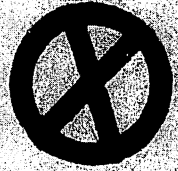


16 units All Towers  
Conversion  
OK Tuzie

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DECLARATION OF CONDOMINIUM OWNERSHIP  
AND OF  
EASEMENTS, RESTRICTIONS AND COVENANTS  
FOR  
BALLARD COURT CONDOMINIUM BUILDING NO. 3

July 15, 1980 Description of the part of property created by Comb of Cof. 1262027-031, -047, -057  
no shifting interests - no parking  
DNT 130274A 577  
Rem

THIS DECLARATION made and entered into by HARRIS TRUST AND SAVINGS BANK, an Illinois corporation, as Trustee under Trust Agreement dated May 1, 1979 and known as Trust No. 39473 and not individually (hereinafter for convenience referred to as the "Trustee");

W I T N E S S E T H:

WHEREAS, the Trustee is the legal title holder of certain real estate (hereinafter referred to as the "Property") in the County of Cook, and State of Illinois, legally described on Exhibit A attached hereto, and bearing a street address of 8996 North Kennedy Drive; and

WHEREAS, the Trustee desires and intends by this Declaration to submit the Property to the provisions of the Condominium Property Act of the State of Illinois, (hereinafter sometimes referred to as the "Act"), and is further desirous of establishing for its own benefit and that of all future owners or occupants of the Property, or any part thereof (which shall be known as the "Ballard Court Condominium Building No. 3 Condominium"), certain easements and rights in, over and upon the Property and mutually beneficial restrictions and obligations with respect to the use and maintenance thereof; and

WHEREAS, the Trustee desires and intends that the several owners, mortgagees, occupants and other persons hereafter acquiring any interest in said Property shall at all times enjoy the benefits of, and shall hold their interests subject to the rights, easements, privileges and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the ownership and to facilitate the proper administration of such Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property;

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THIS INSTRUMENT PREPARED BY:  
MARTIN K. BLONDER  
ROSENTHAL AND SCHANFELD  
55 EAST MONROE STREET, SUITE 4620  
CHICAGO, ILLINOIS 60603

NOW, THEREFORE, the Trustee, as the Owner of the Property hereinbefore described, and for the purposes above set forth, declares as follows:

ARTICLE I  
DEFINITIONS

For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

1.01 Declaration. This instrument by which the Property (as hereinafter defined), is submitted to the provisions of the Act, and shall include such amendments, if any, to this instrument as may from time to time be adopted pursuant to the terms hereof.

1.02 Property. All the land, property and space comprising the land hereinabove described, all improvements and structures constructed or contained therein or thereon, including the Buildings and all easements (including but not limited to those described in Section 14.01 hereof), rights and appurtenances belonging thereto, and all fixtures and property intended for the mutual use, benefit or enjoyment of the Unit Owners and submitted to the provisions of the Act.

1.03 Unit. A part of the Property within a Building designed and intended for independent use as a residential apartment and depicted as a Unit on the Plat.

1.04 Common Elements. All portions of the Property, except the Units, but including Limited Common Elements, unless otherwise specified.

1.05 Limited Common Elements. A portion of the Common Elements as designated herein reserved for the use of a certain Unit or Units to the exclusion of other Units, including but not limited to balconies, terraces, or other similar facilities.

1.06 Unit Ownership. A part of the Property consisting of one Unit and the undivided interest of such Unit as designated on Exhibit C attached hereto in the Common Elements appurtenant thereto.

1.07 Person. A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.08 Owner or Unit Owner. The person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit.

1.09 Occupant. The duly authorized Person or Persons, other than an Owner, in possession of a Unit.

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1.10 Majority or Majority of the Unit Owners.

Those Owners, without regard to their number, who own more than fifty percent (50%) in the aggregate of the entire undivided ownership interest in the Common Elements; any specified percentage of Unit Owners shall mean those Owners who, in the aggregate, own such specified percentage of the entire undivided ownership interest in the Common Elements.

1.11 Plat. The Plat of Survey of the Property and of all Units in the Property submitted to the provisions of the Act, which Plat is attached hereto as Exhibit B and by reference incorporated herein and made a part hereof and recorded and filed concurrently with the registering of this Declaration.

1.12 Building. The structure constructed upon the Property containing one or more dwelling Units, which structure is referred to herein as a "Building."

1.13 Association. The Ballard Court Condominium Building No. 3 Association.

1.14 Homeowners' Association. The Ballard Court Homeowners' Association, an Illinois Not-For-Profit Corporation.

1.15 Board. The board of directors of the Association.

1.16 By-Laws. Those provisions governing the administration of the Association which are set forth in Articles V, VI and VII of this Declaration, as hereafter amended from time to time.

1.17 Common Expenses. The proposed or actual expenses affecting the Property, including reserves, if any, lawfully assessed by the Board.

ARTICLE II

UNITS; SUBMISSION TO ACT

2.01 Submission of Property to the Act. The Trustee hereby submits the Property to the provisions of the Act. Each Person owning a Unit Ownership and the Trustee shall comply with the provisions of the Act as well as other laws, ordinances and other regulations applicable to condominium ownership in regard to the Property.

2.02 Units; Description and Ownership. The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown on the Plat. Every deed, lease, mortgage or other instrument may legally describe a Unit by such identifying number or symbol, and every such description shall be deemed good and sufficient for all purposes, as provided in the Act. Each Unit shall

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consist of the space enclosed and bounded by the horizontal and vertical planes constituting the boundaries of such Unit as shown on the Plat; provided, however, that structural components of the building, and pipes, wires, conduits, ducts, flues, shafts, or public utility lines situated within a Unit and serving one or more other Units or the Common Elements shall not be deemed to be a part of said Unit but are part of the Common Elements. Except as otherwise provided by the Act and Section 13.14 hereof, no Unit Owner shall, by deed, plat or otherwise, combine, subdivide or in any other manner cause his Unit to be separated into any tracts or parcels different from the whole Unit as shown on the Plat.

2.03 Certain Structures Not Constituting Part of a Unit. Except as a tenant-in-common with all other Unit Owners, no Unit Owner shall own any pipes, wires, conduits, ducts, flues, shafts, public utility lines or structural components running through his Unit and serving more than his Unit, whether or not such items shall be located in the floors, ceilings or perimeter of interior walls of the Unit.

### ARTICLE III

#### COMMON ELEMENTS

3.01 Description of Common Elements. Except as otherwise in this Declaration provided, the Common Elements shall consist of all portions of the Property, except the individual Units. Without limiting the generality of the foregoing, the Common Elements shall include the land, outside walks and driveways, landscaping, corridors, halls, stairways, courtyards, entrances and exits, balconies and patios (if any), lounge area, lobbies, laundry, storage lockers or areas, basement, boiler and equipment rooms and lofts, roof, incinerator, mail boxes, pipes, ducts, flues, chutes, electrical wiring and conduits, central heating and plumbing facilities, public utility lines and other utility installations to the outlets, such component parts of air conditioning sleeves, floors, ceilings and perimeter walls not located within the Unit boundaries as shown on the Plat, and structural parts of a Building, including structural columns located within the Boundaries of a Unit.

3.02 Ownership of Common Elements. Each Unit Owner shall be entitled to and shall own an undivided interest in the Common Elements as a tenant-in-common with all other Unit Owners, and, except as otherwise limited in this Declaration, shall have the right to use the Common Elements for all purposes incident to the use and occupancy of such Owner's Unit as a place of residence, and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with his Unit. The extent or amount of such ownership shall be expressed by a percentage amount and once determined shall remain constant, and may not be changed without unanimous approval of all Unit

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Owners, except as otherwise provided herein. The Trustee has so determined each Unit's corresponding percentage of ownership in the Common Elements as set forth in the schedule attached hereto as Exhibit C, which is incorporated herein by this reference as though fully set forth herein.

3.03 No Partition of Common Elements. There shall be no partition of the Common Elements through judicial proceedings or otherwise until this Declaration is terminated and the Property is withdrawn from its terms or from the terms of any statute applicable to condominium ownership; provided, however, that if any Unit Ownership shall be owned by two or more co-Owners as tenants-in-common or as joint tenants, nothing herein contained shall be deemed to prohibit a voluntary or judicial partition of said Unit Ownership as between such co-Owners.

3.04 Description and Allocation of Limited Common Elements. The Limited Common Elements shall consist of the balconies and patios, if any, adjacent to the Units.

#### ARTICLE IV

#### GENERAL PROVISIONS AS TO UNITS AND COMMON ELEMENTS

4.01 No Severance of Ownership. No Owner shall execute any deed, mortgage, lease or other instrument affecting title to his Unit Ownership without including therein both his interest in the Unit and his corresponding percentage of ownership in Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

4.02 Use of the Common Elements. Subject to the limitations set forth herein, each Unit Owner shall have the right to use the Common Elements in common with all other Unit Owners, for the purposes of ingress to and egress from and the use, occupancy and enjoyment of the respective Unit owned by such Unit Owner, and the use and enjoyment of the Common Elements. Such rights shall extend to the Unit Owner and the members of his immediate family and guests and other authorized occupants and visitors of the Unit Owner or occupants. The use of the Common Elements and the rights of the Unit Owners with respect thereto shall be subject to and governed by the provisions of the Act, this Declaration and the By-laws and rules and regulations of the Board, or Association acting through the Board. The Board shall have the authority to lease or rent or grant licenses or concessions with respect to parts of the Common Elements, subject to the provisions of this Declaration and the By-laws and rules and regulations of the Board.

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4.03 Maintenance of Common Elements; Common Expenses. Except as otherwise provided herein, the management, repair, alteration and improvement of the Common Elements, and the replacement and exterior cleaning of exterior glass, shall be the responsibility of the Association. Each Unit Owner shall pay his proportionate share of the Common Expenses. Each proportionate share shall be in the same ratio as his percentage of ownership in the Common Elements as set forth in Exhibit C. Payment thereof shall be in such amount and at such times as may be provided by the By-laws or rules and regulations of the Board. In the event of the failure of a Unit Owner to pay such proportionate share when due, the amount thereof shall constitute a lien on the interest of such Unit Owner, as provided by the Act.

4.04 Easements.

(a) Encroachments: In the event that by reason of the construction, settlement or shifting of a Building, or the design or construction of any Unit, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements or any other Unit, or, if by reason of the design or construction of utility systems any main pipes, ducts or conduits serving more than one Unit encroach or shall hereafter encroach upon any part of any Unit, valid easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of such Unit and the Common Elements, as the case may be, so long as such encroachment shall exist and all or any part of the Building containing such Unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Unit Owner or in favor of the Owners of the Common Elements if such encroachment occurred due to the wilful conduct of said Owner or Owners.

(b) Balconies and Patios: All balconies and patios, if any, shall be Limited Common Elements and not a part of any individual Unit. Each Unit Owner, however, shall be entitled to the exclusive use and possession of that balcony and patio or those balconies and patios, if any, direct access to which is provided from his respective Unit and which is or are located outside of and adjoining his respective Unit. A Unit Owner shall not paint or otherwise decorate or adorn, or change the appearance of any such balcony or patio, in any manner contrary to such rules and regulations from time to time promulgated by the Board. In the event any such balcony or patio shall be appurtenant to more than one Unit, then all rights and obligations of the Owners of each such Unit with respect to the use, maintenance and repair of such balcony or patio shall be joint, common and indivisible, and shall not be subject to partition through judicial proceedings or otherwise. Except to the extent provided from time to time by the

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Board, the cost of repairs to and maintenance of all balconies and patios shall be Common Expenses.

(c) Easements for Utilities: The Illinois Bell Telephone Company, Commonwealth Edison Company, North Shore or Northern Illinois Gas Company, the County of Cook and all other public utilities serving the Property are hereby granted the right to install, lay, construct, operate, maintain, renew, repair or replace, conduits, cables, pipes and wires and other equipment into, over, under, along the Property, as to such of the foregoing as are existing, and on any unimproved portion of the Common Elements, as to such of the foregoing as are not existing as of the date hereof, for the purpose of providing the Property with utility services, together with the reasonable right of ingress to and egress from the Property for the said purposes. The Association may hereafter grant other or additional easements for utility purposes for the benefit of the Property over, under, along and on any portion of the Property, and each Unit Owner and such Unit Owner's mortgagee hereby grants to the Association an irrevocable power of attorney to execute, acknowledge and record or register, for and in the name of such Unit Owner and mortgagee, such instruments as may be necessary to effectuate the foregoing. Easements are also hereby declared and granted to install, lay, operate, maintain, repair and replace any pipes, wires, ducts, conduits, public utility lines or structural components running through the walls of a Unit, whether or not such walls lie in whole or in part within the Unit boundaries.

(d) Easements to Run with Land: All easements and rights described are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any Unit Owner, purchaser, mortgagee and other Person having an interest in the Property, or any part or portion thereof. Reference in any deed of conveyance or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Article or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees of such parcels as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

4.05 Storage or Locker Areas. Storage or locker areas in the Building outside of the respective Units shall be part of the Common Elements; provided however, the Trustee reserves the right, until sale or conveyance of all Unit Ownerships, to permanently assign to any Unit Owner the perpetual and exclusive use of one storage or locker area, which exclusive use shall be deemed to be appurtenant to and pass with the title to the Unit of the Unit Owner to whom such use was originally granted.

4.06 Separate Mortgages of Units. Each Unit Owner shall have the right to mortgage or encumber his own respective Unit, together with his respective ownership interest in the Common Elements. No Unit Owner shall have the right or authority to mortgage or otherwise encumber in any manner whatsoever the Property or any part thereof, except his own Unit and his own respective ownership in the Common Elements as aforesaid.

4.07 Separate Real Estate Taxes. It is intended that real estate taxes are to be separately taxed to each Unit Owner for his Unit and his corresponding percentage of ownership in the Common Elements, as provided in the Act. In the event that, for any year, such taxes are not separately taxed to each Unit Owner, but are taxed on the Property as a whole, then each Unit Owner shall pay his proportionate share thereof in accordance with his respective percentage of ownership interest in the Common Elements; and in the absence of the timely payment thereof, the same shall constitute a lien on the interest of such Unit Owner, enforceable as provided in Paragraph 6.07 hereof.

4.08 Utilities. Each Unit Owner shall pay for his own telephone, electricity and other utilities which are separately metered or billed to each user by the respective utility company. Utilities which are not separately metered or billed shall be treated as part of the Common Expenses.

4.09 Insurance; Unit Owners. Each Unit Owner shall be responsible for his own insurance on the contents of his own Unit, and his additions and improvements thereto and decorating and furnishings and personal property therein, and his personal property stored elsewhere on the Property, and his personal liability, all to the extent not covered by the fire and liability insurance for all of the Unit Owners obtained as part of the Common Expenses pursuant to Section 5.07 hereof.

The Board shall not be responsible for obtaining insurance on any additions, alterations or improvements made by any Unit Owner to his Unit unless and until such Unit Owner shall request the Board in writing so to do and shall make arrangements satisfactory to the Board to reimburse the Board for any additional premiums attributable thereto; and upon the failure of such Unit Owner so to do, the Board shall not be obligated to apply any insurance proceeds to restore the affected Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements.

Each Unit Owner hereby waives and releases any and all claims which he may have against any other Unit Owner, the Association, its officers, members of the Board, the Trustee, the manager and managing agent of the Building, if any, and their respective employees and agents, for damage to the Common Elements, the Units, or



to any personal property located in the Unit or Common Elements, caused by fire or other casualty, theft, vandalism and each and all other causes to the extent that such damage is covered by fire or other form of casualty insurance.

4.10 Maintenance, Repairs and Replacements of Units.

(a) By the Board: The Association, at its expense, shall be responsible for the maintenance, repair and replacement of those portions, if any, of each Unit which contribute to the support of the Building, excluding however, interior wall, ceiling and floor surfaces. In addition, the Association shall maintain, repair and replace all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services and any other Common Elements which may be located within the Unit boundaries as specified in Sections 2.02 and 2.03, exclusive of any portions of the foregoing which may be located at or beyond the wall outlets, or which may be the responsibility of an individual Owner under any other provision of this Declaration.

(b) By the Owner: Except as otherwise provided in paragraph (a) above, each Unit Owner shall furnish and be responsible for, at his own expense:

(1) All of the maintenance, repairs and replacements within his own Unit, and all internal installations of such Unit as refrigerators, ranges and other kitchen appliances, lighting fixtures and other electrical fixtures, heating, plumbing and air conditioning fixtures or installations, and any portion of any other utility service facilities located within the Unit or Units owned by such Unit Owner, and heating and air conditioning equipment and appliances located on a balcony or patio outside of or adjoining his Unit; provided, however, such maintenance, repairs, and replacements as may be required to or on the Common Elements for the functioning of the plumbing within the Unit, and for the bringing of water, gas, or electricity to the Unit, shall be furnished by the Board as part of the Common Expenses. The Board or Association may provide, by its rules and regulations, for ordinary maintenance and minor repairs and replacements to be furnished to Units by Building personnel as a Common Expense.

(2) All of the decorating within his own Unit from time to time, including painting, wall papering, washing, cleaning, panelling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. In order to enhance the soundproofing of the Buildings, the floor covering for all occupied Units shall meet the minimum standards as may be specified by rules and regulations of the Board. Each

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Unit Owner shall be entitled to the exclusive use of such portions of the perimeter walls, floors and ceilings as lie within the boundaries of his Unit as shown on the Plat, and such Unit Owner shall maintain such portions in good condition at his sole expense as may be required from time to time, which maintenance and use shall be subject to the rules and regulations of the Board. The use of and the covering of the interior surfaces of such windows, whether by draperies, shades or other items visible on the exterior of the Building, shall be subject to the rules and regulations of the Board. Decorating of the Common Elements (other than interior surfaces within the Units as above provided), and any redecorating of Units to the extent made necessary by any damage to existing decorating of such Units caused by maintenance, repair or replacement work on the Common Elements shall be furnished as a part of the Common Expense. Nothing herein contained shall be construed to impose a contractual liability upon the Association for maintenance, repair and replacement, and the Association's liability shall be limited to damages resulting directly from its wilful neglect. The respective obligations of the Association and Unit Owners set forth in this Declaration shall not be limited, discharged or postponed by reason of the fact that any such maintenance, repair or replacement is required to cure a latent or patent defect in material or workmanship in the construction of the Buildings, nor because they may become entitled to the benefit of any guarantee or proceeds under policies of insurance. In addition and notwithstanding anything hereinabove to the contrary, no Unit Owner shall have a claim against the Board, Association or another Unit Owner for any work which is ordinarily the responsibility of the Board or Association, but which the Unit Owner himself has performed or paid for, unless the same shall have been agreed to in writing in advance by the Board.

4.11 Negligence of Owner. If, due to the wilful act or omission of a Unit Owner, or of a member of his family (or household pet) or of a guest or other authorized Occupant or visitor of such Unit Owner, damage shall be caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repairs or replacements shall be required which would otherwise be at the Common Expense, then such Unit Owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Board.

4.12 Joint Facilities. To the extent that equipment, facilities and fixtures within any Unit or Units shall be connected to similar equipment, facilities or fixtures affecting or serving other Units or the Common Elements, then the use thereof by the individual Unit Owners shall be

subject to the rules and regulations of the Board. The authorized representatives of the Association or the Board, or of the manager or managing agent for the Building, shall be entitled to reasonable access to the individual Units as may be required in connection with maintenance, repairs, or replacements of or to the Common Elements or any equipment, facilities or fixtures affecting or serving other Units or the Common Elements.

4.13 Alterations, Additions and Improvements. No alterations of any Common Elements, or any additions or improvements thereto, shall be made by any Unit Owner without the prior written approval of the Board.

## ARTICLE V

### ADMINISTRATION

5.01 Board of Managers; Association. The direction and administration of the Property shall be vested in a Board of Managers (hereinbefore and hereinafter sometimes referred to as the "Board"), consisting of three (3) persons who shall be elected in the manner hereinafter provided. The initial Board shall be elected at the first annual meeting of the Association, and of the Board members so elected, two (2) members shall be elected for terms expiring on the second Annual Meeting of the Association following such election, and one (1) for a term expiring on the first Annual Meeting of the Association following such election, subject to the election of a successor or successors. Thereafter such Board member shall be elected for a term of two (2) years, subject to the election of a successor or successors. Board members are permitted to succeed themselves in office. Vacancies on the Board shall be filled by a majority vote of the remaining Board members. The Unit Owners, as described in this Declaration and in the By-laws hereinafter mentioned, acting collectively through the Board, shall be known as the Ballard Court Condominium Association for the Building Number designated on page 1 of this Declaration. The provisions of this Article V and Article VI and VII below shall constitute the initial and basic By-laws of the Association, as referred to in the Act. Subject to the right of the beneficiary of the Trustee to perform the functions of the Board prior to the election of the initial Board, each member of the Board shall be one of the Unit Owners; provided, however, that in the event a Unit Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any director or officer of such corporation, partner of such partnership, individual trustee or beneficiary of such trust, or manager of such other legal entity, shall be eligible to serve as a member of the Board.

5.02 Determination of Board to be Binding. Notwithstanding that the words "Board" and "Association" may in some instances be used interchangeably in various sections of this Declaration, matters of dispute or disagreement between Unit Owners or with respect to interpretation

or application of the provisions of this Declaration or the By-laws shall be determined by the Board, which determination shall be final and binding on the Association and on all Unit Owners.

5.03 Voting Rights. There shall be one person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Unit Owners. Such person shall be known (and hereinafter referred to) as a "Voting Member". Such Voting Member may be the Unit Owner or one of the group composed of all the owners of a Unit Ownership, or may be some person designated by such Unit Owner or Owners to act as proxy on his or their behalf and who need not be a Unit Owner. Such designation shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Unit Owner or Owners. Any or all of such Unit Owners may be present at any meeting of the Association and (all Voting Members) may vote or take any other action, either in person or by proxy. There shall be one class of membership in the Association, and there shall be a total of one hundred (100) votes for all Voting Members. Each Unit Owner or group of Unit Owners shall be entitled to the number of votes equal to the total of the percentage of ownership in Common Elements applicable to his or their Unit Ownership as set forth in Exhibit C. The beneficiary of Trustee may exercise the voting rights with respect to any Unit owned by the Trustee.

5.04 Meetings.

(a) Quorum; Procedure: The presence at any meeting of the Voting Members having a majority of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Association at which a quorum is present upon the affirmative vote of the Voting Members having a majority of the total votes present at such meeting. Any Owner in writing may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action of the Association without a meeting.

(b) Annual Meeting: The first Annual Meeting of the Association shall be held upon not less than ten (10) nor more than thirty (30) days' written notice given by the Trustee on a date not later than sixty (60) days after Trustee shall have consummated the sale of seventy-five percent (75%) of the Units, or a date three years after this Declaration is registered, whichever shall first occur, or such sooner time as may be designated by the beneficiary of Trustee. Thereafter, there shall be an Annual Meeting of the Association on the first Tuesday of February each succeeding year, at 7:30 o'clock P.M., on the Property, or at such other reasonable place or time (not more than thirty (30) days before or after such date), as may be designated by written notice of the Board delivered to the Owners not less than ten (10) nor more than thirty (30) days prior to the date fixed for said meeting.

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At each Annual Meeting, the Voting Members shall, by a majority of the total votes present at such meeting, elect members of the Board to succeed those members whose terms shall have expired; provided, that each Voting Member shall have the number of votes equal to the number of offices to be filled.

(c) Special Meetings: Special Meetings of the Association may be called at any time for the purpose of considering matters which, by the terms of this Declaration, require the approval of all or some of the Voting Members, or for any other reasonable purpose. Said meetings may be called by the President of the Association, a majority of the Board, or by Owners having not less than twenty percent (20%) of the Unit Owners by number, upon notice of not less than ten (10) nor more than thirty (30) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.

(d) Service of Notices. Notices of meetings required to be given herein may be delivered either personally or by mail to the persons entitled to vote thereat, addressed to each such person at the address given by him to the Board for the purpose of service of such notice, or to the Unit of the Owner with respect to which such voting right appertains, if no address has been given to the Board. Notices shall be effective upon mailing.

(e) Special Matters. Approval of any of the following matters shall require the affirmative vote of the Voting Members having not less than three-fourths (3/4) of the total votes represented at a meeting called for the purposes of deciding the same: (i) the merger or consolidation of the Association; (ii) the sale, lease, exchange, mortgage, pledge or other disposition of substantially all of the assets of the Association; and (iii) the purchase or sale of land or Units on behalf of all of the Unit Owners.

5.05 Meetings of the Board. A majority of the members of the Board shall constitute a quorum. Members of the Board shall serve, without compensation, for the term specified in Section 5.01 hereof or until their successors are elected. Except as otherwise provided in this Declaration, the Property shall be managed by the Board, and the Board shall act by majority vote of those present at its meetings when a quorum exists. Meetings of the Board may be conducted in accordance with such regulations as the Board may adopt subject to the following:

(a) Meeting Notices and Conditions. Meetings of the Board shall be held upon not less than seventy-two (72) hours written notice to the members of the Board by mail, telegram or personal service, provided that persons not receiving timely or proper notice may waive such notice in writing before the meeting is

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convened. The Board shall meet not fewer than four (4) times annually, and all meetings of the Board shall be open to all Unit Owners who desire to attend. The Board shall not adopt or approve a proposed annual budget or special assessment at any meeting, unless a copy of the proposed annual budget has been delivered or sent to each Unit Owner not later than thirty (30) days prior to the meeting at which the annual budget is adopted or approved, and a notice of such meeting or any meeting at which a special assessment may be adopted has been sent to the persons, and in the form and within the time required for meetings of the Association. Special meetings of the Board may be called by the president of the Association or by any two Board members.

(b) Annual Meeting. An annual meeting of the Board shall be held immediately following the annual meeting of the Association and at the same place. At such annual meeting, the Board shall elect the officers of the Association, and may conduct such other business as may properly be submitted to the Board.

(c) Officers. The Board shall elect from among its members a President who shall preside over both its meetings and those of the Voting Members, a Secretary who shall keep the minutes of all meetings of the Board and of the Association and who shall, in general, perform all the duties incident to the office of Secretary, and a Treasurer to keep the financial records and books of account. The office of Secretary and Treasurer may be held by the same person. The Board may by resolution: create additional offices and elect appointees thereto; create committees and make appointments thereto; and fill any mid-term vacancy in any such office.

(d) Removal and Resignation. Any Board member may be removed from office by the Voting Members having not less than two-thirds (2/3) of the total votes of the membership represented at any Special Meeting called for the purpose, or at any annual meeting, provided a quorum as defined in Section 5.04(a) is present. A Board member may resign upon thirty (30) days prior written notice to the Board.

(e) Compensation. Board Members shall receive no compensation for their services.

(f) Notices and Documents. The President or any other authorized officer of the Association shall be authorized to receive notices on behalf of the Association and shall have the power to execute all Condominium instruments, including amendments of this Declaration, on behalf of the Association, and to execute and cause to be transmitted all notices to members.

5.06 General Powers of the Board. Without limiting the general powers which may be provided by law,

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this Declaration and the Act, the Board shall have the following general powers and duties:

(a) To elect the officers of the Association as hereinabove provided;

(b) To administer the affairs of the Association and the Property;

(c) To engage the services of a manager or managing agent who shall manage and operate the Property and the Common Elements thereof for all of the Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve (subject to Section 5.10 below);

(d) To formulate policies for the administration, management and operation of the Property and the Common Elements thereof, and to provide for the implementation thereof;

(e) To adopt administrative rules and regulations governing the administration, management, operation and use of the Property and the Common Elements, and to amend such rules and regulations from time to time;

(f) To provide for the maintenance, repair, upkeep, improvement, and replacement of the Common Elements and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or managing agent;

(g) To provide for the designation, hiring and removal of employees and other personnel, including accountants, and to engage or contract for the services of others, and to make purchases, for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements, and to delegate any such powers to the manager or managing agent (and any such employees or other personnel who may be the employees of the managing agent);

(h) To estimate the amount of and adopt and distribute the annual budget, and to provide the manner of assessing and collecting from the Unit Owners their respective shares of such estimated expenses.

(i) To comply with the instruction of not less than two-thirds (2/3) of the Unit Owners (unless a different plurality is required with respect to any issue or matter as elsewhere herein specified), as expressed in a resolution duly adopted at any annual or special meeting of the Unit Owners;

(j) To lease, sell, mortgage encumber, assign or deal with Units controlled by the Association or the Board, and to designate areas of the Common Elements to be utilized for specific purposes;

(k) To seek relief from or in connection with the assessment or levy of real estate taxes, special assessments and other levies or assessments on behalf of and at the expense of all of the Unit Owners;

(l) To exercise all other powers and duties of the Board or Unit Owners as a group referred to in the Act, and all powers and duties of a Board referred to in the Declaration or these By-Laws, and to perform all acts necessary to implement the foregoing;

(m) To adopt further rules of procedure for the administration of the Board and the Association, provided that the powers of the Board shall at all times be subject to the provisions of this Declaration, as now existing or as hereafter amended pursuant to the provisions of Section 13.08.

(n) To establish and maintain demand deposit accounts or savings accounts at federally insured banks or Savings and Loan Associations.

(o) To retain legal counsel, accountants and other professionals as may be required for general purposes relating to the Building and for consultation and representation as to real estate tax matters.

5.07 Specific Powers of the Board. The Board, for the benefit of the Board, the Association and all Unit Owners, shall acquire, and shall pay out of the maintenance fund hereinafter provided for, such amount as shall be necessary for the following:

(a) Utility Service for Common Elements: Water, waste removal, electricity and telephone, heat, power, and other necessary utility service for the Common Elements (and, if not separately metered or charged, for the Units);

(b) Casualty Insurance: Insurance for the Property against loss or damage by fire and such other hazards as the Board may deem desirable, for the full insurable replacement cost of the Common Elements and the Units. Premiums for such insurance shall be common expenses. Such insurance coverage shall be written in the name of, losses under such policies shall be adjusted by or on behalf of, and the proceeds of such insurance shall be payable to, the members of the Board as trustees for each of the Unit Owners in their respective percentages of ownership interest in the Common Elements as established in Exhibit C. The Board may engage the services of any bank or trust company authorized to do trust business in Illinois to act as trustee, agent or depository on behalf of the Board for the purpose of receiving and disbursing the insurance proceeds resulting from any loss, upon such terms as the Board shall determine to be consistent with the provisions of the Act and this Declaration. The fees of such corporate trustee shall be a common expense. In

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the event of any loss in excess of \$30,000 in the aggregate, or in the event of any loss resulting in the destruction of the major portion of one or more Units, the Board shall engage a corporate trustee as aforesaid upon the written demand of the mortgagee or owner of any Unit so destroyed.

The proceeds of such insurance shall be applied by the Board or by the corporate trustee on behalf of the Board for the reconstruction of the Building or the Unit or Units damaged or destroyed, as the case may be, or shall be otherwise disposed of, in accordance with the provisions of the Act and this Declaration; and the rights of the mortgagee of any Unit under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary therein contained, at all times be subject to the provisions in the Act with respect to the application of insurance proceeds to reconstruction of the Building or Unit. Payment by an insurance company to the Board or to such corporate trustee of the proceeds of any policy, and the receipt of a release from the Board of the company's liability under such policy shall constitute a full discharge of such insurance company, and such company shall be under no obligation to inquire into the terms of any trust under which such proceeds may be held pursuant hereto, or to take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof, or see to the application of any payments of the proceeds of any policy by the Board or the corporate trustee;

(c) Liability Insurance: Comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable (but not less than One Million Dollars (\$1,000,000) for any one person injured, One Million Dollars (\$1,000,000) for any one occurrence and One Million Dollars (\$1,000,000) for property damage), and other liability and boiler insurance as it may deem desirable, insuring each Unit Owner, the Association, its officers, members of the Board, the Trustee, the manager and managing agent of the Building, if any, and their respective employees and agents, from liability in connection with the ownership and/or use of or maintenance of the Common Elements, and insuring the officers of the Association and members of the Board from liability for good faith actions in connection with the performance of their duties. Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties, and shall permit the waiver of the right of subrogation. The premiums for such insurance shall be Common Expenses;

(d) Workmen's Compensation: Workmen's compensation insurance to the extent necessary to comply with any applicable laws;

(e) Wages and Fees for Services: The services of any person or firm employed by the Board, including, without limitation, the services of any person

or firm to act as manager or as managing agent for the Property, the services of any person or persons required for maintenance or operation of the Property, and legal, accounting and other professional services necessary or proper in the operation of the Property or the enforcement of this Declaration and for the organization, operation and enforcement of the rights of the Association;

(f) ~~Care of Common Elements~~: All sums payable for maintenance, painting, cleaning, decorating, repair and replacement of the Common Elements (but not including the interior surfaces of the Units, which the Owner shall paint, clean, decorate, maintain and repair subject to the provisions of subsection (l) of this Section 5.07, and not including any portion of the Common Elements which are the responsibility of any Owner) and such additional amenities, furnishings, equipment and services for the Common Elements as the Board shall determine are necessary or proper, and the Board shall have the exclusive right and duty to acquire the same as part of the Common Elements;

(g) ~~Additional Expenses~~: Any other materials, supplies, structure, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Board is required to acquire or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the maintenance and operation of the Property as a class building or for the enforcement of this Declaration;

(h) ~~Discharge of Mechanic's Lien~~: Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Property or any part thereof which may in the opinion of the Board constitute a valid and enforceable lien against the Property or against the Common Elements, rather than merely against the interest therein of particular Owners; it being understood, however, that the foregoing authority shall not be in limitation of any statutory provisions relating to the same subject matter, where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specially assessed to said owner or owners;

(l) ~~Certain Maintenance of Units~~: Maintenance and repair of any Unit as provided in this Declaration and maintenance and repair of any Unit in such maintenance or repair is necessary, in the discretion of the Board, to protect the Common Elements, or any portion of a building, and the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair

delivered by the Board to said Owner or Owners, provided that the Board shall levy a special assessment against such Unit Owner for the cost of said maintenance or repair. The Board or its agents or contractors may enter any Unit when necessary in connection with any such maintenance and any other maintenance or construction for which the Association is responsible, or for general exterminating services for the building ordered by the Board. It may likewise enter any balcony or patio for maintenance, repair, construction or painting. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damages caused thereon shall be repaired by the Board and the cost thereof shall be a Common Expense. The Board reserves the right to retain a passkey to each Unit, and no locks or other devices shall be placed on the doors to the Units to obstruct entry through the use of such passkey. In the event of any emergency originating in or threatening any Unit, or in the event of the Owner's absence from the Unit at a time when required alterations or repairs are scheduled, the management agent or his representative or any other person designated by the Board may enter the Unit immediately, whether the Owner is present or not, and may make emergency repairs or take emergency measures to prevent damage to the Unit or any other Unit or the Common Elements.

(j) Capital Additions and Improvements:

The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the maintenance fund any capital additions and improvements or structural alterations (other than for purposes of replacing or restoring portions of the Common Elements) having a total cost per addition, improvement or alteration in excess of Five Thousand Dollars (\$5,000), without the prior approval of the Voting Members holding two-thirds (2/3) of the total votes.

(k) Certain Utility Services to Units:

The Board may pay from the maintenance fund all charges for water taxes, waste removal and/or any utilities which are not separately metered or otherwise directly charged to individual Owners. However, the Board may discontinue such payments at any time, in which case each Owner shall be responsible for direct payment of his share of such expenses as determined by the Board. The Board reserves the right to levy additional assessments against any Owner to reimburse it for excessive use by such Owner of any utility service, the expense of which is a Common Expense.

5.08 Delegation of Insurance Obligations to Homeowners' Associations. Notwithstanding anything contained herein to the contrary, the rights and obligations to maintain insurance as permitted or required hereunder are hereby delegated and relinquished without further action to the Ballard Court Homeowners' Association to the extent that

the Homeowners' Association elects to purchase and maintain blanket insurance policies for the entire Ballard Court development. In the event insurance on a blanket basis is so obtained, the premium cost shall be an expense to be included in the said Association's budget.

5.09 Vouchers. All vouchers for payment of expenditures by the Board shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such vouchers shall be signed by the Treasurer and countersigned by the President of the Association.

5.10 Rules and Regulations; Management.

(a) Rules: Written notice of all rules and regulations and amendments thereto, shall be given to all Owners, and the entire Property shall at all times be maintained subject to such rules and regulations.

(b) Management: The Board does hereby delegate to the Homeowners' Association the right to engage the services of a manager or managing agent to manage the Property and thereby provide uniformity in management and continuity of the maintenance of the Property with the surrounding real estate.

(c) No Business Activity: Nothing hereinabove contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all of the Unit Owners or any of them, except that net income from concessions in the Building and from the net rental of Units controlled by the Board shall be utilized for the general benefit of all Unit Owners.

5.11 Indemnification.

(a) The Association shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a director, officer, employee or agent of the Association, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did

not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Association shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another association, corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association; and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for wilful misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

(c) To the extent that contractual liability insurance or other insurance shall exist therefor, or to the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subparagraphs (a) and (b) hereof, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(d) Any indemnification under subparagraphs (a) and (b) hereof (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in subparagraphs (a) and (b) hereof. Such determination shall be made (i) by the Board by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (ii) if such a quorum is not obtainable (or, even if obtainable, upon the direction of a quorum of disinterested directors) by independent legal counsel in a written opinion or (iii) by a Majority of the Unit Owners.

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(e) The indemnification provided in Section 5.11 shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any contract, agreement, vote of Unit Owners or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

(f) The Association shall have power to purchase and maintain as a common expense insurance on behalf of any person who is a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another association, corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Section 5.11.

#### ARTICLE VI

#### ASSESSMENTS - MAINTENANCE FUND

6.01 Preparation of Estimated Budget. Each year on or before December 1, the Board will estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the operation and maintenance of the Common Elements and other expenses of the Association, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements (the "estimated cash requirement"), and shall notify each Owner in writing as to the amount thereof, which shall constitute the Board's proposed budget for the following year, with a reasonable itemization thereof. Prior to the election of the first Board, the budget shall be prepared by the Trustee, in its sole and absolute discretion, and shall be based upon the Trustee's best estimate of the total amount of funds so required. On or before the first day of every month, each Owner shall be obligated to pay to the Board, or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this Section, except that payment by the Trustee shall be due on the last day of each month. In addition thereto, on or before the date of each Annual Meeting, the Board shall supply to each Owner an itemized accounting of Association expenses and disbursements for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures, plus reserves.

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6.02 Reserve for Contingencies and Replacements.

Commencing with the budget prepared by the Board elected at the first annual meeting of the Association, the Board shall be obligated to maintain a reasonable reserve for contingencies and replacements. Subject to the provision of Section 6.08, if the estimated cash requirement proves inadequate for any reason, including non-payment of any Unit Owner's assessment, the Board may, at any time, levy a further assessment, which shall be separately assessed to the Unit Owners according to each Unit Owners' percentage ownership in the Common Elements. The Board shall serve notice of such further assessment on all Unit Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessment. All Unit Owners shall be obligated to pay the adjusted monthly amount. At the time each Unit is conveyed by Trustee to an unrelated Unit Owner pursuant to a bona fide sale, the Unit Owner shall pay (in addition to the first monthly assessment) to the manager or managing agent, or as otherwise directed to the Board, an amount equal to two times the first full monthly assessment for such Unit Owner, which amount shall be used and applied as an operating reserve for Common Expenses in the manner herein provided.

6.03 Budget Determined by First Board. When the

first Board takes office, it shall determine the estimated cash requirement, as hereinabove defined, for the period commencing thirty (30) days thereafter and ending on December 31 of the calendar year in which said Board takes office. Assessments shall be levied against the Unit Owners during said period as hereinafter provided. Each Unit Owner other than the Trustee shall be obligated to pay the monthly assessment attributed to his Unit Ownership for the period commencing on the date of the recordation or registration of the deed conveying the Unit Ownership to such Unit Owner and ending on the date of the recordation or registration of a deed conveying the Unit Ownership to a subsequent Unit Owner. Until the first meeting of Unit Owners is held and the actual monthly assessment is determined, the amount of the monthly assessment shall be determined by the beneficiary of Trustee based on the actual operating costs of the Property, as estimated by the Trustee. Such operating costs shall be limited to ordinary expenses attributable only to the Property and shall not include capital expenditures, reserves for contingencies or replacement, property items or inventory items, to the extent attributable to subsequent periods. If the beneficiary of Trustee shall underestimate or overestimate such operating expenses in any month, appropriate adjustments may be made in the estimate for the succeeding month or months; provided, however, that the portion of any excess payment made by the beneficiary of Trustee as a result of any overestimate of such expenses shall be refunded to or shall be otherwise credited to said beneficiary in such manner as it may determine.

6.04 Failure to Prepare Annual Budget. The failure or delay of the Board to prepare or serve the annual

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or adjusted estimate on the Unit Owner shall not constitute a waiver or release in any manner of such Unit Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and, in the absence of any annual estimate or adjusted estimate, the Unit Owner shall continue to pay the monthly maintenance charge at the then existing monthly rate established for the previous period until the monthly maintenance payment which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

6.05 Books and Records. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for inspection by any Owner or any representative of Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Unit Owner. Upon ten (10) days' notice to the Board and payment of a reasonable fee, any Unit Owner shall be furnished a statement of his account, setting forth the amount of any unpaid assessments or other charges due to and owing from such Owner.

6.06 Status of Collected Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Unit Owners in the percentages set forth in Exhibit C.

6.07 Remedies for Failure to Pay Assessments. Each unpaid monthly or special assessment shall constitute a lien in favor of the Association from and after its due date and shall bear interest at the rate of 8% per annum commencing 15 days after its due date until paid. If a Unit Owner is in default in the monthly payment of the aforesaid charges or assessments due to the Association for thirty (30) days, the Board may bring suit for and on behalf of itself and as representative of all Unit Owners, to enforce collection thereof or to foreclose the lien therefor as hereinafter provided, or both, and there shall be added to the amount due the costs of said suit and reasonable attorneys' fees to be fixed by the court. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and interest, costs and fees as above provided, shall be and become a lien or charge against the Unit Ownership and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate. Unless otherwise provided in this Declaration, the members of the Board and their successors in office, acting on behalf of the other



Unit Owners, shall have the power to bid in the interest so foreclosed at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Said lien shall take effect and be in force when and as provided in the Act; provided, however, that the lien of mortgages or trust deeds securing notes owned or held by any bank, insurance company or savings and loan association, or any other person providing bona fide purchase money financing to the Unit Owner, shall be and remain prior to the lien of the Association, except for the lien of all Common Expenses and other charges on the encumbered Unit which become due and payable subsequent to the date said encumbrancer either (i) becomes a mortgagee in possession; (ii) accepts a conveyance of title or other interest in the Unit in lieu of foreclosure; (iii) acquires title to the Unit through foreclosure or other means; or (iv) has a receiver appointed. Anything herein contained to the contrary notwithstanding, to the extent the same is permitted by the Act, any encumbrancer may, from time to time, request in writing a written statement from the Board setting forth the unpaid common expenses with respect to the Unit covered by his encumbrance. Any encumbrancer holding a lien on a Unit may pay any unpaid common expenses payable with respect to such Unit and upon such payment such encumbrancer shall have a lien on such Unit for the amount paid at the same rank as the lien of his encumbrance.

6.08 Separate Assessments. All non-recurring Common Expenses, all Common Expenses not set forth in the budget of the Association as adopted, and all increases in the assessments over the amount adopted shall be separately assessed in accordance with procedures meeting the minimum requirements of Section 9 of the Illinois Condominium Property Act, as amended, or any statutory requirement succeeding said section.

## ARTICLE VII

### COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

7.01 The Units and Common Elements shall be occupied as follows:

(a) Residential Purposes: No part of the Property shall be used for other than housing and related common purposes for which the Property was designed. Each Unit or any two or more adjoining Units used together shall be used as a residence for a single family or such other uses permitted by this Declaration and for no other purpose. That part of the Common Elements separating any two or more adjoining Units used together as aforesaid may be altered to afford ingress and egress to and from such adjoining Units in such manner and upon such conditions as shall be determined by the Board in writing.

(b) Obstruction of Common Elements: There shall be no obstruction of the Common Elements, nor

shall anything be stored in the Common Elements without the prior consent of the Board, except as hereinafter expressly provided. Each Unit Owner shall be obligated to maintain and keep in good order and repair his own Unit.

(c) Hazardous Uses and Waste. Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance on the Building without the prior consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Building, or which would be in violation of any law. No waste shall be committed in the Common Elements.

(d) Exterior Exposure of Building: Unit Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of the Building, and no sign, awning, canopy, shutter, radio or television antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof, without prior consent of the Board. Window coverings exposed to the outside shall be a uniform white or off-white color.

(e) Pets: No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Elements, except that dogs, cats, or other household pets may be kept in Units, subject to rules and regulations adopted by the Board, provided that they are not kept, bred, or maintained for any commercial purpose; and provided further that any such pet causing or creating in the opinion of the Board a nuisance or unreasonable disturbance shall be permanently removed from the Property upon three (3) days' written notice from the Board.

(f) Nuisances: No noxious or offensive activity shall be carried on in any Unit or in the Common Elements, nor shall anything be done therein, either wilfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or Occupants.

(g) Impairment of Structural Integrity of Building. Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the Building or which would structurally change the Building except as is otherwise provided herein. No Unit Owner shall overload the electric wiring in the Building, or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others.

(h) Laundry or Rubbish: No clothes, sheets, blankets, laundry of any kind or other articles shall be

hung out of or exposed on any part of the Common Elements. The Common Elements shall be kept free and clear of rubbish, debris and other unsightly materials.

(i) Lounging or Storage in Common Elements: Except to the extent that specific areas are designated therefor by the Board, there shall be no playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Elements. Balcony, patio and storage areas may be used for their intended purposes.

(j) Prohibited Activities and Signs: No industry, business, trade, occupation or profession of any kind, commercial, religious, educational, or otherwise, designed for profit, altruism, or otherwise, shall be conducted, maintained, or permitted on any part of the Property, nor except with the consent of the Board, shall any "For Sale" or "For Rent" signs or other window displays or advertising be maintained or permitted by any Unit Owner on any part of the Property or in any Unit therein. The right is reserved by the Trustee, its beneficiary or its agent, to place "For Sale" or "For Rent" signs on any unsold or unoccupied Units and to place such other signs on the Property as may facilitate the sale or lease of unsold Units.

(k) Alterations of Common Elements: Nothing shall be altered or constructed in or removed from the Common Elements, except upon the written consent of the Board.

(l) Display of Model Units by Trustee's Beneficiary: During the period of marketing of the Units by the Trustee, or its beneficiary or beneficiaries (hereinafter collectively "beneficiary"), the Trustee, its beneficiary and its contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress and egress to and from the Building and Property as may be required in connection with said marketing and the remodeling, re-furnishing and redecorating of the Common Elements and Units. In addition thereto, the Trustee's beneficiary may occupy or grant permission to any person or entity to occupy, with or without rental, as determined by the Trustee or said beneficiary, one or more Units for business or promotional purposes, including clerical activities, sales offices, model Units for display and the like, in connection with the development and sale or leasing of Units.

(m) Certain Personal Professional Activities Permitted: The Unit restrictions in Paragraphs (a) and (j) of this Section 7.01 shall not, however, be construed in such a manner as to prohibit an Owner from (a) maintaining his personal professional library therein; (b) keeping his personal, business or professional records or accounts therein; or (c) handling his personal, business or professional telephone calls or correspondence therefrom. Such uses are expressly declared

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customarily incident to the principal residential use and not in violation of Paragraphs (a) or (j) of this Section 7.01.

#### ARTICLE VIII

##### SALE, LEASING OR OTHER ALIENATION

8.01 Sale or Lease. Any Unit Owner, other than the Trustee or its beneficiary, who wishes to sell or lease his Unit Ownership (or any lessee of any Unit wishing to assign or sublease such Unit) to any person not related by blood or marriage to the Unit Owner (including the beneficiary of any Unit held in trust) shall give to the Board not less than thirty (30) days' prior written notice of the terms of any contemplated sale or lease, together with the name and address of the proposed purchaser or lessee, and its or their financial and character references. The Board, acting on behalf of the other Unit Owners and in accordance with the provisions of Section 5.04(e), shall at all times have the first right and option to purchase or lease such Unit Ownership upon the same terms as the proposed sale or lease, which option shall be exercisable for a period of thirty (30) days following the date of receipt of such notice. If the Board shall fail to take affirmative action within said thirty (30) day period, the Board shall be deemed to have waived its option hereunder. If said option is not exercised by the Board within the aforesaid option period, or if said option is properly waived, the Unit Owner (or Lessee) may, at any time within ninety (90) days after such waiver or the expiration of said period (whichever shall first occur) contract to sell or lease (or sublease or assign) such Unit Ownership to the proposed purchaser or lessee named in such notice upon the terms specified therein, and if he fails to close said proposed sale or lease transaction within said ninety (90) days, his Unit Ownership shall again become subject to the Board's right of first option as herein provided.

8.02 Gift. Any Unit Owner, other than the Trustee, who wishes to make a gift of his Unit Ownership or any interest therein to any person or persons who would not be heirs at law of the Owner under the Rules of Descent of the State of Illinois were he or she to die within ninety (90) days prior to the contemplated date of such gift, shall give to the Board not less than ninety (90) days' written notice of his or her intent to make such gift prior to the contemplated date thereof, together with the name and address of the intended donee and the contemplated date of said gift. The Board, acting on behalf of the Unit Owners and in accordance with the provisions of Section 5.04(e) shall at all times have the first right and option to purchase such Unit Ownership or interest therein for cash at fair market value to be determined by arbitration as herein provided, which option shall be exercisable until the date of expiration as provided herein. Within fifteen (15) days

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after receipt of said written notice by the Board, the Board and the Unit Owner desiring to make such gift shall each appoint a qualified real estate appraiser to act as arbitrators. The two arbitrators so appointed shall, within ten (10) days after their appointment, appoint another qualified real estate appraiser to act as the third arbitrator. Within fifteen (15) days after the appointment of said arbitrator, the three (3) arbitrators shall determine, by majority vote, the fair market value of the Unit Ownership or interest therein which the Unit Owner contemplates conveying by gift, and shall thereupon give written notice of such determination to the Unit Owner and the Board. The Board's option to purchase the Unit Ownership or interest therein shall expire forty-five (45) days after the date of receipt by it of such notice.

8.03 Devise. In the event any Unit Owner dies leaving a Will devising his or her Unit Ownership, or any interest therein, to any person or persons not heirs at law of the deceased Unit Owner under the Rules of Descent of the State of Illinois, and said Will is admitted to probate, the Board and their successors in office, acting on behalf of the Unit Owners and in accordance with the provisions of Section 5.04(e), shall have a like option (to be exercised in the manner hereinafter set forth) to purchase said Unit Ownership or interest therein either from the devisee or devisees thereof named in said Will. or, if a power of sale is conferred by said Will upon the personal representative named therein or if there is no Will admitted to probate within 90 days after the death of said Unit Owner, then from the personal representative for cash at fair market value which is to be determined by arbitration. Within sixty (60) days after the appointment of a personal representative for the estate of the deceased Owner, the Board shall appoint a qualified real estate appraiser to act as an arbitrator, and shall thereupon give written notice of such appointment to the said devisee or devisees or personal representative, as the case may be. Within fifteen (15) days thereafter, said devisee or devisees, or personal representative, as the case may be, shall appoint a qualified real estate appraiser to act as an arbitrator. Within ten (10) days after the appointment of said arbitrator, the two so appointed shall appoint another qualified real estate appraiser to act as the third arbitrator. Within (15) days thereafter, the three arbitrators shall determine, by majority vote, the fair market value of the Unit Ownership or interest therein devised by the deceased Owner, and shall thereupon give written notice of such determination to the Board, and said devisee or devisees, or personal representative, as the case may be. The Board's right to elect to purchase the Unit Ownership or interest therein at the price determined by the three arbitrators shall expire sixty (60) days after the date of receipt by it of such notice if the personal representative of the deceased Owner is empowered to sell, and shall expire eight (8) months after the appointment of a personal representative who is not so empowered to sell. The Board shall be deemed to have exercised its option if it tenders the required sum of money (directly or in escrow, pending title

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clearance) to said devisee or devisees or to said personal representative, as the case may be, within the said option periods. Nothing herein contained shall be deemed to restrict the right of the Board or its authorized representative, pursuant to authority given to the Board by the Owners as hereinafter provided, to bid at any sale of the Unit Ownership or interest therein of any deceased Owner held pursuant to an order or direction of the court having jurisdiction over that portion of the deceased Owner's estate which contains his or her Unit Ownership or interest therein.

#### 8.04 Involuntary Sale.

(a) In the event any Unit Ownership or interest therein is sold at a judicial or execution sale (other than a mortgage foreclosure sale), the person acquiring title through such sale shall, before taking possession of the Unit so sold, give forty-five (45) days' written notice to the Board of his intention so to do, whereupon the members of the Board and their successors in office, acting on behalf of consenting Unit Owners as hereinafter provided, shall have an irrevocable option to purchase such Unit Ownership or interest therein at the same price for which it was sold at said sale. If said option is not exercised by the Board within thirty (30) days after receipt of such notice, it shall thereupon expire and said purchaser may thereafter take possession of said Unit. The Board shall be deemed to have exercised its option if it tenders the required sum of money (directly or in escrow pending title clearance) to the purchaser within said thirty (30) day period.

(b) In the event any Owner shall default in the payment of any monies required to be paid under the provisions of any mortgage or trust deed against his Unit Ownership, the Board shall have the right to cure such default by paying the amount so owing to the party entitled thereto, and shall thereupon have a lien therefor against such Unit Ownership, which lien shall have the same force and effect and may be enforced in the same manner as provided in Article VI.

8.05 Transfer of Option Rights to Single Unit Owner or Group of Owners. Any right to purchase or lease which the Board may have or obtain under the provisions of this Article may be transferred, with the consent of the Unit Owners, as hereinafter provided, to one or more of the Unit Owners so as to enable the said Unit Owner or Owners to acquire the subject Unit or interest as a personal investment, provided that the Board is reasonably assured that such Unit Owner or Owners have the financial capacity to undertake such purchase or lease and will fulfill the requirements of said purchase or lease within all stipulated time periods.

8.06 Consent of Voting Members. The Board shall not exercise any option hereinabove set forth to purchase

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any Unit Ownership or interest therein, or transfer its rights to any single Unit Owner or group of Unit Owners, without the prior written consent of the Voting Members holding at least two thirds (2/3) of the voting rights in the Association, and whose Unit Ownerships are not the subject matter of such option. The Board may bid to purchase a Unit Ownership or interest therein at any sale held pursuant to an order or direction of a court upon the prior written consent of the aforesaid Voting Members, which consent shall set forth a maximum price which the Board is authorized to bid and pay for said Unit Ownership or interest therein.

**8.07 Release, Waiver and Exceptions to Option.**

Upon the consent of a majority of the Board members, or upon the consent of the majority of the Board voting at any duly constituted meeting, any of the options contained in this Article VIII may be released or waived, and the Unit Ownership or interest therein which is subject to an option set forth in this Article may be sold, conveyed, leased, given or devised free and clear of the provisions of this Article. In addition, none of the options contained in this Article VIII shall be applicable to any sales, leases, or subleases to purchasers, lessees or sublessees procured by or through the Trustee (or its beneficiary) for its (or their) own account.

**8.08 Proof of Termination of Option.**

A certificate executed and acknowledged by the acting President or Secretary of the Board, or duly authorized managing agent of the Property, stating that the provisions of this Article VIII as hereinabove set forth have been met by a Unit Owner, or duly waived by the Board, and that the rights of the Board hereunder have terminated, shall be conclusive upon the Board and the Owners in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner who has, in fact, complied with the provisions of this Article or in respect to whom the provisions of this Article have been waived, upon request at a reasonable fee, not to exceed fifteen Dollars (\$15.00).

**8.09 Financing of Purchase Under Option.**

(a) Acquisition of Unit Ownerships or any interests therein under the provisions of this Article shall be made from the maintenance fund. If said fund is insufficient, the Board shall levy an assessment against each Owner (other than the transferors) in the ratio that his percentage of ownership in the Common Elements as set forth in Exhibit C bears to the total of all such percentages applicable to Units subject to said assessment (thus, excluding the percentage of any Unit Ownership being the subject of the purchase), which assessment shall become a lien and be enforceable in the same manner as provided in Article VI.

(b) The Board, in its discretion, may borrow money to finance the acquisition of any Unit Ownership or interest therein authorized by this Article;

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provided, however, that no financing may be secured by an encumbrance or hypothecation of any portion of the Property other than the interest therein to be acquired. The loan documents evidencing such borrowing may be executed by the members of the Board, a nominee of the Board, or by a land trust of which the Board shall be the beneficiary.

8.10 Title to Acquired Interests. Unit Ownerships or interests therein acquired pursuant to the terms of this Article shall be held of record in the name of the Association and shall be the property of the Association. Said Unit Ownerships or interest therein shall be sold or leased by the Board in such manner as it shall determine. All proceeds of such sale and/or leasing shall be deposited in the maintenance fund and credited to each Owner in the same proportion in which the Board could levy a special assessment under the terms of Section 8.09(a) above.

8.11 Obligations Concerning Unpaid Assessments and Reserves. In a voluntary transfer of a Unit, the transferees of the Unit shall be jointly and severally liable with the transferor for all unpaid assessments against the latter up to the time of transfer, without prejudice to the transferee's right to recover from the transferor the amounts paid by the transferee therefor. However, any such transferee shall be entitled to a statement from the Board or President, or managing agent of the Association, as the case may be, setting forth the amount of the unpaid assessments against the transferor due the Association and such transferee shall not be liable for, nor shall the Unit conveyed be subject to a lien for any such assessments which became due and payable prior to the date of the statement, in excess of the amount therein set forth.

8.12 Exceptions to Board's Right of First Refusal. The Board's right of first refusal as provided in Sections 8.01, 8.02 and 8.03 hereof shall not apply and shall not be exercisable to any sale, lease, gift, devise or other transfer by Trustee; by any person who now is or hereafter shall be a beneficiary of Trustee (whether or not Trustee is then in existence), or any trust beneficially owned or corporation or partnership controlled by one or more of said beneficiaries of Trustee; against the spouse or any issue of a Unit Owner; in connection with transfers solely between a trust and its beneficiary; or in connection with any foreclosure sale arising out of any purchase money obligation secured by a mortgage on a Unit Ownership.

#### ARTICLE IX

##### DAMAGE OR DESTRUCTION AND RESTORATION OF BUILDINGS

###### 9.01 Insurance.

(a) Sufficient Insurance: In the event the improvements forming a part of the Property, or any

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portion thereof, including any Unit, shall suffer damage or destruction from any cause and the proceeds of any policy or policies insuring against such loss or damage, and payable by reason thereof, shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken and the insurance proceeds shall be applied by the Board or the payee of such insurance proceeds in payment therefor; provided, however, that in the event, within thirty (30) days after said damage or destruction, the Unit Owners elect either to sell the Property as hereinafter provided in Article X or to withdraw the Property from the provisions of this Declaration and from the provisions of the Act, as therein provided, then such repair, restoration or reconstruction shall not be undertaken.

(b) Insufficient Insurance. In the event the Property or the improvements thereon so damaged are not insured against the risk causing the loss or damage, or the insurance proceeds are not sufficient to pay for the cost of repair, restoration or reconstruction, then:

(i) If more than half of the Units on the Property are rendered uninhabitable, then within 180 days from the date of damage or destruction, either the Unit Owners and all other parties in interest shall voluntarily provide for the reconstruction, repair and restoration of the damage, or shall otherwise voluntarily agree on the disposition of the Property, or the Board shall effectuate a withdrawal of the undamaged portion of the Property (as hereinafter provided), or the common ownership and partition provisions of the Act shall apply.

(ii) If fewer than half of the Units on the Property are rendered uninhabitable, then the repair, reconstruction and restoration of the damage may be required upon the affirmative vote of not less than three-fourths (3/4) of the membership interests voting at a meeting called for that purpose. Such meeting shall be called upon the first to occur of thirty (30) days after the final adjustment of insurance claims and ninety (90) days after the date of the damage or destruction; and at such meeting the Board shall present its estimate of the cost of repair, reconstruction and restoration, together with its estimate of the amount of additional assessments to each Unit Owner. If the requisite vote for reconstruction shall fail, then disposition of the matter shall be made as if more than half the Units were rendered uninhabitable.

(iii) Unless the Unit Owners authorize the reconstruction, repair and restoration of the damaged facilities to proceed, as an additional alternative the Board may within 180 days after the

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date of loss or damage determine which portion of the Property can be practicably retained as a structurally sound, and architecturally cohesive and usable project; and all Units not included therein may be withdrawn from the Act and from this Declaration, and any amendments thereto. All insurance proceeds and other funds available shall be allocated among the withdrawing and remaining Unit Owners equitably, which need not necessarily be on the basis of ownership of Common Elements. Any plan of allocation approved by not less than three-fourths (3/4) of each group of Unit Owners, those withdrawing and those not withdrawing, shall be conclusive upon all parties. Upon withdrawal of any Unit, the ownership in the Common Elements shall be reallocated among the the remaining Unit Owners on the basis of the percentage of interest of the remaining Units (and on the basis of market value for partially withdrawn Units as determined by the Board), the responsibility of the Unit Owners of the withdrawn Units for future assessments and obligation hereunder shall cease, and all excess insurance or other proceeds available as a result of the withdrawal shall be distributed in accordance with the interests of those entitled to their use. The Board or the appropriate officers of the Association shall have the right to execute and record such documentation as shall be necessary or appropriate to evidence or confirm the aforesaid withdrawal of Units and the rights of the remaining Unit Owners, and all remaining and withdrawing Unit Owners shall fully cooperate with the Board in connection therewith. Any assessments upon the remaining Unit Owners to effectuate such withdrawal and restoration of the remainder of the Property shall require the approval of not less than three-fourths (3/4) of the total votes represented at a meeting called for that purpose.

9.02 Eminent Domain. In the event any one or more Units shall become the subject of eminent domain proceedings or the threat thereof, then within 180 days after all of the condemned property is taken or conveyed in lieu of condemnation, the board may exercise such rights and powers as it has under Section 9.01(b)(iii) in the case of partial destruction, thereby withdrawing portions of the Property, equitably distributing the condemnation award and other funds resulting from the condemnation and performing such other acts as are permitted in said Section 9.01(b)(iii).

9.03 Substantial Restoration. Repair, restoration or reconstruction of the improvements, as used in this Article, means restoring the improvements to substantially the same condition in which they existed prior to the casualty damage, with each Unit and the Common Elements having the same vertical and horizontal boundaries as before the occurrence of such damage, except as otherwise provided in Section 9.01(b)(iii) and 9.02.

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ARTICLE X

SALE OF THE PROPERTY

10.01 Voluntary Sale of Property. The Owners by affirmative vote of not less than seventy-five percent (75%) of the voting rights in the Association, may elect to sell the Property as a whole at any meeting called for that purpose. Such action shall be binding upon all Unit Owners, and it shall thereupon become the duty of every Unit Owner to execute and deliver such instruments, and to perform all acts in such manner and form as may be necessary to effect such sale; provided, however, that any Unit Owner who did not vote in favor of such action and who has filed written objection thereto with the Board within twenty (20) days after the date of the meeting at which such sale was approved shall be entitled to receive from the proceeds of such sale an amount equivalent to the value of his interest, as determined by a fair appraisal, less the amount of any unpaid assessments or charges due and owing from such Unit Owner. In the absence of agreement on an appraiser, such Owner and the Board may each select an appraiser, and the two so selected shall select a third. The fair market value, as determined by a majority of the three so selected shall control. If either party shall fail to select an appraiser, then the one designated by the other party shall make the appraisal. In making such appraisal the appraiser shall disregard any increment or detriment to the value of the interest of the objecting party resulting from the availability or possibility of the proposed sale of the Property.

ARTICLE XI

REMEDIES FOR BREACH OF COVENANTS,  
RESTRICTIONS AND REGULATIONS

11.01 Abatement and Enjoyment. The violation of any restriction or condition or regulation adopted by the Board, or the breach of any covenant or provision herein contained (including but not limited to the provisions of Section 4.11 hereof), shall give the Board the right, in addition to the rights set forth in the next succeeding section and in Section 6.07:

(a) to enter upon the property upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Trustee, or its successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or

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) to enjoin, abate or remedy by appropriate legal proceedings (including but not limited to a suit for damages), either at law or in equity, the continuance of any breach; or

(c) to take possession of such Unit Owner's interest in the Property and to maintain an action for possession of such Unit in the manner provided by law.

A Unit Owner determined to have violated this Declaration shall reimburse the Association for its costs of enforcement, including, but not limited to, reasonable attorneys' fees.

11.02 Involuntary Sale. If any Unit Owner (either by his own conduct or by the conduct of any other Occupant of his Unit) shall violate any of the covenants or restrictions or provisions of this Declaration or the regulations adopted by the Board, including the failure to pay assessments when due, and such violation shall continue for thirty (30) days after notice in writing from the Board, or shall occur repeatedly during any thirty (30) day period after written notice or request to cure such violation from the Board, then the Board shall have the power to issue to the defaulting Unit Owner a ten (10) day notice in writing to terminate the rights of the said defaulting Unit Owner to continue as a Unit Owner and to continue to occupy, use or control his Unit; and thereupon an action in equity may be filed by the members of the Board against the defaulting Unit Owner for a decree of mandatory injunction against the Unit Owner or Occupant or, subject to the prior consent in writing of any mortgagee having a security interest in the Unit Ownership of the defaulting Unit Owner, which consent shall not be unreasonably withheld, or in the alternative, a decree declaring the termination of the defaulting Unit Owner's right to occupy, use or control the Unit owned by him on account of the breach of covenant, and ordering that all the right, title and interest of the Unit Owner in the Unit Ownership shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the court shall establish, except that the court shall be requested to enjoin and restrain the defaulting Unit Owner from reacquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge any prior encumbrance, court costs, court reporter charges, reasonable attorneys' fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to the Unit Owner. Upon the confirmation of such sale, the purchaser thereof shall thereupon be entitled to a deed to the Unit Ownership and, subject to the Board's rights as provided in Section 8.04(a) hereof, to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree may so provide, that the purchaser shall take the

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Unit Ownership sold subject to this Declaration, and the purchaser shall become a member of the Association, in the place and stead of the defaulting Unit Owner.

## ARTICLE XII

### FORMATION OF ASSOCIATION

12.01 Organization of Association. At any time following the recordation or registration of this Declaration, the Trustee may organize an Association of the Unit Owners of the Property, which Association will be incorporated prior to or promptly following the initial meeting of the Board. The Association shall be responsible for the overall administration of the Property through the Board, and shall have and exercise all powers necessary or convenient for the purposes for which it is formed to the extent not inconsistent with law or this Declaration. Upon the formation of such Association, every Unit Owner shall be a member therein, which membership shall terminate upon the sale or other disposition by such member of his Unit Ownership, at which time the new Owner shall automatically become a member therein. Unless and until modified, the provisions of Articles V, VI, and VII hereof shall be the By-laws of such corporation. Any beneficiary of Trustee, and his or her appointees, may be the incorporator of such corporation.

## ARTICLE XIII

### GENERAL PROVISIONS

13.01 Trustee's Initial Rights. Anything herein to the contrary notwithstanding, until a date not later than sixty (60) days after the Trustee shall have consummated the sale of not less than seventy-five (75%) percent of the Units, or a date three years after this Declaration is recorded, whichever shall first occur, the beneficiaries of the Trustee or their designee shall exercise the powers, rights, duties and functions of the Board and the Association, with all the rights, indemnities and immunities contained in this Declaration; provided, however, that the beneficiaries of the Trustee or their designees may in their sole and absolute discretion relinquish such powers, rights, duties and functions at any time prior thereto. If without fault of the Trustee or its beneficiaries the Unit Owners shall not have elected a Board before the powers of the beneficiary of Trustee have expired hereunder, such beneficiary may but shall not be obligated to continue to serve and have the powers herein set forth until such Board is elected, but in all events shall resign if and when required to resign under applicable law.

13.02 Notices to Mortgage Lenders. Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any Unit Ownership shall be given

a copy of any and all notices permitted or required by this Declaration to be given to the Unit Owner or Unit Owners whose Unit Ownership is subject to such mortgage or trust deed.

13.03 Service of Notice. Any notice required or permitted to be given to:

(a) the Board or the Association, may be delivered to any officer of the Association, or the registered agent thereof, if incorporated, either personally or by mail addressed to such member or officer at his last known address appearing on the records of the Association;

(b) the Unit Owners, may be delivered either personally or by mail addressed to such Unit Owner at his last known address appearing on the records of the Association.

Any notice required or permitted to be given hereunder and delivered by mail shall be sent certified, return receipt requested, with postage prepaid and shall be deemed given upon depositing the notice in the United States mails.

13.04 Service of Notices on Devisees and Personal Representatives. Notices required to be given any devisee or personal representative of a deceased Owner may be delivered either personally or by mail to such party at his or its address appearing in the records of the court wherein the estate of such deceased Owner is being administered.

13.05 Covenants to Run With Land. Each grantee of the Trustee, by the acceptance of a deed of conveyance, or each purchaser under Articles of Agreement for Trustee's Deed, or under any contract for any deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest in said land, and shall inure to the benefit of such Owner in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every instrument of conveyance.

13.06 Non-Waiver of Covenants. No covenants, restriction, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

13.07 Waiver of Damages. Neither the Trustee, nor any of its beneficiaries, nor their respective representatives or designees, shall be liable for any claim whatsoever

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arising out of or by reason of any actions performed pursuant to any authority granted to or delegated by or pursuant to this Declaration, or in the Trustee's (or its beneficiary's or their respective representative's or designee's) capacity as developer, contractor, Owner, manager or seller of the Property whether or not such claim (a) shall be asserted by any Owner, Occupant, the Board or the Association, or by any person or entity claiming through any of them; or (b) shall be on account of injury to person or damage to or loss of property wherever located and however caused; or (c) shall arise ex contractu or ex delictu (except in case of wilful malfeasance). Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any act or neglect of any Owner, Occupant, the Board, the Association, and their respective agents, employees, guests, and invitees, or by reason of any neighboring property or personal property located on or about the Property, or by reason of the failure to function, or disrepair of, any utility services.

13.08 Amendments to Declarations. The provisions of Article II, Article III, Article VI, Section 8.06, Section 8.12 and Section 13.08 of this Declaration may be changed, modified, or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Board, all of the Owners and all mortgagees having bona fide liens of record against Unit Ownerships. Other provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth the change, modification or rescission, signed and acknowledged by the Board, the Owners having not less than two-thirds (2/3) of the total vote and containing an affidavit by an officer of the Board certifying that a copy of the change, modification or rescission has been mailed by certified mail to all mortgagees having bona fide liens against any Unit Ownership, not less than ten (10) days prior to the date of such affidavit. The change, modification or rescission shall be effective upon registering such instrument in the Office of the Registrar of Titles in Cook County, Illinois; provided, however, that no provision in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the Act, and provided further, that prior to the sale of all Units in the Building, the Trustee reserves the right to authorize without the approval of the Unit Owners and the mortgagees of the Units such amendments as are not materially detrimental to the Unit Owners, as well as such amendments as may be necessary to correct errors or inconsistent provisions in this document. Notwithstanding anything to the contrary contained in this Section 13.08, no change, modification, amendment or rescission of this Declaration affecting the rights, privileges or obligations of the Trustee (including, without limitation, the rights, obligations and privileges of the Trustee under Sections 7.01(j), 7.01(l), 13.01 and 13.07) shall be effective without the prior written consent of the Trustee.

13.09 Severability. The invalidity of any covenant, restriction, condition, limitation, or any other provision of this Declaration, or of any part of the same,

shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

13.10 Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provisions, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the now living lawful descendents of the United States Senators from the State of Illinois serving at the time of recordation hereof.

13.11 Interpretation of Declaration. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a first class condominium apartment development.

13.12 Ownership by Trust. In the event title to any Unit Ownership is conveyed to a title holding trust, other than Trustee, under the terms of which all powers of management, operation and control of the trust property remain vested in the trust beneficiary, then the trust estate under such trust and the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this declaration against such Unit Ownership. No liability shall be asserted against any such title holding trustee personally for payment of any claim, lien or obligation or for the performance of any agreement, covenant or undertaking hereby created, and the Trustee shall not be obligated to sequester funds or trust property to apply in whole or in part thereon, but the amount thereof shall continue to be a charge or lien upon the Unit Ownership, notwithstanding any changes in the beneficial interest of any such trust or transfers of title to the beneficiaries of the title holding trust or to others. Subject to the foregoing, all rights, remedies and privileges available to any such trustee Unit Owner, including Trustee, shall be exercisable either by such trustee or by its beneficiaries; and all notices, consents and acts of the beneficiaries of any such trustee shall be binding, the same as if they were the notices, consents or acts of such trust. The term "beneficiary" and "beneficiaries" shall mean the persons owning the entire beneficial interest of a trust whether one or more.

13.13 Exculpation of Board Members. Neither the Board nor any person exercising the powers of the Board, nor the Association, shall be liable to the Unit Owners for any mistake of judgment, or any acts of omissions made in good faith. The Unit Owners shall indemnify and hold harmless each of the persons described above against all contractual liability to others arising out of contracts made by them on behalf of the Unit Owners or the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of this Declaration. Such persons shall

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have no personal liability with respect to any contract made by them on behalf of the Unit Owners or the Association, nor for injury to persons or damage to or loss of property, wherever located and however caused, under claims arising in whole or in part as a result of their membership on the Board. The liability of any Unit Owner arising out of any contract made by such persons or out of the aforesaid indemnity shall be limited to such proportion of the total liability thereunder as his percentage interest in the Common Elements bears to the total percentage interest of all the Unit Owners in the Common Elements. Each agreement made by such persons or officers or by the managing agent on behalf of the Unit Owners or the Association shall be executed by such person or the managing agent, as the case may be, as agents for the Unit Owners or for the Board or Association.

13.14 Combination or Separation of Units. Units may be combined or subdivided, provided that the Unit Owner or Owners of the affected Units shall strictly comply with the provisions of the Act as it relates to the subdivision and combination of Units.

13.15 Rights of Occupants. The rights of an Owner hereunder to the use of the Common Elements and services and amenities provided by the Association shall extend to any lawful Occupant of such Owner's Unit.

13.16 Mortgagee Exceptions. Anything in this Declaration to the contrary notwithstanding

(a) The options in favor of the Association as set forth in Article VIII hereof shall not in any event impair the rights of the holder of a first mortgage lien against the Unit Ownership to:

(i) foreclose or take title to the Unit pursuant to the remedies provided in the mortgage, or

(ii) accept a deed (or assignment) in lieu of foreclosure in the event of default by the mortgagor, or

(iii) sell or lease a Unit acquired by the mortgagee.

(b) Unless not less than two-thirds (2/3) of the holders of first mortgage liens against all Unit Ownerships (based upon one vote for each first mortgage owned) have given their prior written approval, the Association shall not be entitled to:

(i) By act or omission seek to terminate this Declaration or withdraw the Property from the provisions of the Act.

(ii) Change the pro rata interest or obligations of any individual Unit for the purpose of:

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(a) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or

(b) determining the pro rata share of ownership of each Unit in the Common Elements,

(iii) Partition or subdivide any Unit.

(iv) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements (other than the granting of easements for public utility or for other public purposes consistent with the intended use of the Common Elements).

(v) Use hazard insurance proceeds for losses to the Property (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of the Property, except as provided by the Act in case of substantial loss to the Units and/or Common Elements.

(c) All taxes, assessments and charges which may become liens subsequent to the recordation of this Declaration and prior to the first mortgage under the laws of the State of Illinois shall relate only to the individual Unit and not to the Property as a whole.

(d) No Unit Owner, or any other party, shall have priority over any rights of the first mortgagee of a Unit pursuant to its mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Elements.

(e) The holder of a first mortgage recorded against a Unit Ownership will be entitled, upon request, to written notification from the Association of any default in the performance by the borrower of any obligation under this Declaration which is not cured within sixty (60) days.

#### ARTICLE XIV

##### OTHER ASSOCIATION MEMBERSHIP

14.01 Membership in the Ballard Court Homeowners' Association. Each Unit Owner shall be a member of the Ballard Court Homeowners' Association, a not-for-profit corporation incorporated under the laws of the State of Illinois, and shall be subject to and bound by the terms and conditions contained in the Declaration of Covenants, Conditions, Restrictions and Easements for the Ballard Court Homeowners'

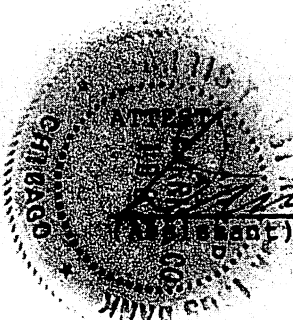
Association dated \_\_\_\_\_, registered with the Registrar of Titles of Cook County, Illinois on \_\_\_\_\_ as Document No. 316928, which declaration shall contain the terms and conditions for the maintenance of the Common Properties (as that term is defined in said declaration).

THIS DECLARATION is executed by HARRIS TRUST AND SAVINGS BANK, as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee, and not personally. It is expressly understood and agreed by every person, firm or corporation hereafter claiming any interest under this Declaration that HARRIS TRUST AND SAVINGS BANK shall bear no personal responsibility for the performance of any obligations, duties, covenants and agreements herein set forth; and further, that no duty shall rest upon HARRIS TRUST AND SAVINGS BANK, either personally or as such Trustee, to sequester trust assets, rentals, avails or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligation, express or implied, arising under the terms of this Declaration. In the event of conflict between the terms of this paragraph and of the remainder of the Declaration on any question of apparent liability or obligation resting upon said Trustee, the exculpatory provision hereof shall be controlling.

IN WITNESS WHEREOF, the said HARRIS TRUST AND SAVINGS BANK, as Trustee as aforesaid, and not individually, has caused its corporate seal to be affixed hereunto and has caused its name to be signed to these presents by its Vice President and attested by its (Assistant) Secretary, this 16th day of May, 1979.

HARRIS TRUST AND SAVINGS BANK,  
as Trustee as aforesaid, and  
not individually

By: [Signature]  
(Assistant) Vice President



[Signature]  
(Assistant) Secretary

FILE FOR REGISTERING PLAT:  
On 1 Certificate, \$ \_\_\_\_\_  
Recording in Plat Book, \$ \_\_\_\_\_  
O.K. Luzzer Total- \$ 66.00

Rem  
July 15, 1980

31-69-385

CERTIFICATION OF COMPLIANCE

The undersigned, being the developer of the foregoing condominium, hereby certifies that prior to the execution of any agreement for the sale of a Unit, a copy of a notice of intent in form and substance conforming to the requirements of Illinois Revised Statutes chapter 30, section 330, was timely given to all tenants of the Building on the date the notice was given.

BALLARD COURT REALTY INC.,  
beneficiary of HARRIS TRUST  
AND SAVINGS BANK TRUST  
NO. 39473


By:   
JOHN KUSMIERSKY, President

31-69 385

STATE OF ILLINOIS )  
                          ) SS.  
COUNTY OF C O O K )

I, Cheryl A. Kaoprowski, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that HERMAN A KOJE, Assistant Vice President of the HARRIS TRUST AND SAVINGS BANK ("BANK") and DANA M. LEWIS, JR., Assistant Secretary of said Bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such ~~Assistant~~ Vice President, and Assistant Secretary respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that he, as custodian of the corporate seal of said Bank, did affix the corporate seal of said Bank to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank as Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 2nd day of May 1979.



Cheryl A. Kaoprowski  
Notary Public

[ S E A L ]

My Commission Expires:

My Commission Expires September 29, 1982

31-69 365

That part of Lots 2, 3 and 4 in Goettsche's Subdivision of part of the South 1/2 of Section 15, Township 41 North, Range 12 East of the Third Principal Meridian, bounded and described as follows: Commencing at the Southeast corner of said Lot 2; thence North 0 Degrees 00 Minutes 00 Seconds East 370.68 Feet along the East line of said Lot 2; thence South 90 Degrees 00 Minutes 00 Seconds West 59.92 Feet along a line drawn perpendicularly to said East line to the point of beginning of the following described parcel of land; thence continuing South 90 Degrees 00 Minutes 00 Seconds West 178.00 Feet along said perpendicular line; thence North 0 Degrees 00 Minutes 00 Seconds East 73.63 Feet along a line drawn parallel with the East line of said Lot 2; thence North 90 Degrees 00 Minutes 00 Seconds East 178.00 Feet along a line drawn perpendicularly to the East line of said Lot 2; thence South 0 Degrees 00 Minutes 00 Seconds West 73.63 Feet along a line drawn parallel with the East line of said Lot 2 to the hereinabove designated point of beginning, in Cook County, Illinois.

Building No. 3

91-69-385

BALLARD COURT CONDOMINIUM

Building No. 3

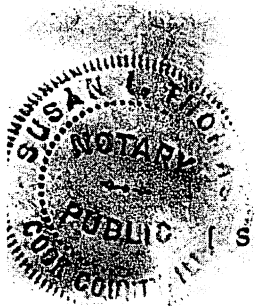
<u>Unit No.</u>	<u>% Interest</u>
101-A	7.5846
102-B	6.1666
103-C	5.4246
104-D	6.0017
105-E	5.4246
106-F	5.4411
107-G	7.5846
108-H	4.7313
201-A	6.9085
202-B	6.1831
203-C	6.1006
204-D	6.2655
205-E	5.7544
206-F	6.1831
207-G	6.9085
208-H	<u>7.3372</u>
	100.0000%

31-69 385

STATE OF ILLINOIS )  
                          ) SS  
COUNTY OF COOK     )

I, SUSAN I. THOMAS, a Notary Public in and for the County and State aforesaid, do hereby certify that JOHN KUSMIERSKY, the President of BALLARD COURT REALTY INC. an Illinois corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer of said corporation, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal this 1st day of February, 1980.



Susan I. Thomas  
Notary Public

[ S E A L ]

My Commission Expires:

January 9, 1984

BTAT

3

DOCUMENT  
REGARDING THIS  
NO. \_\_\_\_\_  
SEE BTAT TICKET

3188382

3188382

31-69 385



IN DUPLICATE

4  
128077  
128037  
140882  
140882  
1502821  
3169385

JUL 16 2 58 PM '80 3169385

*Sidney A. Olsen*  
REGISTRAR OF TITLES

IDENTIFIED  
No.

Register of Terevis  
SIDNEY P. OLSEN  
GABITZ

Pioneer National Title Insurance Co.  
69 W. Washington Street  
Chicago, Illinois 60602  
Box 759  
PNTI 130874-A

**3  
PLAT**

SEE PLAT JACKET  
No. 3169385  
REGARDING THIS  
DOCUMENT.

DOCUMENT  
HAS BEEN MICROFILMED  
SEE JACKET FILE No. 3169385

SEARCHED  
SERIALIZED  
INDEXED  
FILED

NON CERTIFIED DOCUMENTS MAY OR  
MAY NOT BE A TRUE AND CORRECT  
COPY OF THE RECORDS OF THE OFFICE  
OF THE RECORDER OF DEEDS.

FEB 10 17