

New Century Town  
Condominium No.1

TABLE OF CONTENTS  
 FOR  
 DECLARATION OF CONDOMINIUM OWNERSHIP  
 AND OF  
 EASEMENTS, RESTRICTIONS AND COVENANTS  
 FOR  
NEW CENTURY TOWN CONDOMINIUM NO. 1

		<u>Page No.</u>
ARTICLE 1	<u>Definitions</u> -----	1
ARTICLE 2	<u>Units</u> -----	3
ARTICLE 3	<u>Common Elements</u> -----	3
ARTICLE 4	<u>General Provisions as to Units and Common Elements</u> ---	4
ARTICLE 5	<u>Administration</u> -----	6
ARTICLE 6	<u>Assessment-Maintenance Fund</u> -----	13
ARTICLE 7	<u>Covenants and Restrictions as to Use and Occupancy</u> ---	17
ARTICLE 8	<u>Sale, Leasing or Other Alienation</u> -----	19
ARTICLE 9	<u>Partial Condemnation</u> -----	22
ARTICLE 10	<u>Damage or Destruction and Restoration of Building</u> ---	23
ARTICLE 11	<u>Sale of the Property</u> -----	23
ARTICLE 12	<u>Remedies for Breach of Covenants, Restrictions and Regulations</u> -----	24
ARTICLE 13	<u>Annexing Additional Property</u> -----	25
ARTICLE 14	<u>General Provisions</u> -----	27

DECLARATION OF CONDOMINIUM OWNERSHIP  
AND OF  
EASEMENTS, RESTRICTIONS AND COVENANTS  
FOR  
NEW CENTURY TOWN CONDOMINIUM NO. 1

THIS DECLARATION made and entered into by LaSALLE NATIONAL BANK, as Trustee under Trust Agreement dated February 26, 1971, and known as Trust No. 42000, and not individually (the Declarant):

R E C I T A L S:

A. The Declarant is the legal titleholder of certain real estate in Lake County, Illinois described on Exhibit "A" attached hereto.

B. Said real estate is improved with seven (7) residential buildings containing forty-one (41) dwellings, which residential buildings are commonly known as 1430-40 Commonwealth Court, 1454-60 Commonwealth Court, 1420-24 Wilshire Court, 1500-06 Wilshire Court, 1421-27 Wilshire Court, 1418-24 Market Court and 1451-55 Market Court, Vernon Hills, Illinois.

C. Said real estate is being improved with nine (9) garage buildings designed to accomodate thirty-nine (39) passenger automobiles.

D. The Declarant intends to and does hereby submit said real estate, together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging or in anywise pertaining thereto, to the provisions of the "Condominium Property Act" of the State of Illinois (the Act), as amended from time to time.

WHEREFORE, the LaSalle National Bank, as Trustee as aforesaid and not individually, as the legal titleholder of the real estate described on Exhibit "A," and for the purposes above set forth DECLARES AS FOLLOWS:

ARTICLE 1

Definitions

Dection:

This instrument by which the property is submitted to the provisions of the Condominium Property Act of the State of Illinois, and such Declaration as from time to time amended.

Act

The Condominium Property Act of the State of Illinois, as amended from time to time.

Par

The real estate described on Exhibit "A" attached hereto, and all Additional Property annexed thereto, pursuant to Article 13.

Buildings: All the buildings located on the Parcel which contain the Units.

Property: All the land, property and space comprising the Parcel, all improvements and structures contained therein or thereon, including the Buildings, and all easements, rights and appurtenances belonging thereto, and all fixtures and property intended for the mutual use, benefit and enjoyment of the unit owners, submitted to the provisions of the Act.

Additional Property: The real estate described on Exhibit "D" attached hereto.

Unit: A part of the Property within the Buildings including one or more rooms, occupying one or more floors or a part or parts thereof, designed and intended for use as a one-family dwelling, or for the parking of one automobile, all as delineated on the survey attached hereto as Exhibit "B," and more specifically described on Exhibit "C" attached hereto.

Dwelling Units: The Units designed and intended for use as one-family dwellings and designated as "Dwelling Units" on Exhibit "C."

Garden Units: The Dwelling Units designated as "Garden Units" on Exhibit "C" attached hereto.

Garage Units: The Units designed and intended for use as parking spaces for one passenger automobile and for storage, and designated as "Garage Units" on Exhibit "C."

Common Elements: All portions of the Property except the Units.

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

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

Owner: The person or persons whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of a Unit Ownership.

Occupant: The person or persons, other than an Owner, in possession of a Unit.

Homeowners Association: New Century Town Homeowners Association, an Illinois not-for-profit corporation.

Homeowners Declaration: Declaration of Covenants, Conditions, Restrictions and Easements for New Century Town Homeowners Association, recorded as Document No. 1690296 and all amendments thereto.

Declarant: LaSalle National Bank, not individually,  
but as Trustee under Trust No. 42000.

Developer: Environ II, a joint venture, the sole  
beneficiary of LaSalle National Bank  
Trust No. 42000.

## ARTICLE 2

### Units

- 2.1 Description and Ownership. Subject to additions pursuant to Article 13 hereof, all Units in the Buildings located on the Parcel are delineated on the survey attached hereto as Exhibit "B" and are listed on Exhibit "C" attached hereto. It is understood that each Unit consists of the space enclosed or bounded by the horizontal and vertical planes set forth in the delineation thereof in Exhibit "B." The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown in Exhibit "B." Every deed, lease, mortgage or other instrument may legally describe a Unit by its identifying number or symbol as shown on Exhibit "B," and every such description shall be deemed good and sufficient for all purposes. Except as provided by the Act, no Owner shall, by deed, plat or otherwise, subdivide or in any other manner cause his Unit to be separated into any tracts or parcels different from the whole Unit as shown on Exhibit "B," provided, however, that the Declarant may divide any Unit it owns for the purpose of increasing the size of a Unit owned by Declarant and eliminating or reducing the size of another Unit owned by Declarant.
- 2.2 Survey Amendments. It is understood that when Exhibit "B" was prepared, the Buildings located on the Parcel were not wholly completed and all structural components of the Buildings constituting all the Unit boundaries were not then in place. Declarant reserves the right to and shall cause to be recorded from time to time until all of said structural components are in place, an amended survey or surveys showing the actual locations and dimensions of the boundaries of those Units that are completed after the date Exhibit "B" was prepared. Whenever in this Declaration the term "survey," "surveys," or "Exhibit 'B'" appears, it shall be deemed to include such amended survey or surveys as shall be hereafter recorded pursuant to this paragraph and Article 13.
- 2.3 Certain Structures Not Constituting Part of a Unit. Except as a tenant in common with all other Owners, no Owner shall own any pipes, wires, conduits, public utility lines, structural components running through his Unit and serving more than his Unit, or any cables or other components of any community antenna television service system now or hereafter located in his Unit.

## ARTICLE 3

### Common Elements

- 3.1 Description. Except as otherwise in this Declaration provided, the Common Elements shall consist of all portions of the Property

except the Units. Without limiting the generality of the foregoing, the Common Elements shall include the land, outside walks and driveways, landscaping, stairways, hall, lobbies, corridors, storage areas, entrances and exits, balconies, patios, rear yards, basement, roof, structural parts of the Buildings, pipes, ducts, flues, chutes, conduits, wires and other utility installations to the outlets, and such component parts of walls, floors and ceilings as are not located within the Units.

- 3.2 Ownership and Use of Common Elements. Each Owner shall own an undivided interest in the Common Elements as a tenant in common with all the other Owners of the Property, and, except as otherwise limited in this Declaration, shall have the right to use the Common Elements for all purposes incident to the use, occupancy and enjoyment of his Dwelling Unit as a place of residence, his Garage Unit for parking, and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with his Unit. Each Unit's corresponding percentage of ownership in the Common Elements has been determined by the Declarant to be as set forth in Exhibit "C" attached hereto and may not be changed without unanimous approval of all Owners and holders of first mortgage liens on the Units, except as provided in Article 13 hereof, provided that Declarant may at any time adjust or change the percentage of ownership in the Common Elements allocable to Units then owned by Declarant, so long as such adjustment or change does not increase or decrease the total percentage of ownership in the Common Elements allocable to all Units then owned by Declarant.

#### ARTICLE 4

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

- 4.1 Submission of Property to "Condominium Property Act." The Property is hereby submitted to the provisions of the "Condominium Property Act" of the State of Illinois, and shall be known as "New Century Town Condominium No. 1."
- 4.2 No Severance of Ownership. No Owner shall execute any deed, mortgage, lease, or other instrument affecting title to his Unit Ownership without including therein both his interest in the Unit and his corresponding percentage of ownership in the Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.
- 4.3 Easements.
- 4.3.1 Encroachments. In the event that, by reason of the location, construction, settlement or shifting of the Buildings, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements or any other Unit, or, if by reason of the location, design or construction of any Unit it shall be necessary or advantageous to an Owner to use or occupy any portion of the Common Elements for any reasonable use appurtenant to said Unit,

which will not unreasonably interfere with the use or enjoyment of the Common Elements by other Unit Owners, or, if by reason of the design or construction of utility and ventilation systems, any main pipes, ducts or conduits serving more than one Unit encroach or shall hereafter encroach upon any part of any Unit, valid easements for the maintenance of such encroachment and for such use of the Common Elements are hereby established and shall exist for the benefit of such Unit or the Common Elements, as the case may be, so long as all or any part of the Buildings shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Elements be created in favor of any Owner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Property by the other Owners or if it occurred due to the willful conduct of such Owner.

- 4.3.2 Utility Easements. The Illinois Bell Telephone Company, Commonwealth Edison Company, North Shore Gas Company, Lake County Public Works Department, Village of Vernon Hills, Illinois and all other suppliers of utilities serving the Property, or any portion of the Additional Property, are hereby granted the right to install, lay, construct, operate, maintain, renew, repair and replace conduits, cables, pipes, wires, transformers, mains, switching apparatus and other equipment, including housings for such equipment, into, over, under, on and through the Common Elements for the purpose of providing utility services to the Property and to any portion of the Additional Property. Easements are also hereby declared and granted to the Developer or its assignee, to install, lay, construct, operate, maintain, renew, repair and replace any conduits, cables, pipes, wires, or other equipment or components of a community antenna television service system into, over, under, on and through the Common Elements and through the walls, floor or ceiling constituting the boundaries of any Unit for the purpose of providing such television service to the Property or to any portion of the Additional Property.
- 4.3.3 Balconies and Patios. A valid exclusive easement is hereby declared and established for the benefit of each Dwelling Unit and its Owner, consisting of the right to use and occupy any balcony or patio adjoining the Dwelling Unit provided, however, that except as may be constructed or erected by Developer, no Owner shall, without the prior written approval of the Board, decorate, fence, enclose, landscape, adorn or alter such balcony or patio in any manner, except as may be expressly permitted by the rules and regulations established by the Board of Managers, as hereinafter provided.
- 4.3.4 Storage Area. Any storage area in the Buildings outside of the respective Units shall be part of the Common Elements, and the exclusive use and possession of such area shall be allocated among the respective Owners in such manner and subject to such rules and regulations as the Developer or the Board may prescribe, provided, however, that the storage closets in the common hallways in the Buildings containing the Garden Units shall be used solely for the storage of janitorial supplies and equipment owned or acquired by the Association for the maintenance and care of said Building. Each Owner shall be responsible for his personal property in the storage areas. Neither the Board of Managers nor the Association shall be considered the bailee of any Owner's personal property, nor shall either be responsible for any loss or damage thereto whether or not due to the negligence of the Board and/or the Association.
- 4.3.5 Easements to Run with Land. All easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any Owner, purchaser,

mortgagee, and other person having an interest in the Property or any part or portion thereof. Reference in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of such obligation to the easements and rights described in any part of this Declaration shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees of such Unit Ownership as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

## ARTICLE 5

### Administration

- 5.1 Administration of Property. The direction and administration of the Property shall be vested in a Board of Managers (the Board) consisting of five (5) persons who shall be elected in the manner hereinafter provided. Each member of the Board shall be one of the Owners or a spouse of an Owner and shall reside on the Property; provided, however, that in the event an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any officer, director or other designated agent of such corporation, partnership, trust or other entity shall be eligible to serve as a member of the Board, as long as such person resides on the Property; provided further that a Board member designated or nominated by the Declarant or the Developer need not reside on the Property.
- 5.2 Organization. The Declarant, prior to the election of the first Board, and the Board at any time thereafter, may cause to be incorporated a not-for-profit corporation under the General Not-For-Profit Corporation Act of the State of Illinois, to be called "New Century Town Condominium Association No. 1" or a name similar thereto, and in such event, such corporation (the Association) shall be the governing body for all the Owners for the maintenance, repair, replacement, administration and operation of the Property. The Board of Directors of the Association shall be deemed to be the Board of Managers referred to herein and in the Act. Upon the formation of such Association, every Owner shall be a member therein, which membership shall automatically terminate upon the sale, transfer or other disposition by such member of his Unit Ownership, at which time the new Owner shall automatically become a member therein. The Association may issue certificates evidencing membership therein.
- 5.3 Voting Rights. There shall be one person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Unit Owners. Such person shall be known (and hereinafter referred to) as the "voting member." Such voting member may be the Owner or one of the group composed of all the Owners of a Unit Ownership, or may be some person designated by such Owner or Owners to act as a proxy on his or their behalf and who need not be an Owner. Such designation shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board of the death or judicially declared



incompetence of any designator, or by written notice to the Board by the Owner or Owners. Any or all of such Owners may be present at a meeting of the voting members and (those constituting a group acting unanimously) may vote or take any other action as a voting member either in person or by proxy. The total number of votes of all voting members shall be 100, and each Owner or group of Owners shall be entitled to the number of votes equal to the total of the percentage of ownership in the Common Elements applicable to his or their Unit Ownership as set forth on Exhibit " ". Developer shall be the voting member with respect to any Unit Ownership owned by the Declarant.

#### 5.4 Meetings.

5.4.1 Place and Quorum. Meetings of the voting members shall be held at the Property or at such other place in Lake County, Illinois, as may be designated in any notice of a meeting. The presence in person or by proxy at any meeting of the voting members having a majority of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the voting members at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes represented.

5.4.2 Annual Meeting. The initial meeting of the voting members shall be held upon ten (10) days' written notice given by or at the written direction of Developer. Such meeting shall be held on the earliest of the following dates: (a) thirty (30) days after all Dwelling Units [including those added pursuant to Article 13] are occupied; (b) thirty (30) days after 600 Dwelling Units have been sold and conveyed by Declarant; (c) such earlier date as Developer may select. Thereafter, there shall be an annual meeting of the voting members on the second Tuesday of September following such initial meeting, and on the second Tuesday of September of each succeeding year thereafter at 7:30 P.M. or at such other reasonable time or date [not more than thirty (30) days before or after such date] as may be designated by written notice of the Board delivered to the voting members not less than ten (10) days prior to the date fixed for said meeting.

5.4.3 Special Meetings. Special meetings of the voting members may be called at any time for the purpose of considering matters which, by the terms of this Declaration, require the approval of all or some of the voting members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by a majority of the Board, or by the voting members having at least one-fourth (1/4) of the total votes and delivered not less than ten (10) days prior to the date fixed for said meeting. The notice shall specify the date, time and place of the meeting and the matters to be considered.

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

5.6 Board of Managers (Board of Directors).

- 5.6.1 At the initial meeting of the voting members they shall elect a Board of Managers. In all elections for members of the Board of Managers, each voting member shall be entitled to vote on a cumulative voting basis and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Members of the Board elected at the initial meeting shall serve until the first annual meeting. At the first annual meeting the five (5) Board members shall be elected. The three (3) persons receiving the highest number of votes at the first annual meeting shall be elected to the Board for a term of two (2) years, and the two (2) persons receiving the next highest number of votes shall be elected to the Board for a term of one (1) year. Upon expiration of the terms of office of the Board members so elected at the first annual meeting and thereafter, successors shall be elected for a term of two (2) years each. The voting members having at least two-thirds (2/3) of the total votes may from time to time increase or decrease such number of persons on the Board or may increase or decrease the term of office of the Board members at any annual or special meeting, provided that such number shall not be less than three (3), and that the terms of at least one-third (1/3) of the persons on the Board shall expire annually. Members of the Board shall receive no compensation for their services, unless expressly allowed by the Board at the direction of the voting members having two-thirds (2/3) of the total votes. Vacancies in the Board, including vacancies due to any increase in the number of persons on the Board, shall be filled by the voting members present at the next annual meeting or at a special meeting of the voting members duly called for such purpose. Except as otherwise provided in this Declaration, the Property shall be managed by the Board and the Board shall act by majority vote of those present at its meetings when a quorum exists. Meetings of the Board may be called, held and conducted in accordance with such regulations as the Board may adopt. A majority of the total number of members of the Board shall constitute a quorum.
- 5.6.2 The Board shall elect from among its members a President who shall preside over both its meetings and those of the voting members, and who shall be the chief executive officer of the Board and the Association, a Secretary who shall keep the minutes of all meetings of the Board and of the voting members and who shall, in general, perform all the duties incident to the office of Secretary, a Treasurer to keep the financial records and books of account, and such additional officers as the Board shall see fit to elect.
- 5.6.3 Any Board member elected by the voting members may be removed from office by affirmative vote of the voting members having at least two-thirds (2/3) of the total votes, at any special meeting called for that purpose. A successor to fill the unexpired term of a Board member so removed may be elected by the voting members at the same meeting or any subsequent meeting duly called for that purpose.

- 5.7 General Powers of the Board. The Board, for the benefit of all the Owners, shall provide and shall pay for out of the maintenance fund hereinafter provided for, the following:

- 5.7.1 Subject to the provisions of paragraph 5.7.13 and of any Amendment to this Declaration recorded pursuant to Article 13, water, electricity, telephone and other necessary utility service for the Common Elements and (if not separately metered or charged) for the Units.
- 5.7.2 Insurance as follows, the premiums for which shall be common expenses:
- a) Insurance on the Property, including the Common Elements and the Units, against loss or damage by the perils of fire and those contained in standard extended coverage, vandalism and malicious mischief endorsements for the full insurable replacement cost of the Common Elements and the Units, with such deductible clause as the Board may deem appropriate, written in the name of and the proceeds thereof shall be payable to the Board, as trustees for each of the Owners in accordance with their respective percentages of ownership in the Common Elements. The Board, at its election, may from time to time obtain an appraisal from a qualified appraiser for the purpose of determining the full replacement cost of the Common Elements and the Units for the amount of insurance to be affected pursuant hereto. The cost of any and all such appraisals shall be common expenses. Each Owner shall notify the Board in writing of any additions or alterations to his Unit resulting in any increased value thereof and he shall be responsible for any deficiency in any insurance loss recovery resulting from his failure to so notify the Board.
  - b) The Property (exclusive of the Parcel and excavations, foundations and footings) shall also be insured against all loss or damage from explosion of boilers, heating apparatus, pressure vessels and pressure pipes installed in, on or about said Property, without co-insurance clause, so long as available, in such amount as the Board shall deem desirable.
  - c) Comprehensive public liability and property damage insurance in such limits as the Board shall deem desirable insuring the members of the Board, the managing agent, if any, their agents and employees, the Owners, including the Declarant, individually, and as Trustee as aforesaid, and the Developer, from any liability in connection with the Common Elements or the streets, sidewalks, and public spaces adjoining the Property. Such insurance coverage shall also cover cross liability claims of one insured against another.
  - d) Workmen's compensation insurance as may be necessary to comply with applicable laws and such other forms of insurance, including liability insurance with respect to the parking areas and director's liability insurance, as the Board in its judgment shall elect to effect.

All such policies of insurance described in (a) and (b) above (i) shall contain standard mortgage clause endorsements in favor of each mortgagee of each Unit, if any, as their respective interests may appear; (ii) shall provide that the insurance, as to the interest of the Board, shall not be invalidated by any act or neglect of any Owner; (iii) shall provide that, notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefor, such option shall not be exercisable in the event the Owners elect to sell the Property or remove the property from the provisions of the Act; (iv) shall contain an endorsement to the effect that such policy shall not be terminated for nonpayment of premiums without at least ten (10) days' prior written notice

to the mortgagees of each Unit; (v) shall contain a clause or endorsement whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, members of the Board, the Declarant, the Developer, the managing agent, if any, their respective employees and agents, and Owners and Occupants, and (vi) shall contain a "Replacement Cost Endorsement."

The Board may engage the services of a bank or trust company authorized to do trust business in Illinois and having a capital of not less than \$5,000,000 to act as Insurance Trustee and to receive and disburse the insurance proceeds resulting from any loss upon such terms as the Board shall determine consistent with the provisions of this Declaration. In the event the lowest of three (3) bids from reputable contractors for making all repairs required by any such loss shall exceed \$50,000, the Board, upon written demand of the mortgagee of any Unit shall engage the services of an Insurance Trustee as aforesaid. The fees of such Insurance Trustee shall be common expenses.

The proceeds of such insurance shall be applied by the Board or by the Insurance Trustee on behalf of the Board for the reconstruction of the Buildings, or shall be otherwise disposed of, in accordance with the provisions of this Declaration and the Act; and the rights of the mortgagee of any Unit under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary therein or in any mortgage contained, at all times be subject to the provisions in the Act with respect to the application of insurance proceeds to reconstruction of the Buildings, provided, however, that if the Board or the Insurance Trustee fails to perform all of the conditions precedent required by the policy or policies of insurance, and fails to collect the amount of the loss within the time required by law, and the mortgagee or mortgagees are required to avail themselves of their rights under the standard mortgage clause to collect the proceeds of the policy or policies of insurance, any amounts so collected through the efforts of said mortgagee or mortgagees shall be applied as directed by said mortgagee or mortgagees. All insurance contracts should be required to contain a waiver of subrogation with respect to the Board and the Association, its employees, Unit Owners and members of their household and mortgagees, or these parties should be named as additional insureds.

- 5.7.3 The services of any person or firm to act on behalf of the Owners in connection with real estate taxes and special assessments on the Unit Ownerships, and in connection with any other matter where the respective interests of the Owners are deemed by the Board to be similar and non-adverse to each other. The cost of such services shall be common expenses.



Except as provided in paragraph 6.3, ~~landscaping~~, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement of the Common Elements (but not including the windows and sliding glass doors appurtenant to the Units, the front doors appurtenant to the Garden Units, patios, patio fences and balconies adjoining the Units, any portion of the Common Elements completely enclosed by such patio fence, and the interior surfaces of the Units, all of which the respective Owners shall, at their sole cost and expense, paint, clean, decorate, maintain, repair and replace, provided that no change shall

be made in the color or appearance of said fences, balconies and those portions of said windows and doors visible from the exterior of the Unit, without the prior written consent of the Board) and such furnishings and equipment for the Common Elements as the Board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire the same for the Common Elements.

- 5.7.5 To provide for the designation, hiring and removal of employees and other personnel, including lawyers and accountants, to engage or contract for services of others and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property as a first class condominium or for the enforcement of these restrictions, and to delegate any such powers to the manager or managing agent (and any such employees or other personnel as may be employees of the managing agent).
- 5.7.6 Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Property or any part thereof which may in the opinion of the Board constitute a lien against the Property or against the Common Elements, rather than merely against the interests therein of particular Owners. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specifically assessed to said Owners.
- 5.7.7 Maintenance and repair of any Unit, that portion of any heating, air conditioning, electrical or other equipment servicing only that Unit, or any portion of the Common Elements required to be maintained and repaired by a Unit Owner if, in the discretion of the Board, such maintenance or repair is necessary to protect the Common Elements or any other portion of the Buildings or to maintain the general appearance and condition thereof and an Owner of any Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Board to said Owner. The Board shall levy a special assessment against such Owner for the cost of said maintenance or repair.
- 5.7.8 The Board or its agents upon reasonable notice or, in the case of an emergency, without notice, may enter any Unit, or the Common Elements over which the Unit may have an exclusive easement, when necessary in connection with any maintenance or repair for which the Board is responsible or is authorized to make. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Board at the expense of the maintenance fund.
- 5.7.9 The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the maintenance fund any structural alterations, capital additions to, or capital improvements of the Common Elements (other than for purposes of replacing or restoring portions of the Common Elements, subject to all the provisions of this Declaration) requiring an expenditure in excess of Five Thousand Dollars (\$5,000) without in each case the prior approval of the voting members having at least two-thirds (2/3) of the total votes.

- 5.7.10 All agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the Treasurer and countersigned by the President of the Board.
- 5.7.11 The Board, by vote of a majority of the Board members, and without approval of any of the voting members, except as hereinafter set forth, may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and Occupants of the Property. Written notice of such rules and regulations shall be given to all Owners and the entire Property shall at all times be maintained subject to such rules and regulations. If within thirty (30) days from the date of such written notice to the Owners of the adoption of any such rule and regulation the voting members having at least one-fourth (1/4) of the total votes shall file with the Board a written objection thereto then such rule and regulation shall be deemed rescinded until approved by the voting members having at least two-thirds (2/3) of the total votes.
- 5.7.12 The Developer may from time to time enter into or cause the Association to enter into contracts engaging the services of a managing agent to manage the Property, provided no such contract shall expire later than three (3) years after the first Unit becomes occupied. Any such contract entered into by Developer shall be binding upon and inure to the benefit of the Association. Thereafter, the Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board.
- 5.7.13 Each bill for water and for gas for the hot water heaters servicing the individual Garden Units, not separately metered or charged, shall be paid by the Association on behalf of the Owners of the individual Garden Units, and each Garden Unit Owner shall reimburse the Association for his allocate share, as hereinafter determined. Such bills shall be allocated equally among all Garden Units (excluding unoccupied Garden Units owned by Declarant) unless, by the installation of check meters or otherwise, the actual cost of services to individual Garden Units is ascertained, in which case, such allocate share of each Garden Unit Owner shall be as so ascertained. Each Garden Unit Owner shall be billed and/or specially assessed by the Association periodically, as determined by the Board, for his allocate share of such services. Any such assessments shall be added to such Garden Unit Owner's share of assessments under Article 6, and shall become a lien against the Unit and the personal obligation of the Owner thereof in the same manner as therein provided.

To provide the Association with the necessary funds to pay said bills when due, each Garden Unit Owner shall, if required by the Board, be assessed for and deposit with the Association, as a reserve, an amount equal to his estimated allocate share of one periodic bill for each such utility service. Such reserves shall be held and maintained in a separate account by the Association, and the amount deposited by each Garden Unit Owner shall be held for the sole account of such Garden Unit and its Owners from time to time, provided that the reserve for each Garden Unit may be used by the Association to pay such Garden Unit's allocate share of any bills when due. In such event, the amount so used shall, upon request from the Board, be assessed against and promptly restored by such Garden Unit Owner.

In addition to the foregoing, the Board may elect to have the cost of any or all of the other goods and services described in paragraphs 5.7.1 and 5.7.5 above assessed specially to each Owner in proportion to his use of or benefit from such goods and services.

- 5.7.14 Prior to the election of the first Board, the Developer, acting as the Board on behalf of all the Owners, shall have the authority to lease or to grant licenses or concessions with respect to any part of the Common Elements for terms of up to ten (10) years, subject to the terms of this Declaration. Upon election of the first Board, and thereafter, the Board by vote of at least two-thirds (2/3) of the Board Members shall have the same authority as aforesaid.
- 5.7.15 Nothing hereinabove contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all the Owners or any of them.
- 5.8 Liability of the Board of Managers. Neither members of the Board, the Declarant, nor the Developer, shall be personally liable to the Owners or others for any mistake of judgment or for any acts or omissions made in good faith as such Board members or acting as the Board. The Owners shall indemnify and hold harmless each of the members of the Board, the Declarant and the Developer against all contractual liability to others arising out of contracts made by the Board, the Declarant or the Developer on behalf of the Owners or the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of this Declaration. It is also intended that the liability, if any, of any Owner arising out of any contract made by the Board of Managers, the Declarant or the Developer or out of the aforesaid indemnity in favor of the members of the Board, the Declarant and the Developer, shall in no event exceed such proportion of the total liability thereunder as his percentage interest in the Common Elements bears to the total percentage interest of all Owners in the Common Elements. Every agreement made by the Board, Declarant, Developer or by the managing agent on behalf of the Owners shall provide that the members of the Board, Declarant, Developer or the managing agent, as the case may be, are acting only as agent for the Owners and shall have no personal liability thereunder (except as Owners) and that each Owner's liability thereunder shall be limited to that percentage of the total liability thereunder equal to his percentage of ownership in the Common Elements.

## ARTICLE 6

### Assessment-Maintenance Fund

- 6.1 The Association shall operate on a calendar year. Each year, on or before December 1, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services and may, at the option of the Board, estimate a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, and shall, on or before December 15, notify each Owner in writing as to the amount of such estimate, with reasonable itemization thereof. The annual budget shall also take into account the estimated net available cash income for the year from the operation or use of the Common Elements. Said "estimated cash requirement" shall, except as hereinafter provided, be assessed to the Owners according to each Owner's percentage of ownership in the Common Elements as set forth in Exhibit "C" attached hereto. On or before January 1 of the ensuing year, and the first of each and every month of said year, each Owner, jointly and severally, shall be personally liable for and obligated to pay to the Board or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this paragraph. On or before April 15 of each year following the initial meeting, the Board shall supply to all Owners an itemized accounting of the maintenance expenses for

the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves, if any. Any amount accumulated in excess of the amount required for actual expenses and reserves, if any, shall be credited according to each Owner's percentage of ownership in the Common Elements to the next monthly installments due from Owners under the current year's estimate, until exhausted, and one-third (1/3) of any net shortage shall be added, according to each Owner's percentage of ownership in the Common Elements, to the installments due in each of the succeeding three (3) months after rendering of the account.

- 6.2 The Board may build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year may be charged first against such applicable reserve. If said "estimated cash requirement" proves inadequate for any reason, including non-payment of any Owner's assessment, the Board may at any time levy a further assessment which, except as hereinafter provided, shall be assessed to the Owners according to each Owner's percentage of ownership in the Common Elements. The Board shall serve notice of such further assessment on all Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after delivery or mailing of such notice of further assessment. All Owners shall be personally liable for and obligated to pay their respective adjusted monthly amount.
- 6.3 Notwithstanding the provisions in paragraph 6.1 and 6.2, the Garden Unit Owners shall be separately assessed for the estimated and actual cost of janitorial services and supplies for routine day-to-day cleaning of the common vestibules, hallways and stairways within the Buildings containing the Garden Units, maintenance, repair and replacement of the hot water heaters servicing the Garden Units, the electric bills for lighting the exterior of said Buildings and the electric bills for lighting and heating said common vestibules, hallways and stairways within said Buildings. Such costs shall, except as hereinafter provided, be allocated equally to each Garden Unit and assessed to each Owner thereof and be added to such Owner's assessment pursuant to paragraph 6.1 and 6.2. Except as may be inconsistent with this paragraph, the provisions of paragraph 6.1 and 6.2 shall be applicable to the separate assessments for Garden Unit Owners established herein and such assessments shall be added to such Garden Unit Owner's assessment pursuant to said paragraphs.
- 6.4 When the first Board elected hereunder takes office, it shall determine the "estimated cash requirement" as hereinabove defined, for the period commencing thirty (30) days after said election and ending on December 31 of the year in which said election occurs. Assessments shall be levied against the Owners during said period as provided in paragraph 6.1.
- 6.5 The failure or delay of the Board to prepare or serve the yearly or adjusted estimate on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs and necessary reserves as herein provided, whenever the same shall be determined, and in the absence of any such estimate, the Owner shall continue to pay the monthly maintenance charge at the then existing monthly rate established for the previous period until the monthly maintenance payment which is due more than ten (10) days after such new yearly or adjusted estimate shall have been mailed or delivered.
- 6.6 The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred. Such records and the vouchers authorizing the payments shall be



available for inspection by any Owner, any representative of an Owner duly authorized in writing, or any owner of a first mortgage on any Unit, at such reasonable time or times during normal business hours as may be requested by the Owner. Upon ten (10) days' notice to the Board and payment of a reasonable fee, any Owner shall be furnished a statement of account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

- 6.7 All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such assessments as may be levied hereunder against less than all the Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held in trust for the benefit, use and account of all Owners, from time to time, in the percentages set forth in Exhibit "C."
- 6.8 All assessments and charges due from an Owner, pursuant to this Declaration, and all installments thereof, not paid within fifteen (15) days from the date due, shall, except as the rules and regulations of the Board may otherwise from time to time provide, bear interest at the rate of eight percent (8%) per annum. If an Owner is in default in the payment of any such charges or assessments for thirty (30) days, the members of the Board a) may bring suit for and on behalf of themselves and as representatives of all Owners, to enforce collection thereof or to foreclose the lien therefor as hereinafter provided, and b) shall have the right to take possession of such defaulting Owner's Unit, together with his interest in the Property, and maintain for the benefit of all other Unit Owners an action for possession in the manner prescribed by "An Act in regard to forcible entry and detainer," approved February 16, 1874, as amended, or as otherwise provided or permitted by law. There shall be added to the amounts due the costs of any such suit, and other fees and expenses, together with interest as aforesaid and reasonable attorneys' fees to be fixed by the Court. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and interest, costs and fees as above provided, shall be and become a lien or charge against the Unit Ownership of the Owner involved when payable and may be foreclosed by any action brought in the names of the Board as in the case of the foreclosure of liens against real estate. Said lien shall take effect and be in force when and as provided in the Act, provided, however, that such lien shall be subordinate to the lien of any prior recorded first mortgage on such Unit owned or held by a bank, insurance company, savings and loan association or other bona fide lender who comes into possession of such Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure, except for assessments or charges which become due and payable from and after the date on which such mortgage owner or holder comes into possession of the Unit (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units including the mortgaged Unit).
- 6.9 The Board may also, upon such terms and conditions as the Board determines, bill and assess each Owner monthly (or at less frequent intervals if it so determines) his share of any assessment owed to the Homeowners Association pursuant to the Homeowners Declaration. In addition, if the Board so determines, each such assessment billed to an Owner, in addition to becoming a lien and being enforceable by the Homeowners Association as provided in the Homeowners Declaration, shall become due and payable as the Board determines and shall become a lien and be enforceable in the same manner as provided in paragraph 6.8. Any assessment collected for the Homeowners Association shall be forwarded to said Association or to such agent as its Board of Directors shall designate.
- 6.10 No Owner may waive or otherwise escape liability for the assessments provided herein by nonuse of the Common Elements or abandonment of his Unit.

*Developer's  
Assessment*

- 6.11 Notwithstanding anything herein to the contrary, the Declarant shall be assessed, according to the aggregate percentage of ownership in the Common Elements, for all Dwelling Units it owns that are not occupied and for all Garage Units it owns that are not being used, only for that portion of the "estimated cash requirement" that relates to the estimated costs and expenses that will be incurred irrespective of the number of Dwelling Units occupied or Garage Units being used, excluding from such estimate, by way of illustration and not limitation, the cost of water, gas, electricity, scavenger service and management fees incurred only for occupied Units, and also excluding capital expenditures, prepaid or inventory items to the extent attributable to subsequent periods, and any reserves for contingencies or replacements. The Declarant's ultimate liability for assessments pursuant to paragraphs 6.1, 6.2, 6.3 and 6.12 hereof shall be similarly determined. In addition, the separate allocation and assessment provided for in paragraph 6.3 shall not apply to Garden Units owned by Declarant in any Building until one Garden Unit in that Building has been sold and conveyed by Declarant.
- 6.12 Notwithstanding the foregoing and subject to paragraph 6.13, until the initial meeting of the Unit Owners is held and the amount of the monthly assessments to be paid by the Unit Owners is determined by the Board elected at such initial meeting, the Developer may make monthly estimates of the cost of operating the Property. In such event, each Unit Owner (including Declarant in respect to any Units owned by it, subject, however, to paragraph 6.11) shall pay in advance on the first day of each month to the managing agent of the Property, for use in the operation of the Property pursuant to the management agreement: (i) an amount equal to the product obtained by multiplying the particular Unit Owner's percentage interest in the Common Elements by the cost of operating the Property for such month, as may be estimated by the Developer, and (ii) any sums due from such Unit Owner as a special or separate assessment or charge for any costs or expenses which, pursuant to this Declaration, are not assessed to and allocated among all the Unit Owners in proportion to their percentage interests in the Common Elements. If Developer shall underestimate or overestimate such operating expenses in any month, appropriate adjustments may be made in the estimates and assessments for succeeding months, provided that the portion of any excess payments made by Developer due to any such overestimate shall be refunded to Developer or otherwise credited to it in such manner as it may determine.
- 6.13 Notwithstanding anything herein to the contrary, in order to ensure each purchaser from the Declarant against the uncertainties in assessments due to the number of occupied Units, rising costs, and the lack of actual experience in the operation of the Property, until December 31, 1975, the share of the assessments and charges under this Article to be paid by the respective Unit Owners, shall be established in the following manner: Each contract for the sale of a Unit by Declarant shall establish the monthly assessment for such expenses to be paid by each such Unit purchaser to the Association until December 31, 1975. Commencing with the date of closing of each such sale, and on the first day of each succeeding month thereafter, through December 31, 1975, each such Unit purchaser shall pay to the Association the amount of the monthly assessment so established for his Unit. The Developer shall pay to the Association, in lieu of any other assessment or charge with respect to the Units which the Declarant continues to own, the amount, if any, by which the actual operating expenses incurred through December 31, 1975 exceed the aggregate of the monthly assessments which have been so established for those purchasers whose sales have been closed. Actual operating expenses means those expenses reasonably necessary to normal maintenance and operation of the Property and does not include capital expenditures, reserves, prepaid items, inventory items or similar expenses to the extent attributable to periods after December 31, 1975, or any utility bills and reserves payable pursuant to paragraph 5.7.13, which bills and reserves shall be billed and assessed as therein provided, in addition to the monthly assessments pursuant to this paragraph. Thereafter, the proportionate share of expenses of each Unit Owner shall be determined as hereinabove provided in this Article.

## ARTICLE 7

### Covenants and Restrictions as to Use and Occupancy

The Units and Common Elements shall be occupied and used as follows:

- 7.1 No part of the Property shall be used for other than housing, parking and related common purposes for which the Property was designed. Each Dwelling Unit or any two or more adjoining Dwelling Units used together shall be used as a residence for a single family, or such other uses permitted by this Declaration and for no other purposes. That part of the Common Elements separating any two or more adjoining Dwelling Units used together as aforesaid may be altered to afford ingress and egress to and from such adjoining Dwelling Units in such manner and upon such conditions as shall be determined by the Board in writing. Each Garage Unit shall be used for the parking of automobiles, motorcycles and other motor vehicles and for storage, and for no other purpose, subject to such reasonable rules and regulations as may be adopted by the Board.
- 7.2 There shall be no obstruction of the driveways or of any other portion of the Common Elements, nor shall ready access to any Garage Unit be obstructed or impeded in any manner, nor shall anything be stored in the Common Elements (except in areas designed for such purpose) without the prior consent of the Board except as herein-after expressly provided. Each Owner shall be obligated to decorate maintain and keep in good order and repair his own Unit.
- 7.3 Nothing shall be done or kept in any Dwelling Unit or Garage Unit or in the Common Elements which will increase the rate of insurance on the Buildings or contents thereof, applicable for residential use, including motor vehicle parking, without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Buildings or contents thereof or which would be in violation of any law. No waste shall be committed in the Common Elements.
- 7.4 Each Owner shall be responsible for his own insurance on his personal property in his own Unit, his personal property stored elsewhere on the Property and his personal liability to the extent not covered by the liability insurance for all the Owners obtained by the Board as hereinabove provided.
- 7.5 Owners shall not cause or permit anything to be placed on the outside walls of the Buildings and no sign, awning, canopy, shutter or radio antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior written consent of the Board. No television antenna shall be affixed to or placed upon the exterior walls or roof or any other part of the Common Elements without the prior written consent of the Board and the Developer, provided that any television antenna or other components of a community antenna television service system may be affixed to or placed upon the Common Elements with the consent of Developer, and no Board consent shall be required.
- 7.6 The covering of the interior surfaces of the glass doors and windows appurtenant to the Units of the Buildings, whether by shades, draperies or other items visible from the exterior of the Buildings, shall be subject to the rules and regulations of the Board.
- 7.7 In order to enhance the soundproofing of the Buildings, the floors for all occupied Dwelling Units shall be carpeted, except it shall not be necessary to carpet the kitchen, bathrooms, closets, foyer or within one foot of any wall. No washer, dryer or other laundry equipment shall be installed in any Unit except in the original location of any such equipment that may have been installed by Developer.

- 7.8 No animals of any kind shall be raised, bred or kept in any Unit or in the Common Elements, except that dogs, cats or other household pets may be kept in Dwelling Units, subject to rules and regulations adopted by the Board, provided they are not kept, bred or maintained for any commercial purpose; and provided further that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property upon three (3) days' written notice from the Board.
- 7.9 No noxious or offensive activity shall be carried on in any Unit or in the Common Elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Owners or Occupants.
- 7.10 Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the Buildings or which would structurally change the Buildings, except as is otherwise provided herein.
- 7.11 No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Elements. The Common Elements shall be kept free and clear of rubbish, debris and other unsightly materials.
- 7.12 There shall be no playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Elements except that, subject to reasonable rules and regulations of the Board, baby carriages, bicycles and other personal property may be stored in the common storage areas that may be designated for that purpose and balconies, patios and rear yards adjoining the Units may be used for their intended purposes.
- 7.13 No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted in any Unit.
- 7.14 No "For Sale" or "For Rent" signs, advertising or other displays shall be maintained or permitted on any part of the Property except at such location and in such form as shall be determined by the Board. Notwithstanding the foregoing, the right is reserved by the Developer, or its agents, to place and maintain on the Property, as long as Developer is engaged in sales or leasing activities in connection with Units in the Buildings or improvements on any portion of the Additional Property (whether or not added to the Property), model apartments, a sales or leasing office, advertising signs or banners and lighting in connection therewith at such locations and in such forms as the Developer shall determine. There is also reserved to the Developer, its agents and prospective purchasers and lessees, the right of ingress, egress and transient parking in and through the Common Elements for such sales or leasing purposes and during construction of the Buildings by the Developer, the right of ingress and egress in and through the Common Elements in connection with such construction. The provisions of this paragraph shall inure to the benefit of any assignee of Developer.
- 7.15 Except as constructed or altered by or with the permission of the Developer, nothing shall be altered or constructed in or removed from the Common Elements except upon the written consent of the Board. Except as may be constructed or installed by Developer, no partitions, party walls or other structures of any kind, temporary or permanent, and no electrical outlets, shall be installed, erected, or placed between, in, or within any of the Garage Units.
- 7.16 The Unit restrictions in paragraph 7.1 and 7.13 shall not, however, be construed in such a manner as to prohibit an Owner from: a) maintaining his personal professional library therein; b) keeping his personal business records or accounts therein; or c) handling his personal or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incident to the principal residential use and not in violation of paragraphs 7.1 or 7.13 hereof.

- 7.17 The outdoor parking areas shall be used for the parking of passenger automobiles, subject to such rules and regulations as the Board may prescribe, and no other vehicles or other property may be stored or parked thereon unless permitted by such rules and regulations. Every Owner, Occupant and other person shall be responsible for his personal property in the outdoor parking areas. Neither the Board nor the Association shall be considered the bailee of any such personal property, nor shall either be responsible for any loss or damage thereto, whether or not due to the negligence of the Board and/or the Association.

## ARTICLE 8

### Sale, Leasing or Other Alienation

- 8.1 Sale or Lease. Any Owner other than the Declarant who wishes to sell or lease his Unit Ownership (or any lessee of any Unit wishing to assign or sublease such Unit) shall give to the Board not less than thirty (30) days' prior written notice of the terms of any contemplated sale or lease, together with the name, address and financial and character references of the proposed purchaser or lessee and such other information concerning the proposed purchaser or lessee as the Board may reasonably require. The members of the Board acting on behalf of the other Owners shall at all times have the first right and option to purchase or lease such Unit Ownership upon the same terms, which option shall be exercisable for a period of thirty (30) days following the date of receipt of such notice. If said option is not exercised by the Board within said thirty (30) days, the Owner (or lessee) may, at the expiration of said 30-day period and at any time within ninety (90) days after the expiration of such period, contract to sell or lease (or sub-lease or assign) such Unit Ownership to the proposed purchaser or lessee named in such notice upon the terms specified therein. If the Owner (or lessee) fails to close said proposed sale or lease transaction within said ninety (90) days, the Unit Ownership shall again become subject to the Board's right of first refusal as herein provided.
- 8.2 Gift. Any Owner other than Declarant who wishes to make a gift of his Unit Ownership or any interest therein shall give to the Board not less than ninety (90) days' written notice of his or her intent to make such gift prior to the contemplated date thereof, together with the name, address and financial and character references of the intended donee and such other information concerning the intended donee as the Board may reasonably require. The members of the Board acting on behalf of the other Owners, shall at all times have the first right and option to purchase such Unit Ownership or interest therein for cash at fair market value to be determined by arbitration as herein provided, which option shall be exercisable until the date of expiration as provided herein. Within fifteen (15) days after receipt of said written notice by the Board, the Board and the Owner desiring to make such gift shall each appoint a qualified real estate appraiser to act as arbitrators. The two arbitrators so appointed shall, within ten (10) days after their appointment, appoint another qualified real estate appraiser to act as the third arbitrator. Within fifteen (15) days after the appointment of said third arbitrator, the three arbitrators shall determine, by majority vote, the fair market value of the Unit Ownership or interest therein which the Owner contemplates conveying by gift, and shall thereupon give written notice of such determination to the Owner and the Board. If either party shall fail to select an appraiser, then the appraiser designated by the other party shall make the appraisal. The Board's option to purchase the Unit Ownership or interest therein shall expire forty-five (45) days after date of receipt by it of written notice of such determination of fair market value.

8.3 Devise. In the event any Owner dies leaving a will devising his Unit Ownership or any interest therein and said will is admitted to probate, the members of the Board acting on behalf of the other Owners shall have a like option (to be exercised in the manner hereinafter set forth) to purchase said Unit Ownership or interest therein, either from the devisee or devisees thereof named in said will, or if a power of sale is conferred by said will upon the personal representative named therein, from the personal representative acting pursuant to said power, for cash at fair market value which is to be determined by arbitration as herein provided. Within sixty (60) days after the appointment of a personal representative for the estate of the deceased Owner, the Board shall appoint a qualified real estate appraiser to act as an arbitrator, and shall thereupon give written notice of such appointment to the said devisee or devisees or personal representative, as the case may be. Within fifteen (15) days thereafter said devisee or devisees, or personal representative, as the case may be, shall appoint a qualified real estate appraiser to act as an arbitrator. Within ten (10) days after the appointment of said arbitrator, the two so appointed shall appoint another qualified real estate appraiser to act as the third arbitrator. Within fifteen (15) days thereafter, the three arbitrators shall determine, by majority vote, the fair market value of the Unit Ownership, or interest therein, devised by the deceased Owner, and shall thereupon give written notice of such determination to the Board and said devisee or devisees, or personal representative, as the case may be. If either party shall fail to select an appraiser then the appraiser designated by the other party shall make the appraisal. The Board's right to purchase the Unit Ownership, or interest therein, at the price determined by the three arbitrators shall expire sixty (60) days after the date of receipt by it of such notice if the personal representative of the deceased Owner is empowered to sell, and shall expire eight (8) months after the appointment of a personal representative who is not so empowered to sell. The Board shall be deemed to have exercised its option if it tenders the required sum of money to said devisee or devisees or to said personal representative, as the case may be, within the said option periods.

8.4 Involuntary Sale.

8.4.1 In the event any Unit Ownership or interest therein is sold at a judicial or execution sale (other than a mortgage foreclosure sale) the person acquiring title through such sale shall, before taking possession of the Unit so sold, give thirty (30) days' written notice to the Board of his intention to do so, whereupon members of the Board acting on behalf of the other Owners shall have an irrevocable option to purchase such Unit Ownership or interest therein at the same price for which it was sold at said sale. If said option is not exercised by the Board within said thirty (30) days after receipt of such notice, it shall thereupon expire and said purchaser may thereafter take possession of said Unit. The Board shall be deemed to have exercised its option if it tenders the required sum of money to the purchaser within said 30-day period.

8.4.2 In the event any Owner shall default in the payment of any moneys required to be paid under the provisions of any mortgage or trust deed against his Unit Ownership, the Board shall have the right to cure such default by paying the amount so owing to the party entitled thereto and shall thereupon have a lien therefor against such Unit Ownership which lien shall have the same force and effect and may be enforced in the same manner as provided in Article 6 hereof.

8.5 Exercise of Option. The Board by the affirmative vote of at least three-fourths (3/4) of the Board Members, and upon not less than fifteen (15) days' prior written notice thereof to all the Owners, may exercise any option hereinabove set forth to purchase any Unit Ownership or interest therein. The Board or its duly authorized

representative, acting on behalf of the Owners, by the affirmative vote of at least three-fourths (3/4) of the Board members, and upon not less than fifteen (15) days' prior written notice thereof to all the Owners, any bid to purchase at any sale or a Unit Ownership or interest therein of any Owner, living or deceased, which said sale is held pursuant to an order or direction of a court. The written notice to all the Owners shall set forth the terms of the option to be exercised by the Board or it shall set forth a maximum price which the Board or its duly authorized representative is authorized to bid and pay for said Unit Ownership or interest therein. If within said fifteen (15) days the voting members for at least one-fourth (1/4) of the number of Units shall file with the Board a written objection to any such action by the Board, then such option shall be deemed released and shall not be exercised by the Board. The Unit Ownership or interest therein which is subject to such option may thereupon be sold, conveyed, leased, given or devised free and clear of the provisions of this Article.

8.6 Release or Waiver of Option. Upon the written consent of at least one-third (1/3) of the Board members, any of the options contained in this Article may be released or waived and the Unit Ownership or interest therein which is subject to an option set forth in this Article may be sold, conveyed, leased, given or devised free and clear of the provisions of this Article.

8.7 Proof of Termination of Option. A certificate executed and acknowledged by the acting Secretary of the Board stating that the provisions of this Article as hereinabove set forth have been met by an Owner, or duly waived by the Board, and that the rights of the Board hereunder have terminated, shall be furnished to any Owner who has in fact complied with the provisions of this Article or in respect to whom the provisions of this Article have been waived, upon request at a reasonable fee not to exceed Ten Dollars (\$10.00).

8.8 Financing of Purchase Under Option.

8.8.1 Acquisition of Unit Ownerships or any interest therein under the provisions of this Article shall be made from the maintenance fund. If said fund is insufficient, the Board shall levy an assessment against each Owner in the ratio that his percentage of ownership in the Common Elements (as set forth in Exhibit "C") bears to the total of all such percentages applicable to Units subject to said assessment, which assessment shall become a lien and be enforceable in the same manner as provided in paragraph 6.8 hereof.

8.8.2 The members of the Board, in their discretion, may borrow money to finance the acquisition of any Unit Ownership or interest therein authorized by this Article; provided, however, that no financing may be secured by an encumbrance or hypothecation of any portion of the Property other than the Unit Ownership or interest therein to be acquired.

8.9 Title to Acquired Interest. Unit Ownerships or interests therein acquired pursuant to the terms of this Article shall be held of record in the name of the members of the Board and their successors in office, or such nominee as they shall designate, for the benefit of all Owners. Said Unit Ownerships or interests therein shall be sold or leased by the Board in such manner as the Board shall determine without complying with the foregoing provisions relating to the Board's right of first refusal. All proceeds of such sale and/or leasing shall be used first to repay any borrowings pursuant to paragraph 8.8.2 to acquire such Unit Ownership or interest therein, and the balance shall be deposited in the maintenance fund and credited to each Owner in the same proportion in which the Board could levy a special assessment under the terms of paragraph 8.8.

8.10 Exceptions to Board's Right of First Refusal. The Board's right of first refusal as provided in paragraphs 8.1, 8.2 and 8.3 shall not apply to any sale, lease, gift, devise or other transfer by Declarant or Developer or by any holder of a mortgage on a Unit who comes into possession of such Unit pursuant to the remedies provided in the mortgage or foreclosures of the mortgage, or deed (or assignment) in lieu of foreclosure, or between co-Owners of the same Unit, or to the spouse, or to any lawful descendants of the Owner, or any one or more of them, or to any trustee of a trust the sole beneficiary or beneficiaries of which are the Owner, the spouse or lawful child of the Owner, or any one or more of them. For purposes of this Article, unless otherwise specifically provided herein, the word "Owner" shall include any beneficiary of a trust, shareholder of a corporation or partner of a partnership holding legal title to a Unit.

#### ARTICLE 9

##### Partial Condemnation

Notwithstanding anything in this Declaration to the contrary, in case one or more but less than all the Units are taken by exercise of the power of eminent domain, except as to any compensation specifically allocated or awarded to the Unit Owners whose Units are not so taken or as to any compensation allocated or awarded to each Unit Owner whose Unit is so taken, the entire awards or proceeds shall be divided among the Owners of the Units so taken by such condemnation in the proportion that each such Unit Owner's percentage of ownership in the Common Elements bears to the total percentage of ownership in the Common Elements of all Units so taken, after first paying out of the share of each such Owner the amount of any unpaid liens on his Unit or caused by him to be placed on any other portion of the Property. Upon receiving his share of the award or proceeds as aforesaid, all interest of each such Owner in the Property shall terminate and each such Unit Owner agrees to execute all documents that may be deemed necessary to withdraw the Property from the Act for the purpose of resubmitting to the Act that portion of the Property not so taken. Where one or more Units and Common Elements are permanently eliminated from the condominium as a result of condemnation, the interests of the remaining Unit Owners in the Common Elements so eliminated from the condominium shall automatically terminate and their interest in the remaining Common Elements shall automatically be increased to a percentage equal to the ratio each remaining Unit's percentage of ownership in the Common Elements prior to such increase bore to the sum of the percentages of ownership of all remaining Units prior to such increase. An amended declaration when filed of record shall relate back to a time immediately prior to the taking or destruction aforesaid.



## ARTICLE 10

### Damage or Destruction and Restoration of Building

- 10.1 Sufficient Insurance. In the event the improvements forming a part of the Property, or any portion thereof, including any Unit, shall suffer damage or destruction from any cause and the proceeds of any policy or policies insuring against such loss or damage, and payable by reason thereof, shall be sufficient to pay the cost of repair, restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken and the insurance proceeds shall be applied by the Board or the payee of such insurance proceeds in payment therefor; provided, however, that in the event within thirty (30) days after said damage or destruction, the Owners elect either to sell the Property as hereinafter provided in Article 11 hereof or to withdraw the Property from the provisions of this Declaration, and from the provisions of the Act as therein provided, then such repair, restoration or reconstruction shall not be undertaken. In the event such repair, restoration or reconstruction is not undertaken, the net proceeds of insurance policies shall be divided by the Board or the payee of such insurance proceeds among all Owners according to each Owner's percentage of ownership in the Common Elements as set forth in Exhibit "C," after first paying out of the share of each Owner the amount of any unpaid liens on his Unit, in the order of the priority of such liens.
- 10.2 Insufficient Insurance. In the event the Property or the improvements thereon so damaged or destroyed are not insured against the peril causing the loss or damage, or the insurance proceeds are not sufficient to pay the cost of repair, restoration or reconstruction and the Owners and all other parties in interest do not voluntarily make provisions for reconstruction of the improvements within ninety (90) days after said damage or destruction, then the provisions of the Act in such event shall apply.
- 10.3 Extent of Repair, Restoration or Reconstruction. Repair, restoration or reconstruction of the improvements as used in this Article, means restoring the improvements to substantially the same condition in which they existed prior to the damage or destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as before.

## ARTICLE 11

### Sale of the Property

The Owners by affirmative vote of the voting members having at least 75% of the total votes, at a meeting duly called for such purpose, may elect to sell the Property as a whole. Within ten (10) days after the date of the meeting at which such sale was approved, the Board shall give written notice of such action to the holder of any duly recorded mortgage or trust deed against any Unit Ownership entitled to notice under paragraph 14.2 of this Declaration. Such action shall be binding upon all Owners, and it shall thereupon become the duty of every Owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect such sale, provided, however, that any Owner who did not vote in favor of such action and who has filed written objection thereto with the Board within twenty (20) days after the date of the meeting at which such sale was approved shall be entitled to receive from the proceeds of such sale an amount equivalent to the value of his interest, as determined by a fair appraisal, less the amount of any unpaid assessments or charges due and owing from such Owner. In the absence of agreement on an appraiser, such Owner and the Board may each

select an appraiser, the two so selected shall select a third, and the fair market value, so determined by a majority of the three so selected, shall control. If either party shall fail to select, then the one designated by the other party shall make the appraisal.

## ARTICLE 12

### Remedies for Breach of Covenants, Restrictions and Regulations

- 12.1 Abatement and Enjoinment. The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant or provision herein contained shall give the Board the right, in addition to the rights set forth in the next succeeding section or elsewhere in this Declaration: a) to enter upon that part of the Property where such violation or breach exists and summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Declarant, or its successors or assigns, or the Board, or its agents shall not thereby be deemed guilty in any manner of trespass; or b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. All expenses of the Board in connection with such actions or proceedings including court costs and attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the maximum legal rate until paid, shall be charged to and assessed against such defaulting Owner and shall be added to and deemed part of his respective share of the common expenses, and the Board shall have a lien for all of the same upon the Unit Ownership of such defaulting Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the Property. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.
- 12.2 Involuntary Sale. If any Owner (either by his own conduct or by the conduct of any other Occupant of his Unit) shall violate any of the covenants or restrictions or provisions of this Declaration or the regulations adopted by the Board, and such violation shall continue for thirty (30) days after notice in writing from the Board, or shall recur more than once after such notice, then the Board shall have the power to issue to the defaulting Owner a ten-day notice in writing to terminate the rights of said defaulting Owner to continue as an Owner and to continue to occupy, use or control his Unit and thereupon an action in equity may be filed by the members of the Board against the defaulting Owner for a decree of mandatory injunction against the Owner or Occupant, or, in the alternative, a decree declaring the termination of the defaulting Owner's right to occupy, use or control the Unit owned by him on account of the breach of covenant, and ordering that the right, title and interest of the Owner in the Property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain the defaulting Owner from re-acquiring his interest in the Property at such judicial sale. The proceeds of any such judicial sale

shall first be paid to discharge the lien of any first mortgage on the Unit Ownership and then to discharge court costs, court reporter charges, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner in said decree. Any balance of the proceeds, after satisfaction of such mortgage, charges, and any unpaid assessments hereunder or any liens shall be paid to the Owner. Upon the confirmation of such sale, the purchaser thereof shall thereupon be entitled to a deed to the Unit Ownership and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession and it shall be a condition of any such sale, and the decree shall provide that the purchaser shall take the interest in the Property sold subject to this Declaration.

- 12.3 Suit for Possession. In addition to all other rights and remedies that the Board may have as provided in this instrument or as shall otherwise be provided or permitted by law, in the event of any default by any Owner in the performance of his obligations under the Act or under this instrument or the rules and regulations of the Board, the Board or its agents shall have the right to take possession of any defaulting Owner's interest in the Property and to maintain for the benefit of all the other Unit Owners an action for possession in the manner prescribed by "An Act in regard to forcible entry and detainer," approved February 16, 1874, as amended, or as otherwise provided or permitted by law.

#### ARTICLE 13

##### Annexing Additional Property

- 13.1 The Declarant reserves the right from time to time within seven (7) years of the date of the recording of this Declaration to annex and add to the Parcel and Property and thereby add to the condominium created by this Declaration, all or any portion of the real property described on Exhibit "D" (the Additional Property) all of which is presently owned by the Declarant, provided that in no event shall the total number of Dwelling Units in this condominium exceed eight hundred (800). Any Additional Property so annexed shall be developed substantially in accordance with the development plan now on file at the Office of the Village Clerk of the Village of Vernon Hills, Illinois, as the same may be revised or modified from time to time. No rights of any character whatever to the Additional Property attach to any Owner except as to that portion described in any recorded amendment (Amendment) to this Declaration so annexing and adding such portion of the Additional Property to this Declaration as part of the condominium created hereby.
- 13.2 In furtherance of the foregoing, a power coupled with an interest is hereby granted to the Declarant and the Developer, and each of them singly, as attorney-in-fact, to shift and reduce the percentages of ownership in the Common Elements appurtenant to each Unit to the percentages set forth in each such Amendment recorded pursuant to this Article. Each deed, mortgage or other instrument with respect to a Unit and the acceptance thereof shall be deemed a grant and acknowledgement of and consent to such power to each of said attorneys-in-fact and shall be deemed to reserve to each of them the power to shift and reallocate from time to time the percentages of ownership in the Common Elements appurtenant to each Unit to the percentages set forth in each such recorded Amendment. Such reallocation of percentages will be determined by Developer in accordance with the Act.

- 13.3 The percentages of ownership in the Common Elements appurtenant to each Unit shall be reduced and reallocated in the event any additional Units are added to this condominium. The maximum interest appurtenant to the initial Units herein described shall be as set forth in Exhibit "C." The minimum percentage of ownership for each Unit will depend on the number of Units in this condominium. The reduction and reallocation of percentages shall be as determined by the Developer in accordance with the Act, and shall be as set forth in each such recorded Amendment. Such determination by the Developer shall be conclusive and binding upon all Owners, mortgagees and other parties who then have or thereafter acquire any interest in the Property.
- 13.4 Each Owner of a Unit and their respective mortgagees, grantees, heirs, personal representatives, successors and assigns, by their acceptance of a deed, mortgage or other interest in or to any Unit, further acknowledge, consent and agree as to each such Amendment that is recorded, as follows:
- 13.4.1 The portion of the Additional Property so annexed by each such Amendment shall, subject to the provisions of such Amendment, be governed in all respects by the provisions of this Declaration. Each such Amendment may provide the manner and extent to which the Owners of the Units being added thereby and the then existing Units shall be charged and assessed for services, facilities or benefits other than in accordance with their respective percentages of ownership in the Common Elements. Each such Amendment may also contain such provisions governing such added Units as Declarant deems appropriate.
- 13.4.2 The percentage of ownership in the Common Elements appurtenant to each Unit shall automatically be shifted and reallocated to the extent set forth in each such recorded Amendment, and upon the recording of each such Amendment, the amount by which such percentage appurtenant to a Unit is reduced, as set forth in each such recorded Amendment, shall thereby be and be deemed to be released and divested from such Unit Owner and reconveyed and reallocated among the other Unit Owners as set forth in each such recorded Amendment.
- 13.4.3 Each deed, mortgage or other instrument affecting a Unit shall be deemed given subject to the conditional limitation that the percentage of ownership in the Common Elements appurtenant to each Unit shall, upon the recording of each Amendment, be divested pro tanto to the reduced percentage set forth in such Amendment and vested among the other Owners, mortgagees and others owning an interest in the other Units in accordance with the terms and percentages of each such recorded Amendment.
- 13.4.4 A right of revocation is hereby reserved by the Declarant to so amend and reallocate the percentages of ownership in the Common Elements appurtenant to each Unit.
- 13.4.5 The percentage of ownership in the Common Elements appurtenant to each Unit shall include and be deemed to include any additional Common Elements annexed hereto by a recorded Amendment. Each deed, mortgage or other instrument affecting a Unit shall be deemed to include such additional Common Elements and the ownership of any such Unit and lien of any such mortgage shall automatically include and attach to such additional Common Elements as such Amendments are recorded.
- 13.4.6 Each Owner shall have a perpetual easement appurtenant to his Unit for the use of any additional Common Elements annexed thereto by and described in any recorded Amendment, for the purposes therein set forth, except as to any portion the use of which is limited by exclusive easements granted to the Owners of specific Units as may be provided in any such Amendment or in this Declaration.

- 13.4.7 The recording of each such Amendment shall not alter the amount of the lien for expenses assessed to a Unit prior to such recording, nor the respective amounts theretofore assessed to or due from Owners for common expenses or other assessments.
- 13.4.8 Each Owner, by acceptance of the deed conveying his Unit, agrees for himself and all those claiming under him, including mortgagees, that this Declaration is and shall be deemed to be in accordance with the Act and for purposes of this Declaration and the Act any changes in the respective percentages of ownership in the Common Elements as set forth in each such Amendment shall be deemed to be made by agreement of all Unit Owners.
- 13.4.9 The Declarant reserves the right to amend this Declaration in such manner, and each Owner agrees to execute and deliver such documents necessary or desirable to cause the provisions of this Article to comply with the Act as it may be amended from time to time.
- 13.4.10 The foregoing provisions of this Declaration contain and all deeds and mortgages of the Units and Common Elements will contain clauses designed to accomplish a shifting of the Common Elements. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Elements can be accomplished.

#### ARTICLE 14

##### General Provisions

- 14.1 Notwithstanding anything in Article 5, until such time as the Board of Managers is duly elected at the initial meeting of the voting members, all of the powers, rights, titles, privileges, trusts, duties and obligations vested in or imposed upon the Board shall be held and performed by the Developer, or by such persons as the Developer may from time to time designate to serve as members of the Board or to exercise the powers of the Board.
- 14.2 Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any Unit Ownership shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Owner whose Unit Ownership is subject to such mortgage or trust deed and written notice of any default by such Owner on the performance of such Owner's obligations hereunder which are not cured within thirty (30) days. The Board shall also give written notice to Federal Home Loan Mortgage Corporation, in care of such lender, at such address as Developer shall designate, of any loss to, or taking of, the Common Elements if such loss or taking exceeds \$10,000.00.
- 14.3 Notices provided for in this Declaration and in the Act shall be in writing, and shall be addressed to the Board or Association, or any Owner, as the case may be, at 1456 Market Court, Vernon Hills, Illinois 60060 (indicating thereon the number of the respective Unit if addressed to an Owner) or at such other address as herein provided. The Association or Board may designate a different address or addresses for notices to them, respectively, by giving written notice of such change of address to all Owners. Any Owner may also designate a different address for notices to him by giving written notice of his change of address to the Board or the Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail or when delivered in person with written acknowledgement of receipt thereof, or if addressed to an Owner, when deposited in the mailbox for his Unit.

- 14.4 Notices required to be given any devisee or personal representative of a deceased Owner may be delivered either personally or by mail to such party at his or its address appearing in the records of the court wherein the estate of such deceased Owner is being administered.
- 14.5 Each grantee of the Declarant, by the acceptance of a deed of conveyance, or each purchaser under Articles of Agreement for Condominium Deed, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights, and powers created or reserved by this Declaration and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in the Property, and shall inure to the benefit of such Owner in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance.
- 14.6 No covenants, restrictions, conditions, obligations, or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.
- 14.7 The provisions of Articles 2, 3, 4, 6 and paragraph 14.7 of this Declaration may only be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Board, all of the Owners and all mortgagees having bona fide liens of record against any Unit Ownership. The provisions of Article 13 may only be changed, modified or rescinded by written instrument signed and acknowledged by Declarant. Other provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission signed and acknowledged by the Board and the Owners having at least three-fourths (3/4) of the total votes and containing an affidavit by an officer of the Board certifying that a copy of the change, modification or rescission has been mailed by certified mail to all mortgagees having bona fide liens of record against any Unit Ownership no less than ten (10) days prior to the date of such affidavit. The change, modification or rescission shall be effective upon recordation of such instrument in the office of the Recorder of Deeds of Cook County, Illinois, provided, however, that no provision in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the Act, and provided further that no provision which affects the rights, privileges or interest of the Declarant or Developer may be changed, modified or rescinded without their respective written consents and, except as provided in Article 13, no provision which affects the rights, privileges or interest of any holder of a first mortgage on any Unit may be changed, modified or rescinded without such holder's written consent.
- 14.8 The invalidity of any covenant, restriction, condition, limitation, or any other provisions of this Declaration, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.
- 14.9 If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of a) the rule against perpetuities or some analogous statutory provision, b) the rule restricting restraints on alienation, or c) any other statutory or common law rules imposing time limits, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of the incumbent President of the United States.

- 14.10 The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first class condominium.
- 14.11 In the event title to any Unit Ownership is conveyed to a land titleholding trust under the terms of which all powers of management, operation and control of the Unit Ownership remain vested in the trust beneficiary or beneficiaries, then the Unit Ownership under such and the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens, or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Unit Ownership. No claim shall be made against any such titleholding trustee personally for the payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Unit Ownership and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title of such Unit Ownership.
- 14.12 It is understood that real estate taxes are to be separately assessed against each Unit and the Owner's corresponding percentage of ownership in the Common Elements as provided in the Act. In the event that for any year any Unit is not so separately assessed, each Owner of any such Unit shall pay that portion of such undivided tax bill as his percentage of ownership interest in the Common Elements bears to the percentage of ownership of all Units covered by such bill.
- 14.13 It is expressly understood and agreed by every party claiming any interest under this Declaration, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements of said Declarant are nevertheless, each and every one of them, made and intended not as personal representations, covenants, undertakings and agreements by the Declarant, or for the purpose or with the intention of binding said Declarant personally, but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Declarant not in its own right, but solely in the exercise of the powers conferred upon it as Trustee, as aforesaid, and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against LaSalle National Bank or any of the beneficiaries under said Trust No. 42000 on account of this instrument or on account of any representation, covenant, undertaking or agreement of the said Declarant in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released. It is further understood and agreed, anything to the contrary notwithstanding, that the Declarant will act only on the direction of the beneficiaries of said Trust.
- 14.14 All rights which are specified in the Declaration to be rights of the Declarant or the Developer are mortgageable, pledgeable, assignable or transferable. Upon any exercise of rights by the holder of said mortgage, pledge, assignment or transfer any one or more of such holders, its nominee or designee, any party appointed pursuant to such mortgage, pledge, assignment or transfer and any successor or assignee by foreclosure or otherwise, shall from time to time hold or be entitled to exercise the rights of the Declarant and the Developer hereunder as fully as if named as such party herein. No party exercising rights as Declarant or Developer hereunder shall

have or incur any liability for the acts of any other party which previously exercised or subsequently shall exercise such rights.

IN WITNESS WHEREOF, the said LaSalle National Bank, as Trustee as aforesaid, and not individually, has caused its corporate seal to be affixed hereunto and has caused its name to be signed by these presents by its Assistant Vice President and attested by its Assistant Secretary this 9th day of December, 1974.

LaSALLE NATIONAL BANK, not individually, but as Trustee as aforesaid.

ATTEST:

By \_\_\_\_\_ Vice President

\_\_\_\_\_ Secretary

STATE OF ILLINOIS) SS.  
COUNTY OF C O O K)

I, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid, Do Hereby Certify that \_\_\_\_\_ President of LaSalle National Bank, and \_\_\_\_\_ Secretary thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such \_\_\_\_\_ President and \_\_\_\_\_ Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth; and the said \_\_\_\_\_ Secretary did also then and there acknowledge that he as custodian of the corporate seal of said Bank did affix the said corporate seal of said Bank to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 1974.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

This document prepared by:  
Robert S. Solomon  
Overton Schwartz & Yacker Ltd.  
105 West Adams Street  
Chicago, Illinois 60603  
(312) 236-6945



# 1690297

EXHIBIT "A"

DEC 10 1974

That part of Lot 11 in New Century Town Unit One, being a subdivision of parts of Sections 32 and 33, Township 44 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded November 2, 1973 as Document No. 1641342, bounded by a line described as follows: Beginning at a point in the South line of Lot 11 aforesaid, 136.58 feet East of (as measured along said South line, which bears North 90°00'00" East) the Southwest corner thereof; thence North 00°00'00" East 167.92 feet; thence North 90°00'00" East, 58.16 feet; thence North 00°00'00" East, 45.89 feet; thence North 90°00'00" East, 123.91 feet; thence North 00°00'00" East, 112.03 feet; thence North 73°26'03" East, 58.07 feet; thence South 87°41'46" East, 59.03 feet; thence North 85°00'00" East, 70.08 feet; thence South 75°58'00" East 54.99 feet; thence North 90°00'00" East, 133.52 feet to a point in the East line of said Lot 11, said point being 192.20 feet South of (as measured along said East line, which bears South 00°00'00" West), the Northeast corner of said Lot 11; thence South 00°00'00" West along the last mentioned East line, 285.26 feet; thence North 90°00'00" West, 74.04 feet; thence North 00°00'00" West, 111.60 feet; thence North 81°50'38" West, 86.07 feet; thence Southwesterly along a curved line, being the arc of a circle convex to the Southeast and having a radius of 220.50 feet an arc distance of 35.85 feet (the chord of which arc bears South 20°38'17" West and measures 35.81 feet), to a point of tangency; thence South 25°17'23" West, tangent to the last described curved line, 87.00 feet to a point of curvature; thence Southwesterly, along a curved line, being the arc of a circle convex to the Northwest tangent to the last described course and having a radius of 389.50 feet, an arc distance of 67.98 feet to a point of tangency; thence South 15°17'23" West, tangent to the last described curved line, 7.23 feet to a point in the Northerly right-of-way line of Hawthorne Parkway as dedicated on the aforementioned plat of New Century Town Unit One; thence Northwesterly along said Northerly right-of-way line, being the arc of a circle convex to the Northeast and having a radius of 240.00 feet an arc distance of 74.55 feet (the chord of which arc bears North 81°06'05" West, and measures 74.25 feet), to a point of tangency; thence North 90°00'00" West along the said Northerly right-of-way line of Hawthorne Parkway, tangent to the last described curved line, 245.58 feet to the point of beginning, in Lake County, Illinois.

EXHIBIT "C"

PERCENTAGES OF INTEREST IN COMMON ELEMENTS

NEW CENTURY TOWN CONDOMINIUM NO. 1

UNIT NO. PERCENTAGE OF INTEREST

	<u>DWELLING UNITS</u>	
	8-1A	1.7335
	8-2A	1.7335
	3-3A	1.7335
	8-4A	1.7335
	8-1B	2.2444
	8-2B	2.2444
	8-3B	2.2444
	8-4B	2.2444
	9-1A	1.7335
	9-2A	1.7335
	9-3A	1.7335
	9-4A	1.7335
GARDEN UNITS -	9-1B	2.2444
	9-2B	2.2444
	9-3B	2.2444
	9-4B	2.2444
	12-1A	1.7335
	12-2A	1.7335
	12-3A	1.7335
	12-4A	1.7335
	12-1B	2.2444
	12-2B	2.2444
	12-3B	2.2444
	12-4B	2.2444
	14-1	3.1147
	14-2	2.6777
	14-3	3.1147
	14-4	2.6777
	14-5	3.1147
	15-1	3.1147
	15-2	2.6777
	15-3	2.6777
	15-4	2.6777
	21-1	2.6777
	21-2	2.6777
	21-3	2.6777
	21-4	3.1147
	22-1	2.6777
	22-2	2.6777
	22-3	2.6777
	22-4	3.1147

GARAGE UNITS

G-13 through G-16 )  
 G-25 through G-43 )  
 G-52 through G-67 )

.1057 each X 39 = 4.1223

TOTAL: 100.0000%

EXHIBIT "D"

THE ADDITIONAL PROPERTY

**PARCEL 1:** That part of Section 33 and that part of Section 34, Township 44 North, Range 11, East of the 3rd P.M., described as follows: Commencing at the South West corner of said Section 33; thence East along the South line of said Section, 5339.21 feet to the South East corner of said Section 33; thence continuing East along the South line of Section 34, 111.23 feet to the center line of Milwaukee Avenue, (State Route 21); thence North Westerly along the center line of Milwaukee Avenue, 1862.14 feet; thence Westerly along a line deflecting 81 degrees 23 minutes 57 seconds left from the aforesaid center line extended, 2518.87 feet; thence South Westerly along a line deflecting 12 degrees 33 minutes 54 seconds left from the last described line extended, 978.00 feet to a point 1733.38 feet East of the West line of Section 33 and 1756.28 feet North of the South line of said Section; thence West parallel to the South line of said Section, 333.38 feet to a point 1400.00 feet East of the West line of said Section; thence North parallel to the said West line, 885.87 feet to the point of intersection with the South Westerly line of lands conveyed by Stewart Harvey and Laura Harvey, to John F. Cuneo, by Document 905206, said point being 1400.00 feet East of the West line and 2642.15 feet North of the South line of said Section; thence North 16 degrees 45 minutes West, 295.29 feet to the most Westerly point of lands conveyed by said Document 905206; thence North 34 degrees 30 minutes East, 310.6 feet; thence East parallel to the South line of said Section 33, 467.91 feet to a point 1950.00 feet East of the West line of said Section; thence North parallel to the West line of said Section 33, 1432.35 feet to a point 120.0 feet, measured perpendicularly, Southerly of the Southerly right of way line of the Elgin, Joliet and Eastern Railway; thence Westerly parallel to and 120.0 feet Southerly of the above mentioned right of way line, 958.22 feet to a point of curvature; thence South Westerly along a curved line, convex North Westerly and concentric with the aforesaid right of way line to the West line of said Section 33, the long chord of said curved line being 1033.62 feet; thence South along the West line of said Section 33, 4276.74 feet to the place of beginning, (except that portion thereof condemned for road purposes by proceeding had in the Circuit Court of Lake County, Illinois, as General No. 65-2323); and (also except that part of Section 33 and that part of Section 34, Township 44 North, Range 11, East of the 3rd P. M., described as follows: Commencing at the South West corner of said Section 33; thence North 88 degrees 36 minutes 26 seconds East along the South line of said Section, 3010.91 feet to the place of beginning; thence continuing North 88 degrees 36 minutes 26 seconds East along the South line of said Section, a distance of 2329.53 feet to the South East corner of said Section 33; thence continuing North 88 degrees 36 minutes 26 seconds East along the South line of Section 34, 110.76 feet to the center line of Milwaukee Avenue, (State Route 21); thence North 8 degrees 2 minutes West along the center line of Milwaukee Avenue, 1862.14 feet; thence North 89 degrees 25 minutes 30 seconds West along a line (deflecting per Deed 81 degrees 23 minutes 57 seconds left from the aforesaid center line extended), a distance of 2226.26 feet to the intersection with a line drawn at right angles to the South line of said Section 33, from the place of beginning; thence South 1 degree 23 minutes 34 seconds East along said line drawn at right angles to the South line of said Section 33, a distance of 1926.09 feet to the place of beginning), in Lake County, Illinois, and

**PARCEL 2:** A tract of land in the West half of Section 33, Township 44 North, Range 11, East of the 3rd P. M., described as follows: Commencing at the point of intersection of the South Westerly line of lands conveyed by Stewart Harvey and Laura Harvey to John F. Cuneo by Document 905206 with a line 1400.00 feet East of and parallel to the West line of said Section

EXHIBIT "D"

33, said point being 2642.15 feet North of the South line of said Section; thence North 16 degrees 45 minutes West 295.29 feet to the most Westerly point of lands conveyed by said Document 905206; thence North 34 degrees 30 minutes East, 310.6 feet; thence East parallel to the South line of said Section 33, 467.91 feet to a point 1950.00 feet East of the West line of said Section; thence South, parallel to the West line of said Section 33, 120.19 feet; thence South Westerly along a line deflecting 64 degrees 31 minutes 15 seconds right from the last described line extended 609.24 feet to a point 1400.00 feet East of the West line and 2805.35 feet North of the South line of said Section 33; thence South 163.20 feet to the place of beginning, in Lake County, Illinois, and

PARCEL 3: That part of Section 32, Township 44 North, Range 11, East of the 3rd P. M., described as follows: Commencing at the South East corner of said Section 32; thence North along the East line of said Section, 4276.74 feet to a point 120.0 feet South Easterly, measured radially, from the Southerly right of way line of the Elgin, Joliet and Eastern Railway Company; thence South Westerly along a curved line, convex Northerly, concentric with the aforesaid right of way line and 120.0 feet Southerly thereof, a chord distance of 191.75 feet to a point of tangency; thence South Westerly parallel to and 120.0 feet South Easterly of the above mentioned right of way line, 3893.49 feet to a point of curvature; thence South Westerly along a curved line, convex Southerly, concentric with the aforesaid right of way line and 120.0 feet Southerly thereof, a chord distance of 528.93 feet to the center of Butterfield Road; thence South Easterly along the center line of said Butterfield Road, 1653.43 feet to a point of curvature; thence continuing South Easterly along the aforesaid center line extended, 444.70 feet to the South line of said Section 32; thence East along said Section line, 1226.82 feet to the South West corner of lands heretofore conveyed to the Board of School Trustees by Documents 248240, 438445 and 1449458; thence North perpendicular to the South line of said Section 32, 846.62 feet; thence East parallel to the South line of said Section, 617.5 feet; thence South along a line perpendicular to the South line of said Section, 846.62 feet to said South line; thence East along the South line of said Section, 1471.74 feet to the place of beginning, (excepting therefrom that portion thereof, described as follows: That part of Section 32, Township 44 North, Range 11, East of the 3rd P. M., described as follows: Beginning at the intersection of the center line of Butterfield Road with a curved line, which is 220 feet Southerly of, measured radially, of the Southerly right of way line of the Elgin, Joliet and Eastern Railway Company; thence South 19 degrees 15 minutes East along the center line of Butterfield Road, a distance of 521.30 feet; thence North 70 degrees 45 minutes East at right angles to last described line, a distance of 299.88 feet to a point of curvature; thence North Easterly along an arc of a circle, having a radius of 900 feet, being convex to the South East, the chord thereof having a bearing of North 64 degrees 38 minutes 16 seconds East and a length of 191.66 feet, an arc distance of 192.02 feet to a point of tangency; thence North 58 degrees 31 minutes 32 seconds East, a distance of 11 feet; thence North 31 degrees 28 minutes 28 seconds West at right angles to the last described line, a distance of 549.29 feet to aforesaid curved line, being 220 feet Southerly of the Southerly right-of-way line of the Elgin, Joliet and Eastern Railway Company; thence South Westerly along said curved line, convex South Easterly and concentric with aforesaid right-of-way line and 220 feet Southerly thereof, having a radius of 3127.93 feet, an arc distance of 387.03 feet to the place of beginning), in Lake County, Illinois,

EXCEPTING THEREFROM that portion described on Exhibit "A" aforesaid.



48-G

EXHIBIT "C"

PERCENTAGES OF INTEREST IN COMMON ELEMENTS

NEW CENTURY TOWN CONDOMINIUM NO. 1

DWELLING UNITS

UNIT NO.	PERCENTAGE OF INTEREST	UNIT NO.	PERCENTAGE OF INTEREST
7-1A	.6289	12-1A	.6289
7-2A	.6289	12-2A	.6289
7-3A	.6289	12-3A	.6289
7-4A	.6289	12-4A	.6289
7-1B	.8143	12-1B	.8143
7-2B	.8143	12-2B	.8143
7-3B	.8143	12-3B	.8143
7-4B	.8143	12-4B	.8143
7-1AA	.6289	13-1	.9714
7-2AA	.6289	13-2	.9714
7-3AA	.6289	13-3	.9714
7-4AA	.6289	13-4	1.1300
7-1BB	.8143	14-1	1.1300
7-2BB	.8143	14-2	.9714
7-3BB	.8143	14-3	1.1300
7-4BB	.8143	14-4	.9714
		14-5	1.1300
Garden Units		15-1	1.1300
8-1A	.6289	15-2	.9714
8-2A	.6289	15-3	.9714
8-3A	.6289	15-4	.9714
8-4A	.6289		
8-1B	.8143	16-1	1.1300
8-2B	.8143	16-2	.9714
8-3B	.8143	16-3	.9714
8-4B	.8143	16-4	.9714
9-1A	.6289	17-1	1.1300
9-2A	.6289	17-2	.9714
9-3A	.6289	17-3	1.1300
9-4A	.6289	17-4	.9714
9-1B	.8143	17-5	1.1300
9-2B	.8143		
9-3B	.8143	18-1	1.1300
9-4B	.8143	18-2	.9714
10-1B	.8143	18-3	1.1300
10-2B	.8143	18-4	.9714
10-3B	.8143	18-5	1.1300
10-4B	.8143	19-1	.9714
10-1BB	.8143	19-2	.9714
10-2BB	.8143	19-3	.9714
10-3BB	.8143	19-4	1.1300
10-4BB	.8143		

77.84 + .6383  
 .6672  
 Garden Units  
 8506

1815643

EXHIBIT "C"

PERCENTAGES OF INTEREST IN COMMON ELEMENTS

NEW CENTURY TOWN CONDOMINIUM NO. 1

DWELLING UNITS (continued)

<u>UNIT NO.</u>	<u>PERCENTAGE OF INTEREST</u>	<u>UNIT NO.</u>	<u>PERCENTAGE OF INTEREST</u>
20-1	.9714	24-1	.9714
20-2	.9714	24-2	.9714
20-3	.9714	24-3	.9714
20-4	1.1300	24-4	1.1300
21-1	.9714	25-1	1.1300
21-2	.9714	25-2	.9714
21-3	.9714	25-3	.9714
21-4	1.1300	25-4	.9714
22-1	.9714	26-1	1.1300
22-2	.9714	26-2	.9714
22-3	.9714	26-3	.9714
22-4	1.1300	26-4	.9714
23-1	.9714		95.8630
23-2	.9714		
23-3	.9714		
23-4	1.1300		

GARAGE UNITS

G-1 through G-12 and G-13 through G-107	.0383 each x 107	4.0981
G-12A		.0389
		<u>100.0000%</u>

THIS EXHIBIT REPLACES AND SUPERSEDES  
ALL PRIOR EXHIBITS "C"

1815643

DECLARATION OF COVENANTS, CONDITIONS  
EASEMENTS AND RESTRICTIONS  
FOR  
NEW CENTURY TOWN HOMEOWNERS ASSOCIATION



TABLE OF CONTENTS  
FOR  
DECLARATION OF COVENANTS, CONDITIONS,  
EASEMENTS AND RESTRICTIONS  
FOR  
NEW CENTURY TOWN HOMEOWNERS ASSOCIATION

	<u>Page</u>
ARTICLE 1    Definitions-----	2
ARTICLE 2    Annexation of Additional Property-----	2
ARTICLE 3    Membership and Board of Directors-----	3
ARTICLE 4    Easements and Property Rights in Common Area-----	4
ARTICLE 5    Covenant for Assessments-----	7
ARTICLE 6    Rights of First Mortgagees-----	10
ARTICLE 7    General Provisions-----	11

DECLARATION OF COVENANTS, CONDITIONS,  
EASEMENTS AND RESTRICTIONS  
FOR  
NEW CENTURY TOWN HOMEOWNERS ASSOCIATION

THIS DECLARATION made this 9th day of December, 1974  
by LASALLE NATIONAL BANK, not individually, but as Trustee  
under Trust No. 42000 (Declarant):

RECITALS

A. Declarant is the record owner of certain real estate described on Exhibit "A" (the Existing Property) in the proposed development area known as New Century Town in the Village of Vernon Hills, County of Lake, State of Illinois;

B. Declarant is also the record owner of the real estate described on Exhibit "B" (the Additional Property) which Additional Property is in said development area;

C. The sole beneficiary of Declarant is a joint venture known as Environ II (Developer);

D. Developer is improving the Existing Property with dwelling units and intends to improve a portion of the Additional Property with a swimming pool, cabana and sun deck for the common use and enjoyment of the owners and occupants of said dwelling units;

E. Developer wishes to submit to the provisions of this Declaration, in the manner hereinafter provided, the Existing Property and that portion of the Additional Property (the Common Area) on which said pool and related facilities are constructed;

F. Declarant may, but need not, submit to the provisions of this Declaration other portions of the Additional Property, a portion of which may be developed and improved with dwelling units and a portion of which may be improved by Developer with additional recreational or other facilities and added to the Common Area;

G. Developer has formed an Illinois not-for-profit corporation known as New Century Town Homeowners Association for the purpose of owning, maintaining, and administering the Common Area and the facilities and improvements thereon.

NOW THEREFORE, Declarant hereby declares that all of the Existing Property and such portions of the Additional Property as may be added thereto as hereinafter provided shall be held, sold and conveyed subject to the following covenants, conditions, easements and restrictions, all of which shall run with the Property, as hereinafter defined, and be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall inure to the benefit of each owner thereof.

## ARTICLE I

### Definitions

The following words when used in this Declaration or in any Supplementary Declaration shall, unless the context shall prohibit, have the following meanings:

1.1 Association. New Century Town Homeowners Association, an Illinois not-for-profit corporation, its successors and assigns.

1.2 Property. The real estate described on Exhibit "A" attached hereto and any portion of the Additional Property annexed thereto pursuant to the provisions of Article 2.

1.3 Additional Property. The real estate described on Exhibit "B" attached hereto.

1.4 Common Area. All real estate owned by the Association or designated by Declarant as Common Area in any Supplementary Declaration filed herein, including all improvements and facilities thereon.

1.5 Unit. A part of the Property consisting of one or more rooms, occupying one or more floors or a part or parts thereof, designed and intended for use and occupancy as a residence for one family.

1.6 Owner. The record owner, whether one or more persons, individuals or entities, of a fee-simple title to any Unit which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.7 Member. Every person, individual or entity who holds membership in the Association.

1.8 Declarant. LaSalle National Bank, not individually, but as Trustee under Trust No. 42000 and any record owner of any portion of the Additional Property who shall be the declarant under any Supplementary Declaration recorded pursuant to Article 2.

1.9 Developer. Environ II, a joint venture, its successors and assigns.

## ARTICLE 2

### Annexation of Additional Property

2.1 Developer may, in its sole discretion, from time to time, annex to the Property and submit to the terms, conditions and provisions of this Declaration, in the manner hereinafter provided, all or any portion of the Additional Property, provided that Declarant's rights under this Article shall terminate as to any portion of the Additional Property not so added by September 1, 1982. Any

Additional Property so annexed shall be developed substantially in accordance with the development plan now on file at the Office of the Village Clerk of the Village of Vernon Hills, Illinois, as the same may be revised or modified from time to time. Developer is not bound to annex to this Declaration any portion of the Additional Property, regardless of how or by whom improved. Each Unit constructed on any part of the Additional Property so annexed shall be subject to assessments in the same manner as any other Unit on the Property, in accordance with the provisions of this Declaration.

2.2 The annexation of any part of the Additional Property to this Declaration and to the Property shall be made by filing of record a Supplementary Declaration describing the portion of the Additional Property to be so annexed, provided that if the record owner thereof is not the Declarant executing this Declaration, such Supplementary Declaration must be approved in writing by Developer. Immediately upon such recording, such Additional Property therein described shall be subject to the terms, covenants, conditions, easements and restrictions of this Declaration and the jurisdiction of the Association and shall become a part of the Property.

2.3 Any such Supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained herein as may be appropriate to reflect the different character, if any, of the property being annexed, and as are not inconsistent with the scheme of this Declaration, and may designate what portion, if any, of the Additional Property being so annexed shall be Common Area.

### ARTICLE 3

#### Membership and Board of Directors

3.1 Membership. Every Owner of a Unit shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit. Ownership of a Unit shall be the sole qualification for membership.

3.2 Voting Rights. The Association shall have one class of membership and each Member shall have one vote for each Unit such Member owns, provided that when more than one person is the record owner of any Unit, the vote for such Unit shall be exercised as all such record owners of that Unit among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Unit. If all record owners of a Unit cannot agree as to how their vote shall be exercised, no vote shall be cast with respect to that Unit.

3.3 Board of Directors. The Association shall be governed by a Board of Directors (Board) comprised of three members, or such greater number as may be provided in the by-laws of the Association (the By-laws), duly appointed or elected as provided herein and in the By-laws. The Board shall maintain and administer the Common Area in accordance with the terms and provisions of this Declaration and the By-laws. Prior to the appointment of the first Board, the Developer may exercise all rights, powers and privileges and act in the capacity of the Board and may perform all its functions as set forth in this Declaration and in the By-laws.

3.4 Appointment of Directors by Developer. Notwithstanding anything in this Declaration or the By-laws of the Association to the contrary, the first and each subsequent Board of the Association shall consist of, and vacancies on the Board shall be filled by, such persons as Developer shall from time to time appoint until the first to occur of any one of the following events: (a) Developer notifies the Association in writing that it has completed all of the contemplated improvements and closed the sale of all Units to be made subject to this Declaration; (b) the expiration of seven (7) years from the date this Declaration is recorded; (c) Developer, by written notice to the Association, voluntarily elects to release its right to appoint all members of the Board. Neither the Owners nor Members shall, without the prior written consent of Developer, have the right to amend, modify or change the By-laws or Articles of Incorporation of the Association to in any way diminish the authority of the Board while the Developer has the right to appoint any members of the Board. Developer may, from time to time, by written notice to the Association, elect to relinquish its right to appoint any one or more directors, and continue to exercise its right to appoint the remaining members of the Board for the period hereinabove specified. All directors not appointed by Developer shall be elected as hereinafter provided.

3.5 Election of Directors by Members. Upon termination of Developer's right to appoint any or all of the directors as hereinabove provided in the preceding paragraph, those directors not subject to appointment by Developer shall be elected by the Members at a meeting called by the President of the Association, by the Developer, or by any three (3) Members. Such meeting shall be called by notice sent pursuant to the By-laws.

3.6 Board Liability. Neither the directors nor the Developer when acting in the capacity of the Board shall be liable to the Association or the Members for any mistake of judgment or for any acts made, or omission, or failure to act committed in good faith as such directors or on their behalf.

#### ARTICLE 4

##### Easements and Property Rights in the Common Area

4.1 Easements of Use and Enjoyment. An easement is hereby declared and created over and upon the Common Area for the benefit of the entire Property, and every Member shall have a right and easement of use and enjoyment and a right of access to and of ingress and egress on, over, across, in, upon and to the Common Area, and such right and easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

4.1.1 The right of the Association, in accordance with its By-laws, to adopt rules and regulations governing the use, operation and maintenance of the Common Area, including the right to charge reasonable admission and other fees to Members and/or guests for the use of any recreational facility situated upon the Common Area;

4.1.2 The right of the Association to limit the number of guests who may use the Common Area or any part thereof;

4.1.3 The right of the Association, in accordance with its By-laws, to limit or deny the right of a Member not residing in his Unit to use the recreational facilities of the Association, except upon the terms and conditions applicable to guests;

4.1.4 The right of the Association to suspend the right of any Member to use the recreational facilities for the period during which any assessment against his Unit remains unpaid and for a reasonable period for any infraction of its published rules and regulations;

4.1.5 The right of the Association, in accordance with its By-laws, to borrow money for the purpose of improving the Common Area and facilities located thereon and in aid thereof to mortgage the Common Area, provided that the rights of any such mortgagee in and to the Common Area and facilities located thereon shall, in the event of default, be limited to a right, after taking possession of such properties, to charge admission and other fees for the use of any recreational facilities thereon as a condition to continued use and enjoyment by the Members until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored. Notwithstanding the foregoing, no mortgage shall be placed upon the Common Area unless such mortgage is approved by the Board and by a majority of the Members, other than Declarant, voting at a general or special meeting duly called and held in accordance with the By-laws, provided that, as long as Declarant owns a Unit, Developer's written consent to any such mortgage shall also be required.

4.1.6 The right of the Association to dedicate or transfer all or any part of the Common Area, or any utility system thereon, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by the Owners of two-thirds (2/3) of the Units has been recorded; provided further that as long as the Developer has the power to appoint any Director of the Association, such instrument must also be signed by the Developer.

4.2 Rights of Occupants. All persons who occupy a Unit shall have the same rights to use and enjoy the Common Area and any recreational facilities situated thereon as the Member who owns the Unit, provided, however, that, notwithstanding any rules or regulations adopted pursuant to paragraph 4.1.3 hereof, the occupants of any Unit in which the Owner does not reside shall have the same right to use the recreational facilities as the Owner of that Unit would have if he resided therein.

4.3 Utility Easements. The Illinois Bell Telephone Company, Commonwealth Edison Company, North Shore Gas Company, Lake County Public Works Department, Village of Vernon Hills, Illinois and all other suppliers of utilities serving the Property, or any portion of the Additional Property, are hereby granted the right to install, lay, construct, operate, maintain, renew, repair and replace conduits, cables, pipes, wires, transformers, mains, switching apparatus and other equipment, including housings for such equipment, into, over, under, on and through the Common

Elements for the purpose of providing utility services to the Property and to any portion of the Additional Property. Easements are also hereby declared and granted to the Developer or its assignee, to install, lay, construct, operate, maintain, renew, repair and replace any conduits, cables, pipes, wires, or other equipment or components of a community antenna television service system into, over, under, on and through the Common Elements and through the walls, floor or ceiling constituting the boundaries of any Unit for the purpose of providing such television service to the Property or to any portion of the Additional Property.

4.4 Easement for Overhang and Encroachment. In the event that, by reason of location, construction, settlement or shifting, any Unit or other improvement originally constructed by the Developer encroaches or shall hereafter encroach upon any other portion of the Property or Additional Property, or if, by reason of the location, design or construction of any such Unit or other improvement it shall be necessary or advantageous to an Owner to use or occupy any portion of the Common Area for any reasonable use appurtenant to said Unit or other improvements which will not unreasonably interfere with the use or enjoyment of the Common Area by other Owners, valid easements for the maintenance of such encroachment and for such use of the Common Area are hereby established and shall exist for the use and benefit of such Unit or other improvement or the Common Area, as the case may be, provided, however, that in no event shall a valid easement for any encroachment or use of the Common Area be created in favor of any Owner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Common Area by others or if it occurred due to the willful conduct of any Owner.

4.5 Easements Reserved to Developer. Notwithstanding anything herein to the contrary, Developer hereby reserves to itself, its agents and prospective purchasers and tenants, without charge, as long as it is engaged in the construction, sale or leasing of dwelling units on any part of the Property or Additional Property, easements to, over, through and across the Common Area for such purposes, in such manner and by such persons as may reasonably be required with respect or incident to such construction, sale or leasing.

4.6 Transfer of Common Area to Association. Declarant will convey to the Association by quitclaim deed, and the Association shall accept as Common Area, such portion of the Additional Property as the Developer shall from time to time elect to convey, together with a swimming pool, cabana and such other facilities and improvements as the Developer may elect to install thereon, subject to such easements as the Developer may cause to be placed thereon, provided that all Common Area shall be conveyed to the Association by the Developer by September 1, 1982.

4.7 Maintenance of the Common Area Prior to Conveyance to Association. Prior to conveyance by the Declarant to the Association of any property designated as Common Area in any recorded Supplementary Declaration, the Association shall, from the assessments against Members collected by it, pay or reimburse the Developer for real estate taxes and all other costs and expenses arising out of or incident to the ownership, maintenance and repair of such portion of the Common Area that is available for use by the Members, to the same extent as if the Association were the record owner thereof.

4.8 Developer's Right to Engage a Manager. The Developer hereby reserves the right to engage, from time to time, as agent for and on behalf of the Association, a manager for the Association and its property during all or any portion of the period Developer has the right to appoint Directors as provided in paragraph 3.4, upon such terms and conditions as the Developer may deem appropriate.

4.9 Easements to Run with the Land. All easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding upon any Owner, purchaser, mortgagee or other person having an interest in the Property, or any part or portion thereof. Reference in the respective deeds of conveyance or in any mortgage or trust deed or other evidence of obligation to the easements and rights described in any other part of this Declaration shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees of such Units as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

## ARTICLE 5

### Covenant for Assessments

5.1 Creation of the Lien and Personal Obligation for Assessments. Each Owner (excluding Declarant) of a Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, for each Unit owned by such Owner, hereby covenants and agrees and shall be deemed to covenant and agree to pay to the Association all assessments and charges levied pursuant to this Declaration. Such assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge and a continuing lien upon the Unit against which such assessment is made. Each such assessment, together with such interest and costs, shall also be the continuing personal obligation of the person who was the Owner of such Unit at the time when the assessment fell due.

5.2 Purpose of Assessments. The assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the Members of the Association and, in particular, without limiting the foregoing, for maintenance, repair, replacement, improvement and additions of and to the Common Area and the improvements thereon, for all taxes, insurance and other costs and expenses incident to the ownership of the Common Area and all facilities and improvements thereon, and for otherwise carrying out the duties and obligations of the Board of Directors of the Association as stated herein and in its Articles of Incorporation and By-laws.

### 5.3 Assessment Procedure.

5.3.1 Each year, on or before December 1, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with such amount, if any, as the Board may designate as a reserve for contingencies and replacements, and shall, on or before December 15, notify each Owner in writing as to the amount of such estimate, with reasonable itemization



thereof. The annual budget shall also take into account the estimated net available cash income for the year, if any, from the operation or use of the Common Area. On or before January 1 of the ensuing year, and the first day of each and every month of said year, each Owner, jointly and severally, shall be personally liable for and obligated to pay to the Board or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this paragraph. On or before April 15 of each year following the initial meeting, the Board shall supply to all Owners an itemized accounting of maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves, if any. Any amount accumulated in excess of the amount required for actual expenses and reserves, if any, shall be credited to the next monthly installment due under the current year's estimate, until exhausted, and one-third (1/3) of any net shortage shall be added to the installments due in each of the succeeding three (3) months after rendering of the account. Such adjustment shall be allocated among the Units that were subject to assessment during the prior year in the proportion that the assessment against each Unit during that year bears to the assessments against all the Units during that year.

5.3.2 If said "estimated cash requirement" proves inadequate for any reason, including non-payment of any Owner's assessment, the Board may at any time levy a further assessment which shall be assessed equally to all Units subject to assessment. The Board shall serve notice of such further assessment on all Members by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after delivery or mailing of such notice of further assessment. All Members shall be personally liable for and obligated to pay their respective adjusted monthly amount.

5.3.3 When the first Board elected hereunder takes office, it shall determine the "estimated cash requirement" as hereinabove defined for the period commencing thirty (30) days after said election and ending on December 31 of the year in which said election occurs. Assessments shall be levied against the Members during said period as provided in paragraph 5.1 hereof.

5.3.4 The failure or delay of the Board to prepare or serve the annual or adjusted estimate on any Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the monthly maintenance charge at the then existing monthly rate established for the previous period until the monthly maintenance payment which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

5.4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Board may levy special assessments for the purpose of defraying the cost of constructing or purchasing a specified capital improvement upon or to the Common Area, and for the necessary fixtures and personal property related thereto, provided that, unless otherwise provided in the By-laws, any such assessments which in any one year exceed \$1,000.00 shall be approved by a majority of the Board and by a majority of the votes cast by Members at a general or special

meeting duly called for that purpose. Special assessments shall be levied for the purpose of defraying, in whole or in part, the cost of any construction, purchase, reconstruction, unexpected repair or replacement of a specific capital improvement upon or to the Common Area and the necessary fixtures and personal property related thereto.

5.5 Notice and Quorum. Written notice of any meeting called for the purpose of authorizing special assessments which require approval of the Members shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of such meeting. At the first such meeting called, the presence of Owners in person or by proxy of sixty percent (60%) of the Units shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.6 Uniform Assessments. Both annual and special assessments must be fixed at a uniform rate for all Units provided that Units owned by the Declarant shall not be subject to assessment unless they are occupied.

5.7 Commencement of Annual Assessments. Annual assessments shall commence when determined by Developer, but in no event prior to the time the swimming pool to be erected by Developer on the Common Area is substantially completed and available for use by the Members.

5.8 Assessments in First Year. Notwithstanding the foregoing provisions, for the period ending one year from the date annual assessments commence, the monthly assessment for each Unit subject to assessment hereunder shall not exceed \$4.00 per month. The Developer shall pay to the Association the amount, if any, by which actual operating expenses during that one-year period exceed the aggregate of the monthly assessments established and received from the Unit Owners pursuant to this paragraph. Actual operating expenses means those expenses reasonably necessary to normal maintenance and operation of the Common Area, and does not include capital expenditures, reserves, prepaid items, inventory items or similar expenses to the extent attributable to any subsequent period.

5.9 Due Dates and Collection of Assessments. All assessments shall be due and payable at such time or times and in such manner as shall be fixed by the Board. The Board may authorize the Board of Managers or any ruling body of any condominium or property owners association whose members own Units subject to assessment hereunder to collect, on behalf of the Association, all assessments due the Association, upon such terms and compensation as the Board may, in its sole discretion, deem appropriate.

5.10 Non-Payment of Assessment. If any assessment or part thereof is not paid within thirty (30) days after the delinquency date, the unpaid amount of such assessment shall bear interest from the date of delinquency at the maximum legal rate of interest, and the Association may, at its election, bring an action at law against the Owner personally obligated to pay the same in order to enforce payment and/or foreclose the lien against the property subject thereto and there shall be added to the amount of such

assessment the costs of preparing and filing the complaint (including reasonable attorneys' fees) in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorneys' fees to be fixed by the court, together with the costs of the action. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Unit.

5.11 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage upon a Unit held by a bank, insurance company, savings and loan association or other bona fide lender who comes into possession of such Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure, except for assessments or charges which become due and payable from and after the date on which such mortgage owner or holder comes into possession of the Unit (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all units including the mortgaged Unit).

## ARTICLE 6

### Rights of First Mortgagees

In addition to all other rights of first mortgagees pursuant to this Declaration, and notwithstanding any other provision herein to the contrary:

6.1 Unless at least 75% of the first mortgagees (based upon one vote for each mortgage) of individual Units have given their prior written approval, the Association shall not:

a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association for the benefit of the Units and the Members. The granting of easements for public utilities or for other purposes consistent with the intended use of such property by the Association shall not, for purposes of the foregoing, be deemed to be a transfer.

b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Unit and the Owners thereof as provided in Article 5.

6.2 First mortgagees of Units shall have the right to examine the books and records of the Association at reasonable times during normal business hours.

6.3 First mortgagees of Units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any common property owned by the Association, and upon making such payments shall be owed immediate reimbursement from the Association.

## ARTICLE 7

### General Provisions

7.1 Enforcement. The Association may enforce the provisions of this Declaration, the By-laws or the rules and regulations of the Association by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provisions. All rights and remedies may be exercised at any time and from time to time, cumulatively, or otherwise, and failure by the Association to enforce any such provision shall in no way be deemed a waiver of the right to do so thereafter. All expenses incurred by the Association in connection with any such proceedings, including court costs and attorneys fees, and the amount of any money judgment entered against an Owner shall, together with interest thereon at the maximum legal rate, be charged to and assessed against any Owner violating any such provisions and shall be added to and deemed a part of his assessment and constitute a lien on his Unit.

7.2 Severability. Invalidation of any provision of this Declaration by judgment or court order shall not affect any other provision hereof, all of which shall remain in full force and effect.

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

7.4 Amendment. The provisions of this Declaration may be amended by an instrument executed by Owners of not less than seventy-five percent (75%) of the Units which are subject to the provisions of this Declaration, provided that paragraphs 5.6, 7.6 and this paragraph 7.4 may be amended only by an instrument executed by all Owners; provided further that in no event shall any amendment be effective unless written notice of the amendment is sent to every Owner appearing in the records of the Association at least ninety (90) days in advance of any action taken, and a general meeting has been held thereon and provided that, prior to September 1, 1982, no amendment shall be effective unless Declarant shall join therein; provided further that no provision which affects the rights, privileges or interest of the Declarant, Developer or any mortgagee may be amended without their respective written consents. Notwithstanding the foregoing, or anything to the contrary elsewhere in this Declaration, Declarant may, by an instrument signed only by it, cancel this Declaration at any time prior to September 1, 1982, provided that concurrently therewith the Common Area is added to the condominium established by the Declaration of Condominium Ownership for New Century Town Condominium No. 1 of even date herewith which is being recorded concurrently herewith. No such amendment or cancellation shall be effective unless recorded in the Office of the Recorder of Deeds of Lake County, Illinois.

7.5 Notices. Any notice required or desired to be given under the provisions of this Declaration to any Member or Owner shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, directed to the person who appears as the Member or Owner at his last known address, all as shown on the records of the Association at the time of such mailing.



the same persons whose names are subscribed to the foregoing instrument as such \_\_\_\_\_ President and \_\_\_\_\_ Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth; and the said \_\_\_\_\_ Secretary did also then and there acknowledge that he as custodian of the corporate seal of said Bank did affix the said corporate seal of said Bank to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this \_\_\_\_\_ day of  
December \_\_\_\_\_, 1974.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
  
\_\_\_\_\_

This document prepared by:

Robert S. Solomon  
Overton Schwartz & Yacker Ltd.  
105 West Adams Street  
Chicago, Illinois 60603  
(312) 236-6945

EXHIBIT "A"

Lots 8 and 11 in New Century Town Unit One, being a subdivision of parts of Sections 32 and 33, Township 44 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded November 2, 1973 as Document No. 1641342, in Lake County, Illinois.

EXHIBIT "A"

THE ADDITIONAL PROPERTY

PARCEL 1: That part of Section 33 and that part of Section 34, Township 44 North, Range 11, East of the 3rd P.M., described as follows: Commencing at the South West corner of said Section 33; thence East along the South line of said Section, 5339.21 feet to the South East corner of said Section 33; thence continuing East along the South line of Section 34, 111.23 feet to the center line of Milwaukee Avenue, (State Route 21); thence North Westerly along the center line of Milwaukee Avenue, 1862.14 feet; thence Westerly along a line deflecting 81 degrees 23 minutes 57 seconds left from the aforesaid center line extended, 2518.87 feet; thence South Westerly along a line deflecting 12 degrees 33 minutes 54 seconds left from the last described line extended, 978.00 feet to a point 1733.38 feet East of the West line of Section 33 and 1756.28 feet North of the South line of said Section; thence West parallel to the South line of said Section, 333.38 feet to a point 1400.00 feet East of the West line of said Section; thence North parallel to the said West line, 885.87 feet to the point of intersection with the South Westerly line of lands conveyed by Stewart Harvey and Laura Harvey, to John F. Cuneo, by Document 905206, said point being 1400.00 feet East of the West line and 2642.15 feet North of the South line of said Section; thence North 16 degrees 45 minutes West, 295.29 feet to the most Westerly point of lands conveyed by said Document 905206; thence North 34 degrees 30 minutes East, 310.6 feet; thence East parallel to the South line of said Section 33, 467.91 feet to a point 1950.00 feet East of the West line of said Section; thence North parallel to the West line of said Section 33, 1432.35 feet to a point 120.0 feet, measured perpendicularly, Southerly of the Southerly right of way line of the Elgin, Joliet and Eastern Railway; thence Westerly parallel to and 120.0 feet Southerly of the above mentioned right of way line, 958.22 feet to a point of curvature; thence South Westerly along a curved line, convex North Westerly and concentric with the aforesaid right of way line to the West line of said Section 33, the long chord of said curved line being 1033.62 feet; thence South along the West line of said Section 33, 4276.74 feet to the place of beginning, (except that portion thereof condemned for road purposes by proceeding had in the Circuit Court of Lake County, Illinois, as General No. 65-2323); and (also except that part of Section 33 and that part of Section 34, Township 44 North, Range 11, East of the 3rd P. M., described as follows: Commencing at the South West corner of said Section 33; thence North 88 degrees 36 minutes 26 seconds East along the South line of said Section, 3010.91 feet to the place of beginning; thence continuing North 88 degrees 36 minutes 26 seconds East along the South line of said Section, a distance of 2329.53 feet to the South East corner of said Section 33; thence continuing North 88 degrees 36 minutes 26 seconds East along the South line of Section 34, 110.76 feet to the center line of Milwaukee Avenue, (State Route 21); thence North 8 degrees 2 minutes West along the center line of Milwaukee Avenue, 1862.14 feet; thence North 89 degrees 25 minutes 30 seconds West along a line (deflecting per Deed 81 degrees 23 minutes 57 seconds left from the aforesaid center line extended), a distance of 2226.26 feet to the intersection with a line drawn at right angles to the South line of said Section 33, from the place of beginning; thence South 1 degree 23 minutes 34 seconds East along said line drawn at right angles to the South line of said Section 33, a distance of 1926.09 feet to the place of beginning), in Lake County, Illinois, and

PARCEL 2: A tract of land in the West half of Section 33, Township 44 North, Range 11, East of the 3rd P. M., described as follows: Commencing at the point of intersection of the South Westerly line of lands conveyed by Stewart Harvey and Laura Harvey to John F. Cuneo by Document 905206 with a line 1400.00 feet East of and parallel to the West line of said Section

EXHIBIT "B"

(page 1 of 2)



33, said point being 2642.15 feet North of the South line of said Section; thence North 16 degrees 45 minutes West 295.29 feet to the most Westerly point of lands conveyed by said Document 905206; thence North 34 degrees 30 minutes East, 310.6 feet; thence East parallel to the South line of said Section 33, 467.91 feet to a point 1950.00 feet East of the West line of said Section; thence South, parallel to the West line of said Section 33, 120.19 feet; thence South Westerly along a line deflecting 64 degrees 31 minutes 15 seconds right from the last described line extended 609.24 feet to a point 1400.00 feet East of the West line and 2805.35 feet North of the South line of said Section 33; thence South 163.20 feet to the place of beginning, in Lake County, Illinois, and

PARCEL 3: That part of Section 32, Township 44 North, Range 11, East of the 3rd P. M., described as follows: Commencing at the South East corner of said Section 32; thence North along the East line of said Section, 4276.74 feet to a point 120.0 feet South Easterly, measured radially, from the Southerly right of way line of the Elgin, Joliet and Eastern Railway Company; thence South Westerly along a curved line, convex Northerly, concentric with the aforesaid right of way line and 120.0 feet Southerly thereof, a chord distance of 191.75 feet to a point of tangency; thence South Westerly parallel to and 120.0 feet South Easterly of the above mentioned right of way line, 3893.49 feet to a point of curvature; thence South Westerly along a curved line, convex Southerly, concentric with the aforesaid right of way line and 120.0 feet Southerly thereof, a chord distance of 528.93 feet to the center of Butterfield Road; thence South Easterly along the center line of said Butterfield Road, 1653.43 feet to a point of curvature; thence continuing South Easterly along the aforesaid center line extended, 444.70 feet to the South line of said Section 32; thence East along said Section line, 1226.82 feet to the South West corner of lands heretofore conveyed to the Board of School Trustees by Documents 248240, 438445 and 1449458; thence North perpendicular to the South line of said Section 32, 846.62 feet; thence East parallel to the South line of said Section, 617.5 feet; thence South along a line perpendicular to the South line of said Section, 846.62 feet to said South line; thence East along the South line of said Section, 1471.74 feet to the place of beginning, (excepting therefrom that portion thereof, described as follows: That part of Section 32, Township 44 North, Range 11, East of the 3rd P. M., described as follows: Beginning at the intersection of the center line of Butterfield Road with a curved line, which is 220 feet Southerly of, measured radially, of the Southerly right of way line of the Elgin, Joliet and Eastern Railway Company; thence South 19 degrees 15 minutes East along the center line of Butterfield Road, a distance of 521.30 feet; thence North 70 degrees 45 minutes East at right angles to last described line, a distance of 299.88 feet to a point of curvature; thence North Easterly along an arc of a circle, having a radius of 900 feet, being convex to the South East, the chord thereof having a bearing of North 64 degrees 38 minutes 16 seconds East and a length of 191.66 feet, an arc distance of 192.02 feet to a point of tangency; thence North 58 degrees 31 minutes 32 seconds East, a distance of 11 feet; thence North 31 degrees 28 minutes 28 seconds West at right angles to the last described line, a distance of 549.29 feet to aforesaid curved line, being 220 feet Southerly of the Southerly right-of-way line of the Elgin, Joliet and Eastern Railway Company; thence South Westerly along said curved line, convex South Easterly and concentric with aforesaid right-of-way line and 220 feet Southerly thereof, having a radius of 3127.93 feet, an arc distance of 387.03 feet to the place of beginning), in Lake County, Illinois,

EXCEPTING THEREFROM, the following:

Lots 8 and 11 in New Century Town Unit One, being a subdivision of parts of Sections 32 and 33, Township 44 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded November 2, 1973 as Document No. 1641342, in Lake County, Illinois.

**Declarant:**

LaSalle National Bank, not individually,  
but as Trustee under Trust No. 42000.

**Developer:**

Environ II, a joint venture, the sole  
beneficiary of LaSalle National Bank  
Trust No. 42000.

**ARTICLE 2**

**Units**

- 2.1 Description and Ownership.** Subject to additions pursuant to Article 13 hereof, all Units in the Buildings located on the Parcel are delineated on the survey attached hereto as Exhibit "B" and are listed on Exhibit "C" attached hereto. It is understood that each Unit consists of the space enclosed or bounded by the horizontal and vertical planes set forth in the delineation thereof in Exhibit "B." The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown in Exhibit "B." Every deed, lease, mortgage or other instrument may legally describe a Unit by its identifying number or symbol as shown on Exhibit "B," and every such description shall be deemed good and sufficient for all purposes. Except as provided by the Act, no Owner shall, by deed, plat or otherwise, subdivide or in any other manner cause his Unit to be separated into any tracts or parcels different from the whole Unit as shown on Exhibit "B," provided, however, that the Declarant may divide any Unit it owns for the purpose of increasing the size of a Unit owned by Declarant and eliminating or reducing the size of another Unit owned by Declarant.
- 2.2 Survey Amendments.** It is understood that when Exhibit "B" was prepared, the Buildings located on the Parcel were not wholly completed and all structural components of the Buildings constituting all the Unit boundaries were not then in place. Declarant reserves the right to and shall cause to be recorded from time to time until all of said structural components are in place, an amended survey or surveys showing the actual locations and dimensions of the boundaries of those Units that are completed after the date Exhibit "B" was prepared. Whenever in this Declaration the term "survey," "surveys," or "Exhibit 'B'" appears, it shall be deemed to include such amended survey or surveys as shall be hereafter recorded pursuant to this paragraph and Article 13.
- 2.3 Certain Structures Not Constituting Part of a Unit.** Except as a tenant in common with all other Owners, no Owner shall own any pipes, wires, conduits, public utility lines, structural components running through his Unit and serving more than his Unit, or any cables or other components of any community antenna television service system now or hereafter located in his Unit.

**ARTICLE 3**

**Common Elements**

- 3.1 Description.** Except as otherwise in this Declaration provided, the Common Elements shall consist of all portions of the Property

except the Units. Without limiting the generality of the foregoing, the Common Elements shall include the land, outside walks and driveways, landscaping, stairways, hall, lobbies, corridors, storage areas, entrances and exits, balconies, patios, rear yards, basement, roof, structural parts of the Buildings, pipes, ducts, flues, chutes, conduits, wires and other utility installations to the outlets, and such component parts of walls, floors and ceilings as are not located within the Units.

- 3.2 Ownership and Use of Common Elements. Each Owner shall own an undivided interest in the Common Elements as a tenant in common with all the other Owners of the Property, and, except as otherwise limited in this Declaration, shall have the right to use the Common Elements for all purposes incident to the use, occupancy and enjoyment of his Dwelling Unit as a place of residence, his Garage Unit for parking, and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with his Unit. Each Unit's corresponding percentage of ownership in the Common Elements has been determined by the Declarant to be as set forth in Exhibit "C" attached hereto and may not be changed without unanimous approval of all Owners and holders of first mortgage liens on the Units, except as provided in Article 13 hereof, provided that Declarant may at any time adjust or change the percentage of ownership in the Common Elements allocable to Units then owned by Declarant, so long as such adjustment or change does not increase or decrease the total percentage of ownership in the Common Elements allocable to all Units then owned by Declarant.

#### ARTICLE 4

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

- 4.1 Submission of Property to "Condominium Property Act." The Property is hereby submitted to the provisions of the "Condominium Property Act" of the State of Illinois, and shall be known as "New Century Town Condominium No. 1."
- 4.2 No Severance of Ownership. No Owner shall execute any deed, mortgage, lease, or other instrument affecting title to his Unit ownership without including therein both his interest in the Unit and his corresponding percentage of ownership in the Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.
- 4.3 Easements.
- 4.3.1 Encroachments. In the event that, by reason of the location, construction, settlement or shifting of the Buildings, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements or any other Unit, or, if by reason of the location, design or construction of any Unit it shall be necessary or advantageous to an Owner to use or occupy any portion of the Common Elements for any reasonable use appurtenant to said Unit,

to the mortgagees of each Unit; (v) shall contain a clause or endorsement whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, members of the Board, the Declarant, the Developer, the managing agent, if any, their respective employees and agents, and Owners and Occupants, and (vi) shall contain a "Replacement Cost Endorsement."

The Board may engage the services of a bank or trust company authorized to do trust business in Illinois and having a capital of not less than \$5,000,000 to act as Insurance Trustee and to receive and disburse the insurance proceeds resulting from any loss upon such terms as the Board shall determine consistent with the provisions of this Declaration. In the event the lowest of three (3) bids from reputable contractors for making all repairs required by any such loss shall exceed \$50,000, the Board, upon written demand of the mortgagee of any Unit shall engage the services of an Insurance Trustee as aforesaid. The fees of such Insurance Trustee shall be common expenses.

The proceeds of such insurance shall be applied by the Board or by the Insurance Trustee on behalf of the Board for the reconstruction of the Buildings, or shall be otherwise disposed of, in accordance with the provisions of this Declaration and the Act; and the rights of the mortgagee of any Unit under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary therein or in any mortgage contained, at all times be subject to the provisions in the Act with respect to the application of insurance proceeds to reconstruction of the Buildings, provided, however, that if the Board or the Insurance Trustee fails to perform all of the conditions precedent required by the policy or policies of insurance, and fails to collect the amount of the loss within the time required by law, and the mortgagee or mortgagees are required to avail themselves of their rights under the standard mortgage clause to collect the proceeds of the policy or policies of insurance, any amounts so collected through the efforts of said mortgagee or mortgagees shall be applied as directed by said mortgagee or mortgagees. All insurance contracts should be required to contain a waiver of subrogation with respect to the Board and the Association, its employees, Unit Owners and members of their household and mortgagees, or these parties should be named as additional insureds.

- 5.7.3 The services of any person or firm to act on behalf of the Owners in connection with real estate taxes and special assessments on the Unit Ownerships, and in connection with any other matter where the respective interests of the Owners are deemed by the Board to be similar and non-adverse to each other. The cost of such services shall be common expenses.

Except as provided in paragraph 6.3, ~~Landscaping~~ gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement of the Common Elements (but not including the windows and sliding glass doors appurtenant to the Units, the front doors appurtenant to the Garden Units, patios, patio fences and balconies adjoining the Units, any portion of the Common Elements completely enclosed by such patio fence, and the interior surfaces of the Units, all of which the respective Owners shall, at their sole cost and expense, paint, clean, decorate, maintain, repair and replace, provided that no change shall

be made in the color or appearance of said fences, balconies and those portions of said windows and doors visible from the exterior of the Unit, without the prior written consent of the Board) and such furnishings and equipment for the Common Elements as the Board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire the same for the Common Elements.

- 5.7.5 To provide for the designation, hiring and removal of employees and other personnel, including lawyers and accountants, to engage or contract for services of others and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property as a first class condominium or for the enforcement of these restrictions, and to delegate any such powers to the manager or managing agent (and any such employees or other personnel as may be employees of the managing agent).
- 5.7.6 Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Property or any part thereof which may in the opinion of the Board constitute a lien against the Property or against the Common Elements, rather than merely against the interests therein of particular Owners. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specifically assessed to said Owners.
- 5.7.7 Maintenance and repair of any Unit, that portion of any heating, air conditioning, electrical or other equipment servicing only that Unit, or any portion of the Common Elements required to be maintained and repaired by a Unit Owner if, in the discretion of the Board, such maintenance or repair is necessary to protect the Common Elements or any other portion of the Buildings or to maintain the general appearance and condition thereof and an Owner of any Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Board to said Owner. The Board shall levy a special assessment against such Owner for the cost of said maintenance or repair.
- 5.7.8 The Board or its agents upon reasonable notice or, in the case of an emergency, without notice, may enter any Unit, or the Common Elements over which the Unit may have an exclusive easement, when necessary in connection with any maintenance or repair for which the Board is responsible or is authorized to make. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Board at the expense of the maintenance fund.
- 5.7.9. The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the maintenance fund any structural alterations, capital additions to, or capital improvements of the Common Elements (other than for purposes of replacing or restoring portions of the Common Elements, subject to all the provisions of this Declaration) requiring an expenditure in excess of Five Thousand Dollars (\$5,000) without in each case the prior approval of the voting members having at least two-thirds (2/3) of the total votes.

\*\*\*Section 4.1. Construction, Interpretation, and validity of Condominium Instruments. Except to the extent otherwise provided by the Declaration:

(a) The terms defined in Section 2 of this Act shall be deemed to have the meaning specified thereto unless the context otherwise requires.

(b) To the extent that perimeter and partition walls, floors or ceilings are designated as the boundaries of the units or of any specified units, all decorating, wall and floor coverings, paneling, molding, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof, shall be deemed a part of such units, while all other portions of such walls, floors or ceilings shall be deemed part of the common elements.

\* (c) If any chutes, flues, ducts, conduits, wires, bearing walls, bearing columns, or any other apparatus lies partially within and partially outside of the designated boundaries of a unit, any portions thereof serving only that unit shall be deemed a part of that unit, while any portions thereof serving more than one unit or any portion of the common elements shall be deemed a part of the common elements.

(d) Subject to the provisions of subsection (c) of this paragraph, all space and other fixtures and improvements within the boundaries of a unit shall be deemed a part of that unit.

(e) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, and any other apparatus designed to serve a single unit shall be deemed a limited common element appertaining to that unit exclusively.