
ARTICLE 1 – GENERAL BYLAWS

These are the General Bylaws of INDIGO GREEN FOUNDATION (the "**Foundation**"), a foundation not for profit registered in Sint Maarten and organized for the purpose of administering a residential real estate community known as INDIGO GREEN located in Sint Maarten (the "**Community**").

1. **Principal Office.** The principal office of the Foundation shall be at Skyline Drive No. 2, Indigo Bay, Sint Maarten, or at such other place as may be set by the Board of Directors of the Foundation.
2. **Fiscal Year.** The fiscal year of the Foundation shall be the calendar year.

ARTICLE 2 – DEFINITIONS

1. **Convenience.** For convenience, these General Bylaws shall be referred to as the "**Bylaws**" and the constitution of the Foundation as the "**Constitution**". The other words and expressions used in these Bylaws shall have the same definition and meaning as those set forth in the Constitution, unless herein provided to the contrary or unless the context dictates otherwise.
2. **Delinquent Owner.** An Owner whose right to vote is suspended.
3. **Owner In Good Standing.** An Owner whose right to vote is not suspended.
4. **Participant.** As provided for in Article 2 of the Constitution, "**Participant**" means an "**Owner**" at any given time. Accordingly, a reference herein to a Participant shall mean to an Owner, and vice versa.
5. **Policies.** Shall have the meaning set forth in Article 5, paragraph 3 of the Bylaws.

ARTICLE 3 – OWNERS AND PARTICIPANTS

1. **Participants.** In accordance with the legal requirement established by the law of Sint Maarten, the Owners become participants in the Foundation by the recording at the Registrar of Mortgages of their title deed to a Residence and remain participants until the recording at the Cadaster of the transfer of their title to a third party. Therefore, the Constitution, the Bylaws, the Rules and Regulations, the CBRUP and the other sets of rules or provisions that the Board may adopt in accordance with the applicable requirements shall apply to all Owners for as long as they shall be Owners. The Owners may not legally avoid the application of the Constitution, the Bylaws, the Rules and Regulations, the CBRUP and these other sets of rules or provisions.
2. **Authorized Representative.** If a Residence is owned by a legal person or more than one (1) physical person, the Owner must appoint one (1) physical person as his Authorized Representative. If the Owner is one (1) physical person, he may appoint another physical person as his Authorized Representative. The Authorized Representative shall represent the Owner in all matters relating to the Foundation, including those matters engaging the liability of the Owner in favor of the Foundation, and voting at meetings of Owners without the need for a proxy from the Owner. The Owner shall give written notice of such appointment to the Secretary upon acquiring title to his Residence and promptly after having appointed a new Authorized Representative. The appointment of an Authorized Representative shall not release the Owner from his obligations pursuant to the Constitution and these Bylaws.

3. **Local Representative.** It is the obligation of the Owner to provide the Foundation with the name, exact and complete civic and mailing address, telephone numbers and electronic mail address of a physical person who is normally residing in Country Sint Maarten and who will be in possession of all keys and access codes required to have access to his Residence (the “**Local Representative**”). The Local Representative may be the same person as the Authorized Representative or the Manager of the Foundation. The Local Representative shall have the right to grant access to the Residence as requested by the Board or the Manager for purposes authorized by the Constitution (including the easements, rights and restrictions provided for in article 23 of the Constitution), the CBRUP, the Bylaws and the Rules and Regulations of the Foundation.
4. **No Appointment.** When an Owner who must appoint an Authorized Representative fails to do so, the President shall, notwithstanding any other provision of these Bylaws dealing with proxies, hold a proxy authorizing him to represent the Owner, including to vote, at all meetings of Owners, until the Owner shall have provided his current contact information to the Secretary.
5. **Authority.** The Foundation shall be authorized to deal exclusively with an Authorized Representative and shall do so until advised to the contrary in writing by the Owner or his Authorized Representative. All notices, letters and other communications that are to be sent to an Owner shall be deemed to have been sent to the Owner when sent to his Authorized Representative.
6. **Contact Information.** It is the obligation of the Owner to provide the Secretary with his identity, exact and complete civic and mailing addresses, telephone numbers and electronic mail address, as well as the same for his Authorized Representative. The Owner, and the Authorized Representative, if any, shall promptly advise the Secretary of any change in his contact information, including new contact information resulting from the evolution of communication technology. At the Board's discretion, the Board may require that this information be re-confirmed on an annual basis.
7. **Notices.** All notices and other communications to Owners, Authorized Representatives, Directors and officers shall be given by any of the following means: hand delivery, mail, courier, facsimile or electronic mail, according to the contact information provided by the Owner or Authorized Representative. Proof of the giving of a notice or other communication may be made by affidavit, post office or delivery receipts, facsimile transmission report or by electronic mail receipt confirmation.
8. **Inability to Deliver.** If the Board is unable to enter into communication with an Owner or his Authorized Representative, including the giving of a notice of a meeting of Owners, because the Owner or his Authorized Representative has failed to maintain his contact information current with the Secretary, the President shall, notwithstanding any other provision of these Bylaws dealing with proxies, hold a proxy authorizing him to represent the Owner, including to vote, at all meetings of Owners, until the Owner or the Authorized Representative shall have provided his current contact information to the Secretary. In case of such inability, the Board shall be under no obligation to retain the services of third parties to determine the identity or contact information of the Owner or his Authorized Representative. The inability of an Owner or Authorized Representative to receive notices or other communications or to exercise rights hereunder, including voting, resulting from his failure to advise the Secretary of, or of a change in, his contact information shall give the Owner no right of action whatsoever to challenge any act, resolution or approval of the Board or the Owners, nor against the Foundation, its Directors and officers.
8. **Annual Meeting.** The Annual Meeting of Owners shall be held each year in Sint Maarten in December. The order of business of the meeting shall be as follows, subject to waiver or variation by the President:

- a. Call to order by the President;
 - b. Proof of notice of meeting or waiver of notice;
 - c. Approval of minutes of prior annual meeting;
 - d. Report of the Board;
 - e. Report of Committees;
 - f. Presentation of the projected Financial Statements for the current fiscal year;
 - g. Presentation of the proposed Annual Budget and Policy Plan for the next fiscal year;
 - h. Discussion of the financial situation, projections and the state of the operation of the Foundation in view of the proposed Annual Budget and Policy Plan for the next fiscal year;
 - i. Discussion of the long term prospects, financial and otherwise, of the Foundation in regards to its purpose, the condition of the IG Common Areas and the current and anticipated level of service and of contribution of Owners to the Foundation;
 - j. Election of Directors to fill vacancies, if any; and
 - k. Other business, as the Board may see fit.
9. **Special Meeting.** A special meeting of Owners shall be any meeting of Owners other than the Annual Meeting. Special meetings shall be held in Sint Maarten on the date and time and at the place determined by the Board. A special meeting may be called by the President or by a majority of the Board. A special meeting must be called by the President or the Secretary upon receipt of a written request from fifteen percent (15%) of the Owners in Good Standing, which must be accompanied with a description of the matters to be dealt with at the meeting requested, in sufficient details to enable an Owner to decide whether to vote on the matter, and the text of the resolutions that will be submitted to the vote by the Owners. The business conducted at a special meeting shall be limited to the purposes stated in the notice of meeting.
10. **Notice of Meeting.** Notice of a meeting of Owners stating the date, time and place and the purposes for which the meeting is called shall be given by the President or the Secretary, accompanied with the documents to be consulted or approved or voted on at the meeting. A copy of the notice shall be posted at the principal office of the Foundation. The notice of meeting shall be given no less than four (4) weeks and no more than eight (8) weeks prior to the date of the meeting, unless the matters to be dealt with at the meeting require immediate attention. In this case, the Board may convene a meeting to be held as soon as practically feasible. Meetings may also be held via conference call, online or other technical means allowing for real time audio communication between the Directors and the Owners.
11. **Waiver of Notice.** Notice of meeting may be waived before or after the meeting. The attendance of an Owner at a meeting shall constitute such Owner's waiver of notice of such meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.
12. **Quorum.** A quorum at meetings of Owners shall be attained by the presence in person or by proxy of persons entitled to cast more than thirty five percent (35%) of the total votes of Owners in Good Standing, unless a higher number is specifically provided elsewhere in the Constitution or these Bylaws.
13. **Voting.**
- a. At all meetings of Owners, there shall be only one (1) vote per Residence regardless of the number of persons or entities that may share ownership thereof. In case of co-ownership of the Residence, the vote may not be divided among the co-owners and only one (1) vote may be cast.

- b. In all matters where a vote of Owners is required by the Constitution or the Bylaws, the vote may be expressed by a show of hands at a meeting, through reliable written or electronic means, or by using a form that the Owners must return to the Secretary in due time so as to be counted at the meeting.
- c. When reference is made in the Constitution or the Bylaws to approval by the Owners, the Board may, at its discretion, convene a meeting of Owners for that purpose. In all cases, the Board shall be responsible for making the arrangements for a vote to be held at a meeting or the approval to be expressed by other means, and the results to be recorded in the minutes of the meeting or records of the Foundation.
- d. **Majority Vote.** The acts approved by a majority of the votes cast at a meeting at which a quorum is attained shall be binding upon all Owners for all intent and purposes, including those who opposed them and those who did not attend the meeting in person or by proxy. In these Bylaws and the Constitution, the expression "majority of the Owners" shall mean more than fifty percent (50%) of the votes of Owners in Good Standing and not a majority of the number of Owners and co-owners themselves. Similarly, if a greater percentage of Owners is required by these Bylaws or the Constitution, it shall mean such greater percentage of the votes of Owners in Good Standing and not of the number of Owners and co-owners themselves.
- e. **Proxies.** A proxy holder must be a physical person and needs not be an Owner. A proxy may be given by any Owner in Good Standing or an Authorized Representative whose Owner is in Good Standing, and the proxy shall only be valid for the specific meeting for which it was given and any lawfully adjourned and reconvened meetings thereof. In no event shall a proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person giving it. A proxy must be dated, state the date, time, and place of the meeting for which it was given, and filed with the Secretary no later than thirty (30) minutes before the appointed time of the meeting or the time to which the meeting is adjourned. Revocation of a proxy may be made in person or in writing filed with the Secretary before the appointed time for the meeting. An Owner who has appointed an Authorized Representative may not give a proxy. The Authorized Representative may give his proxy to his Owner or to any other person.
- f. **Special Majority.** In addition to actions mentioned in these Bylaws or the Constitution requiring prior approval by the Owners, approval by a two-third (2/3) majority vote of the Owners at a meeting where two-thirds (2/3) of the Owners are present or represented is required for approving:
 - i) The entering into of a loan agreement by the Foundation as borrower; and
 - ii) The amendment of the Constitution.
- g. **Adjourned Meetings.** Adjournment of an Annual or special meeting of Owners must be announced at the meeting before an adjournment is taken, or notice must be given of the new date, time and place pursuant to the notice provision of these Bylaws. Any business that might have been conducted at the original meeting may be transacted at the adjourned meeting. If any proposed meeting cannot be organized because a quorum is not attained, the President may adjourn the meeting until a quorum is present, provided that notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Except as provided by law, proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked for reasons other than the new date of the meeting.

- h. **Minutes of Meeting.** Minutes of all meetings of Owners must be maintained in written form or in another form that can be converted into written form within a reasonable time. The minutes of all meetings of Owners shall be kept in the minute book of the Foundation. The minutes shall include a list of Owners who attended a meeting in person or by proxy.
- i. **Impartiality.** At all meetings, the Owners shall act in an impartial manner in the interest of the Foundation. They shall not pass any resolution designed to harm other Owners or some of them or to violate their rights.
- j. **Delinquent Owner.**
 - i) If an Owner fails to pay Foundation dues, special assessments, surcharges and interest for two (2) months following their due date, the Owner's rights pursuant to the Constitution and these Bylaws, including the right to vote, and to use the IG Common Areas, shall be automatically suspended until all past due amounts are paid, whereupon all rights shall be automatically reinstated. Such Owner may, however, have access to his Residence and attend meetings of Owners while being delinquent.
 - ii) If the right to vote of an Owner is suspended pursuant to the provisions of the Constitution or these Bylaws, the Owner shall be deemed a Delinquent Owner. Such Owner shall not be counted for the purpose of the quorum at any meeting of Owners and the total number of votes cast at a meeting shall not include the number of votes held by the Owner, during the period of such suspension. He shall also not be authorized to oppose the holding of a meeting or the transaction of any business at a meeting, and to participate in recommendations presented to the Board pursuant to article 11 of these Bylaws.
- k. **Recording.** Any Owner may record meetings of Owners. The Board may adopt reasonable rules governing the recording of meetings of Owners.
- l. **Collection.** All reasonable collection charges, legal fees, and judicial expenses incurred by the Foundation in its effort to collect an amount due from an Owner in accordance herewith shall be reimbursed to the Foundation by the Owner, with interest charged at the same rate as that applicable to arrears of dues as may be set by the Board.

ARTICLE 4 – BOARD OF DIRECTORS

1. **Developer Board.** Until November 30, 2020, the affairs of the Foundation shall be managed and governed by the Developer Board. The Developer shall appoint all the members of the Developer Board until that date and shall have the right to replace them and fill vacancies at will, without the need for a meeting of Owners. Directors appointed by the Developer need not be Owners.
2. **Board Members.** After November 30, 2020, the affairs of the Foundation shall be managed and governed by a Board consisting of no less than (3) and no more than seven (7) members, each of whom must be of full age, an Owner or an Authorized Representative, must not be insolvent or bankrupt, a person to whom a curator or guardian is appointed, and must not have been convicted of a felony.
3. **Developer's Right to Appoint.** After November 30, 2020, the Developer shall have the right to appoint two (2) directors as long as i) the Developer or the Builder owns any part of the Property or ii) the Builder has not yet completed and delivered the last Residence planned to be built on the Property.

4. **Removal of Developer's Directors.** Notwithstanding any provision herein to the contrary in these Bylaws or the Constitution, the directors appointed by the Developer may not be removed by the Owners.

ARTICLE 5 – POWERS AND DUTIES

1. **Powers and Duties.** The Board shall have the powers and duties necessary for the management and administration of the affairs of the Foundation and may take all acts, through the proper officers of the Foundation, in exercising such powers and performing such duties, except such acts which by law, the Constitution or these Bylaws may not be delegated to the Board by the Owners. Such powers and duties of the Board shall include, without limitation, the following;
- a. Operating and maintaining the IG Common Areas and other property owned by the Foundation;
 - b. Determining the expenses required for the operation of the Foundation, including the constitution of the contingency fund as provided for in the Constitution;
 - c. Collecting the dues and special assessments from Owners, as well as surcharges and interest;
 - d. Employing and dismissing personnel necessary for the performance of its duties;
 - e. Adopting and amending the Rules and Regulations and the CBRUP as it may see fit;
 - f. Maintaining bank accounts in Sint Maarten on behalf of the Foundation and designating the signatories required therefor; signatories shall be selected among the Directors and the Manager and, if the Manager is a corporation or another type of entity, a duly authorized representative of the Manager;
 - g. Keeping a list of all Residences, as their number may vary, together with the identity of each Owner and his Authorized Representative, and their respective contact information;
 - h. Keeping a list of delinquent Owners;
 - i. Keeping a record of the Long Lease rent paid in advance and non-recurring contributions paid by each Owner;
 - j. Purchasing, leasing or otherwise acquiring other property in the name of the Foundation;
 - k. Purchasing Residences at foreclosure or other judicial sales, in the name of the Foundation;
 - l. Selling, leasing, mortgaging or otherwise dealing with Residences acquired by the Foundation, as provided for in the Constitution;
 - m. Settling or compromising claims of or against the Foundation in which all Owners have a common interest;
 - n. Obtaining and reviewing insurance for the IG Common Areas and other property owned by the Foundation;
 - o. Making repairs, additions and improvements to, or alterations of, the IG Common Areas after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise;
 - p. Enforcing obligations of the Owners and taking such other actions as shall be deemed necessary or proper for the sound management of the Foundation;
 - q. Levying fines against Owners for violation of the Constitution, the Rules and Regulations, the CBRUP and any other rules adopted by the Foundation to govern the compliance or conduct of the Owners;
 - r. Borrowing money on behalf of the Foundation when required in connection with the operation and maintenance of the IG Common Areas or the acquisition of property other than a Residence, and

granting mortgages on or security interests in Foundation-owned property. The Foundation shall take no action authorized in this paragraph without the prior written consent of the Developer as long as the Developer owns any part of the Property or a Residence;

- s. Contracting for the operation and maintenance of the IG Common Areas or other property owned by or under the control of the Foundation;
 - t. Authorizing the Manager to assist the Board in exercising its powers and performing its duties by performing such functions as the preparation of calls for tenders, collection of dues and other sums, preparation of records, enforcement of rules, and repair and maintenance of the IG Common Areas;
 - u. At its discretion, authorizing Owners or other persons to use portions of the IG Common Areas or other property owned by the Foundation for private parties and gatherings and imposing reasonable charges for such private use;
 - v. Granting permits, licenses and easements over the IG Common Areas for utilities, road, cable television, telecommunication services and other purposes reasonably necessary or useful for the proper operation and maintenance of Indigo Green;
 - w. Imposing a lawful fee in connection with the transfer, lease or sale of Residences, not to exceed the maximum amount permitted by law in any one case;
 - x. Exercising all powers specifically set forth in the Constitution and these Bylaws and all powers incidental thereto, and all other powers of a Sint Maarten foundation not for profit.
2. **Restrictions.** Notwithstanding anything in the Constitution, these Bylaws or elsewhere to the contrary, no funds of the Foundation shall be utilized for the purposes of bringing, supporting, investigating, or otherwise abetting any legal action, claim, or extra-judicial action against the Developer or the Builder for matters not related to the construction of the IG Common Areas. This specific provision may not be amended.
3. **Policies** – The Board may adopt policies as it may see fit in order to facilitate the administration of and the monitoring of compliance with the Rules and Regulations and the CBRUP (the "**Policies**"). The Policies may provide guidance for the application of the Rules and Regulations and the CBRUP and expand or limit the authority of the Architectural Committee. The Policies may also include decisions of the Board amending the Rules and Regulations and the CBRUP, without the need for prior approval by the Owners, provided that such amendment does not deviate in a material respect from the spirit, intent and purpose of same and does have a material adverse effect on the rights of the Owners collectively. The Board shall promptly publish a copy of the Policies that it may adopt.

ARTICLE 6 – ELECTION OF DIRECTORS

Except for the Developer Board, the election of the directors shall be held as follows:

1. **Annual Meeting.** The election shall be held at the Annual Meeting of Owners where no less than thirty five percent of the Owners are present or duly represented. If a quorum of thirty-five percent (35%) of the Owners in Good Standing is not reached within 30 minutes after the time at which the meeting was called, the then Board shall continue to serve until new directors are elected at a subsequent meeting in which the required quorum is reached.
2. **Nominations.** Nominations for directors and additional directorships created at the meeting may be made from the floor.

3. **Voting.** The election shall be decided by a plurality of the votes cast for each candidate. Each Owner shall have the right to cast one vote only per candidate and for no more candidates than there are vacancies to fill. There shall be no cumulative voting.
4. **Eligibility.** Only Owners in Good Standing and Authorized Representatives of Owners in Good Standing shall be eligible to serve as directors. An Owner and an Authorized Representative may nominate himself as a candidate for election to the Board at a meeting where the election is to be held.

ARTICLE 7 – TERM

1. **Duration.** A director shall be elected for terms of up to two (2) years, to allow for staggered terms, until his successor is duly elected or appointed or until he is removed as provided herein.
2. **Expiration.** The term of an elected director shall run from January first (1st) of the year after his election, provided that the election was held at an Annual Meeting held no later than in the immediately preceding month of December. The term shall run from the election date if the Annual Meeting is held after that month of December. The term of a director appointed to fill the unexpired term of a former director shall be the remainder of that unexpired term.
3. **Re-election.** A director may stand for re-election for an unlimited number of times.
4. **Termination.** A director's term will end:
 - a. On expiration of the term for which he was appointed or elected;
 - b. By written resignation;
 - c. On account of inability resulting from a physical or mental condition such that it is reasonably expected that the director shall be unable to normally perform his duties as a Director during a period of at least six (6) consecutive months;
 - d. On account of death;
 - e. For directors not appointed by the Developer, on account of failure to attend three (3) consecutive meetings of the Board;
 - f. For directors not appointed by the Developer, by revocation by the Board pursuant to a unanimous vote of the other directors;
 - g. For directors not appointed by the Developer, by removal by Owners as provided herein;
 - h. For directors not appointed by the Developer, by losing the quality of Owner or Authorized Representative;
 - i. For directors appointed by the Developer, by revocation by the Developer; or
 - j. For directors appointed by the Developer, on account of the Developer no longer owning any part of the Property.

ARTICLE 8 – MEETINGS OF THE BOARD

1. **Meetings.** In addition to the three (3) meetings to be held each year pursuant to the Constitution, the Board shall meet whenever requested by the President, or by the majority of the directors stating the matters to be dealt with at the meeting.
2. **Location.** All meetings of the Board shall be held in Sint Maarten. The meetings may also be held via conference call, online or via other technical means allowing for real time audio communication between directors.
3. **Proxy.** A director may not be represented in a meeting by any other person, by proxy or otherwise.

4. **Notice of Meeting.** Notice of a meeting of the Board shall state the date, time and place and the purposes for which the meeting is called and shall be given by the President or the Secretary. A copy of the notice shall be posted at the principal office of the Foundation. The notice of meeting shall be given to the directors no less than five (5) days prior to the date of the meeting, unless the matters to be dealt with require immediate attention. In this case, the Board may convene a meeting to be held as soon as practically feasible.
5. **Waiver of Notice.** Any director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said director of notice of meeting. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.
6. **Quorum.** A quorum at Board meetings shall consist of the majority of the directors then in office. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except when approval by a greater number of directors is specifically required by the Constitution or these Bylaws.
7. **Order of Business.** If quorum is attained, the order of business at Board meetings shall be, subject to waiver or variation by the presiding officer:
 - a. Proof of notice of meeting;
 - b. Approval of the minutes of the prior meeting;
 - c. Reports of officers and Committees;
 - d. Unfinished business;
 - e. New business; and
 - f. End of meeting.
8. **Voting.** Each Director shall have only one (1) vote. Votes shall be cast orally or by a show of hands. Abstentions shall be deemed votes not cast. In the event of a tied vote, the President may cast the deciding vote. Any dispute concerning the voting procedure that is not covered by these Bylaws or the Constitution shall be decided by the President.

ARTICLE 9 – RESOLUTIONS OF THE BOARD

1. **Developer's Approval.** During the Development Period, all Board resolutions shall become in force only upon receipt of approval from the Developer. In the event the Developer does not approve a resolution within thirty (30) days from the date the Developer has acknowledged receipt of such resolution (via return receipt, email or otherwise), the approval will be deemed to have been given by the Developer upon the expiry of this 30-day period. Resolutions passed by the Developer Board shall not require approval or prior consultation of Owners and shall become in force upon being passed.
2. **After the Development Period.** After the Development Period, Board resolutions shall come into force and effect upon being passed.
3. **Resolutions Passed by Vote.** Resolutions shall be passed by a majority of the votes cast in a meeting where the majority of the directors holding office is present, unless another majority or quorum is prescribed in the Constitution or these Bylaws.
4. **Resolutions Passed in Writing.** Resolutions may also be passed in writing in lieu of meeting when signed by all the directors.

5. **40% Vote.** Subject to the required Owners' approval or consultation, resolutions concerning the following matters may only be passed where the majority of the directors holding office is present and the resolution is passed by a vote of the majority of the directors holding office:
- a. The entering into or terminating of outsourcing agreements, including the agreement with the Manager;
 - b. The amount of the non-recurring contributions by Owners and refunds thereof;
 - c. The determination of the Foundation dues and special assessments;
 - d. The approval of the Annual Budget, including revisions thereto;
 - e. The approval of expenditures exceeding the Annual Budget by twenty percent (20%);
 - f. The approval of amendments to the Rules and Regulations and the CBRUP; and
 - g. Any other matter not subject to any other quorum or majority.
- If the majority of the directors holding office is not present, such resolution may be tabled until a subsequent meeting where i) no less than forty percent (40%) of the directors holding office are present and ii) the resolution is passed by a vote of the majority of those present where such vote shall represent no less than forty percent (40%) of all the directors holding office.
6. **75% Vote.** Subject to the required Owners' approval or consultation, resolutions concerning the following matters may only be passed by a seventy-five percent (75%) vote of all directors holding office:
- a. The amendment of these Bylaws;
 - b. The increase or decrease of the percentage mentioned in paragraph 5.e. above;
 - c. The granting of easements on the IG Common Areas, save by the Developer Board;
 - d. The approval of the transfer to or reacquisition from the IBMF of any part of the IG Common Areas, as provided for in the Constitution; and
 - e. the approval of amendments to the Constitution.
7. **Affecting Owners.** Any resolution of the Board that directly affects, financially or otherwise, all Owners or one or more Owners in particular shall be duly motivated in the body of the resolution or in an explanation attached thereto and contain the decision of the Board that the resolution be sent to the affected Owners.
8. **Other Board Decisions.** In all matters not provided for by law or otherwise in the Constitution, these Bylaws, the Rules and Regulations and the CBRUP, the Board shall decide.

ARTICLE 10 – CONSULTATION OF OWNERS

1. **Scope of Consultations.** Except for the Developer Board, the Board shall consult the Owners in a meeting prior to passing any resolution aimed at:
 - a. Approving the Annual Budget and Policy Plan for the coming fiscal year;
 - b. Refunding in total or in part non-recurring contributions by the Owners; and
 - c. Adjusting the amount of the Foundation dues or the introduction of any special assessment.
2. **Not Binding.** The Board shall not be bound by the outcome of these consultations.

ARTICLE 11 – RECOMMENDATIONS

1. **Submitting Recommendations.** Except for the Developer Board, the Board shall, at its next meeting, duly consider a recommendation made in writing to the Board and explain its position on such

recommendation in a resolution containing the reasons for adopting or rejecting the recommendation, provided the recommendation is:

- a. Made in writing by at least fifteen percent (15%) of the Owners;
 - b. Made in writing by the majority of the members of a Committee;
 - c. Passed by a majority of votes cast in a meeting of Owners in which at least one third (1/3) of the Owners in Good Standing were present or represented; or
 - d. Made by means of a recommendation form provided by the Secretary and sent to all Owners, which was returned to the Secretary signed in favor of the recommendation by at least fifteen percent of the Owners.
2. **Delay.** If required, a vote by the Board on the recommendation shall be held within eight (8) weeks after the Board has received a written and signed qualified request containing the recommendation.
 3. **Publishing.** Resolutions of the Board on recommendations shall be considered to affect all Owners directly and thus will be sent to them.

ARTICLE 12 – ADJOURNMENT OF MEETING

If, at any meeting of the Board, less than quorum is present, the majority of the directors present may adjourn the meeting until quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

ARTICLE 13 – MINUTES OF MEETINGS

1. **Minutes.** Minutes of all meetings of the Board shall be in written form or in another form that can be converted into written form within a reasonable time. The minutes of all meetings of the Board shall be kept in the minute book of the Foundation.
2. **Recording.** Any director may tape record meetings of the Board; no videotaping shall be allowed. The Board may adopt reasonable rules governing the recording of meetings of the Board.

ARTICLE 14 – REPRESENTATION

1. **Required Representation.** With the exception of the Developer Board, the Foundation will be represented in and out of court by two directors, authorized thereto by the Board and acting jointly, at least one of which will be the President, the Secretary or the Treasurer.
2. **Delegation.** Notwithstanding the foregoing, the Board may authorize the Manager acting alone or jointly with a director to represent the Foundation in certain matters as it may see fit.

ARTICLE 15 – COMPENSATION

1. **Compensation.** As per current legislation, the members of the Board shall not be entitled to compensation for their services in such capacity. However, members of the Board appointed by the Developer may receive compensation, but it shall be payable by the Developer. Should the legislation be amended to allow members of the Board to be compensated, no compensation shall be paid to the members of the Board without approval by the Owners.
2. **Expenses.** Members of the Board shall be entitled to receive reimbursement of the reasonable expenses they incur in the exercise of their functions.

ARTICLE 16 – LIABILITY AND INDEMNIFICATION

1. **Limitation of Liability.** The Directors shall not, individually or collectively, incur any personal liability whatsoever vis-à-vis the Foundation, the Owners and other third parties for any reason whatsoever, including the fault and negligence of third parties with whom the Foundation may contract and the errors in judgment or negligence of the Directors. However, the Directors shall, individually or collectively, incur personal liability to the Foundation and the Owners for their gross negligence, willful misconduct and acts of dishonesty or of a fraudulent nature.
2. **Indemnification.** The Foundation shall indemnify and hold harmless all Directors and officers, past or incumbent, from and against all costs, claims, damages, expenses and liabilities of any kind whatsoever, including reasonable attorneys' fees and costs at all tribunal levels, arising out of the performance of such person's duties hereunder. Such indemnification and hold harmless provision shall (i) exist regardless of whether the Foundation itself is named as a party defendant or alleged to have any liability, (ii) include the payment of any settlements upon approval by the Board, and (iii) include indemnification of the estate and heirs of the indemnified party. Such indemnification and hold harmless provision shall not be applicable (i) to the extent the claim or liability is covered by insurance, or (ii) in the event a court of competent jurisdiction finally determines, after all appeals have been exhausted or not timely pursued, that the indemnified party did not act in good faith within what he reasonably believed to be within the scope of his duty or authority and for purposes which he reasonably believed to be in the best interests of the Foundation or the Owners generally and such court further specifically determines that indemnification should be denied. The provision of this article may not be amended to terminate the effect hereof as to any persons who became Directors or officers while this article was effective.

ARTICLE 17 – INSURANCE

The Directors may purchase directors' and officers' liability insurance coverage from reputable insurers authorized to carry on business in Sint Maarten, with a limit and a deductible they may see fit. The insurance premium shall be paid by the Foundation.

ARTICLE 18 – REIMBURSEMENT OF EXPENSES

The Directors shall be reimbursed and indemnified by the Foundation for the reasonable costs, charges and expenses (including reasonable legal fees) that they have paid or incurred regarding any action, suit or other proceeding brought against them in respect of any act or measure done, taken or authorized by them in carrying out their duties. However, each such director shall not be reimbursed or indemnified for his gross negligence and fraudulent or dishonest acts.

ARTICLE 19 – VACANCIES AND REMOVAL

1. **Appointment by the Board.** Except for vacancies resulting from the removal of directors by Owners or from revocation by the Developer, vacancies on the Board occurring between Annual Meetings of Owners shall be filled by appointment by the Board. However, the Board may not, except for the Developer Board, fill a vacancy when the number of vacancies at that time is greater than one third (1/3) of the number of directors holding office as of the close of the most recent Annual Meeting. In

such event, the Board shall convene a meeting of Owners to fill the vacancies by election, and to deal with other matters as it may then see fit.

2. **Absence of Incumbent Directors.** If a vacancy on the Board results in there being no incumbent directors, the Manager shall give notice of a meeting of Owners within five (5) days of becoming aware of this situation, for the purpose of electing directors. If there is no Manager, or if the Manager neglects or refuses to so give notice of meeting, any Owner may give such notice. The meeting shall be held as soon as practically feasible thereafter. The Owners who shall get involved and see to the holding of the meeting and election shall be entitled to the reimbursement of the reasonable expenses they shall have incurred for that purpose. Alternatively, an Owner may petition a competent court of justice in Sint Maarten to appoint a receiver to manage the affairs of the Foundation. If the court appoints a receiver, the Foundation shall be responsible for the reasonable costs of the Owner, the remuneration of the receiver, court costs and attorneys' fees. The receiver shall have all powers and duties of a duly constituted Board and shall serve until the Owners elect a new Board in accordance with these Bylaws. The fact that there are no incumbent Directors shall not suspend or limit the authority that the Manager may have pursuant to his agreement with the Foundation.
3. **Removal.** Any director elected by the Owners may be removed from office with or without cause by the vote or consent in writing of a majority vote of the Owners. The vacancy so created shall be filled by the Owners at the same meeting.
4. **Absence.** Notwithstanding any provision herein to the contrary, the inability of the Board or of the Owners to fill vacancies of directors for lack of candidates shall not prevent the then current Board from functioning and passing resolutions. Although quorum or the required majority vote may not be reached at Board meetings as a result of such vacancies and inability, this shall not cause resolutions passed by the Board and contracts entered into by the Foundation to be annulled.

ARTICLE 20 – COMMITTEES

1. **General.** The Board may, by resolution, establish Committees to assist the directors in the performance of their duties, such as:
 - a. A Committee whose task may include advising the Board on financial policy or matters; and
 - b. A Committee whose task may include the approval of plans and the review and administration of the policies and procedures established in the CBRUP and the relevant Rules and Regulations (“**Architectural Committee**”).
2. **Absence of a Committee.** If no Committee is established by the Board, all references in this Constitution and these Bylaws to a Committee shall be meant to be to the Board.
3. **Minimum Members.** All Committees shall consist of at least one (1) director and one (1) Owner in Good Standing or Authorized Representative of an Owner in Good Standing.
4. **Non-Owner Members.** The Board may appoint to a Committee persons other than Owners, provided such persons possess professional expertise relevant to the duties assigned to the Committee, such as a notary, a lawyer, an accountant, an architect, or an engineer.
5. **Appointment.** The members of a Committee shall be appointed by the Board for terms at its discretion. The Board shall have discretion to fill vacancies on a Committee. The membership in a Committee will end:
 - a. On expiration of the term for which the person was appointed, unless the member is reappointed;
 - b. By resignation;

- c. By losing the quality of Owner in Good Standing, Owner or Authorized Representative; or
 - d. By dismissal by the Board.
6. **Reporting.** A committee shall report to the Board at the request of the Board and at least once a year, in writing, prior to the Annual Meeting, at which the Committee may report on its activities during the year.
 7. **Mandate and Composition.** A resolution to establish a Committee shall specify its mandate and composition and at no time infringe on or limit the right and authority of the Board, in particular to determine the general policy of the Foundation concerning the tasks mandated to a Committee.
 8. **Authority.** Unless expressly authorized in advance by a resolution of the Board, a Committee shall have no authority to engage the liability of the Foundation, including the entering into of contracts.
 9. **Rules.** Committees may adopt rules governing their meetings, notice and waiver of notice, quorum and voting requirements.
 10. **Dissolution.** The Board may dissolve any Committee at its discretion.

ARTICLE 21 – CONFLICT OF INTEREST

The directors shall avoid putting themselves in a situation of conflict between their personal interests and their obligations as directors. They shall disclose to the Board in writing all their personal interests, as the case may be, which may conflict with those of the Foundation. The disclosure shall be recorded in the minute book of the Foundation. The interests of a director shall be deemed to include those of the members of his family. No director shall be disqualified from office by the sole fact that the Foundation enters into an agreement or a business transaction with a company or entity in which the Director has an interest, whatever it may be, as long as the director discloses his interest to the Board and the agreement or transaction is confirmed by a majority vote of the Owners at their first meeting which follows the conclusion of such agreement or business transaction.

ARTICLE 22 – OFFICERS

1. **Appointments.** The Board shall appoint among the directors the following officers: a President, a Vice-President, a Secretary and a Treasurer, for terms up to two (2) years. Except during the Development Period, the offices of President and Secretary may not be held by the same person. One person may hold the offices of Secretary and Treasurer simultaneously. The Board may also appoint among the directors a Vice-President, for a term up to two (2) years. A Vice-President may hold any one of the offices of Secretary and Treasurer.
2. **Officers.** The officers shall have the following responsibilities, subject to any other duty which may be determined from time to time by the Board.
 - a. **President.** The President shall be responsible for the general management of the Board; he may assign specific responsibilities regarding the management of the Foundation to certain Directors, and shall preside over all the meetings of the Board and Owners. In the absence, inability or refusal to act of the Secretary or the Treasurer, the President shall also exercise the powers and duties of Secretary or Treasurer. He may also delegate the chairmanship of a meeting of Owners to a person familiar with the procedure of running a meeting, upon a majority vote of the Owners present or represented at the meeting;

- b. **Vice-President.** The Vice-President shall assist the President in his duties. In the absence or inability to act of the President, the Vice-President shall be vested with the powers and duties of the President;
 - c. **Secretary.** The Secretary shall be responsible for the overall management of the documents of the Foundation and, together with the President, shall coordinate the preparation and conduct of meetings of the Board and Owners. He shall attend all meetings and shall be responsible for preparing the minutes of these meetings. He shall also certify extracts of the minutes of the meetings and provide copies of such extracts upon request to an Owner or Director. He shall also be responsible for giving notice of all meetings. In the absence or inability to act of the President or the Vice-President, the Secretary shall be vested with the powers and duties of the President or Vice-President;
 - d. **Treasurer.** The Treasurer shall be responsible for the overall financial supervision of the Foundation and, more specifically, for monitoring the approved budget; he shall be responsible for collecting contributions to the common expenses and supervising all disbursements; he shall have custody and responsibility for the funds and securities of the Foundation, and shall ensure that adequate account books and ledgers are kept and maintained.
3. **Limitations.** No officer shall sign an instrument or perform an act in the capacity of more than one office.

ARTICLE 23 – RESIGNATIONS

Any Director or officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such later date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Residences owned by a Director (other than appointees of the Developer) or officer, by voluntary or forced sale, will or otherwise, shall constitute a written resignation of such Director or officer.

ARTICLE 24 – FINANCIAL MATTERS

- 1. **April Meeting.** Each year, the following documents shall be submitted to the Board no later than March fifteen (15) so that the Board may hold a meeting in April for their review:
 - a. The Treasurer shall present the Financial Statements for the past fiscal year;
 - b. The President shall present the report on the activities of the Foundation for the past fiscal year.
- 2. **Treasurer.** The Treasurer shall see to it that:
 - a. The Financial Statements be compiled by a reputable accountant office authorized to carry on business in Sint Maarten as soon as practically feasible after the April meeting of the Board; and that
 - b. The report of that office be presented to the Board no later than June fifteen (15) next.
- 3. **July Meeting.** Except for the Developer Board, each year the Board shall hold a meeting no later than July to:
 - a. Approve the Financial Statements for the past fiscal year;
 - b. Approve the report on the activities of the Foundation for the past fiscal year;

- c. Discuss the current financial situation and projections till year end and the current state of the activities of the Foundation in view of the approved or revised Annual Budget and Policy Plan for that year;
 - d. Discuss the long term prospects, financial and otherwise, of the Foundation in regards to its purpose, the condition of the IG Common Areas and the current and anticipated level of services provided by and of contributions to the Foundation; and
 - e. Determine a draft Annual Budget and draft Policy Plan for the coming fiscal year, to be submitted for consultation by the Owners at the next Annual Meeting.
4. **Committee.** The Treasurer shall:
- a. Provide each member of the Finance Committee, if any, with a copy of the Financial Statements within one (1) week after their approval by the Board; and all further information pertaining to the financial management of the Foundation as it may reasonably request; and
 - b. Deposit at the location in Sint Maarten designated for that purpose by the Board a copy of the Financial Statements for the past fiscal year, within two (2) weeks after their approval by the Board.
5. **Secretary.** The Secretary shall:
- a. Provide the Finance Committee, if any, with the report on the activities of the Foundation over the past fiscal year, within one (1) week after its approval by the Board; and
 - b. Deposit at the location in Sint Maarten designated for that purpose by the Board a copy of such report within two (2) weeks after its approval by the Board.
6. **Budget Approval.** Except for the Developer Board, the Board shall hold a meeting as soon as possible after each Annual Meeting to approve the Annual Budget and the Policy Plan for the current fiscal year.

ARTICLE 25 – MANAGEMENT AND OUTSOURCING

1. **Manager.** Except for the Developer Board, the Board shall have the obligation to hire a third party manager or a management company for the administration and accounting of the Foundation (the “**Manager**”), as well as the day-to-day management of its facilities and services. The term of such hiring shall not exceed three (3) years, unless the agreement enables the Board to terminate the agreement at will with no more than a two (2) month prior notice. Such Manager or any principal or employee of the Manager shall not be allowed to serve as a director, officer or Committee member.
2. **Outsourcing.** When entering into an outsourcing agreement, the Board shall ensure that:
 - a. The Manager shall properly report to the Board in writing on services rendered upon request and at least once per quarter; and that
 - b. The outsourcing shall at no time infringe on the authority of the Board to determine the policy of the Foundation concerning the outsourced tasks or infringe on the authority of the IBMF pertaining to the Master Common Areas.
3. **More than 10 Years.** The Foundation may not enter into agreements for terms longer than ten years for improvements, equipment, materials, or services without an affirmative vote of two thirds (2/3) of the Owners gathered in a meeting of the Owners where no less than half (½) of the Owners entitled to vote are present or represented.
4. **Assistance.** The Board may seek the assistance of professional advisors or experts, inclusive of but not limited to engineers, architects, lawyers, accountants and notaries, at the expense of the Foundation, as it may see fit.

5. **Meetings.** The Board may invite said parties to outsourcing agreements, advisors or experts to be present at the meetings of the Board and of the Owners where their presence may be useful or relevant. Their explanations and remarks shall be summarized in the minutes of the meeting.

ARTICLE 26 – TRANSPARENCY

1. **Owner.** Any Owner may inspect the following records and documents of the Foundation, upon at least seven (7) days advance notice, at a location in Sint Maarten designated by the Board for that purpose:
 - a. All approved minutes and resolutions of the Board, the transparency of which may however be restricted for the sole reason of protecting the privacy of individual Owners;
 - b. The approved minutes and resolutions of the meetings of the Owners;
 - c. Any outsourcing agreements and any other contracts the Foundation has entered into;
 - d. Any invoices received by the Foundation;
 - e. Any advice and reports, excluding legal and other expert opinions related to claims and documents that are protected by solicitor-client or litigation privilege;
 - f. The approved Financial Statements for past fiscal years; and
 - g. The reports of the activities over past fiscal years.
2. **Compliance.** The Foundation shall be deemed to have complied with a request to inspect or make copies if it sends to the Owner a copy of the records or documents indicated in the request, provided that such records or documents are those set out in paragraph 1 above, by any of the means through which a notice of meeting may be given. The Foundation may charge a reasonable fee for doing so.
3. **Rules.** The Board may adopt reasonable written rules governing the frequency, time, location, notice, and manner of inspections provided for in paragraph 1 above, and may impose reasonable fees to cover the costs of providing copies of the record or documents that the Owners are entitled to inspect.
4. **Additional Information.** The Foundation shall not be required to maintain, produce or provide records or documents other than those required by the Constitution. Should an Owner wish to obtain copies of additional records or documents, or of reports, the Board shall have the discretion to produce them in which case the Owner shall be required to pay the fees charged by the Board for this purpose. Alternatively, the Owner shall produce them at his expense, and shall comply with the rules referred to in the previous paragraph.
5. **Committee.** The Finance Committee, if any, may inspect upon reasonable notice and under conditions set by the Board for the sole purpose of protecting the privacy of individual Owners:
 - a. The accounting books and records of the Foundation kept by or under responsibility of the Treasurer; and
 - b. The administrative records of the Foundation kept by or under responsibility of the Secretary.
6. **Personal Data.** Upon reasonable notice, an Owner who is a physical person may inspect for the purpose of verification the personal data concerning him and the status of his financial contributions as indicated in the books and records of the Foundation.

ARTICLE 27 – FOUNDATION RECORDS

1. **Records.** The Foundation shall maintain each of the following items, when applicable, which constitute the records of the Foundation:
 - a. The Constitution and each amendment thereto;
 - b. The General Bylaws and each amendment thereto;

- c. The Rules and Regulations and CBRUP and each amendment thereto;
 - d. The originals of any plans, specifications, permits, licenses and warranties related to improvements constructed on the IG Common Areas or other property that the Foundation is obligated to maintain, repair, or replace, if any;
 - e. The minutes of all meetings of the Board and Owners, as well as consents or approvals in writing;
 - f. All notices and other communications sent to and received from an Owner, all Owners, Authorized Representatives and the Manager;
 - g. A current list of all Owners, indicating their lot number (as per their certificate of admeasurement), their local street address and Unit number and their contact information which must include their civic and mailing addresses, telephone and facsimile numbers and electronic mail addresses;
 - h. All of the Foundation's insurance policies;
 - i. The originals of all contracts to which the Foundation is a party, including, without limitation, any management agreement, lease, or other contract under which the Foundation assumes an obligation or responsibility. Bids received and not accepted for work or services must be kept for a period of one (1) year;
 - j. The financial and accounting records of the Foundation, kept according to generally accepted accounting principles. The financial and accounting records must include:
 - 1. Accurate, itemized, and detailed records of all receipts and expenditures;
 - 2. A current account and a periodic statement of the account for each Owner, indicating his name and address, the due date and the amount of all dues and special assessments, surcharges and interest payable, and paid, by the Owner, and the balance due, if any;
 - 3. All tax returns, Financial Statements, and financial reports of the Foundation; and
 - 4. Any other document and record, in tangible or electronic form, related the existence, operation and affairs of the Foundation.
 - k. The reports and other documents delivered to the Foundation pursuant to agreements entered into by the Foundation.
2. **Retention of Records.** All records of the Foundation shall remain the property of the Foundation and shall be kept for a period of at least ten (10) years at the principal office of the Foundation, or any other location in Sint Maarten designated by the Board for that purpose.

ARTICLE 28 – DELIVERY TO FOUNDATION

1. **Deliveries.** Within sixty (60) days after the transfer of the whole of the IG Common Areas by the Developer to the Foundation, the Developer shall deliver to the Foundation all property of the Foundation held or controlled by the Developer, including, but not limited to, the following items, if any:
- a. All deeds to property owned by the Foundation;
 - b. The Constitution of the Foundation;
 - c. The General Bylaws of the Foundation;
 - d. The minute book of the Foundation, including all minutes of meetings;
 - e. Other books and records of the Foundation;
 - f. Any policies, rules and regulations which have been adopted;
 - g. The financial records, including Financial Statements, and source documents since the incorporation of the Foundation to the date of delivery;
 - h. All Foundation funds or the control thereof;

- i. All tangible personal property and an inventory thereof;
 - j. The original of all contracts, including employment and services contracts, which may be in force with the Foundation as one of the parties;
 - k. A list of the names, addresses and telephone numbers of all contractors, subcontractors and other suppliers of the Foundation;
 - l. Insurance policies, expired and currently in force;
 - m. Copies of any certificate of completion which may have been issued for any IG Common Areas by contractors hired by the Developer;
 - n. Any other permits and licenses issued to the Foundation by governmental bodies;
 - o. Any and all written warranties of contractors, subcontractors, suppliers and manufacturers, if any, that are still effective; and
 - p. A current list of all Owners, indicating their lot number (as per their certificate of admeasurement), their local street address and Unit number and their contact information which must include their civic and mailing addresses, telephone and facsimile numbers and electronic mail addresses.
2. **Omissions.** The Developer shall deliver the above listed property to the extent it exists and shall incur no liability to the Foundation for its failure to deliver property. The Developer has the right to retain a copy of any and all documents delivered to the Foundation.

ARTICLE 29 – AMENDMENT OF BYLAWS

These Bylaws may be amended in the following manner:

- 1. **Notice.** Except for the Developer Board, the Board shall give notice of a proposed amendment to these Bylaws to all Owners at least four (4) weeks prior to the meeting of Owners at which the amendment will be considered.
- 2. **Adoption.** Except for the Developer Board, the Board may only pass a resolution amending these Bylaws after having received the approval of sixty percent (60%) of all Owners in Good Standing.
- 3. **Limitation.** No amendment shall make changes in the qualification for membership in the Foundation set out in article 3 of these Bylaws nor in the voting rights or property rights of Owners. No amendment shall be made that is in conflict with the Constitution, these Bylaws, the Rules and Regulations or the CBRUP, nor shall any amendment make any change which would in any way affect any of the rights herein provided in favor of or reserved to the Developer and the Builder and their affiliates, unless the Developer shall join in the execution of the amendment. No amendment to this paragraph 3 shall be effected.
- 4. **Developer.** The Developer may amend these Bylaws during the Development Period, except paragraph 3 above, without the approval of the Owners and shall give notice of any such amendment to the Owners within fourteen (14) days after the date the amendment was adopted.

ARTICLE 30 – AMENDMENT OF CBRUP

The CBRUP may be amended in the following manner:

- 1. **Notice.** Except for the Developer Board, the Board shall give notice of a proposed amendment to the CBRUP to all Owners and the IBMF at least four (4) weeks prior to the meeting of Owners at which the amendment will be considered.
- 2. **Adoption.** Except for the Developer Board, the Board may only pass a resolution amending the CBRUP after having received the approval of sixty percent (60%) of all Owners in Good Standing.

3. **Limitation.** No amendment of the CBRUP shall come into force without the prior written approval of the IBMF.
4. **Developer.** The Developer may amend the CBRUP during the Development Period without the approval of Owners and shall give notice of any such amendment to the Owners within fourteen (14) days after the date the amendment was adopted.

ARTICLE 31 – AMENDMENT OF RULES AND REGULATIONS

The Rules and Regulations may be amended in the following manner:

1. **Notice.** Except for the Developer Board, the Board shall give notice of a proposed amendment to the Rules and Regulations at least four (4) weeks prior to the meeting of Owners at which the amendment will be considered.
2. **Debate.** At the meeting, approval of the proposed amendment may be voted upon in whole or in parts:
 - a. Parts of the proposed amendment may be amended during the meeting and voted upon repeatedly; and
 - b. A final vote on the whole amendment, as amended or not, shall take place in case parts thereof were voted upon.
3. **Final Approval.** If the amendment submitted to final vote is approved by a majority vote of the Owners at the meeting where the majority of the Owners is present or represented, the approval of the amendment shall be considered a final approval.
4. **Interim Approval.** If the amendment submitted to final vote is approved by a majority vote of the Owners present or represented at the meeting where less than the majority of Owners is present or represented, the approval of the amendment shall be considered an interim approval. In such a case, the proposed amendment shall be submitted for final approval at the next Annual Meeting of Owners.
5. **Coming into Force.** An amendment with interim approval shall become in force upon such approval and shall cease to be in force upon denial of final approval by the Owners at the Annual Meeting.
6. **Notice of Interim Approval.** The Board shall give notice of interim approval, final approval and denial of final approval to all the Owners as soon as practically feasible.
7. **Denial of Approval.** Denial of approval shall not affect the validity of the acts of the Board made in compliance with an amendment since it has received interim approval.
8. **Limitation.** At no time shall an amendment to the Rules and Regulations make any changes which would in any way affect any of the rights herein provided in favor of or reserved to the Developer or the Builder and their successors and affiliates, unless the Developer shall join in the approval of such amendment.
9. **Consolidation.** In the event the Rules and Regulations have been amended or are laid down in more than one resolution, the Board shall provide all Owners with a consolidation of all Rules and Regulations then in effect.
10. **Developer.** The Developer Board may amend the Rules and Regulations during the Development Period without any approval of Owners and shall give notice of any such amendment to the Owners within fourteen (14) days after the date the amendment was adopted.

ARTICLE 32 – COMPLAINTS FOR VIOLATIONS AND PROCESS

1. **Filing a Complaint.** Complaints for violation of the provisions of the Constitution, the Rules and Regulations and the CBRUP may be made by an Owner, an Authorized Representative, a Permittee

or the Manager. Complaints shall be forwarded in writing to the Board or to the Manager. The Board may handle any violation without a complaint having been made, as soon as it suspects or is aware of a violation.

2. **Matter Settled By The Manager.** Unless the Board decides to handle the matter itself, the Manager shall attempt to settle a complaint in the following manner:
 - a. The Manager will acknowledge receipt of a complaint made in writing; the Manager shall not be obligated to acknowledge receipt of complaints not made in writing.
 - b. The Manager will investigate the matter and if the complaint appears justified, he will notify the Owner responsible and, as the case may be, his Authorized Representative and the Permittee involved, of the complaint in writing, reminding them of their obligation to comply with the provision non complied with and of the corresponding penalty or fine;
 - c. If the violation continues, the Manager shall send the Owner and, as the case may require, his Authorized Representative and the Permittee, a second written notice addressing the same concerns and asking them to meet with the Manager to discuss the situation, and send a copy thereof to the President;
 - d. If, following this meeting, the matter is settled, the Manager shall notify the complainant and the President of the settlement of the matter; and
 - e. If the Owner and, as the case may be, the Authorized Representative or the Permittee, refuses or neglects to meet with the Manager, if the matter is not settled to the satisfaction of the Manager at the outset of the meeting, or if the Manager finds that the violation continues, the Manager shall refer the matter to the Board for a ruling.
3. **Matter Settled By The Board.** Upon its own initiative or referral of the matter by the Manager, the Board will attempt to settle a complaint in the following manner:
 - a. The Board will ask to meet with the Owner and, as the case may require, his Authorized Representative and the Permittee, to give them the opportunity to express their points of view in an attempt to settle the matter; and
 - b. At the outset of the meeting, or if the Owner and, as the case may require, his Authorized Representative or Permittee, refuses or neglects to meet with the Board, the Board may, if it estimates that a violation has indeed occurred, impose on the Owner the corresponding penalty or fine provided in the Rules and Regulations for such violation and claim from the Owner payment for the costs incurred by the Foundation as a result of the violation.
4. **Meetings.** Meetings may be held via conference call, online or other technical means allowing for real time audio communication between Owners.
5. **New Penalty.** If no penalty exists for a violation at the time a complaint is made, the Board may at any time pass a resolution to adopt a penalty or fine for such violation. The fact that no penalty or fine may exist at the time a complaint is made shall not limit the power and authority of the Manager and the Board to handle a complaint and, once a penalty or fine has been adopted, to impose it.
6. **Remedying a Violation.** The Board may, but is not obligated to, remedy any violation, at the cost of the Owner responsible.
7. **Delegation.** The Board may at any time delegate the handling of a violation to the Manager, a Committee, a Director or an officer of the Foundation.
8. **Suspension.** In addition to its right to impose fines and penalties and to remedy a violation, in case of breach of one or more of the Rules and Regulations by an Owner or his Permittee, the Board may,

after having issued two (2) written warnings and given written notice of its decision to the Owner, suspend certain rights of the Owner, inclusive of but not limited to:

- a. The right to vote at any Meeting and the right to any refunds as provided in the Constitution, for a period of one (1) year, and;
 - b. The right for the Owner and his Permittees to use certain common facilities.
9. **No Obligation.** While the Foundation may remedy a violation, at the cost of the Owner responsible, it shall have no obligation to do so and its delay or decision not to remedy a violation shall not release the Owner responsible for the violation of any liability towards the Foundation and the other Owners resulting from his violation.

ARTICLE 33 – LEGAL PROCEEDINGS

1. **Recourse to the Courts.** In order to enforce the provisions of the Constitution, the Rules and Regulations and the CBRUP, the Board may initiate any legal proceedings that it may see fit in the circumstances, including injunction proceedings. The Board may initiate legal proceedings without the need to convene the Owner responsible and, as the case may be, the Permittee involved, to a meeting, and without prior notice, as circumstances may justify.
2. **Serious Prejudice.** If a violation causes serious prejudice to other Owners, Permittees or to the Foundation, the Board may, after giving reasonable prior notice to the Owner responsible and, as the case may require, his Authorized Representative or Permittee involved, petition a court of law to seek the order that may be appropriate in the circumstances.
3. **Serious and Irreparable Prejudice.** If a violation causes serious and irreparable prejudice to the Foundation or to Owners, the Board may petition a court of law to order the violating Owner, his Authorized Representative or Permittee to cease and desist from violating the provisions in question, failing which, to order the sale of the Owner's Residence.
4. **Non Exclusive.** The rights and remedies of the Foundation are not mutually exclusive and may be exercised independently or collectively.
5. **Penalties, Fines, Surcharges, Legal Fees And Interest**
 - a. Penalties and fines in force as of the date of a violation may be imposed on an Owner. Penalties and fines in respect of a violation adopted after such violation may not be imposed retroactively;
 - b. All judicial and extra-judicial expenses incurred by the Foundation to secure compliance with a provision of the Constitution, the Rules and Regulations and the CBRUP shall be reimbursed to the Foundation by the violating Owner;
 - c. Interest charged at the same rate as for arrears of dues and special assessments will apply to all outstanding penalties and expenses and costs of the Foundation; and
 - d. The payment of the penalties and fines and the reimbursement of the expenses and costs of the Foundation shall be secured by the legal hypothec of the Foundation.

ARTICLE 34 – MISCELLANEOUS

1. **Construction.** Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders. If any portion hereof shall be found by competent judicial authority to be unenforceable, then only that portion shall be deemed deleted and the remainder shall be given its widest permissible meaning and effect. The masculine shall include the feminine.

2. **Captions.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these Bylaws or the intent of any provision hereof.
3. **Conflict.** In the event of conflict or incompatibility between the Constitution and these Bylaws, and in the absence of any express language indicating which document controls the particular subject matter, the provisions of the Constitution shall be paramount.

The foregoing was adopted as the General Bylaws of INDIGO GREEN FOUNDATION, a foundation not for profit registered in Sint Maarten, at a Special Meeting of the Owners of the Foundation on the 20th day of February, 2024.

GENERAL BYLAWS OF THE INDIGO GREEN FOUNDATION

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