

**EXHIBIT J
TO THE PROSPECTUS:**

**DECLARATION OF COVENANTS, RESTRICTIONS
AND EASEMENTS**

EXHIBIT "J"

This Instrument Prepared By:
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DECLARATION OF COVENANTS, RESTRICTIONS AND RECIPROCAL EASEMENTS

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND RECIPROCAL EASEMENTS (this "Declaration") is made and entered into as of this ____ day of _____, 200_ by **Kleman Plaza, LLLP, a Florida limited liability limited partnership**, whose address is c/o BCOM-Plaza, LLC, 1200 Brickell Avenue, Suite 1720, Miami, Florida 33131, hereinafter referred to as "Declarant".

WHEREAS, Declarant is the owner of that certain parcel of real property located in Leon County, Florida, which is legally described on **Exhibit "A"** attached hereto (the "Land"); and

WHEREAS, Declarant intends to develop the Land into a mixed-use community, known as "**Plaza Tower**" (the "Properties"), which will include the "Residential Condominium" and the "Commercial Parcels" (including the "Restaurant Parcel"), all as hereinafter defined; and

WHEREAS, Declarant is desirous of (i) establishing certain easements in, to, over, across and through portions of the Properties, for the benefit of the Condominium(s) and the Commercial Parcels, and (ii) imposing certain covenants and restrictions in connection with the development, ownership and use of the Condominium(s) and the Commercial Parcels and other portions of the Properties, all as more particularly provided for herein; and

NOW, THEREFORE, for valuable consideration, the Declarant does hereby declare as follows:

Article 1 DEFINITIONS

1.1. Definitions. Terms not otherwise defined herein shall have the meanings set forth in the Declaration of Condominium. The following terms used in this Declaration shall have the following meanings:

1.1.1. "Access Areas" means the driveways, ramps, sidewalks, plaza areas, walkways, elevators and other areas suitable for pedestrian or vehicular traffic existing from time to time on or over portions of the Properties which are not located within the Condominium.

1.1.2. "Amenities" means the Parking Garages and any other Common Areas now or hereafter located on the Properties.

1.1.3. "Applicable Law" means all laws, rules, regulations, codes and ordinances of the United States, the state of Florida, the County of Leon and the City of

Tallahassee, Florida, applicable to the ownership, operation and use of the Properties, as renumbered from time to time.

1.1.4. "Articles" means the Articles of Incorporation of the Master Association, as amended from time to time.

1.1.5. "Assessment" means a share of the funds required for the payment of Common Expenses that from time to time are assessed by the Master Association against the Parcels for the purposes set forth herein, including any Special Assessments and Individual Assessments.

1.1.6. "Association" or "Master Association" means the "Plaza Tower Master Association, Inc., a Florida not-for-profit corporation", or any successor thereto.

1.1.7. "Board" or "Board of Directors" means the Board of Directors of the Master Association.

1.1.8. "Building" means the structure in which the Residential Condominium, the Parcels and other portions of the Properties are located in.

1.1.9. "By-Laws" means the By-Laws of the Master Association, as amended from time to time.

1.1.10. "Commercial Parcel" or "Commercial Parcels" means the commercial spaces located at the Street Level and on the Plaza Level of the Building, which are intended to be developed and used as commercial related facilities (and which may include retail, office and restaurant uses, with bar and outdoor dining and seating facilities), and which may be converted into one or more Condominiums containing multiple Units. Notwithstanding anything herein contained to the contrary, the designations of the Commercial Parcels are assigned only for convenience of reference, and are not intended, nor shall they be deemed to limit or otherwise restrict the permitted uses thereof. Subject to the provisions of this Declaration, the Commercial Parcels may be used for any lawful purpose, including, without limitation, for retail, office and restaurant purposes.

1.1.11. "Commercial Parcel Leases" mean a lease of all or any portion of either of the Commercial Parcels.

1.1.12. "Commercial Parcel Lessees" mean a lessee of all or any portion of either of the Commercial Parcels.

1.1.13. "Common Areas" means those portions of the Properties designated as Common Areas pursuant to Section 3.1.

1.1.14. "Common Expenses" means those expenses, costs and disbursements described in Section 6.8.

1.1.15. "Community" means that certain mixed-use community to be developed upon the Land, which is known as the "Plaza Tower".

1.1.16. "Community Beneficiaries" means the Owners, the Members, the Declarant, the Declarant's Permittees, the Master Association, the Condominium Association and their members, and their families (provided that the Owner or other permitted occupant

must reside with his/her family), tenants, licensees, guests, invitees, members, agents, employees, contractors and Institutional Mortgagees, and, in the case of Owners which are corporations, partnerships, or trusts, the officers and directors, partners and beneficiaries (as the case may be) thereof, a fiduciary or beneficiary of an Owner which is a trust, or occupants named or described in a lease or sublease, but only if approved in accordance with this Declaration.

1.1.17. "Community Systems" shall have the meaning ascribed to it in Article 13 of this Declaration.

1.1.18. "Condominium" means the Residential Condominium and any other portion of the Properties that is now or hereafter submitted to condominium ownership.

1.1.19. "Condominium Association" means the entity responsible for the maintenance and operation of portions of a Condominium.

1.1.20. "Controlled Access Facilities" shall mean and refer to whatever guard house or other structures (including related facilities, systems, equipment and devices), if any, that may exist from time to time of or in connection with the Common Areas for use by controlled access personnel.

1.1.21. "County" means Leon County, Florida.

1.1.22. "Declarant" or the "Developer" shall mean and refer to Kleman Plaza, LLLP, a Florida limited liability limited partnership, its successors and such assigns who acquire all or any portion of the Properties from the Declarant so long as the Declarant assigns such rights of Declarant hereunder, or any one or more of such rights, to any such person or entity by an express written assignment executed by the existing Declarant and recorded in the Public Records of the County. Declarant may assign all or any portion of its rights hereunder, or all or any portion of such rights in connection with specific portions of the Properties. In the event of any partial assignment by Declarant, the assignee shall not be deemed the Declarant, but may exercise such rights of the Declarant as are specifically assigned to it, if any. Any such assignment may be made on a nonexclusive basis. In the event the holder of any mortgage executed by the Declarant, or any subsidiary or affiliate of the holder, obtains title to all or any portion of the Properties by foreclosure, or deed in lieu thereof, or other conveyance, such holder, or subsidiary or affiliate of the holder, shall become the Declarant only if it so elects by written notice to the Board, except as otherwise provided by the Act or the rules promulgated thereunder, but regardless of such election the holder, or subsidiary or affiliate of the holder, shall have the right to assign any of the rights of the Declarant as provided herein to any third party who acquires title to all or a portion of the Properties from the holder, or subsidiary or affiliate of the holder. In any event, any subsequent Declarant shall not be liable for any defaults or obligations incurred by any prior Declarant, except as same are expressly assumed by the subsequent Declarant. The rights of Declarant under this Declaration are independent of the Declarant's rights to control the Board of Directors of the Master Association, and, accordingly, shall not be deemed waived, transferred or assigned to the Owners, the Board or the Master Association upon the control of the Master Association.

1.1.23. "Declarant's Permittees" means the Declarant's officers, directors, members, partners, lenders, employees, agents, contractors, subcontractors, suppliers, lessees, licensees, guests and invitees (and the officers, directors, shareholders, members and employees thereof). "Declaration" and "this Declaration" means this instrument, as it may be amended from time to time, together with any Supplemental Declaration.

1.1.24. "Declaration of Condominium" means the instrument creating a Condominium, as recorded in the Public Records, and as amended from time to time.

1.1.25. "Family" or words of similar import shall be deemed to include a spouse, children, parents, brothers, sisters, grandchildren and other persons permanently cohabiting the Unit as or together with the Owner or permitted occupant thereof.

1.1.26. "FNMA/FHLMC" means the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, respectively.

1.1.27. "Garage Expenses" shall mean and refer to a portion of the expenses incurred by the Master Association for the operation, maintenance, repair, replacement, insurance and/or alteration of the Parking Garages.

1.1.28. "General Assessment" means the share of funds for the payment of Common Expenses, which from time to time are assessed to the Residential Condominium and the Parcels pursuant to Section 7.8.

1.1.29. "Individual Assessment" means an assessment levied by the Board or the Master Association against the Residential Condominium or a Parcel for the purposes described in Section 7.11.

1.1.30. "Institutional Mortgagee" means a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, the FNMA, the FHLMC or any other lender generally recognized as an institutional lender, or the Developer, holding a first mortgage on a Unit(s) or any of the Parcels.

1.1.31. "Land" means the lands described in attached Exhibit "A" and all additions or supplements thereto, now or hereafter made subject to this Declaration, except such as are withdrawn from the provisions hereof in accordance with the procedures set forth in this Declaration.

1.1.32. "Limited Common Areas" means those portions of the Common Areas which are assigned or otherwise designated for the exclusive use of one or more Owners, and their tenants, guests and invitees, pursuant to Article 3.

1.1.33. "Limited Common Expenses" means and refer to the costs and expenses of operating, administering, and/or maintaining any Limited Common Areas. All such Limited Common Expenses shall be assessed, pro rata, only against the permitted users of the corresponding Limited Common Areas in accordance with the applicable rates of Assessments set forth herein.

1.1.34. "Management Agreement" means any contract for management, maintenance or operation of the Master Association and the Properties which may be entered into between the Master Association and such other entity as may be selected by the Board, in its sole discretion.

1.1.35. "Master Association" or "Association" means Plaza Tower Master Association, Inc., a Florida corporation not-for-profit.

1.1.36. "Master Association Property" means personal property and real property, if any, which may be acquired by the Master Association and which is not included in the Common Areas, including without limitation, any portion of the Properties used for management offices, manager's quarters or the storage of maintenance equipment or supplies.

1.1.37. "Master Life Safety Systems" means and refers to any and all emergency lighting, audio and visual signals, safety systems, sprinklers and smoke detection systems, which are now or hereafter installed in any improvements constructed upon the Properties, whether or not within a Condominium and/or the Parcels. All such Master Life Safety Systems, together with all conduits, wiring, electrical connections and systems related thereto, which are located outside of a Condominium or a Parcel, shall be deemed part of the Common Areas.

1.1.38. "Member" or "Members" means those persons who are members of the Master Association, as provided in the Articles and By-Laws.

1.1.39. "Owner" or "Owners" means the person or persons, or legal entity or entities, including the Declarant, holding fee simple interests of record to any Parcel or a Unit, including sellers under executory contracts of sale, but excluding those having such interests merely as security for the performance of an obligation.

1.1.40. "Parcel" or "Parcels" means the Commercial Parcels including the Restaurant Parcel.

1.1.41. "Parking Garages" means those structures located in the Building which are designated by the Declarant or the Master Association for the parking of motor vehicles and for ingress and egress to the Parking Spaces.

1.1.42. "Parking Spaces" means those individual spaces in the Common Areas, which become Limited Common Areas upon being assigned or designated one or more Units or Parcels for the exclusive use of the Owners or occupants therein, and their guests and invitees, pursuant to Section 3.2.

1.1.43. "Percentage Share" means the share of Common Expenses allocated to the Residential Condominium and the Commercial Parcels (including the Restaurant Parcel), as set forth in Section 7.3.

1.1.44. "Plaza" means the outdoor area located on the Fourth Floor of the Building portion, of which may be assigned or designated to one or more Parcels as Limited Common Areas.

1.1.45. "Plaza Tower" means the "Community".

1.1.46. "Properties" means the Land, together with all improvements now or hereafter thereon, and any and all additions or supplements thereto, now or hereafter made subject to this Declaration, except such as are withdrawn from the provisions hereof in accordance with the procedures set forth in this Declaration.

1.1.47. "Public Records" means the Public Records of the County.

1.1.48. "Representative" or "Representatives" shall mean the person or persons designated or elected by the Board of Directors of a Condominium Association by the Owner of

a Unit, and by the Declarant, to act on their behalf at all meetings of the Members of the Master Association.

1.1.49. "Residential Condominium" means that certain residential condominium known as "Plaza Tower, a Condominium".

1.1.50. "Restaurant Parcel" means Commercial Parcel No. 11 which is located on the north side of the Fourth Floor (Plaza Level) of the Building. The Restaurant Parcel, and any Limited Common Areas appurtenant thereto, are intended to be developed and used as a restaurant, and related facilities (including, without limitation, bar and outdoor dining and seating facilities), and which may be converted into one or more Condominiums containing multiple Units. Notwithstanding anything herein contained to the contrary, the designation of the Restaurant Parcel is assigned only for convenience of reference, and is not intended, nor shall it be deemed, to limit or otherwise restrict the permitted uses thereof. Subject to the provisions of this Declaration, the Restaurant Parcel may be used for any lawful purpose.

1.1.51. "Restaurant Parcel Leases" mean a lease of all or any portion of the Restaurant Parcel.

1.1.52. "Restaurant Parcel Lessees" mean a lessee of all or any portion of the Restaurant Parcel.

1.1.53. "Rules and Regulations" means the rules and regulations, if any, as established, and as amended from time to time, by the Board of the Master Association pursuant to Article 5.

1.1.54. "Storage Spaces" means those individual spaces, if any, in the Common Areas which are from time to time designated or assigned by the Declarant or the Master Association for storage of personal property, and which may be assigned to Owners and other Community Beneficiaries as Limited Common Areas.

1.1.55. "Special Assessment" means an Assessment levied by the Board against a Parcel for the purposes described in Section 7.9.

1.1.56. "Supplemental Declaration" means an instrument executed by the Declarant and recorded in the Public Records for the purpose of adding to the Properties, or withdrawing any portion(s) thereof from the effect of this Declaration, designating a portion of the Properties as Common Areas, Limited Common Areas or Master Association Property hereunder, or for any other purposes provided in this Declaration.

1.1.57. "Unit" or "Units" means those portions of a Condominium which are subject to exclusive ownership. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, NO POST TENSION CABLES AND/OR RODS CONTAINED IN ANY IMPROVEMENTS CONSTRUCTED UPON THE PROPERTIES SHALL BE CONSIDERED A PART OF A UNIT.

1.1.58. "Voting Member" or "Voting Members" means those Members who have voting rights, as provided in the Articles and By-Laws.

The foregoing definitions shall be applicable to this Declaration and to any amendment to this Declaration or Supplemental Declaration, unless otherwise expressly provided herein or therein to the contrary.

Article 2

THE MASTER ASSOCIATION

2.1. Formation. Prior to the recording of this Declaration, Declarant has caused the Master Association to be formed by the filing of the Articles of Incorporation in the office of the Secretary of State of Florida. The purpose and powers of the Master Association shall be all of the purposes and powers set forth in this Declaration and in the Articles and By-Laws. The Master Association shall be responsible for the execution, performance, administration and enforcement of all the terms and conditions of this Declaration.

2.2. Not a Condominium or Homeowners' Association. The Master Association is not intended to be a condominium association regulated under Chapter 718, Florida Statutes, nor is it intended to be a homeowners' association regulated under Chapter 720, Florida Statutes. Anything in this Declaration to the contrary notwithstanding, the existence or exercise of any easement, right, power, authority, privilege or duty, which would cause the Master Association to be subject to Chapter 718, Florida Statutes, or any related administrative rules or regulations, shall be null, void and of no effect to the extent, but only to the extent, that such existence or exercise is finally determined by a court or administrative hearing officer of competent jurisdiction (after all appellate rights have been exercised or waived) to subject the Master Association to said provisions. It is the intent of this provision that the Master Association shall not be deemed to be a condominium association or a homeowners' association, and that the Common Areas shall not be deemed to be common elements of any such condominium and that nothing in this Declaration shall be deemed to make the Master Association a condominium association within the meaning of said Chapter 718 or 720, Florida Statutes.

2.3. Membership. The Declarant, the Condominium Association for the Residential Condominium, and the Owners shall automatically be Members of the Master Association. The membership of an Owner is appurtenant to the Parcel or Unit and is transferred automatically by conveyance of title to the Parcel or Unit, and by filing of record therefor a deed in the Public Records evidencing such transfer of ownership. Membership shall continue until such time as the Owner of the Parcel or Unit transfers or conveys its interest in the Parcel or Unit of record or the interest is transferred and conveyed by operation of law. No one other than the Declarant, a Condominium Association and the Owners, may be a Member of the Master Association, and membership in the Master Association may not be transferred except by the transfer of title to the Parcel or Unit; provided, however, that the foregoing does not prohibit the assignment of membership and voting rights by any Owner who is a contract seller to such Owner's vendee in possession. No person or entity holding an interest of any type or nature whatsoever in a Parcel or a Unit only as the security for performance of an obligation shall be a Member of the Master Association.

2.4. Voting. The Master Association shall have two classes of voting membership: Class A and Class B. The Class A Members shall be the Condominium Association for the Residential Condominium, the Owners of the Commercial Parcels including the Owner of the Restaurant Parcel. The Class B Member shall be the Declarant. The Class C Members shall be the Owners of the Units, who shall not be Voting Members. The Condominium Association for the Residential Condominium shall be entitled to cast ten (10) votes, the Owner(s) of each of the Commercial Parcels shall be entitled to cast one (1) vote each, except for the Owner of the Restaurant Parcel which shall be entitled to cast two (2) votes. Until such time as the Class B membership has terminated, the Class B Member is entitled to cast twenty four (24) votes and to elect all of the members of the Board of Directors. At such time as the Class B membership terminates, two directors shall be elected or appointed by the Condominium Association for the

Residential Condominium, and each of the Parcels shall be entitled to elect or appoint one (1) director. In the event that any of the Parcels are submitted to condominium ownership, the Condominium Association governing such Condominium shall have the same combined voting rights and the same combined rights to elect or appoint directors, as did the Owner(s) of such Parcel. When reference is made herein, or in the Articles, By-Laws, Rules and Regulations, management contracts or otherwise, to a majority or a specific percentage of Members, such reference shall be deemed to be reference to a majority or a specific percentage of the total voting interests of all Voting Members represented at a meeting of the Voting Members and not of the Members themselves.

2.5. Litigation. Notwithstanding anything in this Declaration to the contrary, no judicial or administrative proceeding shall be commenced or prosecuted by the Master Association unless approved by a vote of seventy-five percent (75%) of the Members other than the Declarant. In the case of such a vote, and notwithstanding anything contained in this Declaration or the Articles or By-Laws to the contrary, a Member representing a Condominium Association shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of seventy-five percent (75%) of all Owners of Units within the Condominium subject to the jurisdiction of the Condominium Association. This subsection shall not apply, however, to (i) actions brought by the Master Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (ii) proceedings involving challenges to ad valorem taxation, or (iii) counterclaims brought by the Master Association in proceedings instituted against it. This subsection shall not be amended unless such amendment is made by the Declarant or is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

2.6. Co-Ownership. Notwithstanding anything herein to the contrary, if more than one person owns an interest in any of the Parcels, there shall only be one voting Member for such Parcel and that Member shall be entitled to cast the vote of the Parcel. Such vote may be exercised as the co-Owners determine among themselves; but no split vote is permitted among co-Owners. Prior to any meeting at which a vote is to be taken, the co-Owners of a Parcel must file with the secretary of the Master Association the name of the Voting Member to be entitled to vote at such meeting, which shall be applicable to all votes until rescinded.

2.7. Class B Termination. The Class B membership will terminate and convert automatically to a Class A membership (if the Declarant then owns a Parcel) and/or to a Class C membership (if the Declarant then owns any Units) upon the happening of any of the following, whichever occurs first:

2.7.1. The Declarant records a disclaimer of its Class B membership in the Public Records.

2.7.2. Three (3) months after ninety percent (90%) of the Units and the Parcels have been conveyed or assigned, as applicable, to Owners other than the Declarant.

2.7.3. Upon termination of the Class B membership, all provisions of this Declaration, the Articles, or By-Laws referring to Class B membership will be of no further force or effect.

2.8. Administration of the Master Association. The affairs of the Master Association shall be administered by the Board of Directors in accordance with this Declaration and the Articles, By-Laws and Rules and Regulations. The Articles, By-Laws and Rules and Regulations may be amended, from time to time, in the manner set forth therein.

2.9. Scope of Power. The Master Association, acting through the Board, shall also have the power and duty to:

2.9.1. Maintain, repair, reconstruct, replace, landscape and otherwise manage the Common Areas and all improvements thereon as the Master Association considers necessary or appropriate in accordance with the provisions of this Declaration; provided, however, that in the case of Limited Common Areas, such work shall be done at the expense of (and all other expenses of such Limited Common Areas shall be specifically charged to) only those Owners who are holders of use rights in such Limited Common Areas.

2.9.2. Maintain the Access Areas, including cleaning and periodic resealing and resurfacing.

2.9.3. Obtain, for the benefit of the Common Areas, all commonly metered water, sanitary sewage and electric services, and provide for all refuse collection and cable or master television service (if any), as necessary.

2.9.4. Grant easements, rights of way or strips of land, where necessary, for utilities, cable television, water and sewer facilities and other services over the Common Areas to serve the Common Areas and other portions of the Properties.

2.9.5. Maintain such policy or policies of liability, casualty and other insurance with respect to the Common Areas, and the personal property located thereon or used in connection therewith, if any, owned by the Master Association or the Declarant as provided herein, as well as directors and officers insurance, in furthering the purposes and in protecting the interests of the Master Association and its members as otherwise directed by this Declaration or the By-Laws.

2.9.6. Employ or contract with a Management Company (which may be an affiliate of the Declarant) to perform all or any part of the duties and responsibilities of the Master Association, and delegate, at the option of the Board, its powers to committees, officers and employees (which may also be employees of the Condominium Association, in which case compensation shall be equitably apportioned).

2.9.7. Install and maintain the Controlled Access Facilities and any such other safety devices, detectors and communications facilities, and employ or contract for employment of security services, guards and watchmen for the Common Areas as the Master Association considers necessary or appropriate, though it does not guarantee and shall not be liable for damages suffered by anyone as a result of the inadequacy of any such services.

2.9.8. Take such other action which the Board shall deem advisable with respect to the Properties as may be permitted hereunder or under Applicable Law.

2.10. Right to Maintain Infrastructure. It is specifically contemplated that the Master Association may enter into agreements with a Condominium Association or the Owners of one or more of the Parcels (and/or groups or councils thereof) pursuant to which Access Areas, Controlled Access Facilities, entry features, lighting and other "infrastructure" improvements and systems common to the Properties and other areas in its vicinity are to be operated and maintained. Any and all sums paid or required to be paid by the Master Association under such agreements shall be deemed for all purposes to be Common Expenses hereunder.

Article 3
OWNERSHIPS OF PARCELS, MASTER ASSOCIATION PROPERTY,
COMMON AREAS, LIMITED COMMON AREAS

3.1. Master Association Property and Common Areas. Except as set forth in Section 3.3, the Master Association Property and Common Areas are intended for the use and benefit of all Community Beneficiaries. The Common Areas shall include only such property which is designated as Common Areas in this Declaration or in any future recorded supplemental declaration; together with the landscaping and any improvements thereon. The Common Areas shall consist of all those other facilities and portions of the Properties which the Master Association may, from time to time, make available to all other Owners. Declarant will endeavor to specifically identify (by recorded legal description, signage, physical boundaries, site plans or other means) the Common Areas of the Properties, but such identification shall not be required in order for a portion of the Properties to be Common Areas hereunder. In the event that the Master Association accepts an easement, dedication or similar grant over, under or through any portion of the Properties or any property adjacent thereto or in the vicinity thereof, and/or the Master Association has assumed off-site maintenance obligations, then, the area or areas subject to such easement or other grant of rights or obligations shall be deemed Common Areas for the purposes of, but only for the purposes of, the Master Association performing whatever duties or obligations are stated in, or implied by law with respect to such easement or other grant, (and for the costs thereof to be paid by the Owners through Assessments). Notwithstanding the designation in the previous sentence of certain properties as Common Areas (even though outside the boundaries of the Properties even if not owned by Declarant), Declarant shall not be obligated to convey same to the Master Association (as otherwise required under Applicable Law).

3.2. Title to the Common Areas. The Declarant may, from time to time, in its sole discretion, convey all or any portion of its right, title and interest in the Properties to the Master Association (but in no event shall it be obligated to do so). Such conveyance shall be by quit-claim deed, which shall become effective upon recordation in the Public Records, or by quit claim bill of sale, as appropriate. The initial Common Areas shall, upon the later of completion of the improvements thereon or the date when the last Unit or Parcel has been conveyed to a purchaser (or at any time sooner and from time to time sooner at the sole election of Declarant and in whole or in part), be conveyed by quit claim deed to the Master Association, which shall be deemed to have automatically accepted such conveyance. The Master Association shall pay all costs of such conveyance.

3.3. Limited Common Areas. The Declarant shall have the right to, from time to time, and in its sole discretion, to assign or otherwise designate portions of the Common Areas as Limited Common Areas, including without limitation, outdoor patio seating areas within portions of the Plaza and other portions of the Properties, for the use of which shall be restricted to certain Owners or other Community Beneficiaries to the exclusion of others. The Association shall be responsible for the maintenance, repair and replacement of any such Limited Common Areas, with the costs of same being collected through the assessments against all Units and Parcels. The applicable Owner shall, however, be responsible for the general cleaning and upkeep of the appearance of the area(s), and for the repair and replacement for any furniture or furnishings and/or any floor coverings placed on any patio, balcony, terrace, walkway and/or portion of the Plaza. The Owner(s) of such Parcel using a patio, balcony, terrace, walkway and/or portion of the Plaza or making or causing to be made any additions, alterations or improvements thereto agrees, and shall be deemed to have agreed, for such Owner, and his or her heirs, personal representatives, successors and assigns, as appropriate, to hold the

Association, the Declarant and all other Owners harmless from and to indemnify them for any liability or damage to the Properties and expense arising therefrom. Notwithstanding the designation of any portion of the Common Areas as Limited Common Areas, or the assignment of Limited Common Areas as permitted hereunder, same shall not allow the Owner and/or Association and/or other assignee of the Limited Common Areas to preclude passage through such areas as may be needed from time to time for emergency ingress and egress, and for the maintenance, repair, replacement, alteration and/or operation of the Common Areas which are most conveniently served (in the sole determination of the Board) by accessing such areas (and an easement is hereby reserved for such purposes) and/or as may be required by Applicable Law.

3.4. Parking. Parking Spaces for the use of the Owners and other Community Beneficiaries are located within the Parking Garages. Any Unit or Parcel may be assigned the exclusive use of one or more Parking Spaces, located on designated portions of the Parking Garages, all of which are outside of the Residential Condominium, and which Parking Spaces shall be Limited Common Areas of the Unit or Parcel to which they are assigned. The Declarant, for so long as it owns any portion of the Properties, and thereafter, the Master Association, shall be entitled to assign one or more Parking Spaces to Owners of Units and/or Parcels and to other Community Beneficiaries, on a permanent or temporary basis. Assignments of Parking Spaces shall be made by Declarant or by the Master Association by written assignment (which shall not be recorded). Any such assignment vests in the Owner or other Community Beneficiary, as appropriate, the exclusive right to use (but not title to) such space(s), and, if to an Owner, as an appurtenance to such Owner's Unit or Parcel. Such exclusive rights of use shall pass with title to such Unit or Parcel, unless separately assigned by the Owner to another Unit or Parcel. All fees collected by Declarant for assigning Parking Spaces shall be retained by Declarant, and shall not constitute income or revenue of the Master Association. Temporary guest or commercial parking shall be permitted only by valet parking, or as otherwise determined by the Master Association, and only within the Parking Garages. The Master Association, is hereby empowered to establish Rules and Regulations for the Parking Garages and to make provisions for the involuntary removal of any violating vehicle; provided, however, that anything herein contained to the contrary, no such Rules and Regulations may, directly or indirectly, impair, diminish or otherwise interfere with Declarant's right to assign Parking Spaces and/or to collect and retain all fees resulting therefrom.

Notwithstanding anything herein contained to the contrary, the Master Association shall have the power and authority to relocate any assigned Parking Spaces to the extent necessary to comply with applicable federal, state or local laws regarding handicap facilities. Notwithstanding the designation of any portion of the Common Areas as Limited Common Areas, or the assignment of Limited Common Areas as permitted hereunder, same shall not allow the Owner and/or Master Association and/or other assignee of the Limited Common Areas to preclude passage through such areas as may be needed from time to time for emergency ingress and egress, and for the maintenance, repair replacement, alteration and/or operation of the elevators, Mater Life Safety Systems, mechanical equipment and/or the Common Areas which are most conveniently serviced (in the sole determination of the Board) by accessing such areas (and an easement is hereby reserved for such purposes).

EACH OWNER ACKNOWLEDGES AND AGREES THAT CERTAIN OF THE PARKING SPACES AND PARKING GARAGES ARE LOCATED BELOW THE FEDERAL FLOOD PLAIN, AND, ACCORDINGLY, IN THE EVENT OF FLOODING, ANY PERSONAL PROPERTY STORED THEREIN IS SUSCEPTIBLE TO WATER DAMAGE. ADDITIONALLY, INSURANCE RATES, BOTH FOR THE ASSOCIATION IN INSURING THE AREAS IN WHICH

THE PARKING SPACES AND PARKING GARAGES ARE LOCATED, AND FOR OWNERS, MAY BE HIGHER THAN IF THE PARKING SPACES AND PARKING GARAGES WERE ABOVE THE FEDERAL FLOOD PLAIN. BY ACQUIRING TITLE TO, OR TAKING POSSESSION OF, A UNIT OR A PARCEL, OR ACCEPTING THE ASSIGNMENT OF A PARKING SPACE, EACH OWNER, FOR ITSELF AND ITS TENANTS, GUESTS AND INVITEES, HEREBY EXPRESSLY ASSUMES ANY RESPONSIBILITY FOR LOSS, DAMAGE OR LIABILITY RESULTING THEREFROM.

Additionally, the Master Association will provide valet parking services which can be utilized by Owners and other Community Beneficiaries, subject to payment of such fees, and subject to such Rules and Regulations, as may be established from time to time by the Master Association, in its sole discretion. The cost of providing such valet parking services shall be a Common Expense of the Master Association.

3.5. Storage Spaces. Storage Spaces for the use of the Owners and other Community Beneficiaries are located within the Parking Garages. A Unit or a Parcel may be assigned the exclusive use of one or more Storage Spaces, located on designated portions of the Parking Garages, all of which are outside of the Residential Condominium, and shall be Limited Common Areas of the Units or Parcels to which they are assigned. The Developer, for so long as it owns any portion of the Properties, and thereafter, the Master Association, shall be entitled to assign additional Storage Spaces to Owners and to other Community Beneficiaries, on a permanent or temporary basis. Assignments of Storage Spaces shall be made by Declarant or by the Master Association by written assignment (which shall not be recorded). Any such assignments vests in the Owner or other Community Beneficiary, as appropriate, the exclusive right to use (and not title to) such space(s), and, if to an Owner on a permanent basis, as an appurtenance to such Owner's Unit or Parcel. Such exclusive rights of use shall pass with title to such Parcel, unless separately assigned by the Owner to another Parcel. All fees collected by Declarant for assigning Storage Spaces shall be retained by Declarant, and shall not constitute income or revenue of the Master Association.

EACH OWNER ACKNOWLEDGES AND AGREES THAT CERTAIN OF THE STORAGE SPACES ARE LOCATED BELOW THE FEDERAL FLOOD PLAIN, AND, ACCORDINGLY, IN THE EVENT OF FLOODING, ANY PERSONAL PROPERTY STORED THEREIN IS SUSCEPTIBLE TO WATER DAMAGE. ADDITIONALLY, INSURANCE RATES, BOTH FOR THE ASSOCIATION IN INSURING THE AREAS IN WHICH THE STORAGE SPACES ARE LOCATED, AND FOR OWNERS, MAY BE HIGHER THAN IF THE STORAGE SPACES WERE ABOVE THE FEDERAL FLOOD PLAIN. BY ACQUIRING TITLE TO, OR TAKING POSSESSION OF, A UNIT, OR ACCEPTING THE ASSIGNMENT OF A STORAGE SPACE, EACH OWNER, FOR HIMSELF AND HIS TENANTS, GUESTS AND INVITEES, HEREBY EXPRESSLY ASSUMES ANY RESPONSIBILITY FOR LOSS, DAMAGE OR LIABILITY RESULTING THEREFROM.

3.6. The Commercial Parcel Leases. The Owner of each of the Commercial Parcels may, from time to time, enter into leases with Commercial Parcel Lessees for all or any portions of the Commercial Parcels which have not been designated as Common Areas or Master Association Property, upon such terms and conditions as may be acceptable to the Owner of the Commercial Parcel, in its sole and absolute discretion. Any and all consideration received under the Commercial Parcel Leases shall belong exclusively to the applicable Owner of the applicable Commercial Parcel and no other person or entity, including, without limitation, the Master Association, the Condominium Association(s) or the other Owners shall have any claim or right thereto. The premises covered by a Commercial Parcel Lease shall be utilized for the

use and benefit of the Commercial Parcel Lessee and its guests, licensees and invitees. Each Commercial Parcel Lessee shall be responsible for the management, maintenance and operation of the premises covered by its Commercial Parcel Lease.

3.7. Tenants of Unit Owners. Any Owner of a Unit or Parcel shall be deemed to have fully delegated his right of enjoyment of the Common Areas and facilities to its tenant, subject to reasonable regulation and approval by the Board (provided that same is not discriminatory against one or more types of users).

3.8. Acquisition and Sale of Property. The Master Association shall have the power and authority to acquire or divest itself of such interests in real and personal property as it may, in its sole discretion, deem beneficial to its Members as provided in Article 12. Such interest, if any, may include fee simple or other absolute ownership interests, leaseholds or such other possessory use interests as the Master Association may, in its sole discretion, determine to be beneficial to its Members.

Article 4 EASEMENTS

4.1. Easement Grants. Declarant hereby establishes, creates and grants the easements in, to, over, across and through those portions of the Properties, including without limitation, the Residential Condominium as provided below. The easements described below shall be perpetual and non-exclusive and shall be appurtenant to each Parcel benefited thereby, but shall not be deemed to grant or convey any ownership interest in the Common Areas or Parcels subject thereto. All rights to use the easements granted herein shall be subject to the provisions of this Declaration and to the Rules and Regulations. Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

4.1.1. Easements for Access. Easements in favor of all Community Beneficiaries for ingress and egress, to provide pedestrian and vehicular access to and from the adjacent dedicated public rights-of-way and all portions of the Common Areas, including the Access Areas and the Parking Garages.

4.1.2. Easements for Parking. Each Member shall have such easements as may be required for parking in any Parking Space assigned pursuant to Section 3.4 and each Community Beneficiary shall have an easement for valet parking motor vehicles within the Parking Garages. The Master Association shall have the sole and exclusive right and responsibility for providing valet parking facilities, which responsibility may be contracted for with a third party. Except as may be reasonably necessary in connection with any repairs and/or improvements made to the Properties, each Owner shall have at all times the right to valet park one (1) motor vehicle in the Parking Garages without additional charge. The Owners, and their tenants, guests and invitees, may park additional motor vehicles in the Parking Garages upon payment of such fees, and subject to such Rules and Regulations, as may be established from time to time by the Master Association, in its sole discretion.

4.1.3. Easements for Encroachments. If any portion of the Properties (or improvements constructed thereon) encroaches upon any other portion of the Properties; or if any encroachment shall hereafter occur as the result of construction of any improvement, settling or shifting of any improvement; any alteration or repair to the Common Areas (or improvements thereon) or after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any improvement or portion of the

Properties, a valid easement is granted and shall exist for such encroachment and for the maintenance of the same so long as the structure causing said encroachment shall exist.

4.1.4. Easements for Support. Whenever any structure included in the Properties adjoins any structure included in any other portion of the Properties, each said structure shall have and be subject to an easement of support and necessity in favor of the other structure.

4.1.5. Public Easements. Fire, police, health and sanitation and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Properties, but only to the extent required for the performance of their respective duties. Additionally, easements are hereby reserved in favor of all Owners, including the owners of the Parcels (and their guests, tenants and invites) for ingress and egress over, through and across all Common Areas and/or for emergency ingress and egress purposes. Further, easements are hereby reserved over and upon such portions of the Common Areas as are reasonably necessary to allow employees, suppliers, delivery personnel and customers and/or clients, as well as members of the public, to access the Parcels.

4.1.6. Easements for Utility Facilities. Each portion of the Properties, including the Residential Condominium, shall have an easement in common with all other portions thereof to use, maintain, repair, alter and replace all pipes, wires, ducts, vents, cables, conduits, utility lines, and similar or related facilities located in the Parcels and other portions of the Properties.

4.1.7. Easements for Maintenance, Operation, Repair and Rebuilding. Easements in favor of Declarant, the Owners of the Parcels, the Master Association, the Condominium Association(s), the Commercial Parcel Lessees and the Restaurant Parcel Lessees, over, under, through and across such portions of the Properties as may be necessary or desirable to perform their obligations to maintain, modify, repair, restore, refurbish, replace or rebuild (including but not limited to, painting and other decorating), those portions of the Properties which are to be administered or maintained by such party, pursuant to this Declaration or under any Commercial Parcel Lease or Restaurant Parcel Lease.

4.1.8. Easements for Signage. Easements in favor of the Declarant, the Owners of the Parcels and the Master Association for directional, advertising, promotional or other signage, architectural features, and other structures overhanging or on the Condominium or other portions of the Properties, as initially constructed by Declarant, including the right to move, repair, replace, alter, add to or expand the same.

4.1.9. Construction, Sales and Leasing. The Declarant (and its agents, employees, contractors, subcontractors and suppliers) shall have an easement of ingress and egress over and across the Properties for construction purposes and to erect, maintain, repair and replace, from time to time, one or more signs on the Properties for the purposes of advertising the sale or lease of Parcels or other portions of the Properties.

4.1.10. Valet Parking. The operators of the valet parking facilities, and their employees, whether independent contractors or employees of the Master Association, shall have easements for ingress and ingress through the Parking Garages and other portions of the Common Areas, as well as through the elevators and elevator lobbies within the Residential Condominium, but only to the extent reasonably necessary or desirable in connection with the operation of such valet parking facilities.

4.1.11. Additional Easements in favor of Declarant. The Declarant and its affiliates shall have the right from time to time to enter upon the Common Areas and any other portions of the Properties including, without limitation, the Units for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion and/or alteration of any improvements or facilities elsewhere on the Properties that Declarant and its affiliates or designees elect to effect, and to use, without charge, for sales, displays and signs or for any other purpose during the period of construction, sale and leasing of Units or the Parcels. Without limiting the generality of the foregoing, Declarant and its affiliates shall have the specific right to maintain upon any portion of the Properties sales, administrative, construction or other offices and exclusive and non-exclusive easements of access and use are expressly reserved unto Declarant and its affiliates, and their successors, assigns, employees and contractors, for these purposes. Any obligation (which shall not be deemed to be created hereby) to complete, repair and maintain portions of the Properties shall, at all times, be subject and subordinate to these rights and easements and to the above-referenced activities. Accordingly, Declarant shall not be liable for delays in such completion to the extent resulting from the need to complete any of the above-referenced activities prior to such completion.

4.2. No Easement Grantee. Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant or purported grant of easement shall nevertheless be considered as having been granted directly to the Master Association, as agent for such intended grantees, for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easement and the Owners designate the Master Association as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

4.3. Extent of Easements. The rights and easements of enjoyment of Community Beneficiaries created hereby shall be subject to the following:

4.3.1. The right and duty of the Master Association to levy Assessments against each Parcel and each Unit for the purpose of maintaining the Common Areas in compliance with the provisions of this Declaration.

4.3.2. The right of the Master Association to borrow money for the purpose of maintaining or improving all or any portion of the Properties, and to mortgage any portion of the Common Areas or Master Association Property.

4.3.3. The right of the Master Association to take such steps as it may determine are reasonably necessary to protect, maintain and operate the Properties.

4.3.4. The right of the Master Association to adopt and to enforce, at any time and from time to time, Rules and Regulations governing the use of the Common Areas, including the right to fine Owners as hereinafter provided. Any Rule and/or Regulation so adopted by the Master Association shall apply until rescinded or modified as if originally set forth at length in this Declaration.

4.3.5. The right of the Master Association to suspend the enjoyment rights of any Community Beneficiary, including without limitation, the right to use the Common Areas, as provided in Section 11.1.6.7.

4.3.6. The right to the use and enjoyment of the Common Areas shall extend to all Community Beneficiaries, subject to regulation from time to time by the Master Association as set forth in the Rules and Regulations.

4.3.7. The right of Declarant to permit such persons as it may, from time to time, designate to use the Common Areas.

4.3.8. The right of the Owners of the Parcels to enter into Restaurant Parcel Leases and Commercial Parcel Leases, as applicable, and the rights of the Owners of the Parcels to retain all rent and other revenue received in connection with the Restaurant Parcel Leases and other Commercial Parcel Leases, as applicable.

4.3.9. The right of customers, clients, suppliers and delivery personnel to enter upon the Common Areas to make deliveries to, supply merchandise and/or inventory to, and/or patronize or otherwise visit any businesses being undertaken and/or offered from the Parcels and/or from any operation being operated from the Common Areas. It is contemplated (without creating any obligation) that there will be certain operations conducted from the Common Areas, and that such operations may be made available to the general public and easements are hereby reserved for such purposes.

4.3.10. The rights of the Owners of the Parcels as elsewhere provided in this Declaration.

4.3.11. The right of the Master Association to retain all revenues from the valet parking operations.

4.3.12. The right of the Declarant, and its successors and assigns, and the Master Association to sell, transfer, convey or dedicate all or any part of the Properties, or to impose or grant covenants, restrictions and easements (blanket or specific) in favor of any public agency, authority or utility for such purposes and subject to such conditions as it may determine, in its sole discretion.

4.3.13. The Declarant's reservations of all other rights of ownership in and to the Properties which are not inconsistent with the foregoing easements, including, without limitation, the right to grant further easements on, over, under and/or across the Properties, the right to improve the Properties (or any portions thereof), the right to raze, alter or modify any improvements now or hereafter constructed within the Properties (or any portions thereof), the right of the Declarant, during the period in which it is entitled to appoint a majority of the Member of the Board of Directors of the Master Association, to unilaterally designate and re-designate from time to time the portions of the Properties to be used by Community Beneficiaries, and the right of the Declarant to add or withdraw portions of the Common Areas, and to reserve and transfer development rights, as provided in Article 12.

Article 5 RULES AND REGULATIONS

5.1. Rules and Regulations Governing Use of the Properties. The Master Association shall have the absolute right to regulate the use of the Properties, and may from time to time

modify, amend and supplement the Rules and Regulations. A current copy of all Rules and Regulations established hereunder, and any modifications, amendments or supplements thereto, shall be made available at the request of any Community Beneficiary.

5.2. Enforcement of Rules and Regulations. The Master Association shall have the authority to enforce the Rules and Regulations, and the other restrictions imposed by this Declaration, in any manner provided in Article 11.

Article 6 MAINTENANCE

6.1. Master Association's Responsibilities. Except for any portions of the Properties to be maintained by a Condominium Association pursuant to Section 6.2, or by the Owners of the Parcels pursuant to Section 6.3, the Master Association shall be responsible for, and shall at all times manage, operate and maintain in good condition and shall replace as often as necessary all Common Areas within the Properties, whether or not conveyed to the Master Association. All expenses for maintenance performed pursuant to this section shall be paid for by the Master Association through Assessments. These responsibilities include, but are not limited to, the following:

6.1.1. Access Areas. Maintenance of all Access Areas, including, without limitation, the Plaza and all entrance areas, gates, and driveways.

6.1.2. Parking Garages. Maintenance of all portions of the Parking Garages, including, without limitation, the Parking Spaces, paving, pavers and other surfaces, driveways and ramps, as well as providing all valet parking facilities necessary for the parking of motor vehicles in the Parking Garages.

6.1.3. Access Control Facilities. Maintenance of all Access Control Facilities, which the Master Association may from time to time consider necessary or appropriate. Notwithstanding the foregoing, the Master Association does not guarantee and shall not be liable for damages suffered by anyone as a result of the inadequacy of any such services or devices. Access control personnel engaged by the Master Association shall have the right to stop and question persons on the Properties and to require satisfactory evidence of any such person's right to be where such person is stopped. Any person who fails to establish that right may be required to leave (even if such person actually is entitled to be where such person is stopped but fails to satisfactorily prove that he is). The Master Association may, at any time and from time to time, alter the design, layout, location and other characteristics of the Access Areas and the Access Control Facilities, existing from time to time on or in connection with the Properties, the Parcels and the Residential Condominium for use by access control personnel. The cost of any such alteration shall be borne, at the Master Association's option, by any or all of Community Beneficiaries (based upon the extent to which the Master Association determines any such alternative benefits such Community Beneficiaries). Notwithstanding anything contained herein to the contrary, the Declarant shall pay any and all costs associated with the initial construction and installation of the Access Areas and the Access Control Facilities, if any.

6.1.4. Exterior Portions of Buildings. Except as otherwise provided herein, maintenance of all exterior portions of all structures which may be now or hereafter located in the Properties, including without limitation, all building rooftops and exterior walls of the Building, except for any portions thereof which are the responsibility of a Condominium Association or the Unit Owners under a Declaration of Condominium.

6.1.5. Outside Areas. Maintenance of all other portions of the Properties, including without limitation, all landscaping, open areas, fountains, pools, sprinklers and irrigation, drainage structures, meters, fire pump and safety equipment, mail boxes, generators and other electrical and mechanical equipment now or hereafter located within the Properties, and any costs and expenses of installing, maintaining, repairing, restoring, and/or replacing the bulkhead and crosswalk structures located upon or adjacent to (even if beyond the legal boundaries of) the Properties and other structures (except public utilities, to the extent same have not been made Common Areas and except those Limited Common Areas to be maintained by Owners) situated on the Common Areas (without imposing any obligation on the Declarant or the Master Association to provide such services).

6.1.6. Taxes. Payment of all ad valorem real and personal property taxes, if any, assessed to the Properties, other than those taxes which are separately assessed to the Units and other Parcels, or to a Condominium or to any other portion of the Properties.

6.1.7. Utilities and Other Expenses. Payment of all expenses for the removal of trash from the Properties and any and all water, sewer, electrical and other utility charges incurred by any Units and other Parcels or other portions of the Properties which are tied to central utility meters.

6.1.8. Master Life Safety Systems. No Owner shall make any additions, alterations or improvements to the Master Life Safety Systems, and/or to any other portion of the Properties which may impair the Master Life Safety Systems or access to the Master Life Safety Systems, without first receiving the prior written approval of the Master Association. In that regard, no lock, chain or other device or combination thereof shall be installed or maintained at any time on or in connection with any door on which panic hardware or fire exit hardware is required. Stairwell identification and emergency signage shall not be altered or removed by any Owner whatsoever. No barrier including, but not limited to personal property, shall impede the free movement of ingress and egress to and from all emergency ingress and egress passageways.

6.1.9. Declarant Obligations. Without limiting the generality of the foregoing, the Association shall assume all of Declarant's and its affiliates' responsibilities to the County, the City, and its and their governmental and quasi-governmental subdivisions and similar entities of any kind with respect to the Common Areas (including, without limitation, any and all obligations imposed by any permits or approvals issued by the City, County and/or State of Florida, as same may be amended, modified or interpreted from time to time) and the Association shall indemnify and hold Declarant and its affiliates harmless with respect thereto in the event of the Association's failure to fulfill those responsibilities.

6.2. Condominium Association Responsibilities. Each Condominium Association shall maintain or shall cause to be maintained all Common Elements and all Limited Common Elements located within a Condominium in a neat, orderly and attractive manner, and shall pay all taxes, assessments, trash removal expenses, and water, sewer, electrical and other utility charges which are attributable solely to a Condominium.

6.3. Owner Responsibilities. Each Owner, including without limitation, each Owner of the Parcels, shall maintain or shall cause to be maintained all portions of their Parcel, including without limitation, the Units, in a neat, orderly and attractive manner. Notwithstanding the foregoing, the Master Association shall be responsible for maintaining any Limited Common Areas located on or assigned to its Parcel.

6.4. Contractors. The Master Association, the Owner of each Parcel and each Condominium Association shall each have the right to contract with other parties, including affiliates, management companies and other service providers, for providing services to perform any or all of their responsibilities set forth in this section. All costs and expenses incurred by the Master Association pursuant to any such contracts shall constitute Common Expenses.

6.5. Post Tension Restrictions. **Notwithstanding anything herein contained to the contrary, inasmuch as the improvements constructed within the Properties have utilized post tension cables and/or rods, absolutely no penetration shall be made to any floor, roof or ceiling slabs without the prior written consent of the Master Association and review of the as-built plans and specifications for such improvements to confirm the approximate location of the post tension cables and/or rods. The plans and specifications for such improvements shall be maintained by the Master Association. Each Owner, by accepting a deed or otherwise acquiring title to a Parcel or Unit shall be deemed to: (i) have assumed the risks associated with post tension construction, and (ii) agree that the penetration of any post tension cables and/or rods may threaten the structural integrity of the improvements. Each Owner hereby releases the Master Association and the Declarant, its and their partners, contractors, architects, engineers, and its and their officers, directors, shareholders, employees and agents, from and against any and all liability that may result from penetration of any of the post tension cables and/or rods.**

6.6. Responsibility for Wrongful Acts. Notwithstanding anything contained in this Declaration, the expense of any maintenance, repair or construction of any portion of the Properties, necessitated by the negligent or willful acts of any Owner or other Community Beneficiary, or their family or guests shall be borne solely by such Owner or other Community Beneficiary and their Unit, or the Parcels, if any, shall be subject to an Individual Assessment for such expense.

6.7. Failure to Maintain. If a Condominium Association, an Owner of a Parcel or a Unit or any other party shall fail to maintain any portion of the Properties in the manner required hereunder, the Master Association may send written notice to such defaulting party and, if such obligations are not performed by the defaulting party within 30 days from the receipt of such notice, or such additional time as may be reasonably required to cure such failure then, in addition to such other remedies as may be available under this Declaration, the Master Association shall have the right (without limiting any other rights that may be available) to enter upon the property in question and perform such duties; provided, however, that such entry shall be during reasonable hours and only after five (5) days' prior written notice. The party having failed to perform its maintenance duties shall be liable to the Master Association for the costs of performing such remedial work and shall pay a surcharge of not more than twenty-five percent (25%) of the cost of the applicable remedial work, all such sums to be payable upon demand and to be secured by the lien provided for in Section 7.11.1 hereof. No bids need be obtained for any of the work performed pursuant to this Article and the person(s) or company performing such work may be selected by the Master Association in its sole discretion. There is hereby created an easement in favor of the Master Association, and its applicable designees over each applicable portion of the Properties for the purpose of entering onto thereon in the performance of the work herein described, provided that the notice requirements of this section are complied with.

6.8. Common Expenses. All expenses of every kind and nature which the Master Association incurs or shall incur in connection with its maintenance and other obligations under

Section 6.1 shall constitute Common Expenses. Common Expenses shall also include reserves, if any, required by the Master Association for future expenditures to be incurred in the repair and replacement of various improvements to the Properties; provided, however, that the Declarant shall have the right to waive such reserves at any time during which it is a Class B Member of the Master Association. Common Expenses shall include (without limitation) any and all costs of maintaining, managing, insuring, repairing and replacing the Access Areas and the Parking Garages and/or other facilities. Maintenance and management expenses referred to herein include, but are not limited to, reserves for maintenance, repairs and capital improvements, the cost and expense of operation, maintenance and management of the Properties, including without limitation, the buildings and mechanical systems thereon, and the portions of a Condominium to be maintained by the Master Association (including salaries and employment related costs of all employees and personnel employed by the Master Association); property taxes and assessments on the Properties; insurance on the Properties and those portions of a Condominium, if any, maintained by the Master Association; legal and accounting fees; management fees; normal repairs and replacements; charges for utilities used upon the Properties and those portions of a Condominium to be maintained by the Master Association; expenses and liabilities incurred by the Master Association in the enforcement of its rights and duties under this Declaration; and all other expenses deemed by the Master Association to be necessary and proper for its management, maintenance, repair, operation and governance of the Properties and those portions of the Condominium to be maintained by the Master Association. Common Expenses shall not include costs relating to initial design and construction of improvements to the Properties.

Article 7 ASSESSMENTS

7.1. Common Expenses. As additional consideration for the execution of this Declaration, the Owners shall pay all of the Common Expenses, other than such portions thereof as may be collected from other Community Beneficiaries.

7.2. Percentage Shares of Parcels. The Percentage Shares of Assessments are set forth in Section 7.3. The Percentage Share of a Condominium shall be divided between the Units based upon their "percentage interests" in the Common Elements in the Condominium, as set forth in the Declaration of Condominium. To the extent permitted under Applicable Law, the Master Association shall have the power to, from time to time, modify the Percentage Shares based upon the state of development of certain Common Areas, the rights of the use of certain Limited Common Areas, the levels of services being provided to the Owners within each Parcel and other relevant factors and to other portions of the Properties.

7.3. Percentage Shares of Assessments. The Assessments provided for in this section shall be allocated and assessed among the Residential Condominium and the Parcels as follows: the Percentage Shares shall be ninety percent (90%) for the Residential Condominium, ten percent (10%) for the Commercial Parcels (which shall be allocated between the Commercial Parcels in a manner to be agreed upon by the Owners of the Commercial Parcels).

7.4. The Declarant's Obligations for Assessments. Notwithstanding anything in this Declaration to the contrary, during the period in which the Declarant is entitled to elect a majority of the Directors of the Master Association, the Declarant, shall not be liable for the payment of any Assessments imposed upon Unit(s) or the Parcels, which are owned by the Declarant or its affiliates, for any period during which the Declarant elects, at its sole option, to be responsible for the payment of any Common Expenses incurred that exceed the Assessments receivable from

other Owners and other income of the Master Association for any, for such time period(s). In determining the Assessments against the Parcels during any such period, such Assessments may be determined on the basis of the estimated actual expenses of the Master Association for any fiscal year as compared with the average number of Parcels anticipated to be built during such year, or on the basis of what the Assessments would be if all of the development contemplated by Declarant for the Properties were completed, at the sole discretion of the Declarant. In calculating the Common Expenses for purposes of this Subsection 7.4, only actual current expenses (other than, at the Declarant's option, management fees, capital expenses and reserves) shall be computed. The Declarant may, at any time and from time to time, be relieved of all obligations to fund deficits as aforesaid by electing, for any assessment or installment period or periods, that it or its affiliated developers will pay Assessments imposed on Units and other Parcels, if any, owned by each of them on the same basis as any other Owner. The deficits payable hereunder shall be computed and paid on the basis of the calendar year. The Declarant's responsibility, if any, for payment of the Master Association's operating deficit shall automatically terminate (if not sooner terminated) on the date that Owners other than the Declarant are entitled to elect a majority of the Board pursuant to the terms of this Declaration. As of the first day of the first calendar month immediately following the termination of the Declarant's responsibility, if any, for the payment of the Master Association's operating deficit(s), if any, the Declarant shall, commencing with that date, be responsible for the payment of Assessments payable for any Unit(s) owned by it as are normally required to be made by any other Owner of a Unit or the Parcels under the terms of this Declaration from and after that date. Notwithstanding the foregoing, the Declarant shall be entitled, if it so elects, to provide services and receive credit for the value of said services towards any contributions due from it, rather than make such contributions as might be due from it in cash. Declarant may from time to time change the option under which Declarant is making payments to the Master Association by written notice to such effect to the Master Association. When all Parcels within the Properties are conveyed by the Declarant, neither the Declarant, nor its affiliates, shall have further liability of any kind to the Master Association for the payment of assessments, deficits or contributions.

7.5. Special Allocations/Limited Common Areas. If any provision hereof or in any Supplemental Declaration provides for an allocation of the Assessments provided for herein or therein among the Units, the Parcels in a manner other than as set forth above, then the allocation provided for elsewhere herein or in such instrument shall apply to that portion of the Common Expenses attributable to those Assessments. The expenses attributable to the initial Limited Common Areas shall be initially assessed against all Parcels, rather than just those Units or Parcels to which such areas are assigned. However, the Association may budget and adopt Assessments for those expense items associated with any Limited Common Areas and the expenses attributable to same shall be borne solely by those persons entitled to use of the Limited Common Areas.

7.6. Lien rights. The Master Association shall have the power and authority to make and collect Assessments, and the lien rights against the Units, the Condominium Associations and the Parcels, as hereinafter set forth.

7.7. Liability for Assessments and Charges.

7.7.1. An Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments coming due with respect to its Unit or Parcel while it is the Owner. The Declarant shall be liable for all unpaid Assessments and charges against each Unit or the Parcels which it owns, up to the time of its conveyance, without prejudice to any right the Declarant may have to recover from the Owner any amounts paid by

the Declarant. No Owner may waive or otherwise escape liability for assessments by non-use (whether voluntary or involuntary) of the Common Areas or abandonment of the right to use the Common Areas. Neither the Declarant's lender nor the lenders, if any, of the Commercial Parcels, shall be liable for any Assessments unless and until any such lender acquires title to the applicable Parcel, at which time any such lender shall be liable for all Assessments accruing to such Parcel after the date it acquires title.

7.7.2. All Assessments shall be a superior lien to all other liens, save and except tax liens and first mortgage liens in favor of Institutional Mortgagees.

7.8. General Assessments.

7.8.1. General Assessments shall be determined annually for the purpose of payment of Common Expenses.

7.8.2. The Master Association shall annually estimate the Common Expenses for the upcoming year and may assess the Owners, based upon their Percentage Shares, sufficient monies to meet this estimate. Should the Master Association at any time determine that the Assessments are not sufficient to pay the Common Expenses, or in the event of emergency, the Master Association shall have the authority to levy and collect Special Assessments for such purpose. All notices of Assessments from the Master Association to the Owners shall designate when they are due and payable. All General Assessments shall be charged based upon the Percentage Shares of the Residential Condominium and the Commercial Parcels and the Percentage Share of a Condominium shall be divided between the Units in the Condominium based upon their "percentage interests" as set forth in the Declaration of Condominium. Notwithstanding anything contained to the contrary in this Declaration, any Parcels or Units owned by the Declarant shall not be subject to Assessments for capital improvements without the Declarant's prior written consent.

7.8.3. General Assessments shall be collectible in advance for each applicable period. A General Assessment shall be considered delinquent if not paid within ten (10) days after the due date specified by the Master Association.

7.9. Special Assessments.

7.9.1. The Master Association may levy a Special Assessment against all Owners for any of the following purposes: the acquisition of personal property; defraying the cost of construction of capital improvements to the Properties, including without limitation, any portions of a Condominium to be maintained by the Master Association, except for those capital improvements which are initially constructed by the Declarant; and the cost and other expenses of design, construction, reconstruction, unexpected substantial repair or replacement of a capital improvement, including the necessary fixtures and personal property related thereto.

7.9.2. All notices of Special Assessments from the Master Association to the Owners shall designate when the Assessment is due and payable. All Special Assessments shall be charged based upon the Percentage Shares of the Residential Condominium and the Commercial Parcels and the Percentage Share of a Condominium shall be divided between the Units in the Condominium based upon their "percentage interests", as set forth in the Declaration of Condominium. Notwithstanding anything contained to the contrary in this Declaration, any Parcels or Units owned by the Declarant shall not be subject to Special Assessments for capital improvements without the Declarant's prior written consent.

7.9.3. Special Assessments shall be collectible in such manner as the Master Association shall determine. A Special Assessment shall be considered delinquent if not paid within ten (10) days after the due date specified by the Master Association.

7.10. Emergency Special Assessments. The Master Association may levy an emergency Special Assessment when, in its sole determination, there is potential danger or damage to persons or property. The Master Association shall not be required to obtain the approval of the membership of the Master Association in connection with an emergency Special Assessment. Such Assessments may be utilized to pay for preventative, protective or remedial design, construction, reconstruction, improvements, repairs or replacements. Events justifying emergency Special Assessments include, but are not limited to, hurricanes, floods and fires.

7.10.1. Emergency Special Assessments shall be payable in such a manner as the Master Association shall determine. All emergency Special Assessments shall be charged based upon the Percentage Shares of the Residential Condominium and the Commercial Parcels and the Percentage Share of a Condominium shall be divided between the Units based upon their "percentage interests" in the Common Elements in the Condominium, as set forth in the Declaration of Condominium. An emergency Special Assessment shall be considered delinquent if not paid by the due date.

7.11. Individual Assessments. The Master Association may levy an Individual Assessment against a particular Unit or Parcel for the cost of:

7.11.1. Any maintenance, repairs, replacements, or for fines imposed by the Master Association pursuant to Section 11.1 of this Declaration. When, in the Master Association's sole judgment, an Owner's failure or refusal to perform has impaired the use or value of any portion of the Properties, or poses a safety hazard, the Master Association has a right of entry into all portions of the Parcels or a Residential Condominium, including without limitation, any individual Units, to perform repairs, replacements, or to cure any violation of this Declaration or the Rules and Regulations, including the right to abate or eliminate any nuisance; or

7.11.2. Any insurance premiums owed by a Condominium or the Parcels pursuant to Section 9.1.

The Master Association may also levy an Individual Assessment against a particular Parcel for the cost of any an Individual Assessment shall include an administrative fee charged by the Master Association in an amount to be determined from time to time by the Board in its sole discretion.

7.12. Condominiums. The Condominium Association shall initially collect all assessments and other sums due the Master Association and the Condominium Association from the members thereof. The Condominium Association will remit the assessments so collected to the respective payees pursuant to such procedures as may be adopted by the Master Association. The sums so collected shall be applied first to the assessments of the Master Association and then to those of Condominium Association. No sums collected by a Condominium Association on behalf of the Master Association shall be deemed a Common Expense of the collecting Condominium Association. Notwithstanding the priority of disbursements of collected lump sums as provided above, all capital improvement assessments, special assessments, personal assessments, interest, late charges, recovered costs of collection and other extraordinary impositions shall be remitted to the respective entity imposing same separate and apart from the priorities established above. The Master

Association shall notify the Condominium Association, by written notice given at least thirty (30) days in advance, of any changes in the amounts of the assessments due it or the frequency at which they are to be collected. The aforesaid notice period shall also apply to capital improvement assessments, but may be as short as five (5) days before the next due regular assessment installment in the case of special assessments of the Master Association. A Condominium Association shall not be required to record liens or take any other actions with regard to delinquencies in assessments payable to the Master Association unless the Master Association gives it written notice of its election to have it do so. In the event that the Master Association does, however, make such election, then all of the Master Association's rights of enforcement provided in this Declaration shall be deemed to have automatically vested in the Condominium Association, but all costs and expenses of exercising such rights shall nevertheless be paid by the Master Association (which shall be entitled to receive payment of any such costs and expenses which are ultimately recovered). All fidelity bonds and insurance maintained by the Condominium Association shall reflect any duties performed by it pursuant hereto and the amounts to be received and disbursed by it and shall name the Master Association as an obligee/insured party for so long as its assessments are being collected and remitted by the Condominium Association. In the event of a failure of the Condominium Association to budget or assess its members for expenses allocated as aforesaid, the Master Association shall be entitled to pursue all available legal and equitable remedies against the Condominium Association or, without waiving its right to the foregoing, specially assess the members of the Condominium Association and their Units for the sums due (such Special Assessments, as all others, to be secured by the lien provided for in this Declaration).

7.13. Effect of Non-payment of Assessments.

7.13.1. Any Assessment that is unpaid for more than ten (10) days after the date it is due shall bear interest, from date when due, until the date it is paid, at a rate equal to the lesser of (i) eighteen percent (18%) per annum or (ii) the highest rate allowable under Applicable Law. In addition, the Owner of any Parcel or Unit, with respect to which an Assessment is overdue by more than ten (10) days, will be required by the Master Association to pay a late charge equal to the greater of one hundred dollars (\$100) or five percent (5%) of the amount of the delinquent Assessment, to compensate the Master Association for the added administrative expense resulting from the delinquency. Any and all such amounts shall become a continuing lien on the Parcel or Unit against which the Assessment is made upon recording of a claim of lien in the Public Records, and shall also be the continuing personal obligation of the Owner of such Parcel or Unit at the time of the Assessment.

7.13.2. If the Assessment is not paid within thirty (30) days after the due date, the Master Association may, at any time thereafter, accelerate the entire amount due for the period for which the Assessment was made, and declare the same immediately due and payable. The Master Association may also record a claim of lien in the Public Records setting forth the amount of the unpaid Assessment and the rate of interest due thereon. The Master Association may at any time thereafter bring an action to foreclose the lien against the Parcel or Unit and/or a suit on the personal obligation against the Owner or Owners, and there shall be added to the amount of such Assessment the cost of such action (including reasonable attorneys' fees and costs through all appellate levels) and, in the event a judgment is obtained, such judgment shall include interest on the Assessment and late charges as provided above and reasonable attorneys' fees through all appellate levels, together with the costs of the action.

7.13.3. In the event that a check given to the Master Association for payment of an Assessment, or for payment of any sums due hereunder shall be dishonored for any reason

whatsoever, the Master Association shall have the right, in its sole discretion, to charge an administrative fee which shall, in no event, exceed one hundred dollars (\$100.00). This fee shall be deemed to be a part of the Assessment, shall be secured by the lien of the Assessment against the affected Parcel or Unit, and may be enforced in the same manner as any other Assessment.

7.14. Lien of Mortgages. Except as hereafter provided, any mortgagee or its successors or assignees who acquire title to a Parcel or Unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid Assessments that became due prior to the mortgagee's acquisition of title. Notwithstanding the foregoing, in no event shall an Institutional Mortgagee, which is the holder of a first mortgage on a Parcel or Unit, be liable for more than the Parcel's or Unit's unpaid Assessments which accrued or came due during the six (6) months immediately preceding the acquisition of title to the Parcel or Unit by the Institutional Mortgagee, and for which payment in full has not been received by the Master Association, or one percent (1%) of the original mortgage debt, whichever amount is less. The limitations contained in this Section shall not apply unless the Institutional Mortgagee joins the Master Association as a defendant in the foreclosure action. Joinder of the Master Association is not required if, on the date the complaint is filed, the Master Association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the mortgagee. The person acquiring title shall pay the amount owed to the Master Association within thirty (30) days after the transfer of title. Failure to pay the amount owed to the Master Association when due shall entitle the Master Association to record a claim of lien against the Parcel or Unit and proceed in the same manner as provided in this Section for unpaid Assessments. The foregoing limitation of liability shall apply to any purchaser at a foreclosure sale of a first mortgage held by an Institutional Mortgagee, regardless of whether the purchaser is the holder of the foreclosed mortgage. A mortgagee acquiring title to a Parcel or Unit as a result of foreclosure or deed in lieu thereof may not during the period of its ownership of such Parcel or Unit, whether or not such Parcel or Unit is unoccupied, be excused from the payment of any of the Assessments coming due during the period of such ownership. No sale or transfer shall relieve any Parcel or Unit from liability for any Assessment thereafter becoming due, or from the lien of any such subsequent Assessment.

7.15. Certificate of Assessments. The Master Association shall prepare a roster of the Parcels and Units and the Assessments applicable thereto, which shall be kept in the office of the Master Association and shall be open to inspection by any Owner. The Master Association shall, upon demand, furnish an Owner a certificate in writing signed by an officer of the Master Association, setting forth whether the Owner's Assessments have been paid and/or the amount which is due as of any date; provided, however, that the Master Association shall charge One Hundred Dollars (\$100.00) for each certificate requested by an Owner in excess of two (2) during any calendar year. As to parties without knowledge of error, who rely thereon, such certificates shall be presumptive evidence of payment or partial payment of any Assessments therein stated.

7.16. Estoppel Certificate. At the request of an Owner or the Declarant, the Master Association shall prepare an Estoppel Certificate which shall set forth any Assessments and charges due upon any Parcel or Unit at the time of conveyance and certify as to whether or not there are violations of this Declaration or the Rules and Regulations with respect to the Parcel or Unit as of the date of preparation of such Certificate.

Article 8
INDEMNIFICATION OF OFFICERS AND
DIRECTORS/INDEMNIFICATION OF DECLARANT

8.1. Indemnity. Each Owner hereby indemnifies and saves harmless all other Owners, from any and all liability, damage, expense, causes of action, suits, claims or judgments arising from the Unit or the Parcel that is owned by it, or with respect to which it has easement rights, except to the extent caused by the act or negligence of another Owner and in such event only as to such other Owner whose act or negligence is excepted.

8.1.1. Indemnification of Officers and Board of Directors. Every officer and member of the Board of Directors of the Master Association shall be indemnified by the Master Association and the other Community Beneficiaries against all expenses and liability, including attorneys' fees through all appeals, reasonably incurred by or imposed upon such person in connection with any proceeding to which such person may be a party or in which such person may become involved by reason of their being or having been an officer or member of the Board of Directors, whether or not such person is an officer or member of the Board of Directors at the time such expenses are incurred, except in such cases wherein the officer or member of the Board of Directors is adjudged guilty of willful misfeasance or malfeasance in the performance of such person's duties; provided, that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the officer or member of the Board of Directors seeking such reimbursement or indemnification herein shall apply only if the Master Association approves such settlement and reimbursement as being in the best interest of the Master Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such officer or member of the Board of Directors may be entitled under the Articles or By-Laws of the Master Association.

8.1.2. Indemnification of Declarant. Each Owner, by acceptance of a deed to one or more Parcels or Units, and each other Community Beneficiary, by the use of any easements relating to the Properties, shall indemnify and hold the Declarant and its affiliates harmless from and against any and all claims, demands, fines, suits, actions, decrees and judgments (and any and all costs and expenses including attorneys' fees through all appeals relating thereto) resulting from or in connection with loss of life, bodily or personal injury or property damage arising (directly or indirectly) out of or on account of any occurrence in, at or about the Properties, or occasioned (in whole or part) by use of the Properties or any improvement thereon, while it owns, occupies or manages any portion of the Properties, except to the extent the loss of life, injury or damage results from the gross negligence or willful misconduct of the Declarant. Any amounts owed the Declarant by Owners pursuant to this Section shall be levied against them as Special Assessments.

Article 9
INSURANCE AND CONDEMNATION

9.1. Insurance. The Master Association shall maintain comprehensive public liability insurance (from a company rated with a current A.M. Best Company, Inc. rating of B+ or better), throughout the term of this Declaration, in an amount not less than \$5,000,000, combined single limit, which names the others (and their mortgagee(s), if so requested) as additional insured(s) and shall furnish each other written proof thereof promptly upon request. Except to the extent prohibited under Applicable Law:

9.1.1. The Master Association and a Condominium Association may agree that any Master Association shall purchase any or all insurance policies and coverage required under

any Declaration of Condominium, and that it shall name a Condominium Association as a named insured thereunder; and

9.1.2. The Master Association and the Owner of each of the Parcels may agree that the Master Association shall purchase any or all insurance policies and coverage required for its Parcel, and that it shall name the Owner of the Parcel or Parcels as a named insured thereunder.

9.2. Authority to Purchase; Named Insured. Notwithstanding anything to the contrary in a Declaration of Condominium, all insurance policies upon the Properties and a Condominium shall be purchased by and at the direction of the Master Association and shall be placed in a single agency or company, if possible. Additionally, the Master Association may elect to insure any structure or other improvement, which does not lie entirely within a Condominium and the cost of any such insurance shall be a Common Expense. The named insureds shall be the Master Association and the Condominium Association (and their officers, directors and employees), without naming them, the Owners, and their respective mortgagees, and such other parties, if any, which the Master Association may determine, from time to time, should be added thereon. Provisions shall be made for the issuance of mortgagee endorsements, certificates and memoranda of insurance to any mortgagees, including those holding mortgages on the Parcels and the Units.

9.3. Coverage.

9.3.1. Casualty Insurance. All buildings and insurable improvements and other Common Areas on the Properties shall be insured for fire and extended coverage perils, excluding foundation and excavation costs, and all personal property owned by the Master Association shall be insured for its full insurable value, with such deductibles as may be determined by the Board, in its absolute discretion, all as determined annually by the Board. When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon the same risk; and (ii) avoid liability for a loss that is caused by an act of the Master Association, or the Owners, or an officer thereof, or by one or more Owners or as a result of contractual undertakings. Additionally, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any act or omissions of individual Owners that are not under the control of the Master Association, or the Condominium Association, and that the policy shall be primary, even if an Owner has other insurance that covers the same loss.

Every casualty insurance policy obtained by the Master Association, and by the Condominium Association, if desired by the Master Association, or if required by Federal National Mortgage Association or Federal Home Loan Mortgage Corporation ("FNMA/FHLMC"), shall have the following endorsements: (i) agreed amount and inflation guard; and (ii) steam boiler coverage (providing at least \$50,000 coverage for each incident at each location), if applicable.

9.3.2. Public Liability Insurance. The Master Association shall obtain public liability and property damage insurance covering all of the Properties and insuring the Master Association, the Condominium Association(s), the Owners of the Parcels and such other parties, if any, as the Master Association may, from time to time, determine should be added thereon, as their interests appear, in such amounts and providing such coverage as the Master Association may determine, from time to time, provided that the minimum amount of coverage is

\$5,000,000. The liability insurance shall include, but not be limited to, hired and non-owned automobile coverage.

9.3.3. Worker's Compensation Insurance. The Master Association shall obtain Worker's Compensation Insurance in order to meet the requirements of law, as necessary.

9.3.4. Flood Insurance. The Master Association shall obtain flood insurance to meet the requirements of federal, state or local law, or any regulation enacted pursuant to federal, state or local law, as necessary, for the Common Areas, the Master Association Property, if any, and for any Condominium or any of the Parcels for which such insurance is being obtained by the Master Association pursuant to Section 9.1.

9.3.5. Fidelity Insurance. The Master Association shall obtain fidelity insurance covering all persons who control or disburse funds on behalf of the Master Association, such insurance to be in an amount not less than three (3) times the total monthly Assessments plus the amount estimated to be held in reserve accounts at the end of the then current calendar year. The Board may also obtain such errors and omissions insurance, indemnity bonds, fidelity bonds and such other insurance as it deems advisable, insuring the Board or any management company engaged by the Association against any liability for any act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board or any committee thereof.

9.3.6. Other Insurance. The Master Association shall obtain such other insurance as the Master Association shall determine from time to time to be desirable including acts and omissions coverage for member of the Board of Directors and officers of the Master Association.

9.3.7. "Blanket" Insurance. The requirements of this Article may be met by way of the Association being an insured party under any coverage carried by the Declarant or under coverage obtained by the Association as long as such coverage is in accordance with the amounts and other standards dated in this Article.

9.3.8. Subrogation Waiver. If available, the Master Association shall obtain policies which provide that the insurer waives its right to subrogation as to any claim against other Community Beneficiaries and their respective employees, agents and guests.

9.4. Premiums. Premiums upon insurance policies purchased by the Master Association shall be paid by the Master Association. The cost of insurance premiums and other incidental expenses incurred by the Master Association in administering and carrying out any of the provisions of this Article shall be assessed against and collected from Owners as part of General Assessments. Notwithstanding the foregoing, the premiums for any insurance for any Condominium or the Parcel for which such insurance is being obtained by the Master Association pursuant to Section 9.1 shall be assessed to any such Condominium or the Parcel or Parcel, as applicable, as an Individual Assessment pursuant to Section 7.11.

9.5. Shares of Proceeds. All insurance policies purchased by the Master Association shall be for the benefit of the Master Association, and the Owners, and their mortgagees, as their interests may appear, and shall provide that all proceeds covering losses shall be paid to the Master Association or at its option, to an insurance trustee. In the event a mortgagee endorsement has been issued regarding any improvement on the Properties, the share of the Owner, if any, shall be held in trust for each mortgagee and the Owner, as its interest may appear; provided, however, that no mortgagee shall have any right to determine or participate in

the determination as to whether or not any damaged improvement shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds, except distribution of such proceeds made to the Owner and the mortgagee pursuant to the provisions of this Declaration.

9.6. Distribution of Proceeds. Proceeds of insurance policies received by the Master Association, shall be held by the Master Association, or at its option, by any such insurance trustee, and distributed to or for the benefit of the Owners and other Community Beneficiaries in the following manner:

9.6.1. Reconstruction or Repair. If the damage for which proceeds are paid is to be repaired or reconstructed, such proceeds shall be paid to defray the cost of such repairs and reconstruction in accordance with the provisions of Section 9.12. Any proceeds which remain after defraying such costs shall be distributed to the Parcels and to a Condominium based upon their Percentage Shares and the Percentage Share of a Condominium shall be divided between the Units based upon their "percentage interests" as set forth in the Declaration of Condominium.

9.6.2. Failure to Reconstruct or Repair. If it is determined in the manner provided in Section 9.8 that the damage for which proceeds are paid shall not be reconstructed or repaired, such proceeds, subject to the following, shall be distributed to the Owners based upon their Percentage Shares. There shall be no distribution of such proceeds until all debris, remains and residue have been cleared and removed, and the damaged area has been properly landscaped. In the event of loss or damage to personal and/or real property belonging to the Owners, and should the Master Association determine not to replace such personal and/or real property as may be lost or damaged, the proceeds shall be distributed to the Parcels and to a Condominium based upon their Percentage Shares and the Percentage Share of a Condominium shall be divided between the Units based upon their "percentage interests", as set forth in the Declaration of Condominium.

9.6.3. Certificate. In making the distribution to Owners, the Master Association may rely upon a certificate of a Condominium Association as to the names of the Owners and their respective shares of the distribution. Each Condominium Association and each Owner shall fully cooperate with and assist the Master Association in making any such distributions.

9.7. Master Association's Power to Compromise Claims. The Board of the Master Association is hereby irrevocably appointed as agent for each Owner, Condominium Association and other Community Beneficiary, and for each holder of a mortgage or other lien, for the purpose of compromising and settling all claims arising under insurance policies purchased by the Master Association, and to execute and deliver releases therefore upon payment of claims.

9.8. Determination to Reconstruct or Repair. If any part of the Properties shall be damaged by casualty, the damaged property shall be reconstructed or repaired unless it is determined by at least fifty-one percent (51%) of the Owners, and by the Master Association, that it shall not be reconstructed or repaired. The Master Association may rely upon a certificate of the President or Secretary of a Condominium Association to determine the number of Owners electing whether or not the damaged property is to be reconstructed or repaired.

9.9. Plans and Specifications. Subject to requirements imposed by applicable governmental rules and regulations, any reconstruction or repair of all or any portion of the Properties must be substantially in accordance with the plans and specifications for the original

buildings; or, if not, then according to the plans and specifications approved by the Master Association.

9.10. Estimates of Costs. Immediately after a determination is made to rebuild, replace or repair damage to property for which the Master Association has the responsibility of reconstruction, repair or replacement, the Master Association shall obtain reliable and detailed estimates of the cost to rebuild, repair or replace. Such costs may include professional fees and premiums for such bonds as the Master Association requires.

9.11. Special Assessments. The amount by which an award of insurance proceeds paid to the Master Association is reduced on account of a deductible clause in an insurance policy shall be assessed against the Owners based on their Percentage Shares. If the proceeds of such Assessments and the insurance are not sufficient to defray the estimated cost of reconstruction, repair or replacement by the Master Association, or if at any time during reconstruction, repair or replacement, or upon completion of reconstruction, repair or replacement, the funds for the payment of the costs of reconstruction and repair are insufficient, Special Assessments shall be made against the Owners in sufficient amounts to provide funds for the payment of such costs.

9.12. Construction Funds. The funds for the payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Master Association and funds collected by the Master Association from Special Assessments against Owners, shall be distributed in payment of such costs in the following manner.

If the total of Special Assessments made by the Master Association in order to provide funds for payment of costs of reconstruction and repair that are the responsibility of the Master Association is Twenty-Five Thousand Dollars (\$25,000.00) or more, then the sums paid upon such Special Assessments shall be deposited with the Master Association and disbursed as provided in Subsection 9.12.2, below. In all other cases, the Master Association shall hold the sums paid upon such Special Assessments and disburse them in payment of the costs of reconstruction and repair as provided in Subsections 9.12.1 and 9.12.2, below.

The proceeds of insurance collected on account of a casualty, and the sums deposited with the Master Association from collections of Special Assessments on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of repair and construction in the following manner and order:

9.12.1. Master Association - Lesser Damage. If the amount of the estimated cost of reconstruction, repair and replacement that is the responsibility of the Master Association is less than Twenty-Five Thousand Dollars (\$25,000.00), the construction fund shall be disbursed in payment of such costs upon the order of the Master Association.

9.12.2. Master Association-Major Damage. If the amount of the estimated cost of reconstruction, repair and replacement that is the responsibility of the Master Association is Twenty-Five Thousand Dollars (\$25,000.00) or more, then the construction funds held by the Master Association shall be disbursed in payment of such costs in the manner required by the Master Association, and upon approval by an architect or engineer qualified to practice in the state of Florida and employed by the Master Association to supervise the work.

9.12.3. Surplus. It shall be presumed that the first monies disbursed in payment of the costs of reconstruction, repair and replacement shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction, repair

and replacement for which the fund is established, such balance shall be distributed equally to the Owners. Notwithstanding the foregoing, any portions which the Master Association determines are attributable solely to insurance proceeds or funds provided by a Condominium Association shall be distributed to the Owners based upon their percentage interests in the Condominium and any portions which the Master Association determines are attributable solely to insurance proceeds or funds provided by one or more of the Parcels shall be distributed to the Owner of such Parcel or Parcels.

9.13. Condemnation. In the event any portion of the Properties is condemned or taken through eminent domain, the Owner of the property so taken shall be entitled to the full award therefore as if this Declaration were not in existence and the other Owner(s) shall not be entitled to share in any portion of the award as a result of the existence of this Declaration; provided, however, that the foregoing shall not prevent an award to any other Owner(s) for the diminution in value of the property of the other Owner(s), provided same does not reduce the award payable to the Owner whose property was condemned or taken.

9.14. Declaration of Condominium. Except to the extent prohibited by any Applicable Law, and without limiting the generality of Section 14.4 of this Declaration, the provisions of this Article shall supersede and prevail over any contrary provisions in the Declaration of Condominium for the Residential Condominium and for any other Condominium.

Article 10

USE RESTRICTIONS

10.1. Nuisances. Nothing shall be done or maintained on any Parcel or Unit which may be or become an annoyance or nuisance to the occupants of other Parcels or Units. Any activity on a Parcel or Unit which interferes with television, cable or radio reception on another Parcel or Unit, as applicable, shall be deemed a nuisance and a prohibited activity. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board of Directors, which shall render a decision in writing, which decision shall be dispositive of such dispute or question. Notwithstanding the foregoing, in no event shall the operation of a restaurant, within the Restaurant Parcel, in a manner that is typical and customary for similar restaurants in the area surrounding the Properties, constitute a nuisance, and in no event shall the operation of any commercial activities within the Commercial Parcels, in a manner that is typical and customary for similar commercial and/or retail parcels in the area surrounding the Properties, or which is otherwise permitted under Applicable Law (including, without limitation, as a restaurant), constitute a nuisance.

10.2. Parking and Prohibited Vehicles. No person shall park any vehicle so as to obstruct or otherwise impede ingress or egress to any Parking Spaces, including without limitation, to a parking space assigned to any other Parcel or Unit. Parking in the Properties shall be restricted to private automobiles and passenger-type vans, jeeps and pick-up trucks and sport utility vehicles, motorcycles, motor scooters, small trailer and jet ski trailers (all of which are collectively referred to herein as "vehicles"). No person shall park, store or keep on any portion of the Properties any large type commercial type vehicle (for example, dump truck, motor home, trailer, cement mixer truck, oil or gas truck, delivery truck), except temporarily in designated guest parking locations, nor may any person keep any other vehicle on the Properties which is deemed to be a nuisance by the Board. No trailer, camper, motor home or recreational vehicle shall be used as a residence, either temporarily or permanently, or parked on the Properties. The Board shall have the authority to prohibit any vehicle, including any motorcycle or motor scooter, which it determines constitutes a nuisance due to its noise level,

particularly where such vehicle is operated in the early morning or late evening hours. No vehicle is permitted within the Properties which leaks oil, brake fluid, transmission fluid or other fluids. No Owner, occupant or other person shall conduct repairs or restorations on any motor vehicle, or other vehicle, or race the engine of any vehicle, upon any portion of the Properties. No more than one (1) motorcycle or motor scooter may be parked in a single space, and in no event may a motorcycle or a motor scooter be parked in the same parking space as another vehicle or between any Parking Spaces. For so long as the Developer conducts any sales or leasing activities on the Properties, its use of Parking Spaces shall not be impeded or restricted. The prohibitions on parking contained in this section shall not apply to temporary parking of: (a) commercial vehicles, such as for construction use or providing pick-up and delivery and other commercial services related to the Parcels; (b) any vehicles of the Declarant, or its affiliates or designees, used for construction, maintenance, repair, decorating, sales or marketing purposes; or (c) service vehicles operated in connection with the Master Association, a Condominium Association, or their management companies.

Subject to Applicable Law, any vehicle, boat, motorcycle or trailer parked in violation of these or other restrictions contained herein or in the Rules and Regulations may be towed by the Master Association at the sole expense of the owner of such vehicle. The Master Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor shall it be guilty of any criminal act, by reason of such towing.

10.3. Visibility at Intersections. No obstruction to visibility at street intersections or Common Areas intersections shall be permitted; provided, that the Master Association shall not be liable in any manner to any person or entity, including Owners and Community Beneficiaries, for any damages, injuries or deaths arising from any violation of this section.

10.4. Exterior Antennas. No exterior antennas, satellite dishes or similar equipment shall be permitted on any Parcel. Notwithstanding the foregoing, upon obtaining the prior written consent of the Master Association, satellite dishes and other devices permitted under Applicable Law, may be installed within the Parcels or within any Limited Common Areas appurtenant thereto, or within the parcels and any Limited Common Areas thereof; provided, however, that in no event shall any such device be installed in or on any other portion of the Residential Condominium. To the extent permissible under Applicable Law, the Master Association may enact Rules and Regulations, requiring that any such devices which may be permitted under Applicable Law are comparable in size, weight and appearance, are installed and maintained in a manner designed to protect the safety of the Properties and its occupants, and satisfy any standards established by the Master Association for architectural appearance purposes.

10.5. Signs. No sign, poster, display, billboard or other advertising device of any kind shall be displayed to the public view on any portion of the Common Areas without the prior written consent of the Board, except signs, regardless of size, used by Declarant, its successors or assigns, for advertising during the construction, sale and leasing period and such reasonable signs as Declarant shall authorize with respect to any Unit or the Parcels. Notwithstanding the foregoing, the Owners of the Parcels, and their respective tenants, shall be permitted to place signs, displays, window treatments and other objects on the interior and exterior portions of their respective spaces, and within any Limited Common Areas that have been assigned to such Parcels; provided, that such signs are in compliance with Applicable Law, without receiving the consent of the Master Association or any other party (other than any applicable governmental authority to the extent that prior approval from them is required by applicable governmental codes, ordinances and/or regulations).

10.6. Animal Restrictions. No animals, livestock, reptiles or poultry of any kind shall be raised, bred, or kept on or in any Common Areas. No dog, cat or other pet may run loose (unleashed) on Common Areas, and the Master Association may from time to time limit the areas designated for such purpose by the Master Association, if any. No person shall be permitted to walk more than two (2) animals at any time on the Common Areas. Any animal permitted on the Common Areas pursuant to this Section 10.6 must not be a nuisance to the occupants of any Parcel. All Owners shall be obligated to pick up all solid wastes from their pets and dispose of same appropriately.

10.7. Trash. No rubbish, trash, garbage or other waste material shall be kept or permitted on Common Areas, except in containers located in appropriate areas, if any, and no odor shall be permitted to arise therefrom so as to render Common Areas or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk material or scrap or refuse or trash shall be kept, except within an enclosed structure appropriately screened from view erected for that purpose, if any, and otherwise in accordance with the approval of the Committee.

10.8. Temporary Structures. Except as may be used or permitted by the Declarant during periods of construction or renovation, no structure of a temporary nature (including, without limitation, trailers, tents, shacks or mobile offices) shall be located or used within the Properties.

10.9. Renewable Resource Devices. Nothing in this Declaration shall be deemed to prohibit the installation of energy devices based on renewable resources (e.g., solar collector panels); provided, however, that same shall be installed only in accordance with the reasonable standards adopted from time to time by the Association. Such standards shall be reasonably calculated to maintain the aesthetic integrity of the Properties without making the cost of the aforesaid devices prohibitively expensive.

10.10. Hurricane Evacuation Procedures. Upon notice of approaching hurricanes, all furniture, plants, objects, and plants must be removed from any balconies or terraces. IN THE EVENT THAT AN EVACUATION ORDER IS ISSUED BY ANY APPLICABLE GOVERNMENTAL AGENCY, ALL OWNERS MUST PROMPTLY COMPLY WITH SAID ORDER. The Master Association shall have the right from time to time to establish hurricane preparedness and evacuation policies, and each Owner shall fully comply with same.

10.11. Leased Parcels. The Owner of a leased Parcel or Unit shall be jointly and severally liable with its tenants for any violations of this Declaration or the rules and regulations of the Master Association.

10.12. Variances. The Board of Directors of the Master Association shall have the right and power to grant variances from the provisions of this Article 10 (as they may relate to the Common Areas) and from the Rules and Regulations (as they may relate to the Common Areas) for good cause shown, as determined in the reasonable discretion of the Board. No variance granted as aforesaid shall alter, waive or impair the operation or effect of the provisions of this Article 10 in any instance in which such variance is not granted.

10.13. Declarant Exemption. Except as may be expressly provided to the contrary in this Declaration, the Declarant shall be exempt from all restrictions set forth in this Declaration to the extent such restrictions interfere in any matter with Declarant's plans for construction, development, use, sale or other disposition of the Properties, or any part thereof. In order that

the development of the Properties may be undertaken and the Properties established as a fully occupied community, neither any Owner, the Master Association, nor any Condominium Association, shall do anything to interfere with Declarant's activities. Without limiting the generality of the foregoing, nothing in this Declaration shall be understood or construed to:

10.13.1. Prevent Declarant, its successors or assigns, or its contractors or subcontractors, from doing on any property owned by them whatever they determine to be necessary or advisable in connection with the completion of the development of the Properties, or the future development thereof, if any, including without limitation, the alteration of its construction plans and designs as Declarant deems advisable in the course of development (and all models or sketches showing plans for future development of the Properties, as same may be expanded, may be modified by the Declarant at any time and from time to time, without notice); or

10.13.2. Prevent Declarant, its successors or assigns, or its contractors, subcontractors or representatives, from erecting, constructing and maintaining on any property owned or controlled by Declarant, or its successors or assigns or its or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business of completing said development, or any future development, and establishing the Properties as a community and disposing of the same by sale, lease or otherwise; or

10.13.3. Prevent Declarant, its successors or assigns, or its contractors or subcontractors, from conducting on any property owned or controlled by Declarant, or its successors or assigns, its or their business of developing, subdividing, grading and constructing improvements in the Properties and of disposing of Units or the Parcels, or portions thereof or interests therein, by sale, lease or otherwise; or

10.13.4. Prevent Declarant, its successors or assigns, from determining in its sole discretion the nature of any type of improvements to be initially constructed, or may in the future be constructed, as part of the Properties; or

10.13.5. Prevent Declarant, its successors or assigns or its contractors or subcontractors, from maintaining such sign or signs on any property owned or controlled by any of them as may be necessary in connection with the operation of any Parcels or Units owned by Declarant (its successors or assigns) or the sale, lease or other marketing of Units and/or the Parcels, or otherwise from taking such other actions deemed appropriate; or

10.13.6. Prevent Declarant, or its successors or assigns from filing Supplemental Declarations which modify or amend this Declaration, or which add or withdraw additional property as otherwise provided in this Declaration; or

10.13.7. Prevent Declarant from modifying, changing, reconfiguring, removing or otherwise altering any improvements located on the Common Areas; or

10.13.8. Prevent Declarant from exercising or otherwise utilizing or benefiting from any future development rights which it may have retained with respect to any portion of the Properties.

Article 11
ENFORCEMENT AND REMEDIES

11.1. Enforcement. This Declaration, the Articles and the By-Laws may be enforced by the Master Association as follows:

11.1.1. Breach of any of the covenants contained in the Declaration or the By-Laws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by the Declarant, the Master Association or their successors-in-interest.

11.1.2. The result of every act or omission whereby any of the covenants contained in this Declaration or the By-Laws are violated in whole or in part is hereby declared to be and constitute a nuisance, and every remedy allowed by law or equity with respect to nuisances either public or private shall be applicable and may be exercised by the Declarant or the Master Association or their successors-in-interest.

11.1.3. The remedies herein provided for breach of the covenants contained in this Declaration or in the By-Laws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

11.1.4. The failure of the Master Association to enforce any of the covenants contained in this Declaration or in the By-Laws shall not constitute a waiver of the right to enforce the same thereafter.

11.1.5. A breach of the covenants, conditions or restrictions contained in this Declaration or in the By-Laws shall not affect or impair the lien or charge of any Mortgage made in good faith and for value on any Unit or Parcel; provided, however, that any subsequent Owner of such Unit or Parcel shall be bound by said covenants, conditions and restrictions, whether such Owner's title was acquired by foreclosure sale or otherwise.

11.1.6. Fines. In addition to all remedies, in the sole discretion of the Board, a fine or fines may be imposed upon an Owner and his Unit or Parcel for failure of an Owner, his family, guests, invitees, lessees or employees, to comply with any covenant, restriction, rule or regulation herein or in the Articles or By-Laws, provided the following procedures are adhered to:

11.1.6.1. Notice: The Master Association shall notify the Owner or occupant of the infraction or infractions. Included in the notice shall be a date and time of the next Board meeting at which time the Owner or occupant shall present reasons why fines should not be imposed. A fine or suspension may not be imposed without notice of at least 14 days to the person sought to be fined or suspended.

11.1.6.2. Hearing: The non-compliance shall be presented to a committee of at least three members appointed by the Board who are not Officers, Members of the Board of Directors, or employees of the Master Association, or the spouse, parent, child, brother, or sister of an Officer, Member of the Board of Directors, or employee. The committee shall hear reasons why fines should not be imposed. A written decision of the committee shall be submitted to the Owner or occupant by not later than twenty-one (21) days after the Board's meeting. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed.

11.1.6.3. Penalties: The committee may levy reasonable fines, not to exceed \$100 per violation, against any Member, Owner or any tenant, guest, or invitee. A fine

may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, except that no such fine shall exceed the maximum amount, if any, permitted under Applicable Law.

11.1.6.4. Payment of Penalties: Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of the penalties.

11.1.6.5. Collection of Fines: To the extent permitted under Applicable Law, Fines shall be treated as an assessment subject to the provisions for the collection of assessments (including, without limitation, those as to liens) as set forth in this Declaration and in the By-Laws.

11.1.6.6. Application of Penalties: All monies received from fines shall be allocated as directed by the Board.

11.1.6.7. Suspension: In addition to fines, the Master Association may suspend, for a reasonable period of time, the rights of a Member or an Owner, or an Owner's tenants, guests, or invitees, or both, to use Common Areas and other facilities. Suspension of Common Area use rights shall not impair the right of an Owner or tenant of a Unit or a Parcel to have vehicular and pedestrian ingress or egress.

11.1.7. Assessments. The requirements of this subsection do not apply to the imposition of suspensions or fines upon any Owner because of the failure of the Owner to pay assessments or other charges when due; provided, however, that the Master Association may suspend the voting rights of an Owner for the nonpayment of any General Assessments that are delinquent in excess of 90 days.

11.2. Remedies. Anything to the contrary contained in this Declaration notwithstanding, in the event of a violation or breach of any of the provisions contained in this Declaration, specific performance and/or injunctive relief shall specifically be available, it being agreed that damages would, at best, be difficult to ascertain and would be an inadequate remedy in any event. The fines shall not be construed to be exclusive and shall exist in addition to all other rights and remedies to which the Master Association may be otherwise legally entitled; however, any penalty paid by the offending Owner or occupant shall be deducted from or offset against any damages which the Master Association may otherwise be entitled to recover by law from such Owner or occupant.

11.3. Attorneys' Fees. The prevailing party in any action in connection with this Declaration (whether in tort, contract or otherwise) shall be entitled to the award of court costs and reasonable attorneys' and paralegals' fees at all trial and all appellate levels and in connection with all proceedings, whether or not suit is instituted.

Article 12 MODIFICATIONS, SUPPLEMENTS AND AMENDMENTS

12.1. Legal Descriptions. It is understood that this Declaration is being executed prior to the construction of the improvements on the Residential Condominium or the Parcels, and the remainder of the Properties, and prior to recordation of the Declaration of Condominium for the Residential Condominium. The legal descriptions attached hereto for the Residential Condominium or the Parcels, and the remainder of the Properties, are based on a surveyor's determination of the lines dividing the Residential Condominium from the remainder of the Properties, and the actual location may vary somewhat. Therefore, Declarant reserves the right,

power and authority by itself, without the joinder or any person or entity whatsoever other than its mortgagee, if any, to modify the legal descriptions of the dividing lines between the Residential Condominium or the Parcels, and the remainder of the Properties, to conform to the "as built" improvements by recording a supplemental declaration in the Public Records of the County, in which event the legal descriptions for the Residential Condominium or the Parcels, and the remainder of the Properties, set forth in or attached to the supplemental declaration in the Public Records of the County, shall supersede those attached hereto.

12.2. Relocation of Utility Facilities. If either the Declarant or the Master Association needs or desires from time to time to relocate or add to any of the existing utility facilities serving any Parcel and located on the Residential Condominium or on the Properties (including easement areas), the party so adding to, changing, rearranging, altering, modifying, relocating or building upon said facilities shall be responsible, at its cost, for adding to, changing, rearranging, altering, modifying, relocating or building upon said facilities shall be responsible, at its cost, for adding to, changing, rearranging, altering, modifying, relocating or building upon such utility facilities, and same shall be accomplished in a manner so as to minimize inconvenience to the Owners and the other Community Beneficiaries.

12.3. Modification of Easements. Subject to the provisions in this Declaration, each Owner of a Parcel and each Condominium Association reserves the right at any time and from time to time, without the need for obtaining consent or approval from the Owner(s) of any portions of the Condominium, or the Owners of any other Parcels or Units, to change, rearrange, alter, modify or otherwise reduce any easements created hereby, provided same does not materially and adversely affect any such other Owner(s). In the event any of same are accomplished with respect to the easement areas located on any Parcel, or within any Condominium, same shall automatically release the area which is so changed, rearranged, altered, modified, or otherwise reduced from this Declaration.

12.4. Modifications to the Properties. The building and other improvements on the Residential Condominium shall not be modified in such a way as to materially and adversely affect any of the Owners of the Parcels. Therefore it is understood and agreed that, after initial construction, the improvements on the Residential Condominium shall not be altered to: (a) materially increase the size or volume, (b) materially change the configuration, or (c) increase the square footage, height or setbacks without, in any such case, the consent of the Owners of each of the Parcels and any mortgagee of any of the Parcels. In addition, the exterior of the improvements on the Residential Condominium shall be maintained substantially in the manner in which they were originally constructed and no material change in or to the exterior (such as the color or finishes) of the improvements on the Residential Condominium shall be permitted without the prior consent of the Master Association.

12.5. Supplements. During the period in which the Declarant is the Class B Member of the Master Association, and thereafter, to the extent permitted by Applicable Law, the Declarant may, in its sole discretion, from time to time add other property under the provisions of this Declaration by Supplemental Declaration (which shall not require the consent of then existing Owners, Master Association, any Condominium Association, or any other Community Beneficiaries) and thereby add to the Properties. Nothing in this Declaration shall, however, obligate Declarant to add to the Properties, nor to prohibit Declarant from rezoning and changing its development plan with respect to such future portions. All Owners, by acceptance of a deed to or other conveyance of their Parcel or Unit and all mortgagees of Owners, by acceptance of a mortgage on any Parcel or Unit, thereby automatically consent to any such rezoning, change, addition or deletion thereafter made by the Declarant and shall evidence such

consent in writing if requested to do so by the Declarant at any time (providing, however, that the refusal to give such written consent shall not obviate the general effect of this provision).

12.6. Withdrawal. During the period in which the Declarant is the Class B Member of the Master Association, and thereafter, to the extent permitted by Applicable Law, the Declarant reserves the right to amend this Declaration unilaterally at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of the Properties then owned by the Declarant or its affiliates from the provisions of this Declaration to the extent included originally in error or as a result of any changes whatsoever in the plans for the Properties desired to be effected by the Declarant.

12.7. Declarant Amendments. During the period in which the Declarant is the Class B Member of the Master Association, and thereafter, to the extent permitted by Applicable Law, this Declaration may be amended by the Declarant to correct any errors or omissions or to effect any other amendment, provided such other amendment does not, in the Declarant's reasonable judgment, have a materially adverse effect on substantial rights of any Institutional Mortgagee who has not consented in writing to the amendment. In addition, during the period in which the Declarant is the Class B Member of the Master Association, and thereafter, to the extent permitted by Applicable Law, the Declarant shall have an absolute right to make any amendments to this Declaration (without any other party's consent or joinder) that are requested or required by the FNMA/FHLMC, the Government National Mortgagee or any other governmental, quasi-governmental or governmental-chartered entity which owns or expects to own one or more Institutional Mortgages encumbering the Properties, or any portion thereof, or to insure the payment of one or more such mortgages, or that are requested or required by any Institutional Mortgagee or prospective Institutional Mortgagee to enhance the marketability of its mortgages to one or more of the foregoing. In addition, as long as it owns any portion of the Properties, the Declarant shall have an absolute right to make any amendments to this Declaration (without any other party's consent or joinder) that are requested or required by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association or any other governmental, quasi-governmental or government-chartered entity which owns or expects to own one or more first Mortgages within the Properties, or to insure the payment of one or more such mortgages, or that are requested or required by any first Mortgagee or prospective first Mortgagee to enhance the marketability of its mortgages to one or more of the foregoing. Except to the extent otherwise provided in this Declaration, an amendment may not materially and adversely alter the proportionate voting interest appurtenant to a Parcel or Unit or increase the proportion or percentage by which a Parcel shares in the Common Expenses unless the record Owner and all record Owners of liens on such Parcels or Units join in the execution of the amendment.

12.8. Owner Amendments. This Declaration may also be amended by an instrument signed by the President of the Master Association, attested to by its Secretary and certifying that the amendment set forth in the instrument was adopted by a vote of at least fifty-one (51%) of the votes to be cast by all Voting Members, at a duly called meeting thereof; provided, that so long as Declarant or its affiliates is the Owner of any Parcel affected by this Declaration, and unless prohibited under Applicable Law, Declarant's consent must be obtained if such amendment, in the sole opinion of Declarant, affects its interest. A Condominium Association Member must vote against any amendment to this Declaration unless authorized to approve such amendment by a vote of fifty-one percent (51%) of the voting interests of all Owners within the Condominium subject to the jurisdiction of the Condominium Association Member.

12.9. Reservation of Roof, Air and Development Rights. The Declarant reserves unto itself and its successors and assigns, the ownership of the air space arising above the level of the roof of the structures constructed within the Properties, having the exterior dimensions of the perimeter walls of the building and extending vertically into infinity. The Master Association and each Owner do hereby further give and grant to the Declarant, and the Declarant does hereby reserve unto itself, and its successors and assigns, such easements on, over, under, through and across the Properties as may be necessary for the installation, repair, replacement and maintenance of all improvements and installations placed and constructed by the Declarant, or any successor or assign thereof, upon the roof of any Condominium or other portion of the Building. The Declarant, and its successors and assigns, shall also have an easement of subjacent lateral support and all other support in every portion of a Parcel or Unit which contributes to the support of any improvements constructed on or above the roof of the Buildings. The rights and privileges reserved by the Declarant in this section, including (without limitation) all transferable and non-transferable development rights, may be assigned (in whole or in part), leased, transferred and/or conveyed by the Declarant without the consent of any other party. The provisions contained in this Section may not be amended, modified or deleted, in whole or in part, without the written consent of the Declarant, unless approved by a vote of 80% of the Owners.

12.10. Effects of Amendments. Any duly adopted amendment to this Declaration shall run with and bind the Properties for the same period and to the same extent as do the covenants and restrictions set forth herein.

Article 13 COMMUNITY SYSTEMS

13.1. Ownership of Community Systems. The Declarant reserves unto itself, its successors, assigns, contractors, designees and nominees, ownership of the following systems (including any and all related equipment such as, for example, conduits, wires, amplifiers, antennas, satellite receivers and transmitters, towers and other apparatus, installations and fixtures, including those based on, containing or serving future technological advances not now known): (i) video communications and distribution systems, including, but not limited to, cable television systems (private or franchised, wired or wireless), closed circuit systems, pay t.v. systems, master antenna t.v. (MATV) systems, satellite master antenna television (SMATV) systems, satellite receiving or transmitting systems, and all other multi-channel video distribution systems, and the like which it (or one of its successors, assigns, designees or nominees) installs in part or whole on the Properties (any such system or device and its related equipment being hereinafter referred to as "Video Communications System"); (ii) communication systems, digital satellite systems and / or other devices which are used, in part or in whole, to provide internet access or related services, internet website communication or the future equivalent which it (or one of its successors, assigns, designees or nominees) installs in part or in whole on the Properties (any such system or device and its related equipment being hereinafter referred to as the "Internet System"); (iii) telecommunications systems or devices, including, but not limited to, telephone, voice, data, and information, and the like which it (or one of its successors, assigns, designees or nominees) installs in part or in whole on the Properties (any such system or device and its related equipment being hereinafter referred to as the "Telecommunications System"); (iv) monitoring/alarm systems or devices including, but not limited to, access control devices, and the like which it (or one of its successors, assigns, designees or nominees) installs in part or in whole on the Properties (any such system or device and its related equipment being hereinafter referred to as the "Monitoring System") (the Video Communications System, Internet

System, Telecommunications System and Monitoring System, and any and all parts thereof, are referred to collectively, the "Community Systems").

13.2. Right to Transfer Community Systems. Declarant shall have the right, but not the obligation, to convey, transfer, sell, lease or assign all or any portion of the Community Systems located within the Properties, or all or any portion of the rights, duties or obligations with respect thereto to the Association or any other person or entity (including an Owner, as to any portion of a Community System located on/in its Parcel). Without limiting the generality of Section 14.8, if and when any of the aforesaid entities receives such a conveyance, sale transfer or assignment, such entity shall automatically be deemed vested with such rights of Declarant with regard thereto as are assigned by Declarant in connection therewith; provided, however, that if the Association is the applicable entity, then any Community Systems or portions thereof shall be deemed Common Areas hereunder and the Association's rights, duties and obligations with respect thereto shall be the same as those applicable to other Common Areas unless otherwise provided by Declarant. Any conveyance, transfer, sale or assignment made by Declarant pursuant to this Section 13.2, (i) may be made with or without consideration, (ii) shall not require the consent or approval of the Association or any Owner, (iii) if made to the Association, shall be deemed to have been automatically accepted (with all rights, duties, obligations and liabilities with respect thereto being deemed to have been automatically assumed), and (iv) shall be subject to any leases, liens or other encumbrances which may have been placed thereon. The Declarant, and thereafter the Association, shall hold the title to or easements in the Common Areas for the benefit of those persons entitled to use same under the provisions hereof. The Declarant may mortgage the Common Areas to finance the original development and construction thereof, provided that the lender recognizes the rights of the Owners hereunder, and the Association shall not be personally liable for payment of the debt secured by such mortgage(s). In recognition of the intended increased effectiveness and potentially decreased installation and maintenance costs and user fees arising from the connection of all Parcels to the applicable Community Systems, each Owner and occupant of a Unit shall by virtue of the acceptance of the deed or other right of occupancy thereof, be deemed to have consented to and ratified any and all agreements to which the Association is a party which are based upon (in terms of pricing structure or otherwise) a requirement that all Units be so connected. The foregoing shall not, however, prohibit the Association or provider of Community Systems from making exceptions to any such 100% use requirement in its reasonable discretion or as may be required under applicable law. WITH RESPECT TO COMMUNITY SYSTEMS, ALL PERSONS ARE REFERRED TO SECTION 13.3 HEREOF, WHICH SHALL AT ALL TIMES APPLY TO THIS SECTION.

13.3. Notices and Disclaimers as to Community Systems. The Declarant, the Association, or their successors, assigns or franchisees and any applicable cable, telecommunications or other operator (an "Operator"), may enter into contracts for the provision of community services through any Community Systems. DECLARANT, THE ASSOCIATION, OPERATORS AND THEIR FRANCHISEES, DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR IMPLIED, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SUCH ACCESS CONTROL SYSTEM OR SERVICES, OR THAT ANY SYSTEM OR SERVICES WILL PREVENT INTRUSIONS, FIRES OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF SUCH OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE SYSTEM OR SERVICES ARE DESIGNED TO MONITOR SAME; AND EVERY OWNER OR OCCUPANT OF PROPERTIES SERVICED BY THE COMMUNITY SYSTEMS ACKNOWLEDGES THAT DECLARANT, THE ASSOCIATION OR ANY SUCCESSOR, ASSIGN OR FRANCHISEE OF THE DECLARANT OR ANY OF THE OTHER AFORESAID ENTITIES AND ANY OPERATOR, ARE NOT INSURERS OF THE OWNER OR OCCUPANT'S PROPERTY OR OF THE

PROPERTY OF OTHERS LOCATED ON THE PREMISES AND WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES OR DEATHS RESULTING FROM SUCH OCCURRENCES. It is extremely difficult and impractical to determine the actual damages, if any, which may proximately result from a failure on the part of an access control service provider to perform any of its obligations with respect to community services and, therefore, every owner or occupant of property receiving community services through the Community Systems agrees that Declarant, the Association or any successor, assign or franchisee thereof and any Operator assumes no liability for loss or damage to property or for personal injury or death to persons due to any reason, including, without limitation, failure in transmission of an alarm, interruption of any community service or failure to respond to an alarm because of (a) any failure of the Owner's Community System, (b) any defective or damaged equipment, device, line or circuit, (c) negligence, active or otherwise, of the access control service provider or its officers, agents or employees, or (d) fire, flood, riot, war, act of God or other similar causes which are beyond the control of the access control service provider. Every owner or occupant of property obtaining access control services through the Community Systems further agrees for himself, his grantees, tenants, guests, invitees, licensees, and family members that if any loss or damage should result from a failure of performance or operation, or from defective performance or operation, or from improper installation, monitoring or servicing of the system, or from negligence, active or otherwise, of the access control service provider or its officers, agents, or employees, the liability, if any, of Declarant, the Association, any franchisee of the foregoing and the Operator or their successors or assigns, for loss, damage, injury or death sustained shall be limited to a sum not exceeding Two Hundred Fifty and No/100 (\$250.00) U.S. Dollars, which limitation shall apply irrespective of the cause or origin of the loss or damage and notwithstanding that the loss or damage results directly or indirectly from negligent performance, active or otherwise or non-performance by an officer, agent or employee of Declarant, the Association or any franchisee, successor or designee of any of same or any Operator. Further, in no event will Declarant, the Association, any Operator or any of their franchisees, successors or assigns, be liable for consequential damages, wrongful death, personal injury or commercial loss. In recognition of the fact that interruptions in cable television and other Community Systems services will occur from time to time, no person or entity described above shall in any manner be liable, and no user of any Community System shall be entitled to any refund, rebate, discount or offset in applicable fees, for any interruption in Community Systems services, regardless of whether or not same is caused by reasons within the control of the then-provider(s) of such services.

13.4. DISCLAIMER OF WARRANTIES. DECLARANT HEREBY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES AS TO DESIGN, CONSTRUCTION, FURNISHING AND EQUIPPING OF THE PROPERTIES, EXCEPT AS MAY BE REQUIRED UNDER APPLICABLE LAW. AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND AS TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED. ALL OWNERS, BY VIRTUE OF ACCEPTANCE OF TITLE TO THEIR RESPECTIVE UNITS (WHETHER FROM THE DECLARANT OR ANOTHER PARTY), SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND CLAIMS FOR INCIDENTAL AND CONSEQUENTIAL DAMAGES.

Article 14
GENERAL PROVISIONS

14.1. Institutional Mortgagee Protection. The following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of this Declaration, these added provisions shall control):

(a) The Master Association shall be required to make available to all Owners and Institutional Mortgagees, and to insurers and guarantors of any first Institutional Mortgage, for inspection, upon request, during normal business hours or under other reasonable circumstances, current copies of this Declaration (with all amendments) and the Articles, By-Laws and Rules and Regulations and the books and records of the Master Association. Furthermore, such persons shall be entitled, upon written request (which request is hereby deemed given by Declarant's Mortgagee), to (i) receive a copy of the Master Association's financial statement for the immediately preceding fiscal year, (ii) receive notices of and attend the Master Association meetings, (iii) receive notice from the Master Association of an alleged default by an Owner in the performance of such Owner's obligations under this Declaration, the Articles of Incorporation or the By-Laws of the Master Association, which default is not cured within thirty (30) days after the Master Association learns of such default, and (iv) receive notice of any substantial damage or loss to the Common Areas.

(b) Any holder, insurer or guarantor of an Institutional Mortgage on a Parcel or a Unit shall have, if first requested in writing (which request is hereby deemed given by Declarant's Mortgagee), the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the Common Areas, (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Parcel or Unit, (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Master Association, and (iv) any proposed action which requires the consent of a specified number of Institutional Mortgage holders.

(c) Any holder, insurer or guarantor of an Institutional Mortgage on a Parcel or a Unit shall have the right to pay, singly or jointly, taxes or other charges that are delinquent and have resulted or may result in a lien against any portion of the Common Areas and receive immediate reimbursement from the Master Association.

(d) Any holder, insurer or guarantor of an Institutional Mortgage on a Parcel or Unit shall have the right to pay, singly or jointly, any overdue premiums on any hazard insurance policy covering the Common Areas or obtain, singly or jointly, new hazard insurance coverage on the Common Areas upon the lapse of a policy and, in either case, receive immediate reimbursement from the Master Association.

(e) Notwithstanding anything to the contrary contained herein, no portion of the Properties may be withdrawn from the effect of this Declaration without the prior written consent of Declarant's Institutional Mortgagee.

14.2. Condominium within the Properties. Upon any portion of the Properties being submitted to condominium ownership, then the following special provisions shall apply:

14.2.1. A single Parcel shall not lose its character as such for the purposes of this Declaration by virtue of being subdivided into the Condominium by a Declaration of Condominium, or similar instrument. An Owner shall be deemed, for purposes of this Declaration, to be the Condominium Association for a Parcel submitted to such form of ownership (a "Condominium"), even though same is not actually the owner of the Parcel.

14.2.2. For the purposes of complying with and enforcing the standards of maintenance contained herein, the building or buildings within the Condominium and any appurtenant facilities shall be treated as a structure and any other portion of the Condominium shall be treated as an unimproved portion of the Parcel, with the Condominium Association to have the maintenance duties of an Owner as set forth herein. The Condominium Association shall also be jointly and severally liable with its Members for any violation of the use restrictions set forth in this Declaration or of any Rules and Regulations.

14.2.3. The Condominium Association shall be liable and responsible to the Master Association hereunder for its and its constituents' compliance with the covenants, restrictions and requirements of this Declaration and the Articles of Incorporation, By-Laws, and Rules and Regulations of the Master Association. Accordingly, while the Master Association shall have the right (exercisable at its sole option) to proceed against such a constituent for a violation of this Declaration, it shall have a direct right to do so against the Condominium Association (even if the violation is not caused by such Condominium Association or all of its constituents).

14.2.4. The Condominium Association shall be a Voting Member of the Master Association, but its constituents shall not be deemed to be Members for voting purposes. The Condominium Association shall cast its votes as would any corporate Owner, as provided in its Articles of Incorporation and/or By-Laws.

14.3. Term. Subject to the amendment provisions of Article 12 hereof, the easements, covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Master Association, the Declarant, and their respective successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants, conditions, easements, reservations of easement, equitable servitudes and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument, approved by fifty-one percent (51%) of the Owners and fifty-one percent (51%) (in dollar amount) of the first Mortgagees of record, has been recorded revoking said covenants. If revoked in any other manner while the Declarant owns any portion of the Properties, title to the Common Areas shall remain vested in the name of the Declarant and the Declarant shall be free to erect barricades and prevent use of all or any portion thereof. No prescriptive rights shall be established regardless of the nature or duration of use of the Common Areas or any portion thereof.

14.4. Interpretation and Conflicts. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a community and for the maintenance of community facilities and Common Areas. The provisions of this Declaration as well as those of the Articles, By-Laws and any Rules and Regulations of the Association shall be interpreted by the Master Association. Any such interpretation of the Master Association which is rendered in good faith shall be final, binding and conclusive if the Master Association receives the confirming consent of Declarant and a written opinion of legal counsel to the Master Association, or the counsel having drafted this Declaration or other applicable document, that the interpretation is not unreasonable, which opinion may be

rendered before or after the interpretation is adopted. Notwithstanding any rule of law to the contrary, the provisions of this Declaration and the Articles, By-Laws and the Rules and Regulations of the Master Association shall be liberally construed so as to effectuate the purposes herein expressed with respect to the efficient operation of the Master Association and the Properties, the preservation of the values of the Parcels and the Units and the protection of Declarant's and Owner(s) of each of the Parcel's rights, benefits and privileges herein contemplated. Section and subsection headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine and neuter genders shall each include the others. This Declaration shall be read as cumulative to and not in limitation of any other applicable declaration of covenants and restrictions or declaration of condominium and exhibits thereto, but in the event of any conflict therewith, this Declaration shall take precedence over all such other declarations. As used in this Section, the words "its successors and assigns" specifically do not include purchasers of completed Units or all or any portion of the Parcels. This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and By-Laws of the Master Association and said Articles shall take precedence over the By-Laws. The Board shall be the ultimate interpreter of this Declaration and an opinion of counsel from counsel engaged by the Board for such purpose, stating that any such interpretation is not unreasonable, shall establish the validity of any such interpretation.

14.5. No Public Dedication or Grant of Riparian Rights. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Common Areas to the public, or for any public use. Nothing in this Declaration shall be construed to expressly or impliedly grant to any Owner, the Master Association or any other owner(s) of property within the Properties any riparian rights appurtenant to any portion of the Properties.

14.6. Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Unit or other portion of the Properties shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference hereto is contained in the instrument by which such person acquired an interest in such Unit, Parcel or other portion of the Properties.

14.7. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Master Association at the time of such mailing.

14.8. Covenant Running With the Land. All covenants and provisions of this Declaration, the Articles, By-Laws and applicable Rules and Regulations of the Master Association, shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Declarant and subsequent owner(s) of the land or any part thereof, or interest therein, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Owners, tenants and occupants of Units and other Parcels shall be subject to and shall comply with the provisions of this Declaration and such Articles, By-Laws and applicable Rules and Regulations, all as may be amended from time to time. The acceptance of a deed or conveyance, or the entering into of a lease, or the entering into occupancy

of any Unit, shall constitute an adoption and ratification of the provisions of this Declaration, and the Articles, By-Laws and applicable Rules and Regulations of the Master Association, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained herein. In the event that any word, clause, sentence, paragraph, subsection, or section hereof shall be judicially determined to prevent this Declaration from being fully enforceable and running with the land as aforesaid, then such portion hereof shall be judicially modified, if at all possible and, if not, shall be stricken herefrom (but only to the most limited extent necessary) so that the paramount goal of the Declarant in making this Declaration (i.e., that this Declaration be a fully enforceable covenant running with the land) is accomplished cy pres.

14.9. Declarant Assignments. The Declarant may assign all or any portion of its rights hereunder, or all or a portion of such rights in connection with a portion of the Properties. In the event of a full ("blanket") assignment of all of the Declarant's rights (or remaining rights) hereunder to a successor, assignee or pledgee, the result of which is that the Declarant named herein shall no longer have any rights hereunder (whether immediately, because the assignment is absolute, or after foreclosure of the assignee's security instrument, because the assignment is collateral in nature), such assignee (or the purchaser at the foreclosure sale, if that is the case) shall be deemed the Declarant for all purposes hereunder. In the event of an assignment of less than all of the rights of the Declarant, as aforesaid, the assignee shall not be deemed the Declarant, but may exercise such rights of the Declarant as are specifically assigned to it. Any partial (but not "blanket") assignment of the Declarant's rights may be made on a non-exclusive basis and/or for a limited purpose or period of time. The Declarant may not assign all (or all its remaining) rights hereunder to more than one person or party hereunder at any one time unless the only such prior "blanket" assignment(s) is/are collateral in nature (as security for a loan), in which event the Declarant may make subsequent "blanket" collateral assignments which shall be subject and subordinate to the security interest(s) of the prior collateral assignee(s). Any person or entity as to whom or which all or certain of the Declarant's rights hereunder have been assigned may further assign such assignee's rights, in whole or in part, unless restricted or prohibited in the assignment made by the Declarant or a successor assignor thereof. Nothing contained in this Declaration shall be effective or construed to limit any of the foregoing rights of the Declarant (or its or any other assignees or successors) to make any or all of the assignments provided for in this Section. If any assignment of all (or all then remaining) or a portion of the Declarant's rights is given as security for a loan (whether by pledge, mortgage or other device which creates a security interest in all or a portion of such rights), such assignee shall not have the right to exercise such rights of the Declarant except as provided in the instrument of such assignment or, after foreclosure of such security interest, in accordance with Applicable Law. Such assignee's rights will inure to the benefit of any purchaser at a foreclosure sale which includes such rights; provided, however, that such purchaser shall become the Declarant, as provided herein, only if the aforesaid instrument of assignment is a full ("blanket") assignment of all of the Declarant's rights (or remaining rights) hereunder.

14.10. Cooperation. Each Owner, by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, to cooperate in, and support, any and all zoning, administrative, governmental and/or quasi-governmental filings, applications, requests, submissions and other actions necessary or desired for development and/or improvement of the Properties, including, without limitation, signing any required applications, plats, etc. as the Owner of any portion of the Properties owned or controlled thereby when necessary or requested.

14.11. Standards for Consent, Approval and Other Actions. Whenever this Declaration shall require the consent, approval, completion, substantial completion, or other action by the Declarant or its affiliates, the Association, the Board, such consent, approval or action may be withheld in the sole and unfettered discretion of the party requested to give such consent or approval or take such action, and all matters required to be completed or substantially completed by the Declarant or its affiliates or the Master Association shall be deemed so completed or substantially completed when such matters have been completed or substantially completed in the reasonable opinion of the Declarant or Association, as appropriate.

14.12. Severability. The invalidity or unenforceability of any one of these covenants or restrictions or any Section, subsection, paragraph, subparagraph, sentence, clause, phrase or word, or any other provision of this Declaration, the Exhibits annexed hereto, or applicable Rules and Regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity and enforceability of the remaining portions hereof and thereof, all of which shall remain in full force and effect.

14.13. Effective Date. This Declaration shall become effective upon its recordation in the Public Records of the County.

14.14. NO REPRESENTATIONS OR WARRANTIES. **NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE PROPERTIES INCLUDING THE COMMON AREAS, THEIR PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAW, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, EXCEPT (A) AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THIS DECLARATION OR IN DOCUMENTS WHICH MAY BE FILED BY DECLARANT FROM TIME TO TIME WITH APPLICABLE REGULATORY AGENCIES, AND (B) AS OTHERWISE REQUIRED BY LAW. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH OWNER RECOGNIZES AND AGREES THAT IN A STRUCTURE THE SIZE OF THAT ON THE PROPERTIES, IT IS TYPICAL TO EXPECT BOWING AND/OR DEFLECTION OF MATERIALS. ACCORDINGLY, INSTALLATION OF FINISHES MUST TAKE SAME INTO ACCOUNT. FURTHER, EACH OWNER RECOGNIZES AND AGREES THAT THE EXTERIOR LIGHTING SCHEME FOR THE BUILDING, INCLUDING WITHOUT LIMITATION, THE COMMERCIAL PARCELS MAY CAUSE EXCESSIVE ILLUMINATION. ACCORDINGLY, INSTALLATION OF WINDOW TREATMENTS SHOULD TAKE SAME INTO ACCOUNT. AMONG OTHER ACTS OF GOD AND UNCONTROLLABLE EVENTS, HURRICANES AND FLOODING HAVE OCCURRED IN FLORIDA AND, GIVEN THE LOCATION OF THE PROPERTIES IS EXPOSED TO THE POTENTIAL DAMAGES FROM FLOODING AND FROM HURRICANES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FROM STORM SURGES AND WIND-DRIVEN RAIN, WATER OR OTHER DAMAGES FROM THIS OR OTHER EXTRAORDINARY CAUSES SHALL NOT BE THE RESPONSIBILITY OF THE DECLARANT.**

AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED. ALL OWNERS, BY VIRTUE OF ACCEPTANCE OF TITLE TO THEIR RESPECTIVE UNIT(S) OR PARCEL(S) (WHETHER FROM THE DECLARANT OR ANOTHER PARTY) SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE

AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL AND CONSEQUENTIAL DAMAGES.

FURTHER, GIVEN THE CLIMATE AND HUMID CONDITIONS IN FLORIDA, MOLDS, MILDEW, TOXINS AND FUNGI MAY EXIST AND/OR DEVELOP WITHIN THE UNITS, THE PARCELS AND/OR OTHER PORTIONS OF THE PROPERTIES. EACH OWNER IS HEREBY ADVISED THAT CERTAIN MOLDS, MILDEW, TOXINS AND/OR FUNGI MAY BE, OR IF ALLOWED TO REMAIN FOR A SUFFICIENT PERIOD MAY BECOME, TOXIC AND POTENTIALLY POSE A HEALTH RISK. BY ACQUIRING TITLE TO A UNIT(S) OR A PARCEL(S), OR PORTIONS THEREOF, EACH OWNER SHALL BE DEEMED TO HAVE ASSUMED THE RISKS ASSOCIATED WITH MOLDS, MILDEW, TOXINS AND/OR FUNGI AND TO HAVE RELEASED THE DECLARANT FROM ANY AND LIABILITY RESULTING FROM SAME.

14.15. DISCLAIMER OF LIABILITY. NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BY-LAWS, ANY RULES OR REGULATIONS OF THE MASTER ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE MASTER ASSOCIATION (COLLECTIVELY, THE "MASTER ASSOCIATION DOCUMENTS"), NEITHER THE MASTER ASSOCIATION NOR THE DECLARANT SHALL BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTIES INCLUDING, WITHOUT LIMITATION, OWNERS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTIES OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

14.15.1. IT IS THE EXPRESS INTENT OF THE MASTER ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH GOVERN OR REGULATE THE USES OF THE PROPERTIES HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTIES AND THE VALUE THEREOF;

14.15.2. NEITHER THE MASTER ASSOCIATION NOR THE DECLARANT IS EMPOWERED NOR ESTABLISHED TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH APPLICABLE LAW OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

14.15.3. ANY PROVISIONS OF THE MASTER ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE RECIPIENT OF SUCH ASSESSMENT FUNDS TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENTS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF ITS ACCEPTANCE OF TITLE TO ITS PARCEL) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE PROPERTIES (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS ARTICLE AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE MASTER ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE

LIABILITY OF THE AFOREMENTIONED PARTIES HAS BEEN DISCLAIMED IN THIS ARTICLE.

AS USED IN THIS ARTICLE, "MASTER ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE MASTER ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. REFERENCES HEREIN TO DECLARANT SHALL INCLUDE ITS PARTNERS, AND ITS SHAREHOLDERS, DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, AND ITS SUCCESSORS AND ASSIGNS.

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IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed as of the day and year first above written.

Witnesses:

Sign Name: _____

Print Name: _____

Sign Name: _____

Print Name: _____

DECLARANT:

KLEMAN PLAZA LLLC, a Florida limited liability limited partnership

By: BCOM-PLAZA, LLC., a Florida limited liability company, General Partner

Aslan Palachi, Manager

STATE OF FLORIDA)
)ss:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ____ day of _____, 200__ by _____, as _____ of BCOM-PLAZA, LLC, a Florida limited liability company, as General Partner of KLEMAN PLAZA, LLLP, a Florida limited liability limited partnership, on behalf of said partnership. Such person is personally known to me or has produced a driver's license as identification.

Sign Name: _____

Print Name: _____

My Commission Expires: _____

[NOTARIAL SEAL]

Notary Public, State of Florida at Large

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTIES

Lots 2 and 3 of KLEMAN PLAZA SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 13, Page(s) 29, of the Public Records of Leon County, Florida, as graphically described on pages 10 through 27 of Exhibit 1 to the Declaration of.