

(a) This Condominium together with any other condominium or condominiums may by agreement of the Owners be merged or consolidated into a single condominium. In the event of merger or consolidation, unless the agreement otherwise provides, the resultant condominium shall be, for all purposes, the legal successor of the preexisting condominiums, and the operation and activities of all associations of the preexisting condominiums shall be merged or consolidated into a single association which shall hold all powers, rights, obligations, assets and liabilities of all preexisting associations.

(b) An agreement by two or more condominiums to merge or consolidate pursuant to subsection (a) shall be evidenced by an agreement prepared, executed, recorded and certified by the president of the association of each of the preexisting condominiums following approval by Owners of Units to which are allocated the percentage of votes in each condominium required to terminate that condominium. Any such agreement must be executed in the same manner as a deed and recorded in the County and is not effective until recorded.

(c) Every merger or consolidation agreement must provide for the reallocation of the allocated interests in the new association among the Units in the resultant Condominium either (i) by stating such reallocations or formulas upon which they are based or (ii) by stating the percentage of overall allocated interests of the new condominium which are allocated to all of the Units comprising each of the pre-existing condominiums and providing that the portion of such percentages allocated to each Unit formerly comprising a part of such pre-existing condominium shall be equal to the percentages of allocated interests allocated to such unit by the declaration of the pre-existing condominiums.

6. AMENDMENT OF DECLARATION

Except for amendments which Declarant, Association or Unit Owners is authorized and/or obligated elsewhere herein to make and except as may be elsewhere herein or in the Condominium Act otherwise specifically provided, this Declaration and the Plat recorded in connection therewith may be amended only in the following manner.

6.1 Notice.

Notice of the subject matter of any proposed amendment to this Declaration shall be included in the notice of any meeting at which such proposed amendment is to be considered.

6.2 Proposal.

Amendments to this Declaration may be proposed by the Board of the Association by resolution adopted by a majority vote of the Directors present at any regular or special meeting of the Board at which a quorum is present or, in the alternative, by a written instrument signed by a majority of the Board, or by the Owners of Units to which at least twenty percent (20%) of the votes of the Association are allocated, whether by vote of such Owners as members of the Association at a special or regular meeting of the members or by written instrument signed by them.

6.3 Adoption.

Any amendment to this Declaration so proposed by the Board or members of the Association shall be transmitted to the President of the Association, or, in the absence of the President, to a Vice President or other acting chief executive officer, who shall thereupon call a special meeting of the Unit Owners in this Condominium to consider and vote upon such proposed amendment; provided, that a proposed amendment may be considered and voted upon at an annual meeting of the Association if the next such meeting is to be held within the time hereafter limited and if notice of the proposed amendment shall be included in the notice of such meeting. The special or annual meeting, as the case may be, shall be held not sooner than ten (10) days nor later

than fifty (50) days from the date of receipt by the Association of the proposed amendment. Notice of the meeting shall be in the form and shall be delivered and the meeting shall be called and held as provided for in the Bylaws of the Association; provided, that any Owner may, in writing signed by such Owner, waive notice of any such meeting in the manner provided for in the Bylaws of the Association and such waiver, when delivered to the Secretary of the Association for filing in its records, whether before, during or after such meeting shall be construed to be the equivalent of giving notice to such Owner.

No provision of this Declaration shall be revised or amended by reference to its title and number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words shall be inserted and underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration, see provision .E.E. for present text." Non-material errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment. The proposed amendment may be adopted, and shall become effective, by and upon the affirmative vote at such meeting of not less than sixty-seven percent (67%) of the votes in the Association.

6.4 Proviso.

Except as elsewhere permitted herein, no amendment shall:

- (a) Change any "Condominium Parcel" unless the Owner thereof and Mortgagees thereon shall join in the execution and acknowledgment of the amendment, or
- (b) Discriminate against any Unit Owner or against any Unit or any class or group of Units comprising part of the Condominium Property, unless the Owners of all affected Units and Mortgagees thereon shall join in the execution and acknowledgment of the amendment, or
- (c) Change the share of Common Elements appurtenant to any Unit or Units or the share of any Unit Owner in the Common Surplus, or increase the share of any Unit Owner(s) in the Common Expenses, unless the Owners of Units so affected and the Mortgagees thereon shall join in the execution and acknowledgment of such amendment, or
- (d) Make any change in Article 10 hereof, entitled "Insurance," nor in Article 11 hereof, entitled "Reconstruction or Repair After Casualty," unless the Mortgagees who hold deeds of trust or mortgages on fifty-one percent (51%) of the Units shall join in the execution and acknowledgment of the amendment, or
- (e) Adversely affect the lien or priority of any previously recorded deed of trust or mortgage held on a Mortgagee; or
- (f) Shall be made to this Declaration or any exhibits thereto so long as the Declarant has title to any Condominium Unit unless the Declarant shall consent in writing to the amendment, which consent may be withheld by the Declarant for any reason.
- (g) Change the use of any Unit or Common Element to commercial use without Declarant's written consent.
- (h) The right of the Declarant to amend this Declaration of Condominium as elsewhere provided herein shall not be abridged in any manner by this Article or any other article of this Declaration or exhibits thereto.

6.5 Effective Date and Recording Evidence of Amendment.

An amendment, other than amendments made by the Declarant alone pursuant to the Condominium Act or this Declaration, shall be evidenced by a certificate of the Association which shall include recording data identifying the Declaration and shall be executed in the form required for the execution of a deed.

Amendments effected by the Declarant must be evidenced in writing and recorded, but a certificate of the Association is not required. An amendment of the Declaration is effective when it is recorded in the public records of the County.

6.6 Amendment by Declarant.

Notwithstanding any provision to the contrary set forth in this Article or elsewhere in this Declaration or in the Articles of Incorporation or Bylaws of the Association, the Declarant may amend this Declaration as required by an Institutional Mortgagee or a governmental entity, or in accordance with the provisions of this Declaration without the consent or joinder of any Unit Owner or Mortgagee.

6.7 Statute of Limitation.

No action to challenge the validity of an amendment adopted by the Association pursuant to this Article may be brought more than one (1) year after the amendment is recorded.

7. MAINTENANCE, REPAIRS AND REPLACEMENTS

Responsibility for maintenance, repairs and replacements of Condominium Property and property of Unit Owners located or situated within the Condominium shall be as follows:

7.1 Units.

Each Unit, and the personal property therein, fixtures, equipment and appliances comprising a part thereof, located therein, or exclusively serving the same shall be maintained, including, without limitation, the air conditioning and electrical equipment located outside the Unit which serves the Unit exclusively, kept in good repair and replaced by and at the expense of the Owner(s) thereof. All maintenance, repairs and/or replacements for which Unit Owners are responsible and obligated to perform, whether structural or nonstructural, ordinary or extraordinary, shall be performed promptly as the need arises.

Notwithstanding the obligation of Unit Owners for maintenance, repair and replacement of and in Units, the proceeds of all insurance awards or payments under insurance carried by the Association for loss or damage to or within such Units shall be applied against repairs and replacements to the extent that such award or payments exceed the deductible provisions of such insurance.

7.2 Common Elements.

The Association shall be responsible for, and shall assess against and collect from all Unit Owners, the costs of maintaining, repairing, replacing and keeping in clean and orderly condition, all of the Common Elements except certain of the Limited Common Elements specified below. The Association shall, at the expense of all Unit Owners, repair any and all incidental damage to Units resulting from maintenance, repairs and/or replacements of or to Common Elements. If damage, for which a Unit Owner is legally responsible and which is not covered by insurance provided by the Association is inflicted on any Common Element, the Association may direct such Unit Owner to repair such damage or the Association may itself cause the repairs to be made and recover the cost thereof from the responsible Unit Owner.

7.3 Limited Common Elements.

The responsibility for, and the cost of keeping clean and in orderly condition the porches and storage areas forming a part of the Limited Common Elements which exclusively serve a certain Unit to the exclusion of other Units, shall be borne by the Owner(s) of the Unit(s) to which the same are appurtenant. Provided however, all repairs and maintenance to porches and storage areas other than the cost of keeping them clean and orderly shall be performed by the Association.

Notwithstanding the Unit Owners' obligations with respect to certain Limited Common Elements, any proceeds of insurance awards or payments under insurance carried by the Association for loss or damage to such Limited Common Elements shall be applied against such repair or replacement to the extent that such award or payments exceed the deductible limits of such insurance.

7.4 Management.

The Board may enter into a contract with any firm, person, or corporation or may join with any other condominium associations and entities in contracting for the maintenance and repair or management of the Condominium Property. The Board may contract for and may delegate to the contractor or manager all the powers and duties of the Association, except such as are specifically required by this Declaration or by the Bylaws, to have the approval of the Board of Directors or the membership of the Association. The contractor or manager may be authorized to prepare the budget, collect assessments for Common Expenses as provided by this Declaration, Bylaws and exhibits to this Declaration.

7.5 Entry for Maintenance.

The Board, or its agents or employees, shall be allowed entry into any Unit or Limited Common Elements for the purpose of maintenance, inspection, repair, replacement of the improvements within the Units, Limited Common Elements, or the Common Elements or in case of emergency circumstances threatening Units, Limited Common Elements or the Common Elements. The liability for any damage done by the Board, agents or employees of any management firm or Association shall be assessed against Association.

7.6 Failure to Maintain.

In the event a Unit Owner fails to maintain his Unit and Limited Common Elements, as required herein, or makes any alterations or additions without the required consent, or otherwise violates or threatens to violate the provisions of this Declaration relevant to maintenance, alteration and repair, the Association shall have the right to make special assessments and place a lien against the Unit and the Unit Owner for the collection of such sums all as more fully described in Articles 15 and 16.

7.7 Disputed Liability.

In the event that any Special Assessment is made under this Article is Five Hundred Dollars (\$500.00) or less and it is disputed by an Owner, the Board may appoint an adjudicatory panel to determine if a Unit Owner is responsible for the damages. Such panel shall accord to the party charged with causing damages notice of the charges, an opportunity to be heard and to present evidence, and notice of the decision. The panel may assess liability for each damage incident not in excess of Five Hundred Dollars (\$500.00) against the responsible party. Liabilities of Unit Owners so assessed shall be Special Assessments subject to the provision of Article 15 and 16 as hereinafter provided.

8. ALTERATIONS OF AND IMPROVEMENTS TO UNITS AND COMMON ELEMENTS

Except as the right is herein reserved to Declarant, neither a Unit Owner nor the Association shall make any alterations, improvements or additions to Units, Common Elements, or Limited Common Elements except in compliance with the following conditions.

8.1 Declarant's Right to Alter.

The Declarant hereby reserves Special Declarant Rights as follows: (i) make alterations, additions or improvements in, to and upon Units owned by the Declarant, whether structural or non-structural, interior or exterior, ordinary or extraordinary; (ii) change the layout or number of rooms in any Declarant-owned Units; (iii) change the size and/or number of Declarant-owned Units by subdividing one or more Declarant-owned Units into two or more separate Units, combining separate Declarant-owned Units (including those resulting from such subdivision or otherwise) into one or more Units, or otherwise; and (iv) reapportion among the Declarant-owned Units affected by such change in size or number pursuant to the preceding clause their appurtenant interest in the Common Elements and share of the Common Surplus and Common Expenses; provided, however, that the percentage interest in the Common Elements and share of the Common Surplus and Common Expenses of any Units (other than Declarant-owner Units) shall not be changed by reasons thereof unless the Owners of such Units shall consent thereto and, provided further, that Declarant shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction in so doing including the rules and regulations of the Condominium Act. In making the above alterations, additions and improvements, the Declarant may relocate and alter Common Elements adjacent to such Units, incorporate portions of such Common Elements into altered Units and/or create additional Common Elements from portions of altered Units, provided that such relocation and alteration does not materially or adversely affect the market value or ordinary use of Units owned by Unit Owners other than the Declarant. Any amendments to this Declaration required by actions taken pursuant to this Article may be effected by the Declarant alone. Without limiting the generality of Section 6.4 hereof, the provisions of this Section may not be added to, amended or deleted without the prior written consent of the Declarant.

8.2 Unit Owner's Right to Alter.

Owner may make any improvement or alterations to his Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium.

No Unit Owner shall make any addition, alteration or improvements in or to the Common Elements nor to his Unit or any Limited Common Element nor change the appearance of the Common Elements or the exterior appearance of any Unit or any other portion of the Condominium without the prior written consent of the Board.

The Board shall have the obligation to answer any written request by a Unit Owner for approval of such an addition, alteration or improvement in such Unit Owner's Unit or Limited Common Element within 60 days after such request and all additional information requested is received, and the failure to do so within the stipulated time shall constitute the Board's consent.

Provided, however, the Board may establish certain pre-approved types of improvements and any Unit Owner who constructs such improvements to his Unit or Limited Common Elements in compliance with the pre-approved plans and specifications shall not need any further approval and shall be deemed to be in compliance. Provided, however, if the improvements made by such Unit Owner are not built strictly in compliance with the pre-approved plans and specifications, the Association shall be entitled to all rights and remedies hereunder.

All proposed additions, alterations, and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and with any

conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association and all other Unit Owners harmless from any liability or damage to the Condominium Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation or construction thereof as may be required by the Association, subject to the Board's right to perform appropriate maintenance upon the failure of the Unit Owner to do so as provided in Section 7.7.

9. MANAGEMENT AGREEMENT

9.1 Management Firm.

The Association, through its Board of Directors, may enter into a management agreement with a professional management firm ("Management Firm").

The Association may delegate to the Management Firm certain powers of the Association, not reserved to the Board of Directors under the provisions of the Condominium Act.

9.2 Duties of Management Firm.

Each Unit Owner, his heirs, successors, and assigns, shall be bound by the Management Agreement for the purposes therein expressed, including but not limited to:

(a) Adopting, ratifying, confirming, and consenting to the execution of the Management Agreement by the Association.

(b) Covenanting and promising to perform each and every of the covenants, promises, and undertakings to be performed by Unit Owners as provided in the Management Agreement.

(c) Ratifying, confirming, and approving each and every provision of the Management Agreement, and acknowledging that all of the terms and provisions thereof are reasonable.

(d) Agreeing that the persons acting as directors and officers of the Association entering into such an Agreement have not breached any of their duties or obligations to the Association.

9.3 Interested Directors.

It is specifically recognized that some or all of the persons comprising the original Board are or may be stockholders, officers and Directors of a Management Firm, and that such circumstances shall not and cannot be construed or considered as a breach of their duties and obligations to the Association, nor as possible grounds to invalidate such Management Agreement, in whole or in part.

10. INSURANCE.

Insurance shall be carried and kept in force at all times in accordance with the following provisions:

10.1 Duty and Authority to Obtain.

The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force all of such other or additional insurance coverage as it is authorized hereby to carry. All insurance obtained by the Association shall be purchased for the benefit of the

Association and the Unit Owners and their Mortgagees, and all policies of such insurance shall be deposited with and held by the "Insurance Trustee" (as hereinafter identified); provided that a certificate evidencing a mortgagee endorsement shall be issued to the Mortgagee of each Unit. The Unit Owners may, at their own expense, obtain insurance coverage against damage to and loss of the contents of the Unit, including, without limitation, carpeting, wall and ceiling coverings, personal liability for injury to and death of persons and damage to and loss of personal property of others, and against additional living expenses. Provided, however, that each policy of such insurance purchased by a Unit Owner shall, where such provision is available, state that the insurer waives its right of subrogation as to any claim or claims against other Unit Owners, the Association, and their respective employees, agents, guests and invitees.

10.2 Required Coverage.

The Association shall purchase and carry casualty insurance covering all of the Buildings and other improvements, including personal property of the Condominium. All hazard policies issued to protect Buildings whenever used in the policy shall include, but shall not necessarily be limited to fixtures, installations, or additions comprising that part of the Building within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the individual Units initially installed or replacements thereof of like, kind or quality in accordance with the original plans and specifications, or as existed at the time the Unit was initially conveyed if the original plans and specifications are not available, excluding therefrom the insuring of floor, wall and ceiling coverings (which may be jointly referred to as "Insured Property") in an amount equal to the maximum insurance replacement value thereof, exclusive of excavation and foundation costs, as determined annually by the Board of Directors of the Association in accordance with reasonably acceptable appraisal practice. Such insurance shall include or afford protection against:

- (a) Loss or damage by fire or other hazards covered by the standard extended coverage and broad form and/or special form; and
- (b) Such other risks or perils of a similar or dissimilar nature as are or shall be customarily covered with respect to Buildings and other improvements similar, in construction, location and use, to the building and other improvements of the Condominium, including without limitation, vandalism, malicious mischief, windstorm, and flood and perils covered by the standard "all risk" endorsement, if available.
- (c) Comprehensive general liability insurance in the amount of \$1,000,000 for bodily injury including deaths of persons and property damage arising out of a single occurrence and an umbrella policy of \$1,000,000 for both, insuring the Association, the Board of Directors, the Management Firm, at the discretion of the Board of Directors, and each Unit Owner for claims arising out of or in connection with the ownership, operation or maintenance of any of the Condominium Property including Common Elements and public ways of the Condominium. This coverage shall exclude Unit Owner liability coverage for claims arising in connection with that portion of the property used and occupied exclusively by a particular Unit Owner. Such comprehensive general liability insurance shall also cover cross liability claims of one insured against the other. Coverage under this policy shall include without limitation legal liability of the insureds for property damage bodily injuries and deaths of persons in connection with the operation and maintenance of the Common Elements and legal liability arising out of law suits related to contracts entered into by the Association. The Board of Directors shall review such limits once a year.
- (d) Workmen's compensation insurance to meet the requirements of law.
- (e) Loss or damage by flood, to the extent and limitations, if any, required or necessitated by law, including, without limitation, the Flood Disaster Protection Act of 1973, or any similar law or regulation.
- (f) Director and officer liability coverage, and to the extent the duties and obligations of the Board are delegated for such delegates. Such bonds shall comply with the requirements of Mortgagees.

(g) If the insurance described above is not reasonably available, the Association shall promptly cause notice of that fact to be delivered to all Unit Owners and Mortgagees.

10.3 Optional Coverage.

The Association may purchase and carry other insurance coverage or obtain other endorsements including without limitation, products liability, agreed amount and inflation guard endorsements, construction code endorsements and steam boiler coverage as the Board, in its sole discretion, may determine from time to time to be in the best interests of the Association and Unit Owners, or as an Institutional Mortgagee may reasonably require while it holds a mortgage encumbering any Unit. Any waiver of subrogation contained in policies shall include waivers as to the Management Firm.

10.4 Premiums.

Premiums for all insurance obtained and purchased by the Association shall be paid by the Association. The cost of insurance premiums, and other incidental expenses incurred by the Association in administering and carrying out the provisions of this Article, shall be assessed against and collected from Unit Owners as a Common Expense.

10.5 Additional Provisions.

Any policy obtained by the Association must provide for the following, if available:

- (a) Recognition of any Insurance Trust Agreements.
- (b) Waiver of the right of subrogation against Unit Owners individually.
- (c) The insurance will not be prejudiced by any act or neglect of individual Unit Owners which is not in the control of such Owners collectively.
- (d) The policy shall be primary in the event that the Unit Owner has other insurance covering the same loss.
- (e) The policy may not be canceled or substantially modified without at least 60 days prior written notice to the Association and each Mortgagee which is listed as a scheduled holder of a first mortgage in the insurance policy.

10.6 Assured.

All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, the Unit Owners and their Mortgagees, as their interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the "Insurance Trustee," as herein identified, or to its successor, and the proceeds from insurance against any casualty loss shall be held for the use of the Association, Unit Owners and their respective Mortgagees, as their interests may appear, to be applied or distributed in the manner herein provided. Policies shall contain the standard Mortgage Clause or equivalent endorsement without contribution. The Association is hereby constituted and appointed agent for all Unit Owners, with authority to negotiate and settle the value and extent of any and all losses covered under any policy of casualty insurance, and the Association is granted full right and authority to execute, in favor of any insurer, a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.

10.7 Insurer.

All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the Association, including without limitation Unit Owner(s) and Institutional Mortgagees shall be bound by the Association's selection of its insurer(s) and the amount of insurance coverage carried and kept in force by the Association.

10.8 Insurance Trustee.

The Association shall have the right, but no obligation, to designate the Insurance Trustee and all persons beneficially interested in such insurance coverage shall be bound by the Association's selection of the Insurance Trustee. If the Association fails or elects not to appoint such Insurance Trustee, the Association will perform all obligations imposed upon such Insurance Trustee by this Declaration. The Insurance Trustee shall be either a bank with trust powers, doing business in the State of North Carolina, the Board or an attorney who is admitted to practice in the State of North Carolina. The Insurance Trustee, if a bank or attorney, shall not be liable for the payment of premiums, the renewal of any policy or policies of casualty insurance, the sufficiency of coverage, the form or content of policies, nor for the failure to collect any insurance proceeds. The duties of the Insurance Trustee, if a bank or attorney, shall be to hold such insurance policies as may be placed with it pursuant to Section 10.1 and to receive such proceeds of casualty insurance as are paid and to hold the same in trust for the purposes herein stated, and for the benefit of the Association, Unit Owners and their respective Mortgagees, to be disbursed as herein provided. The Association shall pay a reasonable fee to the Insurance Trustee, if a bank or attorney, for services rendered hereunder and shall pay such costs and expenses as the Insurance Trustee may incur in the performance of its duties hereunder. Such fees and costs to be assessed against and collected from Unit Owners as a Common Expense. The Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence, and then only for such money as may come into the possession of the Insurance Trustee. If and when the Insurance Trustee is required to distribute insurance proceeds to Unit Owners and their Mortgagees, as their respective interests may appear, the Insurance Trustee, if a bank or attorney, may rely upon a certificate of the President and Secretary of the Association, executed under oath and provided to the Insurance Trustee upon request to the Association, such certificate to certify the name or names of the owners of each Unit, the Mortgagee(s) thereof, and the respective percentages of any distribution which is to be made to the Unit Owner(s) and Mortgagee(s), as their respective interests may appear. If and when insurance proceeds are paid to the Insurance Trustee for any casualty loss, the holder(s) of any Mortgage or Mortgages encumbering a Unit shall not have the right to determine or participate in the determination of repair or replacement of any loss or damage, and shall not have the right to elect to apply insurance proceeds to the reduction of indebtedness secured by such Mortgage(s), unless the insurance proceeds represent a distribution to the Unit Owners and the Mortgagee(s) thereof, after such insurance proceeds have been first applied to repair, replacement or reconstruction of any loss or damage, or unless such casualty insurance proceeds are authorized to be distributed to the Owner(s) of the Unit, and the Mortgagee(s) thereof by reason of loss of or damage to personal property constituting a part of the Common Elements and as to which a determination is made not to repair, replace or restore such personal property.

10.9 Application of Insurance Proceeds.

The proceeds of casualty insurance paid to the Insurance Trustee by an insurer for loss or damage to real and/or personal property upon which the Association carries insurance, shall be applied and paid as follows:

(a) Common Elements Only.

The proceeds paid to the Insurance Trustee for loss of or damage to property constituting Common Elements only shall be applied to the repair, replacement or reconstruction of such loss or damage. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements, the excess shall be paid by the Insurance Trustee to the Association and such funds shall become part of the Common Surplus of

the Association. If the insurance proceeds shall be insufficient to pay the cost of the repair, replacement or reconstruction of such Common Elements, the Association shall deposit with the Insurance Trustee, from any Association Reserve Fund which may have been established, the difference between the total cost of repairing, replacing or reconstructing such loss or damage and the amount of the insurance proceeds. If no such Association Reserve Fund has been established, or if any such Association Reserve Fund has been established and is insufficient to pay to the Insurance Trustee such difference, the Association shall assess the amount of the difference against, and collect it from, all Unit Owners, as a Common Expense.

(b) Units.

The proceeds paid to the Insurance Trustee for loss of or damage to any portion of the Condominium Building, constituting damage to Common Elements and one or more Units thereof, shall be first applied to the repair, replacement or reconstruction of Common Elements, then to the repair, replacement or reconstruction of any Unit or Units in the Building which have been destroyed or damaged. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements and Units, the excess shall be paid by the Insurance Trustee to the Association and such funds shall become part of the Common Surplus of the Association. If the insurance proceeds shall be sufficient to pay for the repair, replacement or reconstruction of the Common Elements but shall be insufficient to pay the cost of the repair, replacement or reconstruction of the damaged or destroyed Unit or Units in such Building, the Association shall assess the amount of the difference against, and collect the same from, the Owner(s) of the Unit(s) damaged or destroyed, in proportion that the amount of damage sustained to each such Unit bears to the total deficit, and deposit such sum with the Insurance Trustee to be applied by the Insurance Trustee toward the total cost of repairing, replacing or reconstructing all of such damaged or destroyed Common Elements and Units. If the insurance proceeds shall be insufficient to pay the cost of the repairs, replacements, or reconstruction of the Common Elements and the damaged or destroyed Unit or Units in such building, the Association shall assess the amount of the difference against, and collect the same from all Unit Owners, the total cost of repairing or replacing the Common Elements shall be assessed by the Association against, and collected from, the Owner(s) of such damaged or destroyed Units.

(c) Proceeds of Optional Property Coverage.

If any, proceeds from any damage occasioned solely to Units and/or certain portions or all of the contents thereof not included in Insured Property, as determined by the Association in its sole discretion, (collectively "Optional Property"), are collected by reason of optional insurance which the Association elects to carry thereon, such proceeds shall be held for the benefit of the Owners of the Units or other portions of the Optional Property damaged in proportion to the cost of repairing the damage suffered by each such affected Owner, which cost and allocation shall be determined in the sole discretion of the Association.

10.10 Deposits to Insurance Trustee After Damage.

Within sixty (60) days after a loss of or damage to Condominium Property covered by casualty insurance, the Association shall obtain estimates of the cost of repairing, replacing or restoring the same, including the cost of professional fees and any construction bond which the Board of Directors may require. If, from such estimates, it shall appear that the insurance proceeds payable for such loss or damage will be insufficient to pay the total costs thereof, the additional money required to pay the total cost thereof, whether it is to be paid by one or more Unit Owners, shall be deposited with the Insurance Trustee not later than thirty (30) days from (i) the day on which the Insurance Trustee receives the insurance proceeds or (ii) the date of receipt of cost estimates for repair or replacement, whichever last occurs.

11. RECONSTRUCTION OR REPAIR AFTER CASUALTY.

Whether, and the manner in which, any or all of the Condominium Property which shall be damaged or destroyed by casualty shall be repaired, reconstructed or replaced shall be determined as follows:

11.1 Insured Property.

If the Insured Property shall be damaged or destroyed, repair or reconstruction thereof, or termination of the Condominium, shall be in accordance with the following:

(a) Total Destruction of the Insured Property.

If seventy-five (75%) or more of the Insured Property is destroyed or so damaged that no Units therein are habitable, the Building and none of the improvements comprising Common Elements thereof shall be reconstructed, and the Condominium shall be terminated unless the Owners of Units to which seventy-five (75%) percent of the Common Elements are appurtenant agree in writing, within 60 days after the date of such destruction, to reconstruct the same and/or unless any policy or policies of casualty insurance covering the same shall require reconstruction thereunder, and in either case as long as the then applicable zoning and other regulatory laws and ordinances shall allow the same to be reconstructed.

(b) Partial Damage to the Insured Property.

If less than seventy-five percent (75%) of the Insured Property is damaged and some Units therein are habitable, the damaged or destroyed Common Elements and/or Units shall be repaired or reconstructed so that the Units and Common Elements shall be restored to substantially the same condition as existed prior to such damage or destruction, unless within sixty (60) days after the casualty it is determined by agreement in the manner elsewhere herein provided that the Condominium shall be terminated.

(c) Damage to Common Elements.

Damaged or destroyed improvements constituting part of the Common Elements and Limited Common Elements shall be repaired, reconstructed and/or replaced unless, in the event of total destruction of the Units, or, by agreement after partial destruction, the Condominium shall be terminated.

(d) Responsibility for Damage to Units Only.

If the damage or destruction shall be limited only to one or more Units for which the responsibility of maintenance and repair is that of the affected Unit Owners, then such Unit Owners shall be responsible for carrying out the repair or reconstruction thereof. In all other instances of damage or destruction, the Association shall be responsible for carrying out the repair and reconstruction thereof.

11.2 Certificate.

The Insurance Trustee may rely upon a certificate executed by the President and Secretary of the Association to determine whether or not damaged or destroyed Condominium Property shall be repaired or reconstructed.

11.3 Plans and Specifications.

Repair or reconstruction of Condominium Property shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed, provided that the Board may authorize