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SSS 299120/6763V

**92122984**

**DECLARATION OF CONDOMINIUM OWNERSHIP  
FOR INDIAN WOODS TOWNHOMES CONDOMINIUM**

THIS DECLARATION is made and entered into by INDIAN WOOD DEVELOPMENT CORPORATION, an Illinois corporation (hereinafter referred to as the "Developer"):

WITNESSETH: . DEPT-01 RECORDING 9198.0  
. T4444 TRAN 3907 02/26/92 16:02:00  
. 46784 # --93-- 121984  
. COOK COUNTY RECORDER

WHEREAS, the Developer is the legal title holder of the parcel of real estate located in the Village of Indian Head Park, County of Cook and State of Illinois (hereinafter called the "Real Estate") which is legally described on Exhibit A attached hereto and commonly known as 11151-11157 Indian Woods Drive, Indian Head Park, Illinois; and

WHEREAS, the Developer intends to and does hereby submit the above described real estate together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging or in anywise pertaining thereto (hereinafter called the "Property") to the provisions of the Condominium Property Act of the State of Illinois (hereinafter called the "Act"); and

WHEREAS, the Developer is further desirous of establishing for its own benefit and for the mutual benefit of all future owners or occupants of the Property or any part thereof, certain easements and rights in, over and upon said Property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof; and

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



THIS DOCUMENT PREPARED BY  
AND AFTER RECORDING MAIL TO:

✓ Sarah Slemons Shaw  
Katz Randall & Weinberg  
200 North LaSalle Street, Suite 2300  
Chicago, Illinois

STREET ADDRESS:

11151-11157 Indian Woods Drive  
Indian Head Park, Illinois

PERMANENT INDEX NUMBER:  
18-29-101-014  
18-29-101-015

**PLAT WITH THIS  
DOCUMENT**

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NOW, THEREFORE, Developer, as the legal title holder of the real estate hereinbefore described, and for the purposes above set forth, DECLARES AS FOLLOWS:

ARTICLE I

Definitions

As used herein, unless the context otherwise requires, certain words and terms as used in this Declaration are defined as follows:

1.01 Act. The Condominium Property Act of the State of Illinois as it may be amended from time to time.

1.02 Association. Indian Woods Townhomes Condominium Association, an Illinois not-for-profit corporation organized pursuant to Section 5.01 of this Declaration.

1.03 Board. The parties constituted pursuant to Article V hereof, and who are vested with the administration of the Property.

1.04 Building. The structures located on the Real Estate which contain the Units.

1.05 By-laws. The provisions for the administration of the Property as set forth in Exhibit D attached hereto, as they may be amended from time to time.

1.06 Common Elements. All portions of the Property, except the Units, and including the Limited Common Elements, unless otherwise expressly specified herein.

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

1.08 Declaration. This instrument by which the Property is submitted to the provisions of the Act as hereinafter provided, including such amendments, if any, to this instrument as may from time to time be adopted pursuant to the terms hereof.

1.09 Developer. Indian Wood Development Corporation, an Illinois corporation, its successors and assigns.

1.10 Limited Common Elements. A portion of the Common Elements so designated in the Declaration as being reserved for the use of a certain Unit or Units to the exclusion of other Units and contiguous to or serving exclusively such Unit or Units, as an inseparable

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appurtenance thereto, including specifically but not by way of limitation, such portions of the perimeter walls, floors and ceilings, doors, vestibules, decks, if any, windows and all associated fixtures and structures therein as lie outside the Unit boundaries designated for the exclusive use by particular Unit Owners as more fully described herein.

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

1.12 Occupant. A Person or Persons, other than a Unit Owner, in possession of a Unit.

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

1.14 Plat. The plat or plats of survey of the Real Estate and all Units in the Property.

1.15 Property. All the property and space comprising the Real Estate, all improvements and structures erected, constructed or contained therein or thereon, including part of the Building, and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners, submitted to the provisions of the Act.

1.16 Real Estate. The entire parcel or tract of real estate described on Exhibit "A" attached hereto, which real estate is hereby submitted to the provisions of the Act.

1.17 Unit. A part of the Property designed and intended for any type of independent use, and more specifically described hereafter in Article II.

1.18 Unit Owner. The Person or Persons whose estate or interests, individually or collectively, aggregate fee simple absolute ownership of a Unit.

1.19 Unit Ownership. A part of the Property consisting of one Unit and the undivided interest in the Common Elements appurtenant thereto.

## ARTICLE II

## Units

**2.01 Description and Ownership of Units.**

(a) All Units are delineated on the Plat attached hereto as Exhibit B and are listed on Exhibit C.

(b) Each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes set forth in the Plat attached hereto as Exhibit B as well as any pipes, ducts, flues, shafts, electrical wiring and conduits, and individual heating, cooling and ventilation systems or equipment situated entirely within a Unit and serving only such Unit.

(c) The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown on the Plat attached hereto as Exhibit B. Every deed, lease, mortgage or other instrument may legally describe a Unit by its identifying number or symbol as shown on Exhibit B and every such description shall be deemed good and sufficient for all purposes, as provided in the Act.

(d) Except as provided by the Act, no Unit Owner shall, by deed, plat, court decree or otherwise combine or subdivide or in any other manner cause his Unit to be separated into any tracts or parcels different from the whole Unit as shown on the Plat attached hereto as Exhibit B; provided, that the Developer may combine any part or all of a Unit owned by the Developer for the purpose of increasing the size of a Unit owned by the Developer and eliminating or reducing the size of another Unit owned by the Developer. If the Developer or a Unit Owner or Unit Owners combine or subdivide his or their Units pursuant to the Act, they may, at their own expense, locate or relocate Common Elements affected or required thereby in accordance with the Act.

**2.02 Certain Structures Not Constituting Part of a Unit.**

Except as a tenant in common with all other Unit Owners, no Unit Owner shall own any structural components of the Building, including structural columns or pipes, wires, conduits, ducts, flues, shafts or public utility lines situated within his Unit and forming a part of any system serving more than his Unit, or any components or communication, master antennae, or refuse collection systems, if any, located in his Unit, whether or not any such items shall be located in the floors, ceilings or perimeter or interior walls of the Unit.

**2.03 Real Estate Taxes.** Real estate taxes shall be separately taxed to each Unit Owner for his Unit and his corresponding

percentage of ownership in the Common Elements as provided in the Act. In the event that for any year such taxes are not separately taxed to each Unit Owner, but rather are taxed on the Property as a whole, then each Unit Owner shall pay his proportionate share thereof in accordance with his respective percentage of ownership in the Common Elements, and in said event such taxes shall be included in the Common Expenses assessed pursuant to this Declaration.

### ARTICLE III

#### Common Elements

**3.01 Description of The Common Elements.** Except as otherwise provided in this Declaration, the Common Elements shall consist of all portions of the Property except the Units. Without limiting the generality of the foregoing, and except as otherwise provided herein, the Common Elements shall include the walls, hallways, entrances and exits, corridors, receiving room (if any), mechanical equipment areas, storage areas, pipes, ducts, flues, shafts, electrical wiring and conduits (except pipes, ducts, flues, shafts, electrical wiring and conduits situated entirely within a Unit and serving only such Unit), central heating, cooling and ventilating systems serving the Common Elements (but excluding those individual heating, cooling and ventilating systems or equipment situated entirely within a Unit and serving only such Unit), public utility lines, structural parts of the Building, and all other portions of the Property except the individual Units. Structural columns located within the boundaries of a Unit shall also be part of the Common Elements.

**3.02 Ownership of the Common Elements.** Each Unit Owner shall be entitled to the percentage of ownership in the Common Elements allocated to the respective Unit owned by such Unit Owner, as set forth in Exhibit C attached hereto. The percentages of ownership interests set forth in Exhibit C have been computed and determined in accordance with the Act, and shall remain constant unless hereafter changed by recorded amendment to this Declaration (i) consented to in writing by all of the Unit Owners in accordance with Section 16.08 hereof, or (ii) consented to in writing by those parties whose consent is required by the Act if the change in percentage is part of a subdivision or combination of Units in accordance with Section 2.01(d) hereof, or (iii) executed by the Developer in accordance with Article XV hereof. Said ownership interests in the Common Elements shall be undivided interests and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective percentages of ownership.

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**3.03 No Severance of Ownership.** No Unit Owner shall execute any deed, mortgage, lease or other instrument affecting title to his

Unit Ownership without including therein both his interest in the Unit and his corresponding percentage of ownership in the Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described herein.

#### ARTICLE IV

##### General Provisions as to Units and Common Elements

**4.01 Submission of Property to the Act.** The Developer as the legal title holder in fee simple of the Real Estate, expressly intends to and by recording this Declaration, does hereby subject the Property to the provisions of the Act.

**4.02 Plat.** The Plat attached hereto as Exhibit B and made a part hereof sets forth the measurements, elevations, locations and other data as required by the Act, including (i) the Real Estate and its exterior boundaries, (ii) each Unit and its horizontal and vertical dimensions, (iii) Limited Common Elements within the Building, and (iv) the Common Elements of the Building.

##### **4.03 Encroachments and Easements.**

(a) **Encroachments.** If by reason of the construction, repair, reconstruction, settlement or shifting of the Building, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements, or any other Unit; or if by reason of the design or construction of any Unit, it shall be necessary or advantageous to a Unit Owner to use or occupy any portion of the Common Elements for any reasonable use appurtenant to said Unit, which will not unreasonably interfere with the use or enjoyment of the Common Elements by other Unit Owners; or, if by reason of the design or construction of utility and ventilation systems, any pipes, ducts, flues, shafts, or conduits serving more than one Unit encroach or shall hereafter encroach upon any part of any Unit; then in any such event valid easements for the maintenance of such encroachment and for such use of the Common Elements are hereby established and shall exist for the benefit of such Unit, or the Common Elements, as the case may be, so long as all or any part of the Building shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Elements be created in favor of

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any Unit Owner if such encroachment or use is created by the intentional, willful or negligent conduct of the Unit Owner or his agent or is detrimental to or interferes with the reasonable use and enjoyment of the Property by the other Unit Owners.

(b) Easements for Utilities. Illinois Bell Telephone Company, Commonwealth Edison Company, Northern Illinois Gas Company, and all other public utility companies, governmental authorities and cable television companies serving the Property are hereby granted the right to install, lay, construct, operate, maintain, renew, repair or replace, conduits, cables, pipes and wires and other equipment into, over, under, along and on any portion of the Property for the purpose of providing the Property with utility services, together with the reasonable right of ingress to and egress from the Property for said purposes. The Developer, Board or Association may hereafter grant other or additional easements for utility purposes for the benefit of the Property, over, under, along and on any portion of said Property, and each Owner hereby grants the Developer, Board or Association an irrevocable power of attorney to execute, acknowledge and record for and in the name of such Unit Owner, such instruments as may be necessary to effectuate the foregoing. Easements are also declared and granted to install, lay, operate, maintain, repair and replace any pipes, wire, ducts, flues, shafts, conduits, public utility lines, components of the communication systems, if any, or structural components, which may run through the walls of a Unit, whether or not such walls lie in whole or in part within the Unit boundaries.

(c) Easements to Run with Parcel. All easements and rights described herein are easements appurtenant running with the Real Estate, and so long as the Property is subject to the provisions of this Declaration, shall remain in full force and effect, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any Unit Owner, purchaser, mortgagee and other person having an interest in the Property, or any part or portion thereof. Reference in the respective deeds of conveyance, or in any mortgage or trust deed, or other evidence of obligation, to the easements and rights described in this Paragraph, or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to respective grantees, mortgagees and trustees of such Unit Ownerships as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

4.04 Storage Areas. Any storage areas in the Property either presently existing or hereafter constructed not located within the Units shall be part of the Common Elements and shall be allocated to the respective Unit Owners in such manner and subject to such rules and regulations as the Board may prescribe. Each Unit Owner shall

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be responsible for his personal property in such storage area. The Developer, the Developer, the Board and the Association shall not be considered the bailee of such personal property and shall not be responsible for any loss or damage thereto, whether stored in the storage area or located in any other part of the Common Elements.

**4.05 Use of the Common Elements.** Each Unit Owner shall have the right to use the Common Elements (except the Limited Common Elements and portions of the Property subject to leases made by or assigned to the Board) in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of his respective Unit. Such right to use the Common Elements shall extend to not only each Unit Owner, but also to his agents, servants, tenants, family members, invitees and licensees. Each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements, if any, contiguous to and serving such Unit alone or with adjoining Units. Such rights to use the Common Elements, and the Limited Common Elements shall be subject to and governed by the provisions of the Act, this Declaration, the By-Laws and rules and regulations of the Association. In addition, the Association shall have the authority to lease, grant concessions, or grant easements with respect to parts of the Common Elements subject to the provisions of this Declaration and the By-Laws. All income derived by the Association from leases, concessions or other sources shall be held and used for the benefit of the members of the Association, pursuant to such rules, resolutions or regulations as the Board may adopt or prescribe.

**4.06 Maintenance, Repairs and Replacements.**

(a) **By the Association.** The Board or Association at its expense, shall be responsible for the maintenance, repair and replacement of those portions, if any, of each Unit which contribute to the support of the Building excluding, however, interior wall, ceiling and floor surfaces. In addition, the Board or Association, shall maintain, repair and replace all pipes, wires, conduits, ducts, flues, shafts and other facilities for the furnishing of utility services which may be located within the Unit boundaries and forming a part of any system servicing more than one Unit, as specified in Section 2.02 hereof, exclusive of any portions of the foregoing which may be located at or beyond the wall outlets, or which may be the responsibility of an individual Unit Owner under subparagraph (b) below or any other provisions of this Declaration. Maintenance, repairs and replacements of the Common Elements (except as otherwise specifically provided herein) shall be furnished by the Board or Association as part of the Common Expenses, subject to the By-Laws and the rules and regulations of the Association.

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(b) By the Unit Owner. Except as otherwise provided in paragraph (a) above, each Unit Owner, at his own expense, shall furnish and be responsible for all of the maintenance, repairs and replacements within his own Unit including, but not limited to, the doors, all internal installations in such Unit such as appliances, toilets, sinks and other lavatory fixtures, lighting fixtures and other electrical fixtures, plumbing fixtures and any pipes, ducts, flues, shafts, electrical wiring and conduits, and individual heating, cooling, ventilating and communications systems or equipment situated entirely within such Unit and servicing only such Unit; provided, however, that such maintenance, repairs and replacements as may be required for the bringing of water, gas and electricity to the Unit shall be furnished by the Board as part of the Common Expenses; and provided further that the Board or Association may provide, by such rules and regulations as may be imposed from time to time, for ordinary maintenance and minor repairs and replacements to be furnished to Units and appliances therein by Building personnel as a Common Expense or as user charges pursuant to the provisions of the By-laws. Maintenance, repairs and replacements of the Common Elements performed by the Association shall be part of the Common Expenses, subject to the By-Laws or rules and regulations of the Association; provided that, at the discretion of the Board, maintenance, repairs and replacements of the Limited Common Elements may be assessed in whole or in part to Unit Owners benefited thereby, and further, at the discretion of the Board, the Board may direct such Unit Owners, in the name and for the account of such Unit Owners, to arrange for such maintenance, repairs and replacements, to pay the cost thereof with the funds of the Unit Owners, and to procure and deliver to the Board such lien waivers and contractor's and subcontractor's sworn statements as may be required to protect the Property from all mechanics' or materialmen's lien claims that may arise therefrom. Each Unit Owner shall pay for his own telephone, electricity, water, gas and other utilities which are separately metered or billed to each user by the respective utility company. Utilities which are not separately metered or billed shall be treated as part of the Common Expenses.

(c) Decorating. Each Unit Owner, at his own expense, shall furnish and be responsible for all of the decorating within his own Unit and the Limited Common Elements servicing his Unit as may be required from time to time, including, but not limited to, painting, wallpapering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps, lighting and other furnishings and interior decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceiling of his Unit, and each Unit Owner shall maintain such interior surfaces in good condition at his own expense. Such maintenance and use of interior surfaces shall be subject to the rules and regulations of the Board or Association as

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may be imposed from time to time. Notwithstanding the fact that the windows appurtenant to the Units are not a part of the Property, each Unit Owner hereby agrees to be responsible for cleaning, washing, maintaining, repairing and replacing the window or windows appurtenant to his Unit. The use of and the covering of the interior surfaces of such windows, whether by draperies, shades or other items visible on the exterior of the Building, shall be subject to the rules and regulations of the Board as may be imposed from time to time. Decorating of the Common Elements (other than interior surfaces within the Units and Limited Common Elements as above provided) and any decorating of Units, if made necessary by damage to Units caused by the maintenance, repair or replacement of the Common Elements by the Association, shall be furnished by the Association as part of the Common Expenses.

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

(e) Nature of Obligations. Nothing herein contained shall be construed to impose a contractual liability upon the Association for maintenance, repair and replacement, but the Association's liability shall be limited to damages resulting from negligence. The respective obligations of the Association and Unit Owners set forth in this Declaration shall not be limited, discharged or postponed by reason of the fact that any such maintenance, repair or replacement is required to cure a latent or patent defect in material or workmanship in the construction of the Building, nor because they may become entitled to proceeds under policies of insurance. In addition, and notwithstanding anything hereinabove to the contrary, no Unit Owner shall have a claim against the Board or Association (or against the Developer or Developer) for any work (such as certain exterior window cleaning or repair of the Common Elements), ordinarily the responsibility of the Board or Association, but which the Unit Owner himself has performed or paid for, unless the same shall have been agreed to in advance by the Board or Association or the Developer or Developer.

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4.07 Negligence of Unit Owner. If, due to the act or neglect of a Unit Owner, or his agent, servant, tenant, invitee or other

authorized Occupant or visitor of such Unit Owner, damage shall be caused to the Common Elements, Limited Common Elements or to a Unit or Units owned by others, and maintenance, repairs or replacements are required which would otherwise be a Common Expense, then such Unit Owner shall pay for such damage or such maintenance, repairs and replacements as may be determined by the Board to the extent not covered by the Association's insurance.

**4.08 Joint Facilities.** To the extent that equipment, facilities and fixtures within any Unit or Units shall be connected to similar equipment, facilities or fixtures affecting or serving other Units or the Common Elements, then the use thereof by the individual Unit Owners shall be subject to the rules and regulations of the Board. The authorized representatives of the Association or of the manager or managing agent for the Building shall be entitled to reasonable access to the individual Units as may be required in connection with maintenance, repairs or replacements of or to the Common Elements, the Limited Common Elements or any equipment, facilities or fixtures affecting or serving other Units, the Common Elements or the Limited Common Elements.

## ARTICLE V

### Administration and Operation of the Property

**5.01 Association of Unit Owners.** The Developer or its designee prior to the election of the first Board, and the Board at any time thereafter may cause to be incorporated an Illinois not-for-profit corporation to be called "Indian Woods Townhomes Condominium Association" or a name similar thereto, which Association shall be the governing body of all of the Unit Owners for the operation of the Property. The By-Laws for the Association shall be the By-Laws attached hereto as Exhibit D and made a part hereof. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it in trust for the use and benefit of Unit Owners in accordance with the provisions of this Declaration and the By-Laws. Upon the formation of the Association, every Unit Owner shall automatically be a member therein and a Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. Upon the transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall simultaneously and automatically succeed to the former Unit Owner's membership in the Association. The aggregate number of votes for all members of the Association shall be One Hundred (100) and shall be divided among the respective Unit Owners in accordance with their respective percentages of ownership interest in the Common Elements, as set forth in Exhibit B hereto. The Association may issue certificates evidencing membership therein.

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**5.02 Board of Directors.** The direction and administration of the Property shall be vested in the Board of Directors (herein sometimes referred to as the "Board"), which shall consist of five (5) persons who shall be elected or appointed in the manner provided for in the By-Laws; provided, however, that irrespective of anything else contained in this Declaration, for a period commencing on the date this Declaration is executed and ending upon the qualification of the directors elected or appointed at the initial meeting of voting members, the Developer or Developer shall have the right to designate and select the persons who shall serve as members of the Board or to exercise directly the same powers with the same authority given the Board hereunder. The Developer or the Developer may delegate or contract for performance of any of its duties, and in such case the Developer or the Developer shall not be liable for acts or omissions thereof so long as it shall act in good faith in such delegation or contracting.

**5.03 Liability of the Board.** The directors and officers of the Association shall not be personally liable to the Unit Owners or others for any mistake of judgment or for any acts or omissions made in good faith. The Unit Owners shall indemnify and hold harmless the directors and the officers of the Association against all contractual and other liabilities to others arising out of contracts made by them on behalf of the Unit Owners or arising out of their status as directors or officers of the Association, unless any such contract shall have been made fraudulently or with gross negligence or contrary to the provisions of this Declaration. The liability of any Unit Owner arising out of any such contract or arising out of the aforesaid indemnity shall be limited to such proportion of the total liability thereunder as said Unit Owner's percentage of interest in the Common Elements bears to the total percentage of interest of all the Unit Owners in the Common Elements. Every agreement made by the Board, the directors or officers of the Association, or the managing agent, if any, on behalf of the Unit Owners shall provide that the Board, or the directors or officers or the managing agent, if any, as the case may be, are acting only as agents for the Unit Owners, and shall have no personal liability thereunder (except as Unit Owners) and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as said Unit Owner's percentage of interest in the Common Elements bears to the total percentage of interest of all Unit Owners in the Common Elements. The foregoing indemnification shall include indemnification against all costs and expenses (including but not limited to, counsel fees, amounts of judgments paid and amounts paid or received in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other, in which any director or officer of the Association may be involved by virtue of such person's being or having been such

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director or officer; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such director or officer, or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person being adjudged liable for gross negligence or fraud in the performance of his duties as such director or officer.

**5.04 Board's Determination Binding.** In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions or interpretation or application of the provisions of this Declaration or the By-Laws, the determination thereof by the Board shall be final and binding on each and all Unit Owners.

## ARTICLE VI

### Insurance

**6.01 Insurance Requirements.** The Board shall have the authority to and shall obtain insurance for the Property as follows:

(a) Insurance on the Property, including the Units and the Common Elements, against loss or damage by fire and against loss or damage by risks now or hereafter embraced by standard extended coverage and vandalism and malicious mischief endorsements, in an amount sufficient to prevent the insured from being a co-insurer within the terms of the applicable policies, but in any event in an amount not less than one hundred percent (100%) of the full insurable replacement cost thereof. Insurable replacement cost shall be deemed to be the cost of restoring the Common Elements, Units, Limited Common Elements or any part thereof, to substantially the same condition in which they existed prior to such damage or destruction; provided, however, and notwithstanding the foregoing, insurable replacement cost shall be deemed to include the cost of the restoration of any additions, alterations, improvements or other betterments made by any Unit Owner to a Unit to substantially the same condition in which they existed prior to such damage or destruction, only if the Board is obligated to obtain insurance for such additions, alterations, improvements or betterments pursuant to Section 6.04 hereof. The Board may obtain an appraisal from a qualified appraiser for the purpose of determining the full insurable replacement cost of the Common Elements and Units, the cost of such appraisal to be a Common Expense;

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(b) Comprehensive public liability and property damage insurance against claims for personal injury or death or property damage suffered by the public or by any Unit Owner occurring in, on or about the Property or upon, in or about the streets and passageways and other areas adjoining the Property, such public liability and property damage insurance to afford protection to such limits as the Board shall deem desirable (but in no event for less than One Million (\$1,000,000.00) Dollars with respect to liability for personal injury or property damage arising out of a single accident);

(c) Such workmen's compensation insurance as may be necessary to comply with applicable laws;

(d) A fidelity bond indemnifying the Association, the Board and the Unit Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling the funds of the Association, the Board or the Unit Owners in such amount as the Board shall deem desirable;

(e) Such other insurance (including, but not limited to, boiler and machinery and insurance with respect to employees' liability and officers' and directors' liability) in such reasonable amounts as the Board shall deem desirable.

The premiums for the above described insurance, except as otherwise provided in this Article VI shall be Common Expenses. All insurance provided for in this Article VI shall be effected under valid and enforceable policies issued by insurers of recognized responsibility authorized to do business in the State of Illinois. The Association, for the benefit of the Unit Owners and the mortgagee of each Unit, shall pay the premiums on the policies of insurance described above at least thirty (30) days prior to the expiration dates of the respective policies and shall notify the mortgagee of each Unit of such payment within ten (10) days after the date on which payment is made.

#### 6.02 Named Insureds.

(a) All policies of insurance of the character described in Subparagraph 6.01(a) shall name as insured, the Developer, so long as it has an insurable interest, and the Board as trustee for the Unit Owners in the percentages established in Exhibit C to this Declaration as the respective interest of all of such insureds may appear; shall be without contribution as respects other such policies of insurance carried individually by the Unit Owners whether or not such other insurance covers their respective Units and/or the additions and improvements made by such Unit Owners to their respective Unit; shall provide that notwithstanding any

provision thereof such option shall not be exercisable in the event the Unit Owners elect to sell the Property or remove the Property from the provisions of the Act; shall contain, if obtainable, an endorsement or clause whereby the insurer waives any right to subrogation and any defense based upon co-insurance or of invalidity arising from any acts of any insured; shall contain an endorsement to the effect that such policy shall not be terminated for nonpayment of premiums without at least ten (10) days prior written notice to the mortgagee of each Unit; and may contain an endorsement extending coverage so as to include the payment of Common Expenses with respect to damaged Units during the period of reconstruction thereof. Notwithstanding the issuance of standard mortgagee clause endorsements under the policies of insurance of the character described in Subparagraph 6.01(a), any losses under such policies shall be payable and all insurance proceeds received thereunder shall be applied and disbursed in accordance with the provisions of this Declaration.

(b) All policies of insurance of the character described in Subparagraphs 6.01(b) (c), (d) and (e) shall name as insureds each Unit Owner and their spouse (but as to the insurance described in Subparagraph 6.01(b) hereof, only with respect to those portions of the Property not reserved for their exclusive use) and the Association, the Board and its managing agent, if any, the other agents and employees of such Association, Board and managing agent, if any, and the Developer and the Developer in its or his capacity as a Unit Owner and Board member. In addition, all policies of insurance of the character described in Subparagraph 6.01(b) shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association or its officers or directors, or the Developer, the Developer, the managing agent, if any, the Unit Owners or the Occupants, or their respective employees and agents, and any defense based upon co-insurance or invalidity arising from any act of any insured, and all such policies shall cover claims of one or more insured parties against other insured parties.

**6.03 Payment of Losses.** The loss, if any, under any policies of insurance described in Subparagraph 6.01(a) shall be payable, and the insurance proceeds paid, on account of any such loss shall be applied and disbursed as follows:

(a) In the case of any one loss of One Hundred Thousand Dollars (\$100,000.00) or less in the aggregate, the insurance proceeds shall be paid to the Board, as trustee for each of the Unit Owners in their respective percentages of ownership in the Common Elements established in this Declaration, which insurance proceeds, less the actual costs, fees and expenses, if any, incurred in connection with the adjustment of the loss, shall be applied to the payment of the

cost of restoring the Property to substantially the same condition in which it existed immediately prior to such damage or destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as before, free from vendors', mechanics', materialmen's and other similar liens; or

(b) In case of any one loss exceeding One Hundred Thousand Dollars (\$100,000.00) in the aggregate, the insurance proceeds may, at the election of the Board, be paid to a corporation qualified to accept and execute trusts in the State of Illinois and having a capital of not less than Five Million Dollars (\$5,000,000.00), designated by the Board to act as trustee for the Association (the "Insurance Developer") for the purpose of collecting and disbursing the insurance proceeds described in this subparagraph. Such proceeds, less the actual costs, fees and expenses, if any, incurred in connection with the adjustment of the loss, and the fees of the Insurance Developer, if any, shall be applied by the Insurance Developer or the Board, as applicable, to the payment of the cost of restoring the Property to substantially the same condition in which it existed immediately prior to such damage or destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as before. Such proceeds shall be paid by the Insurance Developer or the Board, as applicable, to or for the account of the Association, from time to time as work progresses, in such manner as shall be required to facilitate the restoration of the Property in accordance with the provisions of the Act. The Association and the Insurance Developer, if applicable, may, prior or subsequent to any such loss, enter into an insurance trust agreement further implementing the provisions of the Act and this Declaration with respect to the collection and disbursement of proceeds of insurance by the Insurance Developer.

(c) Payment by an insurance company to the Board or to such Insurance Developer of the proceeds of any policy and the receipt of a release from the Board of the company's liability under such policy, shall constitute a full discharge of such insurance company, and such company shall be under no obligation to inquire into the terms of any trust under which proceeds may be held pursuant hereto, or take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof, or see to the application of any payments of the proceeds of any policy by the Board or the Insurance Developer.

**6.04 Individual Unit Insurance.** Each Unit Owner shall be responsible for obtaining his own insurance on the contents of his own Unit, his additions and improvements thereto, his decorating, furniture, furnishings, fixtures and personal property therein, and personal property stored elsewhere on the Property. In the event a Unit Owner desires to insure against his personal liability and loss



or damage by fire or other hazards above and beyond the extent that liability loss or damage is covered by the liability insurance and insurance against loss or damage by fire and such other hazards obtained by the Board for all of the Unit Owners as part of the Common Expenses, as above provided, said Unit Owner may, at his option, obtain for himself such additional insurance. Notwithstanding anything contained herein to the contrary, a Unit Owner shall have no right to obtain insurance for his own benefit unless all policies of such insurance contain waivers of subrogation. The Board shall not be responsible for obtaining insurance on any additions, alterations, improvements or other betterments made by any Unit Owner to his Unit unless and until such Unit Owner shall request the Board in writing so to do, and shall make arrangements satisfactory to the Board to reimburse the Board for any additional premium attributable thereto, and upon failure of such Unit Owner so to do, the Board shall not be obligated to apply any insurance proceeds to restore the affected Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements. It shall be the responsibility of the individual unit owner to obtain any special industrial, business or commercial insurance coverages including without limitation any business interruption coverage which may either be required by law, or which the individual unit owner, acting as a prudent businessman, may desire to obtain.

**6.05 Waiver.** Each Unit Owner hereby waives and releases any and all claims which he may have against any other Unit Owner, the Association, its officers, members of the Board, the Developer, the Developer, the manager and the managing agent of the Property, if any, and their respective employees and agents, for any damage to the Common Elements, the Units, any additions and improvements to the Units, the decorating, furniture, furnishings, fixtures, and any personal property located in the Units or Common Elements caused by fire or other casualty to the extent that such damage or casualty is covered by fire or other form of casualty insurance carried to cover the loss or which is the responsibility of the Unit Owners to carry hereunder. Further, each Unit Owner acknowledges that the Board of Managers shall not be responsible for any loss of income resulting from damage or destruction of the Common Elements and/or Units, and each Unit Owner waives and releases any and all claims for lost income against the Association, its officers and members of the Board.

**6.06 Cancellation of Insurance.** The Board shall be responsible, in the event any insurance required under Subsection 6.01 (a) or (b) is cancelled, for serving notice of such cancellation upon any person insured thereunder.

## ARTICLE VII

## Common Expenses

Each Unit Owner shall pay his proportionate share of the expenses of administration and maintenance of the Common Elements and of any other expenses incurred in conformance with this Declaration and the By-Laws, or otherwise lawfully agreed upon (which expenses are sometimes hereinafter referred to as "Common Expenses"), including specifically, but not by way of limitation, expenses for the maintenance and repair of the Common Elements and any and all replacements and additions thereto and the costs of insurance procured by the Board and the reserves established in accordance with this Declaration and the By-Laws. Such proportionate share of the Common Expenses for each Unit Owner shall be in the same ratio as his percentage of ownership in the Common Elements. Payment of Common Expenses shall be in such amounts and at such times as determined in the manner provided in the By-Laws. If any Unit Owner shall fail or refuse to make any such payment of the Common Expenses when due, the amount thereof shall constitute a lien on the interest of such Unit Owner in the Property as provided in the Act; provided, however, that such lien shall be subordinate to the lien of a prior recorded first mortgage or trust deed on the interest of such Unit Owner, owned or held by a bank, insurance company, savings and loan association, or other lender except for the amount of the proportionate share of Common Expenses which become due and payable from and after the date on which the said mortgage or trust deed owner or holder either takes possession of the Unit, accepts a conveyance of any interest therein (other than as security), or causes a receiver to be appointed.

## ARTICLE VIII

## Separate Mortgages

Each Unit Owner shall have the right, subject to the provisions herein, to make separate mortgages for his respective Unit together with his respective ownership interest in the Common Elements. No Unit Owner shall have the right or authority to make or create, or cause to be made or created, any mortgage or other lien or encumbrance on or affecting the Property or any part thereof, except only to the extent of his own Unit and the respective percentage ownership interest in the Common Elements corresponding thereto.

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ARTICLE IX

Sale, Leasing or Other Alienation

9.01 Sale or Leasing. Any Unit Owner, including the Developer or the Developer, may at any time sell or lease or otherwise transfer a Unit or Unit Ownership upon terms satisfactory to the Unit Owner, provided that any such sale, lease, sublease or transfer is made subject to the terms of this Declaration.

ARTICLE X

Use and Occupancy Restrictions

10.01 General Use and Occupancy. The Units and Common Elements shall be used and occupied as follows:

(a) Units. Each Unit or any two or more adjoining Units used together shall be permitted to be occupied for such uses as are permitted under the applicable zoning ordinances of the Village of Indian Head Park as are permitted from time to time. No Unit shall be used for any purpose which is contrary to any law, ordinance, rule, regulation or code requirement, whether federal, state, county, municipal or otherwise. That part of the Common Elements separating any two or more adjoining Units which are owned by the same Unit Owner may be altered or removed to afford ingress and egress to and from such adjoining Units provided; however, that such Unit Owner first complies with the requirement of Article XI hereof.

(b) Common Elements. The Common Elements shall be used for access, ingress and egress to and from the respective Units by the Unit Owners, Occupants and their agents, servants, employees, invitees and licensees, and for such other purposes incidental to the use of the Units; provided, however, that any storage areas and other special areas shall be used for the purposes approved by the Board. The use, maintenance and operation of the Common Elements shall be subject to any agreement presently in existence or entered into by the Board at some future time, to lease any part of said Common Elements.

10.02 Covenants and Restrictions as to Use and Occupancy. The use and occupancy of the Units and Common Elements shall be subject to the following covenants and restrictions:

(a) Obstruction of Common Elements. There shall be no obstruction of the Common Elements nor shall anything be stored in the Common Elements (except in areas designated for such purpose) without the prior consent of the Board or except as hereinafter expressly provided.

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

(c) Exterior of the Building. Inasmuch as the outside walls of the Building are not a part of the Property, Unit Owners shall not cause or permit anything to be placed on the outside walls of the Building without the prior consent of the Board of Managers of Bill's Condominium and no sign, awning, canopy or shutter shall be affixed to or placed upon the exterior walls or any part thereof.

(d) Floors. In order to enhance the sound conditioning of the Building, the floor covering for all occupied Units shall meet the minimum standard as may be specified by rules and regulations of the Board.

(e) Pets. The raising, breeding or keeping of animals of any kind in any Unit or in the Common Elements shall be subject to rules and regulations established by the Board, which rules and regulations may be amended from time to time.

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

(g) Impairment of Structural Integrity. Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the Building or which would structurally change the Building except as is otherwise provided herein. No Unit Owner shall overload the floors of any Unit. The use of water beds and similar furnishings and equipment which may cause floor overloads shall be subject to Board approval.

(h) Wiring and Connections. No Unit Owner shall overload the electric wiring in the Building, or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others, or connect any machines, appliances, accessories or equipment to the heating or plumbing systems, without the prior written consent of the Board.

(i) Trash. Trash, garbage and other waste shall be kept only in sanitary containers and shall be disposed of in a clean and

sanitary manner as prescribed from time to time in rules and regulations of the Board.

(j) Maintenance of Unit. Each Unit Owner shall be obligated to maintain and keep in good order and repair his own Unit.

(k) Use by Developer. The right is reserved by the Developer or its agents to place and maintain on the Property all model Units, sales offices, advertising signs and lighting in connection therewith at such locations and in such forms as shall be determined by the Developer or its agents. The Developer or its agents and prospective purchasers and lessees of any Unit from the Developer are hereby granted the right of ingress and egress in and through the Common Elements for such Unit sale or leasing purposes. Subject to the provisions of the Act, the Developer reserves the right to make structural changes in Units and in the adjoining Common Elements for model apartment purposes, for the purpose of exercising the right of the Developer to combine or subdivide Units reserved by the Developer pursuant to Section 2.01(d) and for the purpose of completing the construction of the Units in the Building. The rights granted to the Developer hereunder include the right to alter the walls, soffits, ceilings and floors of a Unit which has been sold provided that the Developer shall after completion of the alterations restore such components to the condition existing prior to such alterations. The Developer further reserves the right to use unsold Units and Common Elements for temporary storage, office, sales and related purposes. The foregoing rights of the Developer or agents shall terminate upon the closing of the sale of the last Unit.

## ARTICLE XI

### Alterations, Additions or Improvements

No alterations of any Common Elements, and no additions or improvements thereto, shall be made by any Unit Owner without the prior written consent of the Board. The Board may authorize and charge as Common Expenses (or in the case of Limited Common Elements may charge to the Unit Owner or Owners benefited thereby) alterations, additions and improvements of the Common Elements as provided in the By-Laws. Any Unit Owner may make alterations, additions or improvements within his Unit without the prior written consent of the Board, but such Unit Owner shall be responsible for any damage to other Units, the Common Elements, the Property, or any part thereof resulting from such alterations, additions or improvements. A Unit Owner may alter or remove Common Elements separating any two or more adjoining Units owned by such Unit Owner provided that (a) such alteration or removal shall not impair or

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weaken the structural integrity of any Unit or any portion of the Common Elements; (b) the Unit Owner furnishes to the Board not less than ten (10) days prior to the date the Unit Owner desires to commence such work, plans detailing the work to be done; (c) the Board consents in writing to the performance of such work; (d) the expense of such alterations shall be paid in full by the Unit Owner making such alterations, and (e) such Unit Owner shall pay in full the expense of restoring such Common Elements to their former condition prior to such alterations in the event that such Units cease to be used together.

## ARTICLE XII

### Damage, Destruction, Condemnation and Restoration of Building

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

### 12.02 Insufficient Insurance.

(a) If the insurance proceeds are insufficient to reconstruct the Building and the Unit Owners and all other parties in interest do not voluntarily make provision for reconstruction of the Building within one-hundred and eighty (180) days from the date of damage or destruction, then the provisions of the Act shall apply.

(b) In the case of damage or other destruction in which fewer than one-half (1/2) of the Units are rendered uninhabitable, upon

the affirmative vote of not fewer than three-fourths (3/4) of the Unit Owners, the Building or other portion of the Property shall be reconstructed. Such meeting shall be held upon the earlier of (i) thirty (30) days following the final adjustment of insurance claims or (ii) ninety (90) days after the date of damage or destruction. At such meeting the Board, or its representative, shall present to the members present an estimate of the cost of repair or reconstruction, and the estimated amount of necessary assessments against each Unit Owner.

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

### 12.03 Eminent Domain.

In the event any portion of the Property is taken by condemnation or eminent domain proceedings, provision for withdrawal from the provisions of the Act of such portion so taken may be made by the Board. Upon the withdrawal of any Unit or portion thereof due to eminent domain, the percentage of interest in the Common Elements appurtenant to such Unit or the portion thereof shall be reallocated among the remaining Units on the basis of the percentage of interest of each remaining Unit. If only a portion of a Unit is withdrawn, the percentage interest appurtenant to that Unit shall be reduced accordingly upon the basis of diminution in market value of the Unit, as determined by the Board. The allocation of any condemnation award or other proceeds to any withdrawing or remaining Unit Owner shall be on an equitable basis, which need not be a

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Unit's percentage interest. Any condemnation award or other proceeds available in connection with the withdrawal of any portion of the Common Elements, not necessarily including the Limited Common Elements, shall be allocated on the basis of each Unit Owner's percentage interest therein. Proceeds available from the withdrawal of any Limited Common Element will be distributed in accordance with the interests of those entitled to their use. Upon the withdrawal of any Unit or portion thereof, the responsibility for the payment of assessments on such Unit or portion thereof by the Unit Owner shall cease.

**12.04 Repair, Restoration or Reconstruction of the Improvements.**

As used in this Article, "repair, restoration or reconstruction" of improvements means restoring the improvements to substantially the same condition in which they existed prior to the damage or destruction, with each Unit and Common Element having the same vertical and horizontal boundaries as before.

**ARTICLE XIII**

**Sale of the Property**

At a meeting duly called for such purpose, the Unit Owners by affirmative vote of at least seventy-five percent (75%) of the total vote, may elect to sell the Property as a whole. Within ten (10) days after the date of the meeting at which such sale was approved, the Board shall give written notice of such action to the holder of any duly recorded mortgage or trust deed against any Unit entitled to notice under Article XVI of this Declaration. Such action shall be binding upon all Unit Owners, and it shall thereupon become the duty of every Unit Owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect such sale; provided, however, that any Unit Owner who did not vote in favor of such action and who has filed written objection thereto with the Board within twenty (20) days after the date of the meeting at which such sale was approved shall be entitled to receive from the proceeds of such sale an amount equivalent to the value of his interest, as determined by an appraisal, less the amount of any unpaid assessments or charges due and owing from such Unit Owner. In the absence of agreement on an appraiser, such Unit Owner and the Board may each select a qualified appraiser, experienced in the appraisal of condominium units in Cook County, Illinois, and the two (2) appraisers so selected, shall select a third appraiser, experienced in the appraisal of condominium units in Chicago, Illinois, and the fair market value, as determined by a majority of the three (3) appraisers so selected, shall control. If either party shall fail to select an appraiser, then the one designated by

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the other party shall make the appraisal. The cost of the appraisal shall be divided equally between such Unit Owner and the Board, and the Board's share of said cost shall be a Common Expense.

#### ARTICLE XIV

##### Remedies For Breach of Covenants

**14.01 Abatement and Enjoyment.** The violation of any restriction or condition or regulation adopted by the Board, or the breach of any covenant or provision herein contained, shall give the Board the right, upon not less than ten (10) days' notice, in addition to the rights set forth in the next succeeding section:

(a) To enter upon that part of the Property where such violation or breach exists with process of law and abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Developer or Developer, or their successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

All expenses of the Board in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of twelve percent (12%) per annum until paid, shall be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed part of his respective share of the Common Expenses and the Board shall have a lien for all of the same upon the Unit Ownership of such defaulting Unit Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the Property. Any and all such rights and remedies may be exercised at any time and from time to time cumulatively or otherwise by the Board.

**14.02 Involuntary Sale.** If any Unit Owner (either by his own conduct or by the conduct of any other Occupant of his Unit) shall violate any of the covenants or restrictions or provisions of this Declaration or the regulations adopted by the Board, and such violation shall continue for twenty (20) days after notice in writing from the Board, or shall reoccur more than once after such notice, then the Board shall have the power to issue to the defaulting Unit Owner a ten (10) day notice in writing to terminate

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the right of said defaulting Unit Owner to continue as a Unit Owner and to continue to occupy, use or control his Unit, and thereupon an action in equity may be filed by the Board against the defaulting Unit Owner for a decree of mandatory injunction against the Unit Owner or Occupant or, in the alternative, a decree declaring the termination of the defaulting Unit Owner's right to occupy, use or control the Unit owned by him on account of the breach of covenant and ordering that the right, title and interest of the Unit Owner in the Property shall be sold (subject to the lien of any existing mortgage or trust deed) at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain the defaulting Unit Owner from reacquiring his interest in the Property at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to said defaulting Unit Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a deed to the Unit Ownership and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall provide, that the purchaser shall take the interest in the Property sold subject to this Declaration.

#### ARTICLE XV

##### Add-on Condominium Provisions

**15.01 Reservation of Right.** The Developer reserves the right from time to time, within seven (7) years of the date of the recording of this Declaration, to annex and add to the Property and the Real Estate and thereby add to the condominium created by this Declaration, all or any portion of the additional land described in Exhibit "E" attached hereto and made a part hereof (hereinafter referred to as the "Additional Condominium Area") for the purpose of constructing additional Buildings by recording an amended plat in accordance with §5 of the Act and an amended Declaration in accordance with §6 of the Act. The Developer reserves the right to designate such area or areas as additional units, common elements or limited common elements, and such designation shall be set forth in the Amended Declaration generally described herein. No rights of any character whatever within the additional land attach to any owner except as to that portion described on Exhibit "A" and except as to that portion described in any recorded Amended Declaration annexing and adding such portion to this Declaration as part of the condominium created by this Declaration.

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15.02 Amended Declaration. (a) Each Amended Declaration shall include an amended Exhibit "A" which shall amend Exhibit "A" hereto by setting forth the amended legal description of the Real Estate to include the additional parcel or parcels annexed hereto, as well as a separate legal description of such addition. The Amended Declaration shall also contain an amended Plat showing the boundaries of such addition and of the entire Real Estate as amended, and delineating the additional Units of such addition, all in accordance with §5 of the Act.

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

15.03 Reallocation of Ownership Interests. The percentages of undivided ownership interest in the Common Elements as amended by each Amended Declaration, and as set forth in the amended Exhibit "C," shall be determined and adjusted in the following manner:

(a) The Common Elements as amended by such Amended Declaration shall be deemed to consist of:

(i) the Common Elements as existing immediately prior to the recording of such Amended Declaration (hereinafter referred to as the "Existing Common Elements"); and

(ii) the Common Elements added by such Amended Declaration (hereinafter referred to as the "Added Common Elements").

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

(iii) the Units as existing immediately prior to the recording of such Amended Declaration (hereinafter referred to as the "Existing Units"); and

(iv) The Units added by such Amended Declaration (hereinafter referred to as the "Added Units").

(b) The value of each of the Added Units shall be added to the aggregate value of the Existing Units and the total thereof shall be deemed to be the new value of the Property as a whole. "Value" as used in this paragraph shall be determined by the Developer as of the date of the recording of the Amended Declaration. Such determination by the Developer shall be conclusive and binding upon

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all unit owners, mortgagees and other parties who then or in the future have any interest in the Property.

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

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

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

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

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

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

**15.05 Consent to Amended Declaration.** Each and all of the Unit Owners, of all Existing Units and of all Added Units hereafter, and their respective mortgagees, grantees, heirs, administrators, executors, legal representatives, successors and assigns, by their

acceptance of any deed or mortgage or other interest in or with respect to any of such Units, shall be deemed to have expressly agreed, assented and consented to each and all of the provisions of this Declaration, with respect to the recording of any and all Amended Declarations as aforesaid which may amend, adjust and reallocate from time to time their respective percentages of undivided ownership interest in the Common Elements including the Existing Common Elements and Added Common Elements, from time to time as hereinabove provided; and hereby further agree to each and all of the provisions of each and all of said Amended Declarations which may hereafter be recorded in accordance with the foregoing provisions of this Declaration.

**15.06 Consent of Unit Owners.** Each and all of the Unit Owners, of all Existing Units and of all Added Units hereafter, and their respective mortgagees, grantees, heirs, administrators, executors, legal representatives, successors and assigns, by their acceptance of any deed or mortgage or other interest in or with respect to any of such Units, further acknowledges, consents and agrees, as to each such Amended Declaration that is recorded, as follows:

(a) The portion of the additional land described in each such Amended Declaration shall be governed in all respects by the provisions of this Declaration.

(b) The percentage of ownership in the Common Elements appurtenant to each Unit shall automatically be shifted and reallocated to the extent set forth in each such recorded Amended Declaration and upon the recording of each such Amended Declaration, the amount by which such percentage appurtenant to a Unit is reduced, as set forth in each such recorded Amended Declaration, shall thereby be and be deemed to be released and divested from such Unit Owner and reconveyed and reallocated among the other Unit Owners as set forth in each such recorded Amended Declaration.

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

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

(e) The percentage of ownership in the Common Elements appurtenant to each Unit shall include and be deemed to include any

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

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

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

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

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

**15.07 Time Limitations.** The reserved right of Developer to annex the Additional Condominium Area terminates on a date that is ten (10) years following the recording of this Declaration and, accordingly, if the option to annex the Additional Condominium Area is exercised, the contracts for construction and delivery of any Added Units shall contain a date for completion and delivery thereof.

**15.08 Order of Making Additions.** The Additional Condominium Area is comprised of eight (8) separate lots. Any one or more thereof may be annexed within the time limitation specified in Section 15.07 hereof, in the order and at the different times that Developer may determine.

15.09 Limitation as to Location of Buildings and Maximum Number of Added Units. The location of any additional Buildings or Units shall be limited by the provisions of that certain Annexation Agreement dated June 25, 1990 by and between the Village of Indian Head Park, Edward J. Eggert, Marilyn J. Eggert and Developer and recorded with the Cook County Recorder's Office as Document No. 90540804 and any amendments thereto (hereinafter referred to as the "Annexation Agreement").

15.10 Compatibility of Added Units. Buildings that will contain Added Units and the Added Units shall be constructed in a manner compatible with the use, density and configuration of the Buildings in which the Existing Units are situated and in conformity with the Annexation Agreement.

15.11 Appurtenant Easement. An appurtenant easement is reserved over, upon and across the Common Elements for the benefit of Developer, its successors and assigns, for the purpose of making improvements and construction of Buildings and Units on the Additional Condominium Area and for any other purpose, reasonable and necessary, with respect thereto.

15.12 Annexation of Condominium Area Not Obligatory. No provision of the Declaration shall be construed or deemed to bind or obligate Developer to exercise the option to annex any portion or all of the Additional Condominium Area.

15.13 Additions and Modifications to the Declaration. Any Amended Condominium Declaration adding Additional Condominium Area may contain the complementary additions and modifications of the provisions hereof affecting the Additional Condominium Area, which are necessary to reflect the differences in character, if any, of the Additional Condominium Area and the Buildings or other improvements constructed thereon; provided, however, that in no event shall any Amended Condominium Declaration revoke, modify or add to the terms, covenants and agreements established by the Declaration with respect to the Existing Units.

ARTICLE XVI

General Provisions

16.01 Certain Rights of the Developer. Until the time established by the Declaration for the election of the initial Board by the Unit Owners, the rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board in the Act and in this Declaration shall be held and performed by the Developer. If the initial Board shall not be elected by the Unit Owners at the time established by the Declaration, the Developer

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shall continue in the aforesaid office for a period of thirty (30) days thereafter, whereupon written notice of its resignation shall be sent to all of the Unit Owners entitled to vote at such election. In exercising such rights, and the other rights reserved by the Developer pursuant to this Declaration, the Developer (or its designees on the Board) shall not be under any disability which would otherwise be imposed by law by reason of the Developer's interest in the subject matter of any transaction; provided, however, that any such transaction shall have been entered into in good faith.

All rights which are specified in this Declaration to be rights of the Developer are assignable or transferable. Any successor to, or assignee of, the rights of the Developer hereunder (including, whether by foreclosure or deed-in-lieu of foreclosure) shall hold or be entitled to exercise the rights of Developer hereunder as fully as if named as such party herein. No party exercising rights as Developer hereunder shall have or incur any liability for the acts of any other party which previously exercised or subsequently shall exercise such rights.

#### 16.02 Notices.

(a) Notices to Mortgage Lenders. Upon written request to the Board, the holder of any duly recorded mortgage or trust deed encumbering any Unit Ownership shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Unit Owner whose Unit Ownership is subject to such mortgage or trust deed.

(b) Service of Notice. Notices provided for in the Act, the Declaration or the By-Laws shall be in writing and shall be addressed to the Board or Association, or any Unit Owner, as the case may be at 11151-11157 Indian Woods Drive, Indian Head Park, Illinois (indicating thereon the number of a respective Unit if addressed to a Unit Owner), or at such other address as herein provided. Any Unit Owner may designate a different address or addresses for notices to him by giving notice of his change of address to the Board. Notices addressed as above shall be deemed delivered three (3) business days after being mailed by United States registered or certified mail, postage prepaid, return receipt requested, or when delivered in person with written acknowledgement of the receipt thereof, or if addressed to a Unit Owner, when deposited in his mailbox in the Building or at the door of his Unit in the Building.

(c) Notices to Devisees or Personal Representatives. Notices required to be given any devisee, heir or personal representative of a deceased Unit Owner may be delivered either personally or by mail

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to such party at his or its address appearing in the records of the court wherein the estate of such deceased Unit Owner is being administered.

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

**16.04 Rights and Obligations.** Each grantee of the Developer and each subsequent grantee by the acceptance of a deed of conveyance, and each purchaser under a purchase contract therefor, and each tenant under a lease for a Unit, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations so imposed shall be deemed and taken to be the covenants running with the land and shall bind any person having at any time an interest or estate in the Property, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration and the Master Declaration were recited and stipulated at length in each and every deed of conveyance.

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

**16.06 Partial Invalidity.** The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

**16.07 Construction and Headings.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first-class condominium development. The headings and captions contained herein are inserted for convenient reference only and shall not be deemed to construe or limit the Paragraphs to which they apply.

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**16.08 Amendments.** Subject to the provisions of Article XV hereof, the provisions of Article III, Article VII, and Paragraph 16.08 of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by an officer of the Board, and by all of the Unit Owners and all mortgagees and holders of trust deeds having bona fide liens of record against any of the Unit Ownerships. Subject to the provisions of Article XV, Section 16.09 and Section 16.10 hereof and with the exception of Article XV, Section 16.09 and Section 16.10 hereof, all other provisions of this Declaration, with the exception of Article XV, may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed, and acknowledged by an officer of the Board, and approved by Unit Owners having at least seventy-five (75%) percent of the total vote at a meeting called for that purpose; provided, however, that all holders of first mortgages or trust deeds of record have been notified by certified mail of any change, modification, or rescission, and an affidavit by the Secretary of the Association certifying to such mailing is made a part of such instrument; and provided further that any provisions herein which specifically grant rights to holders of first mortgages or trust deeds of record may be amended only with the written consent of all such holders of first mortgages or trust deeds. Approval of the holders of first mortgages or trust deeds shall be assumed when such holder of a first mortgage or trust deed fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives notice of the proposal by certified mail. The change, modification or rescission shall be effective upon recordation of such instrument in the office of the Recorder of Deeds of Cook County, Illinois; provided, however, that no such change, modification or rescission shall conflict with the Act and provided, further, that no provision of this Declaration affecting the rights, privileges or duties of the Developer or the Developer may be modified without their respective written consents.

**16.09** A power coupled with an interest is hereby retained by and granted to the Developer (acting by and through its duly authorized officers), its successors, assigns or designees, as attorney-in-fact to amend this Declaration, the By-Laws of the Association, or the Articles of Incorporation of the Association, for the purpose of (a) compliance with requirements of the Veterans Administration, the Department of Housing and Urban Development, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, any successor to any of such organizations and any other federal, state or local governmental entity or agency, (b) inducing any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages for individual Units, (c) correcting errors in this Declaration or By-Laws or any exhibit

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hereto, (d) bringing this Declaration or the By-Laws into compliance with applicable laws, ordinances or governmental regulations, or (e) meeting requirements of the Internal Revenue Code of 1954, as now, or hereafter amended, (i) relating to organizations exempt from tax under Section 501(c)(7) thereof (or any successor to such Section) or (ii) specifically exempting homeowners' association from any Federal income tax; provided that Developer shall have no obligation to cause any such amendment to be made. The acceptance of each deed, mortgage or other instrument with respect to any Unit which is subject to this Declaration shall be deemed to be a confirmation of such power to such attorney-in-fact and shall be deemed to constitute a consent and agreement to and acceptance, confirmation and ratification of all such amendments, which shall be effective upon the recording in the office of the County Recorder of Deeds of an appropriate instrument, setting forth the amendment, and its authorization pursuant to this Section 16.09, which instrument shall be executed and acknowledged by Developer.

16.10 A power coupled with an interest is hereby retained by and granted to Developer, its successors, assigns or designees, as attorney in fact to amend this Declaration, subject to the rights of holders of first mortgages or trust deeds under Section 16.08 above, for the purpose of correcting, changing or providing further details as to any provision of this Declaration or any amendment hereto, which, as a result of a clerical error fails to fully set forth the intent or purpose of the Developer. The acceptance of each deed, mortgage or other instrument with respect to any Unit shall be deemed to be a confirmation of such power to such attorney-in-fact and shall be deemed to constitute a consent and agreement to and acceptance, confirmation and ratification of all such amendments.

16.11 Land Trust as Unit Owner. In the event that title to any Unit Ownership is conveyed to a title holding land trust, under the terms of which all powers of management, operation and control of the Unit Ownership remain vested in the trust beneficiary or beneficiaries, then the beneficiary or beneficiaries from time to time of such trust shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Unit Ownership. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Unit Ownership and against the beneficiary or beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfer of title of such Unit Ownership.

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IN WITNESS WHEREOF, Developer has executed this Declaration of Condominium Ownership as of the date above first written.

INDIAN WOOD DEVELOPMENT CORPORATION, an Illinois corporation

ATTEST:

*Thomas J. Walsh*  
\_\_\_\_\_  
Its: Secretary

By: *Donald Paul Nelson*  
\_\_\_\_\_  
Its: President

STATE OF Illinois        )  
                                  )  
COUNTY OF Cook        )

I, Kathleen Ann Davies, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Donald Paul Nelson, as \_\_\_\_\_ President of INDIAN WOOD DEVELOPMENT CORPORATION, an Illinois corporation, and Thomas J. Walsh, as \_\_\_\_\_ Secretary of said Corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Donald Paul Nelson President and Thomas J. Walsh Secretary of said Corporation, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 25th day of February, 1992.



*Kathleen Ann Davies*  
\_\_\_\_\_  
Notary Public  
Kathleen Ann Davies

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