

## SKYLINE HOUSE CONDOMINIUM

### DECLARATION

This DECLARATION is made in Fairfax County, Commonwealth of Virginia, on the ninth day of November, 1979, by /Sixth Skyline House Corp., a Virginia Corporation (hereinafter referred to as "Declarant), pursuant to the provisions of the Condominium Act of the Code of Virginia (1950).

WITNESSETH THAT:

WHEREAS, Chapter 4.2 of Title 55 of the Code of Virginia (1950), as amended (hereinafter referred to as the "Condominium Act" or "Act"), provides for the creation of condominiums in the Commonwealth of Virginia; and

WHEREAS, the Declarant is the owner in fee of a parcel of land situate in Fairfax County, Virginia, more particularly described as Phase I in Exhibit A which is a metes and bounds description of the land constituting the Condominium and which is attached hereto and made a part of this Declaration, said land being also shown graphically as Phase I in Exhibit B which is a plat entitled "Skyline House Condominium, Mason District, Fairfax County, Virginia, attached hereto (which parcel of land is hereinafter referred to as the "Land"); and

WHEREAS, the Declarant desires and intends by the recordation of this Declaration to submit the Land together with all improvements thereon or to be constructed thereon to the provisions of the Condominium Act;

NOW, THEREFORE,

### ARTICLE I

A. Submission of the Land: The Declarant hereby establishes a Condominium in accordance with Chapter 4.2 of Title 55 (Condominium Act) upon the Land described as Phase I in Exhibit A and shown graphically as Phase I in Exhibit B attached hereto. It is the purpose of the Declarant by this Declaration, to subdivide and to impose covenants and restrictions as herein described upon the Land all of which shall run with the Land so that the Land together with the improvements erected thereon shall constitute a condominium as defined in the Condominium Act. The submission of the Land to the Condominium Act is subject to all covenants, conditions, and restrictions now recorded or hereafter to be placed on the record. The Condominium shall not be merged with any separate condominium regime without the prior written approval of the Veterans Administration.

B. Option to Submit Additional Land: The Declarant hereby reserves the option, to be exercised at its sole discretion, to submit to the Virginia Condominium Act all or any part of the real property described as Phase II of the aforesaid Exhibit A (which land is elsewhere herein referred to as "Additional Land") and to add all or any part of the Additional Land to the Condominium created by this Declaration. In the event that all or any part of the Additional Land is added to the existing Condominium, (i) the expanded Condominium shall continue to be known as Skyline House Condominium; (ii) the expanded Condominium shall be subject to all the provisions of this Declaration and the exhibits attached hereto; (iii) each unit owner in the expanded Condominium shall be a member of the Unit Owners' Association; (iv) each Unit shall be assigned a number of votes in the Unit Owners' Association proportionate to the undivided interest in the Common Elements of the Condominium appertaining to that Unit; and (v) the percentage interest assigned to each Unit in the Condominium shall change as described in Exhibit E annexed hereto and made a part hereof.

C. Definitions: The terms used in this Declaration and in the attached By-Laws shall have the following meanings:

1. "Additional Land" means all or any part of the real property which may be added to the Condominium in accordance with the provisions of this Declaration and the Condominium Act, and which is described as "Phase II" in Exhibit A, and graphically shown as "Phase II" in Exhibit B.

2. "Board of Directors" means the persons elected as such in accordance with the By-Laws, who shall be the governing body of the Unit Owners' Association and shall constitute the "executive organ" referred to in the "Condominium Act" as hereinafter defined.

3. "Buildings" means the buildings and other improvements erected on the Land by the Declarant.

4. "Building Plans" consists of the plans of the buildings prepared by Cohen and Huft, Holtz Kerxton and Associates and filed with the County of Fairfax, Virginia, showing graphically, particulars of the Buildings and the Units and any supplemental plans thereto.

5. "By-Laws" means those attached hereto as Exhibit D, and as amended from time to time.

6. "Common Elements", both "General" and "Limited", means all parts of the property other than the Units, as more fully set forth in Section E of ARTICLE I of this Declaration.

7. "Common Expenses" means and includes:

(a) all sums lawfully assessed against the Unit Owners by the Unit Owners' Association;

(b) expenses of administration, maintenance, repair or replacement of the Common Elements, including repair and replacement funds as may be established;

(c) expenses agreed upon as common expenses by the Unit Owners' Association;

(d) expenses declared common expenses by the provisions of the Condominium Act or by the Declaration or the By-Laws; and

(e) premiums for insurance policies required to be purchased by the Board of Directors of the Condominium pursuant to the provisions of the Condominium Act (as hereinafter defined) and this Declaration.

8. "Condominium Act" means Title 55, Section 55-79.39, et sec., Code of Virginia(1950), as amended.

9. "Condominium Instruments" means the Declaration, By-Laws, any Exhibits thereto and any amendments thereof, and plats and plans recorded pursuant to the provisions of the Condominium Act.

10. "Condominium Unit" means a Unit together with the undivided interest in the Common Elements appertaining to that Unit.

11. "Convertible Space" means the portion of the structure, more particularly described as such in Exhibit C, as the same may be amended from time to time, within which additional Units and/or Limited or General Common Elements, or both, may be created in accordance with this Declaration and the Condominium Act.

12. "Declarant" means Sixth Skyline Corp., a Virginia corporation, and its successors and assigns.

13. "Land" means the real property described as Land in Section A of Article I of this Declaration and other real property which the Declarant may add thereto and submit to the provisions of this Declaration, exclusive of the buildings thereon.

14. "Majority of the Owners" means the Owners of Units to which more than fifty percent (50%) of the votes in the Unit Owners' Association appertain. Any specified percentage of the Owners means the Owners of such number of Units to which the specified percentage of the votes in the Unit Owners' Association appertain.

15. "Management Agent" means a professional management agent employed by the Unit Owners' Association to perform such duties and services as the Board of Directors shall authorize in conformance with the Condominium Act, this Declaration and the By-Laws.

16. "Owner or Unit Owner" means any one or more natural person(s), corporation(s), partnership(s), association(s), trust(s), or other entities capable of holding title to real property, or any combination thereof, which own fee simple title to a Unit.

17. "Percentage Interest" means the percentage interest of each Unit in the Common Elements as set forth in Exhibit E attached hereto, and as amended from time to time. In the event that all or any part of the Additional Land is added to the Condominium created hereby or if any Convertible Space is converted, the percentage interest of each Unit shall change only to the extent set forth in said Exhibit E. Each Unit Owner, by acceptance of deed therefor, consents and agrees to the alteration of said percentage interests and consents and agrees to the addition of additional Common Elements at such time or times, if any, that the Declarant submits any portion of the Additional Land to the provisions of this Declaration or converts any Convertible Space as provided for herein and, in furtherance thereof, each such Unit Owner irrevocably appoints the Declarant as his attorney-in-fact for the purpose of further evidencing such consent and agreement should the Declarant determine the same to be necessary and desirable.

18. "Plat of Condominium Subdivision" means the plat of the entire property described in this Declaration and recorded simultaneously with this Declaration, and attached hereto as Exhibit C, and any amendments thereto.

19. "Property" means the Land and the buildings owned in fee simple absolute, and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

20. "Rules and Regulations" means those rules and regulations adopted from time to time by the Board of Directors that are deemed necessary for the administration and enjoyment of the Condominium provided they are not in conflict with the Condominium Act, this Declaration and the By-Laws.

21. "Unit" means a Unit as defined by the Condominium Act, and consists of any of those parts of the buildings which is separately described in Exhibit C attached hereto, and as may be amended from time to time.

22. "Unit Owners' Association" means all of the Owners as defined in Section C(16) of Article I of this Declaration acting as a group in accordance with the By-Laws.

D. Name: The name of the Condominium shall be the "Skyline House Condominium.

E. Identification of Units and Description of the Boundaries of the Units:

1. Identification of Units. The Condominium consists of the Land and the multi-family Building containing thirty-three (33) residential units (hereinafter referred to as a "Unit or Units"), fourteen floors of residential convertible space (hereinafter referred to as "Residential Convertible Space", approximately 2,086 square feet of commercial convertible space (hereinafter referred to as "Commercial Convertible Space") and all Common Elements appurtenant thereto. When completed, Phase I of the Condominium will contain a total of two hundred seventy-three (273) residential units, a maximum of five commercial units, and all Common Elements appurtenant thereto. For the purpose of identification, the Building and Land are described as Phase I in Exhibit B, which depicts graphically the location of the Building and which is attached hereto and made a part of this Declaration. The Building is divided into Units, which are given identifying numbers as shown in Exhibit C. The Units may be described by the number and letter assigned thereto in accordance with Exhibit C as follows:

(a) All Residential Units, other than Units on the terrace Level, have an identifying number consisting of either three or four digits and followed by the letter "W". The first two digits to the furthestmost right and immediately preceding the letter "W" of such identifying numbers signify the tier in which such Unit is located, the remaining one or two digits signify the floor on which such Unit is located. Units on the terrace level have an identifying number of one or two digits preceded by the letter "T" and followed by the letter "W". The digit or digits signify the tier in which the Unit is located. The aforesaid identifying number as to the Unit is also the identifying number as to the real estate constituting such Unit.

(b) All of the Units which are constructed within the Convertible Space will have identifying numbers as set forth in subparagraph E(1) (a) immediately preceding.

2. Unit Boundaries. Each Unit shall include that part of the Condominium which lies within the following boundaries:

(a) Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:

(i) Upper Boundary. The horizontal plane of the bottom surface of the concrete ceiling slab, except where there is a dropped ceiling, in which location the upper boundary shall be the horizontal plane which includes the top side of the plasterboard of said dropped ceiling.

(ii) Lower Boundary. The horizontal plane of the top surface of the undecorated concrete floor slab.

(b) Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the vertical plane which includes the outermost surface of the plasterboard on all walls bounding the Unit extended to intersections with each other and with the upper and lower boundaries. The Unit Owner shall be deemed to own the walls and partitions which are contained in said Unit Owner's respective Unit; all doors and windows therein, all lath, wallboard, plasterboard, plaster, paneling, 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 other portions of such walls, floors, and/or ceilings shall be deemed a part of the Common Elements.

3. Relocation of Unit Boundaries and Subdivision of Units. Subject to the written approval of all the holders of first mortgage liens on the individual Units involved, the approval of the Board of Directors and the approval of any Unit Owner or Owners affected, the boundaries between such Unit and any adjoining Unit or Units may be subdivided or relocated. The Secretary shall, at the expense of the Unit Owner requesting such relocation, record any necessary amendment to this Declaration to effect such action as provided in Sections 55-79.69 and 55-79.70 of the Condominium Act.

4. Exclusions from Ownership. Said Unit Owner shall be deemed not to own any pipes, wires, conduits, or other public utility lines, ventilation or other ducts, bearing walls or structural portions of the building running through said respective Unit, which are utilized for or serve more than one Unit, which items are by these presents hereby made a part of the General Common Elements. Where there is attached to the Condominium a balcony or terrace, such boundaries shall not include the balcony or terrace serving such Units, which balcony or terrace shall be a Limited Common Element. 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.

F. Common Elements:

1. Limited Common Elements. The marked and identified vehicle parking areas within the enclosed garage space, the marked and identified vehicle parking spaces within the exterior parking area, and the balconies shown and graphically described as such in Exhibit C to this Declaration are Limited Common Elements appurtenant to each of the Units to which they are attached or assigned. These Limited Common Elements are reserved for the use of the Units to which they are appurtenant, by reason of attachment or assignment, to the exclusion of other Units, and shall pass with a Unit, as appurtenant thereto.

(a) Declarant's Right to Assign Parking Spaces. Initially all vehicle parking spaces within the enclosed garage space area and the vehicle parking spaces identified as limited common elements within the exterior parking area shall be Limited Common Elements appurtenant to Units owned by the Declarant. So long as the Declarant shall own any Units within the Condominium, the Declarant shall have and hereby expressly reserves the right from time to time to reassign one or more of these Limited Common Elements as parking spaces appurtenant to specific Units whose Owners initially purchase the right to use such space, PROVIDED, HOWEVER, that the Declarant shall be required to assign at least one such parking space to each of the Units within the Condominium. Upon sale of the last remaining Unit owned by Declarant, the Declarant shall convey all parking spaces, if any, which have not been previously assigned to such eligible nominee as shall be designated by the Board of Directors of the Unit Owners' Association. The Declarant may sell the right to use more than one parking space as a Limited Common Element appurtenant to a Unit if there are parking spaces in excess of one space per Unit.

(b) Reassignment of Parking Spaces. A parking space which is assigned by the Declarant as a Limited Common Element appurtenant to a Unit may not be severed from the Unit to which it is assigned, EXCEPT, HOWEVER, that if more than one parking space is assigned as a Limited Common Element appurtenant to a Unit, the Owner of that Unit may reassign such excess parking space to another Unit Owner pursuant to the requirements of Title 55.79-57 of the Code of Virginia (1950), as amended, upon obtaining (i) the written consent of the Board of Directors of the Unit Owners' Association; (ii) the written consent of all mortgagees whose mortgages are secured by a lien on the Unit owned by the assigning Unit Owner; and (iii) the agreement of all such mortgagees to release the parking space being transferred from the lien of such mortgage. All such reassignments shall be reflected in an amendment to the Condominium Instruments. All consenting mortgagees shall either join

in the amendment and/or execute such other documents as may be necessary for the purpose of releasing the parking space from the lien of their mortgages. The reasonable costs incurred in the preparation and recording of such amendment shall be borne by the assignee of the Limited Common Element.

2. General Common Elements. All portion of the Condominium not described above as a part of a Unit or as a Limited Common Element are hereby declared to be General Common Elements including, but not limited to, the following:

(a) Inclusions within Common Elements:

- (i) the Land;
- (ii) all foundations and loadbearing interior walls;
- (iii) all exterior walls of the structure; all walls separating Units; and all concrete floors and concrete ceilings;
- (iv) all roofs and all landscaping, walkways, driveway areas and that portion of the exterior parking area not reserved as Limited Common Elements;
- (v) all central and appurtenant installations for services such as electricity, telephone, television antenna, gas, and water;
- (vi) all tanks, pumps, motors, fans, compressors and control of other equipment, if any, to be used in common;
- (vii) all sewer pipes;
- (viii) all Units which may hereafter be acquired and held by the Unit Owners' Association on behalf of all Unit Owners;
- (ix) the Recreational Facilities; and
- (x) all other parts of the Condominium and all apparatus and installations existing in the structure or on the Land for common use or necessary or convenient to the existence, maintenance or safety of the Condominium, which are not specifically made a part of a Unit or a Limited Common Element by the terms of this Declaration.

3. Maintenance, Repair or Replacement of General and Limited Common Elements. Any expense of maintenance, repair or replacement relating to any General Common Elements and any expense of maintenance, repair or replacement relating to any limited Common Elements other than as provided in Section 3 of Article VIII of the By-Laws and all structural maintenance, repair or replacement thereof shall be treated as and paid for as a part of the common expense of the Unit Owners' Association, unless the same shall be caused by the negligence or deliberate act of an individual Unit Owner or other person having actual or implied consent or permission of said Unit Owner to make use of the damaged General or Limited Common Element, in which case expenses of maintenance, repair or replacement relating to such General or Limited Common Elements referred to in this paragraph shall be borne by and assessed against the individual Unit Owner.

ARTICLE II

A. Use and Ownership of General Common Elements and Limited Common Elements:

1. Each Unit Owner shall have an undivided interest in the General Common Elements and Limited Common Elements and (except as otherwise provided herein) shall share in the expense of operating and maintaining the same in accordance with the ratio of percentages as set forth in Exhibit E (Schedule of Percentages) to this Declaration which is attached hereto and made a part hereof.

2. The aforesaid ratio of sharing the percentage of common expenses and assessments as shown in Exhibit E to this Declaration shall remain unchanged without regard to the purchase price of the Units, their locations in the Condominium or the exact square footage included in such Unit. Any common excess funds of the Unit Owners' Association shall be owned by each of the Unit Owners in the same proportion as their respective ownership percentage interest in the General Common Elements.

3. The use of the General Common Elements shall be limited to Unit Owners in residence, to their tenants in residence and to their guests, invitees and licensees. The use of Limited Common Elements shall be restricted to the Unit Owner(s) of the Unit(s) to which they are appurtenant, to their tenants in residence and to their guests, invitees and licensees.

4. The General Common Elements and Limited Common Elements shall remain undivided and no Unit Owner may bring any action for partition or division of these Common Elements.

5. The undivided interest in the General Common Elements and Limited Common Elements shall not be separate from the Unit and shall be deemed to be conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the document of conveyance or encumbrance.

6. The use of the General Common Elements and Limited Common Elements shall be governed by the By-Laws attached hereto as Exhibit D to this Declaration and as they may hereafter be amended, and by House Rules and Regulations adopted by the Board of Directors of the Unit Owners' Association. Shown in Exhibit C to this Declaration are portions of the General Common Elements designated "Unit Owner Storage Area". The Board of Directors of the Unit Owners' Association may regulate the use of the said Unit Owner Storage Area by the establishment of House Rules and Regulations which may be amended from time to time by the said Board of Directors. No Unit Owner shall obtain a vested right to use such storage area if the Board of Directors shall in its discretion modify the rules and regulations for use of such area or eliminate such storage area.

7. The spaces marked R1 and R2, and shown in Exhibit C to this Declaration are a part of the Common Elements and are reserved for use by personnel in residence engaged in the management or operation of the Skyline House Condominium in accordance with such conditions as may be established by the Unit Owners' Association.

8. The Unit Owners' Association may suspend or limit the right of any Unit Owner or other person to use any part of the General Common Elements or Limited Common Elements upon the failure of such Unit Owner or other person to observe all By-Laws, House Rules and Regulations promulgated by the Unit Owners' Association governing the use of such General Common Elements or Limited Common Elements.

B. Assignment of Common Elements:

1. Assignment of General Common Elements as Limited Common Elements. Subject to the provisions of ARTICLE VIII of this Declaration, the Board of Directors shall have the power to assign the following portions of the General Common Elements as Limited Common Elements and may assign such areas as appurtenant to one or more Units:

(a) portions of the General Common Elements contained within the enclosed parking garage of the Condominium, provided that such assignment does not limit access to any parking space assigned as a Limited Common Element appurtenant to a Unit, unless the owner of such Unit shall have consented thereto;

(b) portions of the General Common Elements designated as hallway, where such hallway provides access solely to one or more contiguous Units owned by the same Unit Owner, provided such assignment does not limit access to any stairway, elevator or other means of general ingress or egress, and further provided that such assignment does not limit access to any Unit, unless the Owner of such affected Unit shall have consented thereto;

2. Assignment of Limited Common Elements as General Common Elements. The Board of Directors may also, with the consent of the Owner of the Unit to which it was last appurtenant, assign a Limited Common Element as a General Common Element, provided the holder of the first mortgage lien secured by that Unit shall have given written approval to such assignment.

3. Procedure for Assignment of Limited Common Elements. All assignments of Common Elements shall be reflected by an amendment to the Declaration prepared and executed by the President or Secretary of the Unit Owner's Association and duly recorded. In the case of General Common Elements assigned as Limited Common Elements, such amendment shall be delivered to the Unit Owner or Owners concerned, upon payment by such Unit Owner or Owners of all reasonable costs for the preparation and acknowledgement thereof. The amendment shall become effective upon execution and recordation of the amendment by such Unit Owner or Owners.

### ARTICLE III

#### A. Liability for Assessments.

1. No Unit Owner may exempt himself from liability for assessments to his Unit for the cost of the maintenance and operation of the General Common Elements and Limited Common Elements by waiver of the use or enjoyment of any of the General Common Elements or Limited Common Elements or by the abandonment of his Unit.

2. The assessments imposed by the Unit Owners' Association in accordance with the provisions of its By-Laws for the maintenance and operation of the General Common Elements shall constitute a lien upon each of the Units superior to all other liens, other than liens for real estate taxes and liens for the first trust or first mortgage financing duly recorded prior to the date any such assessment becomes due or after the receipt of a written statement from the Board of Directors reflecting that payment of such assessments were current as of the date of recordation of said mortgage. In addition, each Unit Owner shall be personally liable for all such assessments imposed by the Unit Owners' Association which may be due but unpaid at any time during which he owns a Unit. This lien shall be a lien on the real estate subordinate to the above-mentioned real estate taxes and first deeds of trust or first mortgages, but will be fully assessed against the real estate and will be enforceable in a court of competent jurisdiction upon the subsequent Grantees taking title to a Unit in the Condominium, except as may be otherwise provided in Section 3 of this ARTICLE III of this Declaration hereafter.

3. Except as otherwise may be provided in Section A(3) of ARTICLE VIII of this Declaration hereof, the conveyee of a Unit, in the case of any conveyance of any Unit, shall be jointly and severally liable with the conveyor for all unpaid assessments by the Unit Owners' Association against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the conveyee's right to recover from the conveyor the amounts paid by the conveyee therefor.



However, any such conveyer shall be entitled to a statement from the Board of Directors of the Unit Owners' Association setting forth the amount of the unpaid assessments against the conveyer of such Unit due the Unit Owners' Association and such conveyer shall not be liable for, nor shall the Unit conveyed be subject to, a lien for any assessments made by the Unit Owners' Association against the conveyer of the Unit in excess of the amount therein set forth.

4. During the time period prior to the completion of construction of all of the Units in the Condominium and the issuance of residential use permits thereon, the Board of Directors shall approve a budget for the operation of the Condominium which shall serve as the basis for the amount of the monthly assessments hereinbefore mentioned. Said budget shall be revised from time to time by the Board of Directors so as to correspond as closely as possible to the actual current costs of operation of all occupied Units and Common Elements of the Condominium. All Owners of Units shall pay the percentage share of the total budgeted operating costs that is equal to the percentage ownership in the Common Elements assigned in Exhibit E to the particular Unit owned by such Unit Owner. Contributions to replacement reserves or any other reserves shall not be deemed to be "costs of operation", as the term is used in this paragraph.

5. Any common expense benefiting less than all of the Units, or caused by the conduct of less than all those entitled to occupy the same or their licensees or invitees, shall be specially assessed against the Unit or Units involved. The determination by the Board of Directors that any expense or expenses benefits or is caused by the conduct of those entitled to occupy only certain Units shall be conclusive in the absence of arbitrary action or fraud on the part of the members of the Board of Directors making such determination.

#### ARTICLE IV

A. Legal Interest. Skyline House Condominium, Phase I, when completed, will consist of two hundred seventy-three (273) Residential Units, a maximum of five (5) commercial units, together with General Common Elements and Limited Common Elements as defined herein. Each Unit may be individually conveyed and encumbered and may be the subject of ownership, possession or sale of all types of juridic acts inter vivos or mortis causa, as if it were the sole and entirely independent real property of the purchasing Unit Owner, and all of its successors in title.

B. Administration. The administration of Skyline House Condominium shall be conducted in accordance with the provisions of this Declaration, the By-Laws of the Unit Owners' Association, attached hereto as Exhibit D and made a part hereof as fully as if set out in full herein (hereinafter referred to as the "By-Laws"). Every Unit Owner shall automatically become a member of the Unit Owners' Association until such time as his/her ownership of the Unit ceases, for any reason, at which time his/her membership in said Association shall automatically cease. Other than as an incident to a lawful transfer of the title of a Unit, membership in the Unit Owners' Association shall be non-transferable and any attempt to transfer the same shall be null and void.

C. Governing Documents.

1. Every Unit Owner, his/her family, tenants, licensees and invitees shall comply with all of the provisions of this Declaration and with the By-Laws, decisions and resolutions of the Unit Owners' Association, as each may be properly amended from time to time. Failure to comply with such provisions, By-Laws, decision and resolutions shall be grounds for an action to recover damages or for injunctive relief as provided hereinafter in Section A of ARTICLE XIV of this Declaration hereof.

2. All Unit Owners and tenants, present or future, or any other person who may be in or use the facilities of the Condominium in any manner, are subject to the provisions of this Declaration and By-Laws, rules or regulations established by the Unit Owners' Association and the mere acquisition or rental of any of the Units of the Condominium or the mere act of occupancy of any of said Units or the General Common Elements or Limited Common Elements appurtenant thereto, shall signify that the provisions of this Section C(2) of ARTICLE IV of this Declaration are accepted and ratified.

#### ARTICLE V

##### A. Insurance.

1. The Unit Owners' Association shall obtain and maintain at all times, to the extent available, at least that insurance (hereinafter referred to as "Condominium Insurance") required by ARTICLE XII of the By-Laws. Such insurance shall be made payable to the Unit Owners' Association of Skyline House Condominium for the use and benefit of the individual Unit Owners and such other named insured as may be specified by the Unit Owners' Association, with a standard mortgagee clause endorsed to provide that any proceeds paid to the named insured are for the use and benefit of mortgagees as their interest may appear.

2. The premiums for the insurance coverage shall be a common expense to be paid by annual assessments levied by the Unit Owners' Association against each of the Unit Owners.

3. Each Unit Owner, at his/her own expense, may obtain additional insurance upon his/her Unit provided that no Unit Owner shall maintain insurance coverage which will tend to decrease the amount which the Unit Owners' Association may realize under any insurance policy which it may have in force on the Condominium at any particular time.

##### B. Insurance Trustee.

1. The Unit Owners' Association shall from time to time designate an Insurance Trustee who shall be the named insured along with the Unit Owners' Association. The Unit Owners' Association shall be responsible for fees and expenses of the Insurance Trustee which shall constitute a common expense of the Condominium. The Board of Directors may enter into an Insurance Trust Agreement with the Insurance Trustee which shall provide that the Insurance Trustee shall not be liable for payment of premiums, the renewal of policies, the sufficiency of coverage, the form or contents of the policies, the correctness of any amounts received on the account of the proceeds of any insurance policies nor the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in these By-Laws, for the benefit of the insureds and their beneficiaries thereunder.

2. Except as hereinafter provided, the Insurance Trustee named in the Condominium property endorsement shall receive and hold the amount payable under said Condominium Insurance and apply the same to the cost of reconstruction or repair of all damaged or destroyed Common Elements and Units. The Owner of a damaged or destroyed Unit shall be obligated to commence the work of repairing or reconstruction of the Unit within sixty (60) days from the date of the damage or destruction. Damaged or destroyed Common Elements shall be repaired by the Board of Directors of the Unit Owners' Association. The work shall be accomplished in accordance with the same plans and specifications by which the Unit was originally constructed, subject, however, to the prior written approval of the Unit Owners' Association. The Insurance Trustee shall make available and pay to the Unit Owner the amount of insurance proceeds received by the Insurance

Trustee for the reconstruction and repair of the Unit. The payment of the proceeds of insurance shall be made as the work progresses at such time and upon compliance by the Unit Owner with such conditions as the Insurance Trustee shall impose, in order to assure full restoration or repair of the damaged portions of the Unit in a workmanlike manner, free and clear of any mechanic's and materialmen's liens and any encumbrances, liens, claims or charges. If the cost of the reconstruction or repair exceeds the amount paid to the insurance Trustees, the excess shall be paid by the Unit Owner; PROVIDED, HOWEVER, that in the event that two-thirds (2/3rds) or more of the total number of Units in the Condominium are substantially damaged or destroyed, a decision not to reconstruct or repair the damaged or destroyed Units may be made within sixty (60) days from the date of the damage or destruction by the vote of at least four-fifths (4/5ths) in interest of the Unit Owners, as set forth in Exhibit E to this Declaration, cast in person or by proxy at a meeting duly held in accordance with the provisions of the By-Laws of the Unit Owners' Association. In such event, the Condominium shall be considered terminated. All damaged or destroyed Units must be repaired if;

(a) less than two-thirds (2/3rds) of the total number of Units are damaged or destroyed; or

(b) more than two-thirds (2/3rds) of the total number of Units are damaged or destroyed and a decision "not to reconstruct or rebuild damaged or destroyed Units" as described in Section 2 of this Article 5 of this Declaration is not made.

3. In the event the Condominium is not insured or where the insurance proceeds are insufficient to cover the cost of reconstruction of any of the Common Elements of the Condominium, such cost shall be paid by all of the Unit Owners in the same proportion as their proportionate ownership of the Common Elements of the Condominium, and if any one or more of those composing the minority shall refuse to make such payments, the majority of the Unit Owners may proceed with the reconstruction at the expense of all the Unit Owners and the share of the resulting common expense may be assessed against all of the Unit Owners and such assessment for this expense shall have the same priority as provided for other assessments in Section A of Article III of this Declaration.

#### ARTICLE VI

A. Encroachments. In the event any portion of the Common Elements encroaches upon any Unit or any Unit encroaches upon the Common Elements, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Condominium, a valid easement for the encroachment and the maintenance of the same shall exist so long as the encroachment exists. In the event the multi-family structure is partially or totally destroyed and then rebuilt, encroachment of parts of the Units, Limited Common Elements or General Common Elements, as aforesaid due to construction shall be permitted, and a valid easement for said encroachments and the maintenance thereto shall exist. An easement is reserved for any encroachment within the above described areas due to variances in construction or settling of the buildings causing changes in the as-built structure of this Condominium.

B. Easements:

1. There are reserved easements through each of the Units for the benefit of any adjoining or other Unit contained in the Condominium as may be required for the installation, existence, repair and maintenance of all structural elements of the buildings in which the Unit is located, for electrical lines and conduits, television and radio master antenna systems, heating and ventilating ducts, water lines, drain pipes and other appurtenances to all other utility systems in order to adequately serve

each of such Units. Such easements through a Unit shall be according to the plans and specifications for the Condominium, or as the Condominium shall be constructed, unless a variance for the same is approved in writing by the Unit Owners subject to such easement. The aforesaid easement shall be in addition to all other easements contained herein.

2. Every Unit Owner shall have a perpetual easement for support and a perpetual easement in, upon, through and over any portion of the Condominium, to keep, maintain, use, repair and replace his Unit, to its original position, and in every subsequent position to which it changes by reason of the gradual forces of nature and the elements whether such subsequent position be, in whole or in part, adjacent, subjacent, or superjacent to said original position and every Unit Owner shall have a perpetual easement in every portion of the Condominium for the installation, maintenance and repair of any pipe, cable, wire, other conduit of liquid or energy, supplying water, sewage, telephone, radio, television, electricity, heat, steam or other similar services to the Unit owned by him, subject however, to the provisions that any such installation or repair shall be performed by the Unit Owners' Association or the agent of said Unit Owners' Association or other person to whom the Unit Owners' Association has delegated such authority, and further subject to the provisions set forth in the By-Laws attached hereto.

3. There is reserved to the Declarant until it shall have sold all units contained in the Condominium: (i) an easement over and through all parts of the Common Elements to use the same in any manner in aid of sales, provided that such use does not unreasonably interfere with the rights of Unit Owners, and (ii) the right to use any and all Units of any size in any location owned by Declarant as model Units and/or sales offices with the right to relocate the same from time to time.

4. The Declarant hereby expressly reserves a transferable easement over, under and on the Common Elements for ingress to and egress from the Additional Land. Such right of ingress to and egress from the Additional Land shall extend, but not limited, to its employees, agents, independent contractors, and purchasers of interests in any such Additional Land. However, to the extent that damage is inflicted on any part of the Condominium by any person utilizing such easement, the person so causing the same shall be liable for the prompt repair thereof and for the restoration of the same to a condition compatible with the remainder of the Condominium. Additionally, all owners of an interest in such Additional Land shall be liable for a pro rata share of the costs of maintenance and repair to the Condominium associated with the use of such easement.

5. The Condominium shall be subject to an easement which is created hereby for the benefit of Crossroads Associates, a limited partnership formed and existing under the laws of the Commonwealth of Virginia, and its successors and assigns which is the owner of certain land contiguous to the Condominium to allow ingress and egress on, over, and below the surface of the land which comprises a portion of the General Common Elements of the Condominium that may be necessary to enable the construction of structures on the land owned by Crossroads Associates, its successors or assigns as well as the construction and installation of accessways, utility services and other improvements deemed necessary and desirable by Crossroads Associates in the development of the entire site owned by Crossroads Associates, its successors and assigns in accordance with site plans approved or to be approved by Fairfax County authorities.

6. In interpreting any or all of the provisions of this Declaration or the schedules or exhibits attached hereto, subsequent deeds and mortgages to individual Units, et cetera, the actual location of the Unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered, notwithstanding the fact that any minor variations in location do now or shall exist and a valid easement for such variations and for the maintenance thereof does and shall exist.

7. The Board of Directors shall have the power (without submitting the same to the Owners of Units for approval) to authorize the officers of the Unit Owners' Association to execute all and any easements as it may deem desirable for the benefit of any other person or entity (including Unit Owners) over, under, above and/or through any of the General Common Elements for such purposes and upon such terms as the Board of Directors in its sole judgment shall deem desirable. The officers of the Unit Owners' Association shall be deemed to be attorneys-in-fact for all the Unit Owners in executing such authorized easements; PROVIDED, HOWEVER, that all such easements shall be subordinate to the lien and rights of all mortgages and deeds of trust recorded prior in time thereto unless the mortgagee or trustee(s) under such deed of trust shall join therein.

#### ARTICLE VII

A. Repairs. The Declarant, its agents, its successors or assigns, or the Unit Owners' Association or its agent when it takes over operation and maintenance of Skyline House Condominium, shall have the right to enter any Unit when necessary to carry out any emergency repair or any repair, maintenance or construction for which the Unit Owners' Association is responsible or for which any Unit Owner is responsible and has not completed after appropriate notice from the Unit Owners' Association. Each Unit Owner shall be required to provide a key to the Unit Owners' Association or its agent for purposes of emergency access to the Unit. Except in emergencies, the entry by the Declarant or Unit Owners' Association shall be made with as little inconvenience to the Unit Owner as practicable. Any damage caused during any entry shall be repaired at the expense of the Unit Owners' Association unless the entry is made to perform any obligation for which the Unit Owner is responsible, in which event the entry and all work done shall be done at the risk and expense of the Unit Owner. If the entry is made for purposes of emergency repair, and the Unit Owner shall have failed to provide a key, the entry shall be at the risk and expense of the Unit Owner.

#### ARTICLE VIII

A. Rights of Mortgagees and Trustees. Bona fide first mortgagees holding first mortgages secured by any individual Unit within the Condominium or upon any other portion of the Condominium shall be entitled to the following rights. For the purpose of this Declaration, all trustees for any one or more of the Units and any other portion of the Condominium shall be entitled to the same rights as first mortgagees and any reference herein to first mortgagees shall apply likewise to such trustees. Each Unit Owner who obtains any mortgage which is secured by his Unit shall immediately notify the Unit Owners' Association or its designee of the name and address of the mortgagee.

1. The holder of any first mortgage as aforesaid is entitled to a written notification from the Unit Owners' Association at least thirty (30) days prior to the effective date of any change in the condominium documents and any change of the Management Agent (not including change in employees of any corporate manager) of the Condominium.

2. The holder of any mortgage as aforesaid is further entitled to written notification from the Unit Owners' Association of any default by the mortgagor of such Unit in the performance of such mortgagor's obligations under the Condominium Instruments which is not cured within thirty (30) days.

3. The lien which the Unit Owners' Association may have on any Unit in the Condominium for the payment of common expense assessments attributable to such Unit is subordinate to the lien on any first mortgage on the Unit recorded prior to the date any such common expense assessments become due and the holder of any first mortgage, duly recorded after the receipt of a written statement from the Board of Directors reflecting that payment of such assessments were current as of the date of recordation of said mortgage as aforesaid, which comes into possession of the Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged Unit which accrue prior to the time such 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).

4. Unless the institutional holders who hold at least sixty percent (60%) in outstanding balances of all first mortgages and deeds of trust held by institutional mortgagees on Units located within the Condominium shall have given their prior written approval, the Unit Owners' Association of the Condominium shall not:

(a) fail to employ a professional manager for the Condominium unless prior written approval is granted by any and all institutions which may hold first mortgages and any and all institutions insuring such mortgage loans;

(b) change the pro rata interest or obligations of any Unit as shown on Exhibit E to this Declaration for purposes of levying assessments and charges and determining shares of the Common Elements and proceeds of the Condominium except in the case of taxing by eminent domain provided for in Article X of the Declaration;

(c) partition or subdivide any Unit or the Common Elements of the Condominium, EXCEPT THAT:

(i) the Declarant shall have the right, without first obtaining the approval of any mortgagees, to convert any Convertible Space into Units and/or Common Elements as provided in ARTICLE XI of this Declaration and to expand the Condominium in accordance with the provisions of ARTICLE XI of this Declaration;

(ii) the boundaries of any Unit may be relocated and the Unit subdivided as provided in ARTICLE I E (3) upon the consent only of the mortgagees holding mortgage liens on the individual Units involved;

(iii) any parking space which may be reassigned in accordance with the provisions of ARTICLE I F (1) (b), may be so transferred upon the consent only of the mortgagees holding mortgage liens upon the Unit involved.

(d) by act or omission seek to abandon the condominium status of the Condominium except as provided herein or by statute in case of substantial loss to the Units and Common Elements of the Condominium by fire or other casualty or in the case of a taking by condemnation or eminent domain.

5. The holders of first mortgage liens on individual Units shall have the right to examine the books and records of the Unit Owners' Association and the Condominium during normal business hours and to require the submission of annual audited reports and other financial data within ninety (90) days following the end of any fiscal year of the Condominium.

6. The Unit Owners' Association shall provide written notice to all holders of first mortgage liens on individual units of any condemnation proceeding against the Condominium or any portion thereof. Notwithstanding any provision contained in this Declaration or any of the exhibits attached hereto, no Unit Owner nor any other party shall be

entitled to priority over any institutional holder of a first mortgage on a Unit with respect to the distribution of the proceeds of any award or settlement to the Unit Owner as a result of any condemnation or eminent domain proceeding or a taking as the result of the threat of such proceeding.

7. In the event of substantial damage to or destruction of any Unit by fire or other peril, notice shall be sent immediately to the institutional holders of all first mortgages on the Units involved if there is no damage or destruction to Common Elements, and to all institutional holders of first mortgages if there is any substantial damage to or destruction of Common Elements within the Condominium. As used in this Section 7 of ARTICLE VIII of this Declaration, the term "substantial damage" shall mean damage to any Unit in the amount of One Thousand Dollars (\$1,000) or more or damage to any of the Common Elements in the amount of Ten Thousand Dollars (\$10,000) or more. Notwithstanding anything contained elsewhere in this Declaration or the exhibits attached hereto, no Unit Owner or other party shall be entitled to priority over such institutional holder with respect to the distribution to the Unit Owner or such other party of any insurance proceeds as a result of damage or destruction to such Unit.

8. As used generally in this Declaration, the term "institutional holder" or "institutional mortgagee" shall include banks, trust companies, or established mortgage companies, insurance companies, private mortgage insurance companies, savings and loan associations, pension funds, any corporation, including a corporation of, or affiliated with, the United States Government, or any agency thereof, the Veteran's Administration, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corp., Federal credit unions or other entity chartered under Federal or State laws, or any other Federal or State agency. The term "mortgage" shall include both mortgages and deeds of trust and the term "mortgagee" shall include trustees under deeds of trust.

9. Notice of all meetings of the Unit Owners' Association and the Board of Directors shall be given to all institutional mortgagees which request the same at the same time that notices are sent to the Unit Owners or the members of the Board of Directors. All institutional mortgagees shall be entitled to have a non-voting designated representative present at all meetings.

#### ARTICLE IX

##### A. Termination and Amendment of the Condominium:

1. If there is no Unit Owner other than the Declarant, the Declarant may unilaterally terminate the Condominium or amend the Condominium Instruments, and any such termination or amendment shall become effective upon the recordation thereof if the same has been executed by the Declarant. But this Section A of ARTICLE IX of this Declaration shall not be construed to nullify, limit, or otherwise affect the validity of enforceability of any agreement renouncing or to renounce, in whole or in part, the right hereby conferred.

2. If there is any Unit Owner other than the Declarant, then the Condominium shall be terminated only by the agreement of Owners of Units to which four-fifths (4/5ths) of the votes in the Unit Owners' Association appertain.

3. If there is any Unit Owner other than the Declarant, then the Condominium Instruments shall be amended only by agreement of Owners of Units to which two-thirds (2/3rds) of the votes in the Unit Owners' Association appertain, except in cases for which the Condominium Act provides different methods of amendment.

4. Agreement of the required majority of Unit Owners to termination of the Condominium or to any amendment of the Condominium Instruments shall be evidenced by their execution of the termination agreement or amendment, or of ratification thereof, and the same shall become effective only when such agreement is so evidenced of record. For the purposes of this Section A(4) of ARTICLE IX of this Declaration, an instrument terminating the Condominium shall be deemed a Condominium Instrument subject to the provisions of Section 55-79.49 of the Condominium Act, and for the purposes of this same Section any ratification of such an amendment shall also be deemed such an Instrument.

5. Except to the extent expressly permitted or expressly required by other provisions of this Declaration or the By-Laws and the Condominium Act, no amendment to the Condominium Instruments shall change the boundaries of any Unit, the undivided interest in the Common Elements appertaining thereto, the liability for common expenses or rights to common profits appertaining thereto, or the number of votes in the Unit Owners' Association appertaining thereto.

6. Upon recordation of an Instrument terminating the Condominium, all of the property constituting the same shall be owned by the Unit Owners as tenants in common in proportion to their respective undivided interests in the Common Elements immediately prior to such recordation. But as long as such tenancy in common lasts, each Unit Owner or the heirs, successors, or assigns thereof shall have an exclusive right of occupancy of that portion of said property which formerly constituted his Unit.

7. Upon recordation of an Instrument terminating the Condominium, any rights the Unit Owners may have to the assets of the Unit Owners' Association shall be in proportion to their respective undivided interests in the Common Elements immediately prior to such recordation, except that common profits shall be distributed in accordance with the provisions of Section 55-79.82 of the Condominium Act.

8. No provisions of this ARTICLE IX of this Declaration shall be construed in derogation of any requirement of the Condominium Instruments that all or a specified number of the beneficiaries of mortgages or deeds of trust encumbering the Units approve specified actions contemplated by the Unit Owners' Association.

9. Any liens affecting any of the Units shall be transferred in accordance with existing priorities to the percentage of the undivided interest of the Owner of the Unit upon which the lien was originally imposed.

10. Subsequent to termination the entire Condominium shall be subject to an action for partition at the suit of any Unit Owner, in which event the net proceeds of sale shall be considered as one fund and shall be divided among all of the Unit Owners in proportion to their percentages of interest as set forth in Exhibit E to the Declaration; PROVIDED, HOWEVER, that before any proceeds of sale are distributed to any Unit Owner, all liens imposed upon the Unit previously owned by the Unit Owner and all assessments imposed upon the Unit by the Unit Owners' Association shall be satisfied in full, out of the share otherwise payable to said Unit Owner. Notwithstanding any other provisions contained herein concerning termination, the first mortgage or deeds of trust liens on damaged or destroyed Units shall be satisfied out of the insurance or other proceeds to the extent sufficient for this purpose, prior to a partition suit being instituted and thereafter, the interest in the property owned, or in the distribution of the proceeds derived from a partition suit, of all such Unit Owners whose first mortgages or deeds of trust have been so satisfied shall be proportionately adjusted.

#### ARTICLE X

A. Taking by Eminent Domain.

1. Condemnation Trustee. Even though the payment for the taking of a portion of a Unit or of the Common Elements by eminent domain



or the conveyance under threat thereof may be payable to the Unit Owners, the Unit Owners shall deposit the awards with a trustee designated by the Board of Directors of the Unit Owners' Association. In the event of failure of the Unit Owner to do so, in the discretion of the Unit Owners' Association, a special assessment shall be made against a defaulting Unit Owner in the amount of his award, and the amount of such award shall be set off against sums hereinafter made payable to such Unit Owner. The proceeds of the award shall be distributed or used in a manner heretofore provided for proceeds upon termination of the Condominium, except that when the Condominium is not to be terminated, and one or more Units are taken in part, the taking shall have the following effects:

2. If the Unit is Reduced but Tenable. If the Unit taking reduces the size of the Unit, and the remaining portion of the Unit can be made tenable, the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(a) The Unit shall be made tenable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the Owner of the Unit.

(b) The balance of the award, if any, shall be distributed to the Unit Owner and to each mortgagee of the Unit included in the mortgagee records list as follows: unless they shall otherwise agree in writing, there shall be applied to the sums secured by any mortgage such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by such mortgage immediately prior to the date of taking bears to the value of the property immediately prior to the date of taking, with the balance of the proceeds paid to the Unit Owner. If the Unit Owner and the mortgagee are unable to agree as to the value of the property immediately prior to the date of taking, such value shall be established by independent appraisal at the Unit Owner's expense. No first lien priority of a mortgage shall be affected by any condemnation.

3. Unit made Untenable. If the taking destroys or so reduces the size of the Unit that it cannot be made tenable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(a) The market value of such Unit immediately prior to the taking shall be paid as follows:

(i) Payment shall be made first to the holder of the first mortgage secured by the Unit up to the amount due and owing on such mortgage at the time of payment.

(ii) Any excess in the award over the amount due and owing on the first mortgage shall be payable to the holders of all other mortgages secured by the Unit in order of their priorities.

(iii) The balance, if any, after payment of (a) and (b) above, shall be paid to the Unit Owner.

(b) The remaining portion of such Unit, if any, shall become a part of the Common Elements and shall be placed in condition for use by all of the Unit Owners in a manner approved by the Unit Owners' Association; PROVIDED, if the cost of such work shall exceed the balance of the fund from the award for the taking, such work shall be paid for by assessment as a common expense among all remaining Unit Owners.

(c) The shares in the Common Elements appurtenant to the Unit which continue as a part of the Condominium shall be equitably adjusted to distribute the ownership of the Common Elements among the reduced number of Unit Owners in accordance with Section 55-79.44 of the Condominium Act.

(d) If the amount of the award for the taking is not sufficient to pay the market value of the condemned Unit to the Unit Owner, and to condition the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium affected by the taking. Such assessment shall be made in proportion to the shares of such Unit Owners in the Common Elements after the changes effected by the taking. In the event that the market price cannot be determined by negotiation, it shall be determined by binding arbitration in accordance with the rules of the American Arbitration Association.

4. If any portion of the Common Elements is taken by eminent domain, the award therefor shall be allocated to the Unit Owners in proportion to their respective undivided interest in the Common Elements. PROVIDED, HOWEVER, that the portion of the award attributable to the taking of any permanently assigned Limited Common Element shall be allocated by the decree to the Owner of the Unit to which that Limited Common Element was permanently assigned to more than one Unit at the time of the taking, then the portion of the award attributable to the taking thereof shall be allocated in equal shares to the Owners of the Units to which it was so assigned or in such other shares as the condominium instruments may specify for this express purpose. A permanently assigned Limited Common Element is a Limited Common Element which cannot be reassigned or which can be reassigned only with the consent of the Unit Owner or Owners of the Unit or Units to which it is assigned. If one or more Units is taken by eminent domain, the undivided interest in the Common Elements appertaining to any such Unit shall thenceforth appertain to the remaining Units, being allocated to them in proportion to their respective undivided interests in the Common Elements.

5. The Unit Owners' Association shall thereafter file among the Land Records of Fairfax County, Virginia, a deed of correction to incorporate all necessary changes in accordance with Section 55.79.44(e) of the Condominium Act.

#### ARTICLE XI

##### A. Expansion of the Condominium:

1. Subject to the provisions of the Condominium Act, the Declarant hereby expressly reserves the right to expand the Condominium by adding thereto that land adjoining the Condominium, which is shown graphically and identified as Phase II in Exhibit B and which land is more particularly described by metes and bounds as Phase II in Exhibit A and which land is elsewhere herein referred to as the "Additional Land".

2. There shall be no limitations on the Declarant's option to expand the Condominium to include such Additional Land except as set forth below. No Unit Owner's consent to the expansion of the Condominium shall be required.

3. The option to expand the Condominium to include the Additional Land shall expire within seven (7) years from the date of the recording of this Declaration if not earlier exercised.

4. The Declarant shall have the right from time to time to expand the Condominium to all or any portion or portions of the Additional Land. There shall be no limitation or order in which portions of the Additional Land may be added to the Condominium. Portions of the Additional Land may be added to the Condominium at different times within the seven (7) year period.

5. In the event that all of any portion of the Additional Land is added to the Condominium, the improvements on the Additional Land shall be located substantially as shown on Exhibit B which is attached hereto and made a part hereof.

6. In the event that all or any portion of the Additional Land is added to the Condominium, the maximum number of residential Units that may be created within any structure erected on the Additional Land shall be three hundred twenty-five (325). The maximum percentage of the aggregate floor area within such structure which may be used for non-residential Units shall not exceed two and one-half percent (2-1/2%).

7. The structure to be erected within all or any portion of the Additional Land as a part of the Condominium will be compatible with and substantially identical to the Building to be built on the Land in terms of quality of construction, the principal materials to be used and architectural style. Any Units created within any portion of the Additional Land as a part of the Condominium will be substantially the same types as Units built on the Land and will be built in substantial accordance with the plans and specifications referred to in Section B(4) of ARTICLE I of this Declaration. The Declarant makes no assurances, however, as to the number in total or the number of each type of residential Units which may be created on such Additional Land, except that the maximum number of residential Units so created shall not exceed three hundred twenty-five (325).

8. The Declarant expressly reserves the right to create Limited Common Elements and/or to designate Common Elements which may subsequently be assigned as Limited Common Elements within all or any portion of the Additional Land. The Declarant makes no assurances as to the types, sizes or maximum number of such Elements which may be created within such Additional Land.

9. The Declarant hereby expressly reserves the right to designate all or any portion of the Additional Land as Convertible Space within the meaning of, and in accordance with, the Condominium Act, at such time or times as all or any portion of the Additional Land is submitted to the provisions of this Declaration. A portion of such Convertible Space, not to exceed a maximum percentage of two and one-half percent (2-1/2%) of the aggregate floor area may be designated as Commercial Convertible Space.

10. In the event that Units are created within all or any portion of the Additional Land, undivided interests in the Common Elements and responsibility for common expenses shall be reallocated on the basis of the increased aggregate floor area, as shown in Exhibit E.

11. In the event Units are created on all or any portion of the Additional Land, Unit Owners within such Additional Land shall be entitled to the use of all Common Elements of the entire Condominium subject to the same provisions of this Declaration, the By-Laws and the Rules and Regulations as promulgated from time to time, for all other Unit Owners and such right shall be deemed to be an easement running with the Land and the Additional Land.

## ARTICLE XII

A. Conversion of Convertible Space. The Declarant hereby expressly reserves the right to create additional Units and/or Common Elements, General or Limited and/or any combination thereof, on all or any part of the Residential or Commercial Convertible Space, as such space is more particularly described in Exhibit C. The conversion of Convertible Space shall be governed by the following conditions:

1. The maximum number of residential Units which may be created within the Residential Convertible Space in Phase I shall be two hundred forty (240). Units to be created within the Residential Convertible Space may be used only for residential purposes.

2. The Commercial Convertible Space, not to exceed two thousand eighty-six (2,086) square feet in area, may be used for professional

or commercial purposes. The maximum number of commercial Units which can be created within the Commercial Convertible Space is five (5).

3. Upon conversion of any Convertible Space into one or more Units and/or Common Elements, the Declarant shall record plans showing the location and dimension of such Units and/or Common Elements, and shall simultaneously execute and record an amendment to the Condominium Instruments in accordance with Section 55-79.62 of the Condominium Act.

### ARTICLE XIII

#### A. Rights Reserved to Declarant.

1. Nothing contained in this Declaration shall be deemed to affect in any way whatsoever the right of the Declarant or its successors or assigns to make reasonable modification or changes in the plans and specifications referred to in this Declaration. Substitution of material and equipment with materials and equipment of substantially equal standard and minor changes in dimensions of any portion of the Condominium shall be deemed reasonable. The Declarant expressly reserves the right to terminate the Condominium prior to conveyance of any Unit therein.

2. Notwithstanding anything contained herein, the Declarant shall have the right to own and rent any Unit constructed on the Land including any Unit constructed on the Additional Land without regard to whether such Unit or any other Unit has previously been conveyed or not. Declarant shall have the right to rent any Unit owned by it for any period of time and upon such terms as it may deem desirable.

3. In recognition of the fact that from time to time, the Declarant or other persons may be the Owner of Convertible Space or Units which have not received occupancy permits and in further recognition of the fact that while such Convertible Space remains unconverted or such Units are unoccupied because of a lack of occupancy permit, less demands are placed upon the Common Elements and less expenses are incurred with respect to such Convertible Space or Units, it is understood and agreed that while the Declarant or any other person is the Owner of any Convertible Space or Unit which has not received an occupancy permit, such Convertible Space or Unit will not be assessed for any expense incurred for services which benefit solely those Units which have received occupancy permits.

4. The Declarant specifically reserves a transferable easement without limitation or restriction to facilitate expansion of the Condominium and conversion of Convertible Space, said easement shall consist of all rights set forth in Section 55-79.65 of the Condominium Act and of the right to use the roadways, utilities, walkways and all other parts of the Condominium in connection with the construction of improvements and for necessary access to the Additional Land. The Declarant further specifically reserves the right and easement to make connections to such roadways, utilities, walkways and other parts of the Condominium as are necessary to expand the Condominium and convert Convertible Space and to take all such other actions as in Declarant's sole judgment may be necessary to expand the Condominium and convert Convertible Space.

5. The Declarant specifically reserves an easement to facilitate sales pursuant to the Condominium Act and Section B(3) of ARTICLE VI of this Declaration with the right expressly reserved to remove all sales offices and model Units, which Declarant may erect from time to time and which are not designated as a Unit by this Declaration.

### ARTICLE XIV

A. Construction and Enforcement. The provisions hereof shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a condominium project. The failure of any Unit Owner to comply with the provisions of this Declaration and the By-Laws established hereunder and any resolutions of the Board of Directors passed by it pursuant to the powers granted in by this Declaration and the

By-Laws will give rise to a cause of action in the Unit Owners' Association and any aggrieved Unit Owner for the recovery of damages, or for injunctive relief or both. Enforcement of these covenants and restrictions and of the By-Laws attached hereto shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain or enjoin violation or to recover damages, or both, against any Unit, to enforce any lien created thereby; and the failure or forbearance by the Unit Owners' Association or the Owner of any Unit to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. There shall be, and there is hereby created and declared to be, a conclusive presumption that any violation or breach or any attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or exclusively by recovery of damages.

B. Severability. Invalidation of any one of these covenants or restrictions or other provisions of this Declaration by judgment, decree or order shall in no way affect any other provisions hereof, each of which shall remain in full force and effect. In the event that any provision, condition, covenant or restriction hereof is, at the time of recording this Declaration, void, voidable or unenforceable as being contrary to any applicable Federal, State or local laws, the Declarant, its successors or assigns, and all persons claiming by, through, or under the Skyline House Condominium, covenants and agrees that any future amendments or supplements to the said laws having the effect of removing such invalidity, voidability or unenforceability, shall be deemed to apply retrospectively to this instrument and the provisions contained therein which otherwise might be invalid and it is covenanted and agreed that any such amendments and supplements to said laws shall have the effect herein declared as fully as if they had been in effect at the time of the execution of this Declaration.

C. Captions. The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration.

#### ARTICLE XV

A. Proposal of Amendments. Amendments may be proposed by the Board of Directors or by petition signed by Unit Owners representing at least twenty-five (25%) of the total votes of the Condominium. A description of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment is to be voted upon.

B. Method of Amendment. Except in cases for which the Condominium Act provides different methods of amendment or requires a larger majority, this Declaration may be amended by the affirmative vote of Unit Owners representing two-thirds (2/3rds) of the total outstanding votes of the Condominium at any meeting of the Unit Owners' Association duly called for such purpose, and with written approval of the institutional holders who hold at least sixty percent (60%) in outstanding balances of all first mortgages and deeds of trust held by institutional mortgagees on Units located within the Condominium; PROVIDED, HOWEVER, that no amendment shall be made which in any way reduces the rights of holders of first mortgage liens or deeds of trust on individual Units located within the Condominium, as set forth in ARTICLE VIII of this Declaration, without the concurrence to such amendment of all such mortgagees or trustees as are affected thereby; and FURTHER PROVIDED, that no amendment shall be made which limits the rights of the Declarant, as set forth in this Declaration, without the concurrence of the Declarant to such amendment. No amendment shall become effective unless the following conditions are met:



EXHIBIT "A"  
TO THE DECLARATION  
SKYLINE HOUSE CONDOMINIUM  
(PHASE I)  
MASON DISTRICT  
FAIRFAX COUNTY, VIRGINIA

\_\_\_\_\_ Beginning at a point in the Southerly R/W line of South George Mason Drive, said point of beginning being N 14° 21' 05"W, 5.04 feet from the Northeasterly corner of Frances L. Tinkle; thence with the Southerly R/W line of South George Mason Drive the following courses: N68° 36' 26" E, 8.83 feet; with a curve to the left whose radius is 2055.00 feet (and whose chord is N 65° 36' 16" E, 215.30 feet) an arc distance of 215.40 feet and N 62° 36' 06" E, 377.18 feet to a point; thence departing from South George Mason Drive and continuing through the property of Sixth Skyline Corp. the following courses: S 21° 23' 25" E, 101.77 feet; S 68° 36' 35" W, 13.42 feet; S 21° 23' 25" E, 19.54 feet; N 62° 36' 35" E, 16.96 feet; S 21° 23' 25" E, 34.08 feet; N 68° 36' 35" E, 118.25 feet; S 21 ° 23' 25" E, 103.50 feet; N 62° 36' 35" E, 14.00 feet and S 21° 33' 25" E, 40.25 feet to a point in the Northerly boundary of the Commonwealth of Virginia State Board of Community College; thence with the Northerly lines of the Commonwealth of Virginia property and the Washington Coca-Cola Bottling Co. S 68° 36' 35" W, 765.39 feet to a point, marking the Southeasterly corner of the aforementioned Frances L. Tinkle; thence with the Easterly Line of Tinkle N 14° 21' 05" W, 250.26 feet to the point of beginning, containing 4.190975 Acres of land.

Exhibit "A"  
To The Declaration  
Skyline House Condominium  
(Phase 2)  
Mason District  
Fairfax County, Virginia  
Page Two

All being more particularly described on Exhibit "B" attached hereto and made a part hereof.

Given under my hand this 13th day of November, 1979.

/s/ John T. Monaghan  
John T. Monaghan  
Certified Land Surveyor #815  
DEWBERRY, NEALON & DAVIS

JTM:smm



November 13, 1979

EXHIBIT "A"  
TO THE DECLARATION  
SKYLINE HOUSE CONDOMINIUM  
(PHASE II)  
MASON DISTRICT  
FAIRFAX COUNTY, VIRGINIA

\_\_\_\_\_ Beginning at a point in the Southeasterly R/W line of South George Mason Drive, said point of beginning marking the Northwesterly corner of Fourth Skyline Corp.; thence with the Southwesterly lines of Fourth Skyline Corp. and Fifth Skyline Corp. S 57° 23' 25" E, 501.13 feet to a point on the Northerly boundary of the City of Alexandria and continuing with the Northerly boundary of the property of the Commonwealth of Virginia State Board for Community College S 68° 36' 35" W, 502.10 feet to a point; thence departing the Commonwealth of Virginia property and running through the property of Sixth Skyline Corp. the following courses: N 21° 23' 25" W, 40.25 feet; S 68° 36' 35" W, 14.00 feet, N 21° 23' 25" W, 103.50 feet; S 68° 36' 35" W, 118.25 feet; N 21° 23' 25" W, 34.08 feet; S 68° 36' 35" W, 16.96 feet; N 21° 23' 25" W, 19.54 feet; N 66° 36' 35" 13.42 feet and N 21° 23' 25" W, 101.77 feet to a point on the aforementioned Southwesterly R/W line of South George Mason Drive; thence with the said Southeasterly R/W line the following courses: N 62° 36' 06" E, 4.16 feet: with a curve to the left whose radius is 771.20 feet (and whose chord is N 59° 24' 51" E, 85.77 feet) an arc distance of 9581 feet: with a curve to the right whose radius is 42 feet (and whose chord is N 53° 13' 55" E, 9.94 feet)

November 13, 1979

Exhibit "A"  
To the Declaration  
Skyline House Condominium  
(Phase II)  
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an arc distance of 9.94 feet, N 60° 14' 13" E, 68.79 feet; with a curve to the left whose radius is 158.00 feet (and whose chord is N 54° 06' 42" E, 33.72 feet) an arc distance of 33.78 feet and with a curve to the left whose radius is 783.00 feet (and whose chord is N 42° 05' 13" E, 161.00 feet) an arc distance of 161.29 feet to the point of beginning, containing 3.61016 acres of land.

All being more particularly described on Exhibit "B" attached hereto and made a part hereof.

Given under my hand this 13th day of November, 1979.

S. \_\_\_\_\_  
John T. Monaghan  
Certified Land Surveyor #915  
DEWBERRY, NEALON & DAVIS

Exhibit C to the Declaration

Pages C2 through C16 to the Declaration show graphically the improvements to be erected as a part of Skyline House Condominium, as follows:

C-2: Shows level D of the parking garage

C-3: Shows level C of the parking garage

C-4: Shows level B of the parking garage

C-5: Shows level a of the parking garage

C-6: Shows the southwest segment of the ground floor plan, as indicated in the "key plan" shown thereon

C-7: Shows the northeast segment of the ground floor plan, as indicated on the "key plan" shown thereon

C-8: Shows the southwest segment of the lobby level floor, as indicated on the "key plan" thereon

C-9: Shows the northeast segment of the lobby level floor, as indicated on the "key plan" shown thereon

C-10, C-11, C-12, c-13: Show four successive segments of the second floor plan on the building beginning with the southwest segment on page C10 and ending with the northeast segment on C13. These segments also represent the typical floor plan for all floors above the lobby level floor. Initially, all floors above the second floor will be designated as Residential Convertible Space, each floor will contain the same Units as depicted on the second floor typical plan. All Units so created will bear the same tier number as counterpart Units in the second floor (the tier number of each such Unit is depicted on the second floor plan), preceded by one or two digits representing the floor on which the Unit is located.

C-14 and C-15: Shows cross sections of the parking garage as viewed from the positions indicated by the letters A through E enclosed in circles on pages C2 through C5

C-16: Shows the cross sections of the building to be constructed in Phase I and which will contain the residential Units, the Residential Convertible Space and the Commercial Convertible Space. C16 also shows the horizontal boundaries of the various Units. All space above the second floor will be initially Residential Convertible Space. The Commercial Convertible Space is located on the lobby level floor.

BY-LAWS

SKYLINE HOUSE UNIT OWNERS' ASSOCIATION

ARTICLE I

Name and Location

Section 1.      Name and Location. The name of this organization is "Skyline House Unit Owners' Association" [hereinafter referred to as the "Association"]. Its principal office is located at 3711 South George Mason Drive, Falls Church, Virginia.

Section 2.      Purpose of these By-Laws. These By-Laws are established in contemplation of and pursuant to Title 55, Section 79.73, Code of Virginia [1950], and for the administration of the Condominium known as Skyline House Condominium, which is located at the address set forth in Section 1 of ARTICLE I of these By-Laws.

ARTICLE II

Definitions

Section 1.      Declaration. "Declaration" as used herein means that certain Declaration made the ninth day of November, 1979, by Sixth Skyline Corp., pursuant to Title 55, Section 79.39 through and including Section 79.103, Code of Virginia [1950], by which certain described premises (including land) are submitted to a condominium property regime and which Declaration is recorded among the Land Records for Fairfax County, Virginia, immediately preceding these By-Laws, and to which these By-Laws are appended as Exhibit D.

Section 2.      Other Definitions. Unless it is plainly evident from the context that a different meaning is intended, all other terms used herein shall have the same meaning as they are defined to have in the Declaration or in Title 55, Section 79.41, Code of Virginia [1950]. The word "Declarant" as used hereinafter refers to the developer, Sixth Skyline Corp. Unless otherwise indicated hereinafter, the term "Common Elements" shall include both "General" and "Limited" Common Elements.

ARTICLE III

Membership

Section 1.      Members. Every person, group of persons, corporation, trust or other legal entity, or any combination thereof, which owns a Unit within the Condominium shall be a member of the Association; PROVIDED, HOWEVER, that any person, group of persons, corporation, trust or other legal entity, or any combination thereof, which holds such interest solely as security for the performance of an obligation shall not be a member. Any person, group of persons, corporation, trust or other legal entity, or any combination thereof, owning a Unit may be represented at any meeting by one or more authorized agents, and any number of such agents may hold any elected or appointed position of the Association or its Board.

Section 2.      Liquidation Rights. In the event of any voluntary or involuntary dissolution of the Association, each Unit Owner shall be entitled to receive, out of the assets of the Association available for distribution to the Unit Owners, an amount equal to that proportion of such assets applicable to such Unit as shown in Exhibit E attached to the Declaration.

Exhibit D to Declaration

## ARTICLE IV

## Meetings of the Unit Owners' Association

Section 1. Place of Meetings. Meetings of the Association shall be held at the principal office or place of business of the Association or at such other suitable place convenient to the membership as may be designated by the Board of Directors.

Section 2. Annual Meetings. The first annual meeting of the Association shall be held no later than one hundred twenty [120] days after the date following which Units to which three-fourths [3/4ths] of the undivided interests in the Common Elements appertain have been conveyed or within three [3] years following the recordation of the Declaration, whichever shall first occur. Thereafter, the annual meetings of the Unit Owners shall be held within three [3] months following the close of the fiscal year of the Association. At such meeting there shall be elected by ballot of the Unit Owners, a Board of Directors in accordance with the requirements of ARTICLE V, Section 5, of these By-Laws. The Unit Owners may also transact such other business of the Association as may properly come before them.

Section 3. Special Meetings. It shall be the duty of the President to call a special meeting of the Association as directed by resolution of the Board of Directors or, after the first annual meeting, upon a petition signed by Unit Owners representing at least twenty-five percent [25%] of the total votes of the Condominium having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of Unit Owners representing four fifths [4/5ths] of the votes present, either in person or by proxy.

Section 4. Notice of Meetings. It shall be the duty of the Secretary to mail by United States mail, return receipt requested, a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to the management agent as defined in ARTICLE V, Section 4, hereafter, all Unit Owners of record, at the address of their respective Units and to such other addresses as any of them may have designated to the Secretary and to all institutional mortgagees requesting the same, at least twenty-one [21] but not more than fifty [50] days prior to any annual or regularly scheduled meeting and at least seven [7] days prior to any other meeting. Service may also be accomplished by hand delivery of any such notice by the Secretary, provided receipt of acceptance of such notice from the Unit Owner is obtained by the Secretary as proof of notice. Notice by either such method or any other method that may be authorized in the Condominium Act at the time service is made shall be valid service. Attendance by a Unit Owner at any meeting of the Association shall be a waiver of notice by him of the time, place and purpose thereof. Each institutional mortgagee shall be entitled to have a non-voting representative present at all meetings. Along with the notice of annual meetings, the Secretary shall send to each institutional mortgagee a current list of all lenders who hold mortgages and Deeds of Trust as security for such loans on Units located in the Skyline House Condominium.

Section 5. Quorum. The presence, either in person or by proxy, of Unit Owners representing at least twenty-five percent [25%] of the total votes of the Condominium shall be requisite for, and shall constitute a quorum for the transaction of business at all meetings of the Association. The presence at a meeting of any one person who has a fee interest in the Unit in person or by proxy shall be counted as a full presence of the interest in such Unit even if the other person or persons owning interests therein shall not be present.

Exhibit D to Declaration

Section 6.      Adjourned Meetings. If any meeting of the Association cannot be organized because a quorum has not attended, the Unit Owners who are present, either in person or by proxy, may, except as otherwise provided by law, adjourn the meeting to a time not less than forty-eight [48] hours from the time the original meeting was called.

Section 7.      Voting. At every meeting of the Association, each Unit Owner shall have the right to cast a number of votes on each question proportionate to the undivided interest in the Common Elements of the Condominium appertaining to the Unit owned by that Unit Owner. For the purposes of this Section, the words "Unit Owner" shall be deemed to include Convertible Space. The vote of the Unit Owners representing a majority of Unit Owners present, in person or by proxy, at any duly constituted meeting of the Association shall decide any question brought before such meeting, unless the question is one upon which, by express provision of statute, or of the Declaration of these By-Laws, a different vote is required, in which case such express provision shall govern and control. The vote for any Unit which is owned by more than one person may be exercised by any one of the Owners present at any meeting unless an objection or protest is made in person by any other Owner of such Unit at such meeting. If more than one of such persons is present, the vote appertaining to that Unit shall be cast only in accordance with their unanimous agreement, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting. The word "person" shall be deemed for the purposes of this Section to include, without limitation, any natural persons having authority to execute deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with another person or persons, a Unit Owner. The vote allocated to any one Unit may not be split. If all of the persons who own any Unit jointly cannot reach a unanimous agreement for the casting of a vote, the voting interest appertaining to such Unit shall be entered as "abstaining". No Unit Owner shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors who is shown on the books or management accounts of the Association to be more than thirty [30] days delinquent in any payment due the Association. If fifty percent [50%] or more of the votes in the Association appertain to twenty-five [25%] or less of the Units, then in any case where a majority vote is required by the Condominium Instruments or by this Section, the requirement for such a majority shall be deemed to include, in addition to the specified majority of the votes, assent by the Unit Owners of a like majority of the Units.

Section 8.      Proxies. A Unit Owner may appoint any other member or the Declarant or management agent as his proxy. The votes appertaining to any Unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Unit Owner, or, in cases where the Unit Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the Unit Owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice as aforesaid, or if the signatures of any of those executing the same has not been duly acknowledged. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy, and must be filed with the Secretary before the appointed time of that meeting.

Exhibit D to Declaration

Section 9.                    Order of Business. Unless another order of business or agenda is specified in the notice, the order of business at all regularly scheduled meetings of the Association shall be as follows:

- (a) Roll call and certification of proxies.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Election of inspectors of election.
- (d) Election of Directors.
- (e) Reading of minutes of preceding meeting.
- (f) Reports of officers, if any.
- (g) Reports of committees, if any.
- (h) Unfinished business.
- (i) New business.

In the case of special meetings, the agenda shall consist of the items specified in the notice of the meeting.

## ARTICLE V

### Directors

Section 1.                    Number and Qualification. The affairs of the Association shall be governed by an executive organ known as the Board of Directors (hereinafter sometimes referred to as the "Board of Directors") which, after the first annual meeting of the Association, shall be composed of seven (7) persons, who except for those Directors initially or subsequently appointed by or on behalf of the Declarant shall be members of the Association. The Declarant or its designee shall have the right, until the first annual meeting of the Association, to appoint and remove any or all Directors at any time.

Section 2.                    Initial Directors. The initial Board of Directors shall consist of at least three (3) persons but no more than five (5) persons. The Declarant shall appoint the Directors who shall act as the initial Directors from the date upon which the Declaration is recorded among the Land Records for Fairfax County, Virginia, until removed by the Declarant or until their resignation or until such time as their successors are duly chosen and qualified.

Section 3.                    Powers and Duties. The Board of Directors shall have all the powers and duties necessary for the administration of the affairs of the Association and the Condominium and may do all such acts and things as are not by law or by these By-Laws directed to be exercised and done by the Unit Owners. The powers and duties of the Board of Directors shall include, but not be limited to, the following:

- (a) Care, upkeep and surveillance of the Condominium and its General and Limited Common Elements and services in a manner consistent with law, and the provisions of these By-Laws and the Declaration.
- (b) Establishment and the collection of assessments and/or carrying charges from the Unit Owners and for the assessment and/or enforcement of liens therefor in a manner consistent with law and the provisions of these By-Laws and the Declaration.
- (c) Designation, hiring and/or dismissal of the personnel necessary for the good working order of the Condominium and for the proper care of the General or Limited Common Elements and to provide services for the Condominium in a manner consistent with law and the provisions of these By-Laws and the Declaration.
- (d) Promulgation and enforcement of such rules and regulations and such restrictions and/or requirements as may be deemed proper respecting the use, occupancy and maintenance of the Condominium and the use of the Common Elements as are designed to prevent unreasonable interference with

Exhibit D to Declaration

the use and occupancy of the Condominium and of the Common Elements by the Unit Owners, all of which shall be consistent with the law and the provisions of these By-Laws and the Declaration.

(e) Authorization of, in their discretion, refunds from excess residual receipts when and as reflected in the annual report.

(f) Until the time set forth in Section 2 of ARTICLE IV of these By-Laws for the first annual meeting of the members, the Declarant shall have the right to appoint and remove any and all of the officers of the Association and the Board of Directors and to exercise all of the powers and responsibilities otherwise assigned by the Declaration, these By-Laws and the Condominium Act to the Association, the officers and the Board of Directors. But no amendment to the Condominium Instruments shall increase the scope of this authorization if there is any Unit Owner other than the Declarant.

Section 4. Management Agent. The Board of Directors shall employ a management agent (hereinafter referred to as the "Management Agent") for the Association at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize in writing, which may include, but not necessarily be limited to, the duties set out in subparagraphs (a) through (d) of Section 3 of this ARTICLE V of the By-Laws. The Association shall not employ any new Management Agent without ninety (90) days prior written notice to the institutional holders of all first mortgages on the Units. The Association shall not fail to employ a professional management agent without the prior written approval of all the institutional holders of such first mortgages and insurers of such mortgages. The contract of the Management Agent shall be non-assignable without prior written approval of the Association.

Section 5. Election and Term of Office. Except for the Directors, who shall be initially or subsequently appointed by the Declarant to serve as provided in Section 1 of the ARTICLE V of these by-Laws, the term of the Directors named herein shall expire when their successors have been elected at the first and subsequent annual meetings of the Association and such successors are duly qualified. At the first annual meeting of the Association the term of office of the two (2) elected Directors receiving the greatest number of votes shall be fixed at three (3) years. The term of office of the two (2) elected Directors receiving the next greater numbers of votes shall be fixed at two (2) years. The term of office of the elected Director receiving the next greatest number of votes shall be fixed at one (1) year. At the expiration of the initial term of office of each respective elected Director, his successor shall be elected to serve a term of three (3) years. The directors shall hold office until their successors have been elected and hold their first meeting. If additional elected Directors over the original seven (7) are authorized, their terms shall be designed so that the number of Directors to be elected in any one year shall approximate as closely as possible one-third (1/3rd) of all the elected Directors.

Section 6. Vacancies. Vacancies among the elected Directors caused by any reason other than the removal of a Director by a vote of the Unit Owners shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected by the Unit Owners at the next annual meeting to serve out the unexpired portion of the term.

Section 7. Removal of Directors. After the first annual meeting of the Association, any Director may be removed with or without cause by the affirmative vote of the majority of the Unit Owners present in person or by proxy duly constituted regular or special meeting of the Association. A

Exhibit D to Declaration



successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Unit Owner shall be given an opportunity to be heard at the meeting. The term of any Director who becomes more than thirty (30) days delinquent in payment of any assessment and/or carrying charges due the Association shall be automatically terminated and the remaining Directors shall appoint his successor as provided in Section 6 of this ARTICLE V of these by-Laws.

Section 8. Compensation. After the first annual meeting of the Association, no compensation shall be paid to Directors for their services as Directors unless the payment of such compensation is first approved by a vote of a majority of Unit Owners and no remuneration shall be paid to any Director who is also a member of the Association for services performed by him for the Association in any other capacity unless a resolution authorizing such remuneration shall have been adopted by the Board of Directors before the services are undertaken.

Section 9. Organization Meeting. The first meeting of the newly elected Board of Directors shall be held not later than ten (10) days after their election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order to legally constitute such meeting, provided a majority of the whole Board of Directors shall be present.

Section 10. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone or telegraph, at least thirty [30] days prior to the day named for such meeting.

Section 11. Special Meetings. Special meetings of the Board of Directors may be called by the President on seven [7] days notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place [as hereinabove provided] and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least one-third [1/3rd] of the Directors.

Section 12. Additional Notice Requirements. Copies of all notices of regular and special meetings shall be sent to the Management Agent. The failure to give notice required by this Section 12 of ARTICLE V of these By-Laws shall invalidate any action taken at such meeting. Copies of all notices of regular and special meetings shall also be sent to all institutional mortgagees requesting the same and each institutional mortgagee shall be entitled to have a non-voting representative present at all such meetings.

Section 13. Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him of the time, place and purpose thereof. If all the Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 14. Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present and voting at a meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 15. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all the members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

## ARTICLE VI

### Officers

Section 1. Designation. The principal officers of the Association shall be a President, Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. After the initial election of the Directors has taken place at the first annual meeting of the members, the officers of the Association shall be members of the Association as defined in Section 1 of ARTICLE III of these By-Laws. The directors may appoint an assistant secretary and an assistant treasurer and such other officers as in their judgment may be necessary. The offices of Secretary and Treasurer may be filled by the same person.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed either with or without cause, and his or her successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board of Directors. The President shall have all of the general powers and duties which are usually vested in the office of President of a corporation, including, but not limited to, the power to appoint committees from among the membership from time to time as the President may, in his or her discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Vice President. The Vice President shall take the place of the President and perform his or her duties whenever the President shall be absent or unable to act. If neither the President or the Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be delegated to him or her by the Board of Directors.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association. The Secretary shall have custody of the seal and minute book of the Association, Unit Owners' transfer books and such other books and papers as the Board of Directors may direct; and shall, in general, perform all the duties incident to the office of Secretary.

Section 7. Treasurer. The Treasurer shall have responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors.

Exhibit D to Declaration

## ARTICLE VII

## Liability and Indemnification of Officers and Directors

Section 1. Liability and Indemnification of Officers and Directors.

The Association shall indemnify every officer and Director of the Association against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or Director in connection with any action, suit or other proceeding including the settlement of any such suit or proceeding if approved by the then Board of Directors of the Association to which he or she may be made a party by reason of being or having been an officer or Director of the Association whether or not such person is an officer or Director at the time such expenses are incurred, except to the extent such liability, damage or injury is covered by any type of insurance. The officers and Directors of the Association shall not be liable to the Association for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The officers and Directors of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association or the Condominium [except to the extent that such officers or Directors may also be Owners of Units] and the Association shall indemnify and forever hold each such officer and Director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or Director of the Association, or former officer or Director of the Association, may be entitled.

Section 2. Common or Interested Directors. The Directors shall exercise their powers and duties in good faith and with a view to the interests of the Association and the Condominium. No contract or other transaction between the Association and one or more of its Directors, or between the Association and any corporation, firm or association [including the Declarant] in which one or more of the Directors of this Association are directors or officers or are pecuniarily or otherwise interested, is either void or voidable because such Director or Directors are present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because his or their votes are counted for such purpose, if any of the conditions specified in any of the following subparagraphs exist:

[a] The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed; and

[b] The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board of Directors authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

[c] The fact of the common directorate or interest is disclosed or known to the Unit Owners, or a majority thereof, and they approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose.

Common or interested Directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction with like force and effect as if he were not such director or officer of such other corporation or not so interested.

Exhibit D to Declaration

ARTICLE VIII

Management

Section 1. Management and Common Expenses. Subject to the provisions of Section 3 of ARTICLE V of these By-Laws, the Association, acting by and through its Board of Directors, shall manage, operate and maintain the Condominium and, for the benefit of the Units and the Owners thereof, shall enforce the provisions hereof and shall pay out of the common expense fund hereinelsewhere provided for, the following costs which shall include, but not be limited to:

(a) The cost of providing heat, air conditioning, water, sewer, garbage and trash collection, electrical, gas and other necessary utility services for the Common Elements and, to the extent that the same are not separately metered or billed to each Unit, for the Units, the cost of operating and maintaining any and all television and radio distribution systems, and recreational facilities, all or any of which may be done directly or through an independent contractor.

(b) The cost of fire and extended coverage and liability insurance on the Condominium and the cost of such other insurance as the Association may effect.

(c) The cost of the services of a Management Agent to manage the Condominium to the extent deemed advisable by the Association together with the services of such other personnel as the Board of Directors shall consider necessary for the operation of the Condominium.

(d) The cost of providing such legal and accounting services as may be considered necessary to the operation of the Condominium.

(e) The cost of painting, maintaining, replacing, repairing and landscaping the Common Elements and such furnishings and equipment for the Common Elements as the Board of Directors shall determine are necessary and proper, and the Board of Directors shall have the exclusive right and duty to acquire the same; PROVIDED, HOWEVER, that nothing herein contained shall require the Association to paint, repair or otherwise maintain the interior of any Unit or any fixtures, appliances or equipment located therein.

(f) The cost of any and all other materials, supplies, labor, services, maintenance, repairs, taxes, assessments or the like which the Association is required to secure or pay for by law, or otherwise, or which in the discretion of the Board of Directors shall be necessary or proper for the operation of the Common Elements; PROVIDED, HOWEVER, that if any of the aforementioned are provided or paid for the benefit of a particular Unit or Units, the cost thereof shall be specially assessed to the Owner or Owners thereof in the manner provided in subparagraph (g) of Section 1 of this ARTICLE VIII of these By-Laws.

(g) The cost of the maintenance or repair of any Unit in the event such maintenance or repair is reasonably necessary in the discretion of the Board of Directors to protect the Common Elements or to preserve the appearance or value of the Condominium or is otherwise in the interest of the general welfare of all Owners of the Units; PROVIDED, HOWEVER, that no such maintenance or repair shall be undertaken without a resolution by the Board of Directors and not without reasonable written notice to the Owner of the Unit proposed to be maintained, and PROVIDED FURTHER, that the cost thereof shall be assessed against the Unit on which such maintenance or repair is performed and, when so assessed, a statement for the amount thereof shall be rendered promptly to the then Owner of said Unit at which time the assessment shall become due and payable and a continuing lien and obligation of said Owner in all respects as provided in Section 4 of ARTICLE IX of these By-Laws.

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(h) Any amount necessary to discharge any lien or encumbrance levied against the Condominium, or any portion thereof, which may, in the opinion of the Board of Directors, constitute a lien against the Common Elements rather than the interest therein of the Owner of any individual Unit.

(i) Any amount necessary to pay real estate taxes or other governmental charges of whatever nature assessed on or against the General or Limited Common Elements of the Condominium, and all other taxes and assessments levied against the Association or upon any property which it may own or it is otherwise required to pay, if any.

(j) Any amount deemed necessary or desirable by the Board of Directors to be placed in a reserve fund for replacement of any Common Elements.

Section 2. Management Agent. The Association may, by contract in writing, delegate any of its duties, powers or functions to the Management Agent, provided that every such delegation shall be revocable by the Association upon no more than ninety [90] days written notice without cause and upon thirty [30] days written notice for a cause which is not eliminated or corrected by the agent within the period of the notice, or, if the cause is such that it cannot be remedied within the period, the Management Agent shall have proceeded diligently to remedy the same after notification. The term of any such management contract shall be for a period of one year, renewable by agreement of the parties for successive one year periods. The Association and the Board of Directors shall not be liable for any omission or improper exercise by the Management Agent of any such duty, power or function so delegated.

Section 3. Unit Owners' Duty to Maintain.

(a) Except for maintenance requirements herein imposed upon the Association, if any, the Owner of any Unit shall, at his own expense, maintain the interior of his Unit and any and all equipment, appliances or fixtures therein situate, and its other appurtenances [including, without limitation, any balcony, deck, terrace or patio appurtenant to such Unit and designated on the Record Plat as a Limited Common Element reserved for exclusive use by the Owner of a particular Unit], in good order, condition and repair, free and clear of ice and snow, and in such clean and sanitary condition as may at any time be necessary to maintain the good appearance of his Unit and shall, at his own expense, maintain, repair or replace any plumbing and electrical fixtures, outlets and receptacles, lighting fixtures, refrigerators, freezers, dishwashers, clothes washers, clothes dryers, disposals, ranges, range hoods, and/or other equipment that may be in or appurtenant to such Unit.

(b) The Owner of any Unit shall, at his own expense, clean and maintain both of the surfaces of all windows of the Unit and shall, at his own expense, clean and maintain both of the surfaces of all entry doors of the Unit, including both of the surfaces of any door leading to any balcony, deck, terrace or patio appurtenant to such Unit and designated on the Record Plat as a Limited Common Element reserved for exclusive use by the Owner of a particular Unit except that the painting of the exterior of all Unit entry doors or Unit balcony, deck, terrace or patio doors shall be the responsibility of the Association, and the Unit Owners are prohibited from painting or otherwise altering the finishes thereon.

(c) Any Unit Owner permitted by the Board of Directors to use a specific portion of the Common Elements for storage is responsible for the maintenance and care of such portion and shall use such portion in a safe and sanitary manner.

(d) In addition to the foregoing, each Unit Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from his failure to make any of the repairs required by this Section 3 of ARTICLE VIII of these By-Laws and shall also be responsible for all damage thereto caused or permitted by his negligence, misuse or neglect.

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(e) All repairs and replacements shall be substantially similar to the original construction and installation in accordance with standards established by the Board of Directors. Each Unit Owner shall perform required maintenance and repairs in such manner as shall not unreasonably disturb or interfere with other Unit Owners. Each Unit Owner shall promptly report to the Board of Directors or the Management Agent any defect or need for repairs for which the Board of Directors is responsible.

(f) The Association may, from time to time, through its By-Laws, accept the obligation to make certain repairs or perform maintenance services to facilities owned by the individual Owners and apportion the cost thereof as a common expense, or in the alternative, may eliminate the repair and maintenance of facilities contained within the Units and require the Owners thereof to perform repair and maintenance at the expense of such Owners. The responsibility for meeting the requirements of governmental bodies which require maintenance, modification or repair of any part of the Condominium property shall fall upon the same persons or organizations that have the responsibility for the maintenance and repair of the part of the Condominium concerned.

(g) Set forth in the Appendix attached to these By-Laws is a Schedule delineating certain items for which the Board of Directors will initially accept the responsibility of maintenance and repair, and those items for which the Unit Owners will have the initial responsibility for maintenance and repair. The responsibility for maintenance and repair of any item not expressly listed in the Appendix shall be determined in accordance with the other provisions of the Declaration and these By-Laws. The Board of Directors may, from time to time, revise the provisions of the Appendix, PROVIDED, HOWEVER, the Board of Directors shall have the power to diminish, but not enlarge the responsibility of the Unit Owners to maintain and/or repair items beyond that set forth elsewhere in the Declaration and these By-Laws.

Section 4. Access at Reasonable Times. For the purpose solely of performing any of the repairs or maintenance required or authorized by these By-Laws, or in the event of a bona fide emergency involving illness or potential danger to life or property, the Association, through its duly authorized agents or employees, shall have the right, after reasonable efforts to give notice to the Owner or occupant, to enter any Unit at any hour considered to be reasonable under the circumstances. Each Unit Owner shall provide a key for the Unit to the Association or its Management Agent for purposes of emergency access to the Unit. In the event emergency access is necessary, and the Unit Owner shall have failed to provide a key, then such emergency access shall be at the risk and expense of the Unit Owner.

Section 5. Easements for Utilities and Related Purposes. The Association is authorized and empowered to grant such licenses, easements and/or rights-of-way for sewer lines, water lines, television and radio distribution systems, electrical cables, telephone cables, gas lines, storm drains, underground conduits and/or such other purposes related to the provision of public utilities to the Condominium as may be considered necessary and appropriate by the Board of Directors for the orderly maintenance, preservation and enjoyment of the Common Elements or for the preservation of the health, safety, convenience and/or welfare of the Owners of the Units or the Declarant.

Section 6. Limitation of Liability. The Association shall not be liable for any failure of any services to be obtained by the Association or paid for out of the common expense funds including, but not limited to those enumerated in Section 1 of this ARTICLE VIII of these By-Laws hereof, or for injury or damage to person or property caused by the act of God or by the Owner of any Unit, or any other person, or resulting from electricity, water, snow or ice which may leak or flow from any portion of the Common

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Elements or from any wire, pipe, drain, conduit, appliance or equipment. The Association shall not be liable to the Owner of any Unit for loss or damage, by theft or otherwise, of articles which may be stored upon any of the Common Elements including, but not limited to, Unit Owner parking areas, storage areas, pool and sauna locker rooms and other recreational or hobby facilities. No diminution or abatement of common expense assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements, or to any Unit or from any action taken by the Association to comply with any laws, ordinance or with the order or directive of any municipal or other governmental authority.

## ARTICLE IX

### Operation of the Property

#### Section 1. Determination of Common Expenses and Assessments Against Unit Owners.

(a) Preparation and Approval of Budget. Except during the time period prior to the completion of construction of all of the Units in the Condominium and the issuance of residential use permits thereon, when the budget is required by the Declaration to be revised more often than annually, at least thirty (30) days prior to the commencement of each fiscal year, the Board of Directors shall adopt a line item budget for the Condominium containing an estimate of the total annual amounts which it considers necessary to pay the cost of utility services, maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units as to which it is the responsibility of the Board of Directors to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be common expenses by the Condominium Act, these By-Laws or a Resolution of the Unit Owners' Association, and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Condominium and the rendering to the Unit Owners of all related services. The budget may also include, but shall not be limited to, the following:

- (i) The cost of the maintenance or repair of any Unit in the event such maintenance or repair is reasonably necessary in the discretion of the Board of Directors to protect the Common Elements or to preserve the appearance or value of the general welfare of all Unit Owners; PROVIDED, HOWEVER, that no such maintenance or repair shall be undertaken without a resolution by the Board of Directors and not without reasonable written notice to the Unit Owner of the Unit proposed to be maintained, and PROVIDED FURTHER that the cost thereof shall be assessed against the Unit on which such maintenance or repair is performed and, when so assessed, a statement for the amount thereof shall be rendered promptly to the then Unit Owner of said Unit at which time the assessment shall become due and payable and a continuing lien and obligation of said Owner in all respects as provided in Section 4 of the ARTICLE IX of these By-Laws.
- (ii) Any amount necessary to discharge any lien or encumbrance levied against the Condominium, or any portion thereof, which may, in the opinion of the Board of Directors, constitute a lien against the Common Elements rather than the interest therein of the Owner of any individual Unit.

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- (iii) Such budget may also include such reasonable amounts as the Board of Directors considers necessary to provide working funds for the Condominium, a general operating reserve, or reserves for contingencies and replacements. The board of Directors shall send a copy of the budget to each Unit Owner, in reasonably itemized form which sets forth the amount of the common expenses payable by each Unit Owner, at least ten (10) days prior to the beginning of the fiscal year to which the budget applies. The said budget shall constitute the basis for determining each Unit Owner's contribution for the common expenses of the Condominium.

(b) Within thirty (30) days after the creation of Units on any Additional Land by the recordation of an amendment to the Declaration submitting such Units to the Condominium, the Board of Directors shall send to each Unit Owner a copy of the budget revised to reflect the proportionate liability of such Units for common expenses for the remainder the fiscal year in which such Units were added to the Condominium. The amount of assessments attributable to each Unit shall thereafter be the amount specified in the adjusted budget, until a new budget shall have been adopted by the Board of Directors.

(c) Assessment and Payment of Common Expenses. The total amount of the estimated funds required for the operation of the property together with provisions for reserves, both as set forth in the budget for the fiscal year adopted by the Board of Directors shall be assessed against each Unit Owner in proportion to his respective percentage interest in the Common Elements, and shall be a lien against each Unit as provided in Section 55-79.84 of the Condominium Act. Said assessment shall be payable in twelve (12) equal monthly installments as follows: on or before the first day of each fiscal year, each Unit Owner shall be obligated to pay the board of Directors or the Management Agent [as determined by the Board of Directors], one-twelfth [1/12th] of the assessment for such fiscal year made pursuant to the foregoing provisions. If the common expenses may be anticipated to vary during the course of the fiscal year by reason of changes in required services [such as, but not limited to, that period of time when portions of the Condominium or Additional Lands are being constructed], the monthly installments may be varied or adjusted during the fiscal year. Within sixty [60] days after the end of each fiscal year, the Board of Directors shall supply to all Unit Owners and any institutional holder of a first mortgage on a Unit, upon request, an audited accounting of the common expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves may, if the Board of Directors deems it advisable, be created according to each Unit Owner's undivided interest in the Common Elements to the installments due in the succeeding months of that fiscal year. When the first Board of Directors, elected or designated pursuant to these By-Laws, takes office, it shall determine the budget as defined in this Section, for the period commencing thirty [30] days after their election and ending on the last day of the fiscal year in which their election occurs. Assessments shall be levied against the Unit Owners during said period as provided in the Section 1[c] of ARTICLE IX of these By-Laws.

(d) EFFECT OF FAILURE TO PREPARE OR ADOPT A BUDGET. The failure or delay of the Board of Directors to prepare or adopt the annual budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the common expenses as herein provided, whenever the same shall be determined, and in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay the monthly charge at the then existing monthly rate established for the previous fiscal period until the new annual or adjusted budget shall have been mailed or delivered. No member may exempt himself from liability for assessments by a waiver of the use or enjoyment of any of the Common Elements or by abandonment of any Unit belonging to him.

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(e) Accounts. All sums collected by the Board of Directors with respect to assessments against the Unit Owners may be commingled into a single fund, but shall be identified and accounted on the books of the Association for each Unit Owner in accordance with his undivided interest in the Common Elements.

(f) Special Assessments. In addition to the regular assessments authorized by this ARTICLE I of these By-Laws, the Association may levy in any assessment year a special assessment or assessments, applicable to that year only, for the purpose of defraying in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement located upon the Condominium, including the necessary fixtures and personal property related thereto, or for such other purpose as the Board of Directors may consider appropriate, provided that any such assessment which is designated for the purpose of new construction, or expanding or enlarging any existing capital improvement shall first have the assent of a majority of the Unit Owners of the Association at a special meeting of the Unit Owners duly called for this purpose.

Section 2. Reserve Fund for Replacements. The Association shall establish and maintain a reserve fund for replacements by the allocation and payment monthly to such reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be conclusively deemed to be a common expense. Such fund shall be deposited in a special account with an institution, the accounts of which are insured by an agency of the United States of America. The Board of Directors may authorize the depositing of funds in such an institution in excess of the limits of such insurance if any portion of such funds are insured], or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve for replacements may be expended only for the purpose of effecting the replacement of the Common Elements and equipment of the Condominium and for operating contingencies of a non-recurring nature. The proportionate interest of any Owner in any reserve for replacements shall be considered an appurtenance of his Unit and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Unit to which it appertains and shall be deemed to be transferred with such Unit. If the reserve fund established under this Section 2 of ARTICLE IX of these By-Laws is inadequate for any reason, including non-payment of any Unit Owners' assessment, the Board of Directors may at any time without the requirement of submitting the same to the members for approval levy a further assessment, which shall be assessed against the Unit Owners according to their respective undivided interests in the Common Elements, and which may be payable in a lump sum or in installments as the Board of Directors may determine. The Board of Directors shall serve notice of any such further assessment on all Unit Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall, unless otherwise specified in the notice, become effective with the next monthly payment which is due after the delivery or mailing of such notice of further assessment. All Unit Owners shall be obligated to pay the adjusted monthly amount or, if the additional assessment is not payable in installments, the amount of such assessment. Such assessment shall be a lien as of the effective date as set forth in Section 4 of ARTICLE IX of these By-Laws.

Section 3. Working Capital Fund. The Board of Directors shall establish a working capital fund which shall be used for the start-up costs for the Condominium, including, but not limited to, the purchase of cleaning and maintenance equipment and supplies; the purchase of additional furniture and fixtures beyond that supplied by the Declarant; the payment of any required utility deposits; and the payment of any insurance or condemnation trustee fees. In addition to start-up costs, other expenditures which shall be charged first against the working capital fund shall include, but not be limited to, extraordinary expenditures not originally contained in the annual budget but which may become necessary during the year; expenditures to pay the cost of temporary operating deficits due to seasonal fluctuations

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in the operating costs for the Condominium, and in reimbursement to the Management Agent of monies which it may elect to advance on behalf of the Unit Owner's Association in payment of current operating costs. The working capital fund shall be created by the levy of an "initial working capital contribution" against the initial purchaser, at the time of settlement on the purchase contract, in an amount equal to but not in excess of two [2] months' estimated common area charges as established by the Board of Directors for Units in Phase I pursuant to Section 1(c) of this ARTICLE IX of these By-Laws. If the Declarant shall exercise its right to expand the Condominium by the addition of Phase II, the initial capital contribution levied against purchasers of Units shall be the same dollar amount contributed by purchasers of Units of approximately equivalent size in Phase I, even though the estimated common area charges for all Units shall have decreased by the addition of Phase II.

Section 4. Lien of Assessments.

(a) The total annual assessment of each Unit Owner for common expenses or any special assessment made pursuant to these By-Laws is hereby declared to be a lien levied against the Unit of such Unit Owner as provided in Section 55-79.84 of the Condominium Act, which lien shall, with respect to annual assessments, be effective on the first day of each fiscal year of the Condominium and, as to special assessments, on the first day of the next month which begins more than seven (7) days after delivery to the Unit Owner of notice of such special assessment. The Board of Directors or the Management Agent may file or record such other or further notice of any such lien, or such other or further document, as may be required by Section 55-79.84 of the Condominium Act or by the laws of the Commonwealth of Virginia to confirm the establishment and priority of such lien.

(b) The lien for assessments may be enforced and foreclosed in the manner provided by the laws of the Commonwealth of Virginia by action in the name of the Board of Directors, or the Management Agent, acting on behalf of the Association. During the pendency of such suit the Unit Owner shall be required to pay a reasonable rental for the Unit for any period prior to sale pursuant to any judgment or order of any Court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the laws of the Commonwealth of Virginia.

(c) A suit to recover a money judgment for unpaid contributions may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may recover a money judgment.

(d) All reasonable costs, including attorney's fees, incurred by the Association in connection with the filing of any lien, the foreclosure of any lien, or a suit to enforce any lien, shall be paid by the Unit Owner prior to the release of the lien.

Section 5. Collection of Assessments. The Board of Directors shall take such prompt action as may be necessary to collect any assessments for common expenses or any installments thereof due from any Unit Owner which remain unpaid beyond the due date, including, but not limited to, the following:

(a) Upon failure by a Unit Owner to pay any assessment or any installment thereof within ten (10) days after it is due, the delinquent Unit Owner shall be liable for a late fee in an amount to be established by the Board of Directors, such late fee not to exceed Ten Dollars (\$10.00). The return of a check by a bank for insufficient funds shall be deemed a non-payment and the Unit Owner whose check was returned shall be liable for the late fee referred to in this Section 5(a) of this ARTICLE IX of these By-Laws.

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(b) In any case where an assessment against a Unit Owner is payable in installments, upon a default of such Unit Owner in the timely payment of any two (2) consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the entire balance of the annual assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Unit Owner and his mortgagee by the Board of Directors or the Management Agent. If the Board of Directors shall exercise its option to accelerate, as provided in this Section 6(b) of ARTICLE IX of these By-Laws, the defaulting Unit Owner may, thereafter, be relieved of the acceleration upon condition that the Unit Owner shall execute a bond conditioned upon the faithful performance and payment of all installments of the assessment and may likewise be required to secure the payment of such obligation by a declaration of trust recorded among the Land Records of Fairfax County, Virginia, granting unto a trustee or trustees appropriate powers so that upon default in the performance of such bond, such declaration of trust may be foreclosed by such trustee or trustees, acting at the direction of the Board of Directors. In the event any such bonds have been executed and such declaration of trust is recorded, then any subsequent purchaser of a Unit shall take title subject thereto and shall assume the obligations therein provided for. The defaulting Unit Owner shall be liable for all costs, including reasonable attorney's fees, in connection with the execution of the bond, the execution and recording of a deed of trust, or any action of foreclosure under the deed of trust.

(c) The Association shall notify the holder of the first mortgage on any Unit for which any assessment levied pursuant to these By-Laws becomes delinquent for a period in excess of thirty (30) days and in any other case where the Owner of such Unit is in default with respect to the performance of any other obligation hereunder for a period in excess of thirty (30) days.

(d) Upon default by a Unit Owner in the payment of any assessment or any installment thereof which continues more than sixty (60) days, the Association may bring an action at law against the defaulting Unit Owner, or foreclose the lien against the Unit or Units then belonging to said Unit Owner, in either of which events interest, costs and reasonable attorney's fees of not less than twenty percent (20%) of the sum claimed shall be added to the amount of each assessment.

(e) The Board of Directors shall establish such additional procedures as may be necessary for the collection of delinquent assessments or installments thereof including, but not limited to, the collection of interest from the due date in an amount not to exceed the then current legal interest rate on assessments or installments which remain unpaid for thirty (30) days or more beyond the due date.

(f) The foregoing remedies shall be in addition to, and not in derogation of, the lien declared in Section 4 of ARTICLE IX of these By-Laws, Article III(B) of the Declaration and Section 79.84 of the Condominium Act.

Section 6. Assessment Certificates. The Association shall upon written request at any time furnish to any Unit Owner liable for any assessment levied pursuant to these By-Laws [or any other party legitimately interested in the same], a certificate in writing signed by an officer of the Association setting forth the status of said assessment, i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any assessment therein stated to have been paid. A charge not to exceed Ten Dollars [\$10.00] may be levied in advance by the Association for each certificate to be delivered.

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Section 7. Priority of Lien. The lien established by this ARTICLE IX and by Title 55, Section 79.84, Code of Virginia [1950], shall have preference over any other assessments, liens, judgments or charges of whatever nature, except the following:

(a) General and special assessments for real estate taxes on the Unit, and

(b) The liens of any first mortgage duly recorded on said Unit prior to the accrual of the installment of the assessment upon which the lien is based or after receipt of a written statement from the Board of Directors reflecting that payments of assessments secured by said lien for payment of assessments were current as of the date of recordation of said mortgage.

Section 8. Subordination and Mortgage Protection. Notwithstanding any other provisions hereof to the contrary, the lien of any assessment levied pursuant to these By-Laws upon any Unit in the Condominium shall be subordinate to, and shall in no way affect the rights of the holder of any indebtedness secured by any recorded first mortgage [meaning a mortgage with priority over other mortgages] upon such interest made in good faith and for value received, PROVIDED, HOWEVER, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Unit pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser at such sale of the Unit from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment, which said lien, if any, claimed shall have the same effect and be enforced in the same manner as provided herein. No amendment to this Section 8 of this ARTICLE IX of these By-Laws shall affect the rights of the holder of any such mortgage [or the indebtedness secured thereby] recorded prior to recordation of such amendment unless the holder thereof [or of the indebtedness secured thereby] shall join in the execution of such amendment. The Board of Directors may, in its sole and absolute discretion, extend the provisions of this Section B of this ARTICLE IX of these By-Laws to the holders of mortgages [or the indebtedness secured thereby] not otherwise entitled thereto.

Section 9. Additional Default. Any recorded first mortgage secured on a Unit in the Condominium shall provide that any default by the mortgagor in the payment of any assessment levied pursuant to these By-Laws, or any installment thereof, shall likewise be a default in such mortgage [or the indebtedness secured thereby] but failure to include such a provision in any such mortgage shall not affect the validity or priority thereof and the protection extended to the holder of such first mortgage [or the indebtedness secured thereby] by reason of Section 7 of this ARTICLE IX of these By-Laws shall not be altered, modified or diminished by reason of such failure.

Section 10. Definition. As used in these By-Laws, the term "mortgage" shall include deed of trust and the term "holder" or "mortgagee" shall include the party secured by any deed of trust or any beneficiary thereof.

## ARTICLE X

### Use Restrictions

Section 1. Residential Use. Except for any Units created within that convertible space designated for professional or commercial purposes in Exhibit C to the Declaration, all Units shall be used for private residential purposes exclusively [except for such temporary non-residential uses as may be permitted by the Board of Directors from time to time]. Nothing in this Section 1 of ARTICLE X of these By-Laws, or hereinelsewhere, shall be construed to prohibit the Declarant from the use of any Unit which Declarant owns for promotion, marketing or display purposes, or as "model apartments", or as sales facilities, or from leasing any Unit or Units which Declarant owns.

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Section 2. Leasing. Except for the Declarant and any institutional mortgagee who comes into possession of the Unit, which are both hereby given the right to lease any unsold Unit for any period of time and upon such terms as they may deem desirable, no Unit within the Condominium shall be rented for transient or hotel purposes or, in any event, for any period less than six [6] months, nor shall any customary hotel services, such as room service, food and beverage service, maid service, laundry or bellboy service be furnished. No portion of any Unit [other than the entire Unit] shall be leased for any period. Any Owner of any Unit who shall lease such Unit shall, promptly following the execution of any such lease, forward a conformed copy thereof to the Board of Directors. Any such lease shall contain a provision to the effect that the right of the tenant to use and occupy the Unit shall be subject and subordinate in all respects to the provisions of the Declaration and these By-Laws and to such rules and regulations relating to the use of the Common Elements, or other "house rules", as the Board of Directors may from time to time promulgate, and any failure by the tenant to comply with the terms of such documents shall be a default under the lease. All leases are required to be in writing. In the event that the tenant of any Unit Owner shall breach his lease by failing to comply with any of the terms of the Declaration, these By-Laws and the rules and regulations, the Board of Directors may require the Unit Owner to secure the eviction of his tenant. The word "lease", as used in the Declaration and these By-Laws, shall mean any agreement, oral or written, for the leasing or rental of a Unit.

Section 3. Prohibited Uses and Nuisances.

(a) No noxious or offensive activity shall be carried on in any Unit, nor shall anything be done or be permitted to remain in any Unit which may be or become a nuisance or annoyance to the other Owners. Residents of the Condominium shall exercise extreme care not to disturb other residents with excessive noise, or the use of radios, musical instruments, telephones or amplifiers.

(b) There shall be no obstruction of any Common Elements. Nothing shall be stored upon any Common Elements [excepting those areas designated for storage of personal property by the Owners of the Units] without the approval of the Board of Directors. Vehicular parking upon General Common Elements may be regulated or assigned by the Board of Directors.

(c) Nothing shall be done or maintained in any Unit or upon any Common Elements which will increase the rate for insurance on any Unit or any Common Elements, or result in the cancellation thereof, without the prior written approval of the Board of Directors. Nothing shall be done or maintained in any Unit or upon any Common Elements which would be in violation of any law. No waste shall be committed upon any Common Elements.

(d) No structural alteration, construction, addition or removal of any Unit or Common Elements shall be commenced or conducted except in strict accordance with the provisions of the Declaration.

(e) Except for such signs as may be posted by the Declarant for promotional or marketing purposes, no signs of any character which are visible from the outside of a Unit shall be erected, posted or displayed upon, from or about any Unit. No sign may be posted upon, in or on any of the Common Elements without the permission of the Board of Directors. No Owner or other resident or tenant of the Condominium shall post any advertisements or posters of any kind on the exterior of the Condominium buildings or elsewhere on the land, except on a designated area specified by the Association within the interior of the building.

(f) The halls and passageways of all buildings shall be used only for ingress and egress. Children shall not be allowed to run or play in such areas.

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(g) No burning of any trash and no unreasonable or unsightly accumulation or storage of litter, new or used building materials, or trash of any kind shall be permitted within any Unit or upon any Common Elements. Trash and garbage containers shall not be permitted to remain in public view, but shall be deposited in the receptacles provided for that purpose.

(h) No structure of a temporary character, trailer, tent, shack, barn or other out building shall be maintained upon any Common Elements at any time, except for such temporary structures as shall be maintained by Declarant for purposes of construction and sale of Condominium Units in Phase I or any expansion of the Condominium in Phase II. No clothing, laundry, rugs or wash shall be hung from or spread upon any balcony, window, patio or exterior portion of a Unit or in or upon a General Common Element.

(i) No Owner or other resident shall install any electrical or telephone wire, television antenna, or other antenna, or conditioning unit or other machine or device on the exterior of any building or upon any patio or balcony in the Condominium or in such a fashion that it protrudes through the roof or any windows, or any walls of the building.

(j) There shall be no violation of any rules and regulations for the use of the Common Elements, or other "house rules", which may from time to time be adopted by the Board of Directors and promulgated among the membership by them in writing, and the Board of Directors is hereby and elsewhere by these By-Laws authorized to adopt such rules.

(k) Except for any Units which may be created within the Commercial Convertible space depicted in Exhibit C of the Declaration, no Unit shall be used except for residential purposes or for a builder's construction or sales office during the construction and sales period.

(l) No Owner shall allow occupancy of more than four residents in a three-bedroom Unit or a two-bedroom and den Unit, three residents in a two-bedroom or one-bedroom and den Unit, two residents in a one-bedroom Unit, or two residents in an efficiency Unit. PROVIDED, HOWEVER, that no Owner who qualified at the time of the acquisition of the Unit by such Owner shall be required to move by reason of occupancy of the Unit by child or children born or adopted by the Owner after occupancy commences.

(m) The maintenance, keeping, breeding, boarding and/or raising of animals, livestock, or poultry of any kind, regardless of number, shall be and hereby prohibited within any Unit or upon any Common Elements, nor shall any Unit Owner or his guests or invitees keep, harbor or maintain within any Unit, any of the Limited Common Elements or on any General Common Elements any pet, regardless of its breed, species, size, shape, quality or quantity.

## ARTICLE XI

### Architectural Control

#### Section 1. Additions, Alterations or Improvements by Unit Owners.

(a) Except for the original construction of the Units within the Condominium by the Declarant and any improvements to any Unit or to the Common Elements accomplished concurrently with said original construction, and except for the purposes of proper maintenance and repair as otherwise in these By-Laws provided, it shall be prohibited to install, erect, attach, apply, paste, hinge, screw, nail, build, alter, remove or construct any lighting, shades, screens, awnings, patio covers, decoration, fences, aerials, antennas, radio or television broadcasting or receiving devices, slabs, sidewalks, curbs, gutters, patios, porches, driveways,

Exhibit D to Declaration

walls or to make any change or otherwise alter [including any alteration in color] in any manner whatsoever to the exterior of any Unit, including the Condominium until the complete plans and specifications, showing the location, nature, shape, height, material, color, type of construction and/or any other proposed form of change [including, without limitation, any other information specified by the Board of Directors or its designated committee] shall have been submitted to and approved in writing as to harmony of external design, color and location in relation to surrounding structures and topography by the Board of Directors of the Association. Nothing contained in this Section 1 of ARTICLE XI of these By-Laws shall be deemed to empower the Board of Directors of the Association to authorize any change in conflict with any provision of the Declaration. In the event the Board of Directors, or its designated committee, fails to approve or disapprove such design and location within ninety (90) days after said plans and specifications have been submitted to it, and if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Section 1 of ARTICLE XI of these By-Laws will be deemed to have been fully complied with.

(b) If the Board of Directors shall have given its approval for a requested alteration, addition or improvement, and if any governmental authority shall require the execution of a permit by the Association in order for a Unit Owner to make such alteration, addition or improvement, then the Board of Directors shall make application for and shall execute such permit on behalf of the Association, upon condition that the Unit Owner requesting the same shall execute an agreement to indemnify and hold harmless the Board of Directors and the Association against the claims of any contractor, subcontractor or materialman on account of such alteration, addition or improvement, or the claims by any person or entity for personal injury or damage to property arising therefrom. Said indemnification agreement shall be in such form as the Board of Directors may approve. The Unit Owner shall provide the Board of Directors with an appropriate certificate of insurance and/or other security for purposes of indemnification as the Board of Directors may reasonably request.

Section 2. Carpets. In order to eliminate any noise caused or occasioned by walking on the floors in any Unit, the Unit Owner shall install all necessary carpeting or rugs which will eliminate all such noise. The Board of Directors shall have the right, in its sole discretion, to determine what size and quality of carpeting is necessary to comply with this provision, and may require that carpeting be installed prior to allowing occupant to move in.

Section 3. Additions, Alterations or Improvements by Board of Directors. Whenever in the judgment of the Board of Directors the Common Elements shall require additions, alterations or improvements costing in excess of Ten Thousand Dollars (\$10,000), the making of such additions, alterations or improvements shall be approved by a majority of the Unit Owners, and the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the cost thereof as a common expense. Any additions, alterations or improvements costing Ten Thousand (\$10,000) or less may be made by the Board of Directors without approval of the Unit Owners and the cost thereof shall constitute part of the common expenses. Notwithstanding the foregoing, if, in the opinion of not less than eighty percent (80%) of the members of the Board of Directors, such additions, alterations or improvements are exclusively or substantially exclusively for the benefit of the Unit Owner or Owners requesting the same, the Board of Directors may condition its approval of such alterations, additions or improvements upon acceptance of an assessment for the same by the Unit Owner so benefited or by all or a portion of all of the Unit Owners if there be more than one benefited.

Exhibit D to Declaration

ARTICLE XII

Insurance

Section 1.     Insurance. The Board of Directors shall obtain and maintain, to the extent available, from companies admitted to do business in the Commonwealth of Virginia, and upon insurance forms which have been approved by the State Corporation Commission of the Commonwealth of Virginia, at least the following insurance:

(a)     A "master" or "blanket" policy of property insurance on the Condominium in an amount equal to the full replacement value (i.e., one hundred percent (100%) of current "replacement cost" exclusive of land foundation, excavation and other items normally excluded from coverage, but including all building service equipment and the like and any fixtures or equipment within all Units with an "Agreed Amount Endorsement" or its equivalent, if available, or an Inflation Guard Endorsement, and such other endorsements, to the extent available, as may be required to be carried by the Federal National Mortgage Association [hereinafter referred to as "FNMA"], Federal Home Loan Mortgage Association [hereinafter referred to as "FHLMA"], any private mortgage insurance company [hereinafter referred to as "PMI"] or the Veterans Administration [hereinafter referred to as "VA"], or other similar institution which may purchase or insure payment on a substantial number of notes secured by deeds of trust on Units contained in the Condominium. The amount of such "replacement cost" shall be redetermined annually by the Board of Directors. Such coverage shall afford protection against, at least, the following:

- (i)     loss or damage by fire or other hazards covered by the standard extended coverage endorsement and additional extended coverage endorsement;
- (ii)    such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including, but not limited to, as appropriate, vandalism, malicious mischief, boiler and machinery explosion or damage, sprinkler leakage, debris removal, cost of demolition, windstorm and water damage, and such other insurance as the Board of Directors may from time to time determine; and

(b)     A comprehensive policy of public liability insurance in such amounts and in such forms as may be considered appropriate by the Board of Directors including, but not limited to, water damage legal liability, liability for property of others, hired automobile, non-owned automobile and any and all other liability arising out of or incident to the ownership and/or use of the Condominium or any portion thereof, and such other risks as shall customarily be covered with respect to projects similar in construction, location and use. All such policies shall include a "Severability of Interest Endorsement" or equivalent coverage which would preclude the company from denying the claim of a Unit Owner because of the negligent acts of the Association, the Board of Directors or another Owner, with such limits as may be considered acceptable to FNMA, FHLMC, PMI, VA, or other similar institution which may purchase or insure payment of a substantial number of notes secured by deeds of trust on Units contained in the Condominium [except to the extent such coverage is not available or has been waived in writing by any of the above] but in any event, not less than One Million Dollars (\$1,000,000) covering all claims for personal injury and/or damage arising out of a simple occurrence.

(c)     Workmen's compensation insurance to the extent necessary to comply with any applicable law; and

Exhibit D to Declaration



(d) Adequate fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and other persons or entities who handle, or who are responsible for handling funds of the Association, including but not limited to, employees of the Management Agent. The premiums of such fidelity bonds shall be paid by the Association and shall meet the following requirements:

- (i) all such fidelity bonds shall name the Association as obligee; and
- (ii) such fidelity bonds shall be written in such amounts as may be required by FNMA, FHLMC, PMI, VA, or other similar institution which may purchase or insure payment on a substantial number of notes secured by deeds of trust on Units contained in the Condominium except to the extent such coverage is not available or has been waived in writing by any of the above, and
- (iii) such fidelity bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression; and

(e) Such other policies of insurance, including insurance for other risks of a similar or dissimilar nature, as are required to be carried by FNMA, FHLMC, PMI and VA [except to the extent such coverage is not available or has been waived in writing by any of the above], and by the provisions of these By-Laws or as shall hereinafter be considered appropriate by the Board of Directors.

Section 2. Limitations. Any insurance or fidelity bond obtained pursuant to the requirements of this ARTICLE XII of the By-Laws shall be subject to the following provisions:

(a) All policies shall be written with a company or companies licensed to do business in the Commonwealth of Virginia and holding a financial rating by Best's Insurance Reports of "Class VI" or better, and a Best's Insurance Report Policyholder's rating of "A" or better.

(b) Exclusive authority to negotiate losses under said policies shall be vested in the Board of Directors or its authorized representative, including any trustee with which the Association may enter into any Insurance Trust Agreement, or any successor trustee, each of which shall herein elsewhere be referred to as the "Insurance Trustee" and all proceeds covering any loss shall be payable to the Insurance Trustee, or to his successor. All proceeds from an insured loss under such policy shall be held for the use and benefit of the Association and the Owners of all Units and their respective mortgagees as interest may appear. Such insurance proceeds shall be applied and distributed in accordance with the Articles relating to insurance in the Declaration and these By-Laws.

(c) In no event shall the insurance coverage obtained and maintained pursuant to the requirements of this ARTICLE XII of these By-Laws be brought into contribution with insurance issued in the name of any individual Unit Owner, purchased as herein permitted, by such Owner of a Unit or their mortgagee. Any "no other insurance" or similar clause in any policy obtained by the Association pursuant to the requirements of this ARTICLE XII of these By-Laws shall exclude such policies from consideration.

(d) All policies and fidelity bonds shall provide that such policies or bonds may not be cancelled or substantially modified [including cancellation for nonpayment of premium] without at least thirty (30) days prior written notice to any and all insureds named thereon, including any and all mortgagees, FNMA, FHLMC, PMI, VA or other similar institution which may purchase a substantial number of notes secured by deeds of trust on Units contained in the Condominium.

Exhibit D to Declaration

(e) All policies of property insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such shall not be exercisable without the prior written approval of the Association (or any insurance trustee) or when in conflict with provisions of any Insurance Trust Agreement to which the Association may be a party, or any requirement of any statute, the Declaration or these By-Laws.

(f) All policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Association, the Board of Directors, their agents and employees, the respective Unit Owners, such Owners' respective agents, employees or tenants, and a waiver of any defenses based on co-insurance or upon invalidity arising from acts of employees or servants of the Board of Directors or of the respective Unit Owners within the meaning of said waiver.

(g) The insurance policy shall contain a provision that the insurance shall not be prejudiced:

(i) by any act or neglect of any occupants of the building when such act or neglect is not within the control of the Unit Owners collectively; or

(ii) by failure of the Unit Owners collectively to comply with any warranty or condition with regard to any portion of the premises over which the Unit Owners collectively have no control.

Section 3. Individual Policies - Recommendation of Declarant. The Owner of any Unit (including the holder of any mortgage thereon) may obtain additional insurance (including a "Condominium Owner's Endorsement" for improvements and betterments to the Unit made or acquired at the expense of the Owner) at his own expense. Such insurance shall be written either by the same carrier as that purchased by the Board of Directors pursuant to this ARTICLE XII of these By-Laws, or if written by another carrier, shall provide that it shall be without contribution as against the same. Such insurance shall contain the same waiver of subrogation provision as that set forth in Section 2(f) of this ARTICLE XII of these By-Laws. The Declaration recommends that each Owner of a Unit in the Condominium obtain, in addition to the insurance herein above provided to be obtained by the Board of Directors, a "Tenant Home Owners Policy", or equivalent, to insure against loss or damage to personal property used or incidental to the occupancy of the Unit, additional living expenses, plate glass damage, vandalism or malicious mischief, theft, personal liability and the like. Such policy should include a "Condominium Unit Owner's Endorsement" covering losses to improvements and betterments to the Unit made or acquired at the expense of the Owner.

### ARTICLE XIII

#### Casualty Damage - Reconstruction or Repair

Section 1. Notice to Mortgagees. In the event of substantial damage or destruction of any Units by fire or other peril, notice shall be sent immediately to the institutional holders of all first mortgages on the Units involved if there is no damage or destruction to Common Elements, and to all institutional holders of first mortgages if there is any substantial damage to or destruction of Common Elements. As used in this Section 1 of ARTICLE XIII of these By-Laws, the term "substantial damage" shall mean damage to any Unit in the amount of One Thousand Dollars (\$1,000) or more or damage to any of the Common Elements in the amount of Ten Thousand Dollars (\$10,000) or more.

Exhibit D to Declaration

Section 2. Use of Insurance Proceeds. Use of Insurance Proceeds. In the event of damage to or destruction of any Unit of the Common Elements by fire or other peril the same shall be promptly repaired or reconstructed in substantial conformity with the original plans and specifications with the proceeds of insurance available for that purpose, if any.

Section 3. Proceeds Insufficient. In the event that the proceeds of insurance are not sufficient to repair damage or destruction by fire or other casualty, or in the event such damage or destruction is caused by any peril not herein required to be insured against, then the repair or reconstruction of the damaged Common Elements shall be accomplished promptly by the Association at its common expense and the repair or reconstruction of any Unit shall be accomplished promptly by the Association at the expense of the Owner of the affected Unit. The ratable share of the expense of such repairs or reconstruction may be assessed and the lien for the same shall have all the priorities provided for in ARTICLE IX of these By-Laws.

Section 4. Restoration Not Required. In the event more than two-thirds (2/3rds) of the entire Condominium is substantially damaged or destroyed by fire or other casualty and Unit Owners representing at least four-fifths (4/5ths) of the total interests of the Condominium, as determined by adding the percentage of ownership of appurtenant undivided interest in the Common Elements as set forth in Exhibit E, resolve not to proceed with repair or reconstruction, and shall vote to terminate the Condominium, then and in that event, the Condominium shall be deemed to be owned in common by the Owners of all of the Units in the same proportions as that previously established for ownership of appurtenant undivided interests in the Common Elements and the Condominium shall be subject to an action for partition at the suit of the Owner of any Unit or the holder of any lien thereon, in which event the net proceeds of sale, together with the net proceeds of any insurance paid to the Association or the Unit Owners in common, shall be considered as one fund and shall be divided among the Owners of all Units in the same proportion as that previously established for ownership of appurtenant undivided interests in the Common Elements, as set forth in Exhibit E, after first paying out of the share of the Owner of any Unit, to the extent such share is sufficient for the purpose, all liens upon said Unit.

#### ARTICLE XIV Fiscal Management

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January every year, except that the first fiscal year of the Association shall begin at the date of organization. The commencement date of the fiscal year herein established shall be subject to change by the Board of Directors.

Section 2. Books and Accounts. Books and accounts of the Association shall be kept under the direction of the Treasurer in accordance with good accounting practices.

Section 3. Auditing. At the close of each fiscal year, the books and records of the Association shall be audited by an independent Certified Public Accountant whose report shall be prepared and certified in accordance with generally accepted auditing standards. Based upon such report, the Association shall furnish the Unit Owners with an annual financial statement including the income and disbursements of the Association.

Section 4. Inspection of Books. The books and accounts of the Association, and vouchers accrediting the entries made thereupon, shall be available for examination by the Unit Owners and/or their duly authorized agents or attorneys, and to the institutional holder of any first mortgage on any Unit and/or its duly authorized agents or attorneys, during normal business hours and for purposes reasonably related to their interests as Unit Owners.

#### Exhibit D to Declaration

Section 5. Execution of Association Documents. With the prior authorization of the Board of Directors, all notes and contracts shall be executed on behalf of the Association by either the President or Vice President, both of whom are hereby individually designated as attorney-in-fact to execute all documents on behalf of the Association by such officers, agents or other persons as are from time to time so authorized by the Board of Directors. The Board of Directors may by resolution from time to time appoint any person as a limited attorney-in-fact to execute specific documents from time to time.

Section 6. Seal. The Board of Directors shall provide a suitable seal containing the name of the Association, which seal shall be in the charge of the Secretary. If so directed by the Board of Directors, a duplicate seal may be kept and used by the Treasurer or any assistant secretary or assistant treasurer.

## ARTICLE XV

### Amendments

Section 1. Proposal of Amendments. Amendments may be proposed by the Board of Directors or by petition signed by Unit Owners representing at least twenty-five percent [25%] of the total votes of the Condominium. A description of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment is to be voted upon.

Section 2. Method of Amendment. Except in cases for which the Condominium Act provides different methods of amendment or requires a larger majority, these By-Laws may be amended by the affirmative vote of Unit Owners representing two-thirds [2/3rds] of the total outstanding votes of the Condominium at any meeting of the Unit Owners' Association duly called for such purpose, and with written approval of the institutional holders who hold at least sixty percent [60%] in outstanding balances of all first mortgages and deeds of trust held by institutional mortgagees on Units located within the Condominium; PROVIDED, HOWEVER, that no amendment shall be made which in any way reduces the rights of holders of first mortgage liens or deeds of trust on individual Units located within the Condominium, as set forth in ARTICLE VIII of the Declaration, or in these By-Laws without the concurrence to such amendment of all such mortgagees or trustees as are affected thereby; and FURTHER PROVIDED, that no amendment shall be made which limits the rights of the Declarant, as set forth in the Declaration, or these By-Laws without the concurrence of the Declarant to such amendment. No amendment shall become effective unless the following conditions are met:

(a) In the case of an amendment which reduces the rights of holders of first mortgage liens or deeds of trust on individual Units located within the Condominium, as set forth in ARTICLE VIII of the Declaration or in these By-Laws, there is concurrence of all such mortgagees or trustees to such amendment.

(b) In the case of an amendment which reduces the rights of the Declarant, as set forth in the Declaration, or in these By-Laws, there is concurrence by the Declarant to such amendment.

(c) In the case of all amendments there is approval by the holders of at least sixty percent [60%] in outstanding balances of all first mortgages and deeds of trust held by institutional mortgagees.

(d) If approved by the mortgagees and Declarant as aforesaid, such amendment shall become effective only upon the recordation among the Land Records for Fairfax County, Virginia, of the amendment to the By-Laws as attached as an exhibit to the Declaration setting forth such amendment.

Exhibit D to Declaration

Section 3. Approval of Amendments required by FNMA, FHLMC, PMI, VA. These By-Laws may be amended by the affirmative vote of a majority of the Board of Directors of the Association at any regular or special meeting of the Board of Directors without further action by the Unit Owners or mortgagees where such amendment is necessary in order to comply with the requirements of FNMA, FHLMC, PMI, or VA [the Board of Directors being hereby designated as attorney-in-fact for all of the Unit Owners and mortgagees to adopt such amendments and to authorize one or more of the officers of the Association to execute any and all documents necessary and proper to accomplish such amendments], PROVIDED, HOWEVER, that where such an amendment in any way reduces the rights of holders of first mortgage liens or deeds of trust on individual Units located within the Condominium, as set forth in ARTICLE VIII of the Declaration or in these By-Laws, the concurrence of all such mortgagees or trustees to such an amendment shall be required; and FURTHER PROVIDED, that where such an amendment in any way reduces the rights of the Declarant, as set forth in the Declaration or in these By-Laws, the concurrence of the Declarant to such an amendment shall be required.

## ARTICLE XVI

### Mortgagee's Notice

Section 1. Notice to Board of Directors. Any Owner of any Unit in the Condominium who mortgages such Unit shall promptly notify the Board of Directors of the name and address of his mortgagee, and, if requested so to do, shall file a conformed copy of such mortgage with the Board of Directors. The Board of Directors shall maintain suitable records pertaining to such mortgages.

Section 2. Definition. As used in this ARTICLE XVI of these By-Laws, the term "mortgagee" shall mean any mortgagee and shall not be limited to institutional mortgagees, and the term "mortgage" shall include deed of trust. As used generally in these By-Laws, the term "institutional holder" or "institutional mortgagee" shall include FNMA, FHLMC, any PMI, VA, banks, trust companies, insurance companies, savings and loan associations, pension funds, Federal credit unions, and any corporation, including a corporation of, or affiliated with, the United States Government, or any agency thereof which is the holder of any note secured by a Unit located in the Condominium.

## ARTICLE XVII

### Compliance and Default

Section 1. Compliance. These By-Laws are set forth in compliance with the requirements of Title 55, Section 79.39 through and including Section 79.103, Code of Virginia [1950, as amended]. Each Unit Owner shall be governed by and shall comply with all of the provisions of the Declaration, these By-Laws, the Condominium Act and any resolutions, rules and regulations promulgated by the Board of Directors, as the same may be amended from time to time. In addition to the remedies provided in Section 55-79.53 of the Condominium Act, the Declaration and these By-Laws, a default by a Unit Owner shall entitle the Association, acting through its Board of Directors or through its Management Agent, to the following relief, after appropriate notice to the defaulting Unit Owner:

(a) The Board of Directors shall have the right to impose a reasonable fine, commensurate with the severity of the violation, which fine shall become a continuing lien against the Unit of the defaulting Unit Owner enforceable in the manner provided by the laws of the Commonwealth of Virginia and ARTICLE IX of these By-Laws.

### Exhibit D to Declaration

(b) The Board of Directors shall have the right to abate and remove, at the expense of the defaulting Unit Owner, any structure, alteration, improvement or condition placed on the Common Elements by a Unit Owner in violation of the provisions of the Declaration, these By-Laws, or any resolution, rules or regulations of the Board of Directors. The Board of Directors shall not be deemed guilty of trespass in accomplishing such abatement.

(c) The Board of Directors shall have the right to enjoin, abate or remedy by appropriate legal proceedings, either in law or in equity, the continuance of any such violation, including, without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in the Declaration or these By-Laws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, or the Board of Directors. Such remedies shall be deemed cumulative and shall not constitute an election of remedies. The failure of the Association or its Board of Directors to enforce any rights, covenants or conditions of the condominium instruments or the Condominium Act shall not constitute a waiver of the right to enforce such rights, covenants or conditions in the future.

(d) In any proceedings arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees.

## ARTICLE XVIII

### Miscellaneous

Section 1. Conflict. These By-Laws are subordinate and subject to all provisions of the Declaration and to the provisions of Title 55, Section 79.39 through and including Section 79.103, Code of Virginia [1950]. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as in the Declaration or the aforesaid statute. In the event of any conflict between these By-Laws and the Declaration, the provisions of the Declaration shall control; and in the event of any conflict between the aforesaid Declaration and Title 55, Section 79.39 through and including Section 79.103, Code of Virginia [1950], the provisions of the statute shall control.

Section 2. Notices. All notices, demands, bills, statements or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt requested, first-class prepaid.

(a) If to a Unit Owner, at the address which the Unit Owner shall designate in writing and file with the Secretary, or if no such address is designated, at the address of the Unit of such Unit Owner; or

(b) If to the Unit Owners' Association, the Board of Directors, or the Management Agent, at the principal office of the Management Agent, or at such other address as shall be designated by notice in writing to the Unit Owners pursuant to this Section 2 of this ARTICLE XVIII of these By-Laws.

(c) Notice given to the last Unit Owner of record shall be deemed notice to the true, actual and beneficial Owner of the Unit. It is the responsibility of each new Unit Owner to notify the Secretary of the Association of the transfer of title. The failure to so notify the Secretary of the Association shall constitute the last Unit Owner of record as the attorney-in-fact for the new Unit Owner to receive all notices. A request for a Resale Certificate shall not constitute notice of the transfer of title.

### Exhibit D to Declaration

Section 3.        Resale by Unit Owner. In the event of any resale of a Unit by a Unit Owner other than the Declarant, the Association shall furnish to the selling Unit Owner an Assessment Certificate in accordance with Section 55-79.84(h) of the Condominium Act and Section 6 of ARTICLE IX of these By-Laws, and a Resale Certificate in accordance with the provisions of Section 55-79.97 of the Condominium Act. The Board of Directors may charge the selling Unit Owner for its cost of the preparation of such Resale Certificate.

Section 4.        Severability. In the event any provision or provisions of these By-Laws shall be determined to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

Section 5.        Waiver. No restriction, condition, obligation or provision of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 6.        Captions. The captions contained in these By-Laws are for convenience only and are not a part of these By-Laws and are not intended in any way to limit or enlarge the terms and provisions of these By-Laws.

Section 7.        Gender, Etc. Whenever in these By-Laws the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

Exhibit D to Declaration