

RECORDED  
WASHTENAW COUNTY, MI

FIRST AMENDMENT TO

JUN 8 8 43 AM '94

MASTER DEED

OF RIVER POINTE

PEGGY H. HAINES  
COUNTY CLERK/REGISTER

Milan River Pointe Condominium Association, a Michigan non-profit corporation, whose address is 572 RIVER POINTE, Milan, Michigan, being charged with the management and administration of River Pointe, a condominium project established pursuant to the Master Deed thereof dated April 7, 1989, and recorded April 24, 1989, in Liber 2311, Pages 92 through 145, inclusive, Washtenaw County Records, and known as Washtenaw Condominium Subdivision Plan No. 114, hereby amends Exhibit B of the Master Deed of River Pointe pursuant to the authority reserved in Section (8) of Paragraph TENTH, of the Master Deed, for the purpose of amending the Condominium Subdivision Plan in order to modify the types and sizes of unsold condominium units and their appurtenant limited common elements. Said Master Deed is amended in the following manner:

1. Sheets 1 through 9, inclusive, of Replat No. 1 of Washtenaw County Condominium Subdivision Plan No. 114, marked Exhibit B to the Master Deed of River Pointe, a condominium, as attached hereto, shall, upon recordation in the office of the Washtenaw County Register of Deeds of this First Amendment to Master Deed, replace, supersede and supplement Sheets 1 through 7, inclusive, of the Condominium Subdivision Plan of River Pointe, as previously recorded in Liber 2311, Pages 139 through 145, inclusive, Washtenaw County Records, and said previously recorded Sheets 1 through 7 shall be of no further force or effect.

In all other respects, other than as hereinbefore indicated, the original Master Deed of River Pointe, a condominium, including all Exhibits attached thereto, recorded as aforesaid, is hereby ratified, confirmed and redeclared.

Dated: March 25, 1994.

WITNESSES:

Milan River Pointe Condominium Association

Karen E. Cooper  
KAREN E. COOPER  
Pamela G. Wright  
Pamela G. Wright

By: David P. Gue  
David P. Gue, President

STATE OF MICHIGAN, COUNTY OF WASHTENAW

The foregoing document was acknowledged before me this 25th day of February, 1994, by David P. Gue, President of Milan River Pointe  
March

Condominium Association, a Michigan non-profit corporation, by authority of its Board of Directors, on behalf of said Association.

Deborah L. Hochrein  
DEBORAH L. HOCHREIN, Notary Public  
Washtenaw County, Michigan  
My Commission Expires: 3-4-98

This document prepared by and  
when recorded return to:  
Karl R. Frankena  
Conlin, McKenney & Philbrick, P.C.  
700 City Center Building  
Ann Arbor, Michigan 48104  
313/761-9000

13:wp60:condos:riverlam.dox

EXHIBIT "A"

CONDOMINIUM BY-LAWS

RIVER POINTE

ARTICLE I.

ASSOCIATION OF CO-OWNERS

Section 1. River Pointe, a condominium project, located in the City of Milan, County of Washtenaw, State of Michigan, shall be administered by an association of co-owners which shall be a non-profit corporation, hereinafter called the "Association", organized under the applicable laws of the State of Michigan and responsible for the management, maintenance, operation, and administration of the common elements, easements and affairs of the condominium project in accordance with the Master Deed, these By-Laws, the Articles of Incorporation, the Association By-Laws, the duly adopted Rules and Regulations of the Association, and the laws of the State of Michigan. All co-owners in the condominium project and all persons using or entering upon or acquiring any interest in any condominium unit therein or the common elements thereof shall be subject to the provisions and terms set forth in the aforesaid Condominium documents.

Section 2. Membership in the Association and voting by members of the Association shall be in accordance with the following provisions:

(a) Each co-owner shall be a member of the Association and no other person or entity shall be entitled to membership.

(b) The share of a co-owner in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to his condominium unit in the Condominium.

(c) Except as limited by these By-Laws, each co-owner shall be entitled to one vote for each condominium unit owned when voting by number and one vote, the value of which shall equal the total of the percentage allocated to the condominium unit owned by such co-owner as set forth in paragraph FIFTH of the Master Deed, when voting by value. Voting shall be by value except in those instances when voting is specifically required to be both by value and by number.

(d) No co-owner, other than the Developer, shall be entitled to vote at any meeting of the Association until he has presented evidence of ownership of a condominium unit in the condominium project to the Association. No co-owner, other than the

Developer, shall be entitled to vote prior to the first annual meeting of members held in accordance with Section 6 of this Article I. The vote of each co-owner may only be cast by the individual representative designated by such co-owner in the notice required in subparagraph (e) below or by a proxy given by such individual representative. The Developer may only vote for those units for which it has a certificate of occupancy.

(e) Each co-owner shall file a written notice with the Association designating the individual representative who shall vote at meetings of the Association and receive all notices and other communications from the Association on behalf of such co-owner. Such notice shall state the name and address of the individual representative designated, the number or numbers of the condominium unit or condominium units owned by the co-owner, and the name and address of each person, firm, corporation, partnership, association, trust, or other entity who is the co-owner. Such notice shall be signed and dated by the co-owner. The individual representative designated may be changed by the co-owner at any time by filing a new notice in the manner herein provided.

(f) There shall be an annual meeting of the members of the Association, commencing with the first annual meeting held as provided in Section 6 of this Article I. Other meetings may be provided for in the By-Laws of the Association. Notice of time, place and subject matter of all meetings, as provided in the corporate By-Laws of the Association, shall be given to each co-owner by mailing the same to each individual representative designated by the respective co-owners.

(g) The presence in person or by proxy of thirty-five percent (35%) in number and in value of the co-owners qualified to vote shall constitute a quorum for holding a meeting of the members of the Association, except for voting on questions specifically set forth herein to require a greater quorum. The written vote of any person furnished at or prior to any duly called meeting at which meeting said person is not otherwise present in person or by proxy shall be counted in determining the presence of a quorum with respect to the question upon which the vote is cast.

(h) Votes may be cast in person or by proxy or by a writing duly signed by the designated voting representative not present at a given meeting in person or by proxy. Proxies and any written votes must be filed with the Secretary of the Association at or before the appointed time of each meeting of the members of the Association. Cumulative voting shall not be permitted.

(i) A majority, except where otherwise provided herein, shall consist of more than fifty percent (50%) in value of those qualified to vote and present in person or by proxy (or written

vote, if applicable) at a given meeting of the members of the Association. Whenever provided specifically herein, a majority may be required to exceed the simple majority hereinabove set forth and may be required to be one of both number and value of designated voting representatives present in person or by proxy, or by written ballot, if applicable, at a given meeting of the members of the Association.

(j) Other provisions as to voting by members not inconsistent with the provisions herein contained may be set forth in the Association By-Laws.

Section 3. The Association shall keep current copies of the approved Master Deed, all amendments to the Master Deed and other Condominium documents for the condominium project, and detailed books of account showing all expenditures and receipts of administration which shall specify the maintenance and repair expenses of the common elements and any other expenses incurred by or on behalf of the Association and the co-owners. Such Condominium documents shall be available during reasonable working hours for inspection by co-owners, prospective purchasers and prospective mortgagees of condominium units in the condominium project. Such accounts shall be open for inspection by the co-owners during reasonable working hours, and the books and records shall be audited at least once each year by qualified independent auditors; provided, however, that such auditors need not be certified public accountants nor does such audit need to be a certified audit. Income, expenses and position statements shall be prepared at least once annually by qualified accountants and distributed to each co-owner, the contents of which shall be defined by the Association. The cost of such professional accounting assistance shall be an expense of administration. Any institutional holder of a first mortgage lien on any unit in the Condominium shall be entitled, upon request, to inspect the books and records of the Condominium during normal business hours and to receive the annual audited financial statement of the Condominium referred to above within ninety (90) days following the end of any fiscal year thereof. If an audited statement is not available, any holder of a first mortgage on a unit in the project shall be allowed to have an audited statement prepared at its own expense.

Section 4. The affairs of the Association shall be governed by a Board of Directors, all of whom shall serve without compensation and who must be members of the Association, except for the first Board of Directors which is designated by the Articles of Incorporation of the Association and any successors thereto elected by the Developer prior to the first annual meeting of members held pursuant to Section 6 of this Article I. The number, terms of office, manner of election, removal and replacement, meetings, quorum and voting requirements, and other provisions of or relating to directors not inconsistent with the following shall be provided by the Association By-Laws.

(a) The Board of Directors shall have all powers and duties

necessary for the administration of the affairs of the Association and may do all acts and things that are not prohibited by the Condominium documents or required thereby to be exercised and done by the co-owners. In addition to the foregoing duties imposed by these By-Laws or any further duties which may be imposed by resolution of the members of the Association or which may be set forth in the Association By-Laws, the Board of Directors shall be responsible specifically for the following:

- (1) To manage and administer the affairs and maintenance of the condominium project and the common elements thereof.
- (2) To levy, collect and disburse assessments against and from the members of the Association and to use the proceeds thereof for the purposes of the Association, to enforce assessments through liens and foreclosure proceedings when appropriate and to impose late charges for nonpayment of said assessments.
- (3) To carry insurance and collect and allocate the proceeds thereof.
- (4) To rebuild improvements to the common elements after casualty.
- (5) To contract for and employ persons, firms, corporations, or other agents to assist in the management, operation, maintenance, and administration of the condominium project.
- (6) To acquire, maintain and improve and to buy, sell, convey, assign, mortgage, or lease any real or personal property (including any unit in the Condominium, easements, rights-of-way, and licenses) on behalf of the Association in furtherance of any of the purposes of the Association.
- (7) To borrow money and issue evidences of indebtedness in furtherance of any and all of the purposes of the business of the Association, and to secure the same by mortgage, pledge or other lien on property owned by the Association; provided, however, that any such action shall also be approved by the affirmative vote of sixty percent (60%) of all of the members of the Association in number and in value.
- (8) To make reasonable rules and regulations governing the use and enjoyment of the Condominium by co-owners and their tenants, guests, employees, invitees, families and pets and to enforce such rules and regulations by all legal methods, including, without limitation,

imposing fines and late payment charges, or instituting eviction or legal proceedings.

- (9) To enforce the provisions of the Condominium documents.
- (10) To make rules and regulations and/or to enter into agreements with institutional lenders, the purposes of which are to enable obtaining mortgage loans by unit co-owners which are acceptable for purchase by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, and/or any other agency of the Federal government or the State of Michigan.
- (11) To levy, collect and disburse fines against and from the members of the Association after notice and hearing thereon and to use the proceeds thereof for the purposes of the Association.
- (12) To establish such committees as it deems necessary, convenient or desirable and to appoint persons thereto for the purpose of implementing the administration of the Condominium, and to delegate to such committees any functions or responsibilities which are not by law or the Condominium documents required to be performed by the Board.
- (13) To assert, defend or settle claims on behalf of all co-owners in connection with the common elements of the condominium project. The Board shall provide at least a ten (10)-day written notice to all co-owners on actions proposed by the Board with regard thereto.

(b) The Board of Directors shall employ for the Association a professional management agent (which may include the Developer or any person or entity related thereto), at reasonable compensation established by the Board, to perform such duties and services as the Board shall authorize, including, but not limited to, the duties listed in Section 4(a) of this Article I, and the Board may delegate to such management agent any other duties or powers which are not by law or by the Condominium documents required to be performed by or have the approval of the Board of Directors or the members of the Association. Any agreement or contract for professional management of the condominium project shall provide that such management contract may be terminated by either party without cause or payment of a termination fee on thirty (30) days' written notice and that the term thereof shall not exceed one (1) year, renewable by agreement of the parties for successive one-year periods.

(c) All of the actions (including, without limitation, the

adoption of these By-Laws and any Rules and Regulations for the Association, and any undertakings or contracts entered into with others on behalf of the Association) of the first Board of Directors of the Association named in its Articles of Incorporation or any successors thereto elected by the Developer before the first annual meeting of members shall be binding upon the Association in the same manner as though such actions had been authorized by a Board of Directors duly elected by the members of the Association at the first or any subsequent annual meeting of members, so long as such actions are within the scope of the powers and duties which may be exercised by any Board of Directors as provided in the Condominium documents.

Section 5. The Association By-Laws shall provide the designation, number, terms of office, qualifications, manner of election, duties, removal, and replacement of the officers of the Association, and may contain any other provisions pertinent to officers of the Association in furtherance of the provisions and purposes of the Condominium documents and not inconsistent therewith. Officers may be compensated, but only upon the affirmative vote of sixty percent (60%) of all co-owners in number and in value.

Section 6. The first annual meeting of the members of the Association may be convened only by the Developer and may be called at any time after more than fifty percent (50%) in value and in number of all units in River Pointe have been sold and the purchasers thereof qualified as members of the Association, with said project to be constructed with a maximum of twenty-six (26) condominium units, but in no event later than thirty-six (36) months after the first conveyance of title to a unit in the project to a nondeveloper co-owner. The Developer may call meetings of members of the Association for informative or other appropriate purposes prior to the first annual meeting of members, and no such meeting shall be construed as the first annual meeting of members. The date, time and place of the first annual meeting shall be set by the Board of Directors, and at least ten (10) days written notice thereof shall be given to each co-owner. Thereafter, the annual meetings shall be held as specified in the By-Laws of the Association. Upon the sale of seventy-five percent (75%) in value and in number of all units in the development, the transitional control date shall occur, which is the date on which a Board of Directors for the Association takes office pursuant to an election in which the votes which may be cast by eligible co-owners unaffiliated with the Developer exceed the votes which may be cast by the Developer.

(a) The Developer shall provide for the election of a nondeveloper Advisory Committee composed of three (3) co-owners no later than one hundred twenty (120) days after conveyance of legal or equitable title to nondeveloper co-owners of one-third (1/3) of the units that may be created, or one (1) year after the initial conveyance of legal or equitable title to a nondeveloper co-owner of a unit in the project, whichever occurs first. The



Advisory Committee shall meet with the condominium project Board of Directors for the purpose of facilitating communication and aiding the transition of control to the Association. The Advisory Committee shall cease to exist when a majority of the Board of Directors of the Association is elected by the nondeveloper co-owners. Following the formation of the Advisory Committee, the first Board of Directors shall meet with it a minimum of four (4) times each year. The members of the Advisory Committee shall serve for a period of one (1) year or until their successors are elected.

(b) Not later than one hundred twenty (120) days after conveyance of legal or equitable title to nondeveloper co-owners of twenty-five percent (25%) of the units that may be created, at least one (1) director and not less than twenty-five percent (25%) of the Board of Directors of the Association shall be elected by nondeveloper co-owners. Not later than one hundred twenty (120) days after conveyance of legal or equitable title to nondeveloper co-owners of fifty percent (50%) of the units that may be created, not less than thirty-three and one-third percent (33-1/3%) of the Board of Directors shall be elected by nondeveloper co-owners. Not later than one hundred twenty (120) days after conveyance of legal or equitable title to nondeveloper co-owners of seventy-five percent (75%) of the units that may be created, and before conveyance of ninety percent (90%) of such units, the nondeveloper co-owners shall elect all directors on the Board, except that the Developer shall have the right to designate at least one (1) director as long as the Developer owns and offers for sale at least ten percent (10%) of the units in the project or as long as ten percent (10%) of the units remain that may be created.

(c) Notwithstanding the formula provided in subsection (b), thirty-six (36) months after the first conveyance of legal or equitable title to a nondeveloper co-owner of a unit in the project, if title to not less than seventy-five percent (75%) of the units that may be created has not been conveyed, the nondeveloper co-owners have the right to elect as provided in the Condominium documents a number of members of the Board of Directors of the Association equal to the percentage of units they hold, and the Developer has the right to elect as provided in the Condominium documents a number of members of the Board of Directors of the Association equal to the percentage of units which are owned by the Developer and for which all assessments are payable by the Developer. This election may increase, but shall not reduce, the minimum election and designation rights otherwise established in subsection (b). Application of this subsection does not require a change in the size of the Board as determined in the Condominium documents.

(d) If the calculation of the percentage of members of the Board that the nondeveloper co-owners have the right to elect

under subsection (b), or if the product of the number of members of the Board multiplied by the percentage of units held by the nondeveloper co-owners under subsection (c) results in a right of nondeveloper co-owners to elect a fractional number of members of the Board, then a fractional election right of 0.5 or greater shall be rounded up to the nearest whole number, which number shall be the number of members of the Board that the nondeveloper co-owners have the right to elect. After application of this formula, the Developer shall have the right to elect the remaining members of the Board. Application of this subsection shall not eliminate the right of the Developer to designate one (1) member as provided in subsection (b).

Section 7. Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance, willful and wanton misconduct or gross negligence in the performance of his duties; provided, however, that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the director or officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors (with the director seeking reimbursement abstaining) approves such settlement and reimbursement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled. Ten (10) days' written notice of any proposed action by the Association to indemnify an officer or director shall be given to all co-owners. Where no judicial determination as to indemnification of the officer or director has been made, an opinion of independent legal counsel as to the propriety of indemnification shall be obtained if a majority of the co-owners vote to procure such opinion.

## ARTICLE II.

### ASSESSMENTS

Section 1. The Association shall be assessed as the person or entity in possession of any tangible personal property of the Condominium owned or possessed in common by the co-owners, and personal property taxes based thereon shall be treated as expenses of administration.

Section 2. All costs incurred by the Association in satisfaction of any liability arising within, caused by or in connection with the common elements or the administration of the Condominium shall be expenses of administration within the meaning of Public Act 59 of 1978,

as amended, and all sums received as proceeds of or pursuant to any policy of insurance carried by the Association securing the interests of the co-owners against liabilities or losses arising within, caused by or in connection with the common elements or the administration of the Condominium shall be receipts of administration.

Section 3. Assessments shall be determined in accordance with the following provisions:

(a) The Board of Directors of the Association shall establish an annual budget in advance for each fiscal year and such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the condominium project, including a reasonable allowance for contingencies and reserves. An adequate reserve fund for maintenance, major repair and replacement of those common elements that must be replaced on a periodic basis must be established in the budget and must be funded by regular monthly payments as set forth in Section 4 below rather than by special assessments. At a minimum, the reserve fund shall be equal to ten percent (10%) of the current annual budget on a noncumulative basis. Since the minimum standard required by this subparagraph may prove to be inadequate for this particular project, the Board of Directors should carefully analyze the condominium project to determine if a greater amount should be set aside or if additional reserve funds should be established for other purposes from time to time and, in the event of such a determination, the Board of Directors shall be empowered to establish such greater or other reserves without co-owner approval. Upon adoption of such annual budget by the Board of Directors, copies of said budget shall be delivered to each co-owner and the assessment for said year shall be established, based upon said budget, although the delivery of a copy of the budget to each co-owner shall not affect the liability of any co-owner for any existing or future assessments. The requirement of establishing and furnishing a budget shall also apply to the first Board of Directors serving prior to the first meeting of members held in accordance with Article I, Section 6, hereof even though it will be difficult to determine a budget in advance. Should the Board of Directors at any time determine, in the sole discretion of the Board of Directors, (1) that the assessments levied are or may prove to be insufficient to pay the costs of operation, maintenance and management of the Condominium, (2) to provide replacements of existing common elements, (3) to provide additions to the common elements not to exceed \$7,500.00 annually for the entire project (adjusted for increases in the Consumers Price Index used by the United States Department of Labor, Bureau of Vital Statistics, Metropolitan Detroit area, since the date of recording of the initial Master Deed), or (4) in the event of emergencies, the Board of Directors shall have the authority to increase the general assessment or to levy such additional assessment or assessments as it shall deem to be necessary. The Board of

Directors also shall have the authority, without co-owner consent, to levy assessments pursuant to the provisions of Article V, Section 5, hereof. The discretionary authority of the Board of Directors to levy assessments pursuant to this subparagraph shall rest solely with the Board of Directors for the benefit of the Association and the members thereof, and shall not be enforceable by any creditors of the Association or of the members thereof.

(b) Special assessments, in addition to those required in (a) above, may be made by the Board of Directors from time to time and approved by the co-owners as hereinafter provided to meet other needs or requirements of the Association, including, but not limited to, (1) assessments for additions to the common elements of a cost exceeding \$7,500.00 annually for the entire condominium project (adjusted for increases in the Consumers Price Index used by the United States Department of Labor, Bureau of Vital Statistics, Metropolitan Detroit area, since the date of recording of the initial Master Deed), (2) assessments to purchase a condominium unit upon foreclosure of the lien for assessments described in Section 6 hereof, or (3) assessments for any other appropriate purpose not elsewhere herein described. Special assessments referred to in this subparagraph (b) (but not including those assessments referred to in subparagraph 3(a) above, which shall be levied in the sole discretion of the Board of Directors) shall not be levied without the prior approval of at least sixty percent (60%) of all co-owners in value and in number. The authority to levy assessments pursuant to this subparagraph is solely for the benefit of the Association and the members thereof and shall not be enforceable by any creditors of the Association or of the members thereof.

Section 4. Unless otherwise provided herein or in the Master Deed, all assessments levied against the co-owners to cover expenses of administration that affect each condominium unit equally shall be apportioned equally among and paid by the co-owners, and all assessments levied against the co-owners to cover expenses of administration that do not affect each condominium unit equally shall be apportioned among and paid by the co-owners in accordance with the percentage of value allocated to each condominium unit in paragraph FIFTH of the Master Deed, without increase or decrease for the existence of any rights to the use of limited common elements appurtenant to a condominium unit. Any other unusual common expenses benefiting less than all of the units, or any expenses incurred as a result of the conduct of less than all those entitled to occupy the Condominium project, or their tenants or invitees, shall be specifically assessed against the unit or units involved, in accordance with such reasonable rules and regulations as shall be adopted by the Board of Directors of the Association. Annual assessments as determined in accordance with Article II, Section 3(a) above shall be payable by co-owners in twelve (12) equal monthly installments, commencing with acceptance of a deed to a condominium unit or with acquisition of fee

simple title to a condominium unit by any other means. The payment of an assessment shall be in default if such assessment, or any part thereof, is not paid to the Association in full on or before the due date for such payment and, if a delinquency occurs, the Board of Directors may accelerate the due date of the balance of the unpaid annual assessment. Assessments in default shall bear interest at the rate of not less than seven percent (7%) per annum, plus such additional interest rate surcharge as the Board of Directors shall approve, until paid in full. Provided, however, that the interest rate and interest rate surcharge combined applying to delinquent accounts shall not exceed the limit set by usury laws of the State of Michigan. The Board of Directors may also adopt uniform late payment charges. Each co-owner (whether one or more persons) shall be and remain personally liable for the payment of all assessments pertinent to his condominium unit which may be levied while such co-owner is the owner thereof. A purchaser of a unit shall acquire the unit subject to any unpaid assessments against it and shall become personally liable therefor. A co-owner selling a unit shall not be entitled to any refund whatsoever from the Association with respect to any account, reserve or other asset of the Association.

Section 5. No co-owner may exempt himself from liability for his contribution toward the expenses of administration by waiver of the use or enjoyment of any of the common elements or by the abandonment of his condominium unit.

Section 6. In addition to any other remedies available to it, the Association may enforce collection of delinquent assessments by a suit at law for a money judgment or by foreclosure of the statutory lien that secures payment of assessments. Each co-owner, and every other person who from time to time has any interest in the project, shall be deemed to have granted to the Association the unqualified right to elect to foreclose such lien either by judicial action or by advertisement. The provisions of Michigan law pertaining to foreclosure of mortgages by judicial action and by advertisement, as the same may be amended from time to time, are incorporated herein by reference for the purposes of establishing the alternative procedures to be followed in lien foreclosure actions and the rights and obligations of the parties to such actions. Further, each co-owner and every other person who from time to time has any interest in the project shall be deemed to have authorized and empowered the Association to sell or to cause to be sold the unit with respect to which the assessment(s) is or are delinquent and to receive, hold and distribute the proceeds of such sale in accordance with the priorities established by Michigan law. Each co-owner of a unit in the project acknowledges that at the time of acquiring title to such unit he was notified of the provisions of this section and that he voluntarily, intelligently and knowingly waived notice of any proceedings brought by the Association to foreclose by advertisement the lien for nonpayment of assessments and a hearing on the same prior to the sale of the subject unit. Notwithstanding the foregoing, neither a judicial foreclosure action nor a suit at law for

money judgment shall be commenced, nor shall any notice of foreclosure by advertisement be published, until the expiration of ten (10) days after mailing, by ordinary mail addressed to the delinquent co-owner at his or their last known address and/or to the representative designated in the written notice required by Article I 2(e) hereof to be filed with the Association, of a written notice that one or more installments of the annual assessment levied against the pertinent unit is or are delinquent and that the Association may invoke any of its remedies hereunder if the default is not cured within ten (10) days after the date of mailing. Such written notice shall be accompanied by a written affidavit of an authorized representative of the Association that sets forth (i) the affiant's capacity to make the affidavit, (ii) the statutory and other authority for the lien, (iii) the amount outstanding, (iv) the legal description of the subject unit, and (v) the name(s) of the co-owner(s) of record. Such affidavit shall be recorded in the Office of the Register of Deeds in the county in which the project is located prior to the commencement of any foreclosure proceeding, but it need not have been recorded as of the date of mailing as aforesaid. If the delinquency is not cured within the ten (10) day period, the Association may take such remedial action as it elects hereunder or under Michigan law. In the event the Association elects to foreclose the lien by advertisement, the Association shall so notify the representative that he may request a judicial hearing by bringing suit against the Association. The expenses incurred in collecting unpaid assessments, including interest, costs, actual attorneys' fees (not limited to statutory fees), and advances for taxes or other liens paid by the Association to protect its lien shall be chargeable to the co-owner in default and shall be secured by the lien on his unit. In the event of default by any co-owner in the payment of any installment of the annual assessment levied against his unit, the Association shall have the right to declare all unpaid installments of the annual assessment for the pertinent fiscal year immediately due and payable. The Association also may discontinue the furnishing of any utilities or other services to a co-owner in default upon ten (10) days' written notice to such co-owner of its intention to do so. A co-owner in default shall not be entitled to utilize any of the general common elements of the project, except as shall be necessary for purposes of ingress to and egress from his unit, and shall not be entitled to vote at any meeting of the Association, and his percentage of value shall not be taken into consideration when determining the quorum requirements for such meetings, so long as such default continues. In a judicial foreclosure action, a receiver may be appointed to collect a reasonable rental for the unit from the co-owner thereof or any persons claiming under him and, if the unit is not occupied, to lease the unit and collect and apply the rental therefrom to any delinquency owed to the Association. All of these remedies shall be cumulative and not alternative and shall not preclude the Association from exercising such other remedies as may be available at law or in equity.

Upon the sale or conveyance of a condominium unit, all unpaid assessments against the condominium unit shall be paid out of the sale price or by the purchaser in preference over any other assessments or charges of whatever nature except the following:

(a) Amounts due the State, or any subdivision thereof, or any municipality for taxes and special assessments due and unpaid on the condominium unit.

(b) Payments due under a first mortgage having priority thereto.

(c) A purchaser or grantee is entitled to a written statement from the Association setting forth the amount of unpaid assessments against the seller or grantor, and the purchaser or grantee is not liable for nor is the condominium unit conveyed or granted subject to a lien for any unpaid assessments against the seller or grantor in excess of the amount set forth in the written statement. Unless the purchaser or grantee requests a written statement from the Association as provided in the Act, at least five (5) days before the sale, the purchaser or grantee shall be liable for any unpaid assessments against the condominium unit together with interest, costs and attorney fees incurred in the collection thereof.

Sums assessed to a co-owner by the Association which are unpaid constitute a lien upon the unit or units in the project owned by the co-owner at the time of the assessment before other liens except tax liens on the condominium unit in favor of any State or Federal taxing authority and sums paid on a first mortgage of record, except that past due assessments which are evidenced by a notice of lien, recorded according to the Act, have priority over a first mortgage recorded subsequent to the recording of the notice of lien. The lien upon each condominium unit owned by the co-owner shall be in the amount assessed against the condominium unit, plus a proportionate share of the total of all other unpaid assessments attributable to condominium units no longer owned by the co-owner but which became due while the co-owner had title to the condominium units. The lien may be foreclosed by an action or by advertisement by the Association in the name of the condominium project on behalf of the other co-owners.

Section 7. During the development and sale period (which shall be defined as the period up to the time of the first annual meeting of members held in accordance with the provisions of Article I, Section 6, hereof), the Developer of the Condominium, even though a member of the Association, shall not be responsible for payment of the monthly Association assessment. The Developer, however, shall, during the period up to the time of the first annual meeting, pay a proportionate share of the Association's current maintenance expenses actually incurred from time to time based upon the ratio of completed condominium units owned by the Developer at the time the expense is

incurred to the total number of completed condominium units in the Condominium. In no event shall the Developer be responsible for payment, until after said first annual meeting, of any assessments for deferred maintenance, reserves for replacement, for capital improvements, or other special assessments except with respect to occupied units owned by it. After the first annual meeting, the Developer shall be responsible for payment of the full monthly Association maintenance assessment for all completed units owned by it and shall also maintain, at its own expense, any incomplete units owned by it. The Developer shall not be responsible at any time for payment of said monthly assessment or payment of any expenses whatsoever with respect to unbuilt units notwithstanding the fact that such unbuilt units may have been included in the Master Deed. Further, the Developer shall in no event be liable for any assessment levied in whole or in part to purchase any unit from the Developer or to finance any litigation or other claims against the Developer, any cost of investigating and preparing such litigation or claim, or similar related costs. "Occupied unit" shall mean a unit used as a residence. "Completed unit" shall mean a unit with respect to which a certificate of occupancy has been issued by the local public authority.

Section 8. Special assessments and property taxes shall be assessed against the individual condominium units identified as units on the Condominium Subdivision Plan and not on the total property of the project or any other part thereof, except for the year in which the condominium project was established subsequent to the tax day. Taxes and special assessments which become a lien against the property in that year subsequent to the establishment of the condominium project shall be expenses of administration of the project and paid by the co-owners as provided in Section 69 of the Act. The taxes and special assessments shall not be divided or apportioned on the tax roll, any provision of any law to the contrary notwithstanding. Special assessments and property taxes in any year in which the property existed as an established condominium project on the tax day shall be assessed against the individual condominium unit, notwithstanding any subsequent vacation of the condominium project. Condominium units shall be described for such purposes by reference to the condominium unit number on the Condominium Subdivision Plan and the caption thereof together with the liber and page of the county records in which the approved Master Deed is recorded. Assessments for subsequent real property improvements to a specific condominium unit shall be assessed to that condominium unit description only. For property tax and special assessment purposes, each condominium unit shall be treated as a separate single unit of real property and shall not be combined with any other unit or units, and no assessment of any fractions thereof shall be made, nor shall any division or split of the assessment or taxes of any single condominium unit be made notwithstanding separate or common ownership thereof.



Section 9. A construction lien concerning a condominium arising under Act No. 497 of the Public Acts of 1980, being Section 570.1101 to 570.1305 of the Michigan Compiled Laws, is subject to the following limitations:

(a) Except as otherwise provided in this section, a construction lien for an improvement furnished to a condominium unit or to a limited common element shall attach only to the condominium unit to which the improvement was furnished.

(b) A construction lien for an improvement authorized by the Developer of a condominium project and performed upon the common elements shall attach only to the condominium units owned by the Developer at the time of recording of the claim of lien.

(c) A construction lien for an improvement authorized by the Association shall attach to each condominium unit only to the proportional extent that the co-owner of the condominium unit is required to contribute to the expenses of administration, as provided by the Condominium documents.

(d) A construction lien shall not arise or attach to a condominium unit for work performed on the common elements if the work was not contracted for by the Developer or the Association.

### ARTICLE III.

#### ARBITRATION

Section 1. Disputes, claims or grievances arising out of or relating to the interpretation or the application of the Condominium documents or the management agreement, if any, or any disputes, claims or grievances arising among or between co-owners or between co-owners and the Association or with a management company shall, upon the election and written consent of the parties to any such disputes, claims or grievances and written notice to the Association, be submitted to arbitration, and the parties thereto shall accept the arbitrator's decision as final and binding, provided that no question affecting the claim of title of any person to any fee or life estate in real estate is involved. The Commercial Arbitration Rules of the American Arbitration Association, as amended and in effect from time to time hereafter, shall be applicable to any such arbitration.

Section 2. In the absence of the election and written consent of the parties pursuant to Section 1 above, no co-owner or the Association shall be precluded from petitioning the courts to resolve any such disputes, claims or grievances.

Section 3. Election by co-owners or the Association to submit any such dispute, claim or grievance to arbitration shall preclude such parties from litigating such dispute, claim or grievance in the courts.

ARTICLE IV.

INSURANCE

Section 1. The Association shall carry "all risk" property coverage and liability insurance, fidelity coverage and worker's compensation insurance pertinent to the ownership, use and maintenance of the common elements and condominium units of the condominium project, and such insurance, other than title insurance, shall be carried and administered in accordance with the following provisions:

(a) All such insurance shall be purchased by the Association for the benefit of the Association and the co-owners and their mortgagees, as their interests may appear, and provision shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of co-owners. Each co-owner may obtain additional insurance coverage at his own expense upon his condominium unit. It shall be each co-owner's responsibility to obtain insurance coverage for his personal property located within his condominium unit or elsewhere in the Condominium, for improvements and betterments to his condominium unit or upon limited common elements appurtenant to his condominium unit, and also for alternative living expenses in event of fire or other catastrophe, and the Association shall have absolutely no responsibility for obtaining such coverages; provided, however, that, if the Association elects to include such personal property insurance, personal liability insurance, and coverage for alternative living expense in event of fire or other catastrophe under its insurance coverage, any additional premium cost to the Association attributable thereto shall be assessed to and borne solely by said co-owner and collected as a part of or in addition to the assessments against said co-owner under Article II hereof. The Association and all co-owners shall use their best efforts to see that all property and liability insurance carried by the Association or any co-owner shall contain appropriate provisions whereby the insurer waives its rights of subrogation as to any claims against any co-owner or the Association, and such insurance shall contain a severability of interest endorsement.

(b) All common elements and condominium units of the condominium project shall be insured against "all risks" of loss in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs as determined annually by the Board of Directors of the Association. Such coverage shall also extend to the unpainted surface of interior walls within any condominium unit and include the pipes, wires, conduits, and ducts contained therein and shall further include all fixtures, equipment and trim within a condominium unit which were furnished with the unit as standard items in accordance with the plans and specifications thereof as are on file with the Association (or such replacements thereof as do not exceed the cost of such standard

items). Any improvements made by a co-owner within his condominium unit shall be covered by insurance obtained by and at the expense of said co-owner; provided, however, that, if the Association elects to include such improvements under its insurance coverage, any additional premium cost to the Association attributable thereto shall be assessed to and borne solely by said co-owner and collected as a part of or in addition to the assessments against said co-owner under Article II hereof.

(c) All premiums for insurance purchased by the Association pursuant to these By-Laws shall be expenses of administration and collected as a part of or in addition to the assessments against said co-owner under Article II hereof.

(d) Proceeds of all insurance policies owned by the Association shall be received by the Association held in a separate account and distributed to the Association, and the co-owners and their mortgagees, as their interests may appear; provided, however, that, whenever repair or reconstruction of the Condominium shall be required as provided in Article V of these By-Laws, the proceeds of any insurance received by the Association as a result of any loss requiring repair or reconstruction shall be applied to such repair or reconstruction, and in no event shall hazard insurance proceeds be used for any purpose other than for repair, replacement or reconstruction of the project unless two-thirds (2/3) of all of the institutional holders of first mortgages on units in the project have given their prior written consent.

(e) On any claim on any of the above-mentioned policies of insurance obtained and maintained by the Association which is subject to a deductible amount, said deductible amount shall be paid by the co-owner of the unit which is damaged or which unit has appurtenant to it the limited common element which is damaged. In event that more than one unit is damaged, then said deductible amount shall be apportioned between and paid by the co-owners of units which are damaged or which units have appurtenant to them the limited common element which is damaged, based upon a fraction the numerator of which is the dollar amount of the damage done to a particular unit and the denominator of which is the total dollar amount of damage done to all units from one specific incident. If the damage is to a limited common element appurtenant to more than one unit, then the deductible amount shall be paid proportionately by the appurtenant units based upon a fraction the numerator of which is the project percentage of value assigned to a particular unit and the denominator of which is the sum of the percentages of value assigned to those units appurtenant to the limited common element which is damaged. In the case of damage to a general common element, the deductible shall be paid by the Association.

Section 2. Each co-owner, by ownership of a condominium unit in the condominium project, shall be deemed to appoint the Association as his true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of property insurance, liability insurance, fidelity coverage, worker's compensation insurance, personal property insurance, and coverage for alternate living expenses in event of fire or other catastrophe pertinent to the condominium project, his condominium unit and the common elements appurtenant thereto with such insurer as may, from time to time, provide such insurance for the condominium project. Without limitation on the generality of the foregoing, the Association, as said attorney, shall have full power and authority to purchase and maintain such insurance, to collect and remit premiums therefor, to collect proceeds, and to distribute the same to the Association, the co-owners and their respective mortgagees, as their interests may appear (subject always to the Condominium documents), to execute releases of liability, and to execute all documents and to do all things on behalf of such co-owner and the Condominium as shall be necessary or convenient to the accomplishment of the foregoing.

#### ARTICLE V.

##### RECONSTRUCTION OR REPAIR

Section 1. If any part of the condominium property shall be damaged, the determination of whether or not it shall be reconstructed or repaired shall be made in the following matter:

(a) If the damaged property is a common element or condominium unit, the property shall be rebuilt or repaired if any condominium unit in the Condominium is tenantable, unless it is determined by a unanimous vote of all of the co-owners in the Condominium that the Condominium shall be terminated and each institutional holder of a first mortgage lien on any unit in the Condominium has given its prior written approval of such termination.

(b) If the Condominium is so damaged that no condominium unit is tenantable, and if each institutional holder of a first mortgage lien on any unit in the Condominium has given its prior written approval of the termination of the Condominium, the damaged property shall not be rebuilt and the Condominium shall be terminated, unless seventy-five percent (75%) or more of the co-owners in value and in number agree to reconstruction by vote or in writing within ninety (90) days after the destruction.

Section 2. Any such reconstruction or repair shall be substantially in accordance with the Master Deed and the plans and specifications for the project to a condition as comparable as possible to the condition existing prior to damage unless the co-owners shall unanimously decide otherwise.

Section 3. If the damage is only to a part of a condominium unit which is the responsibility of a co-owner to maintain and repair, it shall be the responsibility of the co-owner to repair such damage in accordance with Section 4 hereof. In all other cases, the responsibility for reconstruction and repair shall be that of the Association. In the event that a co-owner does not commence making repairs as required of such co-owner herein within 30 days of the occurrence of the damage and diligently pursue such repairs to completion, the Board of Directors may make such repairs and the cost thereof shall constitute an additional assessment against such co-owner, due and enforceable as provided in these By-Laws for other assessments.

Section 4. Each co-owner shall be responsible for the reconstruction, repair and maintenance of the interior of his condominium unit, including, but not limited to, floor coverings, wall coverings, window shades, draperies, interior nonload-bearing walls (but not any common elements therein), walls contained wholly within the unit, and pipes, wires, conduits, and ducts therein (after connection with fixtures), interior trim, furniture, light fixtures, and all appliances and equipment, whether freestanding or built-in. In the event damage to interior walls within a co-owner's unit or to pipes, wires, conduits, ducts, or other common elements therein is covered by insurance held by the Association, then the reconstruction or repair shall be the responsibility of the Association in accordance with Section 5; provided, however, that any deductible amount be paid by the co-owner to whom the damage occurred. If any other interior portion of a unit is covered by insurance held by the Association for the benefit of the co-owner, the co-owner shall be responsible for the deductible amount, if any, and shall be entitled to receive the proceeds of insurance relative thereto and, if there is a mortgage endorsement, the proceeds shall be payable to the co-owner and the mortgagee jointly. In the event of substantial damage to or destruction of any unit or any part of the common elements, the Association shall promptly so notify each institutional holder of a first mortgage lien on any condominium unit in the Condominium.

Section 5. The Association shall be responsible for the reconstruction, repair and maintenance of the common elements and any incidental damage to a condominium unit caused by such common elements or the reconstruction, repair or maintenance thereof. An adequate reserve fund for replacement, reconstruction and repair of the common elements must be established and must be funded by regular monthly payments rather than by special assessments. Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance, repair and reconstruction, the Association shall obtain reliable and detailed estimates of the cost to replace the damaged property in a condition as good as that existing before the damage. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction or repair required to be performed by the Association, or if at any time during such reconstruction or repair, or upon completion of such reconstruction or repair, the funds for the payment of the costs thereof are

insufficient, assessments shall be made against all co-owners for the cost of reconstruction or repair of the damaged property in sufficient amounts to provide funds to pay the estimated or actual cost of repair. Any excess proceeds of insurance shall belong to the Association.

Section 6. Section 133 of the Act and the following provisions shall control upon any taking by eminent domain:

(a) In the event of any taking of an entire condominium unit by eminent domain, the co-owner of such condominium unit and his mortgagee, as their interest may appear, shall be entitled to receive the award for such taking and, after acceptance thereof, he and his mortgagee shall be divested of all interest in the condominium project with regard to such unit. In the event that any condemnation award shall become payable to any co-owner whose condominium unit is not wholly taken by eminent domain, then such award shall be paid by the condemning authority to the Association on behalf of such co-owner. If only a part of any condominium unit is taken, the Association shall rebuild the same as is necessary to make it habitable and remit the balance of the condemnation proceeds pertinent to such condominium unit to the owner thereof and his mortgagee, as their interests may appear.

(b) If there is any taking of any portion of the Condominium other than any condominium unit, the condemnation proceeds relative to such taking shall be paid to the Association, and the affirmative vote of at least two-thirds (2/3) of the co-owners in number and in value shall determine whether to rebuild, repair or replace the portion so taken or to take such other action as they deem appropriate. If no such affirmative vote is obtained, such condemnation proceeds shall be remitted to the co-owners and their mortgagees, as their respective interests may appear, in accordance with their respective percentages of value set forth in paragraph FIFTH of the Master Deed.

(c) In the event the condominium project continues after taking by eminent domain, then the remaining portion of the condominium project shall be resurveyed and the Master Deed amended accordingly and, if any condominium unit shall have been taken, then paragraph FIFTH of the Master Deed shall also be amended to reflect such taking and to proportionately readjust the percentages of value of the remaining co-owners based upon the continuing value of the Condominium of 100%. Such amendment may be effected by an officer of the Association duly authorized by the Board of Directors without the necessity of execution or specific approval thereof by any co-owner.

(d) In the event any condominium unit in the Condominium or any portion thereof, or the common elements or any portion thereof, is made the subject matter of any condemnation or eminent domain proceedings, or is otherwise sought to be acquired by a

condemning authority, the Association shall promptly so notify each institutional holder of a first mortgage lien on any of the units in the Condominium.

(e) If portions of a condominium unit are taken by eminent domain, the court shall determine the fair market value of the portions of the condominium unit not taken. The undivided interest for each condominium unit in the common elements appertaining to the condominium units shall be reduced in proportion to the diminution in the fair market value of the condominium unit resulting from the taking. The portions of undivided interest in the common elements thereby divested from the co-owners of a condominium unit shall be reallocated among the other condominium units in the condominium project in proportion to their respective undivided interest in the common elements. A condominium unit partially taken shall receive the reallocation in proportion to its undivided interest as reduced by the court under this subsection. The court shall enter a decree reflecting the reallocation of undivided interests produced thereby, and the award shall include just compensation to the co-owner of the condominium unit partially taken for that portion of the undivided interest in the common elements divested from the co-owner and not revested in the co-owner pursuant to subsection (f), as well as for that portion of the condominium unit taken by eminent domain.

(f) If the taking of a portion of a condominium unit makes it impractical to use the remaining portion of that condominium unit for a lawful purpose permitted by the Condominium documents, then the entire undivided interest in the common elements appertaining to that condominium unit shall thenceforth appertain to the remaining condominium units, being allocated to them in proportion to their respective undivided interests in the common elements. The remaining portion of that condominium unit shall thenceforth be a common element. The court shall enter an order reflecting the reallocation of undivided interests produced thereby, and the award shall include just compensation to the co-owner of the condominium unit for the co-owner's entire undivided interest in the common elements and for the entire condominium unit.

(g) Votes in the Association and liability for future expenses of administration appertaining to a condominium unit taken or partially taken by eminent domain shall thenceforth appertain to the remaining condominium units, being allocated to them in proportion to the relative voting strength in the Association. A condominium unit partially taken shall receive a reallocation as though the voting strength in the Association was reduced in proportion to the reduction in the undivided interests in the common elements.