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02/07/2007 04:13PM

REC FEE: 91.00

REC REST FEE: 4.00

GIS FEE: 9.00

GIS REST FEE: 1.00

RHSP FEE: 10.00

TOTAL: \$115.00

PAGES: 42

DELLA

MARY ANN LAMM

SANGAMON COUNTY RECORDER

**DECLARATION OF CONDOMINIUM OWNERSHIP OF  
NORTHPOINTE COMMONS CONDOMINIUM, PHASE I**

This Declaration of Condominium Ownership, is made this 6<sup>th</sup> day of February, 2007, by **BRADY NORTHPOINTE, LLC**, having its principal office in Bloomington, Illinois, (hereinafter "Developer"). WITNESSETH:

WHEREAS, Developer is the record owner of a certain parcel of real estate in Sangamon County, Illinois. legally described as follows:

Part of Lot 1 in Northpointe Subdivision Plat Number 1 as recorded in the office of the Sangamon County Recorder of Deeds On October 11, 2006, as Document No. 2006R39619; described more particularly as follows:

Commencing at the Northeast corner of the aforementioned Lot 1, thence South 89 degrees 26 minutes 11 seconds West along the North line of Lot 1 a distance of 220.15 feet to the true point of beginning, thence South 00 degrees 42 minutes 10 seconds east a distance of 90.63 feet, thence North 89 degrees 17 minutes 50 seconds East a distance of 43.26 feet, thence South 00 degrees 00 minutes 00 seconds West a distance of 117.46 feet, thence South 12 degrees 52 minutes 37 seconds East a distance of 204.33 feet, thence South 88 degrees 56 minutes 34 seconds West a distance of 266.14 feet, thence North 00 degrees 41 minutes 21 seconds West a distance of 200.00 feet, thence North 88 degrees 56 minutes 34 seconds East a distance of 91.26 feet, thence North 00 degrees 42 minutes 10 seconds West a distance of 118.26 feet, thence North 89 degrees 17 minutes 50 seconds East a distance of 21.82 feet, thence North 00 degrees 42 minutes 10 seconds West a distance of 90.80 feet to a point on the North line of Lot 1, thence North 89 degrees 26 minutes 11 seconds East along said North line a distance of 68.11 feet to the true point of beginning. Said parcel contains 1.623 acres, more or less, all in the County of Sangamon, State Of Illinois.

Basis of bearing is South 89 degrees 26 minutes 11 seconds West along the North line of Lot 1 Northpointe Subdivision.

Situated in Sangamon County, Illinois.

Tax Identification No.: part of 28-01-100-002 (new number not yet assigned)  
Common Address: 601, 603, 605 and 607 Buoy Court, Chatham, Illinois

The above-said real estate, which contains 1.623 acres, is identified as "Phase I Property" on *Exhibit A* attached hereto; and

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

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

WHEREAS, Developer desires and intends that the several owners, mortgagees, occupants and any other persons hereafter acquiring any interest in the Property shall, at all times, enjoy the benefits of, and shall 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 the Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness thereof.

NOW, THEREFORE, Developer, as the record owner of the above-described real estate and for the purposes above set forth, hereby declares as follows:

#### ARTICLE 1

Definitions. As used herein, unless the context otherwise requires:

- A. "Act" means the Condominium Property Act of the State of Illinois.
- B. "Board" shall have the meaning as set forth in Article 5.
- C. "Developer" means Brady Northpointe. LLC.
- D. "Declaration" means this instrument by which the Property is submitted to the provisions of the Act, as hereinafter provided, and such Declaration, as from time to time amended.
- E. "Parcel" means the parcel or tract of real estate described above in this Declaration, which is the real estate identified as the "Phase I Property" on *Exhibit A* attached hereto.
- F. "Property" means all the land, property and space comprising the Parcel, and all improvements and structures erected, constructed or contained therein or thereon, including buildings and all easements, rights and appurtenances belonging thereto, and all fixtures, equipment and furnishings intended for the mutual use, benefit or enjoyment of the Unit Owners.
- G. "Unit" means a part of the property designed and intended for any type of independent use, or such other incidental uses permitted by this Declaration, as set forth on the Plat attached hereto as

*Exhibit A* and incorporated herein as fully and completely as if it had been set forth in full herein, which Plat is being recorded simultaneously with the recording of this Declaration. Each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes constituting the boundaries of such Unit, as shown on the Plat. Additionally, each Unit includes the following: the area and structures between the bare exterior stud wall and the interior wall finish in a Unit; the ceiling and the area between the ceiling to the trusses above the ceiling in a Unit; and the flooring and subflooring in a Unit, including the floor joists. All pipes, wires, conduit, ducts, flues, shafts and public utility lines that service the particular Unit included in the area within the walls and above the ceiling are part of the Unit. Additionally, the sewer line and sump pump that serve only a particular Unit are a part of that Unit. Notwithstanding the above, however, no structural components of a Building, and no pipes, wires, conduits, ducts, flues, shafts or public utility lines situated outside a Unit and forming part of any system serving one or more other Units or the Common Elements shall be deemed to be a part of said Unit.

H. "Common Elements" means all of the property, except the Units, and shall include, but shall not be limited to, the Buildings, except those portions thereof comprising the Units, the land, the road known as Buoy Court, common parking areas, the retention pond on the land, pipes, sewers, electrical wiring and conduits (except pipes, sewers, electrical wiring and conduits situated entirely within a Unit and serving only said Unit), public utility lines (other than such portions thereof included within a Unit), outside walks and driveways, landscaping and all other portions of the Property, except the individual Units.

I. "Limited Common Elements" means that portion of the Common Elements, if any, as is shown on *Exhibit A* as a Limited Common Element being contiguous to and serving exclusively a single Unit as an inseparable appurtenance thereto, including specifically, but not by way of limitation, balconies, terraces, patios and parking spaces or facilities.

J. "Person" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

K. "Owner or Unit Owner" means the person or persons whose estate or interest, individually or collectively, aggregates a fee simple absolute ownership of a Unit.

L. "Majority" or "Majority of the Unit Owners" means the owners of more than 50% in the aggregate in interest of the undivided ownership of the Common Elements. Any specified percentage of the Unit Owners means such percentage in the aggregate in interest of such undivided ownership of the Common Elements.

M. "Unit Ownership" means a part of the Property consisting of one Unit and the undivided interest in the Common Elements appurtenant thereto.

N. "Buildings" mean the building or buildings located on the Parcel and forming part of the Property and consisting of part of the Units, as shown by the surveys included in the Plat.

O. Any other terms used herein and not defined above shall have the meaning as used in this Declaration or as defined in the Act.

## ARTICLE 2

Submission of Property to the Act. Developer, as the owner in fee simple of the Parcel, expressly intends to, and by recording this Declaration, does hereby submit the Parcel and the Property to the provisions of the Act, as amended from time to time.

## ARTICLE 3

Plat and Access Easement. The Plat attached hereto as *Exhibit A* sets forth the measurements, elevations, locations and other data as required by the Act, including (i) the Parcel and its exterior boundaries; (ii) the Buildings; and (iii) each Unit.

## ARTICLE 4

Unit Identification. Each Unit is identified on the Plat by a distinguishing number or other symbol. The legal description of each Unit shall refer to such identifying number or symbol and shall be legally described as shown on *Exhibit A*.

Every deed, mortgage or other instrument may legally describe a Unit by its identifying symbol or number as shown on *Exhibit A*, and every such description shall be deemed good and sufficient for all purposes.

## ARTICLE 5

Administration and Operation of the Property. The governing body for all of the Unit Owners for the administration and operation of the Property, as provided in the Act and in the Declaration and in the By-Laws, shall be the Board of Managers, who shall be elected in the manner provided in the By-Laws. The By-Laws are attached hereto as *Exhibit C*. The Board of Managers, if and when authorized by a majority of the Unit Owners, may cause to be incorporated a not-for-profit corporation as provided by the Act and, in such event, or in the event Developer has heretofore caused such corporation to be organized, then such corporation, (hereinafter referred to as the "Association") shall be the governing body for all of the Unit Owners for the administration and operation of the Property as provided in the Act and in this Declaration and in the By-Laws. The Board of Directors of such Association shall constitute the Board of Managers provided for in the Act, and all rights, title, powers, privileges and obligations vested in or imposed upon the Board of Managers in the Act and in this Declaration and in the By-Laws shall be held or performed by the Association or by the duly-elected members of the Board of Directors thereof and their successors in office. The By-Laws for the governing body shall be the By-Laws attached hereto as *Exhibit C*, and by this reference they are incorporated herein as fully and completely as if they had been set forth in full herein.

Whenever the word "Board" is used in this Declaration or in the By-Laws, it shall mean and refer to the Board of Managers if there is no Association, or if there is an Association, it shall mean and refer to said Association acting through its Board of Directors. The Board shall be elected by the Unit Owners in accordance with the By-Laws. Neither the Board, the Association nor the Unit Owners shall be deemed to be conducting a business of any kind. All funds collected by the Board shall be held and expended for the purpose designated in the Declaration and By-Laws and (except for such adjustments as the Board may require to reflect delinquent prepaid and special assessments) shall be deemed to be held for the benefit,

use and account of all the Unit Owners in the percentages set forth in *Exhibit B* and shall be administered in accordance with the provisions of the Declaration and By-Laws. Each Unit Owner shall be a member of the Association so long as he shall be a Unit Owner, and such membership shall automatically terminate when he ceases to be a Unit Owner. Upon transfer of his ownership interest, the new Unit Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association.

Until such time as the first Board is elected by the members, in accordance with the By-Laws, at the first annual meeting of the Association, the Developer may assess each Unit Owner a maintenance fee assessed in the same manner as described hereinbelow in Article 10. All of the rights, duties and functions of the Board set forth in this Declaration and the By-Laws may be exercised by the Developer until the date on which the first meeting of the members of the Board or the Association is called pursuant to the terms of the By-Laws. Until the date of the first annual meeting, the Developer is hereby irrevocably appointed and shall be conclusively deemed manager of the condominium, and until such date, no member shall have any voting rights, and the right of the members to vote on any matter is hereby denied until such date.

#### ARTICLE 6

Indemnity and Liability. The members of the Board of Managers and the Developer shall not be personally liable to the Owners for any mistake of judgment or for any acts or omissions made in good faith as such Board member or acting as the Board. The Owners shall indemnify and hold harmless each of the members of the Board of Managers and the Developer against all contractual liability to others arising out of the contracts made by the Board of Managers or the Developer on behalf of the Owners unless any such contract shall have been made in bad faith or contrary to the provisions of this Declaration. It is also intended that the liability of any Owner arising out of any contract made by the Board of Managers or the Developer, or out of the aforesaid indemnity in favor of the members of the Board of Managers and the Developer, shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage of interest in the Common Elements. The Board of Managers, the Developer or the managing agent, as the case may be, in every agreement made by the same, are acting only as agent for the Owners and shall have no personal liability thereunder (except as Owners), and each Owner's liability thereunder shall be equal to his percentage of ownership in the Common Elements.

#### ARTICLE 7

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

#### ARTICLE 8

Ownership in Common Elements. Each Unit Owner shall own an undivided interest in the Common Elements as a tenant in common with all of the other owners of the Property and, except as otherwise limited in this Declaration, shall have the right to use the Common Elements for all purposes incident to the use and occupancy of his Unit as a place of residence and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with his Unit. Each Unit's corresponding percentage of Ownership in the Common Elements has been determined by the Developer

to be as set forth in *Exhibit B* attached hereto, which, as amended from time to time, is hereinafter referred to as *Exhibit B* and may not be changed (except as provided in Article 25) without unanimous approval of all Owners.

#### ARTICLE 9

Use of the Common Elements. Each Unit Owner shall have the right to use the Common Elements in common with all other Unit Owners. Such rights to use and possess the Common Elements shall be subject to and governed by the provisions of the Act and of this Declaration and the By-Laws herein and the rules and regulations of the Board. The Board shall have the exclusive authority from time to time to adopt or amend administrative rules and regulations governing the use, occupancy and control of the Common Elements, as more particularly provided in the By-Laws. The Board shall have the authority to lease or to grant licenses or concessions with respect to parts of the Common Elements, subject to the provisions of the Declaration and By-Laws.

#### ARTICLE 10

Common Expense and Other Expense. Each Unit Owner shall pay his proportionate share of the expenses of administration, maintenance and repair of the Common Elements, annual dues and/or special assessments assessed and imposed by the Board or Association and of any other expenses incurred in conformance with the Declaration and By-Laws or otherwise lawfully agreed upon (which expenses are herein sometimes referred to as "common expenses"). Such common expenses shall include reasonable reserves, as determined by the Board, for capital expenditures and deferred maintenance for repair or replacement of the Common Elements. Such proportionate share of the common expenses of each Unit Owner shall be equal to that Unit Owner's percentage interest in the common expenses; however those common expenses that benefit each Unit in an equal manner shall be equally shared by each Unit Owner. Developer shall pay the common expenses allocable to any Units completed and owned by the Developer, so long as Developer has not sold the same.

Payment of said common expenses shall be in such amounts and at such times as determined in the manner provided in the By-Laws. If any Unit Owner shall fail or refuse to make any such payment of the common expenses when due, the amount thereof shall constitute a lien on the interest of such Unit Owner in the Property as provided in the Act.

#### ARTICLE 11

Separate Mortgages. Each Unit Owner shall have the right, subject to the provisions herein, to make a separate mortgage or encumbrance on his respective ownership interest in the Common Elements. No Unit Owner shall have the right or authority to make or create, or cause to be made or created by any mortgage or encumbrance, any other lien on or affecting the property or any part thereof, except only to the extent of his Unit and his respective ownership interest in the Common Elements.

#### ARTICLE 12

Separate Taxes. It is understood that real property taxes, special assessments and any other special taxes of the State of Illinois or of any political subdivision thereof or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon real property are to be separately taxed to each

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

### ARTICLE 13

#### Insurance.

A. The Board shall have the authority to and shall obtain insurance for the Property as follows:

1. Physical damage insurance on the Property (excluding additions, alterations, improvements and betterments to the Units), subject to the following conditions:

(a) Such insurance shall be "bare wall" insurance with respect to the Units and shall insure the structural components of the Units, including the exterior walls from the studs out to the exterior finish of such walls, the roof and that portion of the space above the ceiling in each Unit from the trusses on up, and basement walls and foundations of each Unit;

(b) The Property shall be insured for an amount not less than 100% of its full insurable replacement cost on a blanket basis;

(c) Replacement cost values are to be reviewed annually by an independent appraiser, and the insurance policy or policies shall be endorsed with an agreed amount clause. The cost of any and all appraisals for insurance purposes shall be common expenses; and

(d) Perils to be covered by such policies shall be no less than "all risk" or "special form" on real property and "broad form" named perils on personal property and such other perils as may be deemed appropriate by the Board.

2. Commercial general liability insurance covering personal injury and property damage insuring against hazards of premises/operation, products and completed operations, contractual liability, personal injury liability, independent contractors and other extensions as deemed necessary by the Board. Such insurance shall provide limits of liability as deemed desirable by the Board, but in no event for less than One Million Dollars (\$1,000,000) with respect to each occurrence. Such policy shall be endorsed to cover cross-liability claims of one insured against the other.

3. Umbrella liability insurance in excess of the required comprehensive general liability and employer liability policies in an amount deemed desirable by the Board, but in no event less than Two Million Dollars (\$2,000,000) with respect to each occurrence. Such policy shall be no less than "following form" coverage of the primary liability policies.

4. Worker's compensation and employer liability (minimum of \$100,000) as necessary to comply with applicable laws, including voluntary compensation to cover employees not covered under the Illinois statute for benefits.

5. A fidelity bond insuring the Association, the Board and the Unit Owners against loss of funds as a result of the fraudulent or dishonest acts of any employee of the Association or its management agent or of any other person handling the funds of the Association, the Board or the Unit Owners in such amounts as the Board shall deem necessary but not less than an amount equal to 100% of the reserves plus annual assessments. The premium for such fidelity bond shall be a common expense. Such bond shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. Such bond shall provide that it may not be cancelled for nonpayment of any premiums or otherwise substantially modified without 30 days' prior written notice to all holders of first mortgages of record.

6. Directors and officers liability insurance in such amounts as the Board shall determine to be reasonable.

7. Such other insurance, which may include, without limitation, any or all of the following, in such amounts as the Board shall deem desirable: plate glass insurance; errors and omissions coverage for the directors of the Board; and medical payments coverage for members of the public (not Unit Owners) injured on the Property, without regard to liability of the Board or the Association.

The premiums for the above described insurance and bond, except as otherwise provided in this Article 13.A, shall be common expenses.

B. All insurance provided for in this Article 13 shall be effected under valid and enforceable policies issued by insurance companies authorized and licensed to transact business in the State of Illinois and holding a current Policyholder's Alphabetic and Financial Size Category Rating of not less than A/XII according to Best's Insurance Reports or a substantially-equivalent rating from a nationally-recognized insurance rating service. All such policies shall provide a minimum of 60 days' advance notice of cancellation in writing to the insured thereunder, unless such cancellation is for nonpayment of premiums, in which case 10 days' advance written notice shall be sufficient.

C. All policies of insurance of the character described in subparagraphs A.1 and A.2 of this Article 13 shall: (i) name as insured the Developer and the Board, as trustees for the Unit Owners, in the percentages established in *Exhibit B* to this Declaration and shall also name as an insured the insurance trustee described in subparagraph F.2 of this Article 13 as the respective interests of all of such insureds may appear; (ii) be without contribution as respects other such policies of insurance carried individually by the Unit Owners whether such other insurance covers their respective Units and/or the additions and improvements made by such Unit Owners to their respective Unit; (iii) provide that, notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefor, such option shall not be exercisable in the event the Unit Owners elect to sell the Property or remove the Property from the provisions of the Act; and (iv) contain an endorsement to the effect that such policy shall not be terminated for nonpayment of premiums without at least 10 days' prior written notice to the mortgagee of each Unit. Policies of insurance of the character described in subparagraph A.1 of this Article 13 may contain an endorsement extending coverage so as to include the payment of common expenses with respect to damaged Units during the period of reconstruction thereof. Notwithstanding the issuance of standard mortgage clause endorsements under the policies of insurance of the character described in subparagraph A.1 and A.2 of this Article 13, any losses under such policies shall be payable, and all insurance proceeds recovered thereunder shall be applied and disbursed in accordance with the provisions of this Declaration.

D. All policies of insurance of the character described in subparagraphs A.2, A.3, A.4 and A.5 of this Article 13 shall name as insureds the Association, the Board, its managing agent (and the other agents and employees of such Association, Board and managing agent) and the Developer in his or its capacity as a Unit Owner and Board member and shall also provide coverage for each Unit Owner, (but as to the insurance described in Article 13.A.3 hereof, only with respect to those portions of the Property not reserved for their exclusive use). In addition, all policies for insurance of the character described in subparagraphs A.1, A.2 and A.3 of this Article 13 shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, members of the Board, Developer, the managing agent, their respective employees and agents and the Unit Owners and Occupants.

E. The Association, for the benefit of the Unit Owners, the Developer and the mortgagee of each Unit, shall pay the premiums and obtain a binder on the policies of insurance described in subparagraph A of this Article 13 at least 30 days prior to the expiration date of the respective policies and, upon written request therefor, shall notify the mortgagee of each Unit of such payment within 10 days after the date on which payment is made.

F. Loss, if any, under any policies of insurance of the character described in subparagraphs A.1 and A.2 of this Article 13 shall be adjusted with the Board, and the insurance proceeds on account of any such loss shall be paid and applied as follows: To the Board, or to the Developer if the Board is not yet in existence, as trustee for each of the Unit Owners in their respective percentages of ownership in the Common Elements as established in this Declaration, in the case of any loss, which insurance proceeds, less the actual cost, fees and expenses, if any, incurred in connection with the adjustment of the loss, shall be applied to the payment of the cost of restoring the Property to substantially the same condition as it existed immediately prior to such damage or destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as before, free from vendor, mechanic, materialmen and other similar liens. If the insurance proceeds are insufficient for reconstruction, the Board (or Developer) shall act in accordance with the provisions of Section 14 of the Act.

G. Each Unit Owner shall be responsible for: (i) physical damage insurance on the personal property in his Unit and elsewhere on the Property and any additions, alterations and improvements to his Unit (whether installed by such Unit Owner or any prior Unit Owner or whether originally in his Unit); (ii) his personal liability to the extent not covered by the policies of liability insurance obtained by the Board for the benefit of all of the Unit Owners as above provided, including, but not limited to, homeowner's risk liability insurance in the amount of Five Hundred Thousand Dollars (\$500,000) insuring such Unit Owner against damage he/she/it may cause to the Unit of another Unit Owner; and (iii) his additional living expense. All policies of casualty insurance carried by each Unit Owner shall be without contribution with respect to the policies of casualty insurance obtained by the Board for the benefit of all of the Unit Owners as above provided. For the purposes of this Article 13.G, 13.A.1 and 13.H hereof, "additions, alterations and improvements" shall mean the interior walls, that portion of the exterior walls that are a part of the Unit, the floors (including the floor joists), and the ceilings in the Unit. Additions, alterations and improvements also include all pipes, wires, conduits, ducts, flues, shafts and public utility lines contained within the space that constitutes part of the Unit, including the space within the exterior walls and the space above the ceiling, which space constitutes part of the Unit as the same is defined in Article 1.G hereinabove. Additions, alterations and improvements also include the sewer line and sump pump that constitute part of the Unit and also includes any property (excluding personal property readily

removable without damage to the Unit) attached to the Unit, including, without limitation, carpeting, flooring, wallcovering, paint and paneling.

H. The Board shall not be responsible for obtaining physical damage insurance on any additions, alterations and improvements to a Unit or any personal property of a Unit Owner or any other insurance for which a Unit Owner is responsible pursuant to Article 13.G hereof.

I. Each Unit Owner hereby waives and releases any and all claims which he may have against any other Unit Owner, the Association, its officers, members of the Board, Developer, the manager and managing agent of the Property, if any, and their respective employees and agents for any damage to the Common Elements, the Units or to any personal property located in the Unit or Common Elements caused by fire or other casualty to the extent that such damage is covered by fire or other form of casualty insurance or would be covered by insurance for which such Unit Owner is responsible pursuant to Article 13.G hereof.

J. Insurance required by Article 13 hereof shall be endorsed to include substantially the following clause:

This insurance shall not be prejudiced: (i) by any act or neglect of any Unit Owner or occupant of the building when such act or neglect is not within the control of the named insured (or Unit Owners, collectively); or, (ii) by failure of the named insured (or Unit Owners, collectively) to comply with any warranty or condition with regard to any portion of the Building over which the named insured (or Unit Owners, collectively) has no control.

K. The Board shall have the right to select substantial deductibles to the insurance coverages required or permitted under this Article 13 if the economic savings justifies the additional risk and if permitted by law. The deductibles shall be on a per-occurrence basis, irrespective of the number of insureds suffering injury or damage. Expenses included within the deductible amount arising from insurable loss or damage shall be treated as common expenses.

#### ARTICLE 14

Liability of the Board of Directors. Neither the Developer, the members of the Board nor the officers of the Association shall be liable to the Unit Owners for any mistake of judgment or for any other 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 gross negligence or fraud. The Unit Owners shall indemnify and hold harmless each of the members of the Board and each of the officers of the Association and the Developer against all contractual and other liabilities to others arising out of contracts made by or other acts of the Board and officers of the Association on behalf of the Unit Owners of 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, counsel fees, amounts of judgments and amounts paid or received in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other in which any member of the Board or officers of the Association may be involved by virtue of such persons being or having been such member or officer, provided, however, that such indemnity shall

not be operative with respect to: (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such member or officer; or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such member or officer. It is also intended that the liability of any Unit Owner arising out of any contract made by or other acts of the Board or officers of the Association, or out of the aforesaid indemnity in favor of the members of the Board and officers of the Association, shall be limited to such proportion of the total liability hereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all the Unit Owners in the Common Elements. Every agreement made by the Board on behalf of the Unit Owners shall provide that the members of the Board are acting only as agents for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners) and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements.

#### ARTICLE 15

Maintenance, Repairs and Replacements. Each Unit Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Unit. Maintenance, repairs and replacements of the Common Elements shall be furnished by the Board as part of the common expenses, subject to the rules and regulations of the Board.

The Board shall be responsible for the repair and replacement of any portion of utility service lines that serve more than one Unit Owner but shall not be responsible for any line or service for utilities that service only one Unit Owner.

The Board may cause to be discharged any mechanic's lien or other encumbrance which, in the opinion of the Board, may constitute a lien against the Property or Common Elements rather than against a particular Unit and its corresponding percentage of ownership in the Common Elements. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses (including attorney's fees) incurred by reason of such lien.

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

If, due to the act or negligence of a Unit Owner or of a member of his family or household pet or of a guest or other authorized occupant or visitor of such Unit Owner, damage shall be caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repairs or replacements shall be required which would otherwise be at the common expense, then such Unit Owner shall pay for such damage and

such maintenance, repairs and replacements as may be determined by the Board to the extent not covered by the insurance.

The Board shall have the exclusive authority to take, or refrain from taking, any action pursuant to this Article 15. All expenses which, pursuant to this Article 15, are chargeable to any Unit Owner, may be specifically assessed to such Unit Owner and shall be payable by such Unit Owner, as prescribed by the Board.

#### ARTICLE 16

Alterations, Additions or Improvements. No alterations of any Common Elements shall be made by any Unit Owner without the prior written approval of the Board or, until the Board is established, by the Developer. The Board may authorize and charge as common expenses alterations and improvements of and additions to the Common Elements; provided, however, that in the event the costs thereof are to be charged as common expenses, the Board shall not approve such alterations, improvements or additions requiring expenditure without the approval of the Unit Owners. Any Unit Owner may make repairs, alterations, additions or improvements within his Unit which are cosmetic and which do not affect the structural integrity of the building without the prior written approval of the Board, provided said Unit Owner has obtained the advance written approval of the adjoining Unit Owner whose Unit shares a common wall with the Unit of the Unit Owner seeking to make such repair or alteration. In any event, such Unit Owner shall be responsible for any damage to other Units, Common Elements, or the Property as a result of such alterations, additions or improvements. Should the adjoining Unit Owner fail to agree to such repairs or alterations by the other Unit Owner, the Owner seeking to make such repair or alteration may refer the matter to the Association, which shall then permit or deny the making of such repair by such Unit Owner. Said Association shall decide such matter by majority vote of all the members of the Association. If said Association is not at time in existence, such question shall be decided by the Developer.

#### ARTICLE 17

Encroachments. In the event that, by reason of the construction, settlement or shifting of the Building, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements or any other Unit, or, if by reason of the design or construction of any other Unit, it shall be necessary or advantageous to an Owner to use or occupy any portion of the Common Elements for any reasonable use appurtenant to said Unit, which will not unreasonably interfere with the use or enjoyment of the Common Elements by other Unit Owners, or, if by reason of the design or construction of utility and ventilation systems, any main pipes, ducts or conduits serving more than one Unit encroach or shall hereafter encroach upon any part of any Unit, such encroachments shall be considered to be valid easements. This Declaration shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees of such Unit Ownerships, as fully and completely and incorporated herein as fully and completely as if they had been set forth in full herein.

#### ARTICLE 18

A. Purchase of Unit by Board. The Board may adopt a resolution recommending that it purchase a Unit Ownership upon such terms as the Board deems reasonable. If the Board deems it to be in

the best interest of the Association to purchase a Unit from an owner, the Board shall promptly call a meeting of all of the Unit Owners for the purpose of voting upon such purchase, which meeting shall be held within said 30-day period. Unit Owners owning not less than 75% in the aggregate in interest of the undivided ownership of the Common Elements by affirmative vote at such meeting must authorize the Board to make such purchase. In such event, such purchase by the Board shall be closed and consummated, and for such purpose, the Board shall have the authority to make such mortgage or other financing arrangements and to make such assessments proportionately among all the respective Unit Owners and to make such other arrangements, as the Board may deem desirable in order to close and consummate such purchase of such Unit Ownership by the Board. If the Board shall make any such purchase of a Unit Ownership as herein provided, the Board or its nominee shall hold the same for the benefit of the remaining Unit Owners and shall have the authority at any time thereafter to sell such Unit Ownership upon such terms as the Board shall deem desirable, and all of the net proceeds or deficit therefrom shall be applied among, or charged to, such remaining Unit Owners in proportion to their respective interests in such Unit Ownership.

For the purposes of this Article 18 and all subparagraphs hereunder, the word "Owner" shall include any beneficiary of a trust, shareholder of a corporation or partner of a partnership holding legal title to a Unit Ownership, and the term "Unit Ownership" shall include the fee simple interest, beneficial interest, shares or partnership interest, as the case may be, held by such Owner.

B. Financing of Purchase by Association. The Board shall have authority to make such mortgage arrangements and any other such financing arrangements and to authorize such special assessments proportionately among the respective Unit Owners and the Board may deem desirable in order to close and consummate the purchase of a Unit or interest therein by the Association. No such financing information, however, may be secured by an encumbrance upon any interest in the Property other than the Unit or interest therein to be purchased in the percentage interest in the Common Elements appurtenant thereto.

C. Leasing. A Unit Owner may lease his Unit to any person or other legal entity on such terms that the Unit Owner chooses. Any tenant(s) of a Unit Owner shall comply with the terms and provisions of this Declaration and the By-Laws and any rules, regulations and restrictions in regard to the Common Areas established by the Developer and the Board. A Unit Owner shall be liable for the acts and omissions of his tenant(s) and for payment of any and all assessments authorized by this Declaration and/or the By-Laws.

E. Miscellaneous.

1. A transfer of a Unit or interest therein by or to the Board or by or to Developer shall not be subject to the provisions of this Article 18, except for the age restriction set forth in Article 18 above. This Article 18.E. cannot be amended or deleted without the prior written consent of Developer.

2. The Board and/or the Developer may adopt rules and regulations from time to time not inconsistent with the provisions of this Article 18 for the purpose of implementing and effectuating such provisions

## ARTICLE 19

- A. Each unit shall be used for housing and related residential purposes for which the Property was designated and for no other purpose. No part of the Common Elements separating any two or more adjoining Units which are owned by the same Unit Owner may be altered or removed to afford ingress or egress to and from such adjoining Units.
- B. There shall be no obstruction of the Common Elements nor shall anything be stored in the Common Elements (except in areas designed for such purpose) without the prior consent of the Board or except as hereinafter expressly provided. Each Unit Owner shall be obligated to maintain and keep in good order and repair his own Unit.
- C. Nothing shall be done or kept in any Unit or in the Common Elements serving the Units which will increase the rate of insurance on the Building or contents thereof without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Building, or contents thereof, or which would be in violation of any law. No waste shall be committed in the Common Elements.
- D. No animals shall be raised, bred or kept in any Unit or the Common Elements, except that a Unit Owner may keep in his Unit one dog, not to exceed 50 pounds, and one cat and small birds and fish, provided said animals are of a breed or variety commonly kept as household pets, are not kept for any commercial purpose, are not allowed to run loose on the Property, are kept in strict accordance with such other rules and regulations relating to household pets as may be from time to time adopted or approved by the Board and do not, in the judgment of the Board, constitute a nuisance to others. Each Unit Owner and each occupant shall be responsible for picking up after any animal kept in such Unit Owner's or occupant's respective Unit, including, without limitation, removing any waste deposited by such animal anywhere on the Common Elements.
- E. No noxious, unlawful or offensive activity shall be carried on in any Unit or in the Common Elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants or which shall, in the judgment of the Board, cause unreasonable noise or disturbance to others.
- F. Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the Building or which would structurally change the Building, except as is otherwise provided herein. No Unit Owner shall overload the electric wiring in the Building or operate machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others or connect any machines, appliances, accessories or equipment to the heating or plumbing system without the prior written consent of the Board or the managing agent acting in accord with the Board's direction. No Unit Owner shall overload the floors of any Unit. Waterbeds and other furnishings which may cause floor overloads shall be placed, kept or used in any Unit only in accordance with advance written Board approval.
- G. No Unit Owner shall display, hang, store or use any clothing, sheets, blankets, laundry or other articles outside his Unit, or which may be visible from the outside of his Unit (other than draperies, curtains or shades of a customary nature and appearance, so long as the back of said window coverings which face the outside are colored white, subject to the rules and regulations of the Board), or paint or

decorate or adorn the outside of his Unit, or install outside his Unit any canopy or awning, or outside radio or television antenna, or other equipment, fixtures or items of any kind without the prior written permission of the Board or the managing agent, acting in accord with the Board's direction. No Unit Owner, except as provided hereinbelow, shall display, hang, store or use any sign outside his Unit or in any common area, in a hallway or elsewhere, or which may be visible from the outside of his Unit, without the prior written permission of the Board.

H. Articles of personal property belonging to any Unit Owner, such as baby carriages, bicycles, wagons, toys, furniture, clothing and other articles, shall not be stored or kept in any outdoor parking area, patio, balcony or area constituting part of the Common Elements, except in storage areas specifically designated for such use by the Board or by the managing agent acting in accord with the Board's direction. No recreational or camping vehicles or boats shall be parked or kept on the Property, except in covered garages with the garage doors closed. No commercial vehicles shall be parked on the Property overnight, except in covered parking areas with the door closed. No unlicensed or inoperative vehicles shall be kept on the Property.

I. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designed for profit, altruism, education or otherwise shall be conducted, maintained or permitted in any Unit.

J. Although the driveways serving the Units are deemed to be Common Elements, use of such driveways shall be restricted to the Unit Owners served by such driveways and their guests and invitees. No Unit Owner shall park his vehicle or allow vehicles of his guests and/or invitees to be parked in such a manner so as to impede ingress and egress of the vehicles of other Unit Owners served by such driveway. No commercial vehicle, boat or trailer, including, without limitation, cargo trailers, campers, house trailers, recreation vehicles or carryalls, shall be parked overnight in any driveway serving a Unit or in front of or alongside of a building housing a Unit. No inoperable vehicle shall be parked or kept on the driveway serving a Unit or in front of or alongside of a building housing a Unit.

K. The right is reserved by the Developer or its agents to place and maintain on the Property all models, sales offices, advertising signs and banners and lighting in connection therewith at such locations and in such forms as shall be determined by the Developer or its agents, and the Developer or its agents and prospective purchasers of any Unit from the Developer are hereby granted the right of ingress and egress in and through the Common Elements for such Unit sale purposes. Developer or agents further reserve the right to use unsold Units for temporary storage, office and related purposes. This subparagraph cannot be amended or deleted without the consent of Developer so long as either: (i) Developer's rights to submit additional parcels to the Act have not expired; or (ii) Developer holds the title to any Unit.

L. The Unit restrictions in subparagraphs A and I of this Article 19 shall not, however, be construed in such a manner as to prohibit a Unit Owner from: (i) maintaining his personal professional library therein; (ii) keeping his personal business or professional records or accounts therein; or (iii) handling his personal business or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incident to the principal residential use and not in violation of subparagraphs A and I of this Article 19.

M. Trash, garbage and other waste shall be kept only in sanitary containers inside the Units, and such containers shall be brought to the central area designated by the scavenger service serving the Units

and shall be disposed of in a clean and sanitary manner as prescribed from time to time in rules and regulations duly adopted by the Board. After emptying, the containers shall promptly be returned to the Units.

N. Developer and the Board shall have the right to establish rules, regulations and restrictions in regard to use of the Common Areas by the Unit Owners, their guests and invitees. Such rules and regulations may be amended by the Board with the consent of two-thirds of the Unit Owners.

O. Until such time as the Board is operating, the Developer shall have the right and authority to enforce the covenants contained in this Article 19.

#### ARTICLE 20

Agreements with Adjoining Property Owners. The Developer shall have the authority to grant easements to adjoining property owners to use the access roads and to make connections to public utility facilities and to use water retention facilities on the Common Areas under conditions agreeable to Developer. It is understood that the retention pond that is or will be a part of the Common Areas of the Condominium serves all of Northpointe Subdivision, and that the Owners of the various other lots in the subdivision shall be required to share in the maintenance costs of said retention pond and have a right and easement to drain into said pond.

#### ARTICLE 21

Remedies. In the event of any default by any Unit Owner under the provisions of the Act, the Declaration, By-Laws or rules and regulations of the Board, the Board or its agents or the remaining Unit Owners on behalf of the Board shall have each and all of the rights and remedies which may be provided for in the Act, Declaration, By-Laws or said rules or regulations or which may be available at law or in equity and may prosecute any action or other proceedings against such defaulting Unit Owner and/or others for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Unit and to sell the same as hereinafter in this paragraph provided, or for any combination of remedies, or for any other relief. All expenses of the Board or the remaining Unit Owners on behalf of the Board, in connection with any such actions or proceedings, including court costs and attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the rate as allowed by law until paid, shall be charged to and assessed against such defaulting Unit Owner and shall be added to and deemed part of his respective share of the common expenses, and the Board shall have a lien for all of the same, as well as for non-payment of his respective share of the common expenses, upon the Unit and ownership interest in the Common Elements of such defaulting Unit Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the Property. In the event of any such default by any Unit Owner, the Board or manager or managing agent, if so authorized by the Board or the remaining Unit Owner on behalf of the Board, shall have the authority to correct such default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

If any Unit Owner (either by his own conduct or by the conduct of any other occupant of his Unit) shall violate any of the covenants or restrictions or provisions of this Declaration or the regulations adopted by the Board, and such violation shall not be cured within 30 days after notice in writing from the Board or the remaining Unit Owners on behalf of the Board, or such violation shall re-occur more than once thereafter, an action in equity may be filed by the Board or the remaining Unit Owners on behalf of the Board against said defaulting Owner for a decree of mandatory injunction against said defaulting Owner or occupant or (subject to the prior consent in writing of any mortgagees having a security interest in the Unit Ownership of said defaulting Owner, which consent shall not be unreasonably withheld) in the alternative, for a decree declaring the termination of said defaulting Owner's right to occupy, use or control the Unit owned by him on account of said violation and ordering that all the right, title and interest of said defaulting Owner in the Property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms and the court shall determine, except that the court shall enjoin and restrain the said defaulting Owner from re-acquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorney's fees and all other expenses of the proceeding and sale, and all such items shall be taxed against said defaulting Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder, or any liens, shall be paid to said defaulting Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a conveyance of the Unit and the Unit Owner's corresponding percentage of ownership in the Common Elements and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide that the purchaser shall take the interest in the Unit Ownership sold subject to this Declaration.

#### ARTICLE 22

Notice. Notices provided for in the Act, declaration or By-Laws shall be in writing and shall be addressed to the Board, or any Unit Owner, as the case may be, at the Board or Unit Owner's last known address (indicating thereon the number of the respective Unit, if addressed to a Unit Owner) or at such other address as hereinafter provided. The Board may designate a different address for notices to it by giving written notice of such change of address to all Unit Owners at such time. Any Unit Owner may also designate a different address or addresses for notices to him by giving written notice of his change of address to the Board. Notices addressed as above shall be deemed delivered when mailed by United States Registered or Certified Mail or, when delivered in person, with written acknowledgment of the receipt thereof.

Upon written request to the Board, the holder of any recorded mortgage or trust deed encumbering any Unit shall be given a copy of all notices permitted or required by this Declaration to be given to the Unit Owner or Owners whose Unit is subject to such mortgage or trust deed.

Until the Board is elected pursuant to the By-Laws, all notices to the Board shall be sent to the Developer, addressed as follows or addressed to such different address as Developer notifies the Unit Owners in writing:

Brady Northpointe, LLC  
c/o Bob Brady  
2201 Eastland Drive, Suite 4  
Bloomington, IL 61704

### ARTICLE 23

Severability. If any provision of the Declaration or By-Laws or any section, sentence, clause, phrase or word, or the application thereof in any circumstances, is held invalid, the validity of the remainder of the Declaration and By-Laws and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

### ARTICLE 24

Perpetuities and Other Rules of Property. If any of the options, privileges, covenants or rights created by this Declaration would otherwise violate (1) the rule against perpetuities or some analogous statutory provision, or (2) any other statutory or common law rules imposing time limits, then such provision shall continue only until 21 years after the death of the survivor of the now living, lawful descendants of the incumbent Mayor of the City of Springfield, Illinois, and the incumbent President of the United States.

### ARTICLE 25

#### Annexing Additional Property.

A. Developer reserves the right from time to time, within 10 years of the date of the recording of this Declaration, to annex and add to the Parcel and Property and thereby add to the condominium created by this Declaration, all or any portion of the additional land, described as follows:

Lot 1 in Northpointe Subdivision Plat No. 1 according to the Plat thereof recorded October 11, 2006, as Document No. 2006R39619, excepting the following-described property:

Part of Lot 1 in Northpointe Subdivision Plat Number 1 as recorded in the office of the Sangamon County Recorder of Deeds On October 11, 2006, as Document No. 2006R39619; described more particularly as follows: Commencing at the Northeast corner of the aforementioned Lot 1, thence South 89 degrees 26 minutes 11 seconds West along the North line of Lot 1 a distance of 220.15 feet to the true point of beginning, thence South 00 degrees 42 minutes 10 seconds east a distance of 90.63 feet, thence North 89 degrees 17 minutes 50 seconds East a distance of 43.26 feet, thence South 00 degrees 00 minutes 00 seconds West a distance of 117.46 feet, thence South 12 degrees 52 minutes 37 seconds East a distance of 204.33 feet, thence South 88 degrees 56 minutes 34 seconds West a distance of 266.14 feet, thence North 00 degrees 41 minutes 21 seconds West a distance of 200.00 feet, thence North 88 degrees 56 minutes 34 seconds East a distance of 91.26 feet, thence North 00 degrees 42 minutes 10 seconds West a distance of 118.26 feet, thence North 89 degrees 17 minutes 50 seconds East a distance of 21.82 feet, thence North 00 degrees 42 minutes 10 seconds West a distance of 90.80 feet to a point on the North line of Lot 1, thence North 89 degrees 26 minutes 11 seconds East along said North line a distance of 68.11 feet to the true point of beginning. Said parcel contains 1.623 acres, more or less, all in the County of Sangamon, State Of Illinois. Basis of bearing is South 89 degrees 26 minutes 11 seconds

West along the North line of Lot 1 Northpointe Subdivision. Situated in Sangamon County, Illinois,

by recording an amended plat in accordance with Section 5 of the Act and an amended declaration in accordance with Section 6 of the Act. No rights of any character whatsoever within the additional land attach to any Owner of existing recorded Units except as to that portion of the above described "add-on land" described in any recorded Amended Declaration annexing and adding such portion to this Declaration as part of the Condominium created by this Declaration.

Said add on area, containing 7.541 acres, more or less, is identified as "Future Condominium Phases" on *Exhibit A* attached hereto.

- B. In regard to the additional phases of this Condominium:
1. There are to be no limitations in order or boundaries of additional phases.
  2. There are to be no limitations on location of improvements.
  3. The maximum number of additional Units shall be 88. The maximum number of additional Units per acre shall be 12.
  4. Density, use and construction on additional phases will be similar. Architectural style shall be similar.

C. Each Amended Declaration shall include an amended *Exhibit A* (legal description of portions of additional land already subject to the provisions of the Act) which shall amend *Exhibit A* hereto by setting forth the amended legal description of the Parcel to include the additional parcel or parcels annexed hereto, as well as a separate legal description of such addition. The Amended Declaration shall also contain an amended Plat showing the boundaries of such addition and of the entire Parcel, as amended, and delineating the additional Units of such addition, all in accordance with Section 5 of the Act.

Each amended Declaration shall also include an amended *Exhibit A*, which shall amend *Exhibit A* hereto by setting forth the legal description of the Units added by such Amended Declaration as well as all previous Units.

Each Amended Declaration shall also include an amended *Exhibit B*, which shall amend *Exhibit B* hereto by setting forth the amended percentages of the undivided interests in the Common Elements (as amended and added to by such Amended Declaration).

D. The percentages of undivided ownership interest in the Common Elements, as amended by each Amended Declaration, and as set forth in the amended *Exhibit B*, shall be determined and adjusted in the following manner:

1. The Common Elements, as amended by such Amended Declaration, shall be deemed to consist of:

(a) The Common Elements as existing immediately prior to the recording such Amended Declaration (hereinafter referred to as the "Existing Common Elements") and

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

2. The Units as amended by such Amended Declaration, shall be deemed to consist of:

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

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

The undivided interest of each Unit Owner in and to the Common Elements, shall be determined by dividing the square footage (excluding basement area) of the Unit in question by the total square footage (excluding basement area) of all of the Units then in the Condominium Project. Such percentage interest shall be binding upon all of the Unit Owners, mortgagees, and other parties who then or in the future have any interest in the Property.

The percentages of undivided ownership interest, as amended and adjusted by such Amended Declaration, in the entire Common Elements, consisting of the Existing Common Elements plus the Added Common Elements, to be allocated among all the Units, consisting of the Existing Units plus the Added Units, shall be computed by dividing the square footage of each Unit (excluding basement area) by the total square footage (excluding basement area) of the Units then in the Condominium Project.

Voting rights shall be amended as follows: As provided in the By-Laws, there shall be 100 total votes. Each Unit Owner shall be entitled to the number of votes as corresponds to that Unit Owner's percentage of ownership in the Common Elements, as amended and adjusted by the Amended Declaration. Thus, the Owners of the Existing Units shall be entitled to fewer votes since said votes shall be allocated among the Owners of both the Existing Units and the Added Units.

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

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

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

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

Liability for common expenses incurred after the Amended Declaration is recorded shall be determined by the amended adjusted percentage interests in the Common Elements applicable to each Unit, including both the Existing and Added Units.

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

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

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

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

2. The percentage of ownership in the Common Elements appurtenant to each Unit shall automatically be shifted and reallocated to the extent set forth in each such recorded Amended Declaration and upon the recording of each such Amended Declaration, the amount by which such percentage appurtenant to a Unit is reduced as set forth in each such recorded Amended Declaration.

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