

R. W. Van Niel
19 Tobey Brook
Pittsford, NY 14534-1821

TOBEY BROOK CONDOMINIUM

DECLARATION AND

BY-LAWS

SUITE 1100, CLINTON SQUARE
ROCHESTER, NEW YORK 14604

Clinton Square
Post Office Box 1051
Rochester, New York 14603-1051
(716) 263-1000
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February 25, 2000

Gary M. Trechel, Esq.
Associate Counsel
Division of Corporations
New York State Department of State
41 State Street
Albany, New York 12231-0001

RE: Amendment No. 2 to Declaration of Tobey Brook Condominium

Dear Mr. Trechel:

Thank you for your letter of February 8 in this matter.

Tobey Brook Condominium designates the Secretary of State of the State of New York as agent of the Board of Managers, of Tobey Brook Condominium, upon whom process against it may be served. The address to which the Secretary of State may mail copies of such process is as follows: Dr. Anthony Labrum, 9 Tobey Brook, Pittsford, New York 14534.

I enclose the amendment noted above. The Condominium's management company will forward you the check for \$25 for the filing fee in due course.

Thank you for your assistance with this matter.

Very truly yours,



Ernest J. Ierardi

Secretary,
Tobey Brook Condominium

EJI:keb
Encl.



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

ALEXANDER F. TREADWELL
SECRETARY OF STATE

February 8, 2000

ERNEST J. IERARDI
SUITE 1100, CLINTON SQUARE
ROCHESTER, NY 14604

RE: Amendment No. 2 to Declaration of Tobey Brook Condominium

Dear Mr. Ierardi:

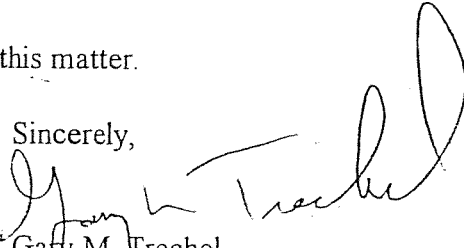
The Amendment to the Declaration of Tobey Brook Condominium is returned herewith.

Section 339-n(7) of the Real Property Law requires the declaration to include a designation of the Secretary of State as the agent of the board of managers, or a corporation formed to operate the board of managers, upon whom process against it may be served along with the address to which the Secretary of State shall mail copies of such process.

The fee for filing the amendment is \$25.

I apologize for any inconvenience caused in this matter.

Sincerely,


Gary M. Trechel
Associate Counsel
Division of Corporations
(518) 473-2278

GMT/bf
Enc.

AMENDMENT NO. 2
to
DECLARATION
of
TOBEY BROOK CONDOMINIUM
and
BY-LAWS
of
TOBEY BROOK CONDOMINIUM

1999 DEC 17 AM 11:27
MONROE COUNTY CLERK

RECEIVED

THIS AMENDMENT NO. 2 to the Declaration of Tobey Brook Condominium and to the By-Laws of Tobey Brook Condominium is made as of December 1, 1999 by the BOARD OF MANAGERS of TOBEY BROOK CONDOMINIUM (the "Board") having an address of 9 Tobey Brook, Pittsford, New York 14534.

WHEREAS, by notice dated October 25, 1999 the Board gave all unit owners of Tobey Brook Condominium notice of a proposed amendment to amend the By-Laws of Tobey Brook Condominium, to be acted upon at a meeting held in two sessions, one on November 3, 1999 and the other on December 1, 1999; and

WHEREAS, by resolution dated November 14, 1999, the Board recommended to residents that such amendment be adopted; and

WHEREAS, following such notice, Board resolution and convening of the unit owners' meeting, such amendment was duly adopted by thirty-two of the forty-two unit owners, comprising a vote of at least seventy-five percent (75%) of the eligible unit owners; and

WHEREAS, in accordance with Real Property Law §339-u, such amendment is being set forth as an amendment to the Declaration as well as an amendment to the By-Laws of Tobey Brook Condominium; and

WHEREAS, the original Declaration of Tobey Brook Condominium was recorded on September 14, 1978 in the Monroe County Clerk's Office at Liber 5503 of Deeds, page 50, and was amended by an Amended Declaration recorded in the Monroe County Clerk's Office on November 7, 1979 at Liber 5712 of Deeds, page 252, the original Declaration and the Amended Declaration taken together containing a complete description of the real property constituting Tobey Brook Condominium; and

WHEREAS, THE By-Laws of Tobey Brook Condominium comprise Schedule B of the original Declaration and are recorded as a part thereof.

NOW, THEREFORE, THE BOARD CERTIFIES THAT THE FOLLOWING AMENDMENT NO. 2 was duly adopted after a duly called meeting of the unit owners, with an affirmative vote of at least seventy-five percent (75%) of the eligible unit owners:

AMENDMENT NO. 2

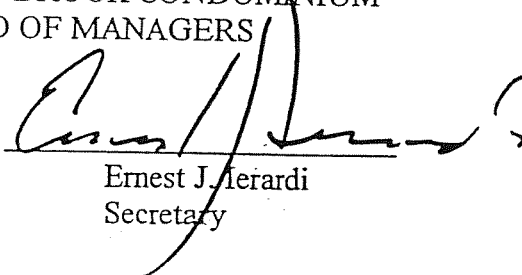
Article II, Section A, Membership and Election, shall be amended to read in its entirety as follows:

A. Membership and Election. The Condominium shall be governed by a Board of Managers consisting of seven persons elected for three-year, staggered terms by the unit owners at the annual meeting of unit owners, with each unit owner eligible to vote for as many candidates as there are positions to be filled. In the 1999 election, three managers shall be elected for three years, two for two years and two for one year. Each manager shall be eligible one time for reelection to a three-year term; upon the conclusion of a second such term, that individual shall not be eligible to serve again as a manager until a year has passed. If more than one person or a corporation holds title to a unit, then one person shall be designated in writing as representative for the unit by the respective owners or corporation.

IN WITNESS WHEREOF, the duly elected Secretary of the Board of Managers of Tobey Brook Condominium hereby certifies that the foregoing constitutes Amendment No. 2 to the Declaration and By-Laws of Tobey Brook Condominium.

TOBEY BROOK CONDOMINIUM
BOARD OF MANAGERS

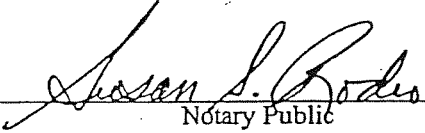
By:



Ernest J. Merardi
Secretary

STATE OF NEW YORK)
) SS.:
COUNTY OF MONROE)

On the 16th day of December, in the year 1999 before me, the undersigned, personally appeared Ernest J. Ierardi, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

SUSAN S. RODIO
Notary Public, State of New York
No. 01RO4637654
Qualified in Monroe County
Certificate Filed in Monroe County
Commission Expires June 30, 20 00

TOBEY BROOK CONDOMINIUM

PLAN OF CONDOMINIUM OWNERSHIP

*** ALL THE INFORMATION AND DOCUMENTS
HEREIN ARE IMPORTANT AND YOU ***
SHOULD CONSULT WITH YOUR ATTORNEY

I. INTRODUCTION

A. Ryan Homes, Inc., (the "Sponsor"), a New York corporation, with this Offering Plan is offering for sale at least eighteen (18), and possibly forty-two (42), residential townhouses (the "Units") being constructed on property as part of a condominium to be known as Tobey Brook Condominium. (Article III contains a more detailed description of the neighboring area (Paragraph "A") and also contains a more detailed description of the dwellings to be built (Paragraph "C"). This Offering Plan and the accompanying documentation should be carefully studied by prospective purchasers and their attorneys prior to the purchase of a Unit.

B. If this Offering Plan is declared effective, the Sponsor will submit the property to Article 9-B of the Real Property Law of the State of New York (Condominium Act) and By-Laws will be recorded prior to conveyance of title to the first unit. The land and all improvements erected thereon are hereinafter referred to as the "Condominium."

C. The present owner of the property is Ryan Homes, Inc. There are no encumbrances on the property, except for public utility easements.

D. The development of the Condominium will take place in two phases; the "Sponsor" is obligated to construct

and offer for sale the eighteen (18) residential townhouse units in Phase I and is permitted but not obligated to construct an additional twenty-four (24) residential townhouse units and a swimming pool in Phase II. In the event Phase II is developed, the swimming pool thereon would be available for use by all forty-two (42) unit owners.

II. FEATURES OF CONDOMINIUM OWNERSHIP

As in the ownership of a private one-family home, the purchaser of a Unit (the "Unit Owner") owns his Unit in fee simple absolute. All Unit Owners will own in common all exterior walls, walls separating the Units and the courtyards from one another, roofs, land and improvements located outside of the Units and the land under the Units (sometimes referred to as common elements).

Title to all units also gives the Unit Owner irrevocably exclusive use of the driveway immediately in front of each garage and any patio, porch, terrace, to which there is direct access from the interior of his unit. See Irrevocably Restricted Areas, Schedule N, Article II.

The Units can be purchased for all cash. If the Unit Owner desires to finance the purchase of the Unit by obtaining a mortgage loan, such mortgage loan must be obtained only from a bank, life insurance company or federal or state savings and loan association. The Unit Owner is free to negotiate his own financing with one of the foregoing institutions of his choice, inasmuch as Sponsor has not applied for a commitment for permanent mortgages on the individual Units. Should a purchaser have a doubt as to his

ability to obtain a conventional mortgage, his purchase offer should contain such a contingency. (See Page 22). The Unit Owner may mortgage his Unit at any time after he acquires the Unit in whatever amount and under whatever terms he can obtain, provided that the mortgage loan can only be taken from a bank, life insurance company, federal or state savings and loan association. Any Unit Owner may, however, upon the resale of his Unit, grant a purchase money mortgage to a purchaser of his Unit. No Unit is subject to the lien of a mortgage on any other Unit.

Each Unit will be taxed separately for real estate tax purposes and, therefore, no Unit Owner is liable for the payment of real estate taxes on any other Unit. In the opinion of counsel, a Unit Owner is presently entitled to deductions for income tax purposes for his payments for real estate taxes and interest on the mortgage of his Unit. Each Unit Owner can sell his Unit to whomever he desires, subject to first refusal by the Board of Managers as set forth in the Declaration. A Unit Owner is required to pay his proportionate share of the maintenance and operation of the common elements as assessed by the Board of Managers. Fire and liability insurance covering the common elements are included with other items as part of common charges, but fire and liability insurance for the purchaser's personal effects and the interior of the Unit should be carried by the individual purchaser. Common charges are levied in equal percentages, one for each Unit. For possible increases in common charges upon default in payment by a Unit Owner, see Lien for the Non-Payment of Common Charges, page 35.

Construction of the Units commenced in November, 1977, and closings to the Units are expected to commence in July , 1978.

III. DESCRIPTION OF PROPERTY AND IMPROVEMENTS

A. Location, Acreage and Zoning

The property is situated in the Town of Pittsford, Monroe County, New York, fronting on the southwesterly side of Tobey Road. The Condominium will consist of approximately eighteen (18) acres of land, with improvements thereon as described herein.

Located approximately one-fourth mile east of Clover Street, the property is within fifteen (15) minutes commuting time to Rochester by private transportation. There is no bus service within walking distance from the Condominium. The area in which the Condominium is located consists primarily of single family and condominium residences and undeveloped land, some of which is used for farming. Immediately adjacent to the property on the east is Tobey Woods Condominium, which was developed by the Sponsor during the years 1974 to 1978. Tobey Woods contains thirty-two (32) townhouse type units, all of which have been completed and are occupied by their owners. The area was zoned "A" residential (Single Family Detached Housing) until June 12, 1973, when the zoning was changed to that of Planned Unit Development by the Pittsford Town Board. The construction of townhouses is specifically permitted on this parcel. See description of Planned Unit Development in Schedule R.

B. Topographical Features

The Condominium property and surrounding area is fairly level with slight undulation and a creek along the eastern boundary, but no hills, valleys or other unusual topographical features.

C. Improvements - General Description

The Condominium will consist of several buildings (no more than twelve (12) in Phase I and no more than fifteen (15) in Phase II) with basements, the exact number and location of buildings (not townhouse units) to be determined by Sponsor in response to customer demand. In no event will there be more than 18 townhouse units in Phase I or more than 24 townhouse units in Phase II, but the actual number of buildings containing the units may vary because of customer demand for a detached townhouse unit as opposed to an attached townhouse unit. Each such building will contain one to four individual dwelling units with each such unit to have its own basement and two-car attached garage in substantially the manner set forth in the Plot Plan attached hereto, which Plan was drawn by Sear-Brown Associates, P.C., Licensed Civil Engineers. In addition, a deck or patio area may be ordered for each unit as an extra at purchaser's additional expense, and if so ordered, will be part of the unit. The buildings will be of frame construction with concrete block common walls separating the attached Units in each building from one another. A more detailed description of the Unit and the common elements is contained in Article IV, B of the Declaration attached hereto as Schedule N.

A three dimensional view of a typical Unit

is attached hereto as Schedule G.

1. For a more detailed legal description of the Units, reference should be had to the Declaration attached hereto. (Article IV, ¶A and ¶B)

2. For a more detailed legal description of the common elements, reference should be had to the Declaration attached hereto. (Article I, ¶B)

3. The Units, the Buildings containing them, and all other improvements will comply with all applicable rules, regulations and laws and other requirements of all governmental authorities having jurisdiction thereof, including those governing zoning and construction, and the Sponsor and all other persons engaged by the Sponsor in connection with this Plan have complied and will comply with all applicable laws, rules, regulations and other governmental requirements pertaining thereto. Before the closing of title to a Unit, a temporary or permanent Certificate of Occupancy will be issued for such Unit. At the time of closing of title to the first Unit, the construction of all Units will not have been started. It is the intention of Sponsor to file the Declaration of Condominium and declare the Condominium effective after one Unit has been sold. At this time, all four Units in the first building will have been substantially completed and ready for occupancy, with the possible exception of interior decorating which may be left to the discretion of the particular purchaser. The Units will be completed to the specifications of a particular purchaser, as purchase offers are executed. As a particular Unit is sold in the first

building, it is Sponsor's intention to complete the corresponding Unit in the second building. As the Units in the various completed buildings are sold, Sponsor will commence the construction of additional buildings. Sponsor will have at least four Units in a substantially completed condition with only interior modifications and decorating to be completed. Sponsor does not intend to commence construction of a particular building or buildings so long as there are four or more Units which have been substantially completed but title to which has not been transferred. A similar staging of construction was utilized by Sponsor in the development of 3000 East Avenue Condominium, a similar local project, which consists of three buildings, each containing three condominium units at 3000 East Avenue in the Town of Brighton, Monroe County, New York, and in the development of Tobey Woods Condominium which consists of eight buildings, each containing four (4) condominium units, on premises immediately to the east of this project. Exterior painting and landscaping--in the area of each building--will be completed before the time of closing title to the last Unit in that building or within one (1) year of the completion of the exterior (but not interior) construction of said building, whichever is sooner, but in no event later than one (1) year from the completion of construction. A two-car garage is included for each Unit Owner at no extra cost and will be part of the Unit. There are open areas of approximately 10,690 square feet containing 66 outdoor parking spaces (not reserved - first come, first served basis) in addition to the garages.

The surface of the parking area is blacktop.

A summary of the materials to be used and other construction data for a typical Unit is annexed hereto as Schedule C.

4. Recreational Facilities

In the event Phase II is undertaken, (no pool if only Phase I is developed), the pool will be located in the Phase II area but will be available to units in both Phase I and Phase II. The Condominium will contain an inground gunite swimming pool approximately eight hundred (800) square feet in size with a surrounding patio area of approximately two thousand eight hundred (2800) square feet. There will be male and female dressing cabanas with toilet, sink, running hot and cold water and outside shower in a pool administration building. There are no lockers in the cabanas.

5. Easements

All pipes, sewers, water mains, wires, conduits and public utility lines located with each Unit shall be owned by such Unit Owner. Any portion of such pipes, sewers, water mains, wires, conduits and public utility lines located in the common elements will be owned in common by the Unit Owners. Every Unit Owner shall have an easement in common with the owners of the other Units to maintain and use all pipes, sewers, water mains, wires, conduits and public utility lines located in other Units and servicing such Unit Owner's Unit. Each Unit shall be subject to an easement in favor of the Unit Owners of other Units to maintain and use the pipes, sewers, water mains,

wires, conduits and public utility lines servicing such other Units, and located in such Unit. The Board of Managers shall have a right of access to each Unit for maintenance, repair or improvements to any pipes, sewers, water mains, wires, conduits and public utility lines located in any Unit and servicing any other Unit. The cost of such repairs shall be a common expense. The Board of Managers shall have a right of access to all common elements for maintenance, repair or improvement whether such common elements are restricted or not.

6. Allocation of Percentages
of Common Interest

Each Unit Owner shall have an undivided interest in the common elements which shall be in equal percentages, one for each unit, which shall serve as the basis of the apportionment of the common charges. The percentage of interest of each Unit in the common elements has been determined in accordance with the provisions of Real Property Law, Section 339-i (1) iii. As a result of this method of apportioning the common charges, the owner of a unit containing fewer square feet than a larger unit will still pay as much in common charges as the owner of the larger unit.

IV. SURROUNDING AREA AND FACILITIES

A. Zoning

The Condominium is located in an area that was zoned "A" residential (Single Family Detached Housing) until June 12, 1973, when the zoning was changed to that of

Planned Unit Development by the Pittsford Town Board. A description of Planned Unit Development appears in Schedule R. A resolution of the Town Planning Board on January 9, 1978, specifically permits the construction of Town Houses. The neighborhood surrounding the Condominium property consists predominantly of single family dwellings, condominiums and undeveloped farm land.

The zoning of the remaining property owned by Sponsor in the vicinity of the intersection of Tobey Road, Clover Street and Jefferson Road within the Planned Unit Development permits the construction of office and professional buildings, a small convenience service center with restaurant and shops, low rise apartment and senior citizen housing, all in addition to attached and detached single family housing. Sponsor has the intention to build, but does not represent that it will build, any of the aforementioned other structures, but in any event, Sponsor will apply to the Town of Pittsford for an appropriate building permit before commencing the construction of such other structures. No representation is made as to any future development by persons other than the Sponsor.

B. Municipal Services

The Condominium property is served by the Monroe County Sheriff's Office and Pittsford Volunteer Fire Department and ambulance service, both of which provide twenty-four hour protection.

The closest local bus system (Regional Transit System) is approximately 1.3 miles from the Condominium property. The Condominium property is

approximately seven miles from downtown Rochester.

C. Shopping Centers

Pittsford Plaza, Wegman's Monroe Shopping Center, and Pittsford Village Shopping area are located within a distance of approximately 1 1/2 to 2 miles from the Condominium property.

D. Medical, Educational and Religious Facilities

A Pittsford elementary school (Barker Road School for grades K-6 and Barker Road Junior High School for grades 7-9) is located within approximately two miles of the Condominium property. A Pittsford public high school (Sutherland High School) is approximately two miles from the Condominium property. School bus service is presently provided for students at all schools. No representation is made by the Sponsor that the children of any Unit Owners will be entitled to attend any particular school. There are houses of worship for all major religious denominations within the Town of Pittsford and the nearby City of Rochester. There are several hospitals in the City of Rochester, the closest to the Condominium property being Strong Memorial Hospital, approximately seven miles away.

E. Sponsor's Future Development

The Sponsor presently intends, but is not obligated, to construct additional homes on certain property abutting the Condominium to the west. Such homes, if constructed, may be sold individually or as part of one or more condominiums or may, alternatively, be rented by

the Sponsor. In the event all or part of such homes are actually constructed by Sponsor, its successor in interest or transferee, such owners may have sewer, water, electric, telephone and other utility easements through the Condominium. None of such easements shall interfere with the beneficial use and enjoyment of any of the Units of the Condominium with the exception of the possibility of inconvenience caused by the installation of said utilities which will cross lawns, pavement or driveways, all of which shall be restored by the holder of the easement to the same general condition as the same existed prior to the utilization of the easement.

V. SPONSOR'S OBLIGATION

A. Change in Price, Layout and
Substitution of Materials

The Sponsor reserves the right, so long as a purchase agreement has not been executed for an unsold Unit, to change the size, layout, appliances, interior material or decoration for such Unit and as to the Condominium generally the Sponsor reserves the right to change the size, number and location of the buildings and other improvements. Such changes, however, shall not increase or decrease the size (square footage) of a particular unit more than 25% from the sizes shown in the construction data in Schedule C of this Offering Plan. No such increase or decrease in size shall affect the common charges of unit owners which shall continue to be equal. The effect of this is that the owner of a smaller unit will be paying

as much in common expenses or common charges as the owner of a larger unit.

The prices for these condominium interests may be changed so that purchasers may pay different prices for similar interests. During the effective period of this Offering Plan, prices for these Condominium Units may not be changed without the filing of an amendment to the Offering Plan.

Sponsor reserves the right to change the price of the Units at any time prior to the acceptance of a purchase offer.

Although the Sponsor intends to use the materials, fixtures, appliances and equipment described herein and in the building plans, the Sponsor reserves the right to substitute materials, fixtures, appliances and equipment of substantially equal quality for any of those set forth.

Each Unit Owner's share of the common elements will consist of an equal undivided interest therein as set forth in Article III, ¶C. 6. hereof, regardless of the purchase price of his particular Unit.

B. Effective Date of the Condominium

The Condominium shall come into existence upon the recording of the "Declaration" and Exhibits and the filing of the "Plans", which shall occur when Purchase Agreements have been entered into for four (4) units. In the event four (4) units have not been sold within 18 months, this Plan shall expire and Sponsor will return all monies. It is the intention of the Sponsor to build and

sell the individual Units in accordance with the demand therefor. Construction of the first building commenced in November of 1977, and is expected to be completed by the end of July, 1978. The four Units in the first building will be completely finished, with the possible exception of interior decorating and will serve as models. At this time, the construction of the second building will have progressed to the point where the exterior roof has been completed and it is Sponsor's intention to complete the interior of the Units in the second building as purchase offers are executed as spelled out hereinbefore in Article III, ¶C-3. Sponsor does not intend to commence the construction of any further buildings so long as there remain four substantially completed Units for which it has not received an unconditional executed purchase offer. Sponsor, however, represents that it will complete the construction of the 18 Units initially offered hereby and of the remaining 24 Units in the event the development of Phase II is started. The decision to commence development of Phase II shall be made by Sponsor prior to closing of title to the first unit.

C. Recordation, Inspection and
Delivery of Documents

A Declaration and By-Laws submitting the property to Article 9-B of the Real Property Law of the State of New York (hereinafter referred to as the "Condominium Act") together with the floor plans and engineer's and tax authority certification required by

Section 339-p of the Condominium Act will be recorded in the County Clerk's Office in Monroe County prior to closing of title to the first Unit. The Declaration and By-Laws will not be amended so as to adversely affect the purchaser, so long as the power to amend rests with the Sponsor. The Condominium and all buildings and Units will comply with all the statutes and regulations applicable to Condominiums in the State of New York and the laws and regulations of all applicable governmental authorities, including but not limited to the Building Code of the Town of Pittsford.

At least seventy-two hours prior to the execution of any purchase agreement, Sponsor will deliver to the prospective purchaser copies of this Offering Plan, Declaration and Exhibits thereto, and the Purchase Agreement.

D. Expenses of Construction, Creation and Sale of the Condominium

All expenses in connection with the construction, creation and sale of the Condominium will be the obligation of the Sponsor, with the exception of closing adjustments referred to in Article VI, ¶D. and ¶E. and in the Purchase Agreement. (Schedule I)

E. Obligations of the Sponsor

No bond or other security has been furnished to secure performance of the following obligations. All obligations pertaining to the common elements shall be enforceable only by the Board of Managers on behalf of the Unit Owners and not by the

individual Unit Owners. During the time the Sponsor controls the Board, it is within its sole power to enforce the obligations of the Sponsor pertaining to the common elements and it may elect not to do so during such period. In the event the Board of Managers so refuses to enforce the obligations of the Sponsor, Sponsor shall still be required to comply with an affirmative vote of the individual Unit Owners to enforce such obligations. Upon the conveyance of title to the first unit, Sponsor will deliver an undertaking to the Board of Managers, obligating the Sponsor to perform the following obligations:

1. After the recording of the Declaration and before the closing of title to the first Unit, any existing mortgage affecting a Unit to be transferred will be satisfied, or released or extended and consolidated with individual permanent mortgages which will be placed on the Unit of those purchasers obtaining a purchase money mortgage. In addition, before the closing of title to the first Unit, all liens affecting the Condominium shall be paid and satisfied or the Unit being conveyed and its appurtenant common interest shall be released therefrom by partial release duly recorded.

2. The Sponsor will pay such common charge as may be assessed by the Board of Managers from time to time on all Units, title to which has not passed, until such Units are sold to bona fide purchasers. (See Article VI, ¶E.)

3. The Sponsor will obtain a temporary or permanent Certificate of Occupancy for the Unit before

the closing of title and will, at its own cost, perform any work and supply any materials necessary to obtain the permanent Certificate, or to obtain any other permit or certificate required by law.

4. The Sponsor will pay all contractors, subcontractors and materialmen and all others involved in the construction of the Condominium for work performed and fixtures, material and equipment supplied or installed in the construction of the Condominium and will cause all mechanic's liens arising out of the construction of the Condominium or the furnishing or installation of fixtures or equipment, to be discharged promptly after the liens are filed.

5. Sponsor will diligently, expeditiously and at its own cost, complete construction of the Condominium substantially in accordance with the plans and specifications described herein and in accordance with the staging progress schedule set forth in Article III, ¶C. 3., and will diligently perform all of its obligations set forth in this Offering Plan.

6. The Sponsor will deliver to each Unit Owner at the time he takes title to his respective Unit, contractors' roofing, plumbing and heating and air-conditioning warranties. The Sponsor will make periodic visits to the Condominium at reasonable intervals to correct any defects in the construction of a Unit or the common elements, or in the installation or operation of any mechanical equipment therein, due to improper workmanship or material substantially at variance with the Offering

Plan provided and on condition that is is notified in writing of such defect(s) within one year from (a) the date of issuance of a temporary or permanent Certificate of Occupancy covering such Unit; provided, however, that if any such defect of a Unit can be detected only by occupancy of the Home, the Sponsor will correct such defect if notified in writing within one year from the closing of title to, or leasing of, such Unit; or (b) the date of substantial completion of the defective portion(s) of the common elements or the date of filing of the Declaration of Condominium, whichever is later, as the case may be. The quality of construction shall be comparable to local standards customary in the particular trade and in accordance with the plans and specifications. The Sponsor makes no warranties as to appliances except that it will deliver to each purchaser the manufacturer's warranties thereon as set forth above. In no event will the Sponsor be responsible for the partial or total death of any trees, lawn, shrubs, bushes or other landscape improvements, nail pops, lumber shrinkage, concrete cracks, normal settlement or any consequential damage resulting therefrom, normal plumbing and heating noises or carpet stretching. Subsequent to the conveyance of title to a Unit, the Sponsor shall not be responsible for paint touch-ups, repair of dented appliances, porcelain or countertops. The Sponsor has no obligation to make any repairs to the Units or the common elements except as expressly set forth in the Offering Plan.

7. The Sponsor will pay all expenses

incurred prior to the establishment of the Condominium in connection with the operation of the Condominium and will bear and pay all costs and expenses incurred in connection with the creation of the Condominium whenever such costs or expenses are incurred or in connection with the sale of all the Units held or owned by the Sponsor and will pay all selling expenses including, but not limited to, advertising and printing costs, architect's fees, attorney's fees, organization costs, engineers, appraisal, surveying fees and costs of filing this Offering Plan and amendments thereto.

8. The Sponsor has no obligation to defend any suits arising out of anything occurring prior to the recording of the Declaration, except claims arising out of the acts, omissions or representations of the Sponsor.

9. Within thirty days after the closing of title to the first Unit, the Sponsor will deliver a complete set of "as built" building plans to the Board of Managers.

10. Sponsor will deliver to purchaser prior to closing, a certification by a licensed engineer or architect that construction is in accordance with the approved "as built" plans and specifications.

11. A registered architect or professional engineer will inspect site during the critical stages of construction and make reports on progress, any changes and conformity of construction to the plans and specifications. Such reports shall be made to the Sponsor and to the Board of Managers.

F. Unsold Units--Rights of Sponsor to Lease

Sponsor reserves the right to enter into leases with third parties for any unsold units in the Condominium. If a purchaser purchases a Unit which has previously been under Lease, he will be purchasing a Unit which has been previously occupied.

G. Control by Sponsor

The Sponsor, as owner of unsold Units, will have voting control of the Board of Managers until the transfer of title to a majority of the Units, but in no event after three years from the date of the recording of the Declaration. The Sponsor, during this indeterminate period, thus will have control of maintenance, facilities and services to be provided and will determine the common charges to be paid by all Unit Owners, including the Sponsor, and the enforcement of the Sponsor's obligations.

The detailed provisions for the management of the Condominium are set forth in the By-Laws, (Schedule O). The By-Laws contain provisions, among others, dealing with the election of the Board of Managers and Condominium Officers, powers of the Board of Managers, voting rights of Unit Owners, assessment of common charges, foreclosure of liens for nonpayment of common charges, management of the Condominium and the use of the Units. The By-Laws provide that the Condominium shall be governed by the Board of Managers, but that the Board of Managers shall have the right to designate Committees or a Managing Agent to carry out such function.

H. Financing Procured by Sponsor

The Sponsor at present has no commitment

from any institutional lender for construction or permanent financing as of the date of presentation of this Plan. In the event Sponsor obtains construction financing from any lender, any lien arising out of such financing will be satisfied and discharged of record prior to or simultaneously with the closing of title to any Unit affected thereby. Purchasers should obtain their own permanent mortgage financing, if required, before signing a purchase agreement. No representation is made by the Sponsor as to the terms, conditions or availability of any permanent mortgage financing.

Central Trust Company, 44 Exchange Street, Rochester, New York, has advised the Sponsor that their institution will consider permanent mortgages on the Units under certain conditions. (See Schedule L)

VI. SALE OF UNITS

A. Purchase Agreement and Payments

The sales prices at which the Units are being offered varies from \$122,500.00 to \$148,500.00 in accordance with the size, style and location of the Units. These prices are shown in detail in Schedule C. The Sponsor reserves the right to change the sales prices. However, no price will be increased during the initial offering period, except by a duly filed amendment to this Offering Plan. Any such change will not affect the common interest of the Unit. However, some purchasers may pay less or more for the same model Unit. Any person may accept such offer of sale by entering into a purchase agreement with the Sponsor. The agreement provides that the purchaser will purchase from the Sponsor a designated Unit in Tobey Brook Condominium described in the Declaration creating such

Condominium. Upon signing the purchase agreement, the purchaser shall make a down payment of 10% of the total price of his Unit, or more depending upon the stage of construction as follows: an additional 40% when roof is on; and the balance or certified or bank cashier's check on closing of title. The stage of construction shall be certified by a licensed architect.

B. Trust Funds

(1) All deposits, down-payments or advances made by purchasers of these units shall be held in a special escrow account pending delivery of the completed Unit, and a Deed thereto, unless Sponsor elects to protect Purchaser's interest therein by the furnishing of letters of credit from Central Trust Company, Rochester, New York, in an amount equal to any such deposits, down-payments or advances that Sponsor may use. Any such letters of credit will expire one year from the date thereof and Purchaser should be aware that his deposits, down-payments and/or advances will not be so protected after that one-year period, unless Sponsor is able to obtain a new letter of credit or an extension of the original letter. The Purchase Agreement shall provide for delivery of the Unit within one year from the date thereof. Purchaser should take steps to make sure that this protection does not lapse and FAILURE TO TAKE SUCH STEPS MAY RESULT IN YOUR LOSING ALL OR PART OF YOUR INVESTMENT.

(2) The signature of E. Garrett Cleary, Esquire, 400 Union Trust Building, 19 West Main Street, Rochester, New York, as attorney for the Sponsor, shall be required to withdraw any of such funds. In the event of default by the Purchaser, which default continues for thirty days after notice of such default from the Sponsor to the Purchaser, the down-payment or such part thereof that does not exceed ten (10%) percent of the purchase price plus the amount of any extras may be released to the Sponsor from the account as liquidated damages and thereafter neither party shall have any rights or obligations against or to the other.

IF THIS OFFERING IS NOT CONSUMMATED FOR ANY REASON, YOU MAY LOSE ALL OR PART OF YOUR INVESTMENT.

C. Closing of Title to Units

Upon full payment of the purchase price, in cash, the purchaser will receive a Warranty Deed containing the provisions set forth in Section 13, Subdivision 5, of the Lien Law, which will convey good and marketable title to him of fee ownership in the Unit and such percentage of the common interest in the common elements as is set forth in Schedule C-1 free and clear of all liens and encumbrances other than:

1. The state of facts of the property as shown on a survey made by Sear-Brown Associates, P.C., Licensed Civil Engineers and Surveyors, dated February, 1978, and any additional state of facts which a subsequent survey would show provided such additional state of facts would not render title unmarketable, and any state of facts which an accurate survey of the Unit would show, provided such state of facts would not render title unmarketable;

2. All of the terms, covenants and conditions of the Declaration, the By-Laws and the building plans as they are subsequently filed or recorded and the Offering Plan;

3. Current real estate taxes not yet due and payable;

4. Franchise taxes of the Sponsor of of any corporation in the chain of title provided that a title company licensed to do business in the State of New York is willing to insure that such taxes will not be collected out of the Unit or the common elements;

5. Zoning regulations and ordinances

and any amendments thereto now or hereafter adopted. The Sponsor has been advised by its counsel that in counsel's opinion neither the Units nor their proposed uses violate any of such zoning regulations and ordinances;

6. Public utility easements for storm water and sanitary sewer purposes, for drainage, ponding and installation of poles and wires for the transmission of gas, electricity and communications and for the supply of water service.

7. All easements set forth in the By-Laws and Declaration and in the Offering Plan and purchase agreement including:

(a) Easements in favor of the Owners of other Units to use the pipes, wires, conduits and public utility lines located in the common elements or in the Unit itself servicing such other Units and easements of necessity in favor of the other Units and/or the common elements;

(b) Easements in favor of the Board of Managers to have a right of access to the Units and to the common elements to inspect, maintain, or repair or to make repairs to the Unit to prevent damage to the common elements or any other Units;

(c) Easements in favor of those Units having restricted use to portions of the common elements;

(d) Easements for the continuance of encroachments on the Unit and on the common elements by other Units or portions of the common elements, now existing by reason of the construction of the Units, or hereafter

occurring by reason of the settling or shifting of the Units, or by reason of the repair and/or restoration by the Board of Managers of the Units or such other Units or such common elements, after damage by fire or other casualty or after taking in condemnation or eminent domain proceedings, or by reason of an alteration to the common elements made by the Board of Managers, so that any such encroachments may remain as long as the Units stand.

8. Easements in favor of the Sponsor and any subsequent owner of the area adjoining the Condominium which is now owned by Sponsor, to have a right of access to such area and to permit the installation, maintenance and repair of utilities.

The Sponsor has been advised by its counsel that in counsel's opinion, none of the exceptions to title hereinbefore set forth are of a serious nature or should discourage a willing purchaser from purchasing any Unit or should affect the saleability of any Unit and does hereby represent that none of such exceptions are contrary to the terms of the purchase contract nor will the same result in any interference with the beneficial use and enjoyment of a Unit or should discourage a willing buyer from the purchase of the same. However, the underlying documents concerning the exceptions will be available to purchaser's attorneys at the office of the Sponsor prior to the execution of the purchase agreement.

An owner's title policy from Title Guarantee Company insuring the interest of the purchaser shall be made available to and may be purchased at closing and

delivery of the deed at the purchaser's expenses. (An example of the rates of Title Guarantee Company are shown on page 29.)

A date for the closing of title will be set by the Sponsor in accordance with the purchase agreement. The closing of title to the first Unit is expected to occur in 1978. Such closing, however, will only take place after or simultaneously with the happening of the following events:

1. The issuance of a permanent or temporary Certificate of Occupancy.
2. The purchaser shall execute an instrument in the form annexed to the purchase agreement designating the Board of Managers as his attorneys in fact, coupled with an interest for the purpose of managing, selling, mortgaging, leasing, voting or otherwise dealing with any Units acquired by the Board of Managers in accordance with any of the provisions of the By-Laws.
3. The Unit and its undivided interest in the common elements shall not be subject to the lien of any mortgage at the time of closing except any mortgage requested by the purchaser at the time of closing representing a purchase money mortgage or mortgages taken by the purchaser.
4. If so requested by the purchaser, Title Guarantee Company will agree to insure that such purchaser has good and marketable fee title in the Unit, free and clear of all liens and encumbrances except those set forth on the preceding pages of this Offering Plan,

and subject to the provisions of the Declaration and By-Laws and any mortgage executed by the purchaser and that the Condominium was validly formed pursuant to Article 9-B of the Real Property Law.

5. Purchaser shall receive sub-contractors' warranty certificates for heating, plumbing, air-conditioning and roofing.

D. Closing Costs and Adjustments

The estimated closing costs and expenses to be borne by each purchaser are as follows:

1. Fee title insurance charges, if ordered, in accordance with the schedule of rates set by Title Guarantee Company, or in the alternative where a mortgage title policy is simultaneously issued the reduced rates set by the title company (assuming a fee title of \$125,000.00, the premium for a fee policy will be \$479.00; if a mortgage policy of \$90,000.00 is issued simultaneously, the additional premium would be \$63.00).

2. Recording fee for recording the deed of \$16.00.

All real estate taxes, charges made by Monroe County Water Authority, Monroe County Pure Waters Authority or water pollution control charges shall be adjusted as of the closing date. In addition, purchaser shall pay at closing his prorated share of the common expenses assessment as provided for in Article XI, paragraph D. of the Declaration and in the Offering Plan under Article VI, paragraph E. hereof.

In addition, should the purchaser elect to

obtain a purchase money mortgage, he may be required by the lending institution to deposit monthly with the lending institution commencing with the closing date a deposit towards the payment of real estate taxes, which amount is a multiple of one month's real estate taxes, and will vary with the closing date.

Each purchaser shall be responsible for the payment of fees of his own attorney.

The Sponsor anticipates that the only items which will be apportioned at the closing of title to Units will be real estate taxes and common charges if they have been declared by the Board of Managers. In addition to the closing costs set forth above, at the time of closing of title to the Unit the purchaser shall contribute \$150.00 to the Condominium as initial working capital. In the event there are any other items which are to be apportioned at closing, the Sponsor will advise the purchaser of such items at least ten days before the closing. The closing date will be the date set forth in the purchase agreement or such other date as may be mutually agreed upon by the parties, but in no event more than ten days after the issuance of a temporary or permanent certificate of occupancy.

E. Common Charges and First Year's
Operational Expenses

The Board of Managers shall from time to time, but at least annually, fix and determine the budget representing the sum or sums necessary and adequate for the continued operation of the Condominium and shall send a copy of the budget and any supplement thereof to each Unit

Owner. Based upon such budget and any modifications thereof approved by the Board of Managers, the Unit Owners will be assessed equally for the cost of the operation of the Condominium. The charges assessed by the Board of Managers (common charges), in addition to the actual and estimated cost of maintenance, management, operation, repair and replacement of the common elements, utility services for the common elements, casualty and liability insurance premiums, and other normal operational costs, may include, in the discretion of the Board of Managers, reserves, working capital, and other sums necessary to carry on the administration affairs of the Condominium. Such assessments (both regular and special) shall be due and payable on the first day of the month following their adoption by the Board of Managers.

The Condominium will not have working capital upon its organization except \$150.00 contribution required from each purchaser upon the closing of title to his Unit. The Board of Managers will commence the collection of common charges upon the closing of title to the first Unit in an amount no greater than as set forth herein and only in such amount as will be necessary to carry out the duties of the Board of Managers as set forth in this Offering Plan, and such common charges shall be paid by the Unit Owners and the Sponsor as owner of the unsold units in accordance with the common interest set forth herein. Such common charges shall include an apportioned share of the real property taxes for the Condominium property until the Units are separately assessed and taxed by the taxing

authorities. It is not anticipated that any common charges will be made for contingencies during this period, and as a result, it is not expected that there will be any build-up in the Condominium account. If the amounts so collected results in insufficient working capital during that period when Sponsor is still in control of the project, Sponsor will make temporary advances of necessary amounts until such deficiencies can be assessed and collected from Unit Owners.

The Sponsor, as to all unsold Units, and each purchaser as to his own Unit, will pay such common charges at the time the same become due in accordance with the By-Laws as from time to time are declared by the Board of Managers, but such common charges will be declared at least once annually. Such common charges will represent the estimate of the Board of Managers as to the actual cash requirements for the maintenance and operation of the Condominium and may vary from time to time so as to be more or less than the estimates given in this Offering Plan for full occupancy, depending upon the state of the economy and the number of occupied Units in the Condominium.

Sponsor will not pay any common charges for Units in Phase II, unless and until such Phase II becomes effective upon the submission of the Phase II property to Article 9-B of the Real Property Law of the State of New York (Condominium Act).

The estimates of real estate taxes and Condominium expenditures in Schedules C and E were made by John H. Ryan, President of the Sponsor, who is a licensed

real estate broker and who has engaged in similar development in the past in the area. In the preparation of such estimate of real estate taxes, he has consulted with the Town Assessor of the Town of Pittsford. Although the Sponsor is of the opinion that such estimates are accurate and reasonable, they are not intended and cannot be construed as an assurance of the actual expenses and are merely based upon information available at this time.

It is presently anticipated that the common charges are to be used primarily to pay for fire and other casualty insurance, public liability, and property damage insurance on the Units and the common elements and for maintenance costs (including plumbing stoppages and electrical defects), refuse removal, electric charges, water charges, snow removal, grass cutting, landscaping, repair, painting and maintenance insofar as all of the foregoing pertain to the common elements (including the exterior walls of the Units and their roofs and all walls separating the Units from one another), and a reserve for future contingencies and operation of the Condominium. The common charges do not include maintenance, repairs, or decoration to any or all of the Units or portions thereof including porch, deck, patio or atrium, payments required pursuant to the terms of the Unit Owner's mortgages and real estate taxes covering the individual Units, and do not include water charges for the individual Units. In the event the Unit Owner fails to make needed maintenance or repairs, the same may be undertaken by the Board of Managers and the Unit Owner assessed the cost thereof.

See Declaration, Article III.

Where a Unit is damaged by casualty and in the event the proceeds of insurance are not sufficient to cover the repair of the damage, the amount necessary to restore the Unit over and above the proceeds from any fire insurance on the Unit will be a common charge to all Unit Owners. The Board of Managers determines the amount of blanket casualty insurance covering all Units, (the cost of such insurance is part of the common charges), and reviews the amount of such coverage annually.

The estimated common charges and other costs of maintenance of the Units are set forth on Schedules C and E. These charges and costs will be due and payable on the first day of the month following their adoption by the Board of Managers and shall be collected by the Board of Managers. However, additional services which the Unit Owners may desire or other factors can increase these charges.

The common charges will be placed in an account in the name of the Board of Managers in the Central Trust Company, Rochester, New York.

VII. OBLIGATIONS OF UNIT OWNERS

A. Common Charges - Assessments and Collection

Each Unit Owner shall be liable for an equal share of the common charges. The Declaration provides for the assessment and collection of these charges and a description of the obligation of the Unit Owner in reference to these charges is set forth in Article VI, ¶E.

(Schedules C and E).

B. Liens for Non-Payment of Common Charges

Under the Real Property Law of the State of New York, the Board of Managers on behalf of the Unit Owners shall have a lien against each Unit for its unpaid common charges and legal interest thereon prior to all other liens except liens for the payment of taxes and all sums unpaid on a first mortgage of record. The Board of Managers may foreclose the lien in the same manner as a mortgage on real property and in doing so shall be entitled to recover all costs incurred including reasonable attorney's fees. A Unit Owner may not exempt himself from liability for his common charges by waiver of the use or enjoyment of any of the common elements or by abandonment of his Unit. Upon a resale, the purchaser of a Unit shall be liable for the payment of unpaid common charges assessed against such Unit prior to the acquisition of such Unit by the purchaser. In the event of a foreclosure by the Board of Managers of its lien on any Unit for unpaid common charges where the proceeds of the foreclosure sale are not sufficient for the payment of such unpaid common charges, the unpaid balance shall be charged to all Unit Owners as a common expense.

C. Sale or Lease of Units

The sale, voluntary transfer, conveyance, lease or mortgage of Units is restricted as follows: No Unit Owner may dispose of a Unit or any interest therein by sale, voluntary transfer, conveyance or lease without first giving to the Board of Managers of the Condominium

an opportunity to purchase or lease such Unit at the same price or rental and on the same terms as were offered by the proposed purchaser or lessee. The Board of Managers shall have the right to purchase or lease on behalf of remaining Unit Owners or may present a substitute purchaser or lessee. Such a purchase by the Board of Managers would result in the Unit owners being assessed for their pro-rata share of such a purchase price and expenses.

For a complete detailed examination of the procedure applicable in the event a Unit Owner desires to sell, transfer, convey, lease or mortgage his Unit, reference should be made to Article VI of the Declaration.

D. Mortgage of Units by Unit Owners

The Declaration does provide that a Unit Owner may obtain a first mortgage on his Unit from a bank, life insurance company or federal or state savings and loan association but not otherwise without the approval of the Board of Managers. The Declaration also provides that an owner of a Unit may take back a purchase money mortgage upon a resale of a Unit and that the Sponsor may take back a purchase money mortgage upon the initial sale of a Unit.

E. Repairs, Alterations and Improvements to Units

The responsibility of the Unit Owner shall be to maintain, repair and replace at his expense, all portions of the Unit, including, but not limited to, foundation, floors, walls, ceilings, conduits, ducts, plumbing, water service inside Unit area, wiring, exterior steps, garage, landscaping and all other required

maintenance work on the entire Unit area apart from the interests in, and portions designated as, common elements.

F. Real Estate Taxes

In accordance with the New York State Condominium Act, there will be a real estate tax applicable to each individual Unit collectible from each individual Unit Owner. The estimated monthly costs and charges to be incurred by the owner of each Unit in the first year in which the property will be fully subject to real estate taxes together with estimated insurance costs for the fire and liability insurance on each Unit and the monthly mortgage and other carrying costs are set forth in Schedules C, E and F. Estimated assessed valuation is based upon similar residential communities located in the Town of Pittsford, Monroe County.

Current tax rates for 1978 (school fiscal year 1977-78) are approximately as follows: Pittsford School - \$49.87 per \$1000; State, Town & County - \$19.59 per \$1000; Pittsford Fire - \$1.32 per \$1000; S. Pittsford Water #1 - \$.83 per \$1000; Jefferson Heights Sewer - \$28.00 per Unit; Pure Waters - \$47.00 per Unit.

This estimate of projected taxes has been prepared by the Sponsor with the assistance of the Pittsford Tax Assessor and cannot be construed as an assurance of the final tax costs, but is merely an estimate based upon information available at this time.

G. Income Tax Opinions

The Sponsor has been advised by its Counsel that each Unit Owner will be entitled under present law to

a deduction for Federal and New York State income tax purposes for the real estate taxes paid by him covering the Unit and for the interest paid by him on any mortgage covering the Unit. Similarly, the Sponsor has been advised by counsel that certain Unit Owners who are veterans of the United States Armed Forces may be entitled to exemptions covering part of the real estate tax assessments applicable to their respective Units. The Sponsor has been advised by its counsel that any taxable gain or income realized by the Board of Managers will be taxable to the Unit Owners or the Condominium. If the Board of Managers is required to pay taxes, the amount thereof will be levied as an additional common charge. The amount of estimated tax deductions for the first year as set forth on Schedule C has been computed by the Sponsor with the assistance of the Pittsford Tax Assessor and has not been passed upon by Sponsor's counsel. No warranty or representation is or can be made by Sponsor or any other person that the United States Treasury Department or the New York State Department of Taxation and Finance will allow the aforementioned deductions and neither the Sponsor nor its counsel shall be liable if for any reason it shall be held that Unit Owners are not entitled to such deductions or the veterans exemptions aforementioned. (See Schedule Q)

H. Other Liens

Section 339-1 of the Real Property Law provides that labor performed on or materials furnished to a particular Unit shall not be the basis for the filing of

a lien pursuant to Article TWO of the Lien Law against the Unit of any Unit Owner not expressly consenting to or requesting the same, except in the case of emergency repairs.

I. Compliance with Terms of Declaration, By-Laws and Rules and Regulations of Condominium

Each Unit Owner shall be governed and shall comply with the terms of the Condominium Documents and Regulations adopted pursuant thereto and said Documents and Regulations adopted thereunder as they may be amended from time to time. (By-Laws and Rules and Regulations are Exhibit B to the Declaration.)

VIII. MANAGEMENT AND OPERATION OF CONDOMINIUM

A. Board of Managers

The Condominium shall be governed by a Board of Managers consisting of not less than three nor more than forty-two persons elected in the manner prescribed in the By-Laws. (Article II, ¶A)

B. Management and Other Contracts

Prior to the recording of the Declaration, the Board of Managers will enter into a management contract with John H. Ryan, Broker. Mr. Ryan is the President and principal stockholder of the Sponsor. The contract will run for a period of three years (but may be cancelled after two years by an affirmative vote of the majority of the individual Unit Owners) commencing with the closing of title to the first Unit and provide for a payment of the sum of \$171.43 per annum for each unit managed prorated from the date of closing of title. (There are no suggested

rates for condominium management by the local real estate board.) See Schedule P for a copy of the management contract which the Board of Managers will execute on behalf of the Condominium. As managing agent of the Board of Managers, Mr. Ryan will bill and collect common charges, hire and fire employees, supervise alterations and repairs, maintain the Condominium books and records, advise the Board of Managers regarding its proposed annual budget, engage independent public accountants to prepare an annual balance sheet and profit and loss statement for the Condominium, purchase supplies for the Condominium, and generally perform the duties of a managing agent for residential property. Performing these duties, the managing agent may engage contractors on behalf of the Board of Managers for the purpose of carrying out the maintenance and repair of the common elements. At the present time, no contracts have been entered into with contractors for these purposes, but the estimate of income and expenses for the first year of operation makes reasonable provision for such contracts.

C. Repairs, Alterations and Improvements to Common Elements

The actual cost of all maintenance, management, operation, repair and replacement of the common elements shall be a common expense, including, but not limited to, the cost of maintenance and repair of exterior walls of the Units and their roofs, including any courtyard or terrace walls or fencing. The Board of Managers may establish a reserve for contingencies to cover unforeseen repairs and create the same out of common charges.

The Board of Managers has a right of access to each Unit for maintenance, repair or improvements of the pipes, sewers, water mains, wires, conduits and public utility lines located in any Unit and servicing any other Unit. All irrevocably restricted common elements (includes any fence, patio, porch, deck or atrium abutting each Unit) shall be maintained and repaired by the Unit Owner to whom such common element is restricted in use. However, the Board of Managers shall repair and replace any pipes, wires, conduits and public utility lines located underground or overhead of any irrevocably restricted common element (defined in Declaration, Article II, Paragraph F) except where such repair or replacement is necessitated because of the negligence, misuse or neglect of the Unit Owner to which the common element is restricted in use, in which event such Unit Owner shall make such repairs or replacements at his own expense.

D. Insurance

The Board of Managers shall obtain and maintain, to the extent obtainable, insurance coverage insuring the structures and all other insurable improvements upon the land, including common elements and all individual Units, and improvements and betterments, and all personal property as may be owned by the Condominium in an amount equal to the maximum insurable replacement value thereof as determined annually by the insurance company affording such coverage, but at the inception of the Condominium in an amount of not less than \$100,000.00 per Unit. Such coverage shall afford protection against loss or damage

by fire and other hazards covered by the standard extended coverage endorsement and such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use as the Condominium structures, including but not limited to, vandalism, malicious mischief, windstorm and additional perils.

Insurance covering public liability and property damage shall be provided in such amounts and in such forms as shall be required by the Board of Managers, but in no event less than \$500,000.00 for bodily injury to one person per occurrence; \$1,000,000.00 for aggregate bodily injury to all persons per one occurrence and \$250,000.00 property damage per occurrence; including, but not limited to, hired automobile, non-owned automobile and off-premises employee coverage (if there are any employees).

In the event workmens compensation insurance is required by law for the Condominium, a workmens compensation policy meeting those requirements shall be procured.

All liability insurance will contain cross-liability endorsements to cover liabilities of the Unit Owners as a group to a Unit Owner.

With the exception of the insurance furnished by the Sponsor during construction, all insurance policies upon the Condominium (with the exception of the policies purchased by Unit Owners themselves as outlined in the following paragraph) shall be purchased by the Board of

Managers for the benefit of the Unit Owners and their respective mortgagees, as their interest may appear, and shall provide for the issuance of the certificates of insurance with mortgagee endorsements to the holders of first mortgages on the Units or any of them, and shall provide that the insurer waives its right of subrogation as to any claims against Unit Owners, the Board of Managers and their respective employees, agents and guests. Such policy will also contain waivers of invalidity on account of acts of the insured, and ten days notice prior to any cancellation of any such policy. Each Unit Owner shall have delegated to the Board of Managers his right to adjust with insurance companies all losses under policies purchased by the Board of Managers of the Condominium except in any case where the damage is restricted to one Unit, subject to the rights of mortgagees of the Unit Owners. The policy obtained by the Board of Managers shall contain an endorsement providing that there shall be no pro-rata reduction of recovery on account of insurance obtained by Unit Owners.

Each Unit Owner may obtain insurance, at his own expense, affording coverage upon his personal property and for his personal liability and additional insurance required by law, if any, but all such insurance shall contain the same waiver of subrogation as that to which reference is made above, and may be obtained from the insurance company from which the Board of Managers obtains coverage against the same risk, liability or peril, if the Board of Managers has such coverage. To the extent that a

Unit Owner obtains coverage for any risk related to his Unit or Condominium property from an insurer other than the Condominium's insurer, he shall provide current certificates of coverage and deliver them to the Board of Managers.

Premiums upon insurance policies purchased by the Board of Managers shall be paid by the Board of Managers and charged as common expenses, provided, however, that in charging the same to the Unit Owners, consideration may be given to the higher premium rates on some Units than on others.

The Board of Managers will arrange for repair of the Units in the event of casualty loss, unless at a meeting of the Board of Managers the Condominium Declaration is terminated. In the event the insurance proceeds are not sufficient to defray the cost of reconstruction and repair to the units, the balance of the cost of such re-construction and repair or the estimate thereof will be assessed against all Unit Owners. In the event of a casualty loss, the Unit Owner will continue to pay the common charges on his Unit.

E. Units Acquired by Board of Managers

All Units which are acquired by the Board of Managers, or its designee, shall be held by it on behalf of all Unit Owners, whose respective interests shall be in proportion to the common interests of such Unit Owners and the votes appurtenant to such Units shall be cast by the Board of Managers or its designee at all meetings of the Unit Owners, except that the Board will not vote such interests in any election of members of the Board.

F. Liability of Board of Managers and Unit Owners

In order to limit the liability of the Unit Owners, any contract, agreement or commitment made by the Board of Managers shall state that it is made by the Board of Managers as agent for the Unit Owners as a group only and that no member of the Board of Managers nor individual Unit Owner shall be liable for such contract, agreement or commitment except that every Unit Owner shall be liable to the extent that his proportionate interest in the common elements bears to the total liability under such commitment. The Board of Managers shall have no liability to the Unit Owners in the management of the Condominium except for willful misconduct or bad faith and the Unit Owners shall severally indemnify all members of the Board of Managers in accordance with their duties as such member except for acts made in bad faith. Such several liability of the Unit Owners shall, however, be limited to the extent that his proportionate interest in the common elements bears to the total liability of the member of the Board of Managers.

G. Termination of Condominium

The Condominium shall be terminated, voluntarily or involuntarily, only in accordance with the Declaration and in accordance with the Condominium Act. The Declaration provides for voluntary termination upon the affirmative agreement of seventy-five percent (75%) of the Unit Owners and, if the Unit is mortgaged, the agreement of the first mortgagee.

H. Reports to Unit Owners

All Unit Owners will receive annually, copies of an annual report of the Condominium including a balance sheet and profit and loss statement certified by an independent public accountant, a statement regarding any taxable income attributable to the Unit Owners and a notice of the holding of an annual Unit Owners Meeting.

IX. GENERAL INFORMATION

A. Sponsor

The Sponsor is a New York corporation whose stock is owned by John H. Ryan, his wife, Sheila H. Ryan, and his three children, Charles F. Ryan, II, Susan M. Ryan and John H. Ryan, Jr. Mr. John H. Ryan is President of the corporation and Charles F. Ryan, II, is an employee in a supervisory capacity. John H. Ryan has been active in the construction of luxury residential real estate, and in other areas of the developing, building, and real estate industries in the Rochester area since 1952. Among his more recent projects are the majority of homes on Countryside Road, Perinton, Monroe County, New York; the development of South Pittsford Hill and of Tobey Estates, both in the Town of Pittsford, Monroe County, New York; the development of 3000 East Avenue Condominium, Town of Brighton, Monroe County, New York, and the development of Tobey Woods Condominium, Pittsford, New York. 3000 East Avenue Condominium was developed in 1973, and consisted of three buildings containing nine separate units in the \$70,000.00 to \$125,000.00

range. All thirty-two units in the Tobey Woods Condominium have been sold prior to the commencement of construction of this Condominium.

B. Pending Litigation

At the date of this Offering Plan, there is no litigation pending against the Condominium or the Sponsor or any other party which would affect their ability to perform their obligations relating to this Offering, or which would in any way affect this Offering.

C. Profit

Although it is impossible to estimate the profits of the Sponsor in the construction of this Condominium because of many contingent factors, it is anticipated that the Sponsor will make a substantial profit in the construction and sale of the Units.

D. Non-Discrimination

The Sponsor will construct the Condominium units and offer them for sale without discrimination on the basis of race, color, creed or national origin.

E. Plan as Fair Summary

This Plan contains a fair summary of the pertinent provisions of the various documents referred to herein and does not knowingly omit any material fact or contain any untrue statement of a material fact relating to the Offering. Any information or representation made, not contained in this Offering Plan must not be relied upon.

The purchase agreement made be modified with the consent of the Purchaser and the Sponsor, but only in writing.

The Sponsor reserves the right, as long as a purchase agreement has not been executed for an unsold Unit, to change the size, layout, appliances or interior material or decoration for such Unit where so requested by a prospective purchaser.

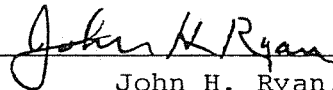
In accordance with Section 352 e. 9. of the General Business Law, copies of this Plan and all documents referred to herein shall be kept on file at the office of the Sponsor, 26 State Street, Pittsford, New York 14534, and made available to all persons who have purchased any security offered by this Plan or have participated in the offering of such securities for a period of six years.

This Plan may not be modified orally, but only by a duly filed amendment.

Dated: August 29, 1978

RYAN HOMES, INC.

By:



John H. Ryan,
President