

EXHIBIT D

**BY-LAWS OF
COTTON MILL CONDOMINIUM ASSOCIATION, INC. AND
FIRST AMENDED BY-LAWS
OF COTTON MILL CONDOMINIUM ASSOCIATION, INC.**

**BY-LAWS
OF
COTTON MILL CONDOMINIUM
ASSOCIATION, INC.**

These By-laws have been adopted by the Board of Directors of **COTTON MILL CONDOMINIUM ASSOCIATION, INC.** (the "Association"), a nonprofit corporation formed pursuant to the Louisiana Non-Profit Corporation Law, Chapter 12, Sections 201-269, Louisiana Revised Statutes, as amended (the "Non-Profit Corporation Law"). The Association is the governing body of the Condominium established by virtue of that certain Act of Declaration by Cotton Mill Limited Partnership Creating and Establishing a Condominium Regime for Cotton Mill Condominium (the "Condominium Declaration"), executed September 29, 1996 by Cotton Mill Limited Partnership, a Louisiana limited partnership (the "Declarant"), in accordance with the provisions of the Louisiana Condominium Act, Chapter 9, Sections 1121-1131, Louisiana Revised Statutes, as amended (the "Condominium Act").

Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Condominium Declaration.

All present and future owners, co-owners, lessees, occupants, and mortgagees of Units in the condominium regime shall be subject to the provisions of these By-Laws. The acquisition by a Unit Owner shall signify and constitute a ratification and acceptance of these By-Laws by any such Unit Owner.

ARTICLE I

OFFICE

The principal office of the Association shall be located in the City of New Orleans, State of Louisiana, at 210 Baronne Street, Suite 1717, New Orleans, LA 70112 or such other

address as may be designated by the Board of Directors of the Association (the "Board of Directors").

ARTICLE II

MEMBERSHIP MEETINGS

1. **Place of Meetings.** All meetings of the members of the Association shall be held at the principal office of the Association or such other place, within or without the State of Louisiana, as may be designated by the Board of Directors.

2. **Annual Meeting.** Subject to the provisions of Section 11 of this Article, an annual meeting of the members shall be held on the 1st day of June in each year, or if said day be a legal holiday, then on the next succeeding day not a legal holiday, for the purpose of electing Directors and for the transaction of such other business as may be properly brought before the meeting of the members.

3. **Special Meetings.** Special meetings of the members, for any purpose or purposes, may be called by the President or a majority of the Board of Directors and shall be called by such officers upon receipt of a written request from members holding at least ten (10%) percent of the voting power of the Association.

4. **Notice.** Notice of all member meetings stating the time and place and the objects for which the meeting is called shall be given by the President or Secretary, unless waived in writing by the members. All members present at a meeting shall be deemed to have received or to have waived such notice. Such notice shall be in writing to each member at his address as

it appears on the books of the Association and shall be mailed not less than ten (10) days nor more than thirty (30) days prior to the date of the meeting. Proof of such mailing, if required, may be given by affidavit or in the signed minutes of the meeting.

5. **Quorum.** A quorum at any members' meeting shall consist of persons, present in person or by proxy, who are entitled to cast at least fifty one (51%) percent of the votes of the entire membership. The joinder of a member in the action of any meeting by signing and concurring in the minutes thereof shall constitute the presence of such member for the purpose of determining a quorum.

6. **Voting.** When a quorum is present at any meeting, the holders of at least fifty one (51%) percent of the total votes present or represented by written proxy shall decide any question brought before the meeting, unless the question is one upon which by express provision of the Condominium Act, the Articles of Incorporation, the Condominium Declaration, or these By-Laws a different vote is required, in which case such express provision shall govern and control the decision of such question.

7. **Entitlement to Vote.** The aggregate number of votes for all members of the Association shall be one hundred (100). In any meeting of members each Unit Owner shall be entitled to cast the percentage of total vote of one hundred (100) that is equal to the Share of Common Elements attributable to his Unit, as provided in the Condominium Declaration. If a Unit is owned by more than one person, or is under lease, the person entitled to cast the vote for the Unit shall be designated by a certificate of appointment signed by all of the record owners of the Unit and filed with the Secretary of the Association. Such certificate shall be valid until

revoked, or until a change in the ownership of the Unit concerned occurs. A certificate designating the person entitled to cast the vote of a Unit or interest in a Unit may be revoked at any time by the person or persons who executed the same. Votes may be cast in person or by proxy. Proxies shall be in writing and may be made by any person entitled to vote. They shall be valid only for the time (not exceeding the term permitted by the Non-Profit Corporation Law) or for the particular meeting designated in the proxy and must be filed with the Secretary before the appointed time of the meeting. Approval or disapproval of a Unit Owner upon any matter, provided for by law, or by the provisions of the Articles of Incorporation, the Condominium Declaration or these By-Laws, or otherwise, whether or not the subject of an Association meeting, shall be by the same person or persons who would be entitled to cast the vote of such Unit Owner in an Association meeting.

8. **Adjournments.** If any meeting of members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present. Notwithstanding the foregoing, in the case of any meeting called for the election of Directors, those who attend the second of such adjourned meetings, although less than a quorum as fixed in Section 5 of this Article, shall nevertheless constitute a quorum for the purpose of electing Directors.

9. **Order of Business.** The order of business at annual members' meetings, and, as far as practical at all other members' meetings, shall be:

- (1) Election of chairman of the meeting;
- (2) Calling of the roll and certifying proxies;

- (3) Proof of notice of meeting or waiver of notice;
- (4) Reading and disposal of any unapproved minutes;
- (5) Reports of Officers;
- (6) Reports of Committees;
- (7) Election of Directors (as necessary);
- (8) Unfinished business;
- (9) New business; and
- (10) Adjournment.

10. **First Meeting of Members.** Until a date which is the earlier of (i) the first day of the fourth month after the date Declarant, its successors or assigns, shall have completed the sale of fourteen (14) of the Penthouse Units; (ii) the fifth anniversary of the first sale of a Penthouse Unit, or (iii) the date Declarant elects to transfer responsibility for governance of the Condominium to the Association, there shall be no meeting of members of the Association unless a meeting is called by the Board of Directors.

11. **Written Consents.** Whenever, by any provision of law, the Condominium Declaration, the Articles of Incorporation, or these By-Laws, the affirmative vote of members is required to authorize or constitute action by the Association on behalf of the condominium regime, the consent in writing to such action, signed by all of the members having voting power in the particular question, shall be sufficient for the purpose, without necessity for a meeting of the members. The consent, together with a certificate by the Secretary of the Association to the effect

that the subscribers to the consent constitute all of the members entitled to vote on the particular question, shall be filed with the records of the proceedings of the members.

ARTICLE III

DIRECTORS

1. **Board of Directors.** The affairs of the Association shall be managed by a Board of Directors consisting of three directors, provided, however, that in the event there are fewer than three members, the Board of Directors may consist of the same number of directors as there are members. A member of the Board of Directors need not be a Unit Owner.

2. **Election of Directors.**

(a) After resignation or replacement of the original Directors, election of Directors shall be conducted at an annual or special members' meeting. Election shall be by a plurality of votes cast, each person voting being entitled to cast his votes for each vacancy to be filled. There shall be no cumulative voting.

(b) Except as to vacancies created by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors.

(c) Any Director may be removed by concurrence of sixty-seven (67%) percent of the votes of the entire membership. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting.

(d) Until a date which is the earlier of (i) the first day of the fourth month after the date Declarant, its successors or assigns, shall have completed the sale of fourteen (14) of the Penthouse Units; (ii) the fifth anniversary of the first sale of a Penthouse Unit, or (iii) the date Declarant elects to transfer responsibility for governance of the Condominium to the Association, the first Directors of the Board of Directors of the Association named in the Articles of Incorporation shall serve, and the remaining Directors, or if there are none, then the Declarant, shall fill any vacancies occurring before the first election.

(e) Regular or special meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. After the date set forth in Section 3(d) hereof, meetings of the Board shall be held at least one every calendar quarter. Notice of all meetings shall be given to each Director, personally or by mail, telephone, or telegraph at least three (3) days prior to the day named for such meeting unless such notice is waived.

(f) Any Director may waive notice of a meeting in writing before, during, or after the meeting and such waiver shall be deemed equivalent to the giving of notice. Directors present at a meeting shall be presumed to have received due, or to have waived, notice thereof.

(g) A quorum at Directors' meetings shall consist of the Directors entitled to cast at least fifty one (51%) percent of the votes of the entire Board. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum. The acts of the Board of Directors approved by a majority of the Directors present at a meeting at which a quorum is

present shall constitute the acts of the Association, except as specifically otherwise provided by Condominium Act or in the Condominium Declaration, Articles of Incorporation, or these By-Laws. If at any meeting of the Board of Directors less than a quorum is present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At an adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

(d) Any action which may be taken at a meeting of the Board of Directors, may be taken by a consent in writing signed by all of the Directors and filed with the records of proceedings of the Board of Directors. Meetings may also be held by telephone conference call, provided all Directors present at the meeting are able to hear each other.

(e) Directors' fees, if any, shall be determined by the members of the Association.

4. **Powers of the Board.** All of the powers and duties of the Association existing under law and in accordance with the Condominium Declaration and other documents establishing the condominium regime shall be exercised by the Board of Directors, its agents, contractors or employees, subject, however, to the provisions of the Condominium Declaration and to the approval by Unit Owners and members of the Association when such is specifically required. Compensation of employees of the Association shall be fixed by the Directors. A Director may also be an employee of the Association.

5. **Management Agreement.** The Board of Directors is specifically authorized to enter into a Management Agreement, for such period of time, containing such terms and for

such consideration as the Board of Directors may approve, with H.R.I. Management Corporation (H.R.I. Management) or any other Manager (which may be a corporation related to the Declarant) for the maintenance, repair, operation, and administration of the condominium regime, and, pursuant to any such Management Agreement, the Board of Directors may delegate to the Manager to the extent permitted by law, all powers and duties of the Board of Directors to act on behalf of the Association with respect to management of the Condominium Property.

ARTICLE IV

OFFICERS

1. **Election.** The executive officers of the Association shall be a President, a Treasurer, and a Secretary, none of whom need be Directors. There may also be one or more Vice-Presidents, Assistant Secretaries and Assistant Treasurers. All Officers shall be elected annually by the Board of Directors and may be peremptorily removed by vote of the Directors at any meeting thereof. Any person may hold two offices except that the President shall not also be the Secretary. The Board of Directors shall from time to time elect such other Officers (who need not be Directors or Unit Owners) and designate their powers and duties as the Board of Directors shall find to be required to manage the affairs of the Association.

2. **President.** The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of president of a non-profit corporation, including, but not limited to, the power to appoint committees from among the members from time to time, as he may in his discretion determine

appropriate, to assist in the conduct of the affairs of the Association, and to preside over the member meetings.

3. **Vice-President.** The Vice-President, if any, shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board of Directors.

4. **Secretary.** The Secretary shall keep the minute book wherein the resolutions of all proceedings of the Board of Directors and the members shall be recorded. He shall attend to the giving and serving of all notices to the members and the Board of Directors and other notices required by law. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an Association and as may be required by the Board of Directors or the President.

5. **Treasurer.** The Treasurer shall have custody of all property of the Association including funds, securities, and evidences of indebtedness. He shall keep the Assessment rolls and accounts of the members; he shall keep the books of the Association in accordance with good accounting practice; and he shall perform all other duties incident to the office of Treasurer.

6. **Compensation.** The compensation of all employees of the Association, including officers, shall be fixed by the Board of Directors.

ARTICLE V

ASSESSMENTS AND FISCAL MANAGEMENT

1. **Preparation of Annual Budget, Assessments.** On or before May 1st of each year, the Board of Directors shall prepare a budget (the "Annual Budget") based on an estimate of the total cost of insurance, wages, materials, services, and supplies and other Common Expenses including fees payable to the Manager during the ensuing calendar year for the management and maintenance of the Condominium Property, together with reasonable amounts considered by the Board of Directors to be necessary for any reserves for replacement of the Common Elements which may be established. On or before May 15th of each year, the Board of Directors shall mail to each Unit Owner a copy of the proposed Annual Budget for the ensuing year together with a written statement of the annual or monthly Assessments pertaining to the Unit, which Assessments shall be computed in accordance with the Share of each Unit Owner set forth in the Condominium Declaration, subject to authority of the Board of Directors to make nonproportional Assessments, as provided below. If the Annual Budget or proposed Assessments are amended, a copy of the amended budget or statement of Assessment shall be furnished each Unit Owner concerned. Until an Annual Budget is adopted by the Board of Directors as provided in this Section 1, monthly Assessments shall be paid on the basis of the initial Annual Budget prepared by the Declarant and presented to each Unit Owner upon purchase of his Unit from Declarant. Notwithstanding the foregoing, in the event that any Annual Budget would require Unit Owners as a group to pay Assessments in an amount for the current year in excess of one hundred and twenty five (125%) percent of the amount of Assessments paid for the previous year,

then any such additional Assessments shall be made only upon approval of Unit Owners entitled to cast at least fifty one (51%) percent of the votes of members in the Association. All Assessments which the Board of Directors may levy against Units and Unit Owners shall be made, apportioned, and collected in the manner set forth in those provisions of the Condominium Documents or law authorizing the same or in the action of the Board of Directors in making the Assessment.

2. **Nonproportional Assessments.** The Board may make nonproportional Assessments, as provided in the Condominium Declaration.

3. **No Waiver; No Abandonment or Conveyance In Lieu of Payment.** The failure or delay of the Board of Directors to prepare or to transmit to Unit Owners an Annual Budget or statement of Assessments shall not constitute a waiver or release in any manner of the obligation of any Unit Owner to pay Assessments against his Unit for which he is obligated, whenever the same shall be determined. In the absence of an Annual Budget or statement of Assessments, each Unit Owner shall continue to pay then existing monthly installments against the Assessments established for the previous period until changed by delivery of a revised statement of Assessments. No Unit Owner shall be relieved of his obligation to pay the Assessment attributable to the Unit owned by such Unit Owner by abandoning or not using, or tendering or attempting to convey to the Association, his Units, the Common Elements, or any Limited Common Elements.

4. **Additional Assessments.** In the event that the Annual Budget and the Assessments made pursuant thereto prove to be insufficient because of nonpayment of any

Assessment, the Annual Budget and Assessments therefor may be amended at any time by the Board of Directors and supplemental, special or additional Assessments made. Notice of such amended budget and Assessments shall be given to Unit Owners in the manner determined by the Board.

5. **Budget Items.** The Annual Budget shall have divisions for general Common Expenses applicable to all Units and Common Expenses which relate only to Limited Common Elements benefitting one or more specific Units, and each of such major budget divisions may include allocations for, and the funds and expenditures of the Association may be credited and charged to, accounts under the following classifications, as shall be appropriate, all of which expenditures shall be Common Expenses:

(a) **Current Expenses,** including all funds to be used and expenditures to be made within the year for which the funds are budgeted to pay current Common Expenses for the maintenance and management of the Condominium Property, including reasonable amounts for contingencies related to such expenses.

(b) **Reserve for Deferred Maintenance,** including funds for maintenance items which occur less frequently than annually.

(c) **Reserve for Obsolescence and Replacements,** including funds for repairs or replacements to the Condominium Property required because of uninsured casualty, damage, depreciation or obsolescence.

(d) **Reserve for Alterations and Improvements,** including funds for such alterations or improvements to the Common Elements which may have been authorized in

accordance with the Condominium Declaration and for additional movable property needed in the management and operation of the Condominium Property and which will become part of the Common Elements.

(e) Reserve for Bad Debts, including funds to offset reasonably anticipated defaults in payments of Assessments and other obligations due the Association.

(f) Working Capital, including funds necessary to provide sufficient cash to the Association to pay current obligations as they become due.

The Board of Directors or Manager, in its absolute discretion, may establish from time to time such other accounts or budget classifications as it may deem appropriate for the proper administration of the Condominium Property.

6. Emergency Expenditures. Extraordinary or emergency expenditures not originally included in the Annual Budget but which may become necessary shall be first charged against any appropriate reserves available for such contingencies, and, to the extent such reserves are unavailable or inadequate, the Board of Directors or Manager may levy additional Assessments against any or all Unit Owners. In the event that such additional Assessments would result in Unit Owners as a group having to pay an amount for the current year in excess of one hundred and twenty five (125%) percent of the amount of Assessments paid for the previous year, then any such additional Assessments shall be made only upon written notice to and approval of Unit Owners entitled to cast at least fifty one (51%) percent of the votes of members in the Association and shall be due in such installments and at such times as may be specified by the Board of Directors and set forth in the notice of such Assessment.

7. **Additional Revenues.** All net revenues received by the Association in the preceding year from operation of revenue producing activities on the Condominium Property shall be included in Common Surplus as provided in Section 8 of this Article V and applied as provided therein.

8. **Accounting.** On or before the date of the annual members' meeting of each year, the Board of Directors or Manager shall provide all Unit Owners with a copy of an itemized accounting of the Common Expenses actually incurred and paid for the preceding year, together with a tabulation of all amounts collected pursuant to Assessments levied and other revenues of the Association, if any, and showing the net amount of surplus or deficit over actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be Common Surplus and shall be apportioned among the Unit Owners according to the Share of each Unit Owner as set forth in the Condominium Declaration and credited to each Unit Owner's next installment payable for Assessments for the current year, until exhausted. Any deficit shall be accounted for in the Annual Budget for the current year or charged to each Owner as an immediately payable additional Assessment for the current year, in the sole discretion of the Board of Directors.

9. **Books and Records.** The Treasurer, or Manager pursuant to the provisions of the Management Agreement, shall keep full and correct books of account, including itemized records of all receipts and expenditures, and the same shall be open for inspection by any Unit Owner, any representative of a Unit Owner duly authorized in writing, or the Mortgagee of any Unit at such reasonable time or times during normal business hours as may be requested by the

Unit Owner or his representative or Mortgagee. The Treasurer or Manager shall also maintain a separate account for each Unit which shall be kept current at all times and which shall show: (i) the name and address of the Unit Owner or Owners and the Mortgagee of the Unit, if any, (ii) the amount and due date of all Assessments pertaining to the Unit, (iii) all amounts paid on account, and (iv) any balance due. Upon written request of a Unit Owner or his Mortgagee, the Treasurer or Manager shall promptly furnish a certificate or statement of account setting forth the amount of any unpaid Assessments or other charges due and owing by such Unit Owner.

10. Payment of Assessments. All installments on Assessments shall be payable to the order of Cotton Mill Condominium Association, Inc. and shall be paid at the principal office of the Association, or to such other person or entity and at such other place as the Board of Directors may from time to time designate.

Any installment on any Assessment for Common Expenses not paid within ten (10) days after the date when due, as determined by the Board of Directors, shall be delinquent as of the eleventh day after the date due. Not later than thirty (30) days after any such Assessment becomes delinquent, the Association or Manager shall serve upon the Unit Owner liable for any such delinquent installment a sworn detailed statement of the Association's claim for any or all delinquent installments on Assessments for Common Expenses together with interest at the rate of eighteen (18%) percent per annum from due date. Such statement shall be executed by the Treasurer or Secretary of the Association and shall be duly acknowledged and sworn to before a Notary Public and shall either be personally delivered or sent by certified mail, registered or return receipt requested, to the responsible Unit Owner or Co-Owner. In the event that payment

is not made within seven days of the serving of such sworn statement, the Secretary or Treasurer or Manager shall, take necessary measures to file in the records of the mortgage office for the Parish of Orleans, an affidavit claiming a privilege and lien on behalf of the Association against the defaulting Unit Owner's interest in the such Unit Owner's Condominium Parcel liable for such Assessment. The affidavit may be signed and verified by any Director or Officer of the Association or a duly authorized officer of the Manager, and shall include (i) a description of the Condominium Parcel by reference to the Condominium Declaration, the Unit designation and any other information necessary for proper identification, (ii) the name of the Unit Owner, whose interest in the Unit is subject to the lien and privilege and the names of all record owners of the Unit, (iii) the amount of all delinquent installments, payments or Assessments for Common Expenses, and (iv) the date on which the said installments or payments became delinquent.

In the event that payment of the claim of lien is not forthcoming after filing of the claim of lien, the Board of Directors or Manager may take necessary measures to have filed on behalf of the Association a suit on such claim and to foreclose on the interest of the defaulting Owner in his Unit and Condominium Parcel in a civil action in a court of competent jurisdiction in Orleans Parish. Any such suit may claim all past due amounts plus interest, the cost of the suit, and reasonable attorney's fees. Such suit must be filed within one (1) year of the date of recordation in the mortgage office of Orleans Parish of the affidavit claiming a privilege and lien. The Association or Manager shall cause the recordation in the mortgage office of Orleans Parish of a notice of suit setting forth the information required by the Condominium Act.

In addition to the remedies provided above, to the extent permitted by law, the Association or Manager may deny use, possession, and occupancy of any Unit and of the Common Elements to any Unit Owner who is in default in payment of any Assessment or installment of Assessment for Common Expenses, until such past due amounts and all penalties and interest with respect thereto are paid in full.

11. Notices to Mortgagees. Any Unit Owner who mortgages his Unit shall notify the Secretary of the name and address of his mortgagee. The Secretary shall maintain such information in a special book or file. Whenever so requested in writing, the Treasurer or Manager will promptly report to a mortgagee of a Unit any unpaid Assessments or other default by the Owner of such Unit. A copy of any notice of default sent by the Association to a Unit Owner shall also be sent to the mortgagee of the Unit whose name and address has theretofore been furnished the Association.

12. Deposit of Funds. The depository of the funds of the Association shall be such bank or banks as shall be designated from time to time by the Board of Directors or Manager. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by resolutions of the Board of Directors or by authorized officers and agents of Manager. All funds collected by the Association from Assessments may be commingled in a single fund; but they shall be held for the Unit Owners in the respective Shares in which they are paid and credited to accounts from which shall be paid the expenses for which the respective Assessments were made.

13. **Bonds.** Fidelity bonds or insurance may be required by the Board of Directors for all Director, Officers and employees of the Association or of the Manager or of other agents or contractors handling or responsible for the Association's funds. The amount of such bonds or insurance shall be determined by the Board of Directors. The premiums on such bonds or insurance policies shall be paid by the Association and shall be a part of the Common Expenses.

ARTICLE VI

RULES AND REGULATIONS

1. **Adoption.** The Board of Directors may in its discretion, and shall at the direction of members holding sixty-seven (67%) percent of the total votes of the Association, adopt or amend reasonable Rules and Regulations concerning the details of operation and use of the Condominium Property, including maintenance, conservation, and beautification of the Condominium and for the health, comfort, safety, and general welfare of the Owners and Occupants of the Units. To the extent permitted by law, the Association or Manager shall have the authority to deny use, occupancy, and possession of any Unit and/or the Common Elements to any Unit Owner or Occupant while such Unit Owner or Occupant is in violation of such Rules and Regulations.

2. **Notice.** Written notice of the adoption or amendment of such Rules and Regulations and a copy thereof shall be furnished to each Unit Owner and Occupant prior to their

effective date, and a copy of the current Rules and Regulations applicable to the Condominium shall be maintained at all times in the records of the Association.

ARTICLE VII

INDEMNIFICATION

1. **General.** The Association shall indemnify and hold harmless each member of its Board of Directors and its Officers, the Declarant, and Manager against all contractual and other liabilities to others arising out of contracts made by, or other acts of, such Directors, Board, Officers, Declarant, or Manager on behalf of the Unit Owners, or arising out of their status as Directors, Board, Officers, Declarant, or Manager, unless any such contract or act shall have been made fraudulently or with gross negligence, or criminal intent. Such indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees and costs, amounts of judgments paid, and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit, or proceeding, whether civil, criminal, administrative, or other in which any such indemnified party may be involved by virtue of such party being or having been a Director, Officer, Board Member, Declarant or Manager; provided, however, that such indemnity shall not be operative with respect to any matter as to which such persons shall have been finally adjudged in such action, suit, or proceeding to be liable for gross negligence or fraud, or guilty of criminal intent, in the performance of his duties as a Director, Officer, Board Member, Manager, or Declarant. Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of such action, suit, or proceeding as authorized by the Board of Directors in any

specific case, upon receipt of an undertaking by or on behalf of the indemnified party in advance to repay such amount unless it shall be ultimately determined that the indemnified party is entitled to be indemnified by the Association as authorized herein. The Association and its Board of Directors shall have power and responsibility to raise, by special Assessment or otherwise, any sums required to discharge its obligation under this Article; provided, however, that the liability of any Unit Owner arising out of any indemnification obligation shall be limited to such Unit Owners' respective Shares, as set forth in the Declaration.

2. **A Representative Capacity.** Any agreement made by the Board of Directors, Officers, the Declarant, or Manager on behalf of the Unit Owners and Association may provide that the parties making such agreement are acting only as the agent for the Unit Owners and the Association and shall have no personal liability thereunder (except as Unit Owners, if applicable), and that each Unit Owners' liability thereunder shall be limited to such Unit Owners' respective Shares.

3. **Additional Indemnification.** The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board, or otherwise, both as to action in an official capacity or as to action in another capacity. All rights of indemnification provided under this Article shall continue as to any person or entity who has ceased to be a member of a class specified hereunder entitled to indemnification and shall inure to the benefit of the heirs, executors, administrators, personal representatives, successors, and assigns of such person or entity.

ARTICLE VIII

NOTICES

1. **Delivery.** Any notice required by the Condominium Documents or by law to be given in writing by any Unit Owner to another Unit Owner or the Association or its Board of Directors or by the Association or its Board of Directors to any Unit Owner, Association member, or other person or entity shall be deemed sufficient if delivered personally or deposited in the United States Mail, registered or certified, addressed to the registered office of the Association, as filed with the Louisiana Secretary of State, and to the last address of such Unit Owner, Association member, or other person appearing in the records of the Association. Notice shall be deemed to have been given upon the date of personal delivery or deposit in the United States Mail in the manner aforesaid.

2. **Waiver.** A written waiver of any required notice, executed by the person or persons entitled to such notice, whether executed before or after the required time for the notice, shall be deemed equivalent to the required notice.

ARTICLE IX

PARLIAMENTARY RULES

Roberts' Rules of Order (latest edition) shall govern the conduct of Association proceedings when not in conflict with the Condominium Declaration, the Articles of Incorporation, or these By-Laws or with the laws of the State of Louisiana.

ARTICLE X

AMENDMENTS

Amendments to the By-Laws shall be proposed and adopted in the following manner:

1. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

2. A resolution adopting a proposed amendment must receive approval by a vote of sixty-seven (67%) percent of the votes of the entire membership. Members not present at the meetings considering the amendment may express their approval in writing thereafter. Until the first election of Directors by the members at an annual or special meeting to replace the existing Directors, By-Laws may be approved or amended by the unanimous vote of the Directors.

3. An amendment may be proposed by either the Board of Directors or by any member or members of the Association having at least ten percent of the aggregate votes of the entire membership.

4. An amendment when adopted as set forth in Section 2 of this Article above shall become effective only after a copy of the same, certified by the President and Secretary as having been duly adopted, is recorded in the conveyance records of Orleans Parish, Louisiana in the same manner as recordation of the original Condominium Declaration to which the original By-Laws are annexed as an exhibit.

5. In the event of conflict between the provisions of the Condominium Declaration or the Articles of Incorporation of the Association and these By-Laws, the Condominium Declaration and the Articles of Incorporation shall control. Notwithstanding any other provision

hereof to the contrary, these By-Laws shall be amended, if necessary, by the Board of Directors so as to make the same consistent with the provisions of the Condominium Declaration, the Articles of Incorporation and the requirements of law, without the concurrence of the members.

6. No amendment to the By-Laws shall discriminate against any Unit Owner (including the Declarant) or against any Unit or class or group of Units unless the Unit Owners so affected shall consent.

I, the Secretary of Cotton Mill Condominium Association, Inc. (the "Association") do hereby certify that the By-laws set forth above were adopted by unanimous consent of the Board of Directors of the Association dated September 30th 1996.

DATED this 30th day of September, 1996.

3/10611/D/02



SECRETARY

**FIRST AMENDED
BY-LAWS
OF THE
COTTON MILL CONDOMINIUM
ASSOCIATION, INC.**

* UNITED STATES OF AMERICA
*
* STATE OF LOUISIANA
*
* PARISH OF ORLEANS

The By-Laws of the Cotton Mill Condominium Association, Inc. were adopted by the Board of Directors on September 30, 1996. Pursuant to a resolution of the Board of Directors of the Cotton Mill Condominium Association, Inc., portions of the By-Laws of the Cotton Mill Condominium Association, Inc. are hereby amended, revised and restated as follows:

I.

Article III, Directors, Section 1, Board of Directors and Section 2, Election of Directors, subsections (a), (c) and (e) are hereby amended, revised and restated in their entirety and a subsection (j) is hereby added to provide as follows:

**ARTICLE III
DIRECTORS**

1. **Board of Directors.** The affairs of the Association shall be managed by a Board of Directors consisting of five directors, provided, however, that in the event there are fewer than five members, the Board of Directors may consist of the same number of directors as there are members. A member of the Board of Directors need not be a Unit Owner.

2. **Election of Directors.**

(a) After resignation or replacement of the original Directors, election of Directors shall be conducted at an annual or special members' meeting. Election shall be by a plurality of votes cast, each person voting being entitled to cast his votes for each vacancy to be filled. There shall be no

cumulative voting. Notwithstanding any provision in this Section, the By-Laws, Articles of Incorporation, or the Declaration, there shall always be a total of one Director elected by the Penthouse Unit owners (the "Special Director"). From those candidates running for the position of Special Director, the one candidate who receives the most votes of the owners of the Penthouse Units and if applicable, units in Unit II shall be elected to the Board, regardless of the number of votes the other candidates receive.

...

(c) Any Director except a Special Director, may be removed by concurrence of sixty-seven (67%) percent of the votes of the entire membership. Fifty (50%) percent of the Penthouse Unit Owners must also concur in the removal of any Special Director. In the event the Director removed from the Board is the Special Director elected by the owners of the Penthouse Units, the Board shall fill the vacancy with a member who represents the owners of the Penthouse Unit. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting.

...

(e) Regular or special meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. After the date set forth in Section 3(d) hereof, meetings of the Board shall be held at least once every calendar quarter. Notice of all meetings shall be given to each Director, personally or by mail or by telecopier, at least three (3) days prior to the day named for such meeting unless such notice is waived.

...

(j) Notwithstanding the provisions of this section, the By-Laws, Articles of Incorporation and Condominium Declaration for the Cotton Mill Condominiums, the election of the Special Director shall take place (i) at the earlier of the first day of the fourth month after the date the Declarant, its successors or assigns, have completed the sale of 14 of Penthouse Units; (ii) the fifth anniversary of the first sale of a Penthouse Unit; or (iii) the date Declarant elects to transfer responsibility for governance of the condominium to the Association. Further, notwithstanding any provision of the By-Laws, Articles of Incorporation of the Cotton Mill Condominiums Association, Inc., or the Condominium Declaration for the Cotton Mill Condominiums, the election of the Special Director provided for in Paragraph 2, subsection (a) of the By-Laws may not be amended without the unanimous consent of the Penthouse Unit Owners.

The By-Laws are hereby corrected to give the proper designations of the sections in Article III, Directors, page 8, the last two paragraphs were designated as subsections (d) and (e) incorrectly, and should be designated as subsections (h) and (i). Further, the next sections, Powers of the Board and Management Agreement are incorrectly designated as Sections 4 and 5 respectfully in the original By-Laws, and should be designated as Section 3, Powers of the Board and Section 4, Management Agreement.

II.

Article V, Assessments and Fiscal Management, Section 2, Nonproportional Assessments, and Section 5, Budget Items, subsection (f) Working Capital, are hereby amended, revised and restated to provide as follows:

...

2. **Nonproportional Assessments.** The Board may only make nonproportional Assessments as provided in the Condominium Declaration.

...

5. **Budget Funds.**

(f) **Working Capital,** including funds necessary to provide sufficient cash to the Association to pay current obligations as they become due.

The Board of Directors or Manager, may establish from time to time such other accounts or budget classifications as it may deem appropriate for the proper administration of the Condominium Property.

III.

Article VIII, Notices, Section 1, Delivery, is hereby amended, revised and restated to provide as follows:

1. **Delivery.** Any notice required by the Condominium Documents or by law to be given in writing by any Unit Owner to another Unit Owner or the Association or its Board of Directors or by the Association or its Board of Directors to any Unit Owner, Association member, or other person or entity shall be deemed sufficient if delivered personally or deposited in the United States Mail, registered or certified, addressed to the registered

office of the Association, as filed with the Louisiana Secretary of State, and to the last address of such Unit Owner, Association member, or other person appearing in the records of the Association. Notice shall be deemed to have been given upon the date of personal delivery or deposit in the United States Mail in the manner aforesaid. Notice may also be effected personally or by mail or telecopier.

I, the Secretary of the Cotton Mill Condominium Association, Inc. do hereby certify that the Amendment to By-Laws set forth above, were adopted by a unanimous consent of the Board of Directors of the Association on February 2nd, 1998.

Dated this 12th day of February, 1998, New Orleans, Louisiana.



SECRETARY

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February 11, 1998