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DECLARATION
AND
BY-LAWS

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ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP
OF

PREMISES AT
52nd STREET AND ALLISONVILLE ROAD
INDIANAPOLIS, INDIANA
PURSUANT TO THE HORIZONTAL PROPERTY LAW OF THE
STATE OF INDIANA

NAME -- HERON LAKE HORIZONTAL PROPERTY REGIME

This instrument was prepared by

BRUCE E. SMITH

JOHN C. STARK & ASSOCIATES
1030 Merchants Plaza, East Tower
Indianapolis, Indiana 46204

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DECLARATION OF CONDOMINIUM OWNERSHIP
AND OF
EASEMENTS, RESTRICTIONS, COVENANTS AND-BY-LAWS
FOR

HERON LAKE HORIZONTAL PROPERTY REGIME
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DECLARATION OF CONDOMINIUM OWNERSHIP
AND OF
BASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS
FOR
HERON LAKE HORIZONTAL PROPERTY REGIME

THIS DECLARATION, made and entered into by MERCHANTS,
NATIONAL BANK & TRUST COMPANY OF INDIANAPOLIS, as Trustee under
a Trust Agreement dated July 20, 1979, and known as Trust
No. 800, and not individually (hereinafter referred to as
"Declarant");

W I T N E S S E T H T H A T:

WHEREAS, Declarant is the owner of certain real estate
located in Marion County, Indiana, more particularly described
in Exhibit "A" attached hereto and by reference made a part
hereof (hereinafter referred to as the "Real Estate"); and

WHEREAS, the Real Estate is now improved with an
apartment project containing a total of 138 residential
apartment units, which project is commonly known as Lake Shore
Manor Apartments, Indianapolis, Indiana; and

WHEREAS, it is the desire and intention of Declarant
to enable the Real Estate together with all buildings, struc-
tures, improvements, fixtures and property of whatsoever kind
thereon, and all easements, rights, appurtenances and privileges
belonging or in anywise pertaining thereto (hereinafter referred
to as the "Property"), to be owned by Declarant and by each
successor in interest of Declarant under that certain type of
method of ownership commonly known as "CONDOMINIUM", and to

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submit the Property to the provisions of the Horizontal Property Law of the State of Indiana, being IC 32-16-1 through IC 32-1-6-31, as amended from time to time (hereinafter referred to as the "Act"); and

WHEREAS, Declarant, acting under direction of the parties authorized to direct Declarant, has elected to establish, for the benefit of Declarant and for the mutual benefit of all future owners or occupants of the property, or any part thereof, which shall be known as "Heron Lake Horizontal Property Regime", certain easements, privileges and rights in, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof; and

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

NOW, THEREFORE, Merchants National Bank & Trust Company of Indianapolis, as Trustee aforesaid and not individually, as the owner of the Real Estate, and for the purposes set forth, DECLARES AS FOLLOWS: 79. 56193

ARTICLE I
DEFINITIONS

1. For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

Declaration: This instrument, by which the Property is submitted to the provisions of the Act, and shall include such amendments, if any, to this instrument as from time to time may be adopted pursuant to the terms hereof.

Buildings: Any structure on the Real Estate in which one or more Condominium Units are located. The Buildings are more particularly described and identified on the Plans and in Article II of this Declaration.

Property: All the Real Estate, all improvements and structures constructed or contained therein or thereon, including the Buildings, and all easements, rights and appurtenances belonging thereto, and all fixtures and property intended for the mutual use, benefit or enjoyment of the Owners.

Condominium Unit: Each one of the living units constituting a part of the Property, each individual living unit being more particularly described in the Plans and in Article II of this Declaration, and intended for independent use as a single-family residential dwelling.

Common Areas and Facilities: All portions of the Property, except the Condominium Units, as defined more particularly in Article III of this Declaration.

Limited Common Areas and Facilities: A portion or portions of the Common Areas and Facilities which are designated by this Declaration, the Plans or action of the Board as being Limited Common Areas and Facilities reserved for the use of a certain Condominium Unit or Condominium Units to the exclusion of the other Condominium Units. The Carports shall be Limited Common Areas and Facilities reserved for use by Owners of Condominium Units which have Carport Rights.

Carports: That portion of the Limited Common Areas and Facilities designated in the Plans as Carports.

Carport Rights:

The right to park one (1) passenger automobile in a Carport at any time and from time to time. The holder of a Carport Right shall be entitled to park a passenger automobile in a particular Carport.

Person:

A natural individual, corporation, partnership, association, trust or other legal entity or any combination thereof capable of holding title to real property.

Owner:

The record owner, whether one or more persons, of a fee simple title to any Condominium Unit, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Plans:

The site plan of the Real Estate showing location of the Buildings in relation to "lot lines" and the floor plans of the Buildings and the Condominium Units, submitted pursuant to the provisions of the Act, all of which are incorporated herein by reference.

Board:

The Board of Directors of the Association provided for in Article V.

ARTICLE II

CONDOMINIUM UNITS

1. Description and Ownership. The legal description of each Condominium Unit shall consist of the identifying number or symbol of such Condominium Unit as shown on the Plans. Every deed, lease, mortgage or other instrument shall describe a Condominium Unit by its identifying number or symbol

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as shown on the Plans, and every such description shall be deemed good and sufficient for all purposes. No Owner shall, by deed, plat or otherwise, subdivide or in any other manner cause a Condominium Unit to be separated into any tracts or parcels different from the whole Condominium Unit as shown on the Plans.

2. Certain Structures Not Constituting Part of A Condominium Unit. No Owner shall own any pipes, wires, conduits, public utility lines or structural components running through a Condominium Unit and serving more than that Condominium Unit, whether or not such items shall be located in the floors, ceilings or perimeter or interior walls of the Condominium Unit, except as a tenant-in-common with all other Owners.

ARTICLE III

COMMON AREAS AND FACILITIES

1. Description. Except as otherwise provided in this Declaration, the Common Areas and Facilities shall consist of all portions of the Property, except the Individual Condominium Units, including but not necessarily limited to the land, outside walks and driveways, landscaping, patios, Carports, parking areas, lodge, lake, beaches, stairways, entrances and exits, halls, storage areas, laundry-rooms, management office, roofs, structural parts of the Buildings, pipes, ducts, electrical wiring and conduits, public utility lines, and other utility installations to the outlets, and such component parts

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of walls, floors and ceilings as are not located within the Condominium Units.

2. Ownership Of Common Areas and Facilities. Each

Owner shall be entitled to and own an undivided interest in the Common Areas and Facilities as a tenant-in-common with all other Owners, and, except as to the Limited Common Areas and Facilities or as otherwise limited in this Declaration, shall have the right to use the Common Areas and Facilities for all purposes incident to the use and occupancy of such Owner's Condominium Unit as a place of residence. and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with each Condominium Unit. The extent or amount of such ownership shall be expressed by a percentage amount and, once determined, shall remain constant, and may not be changed without unanimous approval of all Owners or as otherwise provided by the Act; provided, however, that Declarant at any time may adjust or change the percentage of ownership of Common Areas and Facilities allocable to Condominium Units then owned by Declarant so long as such adjustment or change does not increase or decrease the total percentage of ownership of Common Areas and Facilities allocable to all Condominium Units then owned by Declarant. Declarant has so determined each Condominium Unit's corresponding percentage of ownership in the Common Areas and Facilities as set forth in Exhibit "B" attached hereto. The percentage of ownership of each Owner as set forth herein shall be the same as the vote to which an Owner shall be entitled on any matter upon which the Owners are entitled to vote.

ARTICLE IV

GENERAL PROVISIONS AS TO
CONDOMINIUM UNITS AND COMMON AREAS AND FACILITIES

1. Submission of Property to Act. The Property is hereby submitted to the provisions of the Act.

2. No Severance Of Ownership. No Owner shall execute any deed, mortgage, lease, or other instrument affecting title to a Condominium Unit without including therein both the Owner's interest in the Condominium Unit and the Condominium Unit's corresponding percentage of ownership in the Common Areas and Facilities, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

3. Easements. (a) Encroachments. In the event that, by reason of the construction, settlement or shifting of the Buildings, any part of the Common Areas and Facilities encroach or shall hereafter encroach upon any part of the Common Areas and Facilities or any other Condominium Unit, or, if by reason of the design or construction of any Condominium Unit, it shall be necessary or advantageous to an Owner to use or occupy any portion of the Common Areas and Facilities for any reasonable use appurtenant to that Condominium Unit, which will not unreasonably interfere with the use or enjoyment of the Common Areas and Facilities by other Owners, or, if by

reason of the design or construction of utility and ventilation systems, any main pipes, ducts or conduits serving more than one Condominium Unit encroach or shall hereafter encroach upon any part of any Condominium Unit, valid easements for the maintenance of such encroachment and for such use of the Common Areas and Facilities are hereby established and shall exist for the benefit of such Condominium Unit or the Common Areas and Facilities, as the case may be, so long as all or any part of the Buildings shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Areas and Facilities be created in favor of any Owner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the property by the other Owners and if it occurred due to the willful conduct of any Owner.

(b) Utility Easements. All public utilities serving the Property are hereby granted the right to install, lay, construct, renew, alter, remove, repair, replace, operate and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment into, over, under, along, on and through any portion of the Common Areas and Facilities for the purpose of providing utility services to the Property. The Board may hereafter grant additional utility easements for the benefit of the Property over, under, along and on any portion of the Common Areas and Facilities, and each Owner hereby grants to the Board an irrevocable power of attorney to execute, acknowledge, register or record for and in

the name of all the Owners, such Instrument or Instruments as may be necessary to effectuate the foregoing.

(c) Carpports. The Carpports shall be Limited Common Areas and Facilities. Each Owner who has a Carpport Right or Rights shall have the right and easement to the exclusive use of the Carpport or Carpports which serves his Condominium Unit. The Carpports shall be used and operated in such manner and subject to such rules and regulations as the Board may prescribe from time to time consistent with the terms of this Declaration.

(d) Storage Areas. The storage areas for the Owners' personal property in the Buildings outside of the Condominium Units shall be part of the Common Areas and Facilities, and the exclusive use and possession of the storage areas shall be allocated among the Owners in such manner and subject to such rules and regulations as the Board may prescribe. Each Owner shall be responsible for such Owner's personal property in the storage area. The Board and the Association shall not be considered the bailees of such personal property and shall not be responsible for any loss or damage thereto whether or not due to the negligence of the Board and/or the Association.

(e) Easements To Run With The Land. All easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on Declarant, its successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in the

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

4. Use of the Common Areas and Facilities. Subject to the provisions of Paragraph 3 of this Article, each Owner shall have the right to use the Common Areas and Facilities (except the Limited Common Areas and Facilities) in common with all other Owners, as may be required for the purpose of ingress and egress to, and use, occupancy and enjoyment of, the respective Condominium Unit owned by each Owner. Such rights shall extend to the Owner and the members of such Owner's immediate family and guests and other occupants and visitors. The use of the Common Areas and Facilities and the rights of the Owners with respect thereto shall be subject to and governed by the provisions of the Act, this Declaration and the By-Laws attached hereto as Exhibit "C" (hereinafter referred to as the "By-Laws") and rules and regulations of the Board.

5. Maintenance of Common Areas and Facilities:
Common Expenses. Except as otherwise provided herein, management, repair, alteration and improvement of the Common Areas and Facilities shall be the responsibility of the Board.

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Each Owner shall pay his proportionate share of the expenses of maintenance, repair, replacement, administration and operation of the Common Areas and Facilities, such expenses being hereinafter referred to as "Common Expenses". Maintenance, repair and replacement of the Carpets shall be furnished by the Board as part of the Common Expenses. Such proportionate share shall be in the same ratio as the percentage of ownership in the Common Areas and Facilities as set forth in Exhibit "B", as amended from time to time by supplemental declarations as herein provided. Payment thereof shall be in such amount and at such times as may be provided by the By-Laws or rules and regulations of the Board. In the event of the failure of an Owner to pay his proportionate share when due, the amount thereof shall constitute a lien on the interest of such Owner in the Property pursuant to the terms of the Act. Abandonment of a Condominium Unit or non-use of the Common Areas and Facilities by an Owner shall not relieve such Owner from his obligation to pay his proportionate share of Common Expenses. Notwithstanding the foregoing, the following provisions shall apply to payment of Common Expenses until the termination of the period set forth in the subparagraph immediately following:

Commencing on the first day of the calendar month following conveyance of the first Condominium Unit by Declarant and continuing until the first day of the calendar month following the date that one hundred three (103) of the Condominium Units have been conveyed by Declarant, each Owner of a Condominium Unit shall pay monthly as his proportionate share of Common Expenses such amount as shall be determined by Declarant; provided, however that such amount to be paid by each such Owner to whom a Condominium Unit shall have been conveyed shall not exceed the sum of

\$70.20 per month for a one (1) bedroom unit, \$88.74 per month for a two (2) bedroom unit, \$115.97 per month for a three (3) bedroom unit and \$129.80 per month for a three (3) + bedroom unit; and provided, further that Declarant at any time may elect to terminate the provisions of this subparagraph and upon such termination, each Owner shall commence paying his proportionate share of Common Expenses as hereinabove described in this Paragraph 5.

Upon the closing of each sale of a Condominium Unit by Declarant to a purchaser for value prior to two (2) years after the date of recordation of this Declaration, each purchasing Owner shall make a capital contribution to the Association in an amount equal to two (2) months' Annual Assessment at the rate in effect with respect to the Condominium Unit as specified above. Declarant shall pay to the Association a two (2) months' assessment based on the rate specified above on all unsold Condominium Units two (2) years after the date of recordation of this Declaration. Said amounts shall be held and used by the Association for its working capital needs.

6. Carports; Carport Rights; Parking Area; Parking.

The number of Carport Rights shall not exceed the number of Carports delineated on the Plans or one hundred eighty-four (184), whichever is less (the "Maximum Number of Carport Rights"). Declarant shall have the unrestricted right and power to sell and assign Carport Rights to Owners of Condominium Units (either at or after conveyance of the Condominium Unit) until the first to occur of (a) the assignment of the Maximum Number of Carport Rights, or (b) Declarant relinquishes its right and power to assign additional Carport Rights by the giving of written notice thereof to all Owners of Condominium Units with Carport Rights. The deed of conveyance from the Declarant to

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the first purchaser of each Condominium Unit shall state that the Condominium Unit shall have a Carport Right. Carport Rights may be assigned to a Condominium Unit after conveyance to a purchaser by an instrument executed by Declarant and recorded. Each instrument assigning a Carport Right shall indicate how many Carport Rights have been assigned up to and including the Carport Right assigned by such instrument. A Condominium Unit may have more than one (1) Carport Right. After a Carport Right is assigned and designated by number, letter or identifying symbol to the Owner, such designation shall not be changed without the consent of the Owner holding such Carport Right. Until Declarant's right to assign Carport Rights terminates, Declarant shall be deemed to hold that number of Carport Rights equal to 184 less the number of Carport Rights assigned to Owners by Declarant and Declarant shall have the right to delegate any of such Carport Rights to tenants of Condominium Units owned by Declarant on such terms as the Declarant, in its sole discretion, deems appropriate. After Declarant's right to assign Carport Rights terminates, Declarant shall be deemed to hold only that number of Carport Rights which are actually assigned to Condominium Units owned by Declarant.

The Association shall maintain a record of which Condominium Units have Carport Rights assigned to them. A Carport Right shall be appurtenant to and shall run with title to the Condominium Unit to which it is assigned; provided that, any Owner whose Condominium Unit has a Carport Right may (but only with the written consent of his first mortgagee, if any) transfer the Carport Right to another Condominium Unit. The transfer of a Carport Right shall be made by recording an

appropriate document evidencing the transfer. Each Owner of a Condominium Unit with a Carport Right shall be deemed to grant a power coupled with an interest to the Board, as attorney-

In-fact, to give any consent to the transfer of a Carport Right from one Condominium Unit to another. Upon the recording of such document, the Association shall change its records to show that the Carport Right is assigned to the transferee's Condominium Unit. Neither the initial assignment nor the subsequent transfer of a Carport Right shall affect the undivided interest in the Common Areas and Facilities of any Condominium Unit. Subject to such reasonable rules and regulations as shall be set by the Board, an Owner may lease his Carport Right to the occupant of any Condominium Unit upon such terms as the lessor shall deem advisable.

Any portion of the Property allocated to parking purposes other than a Carport shall be part of the Common Areas and Facilities and shall be subject to the requirement that its use be restricted to guests and visitors until all Carport Rights have been assigned to Condominium Units, and thereafter, to the provisions of the reasonable rules and regulations of the Board.

7. Separate Real Estate Taxes. It is intended and understood that real estate taxes are to be separately assessed and taxed to each Condominium Unit and that the Common Areas and Facilities are to be separately taxed to each Condominium Unit in accordance with the Owner's corresponding percentage of ownership in the Common Areas and Facilities. In the event that, for any year, such taxes are not separately taxed to each

Owner, but are taxed on the Property as a whole, then each Owner shall pay his proportionate share thereof in accordance with his respective percentage of ownership interest in the Common Areas and Facilities.

8. Utilities. Each Owner shall pay for his own telephone, electricity and other utilities which are separately metered or billed to each user by the respective utility company. Utilities which are not separately metered or billed shall be treated as part of the Common Expenses, unless otherwise determined by the Board.

9. Insurance. Each Owner shall be responsible for his own insurance on the contents of his own Condominium Unit, and for additions and improvements thereto and decorating and furnishings and personal property therein; and for personal property stored elsewhere on the Property; and his personal liability insurance, except as provided in the By-Laws.

The Board shall obtain fire and extended coverage insurance insuring the Property as set forth in Article VIII hereof. The Board shall obtain comprehensive public liability insurance in such limits as the Board shall deem appropriate, together with workmen's compensation insurance and other liability insurance, if deemed necessary or appropriate by the Board. Such insurance shall inure to the benefit of each Owner, the Association, the Board, and any managing agent or company acting on behalf of the Association. Such insurance coverage shall also cover cross liability claims of one insured against the other. The premiums for all such insurance shall be paid by the Association as part of the Common Expenses.

The Board shall not be responsible for obtaining insurance on any additions, alterations or improvements made by any Owner to his Condominium Unit unless and until such Owner shall request the Board in writing so to do, and shall make arrangements satisfactory to the Board to reimburse the Board for any additional premiums attributable thereto; and upon the failure of such Owner so to do, the Board shall not be obligated to apply any insurance proceeds to restore the affected Condominium Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements.

Each Owner hereby waives and releases any and all claims which he may have against any other Owner, the Board, its officers, members of the Board, the Declarant, the manager and managing agent of the Property, and their respective employees and agents, for damage to the Common Areas and Facilities, the Condominium Units, or to any personal property located in the Condominium Units or Common Areas and Facilities caused by fire or other casualty.

10. Maintenance, Repairs and Replacements of Condominium Units.

(a) By the Board. The Board, at its expense, shall be responsible for the maintenance, repair and replacement of those portions of each Condominium Unit which contribute to the support of the Buildings, excluding, however, interior wall, ceiling and floor surfaces, but including outside walls. In addition, the Board shall maintain, repair and replace all

conducts, ducts, plumbing, wiring and other facilities for the furnishing of utility services which may be located within the Condominium Unit boundaries exclusive of any portions of the foregoing which may be located at or beyond the wall, ceiling or floor outlets, or which may be the responsibility of an individual Owner under any other provision of this Declaration. The Board may replace and repair any window glass, window frames and doors, in the event any Owner fails to do so as provided in subparagraph (b) of this Paragraph 10 of this Article, but the expense of same shall be paid by the defaulting Owner.

(b) By the Owner. Except as otherwise provided in Paragraph (a) above, each Owner shall furnish, at his own expense, and be responsible for the following:

(1) All of the maintenance, repairs and replacements within his own Condominium Unit and all of the window glass, window frames and doors appurtenant thereto, and all internal installations of such Condominium Unit such as televisions, refrigerators, ranges and other kitchen appliances, lighting fixtures and other electrical fixtures, appliances, and heating, plumbing and air conditioning fixtures or installations, and any portion of any other utility service facilities located within the Condominium Unit boundaries, provided however, such maintenance, repairs and replacements as may be required for the bringing of water of

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electricity to the Condominium Unit, shall be furnished by the Board as part of the Common Expenses. The Board may provide, by its rules and regulations, for ordinary maintenance and minor repair and replacements to be furnished to Condominium Units as a Common Expense. No Owner shall make any alterations or additions to his Condominium Unit which affects the structural integrity of any other Condominium Unit or Building.

(2) All of the decorating within his own Condominium Unit from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. Each Owner shall be entitled to the exclusive use of such portions of the perimeter walls, floors, and ceilings as lie within the boundaries of his Condominium Unit as shown on the Plans, and such Owner shall maintain such portions in good condition and repair at his sole expense, all such maintenance and use shall be subject to the rules and regulations of the Board. The interior and exterior surfaces of window glass in all windows forming part of perimeter wall of a unit shall be cleaned or washed at the expense of each respective Owner. The use of and the covering of the interior

surfaces of such windows, whether by draperies, shades or other items visible on the exterior of the Building, shall be subject to the rules and regulations of the Board. Decorating of the Common Areas and Facilities (other than interior surfaces within the Condominium Units as above provided), and any redecorating of Condominium Units to the extent made necessary by any damage to existing decorating of such Condominium Units caused by maintenance, repair or replacement work on the Common Areas and Facilities by the Board, shall be furnished by the Board as part of the Common Expenses. Nothing herein contained shall be construed to impose a contractual liability upon the Board for maintenance, repair and replacement, but the Board's liability shall be limited to damages resulting from negligence. The respective obligations of the Board and Owners set forth in the Declaration shall not be limited, discharged or postponed by reason of the fact that any such maintenance, repair or replacement is required to cure a latent or patent defect in material or workmanship in the construction of the Property.

11. Negligence of Owner. If, due to the negligent act or omission of an Owner, or of a member of his family or household pet, or of a guest or other authorized occupant or visitor of such Owner, damage shall be caused to the Common

Areas and Facilities or to a Condominium Unit or Condominium Units owned by others, or maintenance, repairs or replacements shall be required which would otherwise be at the Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Board, subject to the rules, regulations and By-Laws of the Board.

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

13. Alterations, Additions and Improvements. No alterations of any Common Areas and Facilities or any additions or improvements thereto shall be made by any Owner without the prior written approval of the Board.

ARTICLE V

INCORPORATION OF ASSOCIATION

1. Association. Declarant, upon the sale of one (1) or more of the Condominium Units, shall cause to be incorporated a not-for-profit corporation under the Laws of the State of Indiana, to be called Heron Lake Condominium Owners' Association, Inc. which corporation (herein called the "Association") shall be the governing body for all the Owners for the maintenance, repair, replacement, administration and operation of the Property. Upon the formation of the Association, every Owner shall be a member therein, which membership shall automatically terminate upon the sale, transfer or other disposition of such Owner's Condominium Unit, at which time the new Owner shall automatically become a member therein. The Association shall have one class of member.

All members of the Association shall abide by the rules and regulations of the Association. The operation of the Association shall be more fully described in its articles of incorporation which shall be filed within thirty (30) days after the sale of one (1) or more of the Condominium Units by Declarant. In the event of such incorporation, the By-Laws shall become the By-Laws of the Association. Until such incorporation, there is hereby created an association of Owners to be known as the Heron Lake Condominium Owners' Association ("Unincorporated Association"). Each Owner shall be a member of the Unincorporated Association and the Association, but membership shall terminate when such person ceases to be an

Owner. The Association shall elect a Board of Directors in accordance with and as prescribed by the By-Laws.

Until such time as the Board provided for in this Declaration is formed, and until such time thereafter as Declarant shall have consummated the sale of one hundred thirty-seven (137) Condominium Units, the Declarant, or its nominee, shall exercise the power, rights, duties and functions of the Board; provided however, that Declarant may relinquish such powers, rights, duties and functions at any time after consummating the sale of Condominium Units aggregating fifty-one per cent (51%) of all Condominium Units.

2. Liability Of The Board. Neither the members of the Board nor the officers thereof shall be liable to the Owners for any mistake of judgment or for any acts or omissions of any nature whatsoever as such Board members and officers, except for any acts or omissions found by a court to constitute willful misconduct in the performance of duty. The Owners (and, to the extent permitted by law, the Association) shall indemnify and hold harmless each of the members of the Board and each of the officers against all contractual and other liabilities to others arising out of contracts made by or other acts of the Board and officers on behalf of the Owners or the Association, or arising out of their status as Board members or officers, unless any such contract or act shall have been made fraudulently or with gross negligence or contrary to the provisions of this Declaration. It is intended that the

foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, attorneys' fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claims, action, suit or proceeding, whether civil, criminal, administrative or other in which any member of the Board or officers may be involved by virtue of such person being or having been such member or officer; provided, however, that such indemnity by the Association shall not be operative with respect to (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for wilful misconduct in the performance of his duties as such member or officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in any manner determined by the Board (who may be counsel regularly retained by the Association) there is not reasonable ground for such person or officer being adjudged liable for wilful misconduct in the performance of his duties as such member. The Board shall have authority to purchase and maintain insurance on behalf of the officers and members of the Board against any liability or settlement based on asserted liability incurred by them by reason of being or having served in such capacity, whether or not the Association would have the power to indemnify them against such liability or settlement under the provisions of this Paragraph 2 of this Article. It is also intended that the liability of any Owner arising out of any contract made by the Board, the officers, Declarant, or the

beneficiaries of Declarant, or out of the aforesaid Owners' Indemnity, shall be limited to such proportion of the total liability thereunder as such Owner's percentage of interest in the Common Areas and Facilities bears to the total percentage interest of all the Owners in the Common Areas and Facilities. Every contract made by the Board, the Officers, Declarant, the beneficiaries of Declarant or the managing agent on behalf of the Owners shall provide that they are acting only as agents for the Owners and shall have no personal liability thereunder (except as Owners) and that each Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as such Owner's percentage of interest in the Common Areas and Facilities bears to the total percentage interest of all Owners in the Common Areas and Facilities.

ARTICLE VI

COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

The Condominium Units and Common Areas and Facilities shall be occupied and used as follows:

1. Each Condominium Unit or any two or more adjoining Condominium Units used together shall be used for housing and related common purposes for which the Property was designed and for no other purpose. That part of the Common Areas and Facilities separating any two or more adjoining Condominium Units used together as aforesaid may be altered to afford ingress and egress to and from such adjoining Condominium Units in such manner and upon such conditions as shall be determined by the Board in writing.

2. There shall be no obstruction of the Common Areas and Facilities nor shall anything be stored in the Common Areas and Facilities (except in areas designed for such purpose) without the prior written consent of the Board except as hereinafter expressly provided. Owners shall be obligated to maintain and keep in good order and repair their respective Condominium Units:

3. Nothing shall be done or kept in any Condominium Unit or in the Common Areas and Facilities which will increase the rate of insurance on the Property or contents thereof, applicable for residential use, without the prior written consent of the Board. Owners shall not permit anything to be done or kept in their respective Condominium Units or in the Common Areas and Facilities which will result in the cancellation of insurance on the Property, or contents thereof, or which would be in violation of any law. No waste shall be committed in the Common Areas and Facilities.

4. Owners shall be individually responsible for insuring their personal property in their respective Condominium Units, their personal property stored elsewhere on the Property and their personal liability to the extent not covered by the liability insurance for all the Owners obtained by the Board as provided herein.

5. Owners shall not cause, or permit anything to be placed on the outside walls, doors and windows of the Buildings or in the Common Areas and Facilities, and no sign, awning, canopy, shutter, air-conditioning unit, radio or television

antenna shall be affixed to or placed in, through or upon the exterior walls, doors, windows or roof or any part thereof, without the prior consent of the Board.

6. The use and the covering of the interior surfaces of the windows appurtenant to the Condominium Units in the Buildings, whether by draperies, shades or other items visible from the exterior of the Buildings, shall be subject to the rules and regulations of the Board.

7. In order to enhance the sound conditioning of the Buildings, the floor covering for all occupied Condominium Units shall meet the minimum standard as may be specified by rules and regulations of the Board.

8. No animals of any kind shall be raised, bred or kept in any Condominium Unit or in the Common Areas and facilities, except that dogs, cats or other usual household pets may be kept in Condominium Units, subject to the limitations hereinafter set forth in this Paragraph 8 and to rules and regulations adopted by the Board, provided that they are not kept, bred or maintained for any commercial purpose. Any such pet kept in violation of the limitations of this Paragraph 8 or in violation of rules and regulations adopted by the Board or causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the property upon three (3) days' written notice from the Board.

9. No unlawful, immoral, noxious or offensive activity shall be carried on in any Condominium Unit or in the

Common Areas and Facilities, nor shall anything be done therein or thereon, either willfully or negligently, which may be or become, in the judgment of the Board, an annoyance or nuisance to the other Owners or occupants.

10. Nothing shall be done in any Condominium Unit or in, on or to the Common Areas and Facilities which will impair the structural integrity of a Building or which would structurally change a Building except as is otherwise provided herein.

11. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Areas and Facilities. The Common Areas and Facilities shall be kept free and clear of rubbish, debris and other unsightly materials which are not in receptacles provided for such purpose.

12. There shall be no playing, lounging, parking of baby carriages or Playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Areas and Facilities except that baby carriages, bicycles and other personal property may be stored in any common storage area designated for that purpose, and recreational, amenity, service and exclusive use areas may be used for their intended purposes.

13. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or

otherwise, shall be conducted, maintained or permitted in any Condominium Unit.

14. No "For Sale" or "For Rent" signs, advertising or other displays shall be maintained or permitted on any part of the Property except at such location and in such form as shall be determined by the Board.

15. Nothing shall be altered or constructed in or removed from the Common Areas and Facilities, except upon the written consent of the Board.

16. Notwithstanding any provision hereof to the contrary, at all times and from time to time prior to the sale of the last Condominium Unit in the Property, Declarant, beneficiaries of Declarant, their agents, successors and assigns, hereby reserve the right: (a) to lease or sell any such Condominium Units; (b) to erect and maintain on the Property all advertising signs, banners, lighting and other sales devices for the purpose of aiding the sale or leasing of Condominium Units on the Property; (c) to maintain sales and business offices on the Property, including model Condominium Units for display; to facilitate the sale or leasing of Condominium Units thereon; and (d) to utilize the Common Areas and Facilities for ingress, egress and parking in connection with the sale and leasing of Condominium Units on the Property.

17. The Condominium Unit restrictions in Paragraphs 1 and 13 of this Article VI shall not, however, be construed in such a manner as to prohibit an Owner from: (a) maintaining a personal professional library therein; (b) keeping personal

business or professional records or accounts therein, or (c) handling personal business or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incident to the principal use for housing and not in violation of Paragraphs 1 or 13 of this Article VI.

ARTICLE VII

SALE, LEASING OR OTHER ALIENATION

1. Sale or Lease. Any Owner other than Declarant who wishes to sell or lease a Condominium Unit (or any lessee of any Condominium Unit wishing to assign or sublease such Condominium Unit) shall give to the Board not less than thirty (30) days' prior written notice of the terms of any contemplated sale or lease, together with the name, address, and financial and character references of the proposed purchaser or lessee and such other information concerning the proposed purchaser or lessee as the Board may reasonably require. The members of the Board acting on behalf of the other Owners shall at all times have the first right and option to purchase or lease such Condominium Unit upon the same terms, which option shall be exercisable for period of thirty (30) days following the date of receipt of such notice. If the option is not exercised by the Board within the thirty (30) days, the Owner (or lessee) may, at the expiration of the thirty-day period and at any time within ninety (90) days after the expiration of such thirty-day period, contract to sell or lease (or sublease or assign) such Condominium Unit to the proposed purchaser or

lessee named in such notice upon the terms specified therein. If the Owner (or lessee) fails to close the proposed sale or lease transaction within the ninety (90) days, the Condominium Unit shall again become subject to the Board's right of first refusal as herein provided.

2. Gift. Any Owner other than Declarant who wishes to make a gift of a Condominium Unit or any interest therein shall give to the Board not less than ninety (90) days' written notice of that Owner's intent to make such gift prior to the contemplated date thereof, together with the name, address and financial and character references of the intended donee and such other information concerning the intended donee as the Board may reasonably require. The members of the Board acting on behalf of the other Owners shall at all times have the first right and option to purchase such Condominium Unit or interest therein for cash at fair market value to be determined by arbitration as herein provided, which option shall be exercisable until the date of expiration as provided herein. Within fifteen (15) days after receipt of such written notice by the Board, the Board and the Owner desiring to make such gift shall each appoint a qualified real estate appraiser to act as arbitrators. The two (2) arbitrators so appointed shall, within ten (10) days after their appointment, appoint another qualified real estate appraiser to act as the third arbitrator. Within fifteen (15) days after the appointment of the third arbitrator, the three (3) arbitrators shall determine, by majority vote, the fair market value of the

Condominium Unit or interest therein which the Owner contemplates conveying by gift, and shall thereupon give written notice of such determination to the Owner and the Board. If either party shall fail to select an appraiser, then the appraiser designated by the other party shall make the appraisal. The Board's option to purchase the Condominium Unit or interest therein shall expire forty-five (45) days after the date of receipt by it of written notice of such determination of fair market value.

3. Devise. In the event any Owner dies, leaving a will devising a Condominium Unit, or any interest therein, and such will is admitted to probate, the members of the Board acting on behalf of the other Owners shall have a like option (to be exercised in the manner hereinafter set forth) to purchase such Condominium Unit, or interest therein, either from the devisee or devisees thereof named in the will, or, if a power of sale is conferred by the will upon the personal representative named therein, from the personal representative acting pursuant to such power of sale, for cash at fair market value which is to be determined by arbitration as herein provided. Within sixty (60) days after the appointment of a personal representative for the estate of the deceased Owner, the Board shall appoint a qualified real estate appraiser to act as an arbitrator, and shall thereupon give written notice of such appointment to the devisee or devisees, or personal representative, as the case may be. Within fifteen (15) days thereafter the devisee or devisees, or personal representative,

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as the case may be, shall appoint a qualified real estate appraiser to act as an arbitrator. Within ten (10) days after the appointment of the arbitrators, the two so appointed shall appoint another qualified real estate appraiser to act as the third arbitrator. Within fifteen (15) days thereafter, the three (3) arbitrators shall determine, by majority vote, the fair market value of the Condominium Unit, or interest therein, devised by the deceased Owner, and shall thereupon give written notice of such determination to the Board and the devisee or devisees, or personal representative, as the case may be. If either party shall fail to select an appraiser, then the appraiser designated by the other party shall make the appraisal. The Board's right to purchase the Condominium Unit, or interest therein, at the price determined by the three (3) arbitrators shall expire sixty (60) days after the date of receipt by it of such notice if the personal representative of the deceased Owner is empowered to sell, and shall expire seven (7) months after the appointment of a personal representative who is not so empowered to sell. The Board shall be deemed to have exercised its option if it tenders the required sum of money to the devisee or to the personal representative, as the case may be, within the above option periods.

4. Involuntary Sale. (a) In the event any Condominium Unit, or interest therein, is sold at a judicial or execution sale (other than a mortgage foreclosure sale) the person acquiring title through such sale shall, before taking possession of the Condominium Unit so sold, give thirty (30)

days written notice to the Board of the purchaser's intention so to do, whereupon members of the Board acting on behalf of the other Owners shall have an irrevocable option to purchase such Condominium Unit, or interest therein, at the same price for which it was sold at such sale. If the option is not exercised by the Board within thirty (30) days after receipt of such notice, the option shall thereupon expire and the purchaser may thereafter take possession of the Condominium Unit. The Board shall be deemed to have exercised its option if it tenders the required sum of money to the purchaser within the thirty (30) day period.

(b) In the event any Owner shall default in the payment of any moneys required to be paid under the provisions of any mortgage against that Owner's Condominium Unit, the Board shall have the right to cure such default by paying the amount so owing to the party entitled thereto and shall thereupon have a lien therefor against such Condominium Unit which lien shall have the same force and effect and may be enforced in the same manner as provided in Article X hereof.

5. Consent Of Voting Members. The Board shall not exercise any option hereinabove set forth to purchase or lease any Condominium Unit or interest therein without the prior written consent of the voting members having two-thirds (2/3) or more of the total votes. The members of the Board or their duly authorized representatives, acting on behalf of the other Owners, may bid to purchase at any sale of a Condominium Unit, or interest therein, of any Owner, living or deceased, which

sale is held pursuant to an order or direction of a court, upon the prior written consent of the voting members, having two-thirds (2/3) or more of the total votes. The consent of the voting members shall set forth a maximum price which the members of the Board or their duly authorized representatives are authorized to bid and pay for the Condominium Unit, or interest therein.

6. Release Or Waiver Of Option. Upon the written consent of the Board, any of the options contained in this Article may be released or waived and the Condominium Unit, or interest therein, which is subject to an option set forth in this Article may be sold, conveyed, leased, given or devised free and clear of the provisions of this Article.

7. Proof Of Termination Of Option. A certificate executed and acknowledged by the acting Secretary of the Board stating that the provisions of this Article as hereinabove set forth have been met by an Owner, or duly waived by the Board and that the rights of the Board hereunder have terminated, shall be conclusive upon the Board and the Owners in favor of all persons who rely thereon in good faith. Such certificate shall be furnished upon request to any Owner who has in fact complied with the provisions of this Article or in respect to whom the provisions of this Article have been waived.

8. Financing Of Purchase Under Option. (a) Acquisition by the Board of Condominium Units, or any interest therein, under the provisions of this Article shall be made from the maintenance fund specified in the By-Laws. If the

maintenance fund is insufficient, the Board shall levy an assessment against each Owner in the ratio that such Owner's percentage of ownership in the Common Areas and Facilities as set forth in Exhibit "B" bears to the total of all such percentages applicable to Condominium Units subject to such assessment, which assessment shall become a lien and be enforceable in the same manner as provided in Article X hereof.

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

9. Title 10 Acquired Interest. Condominium Units, or interests therein, acquired pursuant to the terms of this Article shall be held of record in the name of the Association as an entity or to the members of the Board and their successors in office, or such nominee as they shall designate, for the benefit of all the Owners, whichever the Board, in their sole discretion, deems appropriate. Such Condominium Units, or interests therein, shall be sold or leased by the Board in such manner as the Board shall determine without complying with the foregoing provisions relating to the Board's right of first refusal. All proceeds of such sale and/or leasing shall be deposited in the maintenance fund and credited to each Owner in the same proportion in which the Board could levy a special

assessment under the terms of Paragraph 8(a) of this Article VIII.

10. Exceptions To Board's Right Of First Refusal.

The Board's right of first refusal as provided in Paragraphs 1, 2 and 3 of this Article shall not apply to any sale, lease, sublease, gift, devise or other transfer by the Declarant, or between co-Owners of the same Condominium Unit, or to the spouse, or to any lawful children of the Owner, or any one or more of them, or to any trustee of a trust, the sole beneficiary or beneficiaries of which are the Owner, the spouse, or lawful children of the Owner, or any one or more of them, or from any trustee of a trust to any one or more of the beneficiaries of such trust. The Board's right of first refusal shall also not apply to the holder of a first mortgage on a Condominium Unit accepting a deed to such Condominium Unit in lieu of foreclosure, nor shall it apply to a lease or sublease of a Condominium Unit of one (1) year or less.

ARTICLE VIII

INSURANCE, AND DAMAGE OR DESTRUCTION
AND RESTORATION OF BUILDINGS

1. The Association, acting through its Board, shall obtain fire and extended coverage insurance insuring the property in an amount equal to the full replacement cost thereof as determined by a qualified appraiser, the amount to be determined and the insurance renewed annually. The cost of any appraisal shall be a Common Expense. Such insurance shall

(1) provide that notwithstanding any provisions thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to this Article, (2) contain a "Replacement Cost Endorsement", and (3) provide full coverage for replacement of any Condominium Unit regardless of what damage, if any, is sustained by any other Condominium Unit. Such insurance coverage shall be for the benefit of each Owner, and each Owner's mortgagee, if any. The proceeds shall be payable to the Association or the Board, who shall hold such proceeds as trustee for the individual Owners and mortgagees as their interests may appear. The proceeds shall be used or disbursed by the Board only in accordance with the provisions of this Article.

2. Application Of Insurance Proceeds In Case Of

Disaster. (a) In case of fire or any other casualty or disaster, other than complete destruction of all Buildings containing the Condominium Units, the improvements shall be reconstructed and the insurance proceeds applied to reconstruct the improvements.

(b) In the event of complete destruction of all of the Buildings containing Condominium Units, the Buildings shall not be reconstructed, except as otherwise provided herein, and the insurance proceeds, if any, shall be divided among the Owners in the percentage by which each owns an undivided interest in the Common Areas and Facilities and the Property shall be considered as to be removed from the provisions of the Act,

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unless by a vote of two-thirds (2/3) of all of the Owners a decision is made to rebuild the Buildings, in which case the Insurance proceeds shall be contributed as provided herein in the event of less than total destruction of the Buildings.

(c) A determination of total destruction of the Buildings containing Condominium Units shall be determined by a vote of two-thirds (2/3) of all Owners at a special meeting of the Association called for that purpose.

3. Apportioning Damage Not Covered By Insurance.

Where the improvements are not insured or where the insurance proceeds are not sufficient to cover the cost of repair or reconstruction and the Property is not to be removed from the Act, the Owners shall contribute the balance of any such costs in the percentage by which an Owner owns an undivided interest in the Common Areas and Facilities as expressed in this Declaration. Such amount shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided in the Act and this Declaration.

4. Failure To Repair Or Rebuild -- Effect. If,

pursuant to Paragraph 2 of this Article VIII, it is not determined by the Owners to rebuild after a casualty or disaster has occurred, then in that event:

- (a) The Property shall be deemed to be owned in common by the Owners;
- (b) The undivided interest in the Property owned in common which shall appertain to each Owner shall be the

percentage of undivided interest previously owned by such Owner in the Common Areas and Facilities;

(c) Any liens affecting any of the Condominium Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Owner in the Property; and

(d) The property shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property, if any, shall be considered as one fund and shall be divided among all the Owners in a percentage equal to the percentage of undivided interest owned by each Owner in the Property, after first paying out of the respective shares of the Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Owner.

ARTICLE IX

SALE OF THE PROPERTY

1. The Owners by affirmative vote of the voting members having three-fourths (3/4) or more of the total votes, at a meeting duly called for such purpose, may elect to sell the Property as a whole. Within ten (10) days after the date of the meeting at which such sale is approved the Board shall give written notice of such action to the holder of any duly recorded mortgage against any Condominium Unit entitled to notice under Paragraph 2 of Article XII hereof. Such action

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shall be binding upon all owners, and it shall thereupon become the duty of every Owner to execute and deliver such instruments and to perform all acts as in manner and form as may be necessary to effect such sale, provided, however, that any Owner who did not vote in favor of such action and who files written objection thereto with the Board within twenty (20) days after the date of the meeting at which such sale is approved shall be entitled to receive from the proceeds of such sale an amount equivalent to the value of such Owner's interest, as determined by a fair appraisal, less the amount of any unpaid assessments or charges due and owing from such Owner. In the absence of agreement on an appraiser, such Owner and the Board may each select an appraiser, and the two so selected shall select a third appraiser. The fair market value shall be determined by a majority of the three appraisers so selected. If either party shall fail to select an appraiser, then the one designated by the other party shall make the appraisal.

ARTICLE X

REMEDIES.

1. Abatement and Enjoyment. The violation of any rule or regulation adopted by the Board, or the breach of any restriction, covenant, By-Law or provision herein contained, shall give the Board the right, in addition to the rights set forth in the next succeeding Paragraph: (a) to enter upon that part of the property where such violation or breach exists and summarily abate and remove, at the expense of the defaulting

Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and Declarant, its beneficiaries, successors or assigns, the Board and its agents, shall not thereby be deemed guilty in any manner of trespass; and (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. All expenses of the Board in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of eight per cent (8%) per annum until paid, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of such defaulting Owner's respective share of the Common Expenses, and the Board shall have a lien for all of the same upon the Condominium Unit of such defaulting Owner and upon all of the additions and improvements thereto and upon all of such defaulting Owner's personal property in the Condominium Unit or located elsewhere on the Property. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

2. Involuntary Sale. If any Owner (either by such Owner's own conduct or by the conduct of any other occupant of such Owner's Condominium Unit) shall violate or breach any of the restrictions, covenants, By-Laws or provisions of this Declaration or of the Act, or the rules and regulations adopted by the Board, and such violation shall continue for thirty (30)

days after notice in writing from the Board, or shall reoccur more than once after such notice, then the Board shall have the power to issue to the defaulting Owner a ten (10) day notice in writing to terminate the rights of said Defaulting Owner to continue as an Owner and to continue to occupy, use or control the defaulting Owner's Condominium Unit and thereupon an action in equity may be filed by the members of the Board against the defaulting Owner for an injunction against the Owner or occupant or, in the alternative, a decree declaring the termination of the defaulting Owner's right to occupy, use or control the Condominium Unit owned by such Owner on account of the breach of covenant, and ordering that all the right, title and interest of the Owner in the Property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the Court shall establish, except that the Court shall enjoin and restrain the defaulting Owner from re-acquiring such Owner's interest in the Property at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner in such decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any other liens, shall be paid to the Owner. Upon the deed of such sale, the Purchaser thereat shall thereupon be entitled to the Condominium Unit and, subject to the Board's rights as provided in Paragraph 4 of Article VII hereof, to immediate

possession of the Condominium Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the property sold subject to this declaration.

ARTICLE XI

RESERVATION OF RIGHTS TO THE
USE OF THE LAKE

1. Declarant shall have, and hereby reserves, the right, at any time and from time to time hereafter, to grant to the owners from time to time of the real estate described on Exhibit "D" attached hereto and by reference made a part hereof or any portion thereof (hereinafter referred to as the "Tract"), whether or not Declarant owns or has any interest in the Tract, the right to the use, enjoyment and benefit of the lake which constitutes a portion of the Common Areas and Facilities as shown on the Plans (hereinafter referred to as the "Lake"). Such rights shall be deemed so granted to the owners from time to time of the Tract when Declarant has placed of record in the office of the Recorder of Marion County, Indiana an instrument or instruments from time to time executed by Declarant alone, and without the necessity of execution by any other persons or parties, including but not limited to the Owners, the Association or the Board, granting such rights to the owners of the Tract or any portion or portions thereof. Upon the placing of such instrument or instruments of record,

each owner of any portion of the tract specified shall thereafter, except as otherwise herein provided, have the absolute right, in common with and to the same extent as Owners of Condominium Units within Heron Lake, to the use, enjoyment and benefit of the Lake. However, and notwithstanding the foregoing, such reserved right of Declarant and such rights of use, enjoyment and benefit of the Lake are subject to the following provisions, conditions and limitations:

(a) Each owner of real estate included within the Tract or such portion or portions thereof, to whom from time to time rights of use of enjoyment and benefit the Lake have been granted by Declarant pursuant to this Article XI, shall pay to the Association, or any association provided for by Declarant in any such recorded instrument or instruments, a reasonable annual fee for the use of the Lake based on the cost of operation and maintenance of the Lake.

(b) All persons having the right to the use, enjoyment and benefit of the Lake, including the Owners of Condominium Units in Heron Lake, and the owners of real estate included in the Tract, shall abide by the rules and regulations, if any, adopted by the Association, or any association provided for by Declarant in any such recorded instrument or instruments, for the use of the Lake; provided, however, that all such rules and regulations shall neither discriminate against nor in favor of either the Owners of the Condominium Units in Heron Lake or the owners of real estate included in the Tract, and shall apply with equal force to all

groups. No preference in the use and enjoyment of the Lake shall be given to any such group.

ARTICLE XII

GENERAL PROVISIONS

1. Until such time as the Board provided for in this Declaration is formed Declarant, or its nominee, shall exercise and perform the powers, rights, duties and functions of the Board.
2. Upon written request to the Board, the holder of any duly recorded mortgage secured by any Condominium Unit shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Owner whose condominium Unit is subject to such mortgage.
3. Each Owner hereby waives and releases any and all claims which such Owner may have against any other Owner, occupant, the Association, its officers, members of the Board, the Declarant and its beneficiaries, the managing agent, if any, and their respective employees and agents, for damage to the Common Areas and Facilities, the Condominium Units, or to any personal property located in the Condominium Units or Common Areas and Facilities, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.
4. Notices provided for in this Declaration and in the Act shall be in writing, and shall be addressed to the Board or Association, or any Owner, as the case may be, at the

address of the Association as provided in the By-Laws, or the address of the respective Condominium Unit, if addressed to an Owner, or at such other address as herein provided. The Association or Board may designate a different address for notices by giving written notice of such change of address to all Owners. Any Owner may also designate a different address for notices by giving written notice of such change of address to the Board or Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, return receipt requested, or when delivered in person with written acknowledgment of the receipt thereof, or, if addressed to an Owner, when deposited in the mailbox or at the door of the Owner's Condominium Unit.

5. Notices required to be given any devisee, heir or personal representative of a deceased Owner may be delivered either personally or by mail to such party at the address appearing in the records of the Court wherein the estate of such deceased Owner is being administered.

6. Each grantee of the Declarant, and each subsequent grantee, by the acceptance of deed of conveyance, each purchaser, and each tenant under a lease for a Condominium Unit, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed

and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in the Property, and shall inure to the benefit of such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance and lease.

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

8. Except as otherwise provided in this Declaration, the provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification, or rescission, signed and acknowledged by the Board, and certifying that the Owners having at least two-thirds (2/3) of the total votes have approved such amendment at a meeting of Owners duly called for such purpose, and containing an affidavit by an officer of the Board certifying that a copy of the change, modification or rescission has been mailed by certified mail to all mortgagees having bona fide liens of record against any Condominium Unit, not less than ten (10) days prior to the date of such affidavit. For a period of two (2) years from the date hereof, or until such date as Declarant has sold all the Condominium Units, whichever first occurs, no provision of this Declaration may be changed, modified, or rescinded and no provision may be added without

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the written consent of Declarant. The change, modification or rescission shall be effective upon recording such instrument in the Office of the Recorder of Marion County, Indiana; provided, however, that no provision in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the Act.

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

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

11. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first-class condominium project.

12. In the event title to any Condominium Unit is conveyed to a land title holding trust, under the terms of

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

13. This Declaration is executed by Declarant as trustee aforesaid and not individually, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and Declarant hereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed by every person hereafter claiming any interest under this Declaration that Declarant, as Trustee as aforesaid and not personally, has executed this Declaration for the sole purpose of subjecting the title holding interest and the trust estate described herein to the

terms of this Declaration) that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the Declarant or any of the beneficiaries under such Trust Agreement on account of this Declaration or on account of any representation, obligation, duty, covenant or agreement of Declarant in this instrument contained, either express or implied, all such personal liability, if any, being expressly waived and released; and further, that no duty shall rest upon Declarant, either personally or as such Trustee, to sequester trust assets, rentals, avails or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligation, express or implied, arising under the terms of this Declaration, except where Declarant is acting pursuant to direction as provided by the terms of such Trust Agreement, and after the Declarant has first been supplied with funds required for the purpose. In the event of conflict between the terms of this Paragraph and of the remainder of this Declaration, or in the event of any question of apparent liability or obligation resting upon Declarant, the exculpatory provision hereof shall be controlling.

14. The Plans setting forth the layout, location, identification numbers and dimensions of the Condominium Units and the Property are incorporated into this Declaration by reference, and have been filed in the office of the Recorder of Marion County, Indiana in Horizontal Property Plan File 79-56193 as of Gugant 1, 1979, as Instrument No. 79-56193.

IN WITNESS WHEREOF, the Declarant, Merchants National Bank & Trust Company of Indianapolis, as Trustee aforesaid and not Individually, has caused this Declaration to be signed by its VICE PRESIDENT and attested by its ASSISTANT CASHIER this 31st day of July, 1979.

MERCHANTS NATIONAL BANK & TRUST
COMPANY OF INDIANAPOLIS,
as Trustee aforesaid and not
individually

By: *John J. Clark*
VICE PRESIDENT

ATTEST:

Mary W. White
ASSISTANT CASHIER

STATE OF Indiana
COUNTY OF Marion

Before me, a Notary Public in and for said County and State, personally appeared MARY Y. MARSH and MARY V. HUNTER, the VIC. PRESIDENT and ASSISTANT CASHIER, respectively, of Merchants National Bank & Trust Company of Indianapolis, as Trustee, each of whom, having been duly sworn, acknowledge the execution of the foregoing Declaration as Trustee, for and on behalf of said Trust.

GIVEN under my hand and Notarial Seal this 31st day of July, 1979.

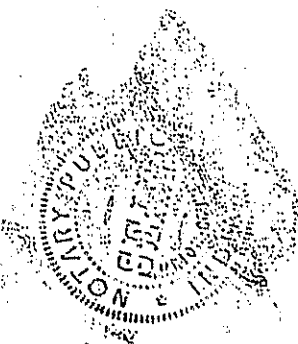
Alec R. Pierce
(Alec R. Pierce) Notary Public

My Commission Expires:

09/17/1981

My County of Residence:

Marion (Ivan)



This instrument was prepared by Bruce E. Smith, Attorney

CONSENT OF MORTGAGEE

Continental Illinois National Bank and Trust Company of Chicago, holder of a Mortgage on the Property dated May 9, 1979, and recorded as Instrument No. 79-30397 hereby consents to the execution and recording of the within Declaration of Condominium Ownership and agrees that said Mortgage is subject thereto and to the provisions of the Horizontal Property Law of the State of Indiana.

IN WITNESS WHEREOF, the said Continental Illinois National Bank and Trust Company of Chicago has caused this instrument to be signed by its duly authorized officers on its behalf; all done at Chicago, Illinois, on this 30 day of July, 1979.

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO

BY: 
Vice President


ATTEST:


Real Estate Officer

STATE OF ILLINOIS)
COUNTY OF COOK) SS.

I, Gregory D. Rubin, a Notary Public in and for said County and State, do hereby certify that Gregory D. Rubin and Margaret A. DeLeon Vice President and Real Estate Officer, respectively, of Continental Illinois National Bank and Trust Company of Chicago, as such Vice President and Real Estate Officer, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30 day of July, 1979.


NOTARY PUBLIC

My Commission Expires April 24, 1982

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EXHIBIT A

TO

DECLARATION OF CONDOMINIUM OWNERSHIP

AND OF

EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS

FOR

HERON LAKE HORIZONTAL PROPERTY REGIME

LEGAL DESCRIPTION OF REAL ESTATE

Part of the Southwest Quarter of part of the Southeast Quarter of Section 8, Townsh. J 16 North, Range 4 East in Marion County, Indiana, more particularly described as follows:

Beginning at the Northeast Corner of the said Southwest Quarter Section; thence South 90 degrees 00 minutes 00 seconds West along the North line of the said Southwest Quarter Section 544.00 feet; thence South 00 degrees 00 minutes 00 seconds 470.00 feet; thence South 56 degrees 20 minutes 49 seconds West 993.32 feet; thence South 00 degrees 20 minutes 05 seconds West 90.00 feet to the South line of real estate described in deed of conveyance recorded January 31, 1966, Instrument #66-5187, in the Office of the Recorder of Marion County, Indiana; thence South 89 degrees 39 minutes 55 seconds East along the South line of the said real estate (Instrument #66-5187) and parallel with the South line of the said Southwest Quarter Section 1081.64 feet to the center line of Allisonville Road; thence Northeasterly along the center line of the said Allisonville Road 1013.63 feet to the Northeast Corner of real estate described in deed of conveyance recorded July 30, 1965, Instrument #65-36728, in the Office of the Recorder of Marion County, Indiana; thence West parallel with the North line of the said Southeast Quarter Section 280.22 feet to the West line of the said Southeast Quarter Section; thence North 00 degrees 24 minutes 23 seconds West along the said West line 280.00 feet to the place of beginning, containing 20.889 acres, more or less.

Subject, however, to the right of way of East 52nd Street off the North line of the said Southwest Quarter Section and to 45.00 feet by parallel lines off the center line of the said Allisonville Road.

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EXHIBIT 3

TO

DECLARATION OF CONDOMINIUM OWNERSHIP

AND OF

EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS

FOR

HERON LAKE HORIZONTAL PROPERTY REGIME

Condominium Unit No.

Percentage of Interest
in Common Areas and
Facilities

FIFTY-SECOND (52nd) STREET

| | |
|-------------|-------|
| 3119-A | .8342 |
| 3119-B | .8342 |
| (Clubhouse) | |
| 3119-S | .8342 |
| 3119-F | .8342 |
| 3127-A | .8342 |
| 3127-B | .8342 |
| 3127-D | .8342 |
| 3127-E | .8342 |
| 3135-A | .8342 |
| 3135-B | .8342 |
| 3135-C | .8342 |
| 3135-F | .8342 |

EXHIBIT B

TO

DECLARATION OF CONDOMINIUM OWNERSHIP

AND OF

EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS

FOR

HERON LAKE HORIZONTAL PROPERTY REGIME

| <u>Condominium Unit No.</u> | <u>Percentage of Interest in Common Areas and Facilities</u> |
|-----------------------------|--|
| <u>LAKE SHORE</u> | |
| 2926-A | .6383 |
| 2926-C | .6383 |
| 2926-E | .6383 |
| 2938-B | .6383 |
| 2938-D | .6383 |
| 2938-F | .6383 |
| 3004-A | .6383 |
| 3004-C | .6383 |
| 3004-E | .6383 |
| 3016-B | .6383 |
| 3016-D | .6383 |
| 3016-F | .6383 |
| 3036-A | .6383 |
| 3036-B | .6383 |
| 3036-C | .6383 |
| 3036-D | .6383 |
| 3036-E | .6383 |
| 3036-F | .6383 |
| 3042-A | .6383 |
| 3042-B | .6383 |
| 3042-C | .6383 |
| 3042-D | .6383 |
| 3042-E | .6383 |
| 3042-F | .6383 |

EXHIBIT B
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DECLARATION OF CONDOMINIUM OWNERSHIP
AND OF

EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS
FOR

HERON LAKE HORIZONTAL PROPERTY REGIME

| <u>Condominium Unit No.</u> | <u>Percentage of Interest in Common Areas and Facilities</u> |
|-----------------------------|--|
| <u>ALLISONVILLE</u> | |
| 4934-A | .6383 |
| 4934-B | .6383 |
| 4934-C | .6383 |
| 4934-D | .6383 |
| 4934-E | .6383 |
| 4934-F | .6383 |
| 4940-A | .6383 |
| 4940-B | .6383 |
| 4940-C | .6383 |
| 4940-D | .6383 |
| 4940-E | .6383 |
| 4940-F | .6383 |
| 5040-A | .6383 |
| 5040-B | .6383 |
| 5040-C | .6383 |
| 5040-D | .6383 |
| 5040-E | .6383 |
| 5040-F | .6383 |
| 5044-A | .6383 |
| 5044-B | .6383 |
| 5044-C | .6383 |
| 5044-D | .6383 |
| 5044-E | .6383 |
| 5044-F | .6383 |

EXHIBIT B
TO

DECLARATION OF CONDOMINIUM OWNERSHIP
AND OF

EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS
FOR

HERON LAKE HORIZONTAL PROPERTY REGIME

| <u>Condominium Unit No.</u> | <u>Percentage of Interest in Common Areas and Facilities</u> |
|-----------------------------|--|
| <u>LAKE SHORE</u> | |
| 2926-B | .5049 |
| 2926-D | .5049 |
| 2926-F | .5049 |
| 2932-A | .5049 |
| 2932-B | .5049 |
| 2932-C | .5049 |
| 2932-D | .5049 |
| 2932-E | .5049 |
| 2932-F | .5049 |
| 2938-A | .5049 |
| 2938-C | .5049 |
| 2938-E | .5049 |
| 5004-B | .5049 |
| 5004-D | .5049 |
| 5004-F | .5049 |
| 3010-A | .5049 |
| 3010-B | .5049 |
| 3010-C | .5049 |
| 3010-D | .5049 |
| 3010-E | .5049 |
| 3010-F | .5049 |
| 3016-A | .5049 |
| 3016-B | .5049 |
| 3016-C | .5049 |
| 3016-E | .5049 |

EXHIBIT B
OF

DECLARATION OF CONDOMINIUM OWNERSHIP
AND OF

EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS
FOR

HERON LAKE HORIZONTAL PROPERTY REGIME

Condominium Unit No.

Percentage of Interest
in Common Areas and
Facilities

ALLISONVILLE

| | |
|--------|-------|
| 4942-A | .8342 |
| 4942-B | .8342 |
| 4942-C | .8342 |
| 4942-E | .8342 |
| 5010-A | .8342 |
| 5010-B | .8342 |
| 5010-D | .8342 |
| 5010-F | .8342 |
| 5016-A | .8342 |
| 5016-B | .8342 |
| 5016-C | .8342 |
| 5016-E | .8342 |
| 5022-A | .8342 |
| 5022-B | .8342 |
| 5022-D | .8342 |
| 5022-F | .8342 |
| 5026-A | .8342 |
| 5026-B | .8342 |
| 5026-C | .8342 |
| 5026-F | .8342 |
| 5030-A | .8342 |
| 5030-B | .8342 |
| 5030-D | .8342 |
| 5036-A | .8342 |
| 5034-A | .8342 |
| 5034-B | .8342 |
| 5034-C | .8342 |
| 5034-E | .8342 |
| 5038-A | .8342 |
| 5038-B | .8342 |
| 5038-D | .8342 |
| 5038-F | .8342 |

EXHIBIT B

TO

DECLARATION OF CONDOMINIUM OWNERSHIP

AND OF

EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS

FOR

HERON LAKE HORIZONTAL PROPERTY REGIME

Condominium Unit No.

Percentage of Interest
in Common Areas and
Facilities

FIFTY-SECOND (52nd) STREET

| | |
|--------------------------|-------|
| 3119-C (Sales Center) | .9336 |
| 3119-E | .9336 |
| 3127-C | .9336 |
| 3127-B | .9336 |
| 3135-D | .9336 |
| 3135-E | .9336 |

EXHIBIT B
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DECLARATION OF CONDOMINIUM OWNERSHIP
AND OF
EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS
FOR

HERON LAKE HORIZONTAL PROPERTY REGIME

| <u>Condominium Unit No.</u> | <u>Percentage of Interest in Common Areas and Facilities</u> |
|-----------------------------|--|
| <u>ALLISONVILLE</u> | |
| 4942-D | .9336 |
| 4942-F | .9336 |
| 5010-C | .9336 |
| 5010-E | .9336 |
| 5016-D | .9336 |
| 5016-F | .9336 |
| 5022-C | .9336 |
| 5022-E | .9336 |
| 5026-D | .9336 |
| 5026-E | .9336 |
| 5030-C | .9336 |
| 5030-E | .9336 |
| 5034-D | .9336 |
| 5034-F | .9336 |
| 5038-C | .9336 |
| 5038-E | .9336 |

EXHIBIT "C"

CODE OF BY-LAWS

OR

Heron Lake Condominium Owners' Association, Inc.

ARTICLE I

Identification

Section 1. Name. The name of the Association is the Heron Lake Condominium Owners' Association, Inc. (hereinafter referred to as the "Association").

Section 2. Principal Office and Resident Agent. The post-office address of the principal office of the Association is _____ Indianapolis, Indiana 46_____, and the name and post-office address of the Resident Agent in charge of such office is _____.

Section 3. Fiscal Year. The fiscal year of the Association shall begin at the beginning of the first day of January in each year and end at the close of the last day of December next succeeding.

ARTICLE II

Association Members

Section 1. Membership. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 2. Place of Meeting. All meetings of the members of the Association shall be held on the property, or at such other reasonable place as may be determined by the Board of Directors and specified in the notices or waivers of notice thereof or proxies to represent members at such meetings.

Section 3. Annual Meetings. The initial meeting of the voting Members shall be held upon ten (10) days' written notice given by Declarant. Such written notice may be given at any time after at least 75% of the Condominium Units are occupied by Owners, but must be given not later than thirty

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(30) days after 90% of the Condominium Units are occupied by Owners or eighteen (18) months from the date hereof, whichever first occurs. The formation of the Association by Declarant shall not require Declarant to call the initial meeting of the voting Members any earlier than provided in the preceding sentence. Thereafter, there shall be an annual meeting of the voting members on the first Tuesday of October following such initial meeting, and on the first Tuesday of October of each succeeding year thereafter at 7:30 P.M., or at such other reasonable time or date (not more than thirty (30) days before or after such date) as may be designated by written notice of the Board delivered to the voting Members not less than ten (10) days prior to the date fixed for said meeting.

Section 3. Special Meetings. Special meetings of the members may be called at any time for the purpose of considering matters which require the approval of all or some of the voting Members, or for any other reasonable purpose. Any such Special Meeting shall be called by written notice, authorized by a majority of the Board, or by the voting Members having one-fourth (1/4) of the total votes, and delivered not less than ten (10) days prior to the date fixed for such meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.

Section 4. Notice of Meetings. Written or printed notice stating the place, day and hour of a meeting and, in case of a special meeting, the purpose or purposes for which such meeting is called shall be delivered or mailed by the Secretary of the Association to each member of record of the Association entitled to vote at the meeting, at such address as appears on the records of the Association, at least ten (10) days before the date of the meeting. Notice of any meeting of the members may be waived in writing by any Member if the waiver sets forth in reasonable detail the purpose or purposes for which the meeting is called and the time and place thereof. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 5. Voting at Meetings.

(a) Voting Rights. There shall be one person with respect to each Condominium Unit who shall be entitled to vote at any meeting of the Members. Such person shall be known as a "Voting Member". Such Voting Member may be the Owner or one of the group composed of all the Owners of a Condominium Unit, or may be some person designated by such Owner or Owners to act as proxy on his or their behalf and who need not be an Owner. Any or all of such Voting Members may be present at any meeting of the Voting Members and may vote or take any action as a Voting Member, either in person or by proxy. The total number of votes of all Voting Members shall be one hundred (100), and

each Owner or group of Owners shall be entitled to the number of votes equal to the total of the percentage of ownership in the Common Areas and Facilities applicable to his or their Condominium Unit as set forth in Exhibit "C" attached to the Declaration, Declarant (or its nominee) may exercise the voting rights with respect to any Condominium Unit owned by it.

(b) Proxies. A Voting Member is entitled to vote either in person or by proxy, executed in writing by such Voting Member or by his or her duly authorized attorney-in-fact and delivered to the Secretary of the meeting. Proxies shall be valid only for the particular meeting designated thereon and must be filed with the Secretary before the scheduled time of the meeting. In any meeting of the Voting Members called for the purpose of electing Members of the Board of Directors of the Association each Voting Member shall be permitted to cast the number of votes to which he is entitled, as hereinabove set forth, for each Member of the Board of Directors of the Association to be elected at such meeting.

(c) Quorum and Adjournments. The presence in person or by proxy of the Voting Members having a majority of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Voting Members at which a quorum is present upon the affirmative vote of the Voting Members having a majority of the total votes present at such meetings. Any meeting of the Voting Members, including both annual and special meetings and any adjournments thereof, may be adjourned to a later date without notice other than announcement at the meeting, even though less than a quorum is present.

Section 7. List of Voting Members. At least five (5) days before each meeting of Voting Members, the Secretary shall prepare or cause to be prepared a complete list of the Voting Members of the Association entitled to vote at such meeting arranged in alphabetical order with the address and number of votes entitled to be cast by each. Such list shall be on file in the principal office of the Association and shall be subject to inspection by any record Voting Member. The original or duplicate membership register shall be the only evidence as to the persons who are entitled as Voting Members to examine such lists, or to vote at such meeting.

Section 8. Action by Written Consent. Any action required or permitted to be taken at any meeting of the Voting Members may be taken without a meeting, if prior to such action, a written consent thereto, setting forth the action so taken, is signed by all the Voting Members entitled to vote with respect to the subject matter thereof, and such written consent is filed with the minutes of the proceedings of the Voting Members. Such consent shall have the same effect as a unanimous vote of the Voting Members.

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ARTICLE III

Board of Directors

Section 1. Number, Term of Office and Qualifications. The Board of Directors shall consist of three (3) Owners, all of whom must reside on the property, except for the Board Members nominated or designated by Declarant. The terms of at least one-third (1/3) of the members of the Board shall expire annually. Directors shall serve without compensation unless such compensation is approved by the Voting Members holding a majority of the total votes. The Board shall be elected by the Voting Members at their annual meeting and shall hold office until the next ensuing annual meeting and shall be qualified. If a member of the Board of Directors shall cease to meet any qualification herein required for a member of the Board, such member shall thereupon cease to be a member of the Board and his place on the Board shall be deemed vacant. The Voting Members may remove any member of the Board with or without cause, and elect a successor at a meeting of the Voting Members called expressly for such purpose.

Section 2. Vacancies. Vacancies occurring in the membership of the Board of Directors caused by resignation, death or other incapacity, or increase in the number of members of the Board shall be filled by a majority vote of the remaining members of the Board, and each member so elected shall serve until the next meeting of the Voting Members, or until his successor shall have been duly elected and qualified. Notice specifying any increase in the number of members of the Board and the name, address and principal occupation of and other pertinent information about any member elected to fill any vacancy shall be given in the next mailing sent to the Voting Members after such increase or election.

Section 3. Annual Meetings. The Board of Directors shall meet annually, without notice, immediately following and at the same place as, the annual meeting of the Voting Members.

Section 4. Regular Meetings. Regular meetings shall be held at such times and places, either within or without the State of Indiana, as may be determined by the President or Board of Directors.

Section 5. Special Meetings. Special meetings of the Board of Directors may be called by the President or by two (2) or more members of the Board, at any place within or without the State of Indiana, upon twenty-four (24) hours' notice specifying the time, place and general purposes of the meeting, given to each personally, by telephone or telegraph, or notice

may be given by mail if mailed at least three (3) days before such meeting.

Section 6. Waiver of Notice. Any member of the Board of Directors may waive notice of any meeting in writing. Attendance by a member at any meeting shall constitute a waiver of notice of such meeting.

Section 7. Quorum. A majority of the entire Board of Directors then qualified and acting shall constitute a quorum and be sufficient for the transaction of any business, except for filling of vacancies in the Board of Directors which shall require action by a majority of the remaining members of the Board. Any act of the majority of the members of the Board present at a meeting at which a quorum shall be present shall be the act of the Board unless otherwise provided for by law or by these By-Laws. A majority of the Members present may adjourn any meeting from time to time. Notice of an adjourned meeting need not be given other than by announcement at the time of adjournment.

Section 8. Action by Written Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting, if prior to such action, a written consent thereto is signed by all the members of the Board or of such committee, as the case may be, and such written consent is filed with the minutes of the proceedings of the Board.

ARTICLE IV Officers

Section 1. Number of Officers. The officers of the Association shall consist of a President, a Secretary, a Treasurer and such officers or assistant officers as the Board shall from time to time create and so elect. Any two (2) or more officers may be held by the same person, except that the duties of the President and the Secretary shall not be performed by the same person. The President shall be chosen from among the Members of the Board. Officers shall serve without compensation unless such compensation is approved by the Voting Members holding a majority of the total votes.

Section 2. Election and Terms. Each officer shall be elected by the Board of Directors at the annual meeting thereof and shall hold office until the next annual meeting of the Board or until his successor shall have been elected and qualified or until his death, resignation or removal. Any officer may be removed at any time, with or without cause, by

vote of a majority of the whole Board, but such removal shall be without prejudice to the contract rights, if any, of the person so removed; provided, however, that election of an officer shall not of itself create contract rights.

Section 3. Vacancies. Whenever any vacancy shall occur in any office by death, resignation, increase in the number of officers of the Association, or otherwise, the same shall be filled by the Board of Directors, and the officer so elected shall hold office until the next annual meeting of the Board or until his or her successor is duly elected or appointed.

Section 4. President. The President shall be the chief executive officer of the Association; shall preside at all meetings of the Voting Members and of the Board of Directors; shall have general and active supervision, control and management of the affairs and business of the Association, subject to the orders and resolutions of the Board; shall have general supervision and direction of all officers, agents and employees of the Association; shall see that all orders and resolutions of the Board are carried into effect; and in general shall exercise all powers and perform all duties incident to such office and such other powers and duties as may from time to time be assigned to him by the Board.

The President shall have full authority to execute proxies in behalf of the Association, to execute, with the Secretary, powers of attorney appointing other associations, corporations, partnerships, or individuals the agent of the Association, all subject to the provisions of the Indiana Horizontal Property Act, as amended, the Declaration and this Code of By-Laws.

Section 5. Secretary. The Secretary shall attend all meetings of the Board and of the Voting Members and shall act as Secretary at such meetings; shall give or cause to be given all notices provided for in these By-Laws or required by law; shall record all votes and the minutes of all proceedings of the meetings of the Voting Members and the Board in a book or books to be kept for that purpose and wherein resolutions shall be recorded; shall be custodian of the records of the Association; and, in general, shall exercise all powers and perform all duties as may be from time to time assigned to him or her by the Board or by the President.

Section 6. Treasurer. The Treasurer shall keep correct and complete financial records and books of account showing accurately at all times the financial condition of the Association; shall be the custodian of the Association Funds; shall immediately deposit, in the name and to the credit of the Association all monies and other valuable effects of the

Association in such depositories as may be designated by the Board of Directors; shall disburse the funds of the Association as may be ordered by the Board or by the President; and in general shall exercise all powers, perform all duties customarily incident to such office, and such other powers and duties as may from time to time be assigned to him by the Board or by the President.

ARTICLE V

Books and Records

Section 1. Books and Records, in General. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures effecting the Common Areas and Facilities, specifying and itemizing the maintenance and repair expenses of the Common Areas and Facilities and other expenses incurred. Such records and the vouchers authorizing the payments shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Owner. Upon ten (10) days' notice to the Board and payment of a reasonable fee, any Owner shall be furnished a statement of his account, setting forth the amount of any unpaid assessments or other charges due and owing from such Owner, and such amount shall be binding upon the Board and the Association, and any mortgagee or grantee of such Owner furnished with such statement shall not be liable for, and the Condominium Unit of such Owner shall not be conveyed subject to a lien for, any unpaid assessment in excess of the amount set forth in such statement. Any mortgagee of any Condominium Unit who wished to participate in any decision or consent in which it is entitled to participate by reason of the Declaration or these By-laws shall provide the Secretary of the Board with its name and address and the Condominium Unit on which it holds a mortgage so that it may be notified of any such pending decision or consent and participate therein. Failure to so notify the Board shall constitute waiver by any such mortgagee of the right to participate in such decision or consent.

ARTICLE VI

Administration

Section 1. Board of Directors; Association. The direction and administration of the Property shall be vested in the Board of Directors ("Board"). The Owners, as described in

the Declaration and in these By-Laws, shall elect the Board subject to any subsequent incorporation as provided in Article X of the Declaration of Condominium Ownership duly recorded herewith. Notwithstanding any other provisions herein contained to the contrary, all duties, functions and obligations herein imposed upon the Board are so imposed with the express understanding that the Board is the governing body and agent of the Owners and the Association.

Section 2. Determination of Board to be Binding.
Notwithstanding that the words "Board" and "Association" may in some instances be used interchangeably in various sections of these By-Laws or the Declaration, matters of dispute or agreement between Owners relating to the Property or with respect to interpretation or application of the provisions of the Declaration or these By-Laws, shall be determined by the Board, which determination shall be final and binding on the Association and on all Owners.

Section 3. General Powers of the Board. The Board shall have the following general powers and duties:

- (a) To elect the officers of the Association as hereinabove provided;
- (b) To administer the affairs of the Association and the Property;
- (c) To engage the services of a manager or managing agent who shall manage and operate the Property and the Common Areas and Facilities thereof for all of the Owners, upon such terms and for such compensation and with such authority as the Board may approve (subject to Section 6 of this Article);
- (d) To formulate policies for the administration, management and operation of the Property and the Common Areas and Facilities thereof;
- (e) To adopt administrative rules and regulations governing the administration, management, operation and use of the Property and the Common Areas and Facilities and to amend such rules and regulations from time to time;
- (f) To provide for the maintenance, repair and replacement of the Common Areas and Facilities and payments therefor, and to approve payment vouchers or to delegate such approval to the officers of the manager or managing agent;
- (g) To provide for the designation, hiring and removal of employees and other personnel, including

accountants, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the property and the Common Areas and Facilities and to delegate any such powers to the Manager or managing agent (and any such employees or other personnel who may be employees of the managing agent);

(h) To estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Owners their respective shares of such estimated expenses, as hereinafter provided;

(i) To comply with the instructions of a majority of the Owners, as expressed in a resolution duly adopted at any Annual or Special Meeting of the Owners; and

(j) To exercise all other powers and duties of the Board of Directors or Owners as a group referred to in the Indiana Horizontal Properties Act ("Act"), and all powers and duties of a Board of Directors referred to in the Declaration or these By-Laws.

Section 4. Specific Powers of the Board. The Board, for the benefit of the Board, the Association and all Owners, shall provide and shall pay for out of the maintenance fund hereinafter provided, the following:

(a) Utility Service for Common Areas and Facilities. Waste, water removal, electricity, and telephone, heat, power and other necessary utility service for the Common Areas and Facilities (and, if not separately metered or charged, for the Condominium Units),

(b) Casualty Insurance. Insurance for the property against loss or damage by fire and those perils contained in extended coverage, vandalism and malicious mischief endorsements and such other hazards as the Board may deem desirable, for the full insurable replacement cost of the Common Areas and Facilities and the Condominium Units in accordance with Article VIII of the Declaration. Premiums for such insurance shall be common expenses. Such insurance coverage shall be written in the name of, losses under shall be adjusted by, and the proceeds of such insurance shall be payable to, the members of the Board as trustees for each of the Owners and their respective mortgagees in their respective percentages of ownership interest in the Common Areas and

Facilities as established in Exhibit "g" to the Declaration. The Board may engage the services of any bank or trust company authorized to do trust business in Indiana to act as trustee, agent or depository on behalf of the Board for the purpose of receiving and disbursing the insurance proceeds resulting from any loss, upon such terms as the Board shall determine consistent with the provisions of the Act and the Declaration. The fees of such corporate trustee shall be Common Expenses. In the event of any loss in excess of \$50,000.00 in the aggregate, the Board shall engage a corporate trustee as aforesaid upon the written demand of the mortgagee or Owner of any Condominium Unit so destroyed,

The proceeds of such insurance shall be applied by the Board or by the corporate trustee on behalf of the Board for the reconstruction of the Buildings, or shall be otherwise disposed of, in accordance with the provisions of the Declaration and the Act; and the rights of the mortgagee of any Condominium Unit under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary therein contained, at all times be subject to the provisions in the Act with respect to the application of insurance proceeds to reconstruction of a Building. Payment by an insurance company to the Board or to such corporate trustee of the proceeds of any policy, and the receipt of release from the Board of the Company's liability under such policy shall constitute a full discharge of such insurance company, and such company shall be under no obligation to inquire into the terms of any trust under which such proceeds may be held pursuant hereto, or to take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof, or to see to the application of any payments of the proceeds of any policy by the Board or the corporate trustee.

(c) Liability Insurance. Comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and other liability insurance as it may deem desirable, insuring each Owner, the Association, its officers, members of the Board, Declarant, the manager and managing agent of the Buildings, if any, and their respective employees and agents, from liability in connection with the Common Areas and Facilities and the streets and sidewalks adjoining the Property and insuring the officers of the Association and members of the Board from liability for good faith actions beyond the scope

of their respective authorities. Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties. The premiums for such insurance shall be Common Expenses;

(d) Workmen's Compensation. Workmen's compensation insurance to the extent necessary to comply with any applicable laws;

(e) Wages and Fees for Services. The services of any person or firm employed by the Board, including, without limitation the services of a person or firm to act as manager or as managing agent for the property, the services of any person or persons required for maintenance or operation of the property, and legal and/or accounting services necessary or proper in the operation of the property or the enforcement of the Declaration and for the organization, operation and enforcement of the rights of the Association;

(f) Care of Common Areas and Facilities. Landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement of the Common Areas and Facilities and such furniture, and equipment for the Common Areas and Facilities as the Board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire or provide the same for the Common Areas and Facilities.

(g) Additional Expenses. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Board is required to secure or pay for pursuant to the terms of these restrictions or by law or which in its opinion shall be necessary or proper for the maintenance and operation of the property as a first class condominium project or for the enforcement of the Declaration;

(h) Certain Maintenance of Condominium Units. Maintenance and repair of any Condominium Unit as provided in the Declaration, and maintenance and repair of any Condominium Unit if such maintenance or repair is necessary in the discretion of the Board to protect the Common Areas and Facilities or any portion of a Building and the Owner or Owners of said Condominium Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair shall have been delivered by the Board to said

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Owner or Owners, provided that the Board shall levy a special assessment against such Owner for the cost of said maintenance or repair. The Board or its agents may enter any Condominium Unit when necessary in connection with any maintenance or construction for which the Board or Association is responsible; any damage caused thereby shall be repaired by the Board at the expense of the maintenance fund. The Board or its agents may enter any Condominium Unit when necessary in connection with any maintenance or construction for which the Board or Association is responsible; any damage caused thereby shall be repaired by the Board or its agents may enter any Condominium Unit when necessary in connection with any maintenance or construction for which the Board or Association is responsible; any damage caused thereby shall be repaired by the Board at the expense of the maintenance fund. The Board or its agents may enter any Condominium Unit when necessary in connection with any maintenance or construction for which the Board or Association is responsible; any damage caused thereby shall be repaired by the Board at the expense of the maintenance fund. The Board reserves the right to retain a pass key to each Condominium Unit, and no locks or other devices shall be placed on the doors to the Condominium Units to obstruct entry through the use of such pass key. In the event of any emergency originating in, or threatening, any Condominium Unit, or in the event of the Owner's absence from the Condominium Unit at a time when required alterations or repairs are scheduled, the management agent or his representative or any other person designated by the Board may enter the Condominium Units immediately, whether the Owner is present or not.

(i) Capital Additions and Improvements. The Board's powers hereinabove enumerated shall be limited to the extent that the Board shall have no authority to acquire or provide or pay for out of the maintenance fund any capital additions and improvements (other than for purposes of replacing or restoring portions of the Common Areas and Facilities, subject to all the provisions of the Declaration) having a total cost in excess of Seventy-five Thousand Dollars (\$75,000.00), nor shall the Board authorize any structural alterations, capital additions to, or capital improvements of the Common Areas and Facilities requiring an expenditure in excess of Seventy-five Thousand Dollars (\$75,000.00), without in each case the prior approval of the Voting Members holding two-thirds (2/3) of the total votes.

(j) Certain Utility Services to Condominium Units. The Board may pay from the maintenance fund for water, taxes, waste removal and/or any utilities which are not separately metered or otherwise directly charged to individual Owners. However, the Board may discontinue such payments at any time, in which case each Owner shall be responsible for direct payment of his share of such expenses as determined by the Board. The Board reserves the right to levy

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additional assessments against any Owner to reimburse it for excessive use by such Owner of any utility service, the expense of which is charged to the maintenance fund.

Section 5. Vouchers. All vouchers for payment of expenditures by the Board shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such vouchers shall be signed by the Treasurer and countersigned by the President of the Board.

Section 6. Rules and Regulations; Management.

(a) Rules. The Board, at the direction of the Voting Members having two-thirds (2/3) of the total votes, may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and occupants of the property. Written notice of such rules and regulations shall be given to all Owners and occupants and the entire Property shall at all times be maintained subject to such rules and regulations.

(b) Notwithstanding any other provisions herein, the Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board; provided, however, that it is expressly understood and agreed that Declarant expressly reserves the right to designate an initial managing agent or agents for a period not to exceed one (1) year from the date of the recording of these By-Laws and the rights of the Board to designate a different managing agent shall be in all respects subject to any or all contractual rights resulting from such initial designation of managing agent.

(c) Nothing hereinabove contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all of the Owners of any of them.

ARTICLE VII

Assessments - Maintenance Fund

Section 1. Preparation of Estimated Budget. Each year on or before December 1, the Board shall estimate the

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total amount necessary to pay the cost of wages, payroll taxes, materials, insurance, services, management fees, supplies, maintenance, repairs, landscaping, fuel, power and other common utilities and Common Areas and Facilities, which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount ordered by the Board to be necessary for a reserve for contingencies and replacements, and shall, on or before December 15, notify each Owner in writing as to the amount of such estimate, with reasonable itemization thereof. Said "estimated cash requirement" shall be assessed to the Owners according to each Owner's percentage of ownership in the Common Areas and Facilities as set forth in Exhibit "g" of the Declaration. On or before January 1, of the ensuing year, each Owner shall be obligated to pay to the Board, or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this Section. On or before the date of the Annual Meeting of each calendar year, the Board shall supply to all Owners an itemized accounting of the Common Expenses for the preceding calendar year actually incurred and paid together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures, plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each Owner's percentage of ownership in the Common Areas and Facilities to the next monthly installments due from Owners under the current year's estimate, until exhausted, and any net shortage shall be added according to each Owner's percentage of ownership in the Common Areas and Facilities to the installments due in the succeeding six (6) months after rendering of the accounting.

Section 2. Reserve for Contingencies and Replacements.
The Board shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year, shall be charged first against such reserve. If said "Estimated Cash Requirement" proves inadequate for any reason, including non-payment of any Owner's assessment, the Board may, at any time, levy a further assessment, which shall be assessed to the Owners according to each Owner's percentage of ownership in the Common Areas and Facilities. The Board shall serve notice of such further assessment on all Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessment. All Owners shall be obligated to pay the adjusted monthly amount.

Section 3. Budget for First Year. When the first Board elected hereunder takes office, it shall determine the

"estimated cash requirement", as hereinabove defined, for the period commencing thirty (30) days after said election and ending on December 31 of the calendar year in which said election occurs. Assessments shall be levied against the Owners during said period as provided in Section 1 of this Article.

Section 4. Failure to Prepare Annual Budget. The failure or delay of the Board to prepare or serve the annual or adjusted estimate on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and, in the absence of any annual estimate or adjusted estimate, the owner shall continue to pay the monthly maintenance charge at the then existing monthly rate established for the previous period until the monthly maintenance payment which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

Section 5. Status of Collected Funds. All funds collected hereunder shall be held and expended for the purposes designated herein and except for such special assessments as may be levied hereunder against less than all the Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Owners in the percentages set forth in Exhibit "B" attached to the Declaration.

Section 6. Remedies for Failure to Pay Assessments. If any Owner shall default in the payment of any charge or assessment imposed by the Board as herein provided, the Board shall have the authority, for and on behalf of itself and the Association and as the representative of all Owners, to exercise and enforce any and all rights and remedies as may be provided in the Act, these By-Laws, the Declaration or otherwise available at law or in equity for the collection of all such unpaid charges or assessments. In addition, if an Owner is in default in the monthly payments of the aforesaid charges or assessments for thirty (30) days, the Board may bring suit for and on behalf of itself and as representative of all Owners, to enforce collection thereof or to foreclose the lien therefor as hereinafter provided; and there shall be added to the amount due the costs of said suit, together with legal interest and reasonable attorneys' fees to be fixed by the Court. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and interest costs and fees as above provided, shall be and become a lien or charge against the Condominium Unit of the Owner involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate.

Unless otherwise provided in the Declaration, the members of the Board and their successors in office, acting on behalf of the other Owners, shall have the power to bid in the interest so foreclosed at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Said lien shall take effect and be in force when and as provided in the Act; provided, however, notwithstanding any other provision of the Declaration or By-Laws, any first mortgage owned or held by or on behalf of any bank, insurance company, savings and loan association or other mortgagee shall be prior to any lien for Common Expenses, and where the mortgagee of a first mortgage of record or other purchaser of a Condominium Unit obtains title to the Condominium Unit as a result of foreclosure of the first mortgage, such acquirer of title, his successors and assigns shall not be liable for the shares of Common Expenses chargeable to such Condominium Unit which became due prior to the acquisition of title to such Condominium Unit by such acquirer.

ARTICLE VIII

Execution of Instruments

Section 1. Checks, Drafts, Etc. All checks, drafts, bills of exchange or other orders for the payment of money, obligations, notes or other evidences of indebtedness of the Association shall be signed or endorsed by such officer or officers, employee or employees of the Association as shall from time to time be designated by the Board.

Section 2. Contracts. All contracts, agreements, deeds, conveyances, mortgages and similar instruments authorized by the Board of Directors shall be signed, unless otherwise directed by the Board or required by law, by the President and attested by the Secretary.

ARTICLE IX

Amendments and Definitions

Section 1. Amendments. These By-Laws may be altered, amended or repealed from time to time by a majority vote of the whole Board at any regular or special meeting if the notice or waiver of notice of said meeting shall have stated that the By-Laws are to be amended, altered or repealed or if all members of the Board of Directors at the time are present at said meeting.

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ARTICLE X

The Indiana Horizontal Property Act

The Provisions of The Indiana Horizontal Property Law of the State of Indiana, as amended, applicable to any of the matters not herein specifically covered by these By-Laws, are hereby incorporated by reference in and made a part of these By-Laws.

EXHIBIT D

TO

DECLARATION OF CONDOMINIUM OWNERSHIP

AND OF

EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS

FOR

HERON LAKE HORIZONTAL PROPERTY REGIME

LEGAL DESCRIPTION OF TRACT

Part of the Southwest Quarter of Section 8, Township 16 North, Range 4 East in Marion County, Indiana, more particularly described as follows:

Beginning on the North line of said Quarter Section South 90 degrees 00 minutes 00 seconds West 544.00 feet from the Northeast Corner of the said Quarter Section; thence South 00 degrees 00 minutes 00 seconds 470.00 feet; thence South 56 degrees 20 minutes 49 seconds West 993.32 feet; thence South 00 degrees 20 minutes 05 seconds West 90.00 feet to the South line of real estate described in deed of conveyance recorded January 31, 1966, Instrument #66-5187, in the Office of the Recorder of Marion County, Indiana; thence North 89 degrees 39 minutes 55 seconds West parallel with the South line of the said Quarter Section 157.00 feet to the Southwest Corner of the said real estate (Instrument #66-5187); thence North 00 degrees 20 minutes 05 seconds East 60.00 feet to the South line of real estate described in deed of conveyance recorded July 30, 1965, Instrument #65-36727, in the Office of the Recorder of Marion County, Indiana; thence North 89 degrees 39 minutes 55 seconds West parallel with the South line of the said Quarter Section 50.00 feet to the Southwest Corner of the said real estate (Instrument #65-36727); thence North 14 degrees 31 minutes 02 seconds East along the West line of the said real estate (Instrument #65-36727) 50.00 feet to the Southeast Corner of real estate described in deed recorded August 25, 1966, Instrument #66-44003 in the Office of the Recorder of Marion County, Indiana; thence North 90 degrees 00 minutes 00 seconds West 11.542 feet to the Southwest Corner of real estate (Instrument #66-44003); thence North 14 degrees 31 minutes 02 seconds East 275.40 feet; thence North 11 degrees 46 minutes 02 seconds East 750.00 feet to the North line of the said Quarter Section; thence North 90 degrees 00 minutes 00 seconds East along the North line of the said Quarter Section 811.042 feet to the place of beginning, containing 16.661 acres, more or less. Subject, however, to the right of way of East 52nd Street off the North line of the said Quarter Section.

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