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RECORDING DEPT-01 1449.50
TRAN 3982 10/02/97 15:49:00
DR *97-733207
COOK COUNTY RECORDER

DECLARATION OF CONDOMINIUM OWNERSHIP AND BYLAWS,
EASEMENTS, RESTRICTIONS AND COVENANTS (EXHIBIT "B")
FOR
MIRAMONTE POINT CONDOMINIUMS
BUILDING NO. 1

This Declaration made and entered into this 15TH day of SEPTEMBER, 1997, by PARKWAY BANK AND TRUST COMPANY, AS TRUSTEE UNDER A TRUST AGREEMENT DATED FEBRUARY 6, 1997 AND KNOWN AS TRUST NUMBER 11569 (hereinafter sometimes referred to as "the Trustee");

COOK COUNTY RECORDER
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WITNESSETH:

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COOK COUNTY RECORDER

Whereas, the Trustee is the owner in fee simple of certain real estate, hereinafter described, in the Village of Palatine, County of Cook, and State of Illinois; and

Whereas, the Trustee intends to and does hereby submit said real estate together with the building, structure, improvements and other permanent fixtures of whatsoever kind now or hereafter thereon, and all rights and privileges belonging or in anywise pertaining thereto to be owned by Trustee and by each successor in interest of Trustee, under that certain type or method of ownership commonly known as "CONDOMINIUM", and to submit the Property to the provisions of the Condominium Property Act of the State of Illinois, as amended from time to time; and

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Whereas, the Trustee, acting under direction of the parties authorized to direct the Trustee, has elected by this Declaration to establish, for the benefit of such Trustee and for the mutual benefit of all future unit owners or occupants of the Property, or any party thereof, which shall be known as

MIRAMONTE POINTE CONDOMINIUMS, BUILDING NO. 1

or such other name as may be subsequently adopted pursuant to the Act by the Developer or the Board, certain easements and rights in, over, and upon said real estate and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct, and maintenance thereof; and

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Whereas, the Trustee has further elected by this Declaration to declare that the several Unit Owners, Occupants, Mortgagees and other persons acquiring any interest in the Property shall at all times enjoy the benefits of, and shall at all times 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 cooperative aspect of ownership and to facilitate the proper administration of such Property and are established for the purpose of enhancing and

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perfecting the value, desirability and attractiveness of the Property.

NOW THEREFORE:

PARKWAY BANK AND TRUST COMPANY

as Trustee aforesaid and not individually, as the legal title holder heretofore described, and for the purposes above set forth, DECLARES AS FOLLOWS:

ARTICLE I

DEFINITIONS

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

- (a) "Act" means the "Condominium Property Act", as amended from time to time, of the State of Illinois.
- (b) "Declaration" means the instrument by which the Property is submitted to the provisions of the Act, as hereinafter provided, and such Declaration as from time to time amended.
- (c) "Parcel" means the lot or lots, tract or tracts of land, described in the Declaration, submitted to the provisions of the Act.
- (d) "Property" means all the land, property and space comprising the Parcel, all improvements and structures erected, constructed or contained therein or thereon, including the building and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners, submitted to the provisions of the Act.
- (e) "Unit" means a part of the Property designed and intended for any type of independent use and which is designated on the plat as a unit.
- (f) "Common Elements" means all portions of the Property except the units, including Limited Common Elements unless otherwise specified.
- (g) "Person" means a natural individual, corporation, partnership, Trustee or other legal entity capable of holding title to real property.
- (h) "Unit Owner" means the person or persons whose estates or interest, individually or collectively, aggregate fee simple

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absolute ownership of a unit.

(i) "Majority" or "Majority of the Unit Owners" means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common elements. Any specified percentage of the unit owners means such percentage in the aggregate in interest of such undivided ownership. "Majority of the Members of the Board of Managers" means more than 50% of the total number of persons constituting such Board pursuant to the Bylaws. Any specified percentage of the Members of the Board of Managers means that percentage of the total number of persons constituting such Board pursuant to the Bylaws.

(j) "Plat" means a plat or plats of survey of the Parcel and of all units in the Property submitted to the provisions of the Act, which may consist of a three-dimensional horizontal and vertical delineation of all such units.

(k) "Record" means to record in the Office of the Recorder or, whenever required, to file in the Office of the Registrar of Titles of the county wherein the property is located.

(l) "Condominium Instruments" means all documents and authorized amendments thereto recorded pursuant to the provisions of the Act, including the Declaration, Bylaws and Plat.

(m) "Common Expenses" means the proposed or actual expenses affecting the Property, including reserves, if any, lawfully assessed by the Board of Managers or the Unit Owner's Association.

(n) "Reserves" means those sums paid by Unit Owners which are separately maintained by the Board of Managers for purposes specified by the Board of Managers or the condominium instruments.

(o) "Unit Owners' Association" means the association of all Unit Owners, acting pursuant to Bylaws through its duly elected Board of Managers.

(p) "Purchaser" means any person or persons, other than the Developer, who purchase a unit in a bona fide transaction for value.

(q) "Developer" means WELLINGTON PARTNERS, A DEVELOPMENT CORPORATION, an Illinois Corporation, and its successors and assigns, or such other persons or entities as the beneficiary of the Trustee may from time to time designate.

(r) "Limited Common Elements" means a portion of the common elements so designated in the Declaration as being reserved for the use of a certain unit or units to the exclusion of other units, including, but not limited to, balconies, terraces, patios, storage areas and parking spaces or facilities.

- (s) "Building" means all structures, attached or unattached, containing one or more units.
- (t) "Occupant" means a person or persons, other than a Unit Owner, in possession of one or more units.
- (u) "Voting Member" means the person entitled to exercise all voting power in respect to each unit ownership.
- (v) "Village" means the Village of Palatine.

ARTICLE II

UNITS

1. Description. All units located on the property are delineated on the survey, referred to Exhibit "A" and made a part of the Declaration and are legally described as follows:

THAT PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE SOUTHWESTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO AND NORTHWESTERN RAILWAY, 363 FEET EAST OF THE WEST LINE OF SAID SECTION; THENCE SOUTH, PARALLEL WITH THE WEST LINE OF SAID SECTION TO A LINE 231 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SECTION; THENCE EAST 14 FEET, PARALLEL WITH THE NORTH LINE OF SAID SECTION; THENCE SOUTH 217 FEET PARALLEL WITH THE WEST LINE OF SAID SECTION; THENCE WEST 21 FEET, PARALLEL WITH THE NORTH LINE OF SAID SECTION; THENCE SOUTH 195.5 FEET, PARALLEL WITH WEST LINE OF SAID SECTION, TO THE SOUTH LINE OF LOT "A" IN WASHINGTON HIGHLANDS ADDITION TO PALATINE; THENCE EAST 40.00 FEET, ALONG THE SOUTH LINE OF SAID LOT "A" TO A LINE 396 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SECTION; THENCE NORTH 150 FEET, PARALLEL WITH THE WEST LINE OF SAID SECTION TO A LINE 493.5 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SECTION; THENCE EAST 143.95 FEET PARALLEL WITH THE NORTH LINE OF SAID SECTION; THENCE NORTH 53.50 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE TO THE POINT OF BEGINNING; THENCE NORTH 20.52 FEET ALONG THE PROLONGATION OF THE LAST DESCRIBED COURSE; THENCE WEST 1.03 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE; THENCE NORTH 28.32 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE; THENCE EAST 1.04 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE; THENCE NORTH 20.49 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE; THENCE EAST 23.97 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE; THENCE NORTH 5.97 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE; THENCE EAST 31.90 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE; THENCE SOUTH 5.91 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;

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THENCE EAST 23.45 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;
THENCE NORTH 10.00 FEET, PERPENDICULAR TO THE LAST DESCRIBED
COURSE; THENCE EAST 11.61 FEET, PERPENDICULAR TO THE LAST
DESCRIBED COURSE; THENCE NORTH 5.99 FEET, PERPENDICULAR TO THE
LAST DESCRIBED COURSE; THENCE EAST 17.94 FEET, PERPENDICULAR TO
THE LAST DESCRIBED COURSE; THENCE SOUTH 5.99 FEET, PERPENDICULAR
TO THE LAST DESCRIBED COURSE; THENCE EAST 11.60 FEET,
PERPENDICULAR TO THE LAST DESCRIBED COURSE; THENCE SOUTH 10.03
FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE; THENCE EAST
23.50 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE; THENCE
NORTH 5.98 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;
THENCE EAST 32.05 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;
THENCE SOUTH 5.98 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;
THENCE EAST 24.02 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;
THENCE SOUTH 20.55 FEET, PERPENDICULAR TO THE LAST DESCRIBED
COURSE; THENCE EAST 1.02 FEET, PERPENDICULAR TO THE LAST DESCRIBED
COURSE; THENCE SOUTH 28.29 FEET, PERPENDICULAR TO THE LAST
DESCRIBED COURSE; THENCE WEST 1.02 FEET, PERPENDICULAR TO THE LAST
DESCRIBED COURSE; THENCE SOUTH 20.47 FEET, PERPENDICULAR TO THE
LAST DESCRIBED COURSE; THENCE WEST 24.02 FEET, PERPENDICULAR TO
THE LAST DESCRIBED COURSE; THENCE SOUTH 5.96 FEET, PERPENDICULAR
TO THE LAST DESCRIBED COURSE; THENCE WEST 31.92 FEET,
PERPENDICULAR TO THE LAST DESCRIBED COURSE; THENCE NORTH 5.99
FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE; THENCE WEST
34.08 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE; THENCE
SOUTH 6.01 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;
THENCE WEST 19.97 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;
THENCE NORTH 5.99 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;
THENCE WEST 34.07 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;
THENCE SOUTH 6.00 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;
THENCE WEST 32.00 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;
THENCE NORTH 5.98 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;
THENCE WEST 24.02 FEET, PERPENDICULAR TO THE LAST DESCRIBED COURSE;
TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Commonly known as: 59 SOUTH HALE STREET
PALATINE, ILLINOIS 60067

PERMANENT REAL ESTATE INDEX NUMBERS:

02-23-100-044-0000
02-23-100-045-0000
02-23-100-047-0000

which survey is attached as Exhibit "A" to the Declaration of

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Condominium recorded in the Office of the Recorder of Deeds of Cook County, Illinois.

It is understood that each unit consists of the space enclosed or bounded by the horizontal and vertical planes set forth and identified as a unit in the delineation thereof in Exhibit "A". The legal description of each unit shall consist of the identifying number or symbol of such unit followed by the legal description of the Property, as shown on Exhibit "A". Except as provided by the Act, no Unit Owner shall, by deed, plat or otherwise, subdivide or in any other manner cause the unit to be separated into any tracts or parcels different from the whole unit as shown on Exhibit "A".

2. Certain Structures Not Constituting Part of a Unit.
No structural components of the building, and no pipes, wires, conduits, public utility lines, ducts, flues and shafts, situated within a unit and forming part of any system serving one or more other units, nor the common elements, shall be deemed part of said unit.

ARTICLE III

COMMON ELEMENTS

1. Description. Except as otherwise in this Declaration provided, the common elements shall consist of all portions of the Property except the units. Without limiting the generality of the foregoing, the common elements shall include the land, outside walks and driveways, landscaping, storage areas, parking spaces, elevators, stairways, entrances and exits, halls, lobby, corridors, basement, roof, structural parts of the building, component parts of walls, floors and ceilings, and pipes, ducts, flues, shafts, and public utility lines serving the common elements of more than one unit.

2. Ownership of Common Elements. Each Unit Owner shall own an undivided interest in the common elements as a tenant in common with all the other Unit Owners of the Property, and, except as otherwise limited in the Declaration, shall have the right to use the common elements for all purposes incidental to the use and occupancy of his 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. Such right shall extend to each Unit Owner, and the agents, servants, tenants, family members and invitees of each Unit Owner. Each Unit Owner's interest shall be expressed by a percentage amount and, once determined, shall remain constant and may not be changed without unanimous approval of all Unit Owners, unless hereafter changed by a recorded amendment to this Declaration consented to in writing by all Unit Owners. The Trustee has determined each unit's corresponding percentage of ownership in the common elements as set

forth in Exhibit "B" attached hereto, and each Unit Owner accepts such determination.

ARTICLE IV

GENERAL PROVISIONS AS TO UNITS AND COMMON ELEMENTS

1. Submission of Property to Provisions of Act. The Property is hereby submitted to the provisions of the Act.

2. No Severance of Ownership. No Unit Owner shall execute any deed, mortgage, lease or other instrument affecting title to the unit ownership without including therein both his interest in the unit and his corresponding percentage of ownership in the 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.

3. Encroachments and Utility Easements. If any portion of the common elements encroaches upon any unit, or if any unit encroaches upon any portion of the common elements or any other unit as a result of the construction, repair, reconstruction settlement or shifting of any building, a valid mutual easement shall exist in favor of the owners of the common elements and the respective Unit Owners involved to the extent of the encroachment. A valid easement shall not exist in favor of any Unit Owner who creates an encroachment by his intentional, willful or negligent conduct of that of his agent.

Ameritech, formerly known as Illinois Bell Telephone Company, Peoples Gas Company, Commonwealth Edison Company and all other public utilities serving the Property are hereby granted the right to lay, construct, renew, operate, and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment related to their service to the Property, into and through the common elements and the units, where reasonably necessary for the purpose of providing utility services to the Property.

4. Easements and Rights to Run with Land. All easements and rights described herein are easements and rights 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 Trustee, and its successors and assigns, any Unit Owner, purchaser, mortgagee, and other person having an interest in the Property, or any part of portion thereof. Reference in the respective Deeds 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 unit ownership as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

5. Parking Spaces and Storage Space Limited Common Elements. Each deed, lease, mortgage or other instrument affecting a unit which has been allocated a Parking Space Limited Common Element ("Parking Space") or a Storage Space Limited Common Element ("Storage Space") shall include the perpetual and exclusive use of the specific Parking Space and Storage Space so allocated and appurtenant thereto. Any such deed, lease, mortgage or other instrument purporting to affect a unit without also including a reference to the Parking Space and Storage Space appurtenant thereto shall be deemed and taken to include the said Parking Space and Storage Space and the perpetual and exclusive use thereof even though not expressly mentioned or described therein. No one other than the Unit Owner or an Occupant shall have any interest in and to a Parking Space or Storage Space for any purpose, unless permission in writing is given by the Association and the Unit Owner having the perpetual and exclusive use of the Parking Space or Storage Space. All Parking Spaces shall be subject to such reasonable rules and regulations as may be established by the Association.

The Parking Space and Storage Space limited common elements shall be assigned to the Units by Deed. The Developer has the right to amend the allocation of Parking Spaces and Storage Spaces pursuant to paragraph 6 hereof.

Pursuant to the Illinois Condominium Act, the Developer or the Board of Managers may provide for the assessment, in connection with expenditures for the Limited Common Elements are assigned.

6. Parking. The underground parking spaces in the Condominium Property shall be part of the Common Elements. The Board shall have the right and power to adopt reasonable rules and regulations governing the use of the parking spaces as it shall deem necessary and appropriate, provided, however, that no recreational vehicles, trailers, or mobile homes may be parked in such spaces or in driveway areas.

7. Changes or Modifications by the Developer. Until the first annual meeting of Unit Owners is called, the Declarant, or its successors or assigns, shall have the right to change or modify the Condominium Instruments, which change or modification shall be effective upon the recording thereof; provided, however, that the provisions of paragraph (ff) Section 6 of Article XV of the Bylaws shall not be amended, modified or changed without the consent of any First Mortgagee affected thereby, and provided further that such right shall only be exercised (i) to bring the Declaration to the requirements of FHLMC, FNMA, HUD or VA; (ii) to

correct clerical or typographical errors in the Declaration; or (iii) to amend the allocation of Parking Spaces or Storage Spaces. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make any change or modification as authorized hereunder on behalf of each Unit Owner as attorney-in-fact for such Unit Owner. Each Deed, Mortgage, Trust Deed, other evidence of obligation or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power to the Declarant as aforesaid.

ARTICLE V

COMMON EXPENSES, MORTGAGES AND REAL ESTATE TAXES

1. Common Expenses. Each Unit Owner shall pay his proportionate share of the common expenses of administration, maintenance and repair of the common elements and of any other expenses incurred in conformance with the Declaration and Bylaws or otherwise lawfully agreed upon. Such proportionate share of the common expenses for each unit owner shall be in the same ratio as his percentage of ownership in the common elements. Payment thereof shall be in such amounts and at such times as determined in the manner provided in the Bylaws.

It shall be the duty of the Developer to pay a proportionate share of the common expenses for each unit which has not been sold by such Developer. The proportionate share shall be in the same ratio as its percentage of ownership in the common elements set forth in this Declaration.

If any Unit Owner shall fail or refuse to make any payment of the common expenses when due, the amount thereof shall constitute a lien on the interest of such Unit Owner in the Property, and upon the recording of notice thereof by the Board of Managers, or, if the Developer is the Manager or has a majority of seats on the Board of Managers and the Manager or Board fails to do so, any Unit Owner may record such notice and upon the recording of such notice, thereof by any Unit Owner, it shall be a lien upon such Unit Owner's interest as provided in the Act.

2. Separate Mortgages. Each Unit Owner shall have the right, subject to the provisions herein, to make a separate mortgage or encumbrance on his respective unit together with his respective ownership interest in the common elements. No Unit Owner shall have the right or authority to make or create or cause to be made or created any mortgage or encumbrance or other lien on or affecting the Property or any part thereof, except only to the extent of his unit and his respective ownership interest in the common elements.

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3. Separate Real Estate Taxes. It is understood 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.

Upon authorization by the affirmative vote of not less than a majority of the Unit Owners at a meeting duly called for such shall have the power to seek relief from or in accordance with the assessment or levy of any such taxes, special assessments or charges, and to charge and collect all expenses incurred in connection therewith as common expenses.

ARTICLE VI

INSURANCE

1. Fire and Hazard Insurance. The Board of Managers shall acquire as a common expense, a policy or policies of insurance insuring the common elements and the units against loss or damage from fire, lightning and other hazards contained in the customary fire and extended coverage, vandalism and malicious mischief endorsements for the full insurable replacement value of the common elements and the units written in the name of and to require a provision in such policy that the proceeds thereof shall be payable to the Members of the Board, as Trustees for each of the Unit Owners, in the percentages established in Exhibit "B".

The full insurable replacement cost of the units shall include the replacement cost value of additions, betterments, alterations and improvements made in and to any Unit, provided, however, the Board shall not be responsible for obtaining insurance on such additions, betterments, alterations or improvements unless and until such Owner shall report same to the Board and request the Board, in writing, to obtain such insurance, and shall make arrangements satisfactory to the Board to reimburse the Board for any additional premiums. Upon the failure of such 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, betterments, alterations or improvements.

All said policies of insurance (1) shall contain standard mortgage clause endorsements in favor of the mortgagee or mortgagees of each unit, if any, as their respective interest may appear; (2) shall provide that the insurance, as to the interest of the Board, shall not be invalidated by any act or neglect of any

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Unit Owner; (3) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefor, such option shall not be exercisable in the event the Unit Owners elect to sell the Property or remove the Property from the provisions of the Act; (4) shall contain an endorsement to the effect that such policy shall not be terminated for nonpayment of premiums without at least ten (10) days prior written notice to the mortgagee of each unit; (5) shall contain a clause or endorsement whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, Members of the Board, the Trustee, the Developer, the managing agent, if any, their respective employees and agents and the Unit Owners and Occupants; and (6) shall contain a "Replacement Cost Endorsement". The proceeds of such insurance shall be applied by the Board for the reconstruction of the Building or shall be otherwise disposed of, in accordance with the provisions of this Declaration and the Act; 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 of the Act with respect to the application of insurance proceeds to reconstruction of the Building.

The Board may engage the services of, and such insurance may be payable to, a bank or trust company authorized to do, execute and accept Trusts in Illinois to act as insurance Trustee, or as agent or depository as an alternative to acting as Trustee, and to receive and disburse the insurance proceeds resulting from any loss upon such terms as the Board shall determine consistent with the provisions of the Declaration. The fees of such bank or trust company shall be common expenses.

In the event of any loss in excess of \$50,000.00 in the aggregate, at the Board's discretion or upon the request of any Unit Owner, the Board shall solicit bids from reputable contractors.

Payment by an insurance company to the Board, or to such corporate Trustee or agent, of the proceeds of any policy, and the receipt of a release from the Board or such corporate Trustee or agent 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 or agency agreement under which 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.

Each Unit Owner shall inform the Board in writing of additions, alterations or improvements made by said Unit Owner to his unit and the value thereof which value may be included in the

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full replacement insurable cost for insurance purposes. Any increase premium charge therefore shall be assessed to that Unit Owner under the provisions of Section 9 of the Act. If a Unit Owner fails to inform the Board as provided above and a penalty is assessed in the adjustment of loss settlement, the Unit Owner shall be responsible for such penalty.

2. Appraisal. The full, insurable replacement cost of the Property, including the units and common elements, shall be determined from time to time (but not less frequently than once in any twelve month period) by the Board. The Board shall have the authority to obtain an appraisal by a reputable appraisal company as selected by the Board. The cost of such appraisals shall be common expenses.

3. Public Liability and Property Damage Insurance. The Board of Managers shall acquire, as a common expense, and shall have the authority and duty to obtain, comprehensive public liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Property in amounts deemed sufficient in the judgment of the Board of Managers, insuring the Board of Managers, the Unit Owners Association, the management agent, if any, and their respective employees, agents and all persons acting as agents. The Developer shall be included as an additional insured in his capacity as Unit Owner and Board Member. The Unit Owners shall be included as additional insureds but only with respect to that portion of the premises not reserved for their exclusive use. The insurance shall cover claims of one or more insured parties against other insured parties. The insurance shall contain a waiver of any rights to subrogation by the insuring company against any of the above named insured persons.

4. Workmen's Compensation and Other Insurance. The Board of Managers shall acquire, as a common expense, workmen's compensation insurance as may be necessary to comply with applicable laws and such other forms of insurance as the Board, in its judgment, shall elect to obtain, including, but no limited to, insurance for the Association, its officers and manager against liability from good faith actions allegedly beyond the scope of their authority.

5. Waiver. 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 Declarant, the managing agent of the building, if any, and their respective employees and agents, for damage to the common elements, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

6. Notice. The Board of Managers shall notify insured persons concerning the cancellation of insurance obtained pursuant

to the terms of this Article.

ARTICLE VII

ADMINISTRATION AND OPERATION

1. Administration. The administration of the Property shall be vested in the Board of Managers consisting of the number of persons, who shall be elected in the manner provided in the Bylaws contained herein, as Articles XIII, XIV, XV, XVII, XVIII and XIX. The Developer, after the recording of this Declaration, may cause to be incorporated under the laws of the State of Illinois, a not-for-profit corporation (herein referred to as "the Association") under the name of **MIRAMONTE POINTE CONDOMINIUMS, BUILDING NO. 1**, or a similar name, which corporation, or the Board of Managers if none is formed, shall be the governing body for all the Unit Owners for the maintenance, repair, replacement, administration and operation of the Property, including the common elements and for such other purposes as are hereinafter provided. The Board of Directors of the Association shall be deemed to be the Board of Managers referred to herein and in the Act.

2. Duties and Powers of the Association. The Unit Owners' Association is responsible for the overall administration of the Property through its duly elected Board of Managers. The duties and powers of the Association and its Board shall be those set forth in its Articles of Incorporation, the Bylaws and this Declaration; provided, however, that (i) the terms and provisions of the Act shall control in the event of an inconsistency between the Act, on the one hand, and this Declaration, the Articles of Incorporation and the Bylaws on the other hand, (ii) the terms and provisions of this Declaration shall control in the event of any inconsistency between this Declaration, on the one hand, and the Articles of Incorporation and the Bylaws on the other hand.

3. Indemnity. The Members of the Board and the officer thereof or of the Association shall not be liable to the Unit Owner for any mistake of judgment, or any acts or omissions made in good faith as such members or officers 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. The liability of any Unit Owner arising out of any contract made by such members or officers 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 members or officers or by the managing agent, if any, on behalf of the Unit Owners or the Association shall be executed by such members or officers or the managing agent, as the case may be, as agents for the Unit Owners or for the Association.

4. Board's Determination Binding. In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any question or interpretation or application of the provisions of the Declaration or Bylaws, the determination thereof by the Board shall be final and binding on each and all of such Unit Owners.

5. Administration of Property Prior to Election of Initial Board of Managers. Until the election of the initial Board of Managers, the same rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board of Managers by the Act and in the Declaration and Bylaws shall be held and performed by the Developer. The election of the initial Board of Managers shall be held not later than sixty (60) days after the conveyance by the Developer (Trustee) of three-fourths (3/4) of the units or three (3) years after the recording of the Declaration, whichever is earlier. If the initial Board of Managers is not elected by the Unit Owners at the time so established, the Developer shall continue in office for a period of thirty (30) days whereupon written notice of his resignation shall be sent to all of the Unit Owners entitled to vote at such election.

Within sixty (60) days following the election of a majority of the Board of Managers other than the Developer, the Developer shall deliver to the Board of Managers:

- (1) All original documents as recorded or filed pertaining to the Property, its administration and the Association, such as the Declaration, Bylaws, Articles of Incorporation, other condominium instruments, annual reports, minutes, rules and regulations, contracts, leases or other agreements entered into by the Developer. If any original documents are unavailable, a copy may be provided if certified by affidavit of the Developer, or an officer or agent of the Developer, as being a complete copy of the actual document recorded or filed;
- (2) A detailed accounting by the Developer, setting forth the source and nature of receipts and expenditures in connection with the management, maintenance and operation of the Property and copies of all insurance policies and a list of any loans or advances to the Association which are outstanding;
- (3) Association funds, which shall have been at all times segregated from any other monies of the Developer;
- (4) A schedule of all real or personal property, equipment and fixtures belonging to the Association, including documents transferring the Property, warranties, if any, for all real and personal property and equipment, deeds,

title insurance policies, and all tax bills.

- (5) A list of all litigation, administrative action and arbitrations involving the Association, any notices of governmental bodies involving actions taken or which may be taken, engineering and architectural drawings and specifications as approved by any governmental authority, all other documents filed with any other governmental authority, all governmental certificates, correspondence involving enforcement of any Association requirements, copies of any documents relating to disputes involving Unit Owners, originals of all documents relating to everything listed in this paragraph.

6. Cancellation of Contracts. Any contract, lease or other agreement made prior to the election of a majority of the Board of Managers other than the Developer by or on behalf of Unit Owners, individually or collectively, the Unit Owners' Association or the Board of Managers, which extends for a period of more than two (2) years from the recording of the Declaration, shall be subject to cancellation by more than 1/2 of the votes of the Unit Owners other than the Developer cast at a special meeting of members called for that purpose during a period of ninety (90) days following expiration of the two (2) year period, the Board of Managers, or, if the Board is still under Developer control, then the Board of Managers or the Developer shall send notice to every Unit Owner, notifying them of this provision, what contracts, leases and other agreements are affected, and the procedure for calling a meeting of the Unit Owners for the purpose of voting on termination of such contracts, leases or other agreements. During the ninety (90) day period the other party to the contract, lease or other agreement shall also have the right of cancellation.

ARTICLE VIII

MAINTENANCE, ALTERATIONS, DECORATING

1. Maintenance, Repairs and Replacements. Each Unit Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own unit. Maintenance, repairs and replacements of the common elements shall be furnished by the Board as part of the common expenses, subject to the rules and regulations of the Board.

The Board may cause to be discharged any Mechanic's Lien or other encumbrance which, in the opinion of the Board, may constitute a lien against the Property or common elements, rather than against a particular unit and its corresponding percentage of ownership in the common elements. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit

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Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including reasonable attorney's fees, incurred by reason of such lien.

Whenever the Board shall determine, in its discretion, that any maintenance or repair of any unit is necessary to protect the common elements or any other portion of the building, the Board may cause a written notice of the necessity for such maintenance or repair to be served upon such Unit Owner, which notice may be served by delivering a copy thereof to any occupant of such unit, or by mailing the same by certified or registered mail addressed to the owner at the unit. If such Unit Owner fails or refuses to perform any such maintenance or repair within a reasonable time stated in the notice, or any extension thereof approved by the Board, the Board may cause such maintenance and repair to be performed at the expense of such Unit Owner.

If, due to the act or neglect 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 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, to the extent not covered by insurance.

The Board shall have exclusive authority to take, or refrain from taking, any action pursuant to this Article VIII, Section 1. All expenses which, pursuant to this Section 1, are chargeable to any Unit Owner, may be specifically assessed to such Unit Owner and shall be payable by such Unit Owner as prescribed by the Board.

The Association shall maintain the Common Areas in a manner such as to be in code compliance with the Village. In the event the Association fails to maintain the Common Area, the Village shall have the right to maintain the Common Area. In such event that the Village maintains the Property, the Village, at its election, may place a lien against the Common Area. Such a lien shall include the costs expended by the Village in maintaining said Common Area plus interest at a rate of eighteen (18%) percent per annum. In the event the Village proceeds to file an action against the Association to recover the cost and expense incurred by the Village in maintaining the Common Area, plus accrued interest on such cost and expense, the Village shall have the right to recover its court costs and reasonable attorney fees. The Village is hereby granted an easement to enter and maintain said Common Area.

The Unit Owner shall maintain the Common Areas in a manner such as to be in code compliance with the Village. In the event the Unit Owner fails to maintain the respective unit, the Village shall have the right to maintain the respective unit. In such

event that the Village maintains the respective unit, the Village, at its election, may place a lien against the respective unit. Such a lien shall include the costs expended by the Village in maintaining said respective unit plus interest at a rate of eighteen (18%) percent per annum. In the event the Village proceeds to file an action against the Unit Owner to recover the cost and expense incurred by the Village in maintaining the respective unit, plus accrued interest on such cost and expense, the Village shall have the right to recover its court costs and reasonable attorney fees. The Village is hereby granted an easement to enter and maintain said respective unit.

2. Alterations, Additions or Improvements. N o 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. Any Unit Owner may make alterations, additions and improvements within his unit without the prior written approval of the Board, but in the event such Unit Owner shall be responsible for any damage to other units, the common elements or the Property as a result of such alterations, additions or improvements. 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.

3. Decorating. Each Unit Owner shall furnish and be responsible for, at his own expense, all of the decorating within his own unit from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings. The use of and the covering of the interior surfaces of 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 the Board, shall be furnished by the Board as part of the common expense. All exterior window treatments shall be of a uniform color and style.

ARTICLE IX

SALE, LEASE OR OTHER ALIENATION

1. Sale or Lease. Any Unit Owner other than the Trustee who wishes to sell or lease his unit ownership (or any lessee of any unit wishing to assign or sub-lease such unit) shall give to the Board not less than thirty (30) days prior written notice of his intent to sell or lease and subsequently, the terms of any contract to sell or lease, entered into subject to the Board's option as set forth hereinafter, together with a copy of

determination shall be conclusive upon the parties. If either party shall fail to select an appraiser, then the appraiser designated by the other party shall make the appraisal and act as arbitrator. 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 written notice of such determination of fair market value. The cost of appraisal shall be divided equally between such Unit Owner and the Board and the Board's share shall be a common expense.

3. Devise. In the event any Unit Owner dies leaving a Will devising his 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 Members of the Board, acting on behalf of the other Unit Owners, 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, from the personal representative acting pursuant to said power, for cash at fair market value which is to be determined by arbitration as herein provided. In the event of a dispute as to purchase price, within sixty (60) days after written notice of the appointment of a personal representative for the estate of a deceased Unit Owner, the Board shall appoint a qualified real estate appraiser, 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, the said devisee or devisees or personal representative, as the case may be, shall appoint a qualified real estate appraiser. Within ten (10) days after the appointment of the two said appraisers, the two so appointed shall appoint another qualified real estate appraiser to act as the arbitrator. Within fifteen (15) days thereafter the arbitrator shall determine the fair market value of the unit ownership or interest therein devised by the deceased Unit Owner, and shall thereupon give written notice of such determination to the Board and said devisee, devisees or personal representative, as the case may be, and said determination shall be conclusive upon the parties. If either party shall fail to select an appraiser, then the appraiser designated by the other party shall make the appraisal and act as arbitrator. The Board's right to purchase the unit ownership or interest therein, at the price determined by the arbitrator, shall expire sixty (60) days after the date of receipt by it of such notice if the personal representative of the deceased Unit Owner is empowered to sell, and shall expire six (6) 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 to said devisee or devisees or to said personal representative, as the case may be, within the said option periods. The cost of appraisal shall be equally divided between such party and the Board and the Board's

share shall be a common expense.

4. Involuntary Sale. 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 ownership so sold, give thirty (30) days written notice to the Board of his intention so to do, whereupon the Board, acting on behalf of the other unit ownership or interest therein at the same price for which it was sold at the said sale. If said option is not exercised by the Board within said 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 to the purchaser within said thirty (30) day period.

In the event any Unit 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 any may be enforced in the same manner as provided in Article XVI hereof.

5. Consent of Voting Members. The Board shall not exercise any option hereinabove set forth to purchase any unit ownership or interest therein without the prior consent of voting members having three-fourths (3/4) of the total votes. The Board or its duly authorized representative, acting on behalf of the other Unit Owners may bid to purchase at any sale of a unit ownership or interest therein of any Unit Owner living or deceased, which said sale is held pursuant to an order or direction of a court, upon the prior consent of voting members having three-fourths (3/4) of the total votes,, which said consent shall set forth a maximum price which the Board or its duly authorized representative is authorized to bid and pay for said unit ownership or interest therein.

6. Release or Waiver of Option. Upon the consent of at least three-fourths (3/4) of the Board members, any of the options contained in this Article IX 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.

7. Proof of Termination of Option. A certificate executed and acknowledged by the acting Secretary of the Board stating that the provisions of this Article IX 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 Unit Owners in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Unit 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 Ten Dollars (\$10.00).

8. (a) Financing of Purchase Under Option. Acquisition of unit ownership or any interest therein under the provisions of this Article may be made from the maintenance fund or any other financing arrangement as the Board deems desirable. If said fund is insufficient, the Board shall levy an assessment against each Unit Owner as provided by any subject to Article XVI hereof.

(b) Financing of Purchase Under Option. If the members of the Board, in their discretion, borrow money to finance the acquisition of any unit ownership or interest therein authorized by this Article, no financing may be secured by an encumbrance or hypothecation of any portion of the Property other than the unit ownership or interest therein to be acquired.

9. Title to Acquired Interest. Unit ownership or interest therein acquired pursuant to the terms of this Article shall be held of record in the name of the Board and their successors in office, or such nominee as they shall designate, for the benefit of all the Unit Owners. Said unit ownerships or interests therein shall be sold or leased by the Members of the Board in such manner as the Board shall determine without complying with the foregoing provisions relating to the Board's right of first refusal. All proceeds of such sale and/or leasing shall be deposited in the maintenance fund and credited to each Unit Owner in the same proportion in which the Board could levy a special assessment under the terms of Section 8(a) of this Article.

10. Exceptions to Board's Right of First Refusal. T h e Board's right of first refusal as provided in Section 1, 2 and 3 of this Article IX shall not apply to any sale, lease, gift, devise or transfer by the Trustee and/or the Developer, or by any corporation, trust or other entity when the original Unit Owner or persons having at least a majority control of said Unit Owner or in control of the transferee, or resulting from statutory merger or consolidation, or between co-owners of the same unit, or any one or more of them, or to any Trustee of a trust, the sole beneficiary of beneficiaries of which are the Unit Owner, the spouse or lawful child of the Unit Owner, or any one or more of them, or from any Trustee of a trust to any one or more of the beneficiaries thereof.

11. Miscellaneous. If a proposed sale, lease, devise or gift of any unit ownership is made by any Unit Owner, after compliance with the foregoing provisions, the purchaser, lessee, devisee or donee thereunder shall be bound by and subject to such unit ownership obligations of such Unit Owner with respect

to such unit ownership as provided in this Declaration, and in the case of a lease, said lease shall expressly so provide. The Unit Owner making any such lease shall not be relieved thereby from any of his obligations hereunder. Upon the expiration or termination of such lease, or in the event of any attempted subleasing thereunder, the provisions hereof, with respect to the Board's right of first option, shall apply to such unit ownership. If any sale, lease, sublease, devise or gift of a unit ownership is made or attempted by any Unit Owner without complying with the foregoing provisions, such sale, lease, sublease, devise or gift shall be subject to each and all of the rights and options of the Board hereunder and each and all of the remedies and actions available to the Board hereunder or at law or in equity in connection therewith. The foregoing provisions with respect to the Board's right of first option as to any proposed sale, lease, sublease, devise or gift shall be and remain in full force and effect until the Property as a whole shall be sold or removed from the provisions of the Act, as provided in the Act, unless sooner rescinded or amended by the Unit Owners in the manner herein provided for amendments of this Declaration. The Board may adopt rules and regulations from time to time, not inconsistent with the foregoing provisions, for the purpose of implementing and effectuating the same. Any amendments to this Declaration shall require the prior written consent of the Village.

ARTICLE X

DAMAGE OR DESTRUCTION AND RESTORATION OF BUILDING

1. Sufficient Insurance. In the event the improvements forming a part of the Property, or any portion thereof, including any units, shall suffer damage or destruction from any cause and the proceeds of any policy or policies insuring against such loss or damage, any payable by reason thereof, shall be sufficient to pay the cost of repair, restoration or reconstruction, the 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 therefore; provided, however, that in the event within one hundred and eighty (180) days after said damage or destruction, the Unit Owners shall elect either to sell the Property, as hereinafter provided in Article XII hereof, or to withdraw the Property from the provisions of this Declaration, and from the provisions of the Act as therein provided, the such repair, restoration or reconstruction shall not be undertaken. In the event such repair, restoration or reconstruction is not undertaken, the net proceeds of insurance policies shall be divided by the Board or the payee of such insurance proceeds among all Unit Owners according to each Unit Owner's percentage of ownership in the common elements as set forth in Exhibit "B", after first paying out of the share of each Unit Owner the amount of any unpaid liens on his unit, in the order

of the priority of such liens.

2. (a) Insufficient Insurance. If the insurance proceeds are insufficient to reconstruct the building and the Unit Owners and all other parties in interest do not voluntarily make provision for reconstruction of the building within one hundred and eighty (180) days from the date of damage or destruction, the Board of Managers may record a notice setting forth such facts and upon the recording of such notice:

- (i) The Property shall be deemed to be owned in common by the Unit Owners;
- (ii) The undivided interest in the Property owned in common which shall appertain to each Unit Owner shall be the percentage of undivided interest previously owned by such owner in the common elements;
- (iii) Any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Unit Owner in the Property as provided herein; and
- (iv) The Property shall be subject to an action for partition at the suit of any Unit Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property, if any, shall be considered as one fund and shall be divided among all the Unit Owners in a percentage equal to the percentage of undivided interest owned by each owner in the Property, after first paying out of the respective shares of the Unit Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Unit Owner.

(b) Insufficient Insurance. In the case of damage or other destruction in which fewer than one-half (1/2) of the units are rendered uninhabitable, upon the affirmative vote of not fewer than three-fourths (3/4) of the Unit Owners voting at a meeting called for that purpose, the building or portion of the Property shall be reconstructed. The meeting shall be held within thirty (30) days following the final adjustment of insurance claims, if any. Otherwise, such meeting shall be held within ninety (90) days of the occurrence. At such meeting the Board of Managers, or its representative, shall present to the members present an estimate of the cost of repair or reconstruction, and the estimated amount of necessary assessments against each Unit Owner.

(c) Insufficient Insurance. In the case of damage or other destruction, upon the affirmative vote of not fewer than three-fourths (3/4) of the Unit Owners voting at a meeting called for that purpose, any portion of the Property affected by such damage or destruction may be withdrawn from the Act. Upon the withdrawal of any unit or portion thereof, the percentage of interest in the common elements appurtenant to such unit or portion thereof shall be reallocated among the remaining units on the basis of the percentage of interest of each remaining unit. If only a portion of a unit is withdrawn, the percentage of interest appurtenant to that unit shall be reduced accordingly, upon the basis of diminution in market value of the unit, as determined by the Board of Managers. The payment of just compensation, or the allocation of any insurance or other proceeds to any withdrawing or remaining Unit Owner shall be on an equitable basis, which need not be a unit's percentage interest. Any insurance or other proceeds available in connection with the withdrawal of any portion of the common elements, not necessarily including the limited common elements, shall be allocated on the basis of each Unit Owner's percentage interest therein. Any proceeds available from the withdrawal of any limited common elements, will be distributed in accordance with the interest of those entitled to their use.

3. Cessation of Common Expenses. Upon the withdrawal of any unit or portion thereof, the responsibility for the payment of assessments on such unit or portion thereof by the Unit Owner shall cease.

ARTICLE XI

EMINENT DOMAIN

1. Reallocation of Common Elements and Condemnation Award. Upon the withdrawal of any unit or portion thereof due to eminent domain, the percentage of interest in the common elements appurtenant to such unit or portion thereof shall be reallocated among the remaining units on the basis of the percentage of interest of each remaining unit. If only a portion of a unit is withdrawn, the percentage of interest appurtenant to that unit shall be reduced accordingly, upon the basis of diminution in market value of the unit, as determined by the Board of Managers. The allocation of any condemnation award or other proceeds to any withdrawing or remaining Unit Owner shall be on an equitable basis, which need not be a unit's percentage interest. Any condemnation award or other proceeds available in connection with the withdrawal of any portion of the common elements, not necessarily including the limited common elements, shall be allocated on the basis of each Unit Owner's percentage interest therein. Proceeds available from the withdrawal of any limited common elements will be distributed in accordance with the interest of those entitled to their use.

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2. Cessation of Common Expenses. Upon the withdrawal of any unit or portion thereof, the responsibility for the payment of assessments on such unit or portion thereof by the Unit Owner shall cease.

ARTICLE XII

SALE OF THE PROPERTY

The Unit Owners through the affirmative vote of voting members having at least three-fourths (3/4) of the total votes, at a meeting duly called for such purpose, may elect to sell the Property as a whole. Within ten (10) days after the date of the meeting at which such sale is approved, the Board shall give written notice of such action to the holder of any duly recorded mortgage or trust deed against any unit ownership entitled to notice under Section 1 of Article XIX of this Declaration. 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 as in manner or form 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 fair market value of his interest, as determined by arbitration as herein provided, less the amount of any unpaid assessments or charges due and owing from such Unit Owner. In the absence of agreement on the fair market value of such interest, such Unit Owner and the Board shall each select an appraiser, and the two so selected shall select a third appraiser, and the fair market value, as determined by said third appraiser, shall control. If either party shall fail to select an appraiser within fifteen (15) days of written notice, then the one designated by the other party shall make the appraisal. The cost of the appraisal shall be divided equally between such Unit Owner and the Board, and the Board's share shall be a common expense.

ARTICLE XIII

BYLAWS

The provisions of Articles XIV, XV, XVI, XVII, XVIII and XIX shall constitute the Bylaws of the Association and the Bylaws prescribed by the Act.

ARTICLE XIV
MEMBERS
(UNIT OWNERS)

1. **Eligibility.** The members of the MIRAMONTE POINTE CONDOMINIUMS, BUILDING NO. 1 shall consist of the Unit Owners of the property commonly known as 59 SOUTH HALE STREET, PALATINE, ILLINOIS 60067. The Condominium Association shall have only one class of membership. These Bylaws are the Bylaws of the Association whether or not it incorporates as an Illinois not-for-profit corporation, and the words "Director" and "Board of Directors" used herein are synonymous and interchangeable with "Managers" and "Board of Managers" as used and provided in the Illinois Condominium Act and the MIRAMONTE POINTE CONDOMINIUMS, BUILDING NO. 1 Declaration.

The membership of each Unit Owner shall terminate upon the sale, transfer or other disposition of such unit and the membership shall automatically be transferred to the new Unit Owner succeeding to such ownership interest.

2. **Voting Rights.** There shall be one person with respect to each unit ownership who shall be entitled to vote at any meeting of Unit Owners. Such voting members shall be the Unit Owner or one of the group composed of all the Unit Owners of a unit ownership or may be some person designated by such Unit 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 or the death or judicially declared incompetence of any designator, or by written notice to the Board by the Unit Owner or Unit Owners. A proxy shall be invalid eleven (11) months from the date of its execution, unless otherwise provided in the proxy and every proxy must bear the date of execution. Any or all Unit Owners of a unit ownership and their designee, if any, may be present at any meeting of the voting members, but only the voting member of the unit ownership may vote or take any other action as a voting member either in person or by proxy. Except for the election of the Board of Managers as provided in Article XV (2), the total number of votes of all voting members shall be one hundred (100) and 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 the common elements applicable to his or their unit ownership as set forth in Exhibit "B". The Trustee shall designate the voting member with respect to any unit ownership owned by the Trustee. The Association shall have one class of membership only and nothing contained in these condominium instruments shall permit or allow different classes of membership among the Unit Owners, if only one of the multiple owners of a unit is present at a meeting of the Association, he is entitled to cast the vote allocated to that unit, if more than one of the multiple owners are present, the vote allocated to that unit may be cast only in accordance with the

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agreement of a majority in interest of the multiple owners. There is majority agreement if any one of the multiple owners cast the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

3. **Meetings.** Meetings of the voting members shall be held at the Property or at such other place in Cook County, Illinois, as may be designated in any notice of a meeting. The presence in person or by proxy of twenty percent (20%) of the Unit Owners at any meeting of the Association shall constitute a quorum unless the Unit Owners holding a majority of the percentage interest in the Association provide for a higher percentage. Unless otherwise expressly provided herein, any action may be taken at any meeting of the voting members at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes represented at such meeting.

4. **Annual Meetings.** The initial meeting of the voting members shall be held upon written notice, given not less than twenty-one (21) or more than thirty (30) days prior to the date fixed for the meeting by the Trustee or Developer. Said initial meeting shall be held not later than sixty (60) days after the conveyance by Developer (Trustee) of 75% of the units or three (3) years after the recording of the Declaration, whichever is earlier. Thereafter, there shall be an annual meeting held each year within fifteen (15) days of the anniversary of such initial meeting as may be designated by written notice of the Board delivered to the voting members not less than ten (10) days or more than thirty (30) days prior to the date fixed for said meeting.

5. **Special Meetings.** Special meetings of the voting members may be called at any time for the purpose of considering matters which by the terms of this Declaration, require the approval of the voting members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by the President, a majority of the Board, or by the voting members having 20% of the total votes and delivered not less than ten (10) days or more than thirty (30) days prior to the date fixed for said meeting. The notice shall specify the date, time and place of the meeting and matters to be considered. Matters to be submitted at special meetings of the voting members shall first be submitted to the Board of Managers, at least ten (10) days prior to the special meeting, who shall then submit the matters to the voting members.

6. **Notices of Meetings.** Notices of meeting required to be given herein may be delivered either personally or by mail to the person entitled to vote thereat, addressed to each person at the address given by him to the Board for that purpose of service of such notice, or to the unit of the Unit Owner with respect to which such voting right appertains if no address has been given to

the Board.

7. Miscellaneous. No merger or consolidation of the Association, sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all of the Property and assets of the Association, or the purchase or sale of land or of units on behalf of all Unit Owners shall be effected unless there is an affirmative vote of two-thirds (2/3) of the votes of Unit Owners, unless a greater percentage is otherwise provided for in the Declaration or in the Illinois Condominium Act.

ARTICLE XV

BOARD OF MANAGERS

1. Board of Managers (Board of Directors). The direction and administration of the Property shall be vested in a Board of Managers, consisting of five (5) persons who shall be appointed or elected in the manner herein provided. Each member of the Board shall be one of the Unit Owners and shall reside on the Property. 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 officer, director or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust or manager of such other legal entity, shall be eligible to serve as a Member of the Board, provided such person must reside on the Property unless he is a Board Member nominated by the Trustee. All Members of the Board shall be elected at large.

2. Election. At the initial meeting, the voting members shall elect the five (5) Board Members. Each voting member shall be entitled to one vote for each member of the Board to be elected. In all elections for Members of the Board, the total number of votes of all voting members shall be forty (40) for each office to be filled. The candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Members of the Board elected at the initial meeting shall serve until the first annual meeting. The three (3) persons receiving the highest number of votes at the first annual meeting shall be elected to the Board for a term of two (2) years and the two (2) persons receiving the next highest number of votes shall be elected to the Board for a term of one (1) year. In the event of a tie vote, the Members of the Board shall determine which Members shall have the two (2) year terms and which Members shall have the one (1) year term. Upon the expiration of the terms of office of the Board Members elected at the first annual meeting and thereafter, successors shall be elected for a term of two (2) years each. The voting members having at least two-thirds (2/3) of the total votes may from time to time increase

or decrease such number of persons on the Board or may increase or decrease the term of office of Board Members at any annual or special meeting, provided that such number shall not be less than three (3), and that the terms of at least one-third (1/3) of the persons on the Board shall expire annually and that no Board Member or officer shall be elected to a term in excess of two (2) years; provided, however, that a Board Member or officer may be re-elected at the expiration of his term. Members of the Board shall receive no compensation for their services, unless expressly authorized by the Board with the approval of voting members having two-thirds (2/3) of the total votes. Vacancies on the Board, including vacancies due to any increase in the number of persons on the Board, shall be filled by the vote of the remaining Members of the Board by two-thirds (2/3) vote until the next annual meeting of Unit Owners or for a period terminating no later than thirty (30) days following the filing of a petition signed by Unit Owners holding 20% of the votes of the Association requesting a meeting of the Unit Owners to fill the vacancy for the balance of the term. A meeting of the Unit Owners shall be called for purposes of filling a vacancy on the Board no later than thirty (30) days following the filing of a petition signed by Unit Owners holding 20% of the votes of the Association requesting such a meeting.

A candidate for election to the Board of Managers or such candidate's representative shall have the right to be present at the counting of ballots at such election.

In the event of a sale of a unit by an owner, other than Developer, pursuant to an installment contract, the purchaser shall, during such times as he or she resides in the unit, be counted toward a quorum for purposes of election of Members of the Board of Managers at any meeting of the Unit Owners called for purposes of electing Members of the Board, shall have the right to vote for the election of Members of the Board of Managers and to be elected to, and serve, on the Board of Managers, unless the seller expressly retains in writing any or all of such rights. In no event may the seller and purchaser both be counted toward a quorum, be permitted to vote for a particular office or be elected and serve on the Board. Satisfactory evidence of the installment contract shall be made available to the Association of the installment contract shall be made available to the Association or its agents. For purposes of this subsection, "installment contract" shall have the same meaning as set forth in Section 1(e) of "an Act relating to Installment Contracts to sell Dwelling Structures", approved August 11, 1967, as amended.

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 meeting wherein a quorum exists. A majority of the total number of the Members of the Board shall constitute a quorum. Meetings of the Board may be called, held and conducted in accordance with such resolutions as the Board may

adopt.

3. Officers. The Board shall elect for a term of one (1) year from among its Members the following officers; a President who shall preside over both its meetings and those of the voting members, and who shall be the Chief Executive Officer of the Board and the Association and who shall execute amendments to the condominium instruments; a Secretary who shall keep the minutes of all meetings of the Board and of the voting members, and who shall mail and receive all notices, and who shall, in general, perform all the duties incident to the office of Secretary; a Treasurer who shall keep the financial records and books of account; and such additional officers as the Board shall see fit to elect. Any officer may be removed at any meeting by the affirmative vote of the majority of the Members of the Board, either with or without cause, and any vacancy in any office may be filled by the Board at any meeting thereof by a two-thirds (2/3) vote until the next meeting of Unit Owners or for a period terminating no later than thirty (30) days following the filing of a petition signed by Unit Owners holding 20% of the votes of the Association requesting a meeting of the Unit Owners to fill the vacancy for the balance of the term.

4. Removal. Any Board member may be removed from office by affirmative vote of the voting members having at least two-thirds (2/3) of the total votes, at any special meeting called for that purpose. A successor to fill the unexpired term of the Board Member removed may be elected by the vote of the remaining Members of the Board by two-thirds (2/3) vote until the next annual meeting of Unit Owners or for a period terminating no later than thirty (30) days following the filing of a petition signed by Unit Owners holding 20% of the votes of the Association requesting a meeting of the Unit Owners to fill the vacancy for the balance of the term. A meeting of the Unit Owners shall be called for purposes of filling a vacancy on the Board no later than thirty (30) days following the filing of a petition signed by Unit Owners holding 20% of the votes of the Association requesting such a meeting.

5. Meetings. The Board shall meet at least four (4) times annually, and at such other times as the Board deems necessary. Meetings of the Board shall be open to any Unit Owner, except for the portion of any meeting held (i) to discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board of Managers finds that such an action is probable or imminent, (ii) to consider information regarding appointment, employment or dismissal of an employee, or (iii) to discuss violations of rules and regulations of the Association or a Unit Owner's unpaid share of common expenses; any vote on these matters shall be taken at a meeting or portion thereof open to any Unit Owner; any Unit Owner may record the proceedings at meetings

required to be open by the Act by tape, film or other means; the Board may prescribe reasonable rules and regulations to govern the right to make such recordings; notice of such meetings shall be mailed or delivered at least forty-eight (48) hours prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice pursuant to the Declaration, Bylaws, other condominium instruments or provision of law other than this subsection before the meeting is convened. Copies of notices of meetings of the Board of Managers shall be posted in entranceways, elevators or other conspicuous places in the condominium at least forty-eight (48) hours prior to the meeting of the Board of Managers. The Board of Managers may designate one or more locations in the proximity of the units where the notices of meetings shall be posted.

6. General Powers of the Board. The powers and duties of the Board of Managers shall include, but shall not be limited to, the following matters:

- (a) Operation, care, upkeep, maintenance, replacement and improvement of the common elements.
- (b) Preparation, adoption and distribution of the annual budget for the Property.
- (c) Levying of assessments.
- (d) Collection of assessments from Unit Owners.
- (e) Employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the common elements.
- (f) Obtaining adequate and appropriate kinds of insurance.
- (g) Owning, conveying, encumbering, leasing and otherwise dealing with units conveyed to or purchased by it.
- (h) Adoption and amendment of rules and regulations covering the details of the operation and use of the Property, after a meeting of the Unit Owners called for the specific purpose of discussing the proposed rules and regulations, notice of which contains the full text of the proposed rules and regulations and which conforms to the requirement of Section 18(b) of the Act, however, no rules or regulations may impair any rights guaranteed by the First Amendment to the Constitution of the United States or Section 4 of Article 1 of the Illinois Constitution.

- (i) Keeping of detailed, accurate records of the receipts and expenditures affecting the use and operation of the Property.
- (j) To have access to each unit from time to time as may be necessary for the maintenance, repair or replacement of any common elements therein or accessible therefrom, or for making emergency repairs necessary to prevent damage to the common elements or to other units.
- (k) Pay real estate taxes, special assessments and any other special taxes or charges of the State of Illinois or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon the real property of the condominium.
- (l) Impose charges for late payments of a Unit Owner's proportionate share of the common expenses, or any other expenses lawfully agreed upon, and after notice and an opportunity to be heard, levy reasonable fines for violation of the Declaration, Bylaws and rules and regulations of the Association.
- (m) Unless otherwise prohibited in the condominium instruments, assign its right to future income, including the right to receive common expenses.
- (n) Record the dedication of a portion of the common elements to a public body for use as, or in connection with, a street or utility where authorized by the Unit Owners under the provisions of Section 14.2 of the Act.
- (o) Record the granting of an easement for the laying of cable television cable where authorized by the Unit Owners under the provision of Section 14.3 of the Act.
- (p) Convene duly called meetings of the Unit Owners relating to matters subject to the affirmative vote of not less than two-thirds (2/3) of the votes of Unit Owners which shall include but not be limited to:
 - (i) Merger or consolidation of the Association;
 - (ii) The sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all of the Property and assets of the Association; and

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- (iii) The purchase or sale of land or of units on behalf of all Unit Owners.
- (q) Upon ten (10) days notice to the Merger or Board of Managers 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 and owing from such owner.
- (r) The Association shall have no authority to forebear the payment of assessments by any Unit Owner.
- (s) To pay for water, waste removal, other operating expenses, electricity, telephone and other necessary utility service for the common elements.
- (t) To pay for landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement of the common elements (but not including the windows and glass doors appurtenant to the unit, if any, and the interior surfaces of the units and of the hallway doors appurtenant thereto, which the Unit Owners shall paint, clean, decorate, maintain and repair, except if necessitated by repairs to the common elements) and such furnishings and equipment for the common elements as the Board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire the same for the common elements.
- (u) To pay for any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations or assessments which the Board is required to secure or pay for pursuant to the terms of this Declaration or Bylaws or which, in its opinion, shall be necessary or proper for the maintenance and operation of the Property, as a first-class condominiums apartment building or for the enforcement of these restrictions.
- (v) To pay any amount necessary to discharge any mechanic's lien or other encumbrance against the entire Property or any part thereof which may, in the opinion of the Board, constitute a lien against the Property or against the common elements, rather than merely against the interest therein of particular Unit Owners. Where one or more Unit Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the costs of discharging it and any costs incurred by the Board by reason of said lien or liens,

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including reasonable attorneys' fees, shall be specially assessed to said Unit Owner.

- (w) To maintain and repair any unit if such maintenance or repair is necessary, in the discretion of the Board, to protect the common elements or any other portion of the building, and a Unit Owner of any unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair, mailed or delivered by the Board to said Unit Owner, provided that the Board shall levy a special assessment against such Unit Owner for the cost of said maintenance or repair.
- (x) The Board or its agent, upon reasonable notice, may enter any unit when necessary in connection with any maintenance or construction for which the Board is responsible. Such entry shall be made with as little inconvenience to the Unit Owner as practicable, and any damage caused thereby shall be repaired by the Board as a common expense.
- (y) The Board's powers hereinabove enumerated and described in the Declaration, shall be limited in that the Board shall have no authority to acquire and pay for any structural alterations, additions to or improvements of the common elements (other than for purposes of replacing or restoring portions of the common elements, subject to all the provisions of this Declaration) requiring an expenditure in excess of Five Thousand Dollars (\$5,000.00), without in each case the prior approval of voting members having two-thirds (2/3) of the total votes.
- (z) All agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments 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 documents shall be signed by the Treasurer and countersigned by the President of the Board.
- (aa) The Board may adopt such reasonable rules and regulations, not inconsistent herewith, as it may deem advisable for the maintenance, administration, management, operation, use, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Unit

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Owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Unit Owners and occupants and the entire Property shall at all times be maintained subject to such rules and regulations.

- (bb) The Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board.
- (cc) Nothing hereinabove contained shall be construed to give the Board, Association or Unit Owners authority to conduct an active business for profit on behalf of all Unit Owners or any of them.
- (dd) Upon authorization by a two-thirds (2/3) vote of the Members of the Board of Managers or by the affirmative vote of not less than a majority of the voting members at a meeting duly called for such purposes, the Board of Managers, acting on behalf of all Unit Owners, shall have the power to seek relief from or in connection with the assessment or levy of any real property taxes, special assessments and any other special taxes or charges of the State of Illinois or any political subdivision thereof, or any other lawful taxing or assessing body, which are authorized by law to be assessed and levied on real property and to charge and collect all expenses incurred in connection therewith as common expenses.
- (ee) The manager or Board of Managers shall maintain the following records of the Association available for examination and copying at convenient hours of weekdays by the Unit Owners or their mortgagee and their duly authorized agents or attorneys:
 - (i) Copies of the recorded Declaration, Bylaws, other condominium instruments and any amendments, Articles of Incorporation of the Association, annual reports and any rules and regulations adopted by the Association or its Board of Managers. Prior to the organization of the Association, the Developer shall maintain and make available the records set forth in this subsection for examination and copying.
 - (ii) Detailed, accurate records 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

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incurred, and copies of all contracts, leases or other agreements entered into by the Association.

- (iii) The minutes of all meetings of the Association and the Board of Managers. The Association shall maintain these minutes for a period of not less than seven (7) years.
 - (iv) Ballots for all elections to the Board of Managers and for all other matters voted on by the Unit Owners shall be maintained for a period of not less than one (1) year.
 - (v) Such other records of the Association as are available for inspection by members of a not-for-profit corporation pursuant to Section 25 of the General Not-For-Profit Corporation Act approved July 19, 1943, as amended.
 - (vi) A reasonable fee covering the direct out-of-pocket cost of providing such information and copying may be charged by the Association or its Board of Managers for the cost of copying.
- (ff) Any mortgage or trust deed owned or held by a First Mortgagee and recorded prior to the recording or mailing of a notice by the Association of the amount owing by a Unit Owner who has refused or failed to pay his share of the monthly assessment when due shall be superior to the lien of such unpaid Common Expenses set forth in said notice and to all assessments for Common Expenses which become due and are unpaid subsequent to the date of recording of such first mortgage or first trust deed. Any First Mortgagee who comes into possession of a unit pursuant to the remedies provided in the mortgage or trust deed, foreclosure of the mortgage or trust deed, or deed or assignment in lieu of foreclosure, shall not be liable for, and shall take the unit and its proportionate interest in the common elements, free from claims for unpaid common or special assessments levied by the Association which accrue prior to the date of possession as aforesaid.

1. Estimated Annual Budget and Assessments. Each year on or before October 31, the Board shall estimate the total amount necessary to pay the cost of all common expenses which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements. The annual budget shall set forth with particularity

and anticipated common expenses by category as well as all anticipated assessments and other income. The budget shall also set forth each Unit Owner's proposed common expense assessment. Each Unit Owner shall receive, at least thirty (30) days prior to the adoption thereof by the Board of Managers, a copy of the proposed annual budget together with an indication of which portions are intended for capital expenditures or repairs or payment of real estate taxes; the annual budget shall also take into account the estimated net available cash income for the year from the operation or use of the common elements, if any. The "estimated annual budget" shall be assessed to the Unit Owners according to each Unit Owner's percentage of ownership in the common elements as set forth in Exhibit "B" attached hereto. Each Unit Owner shall receive notice in the same manner as is provided in this Declaration for membership meetings or any meeting of the Board of Managers concerning the adoption of the proposed annual budget or any increase or establishment of an assessment. Said meetings of the Board of Managers shall be open to any Unit Owner, and notice of such meeting shall be mailed at least three (3) business days prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice before the meeting is convened. Pursuant to the Illinois Condominium Act, the Developer or the Board of Managers may provide for the assessment, in connection with expenditures for the limited common elements, of only those units to which such limited common elements are assigned.

On or before the first day of the month following the adoption of the budget, and the first of each and every month of the ensuing fiscal year, said Unit Owners jointly and severally shall be personally liable for and obligated to pay to the Board or as it may direct one-twelfth (1/12) of the assessment against his unit ownership made pursuant to this section. On or before December 31 of each year following the year in which the initial meeting is held, the Board shall supply to all Unit Owners an itemized accounting of the common expenses for the preceding year actually incurred and paid with an indication of which portions were for capital expenditures or repairs or payment of real estate taxes together with a tabulation of the amounts collected pursuant to the budget or assessments and showing the net excess or deficit of income over expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each Unit Owner's percentage of ownership in the common elements to the next monthly installments due from Unit Owners under the current year estimate, until exhausted, and any net shortage shall be added according to each Unit Owner's percentage of ownership in the common elements to the installments due in the succeeding six (6) months after rendering of the accounting.

2. (a) Reserves and Adjustments. The Board shall establish and maintain a reasonable reserve for contingencies and

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replacements. Any extraordinary or nonrecurring common expenses, any common expense not set forth in the budget as adopted, and any increase in assessments over the amount adopted shall be separately assessed against all Unit Owners. Any such separate assessment shall be subject to approval by the affirmative vote of at least two-thirds (2/3) of the Unit Owners voting at a meeting of such Unit Owners duly called for the purpose of approving the assessment if it involves proposed expenditures resulting in a total payment assessed to a Unit Owner equal to the greater of fifteen percent (15%) more than the unit's most recent common expense assessment calculated on a monthly basis or three hundred dollars (\$300.00). All Unit Owners shall be personally liable for and obligated to pay their respective adjusted monthly amount.

(b) Reserves and Adjustments. If an adopted budget requires assessment against the Unit Owners in any fiscal or calendar year exceeding 115% of the assessments for the preceding year, the Board of Managers, upon written petition by Unit Owners with twenty percent (20%) of the votes of the Association filed within fourteen (14) days of the Board action, shall call a meeting of the Unit Owners within thirty (30) days of the date of filing of the petition to consider the budget; and unless a majority of the votes of the Unit Owners are cast at the meeting to reject the budget, it is ratified, whether or not a quorum is present in determining whether assessments exceed 115% of similar assessments in prior years, any authorized provisions for reasonable reserves for repairs or replacement of the condominium Property, and anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, shall be excluded from the computation.

3. Initial Estimate of Annual Budget. When the first Board elected or appointed hereunder takes office, it shall determine the "estimated annual budget" as hereinabove defined, for the period commencing thirty (30) days after said election and ending on October 31st of the year following the year in which said election occurs, assessments shall be levied against the Unit Owners during said period as provided in Section 1 of this Article.

4. Failure to Prepare Estimates. The failure or delay of the Board to prepare or serve the annual or adjusted estimate on the Unit Owners 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 next monthly maintenance payment which is due not less than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

5. 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 books and records are those books and records specified in Article XV 6 (ee) (i) to (vi) inclusive, of this Declaration and Bylaws.

6. Use of Funds. All funds collected hereunder shall be held and expended for the purpose 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 "B".

7. Insurance. Any insurance premium assessed on a basis reflecting increased charges for coverage on certain units shall be assessed to such unit.

8. Assessments. If a Unit Owner is in default in the monthly payment of the aforesaid charges or assessments for thirty (30) days, the Members of the Board may bring suit for and on behalf of themselves and as representatives of all Unit Owners, to enforce collection thereof or to foreclose the lien therefore as hereinafter provided; and there shall be added to the amount due the costs of said suit, and other fees and expenses together with legal interest 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, interest, costs and fees as above provided, shall be and become a lien or charge against the unit ownership of the Unit Owner involved when payable and may be foreclosed by action brought in the name of the Board as in the case of foreclosure of liens against real estate. Such lien shall take effect and be in force when and as provided in the Act; provided, however, that encumbrances owned or held by any bank, insurance company, savings and loan association or other lender shall be subject as to priority after written notice to said encumbrancer of unpaid common expenses only to the lien of all common expenses on the encumbered unit ownership which became due and payable subsequent to the date the encumbrancer either takes possession of the unit, accepts a conveyance of any interest in the unit ownership or has a receiver appointed in a suit to foreclose its lien. In addition to the foregoing, the Board or its agents shall have such other rights and remedies to enforce such collection as shall otherwise be provided or permitted by law from time to time. Without limiting the generality of the foregoing, if any Unit Owner shall fail to pay the proportionate share of the common expenses or of any other expenses required to be paid hereunder when due, such rights and remedies shall include: (1) the right to enforce the collection of such defaulting Unit Owner's

share of such expenses (whether due by acceleration or otherwise), together with interest thereon, at the maximum rate permitted by law, and all fees and costs, including reasonable attorneys' fees, incurred in the collection thereof; (2) the right, by giving such defaulting Unit Owner five (5) days written notice of the election of the Board so to do, to accelerate the maturity of the unpaid installments of such expenses occurring with respect to the balance of the assessment year; (3) the right to take possession of such defaulting Unit Owner's interest in the property, to maintain for the benefit of all the other Unit Owners an action for possession in the manner prescribed by Article IX of the Code of Civil Procedure, Illinois Revised Statutes Chapter 110 paragraph 9-102 to 9-111, and to execute leases of such defaulting Unit Owner's interest in the property and apply the rents derived therefrom against the expenses.

9. Nonuse. No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common elements or abandonment of his unit.

ARTICLE XVII

COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

The units and common elements shall be owned, occupied and used subject to the following covenants and restrictions:

1. General Use. 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 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.

2. Obstruction of Common Elements and Unit Maintenance. There shall be no obstruction of the common elements nor shall anything be stored in the common elements without prior consent of the Board except as herein expressly provided. Each Unit Owner shall be obligated to maintain and keep in good order and repair his own unit.

3. Prohibited Use. Nothing shall be done or kept in any unit, or in the common elements, which will increase the rate of insurance on the building or contents thereof, applicable for residential use, without the prior written 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 contents thereof, or which would be

in violation of any law. No waste shall be committed in the common elements. 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, or connect any machines, appliances, accessories, or equipment to the heating or plumbing system, without the prior written consent of the Board.

4. Unit Owner Insurance. Each Unit Owner shall be responsible for his own insurance on his personal property in his own unit, his personal property stored elsewhere in the Property and his personal liability to the extent not covered by the liability insurance for all the Unit Owners obtained by the Board as hereinabove provided.

5. Exterior Attachments. Unit Owners shall not cause or permit anything to be 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 exterior walls or roof or any part thereof, without the prior consent of the Board.

6. Window Treatment. The use and covering of the interior surfaces of the glass windows and/or doors appurtenant to the units of the building, whether by draperies, shades or other items visible from the exterior of the building, shall be subject to the rules and regulations of the Board.

7. Pets. No animals, reptiles, 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 under 35 pounds, 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 a nuisance or unreasonable disturbance shall be permanently removed from the Property upon three (3) days written notice from the Board.

8. 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 willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants.

9. Unsightliness. No clothes, sheets, blankets, laundry or any kind of other articles shall be hung out or exposed on any part of the common elements. The common elements shall be kept free and clear of rubbish, debris and other unsightly material.

10. Personal Effects. 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 except that baby carriages, bicycles and other personal property may be stored in the common storage area or areas in the event that an area or areas are designated for that purpose.

11. Commercial Activities. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted in any of the units.

12. Barbecues. No charcoal burning barbecues are allowed or permitted on any of the balcony areas. Propane barbecues are allowed and permitted on the balcony area.

12. "For Sale" and "For Rent" Signs. No "For Sale" or "For Rent" signs, advertising or other displays shall be maintained or permitted on any part of the Property except at such location and in such form as shall be determined by the Board; provided that the right is reserved by the Trustee, the Developer and their agents, to maintain on the Property until the sale of the last unit, all models, sales offices and advertising signs, banners and lighting in connection therewith, at such locations and in such forms as they shall determine, together with the right of ingress, egress and transient parking thereof through the common elements.

13. Common Elements. Nothing shall be altered or constructed in or removed from the common elements, except upon the written consent of the Board.

14. Exceptions. The unit restrictions in paragraphs 1 and 11 of this Article XVII shall not, however, be construed in such a manner as to prohibit a Unit Owner from: (a) maintaining his 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 customarily incident to the principal residential use and not in violation of Sections 1 and 11 of this Article XVII.

ARTICLE XVIII

REMEDIES FOR BREACH OF COVENANTS

1. Abatement and Enjoinment. The violation of any restrictions, condition or regulation adopted by the Board, or the breach of any covenant or provision herein contained, shall give the Board the right, in addition to the rights set forth in the next succeeding section: (a) to enter upon that part of the Property where such violation or breach exists and summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to

sold subject to this Declaration.

ARTICLE XXIX

RIGHTS OF DEVELOPER'S CONSTRUCTION LENDER AND FIRST MORTGAGEES

1. First Mortgagees Approval. The prior written approval of Developer's construction lender, if applicable, and two-thirds (2/3) of all First Mortgagees (calculated on the basis of the percentage interests of their respective mortgagors will be required for any of the following:

(a) Amendments. An amendment to the Declaration which changes: (i) voting rights; (ii) assessments, assessment liens, or subordination of assessment liens; (iii) reserves for maintenance, repair and replacement of the Common Elements; (iv) responsibility for maintenance and repairs; (v) reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use; (vi) the boundaries of any Unit; (vii) the convertability of Units into Common Elements or vice versa; (viii) the expansion or contraction of the Parcel, or the addition, annexation or withdrawal of property to or from the Property; (ix) insurance or fidelity bonds; (x) leasing of Units; (xi) imposition of any restrictions on an Owner's right to sell or transfer his or her Unit; (xii) the restoration on repair of a building (after a hazard damage or partial condemnation) in a manner other than that specified in the Declaration; (xiii) any action to terminate the condominium status of the Parcel after substantial destruction or condemnation occurs; (xiv) any provision that expressly benefits mortgage holders, insurers or guarantors; (xv) the pro rata interest or obligations of any individual Unit for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; and (xv) the pro rata interest or obligation of any individual Unit for the purpose of determining the pro rata share of ownership of each Unit in the Common Elements; or

(b) Abandonment or Termination of Condominium. The abandonment or termination of the condominium status of the Property, the removal of any part of the Property from the provisions of the Act and this Declaration, or the sale of the Property; except that the consent of First Mortgagees shall not be required for the abandonment or termination of the

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condominium status of the Property made pursuant to the Act in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; or

- (c) Partition or Subdivision. The partition or subdivision of any Unit; or
- (d) Common Elements. The abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Elements, except that granting of easements for public utilities or for other public and private purposes consistent with the intended use of the Common Elements by the Association shall not require such approval; or
- (e) Insurance Proceeds. The use of hazard insurance proceeds for losses to any portion of the Property, whether Units or Common Elements, for other than the repair, replacement or reconstruction of the Property; or
- (f) Litigation. The institution of any lawsuit against the Developer or Declarant or its officers or employees.

2. First Mortgagee Rights. Upon specific written request to the Board, a First Mortgagee or its servicer, or the insurer or any guarantor of a mortgagee shall receive the following as designated in the request.

- (a) Budgets and Assessments. Copies of the budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Association to the Owner of the Unit covered by the First Mortgagees' mortgage;
- (b) Financial Statements. Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Owners.
- (c) Notices. Copies of notices of meetings of the Owners and the right to be represented at any such meetings by a designated representative.
- (d) Amendments. Written notice of the decision of the Owners to make any material amendment to this Declaration and By-Laws.
- (e) Damages. Written notice of substantial damage to or destruction of any Unit (in excess of One Thousand

Dollars (\$1,000) covered by the First Mortgagee's mortgage, or any part of the Common Elements (in excess of Ten Thousand Dollars (\$10,000));

- (f) Condemnation. Written notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Property;
- (g) Default. Written notice of any default of the Owner of the Unit which is subject to the First Mortgagee's mortgage, where such default is not cured by Owner within thirty (30) days after the giving of Notice by the Association to the Owner of the existence of the default;
- (h) Books and Records. The right to examine the books and records of the Association at any reasonable time and, if and to the extent that no audited financial statement is available, the First Mortgagee or its servicer shall have the right to have an audited statement prepared at its own expense;
- (i) Management. The Association's termination of professional management and assumption of self-management of the Property;
- (j) Delinquency. Written notice of any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage;
- (k) Insurance. Written notice of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- (l) Action. Written notice of any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

Developer's construction lender, shall receive without request those items listed in Paragraph 2 above as same relate to the Association or to any Units remaining subject to the construction lender's mortgage.

The request of a First Mortgagee or its servicer, or the insurer or any guarantor of a mortgage shall state both the name and address of the First Mortgagee or its servicer, insurer or guarantor (as the case may be), shall specify which of the above information it desires to receive, shall indicate the address to which any notices or documents shall be sent by the Association and shall identify the Unit number or address of the Unit on which it has the mortgage. Failure of the Association to provide any of the foregoing to a First Mortgagee who has made a proper request therefor shall not affect the validity of any action which is

related to any of the foregoing. The Association need not inquire into the validity of any request made by a First Mortgagee, servicer, insurer or guarantor hereunder and in the event of multiple requests from purported First Mortgagees, servicers, insurers or guarantors of the same Unit, the Association shall honor the most recent request received. The provisions of this subparagraph shall not apply to Developer's construction lender.

ARTICLE XX

GENERAL PROVISIONS

1. Notice to Mortgagees. 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 whose unit ownership is subject to such mortgage or trust deed.

2. Notices to Board, Association and Unit Owners. Notices provided for in this Declaration and in the Act shall be in writing and shall be addressed to the Board or Association, or any Unit Owner, as the case may be at:

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(indicating thereon the number of the respective unit if addressed to a Unit Owner), or at such other address as herein provided. The Association or Board may designate a different address or addresses for notices to them, respectively, by giving written notice of such change of address to all Unit Owners. Any Unit Owner may also designate a different address for notices to him by giving written notice of his change of address to the Board or Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail or when delivered in person with written acknowledgement of the receipt thereof, or if addressed to a Unit Owner, when deposited in his mailbox in the building or at the door of his unit in the building.

3. Notice to Decedent. Notices required to be given any devisee or personal representative of a deceased Unit 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 Unit Owner is being administered.

4. Binding Effect. Each grantee of the Trustee, by acceptance of a deed of conveyance, or each purchaser under any contract for such deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations and liens of the 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 or estate in the Property or any unit, and shall inure to the benefit of such Unit Owner in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance.

5. Waiver. No covenants, restrictions, 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.

6. Amendment. Except as otherwise provided in the Act, this Declaration and Bylaws, the provisions of the condominium instruments may be amended, changed or modified by an instrument in writing setting forth such amendment, change or modification, signed and acknowledged by all of the Members of the Board, at least three-fourths (3/4) of the Unit Owners, and the approval of any mortgagees required under the provisions of the condominium instruments, and containing an affidavit by an officer of the Board certifying that a copy of the amendment, change or modification has been mailed by certified mail to all mortgagees having bona fide liens of record against any unit, not less than ten (10) days prior to the date of such affidavit. Any amendment, change or modification shall conform to the provisions of the Condominium Property Act and shall be effective upon recordation thereof. No change, modification or amendment which affects the rights, privileges or obligations of the Trustee or the Developer or any Unit Owner shall be effective without the prior written consent of the Trustee or the Developer or the affected Unit Owner or Owners. Except to the extent authorized by provisions of the Act, no amendment to the condominium instruments shall change the boundaries of any unit or the undivided interest in the common elements, the number of votes in the Unit Owners' Association, or the liability for common expenses appertaining to a unit.

7. Invalidity. All provisions of the Declaration, Bylaws and other condominium instruments are severable. 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 remainder of this Declaration. In the event of a conflict between the provisions of the Declaration and the Bylaws or other condominium instruments, the Declaration prevails except to the extent the Declaration is inconsistent with the Act.

8. Perpetuities and Restraints. If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violations of

(a) the rule against perpetuities or some analogous statutory provision, (b) the rules 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 last to die of the now living lawful descendants of WILLIAM CLINTON, President of the United States and CAROL MOSLEY BRAUN and RICHARD DURBIN Senators of the State of Illinois.

9. Liens. In the event any lien exists against two (2) or more units and the indebtedness secured by such lien is due and payable, the Unit Owner of any such unit so affected may remove such unit and the undivided interest in the common elements appertaining thereto from such lien by payment of the proportional amount of such indebtedness attributable to such unit. In the event such lien exists against the units or against the Property, the amount of such proportional payment shall be computed on the basis of the percentage set forth in the Declaration. Upon payment as herein provided, it is the duty of the encumbrancer to execute and deliver to the Unit Owner a release of such unit and the undivided interest in the common elements appertaining thereto from such lien.

The owner of such unit shall not be liable for any claims, damages or judgments entered as a result of any action or inaction of the Board of Managers or the Association other than for mechanics' liens as hereinafter set forth. Each Unit Owner's liability for any judgment entered against the Board of Managers or the Association, if any, shall be limited to his proportionate share of the indebtedness as set forth herein, whether collection is sought through assessment or otherwise. A Unit Owner shall be liable for any claim, damage or judgment entered as a result of the use or operation of his unit, or caused by his own conduct. Before conveying a unit, the Developer shall record or furnish purchaser releases of all liens affecting that unit and its common elements interest which the purchaser does not expressly agree to take subject to or assume, or the Developer shall provide a surety bond or substitute collateral for or insurance against such liens. After conveyance of such unit, no mechanic's lien shall be created against such unit or its common elements interest by reason of any subsequent contract by the Developer to improve or make additions to the Property.

If, as a result of work expressly authorized by the Board of Managers, a mechanic's lien claim is placed against the Property or any portion of the Property, each Unit Owner shall be deemed to have expressly authorized it and consented thereto, and shall be liable for the payment of his unit's proportionate share of any due and payable indebtedness.

10. Release of Claims. Each Unit Owner hereby waives and releases any and all claims which he may have against any other

Unit Owner, occupant, the Association, its officers, Members of the Board, the Trustee, the Developer, the managing agent, and their respective employees and agents, for damage to the common elements, the units or to any personal property located in the units or common elements, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

11. Construction. The Provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first-class condominium apartment building.

12. Annexing Additional Property.

A) The Developer reserves the right from time to time, within two (2) years of the date of the recording of this Declaration, to annex and add to the Parcel and Property, and thereby add to the condominium created by this Declaration, all or any portion of the Additional Land by recording an amended plat in accordance with Section 5 of the Act and an amended declaration in accordance with Section 6 of the Act. No rights of any character whatever within the Additional Land attach to any Unit Owner except as to that portion of the Additional Land described in any recorded Amended Declaration annexing and adding such portion to this Declaration as part of the condominium created by this Declaration.

B) Each Amended Declaration shall include an amended Exhibit "A" which shall amend Exhibit "A" hereto by setting forth the amended legal description of the Parcel to include the portion of the Additional Land annexed hereto, as well as a separate legal description of such portion. The Amended Declaration shall also contain an amended Plat, showing the boundaries of such portion and of the entire Parcel as amended and delineating the additional Units of such portion, all in accordance with Section 5 of the Act.

Each Amended Declaration shall also include an amended Exhibit "C" which shall amend Exhibit "C" hereto by setting forth the legal description of the Units added by such Amended Declaration, as well as all previous Units.

Each Amended Declaration shall also include an Amended Exhibit "D" which shall amend Exhibit "D" hereto by setting forth the Amended Percentages of the undivided interests in the Common Elements (as amended and added to by such Amended Declaration) allocated to each Unit (including all previous Units and the additional Units added by such Amended Declaration).

C) The percentages of undivided ownership in the Common Elements as amended by each Amended Declaration, and as set forth in the amended Exhibit "D", shall be determined and adjusted in the following manner:

The Common Elements as amended by such Amended Declaration shall be deemed to consist of

1) The Common Elements as existing immediately before the recording of such Amended Declaration (Existing Common Elements); and

2) The Common Elements added by such Amended Declaration (Added Common Elements).

The Units as amended by such Amended Declaration shall be deemed to consist of

3) The Units as existing immediately before the recording of such Amended Declaration (Existing Units); and

4) The Units added by such Amended Declaration (Added Units).

The value of each of the Added Units shall be added to the aggregate value of the Existing Units, and the total thereof shall be deemed to be the new value of the Property as a whole. "Value" as used in this paragraph shall be determined by the Developer as of the date of the recording of the Amended Declaration. Such determination by the Developer shall be conclusive and binding on all Unit Owners, mortgagees, and other parties who then or in the future have any interest in the Property.

The percentages of undivided ownership interest, as amended and adjusted by the Amended Declaration, in the entire Common Elements, consisting of the Existing Common Elements plus the Added Common Elements, to be allocated among all the Units, consisting of the Existing Units plus the Added Units, shall be computed by taking as a basis the value of each Unit in relation to the value of the Property as a whole, determined as aforesaid.

The Existing Units shall be entitled to their respective percentages of ownership, as amended and adjusted and set forth in amended Exhibit "D" attached to the Amended Declaration, in the Added Common Elements as well as in the Existing Common Elements,

The Added Units shall be entitled to their respective percentages of ownership, as set forth in amended Exhibit "D", not only in the Added Common Elements but also in the Existing Common Elements.

Each and all of the provisions of this Declaration and the Exhibits attached hereto, as amended by each such successive Amended Declaration and the amended Exhibits attached thereto, shall be deemed to apply to each and all of the Units, including all such Added Units as well as all Existing Units, and to all of the Common Elements, including all such Added Common Elements as

well as all Existing Common Elements.

The recording of an Amended Declaration shall not alter or affect the amounts of any liens for common expenses due from any Existing Unit Owners before such recording, nor the respective amounts theretofore assessed to or due from Existing Unit Owners for common expenses or other assessments.

D) The lien of any mortgage encumbering any Existing Unit, together with its appurtenant percentage of undivided ownership interest in the Existing Common Elements, shall automatically be deemed to be adjusted and amended when an Amended Declaration is recorded, in accordance with the respective percentage of undivided ownership interest in the Common Elements for such Existing Unit as set forth in the amended Exhibit "D" attached to the Amended Declaration, and the lien of the mortgage shall automatically attach in that percentage to the Added Common Elements.

E) Each and all of the Unit Owners of all Existing Units and of all Added Units hereafter and their respective mortgagees, grantees, heirs, administrators, executors, legal representatives, successors, and assigns, by their acceptance of any deed or mortgage or other interest in or with respect to any of such Units, shall be deemed to have expressly agreed, assented, and consented to each and all of the provisions of this Declaration, with respect to the recording of any and all Amended Declarations as aforesaid that may amend, adjust, and reallocate from time to time their respective percentages of undivided ownership interest in the Common Elements, including the Existing Common Elements and Added Common Elements, from time to time as hereinabove provided; and hereby further agree to each and all of the provisions of each and all of said Amended Declarations that may hereafter be recorded in accordance with the foregoing provisions of this Declaration.

F) Each and all of the Unit Owners of all Existing Units and of all Added Units hereafter and their respective mortgagees, grantees, heirs, administrators, executors, legal representatives, successors, and assigns, by their acceptance of any deed or mortgage or other interest in or with respect to any of such Units, further acknowledge, consent, and agree, as to each such Amended Declaration that is recorded, as follows:

(1) The portion of the Additional Land described in each such Amended Declaration shall be governed in all respects by the provisions of this Declaration.

(2) The percentage of ownership in the Common Elements appurtenant to each Unit shall automatically be shifted and reallocated to the extent set forth in each such recorded Amended Declaration and, upon the recording of each such Amended Declaration, the amount by which such percentage appurtenant to a Unit is reduced, as set forth in each such recorded Amended

Declaration, shall thereby be and be deemed to be released and divested from the Unit Owner and reconveyed and reallocated amount the other Unit Owners as set forth in each such recorded Amended Declaration.

(3) Each deed, mortgage, or other instrument affecting a Unit shall be deemed given subject to the conditional limitation that the percentage of ownership in the Common Elements appurtenant to each Unit shall, upon the recording of each Amended Declaration, be divested pro tanto to the reduced percentage set forth in the Amended Declaration and vested amount the other Owners, mortgagees, and others owning an interest in the other Units in accordance with the terms and percentages of each such recorded Amended Declaration.

(4) A right of revocation is hereby reserved by the grantor in each such deed, mortgage, or other instrument of a Unit to so amend and reallocate the percentages of ownership in the Common Elements appurtenant to each Unit.

(5) The percentage of ownership in the Common Elements appurtenant to each Unit shall include and be deemed to include any additional Common Elements annexed hereto by a recorded Amended Declaration, and each deed, mortgage, or other instrument affecting a Unit shall be deemed to include such additional Common Elements, and the ownership of any such Unit and lien of any such mortgage shall automatically include and attach to such additional Common Elements as such Amended Declarations are recorded.

(6) Each Owner shall have a perpetual easement, appurtenant to his Unit, for the use of any additional Common Elements annexed thereto by and described in any recorded Amended Declaration, for the purpose therein set forth, except as to any portion the use of which is limited by exclusive easements granted to the Owners of specific Units as may be provided in any such Amended Declaration or this Declaration and except as to any portion that may be designated as Limited Common Elements.

(7) Each Owner by acceptance of the deed conveying his Unit agrees for himself and all those claiming under him, including mortgagees, that this Declaration and each Amended Declaration is and shall be deemed to be in accordance with the Act, and, for purposes of this Declaration as set forth in each such Amended Declaration shall be deemed to be made by agreement of all Unit Owners.

(8) The Trustee and Developer reserve the right to amend this Declaration in such manner, and each Owner agrees to execute and deliver such documents, necessary or desirable to cause the provisions of this Paragraph to comply with the Act as it may be amended from time to time.

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(9) The foregoing provisions of this Declaration and in deeds and mortgages of the Units and Common Elements contain and will contain clauses designed to accomplish a shifting of the Common Elements. None of the provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Elements can be accomplished.

13. Voting by Units. When thirty percent (30%) or fewer of the Units, by number, possess over fifty percent (50%) in the aggregate of the votes in the Association, any percentage vote of members specified in the Condominium Property Act or in the condominium instruments, shall require the specified percentage by number of units rather than by percentage interest in the common elements allocated to units that would otherwise be applicable.

14. Resale Procedures. In the event of any resale of a condominium unit by a Unit Owner other than the Developer, such Unit Owner may obtain from the Board of Managers for purposes of making available for inspection to prospective purchasers, upon demand, the following:

- (a) A copy of the Declaration, By-laws, other condominium instruments and any rules and regulations.
- (b) A statement of any liens, including a statement of the account of the Unit setting forth the amount of unpaid assessments and other charges due and owing.
- (c) A statement of any capital expenditures anticipated by the Association within the current or succeeding two (2) fiscal years.
- (d) A statement of the status and amounts of any reserve for replacement fund and any portion of such fund earmarked for any specific project by the Board of Managers.
- (e) A copy of the statement of financial condition of the Association for the last fiscal year for which such statement is available.
- (f) A statement of the status of any pending suits or judgments in which the Association is a party.
- (g) A statement setting forth what insurance coverage is provided for all Unit Owners by the Association.
- (h) A statement setting forth whether or not any

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improvements or alterations made to the Unit, or the Limited Common Elements assigned thereto, by the prior Unit Owners, are in good faith believed to be in compliance with the condominium instruments.

- (i) The President of the Association or such other officer designated by the Board shall furnish the above information when requested to do so in writing and within thirty (30) days of the request.
- (j) The Board of Managers shall establish a reasonable fee covering the direct out-of-pocket cost of providing such information and copying.

15. Headings. The headings and captions contained herein are inserted for convenient reference only and shall not be deemed to construe or limit the sections and articles to which they apply.

16. Land Trust Unit Owners' Exculpation. In the event title to any unit ownership is conveyed to a land title-holding trust, under the terms of which all powers of management, operation and control of the unit ownership remain vested in the trust beneficiary or beneficiaries, then the unit ownership 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 claim shall be made against any such title-holding Trustee personally for payment of any lien or obligation hereunder created and the Trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the unit ownership and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title of such unit ownership.

17. Trustee Exculpation. This Declaration is executed by

PARKWAY BANK AND TRUST COMPANY

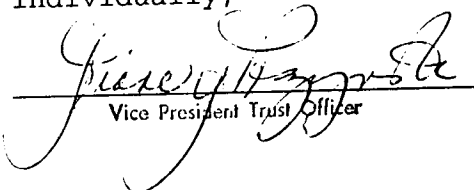
as Trustee aforesaid, in the exercise of power and authority conferred upon and vested in it as such Trustee (and said Trustee hereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed by every person, firm or corporation hereafter claiming any interest under this Declaration that said Trustee as aforesaid, and not personally, has joined in the execution of this Declaration for the sole purpose of subjecting the title holding interest and the trust estate under said Trust NO. 11569 to the terms of this Declaration; that any and all obligations, duties, covenants and agreements of every nature herein set forth by said, Trustee, as aforesaid, to be

kept or performed, are intended to be kept, performed and discharged by the beneficiaries under said trust or their successors, and not the said Trustee personally, and further, that no duty shall rest upon PARKWAY BANK AND TRUST COMPANY, 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, except where said Trustee is acting pursuant to direction as provided by the terms of said trust, and after the Trustee has first been supplied with funds required for the purpose. In event of a conflict between the terms of this paragraph and of the remainder of the Declaration on any questions of apparent liability or obligation resting upon said Trustee, the exculpatory provisions hereof shall be controlling.

IN WITNESS WHEREOF, the said PARKWAY BANK AND TRUST COMPANY, as Trustee as aforesaid and not individually, has caused its corporate seal to be affixed hereunto and caused its name to be signed in these presence by its Assistant Vice President and attested by its Secretary this 18th day of SEPTEMBER, 1997.

PARKWAY BANK AND TRUST COMPANY,
as Trustee, aforesaid, and not
individually,

BY:


Vice President Trust Officer

Attest:


ASSISTANT TRUST OFFICER

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