

**ARTICLE VII**

**INSURANCE**

**Section 1. Authority to Purchase.**

(a) Except as otherwise provided in Section 5 of this Article VII, all insurance policies relating to the Condominium shall be purchased by the Board of Directors. Neither the Board of Directors nor the Managing Agent nor the Declarant shall be liable for failure to obtain any coverages required by this Article VII or for any loss or damage resulting from such failure if such failure is due to the unavailability of required coverages from reputable insurance companies or if the required coverages are available only at a demonstrably unreasonable cost.

(b) All insurance policies required by Article V and by this Article VII shall provide that:

(1) The insurer waives its right of subrogation to any claims against the Board of Directors, the Association, the Managing Agent or the Unit Owners and their respective agents, employees, guests and, in the case of Unit Owners, the members of their households.

(2) Such policy cannot be cancelled, invalidated or suspended on account of the conduct of any member of the Board of Directors, officer or employee of the Board of Directors, a Unit Owner (including his or her invitees, agents and employees) or the Managing Agent without a prior demand in writing that the Board of Directors or the Managing Agent cure the conduct constituting a default under the policy and the allowance of a reasonable time thereafter within which the default may be cured.

(3) Such policy may not be cancelled or substantially modified without at least sixty (60) days prior written notice to the Board of Directors and the Managing Agent and, in the case of physical damage insurance, to all Mortgagees of Units.

(4) The named insured under any such policies shall be the Association or its authorized representative, including any trustee with which the Association may enter into an insurance trust agreement or any successor trustee (any

of the foregoing, the "Insurance Trustee"), who shall be designated in the policy as "Trustee for the Unit Owners of The Crossing Condominium," and who shall have exclusive authority to negotiate losses under these policies. Furthermore, the Declarant, so long as Declarant shall own any Unit, shall be protected by all such policies as a Unit Owner.

(c) All policies of insurance shall be written by reputable companies licensed to do business in the Commonwealth of Virginia and holding a financial size rating of Class XI or better by Best Insurance Reports, if available. Physical damage policies shall be in the form and substance acceptable to Mortgagees.

(d) The coverage provided to the Declarant under the insurance policies obtained in compliance with this Article VII shall not be deemed to protect or be for the benefit of any general contractor engaged by the Declarant against liability for (and shall not waive any rights with respect to) warranty claims.

(e) Such policies shall also provide, to the extent available, that:

(1) The insurer of the Master Policy (as defined in Section 2 of this Article) shall issue to each Unit Owner or his or her Mortgagee a certificate of insurance or subpolicy specifying the portion of the Master Policy allocated to each Unit and the Unit Owner's undivided interest in the Common Elements.

(2) Until the expiration of sixty (60) days after the insurer gives notice in writing to the Mortgagee, the Mortgagee's insurance coverage will not be affected or jeopardized by any action of any Unit Owner, the Board of Directors or any of their agents, employees, lessees, licensees or household members nor cancelled for non-payment of premiums.

(3) The net proceeds of such policies, if greater than Twenty-five Thousand Dollars (\$25,000.00), shall be payable to the Insurance Trustee, if any is designated.

(4) The Master Policy shall contain a standard mortgage clause in favor of each Mortgagee of a Unit to the extent of the portion of the coverage of the Master Policy allocated to such Unit, which shall provide that the loss, if any, thereunder shall be payable to such Mortgagee and the Unit Owner as their respective

interests may appear, subject, however, to the loss payment and adjustment provisions in favor of the Board of Directors and the Insurance Trustee, if one is designated.

(f) The Master Policy shall contain a "no control" clause which states that coverage must not be prejudiced by (a) any act or omission of the Unit Owners when such act or omission is not within the control of the Association or (b) any failure of the Association to comply with any warranty or condition regarding any portion of the Condominium over which the Association has no control.

**Section 2. Physical Damage Insurance.**

(a) The Board of Directors shall obtain and maintain a "master" or "blanket" "all risk" policy of property insurance (the "Master Policy") equal to the full replacement value of the Common Elements (i.e., 100% of current "replacement cost," with a reasonable deductible amount, exclusive of land, foundation, excavation and other items normally excluded from coverage) with an "Agreed Amount Endorsement", which includes all building service equipment, air conditioning equipment and the like, any fixtures or equipment within a Unit, including all kitchen and bathroom fixtures initially installed therein by the Declarant and any replacements thereto installed by the Declarant, but not including furniture, wall coverings, furnishings or other personal property supplied or installed by Unit Owners. Furthermore, a "Demolition and Contingent Liability from Operation of Building Laws Endorsement" and an "Increased Cost of Construction Endorsement" shall be procured as required. The amount of coverage is to be redetermined annually by the Board of Directors with the assistance of the insuring company. The All Risk Policy must afford protection against at least the following:

(1) Loss or damage by fire and other hazards covered by the standard extended coverage endorsement and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm and, to the extent determined at the discretion of the Board of Directors, water damage.

(2) Such other risks as are customarily covered in similar condemnation projects in Northern Virginia.

(b) The All Risk Policy shall also provide:

(1) That despite any provisions giving the carrier the right to elect to restore damage in lieu of a cash settlement, such restoration shall not be exercisable (A) without the prior written approval of the Association (or any Insurance Trustee) or (B) when it conflicts with the provisions of any insurance trust agreement to which the Association may be a party or any requirement of law.

(2) The following endorsements (or equivalent): (i) "no control"; (ii) "contingent liability from operation of building laws or codes"; (iii) "increased cost of construction" or "condominium replacement cost"; and (iv) "agreed amount" or the elimination of any co-insurance clause.

(3) A "no other insurance" clause expressly excluding individual Unit Owners' policies from its operation so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual Unit Owners' policy shall be deemed excess coverage and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees unless required by law.

Section 3. Liability Insurance. The Board of Directors shall obtain and continuously maintain comprehensive general liability, libel, slander, false arrest and invasion of privacy coverage and liability coverage for the acts and omissions of the Association, officers and Directors of the Association, and property damage insurance in a limit no less than One Million Dollars (\$1,000,000.00) per occurrence, insuring the Association, each member of the Board of Directors, the Managing Agent, each Unit Owner, and those entitled to occupy any Unit, against any liability to the public or to the Unit Owners (and their invitees, agents and employees) arising out of or incidental to the ownership and/or use of the Common Elements. Such insurance shall be issued on a comprehensive liability basis and shall contain: (i) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his or her action against another named insured; (ii) hired and non-owned vehicle coverage; (iii) host liquor liability coverage with respect to

events sponsored by the Association; (iv) deletion of the normal products exclusion with respect to events sponsored by the Association; and (v) a "severability of interest" endorsement which shall preclude the insurer from denying liability to a Unit Owner because of negligent acts or omissions of the Association or of another Unit Owner.

The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than One Million Dollars (\$1,000,000.00) covering all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of "umbrella" liability coverage in excess of the primary limits shall also be obtained.

Section 4. Other Insurance. The Board of Directors shall obtain and continuously maintain:

(a) adequate fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and all others who handle, or are responsible for handling, funds of the Association, including the Managing Agent. Such fidelity bonds shall: (i) name the Association as an obligee; (ii) be written in an amount not less than one-half the total annual condominium assessments for the year or the current amount required by the Mortgagees, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, whichever is greatest; and (iii) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression;

(b) if required by any governmental or quasi-governmental agency including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, flood insurance in accordance with the then-applicable regulations of such agency;

(c) workmen's compensation insurance to the extent necessary to meet the requirements of law;

(d) broad-form machinery and pressure vessel explosion insurance in an amount not less than One Hundred Thousand Dollars (\$100,000.00) per accident per location; and

(e) such other insurance as the Board of Directors may determine or as may be required from time to time by a majority of the Unit Owners.

Section 5. Separate Insurance. Each Unit Owner or any tenant of such Unit Owner should, at his or her own expense, obtain additional insurance for his or her own Unit and for his or her own benefit and obtain insurance coverage upon his or her personal property, for any "betterments and improvements" made to the Unit and for his or her personal liability, provided that no Unit Owner or tenant shall acquire or maintain such additional insurance coverage so as to decrease the amount which the Board of Directors, on behalf of all Unit Owners, may realize under any insurance policy which it may have in force for the Condominium at any particular time or to cause any insurance coverage maintained by the Board of Directors to be brought into contribution with such additional insurance coverage obtained by the Unit Owner. All such additional policies shall contain waivers of subrogation. No Unit Owner or tenant shall obtain separate insurance policies, except as provided in this Section 5. Any Unit Owner who obtains individual insurance policies covering any portion of the Condominium other than personal property belonging to such Unit Owner must file a copy of such individual policy or policies with the Board of Directors within thirty (30) days after the purchase of such insurance and must also promptly notify, in writing, the Board of Directors of cancellation of such insurance.

Section 6. Insurance Trustee.

(a) The Board of Directors shall have the right (but not the obligation) to designate any bank, trust company, management agent, savings and loan association, building and loan association, insurance company, institutional lender or the Association as the Insurance Trustee, and all parties beneficially interested in such insurance coverage shall be bound thereby. The Insurance Trustee shall acknowledge that the policies and any proceeds therefrom will be held in accordance with the terms of these By-Laws.

(b) The Insurance Trustee shall not be liable for the payment of premiums, the renewal of the policies, the sufficiency of coverage, the form or content of the policies, the correctness of any amounts received by it on account of the proceeds of any insurance policies, nor the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive the proceeds paid to it and to hold the same in trust for the purposes elsewhere stated in these By-Laws, for the benefit of the Unit Owners and their respective Mortgagees.

Section 7. Board of Directors as Agent. The Board of Directors is hereby irrevocably appointed the agent for each Unit Owner and for each Mortgagee and for each owner of any interest in the Condominium to adjust all claims arising under insurance policies purchased by the Board of Directors and to execute and deliver releases upon the payment of claims.

Section 8. Premiums. Premiums upon all insurance policies purchased by the Board of Directors shall constitute a Common Expense.

#### ARTICLE VIII

#### REPAIR AND RECONSTRUCTION AFTER FIRE OR OTHER CASUALTY

Section 1. When Repair and Reconstruction are Required. Except as otherwise provided in Section 4 of this Article VIII, in the event of damage to or destruction of all or any portion of the Condominium as a result of fire or other casualty, the Board of Directors or the Insurance Trustee (if any) shall arrange for and supervise the prompt repair and restoration of the same (including any damaged Units and the floor coverings, kitchen or bathroom fixtures, and appliances initially installed therein by the Declarant, and replacements thereof installed by Declarant, but not including any furniture, furnishings, fixtures, equipment or other personal property supplied or installed by the Unit Owners). Notwithstanding the foregoing, each Unit Owner shall have the right to supervise the redecoration of his or her own Unit.

Section 2. Procedure for Reconstruction and Repair.

(a) Cost Estimates. Immediately after a fire or other casualty causing damage to the Condominium, the Board of Directors shall obtain reliable and detailed estimates of the cost of repair and restoration, including any damaged Unit but not