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DECLARATION OF CONDOMINIUM

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SILVER HAWK VILLAGE CONDOMINIUMS

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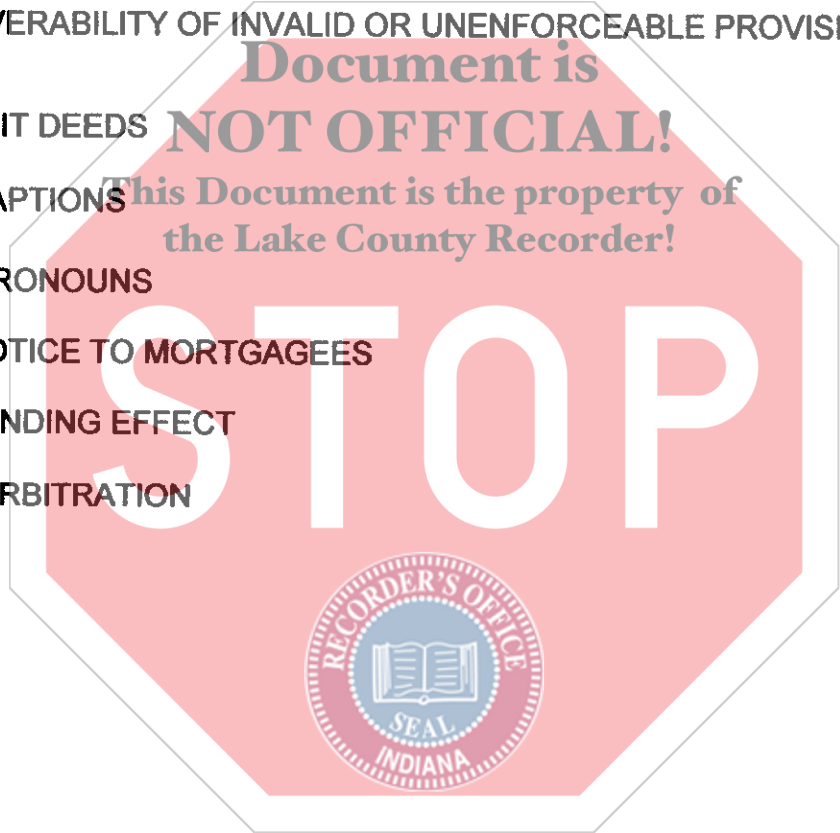
TABLE OF CONTENTS

	<u>Page</u>
I. DEFINITIONS	2
A. Assessment	2
B. Association	2
C. Buildings	2
D. Common Areas and Facilities	2
E. Common Expenses	3
F. Common Profit	4
G. Community Areas	4
H. Community Assessments	4
I. Community Association	4
J. Community Association Declaration	4
K. Community Association Delegates	4
L. Condominium Documents	4
M. Declaration or Declaration of Condominium	5
N. Developer	5
O. Single Family Attached Association	5
P. Expansion Real Estate	5
Q. Limited Common Areas and Facilities	5
R. Majority of Unit Owners	6
S. Occupant	6
T. Owner	6
U. Person	6
V. Plans	6
W. Property	6
X. Share	6
Y. Town	6
Z. Unit	6
AA. Unit Owner	6
II. COMMON AREAS AND FACILITIES AND LIMITED COMMON AREAS AND FACILITIES	7
A. Covenant Against Partition	7
B. Rules And Regulations Promulgated By Association	7
C. Collection Of Expenses	7
D. Use Of Common Areas and Facilities And Limited Common Areas And Facilities	7
E. Right of Entry	7
III. SHARES OF UNIT OWNERS	
IV. MAINTENANCE, REPAIR, REPLACEMENT AND ALTERATION OF UNITS AND COMMON AREAS AND FACILITIES AND LIMITED COMMON AREAS	8
A. By The Unit Owner	8
B. By The Association	10

V.	DESCRIPTION OF UNITS	11
A.	Real Property	11
B.	Boundaries	12
C.	Interpretation	12
D.	Appurtenances	12
E.	Easements	13
VI.	ESTABLISHMENT OF EASEMENTS	13
A.	Ingress And Egress	13
B.	Maintenance, Repair And Replacement	13
C.	Structural Support	13
D.	Utilities	13
E.	Emergency Easements Of Ingress And Egress	13
F.	Reasonable Access	14
G.	Easements For Encroachments	14
H.	Easement For Common Facilities	14
I.	Easement on Community Areas	14
J.	Community Association	14
K.	Additional Easements	14
L.	Termination Of Easements	14
VII.	USE RESTRICTIONS	14
A.	Use Of Units	15
B.	Use Of Common Areas and Facilities And Limited Common Areas And Facilities	15
C.	Nuisances	15
D.	Lawful Use	15
E.	Insurance	15
F.	Signs, Antennae And Lines	15
G.	Animals	16
H.	Rules And Regulations	16
I.	Leases	16
J.	Hazardous Substances	17
K.	Parking	19
L.	Indemnification	19
VIII.	CONVEYANCES	20
IX.	ADMINISTRATION	20
A.	Organization Of Association	20
B.	By-Laws Of Association	20
C.	Rules And Regulations	20
D.	Powers Of Association	20
E.	Membership and Membership Meetings	21
F.	Voting Rights	22
G.	Indemnification of Officers and Directors	22
H.	Notices	22

X.	<b>INSURANCE</b>	23
	A. Authority To Purchase	23
	B. Unit Owners	23
	C. Coverage	23
	D. Premiums	24
	E. Beneficiary Of Policies	24
	F. Insurance Trustee	24
	G. Proceeds Of Insurance	25
XI.	<b>RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE</b>	26
	A. Decision To Reconstruct Or Repair	26
	B. Plans And Specifications; Encroachments	26
	C. Reconstruction By Unit Owner	26
	D. Reconstruction By Association	27
XII.	<b>TAXES AND SPECIAL ASSESSMENTS</b>	29
	A. Assessment Of Taxes	29
	B. Payment By Association	29
	C. Personal Property Tax	29
XIII.	<b>ASSESSMENTS</b>	29
	A. Authority To Assess	29
	B. Determination Of Assessment	30
	C. Payment Of Assessment	30
	D. Funds And Accounts	31
XIV.	<b>ENFORCEMENT</b>	33
	A. Authority And Administrative Enforcement and Procedures	33
	B. Legal Remedies	35
	C. No Waiver Of Rights	36
	D. No Election Of Remedies	36
XV.	<b>AMENDMENT</b>	36
	A. Declaration	36
	B. Articles of Incorporation, By-Laws and Rules And Regulations	37
XVI.	<b>TERMINATION</b>	37
	A. By Agreement	37
	B. Destruction	38
	C. Ownership Of Property After Termination	38
	D. Personal Property	38
	E. Sale After Termination	38
	F. Association	38
XVII.	<b>COVENANTS RUNNING WITH THE LAND</b>	38

<b>XVIII. LIENS</b>	<b>39</b>
A. Protection Of Property	39
B. Notice Of Lien	39
C. Notice Of Suit	39
D. Effect	39
<b>XIX. JUDICIAL SALES</b>	<b>39</b>
A. Judicial Sales	39
B. Unauthorized Transactions	39
C. Foreclosures	39
<b>XX. PROVISIONS PERTAINING TO OWNER AND DEVELOPER</b>	<b>40</b>
A. Control By Developer	40
B. Absence Of Warranty	40
C. Right of Disposition	40
D. Right To Amend Declaration	40
E. Reservation Of Option To Expand Condominium	40
F. Assessment Exemption	41
G. Developers Reserved Rights and Easements	41
H. Dedication Rights Reserved	42
<b>XXI. SEVERABILITY OF INVALID OR UNENFORCEABLE PROVISIONS</b>	<b>42</b>
<b>XXII. UNIT DEEDS</b>	<b>43</b>
<b>XXIII. CAPTIONS</b>	<b>43</b>
<b>XXIV. PRONOUNS</b>	<b>43</b>
<b>XXV. NOTICE TO MORTGAGEES</b>	<b>43</b>
<b>XXVI. BINDING EFFECT</b>	<b>43</b>
<b>XXVII. ARBITRATION</b>	<b>43</b>



DECLARATION OF CONDOMINIUM  
OF  
SILVER HAWK VILLAGE CONDOMINIUMS

This Declaration is made this 27 day of February 2006 by Hecimovich Development Inc., (hereinafter referred to as the "Owner").

WIT N E S S E T H:

1. All capitalized terms used herein shall have the meaning ascribed to them at the first time they are used herein or in the definition set forth in Article I below.

2. The Owner holds fee simple title to certain real estate located in the Town of Crown Point, Lake County, Indiana (the "Town"), and legally described as follows:

Lots 190 through 203 inclusive, in Silver Hawk Phase 2, a subdivision in the Town of Crown Point, Indiana as per Record Plat thereof, appearing in Plat Book 92 page 42, in the Office of the Recorder of Lake County, Indiana (the "Real Estate").

3. It is intended by this Declaration that the Real Estate (and those portions of the Expansion Real Estate submitted to the provisions of this Declaration pursuant to Section XX.E. hereof) shall be subject to the provisions of the Horizontal Property Act of the State of Indiana (I.C. 32-1-6-1 et seq.) as amended from time to time (hereinafter the "Act"); and

4. The Real Estate (and those portions of the Expansion Real Estate submitted to the provisions of this Declaration pursuant to Section XX.E. hereof) will be improved with Buildings, together with other appurtenances and facilities, as hereinafter described; and

5. A condominium is a concept of ownership which, when applied to multi-unit buildings, provides each Unit Owner with a fee simple title to and exclusive ownership and possession of its Unit and an undivided interest in the Common Areas and Facilities and Limited Common Areas and Facilities; and

6. The Owner desires to establish for its own benefit and that of all future Unit Owners and Occupants of the Property, and each part thereof, certain easements and rights in, over, and upon the Property and certain mutually beneficial restrictions and obligations with respect to the use and maintenance thereof; and

7. The Owner desires and intends that the Unit Owners, mortgagees and Occupants of the Property shall at all times enjoy the benefits of and hold their interest in the Property subject to the rights, easements, privileges and restrictions hereinafter set forth which are all in furtherance of a plan to promote

and protect the cooperative aspects of ownership, the congenial occupation of the Property, the value of the Units, and to facilitate the proper administration of the Property as a first class, safe, healthy, happy, quiet and restful residential community; and

8. The Owner is the owner of certain additional real estate in the Town, which is legally described as follows:

Lots 190 through 203 inclusive, in Silver Hawk Phase 2, a subdivision in the Town of Crown Point, Indiana as per Record Plat thereof, appearing in Plat Book 92 page 42, in the Office of the Recorder of Lake County, Indiana (the "Real Estate").

(the "Expansion Real Estate"), which Expansion Real Estate may be subjected in the future to this Declaration pursuant to Section XX.E. hereof at the sole discretion of Owner, but which shall not be required to be made a part of Silver Hawk Village Condominiums.

NOW, THEREFORE, the Owner hereby declares that the Property shall hereafter be subject to the provisions of the Act in accordance with the following:

ARTICLE I  
DEFINITIONS

The following terms as used herein or elsewhere in the Condominium Documents, unless otherwise provided, or unless the context clearly requires otherwise, shall mean the following:

A. ASSESSMENT: means that portion of the cost of maintaining, repairing and managing the Property which is to be paid by each Unit Owner in accordance with this Declaration.

B. ASSOCIATION: means Silver Hawk Village Condominium Association, Inc., an Indiana nonprofit corporation, and its successors. Copies of the Articles of Incorporation, By-Laws and Rules and Regulations of said corporation are attached hereto, made a part hereof and marked Exhibits "B", "C" and "D", respectively.

C. BUILDINGS: means the structure located on the Real Estate to be constructed substantially in accordance with the Plans, constituting one (1) building containing four (4) Units, and the additional building(s) containing four (4) Units each constructed substantially in accordance with the Plans, located on the Expansion Real Estate, subject to the provisions of Article XV.A.5. and Article XX.E hereof.

D. COMMON AREAS AND FACILITIES: means and includes:

1. The Real Estate (and those portions of the Expansion Real Estate submitted to the provisions of this Declaration pursuant to Section XX.E. hereof).

2. The foundations, columns, girders, beams, supports, walls and roofs of the Buildings, windows, Unit access doors, and all other physical improvements not located within the boundaries of a Unit as described in Article V.

3. The yards, landscaped areas, monument signage, fences, streets, service drives, pavement, outdoor parking areas, common lights and walks unless otherwise designated herein, or on the Plans as a Limited Common Area.

4. Facilities and installations within the Property providing central services such as gas, electricity and other utilities, sanitary and storm sewers, and water and communication lines.

5. All other parts of the Property necessary and convenient to its existence, maintenance and safety, or normally in common use.

E. COMMON EXPENSES: means and includes the actual or estimated cost of:

1. Maintenance, management, operation, repair and replacement of the Common Areas and Facilities and Limited Common Areas and Facilities, those parts of the Units which the Association has the responsibility of maintaining, repairing and replacing, and the expenses incurred by the Association in meeting its obligations under Article IV.B.

2. Management and administration of the Association, including, but not limited to, compensation paid by the Association to a managing agent, accountants, attorneys and/or other employees, if any.

3. The cost of all water, electricity and gas used for and servicing the Common Areas and Facilities and Limited Common Areas and Facilities.

4. All sums lawfully assessed against the Unit Owners by the Association as a Common Expense.

5. All sums lawfully assessed against the Unit Owners and the Association by the Community Association for maintenance, repair and replacement of Community Areas pursuant to the Community Association Declaration.

6. Expenses agreed upon as Common Expenses by the Association.

7. Any other expenses declared to be Common Expenses by other provisions of this Declaration, the Condominium Documents, or required by the Act.



F. **COMMON PROFIT:** means the balance of all income, rents, profits and revenues derived from the Common Areas and Facilities remaining after the deduction of the Common Expenses.

G. **COMMUNITY AREAS:** shall mean those parts or parcels within the Silver Hawk Village development of the Declarant which are owned and/or maintained by the Community Association pursuant to the Community Association Declaration, for the benefit of the Unit Owners within the Association and the owners within the Single Family Association.

H. **COMMUNITY ASSESSMENTS:** shall mean and include the actual and estimated expenses of operating the Community Association; the cost of owning, maintaining, repairing and replacing the Community Areas which include storm water facilities, sanitary facilities, landscaping, signage, streets, irrigation improvements, sidewalks and other areas and improvements which are owned by the Community Association for the benefit of all owners within the Silver Hawk Village Development of the Owner, as set forth in the Community Association Declaration.

I. **COMMUNITY ASSOCIATION:** shall mean or refer to Silver Hawk Village Community Association, Inc., an Indiana non-profit corporation, and its successors and assigns.

J. **COMMUNITY ASSOCIATION DECLARATION:** shall mean that certain Declaration of Covenants, Conditions, Restrictions and Easements For Silver Hawk Village Community Association in the Town of Crown Point, Lake County, Indiana (as amended from time to time), as recorded in the Office of the Recorder of Lake County, Indiana.

K. **COMMUNITY ASSOCIATION DELEGATES:** shall mean two (2) members of the Board of Directors of the Association elected by the Board and designated as the Community Association Delegates, who shall represent the Association on the Community Association's board of directors.

L. **CONDOMINIUM DOCUMENTS:** means this Declaration and the exhibits incorporated herein by reference and/or attached hereto as the same from time to time may be amended. Said exhibits are as follows:

Exhibit A

The legal description of the Real Estate prepared by Land Technologies Inc., Professional Engineers and Land Surveyors, and filed for record in the Office of the Recorder of Lake County, Indiana, on the 28 day of February, 2006, as per Plat Book 92 Page 42.

- Exhibit B                    Articles of Incorporation of the Association.
- Exhibit C                    By-Laws of the Association.
- Exhibit D                    Rules and Regulations of the Association.

M.    **DECLARATION OR DECLARATION OF CONDOMINIUM**: means this instrument by which the Property is submitted to the provisions of the Act, as such Declaration may from time to time be lawfully amended.

N.    **DEVELOPER**: means Hecimovich Development, Inc., an Indiana corporation. Any successor or assignee of Hecimovich Development, Inc., shall be deemed a Developer and entitled to exercise all or any rights of Developer as provided in Section XX.E. hereof.

O.    **SINGLE FAMILY ATTACHED RESIDENCES ASSOCIATION**: means the Silver Hawk Village Single Family Association, Inc., an Indiana non-profit corporation, and its successors and assigns.

P.    **EXPANSION REAL ESTATE**: means the real estate in the Town, legally described as follows:

Lots 190 through 203 inclusive, in Silver Hawk Phase 2, a subdivision in the Town of Crown Point, Indiana as per Record Plat thereof, appearing in Plat Book 92 page 42, in the Office of the Recorder of Lake County, Indiana.

which real estate may be submitted to the provisions of this Declaration pursuant to Section XX. E. hereof.

Q.    **LIMITED COMMON AREAS AND FACILITIES**: means and includes those parts of the Common Areas and Facilities designated in this Declaration and on the Plans as reserved for use of a single Unit and/or deemed to serve a single Unit to the exclusion of the other Units and shall include the following:

1.    A portion of the Common Areas and Facilities contiguous to and serving exclusively a single Unit or adjoining Unit as an inseparable appurtenance thereto, including specifically, but not by way of limitation, patios, balconies, the driveway area providing access to the garage parking area that is part of such Unit Owner's Unit, Unit sidewalks, and such portions of the perimeter walls, floors and ceilings, doors, vestibules, windows and entry ways, and of all associated fixtures and structures therein as lie outside the Unit boundaries (as described in Article V hereof), and including, even if not adjoining or contiguous to a single Unit, the air conditioning compressor or compressors serving a single Unit.

2.    The Association may, from time to time, designate other portions of the Common Areas and Facilities as Limited Common Areas

and Facilities, including but not limited to rubbish collection areas, and such heating, cooling, plumbing and electrical fixtures and all associated pipes, ducts and wiring as may serve exclusively a single Unit or group of contiguous Units, even if not contiguous to or adjoining a single Unit or group of contiguous Units.

R. MAJORITY OF UNIT OWNERS: means the Unit Owners with fifty-one percent (51 %) or more of the Shares as set forth on the Statement of Interest in Article III.

S. OCCUPANT: means any Person residing in a Unit, including the Unit Owner, lessees, sublessees, and those living with Unit Owner, lessees and sublessees.

T. OWNER: means Hecimovich Development, Inc., an Indiana corporation.

U. PERSON: means a natural person, limited liability company, corporation, firm, unincorporated association, trustee or other legal entity capable of holding title to real property.

V. PLANS: means the plans set forth on and made a part hereof as Exhibit "A".

W. PROPERTY: means and includes the Real Estate those portions of the Expansion Real Estate submitted to the provisions of this Declaration pursuant to Section XX.E. hereof, the Buildings, the Units, all other improvements and structures thereon, and all easements, rights and appurtenances belonging thereto.

X. SHARE: means the percentage interest attributed to each Unit as set forth in the Statement of Interest in Article III.

Y. TOWN: means the Town of Crown Point, Indiana.

Z. UNIT: means an enclosed space consisting of one or more rooms occupying a part of a floor in a Building of two stories designed for residential use, a garage area located on the first floor of such Building and, if the rooms constituting the living space of such Unit are located on the second floor of such Building, the stairwell providing access to such Unit, as separately described and designated on the Plans. A Unit shall exist for all purposes under this Declaration, only upon issuance of an occupancy permit by the Town for that Unit or for the Building of which the Unit is a part.

AA. UNIT OWNER: means a Person who owns (or more than one Person who jointly own) in fee simple a Unit within a Building and an undivided interest in the Common Areas and Facilities and Limited Common Areas and Facilities in the percentage interest specified in this Declaration.

ARTICLE II  
COMMON AREAS AND FACILITIES AND  
LIMITED COMMON AREAS AND FACILITIES

The Common Areas and Facilities and Limited Common Areas and facilities shall be used in accordance with and subject to the following provisions:

A. COVENANT AGAINST PARTITION. In order to effectuate the intent hereof and to preserve the condominium and the condominium concept of ownership, the Property shall remain undivided, and no Person, irrespective of the nature of his interest in the Property, shall bring any action or proceeding for partition or division of the Property or any part thereof until the termination of the Declaration in accordance with provisions herein contained or as required by law.

B. RULES AND REGULATIONS PROMULGATED BY ASSOCIATION. No Person shall use the Common Areas and Facilities or Limited Common Areas or Facilities or any part thereof in any manner contrary to the Rules and Regulations pertaining thereto as from time to time may be promulgated by the Association. Without in any manner intending to limit the generality of the foregoing, the Association shall have the right but not the obligation, to promulgate rules and regulations limiting the use of the Common Areas and Facilities and Limited Common Areas and Facilities. Said Rules and Regulations shall be subject to change, amendment or rescission by action of the Board of Directors, and shall be enforced in accordance with the provisions of Article XIV hereof.

C. COLLECTION OF EXPENSES. Expenses incurred or to be incurred for the maintenance, repair, replacement, alteration, management and operation of the Common Areas and Facilities and Limited Common Areas and Facilities shall be collected from Unit Owners in such amounts as may be assessed in accordance with provisions contained herein. Expenses incurred or to be incurred for the maintenance, repair, replacement, alteration, management, operation or furnishing of services for Limited Common Areas and Facilities may be assessed to those Unit Owners using such Limited Common Areas and Facilities or receiving such services as determined by the Board of Directors.

D. USE OF COMMON AREAS AND FACILITIES AND LIMITED COMMON AREAS AND FACILITIES. Subject to the Rules and Regulations from time to time pertaining thereto, all Unit Owners may use the Common Areas and Facilities in such manner as will not restrict, interfere with or impede the use thereof by other Unit Owners. All Unit Owners having an interest in the Limited Common Areas and Facilities may use such areas and facilities in such manner as will not restrict, interfere with or impede the use thereof by other Unit Owners having an interest therein.

E. RIGHT OF ENTRY. The Association shall have the right and license, but shall not be obligated, to enter into any Unit for emergency, security and safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers and all policemen, firemen,

ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Unit Owner. This right of entry shall include the right of the Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event a Unit Owner fails or refuses to cure the condition upon request by the Board. There is hereby granted to the Association, and its agents, employees, and independent contractors, a license to enter upon all Units to the extent necessary or appropriate for the conduct of the Association's responsibilities under Article IV.

### ARTICLE III

#### SHARES OF UNIT OWNERS

The Shares of the Unit Owners in the Common Areas and Facilities and Limited Common Areas and Facilities shall be the percentage amounts as set forth in the Statement of Interest below. The Shares of the Unit Owners may be altered only by amendment to this Declaration executed in a form for recording by all of the Unit Owners and first mortgagees of such Unit Owners. No such alteration shall affect the lien of prior recorded mortgages unless the written consent of the holder of such mortgage is obtained and recorded. The Share of a Unit Owner in the Common Areas and Facilities and Limited Common Areas and Facilities is appurtenant to that Unit Owner's Unit, and inseparable from Unit ownership.

#### STATEMENT OF INTEREST

The Share of each Unit Owner in the Common Areas and Facilities and Limited Common Areas and Facilities shall be equal to a percentage determined by dividing the number one (1) by that number which is equal to the total number of Units in the condominium from time to time, and multiplying that result by one hundred (100). For purposes of the foregoing, a Unit will be deemed to be a part of the condominium upon the issuance of an occupancy permit therefore by the Town, or upon the actual occupancy of the Unit by a Unit Owner or Occupant, whichever first occurs.

### ARTICLE IV

#### MAINTENANCE, REPAIR, REPLACEMENT AND ALTERATION OF UNITS AND COMMON AREAS AND FACILITIES AND LIMITED COMMON AREAS

##### A. BY THE UNIT OWNER.

1. Maintenance Repair And Replacement. It shall be the responsibility of the Unit Owner to maintain, repair and replace at the Unit Owner's expense all portions of the Unit within the boundaries of the Unit as described in Article V., excepting only those portions and items for which the responsibility for maintenance, repair and replacement is the specific responsibility of the Association under Article IV.B., but including all parts of the appliances, light and plumbing fixtures, the electrical system from and including the circuit breaker

panels, fireplace, flue and chimney, if any, and all heating and air conditioning units together with any lines and conduits serving such Units, even though located outside the boundaries of the Unit, which in each case service the Unit Owner's Unit, provided, however, that the Unit Owner shall secure the prior written approval of the Association as to the Person selected by the Unit Owner to perform all work.

2. Alterations. A Unit Owner may alter any portion of the Unit within the boundaries of the Unit as described in Article V, except that

a. No alteration shall be made of any portion of the Unit for which the responsibility for maintenance, repair and replacement is the specific responsibility of the Association under Article IV.B.

b. No alteration shall be made of any portion of the Unit which would or might jeopardize or impair the safety, soundness, soundproofing, fireproofing, or structural integrity of the Unit or the Building, or which would in any manner affect the use, possession or occupancy of other Units within the Building, or the Building itself.

c. Security alarm systems utilizing on-site audio or visual alarms (Le., sirens, bells and/or flashing lights) are prohibited.

3. General Obligations And Restrictions. In the performance of the Unit Owner's obligations, and the exercise of the Unit Owner's rights as set forth in this Article IV, each Unit Owner shall be bound by the following general obligations and restrictions:

a. No Unit Owner shall have the right to maintain, repair, replace, alter, paint or decorate any portion of a Building or any other Common Areas and Facilities or Limited Common Areas and Facilities which are not within the boundaries of the Unit Owner's Unit as described in Article V (including patios and balconies), or which are within said boundaries but with respect to which the Association has the responsibility for maintenance, repair, replacement and alteration under Article IV.B. (e.g., Unit Owners are prohibited from painting or otherwise altering or replacing exterior Unit access doors, garage doors, windows or window frames, and from installing window screens or screen doors).

b. All Unit Owners shall have the responsibility to promptly report to the Association or its agent any defect or need for maintenance, repair or replacement, the responsibility for which is with the Association under Article IV.B. below.

c. No Unit Owner shall have the right to impair any easement whatsoever.

d. It shall be the responsibility of each Unit Owner to promptly notify the Association in writing of any intended alteration under Article

IV.A.2., prior to the commencement of same. No alteration shall be made without the express written approval of the Board of Directors of the Association, after consideration by said Board of Directors to determine whether said proposed alteration is in accordance with the provisions of this Article IV.A. A proposed alteration under Article IV.A.2.a. shall be deemed to have been approved in writing by the Board of Directors in the event that the Board of Directors has not acted within sixty (60) days of the date of the Unit Owner's written notice. A proposed alteration under Article IV.A.2.b. shall be deemed to have been denied in writing by the Board of Directors in the event that the Board of Directors has not acted within sixty (60) days of the date of the Unit Owner's written notice to the Board of Directors.

e. All Unit Owners shall perform their responsibilities in such manner so as to not unreasonably disturb Occupants residing within the Building.

**B. BY THE ASSOCIATION.**

1. Maintenance, Repair And Replacement Of Common Areas and Facilities And Limited Common Areas And Facilities. It shall be the responsibility of the Association to maintain, repair and replace all portions of the Common Areas and Facilities and Limited Common Areas and Facilities located outside of the boundaries of Units as described in Article V below.

2. Maintenance, Repair And Replacement Of Portions Of The Condominium Located Within The Boundaries Of Units. It shall be the responsibility of the Association to maintain, repair and replace within the boundaries of each Unit as described in Article V all portions of the Building structure, and all portions of the Unit which contribute to the support of the Building and the Unit boundaries and which are otherwise in common use, including, but not limited to, load bearing walls, windows (other than cleaning), exterior Unit access doors, garage doors, all commonly used conduits, ducts, piping, plumbing, wiring and other facilities for the furnishings of utilities, communications, television and security services, and all of the electrical system up to but not including the circuit breaker panel of the Unit, but excluding all appliances, plumbing fixtures, hot water tank, electrical and lighting fixtures, telephone and intercommunication systems, heating and air conditioning units and the electrical system from and including the circuit breaker panels; but shall also include all incidental damage caused to the Unit by such work as may be done or caused to be done by the Association in accordance with this Article IV.B.

3. Maintenance, Repair and Replacement of Common Areas and Facilities and Limited Common Area Facilities Due to Damage Caused by Unit Owner or Unit Owners. It shall be the responsibility of the Association to maintain, repair and replace any part of the Common Areas and Facilities or Limited Common Areas and Facilities that are damaged by (or for which damage is attributable to) a Unit Owner or Unit Owners, whether intentionally or

unintentionally. The expenses incurred by the Association for such maintenance, repair and replacement shall be payable to the Association by that Unit Owner or those Unit Owners responsible for such damage, and may be assessed to such Unit Owner or Unit Owners pursuant to Article XIV hereof.

4. Alterations And Improvements. The Association shall have the right to make or cause to be made such alterations and improvements to the Common Areas and Facilities and Limited Common Areas and Facilities as it may deem necessary, provided that the making of such alterations and improvements are first approved by the Board of Directors of the Association. If required by law or contract, the approval of the first mortgagees of individual Units shall also be obtained. In the event Unit Owners request that alterations and improvements be made, the cost of making such alterations and improvements shall be assessed as Common Expenses, unless in the judgment of not less than eighty percent (80%) of the Board of Directors, such alterations and improvements are exclusively or substantially exclusively for the benefit of the Unit Owner or Owners requesting the same. In that event, the requesting Unit Owners shall be assessed therefore in such proportions as they approve jointly, and failing such agreement, in such proportions as may be determined by the Board of Directors of the Association. The terms "alteration and improvement" as used in this paragraph shall not be construed to include repair or replacement due to casualty, loss or damage under Article XI.

4. General Obligations And Restrictions. The following shall apply to the Association in the performance of its obligations and the exercise of its rights as set forth in this Article IV:

- a. Nothing herein contained shall be construed so as to preclude the Association from delegating to Persons, firms, or corporations of its choice such duties as may be imposed upon the Association under this Article IV.B. as are approved by the Board of Directors of the Association.
- b. Nothing herein contained shall be construed so as to impose a contractual liability upon the Association or an individual member of the Board of Directors. Neither the Association nor the individual officers or members of the Board of Directors thereof shall be liable for damage of any kind except those resulting from willful misconduct or bad faith.

ARTICLE V  
DESCRIPTION OF UNITS

A. REAL PROPERTY. Each Unit, the space within it as shown on the Plans, and all appurtenances thereto, shall, for all purposes, constitute a separate parcel of real property which may be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the Property, except as otherwise provided in this Declaration and the Act.



B. **BOUNDARIES.** Each Unit shall be bounded as to both horizontal and vertical boundaries as shown on the Plans, subject to such encroachments as are contained in the Building whether the same exist now or are created by construction, settlement or movement of the Building, or permissible repairs, reconstruction or alterations. Said boundaries are intended to be as follows:

1. **Horizontal Boundaries:**

a. The planes formed by the interior surface of the unfinished drywall ceiling above and abutting the Unit.

b. The planes formed by the interior top surfaces of the flooring below the finished floor covering abutting the Unit, or the top of the concrete slab below and abutting the Unit, as applicable.

2. **Vertical Boundaries:**

a. The planes formed by the interior surfaces of the unfinished drywall of the boundary walls of each Unit.

C. **INTERPRETATION.** In interpreting deeds, mortgages and the Plans, the existing physical boundaries of the Unit or of a Unit reconstructed in substantial accordance with the original construction plans and specifications thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in a deed, mortgage or the Plans, regardless of settling or lateral movement of the Building and regardless of minor variance between boundaries shown on the Plans or in the deed and those of the Building.

D. **APPURTENANCES.** Each Unit shall include and the same shall pass with each Unit as an inseparable appurtenance thereto, whether or not separately described, conveyed or encumbered, all of the rights, title and interest of a Unit Owner in the Property, which shall include but not be limited to:

1. An undivided Share of the Common Areas and Facilities and Limited Common Areas and Facilities, as provided in Article III hereof.

2. The heating and air conditioning system located outside of the boundaries of the Unit that services the Unit, including ducts and lines appurtenant to such system.

3. Easements for the benefit of the Unit.

4. The patio or balcony, as applicable, the driveway area providing access to the garage parking area that is part of such Unit Owner's Unit, and other areas designated herein or on the Plans as Limited Common Areas and Facilities.

5. Association membership and funds and assets held by the Association for the benefit of the Unit Owner.

6. All other rights and obligations of a Unit Owner under the Condominium Documents.

7. In addition to and not in derogation of the ownership of the space described and set forth on the Plans, the use of the space not owned by the Owner and which is occupied by the Unit.

E. EASEMENTS. Each Unit, the boundaries thereof and the appurtenances thereto shall be subject to the easements established pursuant to the provisions of Article VI hereof.

## ARTICLE VI

### ESTABLISHMENT OF EASEMENTS

The following easements which shall run with the land are hereby established for the benefit of Unit Owners and the Association:

A. INGRESS AND EGRESS. Easements over, across, under and through the Common Areas and Facilities and Limited Common Areas and Facilities for ingress and egress for all Occupants and other Persons making use of such Common Areas and Facilities and Limited Common Areas and Facilities in accordance with the terms of the Condominium Documents.

B. MAINTENANCE, REPAIR AND REPLACEMENT. Easements for the benefit of the Association over, across, under and through the Units and Common Areas and Facilities and Limited Common Areas and Facilities for inspection, maintenance, repair and replacement of the Units and Common Areas and Facilities and Limited Common Areas and Facilities.

C. STRUCTURAL SUPPORT. Every portion of a Unit which contributes to the structural support of the Building in which it is located shall be burdened with an easement of structural support for the benefit of the Units and the Common Areas and Facilities and Limited Common Areas and Facilities.

D. UTILITIES. Easements for the benefit of the Association over, across, under and through the Units and Common Areas and Facilities and Limited Common Areas and Facilities for all facilities for the furnishing of common utility, communication and security services within the Buildings, which facilities shall include, but not be limited to, conduits, ducts, plumbing and wiring; provided, however, that the easements for such facilities through a Unit shall be substantially in accordance with the construction plans and specifications of the Buildings.

E. EMERGENCY EASEMENTS OF INGRESS AND EGRESS. Easements over, across, under and through all doors, patios, balconies, access areas, and windows whenever reasonably required for emergency ingress and egress. Unit Owners shall not install or allow to be installed locks, security

devices or other equipment which will or might impair such easements unless otherwise provided in the Rules and Regulations of the Association.

F. REASONABLE ACCESS. Use of any of said easements for access to Units shall be limited to reasonable hours except in case of emergency.

G. EASEMENTS FOR ENCROACHMENTS. All of the Property shall be subject to easements for any encroachments which may now or hereafter exist that are caused by settlement or movement of any improvements upon the Property or any improvements contiguous thereto or that are caused by inaccuracies in the original construction of such improvements or by minor inaccuracies in the construction, repair or alterations of such improvements. This easement shall continue until the encroachments no longer exist.

H. EASEMENT FOR COMMON FACILITIES. Each Unit Owner shall have an easement in common with each other to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in any of the other Units which also serve the Unit Owner's Unit.

I. EASEMENT ON COMMUNITY AREAS. Unit Owners shall have an easement for use and enjoyment of the Community Areas provided the Unit Owners have paid all Assessments required under this Declaration and are not otherwise in violation of this Declaration or the Community Association Declaration.

J. COMMUNITY ASSOCIATION. The Community Association has been formed to be responsible for the general management and supervision of the Community Areas, and shall have all of the powers to perform, and shall be responsible to perform, all of the obligations provided in the Community Association Declaration. The use and enjoyment of the Residential Units, the Common Area and the Community Areas is subject to the governance of this Declaration and the Community Association Declaration.

K. ADDITIONAL EASEMENTS. The Association is granted the authority to grant easements to utility companies upon such terms and conditions and for such consideration as it deems appropriate.

L. TERMINATION OF EASEMENTS. All easements established herein except the easements for encroachments shall terminate on the date this Declaration is terminated as herein provided.

ARTICLE VII

USE RESTRICTIONS

In order to further the plan to promote and protect the cooperative aspects of ownership, to provide for a congenial occupation of the Property, to provide for the protection of the value of the Units, to facilitate the proper administration of the Property, and to provide a first class, safe, healthy, happy, quiet and restful

living environment, the use of the Property shall be subject to the following provisions:

A. USE OF UNITS. The Units shall be used only for single-family residences with no more than two (2) natural persons per bedroom. No separate part of a Unit may be rented, and no trade, business, profession or other type of commercial activity may be conducted in any Unit, or on or in any of the Common Areas and Facilities or Limited Common Areas, provided, however, that Owner and Developer shall be entitled to use the Common Areas and Facilities and Limited Common Areas and Facilities, and any Unit owned by Owner or Developer, as an office, model Unit, or for any other business activity related to the development of the condominium and the sale of Units therein, for so long as Owner or Developer owns any of the Units.

B. USE OF COMMON AREAS AND FACILITIES AND LIMITED COMMON AREAS AND FACILITIES. The Common Areas and Facilities and Limited Common Areas and Facilities shall be used as reasonably intended for the enjoyment of the Units, and shall be in accordance with the provisions of Article II.

C. NUISANCES. No nuisances shall be allowed upon the Property nor shall any use or practice be allowed which would annoy residents or interfere with the peaceful possession and proper use of the Property by its residents, or which will obstruct or interfere with the rights of other Unit Owners or the Association. This provision shall not be construed to prohibit or limit the enforcement of any provision of the Condominium Documents which does not constitute a nuisance, or to prohibit the Association from adopting Rules and Regulations prohibiting conduct which does not constitute a nuisance.

D. LAWFUL USE. No immoral, improper, offensive or unlawful use shall be made of the Property nor any part thereof and all laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The respective responsibilities of Unit Owners and the Association of complying with the requirements of governmental bodies regarding the maintenance, repair, replacement or alteration of the Property shall be the same as provided in Article IV hereof.

E. INSURANCE. A Unit Owner shall not permit or suffer anything to be done or kept in the Owner's Unit which will increase the insurance rates on that Unit, the Common Areas and Facilities or Limited Common Areas or Facilities or any portion of the Property.

F. SIGNS, ANTENNAE AND LINES. No Unit Owner shall display any sign, advertisement or notice of any type (1) on the exterior of a Unit, or (2) on the interior of a Unit which is visible from the exterior of a Unit, or (3) on the Common Areas and Facilities or Limited Common Areas or Facilities, or (4) any other portion of the Property. No Unit Owner shall erect any exterior antennae or aerials upon a Unit, the Common Areas and Facilities or Limited Common Areas or Facilities or any portion of the Property, except for satellite dishes of 20" in

diameter or less, the location of which shall be governed by the Rules and Regulations. No clothesline or other similar device shall be allowed on any portion of the Property. Notwithstanding the foregoing, the Owner and Developer shall be entitled to post signs advertising the Units for sale in locations and of sizes and configurations deemed appropriate by them, so long as they own any Unit.

G. ANIMALS. A Unit Owner may not keep, raise or breed any animals, animals, livestock or poultry in a Unit, nor may any of the same be raised, bred or kept upon the Common Areas and Facilities or Limited Common Areas and Facilities or any portion of the Property, except as may be provided from time to time by the Rules and Regulations.

H. RULES AND REGULATIONS. Rules and Regulations concerning the use of the Property shall be promulgated and amended by the Association acting by and through its Board of Directors each of which shall be deemed to be incorporated herein by reference and made a part hereof, as amended from time to time; provided, however, copies of all such Rules and Regulations shall be furnished to each Unit Owner prior to the time that the same become effective. The initial Rules and Regulations are attached hereto, made a part hereof, and marked Exhibit "D". The Rules and Regulations set forth on Exhibit "D" and all rules and regulations promulgated from time to time shall be deemed to be reasonable and enforceable, so long as they bear any relationship to the safety, health, happiness and enjoyment of life of all of the Unit Owners, are in furtherance of a plan to provide for the congenial occupational of the Property, to promote and protect the cooperative aspects of ownership, the value of the Units, and/or facilitate the administration of the Property as a first class, safe, healthy, happy, quiet and restful residential community, and are not arbitrary and capricious. The Board of Directors of the Association is hereby granted the specific power and authority to enforce said rules and regulations in accordance with the provisions of Article XIV.

I. LEASES. The Association, through the Board of Directors, shall have the right to promulgate and adopt Rules and Regulations to regulate and limit the right of Unit Owners, lessees and sublessees to lease Units, which are more restrictive than those set forth in this Declaration of Condominium. Not more than twenty (20%) of the Units shall be leased simultaneously and the granting or denying of leases shall occur in the order the written request is received. This provision shall not apply to Developer's Models. Under no circumstances shall a Unit be leased or sublet for transient, hotel or motel purposes and all leases and subleases shall be of at least one (1) year duration. In the event a Unit is to be leased or sublet, the Unit Owner or the lessor of such Unit agrees that the lease or sublease shall be in such form, and shall contain all of the provisions, as prescribed by the Rules and Regulations and shall provide that the Association shall be a party thereto for the purpose of enforcing the provisions of all of the Condominium Documents, in accordance with Article XIV hereof. If any lease does not comply with the restrictions and limitations of this Article VII, or with the Rules and Regulations, it shall be invalid, and the Association shall have the right to evict and eject any Occupant claiming a right of possession under such invalid lease, and to seek damages and all other legal and equitable remedies from the Unit Owner or Occupant.

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J. **HAZARDOUS SUBSTANCES.** Occupants are prohibited from storing, using, or permitting the storage or usage of gasoline, oil, kerosene, or any combustible fuel, or inflammable fluid or liquid on the Property.

Occupants are prohibited from using, generating, manufacturing, producing, storing, releasing, discharging or disposing of, on, under or about the Property, or transporting to or from the Property, any Hazardous Substance (as defined below), or allow any other Person to do so except in amounts and under conditions permitted by applicable laws. Notwithstanding any term or provision of the Condominium Documents to the contrary, each Unit Owner, and the Occupants of that Unit Owner's Unit, shall be solely responsible for the safe, proper and legal disposal of all Hazardous Substances from that Unit. Occupants are prohibited from depositing or placing in any common garbage, trash or refuse receptacle provided by the Association, any Hazardous Substance. Each Unit Owner and each Occupant shall keep and maintain that Owner's Unit in compliance with, and shall not cause or permit that Unit, or any of the Common Areas and Facilities or Limited Common Areas and Facilities, or any part of the Property, to be in violation of any Environmental Law (as defined below). The Association may inspect and test each Unit, in the event that the Association obtains reasonable cause to believe that there exists any violation of any Environmental Law, and all reasonable expenses of such inspection or testing which the Association conducts, which shall disclose a violation of any Environmental Law, shall be reimbursed to the Association as a Special Assessment. Each Occupant shall give prompt written notice to the Association of:

- a. Any proceeding or inquiry by any governmental authority with respect to the presence of any Hazardous Substance on the Property, or the migration thereof from or to other properties;
- b. All claims made or threatened by any third party against the Occupant or the Property relating to any loss or injury resulting from any Hazardous Substance; and
- c. Occupant's discovery of any Hazardous Substance or any occurrence or condition on any real property adjoining or in the vicinity of the Property that could or may cause the Property or any part thereof to be subject to any restriction on the ownership, occupancy, transferability or use of the Property under any Environmental Law, including, without limitation, Occupant's discovery of any Hazardous Substance, or any occurrence or condition on any real property adjoining or in the vicinity of the Property.

The Association and any Unit Owner shall have the right to join and participate in as a party if it so elects, any legal proceedings or actions initiated against any Occupant with respect to the Property in connection with any Environmental Law. The Unit Owner and each Occupant shall protect, indemnify and hold harmless the Association, and all other Unit Owners and Occupants, and each of the members, directors, officers, employees, agents and successors and assigns of

the Association, and of each other Unit Owner and Occupant, from and against any and all loss, damage, cost, expense or liability (including attorneys' and expert witness fees and costs), directly or indirectly arising out or attributable to the use, generation, manufacture, production, storage, release, threaten to release, discharge, disposal, or presence of a Hazardous Substance as a result of the acts or omissions of that Unit Owner or Occupant, on, under or about the Property, including without limitation (a) all foreseeable consequential damages; and (b) the cost of any required or necessary repair, clean up, or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans. This indemnity shall survive the termination of the Declaration Of Condominium for any reason, PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL BE CONSTRUED OR INTERPRETED AS A COVENANT BY ANY UNIT OWNER OR OCCUPANT TO PROTECT, INDEMNIFY OR HOLD ANY OTHER UNIT OWNER OR OCCUPANT HARMLESS, FROM THE ACTS OR OMISSIONS OF ANY OTHER UNIT OWNER OR OCCUPANT, OR ANY OTHER THIRD PARTIES, WITH REGARD TO THE PRESENCE OF HAZARDOUS SUBSTANCES ON OR ABOUT THE PROPERTY, WHETHER OR NOT SUCH PRESENCE OF HAZARDOUS SUBSTANCES ARE IN VIOLATION OF ANY ENVIRONMENTAL LAW.

In the event that any investigation, site monitoring, containment, clean up, removal or restoration or other remedial work of any kind or nature (the "Remedial Work") is reasonably necessary or desirable or is required under any applicable local, state or federal law, regulation, or any judicial order, or by any government or non-governmental entity, or Person because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a Hazardous Substance in or into the air, soil, groundwater, surface water, or soil vapor at, on, about, under or within the Property (or any portion thereof), as a result of the acts or omissions of a Unit Owner or Occupant, that Unit Owner or Occupant shall within thirty (30) days after written demand for performance thereof by the Association or any other Unit Owner or Occupant (or such shorter period of time as may be required under any applicable law, regulation, order or agreement), commence and thereafter diligently prosecute to completion, all such Remedial Work. All costs and expenses of such Remedial Work shall be paid by such Unit Owner or Occupant, including, without limitation, the reasonable attorneys' and expert witness fees and engineering fees and costs incurred by such other Unit Owner or Occupant, or the Association, in connection with the monitoring or review of such Remedial Work. In the event that any such Unit Owner or Occupant shall fail to timely commence, or cause to be commenced, or fail to diligently prosecute to completion, such Remedial Work, either the Association, or any other Unit Owner or Occupant may, but shall not be required to, cause such Remedial Work to be performed and all costs and expenses thereof, or incurred in connection therewith, shall be paid and reimbursed to the Association or such Unit Owner or Occupant.

Each Unit Owner represents and warrants to the Association and to each other Unit Owner, with these warranties surviving the conveyance of the Unit Owner's interest in its Unit, that:

a. Unit Owner has not been, and is not now required by any Environmental Law to obtain any permits or license to construct or use any improvements, fixtures or equipment to be used on or made a part of the Property.

b. Unit Owner's present and intended use of the Property will not result in the disposal or release of any Hazardous Substance on, to or from the Property.

"Environmental Law" means any federal, state or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or the environmental conditions on, under or about the Property including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") as amended, 42 U.S.C. Sections 8601 *et seq.*, and the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Sections 6901 *et seq.*

The term "Hazardous Substance" includes, without limitation, those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances", or "solid waste" in CERCLA, RCRA, and the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801 *et seq.*, and in the regulations promulgated pursuant to said laws, and "PCB's" and regulated friable asbestos.

**K. PARKING.** Vehicles shall not be driven or parked on unpaved areas. If the Occupants of a Unit have only one (1) vehicle among them, it shall at all times be parked in the garage parking area of that Unit, and not in the exterior parking areas, except for temporary parking. The term vehicle as used herein shall include only automobiles, pick-up trucks and vans of one (1) ton capacity or less, motorcycles, motor bikes, and bicycles, all of which are licensed, operable and in good working order, and which are used for personal transportation purposes only. All other kinds and types of recreational vehicles (including, but not limited to, boats and campers) and commercial vehicles (except those making deliveries or pick ups, or moving Occupants in or out of Units, or which may be necessary or convenient for the maintenance, replacement or repair of the Property or for the construction of the Buildings and other improvements on the Property), are not allowed at any time on the Property.

**L. INDEMNIFICATION.** Each Occupant of a Unit, whether or not a Unit Owner, shall indemnify and save and hold the Association, and all other Occupants and Unit Owners harmless, from and against any and all claims, demands, liabilities, damages, costs, expenses (including attorneys' and expert witness fees), and suits at law or in equity, of whatever nature, kind, extent, character, description of duration, including, but not limited to, those claims for death and bodily injury arising directly or indirectly out of the willful, wanton, grossly negligent or negligent acts or omissions of such Occupant in the use or occupancy of the Common Areas and Facilities and Limited Common Areas and Facilities, or directly or indirectly out of the use or occupancy of the Common Areas and Facilities and Limited Common Areas and Facilities in violation of the



terms and provisions of the Condominium Documents, including, but not limited to, the terms and provisions of this Declaration, and any Rules and Regulations promulgated by the Association.

**ARTICLE VIII**  
**CONVEYANCES**

Written notice of the transfer of any interest in a Unit by sale, lease, mortgage or otherwise shall be given to the Association. Such notice shall be addressed to the Treasurer of the Association, and shall state (1) the number of the Unit being transferred, (2) the nature of the transfer, as a sale, lease, mortgage, gift or otherwise, (3) the date of the transfer, (4) the identity of the transferee(s), including full legal name(s) as appear on the instrument(s) of transfer, and (5) the street address of each transferee; and there shall be enclosed with such notice, a copy of the recorded (if appropriate) instrument of transfer. Failure to provide such notice in the form and as otherwise required by the foregoing shall result in the levy of a special Assessment against the Unit Owner in an amount sufficient to compensate the Association for all costs and expenses paid or incurred in obtaining the information from other sources.

**ARTICLE IX**  
**ADMINISTRATION**

The administration of the Property shall be governed by the following provisions:

- A. **ORGANIZATION OF ASSOCIATION.** The Association shall be incorporated as an Indiana nonprofit corporation pursuant to the Articles of Incorporation, a copy of which is attached hereto as Exhibit "B", until the same are amended in accordance with law.
- B. **BY-LAWS OF ASSOCIATION.** The By-Laws of the Association shall be in the form attached as Exhibit "C" until the same are amended in the manner therein provided.
- C. **RULES AND REGULATIONS.** The Rules and Regulations shall be those Rules and Regulations attached as Exhibit "D", until the same are amended.
- D. **POWERS OF ASSOCIATION.** The duties and powers of the Association shall be those set forth in this Declaration, the Articles of Incorporation, the By-Laws, the Rules and Regulations, and the Act, together with those duties or powers reasonably implied to effectuate the purposes of the Association and this Declaration. If there are conflicts or inconsistencies between this Declaration and either the Articles of Incorporation, the By-Laws, or the Rules and Regulations, then the terms and provisions of this Declaration shall prevail and the Unit Owners shall vote to approve any amendment to the Articles of Incorporation, By-Laws and/or Rules and Regulations that will remove or correct any such conflict or inconsistency. The duties and powers of the

Association shall be exercised in the manner provided in the Articles of Incorporation, the By-Laws and the Rules and Regulations. Any duty or power of the Association which is granted by this Declaration shall be so exercised in accordance with the Articles of Incorporation, By-Laws and Rules and Regulations of the Association. The powers of the Board of Directors of the Association shall include, without limitation, the adoption of rules and regulations restricting the use of outdoor parking areas.

E. **MEMBERSHIP AND MEMBERSHIP MEETINGS.** Every person or entity who is the owner of a fee or equitable title of a Unit shall be a member of the Association (a "Member", collectively the "Members"). For the purpose of determining membership, such ownership will be deemed to have vested upon delivery to the owner of a duly executed deed by the Owner or as to subsequent owners, upon delivery to the Association of a certified copy of a duly executed deed or other instruments establishing a change of record title to a Unit. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. The membership shall be appurtenant to and may not be separated from ownership of a Unit. Nothing herein contained shall be interpreted so as to exclude the Owner from membership while it or its successors in interest, if any, owns one or more Units or any part of the Real Estate or Expansion Real Estate.

The first annual meeting shall not be held until such time as the rights of the Developer to appoint Directors and to thereby control the Association shall have expired as provided in Article XX.A. of this Declaration or at such earlier time or times as may be determined by the Developer. The next annual meeting shall be set by the Board of Directors so as to occur no later than ninety (90) days after the close of the Association's fiscal year. Subsequent annual meetings shall be held within thirty (30) days of the same day of the same month of each year thereafter at an hour set by the Board of Directors. Subject to the foregoing, the annual meeting of the members shall be held at a date and time as set by the Board of Directors. Subject to the foregoing, the members shall, at each annual meeting, elect the Board of Directors of the Association in accordance with the provisions of the By-Laws and transact such other business as may properly come before the meeting.

Developer shall have the right to waive, on behalf of the Association, the annual meeting and all or any part of the annual accounting provided for in this Declaration, so long as Developer retains control of the Association. At the time of turnover of control by Developer in its sole discretion, a meeting of the Association will be called, at which time the rights and powers of the Developer-appointed Board of Directors shall terminate and the Association shall thereafter be governed in accordance with the other provision of this Declaration, the Articles of Incorporation and the By-Laws. Each Unit Owner shall be deemed to have given to Developer an irrevocable proxy to vote on any and all matters on which such Unit Owner is entitled to vote under this Declaration, or under the Articles of Incorporation or the By-Laws of the Association. The proxy hereby granted to Developer shall be deemed to be coupled with an interest and irrevocable. Such proxy shall terminate as of transfer of control of the Association as set forth above.

F. **VOTING RIGHTS.** There shall be one vote and one voting member for each Unit regardless of the number of persons who may have an ownership interest in a Unit or the manner in which title is held by them. The vote of the owners of a Unit owned by more than one person shall be cast by the person named in a certificate signed by all of the owners of the Unit and filed with the secretary of the Association. Such certificate shall be valid until revoked by a subsequent certificate. If the certificate is not on file, the vote of such owner shall not be considered in determining the requirement for a quorum nor for any other purpose.

G. **INDEMNIFICATION OF OFFICERS AND DIRECTORS.** The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, or any other acts or omissions of any nature whatsoever as such directors and officers except for any acts or omissions found by a court to constitute criminal conduct, gross negligence or fraud. The Association shall indemnify and hold harmless each of the directors and each of the officers, his heirs, executors or administrators, against all contractual and other liabilities to others arising out of contracts made by or other acts of the directors and officers on behalf of the Owners or the Association, or arising out of their status as directors or officers, unless any such contract or act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include an indemnification against all costs and expenses (including, but not limited to, attorneys' fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such director or officer may be involved by virtue of such person being or having been such director or officer; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for criminal conduct, gross negligence or fraud in the performance of his duties as such director or officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board of Directors, there is not reasonable grounds for such person being adjudged not liable for criminal conduct, gross negligence or fraud in the performance of his duties as such director or officer. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

H. **NOTICES.** Notices or demands shall be given by Unit Owners to the Association in the manner provided by the By-Laws of the Association.

**ARTICLE X**  
**INSURANCE**

Insurance coverage shall be provided for the Property and the Association in accordance with the following provisions:

A. **AUTHORITY TO PURCHASE.** All insurance policies providing coverage for the Property and the Association except as hereinafter provided shall be purchased by the Association for the benefit of the Unit Owners and their respective mortgagees as their interests may appear. Certificates of insurance for said policies shall provide mortgage endorsements to the holders of first mortgages on the Units. If agreeable to the insurance companies, the policies shall also provide that the insurer shall waive its rights of subrogation as to any claim against Unit Owners, the Association and their respective servants, agents, and guests. All insurance purchased by the Association and endorsements thereto shall be deposited with the Insurance Trustee, as hereinafter defined, who shall acknowledge that the policies and any proceeds therefrom will be held in accordance with the terms hereof.

B. **UNIT OWNERS.** Each Unit Owner shall obtain at his sole expense, Condominium Unit Owners Homeowners Policy (Form 6) insurance providing coverage for personal property, personal liability, and real property additions, alterations, fixtures, improvements, or installations which are located within the boundaries of the Unit, naming the Association as an additional insured as to liability coverage. All said insurance shall contain, if agreeable, the same waiver of subrogation as that referred to in subparagraph A. hereof, and the insurance should be obtained, if at all possible, and as a matter of preference, from the same insurance company that the Association obtains coverage against the same risk, liability or peril, if the Association has such coverage. A certificate of the foregoing insurance coverage shall be filed with the Association by each Unit Owner within fifteen (15) days after each such policy is issued and renewed, but in any event not less than annually. The Association shall not be required to provide insurance coverage for any liability assumed by the Unit Owner pursuant to this subparagraph.

C. **COVERAGE.**

1. **Casualty.** The Property, including the Buildings, the Units, and all other insurable improvements upon the Real Estate and all personal property as may be owned by the Association shall be insured in an amount equal to the maximum insurable replacement value thereof (Le., one hundred percent (100%) replacement value coverage exclusive of excavation and foundations) as determined annually by the insurance company providing such coverage. The coverage shall provide protection against:

a. loss or damage by fire or other hazards covered by the standard extended coverage endorsement;

b. such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use as the Buildings, including, but not limited to, vandalism, malicious mischief, windstorm and damage due to water, ice and snow accumulation.

2. Liability. Public liability and property damage in such amounts and in such forms as shall be required by the Association, including, but not limiting the same to water damage, legal liability, hired automobile, non-owned automobile and off-premises employee coverage. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Unit Owners as a group to a Unit Owner.

3. Worker's Compensation. Worker's compensation policy to meet the requirements of law.

4. Errors and Omissions. Errors and omissions liability coverage for the benefit of the directors and officers of the Association, as determined from time to time by the Board of Directors of the Association.

D. PREMIUMS. Premiums upon insurance policies purchased by the Association shall be paid by the Association and assessed to the Unit Owners as a Common Expense.

E. BENEFICIARY OF POLICIES. All insurance policies purchased by the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees as their respective interests may appear. The insurance policies shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association as insurance trustee (herein the "Insurance Trustee"). Notwithstanding the foregoing, the Association is hereby granted the power and authority to appoint a bank or other institution in the State of Indiana with trust powers to act as its successor Insurance Trustee, by written resolution of the Board of Directors of the Association.

F. INSURANCE TRUSTEE. An Insurance Trustee other than the Association shall not be liable for payment of premiums, the renewal of the policies, the sufficiency of coverage, the form or contents of the policies, or the failure to collect any insurance proceeds. The duty of any Insurance Trustee shall be to receive such insurance proceeds for the benefit of the Association, the Unit Owners and their respective mortgagees, as follows:

1. Common Areas and Facilities And Limited Common Areas And Facilities. Insurance proceeds received on account of damage to Common Areas and Facilities and Limited Common Areas and Facilities shall be held by the Insurance Trustee for the benefit of the Unit Owners and their mortgagees in the same percentage Share as appears in the Statement of Interest in Article III.

2. Units. Insurance proceeds received on account of damage to Units shall be held by the Insurance Trustee for the benefit of the Unit Owners and their mortgagees as follows:

a. In the event a Building is to be reconstructed or repaired pursuant to the provisions of Article XI hereof, the insurance proceeds shall be held by the Insurance Trustee for the benefit of the Unit Owners of the damaged Units and their mortgagees in proportion to the cost of repairing the damage sustained by each Unit. Upon the request of the Insurance Trustee, the Board of Directors shall certify to the Insurance Trustee the appropriate portions of the proceeds of insurance, and each Unit Owner and his mortgagee shall be bound by, and the Insurance Trustee may rely upon, such certification.

b. In the event a Building is not to be reconstructed or repaired pursuant to the provisions of Article XI hereof, the insurance proceeds shall be held for the benefit of the Unit Owners and their mortgagees in the same percentage Shares as shown in the Statement of Interest in Article III.

3. Mortgages. In the event a mortgagee endorsement has been issued, the percentage Share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their respective interests may appear.

G. PROCEEDS OF INSURANCE. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the Unit Owners and their mortgagees after first paying or making provision for the payment of the expenses of the Insurance Trustee in the following manner:

1. Reconstruction or Repair. In the event a Building is to be reconstructed or repaired as provided in Article XI hereof, the proceeds shall be paid to cover the cost thereof as hereinafter provided. Any proceeds remaining after paying such costs shall be retained by the Association in the Common Capital Expense Fund, and allocated to such accounts therein as the Board of Directors deems appropriate. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by it.

2. Failure To Reconstruct Or Repair. In the event a Building is not to be reconstructed or repaired pursuant to Article XI hereof, the insurance proceeds shall be distributed to the Unit Owners and their mortgagees. Any payment to Unit Owners and their mortgagees shall be made jointly. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by it.

3. Certificate. In making distribution to Unit Owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association as to the names of the Unit Owners and their respective

percentage Shares of the distribution. Upon request of the Insurance Trustee, the Association forthwith shall deliver such certificate to the Insurance Trustee.

**ARTICLE XI**  
**RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE**

A. **DECISION TO RECONSTRUCT OR REPAIR.** In the event the Property suffers damage due to casualty, a special meeting of the Unit Owners shall be convened to determine whether or not there has been a total destruction of all of the Buildings. At such meeting a vote of two-thirds (2/3) of the Unit Owners shall be necessary to determine that a total destruction of all of the Buildings has occurred.

1. **Total.** In the event the Unit Owners determine that all of the Buildings have been totally destroyed, the Buildings shall not be reconstructed and the insurance proceeds shall be divided among the Unit Owners in the percentage by which each Unit Owner owns an undivided interest in the Common Areas and Facilities as set forth in the Statement of Interest in Article III. The Property shall be considered to be removed from the condominium under Indiana Code 32-1-6-28 and the condominium shall be terminated under the provisions of this Declaration, and shall be subject to the provisions of Indiana Code 36-1-6-21 unless by a vote of two-thirds (2/3) of the Unit Owners a decision is made to rebuild all of the Buildings.

2. **Partial.** In the event the Unit Owners determine that all of the Buildings have not been totally destroyed, or if totally destroyed that they shall be rebuilt, the damage shall be repaired as hereinafter provided.

3. **Certificate.** The Insurance Trustee may rely upon a certificate of the Association certifying as to whether or not the Building(s) is (are) to be reconstructed or repaired. The Association, upon request of the Insurance Trustee, shall deliver such certificate as soon as practical.

B. **PLANS AND SPECIFICATIONS: ENCROACHMENTS.** Any reconstruction or repair of the Property shall be substantially in accordance with the construction plans and specifications for the original construction of the Property. Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Unit Owner upon whose Unit such encroachment exists, provided that such reconstruction was in substantial accordance with the construction plans and specifications for the original construction of the Property. Such encroachments shall be allowed to continue in existence for so long as the Buildings stand.

C. **RECONSTRUCTION BY UNIT OWNER.** If the damage is only to that part of a Unit for which the responsibility of maintenance, repair and replacement is that of the Unit Owner, then the Unit Owner shall be responsible

for reconstruction and repair. In all other instances, the responsibility of reconstruction and repair shall be that of the Association.

D. **RECONSTRUCTION BY ASSOCIATION.** The Association shall repair or reconstruct that portion of the Property which the Association has the responsibility for maintaining, repairing or replacing after it has been determined to reconstruct or repair the damage under the provisions of Article XI.A. hereof, in the following manner:

1. **Estimate of Costs.** Immediately after a casualty causing damage to the Property, the Association shall obtain reliable and detailed estimates of the cost to repair or reconstruct the Property. Such costs may include professional fees and premiums for such bonds as the Board of Directors may require.

2. **Assessments.** If the proceeds of insurance are not sufficient to pay the estimated costs of reconstruction and repair by the Association (including the aforesaid fees and premiums, if any) then Assessments shall be made by the Board of Directors against all Unit Owners in sufficient amounts to provide funds to pay the difference between the insurance proceeds and the estimated costs of reconstruction and repair. If at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, additional Assessments shall be made against all Unit Owners in sufficient amounts to provide funds for the payment of such costs.

3. **Construction Funds.** The funds for the payment of the costs of reconstruction and repair consisting of the proceeds of insurance held by the Insurance Trustee and funds collected by the Association from Assessment against Unit Owners, if any, shall be disbursed in payment of such cost in the following manner:

a. **Association.** If the amount of the estimated costs of reconstruction and repair exceeds the total of the annual Assessments for the Common Expense Account set forth in Article XII1.D.1.a. made during the year in which the casualty occurred, then the funds collected by the Association from Assessments against Unit Owners to meet such costs shall be deposited by the Association with the Insurance Trustee. In all other cases, the Association shall hold the funds collected by the Association from Assessments against Unit Owners and disburse the same in payment of the costs of reconstruction and repair.

b. **Insurance Trustee.** The proceeds of insurance collected on account of a casualty, and the sums deposited with the Insurance Trustee by the Association from Assessments collected against Unit Owners on account of such casualty, shall constitute a



construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(1) Unit Owner. The portion of insurance proceeds received as a result of damage to a Unit for which the Unit Owner has the responsibility of reconstruction and repair, shall be disbursed to such contractors, suppliers and personnel that work or supply the materials or services required for such reconstruction or repair, in such amounts and at such times as the Unit Owner may direct, or if there is a mortgage endorsement, then to such payee as the Unit Owner and the first mortgagee jointly direct. Nothing contained herein, however, shall be construed so as to limit or modify the responsibility of the Unit Owner to make such reconstruction or repair.

(2) Association—Minor Damage. If the amount of the estimated costs of reconstruction and repair is less than the total of the annual Assessments for the Common Expense Account set forth in Article XIII.D.1.a made during the year in which the casualty occurred then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors; provided, however, that upon request of a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

(3) Association—Major Damage. If the amount of the estimated costs of reconstruction and repair is more than the total of the annual Assessments for the Common Expense Account set forth in Article XIII.D.1.a. made during the year in which the casualty occurred, then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association with approval of an architect or professional engineer qualified to practice in Indiana and employed by the Board of Directors to supervise the work.

(4) Surplus. It shall be presumed that the first moneys disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be allocated as heretofore provided in Article X.G.1.

(5) Division Of Proceeds. When the damage is to both Common Areas and Facilities and Limited Common Areas and Facilities and Units, the insurance proceeds shall be applied first to the costs of repairing the Common Areas and Facilities and Limited Common Areas and Facilities and the balance to the Units in the manner determined by the Board of Directors.

4. Insurance Adjustments. The Board of Directors is hereby irrevocably appointed agent for each Unit Owner to adjust with insurance companies all claims arising under policies purchased by the Association in which Unit Owners have or may have an interest, subject to the rights of mortgagees of such Unit Owners.

**ARTICLE XII**  
**TAXES AND SPECIAL ASSESSMENTS**

A. ASSESSMENT OF TAXES. Taxes, assessments, sanitary sewer surcharges and other charges or liens of the State of Indiana, any political subdivision thereof, any special improvement district, or any other taxing or assessing authority shall be assessed against and collected on each individual Unit and paid by each Unit Owner.

B. PAYMENT BY ASSOCIATION. During the period of time that taxes, special government assessments and other charges or liens upon the Property or any portion thereof are not assessed to individual Unit Owners, then the taxes, government assessments, sanitary sewer surcharges and other charges shall be included in the annual budget of the Association and shall be paid by the Association as a Common Expense. The Association shall assess each Unit Owner in accordance with the Share of ownership specified herein.

C. PERSONAL PROPERTY TAX. All personal property tax levied or assessed against personal property of the Association and all federal and state income taxes levied or assessed against the Association shall be paid by the Association and shall be included as a Common Expense in the annual budget of the Association.

**ARTICLE XIII**  
**ASSESSMENTS**

A. AUTHORITY TO ASSESS. The Board of Directors of the Association shall assess Unit Owners for their Share of all Common Expenses of the condominium in accordance with their percentage of ownership of the condominium as set forth in the Statement of Interest in Article III. The Board of Directors shall also have the authority to assess individual Unit Owners for any expense incurred by the Association as a result of the failure of the Unit Owner to perform any of its responsibilities set forth in the Condominium Documents, or for any intentional or negligent act of the Unit Owner, to the extent the expense is

not covered by insurance purchased by the Association, in the manner and as set forth in Article XIV.

**B. DETERMINATION OF ASSESSMENT.**

1. **Annual Assessment Of Common Expenses.** The Board of Directors of the Association shall prepare and adopt an annual budget of the estimated Common Expenses of the condominium in accordance with the By-Laws of the Association. The budget shall include, without limitation, the Association's portion of the Community Assessments payable to the Community Association pursuant to the Community Association Declaration. The total annual Assessment shall be equal to the total estimated Common Expenses contained in said budget, and it shall be paid by the Unit Owners as assessed by the Board of Directors at such times and in the manner determined by the Board of Directors.

2. **Special Assessments.** The Board of Directors may levy special Assessments from time to time against Unit Owners as a result of extraordinary or unanticipated items of expense not contained in the annual budget, the failure or refusal of other Unit Owners to pay their Assessments, as a sanction against a Unit Owner pursuant to Article XIV, or for such other reasons as determined by the Board of Directors which are not inconsistent with the terms of the Condominium Documents or the Act.

3. **Assessment Roll.** The Assessments against all Unit Owners shall be set forth upon a roll of the Units which shall be available in the office of the Association for inspection at all reasonable times by Unit Owners or their duly authorized representatives. The Assessment roll shall indicate for each Unit the name and address of the Unit Owner or Unit Owners, the Assessments for all purposes and the amounts of all Assessments paid and unpaid. A certificate made by the Association as to the status of a Unit Owner's Assessment account shall limit the liability of any Person (other than the Unit Owner), who receives and relies upon such certificate. The Association will issue such certificates to such persons as a Unit Owner may request in writing.

**C. PAYMENT OF ASSESSMENT.**

1. **Liability For Assessment.** The Unit Owners of each Unit shall be personally liable, jointly and severally, for the payment of all Assessments levied by the Board of Directors against their Unit and for all costs of collecting such Assessment including interest and reasonable attorney fees. In a voluntary conveyance the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments

against the Unit up to the date of the conveyance without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee thereof. A purchaser of a Unit at a judicial or foreclosure sale or a first mortgagee who accepts a deed in lieu of foreclosure shall be liable only for the Assessments which become payable after the acquisition of title. Liability for payment of any Assessment may not be avoided by a waiver of use or enjoyment of any Common Area and/or Facility or by abandonment of the Unit.

2. Lien For Assessment. In the event of the failure of a Unit Owner to pay any Assessment when due, the unpaid amount of said Assessment shall constitute a lien upon the Unit and all appurtenances thereto from the time of said Assessment. This lien shall have priority over all other liens upon the Unit except for tax liens on the Unit in favor of any governmental assessing unit and special district and all sums unpaid on a first mortgage of record on the Unit.

3. Perfection Of Lien. The Board of Directors shall perfect the lien by filing a notice thereof with the Recorder of Lake County, Indiana, and it may foreclose the lien under the laws of the State of Indiana governing mechanic's and materialmen's liens. The notice shall perfect a lien for all Assessments which are due and unpaid on the date the notice is filed. In the event of foreclosure, the delinquent Unit Owner shall be required to pay a reasonable rental for the Unit and the Association shall be entitled to the appointment of a receiver to collect all delinquent Assessments. The Association may also file suit to recover a money judgment for any unpaid Assessments and such action shall not constitute a waiver of the lien securing such unpaid Assessment. If the Board of Directors files a foreclosure action to collect the unpaid Assessments, it shall have the power to bid on the Unit at the foreclosure sale, and to acquire and hold, lease, mortgage and convey title thereto.

4. Application of Payments. Assessments and installments thereof which are paid more than twenty (20) days after the date when due shall bear interest at the rate of fifteen percent (15%) per annum from the date when due until paid, provided, however, that for Assessment installments payable monthly, said interest amount shall not exceed Ten Dollars (\$10.00) for each late payment, for Assessment installments payable quarterly, said interest amount shall not exceed Twenty-five Dollars (\$25.00) for each late payment, and for Assessment installments payable semi-annually, said interest amount shall not exceed Fifty Dollars (\$50.00) for each late payment. All payments upon account shall be applied first to interest and then to the Assessment payment first due. All interest collected shall be credited to the income account of the Common Ordinary Expense Fund.

D. FUNDS AND ACCOUNTS. All Assessments collected by the Association shall be placed in either the Common Ordinary Expense Fund or the Common Capital Improvement Fund, pursuant to the By-Laws of the Association.

Although sums collected by the Association may be credited to separate accounts as set forth below, all sums placed in either the Common Ordinary Expense Fund or Common Capital Improvement Fund may be co-mingled. The moneys collected from the Assessments shall be credited to and paid from appropriate accounts within the funds in accordance with the annual budget adopted by the Board of Directors as follows:

1. Common Ordinary Expense Fund. The Common Ordinary Expense Fund shall include the following accounts:

a. Common Expense Account. This account shall consist of those Assessments collected from Unit Owners for paying budgeted Common Expenses, other than for capital improvements.

b. Income Account. This account shall consist of all income received by the Association from the rental or licensing of any part of the Common Areas and Facilities, any interest earned on the Common Ordinary Expense Fund, and all other forms of income, except for income earned on the investment of Assessments for the Common Capital Improvement Fund.

c. Emergency Account. This account shall consist of those Assessments collected from Unit Owners for paying emergency Common Expenses, other than for capital improvements.

d. Start Up Costs. The Developer may contribute money to the Association to pay for "start up" costs and to pay for expenditures of the Association and purchase any equipment or services during the "start up" phase of the Association. Any amounts advanced by the Developer shall not be considered as advanced payments of regular assessments, but as a loan to the Association which must be repaid.

2. Common Capital Improvement Fund.

a. Alteration And Improvement Account. This account shall consist of those Assessments collected from Unit Owners for alteration and improvement of the Common Areas and Facilities and Limited Common Areas and Facilities of a capital improvement nature.

b. Reconstruction And Replacement Reserve Account. This account shall consist of those Assessments collected from Unit Owners for reconstruction and replacement of the Common Areas and Facilities and Limited Common Areas and Facilities of a capital improvement nature.

c. Income Account. This account shall consist of all income received by the Association from interest earned on the Common Capital Improvement Fund.

d. Emergency Account. This account shall consist of those Assessments collected from Unit Owners for paying the costs of emergency capital improvements.

3. Other Funds. Such other funds and accounts, including reserve accounts, as may be created by the Board of Directors in accordance with generally accepted principles of accounting and the statutes of the State of Indiana.

4. Title To Funds. All funds and the titles of all properties acquired by the Association and the proceeds thereof after deducting therefrom the costs incurred by the Association in acquiring the same shall be held for the benefit of the Unit Owners for the purposes herein stated.

5. Use Of Income. All income received by the Association from the rental or licensing of any part of the Common Areas and Facilities from interest-bearing accounts (as well as such income anticipated) and from all other sources, shall be used for the purpose of reducing prospective Common Expenses prior to establishing the annual Assessment for Common Expenses.

6. Community Assessments. The Association shall pay the Community Assessments collected by it from the Unit Owners on a semi-annual basis to the Community Association, unless the Community Association notifies the Association of a different method of payment of Community Assessments.

#### ARTICLE XIV ENFORCEMENT

Each Unit Owner and Occupant shall be governed by and shall comply with the terms of all the Condominium Documents and the Rules and Regulations adopted pursuant thereto as they may be amended from time to time. A default or violation by a Unit Owner or Occupant shall entitle the Association or any other Unit Owner or Owners to the following remedies:

##### A. AUTHORITY AND ADMINISTRATIVE ENFORCEMENT AND PROCEDURES.

1. Authority. The condominium shall be used only for those uses and purposes set out in this Declaration, and subject to the covenants and restrictions set forth herein, and in the By-Laws and Rules and Regulations promulgated pursuant to Article VII.H., and elsewhere herein. The Board of Directors shall have the power and authority to impose reasonable special Assessments in addition to those provided by

Article XIII.B.2. which shall constitute a lien upon the Unit Owner's Unit and to suspend an Owner's right to use the Common Areas and Facilities, and to vote, and to approve other appropriate sanctions in the event that it is determined in accordance with this Article XIV that an Owner or Occupant has violated any provision of this Declaration, the By-Laws or the Rules and Regulations.

2. Procedure. The Board of Directors shall not impose a special Assessment, suspend the right to use Common Areas and Facilities, or the right to vote, or infringe upon any other rights of an Owner or Occupant for any such violations unless and until the following procedure is followed:

a. Demand. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying: (i) the alleged violation; (ii) the action required to abate the violation; and (iii) a time period, no less than ten (10) days, during which the violation may be abated without further sanction.

b. Notice. If the violation continues past the period allowed in the demand for abatement without sanction, the Association shall serve the violator with written notice of a hearing. The notice shall contain: (i) the nature of the alleged violation; (ii) the time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice; (iii) an invitation to attend the hearing and produce any statements, evidence and/or witnesses in his/her behalf; and (iv) the proposed sanction to be imposed.

c. Hearing. The hearing shall be held in executive session by the Board of Directors pursuant to the notice affording the violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice, the invitation to be heard, the written result and statements of the sanction shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer or director who delivered such notice. The notice requirement shall be deemed satisfied if a violator appears at the meeting.

3. Sanctions. The Board of Directors' power and authority to impose sanctions shall be governed by the following provisions:

a. All special Assessments imposed upon a violator under this Article shall bear a reasonable relationship to the violation, considering all the circumstances, which may include, but shall not be limited to, the following:

(1) The actual costs and expenses incurred by the Board of Directors and the individual directors in the exercise of the power and authority under this Article XIV, and in otherwise attempting to remedy the violation.

(2) The amount of actual damage done to the Common Areas and Facilities and limited Common Areas and Facilities, to other Unit Owners and Occupants and/or to the Association arising out of the violation or the efforts to remedy the effects of same.

(3) The amount which would be reasonably required to compensate the Association for the disruption of and inconvenience to, the condominium community, the Association or any member thereof, or any Occupant of a Unit therein.

(4) The extent to which the violation is or was flagrant, and the extent to which the violator cooperated or hindered in any effort to remedy the violation.

b. All special Assessment amounts imposed hereunder as a sanction shall be deemed to be a part of the Share of the Common Expenses attributable to the Unit occupied by the violator, and shall be assessed against said Unit and its Unit Owner as a special Assessment to be due and payable on the date that the next regular Assessment would be due, and any such special Assessments which are not paid as of that date shall become a lien on such Unit, and shall be collected and enforced in the same manner as regular Assessments under the provisions of Article XIII.

c. Nothing herein contained shall be construed as granting to the Board of Directors the power or authority to impose such a special Assessment which is punitive in nature, or to suspend a Unit Owner's right to vote, unless the Board of Directors finds, by specific findings of fact in accordance with the foregoing procedure, that the violator's conduct was willful, malicious, oppressive and outrageous in nature. Said special findings of fact shall specifically set forth all facts and circumstances.

d. All other sanctions imposed shall be reasonably related to the violation found.

e. The decision of the Board of Directors made in accordance with the foregoing procedures shall be final.

B. LEGAL REMEDIES. In addition to the administrative remedies set forth in Article XIV.A., the legal remedies may include, without limiting the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien,



an action to enforce the sanctions imposed by administrative procedure, or any combination thereof. The prevailing party shall be entitled to recover the costs of any legal proceeding including reasonable attorneys' fees.

C. NO WAIVER OF RIGHTS. The failure of the Association or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents or by law shall not constitute a waiver of the right of the Association or Unit Owner to enforce such right, provision, covenant or condition in the future.

D. NO ELECTION OF REMEDIES. All rights, remedies and privileges granted to the Association or any Unit Owner pursuant to any terms, provisions, covenants or conditions of the Condominium Documents or by law shall be deemed to be cumulative, and the exercise of anyone or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges.

#### ARTICLE XV AMENDMENT

The Condominium Documents may be amended in the following manner:

A. DECLARATION. Amendments to the Declaration shall be proposed and adopted as follows:

1. Notice. Notice of the subject matter of any proposed amendment shall be included in the Notice of any meeting of the Board of Directors or Unit Owners at which any proposed amendment is to be considered.

2. Resolution. Except as provided in subparagraph 5. hereof, a resolution to amend the Declaration may be adopted by the affirmative vote of not less than three-fourths (3/4) of the Shares of ownership of the condominium at any regular or special meeting of the Unit Owners called and held in accordance with the By-Laws; provided, however, that any such amendment must also be approved and ratified by not less than three-fourths (3/4) of the Board of Directors.

3. Recording. The amendment shall not be effective until a copy thereof is recorded in the Office of the Recorder of Lake County, Indiana. A copy of any such amendment shall also be sent to each Unit Owner and his mortgagee by registered or certified mail; provided, however, that the mailing of such amendment shall not constitute a condition precedent to the effectiveness of such amendment.

4. Share Of Ownership. The Shares of ownership set forth in Article III may not be changed, altered or amended without the express,

prior written consent of all Unit Owners and their mortgagees, except as provided in Article III and Paragraph 5 of this Article XV.

5. Permissive Amendments By Owner. Notwithstanding any other provision of the Condominium Documents to the contrary, the Owner alone may amend this declaration, or any of the other Condominium Documents, without the consent of the Unit Owners, the Association, the Board of Directors or any mortgagee, or any other person, (a) to correct scrivener's errors, minor defects or omissions, or (b) to comply with the requirements of the Act, or (c) to comply with the requirements of any governmental agency, public authority or title insurance company, (d) to comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by each entity, or (e) to resubdivide the Real Estate or those portions of the Expansion Real Estate submitted to the provisions of this Declaration pursuant to Section XX.E. hereof for the purpose of changing the size, dimensions or locations of lots, streets, drainage and detention easements, utility easements, easements for ingress and egress and for any other purposes, and to otherwise modify or amend the site plan that is a part of the Plans, so long as the Shares of Unit Owners in the Common Areas and Facilities and Limited Common Areas and Facilities are not altered, or (f) to expand the condominium in accordance with Article XX.E. This paragraph 5. shall constitute an irrevocable special power of attorney to Owner on behalf of all Unit Owners and any and all other Persons having an interest of any kind in the Property, for so long as Owner owns any Unit or until the expiration of ten (10) years from the date on which this Declaration is recorded, whichever occurs first. The amendment shall be signed by the Owner and it shall become effective upon the recording of a copy thereof in the Office of the Recorder of Lake County, Indiana.

B. ARTICLES OF INCORPORATION, BY-LAWS AND RULES AND REGULATIONS. The Articles of Incorporation, By-Laws and Rules and Regulations of the Association shall be amended in the manner provided by such documents or by law.

ARTICLE XVI  
TERMINATION

The condominium may be terminated only in the following manner:

A. BY AGREEMENT. The condominium may be terminated by the agreement of all Unit Owners and their first mortgagees. The agreement shall be evidenced by a written instrument or instruments executed in the manner required for conveyances of land. The termination shall become effective when

such agreement has been recorded in the Office of the Recorder of Lake County, Indiana.

B. DESTRUCTION. In the event it is determined that all of the Buildings are totally destroyed as provided in Article XI.A.1. hereof, and shall not be rebuilt, then the Property shall be considered removed from the provisions of the Act and this condominium shall be terminated. The determination not to reconstruct shall be evidenced by a written instrument executed by the Association and the termination shall not become effective until the instrument is recorded in the Office of the Recorder of Lake County, Indiana.

C. OWNERSHIP OF PROPERTY AFTER TERMINATION. In the event of termination of this condominium, the Property shall be owned by the Unit Owners as tenants in common. The undivided interest of each Unit Owner in the Property shall be a percentage which is equal to the percentage of undivided interest previously owned by each Unit Owner in the Common Areas and Facilities and Limited Common Areas and Facilities as set forth in Article III; provided, however, that such Unit Owner shall continue to be responsible and liable for his Share of the Assessments as herein provided, and any and all liens or mortgages shall continue to run with the Property and shall encumber the respective undivided interests of the Unit Owners as tenants in common.

D. PERSONAL PROPERTY. All personal property, including, but not limited to, all funds and insurance proceeds, owned or held by the Association shall continue to be owned or held by the Association for the benefit of the Unit Owners in the same percentage as set forth in Article III. The expenses incurred by the Association in connection with a termination shall be a Common Expense.

E. SALE AFTER TERMINATION. Upon termination of the condominium, the Property may be partitioned and sold upon the application of any Unit Owner; provided, however, that if the Association determines by a vote of three-fourths (3/4) of all the Unit Owners to accept an offer for the sale of the Property, then each Unit Owner shall be bound to execute such deeds and other documents as may be reasonably required to effectuate such sale at such times and in such forms as the Board of Directors shall determine. In such event, any action for partition or other division of the Property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties thereto.

F. ASSOCIATION. The rights and powers of the Association hereunder shall not terminate until all the affairs of the condominium have been concluded.

ARTICLE XVII  
COVENANTS RUNNING WITH THE LAND

All provisions of the Condominium Documents shall be construed to be covenants running with the land and with every part thereof and every interest therein, including, but not limited to, every Unit and the appurtenances thereto.

**ARTICLE XVIII**  
**LIENS**

A. **PROTECTION OF PROPERTY** All liens against a Unit other than for taxes, special Assessments and permitted mortgages shall be satisfied or otherwise removed within thirty (30) days from the date the lien attaches. All taxes and special Assessments upon a Unit shall be paid before becoming delinquent.

B. **NOTICE OF LIEN**. A Unit Owner shall give notice to the Association of every lien upon his Unit other than for taxes, special Assessments, and permitted mortgages within five (5) days after notice that a lien has attached.

C. **NOTICE OF SUIT**. A Unit Owner shall give notice to the Association of every suit or other proceeding which will or may affect the title to his Unit or any other part of the Property, within five (5) days after the Unit Owner receives notice thereof.

D. **EFFECT**. Failure to comply with this Article will not affect the validity of any judicial sale.

**ARTICLE XIX**  
**JUDICIAL SALES**

A. **JUDICIAL SALES**. A judicial sale of any Unit or any interest therein shall not be valid unless the sale is to a purchaser approved by the Board of Directors of the Association except as provided in subparagraph C. hereof. The approval shall be in recordable form and shall be delivered to the purchaser and recorded in the Office of the Recorder of Lake County, Indiana.

B. **UNAUTHORIZED TRANSACTIONS**. Any sale, mortgage or lease which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Board of Directors of the Association.

C. **FORECLOSURES**. In the event proceedings are instituted to foreclose any mortgage on any Unit, the Association, on behalf of one or more Unit Owners, shall have the right to redeem the mortgage for the amount due thereon or to purchase such Unit at the foreclosure sale for the amount due the mortgagee in the foreclosure proceedings. In the event of redemption by the Association, the Association shall take and have absolute fee simple title to the Unit free from any claim or right of any Person claiming by, or through such mortgagor. Any permitted mortgagee hereunder shall have the right to accept title to the Unit in settlement and satisfaction of said mortgage or to foreclose the mortgage in accordance with the terms thereof and the laws of the State of Indiana. A permitted mortgagee shall also have the right to bid upon said Unit at the foreclosure sale. If the Association redeems the mortgage, it shall have a lien against the Unit for all sums expended in connection therewith, and it shall have the same rights to collect such sums as in the case of a delinquent Assessment.

ARTICLE XX  
PROVISIONS PERTAINING TO OWNER AND DEVELOPER

A. CONTROL BY DEVELOPER. The Developer shall have the right to appoint all of the Board of Directors of the Association for as long as the Developer has any ownership interest in any of the Units or until the expiration of ten (10) years after the date on which this Declaration is recorded, whichever occurs first. The directors appointed by the Developer need not be residents or Unit Owners.

B. ABSENCE OF WARRANTY. The Owner and Developer specifically disclaim any warranty or representation in connection with the Property or the Condominium Documents except as specifically set forth therein; and no Person shall rely upon any warranty or representation not specifically set forth therein. Any estimate of Assessments are believed to be accurate, but no warranty or guaranty is made or intended, nor may one be relied upon.

C. RIGHT OF DISPOSITION. Notwithstanding the provisions of Article VII hereof, the Owner shall have the absolute right to sell, convey, transfer, mortgage or encumber any Unit owned by the Owner.

D. RIGHT TO AMEND DECLARATION. The Owner shall have the right to amend the Declaration, and any of the Condominium Documents, in accordance with Article XV.A.5.

E. RESERVATION OF OPTION TO EXPAND CONDOMINIUM. The Owner hereby declares that the condominium created by this Declaration is an expandable condominium under the provisions of the Act. The Owner does further express the intention, but not a commitment, within ten (10) years from the date of recording of this Declaration, to expand the condominium to include any, all of, or any portion of, the Expansion Real Estate, to add up to eighty-four (84) additional Units, from time to time, by any number of successive amendments to the Declaration, in a general plan of development using substantially the same Building architecture as used previously in the condominium, and to expand the condominium to include all improvements on the Real Estate and the Expansion Real Estate.

The Owner makes no commitment, and is not obligated, to so expand the condominium or to include any or all of the Expansion Real Estate in any additional future phase, or to include any particular number of Units in any Building. The development of an additional phase or phases of the condominium by way of expansion shall not imply any obligation on the part of the Owner to add future phases to the condominium, nor shall the same imply any obligation on the part of the Owner to add any of the Expansion Real Estate or any additional phase. In the event the Owner so elects to expand the condominium, the Owner at its expense shall cause to be prepared, executed and recorded, amendments to this Declaration and the plats and plans required by statute, if any.

In the event that the condominium is expanded in accordance with the foregoing to add additional Units, the Share of each Unit Owner in the Common Areas and Facilities and Limited Common Areas and Facilities shall be reallocated so that thereafter each such Share shall be equal to a percentage determined by dividing the number one (1) by that number which is equal to the to the number of Units in the condominium after each such expansion, and multiplying that result by one hundred (100).

F. ASSESSMENT EXEMPTION. Owner and Developer may elect in writing to the Association, at any time, to be exempt from any assessment levied by the Association on any or all Units owned by the Owner, which are unoccupied and offered by the Owner for the first time for sale, for the period of time beginning on the date of the recording of this Declaration, and ending on the first day of the twenty-fourth (24<sup>th</sup>) month following the month in which the closing of the sale of the first Unit by Owner occurs, it being the intent hereof that Owner and Developer be so exempt from such assessments in accordance with the provisions of Indiana Code 32-1-6-22 (d).

G. DEVELOPER'S RESERVED RIGHTS AND EASEMENTS. Notwithstanding any provisions herein to the contrary, Developer hereby expressly reserves unto itself and its successors and assigns a nonexclusive, perpetual right, privilege, and easement with respect to any portion of the Real Estate and any portion of the Expansion Real Estate which becomes part of the Real Estate, for the benefit of Developer, its successors, and assigns, over, under, in, and/or on the Real Estate and any portion of the Expansion Real Estate which becomes part of the Real Estate, without obligations and without charge to Developer or Owner, for the purposes of construction, installation, relocation, development, maintenance, repair, replacement, use and enjoyment and/or otherwise dealing with the Real Estate and Expansion Real Estate. The reserved easement shall constitute a burden on the title to all or any portion of the Real Estate and any portion of the Expansion Real Estate which becomes part of the Real Estate and specifically includes, but is not limited to:

- (1) The right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on, or in all or any portion of the Real Estate and any portion if the Expansion Real Estate which becomes part of the Real Estate; and the right to tie into any portion of the Real Estate and any portion of the Expansion Real Estate that becomes part of the Real Estate with driveways, parking areas, streets, and drainage systems; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer, and drainage lines and facilities constructed or installed in, on, under, and/or over all or any portion of the Real Estate and any portion of the Expansion Real Estate that becomes part of the Real Estate, and in connection therewith the

right to store construction equipment and materials in appropriate areas in the Common Area or in areas owned by Owner and/or Developer without payment of any fee or charge whatsoever; and

- (2) the right to construct, install, replace, relocate, maintain repair, use and enjoy model units, parking spaces, signs, lighting, construction offices, business offices and sales offices as, in the sole opinion of Developer, may be required, convenient, or incidental to the construction of improvements and sale of units in all or any portion of the Real Estate and Expansion Real Estate;

No rights, privileges, and easements granted or reserved herein shall be merged into the title of any Property within the Real Estate and any portion of the Expansion Real Estate that becomes part of the Real Estate, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quit claim deed from Developer releasing such right, privilege, or easement by express reference thereto with respect to all or any portion of the Real Estate and any portion of the Expansion Real Estate that becomes part of the Real Estate.

H. **DEDICATION RIGHTS RESERVED.** In addition to all easements and rights previously granted by the recorded documents against the Property, Owner hereby reserves the right at its sole discretion to dedicate or otherwise convey portions of the Property (but not those portions on which a Unit is situated) to any public agency or governmental authority or quasi-public utilities for purposes of streets, roads, roadways, utilities, recreation areas, storm detention basins, storm outfall, storm sewers, water, sidewalks and other benefits and improvements, and rights-of-way and easements therefore. Such dedications or conveyances shall not require the consent, approval or signatures of either the Board or any other Unit Owner, and such dedication or conveyance shall be considered fully accomplished and conclusively binding upon each of said Unit Owners and upon the Association when set forth in writing which has been recorded in the Office of the Recorder of Lake County, Indiana, provided, however, that nothing in this paragraph shall be construed in any manner to require or obligate Declarant to make any such conveyance or dedication. In furtherance of the foregoing, an irrevocable power coupled with an interest is hereby granted to Declarant as agent and attorney-in-fact, to grant such easements or make such dedications or conveyances.

#### **ARTICLE XXI** **SEVERABILITY OF INVALID OR UNENFORCEABLE PROVISIONS**

If any term, covenant, provision, phrase or other element of the Condominium Documents is held to be invalid or unenforceable for any reason whatsoever, such holding shall not be deemed to affect, alter, modify or impair in any manner whatsoever any other term, covenant, provision, phrase or other element of the Condominium Documents.

If any part of this Declaration, or any term, covenant, provision, phrase or other element, or the application thereof in any circumstances be judicially held in conflict with the laws of the State of Indiana, then the said laws shall be deemed controlling and the validity of the remainder of this Declaration and the application of any other term, covenant, provision, phrase or other element in other circumstances shall not be affected thereby.

**ARTICLE XXII**  
**UNIT DEEDS**

Any transfer of a Unit by deed or otherwise shall include all appurtenances thereto whether or not specifically described.

**ARTICLE XXIII**  
**CAPTIONS**

Captions used in the Condominium Documents are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of the Condominium Documents.

**ARTICLE XXIV**  
**PRONOUNS**

Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include the masculine, feminine and neuter genders. Words in the singular shall include and refer to the plural and words in the plural shall include the singular when appropriate.

**ARTICLE XXV**  
**NOTICE TO MORTGAGEES**

Upon written request to the Board of Directors of the Association, the holder of any duly recorded mortgage on any Unit 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 is subject to such mortgage.

**ARTICLE XXVI**  
**BINDING EFFECT**

This Declaration shall be binding upon and inure to the benefit of the Owner, its successors, grantees, assigns and the legal representatives thereof.

**ARTICLE XXVII**  
**ARBITRATION**

(Any controversy between Unit Owners or any claim by a Unit Owner against the Association or another Unit Owner arising out of or relating to the



Declaration, By-Laws or Rules and Regulations of the Association shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator may be entered in any court having jurisdiction thereof. Any claim, dispute or controversy between any Unit Owner, any group of Unit Owners and/or the Association against the Owner (or Developer) arising out of or relating to this Declaration, the Real Estate and/or any improvements on the Real Estate including, without limitation, any Unit or Building, or arising out of or relating to any agreement between such parties related thereto, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. The award entered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Notwithstanding any of the foregoing terms or provisions of this Article XXVII to the contrary, neither the Association nor any group of Unit Owners shall submit any claim, dispute or controversy against the Owner (or Developer) arising out of or relating to this Declaration, the Real Estate and/or any improvements on the Real Estate including, without limitation, any Unit or Building, or arising out of or relating to any agreement between such parties related thereto, until at least seventy-five percent (75%) of the members of the Association have approved of that action at a meeting of the Members.

IN WITNESS WHEREOF, the Owner has caused this instrument to be executed as of the date first written above.

OWNER:

Hecimovich Development, Inc.

By: 

Michael G. Hecimovich

Its: President

Attest: 

Michael Hecimovich

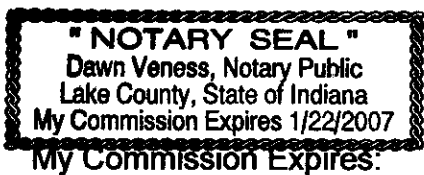
Its: Vice President



ACKNOWLEDGMENT

Before me, a Notary Public in and for said County and State, personally appeared Michael G. Hecimovich and Michael Hecimovich, known to me to be the Chief Executive Officer and Secretary, respectively, of Hecimovich Development, Inc., and on behalf of said limited liability company, acknowledged the execution of the foregoing instrument, and certified that all action required to authorize the execution and delivery of said instrument by them as the representatives of said limited liability company has been take.

Given under my hand and seal this 27<sup>th</sup> day of February, 2006.



Dawn Veness  
Notary Public

January 22, 2007

County of Residence:

Lake



This Instrument prepared by Michael Hecimovich, 2971 Hart St. Dyer, Indiana 46311

State of Indiana  
Office of the Secretary of State

CERTIFICATE OF INCORPORATION

of

SILVER HAWK VILLAGE CONDOMINIUM ASSOCIATION, INC.

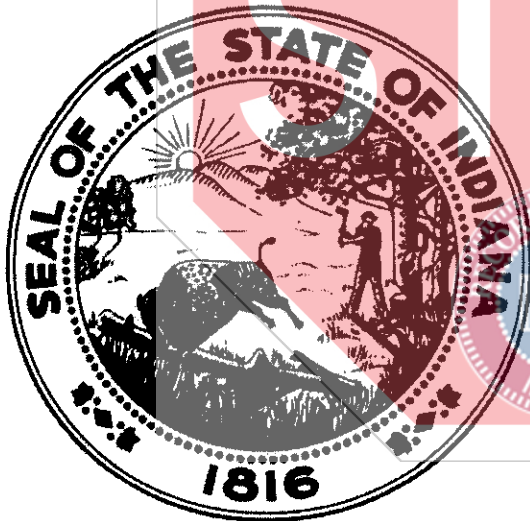
I, TODD ROKITA, Secretary of State of Indiana, hereby certify that Articles of Incorporation of the above Non-Profit Domestic Corporation have been presented to me at my office, accompanied by the fees prescribed by law and that the documentation presented conforms to law as prescribed by the provisions of the Indiana Nonprofit Corporation Act of 1991.

Document is  
**NOT OFFICIAL!**

This Document is the property of  
the Lake County Recorder!

NOW, THEREFORE, with this document I certify that said transaction will become effective Friday, February 10, 2006.

In Witness Whereof, I have caused to be affixed my signature and the seal of the State of Indiana, at the City of Indianapolis, February 10, 2006.



*Todd Rokita*

TODD ROKITA,  
SECRETARY OF STATE

EXHIBIT B

ARTICLES OF INCORPORATION  
(Not For Profit)

State Form 4162 (R777-91)  
Corporate Form 364-1 (October 1984)

ARTICLES OF INCORPORATION OF  
SILVER HAWK VILLAGE  
CONDOMINIUM ASSOCIATION, INC.

The undersigned incorporator desiring to form a corporation (hereinafter referred to as the "Corporation") pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991 (hereinafter referred to as the "Act"), execute the following Articles of Incorporation:

ARTICLE I

Document is  
NAME

**NOT OFFICIAL!**

The name of the Corporation is Silver Hawk Village Condominium Association, Inc.

This Document is the property of  
the Lake County Recorder!

ARTICLE II

PURPOSES

The purposes for which the Corporation is formed are:

Section 1. To establish an incorporated association (hereinafter the "Association") to administer a Condominium located in Crown Point, Lake County, Indiana pursuant to the Declaration of Condominium of Silver Hawk Village Condominiums (hereinafter the "Declaration").

Section 2. This Association is organized to own and/or maintain and administrate the Condominium, to administrate and enforce covenants and restrictions set forth in the Declaration and to collect and distribute assessments and charges therefore. The documents creating the community provide for the ownership, operation, management, maintenance and use of Units as described in said document.

**Section 3.** The Association shall not engage in any activities for the profit of its members, and shall conduct its affairs in such fashion and for such purposes other than for the pecuniary gain of its members, directors, officers, or incorporators.

**Section 4.** The Association shall have all of the common law and statutory powers of a nonprofit corporation which are not in conflict with the terms of these Articles.

**Section 5.** The Association shall have all of the powers reasonably necessary to implement the purpose of the Association, including, but not limited to, the following:

- (a) Make and collect Assessments against Members.
- (b) To use the proceeds of Assessments in the exercise of its powers and duties.
- (c) To maintain, repair, replace and operate the Property in accordance with the Declaration.
- (d) The reconstruction of improvements after casualty.
- (e) To make and amend rules and regulations respecting the use of the Units.
- (f) To enforce by legal means the provisions of the Declaration, these Articles, the By-Laws of the Association, and the Rules and Regulations in accordance with of the Declaration.
- (g) To contract for the management of the Association and delegate to such contractor all powers and duties of the Association except such as are specifically required by the Declaration to have the approval of the Board of Directors or of the Members of the Association.
- (h) All funds and the titles of all properties acquired by the Association and the proceeds thereof shall be held only for the benefit of the Members in accordance with the provisions of the Declaration.
- (i) The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration.
- (j) To employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association.
- (k) To do any and all things necessary, convenient or expedient, as permitted by the "Act" for the accomplishment of any of the purposes or the

furtherance of any of the powers hereinabove set forth either alone or in association with other corporations, firms or individuals.

Section 6. All rights, powers and descriptions of purposes established by the Articles of Incorporation, shall be subject to the Declaration and all provisions contained therein as if fully set forth in these Articles, and shall further be subject to Indiana law governing nonprofit corporations.

Section 7. Notwithstanding any other provision of these articles, the Corporation shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax under Section 528 of the Internal Revenue Code of 1986 or corresponding provisions of any future provisions of the Internal Revenue Code.

ARTICLE III

TYPE OF CORPORATION

The Corporation is a mutual benefit corporation.

ARTICLE IV

REGISTERED AGENT REGISTERED OFFICE. PRINCIPAL OFFICE

Section 1. Registered Agent. The name and address of the Corporation's Registered Agent for service of process is:

Hecimovich Development, Inc.  
2971 Hart St. Dyer, IN 46311

Section 2. Registered Office. The post office address of the registered office of the Corporation is:

c/o Hecimovich Development, Inc.  
2971 Hart St. Dyer, IN 46311

Section 3. Principal Office. The post office address of the principal office of the Corporation is:

c/o Hecimovich Development, Inc.  
2971 Hart St. Dyer, IN 46311

ARTICLE V

MEMBERSHIP

The Corporation will have members.

ARTICLE VI  
INCORPORATOR

The name and post office address of the incorporator of the Corporation is:

<u>Name</u>	<u>No. &amp; Street or Bldg.</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
Michael G. Hecimovich	c/o Hecimovich Development, Inc. 2971 Hart St.	Dyer	IN	46311

ARTICLE VII  
DISTRIBUTION OF ASSETS ON DISSOLUTION OR  
FINAL LIQUIDATION

Upon dissolution or final liquidation, the assets shall revert to the Owners of the Residential Units located in the Submitted Parcel.

IN WITNESS WHEREOF, I, the undersigned, do hereby execute these Articles of Incorporation and certify the truth of the facts herein states this 27 day of February, 2006. I hereby verify subject to penalties of perjury that the facts contained herein are true.

  
Michael G. Hecimovich

This instrument prepared by:

Michael Hecimovich  
2971 Hart St.  
Dyer, IN 46311



EXHIBIT C

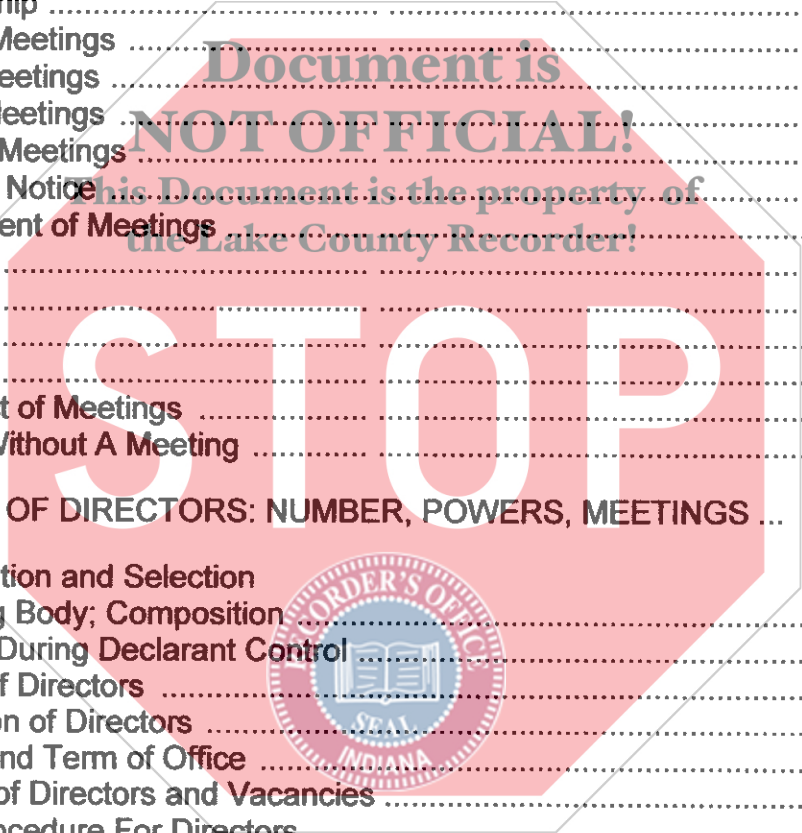
BY-LAWS

OF

SILVER HAWK VILLAGE CONDOMINIUM ASSOCIATION, INC.

TABLE OF CONTENTS

I. NAME, MEMBERSHIP, APPLICABILITY, AND DEFINITIONS .....	1
1.Name .....	1
2.Principal Office .....	1
3.Definitions .....	1
II. ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES .....	1
1.Membership .....	1
2.Place of Meetings .....	1
3.Annual Meetings .....	1
4.Special Meetings .....	2
5.Notice of Meetings .....	2
6.Waiver of Notice .....	2
7.Adjournment of Meetings .....	2
8.Voting .....	3
9. Proxies .....	3
10.Majority .....	3
11.Quorum .....	3
12. Conduct of Meetings .....	3
13.Action Without A Meeting .....	3
III. BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS ...	4
A. Composition and Selection .....	4
1.Governing Body; Composition .....	4
2.Directors During Declarant Control .....	4
3.Number of Directors .....	4
4.Nomination of Directors .....	4
5.Election and Term of Office .....	4
6.Removal of Directors and Vacancies .....	5
7.Voting Procedure For Directors .....	5
8.Community Association Delegates .....	5





B. Meetings .....	5
9. Organization Meetings .....	5
10.Regular Meetings .....	5
11.Special Meetings .....	5
12.Waiver of Notice .....	6
13.Quorum of Board of Directors .....	6
14.Compensation .....	6
15.Conduct of Meetings .....	6
16.Open Meeting .....	6
17. Executive Session .....	7
18.Action Without A Formal Meeting .....	7
C. Powers and Duties .....	7
19.Powers .....	7
20.Management Agent. ....	
21.Accounts and Reports .....	9
22.Borrowing .....	
23.Rights of the Association .....	9
IV. OFFICERS .....	10
1.Officers .....	10
2.Election, Term of Office and Vacancy .....	
3.Removal. ....	11
4. Powers and Duties .....	11
V. COMMITTEES .....	12
VI. MISCELLANEOUS .....	12
1.Fiscal year .....	12
2.Parliamentary Rules .....	12
3.Conflicts .....	12
4.Books and Records.....	12
5.Notices .....	12
6.Amendment.....	13

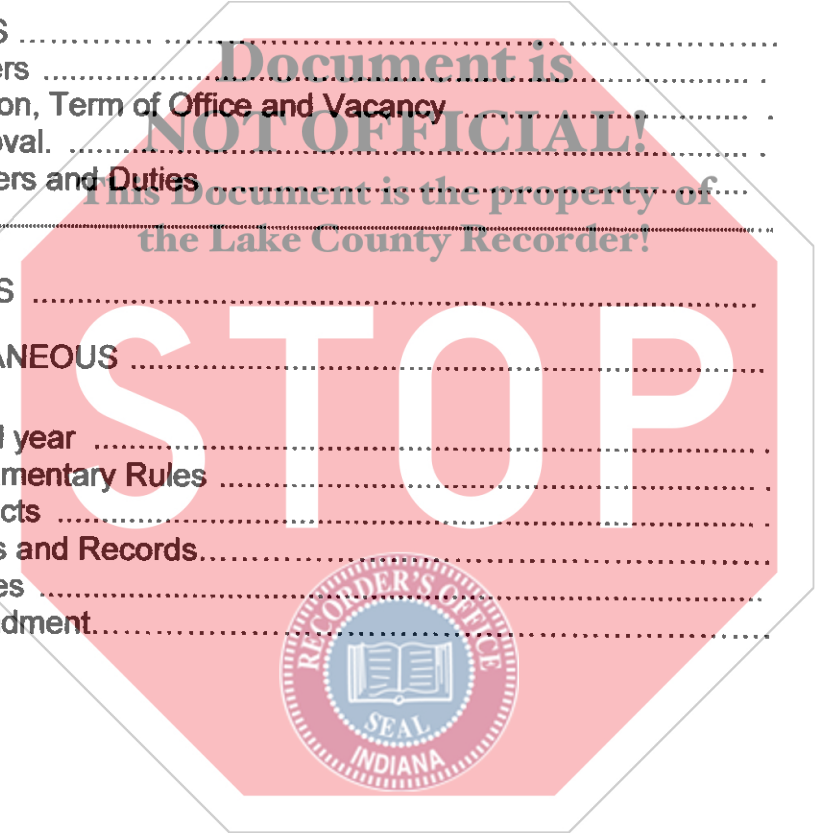


EXHIBIT C  
BY-LAWS  
OF  
SILVER HAWK VILLAGE CONDOMINIUM ASSOCIATION, INC.

ARTICLE I

NAME. MEMBERSHIP. APPLICABILITY AND DEFINITIONS

Section 1. Name. The name of the Association shall be the Silver Hawk Village Condominium Association, Inc. (hereinafter sometimes referred to as the "Association").

Section 2. Principal Office. The principal office of the Association in the State of Indiana shall be located in the City of Dyer, County of Lake. The Association may have such other offices, either within or without the State of Indiana, as the Board of Directors may determine or as the affairs of the Association may require.

Section 3. Definitions. The words used in these By-Laws shall have the same meaning as set forth in that certain Declaration of Condominium of Silver Hawk Village Condominiums (said Declaration, as amended, renewed or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), unless the context shall prohibit.

ARTICLE II

ASSOCIATION: MEETINGS. QUORUM. VOTING. PROXIES

Section 1. Membership. The Association shall have one (1) class of membership, as more fully set forth in the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

Section 2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors.

Section 3. Annual Meetings. The first annual meeting shall not be held until such time as the rights of the Developer to appoint all of the Board of Directors (singly, a "Director", collectively the "Board" or "Board of Directors") and to thereby control the Association shall have expired as provided in the Declaration, or at such earlier time or times as may be determined by the Owner. The next annual meeting shall be set by the Board of Directors so as to occur no later than ninety (90) days after the close of the Association's fiscal year. Subsequent regular annual meetings shall be held within thirty (30) days of the

same day of the same month of each year thereafter at an hour set by the Board of Directors. Subject to the foregoing, the annual meeting of the Members shall be held at a date and time as set by the Board of Directors. Subject to the foregoing, the Members shall, at each annual meeting, elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

**Section 4. Special Meetings.** The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by a least ten percent (10%) of the total votes of the Association. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 5. Notice of Meetings.** Written or printed notice stating the place, day and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

**Section 6. Waiver of Notice.** Waiver of notice of meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, shall be deemed a waiver by such member of notice of the time, date and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

**Section 7. Adjournment of Meetings.** If any meetings of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for the

adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that at least twenty-five percent (25%) of the total votes of the Association remains present in person or by proxy, and provided further than any action taken shall be approved by at least a majority of the Members required to constitute a quorum.

**Section 8. Voting.** The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein.

**Section 9. Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his or her Unit or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a Member or upon the expiration of eleven (11) months from the date of the proxy.

**Section 10. Majority.** As used in these By-Laws, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than fifty percent (50%) of the total number.

**Section 11. Quorum.** Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by proxy of forty percent (40%) of the Members shall constitute a quorum at all meetings of the Association. Any provision in the Declaration concerning quorums is specifically incorporated herein.

**Section 12. Conduct of Meetings.** The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring thereat.

**Section 13. Action Without A Meeting.** Any action required by law to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Members entitled to vote with respect to the subject matter thereof, and such consent shall have the same force and effect as a unanimous vote of the Members.

## ARTICLE III

### BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

#### A. Composition and Selection.

Section 1. Governing Body: Composition. The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, the Directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time.

Section 2. Directors During Developer Control. The Directors shall be selected by the Developer acting in its sole discretion and shall serve at the pleasure of the Developer until such time as is specified in the Declaration, unless the Developer shall earlier surrender this right to select Directors. The Directors selected by the Developer need not be Unit Owners or residents in the Property. After the period of Developer appointment, all Directors must be Members of the Association.

Section 3. Number of Directors. The Board of Directors shall consist of three (3) persons.

Section 4. Nomination of Directors. Except with respect to Directors selected by the Developer, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but in no event less than the number of vacancies or terms to be filled. Nominations shall be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members or solicit votes.

Section 5. Election and Term of Office. Notwithstanding any other provision contained herein:

At the first annual meeting of the membership after the termination of the Developer's right to select all of the Board of Directors and at each annual meeting of the membership thereafter, Directors shall be elected. All Directors shall be elected at-large. All Members of the Association shall vote upon the election of Directors.

The term of each Director's service shall be for a period of three (3) years and extending thereafter until his successor is duly elected and qualified or until

he is removed, provided, however, that the terms of the members to the initial Board of Directors shall be for periods of three (3) years, two (2) years, and one (1) year, such that there shall be only one vacancy each year on the Board of Directors occasioned by the expiration of the director's term.

**Section 6. Removal of Directors and Vacancies.** Unless the entire Board is removed from office by the vote of the Association Members, an individual Director shall not be removed prior to the expiration of his or her term of office, except by the votes of a majority of Members.

In the event of death or resignation of a Director, his or her successor shall be selected by a majority of the remaining members of the Board and shall serve for the unexpired term of the predecessor.

**Section 7. Voting Procedure for Directors.** The first election of the Board shall be conducted at the first meeting of the Association after the Turnover Date. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected.

**Section 8. Community Association Delegates.** The Board of Directors shall elect from its members two (2) directors who shall represent the Association as Community Association Delegates with respect to the Community Association. The Community Association Delegates shall continue to act in that capacity until they are replaced or removed by the Board of Directors, from time to time. In the absence of appointment or election by the Board of Directors, the president and treasurer of the Association shall serve as Community Association Delegates.

**B. Meetings.**

**Section 9. Organization Meetings.** The first meeting of the members of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

**Section 10. Regular Meetings.** Regular meetings of the Board of Directors may be held as such time and place as shall be determined from time to time by a majority of the Directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be communicated to Directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

**Section 11. Special Meetings.** Special meetings of the Board of Directors shall be held when called by written notice signed by the President, Vice President, or Secretary of the Association, or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any

special business to be considered. The notice shall be given to each Director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; or (d) by telegram, charges prepaid. All such notices shall be given or sent to the Director's address or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone or telegraph shall be delivered, telephoned, or given to the telegraph company at least seventy-two (72) hours before the time set for the meeting.

Section 12. Waiver of Notice. The transactions of any meetings of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 13. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 14. Compensation. No Director shall receive any compensation from the Association for acting as such unless approved by a majority vote of the total vote of the Association at a regular or special meeting of the Association.

Section 15. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings.

Section 16. Open Meeting. All meetings of the Board of Directors shall be open to all Members, but Members other than Directors may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board.

**Section 17. Executive Session.** The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

**Section 18. Action Without A Formal Meeting.** Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors, and such consent shall have the same force and effect as a unanimous vote.

**C. Powers and Duties.**

**Section 19. Powers.** The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of all Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles of Incorporation or these By-Laws directed to be done and exercised exclusively by the Members.

The Board of Directors shall delegate to one of its Members the authority to act on behalf of the Board of Directors on all matters related to the duties of the Managing Agent or Manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these By-Laws or by any resolution of the Association that may be hereafter adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but no limitation:

- (a) preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the Common Expenses;
- (b) making Assessments to defray the Common Expenses, establishing the means and methods of collecting such Assessments, and establishing the period of the installment payments of the annual Assessment, provided otherwise determined by the Board of Directors, the annual Assessment against the proportionate share of the Common Expenses shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for said month;
- (c) providing for the operation, care, upkeep, and maintenance of Common Areas and Facilities and the Limited Common Areas and Facilities;



(d) designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement by the Association of its property, and Common Areas and Facilities and the Limited Common Areas and Facilities, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel or independent contractors in the performance of their duties;

(e) collecting the Assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Areas and Facilities and Limited Common Areas and Facilities in accordance with the other provisions of the Declaration and these By-Laws after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable to Owners;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Owners and Mortgagees, their duly authorized agents, accountants, or attorneys during general business hours on working days at the time and in a manner that shall be set and announced by the Board of Directors for the general knowledge of the Owners.

(m) make available to any prospective purchaser of a Unit, any Unit Owner, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Unit, current copies of the Declaration, the

Articles of Incorporation, the By-Laws, Rules and Regulations, and all other books, records, and financial statements of the Association;

(n) permit utility suppliers to use portions of the Real Estate and Expansion Real Estate reasonably necessary to the ongoing development or operation of the Units;

(o) paying Community Assessments to the Community Association on a semi-annual basis; and

(p) to exercise all other powers and duties vested in or delegated to the Association, and not specifically reserved to the Owners by the Articles of Incorporation, the Declaration or these By-Laws.

**Section 20. Management Agent.**

(a) The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-Laws, other than the powers set forth in subparagraphs (a), (b), (f), (g), and (i) of Section 19 of this Article. The Owner, or an affiliate of the Owner, may be employed as managing agent or manager.

(b) No management contract may have a term in excess of one (1) year and must permit termination by either party without cause and without termination fee on ninety (90) days' or less written notice.

**Section 21. Accounts and Reports.** The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) cash basis accounting shall be employed;

(b) accounting and controls including, without limitation, (i) a segregation of accounting duties, and (ii) cash disbursements limited to amounts of Twenty-five Dollars (\$25.00) and under;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;

(e) any financial or other interest which the Managing Agent may have in any firm providing goods and services to the Association shall be disclosed promptly to the Board of Directors; and

(f) commencing at the end of the month in which the first Unit is sold and closed, quarterly financial reports shall be prepared for the Association containing:

(i) an Income and Expense Statement reflecting all income and expense activity for the preceding six (6) months on a cash basis;

(ii) a Balance Sheet as of the last day of the Association's fiscal year and an Operating Statement for said fiscal year, which shall be distributed within ninety (90) days after the close of a fiscal year;

(iii) a Delinquency Report listing all Owners who have been delinquent during the preceding six (6) month period in paying the monthly installments of Assessments and who remain delinquent at the time of the report and describing the status of any action to collect such installments which remain delinquent (A monthly installment of the Assessment shall be considered to be delinquent on the fifteenth (15th) day of each month.); and

(iv) an annual report consisting of at least the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet as of the end of the fiscal year; (2) an operating (income) statement for the fiscal year; and (3) a statement of changes in financial position for the fiscal year. If said report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association.

**Section 22. Borrowing.** The Board of Directors shall have the power to borrow money for the purpose of repair or restoration of any Common Areas and Facilities and Limited Common Areas and Facilities and facilities without the approval of the Members of the Association; provided, however, the Board shall obtain membership approval in the same manner provided Section 10.02, of the Declaration for Special Assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities, and the total amount of such borrowing exceeds or would exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

**Section 23. Rights of the Association.** With respect to any Common Areas and Facilities and Limited Common Areas and Facilities or other Association responsibilities owned, and in accordance with the Articles of Incorporation and By-Laws of the Association, the Association shall have the

right to contract with any person for the performance of various duties and functions. Such agreements shall require the consent of two-thirds (2/3) of the total votes of all Directors of the Association.

#### ARTICLE IV

#### OFFICERS

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The Board of Directors may elect such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, excepting the offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Board of Directors.

Section 2. Election. Term of Office and Vacancy. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members, as herein set forth in Article III. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

Section 4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

Section 5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Agreements. Contracts. Deeds. Leases, Checks Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by the President and Treasurer or by such other person or persons as may be designated by resolution of the Board of Directors.

## ARTICLE V

### COMMITTEES

Committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present are hereby authorized. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall be composed as required by law and shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

## ARTICLE VI

### MISCELLANEOUS

Section 1. Fiscal Year. The initial fiscal year of the Association shall end on December 31.

Section 2. Parliamentary Rules. Except as may be modified by Board resolution establishing modified procedures, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Indiana law, the Articles of Incorporation, the Declaration, or these By-Laws.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of Indiana law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Indiana law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

Section 4. Books and Records.

(a) Inspection By Members and Mortgagees. The Declaration and By-Laws, membership register, books of account, and minutes of meetings of the Members, the Board and committees shall be made available for inspection and copying by any Mortgagee, Member of the Association, or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place within the Property as the Board shall prescribe.

(b) Inspection By Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents at the expense of the Association.

Section 5. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these ByLaws shall be in writing and shall be deemed to have been duly given if delivered

personally or if sent by registered or certified mail, return receipt requested, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such owner; or

(b) if to the Association, the Board of Directors, or the Managing Agent, at the principal office of the Association or the Managing Agent, if any, or at such other address as shall be designated by the notice in writing to the Owners pursuant to this Section.

**Section 6. Amendment.** Owner may amend the By-Laws in accordance with the Declaration. These By-Laws may be amended otherwise only by the affirmative vote (in person or by proxy) or written consent of Members representing two-thirds (2/3) of the total votes of the Association (not a majority of a quorum).



EXHIBIT D

SILVER HAWK VILLAGE CONDOMINIUMS

RULES AND REGULATIONS

1. ASSESSMENTS AND COMPLIANCE WITH CONDOMINIUM DOCUMENTS. The Unit Owner is always responsible for payment of Association Assessments, insurance deductibles or any other charge the Board of Directors may direct to the Unit, and for compliance by all Occupants (including lessees and sublessees) with the provisions of the Condominium Documents, regardless of whether the Unit is occupied by the Unit Owner or by a lessee or sublessee, and regardless of any agreement which Unit Owner may have with any such Occupant, lessee or sublessee.

2. BUSINESSES. No businesses of any kind shall be conducted from any Unit except Developer's right to sell Units from Models and any business related thereto. This provision shall not prohibit the use of a telephone for business purposes of a nature incident to a business located outside of the Unit, or for the entertainment of or consultation with any business guest for any portion of a particular day. All other business activities, of whatever nature, kind, duration or extent are prohibited.

3. CAR WASHING. No car or other vehicle washing is permitted on any of the Common Areas and Facilities and Limited Common Areas and Facilities, except in areas designated by the Association.

4. COOKING AND BARBECUING. No cooking or barbecuing is allowed in any location outside of Units, except on balconies or patios, and in such other areas as may be designated by the Board of Directors.

5. DRIVING AND PARKING: VEHICLES PERMITTED. Vehicles shall be parked only in the garage or upon paved areas designed and marked for vehicle parking. Parking is prohibited in driveways and other vehicle traffic flow areas. Vehicles shall not be driven or parked on unpaved areas. No more than two (2) vehicles per Unit shall be allowed to be kept on the Property. If the Occupants of a Unit have only one (1) vehicle among them, it shall at all times be parked in the garage parking space for that Unit, and not in the exterior parking areas. The term "vehicle" as used in this Rule shall include only automobiles, pick-up trucks and vans of one-half (1/2) ton capacity or less, motorcycles, motor bikes, and bicycles, all of which are used for personal transportation purposes only. All other kinds and types of recreational vehicles (including, but not limited to, golf carts, boats and campers) and commercial vehicles (except those making deliveries or pick ups, or moving Occupants in or out of Units, or which may be necessary or convenient for the maintenance, replacement or repair of the Property), are not allowed at any time on the Property.

6. **FLOOR COVERINGS.** The Unit Owner shall not replace existing floor coverings (including carpeting and tile), except upon written approval of the Board of Directors of the Association, which approval shall not be granted unless the replacement materials and installation method meet or exceed the specifications of the original material in order to preserve and maintain sound-proofing among adjoining Units.

7. **GARBAGE HANDLING.** Each Owner shall purchase and utilize a standard garbage removal container designated by the Association. All garbage removal containers shall be located and stored in the garage parking area of the Unit Owner's Unit, excepting only on those days of garbage collection by the Town or its contractor, in which case such garbage containers, when empty, shall be immediately relocated to the garage parking area of the Unit Owner's Unit.

8. **INFORMATION TO BE PROVIDED TO THE ASSOCIATION.** All Owners of Units shall advise the Association in writing of the names, residence addresses (if different from that of the Unit owned) and telephone numbers of all Unit Owners, and all lessees, sublessees and other Occupants of Units; and the name, business address and telephone numbers of all mortgagees of record on the Unit owned, and all such information provided in accordance herewith shall be updated in writing by each Unit Owner within fifteen (15) days of the date of any change in the information.

9. **INSURANCE.** Each Unit Owner is required to carry insurance in accordance with the provisions of the Declaration. A copy of such policy shall be filed with the Association.

10. **KEYS.** The Units will be master keyed. Unit Owners requesting periodic inspections during periods of vacancy may do so by registering such request with the Association for such service. No dead bolts may be added unless keyed to master.

11. **LEASING OF UNITS.** The following rules shall be applicable to the leasing of Units except for Developer's Models:

Not more than 20% of the Units shall be rented simultaneously and written requests shall be considered in the order they are received.

a. No Unit shall be rented for transient, hotel or motel purposes. Any lease must be of at least one (1) year duration. A lessee with a one (1) year lease or longer may not sublet or allow a third party to occupy the Unit for less than six (6) months. No lease shall demise less than all of the Unit.

b. No two bedroom Unit shall be leased to or occupied by more than four people.

c. All lessees and Occupants are subject to the provisions of the Declaration of Condominium, the By-Laws and the Rules and Regulations and the Unit Owner(s) shall be held responsible for any and all infractions. It shall be the responsibility of the Unit Owner to provide copies of all of the Condominium Documents to lessees and sublessees



and all other Occupants. All leases shall be in the form and contain the terms and provisions, if any, as may be required from time to time by the Board of Directors. All other leases shall be void, and the Association shall have the right to evict all Occupants having possession under any other form of lease, and may also pursue any other legal or equitable remedy provided by the Declaration of Condominium.

d. The Unit Owner(s) shall provide the Association with a copy of the lease, full name(s) of the proposed lessee and Occupants and the permanent address and emergency telephone number of such Unit Owner(s). The Unit Owner(s) shall also submit a check payable to the Association in the amount of \$150.00 for the Association's review of the lease documents and information. The Unit Owner shall provide the Association a release from the proposed lessee and occupants permitting the Association to conduct an investigative credit and criminal background check. The Unit Owner shall provide the Association such additional information regarding the lessee(s) as may reasonably be requested, and shall receive the written approval of the Association prior to entering into any lease. A lease proposal meeting all of the requirements of this Section 11 of the Rules and Regulations shall be deemed approved in the event that the Board of Directors of the Association has not acted on a complete lease proposal submission within thirty (30) days of receipt of the complete submission. Owner shall not be required to receive the Association's approval (or pay any fee) with respect to Owner's lease of any Unit owned by Owner or an affiliate of Owner; provided, however, Owner shall provide the Association the information contained in the first sentence of this Section 11 (d).

12. MAINTENANCE, REPAIR, REPLACEMENT AND ALTERATION OF UNITS AND COMMON AND LIMITED COMMON AREAS.

A. BY THE UNIT OWNER.

(1) Maintenance, Repair And Replacement. It shall be the responsibility of the Unit Owner to maintain, repair and replace at the Unit Owner's expense all portions of the Unit within the boundaries of the Unit, including all parts of the appliances, light and plumbing fixtures, the electrical system from and including the circuit breaker panels, fireplace, flue and chimney, if any, and all heating and air conditioning units together with any lines and conduits serving such Units, even though located outside the boundaries of the Unit, which in each case service the Unit Owner's Unit; provided, however, that the Unit Owner shall secure the prior written approval of the Association as to the Person selected by the Unit Owner to perform all work.

(2) Alterations. A Unit Owner may alter any portion of the Unit within the boundaries of the Unit, except that no alteration may be made of any portion of the Unit for which the responsibility for maintenance, repair and replacement is the specific responsibility of the Association, and no alteration shall be made of any portion of the Unit which would or might jeopardize or

impair the safety, soundness, soundproofing, fireproofing or structural integrity of the Unit or the Building, or which would in any manner affect the use, possession or occupancy of other Units within the Building, or the Building itself.

(3) General Obligations And Restrictions. In the performance of the Unit Owner's obligations, and the exercise of the Unit Owner's rights as to maintenance, repair, replacement and alteration, each Unit Owner shall be bound by the following general obligations and restrictions:

(a) No Unit Owner shall have the right to maintain, repair, replace, alter, paint or decorate any portion of a Building or any other Common Areas and Facilities or Limited Common Areas and Facilities which are not within the boundaries of the Unit Owner's Unit (e.g., Unit Owners are prohibited from painting or otherwise altering or replacing exterior Unit access doors, garage doors, windows or window frames, and from installing window screens or screen doors), or which are within said boundaries but with respect to which the Association has the responsibility for maintenance, repair and replacement.

(b) All Unit Owners shall have the responsibility to promptly report to the Association or its agent any defect or need for maintenance, repair or replacement, the responsibility for which is with the Association.

(c) No Unit Owner shall have the right to impair any easement whatsoever.

(d) It shall be the responsibility of each Unit Owner to promptly notify the Association in writing of any intended alteration under Article IV.A.2. of the Declaration prior to the commencement of same. No alteration shall be made without the express written approval of the Board of Directors of the Association, after consideration by said Board of Directors to determine whether said proposed alteration is in accordance with the provisions of Article IV.A. of the Declaration. A proposed alteration under Article IV.A.2.a. of the Declaration shall be deemed to have been approved in writing by the Board of Directors in the event that the Board of Directors has not acted within sixty (60) days of the date of the Unit Owner's written notice. A proposed alteration under Article IV.A.2.b. of the Declaration shall be deemed to have been denied in writing by the Board of Directors in the event that the Board of Directors has not acted within sixty (60) days of the date of the Unit Owner's notice.

(e) All Unit Owners shall perform their responsibilities in such manner so as to not unreasonably disturb Occupants residing within the Building.

B. BY THE ASSOCIATION.

(1) Maintenance. Repair And Replacement Of Common Areas and Facilities And Limited Common Areas And Facilities. It shall be the responsibility of the Association to maintain, repair and replace all portions of the Common Areas and Facilities and Limited Common Areas and Facilities located outside of the boundaries of Units as described in Article V of the Declaration below.

(2) Maintenance. Repair And Replacement Of Portions Of The Condominium Located Within The Boundaries Of Units. It shall be the responsibility of the Association to maintain, repair and replace within the boundaries of each Unit as described in Article V of the Declaration all portions of the Building structure, and all portions of the Unit which contribute to the support of the Building and the Unit boundaries and which are otherwise in common use, including, but not limited to, load bearing walls, windows (other than cleaning), exterior Unit access doors, garage doors, all commonly used conduits, ducts, piping, plumbing, wiring and other facilities for the furnishings of utilities, communications, television and security services, all of the electrical system up to but not including the circuit breaker panel of the Unit, but excluding all appliances, plumbing fixtures, electrical and lighting fixtures, telephone and intercommunication systems, heating and air conditioning units and the electrical system from and including the circuit breaker panels; but shall also include all incidental damage caused to the Unit by such work as may be done or caused to be done by the Association in accordance with Article IV.B of the Declaration.

(3) Maintenance. Repair and Replacement of Common Areas and Facilities and Limited Common Area Facilities Due to Damage Caused by Unit Owner or Unit Owners. It shall be the responsibility of the Association to maintain, repair and replace any part of the Common Areas and Facilities or Limited Common Areas and Facilities that are damaged by (or for which damage is attributable to) a Unit Owner or Unit Owners, whether intentionally or unintentionally. The expenses incurred by the Association for such maintenance, repair and replacement shall be payable to the Association by that Unit Owner or those Unit Owners responsible for such damage, and may be assessed to such Unit Owner or Unit Owners pursuant to the Declaration.

(4) Alterations And Improvements. The Association shall have the right to make or cause to be made such alterations and improvements to the Common Areas and Facilities and Limited Common Areas and Facilities as it may deem necessary, provided that the making of such alterations and improvements are first approved by the Board of Directors of the Association. If required by law or contract, the approval of the first mortgagees of individual Units shall also be obtained. In the event Unit Owners request that alterations and improvements be made, the cost of making such alterations and improvements shall be assessed as Common Expenses, unless in the judgment of not less than eighty percent (80%) of the Board of Directors, such alterations and improvements are exclusively or substantially exclusively for the benefit of the Unit Owner or Owners requesting the same. In that event, the requesting

Unit Owners shall be assessed therefore in such proportions as they approve jointly, and failing such agreement, in such proportions as may be determined by the Board of Directors of the Association. The terms "alteration and improvement" as used in this paragraph shall not be construed to include repair or replacement due to casualty, loss or damage under Article XI of the Declaration.

(5) General Obligations And Restrictions. The following shall apply to the Association in the performance of its obligations and the exercise of its rights as set forth in Article IV of the Declaration:

a. Nothing herein contained shall be construed so as to preclude the Association from delegating to Persons, firms, or corporations of its choice such duties as may be imposed upon the Association under Article IV.B. of the Declaration as are approved by the Board of Directors of the Association.

b. Nothing herein contained shall be construed so as to impose a contractual liability upon the Association or an individual member of the Board of Directors. Neither the Association nor the individual officers or members of the Board of Directors thereof shall be liable for damage of any kind except those resulting from willful misconduct or bad faith.

(NOTE: This Rule 12 is an abbreviated version of Article IV of the Declaration. In the event of a conflict between this Rule 12 and Article IV of the Declaration, the provisions of said Article IV shall govern.)

13. MINIMUM HEAT. The minimum heat in every Unit shall not be less than 60 degrees F. for the period of time from November 1 to April 15 each year.

14. NOISE, ODOR AND LIGHT. Loud noises, loud music, objectionable odors and excessive external lighting which may be objectionable to other Unit Owners is prohibited.

15. OCCUPANCY. Subject to Section 11, no more than one family may occupy one Unit with no more than two (2) persons per bedroom. The term "family" includes only those Persons related by blood or marriage.

16. PEST CONTROL. Pest control within a Unit is the Unit Owner's responsibility. Pest control for the Common and Limited Common Areas shall be the Association's responsibility.

17. PETS. Although common household pets are disfavored as not conducive to the maintenance of a congenial living atmosphere within the condominium, they will be allowed on the Property and in Units, subject to the following:

A. Only one (1) dog or two (2) cats, or one (1) caged bird or aquarium shall be allowed per Unit. All pets are subject to approval by the Association in its sole discretion, on a case-by-case basis.

B. Owners of a cat or dog shall be required to keep same on a leash at all times when such pets are outside the boundaries of a Unit.

C. Owners of a cat or dog shall be required to immediately remove all forms of excrement of such pets from the Common Areas and Facilities and Limited Common Areas, including, but not limited to, patios, balconies, porches, lawns, walks, driveways, and parking areas, and such pets shall not be allowed to deposit excrement in any manner, or in any place, that would in any manner change or deface the Common Areas and Facilities and Limited Common Areas, including any alteration in the uniformity of appearance of the lawn or landscaped area.

D. No pet will be allowed which creates noise, emits noxious odors or creates unsafe or unhealthy living conditions, or other disturbances of any kind, whether on a continuous or intermittent basis, and regardless of the time of day or night.

E. Any owner of a pet allowed hereunder, who is the subject of three (3) justifiable complaints of violation of this rule, shall forthwith permanently remove the pet from his or her Unit, upon notice of same from the Board of Directors, and said Owner shall not be allowed to have any pets within the condominium at any time thereafter, except with the express prior written consent of the Board of Directors.

F. The Board of Directors shall have the authority to make regular Assessments against any and all Unit Owners with pets for the purpose of paying any additional costs which may be involved in maintaining and/or repairing the Common Areas and Facilities and Limited Common Areas and Facilities as a direct or indirect result of the housing of pets within the condominium. These Assessments may consist of a regular monthly or other periodic Assessment against Unit Owners housing a pet, to be paid in the same manner and at the same time as the regular Assessment for Common Expenses, and such Assessment may be based upon an estimate of the cost of maintaining and/or repairing the Common Areas and Facilities and Limited Common Areas and Facilities necessitated by the housing of pets within the condominium. As an alternative, or in addition to the foregoing, such Assessments may consist of a special Assessment against any Unit Owner housing a pet, if the Board of Directors, in its sole direction, determines that a particular Unit Owner shall be responsible for the cost of maintaining and/or repairing any part of the Common Areas and Facilities and Limited Common Areas and Facilities necessitated by the housing of the pet in such Owner's Unit. The failure of any Unit Owner housing a pet to pay such Assessments

shall automatically result in the immediate and permanent removal of such pet from the Unit, such Unit Owner shall not be allowed to have any pets within the condominium at any time thereafter, and the Association and the individual members thereof shall have the right to seek and obtain any and all other legal or equitable remedies allowed by the Condominium Documents or by law for violation of these Rules and Regulations.

18. **SIGNS.** Signs for sale or lease are permitted in one (1) window of the Unit only, and such sign shall exceed no more than six (6) square feet in total area. Other signs or advertising for any reason are prohibited.

19. **STORAGE.** All personal property and effects of Unit Owners shall be stored within the confines of the Unit. Common Areas and Facilities and Limited Common Areas and Facilities shall not be used for storage except as authorized by the Association. In no event shall any combustible or flammable material or liquid be stored in any location on the Property.

20. **UNSIGHTLY OBJECTS.** No unsightly objects shall be placed, stored or hung from Units or any of the Common Areas and Facilities and Limited Common Areas and Facilities, including, but not limited to, awnings, laundry, rugs, wiring, antenna, satellite dishes in excess of 20" in diameter, and personal effects. Satellite dishes of 20" in diameter or less may be located outside of a Unit in locations approved by the Board of Directors; provided, however, satellite dishes may not be permanently affixed to any part of the Property including, without limitation, the patios, balconies and railings.

21. **WATER USAGE.** Charges made for water used on the Property and by each Unit Owner are the common expenses shared equally by all Owners. Therefore, the unreasonable use of water or the wasting of water cannot be tolerated. Unit Owners who violate this Rule will be charged additional special Assessments to reimburse the Association for such unreasonable use or waste.

22. **WINDOW APPEARANCE.** All curtains, draperies, blinds and other window coverings shall be white or off-white, or shall be lined or faced with white or off-white materials, so as to present a uniform exterior appearance.

23. **WINDOW CLEANING.** Cleaning of the interior and exterior sides of windows and patio doors of a Unit, and of windows in overhead garage doors, is the Unit Owner's responsibility.

Declaration

This form is to be signed by the preparer of a document and recorded with each document in accordance with IC 36-2-7.5-5(a).

I, the undersigned preparer of the attached document, in accordance with IC 36-2-7.5, do hereby affirm under the penalties of perjury:

1. I have reviewed the attached document for the purpose of identifying and, to the extent permitted by law, redacting all Social Security number in attached document.
2. I have redacted, to the extent permitted by law, each Social Security number in the attached document.

I, undersigned, affirm under the penalties of perjury, that the foregoing declarations are true.



*Michael Hecimovich*  
Signature of Declarant

Michael Hecimovich  
Printed Name of Declarant