Executive Board may determine.

(2) **NON-BUDGETED LIMITED EXPENSES.** The Executive Board shall make Special Assessments for non-budgeted Limited Expenses against each Unit Owner liable for such Limited Expenses no later than thirty (30) days after the Limited Expenses are incurred by the Association on such Unit Owner's behalf. Such Limited Expense Special Assessments shall become payable with the next monthly Regular Assessment which is due more than ten (10) days after the delivery of notice of the Special Assessment, unless otherwise specified in such notice. Such Assessments shall be a lien against the assessed Owner's Unit, as of the effective date of the assessment, as provided in the Act and the Declaration.

(3) **ITEMIZED ACCOUNTING.** Within ninety (90) days after the end of each fiscal year, the Executive Board shall cause the Association's independent auditor to prepare an itemized, audited financial statement which shall include, among other things, the General Common Expenses and Limited Expenses and funds received during such fiscal year less expenditures actually incurred and sums paid into reserves. Such financial statements shall be available for inspection by all Unit Owners and their mortgagees.

(4) **RESERVES.** The Executive Board shall build up and maintain such reserves as it deems adequate for operations, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year may, at the discretion of the Executive Board, be charged first against such reserves. If the reserves are deemed to be inadequate for any reason, including non-payment of any Unit Owners' Annual Assessments, the Executive Board may at any time levy Special Assessments for General Common Expenses and/or Limited Expenses, which shall be assessed against the appropriate Unit Owners either (i) according to their respective Percentage Interests with regard to Common Expenses, or (ii) in accordance with allocable shares of Limited Expenses with regard to Limited Expenses, and shall be payable in one or more monthly installments as the Executive Board may determine.

5.04 **FURTHER ASSESSMENTS.** The Executive Board shall serve notice on all affected Unit Owners of any Special Assessments pursuant to Sections 5.03(1), and 5.03(4) hereof or otherwise as permitted or required by the Act, the Declaration and these Bylaws by a statement in writing giving the amount and reasons therefor, and Special Assessments shall, unless otherwise specified in the notice, become payable with the next regular monthly payment of the Annual Assessment which is due more than ten (10) days after the delivery of such notice of Special Assessments. All Unit Owners so assessed shall be obligated to pay the amount of such Special Assessments. Such Special Assessments shall be a lien as of the effective date of the assessment, as provided in the Declaration and the Act.

5.05 **INITIAL BUDGET.** At or prior to the time assessment of Common Expenses commences, the Executive Board shall adopt the budget, as described in this Article, for the period commencing on the date the Executive Board determines that assessments shall begin and ending on the last day of the fiscal year during which such

commencement date occurs. Assessments shall be levied and become a lien against the Unit Owners during such period as is provided in Section 5.03(1) above.

**5.06 EFFECT OF FAILURE TO PREPARE OR ADOPT BUDGET.** The failure or delay of the Executive Board to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his share of the General Common Expenses and/or Limited Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay monthly its installment of the Annual Assessment at the rate established for the previous fiscal year until the new annual or adjusted budget shall have been adopted.

**5.07 ACCOUNTS; AUDITS.** All sums collected by the Executive Board with respect to Annual Assessments and Special Assessments against the Unit Owners or from any other source may be commingled into a single fund. The Executive Board shall maintain all books and records of the Association, and such books and records shall be kept in accordance with generally accepted accounting principles, and the same shall be audited at least once each year by an independent accountant retained by the Executive Board.

**5.08 REJECTION OF BUDGET AND CAPITAL EXPENDITURES.** Anything herein to the contrary notwithstanding, the Unit Owners, by majority vote of all votes in the Association, may reject any budget or capital expenditure approved by the Executive Board within thirty (30) days after approval of such budget or capital expenditure by the Executive Board. Notice of any capital expenditures approved by the Executive Board and not set forth in the annual budget shall be promptly given to the Unit Owners.

**5.09 STATEMENT OF COMMON EXPENSES AND LIMITED EXPENSES.** The Executive Board shall promptly provide any Unit Owner, contract purchaser or proposed or actual Mortgagee so requesting the same in writing with a written statement of all unpaid Annual and Special Assessments for General Common Expenses and Limited Expenses due from such Unit Owner. The Executive Board may impose a reasonable charge for the preparation of such statements to cover the cost of its preparation, to the extent permitted by the Act.

## ARTICLE 6

### COMPLIANCE AND DEFAULT

**6.01 RELIEF.** Each Unit Owner shall be governed by, and shall comply with, all of the terms of the Declaration, these Bylaws, the Rules and Regulations and the Act, as any of the same may be amended from time to time. In addition to the remedies provided in the Act and the Declaration, a default by a Unit Owner shall entitle the Association, acting through its Executive Board or through the Managing Agent, to the following relief:

(1) **ADDITIONAL LIABILITY.** Each Unit Owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or the act, neglect or carelessness of his tenants, guests, patients, invitees or licensees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Executive Board. Such liability shall include any increase in casualty insurance premiums occasioned by improper use, misuse, occupancy or abandonment of any Unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.

(2) **COSTS AND ATTORNEY'S FEES.** In any proceedings arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorney's fees as may be determined by the Court.

(3) **NO WAIVER OF RIGHTS.** The failure of the Association, the Executive Board or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, these Bylaws, the Rules and Regulations or the Act shall not constitute a waiver of the right of the Association, the Executive Board or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Executive Board or any Unit Owner pursuant to any term, provision, covenant or condition of the Declaration, these Bylaws, the Rules and Regulations or the Act 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 other privileges as may be granted to such party by the Declaration, these Bylaws, the Rules and Regulations or the Act or at law or in equity.

(4) **ABATING AND ENJOINING VIOLATIONS BY UNIT OWNERS.** The violation of any of the Rules and Regulations adopted by the Executive Board, the breach of any Bylaw contained herein or the breach of any provision of the Declaration or the Act shall give the Executive Board the right, in addition to any other rights, to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

## ARTICLE 7

### AMENDMENTS

**7.01 AMENDMENTS TO BYLAWS.** The Declaration and these Bylaws may be modified or amended only by vote of the Unit Owners entitled to cast sixty-seven percent (67%) of the votes in the Association, except when a greater number of votes is required herein or in the Declaration or pursuant to the terms of the Act, and except where certain rights to amend are reserved to Declarant in accordance with the Act. Until the date on which all Declarant-appointed members of the Executive Board voluntarily resign or are required to resign pursuant to Article IX of the Declaration, Section 2.04, Section 3.01, and this Section 7.01 may not be amended without the consent in writing of Declarant. Additionally, if any amendment is necessary in the judgment of the Executive Board to cure any ambiguity or to correct or supplement any provision of these Bylaws that is defective, missing or inconsistent with any other provision hereof, or with the Act or the Declaration, or if such amendment is necessary in the judgment of the Executive Board to conform to the requirements of any agency which has established national or regional standards with respect to loans secured by mortgages on units in condominium projects (such as the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation) then, at any time and from time to time the Executive Board may effect an appropriate corrective amendment without the approval of the Unit Owners or the holders of any liens on all or any part of the Property, upon receipt by the Executive Board of an opinion from independent legal counsel to the effect that the proposed amendment is permitted by the terms of this sentence.

**7.03 AMENDMENTS TO THE DECLARATION.** The President or Vice-President, together with any one (1) other officer of the Association may prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

## ARTICLE

### MISCELLANEOUS

**8.01 NOTICES.** All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt requested, postage prepaid (or otherwise as the Act may permit), (i) if to a Unit Owner, at the single address which the Unit Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such Unit Owner, or (ii) if to the Association, the Executive Board or to the Managing Agent, at the principal office of the Managing Agent or at such other address as shall be designated by notice in writing to the Unit Owners pursuant to this Section. If a Unit is owned by more than one person, each such person who so designates a single address in writing to the Secretary shall be entitled to receive all notices hereunder.

**8.02 CAPTIONS.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

**8.03 GENDER.** The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

**8.04 SEVERABILITY.** The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof unless such deletion shall destroy the uniform plan for development and operation of the condominium project which the Declaration and these Bylaws are intended to create.



8.05 CONFLICTS. The Act and the Declaration shall control, in the case of any conflict between the provisions thereof and the provisions of these Bylaws. The Act, the Declaration and these Bylaws shall control in the case of any conflict between the provisions thereof and the provisions of the Rules and Regulations.

8.06 INTERPRETATION. The provisions of these Bylaws shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a Condominium Project. The table of contents, if any, and the captions are intended solely for the convenience of the readers thereof and shall not be deemed relevant in the construction of this instrument.

These Bylaws have been adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1994, by the persons constituting all of the members of the First Executive Board of Pier 3 Condominium Association.

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director