

**DECLARATION
OF
JUNCTION POINT CONDOMINIUM**

Document Number

DANE COUNTY
REGISTER OF DEEDS

DOCUMENT #
4018799

02/04/2005 04:43:22PM

Trans. Fee:
Exempt #:

Rec. Fee: 93.00
Pages: 42

001070

Recording Area

Name and Return Address

Antonina Prestigiacomio
Foley & Lardner LLP
Verex Plaza
150 East Gilman Street
Madison, Wisconsin 53703-1481

251-0708-224-0401-1

Parcel Identification Number (PIN)

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS	1
Section 1.1 Undefined Capitalized Terms.	1
Section 1.2 Defined Terms.	1
ARTICLE II DESCRIPTION	5
Section 2.1 Description of Condominium.	5
Section 2.2 Description of Units.	5
Section 2.3 Description of Limited Common Elements.	6
Section 2.4 Description of General Common Elements.	8
ARTICLE III PERCENTAGE INTERESTS AND VOTING.....	8
Section 3.1 Percentage Interests of Units.	8
Section 3.2 Votes.	9
ARTICLE IV EASEMENTS	9
Section 4.1 Additional Easements.	9
ARTICLE V MAINTENANCE AND REPAIRS	11
Section 5.1 Association Responsibilities.	11
Section 5.2 Unit Owner Responsibilities.	12
Section 5.3 Damage Caused by Unit Owners.	12
ARTICLE VI BUDGETS; COMMON EXPENSES; ASSESSMENTS AND ENFORCEMENT	13
Section 6.1 Monthly Payments.	13
Section 6.2 Additional General Assessments.	13
Section 6.3 Surplus Funds.....	14
Section 6.4 Utilities.....	14
ARTICLE VII USE RESTRICTIONS	15
Section 7.1 Restrictions.	15
Section 7.2 Rules and Regulations.....	16
Section 7.3 Rules and Regulations for Commercial Unit.	16
ARTICLE VIII LEASING.....	17
Section 8.1 Declarant's Right to Lease or Sell Units.....	17
Section 8.2 Unit Owner's Right to Lease Residential Units.....	17
Section 8.3 Unit Owner's Right to Lease the Commercial Unit.....	17
Section 8.4 Other Rights Granted to Commercial Unit.	18
ARTICLE IX AMENDMENT TO DECLARATION.....	19
Section 9.1 Amendment.....	19
Section 9.2 Amendments to the Condominium Documents.....	19

ARTICLE X MORTGAGES.....	20
Section 10.1 Requirements.....	20
Section 10.2 Eligible Mortgagees.....	20
Section 10.3 Rights of Eligible Mortgagees.....	21
Section 10.4 Approval of Mortgagees.....	22
ARTICLE XI BOUNDARY RELOCATION; PARTITION.....	24
Section 11.1 Relocation of Unit Boundaries and Subdivision of Units.....	24
Section 11.2 No Revocation or Partition.....	25
ARTICLE XII DESIGN REVIEW CONTROL COMMITTEE.....	25
Section 12.1 Design Review Committee.....	25
Section 12.2 Construction/Modification of Units, Common Elements and Improvements on the Property.....	25
Section 12.3 Guidelines.....	25
Section 12.4 Submittal Requirements.....	26
Section 12.5 Procedure.....	26
Section 12.6 Appeal.....	26
Section 12.7 Violations.....	26
Section 12.8 Failure to Act.....	26
Section 12.9 Authority to Act.....	26
Section 12.10 Declarant and Commercial Unit Owner Excluded.....	26
ARTICLE XIII CONDOMINIUM DOCUMENTS: SCOPE.....	26
Section 13.1 Scope of Coverage.....	26
ARTICLE XIV DAMAGE OR DESTRUCTION; EMINENT DOMAIN.....	27
Section 14.1 Damage or Destruction.....	27
Section 14.2 Eminent Domain.....	29
Section 14.3 Negotiations.....	30
ARTICLE XV INSURANCE.....	31
Section 15.1 Fire and Extended Loss Insurance.....	31
Section 15.2 Public Liability Insurance.....	31
Section 15.3 Fidelity Insurance.....	31
Section 15.4 Mutual Waiver of Subrogation.....	32
Section 15.5 Standards for All Insurance Policies.....	32
ARTICLE XVI ADDITIONAL PROVISIONS.....	32
Section 16.1 Priority of First Mortgagees.....	32
Section 16.2 Waiver.....	32
Section 16.3 Severability.....	32
Section 16.4 No Obligations.....	32
Section 16.5 Registered Agent.....	33
Section 16.6 Mergers.....	33
Section 16.7 Use of Facilities of Others.....	33

**DECLARATION
OF
JUNCTION POINT CONDOMINIUM**

001073

This Declaration is made as of this 4th day of February, 2005 by **PRDC JUNCTION POINT, INC.**, a Wisconsin corporation (hereinafter referred to as the "**Declarant**").

Declarant owns certain real property located in the City of Madison, County of Dane, State of Wisconsin and more particularly described in EXHIBIT A attached hereto and made a part hereof (hereinafter referred to as the "**Condominium Property**") and Declarant does hereby declare that the Condominium Property is hereby made subject to this Declaration, established under the Wisconsin Condominium Ownership Act. The Property (as hereinafter defined) and any and all improvements now or subsequently placed thereon and any and all easement rights and appurtenant rights belonging thereto shall be known and described as Junction Point Condominium (hereinafter referred to as the "**Condominium**") with an address of 302 Junction Road, Madison, Wisconsin.

The address of the Declarant is 7609 Elmwood Avenue, Suite 201, Middleton, Wisconsin 53562.

**ARTICLE I
DEFINITIONS**

Section 1.1 Undefined Capitalized Terms. Capitalized terms not otherwise defined herein or on the Plat (as hereinafter defined) shall have the meanings specified or used in the Act.

Section 1.2 Defined Terms. The following terms shall have the following specific meanings when used herein:

(a) "**Act**" means Chapter 703: Wisconsin Condominium Ownership Act of the Wisconsin Statutes, as amended and renumbered from time to time.

(b) "**Additional Common Expenses**" means all Common Expenses incurred by the Association in connection with:

i. increased or additional insurance premiums that occur as a direct result of improvements made after completion of the initial construction of the Building for the exclusive benefit of the Commercial Unit or improvements made after completion of the initial construction of the Building for the exclusive benefit of the Residential Units;

ii. the management and control of all parts of and improvements to the Condominium, whether Common Elements or Limited Common Elements, that (A) were not part of the Condominium as initially constructed, (B) improve the Condominium or any part thereof beyond the condition and standard for the Condominium or such part at the time that the Condominium was initially constructed

and (C) benefit exclusively either the Residential Units or the Commercial Unit (for example, upgraded floor coverings in a common lobby that benefits only the Commercial Units or upgraded wall art in common hallways that serve only Residential Units); and

iii. the management and control of all amenities and services provided by the Association that were not provided by the Association as of the date of this Declaration and that benefit exclusively either the Residential Units or the Commercial Unit.

(c) **"Additional General Assessments"** shall include all general assessments against the Units for the purpose of maintaining a fund from which the Additional Common Expenses may be paid.

(d) **"Association"** means Junction Point Condominium Association, Inc., the association of the Unit Owners in the Condominium.

(e) **"Board of Directors"** means the governing body of the Association.

(f) **"Building(s)"** means the existing four-story building containing the Units and situated on the Property.

(g) **"Bylaws"** means the Bylaws of the Association, as amended from time to time.

(h) **"City"** means the City of Madison, Wisconsin.

(i) **"Commercial Common Expenses"** means those Common Expenses attributable to the repair, replacement, maintenance or operation of the Limited Common Elements identified in subsections vii, xii and xiii of Section 2.3 or attributable to the repair, replacement, maintenance or operation of those items identified in subsections (iv), (viii) and (ix) of Section 2.3 that are Limited Common Elements appurtenant to the Commercial Unit; the cost of funding any reserves for the foregoing Limited Common Elements; the Common Expenses attributable to the cost of providing any utility or communications service to any of the foregoing Limited Common Elements that benefit exclusively the Commercial Unit; and the costs under Section 5.1 of disposal of trash generated from the Commercial Unit and from the foregoing Limited Common Elements that benefit exclusively the Commercial Unit.

(j) **"Commercial Unit"** means Unit 100.

(k) **"Commercial Unit Owner"** means a Unit Owner owning the Commercial Unit.

(l) **"Common Elements"** both **"General"** and **"Limited"**, mean all parts of the Condominium other than the Units, as more fully set forth in Sections 2.3, 2.4 and 2.5 of this Declaration.

(m) **"Common Expenses"** means and includes all sums lawfully assessed against the Unit Owners by the Association, including without limitation (i) expenses of administration, maintenance, repair or replacement of the Common Elements, including

insurance premiums and contributions to such reserves as may be established, and (ii) expenses declared Common Expenses pursuant to the provisions of the Act or this Declaration or the Bylaws.

(n) **"Condominium"** means Junction Point Condominium.

(o) **"Condominium Documents"** consist of this Declaration, the Plat, the Articles of Incorporation of the Association, the Bylaws and the Rules and Regulations, all as amended from time to time.

(p) **"Condominium Property"** means the real property as described in the description attached hereto and made a part hereof as EXHIBIT A, and further depicted and described on the Plat, a true and complete copy of which is attached hereto and made a part hereof as EXHIBIT B, and any amendments or addenda thereto.

(q) **"Declarant"** means PRDC Junction Point, Inc., a Wisconsin corporation, its successors and assigns and, any successor-in-title to Declarant's interest in the Property described herein (other than a Unit Owner), including, without limitation, following a foreclosure or deed in lieu of foreclosures, any Mortgagee to whom Declarant's right and interests hereunder have been pledged; provided, however, that such successor-in-title or such other assignee or successor, by instrument of assignment, acceptance and assumption executed by Declarant and recorded in the office of the Register of Deeds of Dane County, Wisconsin (i) accepts the assignment therein made by Declarant of those rights and powers of Declarant contained in this Declaration, and (ii) assumes and agrees to be bound by and perform those obligations of Declarant contained in this declaration with respect to all or such of those Units within the Condominium as may be legally described in any such instrument of assignment, acceptance and assumption; provided further, however, that the agreement by a Mortgagee to assume and be bound by the obligations of the Declarant may be prospective only and limited to the obligations of the Declarant arising on or after the date the Mortgagee records its assignment, acceptance and assumption agreement.

(r) **"Declaration"** means this Declaration of Junction Point Condominium.

(s) **"Eligible Mortgagee"** means any other person or entity who is the holder or governmental or a governmentally approved insurer or guarantor of an Eligible Mortgage and who has requested the Association to notify it of any proposed action pursuant to Section 10.4 hereof requiring the prior written consent of a specified percentage of Eligible Mortgagees.

(t) **"Eligible Mortgage"** means a recorded first deed of trust or mortgage encumbering a Unit.

(u) **"General Common Elements"** means all Common Elements other than Limited Common Elements.

(v) **"Limited Common Elements"** means those portions of the Common Elements designated in this Declaration or on the Plat as being Limited Common Elements.

(w) **"Managing Agent"** means any professional managing agent employed to perform duties and services for the Condominium in accordance with the Act, this Declaration and the Bylaws.

(x) **"Percentage Interest"** means the undivided percentage interest of each Unit in the Common Elements as set forth in Section 3.1 of this Declaration, as amended from time to time in accordance with the provisions of the Act and this Declaration.

(y) **"Plat"** means the condominium plat for the Condominium being recorded pursuant to the Act simultaneously with this document and constituting a part of this Declaration, as the same may be amended from time to time. A copy of the Plat is attached hereto as Exhibit B and made a part hereof.

(z) **"Property"** means the Condominium Property.

(aa) **"Residential Unit"** means each Unit other than the Commercial Unit.

(bb) **"Residential Common Expenses"** means those Common Expenses attributable to the repair, replacement, maintenance or operation of the Limited Common Elements identified in subsections (i), (ii), (iii), (v), (vi), (x) and (xi) of Section 2.3 or attributable to the repair, replacement, maintenance or operation of any other of the following Common Elements: storage areas, underground parking spaces, those items identified in subsections (iv), (viii) and (ix) of Section 2.3 that are Limited Common Elements appurtenant to Residential Units; those items identified in subsection (xv) of Section 2.3 but only to the extent that such items are reserved for the exclusive use of the Residential Units; demising walls between Residential Units; the cost of funding any reserves for the foregoing Limited Common Elements and demising walls; the Common Expenses attributable to the cost of providing any utility or communications service to any of the foregoing Limited Common Elements that benefit exclusively one or more Residential Units; and the costs to the Association under Section 5.1 of disposal of trash generated from the Residential Units and from the foregoing Limited Common Elements that benefit exclusively one or more Residential Units.

(cc) **"Residential Unit Owner"** means a Unit Owner of a Residential Unit.

(dd) **"Rules and Regulations"** means the rules and regulations adopted from time to time by the Board of Directors pursuant to the Bylaws.

(ee) **"Unit"** means a Unit as defined in the Act, as separately depicted and described as a Unit on the Plat, in the Section of this Declaration entitled "Description of Units" and any amendment or addendum to any of the foregoing.

(ff) **"Unit Owner"** means any natural person, combination of natural persons, corporation, partnership, limited liability company, association, trust or other entity capable of holding title to real property, or any combination thereof which owns fee simple title to a Unit or has equitable ownership to a Unit as a land contract vendee, but does not include any mortgagee, or land contract vendor, as such, unless and until such mortgagee takes title to a Unit by foreclosure or process in lieu thereof.

ARTICLE II
DESCRIPTION

Section 2.1 Description of Condominium. The Condominium consists of one Building known as known as 302 Junction Road, Madison, Wisconsin. The Building contains a total of ninety-six (96) Residential Units and appurtenant facilities and one (1) Commercial Unit and appurtenant facilities. The general location, dimensions and area of the Units and facilities are shown on the Plat.

Water and sewer are provided to the Building and Units by public water and sewer. Gas and electricity are provided to service the Building and Unit by public utility companies.

Section 2.2 Description of Units. Units are identified by number as indicated on the Plat. Each Unit and the approximate area, location, appurtenant Limited Common Elements, and immediate Common Elements to which said Unit has access are, to the extent feasible, generally shown on the Plat.

(a) The perimeter boundaries of each Unit shall consist of that part of the Building in which the Unit is located as follows:

i. Horizontal Boundaries: The upper and lower boundaries of each Unit shall be the following boundaries extended to an intersection with the vertical boundaries:

(A) Upper Boundary: The upper boundary of a Unit is the horizontal plane of the bottom of the concrete plank above the uppermost floor of each such Unit; provided, however, that the upper boundary of each of the uppermost Units in the Building is the horizontal plane of the bottom surface of the metal roof truss.

(B) Lower Boundary: The lower boundary of a Unit is the horizontal plane of the top surface of the concrete slab below the lower most floor of each such Unit.

ii. Vertical Boundaries: The vertical boundaries of a Unit are the vertical planes, extended to intersections with each other and with said Unit's upper and lower boundaries, of the inner surface of any stone, brick, block or other masonry walls bounding such Unit and, with respect to those walls bounding such Unit which are not of stone, brick, block or other masonry, such vertical boundaries are the interior surface of the studs which support the dry wall, wood, or plaster perimeter walls bounding such Unit.

iii. Included Items: Expressly included as part of each Unit are:

(A) the front entrance door and any other entrance door to the Unit and any and all hardware associated therewith;

(B) all windows, screens or sky lights for the Unit;

- (C) interior ceilings, floors, walls, and floor and wall coverings;
- (D) the air conditioning, heating, gas lines and hot water components exclusively serving such Unit whether or not located within the designated boundary lines of the Unit;
- (E) the interior surface of any breezeway, storage area or walkway exclusively serving the Unit, including, without limitation, the interior ceilings, floors, walls and floor and wall coverings, if any;
- (F) subject to subparagraph (G) below, all space, interior partitions and other fixtures and improvements (including, without limitation, sinks, other plumbing facilities, television, cable and other communication lines and systems, any individual Unit temperature alarm and other appliances and systems) within the designated boundaries of a Unit; and
- (G) if any chutes, flues, ducts, conduits, wires, pipes, bearing walls, bearing columns or any other apparatus (including, without limitation, wall safes, medicine cabinets, built-in shelving and other similar items) lies partially within and partially outside of the designated boundaries of a Unit, any portions thereof exclusively serving that Unit shall be deemed a part of that Unit, while any portions thereof, serving more than one Unit or any portion of the Common Elements shall be deemed a part of the Common Elements and a valid easement for any such part of the Common Elements and for its maintenance, inspection, repair or replacement shall exist in favor of the Association and the Declarant, their agents and employees.

iv. If any portion of the General or Limited Common Elements shall encroach upon any Unit, or if any Unit shall encroach upon any other Unit or upon any portion of the General or Limited Common Elements as a result of the duly authorized construction, reconstruction or repair of the Building, or as a result of settling or shifting of the Building, a valid easement for the encroachment and for its maintenance shall exist so long as the Building stands. The existing physical boundaries of a Unit or Common Elements constructed or reconstructed in substantial conformity with the Plat shall be conclusively presumed to be its boundaries, regardless of the settling or shifting of the Building and regardless of minor variations between the physical boundaries described in this Declaration or shown on the Plat and the existing physical boundaries of any such Unit or Common Element.

Section 2.3 Description of Limited Common Elements. The Limited Common Elements consist of those Common Elements which are generally described below or are generally identified as such on the Plat, and which are reserved for the use of one or more specific Units to the exclusion of all other Units. The Limited Common Elements include without limitation:

- i. any patios, porches or decks adjacent to Residential Units (which are hereby reserved for the exclusive use of the Residential Units to which each is adjacent);

ii. all hallways, lobbies and corridors which serve only the Residential Units, and the awning over, and the doorway into, the Junction Road residential entry into the Building, which are hereby reserved for the exclusive use of the Residential Units collectively;

iii. any balconies;

iv. the frames and sills of all entrance doors, porch, deck, patio or balcony doors and frames and sills of all windows which are not part of the Unit but which are adjacent to and serve only such Unit;

v. the storage areas designated as Limited Common Elements appurtenant to a Residential Unit or Units on the Plat or addenda thereto;

vi. the underground parking spaces designated as Limited Common Elements appurtenant to a Residential Unit or Units on the Plat or addenda thereto;

vii. the surface parking spaces located in the front of the Property (i.e., facing Junction Road) designated as Limited Common Elements appurtenant to the Commercial Unit on the Plat or addenda thereto, together with the sidewalk adjacent to the front of the Building, which are hereby reserved for the exclusive use of the Commercial Unit;

viii. the exterior patio and deck lights, rear balcony lights and/or front coach light, if any, mounted on the exterior of a Unit;

ix. any chimney, dormer or similar appurtenance exclusively serving a Unit whether or not located within the designated boundary lines of a Unit;

x. all elevators which are hereby reserved for the exclusive use of the Residential Units;

xi. the community room, clubhouse and pool area located on the first floor of the Building, which shall be Limited Common Elements appurtenant to the Residential Units only;

xii. any locations on the exterior of the Building under which any sign may be lawfully placed under City ordinances identifying or advertising a business operating within the Commercial Unit, which are hereby reserved for the exclusive use of the Commercial Unit;

xiii. any locations on the exterior of the Building on which any exterior lighting may be lawfully placed under City ordinances to provide additional exterior lighting for the benefit of the Commercial Unit, which are hereby reserved for the exclusive use of the Commercial Unit;

xiv. subject to the provisions of Section 2.2(iii)(A) through (G), any shutters, awnings, window boxes, porches, decks and other fixtures, (including, without

limitation, mailboxes and landscaping) designed to service a single Unit, but located outside a Unit; and

xv. any services installed for internet, cable or satellite television, telephone or other communications services (and any upgrades to such services or systems) which is not consented to by the Commercial Unit Owner shall be reserved for the exclusive use of the Residential Units.

Section 2.4 Description of General Common Elements. The General Common Elements as generally shown on the Plat consist of the entire Condominium other than the Units and the Limited Common Elements, and include without limitation the following:

- (a) The land included within the Property;
- (b) All foundations, columns, girders, beams and supports of the Building not included as parts of Units;
- (c) All exterior walls and facings and roof of the Building and all partitions separating Units not included as parts of Units or as Limited Common Elements;
- (d) The "Junction Point" monument sign;
- (e) All surface parking and driveway areas not designated as Limited Common Elements, any sidewalks not designated as Limited Common Elements, common walkways, pathways, retaining walls, street lighting, lamp posts, fencing, and private streets, not included as parts of Units or the Limited Common Elements;
- (f) All open space, seating areas, gazebos and similar areas and improvements, if any, not included as parts of Units or Limited Common Elements;
- (g) All pumps, wells, meters, pipes, wires, cables, conduits and other apparatus relating to the water distribution, drainage, power, light, telephone, sewer, heating and plumbing systems, not included as parts of Units or Limited Common Elements and whether or not located within the designated boundaries of a Unit or a Common Element;
- (h) All apparatus and installations existing or hereinafter constructed in the Building or on the Condominium for common use, or necessary or convenient to the existence, the common maintenance or safety of the Condominium; and
- (i) All access steps and landings, if any, serving Units, not included as parts of the Limited Common Elements.

ARTICLE III PERCENTAGE INTERESTS AND VOTING

Section 3.1 Percentage Interests of Units. The percentage interest in Common Elements appertaining to each Unit shall be as set forth on EXHIBIT C attached hereto and made a part hereof.

Section 3.2 Votes. There shall be one vote appertaining to each Residential Unit as more particularly set forth in the Bylaws. There shall be thirty-two (32) votes appertaining to the Commercial Unit.

ARTICLE IV EASEMENTS

Section 4.1 Additional Easements. In addition to and in supplementation of the easements provided for by Section 703.32 of the Wisconsin Statutes, as amended and renumbered from time to time, and other provisions of the Act, and any and all licenses, easements, rights-of-way, covenants, limitations and restrictions of record, the Condominium shall be subject to the following easements and restrictions:

(a) Easement to Facilitate Sales.

i. Declarant and its duly authorized agents, representatives and employees shall have the right, exercisable in Declarant's sole discretion, to use as model, sales and/or rental offices and/or for any other lawful purpose or purposes any Unit or Units which have not been conveyed by the Declarant and any Unit or Units leased by the Declarant from Unit Owners who may agree to lease their Units to the Declarant for such use(s). Such Units shall be Units within the meaning of this Declaration and the Condominium Act, and shall not comprise a part of the Common Elements. The Declarant shall have the absolute right for itself, its successors and its invitees and prospective purchasers, to use and enter, without being subject to any charge or fee therefor, any and all such Units and the Common Elements (excepting the Commercial Limited Common Elements), including the parking areas located to the rear of the Building (but not in the front parking area), for model, sales and/or rental purposes and/or for any other lawful purpose or purposes, including placing thereon "for sale" or "for rent" signs and other promotional materials.

ii. Declarant shall have an easement to maintain sales offices, including, without limitation, a sales center, sales, trailer or tent, and management offices throughout the Property and to maintain one or more advertising signs on the Common Elements, but not in the front parking area, the Commercial Limited Common Elements, or the Commercial Unit. Declarant may from time to time relocate any such models, management offices and sales and/or construction offices, trailers and tents to different locations within the Property. Upon the relocation of a model, management office or sales office, Declarant may remove all personal property and fixtures therefrom.

iii. So long as Declarant shall be engaged in selling property, Declarant shall have the right to restrict the use of the Common Element (but not the Commercial Limited Common Element) parking spaces, if any, for sales purposes. Such use shall include reserving such spaces for use by prospective purchasers, Declarant's employees, and others engaged in sales, maintenance, construction or management activities.

Notwithstanding anything to the contrary contained in this Declaration, the Bylaws, or the Rules and Regulations, no provision in said Condominium Documents or any amendment or addendum thereto shall limit or restrict the Declarant's rights pursuant to this Section 4.1(a).

(b) Easement for Ingress and Egress Through Common Elements, Access to Units and Support.

i. Each Unit Owner is hereby granted an easement in common with each other Unit Owner for ingress and egress through all General Common Elements, subject to such reasonable rules, regulations and restrictions as may be imposed by the Declarant or the Board of Directors, and over the sidewalk adjacent to the front of the Building (which sidewalk is a Limited Common Element appurtenant to the Commercial Unit). Furthermore, the parking lot in front of the Building (which is a Limited Common Element appurtenant to the Commercial Unit) may be used on an incidental basis by persons visiting the Residential Units, invitees of Residential Units and potential buyers of the Residential Units, but no easement over such parking lot exists in favor of any of the Residential Unit Owners. Each Unit is hereby burdened with and subjected to an easement for ingress and egress through all General Common Elements by persons lawfully using or entitled to the same.

ii. To the extent necessary, each Unit shall have an easement for structural support over every other Unit in the Building and the Common Elements, and each Unit and the Common Elements shall be subject to an easement for structural support in favor of every other Unit in the Building and the Common Elements.

(c) Common Elements Easement in Favor of Unit Owners.

The Common Elements (including without limitation the Limited Common Elements) shall be and are hereby made subject to the following easements in favor of the Association and the Units benefited:

i. For the installation, repair, maintenance, use, removal and/or replacement of pipes, wires, ducts, cables, conduits, heating and air conditioning systems, electrical, telephone and other communication wiring, plumbing and all other utility lines and distribution systems, whether or not such Common Elements are located in any of the other Units or in any other part of the Condominium, to the extent such pipe, wire, and air conditioning system, electrical, telephone and other communication wiring, plumbing and all other utility lines and distribution systems serves any Unit or is necessary for service to any Unit; provided that any such installation, repair, maintenance, use, removal and/or replacement of any such item does not, in the determination of the Board of Directors, unreasonably interfere, in any material adverse respect for any significant time period, with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the Building, or impair or structurally weaken the Building or the systems serving the Building and any and all such work is performed in a good and workmanlike manner.

ii. For the installation, repair, maintenance, use, removal and/or replacement of lighting fixtures, electrical receptacles, panel boards and other electrical

installations which are a part of or serve any Unit but which encroach into a part of a Common Element adjacent to such Unit; provided that the installation, repair, maintenance, use, removal or replacement of any such item does not, in the determination of the Board of Directors, unreasonably interfere, in any material adverse respect for any significant time period, with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the Building, or impair or structurally weaken the Building or the systems serving the Building and any and all such work is performed in a good and workmanlike manner.

iii. For driving and removing nails, screws, bolts and other attachments bounding the Unit and the Unit side surface of the studs which support the dry wall or plaster perimeter walls bounding the Unit, the bottom surface of floor joists above the Unit and the top surface of the floor joists below the Unit to the extent such nails, screws, bolts and other attachment devices may encroach into a part of a Common Element adjacent to such Unit; provided that any such action will not, in the determination of the Board of Directors, unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the Building or impair or structurally weaken the Building or the systems serving the Building and any and all such work is performed in a good and workmanlike manner.

iv. For the maintenance of the encroachment of any lighting devices, outlets, medicine cabinets, exhaust fans, ventilation ducts, registers, grilles and similar fixtures which serve only one Unit but which encroach into any part of any Common Elements (including without limitation the Limited Common Elements) on the date this Declaration is recorded or was thereafter installed by Declarant.

(d) Units and Common Elements Easement in Favor of Association. The Units and the Common Elements, including, without limitation, the Limited Common Elements, are hereby made subject to the following easements in favor of the Association and their agents, employees and independent contractors:

i. for inspection of the Units, Common Elements and Limited Common Elements in order to verify the performance by Unit Owners of all items of maintenance and repair for which they are responsible and for insurance purposes;

ii. for inspection, maintenance, repair and replacement of the General Common Elements, Common Elements or the Limited Common Elements situated in or accessible from such Units or Common Elements, or both; and

iii. for correction of emergency conditions in one or more Units or Common Elements, or both, or casualties to the Common Elements and/or Units.

ARTICLE V MAINTENANCE AND REPAIRS

Section 5.1 Association Responsibilities. Except as provided otherwise in Section 5.2, the Association shall be responsible for the management and control of the Common Elements

and Limited Common Elements (other than those appurtenant to the Commercial Unit) and shall maintain the same, in good, clean and attractive order and repair and shall make such replacements thereof as necessary, and for the disposal of trash generated from the Residential Units and from the Limited Common Elements that benefit exclusively one or more Residential Units. The Commercial Unit Owner shall be responsible at its sole cost for operating and maintaining the Limited Common Elements appurtenant to the Commercial Unit in good, clean and attractive order and repair and shall make such replacements thereof as necessary, and for the disposal of trash generated from the Commercial Unit and from the Limited Common Elements that benefit exclusively the Commercial Unit.

Section 5.2 Unit Owner Responsibilities. Each Unit Owner shall be responsible for the cleaning, maintenance, repair, and replacement of all other improvements constructed within the Unit (including the electrical, heating and air conditioning systems serving such Unit, and including any ducts, vents, wires, cables or conduits designed or used in connection with such electrical, heating or air conditioning systems), except to the extent any repair cost is paid by the Association's insurance policy. Each Unit shall at all times be kept in good condition and repair. If any Unit or portion of a Unit or Limited Common Element for which a Unit Owner is responsible falls into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, or a condition that results in damage to the Common Elements, the Association, upon fifteen (15) days' prior written notice to the Unit Owners of such Unit, shall have the right to correct such condition or to restore the Unit or Limited Common Element to its condition existing prior to the disrepair, or the damage or destruction if such was the cause of the disrepair, and to enter into such Unit or Limited Common Element for the purpose of doing so, and the Unit Owners of such Unit shall promptly reimburse the Association for the cost thereof. All amounts due for such work shall be paid within ten (10) days after receipt of written demand therefor, or the amounts may, at the option of the Association, be levied against the Unit as a special assessment. Furthermore, the Residential Unit Owners shall be responsible for normal maintenance of balconies, doors, porches and patios that are Limited Common Elements appurtenant to their Units.

Section 5.3 Damage Caused by Unit Owners. To the extent (i) any cleaning, maintenance, repair or replacement of all or any part of any Common Elements or the Unit is required as a result of the negligent, reckless or intentional act or omission of any Unit Owner, tenant or occupant of a Unit, or (ii) any cleaning, maintenance, repair, replacement or restoration of all or any part of any Common Element or the Unit is required as a result of an alteration to a Unit by any Unit Owner, tenant or occupant of a Unit, or the removal of any such alteration (regardless of whether the alteration was approved by the Association or any committee thereof) or (iii) the Association is required to restore the Common Elements or the Unit following any alteration of a Common Element or Limited Common Element required by this Declaration, or the removal of any such alteration, the Unit Owner that committed the act or omission or that caused the alteration, or the Unit Owners of the Unit occupied by such tenant or occupant or responsible for such guest, contractor, agent or invitee, shall pay the cost of such cleaning, maintenance, repair, replacement and restoration.

ARTICLE VI
BUDGETS; COMMON EXPENSES; ASSESSMENTS AND ENFORCEMENT

Section 6.1 Monthly Payments. The Board of Directors shall levy and enforce the collection of the general and special assessments for Common Expenses in accordance with the terms and conditions contained in the Bylaws, including, without limitation, the creation and enforcement of liens on the Units. Assessments shall commence as to any Unit upon the first conveyance of such Unit to a person or entity other than the Declarant. Declarant shall not be required to pay any assessments on Units owned by Declarant unless such Units are occupied for residential purposes for more than thirty (30) consecutive days and only as to those months during which said Units are occupied for residential purposes. Notwithstanding the foregoing sentence, after January 1, 2008, and with respect only to assessments incurred after such date, Declarant shall be obligated to pay those assessments (excluding only that portion of the assessments attributable to reserves) attributable to those Units which are owned by Declarant on January 1, 2008. The costs that would have been covered by assessments on Units owned by Declarant but for this Section 6.1 shall be allocated equally among all Residential Units not owned by Declarant, but in no event shall any of such costs be allocated directly or indirectly to the Commercial Unit. Upon the sale or conveyance of all of the Units to parties other than the Declarant, Declarant shall have no obligations pursuant to this paragraph. Assessments for Residential Common Expenses shall be levied among the Residential Units subject to such assessments only in the proportion that the Percentage Interests in the Common Elements appurtenant to each Residential Unit bears to the Percentage Interests in the Common Elements appurtenant to all of the Residential Units subject to such assessments. Commercial Common Expenses shall be paid directly by the Commercial Unit Owner as and when incurred.

All Common Expense annual assessments shall be due and payable in equal monthly installments, in advance, on the first day of each month unless different payment periods and due dates are selected by the Board of Directors. Special Assessments shall be due and payable in the manner established by the Board of Directors. Assessments, other than special assessments, shall be deemed to have been adopted and assessed on a monthly basis (or such other basis as may be elected by the Board of Directors from time to time) and not on an annual basis payable in monthly installments. Upon any conveyance of a Unit to a party or parties other than Declarant, Declarant shall have no further obligations in connection therewith.

The total annual assessment against each Unit Owner for Common Expenses and any special assessment levied pursuant to the Bylaws, together with interest thereon, and the expenses of the proceedings, including reasonable attorneys' fees, hereby is declared to be a lien against the Unit of such Unit Owner within the purview of the Act, which lien shall be enforced pursuant to Section 703.16 of the Act, as amended or renumbered from time to time, and as provided by law.

Section 6.2 Additional General Assessments. Each Additional General Assessment shall be levied to maintain a fund for a particular Additional Common Expense and shall be assessed against either (i) all Residential Units as a Residential Common Expense, if the Residential Units benefit exclusively from the Additional Common Expense, or (ii) the Commercial Unit as a Commercial Common Expense, if the Commercial Unit benefits exclusively from the Additional Common Expense. No Additional Common Expense may be

incurred by the Association for the Commercial Unit without the written consent of the Commercial Unit Owner.

Section 6.3 Surplus Funds. Surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of reserves may in the discretion of the Board of Directors either (i) be credited, in proportion to each Unit Owner's obligation to pay Common Expenses, to the next monthly installments due from Unit Owners, or (ii) refunded among Unit Owners who paid assessments in proportion to their payments, or (iii) added to reserves until exhausted.

Section 6.4 Utilities.

(a) Utilities Provided to More than One Unit. To the extent that any utility service serves more than one Unit and uses a common meter, the cost of such utility service shall be allocated by the Association to the Units served in accordance with the proportion that the Percentage Interest appurtenant to each Unit so served bears to the total Percentage Interests appurtenant to all Units so served, and shall be included in General Assessments assessed to each Unit.

(b) Utilities Provided to Both Residential Common Elements and Commercial Common Elements. To the extent that any utility service serves both Residential Common Elements and Commercial Common Elements and uses a common meter, the cost of such utility service shall be allocated by the Association between the Residential Common Elements and the Commercial Common Elements based upon a good faith estimate of the relative consumption by each as determined by the utility providing such service. No more than once each calendar year, either the Association or the Commercial Unit Owner may request, by delivery of written notice to the other, adjustment of this ratio to more accurately reflect actual respective usage of the utility service by the Residential Common Elements and the Commercial Common Elements. If the parties cannot agree within 30 days of delivery of a request for adjustment, then the cost of such utility service shall be allocated by the Association between the Residential Common Elements and the Commercial Common Elements based upon a good faith estimate of the relative consumption by each as determined by the utility providing such service. All costs of providing utility service to the Residential Common Elements shall be a Residential Common Expense, and all costs of providing utility service to the Commercial Common Elements shall be a Commercial Common Expense.

(c) Utilities Provided to Both Common Elements and Units. To the extent that any utility service serves both Units and Common Elements and uses a common meter, the cost of such utility service shall be allocated by the Association between the Units and the Common Elements based upon a good faith estimate of the relative consumption by each as determined by the utility providing such service, and the costs allocable to the Units shall be allocated by the Association among the Units served in accordance with the proportion that the Percentage Interest appurtenant to each Unit so served bears to the total Percentage Interests appurtenant to all Units so served. No more than once each calendar year, either the Association or any Unit Owner may request, by delivery of written notice to the other, adjustment of this ratio to more accurately reflect actual respective usage of the utility service by the Common Elements and the Units. If the parties cannot agree within 30 days of delivery of a request for adjustment, then the cost of such utility service shall be allocated by the Association between the

Common Elements and the Units based upon a good faith estimate of the relative consumption by each as determined by the utility providing such service. All costs of providing utility service to any Residential Common Elements and Commercial Common Elements shall be further allocated as described in (b), and all costs of providing utility service to the Units shall be allocated among the Units as described in (a).

(d) Initial Allocation. Initially, costs of utilities that are metered to more than one Unit, to Units and Common Elements, or to Residential Common Elements and Commercial Common Elements shall be allocated as follows:

i. Water: Seventy-five percent (75%) to the Residential Units (to be further allocated in accordance with each Residential Unit Owner's Percentage Interest); and twenty-five percent (25%) to the Commercial Unit.

ii. Sewer: Seventy-five percent (75%) to the Residential Units (to be further allocated in accordance with each Residential Unit Owner's Percentage Interest); and twenty-five percent (25%) to the Commercial Unit.

iii. Electricity using the house meters: Seventy-five percent (75%) to the Residential Common Elements (to be further allocated in accordance with each Residential Unit Owner's Percentage Interest); and twenty-five percent (25%) to the Commercial Common Elements.

ARTICLE VII USE RESTRICTIONS

Section 7.1 Restrictions. The occupancy and use of the Units and Common Elements shall be subject to the restrictions set forth in the Bylaws, as the same may be amended from time to time, and the following restrictions:

(a) The Residential Units in the Condominium (with the exception of any Residential Units during the time period when they are being used by the Declarant as a sample, model or sales or management office) are restricted to single family residential use and may not be used for any other purposes by the Unit Owner or any future Unit Owner, except as expressly set forth in Section 5(a) of Article VI of the Bylaws.

(b) The Commercial Unit in the Condominium may be used for any legal purpose.

(c) A Unit Owner is prohibited from making any alteration, installation, removal, reconstruction, or repair to his Unit or Units which will impair the structural integrity of the Building or any mechanical or electrical system therein; or adversely affect either the thermal or acoustical character of the Building; or lessen the support of any portion of the Building; or violate any applicable law, ordinance or governmental rule, regulation or order. Notwithstanding the foregoing, the Commercial Unit Owner may add exhaust fans and alter mechanical and electrical systems that serve only the Commercial Unit and make other changes that affect the exterior walls of the Building, so long as structural integrity of the Building is not adversely impaired thereby.

(d) A Unit Owner is prohibited from making any alteration, installation, removal, addition, reconstruction or repair to the exterior of his or her Unit without the prior written approval of the Design Review Committee in accordance with Article XII hereof.

Section 7.2 Rules and Regulations. Rules and Regulations, not in conflict with the provisions of this Declaration and the Bylaws, concerning the use and enjoyment of the Residential Units and the use of the Common Elements by the Residential Unit Owners, may be promulgated from time to time by the Declarant, during the period of time that the Declarant controls the Board of Directors, or the Board of Directors, in their reasonable discretion, subject to the right of the Association to change such Rules and Regulations, provided that the Rules and Regulations are not inconsistent with the Act, this Declaration or the Bylaws. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to each Residential Unit Owner by the Board of Directors promptly after the adoption of such Rules and Regulations or any amendments thereto.

Section 7.3 Rules and Regulations for Commercial Unit. The following rules and regulations shall apply to the Commercial Unit:

(a) The Commercial Unit Owner, its tenants, customers, invitees, licensees and guests, shall not do or permit anything to be done in or about the Condominium which in any way will obstruct any other Unit Owners or use or allow the Condominium to be used for any improper, unlawful or immoral purpose or which shall injure the reputation of the Condominium. The Commercial Unit Owner shall not cause, maintain or permit any nuisance or commit or suffer the commission of any waste in, on or about the Condominium.

(b) The Commercial Unit Owner shall not bring to or maintain at the Condominium any product or material or engage in any activity at the Condominium that is dangerous or harmful to persons or property, is offensive, constitutes a nuisance or unreasonably interferes with the use and enjoyment of the Condominium by others, or conflicts with the proper exercise of the control and authority vested in the Association, its Board of Directors, the manager, and other Unit Owners and residents.

(c) The sidewalks, halls, passages, exits, entrances and stairways (other than those that are Limited Common Elements appurtenant to the Commercial Unit) shall not be obstructed by the Commercial Unit Owner, its tenants, customers, invitees, licensees or guests, or used by them for any purpose other than for ingress and egress from the Condominium. The halls, passages, exits, entrances, stairways (other than those that are Limited Common Elements appurtenant to the Commercial Unit) and roof are not for the use of the general public and the Association shall, in all cases, retain the right to control and prevent access thereto by all persons whose presence, in the judgment of the Association, shall be prejudicial to the safety, character, reputation and interest of the Condominium and the Unit Owners, provided that nothing herein contained shall be construed to prevent such access to persons with whom the Commercial Unit Owner or its tenants normally deal in the ordinary course of its/their business, unless such persons are engaged in illegal activities. The Commercial Unit Owner, its tenants, customers, invitees, licensees, and guests shall not go upon the roof of the Condominium except as provided in Section 8.4 hereof or enter into areas reserved for the exclusive use of Residential Unit Owners.

(d) The Commercial Unit Owner or its tenants shall not operate, or permit to be operated, any musical or sound-producing instrument or device inside or outside of the Condominium which may be heard outside the Condominium. Neither the Commercial Unit Owner or its tenants shall install or operate any refrigerating, heating or air-conditioning apparatus or install any machines creating any noise which may be heard outside the Condominium without the prior written consent of the Association.

ARTICLE VIII LEASING

Section 8.1 Declarant's Right to Lease or Sell Units. The Declarant shall retain title to each Unit not conveyed to any purchaser. The Declarant retains the right to enter into leases with any third parties for occupancy of any of the Units so retained by Declarant and not so conveyed to any purchaser, the terms and conditions of which leases shall be determined by the Declarant, in its sole discretion, or to lease back and sublease any Unit so conveyed.

Section 8.2 Unit Owner's Right to Lease Residential Units. Except as set forth in Section 8.1 with respect to the rights of Declarant, a Unit Owner may lease or sublease his Residential Unit (but not less than his entire Residential Unit) at any time and from time to time provided that:

(a) No Residential Unit may be leased or subleased for transient or hotel purposes or for an initial term of less than one (1) month;

(b) No Residential Unit may be leased or subleased without a written lease or sublease;

(c) A copy of any lease or sublease of a Residential Unit shall be furnished to the Board of Directors or the Secretary of the Association within seven (7) days after execution thereof; and

(d) The right of any lessee or sublessee of the Residential Unit shall be subject to, and each such lessee or sublessee shall be bound by, the covenants, conditions, and restrictions set forth in the Declaration, Bylaws and Rules and Regulations and a default thereunder shall constitute a default under the lease or sublease; provided, however, that the foregoing shall not impose any direct liability on any lessee or sublessee of a Residential Unit to pay any Common Expense assessments or special assessments on behalf of the Unit Owner of that Residential Unit.

Section 8.3 Unit Owner's Right to Lease the Commercial Unit. Except as set forth in Section 8.1 with respect to the rights of Declarant, a Unit Owner may lease or sublease all or any portion of the Commercial Unit at any time and from time to time provided that:

(a) No portion of the Commercial Unit may be leased or subleased without a written lease or sublease;

(b) The right of any lessee or sublessee of the Commercial Unit shall be subject to, and each such lessee or sublessee shall be bound by, the covenants, conditions and

restrictions set forth in the Declaration, Bylaws, and Rules and Regulations and a default thereunder shall constitute a default under the lease or sublease; provided however, that the foregoing shall not impose any direct liability on any lessee or sublessee of the Commercial Unit to pay any Common Expense assessments or special assessments on behalf of the Unit Owner of the Commercial Unit; and

(c) A lease summary giving the name and address of the tenant's or subtenant's contact person, the type of business allowed within the leased premises, hours of operation and the lease term and the term of the lease is provided to the Association.

Section 8.4 Other Rights Granted to Commercial Unit.

(a) Signage. The Commercial Unit Owner shall have the right and easement to erect signage adjacent on the exterior portion of the first floor of the Building to identify or advertise a business operating within the Commercial Unit, and to place signage in windows within the Unit that are visible from the exterior of the Unit, provided that in all such cases, such signage conforms to applicable City ordinances. All costs of installing, maintaining, repairing and replacing any such signage shall be borne solely by the Commercial Unit Owner.

(b) Exterior Lighting. The Commercial Unit Owner shall have the right and easement to place on the exterior of the Building any exterior lighting for the benefit of the Commercial Unit, provided such lighting conforms to applicable City ordinances. All costs of installing, maintaining, repairing and replacing any such lighting shall be borne solely by the Commercial Unit Owner.

(c) Easement for Communications Facilities. The Commercial Unit Owner shall have the right and easement to use the Common Elements for the purpose of placing satellite dishes, antennae and other communications facilities on the roof of the Building and for connecting wiring, cables and conduits between such facilities and the Commercial Unit, provided that the Commercial Unit Owner obtains all approvals and permits required, does nothing that will materially and adversely affect the physical condition of the Building or the value of any Unit; and does nothing that will invalidate or decrease the value, term or effectiveness of any roof warranty or other warranty with respect to the Common Elements that is then in effect. All costs of installing, maintaining, repairing and replacing any such facilities shall be borne solely by the Commercial Unit Owner.

(d) Easement for Retail Sign. The Commercial Unit Owner shall have the right and easement to use a portion of the front parking lot or at the corner of Junction Road and Harbor Town or Elderberry, to erect a freestanding or monument sign advertising the business or businesses within the Commercial Unit, provided that the Commercial Unit Owner obtains all approvals and permits required. All costs of installing, maintaining, repairing and replacing any such lighting shall be borne solely by the Commercial Unit Owner.

(e) Requirements Applicable to All Easements. All easements granted to the Commercial Unit Owner under this Section 8.4 shall be subject to the requirements set forth in Article IV (d).

ARTICLE IX
AMENDMENT TO DECLARATION

Section 9.1 Amendment. Except as otherwise set forth in this Declaration, this Declaration may be amended by the agreement of Unit Owners of Units to which at least sixty-six and two-thirds percent (66 2/3%) of the votes in the Association appertain and in the manner provided by Section 703.09(2) of the Act. No such amendment shall be effective until recorded in the Office of the Register of Deeds for Dane County, Wisconsin. Anything herein to the contrary notwithstanding, and subject to any limitations imposed by the Act, and except as required to comply with the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or any other governmental or quasi-governmental agency insuring or involved in the making or purchasing of Mortgages of any Unit:

i. so long as Declarant is the only Unit Owner, the Declarant may amend this Declaration without the consent or approval of any party;

ii. so long as Declarant owns one or more Units, no amendment to this Declaration shall be adopted that could unreasonably interfere with the sale, lease or other disposition of such Units(s) or that could abridge, modify, eliminate or otherwise affect any right, power, easement, privilege or benefit reserved to Declarant hereunder or which would impose any discriminatory charge or fee against Declarant;

iii. no amendment to this Declaration shall be adopted that would abridge, modify, eliminate or otherwise affect any right, power, easement, privilege or benefit reserved by the provisions of this Declaration to Eligible Mortgagees; and

iv. so long as the Declarant owns one or more Units, no amendment to this Section 9.1 shall be adopted without Declarant's written consent thereto; and

v. notwithstanding the above, if Declarant determines that a typographical error, misnomer, inadvertent omissions or any other error has been made in this Declaration, Declarant, without further authority, shall have the right to correct any such error by an instrument amending the Declaration and recorded with the office of the Register of Deeds for Dane County, Wisconsin.

Any amendment to this Declaration may be executed (A) if on behalf of the Declarant pursuant to Declarant's rights hereunder, by any authorized officer of the Declarant, and (B) if on behalf of the Association, pursuant to the requirements regarding execution set forth in Bylaws.

Section 9.2 Amendments to the Condominium Documents. The Condominium Documents may be amended only in accordance with the Act and the Condominium Documents. If any amendment is necessary in the judgment of the Board of Directors to cure any ambiguity or to correct or supplement any provisions of the Condominium Documents that are defective, missing or inconsistent with any other provisions thereof, or if such amendment is necessary to conform to the requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or other secondary mortgage market lenders, guarantors, or insurers with respect to condominium projects, then at any time and from time to time the Board of Directors may effect an appropriate corrective amendment without the approval of the Unit Owners or the holder of

any liens on all or any part of the Property. In no event, however, shall any amendment to this Declaration or to any of the other Condominium Documents shall be adopted that could unreasonably interfere with the permitted uses, sale, lease or other disposition of the Commercial Unit or that could otherwise abridge, modify, eliminate or otherwise affect any right, power, privilege or benefit reserved to the Commercial Unit Owner hereunder or which would impose any discriminatory charge or fee against, or increase any costs, assessments or charges to, the Commercial Unit Owner. Each amendment of the type described in this Section 9.2 shall be effective upon the recording of an appropriate instrument setting forth the amendment and its due adoption.

ARTICLE X MORTGAGES

Section 10.1 Requirements.

(a) Any Eligible Mortgage or other lien on a Unit and the obligations secured thereby shall be deemed to provide, generally, that the Eligible Mortgage or other lien instrument and the rights and obligations of the parties thereto shall be subject to the terms and conditions of the Act and this Declaration and shall be deemed to provide specifically, but without limitation, that the Eligible Mortgagee or lien holder shall have no right (i) to participate in the adjustment of losses with insurers or in the decision as to whether or not or how to repair or restore damage to or destruction of the Property, or (ii) to receive or apply the proceeds of insurance to the reduction of the mortgage debt or otherwise, except in the event and to the extent either of a distribution of such proceeds to Unit Owners pursuant to Section 703.18 of the Act or a distribution of insurance proceeds in excess of the cost of repair or restoration being received by the owner of the Unit encumbered by such Eligible Mortgage; or (iii) to accelerate the mortgage debt or to have any other remedies by virtue of waste or alleged waste or other conditions occurring anywhere on the Property other than within the affected Unit, and the obligation secured shall be prepayable, without penalty, upon the happening of any termination of the Condominium or determination not to restore or replace the affected Unit.

(b) Nothing contained in Section 10.1(a) hereinabove or elsewhere in this Declaration shall give a Unit Owner, or any other party, priority over any rights of the Eligible Mortgagee or other lien holder of a Unit pursuant to its Eligible Mortgage or other lien instrument in case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for loss to or a taking of one or more Units and/or Common Elements.

Section 10.2 Eligible Mortgagees.

(a) When an Eligible Mortgage is delivered to the Eligible Mortgagee or other lien holder, the Unit Owner shall simultaneously provide executed or conformed copies, or a notice giving such Eligible Mortgagee's name and address, to the Board of Directors. Upon receipt of such copy of an Eligible Mortgage, the Secretary of the Board of Directors shall instruct the insurer of the Property to add the name of the Eligible Mortgagee or other lien holder to the mortgagee loss payable provision of the hazard insurance policy covering the Property and to provide such Eligible Mortgagee or other lien holder with a Certificate of Insurance showing that the Eligible Mortgagee's or other lien holder's name has been so added.

(b) The Secretary shall maintain a register of Eligible Mortgages, showing the names and addresses of the Eligible Mortgagees or other lien holders, and whether it is a first mortgage to the extent such information has been received by said Secretary.

Section 10.3 Rights of Eligible Mortgagees.

(a) Upon the specific written request (in the form set forth in Section 10.3(b) hereof) of a holder of an Eligible Mortgage on a Unit or its servicer or any insurer or guarantor thereof to the Board of Directors, such person or entity shall be entitled to receive some or all of the following as designated in the request and by virtue of such request shall be deemed to be an "Eligible Mortgagee" entitled to the rights of an Eligible Mortgagee pursuant to the Condominium Documents:

ii. Copies of budgets, notice of assessment, or any other notices or statements provided under this Declaration by the Board of Directors to the Unit Owner of the Unit covered by the Eligible Mortgage;

iii. Any audited or unaudited financial statements of the Board of Directors which are prepared for the Board of Directors and distributed to the Unit Owner and the holder of any Eligible Mortgage on a Unit shall be entitled to have an audited statement prepared at its own expense if one is not otherwise available;

iv. Copies of notices of meetings of the Unit Owners and the right to be represented at any such meetings by a designated representative;

v. Notice of substantial damage to or destruction of any Unit subject to the Eligible Mortgage (in excess of \$1,000) or any part of the Common Elements (in excess of \$10,000);

vi. Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Property;

vii. Notice of any default under this Declaration or the Bylaws of the owner of the Unit which is subject to the Eligible Mortgage, where such default is not cured by the Unit Owner within thirty (30) days after the giving of notice by the Association to the Unit Owner of the existence of the default;

viii. Notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

ix. Notice of any decision by the Board of Directors to terminate any professional management of the Property and assume self-management of the Property;

x. Notice of any condemnation or casualty loss that affects either a material part of the Condominium or the Unit securing the Eligible Mortgagee's mortgage;

xi. Notice of any sixty (60) day delinquency in the payment of assessments or charges owed by a Unit Owner of a Unit which is subject to the Eligible Mortgage; and

xii. Notice of any proposed action which would require the consent of a specified percentage of certain mortgagees as set forth in Section 10.4. below.

(b) The request of an Eligible Mortgagee or its servicer shall specify which of the above items it desires to receive, shall request all rights under the Condominium Documents, shall indicate the address to which any notices or documents shall be sent by the Board of Directors and shall set forth the unit number or address of the Unit on which it has or insures or guarantees an Eligible Mortgage. The Board of Directors need not inquire into the validity of any request made hereunder by an Eligible Mortgagee. The Board of Directors may refuse to honor any request where, after reasonable inquiry, it shall determine that the person making such request is not entitled to the material so requested and may establish reasonable rules to implement this Section 10.3(b). As a condition of the transmittal of such items, the Board of Directors, on behalf of the Association, may charge an Eligible Mortgagee for the cost of any such copies and any postage incurred in connection therewith.

(c) Failure to comply with the requirements set forth above shall in no way invalidate the otherwise proper actions of the Association and the Board of Directors.

(d) Any Eligible Mortgagee shall have the right, exercisable upon written request to the Board of Directors, to examine the books and records of the Association at any reasonable time.

Section 10.4 Approval of Mortgagees.

(a) Approval of Mortgagees. Subject to the provisions of paragraphs (b), (c) and (d) of this Section, except as provided by law in the case of dissolution, condemnation or substantial loss to Units and/or the Common Elements, unless at least sixty-seven percent (67%) of the holders of first mortgages or deeds of trust (based upon one vote for each first mortgage or deed of trust owned in the case of a Residential Unit, and thirty-two (32) votes in the case of the Commercial Unit) and sixty-seven percent (67%) of Unit Owners other than the Declarant have given their prior written consent, the Association and Board of Directors shall not be entitled to:

i. By act or omission, seek to abandon or terminate the Condominium regime;

ii. Change the pro rata interest or obligations of any Unit for the purpose of (1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (2) determining the pro rata share of ownership of each Unit in the Common Elements, other than minor corrections;

iii. Partition or subdivide any Residential Unit;

iv. By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements (the granting of easements for public utilities or other public purposes or the dedication of private streets consistent with the

intended use of the Common Elements, or the designation and/or assignment of Limited Common Elements shall not be deemed a transfer within the meaning of this clause); or

v. Use hazard insurance proceeds for losses to any property of the Condominium (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such property.

Notwithstanding anything to the contrary contained in the foregoing, in accordance with Section 703.28 of the Act, no portion of the Property may be removed from the provisions of the Act unless said removal is consented to by one hundred percent (100%) of the Unit Owners and one hundred percent (100%) of the holders of liens affecting any of the Units.

(b) Federal National Mortgage Association Compliance. Subject to the provisions of paragraphs (a), (c) and (d) of this Section, unless the Eligible Mortgagees holding liens against not less than fifty-one percent (51%) of the Residential Units subject to Eligible Mortgages, and Eligible Mortgagees holding liens against the Commercial Units have given their prior written consent, no amendment to this Declaration, the Bylaws or the Rules and Regulations shall be adopted that would affect any provision thereof relating to any of the following matters:

- i. Voting rights;
- ii. Assessments, liens for assessments or subordination of assessment
liens;
- iii. Reserves for maintenance, repair and replacement of Common
Elements;
- iv. Responsibility for maintenance and repair of the Units and the
Common Elements;
- v. The reallocation of Percentage Interests or the reallocation, in any
material way, of Limited Common Elements or rights related to the use of the Common
Elements;
- vi. The boundaries of any Unit;
- vii. The convertibility of any Unit into Common Elements or of any
Common Elements into a Unit;
- viii. Any expansion or contraction of the Condominium, or any
addition, annexation or withdrawal of any property to or from the Condominium;
- ix. Insurance or fidelity bonds;
- x. Leasing of Units;
- xi. The imposition of any restrictions on the right of any Unit Owner
to sell or transfer his or her Unit;

xii. A decision by the Association to establish self-management when professional management had been required previously by an Eligible Mortgagee;

xiii. The restoration or repair of all or any part of the Condominium (after a hazard damage or partial condemnation) in a manner other than the manner set forth in the Condominium Documents;

xiv. Any action to terminate the Condominium regime after an occurrence of substantial destruction or condemnation of the Condominium; or

xv. Any provision of this Declaration, the Bylaws or Rules and Regulations which expressly benefit Eligible Mortgagees.

In addition to and not in limitation of the foregoing, the Condominium regime shall not be terminated for any reason other than an occurrence of substantial destruction or condemnation of the Condominium, and no action in furtherance of such termination shall be taken or considered by Unit Owners, unless at least one hundred percent (100%) of Eligible Mortgagees have given their prior written consent.

(c) Implied Approval. The approval of an Eligible Mortgagee to any of the foregoing amendments, modifications, or revisions may be assumed when any Eligible Mortgagee fails to submit a response to any written proposal for any such amendment, modification or revision within thirty (30) days after proper notice has been delivered to the Eligible Mortgagee, by certified or registered mail, return receipt requested.

(d) Application and Effect. The provisions of this Article X shall supersede any inconsistent provision or provisions of this Declaration, the Bylaws or the Rules and Regulations; provided, however, that said provisions shall not be deemed to limit or expand and shall not supersede the following:

i. The amendment provisions of Article IX of this Declaration and of Section 1 of Article XIII of the Bylaws;

ii. The right granted to the Declarant in this Declaration to subdivide or relocate the boundaries of Units; and/or

iii. The rights of any Unit Owner and his or her mortgagee with respect to matters particularly affecting such Unit Owner's Unit and/or Eligible Mortgage, including, without limitation, as set forth in Section 11.1 hereof.

ARTICLE XI BOUNDARY RELOCATION; PARTITION

Section 11.1 Relocation of Unit Boundaries and Subdivision of Units. Subject to the provisions of Section 10.4(d)(iii) of this Declaration, any Unit may be subdivided, combined or the boundaries thereof relocated if such action shall have been approved in writing by all affected Unit Owners, all Eligible Mortgagees of the Units involved and the Board of Directors. The foregoing consents, including those required pursuant to Section 10.4, shall not be required

with respect to Unit subdivisions or boundary relocations made by the Declarant or by the owners of the Commercial Unit or any Units resulting from the subdivision of the Commercial Unit. An amendment to this Declaration to effect any Unit subdivision, combination or boundary relocation shall be recorded by the Secretary of the Association. The provisions of this Section 11.1 do not apply to alterations allowed by Section 703.13 (6) and (7) of the Act or by the provisions of the Bylaws.

Section 11.2 No Revocation or Partition. Except as otherwise set forth herein, the Common Elements shall remain undivided and no Unit Owner or any other person shall bring or have the right to bring any action for partition or division thereof, nor shall the Common Elements be abandoned by act or omission, unless the Condominium regime is waived and terminated by agreement of Unit Owners owning Units to which appertain at least one hundred percent (100%) of all the votes in the Condominium, except as provided herein in the event of casualty or condemnation.

ARTICLE XII DESIGN REVIEW CONTROL COMMITTEE

Section 12.1 Design Review Committee. The Design Review Committee shall be composed of three (3) Residential Unit Owners or representatives of Declarant appointed by the Board, one of whom shall be a member of the Board or in the event the Board elects not to appoint a separate Design Review Committee, the term "Design Review Committee" shall refer to the Board; provided, however, that until such time as seventy-five percent (75%) of the aggregate of all Residential Units submitted to the Condominium have been conveyed to parties other than the Declarant, the Design Review Committee shall be the Declarant.

Section 12.2 Construction/Modification of Units, Common Elements and Improvements on the Property. No Residential Unit Owner shall make any addition, alteration, or improvement including, without limitation, repainting or revarnishing or changing the appearance of the Common Elements or the exterior appearance of any Unit (including, without limitation, doors, windows, and/or landscaping) until a written request setting forth the details of the addition, alteration, improvement or change shall have been submitted to and approved in writing as to harmony of external design, soundness and visual aesthetics by the Design Review Committee, which approval may be approved or denied in the Design Review Committee's sole discretion. The Design Review Committee may not approve any addition, alteration, improvement or change unless such addition, alteration, improvement or change complies with the Act, this Declaration, the Bylaws and the then current Rules and Regulations.

Section 12.3 Guidelines. The Design Review Committee may, subject to the approval of the Board, develop and promulgate policy guidelines for the application of the architectural control provisions set forth herein. The policy guidelines may include review procedures, aspects and objectives of review, and principles and criteria used as standards in determining the achievement of the required objectives. The policy guidelines may also include specific design practices that, though optional, are generally acceptable methods for achieving the required objectives in particular design problems frequently encountered in the Property. The policy guidelines are intended to assist the Design Review Committee and the Residential Unit Owners in the ongoing process of community design. They may be modified and supplemented from

time to time, on due notice to the Residential Unit Owners and subject to the approval of the Board.

Section 12.4 Submittal Requirements. Residential Unit Owners requesting approval pursuant to this Section may be required to submit such supplemental information, including plans and specifications, containing such additional detail as the Design Review Committee may reasonably request.

Section 12.5 Procedure. Within thirty (30) days after the receipt by the Design Review Committee of all of the information requested from a Residential Unit Owner in connection with any proposed addition, alteration or improvement, the Design Review Committee shall, in writing to such Unit Owner, approve, with specified conditions, or refuse the Unit Owner's request with respect to any such addition, alteration or improvement.

Section 12.6 Appeal. Any action, ruling or decision of the Design Review Committee may be appealed to the Board by any party deemed by the Board to have standing as an aggrieved party and the Board may modify or reverse any such action, ruling or decision.

Section 12.7 Violations. The Board shall have the power to impose reasonable fines and to issue a cease and desist request to any Unit Owner, his/her guests, invitees, or lessees whose actions are inconsistent with the provisions of this Section.

Section 12.8 Failure to Act. In the event the Design Review Committee fails to approve or disapprove such plans and specifications within forty-five (45) days after said plans and specifications have been submitted to it, such plans and specifications shall be deemed to have been approved by the Design Review Committee. In the event that plans and specifications are not submitted to or approved by the Design Review Committee, or the actual design, construction or location of any improvement shall be materially at variance with approved plans and specifications, the Association may, until one year (but not thereafter) after the completion of construction, commence a suit or other action to require the removal or alteration of such improvement.

Section 12.9 Authority to Act. The Design Review Committee may appoint in writing a member of such committee who shall have authority to approve the construction of improvements as set forth in this Article XII.

Section 12.10 Declarant and Commercial Unit Owner Excluded. Notwithstanding anything to the contrary contained herein, this Article XII shall not apply to the Declarant or to the Commercial Unit Owner and the Declarant and the Commercial Unit Owner may make or construct any improvement, addition or alteration without obtaining the approval of the Board or the Design Review Committee, or otherwise complying with this Article XII.

ARTICLE XIII CONDOMINIUM DOCUMENTS: SCOPE

Section 13.1 Scope of Coverage. All present and future Unit Owners of Units, tenants of such Unit Owners and any other occupants of Units, employees of Unit Owners, or any other persons that in any manner use or come upon the Condominium or any part thereof shall be

subject to and shall comply with the provisions of this Declaration (including the Plat and Floor Plans), the Articles, the Act, the Bylaws and Rules and Regulations of the Association, as these instruments may be amended from time to time. The acceptance of a deed or conveyance, or the entering into of a lease, or the entering into occupancy of any Unit shall constitute an acceptance by such Unit Owner, tenant or occupant of the provisions of such instruments, as they may be amended from time to time. The provisions contained in such instruments shall be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and fully stipulated in each deed, conveyance or lease thereof. The enforcement may be by such judicial proceedings as the Board of Directors may deem appropriate as well as by the provisions of the Act.

ARTICLE XIV DAMAGE OR DESTRUCTION; EMINENT DOMAIN

Section 14.1 Damage or Destruction.

(a) Determination to Reconstruct or Repair. If all or any part of the Common Elements become damaged or are destroyed by any cause, the damaged Common Elements shall be repaired or reconstructed except as herein specifically provided otherwise.

i. Damage less than \$1,000,000.00.

If the cost to repair or reconstruct the damaged Common Elements is less than One Million Dollars (\$1,000,000.00), the damaged Common Elements shall be repaired or reconstructed even if the cost of such repair or reconstruction exceeds the available insurance proceeds. Acceptance by a Unit Owner of a deed to a Unit shall be deemed to be consent to the authorization to the Association to repair or reconstruct, as may in the future be needed from time to time, up to such stated dollar amount. If such authorization is challenged, whether through action taken at a meeting of Unit Owners or otherwise, the issue of whether to repair or reconstruct shall be put to a vote of all of the Unit Owners entitled to vote, and such repair or reconstruction shall be deemed approved if all votes appurtenant to any one Unit are cast in favor of such repair or reconstruction.

ii. Damage equal to or greater than \$1,000,000.00; Insurance Available.

If the cost to repair or reconstruct the damaged Common Elements is equal to or greater than One Million Dollars (\$1,000,000.00), and the insurance proceeds plus One Million Dollars (\$1,000,000.00) are sufficient to complete such repair or reconstruction, the damaged Common Elements shall be repaired or reconstructed even if the cost of such repair or reconstruction exceeds the available insurance proceeds. Acceptance by a Unit Owner of a deed to a Unit shall be deemed to be consent to the authorization of the Association to repair or reconstruct, as may in the future be needed from time to time, up to the amount of the available insurance proceeds plus One Million Dollars (\$1,000,000.00). If such authorization is challenged, whether through action taken at a meeting of Unit Owners or otherwise, the issue of whether to repair or reconstruct shall be

put to a vote of all of the Unit Owners entitled to vote, and such repair or reconstruction shall be deemed approved if all votes appurtenant to any one Unit are cast in favor of such repair or reconstruction.

iii. **Damage equal to or greater than \$1,000,000.00; Insurance Not Available.**

If the cost to repair or reconstruct the damaged Common Elements is equal to or greater than One Million Dollars (\$1,000,000.00), and the insurance proceeds plus One Million Dollars (\$1,000,000.00) are insufficient to complete such repair or reconstruction, the damaged Common Elements shall be repaired or reconstructed unless within thirty (30) days of the date the Association receives repair or reconstruction estimates, the Unit Owners having seventy-five percent (75%) or more of the votes consent in writing to not repair or reconstruct the damaged Common Elements. Delivery of such written consent under the circumstances described in this Section 14.1(a)(iii) shall be deemed to be consent to subject the Condominium to an action for partition.

(b) **Plans and Specifications.** Any reconstruction or repair of items shall, as far as is practicable, be made in accordance with the maps, plans, and specifications used in the original construction of the damaged improvements, unless: (a) the Unit Owners having at least a majority of the votes, and the Commercial Unit Owner (with respect to any changes to the Commercial Unit) approve of the variance from such plans and specifications; and (b) the board of directors of the Association authorizes the variance; and (c) in the case of reconstruction of or repair to any of the Units, the Unit Owners of the damaged Units authorize the variance. In the event that a variance is authorized from the maps, plans, and specifications contained in the Condominium Plat or this Declaration, then, if permitted by law, an amendment shall be recorded by the Association setting forth such authorized variance.

(c) **Responsibility for Repair.** In all cases after a casualty has occurred to the Common Elements, the Association has the responsibility of reconstruction and repair, and immediately shall obtain reliable and detailed estimates of the cost to rebuild or repair.

(d) **Insurance Proceeds and Construction Fund.** Insurance proceeds held by the Association as trustee pursuant to Section 15.1(a) shall first be disbursed by the Association for the repair or reconstruction of the damaged Common Elements and Limited Common Elements and Units. The Association shall have no responsibility to repair, reconstruct, or replace any personal property of any Unit Owner or tenant or occupant of a Unit. Unit Owners and Eligible Mortgagees shall not be entitled to receive payment of any portion of the insurance proceeds unless the Association has determined not to rebuild pursuant to Section 14.1(a) and the Condominium is partitioned, or unless there is a surplus of insurance proceeds after the damaged Property or Building has been completely restored or repaired as set forth in Section 14.1(f)

(e) **Assessments For Deficiencies.** If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair by the Association, a Special Assessment shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such assessments on account of damage to Common Elements and Limited Common Elements shall be in proportion to each Unit Owner's Percentage Interest in the Common Elements. All

assessed funds shall be held and disbursed by the Association as trustee for the Unit Owners and Eligible Mortgagees involved.

(f) Surplus in Construction Funds. All insurance proceeds and Special Assessments held by the Association as trustee for the purpose of rebuilding or reconstructing any damage to the Common Elements or Limited Common Elements or any Property taken by eminent domain are referred to herein as "Construction Funds." It shall be presumed that the first monies disbursed in payment of costs of reconstruction or repair are insurance proceeds. If there is a balance in the Construction Funds after payment of all costs of reconstruction or repair, such balance shall be divided among the Unit Owners according to their respective percentage interests in the Common Elements.

(g) Partition and Sale Upon Consent. If the Unit Owners having seventy-five percent (75%) or more of the votes consent in writing to subject the Condominium to an action for partition as provided in Section 14.1(a), the net proceeds of sale together with any net insurance proceeds shall be considered as one fund and shall be divided among all Unit Owners in proportion to the Percentage Interest in the Common Elements that is appurtenant to each Unit.

(h) Mortgagees' Consent Required. No approval, consent or authorization given by any Unit Owner under this Article shall be effective unless it is consented to by the Mortgagee (if any) holding the first lien against the Unit.

Section 14.2 Eminent Domain.

(a) Allocation of Award. Any damages for a taking of all or part of the Condominium shall be awarded as follows:

i. Every Unit Owner shall be allocated the entire award for the taking of all or part of the respective Unit or any improvements located therein and for consequential damages to the Unit or improvements located therein.

ii. Any award for the taking of a Limited Common Element shall be allocated to the Unit Owners collectively of each Unit to which the use of such Limited Common Element is restricted. The portion of the award to be allocated to each such Unit shall be equal to the percentage interest in the Common Elements that is appurtenant to such Unit divided by the total of the percentage interests in the Common Elements that are appurtenant to all Units to which the use of the Limited Common Element is restricted.

iii. In the event no reconstruction is undertaken, any award for the taking of Common Elements shall be allocated to all Unit Owners in proportion to their respective percentage interest in the Common Elements.

(b) Determination to Reconstruct Common Elements. Following the taking of all or part of the Common Elements (including the Limited Common Elements), the Common Elements shall be restored or reconstructed unless within thirty (30) days of the date the Association receives reconstruction cost estimates, the Unit Owners having seventy-five percent (75%) or more of the votes shall consent in writing not to reconstruct the Common Elements

taken or unless the extent of the taking, as determined by the board of directors of the Association, makes reconstruction or restoration impractical. Delivery of the written consent described herein shall be deemed to be consent to subject the Condominium to an action for partition.

(c) Plans and Specifications for Common Elements. Any reconstruction shall, as far as is practicable, be made in accordance with the maps, plans and specifications used in the original construction of the portion unless seventy-five percent (75%) of the Unit Owners and the Commercial Unit Owner (with respect to any changes to the Commercial Unit) shall authorize a variance from such plans and specifications. In the event that a variance is authorized from the maps, plans or specifications contained in the Condominium Plat or this Declaration, an amendment shall be recorded by the Association setting forth such authorized variances.

(d) Responsibility for Reconstruction. In all cases after a taking of all or part of the Common Elements, the responsibility for restoration and reconstruction shall be that of the Association and it shall immediately obtain reliable and detailed estimates of the cost to rebuild.

(e) Assessments for Deficiencies. If the condemnation award for the taking of the Common Elements is not sufficient to defray the costs of reconstruction by the Association, Special Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Special Assessments shall be in proportion to each Unit Owner's respective Percentage Interest in the Common Elements and shall constitute a Common Expense.

(f) Surplus in Construction Fund. It shall be presumed that the first monies disbursed in payment of costs of reconstruction or restoration shall be from the award for taking. If there is a surplus of Construction Funds after payment of all costs of construction, such balance shall be divided among all Unit Owners in proportion to their respective percentage interests in the Common Elements.

(g) Percentage Interests Following Taking. Following the taking of all or any part of any Unit, the percentage interest in the Common Elements appurtenant to any Unit shall be equitably adjusted to reflect the respective relative values of the remaining Units (or portions thereof) to all of the Units, determined without regard to the value of any improvements located within the Units. The Association shall promptly prepare and record an amendment to the Declaration reflecting the new percentage interests appurtenant to the Units.

(h) Partition. If the Unit Owners having seventy-five percent (75%) or more of the votes consent in writing to subject the Condominium to an action for partition as provided in Section 14.2(a), the net proceeds of sale together with any condemnation proceeds shall be considered as one fund and shall be divided among all Unit Owners in proportion to the percentage interest in the Common Elements that is appurtenant to each Unit.

(i) Mortgagee's Consent Required. No approval, consent or authorization given by any Unit Owner under this Article shall be effective unless it is consented to by the Mortgagee (if any) holding the first lien against the Unit.

Section 14.3 Negotiations. In the event all or part of the Common Elements are destroyed or damaged or are taken, injured or destroyed by eminent domain, the Association