

RESTATEMENT OF DECLARATION  
FEBRURARY 13, 1996

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**CONDOMINIUM NO. 264**

**1666 COFFMAN, A CONDOMINIUM**

**RESTATEMENT OF DECLARATION**

This Restatement of Declaration, hereinafter "Declaration", is made as of the 13<sup>TJ -'</sup> day of February, 1996, in the City of Falcon Heights, County of Ramsey and State of Minnesota, by 1666 Coffman Condominium Association, Incorporated, a non-profit corporation organized and existing under the laws of the State of Minnesota, hereinafter referred to as "Association", pursuant to Minnesota Statutes, Chapter 515A, known as the Minnesota Uniform Condominium Act, hereinafter the "Act". This Declaration is also joined in by the Regents of the University of Minnesota, a Minnesota corporation, as the Owner and Lessor of the land described as shown on Exhibit A, attached, hereinafter "University".

**WITNESSETH:**

WHEREAS, the University of Minnesota Retiree's Housing Corporation, Inc., a Minnesota non-profit corporation, entered into a lease for the land described on the attached Exhibit A dated August 7, 1984, and filed June 20, 1985, as Document No. 2270160 in the Office of the County Recorder, Ramsey County, Minnesota, which contemplated the creation of this Condominium and the University, as Lessor, joined therein, to evidence its approval of the creation of this Condominium;\_ and

WHEREAS, the Lessee's interest in said Lease was conveyed to the Coffman Housing Partnership, a Minnesota partnership, as Grantee of a Quit Claim Deed from the University of Minnesota Retiree's Housing Corporation, Inc., as Grantor, which Quit Claim Deed was dated June 7, 1985, and filed August 23, 1985, as Document No. 2279247 in the Office of the County Recorder, Ramsey County, Minnesota; and

WHEREAS, the Coffman Housing Partnership and the City of Falcon Heights entered into a Development Agreement dated June 10, 1985, filed August 23, 1985, as Document No. 2279248 in the Office of the County Recorder, Ramsey County, Minnesota; and the City has joined herein to evidence its approval of the creation of this Condominium and this Declaration; and

WHEREAS, Coffman Housing Partnership (as the "Original Declarant"), the Regents of the University of Minnesota and the City of Falcon Heights entered into a Declaration establishing Condominium No. 264, 1666 Coffman, a Condominium, which Declaration, hereinafter "Original Declaration", was dated August 27, 1986, and filed July 23, 1991, as Document No. 953111 in the Office of the Registrar of Titles, Ramsey County, Minnesota; and

WHEREAS, the Coffman Housing Partnership assigned to Association the Lessee's interest in the above-described Lease with the Regents of the University of Minnesota, by an Assignment of Lessee's Interest in Lease and Lessor's Consent dated July 16, 1993; and WHEREAS, Coffman Housing Partnership, as Grantor, also quit claimed to Association all of its right, title and interest to the land described on Exhibit A attached hereto by Quit Claim Deed dated July 16, 1993; and

WHEREAS, Coffman Housing Partnership, as the Original Declarant, has conveyed by Warranty Deed its entire right, title and interest in the Lease with the Regents of the University of Minnesota, the Condominium, the Property, and the land described on Exhibit A, attached, to the current Unit Owners or their predecessors in title by the sale of all of the Units in the Condominium, all of which Unit Owners are members of the Association; and

WHEREAS, Association entered into a new Lease with the Regents of the University of Minnesota for the land described on the attached Exhibit A, which Lease is dated March 3, 1994, and was filed \_\_\_\_\_, 1996, as Document No. \_\_\_\_\_, the Office of the Registrar of Titles, Ramsey County, Minnesota; and

WHEREAS, Leasehold interests have been, and will be, sold and conveyed in the real estate, together with all buildings, structures and other permanent fixtures thereon and all rights and privileges belonging thereto, hereinafter the "Property" all of which has been accomplished and will continue to be accomplished by the submission of the Property to the requirements of the Act; and

WHEREAS, the Original Declaration, at Article II, Section 3, Article IX and Article XII, Section 6 specifically addresses the Amendment of the Original Declaration as well as the Articles of Incorporation and Bylaws of the Association; and

WHEREAS, the general procedure for amendment of the Condominium Declaration is set forth at Section 515A.2-119 of the Act; and

WHEREAS, the Affidavit of the Secretary of the Association stating that the votes or agreements required by said Section 515A.2-119 have occurred is attached to this Declaration; and

WHEREAS, Association desires and intends that the owners, mortgagees, occupants and other persons hereinafter acquiring any interest in the Property shall hold their interest subject to the rights, easements, privileges and restrictions hereinafter set forth, all of which are declared to be in furtherance of the plan for condominium ownership of the Property and are established for the purpose of enhancing and perfecting its value, desirability and attractiveness;

NOW, THEREFORE, Association, as successor in interest to the Original Declarant, and as the Unit Owner Association organized under Section 515A.3-101 of the Act, of which each Unit Owner is a member, and which has been established as the Association for the Condominium whose members are the owners of the Property, hereby declares as follows:

## ARTICLE I.

### Definitions

The terms and phrases defined in the Act shall have the meaning specified in Section 515A.1-103 of the Act. These definitions are set forth below to aid in the use of this Declaration along with further elaboration in certain cases. Where further elaboration is provided, it follows the phrase "in particular".

1. Association. The Unit Owner Association organized under Section 515A.3-101 of the Act, in particular, 1666 COFFMAN CONDOMINIUM ASSOCIATION, a non-profit corporation organized under Minnesota Statutes, Chapter 317, of which each Unit Owner is a member, and which has been established as the Association for the Condominium.

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

3. Common Expenses. Expenditures made or liabilities incurred by or on behalf of the Association together with any allocations to reserves, in particular, for the administration, operation and management of the Association and the Condominium and the maintenance, repair, alteration, improvement, including contribution to an adequate reserve for replacement of those portions of the Common Elements which must be replaced or repaired on a periodic basis, which expenses are defrayed by all of the Unit Owners in



Minnesota Statutes 2000, 515A.2-102  
Minnesota Statutes 2000, Table of Charters  
Table of Contents for Chapter 515A

51 5A.2-102 **Unit boundaries.**

**Except as otherwise provided by the declaration:**

- (1) If walls, floors, or ceilings are designated as boundaries of a unit, all lath, framing, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors, or ceilings are a part of the common elements.
- (2) If any chute, flue, duct, pipe, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside of the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.
- (3) Subject to the provisions of paragraph (2), all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.
- (4) All exterior doors and windows and any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios or other fixtures **designed to serve a single unit**, but located outside the unit's boundaries are limited common elements allocated exclusively to that unit.

**HIST: 1980@ 582 Act. 3@ 515A.3-114**

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the Condominium in accordance with the terms of this Declaration and the percentages of undivided interest allocated to their respective Units as set forth in Exhibit B attached hereto.

4. Condominium. Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a Condominium unless the undivided interests in the Common Elements are vested in the Unit Owners. In particular, Condominium Number 264, 1666 COFFMAN, A CONDOMINIUM, created by the Original Declaration as amended and continued under this Declaration.

5. Limited Common Elements. The Limited Common Elements are those allocated to each Unit by operation of Sections 515A.2-102 (2) and (4) of the Act.

6. Security for an Obligation. The vendor's interest in a contract for deed, mortgagee's interest in a mortgage, purchaser's interest under a sheriff's certificate of sale during the period of redemption, or the holder's interest in a lien.

7. Unit. A portion of the Condominium whether or not contained solely or partially within a building, designated for separate ownership, with boundaries as required by Section 515A.2-110 of the Act, in particular, one of the 93 separate Home Units, the 100 separate garage Units or the 96 separate storage Units, described in Exhibit B and depicted on the Condominium Plat. Each of the Units shall have as its boundaries the walls, floors, and ceilings, pursuant to Section 515A.2-102(1) of the Act; provided that the boundaries of each garage Unit shall be the floor area as depicted on the Condominium Plat, the ceiling

area directly above, and the vertical planes extending from floor to ceiling enclosing the floor boundaries. Where there is an opening in a wall, floor or ceiling which constitutes a boundary of a Unit, then such boundary is the inner surface of the door or window in such opening.

8. Unit Owner. A person to whom ownership of a Unit has been conveyed or transferred, but does not include a holder of an interest as Security for an Obligation, in particular, including, in addition to a fee owner, a contract vendee, a life tenant, a tenant under a lease for more than three (3) years or any combination thereof.

## ARTICLE II.

### Submission of Property to

### Minnesota Uniform Condominium Act

1. Submission. Association hereby continues the submission of the Property to the requirements and provisions of the Minnesota Uniform Condominium Act.

2. Name, Condominium Number. County. The Property shall continue to be known as Condominium Number 264, 1666 COFFMAN, A CONDOMINIUM. The Condominium is situated in Ramsey County, Minnesota.

3. Leasehold Condominium. This Condominium is subject to the terms of a ninety (90) year lease between the University and Association. The lease will expire on December 31, 2083. Unit Owners have no right to purchase the Lessor's interest in the real estate. Lessee shall have the right to remove any improvements after the expiration or termination of the lease, provided such removal shall be completed within one hundred

eighty (180) days after the termination of the lease. Individual unit owners do not have the right to remove improvements. The Lease also provides that lessee and lessor shall jointly consider the need to extend the lease term in the seventy-fifth year of the current lease and, if the project has a remaining useful life, the lease shall be extended for a further term reasonably consistent with the project's useful life. Amendment of this Declaration requires the written approval of the University of Minnesota.

4. Division of Property into Separate Leasehold Estates. Association, in accordance with the requirements and provisions of the Act and in order to continue a plan of condominium ownership for Condominium Number 264, 1666 COFFMAN, A CONDOMINIUM does hereby continue the division of the Property comprising the same into 93 separately designated and legally described leasehold estates for residential use, 100 leasehold estates for parking use and 96 leasehold estates for storage use together with an equal percentage of undivided interest in the Common Elements. Each Home Unit, each garage Unit and each storage Unit together with its percentage of undivided interest in the Common Elements, shall constitute a separate parcel of real property which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the Condominium, subject only to the provisions of this Declaration, the Bylaws of the Association, and the Act, provided that the parking and storage Units may only be conveyed to an owner of a Home Unit.

- a. No Subdivision of Units. No Unit Owner in the Condominium, may separate, subdivide, partition, or convert a Unit into two or more Units, Limited Common Elements or Common Elements or combination thereof. However, alterations of adjoining Units may be allowed in accordance with Section SISA.2-113 of Minnesota Statutes.
- b. Relocation of Boundaries Between Adjoining Units. Adjustment or relocation of the boundaries between adjoining Units may be allowed subject to the restrictions specified in Section SISA.2-114 of Minnesota Statutes.

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

A Unit Owner or the Association shall not, by act or omission, deed, plat, mortgage, lease or otherwise, seek to partition or subdivide any Unit or seek to abandon, partition, subdivide, encumber, sell or transfer all or any part of the Common Elements.

7. Description of Land. The legal description of the land included in the Condominium is set forth in Exhibit A.

8. General Description of Condominium. The condominium consists of 93 Home Units located at 1666 Coffman Street in Falcon Heights, Minnesota, including 100 garage Units and 96 storage Units.

The Home Units are located in one three-story building and include studios, one, two and three-bedroom units. Square footages vary depending upon the type of unit and construction. All Home Units have a kitchen, living/dining area and bathroom(s). Common Elements include but are not limited to a dining room, kitchen, entry lounge, library, social room and kitchen, guest rooms, craft room, laundry rooms, conservatory, exercise and sauna rooms, committee meeting room, workshop, caretaker apartment, electrical and mechanical rooms, condominium office, public lavatories, management office and storage rooms. See Article I, section 2 for definition of Common Elements.

9. Condominium Plat.

- a. Description. Each Home Unit, garage Unit, storage Unit, the Common Elements and Limited Common Elements in the Condominium is designated and delineated on the Condominium Plat, prepared in accordance with the requirements of Section 515A.2-110 of the Act by Bolton & Menk, Inc., a Minnesota corporation, dated December 31, 1990 and filed in the Office of the Registrar of Titles, Ramsey County, Minnesota, as part of this Declaration. The Unit number of each Unit and its approximate area are set forth on Exhibit B.
- b. Unit Percentage of Undivided Interest in Common Elements. Each Unit's (Home, garage and storage) percentage of Common Expenses, interest in Common Elements and voting power is based on the square footage of the Unit defined in Exhibit B and is allocated according to the ratio of the square footage of each Unit to the total square footage of all Units in the Condominium.
- c. Unit Boundaries. The boundaries of Units (Home, garage and storage) shall be in accordance with Section 515A.2-102 of the Act. Where there is an opening in a wall for any door, window or other aperture, the Unit boundary shall be the inner surface of the door or window or the plane of the wall extended across any other aperture; provided the boundaries of each garage Unit shall be the floor area as depicted on the Condominium Plat, the ceiling area directly above, and the vertical planes extending from floor to ceiling enclosing the floor boundaries.

10. Description of Limited Common Elements. The Limited Common Elements are those allocated to each Unit by operation of Sections 515A.2-102(2) and (4) of the Act.

Use of the Limited Common Elements shall be restricted in scope to the purposes for which they were designed and intended, and no Unit Owner shall use, decorate, landscape or adorn said Limited Common Elements in any manner contrary to such rules and regulations pertaining thereto as may be established by the Board of Directors of the Association.

11. Service of Process. The name and address of the person authorized to receive service of process is as follows:

President  
1666 Coffman Condominium Association  
1666 Coffman Street  
St. Paul, Minnesota 55108

The Association may thereafter designate any person or organization to act in place of the person designated above by amendment to this Declaration duly filed in the office of the Registrar of Titles, Ramsey County, Minnesota.

### ARTICLE III.

#### Easements

1. Easements for Encroachments. In the event that, by reason of the construction, reconstruction, rehabilitation, alteration, improvement, settlement or shifting of the building(s) any part of the Common Elements encroach or shall hereafter encroach upon any part of any Unit or Limited Common Element, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements, Limited Common Elements or upon any other part of another Unit, or if by reason of the design or construction of utility systems and ventilation systems, any main, pipe, duct, conduit, or

structural element seiving more than one Unit encroaches or shall hereafter encroach upon any part of any Unit or any Limited Common Element, valid easements for the maintenance of such encroachments and for this use of the Common Elements are hereby established and shall exist for the benefit of such Units, Limited Common Elements or the Common Elements, as the case may be, so long as all or any part of the building shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Elements or Limited Common Elements be created in favor of any Unit Owner if the encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Condominium or any portion thereof by the other Unit Owners or if it occurred due to the willful conduct of any Unit Owner.

2. Easements for Certain Utilities. The Board of Directors of the Association may hereafter grant permits, licenses and easements for utility purposes for the benefit of the Condominium including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment and electrical conduits and wires and similar conduits over, under, across, along and on any portion of the Common Elements or Limited Common Elements; and each Unit Owner hereby grants the Board of Directors an irrevocable power of attorney to execute, acknowledge, and record, for and in the name of the Association such instruments as may be necessary to effectuate the foregoing.

3. Easements Through Walls Within Units. Easements are hereby declared and granted to install, lay, maintain, repair and replace any wires, pipes, ducts, conduits, public utility lines or structural components running through the walls, floors and ceilings of the Units, whether or not such walls, floors and ceilings lie in whole or in part within the Unit boundaries.



4 . Easements to Run with Land. All easements described in this Article are easements running with the land, in full force and effect to the extent of rights of the Association and Unit Owners under the Lease, and at all times shall inure to the benefit of and be binding upon the Association, its successors and assigns, and any Unit Owner, any holder of Security for an Obligation and any other person having any interest in the Condominium or any part or portion thereof while the Lease is in full force and effect.

5. Right of Entry. With reasonable prior notice to the Unit Owner, the Association has a right of entry to Units for inspections, repairs and such work as is reasonably necessary for the maintenance of the Condominium. In the event of any emergency, the Association has an immediate right of entry.

#### ARTICLE IV.

##### Restrictions. Conditions and Covenants

1. Membership in Association. Unit Owners shall by virtue of such interest be members of the Association and shall remain members of the Association until such time as their interest in the Condominium ceases for any reason, at which time their membership in the Association shall automatically cease. When a Unit is owned by more than one person all such persons are Unit Owners and shall be members of the Association.

2. Limitations on Sales and Ownership. The following limitations apply to the ownership of Units in the Condominium:

- a. No Unit may be sold to any person who does not meet the Eligibility for Occupancy requirements of Article IV, Section 3 below.
- b. A Unit may be transferred to a new owner via inheritance or other legal means but the new owner must meet the requirements of Article IV Section 3 hereof to occupy the Unit. Upon termination of ownership by an eligible occupant, the Unit shall be placed on the market as soon as practicable for sale to an eligible owner/occupant.

3. Eligibility for Occupancy No Unit in the Condominium shall be occupied by or rented or leased to any person who is not an eligible occupant. Eligible Occupant is defined as follows:

- a. current or retired University of Minnesota employees who are 55 years of age or older, and their spouses regardless of age;
- b. the widows or widowers of University of Minnesota employees who are 55 years of age or older, or who are in residence at the time of the eligible spouse's death;
- c. divorced spouses of University of Minnesota employees who are in residence in the Condominium at the time of the divorce;
- d. any person who is a lawful owner of a Unit in the Condominium as of the date of recording of the Lease between the Association and the University of Minnesota dated March 3, 1994;
- e. current spouse of an eligible Owner for estate planning purposes;
- f. any other person who is 55 years of age or older with a suitable University affiliation upon the written consent of the University of Minnesota;
- g. an existing family or other household member to continue in residence; and
- h. a child or children of an otherwise eligible Owner (one generation).

The intent of this provision is that, as a whole, this Condominium shall provide housing for persons 55 years of age or older and that this Condominium shall comply in all respects with the letter and spirit of the definition of "housing for older persons" under the Federal Fair Housing Amendments Act of 1988. For that purpose, it is further the intent of this provision that at least 80 percent of the Units in the Condominium shall at all times be occupied by at least one person 55 years of age or older. Employees who perform substantial duties directly related to the management or maintenance of the Condominium (and their families) are not counted for or against the 80 percent rule. Upon the showing

of a compelling need or hardship, the Association Board of Directors may approve a sale to an individual(s) under age 55, but otherwise eligible, provided such sale does not place the Condominium at risk of failing to qualify under the definition of "housing for older persons" as provided in the Federal Fair Housing Amendment Act of 1988. The status of an eligible owner is not assignable or transferable, except as noted in section 2, and does not run with the title to a Unit. The Condominium Board shall adopt, and the management shall implement and enforce policies and procedures effectuating this restriction and intent.

4. Minor Children. No minor child shall be permitted as a permanent resident or tenant, except by permission of the Board of Directors of the Association given in writing.

A Unit Owner or tenant may have minor children in temporary occupancy as guests/visitors; provided, however, that the visit by such guest shall not exceed a period of thirty (30) days at any one time or ninety (90) days in one year, except by permission of the Board of Directors of the Association given in writing and provided that such occupancy does not create a nuisance. No minor children shall be allowed in the Common Elements unless under the supervision of a Unit Owner or unless directly entering or leaving the Unit.

5. Compliance with Declaration, Bylaws and Rules and Regulations of Association. Each Unit Owner and any occupant of a Unit shall comply with all of the provisions of this Declaration, the Bylaws and such rules and regulations as from time to time are promulgated by the Association. Failure to comply shall be grounds for an action to recover damages or for injunctive relief, or for late payment assessments or reasonable fines, as determined by the Board of Directors of the Association. The Association and any aggrieved Unit Owner has a right of action against Unit Owners who fail to comply with the

provisions of the constituent documents or decisions made by the Association. Unit Owners shall also have a right of action against the Association for failure to comply with this Declaration, the Bylaws and other rules and regulations promulgated by the Association.

6. Administration of Condominium. The administration of the Condominium shall be in accordance with the provisions of this Declaration and the Bylaws hereto attached as Exhibit C.

7. Prohibition of Exemption from Liability for Contribution Towards Common Expenses. No Unit Owner shall become exempt from liability for contribution of such Unit Owner's proportionate share of the Common Expenses of the Condominium, as assessed by the Association, by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Owner's Unit.

8. Purpose for Which Units Are Restricted as to Use. The Home Units, garage Units, and storage Units in the Condominium shall be used exclusively for private residential purposes and shall be occupied and used only by Unit Owners, their spouses and adult companions, tenants and social guests and for no other purposes, except as otherwise provided in Section 16 of this Article IV.

9. Impairment of Structural Integrity of Building. Nothing shall be done, placed, installed or erected in any unit or in, upon or to the Common Elements which would impair the structural integrity of the building. No structural changes or alterations shall be made to any Unit that affect the Common Elements without the prior written consent of the Board of Directors of the Association.

10. Nuisances. No noxious or offensive activity shall be carried on in any Unit, in the Common Elements or Limited 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.

11. Hazardous Use and Waste. Nothing shall be done or kept in any Unit, in the Common Elements, or Limited Common Elements which will increase the rate of insurance, electricity, or any other utility charges of the building, without the prior written consent of the Board of Directors of the Association. No Unit Owner or occupant shall permit anything to be done or kept in the Owner's Unit, in the Common Elements, or Limited 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.

12. Obstructions of Common Elements. There shall be no obstruction of the Common Elements nor shall anything be stored in the Common Elements without the prior consent of the Board of Directors of the Association except as herein expressly provided.

13. Exterior Exposure of Building; Signage. Except upon the prior written consent of the Board of Directors, no Unit Owner or occupant of a Unit shall cause or permit anything to be hung, displayed or placed in the windows thereof (with the exception of draperies, blinds, shades and natural plants), on the outside of exterior doors or on the outside walls or facade of the building, nor shall any Unit Owner fix or place a sign of any sort upon the Condominium's grounds or the outside walls, facade, or roof of the building.

14. Alterations of Common Elements. Nothing shall be altered or constructed in or removed from the Common Elements nor shall any Unit Owner paint or otherwise decorate or change the appearance of any portion of the building not within the walls of his the Owner's Unit except upon the written consent of the Board of Directors of the Association.

15. Pets. The policy of the Condominium with respect to pets shall be as from time to time established in the rules and regulations of the Association pursuant to Section 21 of this Article IV.

16. Home Occupations--Units. Notwithstanding Section 8 of this Article IV to the contrary, an occupant may engage within the boundaries of a Home Unit in a home occupation, that is, a use which is incidental and secondary to the principal use of the Home Unit for residential purposes and does not change the character thereof and does not result in a substantial increase in pedestrian or vehicular traffic including, but not limited to, office and studio uses, weaving, dressmaking and such other uses which by custom are considered accessory to a dwelling; provided, however, that no sign advertising such occupation shall be displayed and further provided, however, that in the event fifty percent (50%) of the voting power of the Association, at a special meeting called for this purpose, votes to require the termination of the occupation because of its objectionable effect on the Condominium, the occupant shall immediately thereafter cease and terminate such occupation.

17. Laundry and Rubbish in Common Elements. The Common Elements and Limited Common Elements shall be kept free and clear of rubbish, debris and other unsightly materials.

18. Prohibition of Renting for Transient or Hotel purposes. No Unit in the Condominium shall be rented for transient or hotel purposes.

19. Limitation on Conveyance of Garage and Storage Units. No garage or storage Unit may be conveyed to persons other than owners of Home Units.

20. Limitation on Rentals/Leasing. No unit in the condominium shall be rented or leased without the prior written consent of the Board of Directors of the Association, which consent shall not be unreasonably withheld. Circumstances where approval of leases will be considered, include but are not limited to, a Unit Owner's seasonal absence from the area, sabbatical; temporary employment elsewhere or temporary health treatment. No Unit shall be rented or leased except to a person(s) who meets the occupancy requirements set forth Section 3 of Article IV of this Declaration. A Unit Owner may request the consent of the Board of Directors of the Association to rent or lease the Owner's Unit to a person who does not qualify for occupancy upon a showing that the Unit Owner has made a reasonable effort during a reasonable period of time to obtain a qualified Lessee, but has been unsuccessful. In each such instance, the Unit Owner must have acquired the prior written consent of the University of Minnesota to such rental or lease. The consent of the Board of Directors of the Association must then be obtained by the Unit Owner in writing before occupancy of the Unit by the Lessee is permitted. Consent to such lease shall not be unreasonably withheld by the Board of Directors. In all cases, the lease agreement shall be in writing and a copy thereof shall be provided to the Board of Directors of the Association. Financial details in the lease may be withheld.

21. Rules and Regulations. In addition to the foregoing restrictions, conditions and covenants concerning the use of the Condominium, reasonable rules and regulations, not in conflict therewith and supplementary thereto, may be promulgated and amended from time to time by the Board of Directors of the Association. Copies of the rules and regulations shall be furnished by the Association to each Unit Owner and occupant.

22. Restrictions, Conditions and Covenants to Run with Land. Each grantee of of a Deed to a Unit in the Condominium, by the acceptance of a deed of conveyance, and each Unit Owner or occupant of a Unit who acquires such interest thereafter, accepts such deed or interest, as the case may be, 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 covenants running with the land, and shall bind any person having at any time an interest or estate in said land, and shall inure to the benefit of the Unit Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

23. Non-Waiver of Covenants. 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.

## ARTICLE V.

### Management, Maintenance, Repairs,

#### Alterations and Improvements

1. By the Association. The management, maintenance, repair, alteration and improvement of the Common Elements shall be the responsibility of the Association, but nothing herein contained shall be construed so as to preclude the Association from delegating to such agents or employees of its choice such duties as may be imposed upon the Association by the terms of this Section.



2. By the Unit Owners. Each Unit Owner shall repair, maintain, alter, improve and replace the Owner's Unit at the Unit Owner's expense, to the extent that such expense is not covered by the proceeds of insurance carried by the Association as provided in Section 515A.3-112 of the Act. Further, all portions of the Common Elements which may become damaged or destroyed by reason of a Unit Owner's own acts or omissions, the acts or omissions of any occupant of the Unit, or the acts or omissions of any invitee, licensee or guest of the Unit Owner or occupant shall be repaired or replaced by the Unit Owner within thirty (30) days after such damage occurred or any extension of such thirty (30) day period granted in writing by the Board of Directors of the Association.

3. Easement of Access. Each Unit Owner shall afford to the Association and the other Unit Owners an easement of access as is reasonably necessary to accomplish the purposes of this section. If damage is done by the access, the responsible Unit Owner or the Association shall promptly repair the damage.

## ARTICLE VI.

### Insurance

1. Property Insurance. The Association shall maintain property insurance on the Common Elements and Units for not less than one hundred percent (100%) of the replacement cost of the property. This coverage shall include fixtures, building service equipment and common personal property and supplies belonging to the Association, and fixtures, equipment and other personal property outside the Units.

2. Liability Insurance. The Association shall maintain comprehensive general liability insurance in the amount of not less than \$5,000,000 per occurrence or such higher

amount as the Association deems advisable or that is required under Section 515A.3-111 (b) of the Act to preclude Unit Owner liability arising out of the ownership of the Common Elements and to cover any legal liability that results from law suits related to employment contracts in which the Association is a party.

3. Coverage, Loss Adjustment. The coverage and provisions of all insurance obtained by the Association shall be in conformity with Section 515A.3-112 (c) and (f) of the Act and with FNMA requirements. Any loss shall be adjusted in accordance with Section 515A.3-112 (d) of the Act.

4. Individual Policy for Unit Owner. Each Unit Owner may obtain insurance, at the Unit Owner's own expense, affording personal property, additions and alterations, additional living expense, condominium loss assessment, personal liability and any other coverages obtainable, to the extent and in the amounts as the Unit Owner deems necessary to protect the Unit Owner's interest; provided, however, that any such policy or policies shall contain waivers of subrogation and contribution rights if possible.

5. Other Insurance. The Association shall maintain other insurance coverage as is desirable, required by law, or required by FNMA from time to time.

## ARTICLE VII.

### Casualty Damage

1. The procedures the Association shall follow in the event of damage or destruction of part or all of the Condominium shall be in accordance with Section 515A.3-112 (g) of the Act, provided that restoration of the premises after destruction requires construction of a minimum of 50 Units. Timely written notice of any loss that affects a material portion of the project or of a Unit shall be given to all first mortgagees whose mortgage liens are affected thereby.

ARTICLE VIII.

Condemnation

1. In the event of taking by eminent domain of all or any part of the Condominium, the procedures to be followed shall be as set forth in Section 515A.1-107 of the Act. The Association and any Unit Owner affected by such condemnation proceeding shall promptly and timely provide written notice of the commencement of any such proceeding to all first mortgagees whose mortgage liens are affected thereby. Further, the provisions of Section 5.2 of the Development Agreement between the City of Falcon Heights and Coffman Housing Partnership, and the provisions of Article 11 of the Lease shall be complied with in all respects.

ARTICLE IX.

Amendment

1. Notice. Written notice of the regular, special or annual meeting at which proposed amendment(s) shall be considered shall contain a statement of the substance of such amendment(s) and shall be given at least twenty-one (21) days prior to such meeting. In the event that amendments are proposed for adoption by written consent, the entire text of the amendment shall be printed and sent with a consent form.

2. Manner of Adoption. Except as otherwise provided in this Declaration or the Act, an amendment to this Declaration shall be adopted upon its receiving either the written consent or an affirmative vote at any regular, special or annual meeting of the Association of sixty-seven percent (67%) of the total voting power of the Association and sixty-seven percent (67%) of the total voting power of the holders of first mortgages who have

requested that the Association notify them of any proposed action which requires a specified percentage of eligible mortgage holders.

3. Filing of Amendment. Any amendment to this Declaration shall be made in recordable form and shall have attached thereto a certificate signed by the Secretary of the Association certifying that the amendment was duly adopted in the manner specified in this section. Said amendment shall be effective only when this certificate and a copy of such amendment are duly filed in the office of the Ramsey County Registrar of Titles.

4. Exceptions. No amendment shall discriminate against any Unit Owner or against any Unit, together with its percentage of undivided interest in the Common Elements, or class or group of Units, unless the Unit Owners so affected shall consent thereto, and no amendment shall increase the number of Units, change any Unit boundary or share thereof in the Common Elements, convert Common Elements to Limited Common Elements, change the share of any Unit Owner in the Common Expenses or profits, change the pro rata interests or obligations appurtenant to any Unit for purposes of levying assessments or charges or allocating distribution of insurance proceeds or condemnation awards or change the voting strength allocated to a Unit, except with the unanimous written agreement of all Unit Owners and holders of Security for an Obligation. Further, no amendment to this Declaration altering Limited Common Elements shall be effective without the written consent of the Unit owner and any holder of Security for an Obligation of the Unit to which the Limited Common Elements are allocated.

ARTICLE X.

Assessments and Liens  
for Assessments

1. Obligation of Unit Owners to Pay Assessments. Each Unit Owner shall be liable for Common Expenses and assessments to be used to provide food service to the Condominium (the "Dining Assessments") allocated and assessed to the Owner's Unit.

2. Assessments. Assessments for Common Expenses (including assessments for the unit owner's proportionate rental payments under the ground Lease with the Regents of the University of Minnesota) shall be governed by Section 515A.3-114 of the Act, except that as provided in Section 515A.3-114(d) thereof, the Association may assess any Common Expense benefiting fewer than all of the Units in the Condominium to the Units benefited, such Common Expense to be allocated among the Units benefited in proportion to their Common Expense liability.

3. Reserve Fund. The Association shall maintain operating and capital reserve funds to provide working capital for such things as maintenance, alterations, improvements, replacements, reconstruction, repairs, emergencies and unexpected operating expenses not covered by the Association's budget. The amount to be placed in said fund shall be established by the Board of Directors of the Association. However, such fund shall be equal to at least three (3) months' estimated common expenses for all of the Units in the Condominium.

4. Preparation of Proposed Budget and Levying of Assessment. Each year, before December 1, the Board of Directors shall estimate the total amount necessary to pay the Common Expenses and Dining Assessment which will be required during the ensuing calendar year together with the reasonable amount considered by the Board to be necessary

## Minnesota Statutes 2000, Table of Chapters

### Table of contents for Chapter 515 A

#### **515A.3-114 Assessments for common expenses.**

(a) Until the association levies a common expense assessment, the declarant shall pay all accrued expenses of the condominium. After any assessment has been levied by the association, assessments shall be levied at least annually and shall be based on a budget adopted at least annually by the association.

(b) Except for assessments under subsections (c) and (d), common expenses shall be assessed against all the units in accordance with the common expense liability allocated to each unit (section 515A.2-108). Any past due assessment or installment thereof shall bear interest at the rate established by the association not exceeding the rate of interest provided in section 549.09.

(c) Except as provided by the declaration any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the unit or in equal shares against the units to which that limited common element was assigned at the time the expense was incurred.

(d) If the declaration so provides, the association may assess any common expense benefiting less than all of the units against the units benefited. In that case the common expense shall be allocated among units benefited in proportion to their common expense liability.

HIST: 1980 c 582 art 3 s 515.3-114

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for the reserve funds. No later than December 1 of each year, the Board of Directors shall provide or mail to each Unit Owner a copy of the budget and a notice advising the Unit Owner of the estimated amount of the common expense assessments the Unit Owner shall pay in the next calendar year which shall be in accordance with the allocation of Common Expense liability set forth in Exhibit B. The notice shall also advise the Unit Owner of the estimated amount of Dining Assessment the Unit Owner shall pay during the next calendar year.

5. Payment of Assessments. Each Unit Owner shall be obligated to pay monthly to the Board of Directors, or as the Board of Directors may otherwise direct, one-twelfth (1/12th) of the assessment levied pursuant to the preceding Section hereof.

6. Special Assessments. In addition to the annual assessments levied on or before December 1 of each year, as provided hereinabove in Section 2 of this Article X the Board of Directors may in its discretion levy special assessments at such other times as in its judgement are required for the proper management, maintenance and operation of the Common Elements, outside the scope of ordinary maintenance budgeted in the reserve, or to defray the costs of any improvement, alteration, repair, rehabilitation, renovation or replacement or addition to the Common Elements. Special assessments shall be due and payable as determined by the Board of Directors. In the event any special assessment for replacement, renovation, alteration, repair, improvement, rehabilitation or addition to the Common Elements involves the expenditure of \$15,000 or 7% of the current budget of the Association, whichever is larger, then such special assessment shall be first approved by a majority of the voting power of the Association at a special meeting called for such purpose. Votes may be cast in person, by proxy or by absentee ballot. Proxies must be in writing and

filed with the Secretary of the Association before the appointed time of the meeting. Proxies shall remain effective until revoked. To be valid, a proxy must be given only to another member of the Association, or to a holder of Security for an Obligation of the Unit owned by the member who is giving the proxy. Absentee ballots must be received by the Association, either by mail or by deposit with the Secretary of the Association, before the appointed time of the meeting.

7. Failure to Prepare Annual Budget and Levy Annual Assessment. The Board's failure to prepare or delay in preparing the proposed annual budget and to levy assessments upon each member as provided in Section 4 of this Article X shall not constitute a waiver or release in any manner of such member's obligation to pay annual assessments, whenever the same shall be determined, and the member shall continue to pay the monthly assessment at the then existing monthly rate until the member receives the new annual assessment against the member's Unit.

8. Fees, Charges, Late Charges, and Interest. Fees, charges, late charges, and interest charges provided for in Section 515A.3-102(a) (8), (9) and (11) and SISA.3-114 (b) of the Act shall be deemed to be assessments and will constitute a lien and be enforceable in accordance with Section SISA.3-115 of the Act.

9. Lien for Assessments: Personal Obligation. A lien in favor of the Association for unpaid assessments shall be established and enforced in the manner provided in Section SISA.3-115 of the Act. Unit Owners at the time an assessment is payable are personally liable; however no successor Unit Owner is personally liable for a previous Unit Owner's assessment unless the successor Unit Owner assumes the obligation. The assessment lien



January 10, 2013

RE: Options for Deductible Assignment  
Suggestions  
Examples for discussion

I have found the governing documents of the association to be silent on the options for dealing with the deductible on the master policy. Therefore, I would suggest that the rules found in MCIOA (Minnesota Common Interest Ownership Act) be used as a guideline. They allow for the Board to choose from the following:

- 1) The deductible may be assigned to the owner of the unit in which the loss originated.
- 2) The deductible may be shared equally among the owners affected by the loss.
- 3) The association may choose to pay the deductible out of the budget funds - line item "Insurance Deductibles."

Most associations, for the sake of simplicity, will

- (1) assign the deductible for any loss that originates on the interior of the unit, to the owner of the unit and
- (2) pay the deductible from the budget when the loss originates on the exterior of the building.

Examples:

1. High winds and/or hail damage the building. The deductible will be paid from the budget line item - "Insurance Deductible"
2. A homeowner finds that his/her toilet has leaked, cracked, or broken and water has damaged a total of 3 units. The owner of the unit where the loss originated is assigned the deductible which they will then request from their HO6 carrier. In some cases, when there is no damage to Unit #1, the insurance carrier will refuse to pay the deductible, leaving the owner with an out-of-pocket exposure. Therefore, a second option may be to share the deductible equally among the owners. The downside of this is that units #2 and #3 will not be happy about having to involve their HO6 carrier. The truth is, when we live in a single building, close proximity to others, we must accept the fact that a loss may not be our "fault" and yet we will be expected to contribute to the solution. This situation should be carefully discussed and the Board's decision must be carried through for all similar situations.
3. The loss originates in a common area or within the walls (example: pipe rupture) but ends up affecting one or more units on the interior. Here the choices are to share the deductible among the owners affected, or have the association pick up the deductible because the loss started in a common area. The danger with having the association pay the deductible, is that then the line item in the budget must take into account the probable number of such losses in any given year and fund for them. This can result in increased dues, or an assessment to fund the budget line item.

Under no circumstances should the association Board, members, or manager ever attribute "**fault**" to the handling of the deductible. Fault is never considered in insurance settlement. Therefore, by using the origin of the loss as the assigning point, it neutralizes the issue.

Please ask the Board and/or insurance committee to review this document and think about any questions they may have that we can discuss at a later meeting.

Sincerely,  
Sarah Fjellanger, CIC, CIRMS



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w: rjfacencies.com

against the Unit shall remain in all cases of transfer of ownership unless otherwise prohibited by other provisions herein.

10. Mortgage Deed in Lieu of Foreclosure. In the event a First Mortgagee, whose mortgage is not filed after the filing of the lien for unpaid assessments, takes a deed in lieu of Foreclosure, notwithstanding the provisions of this Article and the applicable statutes, any lien of the Association hereunder shall terminate and be of no further force and effect, provided, the First Mortgagee gives written notice of the taking of a deed in lieu of Foreclosure to the Association not more than sixty (60) days after taking the deed and indicates it will accept all amounts due under the mortgage from the Association as provided herein and thereupon deed to the Association the Unit. The Association shall have not less than thirty (30) days and no more than ninety (90) days to make the payment. The notice shall indicate the amount due. The Association shall give a satisfaction of lien if it does not make the payment. An Affidavit of Service of the Notice and Failure to Exercise shall be prima facie evidence of the Association's refusal to exercise this right. If the First Mortgagee fails to give notice hereunder offering to accept payment from the Association or refuses to accept payment properly tendered by the Association and deed the Unit to the Association, this paragraph shall be inapplicable and the assessment lien shall be enforceable as otherwise provided by law.

## ARTICLE XI.

### Compliance with the Development Agreement

1. Purpose. In addition to various other provisions of this Declaration and the Bylaws which comply with the requirements of the Development Agreement between the Declarant and the City of Falcon Heights (the "City"), the following additional provisions are added and apply to the Association and all Unit Owners.

2. Incorporation. The Development Agreement, including any duties and obligations agreed to therein, is incorporated by reference herein, and it is specifically agreed the Condominium Association and all Unit Owners will in all respects comply with the Development Agreement.

3. Assumption of responsibilities and Obligations. The Association has assumed all responsibilities and obligations of the Original Declarant under the Development Agreement, as provided therein. However, the Original Declarant shall remain jointly and severally liable for any tax increment shortfall (to the maximum extent set forth in Section 7.4 of the Development Agreement) until the Debt Service Reserve Account is fully funded pursuant to Section 7 of this Article XI below. The Association specifically, but without limiting any other obligation, agrees it is bound by the Guaranty which is part of the Development Agreement, and has executed a guaranty in the form of Exhibit H attached to the Development Agreement.

4. Compliance with Laws, Etc. The Condominium shall be operated and maintained in accordance with the terms of the Development Agreement, the Development Program (as defined in the Development Agreement), and all local, state and federal laws and regulations (including, but not limited to, environmental, zoning, energy conservation, building code and public health laws and regulations), except for variances contemplated in any construction plans approved by the City.

5. Insurance.

- a. The Association shall provide property insurance coverage equal in value to one hundred percent (100%) of the replacement cost of the Condominium and shall provide the City, on an annual basis, proof of payment of premiums for such insurance.

- b. The Association shall provide Comprehensive General Liability insurance in the amount of \$600,000 combined single limits and \$200,000 per person naming the City, governing body members, officers, agents, servants and employees thereof as additional insureds.

6. Public Welfare. The Unit Owners shall cooperate fully with the City to resolve any traffic, trash removal, parking, or public safety problems which arise in connection with the operation of the Condominium.

7. Debt Service Reserve Account. The Association shall maintain a Debt Service Reserve Account, totalling five percent (5%) of the original principal amount of the Tax Increment Bonds issued pursuant to the Development Agreement. All funds in this reserve shall be placed in escrow, to be available to pay any shortfall in the amount due of principal and interest on the Tax Increment bonds, pursuant to the Escrow Agreement substantially in the form attached to the Development Agreement as Schedule K. The initial amount in the Debt Service Reserve of \$65,000 was paid by Coffman Housing Partnership. Any additional amounts required by the City shall be funded by the Association. The Debt Service Reserve Account is for the sole purpose of guaranteeing the minimum annual amount needed to pay when due all principal and interest maturing on the Tax Increment Bonds. At no time shall the Debt Service Reserve Account total less than five percent (5%) of the original principal amount of the Tax Increment Bonds, and the City, at its sole option, may require that the Debt Service Reserve Account be funded up to fifteen percent (15%) of the original principal amount of the Tax Increment Bonds. The City agrees that it will not exercise this option to increase the amount in the Debt Service Reserve Account unless it reasonably believes that the Debt Service Reserve Account as funded is inadequate to meet any shortfall. The City shall give the Association thirty (30) days' written notice of any draw upon the Debt Service Reserve Account. If the City draws monies from the Debt

Service Reserve Account, the Association shall replenish the Debt Service Reserve Account within six (6) months with an amount of money equal to the amount drawn. Any amounts received by the City from the Debt Service Reserve Account will be returned to the Debt Service Reserve Account in the event the cause of the shortfall was an individual Unit owner's failure to pay property taxes and such property taxes are subsequently paid and credited to the City. In no event shall amounts from the Debt Service Reserve Account, together with amounts under the Guaranty referred to in Section 7.4 of the Development Agreement, exceed in any twelve (12) month period a sum in excess of twenty-five percent (25%) of the debt service due on the Tax Increment Bonds during that period, unless and until the City files with the Association an opinion of Bond Counsel to the effect that such excess payment would not impair the tax exempt status of the Bonds. If there is any reduction in the Reserve, it shall be replenished in the same manner as any other Association reserve. Earnings on this Reserve shall be paid to the Association to the extent the Debt Service Reserve Account exceeds the amount required under the Development Agreement. Upon payment of the Tax Increment Bonds, the then existing balance in this Reserve shall be paid to the Association.

8. Assessed Value of Units. All Unit Owners shall be bound by the Assessment Agreement provided for in the Development Agreement, pro rata in an amount equal to the initial purchase price of their Unit divided by the sum of initial purchase prices for all Units multiplied by \$9.2 million. The Unit Owners and the Association shall not through (i) tax abatement proceedings, and/or (ii) any proceeding commenced pursuant to Minnesota Statutes, Chapter 278, or any similar law, and/or (iii) a petition or request to any assessor or board of equalization, and/or (iv) willful destruction of the Condominium or any

Unit, cause the Ramsey County Assessor's market value of the Units in the Condominium as the basis for ad valorem taxes payable in any year during which the Tax Increment Bonds are deemed outstanding, to fall below a total for all Units in the Condominium of \$9.2 million; nor shall Unit Owners or the Association withhold or delay payment of all or any part of annual real property taxes as part of any petition or proceeding set forth in (i), (ii) or (iii) above. Additional improvements to individual units or to the common elements shall not reduce the fair market value of the property for ad valorem tax purposes. Nothing herein precludes or limits, in any way, a challenge by any Unit Owner to any assessment in excess of the pro rata share of \$9.2 million for that Unit under the formula set forth herein.

9. Amendment. No change shall be made in the Condominium Declaration in violation of the Development Agreement and no change shall be made in this Article, prior to the repayment of the Tax Increment Bonds without the consent of the City. The City by joining this Declaration approves all Condominium Documents as such term is defined in the Development Agreement.

## ARTICLE XII.

### FNMA Requirements

1. Purpose. In addition to various other provisions of this Declaration and the Bylaws, which meet the requirements of the Federal National Mortgage Association (hereinafter "FNMA"), the following additional FNMA provisions are added and apply to the Association and Unit Owners.

2. Effect of FNMA Provisions. The provisions of this Article XII shall take precedence over all other provisions and sections of this Declaration, and the Bylaws of the Association, and in the event of any inconsistency or contradictions, the following sections shall control.

3. Notification of Default. A first mortgagee of a Unit or its assigns, upon written request, will be entitled to written notification from the Association of any default in the performance by the Unit Owner of any obligation under this Declaration or the Bylaws which is not cured within sixty (60) days.

4. Exemption from Right of First Refusal. Any first mortgagee or its assigns who obtains title to a unit pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage or deed (assignment) in lieu of foreclosure will be exempt from any "right of first refusal" which may be contained in this Declaration or the Bylaws.

5. Exemption from Liability for Unpaid Assessments. Any first mortgagee or its successors in interest who obtains title to or takes possession of a Unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage or deed (assignment) in lieu of foreclosure will not be liable for such Unit's unpaid assessments which accrued prior to the acquisition of title to such Unit by the mortgagee or its successors in interest in the case of the deed, or prior to the expiration of the statutory period of redemption in the case of a mortgage foreclosure.

6. Certain Amendments. In addition to statutory requirements for amendment of this Declaration and the Bylaws of the Association and in addition to other requirements set forth herein, or in the Act, unless at least sixty-seven percent (67%) (or such higher percentage as is required by law or this Declaration, the Articles of Incorporation of the Association or the Bylaws) of the first mortgagees of the Units or their assigns (based upon one vote for each first mortgage owned), and at least sixty-seven percent (67%) (or such higher percentage as is required by law or this Declaration, the Articles of Incorporation of the Association or the Bylaws) of the Unit Owners (based upon the percentage of voting

power as set forth in Exhibit B) have given their prior written approval, neither the Association nor the Unit Owners shall be entitled to:

- a. Terminate the legal status of the Condominium (except in accordance with procedures set forth in the Act or this Declaration and the Bylaws for amendment or termination of the Condominium in the event of destruction, damage or condemnation);
- b. By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer any Common Elements (the granting of easements for public utilities and for other public purposes consistent with the intended use of the Common Elements shall not be deemed such a transfer);
- c. Use hazard insurance proceeds for losses to any property in the Condominium (whether to Units or to Common Elements) other than for the repair, replacement or reconstruction of such property in the Condominium except as provided by statute in case of substantial loss to the Units and/or Common Elements of the Condominium;
- d. Add or amend any material provisions of this Declaration, Bylaws or Condominium Plat of the Condominium which establish, provide for, govern or regulate any of the following:
  - (i) Voting;
  - (ii) Assessments, assessment liens or subordination of such liens;
  - (iii) Reserves for maintenance, repair and replacement of the Common Elements (or Unit if applicable);
  - (iv) Insurance or Fidelity Bonds;
  - (v) Rights to use of the Common Elements;
  - (vi) Responsibility for maintenance and repair of the several portions of the Condominium;
  - (vii) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;
  - (viii) Boundaries of any Unit;
  - (ix) The interests in the Common Elements or Limited Common Elements;
  - (x) Convertibility of Units into Common Elements or of Common Elements into Units;



- (xi) Leasing of Units;
- (xii) Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey the Owner's unit;
- (xiii) Decision by the Association to establish self management when professional management had been previously required by an eligible mortgage holder; or
- (xiv) Any provisions which are for the express benefit of mortgage holders, eligible mortgage holders or eligible insurers or guarantors of first mortgages on Units except in accordance with procedures set forth in the Act or this Declaration and the Bylaws in the event of amendment or termination made as a result of destruction, damage or condemnation to the Condominium. For purposes of this subparagraph (d) an addition or amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. An eligible mortgage holder, insurer or guarantor who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

7. Examination of Records; Audited Financial Statement. Unit owners, first mortgagees of Units, and their successors in interest or assigns, upon written request to the Association, shall have the right to examine the books and records of the Association or the Condominium during normal business hours. In addition, any mortgage holder may have an audited financial statement prepared, upon its request, by the Association.

8. Taxes, Assessments and Liens. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual Units and not to the Condominium as a whole.

9. Priority. No provision of this Declaration or of the Bylaws shall be deemed to give a Unit Owner, or any other party, priority over the rights of first mortgagees of the Units or their successors in interest, pursuant to their mortgages in case of a distribution to the Unit Owners of insurance proceeds or condemnation awards for losses to or taking of Units and/or common elements.

10. Limitations on Agreement for Professional Management. Any agreement for professional management services between the Association and any other entity shall be terminable by the Association for cause upon thirty (30) days written notice thereof, and the term of any such agreement may not exceed one (1) year renewable by agreement of the parties for successive one year periods.

11. Notice of Change in Insurance Policy or Fidelity Bond. Upon written request to the Association, the first mortgagee of a Unit or its assigns shall be entitled to notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

12. Notice of Proposed Actions. Upon written request to the Association, the holder, issuer or guarantor of the mortgage on any Unit is entitled to timely written notice of any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

### ARTICLE XIII.

#### General Provisions

1. Severability. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph or clause 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.

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

Whenever appropriate, the singular number may be read as the plural, and the plural may be read as the singular. Compound words beginning with the prefix "here" shall be read as referring to this entire Declaration and not merely to the part of it in which they appear.

3. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration, or the intent of any provision hereof.

4. Limitation on Abandonment or Termination of Condominium. Except in the manner provided in Section SISA.2-120 of the Act, no holder of an interest shall seek to abandon or terminate the Condominium or to remove the Property from the provisions of the Act. Strict compliance with the provisions of Section 515A. 2-120 shall be the only means by which this Condominium may be terminated.

### ARTICLE XIV.

#### Compliance with Local Ordinance

This Condominium has been created in compliance with all ordinances provided for in Section SISA.1-106 of the Act.

Declaration Pages 35 to Exhibit A and B. pdf

