INSURANCE

46. The insurance of the Corporation shall be governed by the following terms:

a) The Board, on behalf of the Corporation, shall obtain and maintain, subject always to the Act, and in particular, Section 47 thereof, the following insurance:

i) Insurance with extended coverage endorsement for such perils as required by the Act (the perils insured against shall be “all risks” as that term is generally understood, the insurance business, of of physical loss or damage) insuring: (A) all of the insurable Common Property; (B) all insurable property of the Corporation, both real and personal of any nature whatsoever; (C) all Owners from time to time: (D) all mortgagees who have given written notice to the Corporation; (E) the Corporation; and (F) the Board of Directors and any referred to in Bylaw 17 hereof (hereinafter collectively called the “insureds”) as their respective interests may appear;

ii) Boiler, vessel and elevator insurance;

iii) Public liability insurance insuring the Insureds against any liability to the public and/or to the Owners and their invitees, licensees or tenants, incidental to the ownership and/or use of the Common Property and such insurance shall be limited to liability in an amount not less than Two Million ($2,000,000.00) Dollars, inclusive for bodily injury and/or property damage per occurrence;

iv) Directors and Officers liability insurance, including errors and omissions coverage, in such amounts and with such deductible as the Board may determine, insuring the Board and every member thereof from time to time and all employees of the Corporation from and against all loss, costs, and expenses, including counsel fees, reasonably incurred by him/her in connection with any action, suit or proceeding to which he/she may be made a party by reason of his/her being or having been a member or officer of the Board except as to matters as to which he/she shall be finally adjudged in such action, suit or proceeding to be liable for fines or penalties imposed in a criminal suit or action or for unjustified profit or advantage or for any wrongful act done or attempted in bad faith or dishonesty or for failing to discharge the duties of the office of a member of the Board honestly and in good faith;

v) Liability insurance for the Corporation arising out of a breach of duty as the occupier of the Common Property;

vi) Liability insurance for the Corporation arising out of the ownership, use or operation of any machinery, equipment, and vehicles;

vii) Such other insurance and coverage for such other risks or causes as the Board may determine or as may be determined by Special Resolution; and

viii) For the purposes of any insurance obtained and maintained by the Corporation pursuant to this Bylaw or pursuant to the Act, it is reasonable in the circumstances of this Corporation for that insurance coverage to contain, among other limitations, exceptions, exclusions or restrictions, a deductible in an amount agreed to by the Board and the insurer. However, if the damage is due to a negligent act or an omission by the owner, an owner shall be responsible to insure and repair and replace the full value of all improvements and betterments to the unit.

b)Each and every said policy of insurance shall name the Insureds and shall, as available and where applicable, provide:

i)that in no event shall insurance coverage be brought into contribution with insurance purchased by any Owner or mortgagee and such Corporation insurance shall be deemed as primary insurance;
ii)standard mortgage endorsements (IBC 3000 or its equivalent) attached to such policy;
iii)that the policy shall be written on a stated amount basis;
iv)a cross liability endorsement wherein the rights of any Insured shall not be prejudiced with respect to another Insured and the insurance indemnifies each insured as if a separate policy had been issued to each Insured; and
v)subject to sub clause (g) below, the Corporation shall obtain and pay for all glass insurance for the Project

c)Annually, the Board shall obtain an appraisal or appraisal update from a duly qualified appraiser setting out the full replacement cost of the Common Property and all property of the Corporation. A copy of such appraisal or appraisal update shall be delivered to each mortgagee who has given written notice of his/her mortgage to the Corporation. The Board shall forthwith obtain insurance coverage under any and all such policies of insurance in accordance with such appraisal or appraisal update to insure the full replacement value as set forth in the appraisal or appraisal update. In addition to such insurance coverage for the replacement value of the Common Property and any other property of the Corporation, the Board shall review and adjust the level of insurance coverage for other risks (INCLUDING liability) to such amounts and levels required by and as would be maintained by an Owner of similar property in the locality in which the common property is situate.

d)A certificate or memorandum of all insurance policies and endorsements thereto shall be provided by the Board, or by the Manager on its behalf, as soon as practicable to each of the Insureds upon written request therefor, and a duplicate original or certified copy of each such policy shall be forwarded as aforesaid to each mortgagee who has in writing notified the Board of its interest. Further, a renewal certificate or memorandum of new insurance policies shall be furnished to each Insured. The Master policy of all insurance coverage shall be retained by the Corporation in its offices, and shall be available for inspection by any and all of the Insureds upon reasonable request.

e)Notwithstanding anything aforesaid, all proceeds shall be paid to the Insurance Trustee (if any) or the Corporation, and exclusive authority to adjust losses and settle proceeds under all insurance policies shall be vested in the Board or its authorized representative, and the Insurance Trustee (if any) and any expenses of the Insurance Trustee (if any) and any expenses of the Insurance Trustee shall be treated as Common Expenses of the Corporation.

f)The Owners may, and upon written request of any mortgagee shall carry insurance on their own Units as permitted by the Act provided that the liability of the insurers issuing insurance obtained by the Board hereunder shall not be affected or diminished by reason of insurance so carried by any Unit Owner AND PROVIDED FURTHER that neither the Corporation nor the Board shall be required or have any duty to insure the interests of Owners or tenants against liability or the interests of tenants or Owners for the value of improvements or betterments, and/or their belongings, contents or other property. The insuring of any contents within a Unit or occupier of the Unit is the sole responsibility of the Owner, tenant, or occupier of the Unit and they shall not require the Corporation or the Board to repair any damage to any contents or personal property within the Unit however caused. Furthermore, damage caused by a negligent act or omission by the unit occupant is the sole responsibility of the Unit Owner, tenant or occupant and they shall not require the Corporation or the Board to repair any damage caused by the negligent act or omission by the Owner or tenant.

g)In the event a claim is made under any insurance policy of the Corporation, and the Board determines that the Owner, through a negligent act or an omission, has caused the loss or damage that gave rise to the claim, the Corporation may recover the deductible portion of the claim from that Owner and such amount shall be recoverable by the Corporation from the Owner for the amount of the deductible and all costs, charges, and liabilities associated therein incurred by the Corporation. In the event that the full cost of the repair and/or replacement of the damage or loss caused by an owner is less than the deductible portion of the insurance policy, the full cost shall be recoverable by the Corporation from that owner.