

This instrument prepared by and after recording return to:  
Mark F. Grant, Esq.  
Greenspoon Marder LLP  
200 E. Broward Blvd., Suite 1800  
Fort Lauderdale, FL 33301  
(954) 527-2404

**DECLARATION OF COVENANTS, EASEMENTS & RESTRICTIONS**

**FOR**

**SYCAMORE RESORT**

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**DECLARATION OF COVENANTS, EASEMENTS & RESTRICTIONS**  
**FOR**  
**SYCAMORE RESORT**

THIS DECLARATION OF COVENANTS, EASEMENTS & RESTRICTIONS FOR SYCAMORE RESORT (“Declaration”) made the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by PRIMELAND REAL ESTATE DEVELOPMENT, LLC, a Florida limited liability company having an office at 6965 Piazza Grande Ave, 314, Orlando, FL 32835 (“Developer”);

WHEREAS, Developer holds title to certain real property identified on **Exhibit A** hereto and hereby made a part hereof, on which it has constructed a condominium hotel; and

WHEREAS, the Building consists of the Hotel Parcel and the Condo-Hotel Parcel, as those terms are defined below, and will be used primarily for hotel purposes; and

WHEREAS, it is in the mutual best interest of the Hotel Owner and the Condo-Hotel Owner, as those terms are defined below, to maintain and preserve the character, quality and aesthetic standards of the Building, with particular emphasis upon the exterior design and landscaping, and the lobby, entries and common halls and public areas serving or located in the Building, the roof and exterior of the Building, and the efficient operation of the Building in which the Hotel Parcel and the Condo-Hotel Parcel are located; and

WHEREAS, Developer desires to set forth certain rights, easements, appurtenances, interests and benefits of the owner of the Hotel Parcel and the owners of the Condo-Hotel Parcel.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein set forth, Developer hereby declares as follows:

**ARTICLE I.**  
**DEFINITIONS**

Whenever used in this Declaration and the Exhibits hereto the following terms shall have the meanings specified below unless the context otherwise requires:

1.1 “Architect” shall mean a particular architect or architectural firm, licensed to practice in the State of Florida, who shall perform the functions of Architect called for in this Declaration, including, without limitation, in Articles VIII, X and XII hereof. The practitioner or firm who shall serve as the Architect in any instance shall be determined in accordance with §11.2 hereof.

1.2 “Architectural Committee” means the persons or firms appointed pursuant to §9.2 hereof.

1.3 “Assessment” means any charges which may be assessed hereunder from time to time against an Owner.

1.4 “Building” means the improvements within the Hotel Parcel, and the Condo-Hotel Parcel, combined. The term Building may be expanded as described in §2.1 hereof.

1.5 “Building Plans” means the plans and specifications for the Building, as such plans and specifications may be amended from time to time to reflect changes made during the course

of construction, or to reflect a permissible alteration made pursuant to this Declaration. Upon completion of the Building, the Building Plans shall be “as-built” plans.

1.6 “Capital Improvement Assessment” means a charge against each Owner (as defined in Article IV) and its Parcel (as defined in §1.32) , representing a portion of the costs incurred by the Hotel Owner for construction, installation or replacement of any capital improvement to or for any portion of the Shared Facilities (as defined in §1.38) for which the Hotel Parcel and/or the Condo-Hotel Parcel are responsible as provided in this Declaration, or any repair of such an improvement amounting to a capital expenditure under generally accepted accounting principles, which the Hotel Owner may from time to time undertake pursuant to this Declaration.

1.7 “Common Assessment” means the charge against each Owner and its Parcel, representing a portion of the Shared Expenses (as defined in §1.36) in accordance with the Allocations set forth in **Exhibit “D”** attached hereto.

1.8 “Community” or “Sycamore Resort” means the real property described in **Exhibit “B-3”** attached hereto. Developer intends to develop Sycamore Resort in phases, with the Condo-Hotel Parcel being developed as a phase condominium with a total of six (6) Towers in separate Phases. Developer reserves the right to add additional property to enlarge the Community, even though the Condo-Hotel Association will not actually hold title to any portion of the Condo-Hotel Parcel.

1.9 “Condo-Hotel Association” means the not-for-profit corporation formed to operate the Condo-Hotel Parcel. The Condo-Hotel Association shall be deemed the Condo-Hotel Owner (as hereinafter defined) for the purposes of this Declaration, upon the recording of the Condo-Hotel Declaration, even though the Condo-Hotel Association will not actually hold title to any portion of the Condo-Hotel Parcel.

1.10 “Condo-Hotel Declaration” means the Declaration of Condominium of Sycamore Resort, a Condominium, which may be recorded by Developer submitting the Condo-Hotel Parcel to the provisions of the Condominium Act, together with all exhibits to the Condo-Hotel Declaration, as such Condo-Hotel Declaration and Exhibits thereto may be amended from time to time pursuant to Article XVIII hereof and the terms thereof.

In the event of an inconsistency between this Declaration and the Condo-Hotel Declaration, this Declaration shall control.

1.11 “Condo-Hotel Owner” shall mean prior to the recordation of the Condo-Hotel Declaration or in the event the Condo-Hotel Declaration is not recorded or is terminated after recordation, the owner or owners who own all of the fee simple estate of the Condo-Hotel Parcel. In the event the Condo-Hotel Declaration is recorded, and from the date of such recordation, “Condo-Hotel Owner” shall thereafter mean, in the aggregate, the owners of the fee simple estates in all of the individual Condo-Hotel Units located in the Condo-Hotel Parcel included within the legal description made subject to such Condo-Hotel Declaration (including the undivided interest in Condo-Hotel Parcel common elements which is appurtenant to each such Condo-Hotel Unit). Liens on the Condo-Hotel Parcel which exist or may be imposed under this Declaration are liens on the entire Condo-Hotel Parcel and all estates therein. Obligations of the Condo-Hotel Owner hereunder shall be the several obligations of all persons, corporations, partnerships, trusts or entities who comprise the Condo-Hotel Owner, but only to the extent of each Condo-Hotel Unit’s prorata share of the obligation which shall be in the same percentage as the undivided interest in

the Condo-Hotel Parcel common elements appurtenant to each such Condo-Hotel Unit. Acts of the Board of Directors or of the President of the Condo-Hotel Association provided for in the Condo-Hotel Declaration shall be deemed to be the act of the Condo-Hotel Owner, and the Board of Directors of the Condo-Hotel Association or the President of the Condo-Hotel Association shall act as the Condo-Hotel Owner, in any instance where such Board of Directors or President is authorized to act for the Condo-Hotel Unit Owners on the matter in question by law or by this Declaration, the Condo-Hotel Declaration or the Articles of Incorporation or Bylaws of the Condo-Hotel Association.

1.11.1 Individual as Condo-Hotel Owner. If an individual is a record owner of legal title to a Condo-Hotel Unit, as defined below (an “Individual Condo-Hotel Owner”), his or her ownership shall also include such Individual Condo-Hotel Owner’s spouse. If a Condo-Hotel Unit is owned by multiple Individual Condo-Hotel Owners, all such individuals must designate in writing to the Hotel Owner and the Condo-Hotel Association which one (1) of the multiple individuals is the primary point of contact for receiving correspondence and making decisions for such Condo-Hotel Unit (“Responsible Individual”). The maximum number of persons permitted to be on the deed as the Condo-Hotel Owner of such Condo-Hotel Unit for purposes of determining the Resort Subsidy Charge (as defined in Section 1.39 herein) applicable to such Condo-Hotel Unit shall not exceed a total of six (6) persons at any time. If the number of persons on the deed including any spouses not named on the deed, exceed six (6) individuals, the Responsible Individual must designate in writing to the Hotel Owner the six (6) individuals to be treated as a Condo-Hotel Owner for purposes of determining the Resort Subsidy Charge applicable to such Condo-Hotel Unit. The designation by an Individual Condo-Hotel Owner under this subsection may not be changed more frequently than once in any twelve (12) month period, regardless of a change in ownership of the Individual Condo-Hotel Owner of such Condo-Hotel Unit.

1.11.2 Entity as Condo-Hotel Owner. If an entity (whether a corporation, partnership, limited liability company, trust or otherwise) is a record owner of legal title to a Condo-Hotel Unit (an “Entity Condo-Hotel Owner”), the Entity Condo-Hotel Owner must provide Hotel Owner with a copy of such Entity Condo-Hotel Owner’s articles of incorporation or operating agreement. For the purposes of this Declaration, the officers and directors of such Entity Condo-Hotel Owner will be considered deeded Owners of its respective Unit. Such Entity Condo-Hotel Owner must designate in writing to the Hotel Owner and the Condo-Hotel Association which one (1) individual is the primary point of contact for receiving correspondence and making decisions for such Condo-Hotel Unit (“Responsible Individual”). The maximum number of persons permitted to be on the articles of incorporation or in the operating agreement as the officers and directors or managers of such Entity Condo-Hotel Owner of such Condo-Hotel Unit for purposes of determining the Resort Subsidy Charge (as defined in the Hotel Declaration) applicable to such Condo-Hotel Unit shall not exceed a total of six (6) persons at any time. If more than six (6) officers and directors or managers exist, such Responsible Individual must designate in writing to the Hotel Owner the six (6) individuals permitted to be treated the same as an Individual Owner for purposes of determining the Resort Subsidy Charge applicable to such Condo-Hotel Unit. The designation by an Entity Condo-Hotel Owner under this subsection may not be changed more frequently than once in any twelve (12) month period, regardless of a change in ownership of the Entity Condo-Hotel Owner of such Condo-Hotel Unit.

1.11.3 Individual Condo-Hotel Owners and Entity Condo-Hotel Owners. If a Condo-Hotel Unit is owned by a combination of Individual Condo-Hotel Owners and Entity Condo-Hotel Owners, the maximum number of permitted persons to be designated shall not exceed a combined total of six (6) persons at any time. The written designations required by an Individual Condo-Hotel Owner to the Hotel Owner in Subsection 1.11.1 above shall also be required for this Subsection 1.11.3, when applicable. The written designations required by an Entity Condo-Hotel Owner to the Hotel Owner in Subsection 1.11.2 above shall also be required for this Subsection 1.11.3, when applicable.

1.12 “Condo-Hotel Parcel” means the property legally described in Exhibit “B-1” attached hereto, together with all improvements including the Condo-Hotel Units, now or hereafter located therein, generally including the 7 floors of the Building (but excluding the floor slabs between such floors, the common hallways and the other structural elements of the Building situated between such floors). In the event the Condo-Hotel Declaration is recorded in the Public Records of the County, the term shall include the Condo-Hotel Units and the undivided interests in the common elements appurtenant thereto. The terms “unit” and “common elements” as used in this definition shall have the respective meanings given to such terms in the Condo-Hotel Declaration.

1.13 “Condo-Hotel Units” means the dwelling units constructed upon the Condo-Hotel Parcel, and any additions or replacements thereto.

1.14 “Condominium Act” means Chapter 718 of the Florida Statutes in effect on the date the Condominium Declaration is recorded in the Public Records of the County.

1.15 “Condominium Declaration” means the Declaration of Condominium of Sycamore Resort, a Condominium, which may be recorded by Developer submitting the Condo-Hotel to the provisions of the Condominium Act, together with all exhibits to the Condominium Declaration, as such Condominium Declaration and Exhibits thereto may be amended from time to time pursuant to Articles XVIII and XXI hereof and the terms thereof.

1.16 “County” means Orange County, State of Florida.

1.17 “Creditor Owner” shall mean an Owner who has paid or advanced amounts due pursuant to this Declaration for the account of a Defaulting Owner, as defined below, or who has performed other obligations required to be performed by this Declaration on behalf of a Defaulting Owner, as permitted under §5.2 hereof or elsewhere in this Declaration.

1.18 “Declaration” means this instrument as it may be amended or supplemented from time to time.

1.19 “Defaulting Owner” shall mean any Owner who is delinquent on its obligation to pay Assessments or other amounts due and payable pursuant to the terms of this Declaration or who has failed to perform other obligations required to be performed by this Declaration. For purposes of this Declaration, a Defaulting Owner may be the Condo-Hotel Association in the event it is requested by the Hotel Owner to collect and then it fails to collect Assessments from the Condo-Hotel Owners and/or remit to the Hotel Owner all amounts it is required to pay pursuant to this Declaration. The Hotel Owner may collect Assessments due pursuant to this Declaration directly from Condo-Hotel Owners.

1.20 “Developer” means Primeland Real Estate Development, LLC, a Florida limited liability company, and any successor and/or assignee of the rights and obligations of Developer under this Declaration provided that no Owner, solely by reason of its purchasing a Parcel or Condo-Hotel Unit shall be considered a successor or assignee of such rights and obligations unless it is specifically designated as such in an instrument executed by Developer. Provided, however, that any party succeeding to Developer’s interest in the Hotel Parcel through foreclosure of a first mortgage lien or deed in lieu of foreclosure shall have the right, but not the obligation, to assume the rights and obligations of Developer, whether or not Developer has executed an instrument designating such lienholder as Developer. Developer is also intended to be the developer of the subsequent Phases to be added to Sycamore Resort.

1.21 “Development and Sale Period” means the period of time during which Developer and/or its affiliates are using the Community for the sale and marketing of Units in the Community and/or in any other communities developed or to be developed by Developer or any of its affiliates, including, but not limited to, the holding of sales and marketing meetings, the use of model(s) if one or more, the use of design centers, the use of service and construction trailers, and engaging in sales promotions and related sales and marketing activities for the general public.

1.22 “Hotel Owner” or “Hotel Parcel Owner” means the person, corporation, partnership, joint venture, trust or other entity or entities who from time to time shall be the owner or owners of the Hotel Parcel.

1.23 “Hotel Parcel” means the real property legally described in **Exhibit “B-2”** attached hereto, together with all improvements now or hereafter located thereon, generally including portions of the Land, as defined below, the various specified interior portions of the Building, the exterior of the Building, the structural components of the Building (including all floor slabs and load bearing walls and columns), the common hallways, and the roof of the Building, but specifically excluding the Condo-Hotel Parcel and the portion of the Land located under the Building.

1.24 “Hotel Services” means those hotel-related services that are to be provided to the Hotel Parcel and the Condo-Hotel Parcel and the Owners, by the Hotel Owner or an entity providing the Hotel Services on behalf of the Hotel Owner.

1.25 “Insurance Trustee” means the institution appointed pursuant to §12.1 hereof.

1.26 “Land” shall mean the land owned by Developer, which is more specifically described in **Exhibit “A”** attached hereto, on which Developer has caused the Building to be constructed, portions of which are included in the Hotel Parcel, and portions of which are located in the Condo-Hotel Parcel. As Phases are added to the Community the Land will be expanded to include such additional land.

1.27 “Maintenance” with regard to any particular component of the Building and Land, shall include the maintenance, including, but not limited to, painting and other decorating, operation, inspection, including, but not limited to, inspection for the purpose of meter reading, testing, repair, preservation, replacement and/or cleaning, including, but not limited to, dusting, washing, mopping and vacuuming thereof, as well as any other action commonly or customarily regarded as maintenance.

1.28 “Manager” means an entity selected by Developer, being the current manager retained under a management agreement with the Hotel Owner to assist the Hotel Owner in fulfilling or carrying out certain duties, powers or functions of the Hotel Owner to operate and maintain the Shared Facilities and shall also mean and refer to any successor manager of the Shared Facilities pursuant to any future management agreement executed by the Hotel Owner. Hotel Owner may, in its sole discretion, be the Manager.

1.29 “Mortgagee” shall mean any holder of a first mortgage lien on a Parcel, or on a leasehold interest in an entire Parcel, or on a Condo-Hotel Unit within the Condo-Hotel Parcel, which mortgage is security for a loan advanced in good faith to finance the purchase of rights in and/or construction of the Parcel or Condo-Hotel Unit in question or to refinance a loan of such nature, provided that such holder shall give notice, as prescribed in §17.4, to the parties prescribed in §17.4, that it is the holder of such mortgage prior to being considered a Mortgagee for purposes hereof.

1.30 “Occupant” means any person or entity rightly in possession of all or part of a Parcel other than the Owner.

1.31 “Owner” means the Hotel Owner or the Condo-Hotel Owner, individually, as the context shall require.

1.32 “Owners” means the Hotel Owner and the Condo-Hotel Owners, collectively, as the context shall require.

1.33 “Parcel” means the Hotel Parcel or the Condo-Hotel Parcel, individually, as the context shall require.

1.34 “Parcels” means the Hotel Parcel and the Condo-Hotel Parcel, collectively, as the context shall require.

1.35 “Reconstruction Assessment” means a charge against an Owner and its Parcel representing a portion of the cost incurred by the Hotel Owner for reconstructing the portion of the Building, arising out of an event of casualty or condemnation, or deterioration in which that Owner’s Parcel is situated or for reconstructing the Shared Facilities for which such Owner is obligated to pay Shared Expenses as provided in this Declaration.

1.36 “Resort Subsidy Charge” means the mandatory per diem resort subsidy charge assessed against a Condo-Hotel Owner for his or her guests’ benefit derived from the management of the Community once such Condo-Hotel Owner’s allotted number of annual guest days have been used, as more particularly described in §3.1 of this Declaration.

1.37 “Shared Expenses” means the Shared Facilities Expenses and the Resort Subsidy Charge, all as more particularly described hereunder.

1.38 “Shared Facilities” means the various components of the Hotel Parcel that shall be for the use, enjoyment, access, and benefit of the Owners or specific groups thereof as may be more specifically identified herein or otherwise by the Hotel Owner. The components described in **Exhibit “C”** attached hereto as determined by the Hotel Owner, shall be deemed the initial Shared Facilities. Notwithstanding the designation of same as part of the Shared Facilities, the Hotel Owner shall have the right to regulate the use thereof, including, without limitation,



establishing hours of operation, and designating certain services offered from those facilities as a la carte. Notwithstanding anything herein, or in any of the exhibits hereto, contained to the contrary, the Shared Facilities shall be deemed part of the Hotel Parcel. Non-inclusion in **Exhibit “B-2”** of any particular portion, component, feature or system of the Hotel Parcel shall not prevent the same from being considered a Shared Facility if the definition of Shared Facility is otherwise satisfied by such item and such item is not specifically excluded from the definition of Shared Facilities. Ownership of any particular Shared Facility rests with the Hotel Owner. Each Shared Facility shall be burdened with the easements which are set forth in Article II or elsewhere in this Declaration in favor of the Condo-Hotel Owners, but each Shared Facility and such easements therein as may be created in this Declaration shall be subject to the rights, powers and duties reserved for or granted or delegated in Article II or elsewhere in this Declaration to Developer or the Owner of the Hotel Parcel in which such Shared Facility is located. Notwithstanding that the Owners of the Condo-Hotel Parcel have use rights to designated Shared Facilities, such Condo-Hotel Owners are obligated to pay only for their prorata share of the expenses of operating, maintaining, repairing and reconstructing the Shared Facilities as provided in this Declaration and in **Exhibit “C”** and **Exhibit “D,”** both of which are attached hereto and made a part hereof. Developer hereby reserves the right to grant to other occupants of dwelling units within the Community the right to use the Shared Facilities but with the obligation to contribute to the Shared Facilities Expenses, as defined below.

1.39 “Shared Facilities Expenses” shall mean the actual and estimated costs and expenses incurred by the Hotel Owner in relation to the Maintenance of or otherwise related to the Shared Facilities as described in this Declaration (including unpaid Assessments not paid by the Owner responsible for payment); all costs of the Hotel Owner incurred in the performance of its duties under Article III hereof; the costs of management and administration of the Shared Facilities, including, but not limited to, costs incurred for the services of managers, accountants, attorneys and employees; costs of providing services, personnel or equipment for the Shared Facilities; costs of all cleaning and other services benefiting the Shared Facilities; costs of comprehensive general liability insurance for the Shared Facilities, workmen’s compensation insurance and other insurance covering or connected with the Shared Facilities; real and personal property taxes for the Shared Facilities, if any; costs of funding any reserve funds established for replacement, deferred maintenance, repair and upgrading of the Shared Facilities and personal property thereon; cost of all shared utilities including electricity, water and sewer services; and costs of all other items or services incurred by the Hotel Owner for any reason whatsoever in connection with the Shared Facilities or for the benefit of the Owners or within the parameters stated in §4.2 and such other costs and expenses set forth on **Exhibit “C”** and **Exhibit “D”**, attached hereto and made a part hereof. Shared Facilities Expenses allocated to the Condo-Hotel Owners may be greater than the amounts allocated to owners of other Units within the Community.

1.40 “Special Assessment” means a charge against an Owner and its Parcel, directly attributable to such Owner, equal to the cost incurred in connection with the enforcement of this Declaration against such Owner for failure to duly perform its obligations hereunder, and such other charges as may be provided for in §4.3.

1.41 “Supplemental Declaration” shall mean any declaration of covenants, restrictions and easements which may be recorded by Developer for the purpose of supplementing or amending this Declaration, for the purpose of adding additional Phases, or for the purpose of declaring all or any portion of the Parcels within the Building as Shared Facilities, or for the purpose of adding additional real property to the Building, either as Parcels, or Shared Facilities.

1.42 “Surface Parking Lot” shall mean the ground-level parking lot constructed adjacent to the Building, as further depicted by the Building Plans. The Surface Parking Lot is part of the Hotel Parcel and is a Shared Facility.

1.43 “Tower Phase B” or “Phase B” means the property located within the Community, also planned to be constructed by Developer and completed in a subsequent Phase, which may contain certain amenities and designated Shared Facilities. All Owners of a Condo-Hotel Unit, including the owners of condominium-hotel units within Phase B and including the owners of condominium-hotel units within any additional condominium-hotel parcel which has been and may be created within Sycamore Resorts, shall have use rights to the designated Shared Facilities.

1.44 “Tower Phase C” or “Phase C” means the property located within the Community, also planned to be constructed by Developer and completed in a subsequent Phase, which may contain certain amenities and designated Shared Facilities. All Owners of a Condo-Hotel Unit, including the owners of condominium-hotel units within Phase C and including the owners of condominium-hotel units within any additional condominium-hotel parcel which has been and may be created within Sycamore Resorts, shall have use rights to the designated Shared Facilities.

1.45 “Tower Phase D” or “Phase D” means the property located within the Community, also planned to be constructed by Developer and completed in a subsequent Phase, which may contain certain amenities and designated Shared Facilities. All Owners of a Condo-Hotel Unit, including the owners of condominium-hotel units within Phase D and including the owners of condominium-hotel units within any additional condominium-hotel parcel which has been and may be created within Sycamore Resorts, shall have use rights to the designated Shared Facilities.

1.46 “Tower Phase E” or “Phase E” means the property located within the Community, also planned to be constructed by Developer and completed in a subsequent Phase, which may contain certain amenities and designated Shared Facilities. All Owners of a Condo-Hotel Unit, including the owners of condominium-hotel units within Phase E and including the owners of condominium-hotel units within any additional condominium-hotel parcel which has been and may be created within Sycamore Resorts, shall have use rights to the designated Shared Facilities.

1.47 “Tower Phase F” or “Phase F” means the property located within the Community, also planned to be constructed by Developer and completed in a subsequent Phase, which may contain certain amenities and designated Shared Facilities. All Owners of a Condo-Hotel Unit, including the owners of condominium-hotel units within Phase F and including the owners of condominium-hotel units within any additional condominium-hotel parcel which has been and may be created within Sycamore Resorts, shall have use rights to the designated Shared Facilities.

1.48 “Visible Area” means any portion of the Building curtain wall, facade, roof, garage, or other area of the Building visible from any Parcel, from the outside of the Building, or visible to persons utilizing the rights of ingress and egress through a given Parcel, including glass enclosed areas.

## ARTICLE II. PARCELS AND EASEMENTS

2.1 Creation of Separate Parcels and Future Phases. Developer, by executing and recording this Declaration, does hereby declare and establish the Hotel Parcel and the Condo-Hotel Parcel as separate estates in fee simple absolute. The Condo-Hotel Parcel will initially consist of the property described in **Exhibit “B-1”** and will be a separate Parcel. All other portions of the

Building are included in the Hotel Parcel. Developer intends to create the rooms on floors 1 through 7 as condominium hotel units. Developer intends to construct a total of six (6) buildings in Phases, and incorporate each subsequent Phase to the Declaration by amendment or supplement to this Declaration. As each Phase is added the building within such Phase shall be included in the term "Building." Developer shall have the right and power to execute and record such further documentation as Developer deems necessary, and acting without the consent or joinder of any other person, in order to maintain this Declaration as a matter of public record. Developer may assign this right and power to any subsequent Hotel Owner or any other person. Hotel Owner hereby reserves the right to add to, subtract from or otherwise modify the Hotel Parcel and the Shared Facilities.

2.2 Condo-Hotel Parcel Easements. Condo-Hotel Owner shall have the following non-exclusive easements through, across, and upon the Hotel Parcel, subject to the reasonable regulation of easements provided for in §2.5:

(a) For pedestrian ingress and egress through the areas of the Hotel Parcel intended and designated for vehicular and pedestrian use, and for pedestrian ingress and egress through the entrance, service entrance, paths, walkways, hallways, and lobbies located in the Hotel Parcel that are at any point in time intended and designated for pedestrian use (including those portions of the Hotel Parcel required to afford reasonable access from each Condo-Hotel Unit to the public right of ways as required by §718.104 (4) (m) of the Condominium Act), and for the use in common with the Hotel Owner, its tenants, invitees, and agents of such facilities and areas of the Hotel Parcel for the other uses for which such facilities and/or areas are normally used in a first class hotel, including, without limitation, common hallways and the elevators located within the Hotel Parcel, which facilities and areas are shown on the Building Plans.

(b) For ingress and egress through, and use of, the Building elevator shafts and those sections of the Building service core (including service and passenger elevator shafts and cabs, pit, machine room, stairways and utility lines), which serve the Condo-Hotel Parcel and for access to the roof of the Building. For Maintenance of the ventilating, heating and air-conditioning equipment of the Condo-Hotel Units located on such roof. Said service core and elevator shaft are shown on the Building Plans.

(c) For use of the electric service vaults and the cables and conduits therein through which electric power is supplied by the public utility to the Condo-Hotel Parcel, as well as vaults, cables and conduits for cable television, telecommunications, telephone and related services, all as shown on the Building Plans.

(d) For use of the domestic and fire protection water service lines, sanitary and storm sewer lines, soil lines, gas lines and sewage ejector lines, including all valves, traps and clean-out appurtenant to any such line, located in the Hotel Parcel and serving the Condo-Hotel Parcel, all substantially as shown on the Building Plans.

(e) Notwithstanding anything to the contrary herein contained, the Condo-Hotel Owners have a license and not an easement to use the amenities within the Hotel Parcel, which are Shared Facilities, as more specifically set forth on **Exhibit "C"** attached hereto to the same extent and with the same rights as a guest of the Hotel, with the obligation to pay for such usage to the same extent as would a guest of the Hotel. As determined by the Hotel Owner, the Condo-Hotel Owners shall pay for such usage either through a common cost charge or on a "per amenity" basis. [The amount charged to the Condo-Hotel Owners may be greater than the amount charged to owners in the other portions of the Community.] The Hotel Owner reserves the right to deny such usage to any Condo-Hotel Owner, or their guests, licensees and invitees, who do not comply with the regulations established by the Hotel Owner for such areas, or in connection with private events utilizing any such areas.

2.3 Hotel Parcel Easements. Hotel Owner shall have the following non-exclusive easements through, across and upon the Condo-Hotel Parcel, subject to the reasonable regulation of easements provided for in §2.5:

(a) For access to, ingress and egress through, all facilities, fixtures and equipment, if any, within the service core or elsewhere in the Condo-Hotel Parcel which serve the Hotel Parcel, including mechanical and electrical equipment rooms, elevator machine room, stairways, cooling tower, utility lines, pipes, conduits, ducts and cables, all as may be shown on the Building Plans.

(b) For access through the Condo-Hotel Parcel for use and Maintenance of the roof of the Building.

2.4 General Easements. Each Owner shall have the following additional easements from the other Owners, which easements shall be used by the Grantee in common with, and not to the exclusion of, the Grantor (and in connection with any such easement, as well as in connection with any other easement granted in this Article or this Declaration, the Owner granting such easement and the Owners granted such easement, shall be referred to as the “Grantor” and the “Grantee”, respectively):

(a) For use of all plumbing, electrical, telephone, water, heating, ventilating, air cooling, gas, fire and life safety, communication, telecommunication, mail, radio, cable television, exhaust, window washing, and other piping, lines, wires, ducts, shafts, systems, facilities and equipment, and for the use of all other facilities whatsoever, except to the extent restricted by this Declaration, shown on the Building Plans (or located in the Parcels and indicated, but not shown, on the Building Plans) as located within the Grantor’s Parcel and serving or benefiting the improvements on the Grantee’s Parcel or serving or benefiting any facility with respect to which the Grantee is granted an easement under any provision of this Declaration.

(b) For use of the Shared Facilities located within all Parcels to the extent necessary to receive the benefit of the functioning of the Shared Facilities in accordance with the intended respective purpose of each particular Shared Facility.

(c) Of support in and to all structural members, footings, exterior walls, roof and foundations shown on the Building Plans as located within the Grantor’s Parcel and which are necessary for support of the improvements on the Grantee’s Parcel or of any facility with respect to which the Grantee is granted an easement under any provision hereof. Nothing in this Declaration shall be construed to require Hotel Owner to erect, or permit the erection of, additional columns, bearing walls or other structures on its Parcel for the support of the Condo-Hotel Parcel, beyond those as shown on the Building Plans.

(d) For the continued existence of encroachments in the event that, by reason of the construction of the Building or the subsequent settling or shifting of the Building, any part of the improvements on any other Parcel encroaches or shall hereafter encroach upon any part on the Grantor’s Parcel. Such easement for the continued existence of encroachments on the Grantor’s Parcel shall exist only so long as all or any part of the encroachment shall remain.

(e) For maintenance of any Shared Facility, or for any facility located within the Hotel Parcel, for which the Grantee has maintenance responsibility, or for which Grantee is otherwise permitted or required to perform the maintenance.

(f) For entry upon, and for ingress and egress through the Grantor’s Parcel, with persons, materials and equipment, to the extent reasonably necessary in the performance of the maintenance of any facility, whether or not located within the Grantor’s Parcel, for which Grantee

has maintenance responsibility, or for which Grantee is otherwise permitted or required to perform the maintenance.

(g) For ingress and egress through the Grantor's Parcel to the extent necessitated by an emergency involving danger to life, limb or property.

2.5 Extent of Owners' Rights and Easements. Except as expressly provided herein to the contrary, any right and easement created by §§2.2, 2.3 and 2.4 of this Article or by any other provision of this Declaration shall be subject to the following:

(a) The right of the Hotel Owner to reasonably limit the number of guests, invitees, occupants, and Owners using the Shared Facilities.

(b) The right of the Hotel Owner to establish and enforce reasonable rules and regulations pertaining to the use of the Shared Facilities, including but not limited to the right to control the hours of use of the service elevator, and the right to limit access to the Building during "late night" hours.

(c) The right of the Hotel Owner to exercise self-help in any situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations).

(d) The right of the Hotel Owner, without the need to obtain the approval or written assent of the Condo-Hotel Owner, to borrow money for the purpose of improving the Shared Facilities and, in furtherance thereof, to mortgage, pledge or hypothecate the Shared Facilities and Assessments therefor as security for money borrowed or debts incurred, provided that the rights of the mortgagee or secured party in any such case shall be subordinate to the rights and easements of the Owners under this Declaration, including their rights in the Shared Facilities and the Owners' use of such rights.

(e) The right of Developer, and any of Developer's affiliates to the non-exclusive use of the Shared Facilities without charge, for purposes of sales, leasing, display, exhibit, access, construction, ingress and egress.

(f) The right or duty of the Hotel Owner to reconstruct, replace or refinish any improvement upon the Shared Facilities, subject to those conditions and limitations set forth elsewhere in this Declaration.

(g) The right or duty of the Hotel Owner to plant and replace trees, shrubs, ground cover and other vegetation upon any portion of the Shared Facilities, or adjacent to the Building.

(h) The rights and easements provided elsewhere in this Declaration.

(i) All plats, restrictions, covenants, conditions, reservations, limitations, easements and other matters of record affecting the Shared Facilities or the Building.

(j) Any easement granted pursuant to paragraphs (a), (b), (e) and (f) of §2.4 shall be subject to such reasonable regulations as the Grantor may impose.

(k) Notwithstanding §2.5(c), the right of any Condo-Hotel Owner, or any party purchasing a Condo-Hotel Unit and becoming the owner thereof, to mortgage, pledge or hypothecate its interest in its Condo-Hotel Unit in order to finance the purchase of or the making of improvements to the Condo-Hotel Unit in question, or to refinance any loan made for such purpose, without the consent of any other party, provided that the rights of any mortgagee or

secured party in such case shall be subject to the rights of the Hotel Owner under this Declaration, including Owners rights in the Shared Facilities.

2.6 Delegation of Use. Any Owner, may delegate his or her right of enjoyment to the Shared Facilities, to those members of his or her family and to those occupants and guests to whom this Declaration permits such Condo-Hotel Owner to delegate, license or lease the use of such Condo-Hotel Unit, and in the case of the Hotel Owner, to its occupants, invitees and licensees, subject in all cases to reasonable regulation by the Hotel Owner.

2.7 Parking. The Surface Parking Lot is part of the Hotel Parcel and Shared Facilities and is owned by the Hotel Owner. The Hotel Owner shall operate, maintain, repair and/or replace the Surface Parking Lot as a Shared Expense. The Hotel Owner has the right to restrict all parking within the Surface Parking Lot to be performed by valet parking only and reserves the right to charge a fee to all Owners and hotel guests for such valet parking. If the Hotel Parcel elects to not require valet parking for all Owners and hotel guests, Owners will not be charged a fee for self-parking while the Owner is staying in such Owner's Condo-Hotel Unit. The Hotel Owner reserves the right to charge a fee to hotel guests for self-parking and shall be entitled to retain all fees collected for such hotel guest parking. The Hotel Owner is hereby authorized and empowered to establish rules and regulations for the Surface Parking Lot and any other parking facilities, and may make provision for the involuntary removal of any vehicle which is in violation of such rules and regulations. An Owner is not permitted to leave his or her vehicle parked on the Surface Parking Lot when such Owner is not inside his or her Condo-Hotel Unit and/or utilizing the Shared Facilities.

2.8 Swimming Pool. The Swimming Pool and the [adjacent cabanas and seating areas] (all together the "Swimming Pool") is part of the Hotel Parcel and Shared Facilities and is owned by the Hotel Owner. The Hotel Owner shall operate, maintain, repair and/or replace the Swimming Pool as a Shared Facility. The Hotel Owner has the right to restrict guest and/or other third parties access to the Swimming Pool and reserves the right to select and engage management and/or service providers to provide additional services, which may or may not include food and beverage offerings, and charge a fee to all Owners and hotel guests for the use of such services. The Hotel Owner is hereby authorized and empowered to establish rules and regulations for the Swimming Pool and may make provision for the involuntary removal of any persons who are in violation of such rules and regulations. An Owner is not permitted to leave his or her minor child within the Swimming Pool when such Owner is not present.

2.9 Entry Gate and Gatehouse. Sycamore Resort will include an entry gate and gatehouse installed by Developer. Such entry gate and gatehouse are part of the property owned by the Hotel Owner. Developer and the Hotel Owner make no representations whatsoever as to the security of the premises or the effectiveness of any entry gate and gatehouse. All Owners agree to hold Developer and Hotel Owner harmless from any loss or claim arising within the Community from the occurrence of a crime or other act. The Owners acknowledge that the entry gate and gatehouse is designed to provide limited access monitoring and to deter crime, not prevent it. Notwithstanding anything herein to the contrary, neither Developer nor the Hotel Owner makes any representations whatsoever to commence, complete or construct any entry gate and gatehouse within any specific time period. Developer and the Hotel Owner, their successors, assigns, employees, contractors, sub-contractors, and potential purchasers shall have access to Sycamore Resort property at all times any Owner and Condo-Hotel Owner shall not impede any such access. Any entry gate system installed shall remain open during construction and sales hours to allow Developer, its successors, assigns, employees, contractors, sub-contractors and potential purchasers access to Sycamore Resort property. Developer and the Hotel Owner shall have a right of access and an easement throughout all portions of the Community as may be necessary for the purpose of accessing Sycamore Resort property during the Development and Sale Period (as

defined in §1.21). No Owner, or Condo-Hotel Owner, shall do any act which may interfere with Developer and the Hotel Owner having access through the entry gate.

The Owners acknowledge that the entry gate and gatehouse is designed to deter crime, not prevent it. IN THAT REGARD, NEITHER DEVELOPER NOR THE HOTEL OWNER MAKES ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE PREMISES OR THE EFFECTIVENESS OF ANY ENTRY GATE, MONITORING SYSTEM OR SECURITY SERVICE WHETHER SAME ARE PROVIDED THROUGH THE COMMUNITY SYSTEMS OR OTHERWISE. ALL OWNERS, BY ACCEPTANCE OF A DEED OR TITLE TO A CONDO-HOTEL UNIT, AGREE TO HOLD DEVELOPER AND THE HOTEL OWNER HARMLESS FROM ANY LOSS OR CLAIM ARISING FROM THE OCCURRENCE OF ANY CRIME OR OTHER ACT. NEITHER DEVELOPER, THE HOTEL OWNER, NOR ANY SUCCESSOR OF EITHER SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY OR SAFETY WITHIN THE PROPERTY, AND NEITHER DEVELOPER, THE HOTEL OWNER, NOR ANY SUCCESSOR OF EITHER GUARANTEE OR WARRANT, EXPRESSLY OR IMPLIEDLY, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SUCH MONITORING SYSTEM OR SECURITY SERVICE, OR THAT ANY SYSTEM OR SERVICES WILL PREVENT INTRUSIONS, FIRES, DAMAGE, INJURY, DEATH OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF SUCH OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE SYSTEM OR SERVICES ARE DESIGNED TO MONITOR SAME. NEITHER DEVELOPER, THE HOTEL OWNER, NOR ANY SUCCESSOR OF EITHER SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY, EVEN IF CAUSED BY THE NEGLIGENCE OF DEVELOPER, THE HOTEL OWNER AND/OR ANY SUCCESSOR OF EITHER. ALL MEMBERS, OWNERS AND OCCUPANTS OF ANY CONDO-HOTEL UNIT, GUESTS, AND INVITEES OF ANY OWNER ACKNOWLEDGE THAT DEVELOPER AND ITS OFFICERS AND DIRECTORS, THE HOTEL OWNER AND ITS BOARD OF DIRECTORS, AND ANY SUCCESSOR OF EITHER DO NOT REPRESENT OR WARRANT THAT: (a) ANY FIRE PROTECTION SYSTEM, ALARM SYSTEM OR OTHER SECURITY SYSTEM (WHETHER SAME ARE PROVIDED THROUGH THE COMMUNITY SYSTEMS OR OTHERWISE), IF ANY, RECOMMENDED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY DEVELOPER MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR (b) THAT ANY FIRE PROTECTION OR ALARM SYSTEMS OR OTHER SECURITY SYSTEM (WHETHER SAME ARE PROVIDED THROUGH THE COMMUNITY SYSTEMS OR OTHERWISE) WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH MEMBER, OWNER AND OCCUPANT OF ANY UNIT, AND EACH GUEST AND INVITEE OF AN OWNER ACKNOWLEDGES AND UNDERSTANDS THAT THE HOTEL OWNER, DEVELOPER AND ITS OFFICERS AND DIRECTORS ARE NOT INSURERS OR GUARANTORS AND THAT EACH MEMBER, OWNER AND OCCUPANT OF ANY CONDO-HOTEL UNIT, AND EACH GUEST AND INVITEE OF ANY MEMBER OR OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO CONDO-HOTEL UNITS, AND TO THE CONTENTS OF CONDO-HOTEL UNITS AND FURTHER ACKNOWLEDGES THAT THE HOTEL OWNER AND ITS BOARD OF DIRECTORS, AND DEVELOPER, AND ANY SUCCESSOR OF EITHER HAVE MADE NO REPRESENTATIONS, WARRANTIES AND/OR GUARANTIES, NOR HAS ANY OWNER, MEMBER, OCCUPANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS (WHETHER SAME ARE PROVIDED THROUGH THE COMMUNITY SYSTEMS OR OTHERWISE) RECOMMENDED OR INSTALLED, IF ANY, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

2.10 Lobby. The Lobby is part of the Hotel Parcel and Shared Facilities.

2.11 Housekeeping Storage Rooms. Hotel Owner shall have the exclusive right to use all Housekeeping Storage Rooms located on the Hotel Parcel and set forth on **Exhibit "B-2"** attached hereto.

2.12 Fitness Center. The Fitness Center is part of the Shared Facilities. Condo-Hotel Owners shall have the right to use the Fitness Center to the same extent and with the same rights as a guest of the Hotel, with the obligation to pay for such usage to the same extent as would a guest of the Hotel, as may be determined by the Manager or Hotel Owner.

2.13 [Maid's Room/Support.] There are rooms located on various levels of the Building designated as "Maid's Room/Support" and the Hotel Owner shall have the exclusive right to use all such designated areas. Such areas are part of the Hotel Parcel.

2.14 Balconies. Notwithstanding that the balconies situated adjacent to each Condo-Hotel Unit are part of the Hotel Parcel and the Shared Facilities, there is hereby created in favor of each Condo-Hotel Unit the right to utilize the balcony located adjacent to and directly accessible from that Condo-Hotel Unit, which right of use is subject to the provisions of this Declaration and such rules and regulations as may be adopted from time to time by the Hotel Owner. Balconies must be kept in a condition that meets or exceeds the quality guidelines and standards of any Hotel operated from within the Hotel Parcel, as established and determined by the Hotel Owner from time to time. The maintenance and repair responsibilities shall remain with the Hotel Owner and the expenses shall be assessed to the respective Owner of the Condo-Hotel Unit to which the balcony is adjacent as more particularly set forth in **Exhibit "B-1"** attached hereto. The Hotel Owner shall determine the furniture and other items that may be kept on the balconies in order to determine the exterior appearance of the Building.

2.15 Waiver of Use. No Owner may exempt himself from personal liability for Assessments or release the Parcel or Condo-Hotel Unit owned by him or her from the Assessments, liens and charges provided for herein, by waiver of the use and enjoyment of the Shared Facilities or by abandonment of his or her Parcel or Condo-Hotel Unit.

2.16 No Affirmative Obligations. The provisions of this Article II shall not be deemed to imply, or to impose, upon the Grantor of any easement provided in this Article II, any affirmative obligation touching or concerning said easements. The only affirmative obligations touching or concerning said easements imposed upon any such Grantor are those which are specifically set forth elsewhere in this Declaration.

2.17 Right of Developer/Hotel-Parcel Owner to Convey Hotel Parcel/Shared Facilities. Developer and Hotel Owner reserve the right to convey, transfer or assign all or any portions of the Hotel Parcel to the Condo-Hotel Association. The Condo-Hotel Association must accept delivery of the deed for any such conveyance, transfer or assignment and at such time will automatically be deemed responsible for the maintenance of all such areas conveyed to it as the owner thereof. All such areas conveyed or any portions thereof shall be deemed Shared Facilities hereunder and the Condo-Hotel Association's rights, duties and obligations with respect thereto shall be the same as those of the Hotel Owner unless otherwise provided by Developer and/or Hotel Owner in the deed of conveyance. Any conveyance, transfer or assignment made by Developer and/or Hotel Owner pursuant to this Section: (i) may be made with or without consideration; (ii) shall not require the consent or approval of the Condo-Hotel Association or any Parcel Owner or Condo-Hotel Unit Owner; (iii) shall be deemed to have been automatically accepted (with all rights, duties, obligations and liabilities with respect thereto being deemed to have been automatically assumed) by the Condo-Hotel Association; and (iv) may be by quit-claim deed. Without limiting the generality of this Section, if and when the Condo-Hotel Association



receives such conveyance, transfer or assignment, the Condo-Hotel Association shall automatically be deemed vested with such rights of Developer and/or Hotel Owner to collect Shared Expenses from the Condo-Hotel Unit Owners for the Maintenance of such property and enforce any lien to secure payment of Shared Expenses, as set forth in §5.1 hereof.

ARTICLE III.  
POWERS AND DUTIES OF HOTEL OWNER

3.1 Powers and Duties. The Hotel Owner shall have the exclusive power and duty to:

(a) Perform maintenance with respect to, repair and otherwise manage the Shared Facilities in accordance with the provisions of this Declaration.

(b) Clean or cause the Shared Facilities to be cleaned on a regular basis in accordance with the standards of a first class hotel and residential facility, and to perform or cause to be performed other standard janitorial services as to the same.

(c) Obtain, for the benefit of the Owners for distribution through the Shared Facilities, all commonly metered water, sanitary sewage and other utility services for the Building designed for common provision and metering services, and provide for distribution through the Building, through the Shared Facilities, of all other utilities, as necessary, to be metered as determined in the Building Plans.

(d) Levy fines against the appropriate Condo-Hotel Owner for violations of the provisions in this Declaration governing the conduct of such Condo-Hotel Owners. No fine shall be levied except after giving reasonable notice and opportunity for a hearing to the affected Condo-Hotel Owner. Notice of such hearing shall be delivered to the Condo-Hotel Owner no less than fourteen (14) days before such hearing and shall include: (a) a statement of the date, time and place of the hearing; (b) a statement of the provisions of this Declaration which have allegedly been violated; and (c) a short plain statement of the matters asserted by the Hotel Owner. The Condo-Hotel Owner and any other affected party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Hotel Owner. The hearing must be held before a committee established by the Hotel Owner. If the committee does not agree with the fine, the fine may not be levied. No fine may exceed one hundred dollars (\$100.00) per violation, however, a fine may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing, provided however, that no such fine shall in the aggregate exceed one thousand dollars (\$1,000.00). Fines for violating provisions in this Declaration may become a lien upon a Condo-Hotel Unit.

(e) Take whatever other actions the Hotel Owner deems advisable with respect to the Shared Facilities as may be permitted hereunder or by law.

(f) Employ or contract with a manager (which may be an affiliate of Developer) to perform all or any part of the duties and responsibilities of the Hotel Owner, and delegate its powers to committees, officers and employees.

(g) Enforce the applicable County regulation which limits the length of permitted stay in the Condo-Hotel Units.

Hotel Owner shall use its good faith efforts to provide the services described above at reasonable levels comparable with practices in other similar properties, subject to Hotel Owner's reasonable discretion, and subject to interruption due to the need to make repairs, alterations or

improvements, or due to strikes or other labor disputes, fire, flood, explosion, severe weather, civil disturbances, war, acts, proceedings or regulations of any governmental authority, rationing, interruption of transportation facilities, and any cause beyond the reasonable control of Hotel Owner. The obligation of the Owners to pay Assessments hereunder shall not abate in the event of any interruption of service, provided that Hotel Owner shall pursue with diligence actions required to enable restoration of service. All costs and expenses incurred by Hotel Owner in performance of this Article with respect to the Shared Facilities and as more particularly set forth on **Exhibit "C"** hereto shall be Shared Expenses which may thus be included in Common Assessments and subject to the payment obligation of the Owners as set forth in §4.1 hereof.

In addition to paying the Shared Expenses, Owners are also obligated to pay the Hotel Owner a resort subsidy charge. Each Owner and his or her spouse have unlimited benefit derived from the management of the resort, as well as an annual thirty (30)-day allowance for their guests ("Guest Allowance"). Upon expiration of an Owner's Guest Access Allowance a mandatory resort subsidy charge will be assessed against such Owner's Condo-Hotel Unit, for the occupancy by such respective Owner's guests. The initial per diem resort subsidy charge is [\$ 200.00] for each day over the Guest Allowance the Condo-Hotel Unit is guest-occupied and the Owner of the respective Condo-Hotel Unit is not present ("Resort Subsidy Charge"). The Hotel Owner has the right to adjust the Resort Subsidy Charge to cover any cost increases or decreases in the expenses covered by the Resort Subsidy Charge as set forth in **Exhibit "C."** The Resort Subsidy Charge shall be deemed an Assessment against the applicable Condo-Hotel Unit and Hotel Owner shall have the same rights of collection as to the Resort Subsidy Charge as it has with Assessments. The Resort Subsidy Charge will be retained by the Hotel Owner and will not reduce the Shared Expenses payable by the Owners.

The Hotel Owner reserves the right to increase the Hotel Parcel and the Shared Facilities, and to submit additional Phases under the terms of this Declaration by way of amendment.

#### ARTICLE IV. COVENANT FOR ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation of Assessments. Developer for each Parcel or other portion of the Building now or hereafter owned by Developer hereby covenants, and each Owner of any such Parcel, by acceptance of a deed therefor whether or not it is so expressed in such deed, is hereby deemed to have covenanted, to pay the Hotel Owner: (a) Common Assessments, (b) Special Assessments, (c) Capital Improvement Assessments, and (d) Reconstruction Assessments, all such Assessments to be imposed and collected as hereinafter provided.

Assessments, together with interest, late charges, costs and reasonable attorneys' fees for the collection thereof, shall be a charge and continuing lien upon the Parcel against which the Assessment is made. Each such Assessment, together with interest, costs and reasonable attorneys' fees and late charges, shall also be the personal obligation of the person or persons who was or were the Owner of the Parcel at the time when the Assessment against it fell due. Subject to the provisions hereof protecting Mortgagees, any personal obligation for delinquent Assessments shall pass to the successors-in-title to the Owner of the Parcel against which the Assessments were made and in cases in which a Parcel is owned by more than one individual or entity, shall be the joint and several obligation of each and all of those individuals or entities. Notwithstanding the foregoing, (a) the partners, officers, directors, employees, members, managers, or shareholders of Hotel Owner shall have no personal liability for the Assessment obligations of Hotel Owner; (b) the Hotel Owner shall deposit all monies collected as Assessments in one or more accounts, as it may elect; and (c) at such time as the Condo-Hotel Parcel is declared to be a condominium and while the Condo-Hotel Parcel remains a condominium, the lien for Assessments shall be created only against the Condo-Hotel Units and not against the Condo-Hotel Parcel as a whole. The

amount of such lien with respect to each Condo-Hotel Unit shall be determined in accordance with the formula set forth in §4.5(b) below.

4.2 Common Assessments. Common Assessments shall be levied by the Hotel Owner to pay for the Shared Expenses; to fund performance by Hotel Owner of its duties under Article III and its duties under other provisions of this Declaration which are performed for the benefit of all Owners; and to improve and maintain the Shared Facilities as provided herein. Disbursements from income received as Common Assessments shall be made by the Hotel Owner for such purposes as it deems necessary for the discharge of its responsibilities herein and to reimburse Developer for prepaid expenses which it advanced which may be classified as Shared Expenses. The amount of Common Assessments charged to the Condo-Hotel Owners may be greater than the amount charged to other owners of units within the Community.

4.3 Special Assessments. A Special Assessment shall be levied by the Hotel Owner against an Owner for the cost of any Maintenance of the Shared Facilities or the Building or any other Shared Expense made necessary by the willful or negligent act of such Owner or a person for whom such Owner is responsible, to the extent insurance proceeds are insufficient to cover the damage. For the purpose of this Section, the Hotel Owner shall be considered to be responsible for its employees and agents (excluding the Manager and its employees and agents), and its occupants, lessees, licensees and invitees, and the Condo-Hotel Owner shall be considered to be responsible for their family members, and its and their respective employees, licensees, lessees, invitees and guests. A Special Assessment may also be levied against an Owner for the costs of enforcement of this Declaration against such Owner, if such Owner is in default of a covenant or provision of this Declaration, and may also be levied in any other instance authorized elsewhere in this Declaration.

4.4 Reconstruction and Capital Improvement Assessments. In addition to the Common Assessments and Special Assessments authorized above, Reconstruction Assessments and Capital Improvement Assessments may or shall be levied as hereafter provided. Reconstruction Assessments shall be levied in such circumstances, for such purposes and amounts and in such proportions as are authorized in and determined pursuant to §8.3(a) and §10.4 hereof or generally in Articles VIII and X of this Declaration. Capital Improvement Assessments may be levied from time to time by the Hotel Owner, in any fiscal year adopted for Assessments, to be applicable for that fiscal year only, for the purpose of funding, in whole or in part, any capital improvement to the Shared Facilities or for a new improvement which satisfies the definition of a Shared Facility. No action authorized in this §4.4 shall be taken without the prior written consent of Developer as long as Developer or any affiliate of Developer owns any Parcel.

4.5 Rate and Payment of Assessments. Common Assessments, Special Assessments, Capital Improvement Assessments and Reconstruction Assessments provided for in this Article IV shall be allocated and assessed among the Parcels and the Owners thereof as follows:

(a) The above Assessments shall be allocated among the Parcels and the Owners thereof as set forth in **Exhibit “D”** attached hereto.

(b) The Condo-Hotel Owner shall allocate an Assessment levied upon it among the Owners of the Condo-Hotel Units by multiplying the amount of such Assessment by the percentage ownership of common elements appurtenant to each particular Condo-Hotel Unit.

(c) Hotel Owner may modify the formula set forth in Article XXIII and **Exhibit “D”** and referenced in Paragraph (a) above; to allocate certain Shared Expenses to one Parcel to the exclusion of another Parcel; to assess various Shared Expenses categories based upon different percentage allocations than other Shared Expenses categories; and to modify such allocations in order to account for unforeseen changes in development plans and to maintain an equitable system

of Assessment allocation. Any change which would increase the allocation to the Condo-Hotel Parcel for a given type of expense by more than twenty-five percent (25%) in any twelve (12) month period over the current allocation shall be subject to written consent by the Condo-Hotel Owner, except and the extent otherwise provided and contemplated herein, generally, and in §2.1 specifically.

(d) When the Condo-Hotel Parcel is declared to be a condominium, the association established to operate such Parcel shall, at the request of the Hotel Owner (which request may be revoked at any time), collect the Shared Expenses applicable to each condominium unit situated within such condominium and shall remit such funds to the Hotel Owner. Otherwise the Hotel Owner may collect the Shared Expenses. Further, such association, in addition to the Hotel Owner shall have a lien right against each condominium unit within the condominium it operates to secure payment of each condominium unit's applicable portion of the Shared Expenses.

(e) All Owners of a Condo-Hotel Unit shall have use rights to the designated Shared Facilities, along with the owners of condominium-hotel units within any additional condominium-hotel parcels which have been and may be created within Sycamore Resort. The Shared Facilities Expenses and Shared Expenses will initially be allocated among the Parcels and the Owners thereof (and allocated to any additional condominium-hotel parcel, if constructed), which allocation may be based upon any formula determined by the Hotel Owner in its sole discretion. All owners of condominium-hotel units shall be obligated to pay for their share of the Shared Facilities Expenses and Shared Expenses as provided in this Declaration and in **Exhibit "C"** and **Exhibit "D,"** both of which are attached hereto and made a part hereof. Assessments for the Shared Facilities Expenses and Shared Expenses shall be reflected on the respective annual operating budget to be prepared by the Association. If an additional condominium-hotel parcel is constructed within Sycamore Resort, all owners of the condominium-hotel units located within such additional condominium-hotel parcel shall be obligated to pay for their share of the Shared Facilities Expenses and Shared Expenses based upon such allocation as determined by the Hotel Owner in its sole discretion.

Common Assessments shall be estimated annually, in accordance with §4.6, and payable in monthly or quarterly installments as the Hotel Owner may determine, one full month or quarter, as applicable, in advance, on the dates determined by Hotel Owner of which dates Hotel Owner shall inform the Owners reasonably in advance. Adjustments to the Common Assessments made necessary by changes in the Shared Expenses shall be made during a particular fiscal year or at the beginning of a next fiscal year, as the Hotel Owner determines, but until notified of how adjustments are to be handled, Owners shall continue to pay installments at the same intervals and in the same amounts as the most recent previously due installments. Capital Improvement and Reconstruction Assessments shall be due within thirty (30) days after notice of such an Assessment is given by the Hotel Owner, or in such monthly installments as Hotel Owner may specify. Special Assessments shall be due within thirty (30) days after notice of such an Assessment is duly given, except as may be otherwise specifically provided in this Declaration.

If any installment of any type of Assessment is not paid when due, all scheduled or pending installments of such type of Assessment for the following twelve months may be accelerated and shall be due in one lump sum, to the extent allowed by law. If a certain type of Assessment or installment thereof is defaulted upon, in addition to acceleration of all installments of such type of Assessments, all other types of Assessments, or installments may be accelerated and deemed due in one lump sum. The determination whether to accelerate Assessments or installments thereof shall be made by the Hotel Owner or Creditor Owner (whichever is applicable) in the course of enforcement of defaulted obligations pursuant to §5.4.

(f) Certain property owned by the Hotel Owner is required to be maintained by the Hotel Owner. The facilities on such Hotel Owner owned property are available for use by all

Owners and their guests. Accordingly, such facilities shall be deemed part of the Shared Facilities and the costs to maintain same shall be Shared Expenses.

4.6 Accounting and Budgeting Matters. The Hotel Owner shall cause to be prepared an annual balance sheet and operating statement reflecting income and expenditures for the Shared Facilities for which the Condo-Hotel Parcel is obligated to pay Shared Expenses as herein provided, for each fiscal year, and shall cause to be distributed a copy of each such statement to each Owner and to each Mortgagee who has filed a written request for copies of the same with the Hotel Owner. At least thirty (30) days prior to the beginning of each fiscal year, the Hotel Owner shall prepare and distribute to the Owners a written, itemized estimate (budget) of the expenses to be incurred by the Hotel Owner during such year in performing its functions under this Declaration and for which the Condo-Hotel Parcel is obligated to contribute. The first annual Common Assessment shall be adjusted according to the number of months remaining in that fiscal year. The estimate may (but need not) include reasonable reserves for repairing and replacing improvements (computed by means of a formula based upon the estimated life and estimated repair and replacement costs for each improvement) and may (but need not) include reserves for contingencies (neither such reserve shall be considered a Capital Improvement or Reconstruction Assessment). Common Assessments shall be based on such budget. The Hotel Owner may at any time, amend such budget, and the Common Assessments shall be amended accordingly to the extent such budget and Assessments were inadequate and additional sums are needed. Written notice of any change in the amount of the annual Common Assessment shall be sent to every Owner at least thirty (30) days prior to the effective date of the change. At the end of any fiscal year all excess funds over and above the amounts used for Shared Expenses shall be retained by the Hotel Owner and used to reduce the following year's Common Assessments.

4.7 No Obligation. The Hotel Owner shall have no obligation to fund and/or advance any deficit or shortfall in funds which were the obligation of the Owners of the Condo-Hotel Parcel in order to properly perform the maintenance, repair and/or replacement obligations described herein.

4.8 Developer's Deficit Funding/Developer's Right to Subsidize Assessments. Anything to the contrary herein notwithstanding, neither Developer nor any affiliate of Developer shall be liable for any Assessments imposed upon any Parcel or Condo-Hotel Unit of which it or they are the Owners as long as Developer and/or affiliates of Developer pay all deficits in operation of the Shared Facilities above the Assessments collectible from other Owners of Parcels or Condo-Hotel Units at some rate which has been set forth in the then current budget. In calculating any such deficit, only actual current expenses (other than management fees, capital expenses and reserves) shall be counted. No Assessments shall be due for any Parcel or Condo-Hotel Unit until a certificate of occupancy has been issued therefor.

The budget deficit ("Deficit") is the difference between (i) the amount of Assessments levied on Condo-Hotel Units plus any other income received by the Hotel Owner and/or Condo-Hotel Association during the period during which Developer has elected to fund the deficit, and (ii) the amount of the Hotel Owner's and/or Condo-Hotel Association's actual expenditures during that time period and excluding Special Assessments arising as a result of any unusual loss or liability. The calculation of Developer's deficit funding obligation shall be done on a cumulative basis (from the inception of the election to fund the deficit until Developer's election to cease funding the deficit) although Developer will fund the Condo-Hotel Association expenses and Shared Expenses to meet its cash flow obligations as they arise during the deficit funding period.

During the period of time that Developer is offering Condo-Hotel Units for sale in the Building and/or based on the number of Condo-Hotel Units owned by owners other than Developer, Developer may seek to keep Assessments lower than they otherwise may be by subsidizing the budget of the Condo-Hotel Association and the Shared Facilities budget by making voluntary contributions in amounts determined by Developer. The amount of any such voluntary

contributions may vary from time to time or may be discontinued and recommenced by Developer from time to time. The determination to subsidize the budget of the Condo-Hotel Association and the Shared Facilities budget, the amount of any such voluntary contribution, the discontinuance and/or recommencement of any such voluntary contributions shall all be made in Developer's sole discretion and in no event shall Developer have any obligation whatsoever to make any such voluntary contributions. Each Condo-Hotel Owner shall be solely responsible to review the budget of the Condo-Hotel Association and the Shared Facilities budget then in effect to determine if and to what extent Developer is making any voluntary contributions to subsidize the budgets and thus lower the Assessments payable by the Condo-Hotel Owners that would otherwise be higher based on the Shared Expenses and the expenses of the Condo-Hotel Association.

Regardless of Developer's aforementioned election, Developer's Assessment obligations may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these, the value of which shall be reasonably determined by Developer.

Developer's obligation to deficit fund is not a guarantee of the Assessments as contemplated by Florida Statutes.

#### 4.9 Working Fund Contribution.

There is hereby established a Working Fund Contribution which is a one-time assessment ("Working Fund Contribution") applicable to each Condo-Hotel Unit in an amount equal to two (2) months of the then current Assessment amount for such Condo-Hotel Unit. The Working Fund Contribution shall become due and payable upon the first conveyance of the Condo-Hotel Unit, except if such conveyance is to an assignee of Developer's rights under this Declaration. The purpose of the Working Fund Contribution is to create a reserve fund for future capital improvements, maintenance, replacements and repairs ("Reserves") as reflected in the Shared Facilities Reserve Schedule of the annual operating budget of the Hotel Parcel, and to insure that the Hotel Owner will have cash available to meet unforeseen expenditures and to acquire additional equipment and services deemed necessary or desirable by the Hotel Owner. The amount of the Working Fund Contribution is subject to change in the Hotel Owner's sole discretion. Working Fund Contributions are not advance payments of Assessments and shall have no effect on future Assessments.

### ARTICLE V.

#### EFFECT OF NON-PAYMENT OF ASSESSMENTS AND RESORT SUBSIDY CHARGES; REMEDIES OF THE HOTEL OWNER AND CREDITOR OWNER

5.1 Imposition of Lien. A lien is hereby imposed on each Condo-Hotel Unit (a) for enforcement by and for the benefit of the Hotel Owner to secure payment of all Assessments and Resort Subsidy Charges now or hereafter imposed in accordance with this Declaration, and (b) for enforcement by and for the benefit of any Creditor Owner, to secure repayment to such Creditor Owner of amounts advanced by such Creditor Owner, in the manner provided in §5.2, for the account of a Defaulting Owner. Such lien shall also secure payment to the Hotel Owner or repayment to the Creditor Owner of all late charges and interest assessed on delinquent Assessments and Resort Subsidy Charges pursuant to §§3.1 or 4.5, reimbursement for or payment of all reasonable attorneys, fees and other reasonable costs incurred by the Hotel Owner or Creditor Owner in connection with the collection of claims relating to unpaid Assessments, Resort Subsidy Charges, room charges or other amounts due and/or the enforcement of the lien and

payment of all amounts for subsequent Assessments or Resort Subsidy Charges, if any, the maturity of which may have been accelerated pursuant to §5.4 as a result of the event of a default in one payment of Assessments. If all or any portion of any installment of a Common Assessment, Capital Improvement Assessment, Special Assessment or Reconstruction Assessment, or Resort Subsidy Charge, is not paid within fifteen (15) days after its due date, the unpaid amount shall bear interest at the highest lawful rate from time to time (now at eighteen percent (18%) per annum) from the due date until the date of full payment. In addition to such interest, the Hotel Owner may charge an administrative fee in an amount not to exceed the greater of twenty-five dollars (\$25.00) or five percent (5%) of each late Assessment installment payment. All late Assessment payments upon account shall be first applied to interest accrued, then to any costs and reasonable attorney's fees and then to the Assessment payment first due. All interest collected shall be credited to the Shared Expense account.

5.2 Creditor Owner Advances on Behalf of Defaulting Owner. If any Owner shall fail to pay Assessments or Resort Subsidy Charges or such other amounts as may be due and payable pursuant to the terms of this Declaration (including, without limitation, late charges and interest on past due Assessments or Resort Subsidy Charges), then any other Owner may pay the same, and the Defaulting Owner shall then be indebted to the Creditor Owner for such amounts, on which interest shall accrue at the rate specified in §5.1, and the Creditor Owner shall also have the lien on the Defaulting Owner's Parcel provided for in §5.1, to secure payment of such indebtedness.

5.3 Notice of Claim of Lien. No action shall be brought to foreclose any Assessment or Resort Subsidy Charge lien herein unless at least thirty (30) days has expired following the date a Notice of Claim of Lien is deposited in the United States mail, certified or registered, postage prepaid, to the Defaulting Owner of the Parcel, and a copy thereof has been recorded by the Hotel Owner or the Creditor Owner, whichever is applicable, in the Public Records of the County. Any such Notice of Claim of Lien must recite a sufficient legal description of the Parcel liened, the record Owner or reputed Owner thereof, the amount claimed (which may include interest and late charges on the unpaid Assessment or Resort Subsidy Charge at the rates and amounts described in §5.1, reasonable attorneys' fees, late charges and expenses of collection in connection with the debt secured by the lien, and late charges), and the name and address of the claimant. Any such Notice of Claim of Lien shall be signed and acknowledged by an officer or agent of the Hotel Owner or the Creditor Owner, whichever is applicable.

5.4 Collection of Unpaid Assessments and Resort Subsidy Charges. If any Assessment or installment thereof or Resort Subsidy Charge is not paid within thirty (30) days after its due date, the Hotel Owner or the Creditor Owner (whichever is applicable) may mail a default notice to the Defaulting Owner and simultaneously to each Mortgagee of the Defaulting Owner's Parcel or of the Condo-Hotel Units within such Parcel who has requested a copy of such default notice, and in the event that an action for lien foreclosure is contemplated, a Notice of Claim of Lien pursuant to the preceding Section shall also be sent to the Defaulting Owner and Mortgagees, if any, who have requested a copy of such notice. A single notice meeting the requirements of both the default notice and the Notice of Claim of Lien may in the alternative be issued, in accordance with the same schedule and to the same persons as stated in the preceding sentence. The default notice shall specify (a) the fact that one or more Assessments or installments thereof or Resort Subsidy Charges or other amounts due hereunder are delinquent, (b) the action required to cure the default, (c) a date, not less than thirty (30) days from the date that the default notice is mailed to the Defaulting Owner, by which date such defaults must be cured, and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the Common Assessments or installments thereof becoming due in the following twelve months, and in the acceleration of all other Assessments which shall have been levied but not yet become due and payable, and may also result in the foreclosure of the lien securing unpaid amounts.

## 5.5 Creditor Owner's Remedies for Non-Payment.

(a) Enforcement of Lien. The Creditor Owner may bring an action in its name to foreclose any lien on a Condo-Hotel Unit in the manner in which mortgages of real property are foreclosed in Florida and may also bring an action to recover a money judgment for unpaid Assessments or Resort Subsidy Charges or other amounts due with interest thereon (plus the costs and expenses mentioned in §5.1 hereof) without waiving any claim of lien, provided that in either case the Creditor Owner must give the Defaulting Owner at least thirty (30) days written notice of its intentions and, in the case of a foreclosure, must file a Notice of Claim of Lien in the Public Records of the County. Upon the timely curing of any default (including the payment of fees and costs secured by the Creditor Owner's lien) for which a Notice of Claim of Lien was filed, the Defaulting Owner is entitled to have a satisfaction of lien recorded upon payment to the Creditor Owner.

(b) Attorney's Fees and Other Costs of Enforcement. Reasonable attorneys' fees incurred by the Hotel Owner or Creditor Owner, whichever is applicable, incident to the collection of unpaid Assessments or Resort Subsidy Charges or other amounts due or the enforcement of any lien provided for by §5.1 (including attorneys' fees in connection with any review of a judicial or administrative proceeding by appeal or otherwise) , together with all sums advanced and paid by the Hotel Owner or Creditor Owner, whichever is applicable, or its agent for taxes and payments on account of superior liens or encumbrances that may be required to be advanced by the Hotel Owner or Creditor Owner, whichever is applicable, or its agent in order to preserve and protect its lien, shall be payable by the Defaulting Owner and secured by the lien of the Hotel Owner or Creditor Owner, whichever is applicable.

5.6 Curing of Default. Upon the timely curing of any default for which a Notice of Claim of Lien was filed by the Hotel Owner or Creditor Owner, whichever is applicable, an officer thereof shall record an appropriate Release of Lien upon payment by the Defaulting Owner of a fee, to be determined by the Hotel Owner or Creditor Owner, whichever is applicable, to cover the cost of preparing and recording the release. A certificate executed by and acknowledged by any authorized officer or agent of the Hotel Owner or Creditor Owner, whichever is applicable, stating the amount of the indebtedness secured by the lien upon any Parcel created hereunder shall be conclusive as to the amount of such indebtedness as of the date of the certificate with respect to all persons, other than the Owner of the subject Parcel, who rely on it in good faith. Such a certificate shall be furnished to any Owner upon request at a reasonable fee.

5.7 Cumulative Remedies. The liens and the rights of foreclosure and sale hereunder shall be in addition to and not in substitution for all other rights and remedies which the Hotel Owner or Creditor Owner or other Owners and their assigns may have hereunder and under law, including a suit to recover a money judgment.

5.8 Subordination of the Lien to Mortgages. The lien to secure payment of Assessments and Resort Subsidy Charges provided for in §§3.1 and 5.1 shall be subordinate to the lien of the first mortgage of any Mortgagee, if such lien was created in good faith and for value and was recorded prior to the date on which the Notice of Claim of Lien is recorded (a "First Mortgage"). The sale or transfer of any Condo-Hotel Unit shall not affect the Assessment or Resort Subsidy Charge lien. However, the sale or transfer of any Condo-Hotel Unit pursuant to foreclosure of such First Mortgage or deed in lieu thereof (if such First Mortgage was recorded prior to the recording of a Notice of Claim of Lien) shall extinguish the lien of such Assessments as to installments or Resort Subsidy Charges which become due prior to such sale or transfer. However, no sale or transfer shall relieve such Condo-Hotel Unit from liability for any installments of Assessments or Resort Subsidy Charges thereafter becoming due or from the lien thereof. All amounts not collected by reason of such foreclosure or deed in lieu shall be deemed a Common Assessment and shall be collectible as such from all Condo-Hotel Units, including the Condo-Hotel Unit which



is the subject of the foreclosure or deed in lieu thereof. Liens for Assessments under this Article V shall be superior to liens for assessments of any Condo-Hotel Association established with respect to any Condo-Hotel Unit in the Building. Notwithstanding the foregoing, an First Mortgagee or other person who obtains title to a Condo-Hotel Unit by foreclosure of a First Mortgage, or who obtains title to a Condo-Hotel Unit by deed in lieu of foreclosure, shall be liable for the twelve (12) months of unpaid Assessments that became due prior to such acquisition of title. Assessments which are not due from such Institutional Mortgagee shall become Shared Facilities Expenses collectible from all Owners.

5.9 Each Claim Separate. Each claim of any party arising under this Declaration shall be separate and distinct, and no defense, set-off or counterclaim arising against the enforcement of any lien or other claim of any party hereto shall thereby be or become a defense, setoff or counterclaim against the enforcement of any other lien or claim.

## ARTICLE VI. OPERATION AND MAINTENANCE

6.1 Compliance with Laws and Insurance Requirements. Each Owner shall comply with all laws, rules, orders, ordinances, regulations and requirements (hereafter in this §6.1 collectively referred to as “laws” and each of which is individually referred to as a “law”) now or hereafter enacted or promulgated, of the United States, the State of Florida, the County, the City, and of any other governmental authority or agency thereof now or hereafter having jurisdiction, and also of any recognized insurance rating organization and of any other body or board concurrently or successively exercising similar functions, and of any other lawful authority having jurisdiction, relating to the ownership, Maintenance or use of the Parcel or Condo-Hotel Unit owned by such Owner, and of any Shared Facility within such Parcel for which such Owner has Maintenance responsibility, if noncompliance with such law would subject any other Owner to liability or criminal prosecution, or would jeopardize the full force or effect of the certificates of occupancy for the Building, or portions thereof, or would result in the imposition of a lien against the Parcel or Condo-Hotel Unit of any other Owner or would cause termination of or would increase the rate of premiums on any public liability insurance policy maintained by the Hotel Owner, or the Condo-Hotel Owner, as the case may be, or on any casualty insurance policy maintained by such Owner or any other Owner. The provisions of this Section shall not be deemed to relieve any Owner of the obligation to perform any maintenance for which such Owner has the responsibility.

6.2 Construction and Other Liens. An Owner shall, within sixty (60) days after the filing of any construction, materialman’s or other lien, bond off or otherwise remove of record any construction, materialman’s or other lien affecting the Parcel or Condo-Hotel Unit of any other Owner, arising by reason of any work or materials ordered by such Owner or by reason of any act taken or suffered or omitted by such Owner. Removal of record of such lien may be accomplished by any means provided in the Florida Construction Lien Law or a successor statute thereto.

6.3 Disturbances. No Condo-Hotel Owner shall permit any noxious odor, noise or vibration which under the circumstances is unreasonable to emanate from the Parcel or Condo-Hotel Unit owned by such Owner which will damage or disturb the occupancy of any other Parcel or Condo-Hotel Unit or the enjoyment of any Shared Facility.

The Hotel Owner, who is to bear the Maintenance responsibility for the Shared Facilities located within the Hotel Parcel, shall utilize reasonable commercial efforts to not permit and to correct any noxious odor, noise or vibration which under the circumstances is unreasonable to emanate from such Shared Facilities which will damage or disturb the occupancy of any Condo-Hotel Parcel or the enjoyment of any Shared Facility serving any Condo-Hotel Unit. Notwithstanding the foregoing, all Owners recognize and acknowledge that certain activities within a Hotel (e.g., restaurants, parties in certain areas of a hotel, trash collection, etc.) will by

their very nature result in noise and odors which are unavoidable. By taking title to their Condo-Hotel Units, each Owner agrees to these anticipated and unavoidable conditions.

All activities by or on behalf of any Owner in the use and occupancy of such Owner's Parcel, including, without limitation, Maintenance shall be performed, insofar as possible, in a manner which minimizes interference with the use of any other Parcel.

6.4 Maintenance of Parcels and Condo-Hotel Units. Subject to §6.5, each Owner shall be responsible for the Maintenance of all portions of its Parcel or Condo-Hotel Unit as well as the fixtures and equipment in its Parcel or Condo-Hotel Unit that serve only its Parcel or Condo-Hotel Unit (including but not limited to heating, ventilating and air conditioning equipment, plumbing fixtures and connections thereto, and electric panels, outlets and wiring). Each Owner shall also be responsible for the Maintenance of all facilities serving its Parcel or Condo-Hotel Unit exclusively which are located within the Parcel or Condo-Hotel Unit of another Owner.

(a) Condo-Hotel Owners are required to report immediately in writing to the Hotel Owner and the Condo-Hotel Association (i) any evidence of water leak or water infiltration or excessive moisture in the Unit, and any other common elements; (ii) any evidence of mold that cannot be removed with a common household cleaner; (iii) any failure or malfunction in heating, ventilation or air conditioning, and (iv) any inoperable doors or windows.

(b) The Hotel Owner has a reasonable right of entry upon any Condo-Hotel Unit to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of Building and Hotel Parcel.

6.5 Maintenance of Shared Facilities. The Hotel Owner shall be responsible for the Maintenance of all portions of the Building not required to be maintained by the Condo-Hotel Owner. This responsibility shall specifically include Maintenance of the Shared Facilities.

6.6 Requirements. All Maintenance in the Building shall be performed in a good workmanlike manner, by employees or agents of the Hotel Owner or Manager, or (in the case of Maintenance which is not the responsibility of Hotel Owner, and the performance of which has not been let to Hotel Owner or the Manager) by licensed bonded contractors approved by Hotel Owner which contractors shall carry public liability insurance and employer liability insurance in amounts satisfactory to Hotel Owner and such worker's compensation insurance as required by law.

## ARTICLE VII. INSURANCE

7.1 Casualty Insurance. To the extent available, and to the extent not covered by the policy purchased by the Hotel Owner (which policy is paid for as a Shared Expense) the Owner of the Condo-Hotel Parcel shall keep all facilities serving the Condo-Hotel Parcel exclusively insured against loss or damage by fire, water, lightning, windstorm, hail, explosion, riot, damage from aircraft, collapse, and smoke damage, and such other risks, casualties and hazards as may from time to time be carried by prudent owners of similar buildings in the County, with all risk, extended coverage, vandalism and malicious mischief endorsements in an amount equal to the full replacement value thereof excluding the cost of excavation and of foundations.

The insurance policies shall provide that all monies for losses payable thereunder shall be paid to the Insurance Trustee provided for in §12.1. Such policies shall name as parties insured as their interest may appear, (i) Condo-Hotel Owner, and (ii) Hotel Owner, (iii) at the request of any Owner, the lessee or mortgagee of all or any portion of the Parcel owned by such Owner, (iv) at the request of any such lessee, any holder of a leasehold mortgage which is a lien upon the lease

held by such lessee, and (v) at the request of the board of directors of the Condo-Hotel Association, the Condo-Hotel Association. At the request of any Owner, such policies shall contain standard mortgagee clauses in favor of any mortgagee of all or any portion of the Parcel owned by such Owner and/or any holder of a mortgage on a leasehold interest in all or any portion of such Parcel, as their interests may appear, provided that the cost of adding any standard mortgagee clause shall be borne by the Owner requesting such addition. Nevertheless, all monies payable under such policies shall be payable in accordance with the provisions of this Declaration. Each such policy shall contain waivers of subrogation for the benefit of all Owners and waivers of any defense based on co-insurance or other insurance, and shall provide that such policies may not be cancelled or modified without at least thirty (30) days' prior written notice to all of the named insureds and mortgagees. Hotel Owner and any Mortgagee of the Hotel Parcel shall have the right to approve the amount of any proposed settlement of any claim under the insurance to be carried by the Condo-Hotel Owner under this §7.1, and, at their election to conduct the negotiations leading to such settlement subject to the right of the Condo-Hotel Owner, to approve any such settlement, which approval shall not be unreasonably withheld.

7.2 Liability Insurance. Each of the Hotel Owner and the Condo-Hotel Association shall maintain (a) commercial general liability insurance against claims for personal injury, death or property damage occurring upon, in or about the Shared Facilities and the Condo-Hotel Parcel, as applicable, and on, in or about the streets, sidewalks and passage-ways adjoining the Building for which the Hotel Owner has the Maintenance responsibility, and (b) worker's compensation and employers' liability insurance to the extent required by law. Said insurance shall be in at least such amounts as from time to time are carried by prudent owners of hotel or condominium apartment buildings in the County. The expense of such general liability insurance and other coverages required by this §7.2 shall be a Shared Expense. In no event, however, shall the comprehensive general liability insurance required by clause (a) above afford protection for a limit of less than \$1,000,000.00 per occurrence, \$2,000,000.00 in the general aggregate and \$2,000,000.00 in the products-completed operations aggregate, nor shall the amount of workmen's compensation and employers' liability insurance required under clause (b) above be less than the amount required by applicable laws or regulations. The policies effecting such comprehensive general liability insurance shall name Declarant, Hotel Owner and Condo-Hotel Association as insured parties. Each such policy shall contain waivers of subrogation for the benefit of all Owners, and waivers of any defense based on coinsurance or other insurance, and shall provide that such policies may not be cancelled or modified without at least thirty (30) days, prior written notice to all of the insureds and mortgagees.

7.3 Insurance Policies. Thirty (30) days prior to the expiration of any policy of insurance from time to time maintained pursuant to §7.1, each Owner shall effect the renewal or replacement of such policy.

The form, amount and coverage, and every other matter relating to the insurance required to be maintained by each Owner under this Article VII including the insurance company or broker which is to issue or place such insurance, shall be subject to review and approval by the Hotel Owner or by an insurance consultant appointed by the Hotel Owner. The fees of any such insurance consultant shall be a Shared Expense.

Each Owner shall deliver copies of binders or certificates for the renewal policies to all other Owners who are required to be covered thereby to be followed within thirty (30) days by copies of the renewal policy, or in the case of Hotel Owner, relevant pages from any blanket insurance policies or certificates which it may maintain indicating renewal of the required coverage in question under such blanket policy.

7.4 Insurance for Condo-Hotel Owners. The owners of the Condo-Hotel Units shall carry insurance for their own benefit, provided, that all policies for such insurance shall contain waivers

of subrogation for the benefit of all Owners, and, further, provided, that the liability of the carriers issuing the insurance obtained pursuant to §7.1 and 7.2, shall not be affected or diminished by reason of any such insurance carried by the owners of the individual Condo-Hotel Units.

7.5 Mandatory Insurance Program. If either the Hotel Owner or the Condo-Hotel Association obtains insurance coverage for (i) the property lying within the boundaries of the Condo-Hotel Units and all contents within the interior of the Condo-Hotel Units, including, but not limited to, personal property, fixtures, appliances, air conditioning and heating equipment, water heaters and built-in cabinets; and (ii) commercial general liability insurance (as set forth in Section 7.2), such insurance policy will be a mandatory insurance program that all owners of the Condo-Hotel Units will be bound by and all costs for the premiums thereof shall be either a Shared Expense assessed by the Hotel Owner or a Common Expense (as defined in the Condo-Hotel Declaration) of the Condo-Hotel Association.

## ARTICLE VIII. DAMAGE TO THE STRUCTURE

### 8.1 Repair and Restoration.

(a) Mandatory Repair and Restoration by Condo-Hotel Owner in Occurrences Involving No Damage Affecting Hotel Parcel or Shared Facilities. If any portion of the Condo-Hotel Parcel is damaged by fire or other casualty and there is no damage to any facility serving the Hotel Parcel and there is no damage to any improvements located in the Hotel Parcel or to any Shared Facilities, then the portion of the Condo-Hotel Parcel so damaged (except for furniture, furnishings and fixtures in the Condo-Hotel Units contained in the Condo-Hotel Parcel) shall be repaired and restored as promptly as is reasonable by the Condo-Hotel Owner, in accordance with the then existing Building Plans (with such changes as are permitted by §9.1) The Condo-Hotel Owner, in accordance with the provisions of this Article VIII, shall be entitled to withdraw any insurance proceeds held by the Insurance Trustee by reason of such damage, for application to the cost and expense of such repair and restoration. Notwithstanding the foregoing, in performing such repair and restoration the Condo-Hotel Owner or the owner of the applicable Condo-Hotel Unit shall install in the kitchens and bathrooms of the Condo-Hotel Units, fixtures and appliances of the same kind and quality as originally found in the kitchens, if any, and baths of said Condo-Hotel Units, or if such are unavailable then such fixtures and appliances as shall be commonly found in similar units, in other first class hotels.

(b) Mandatory Repair and Restoration by Hotel Owner in Occurrences Involving No Damage Affecting Condo-Hotel Parcel. If any portion of the Hotel Parcel is damaged by fire or other casualty, and there is no damage to the Condo-Hotel Parcel and, or to any improvements located in the Condo-Hotel Units, then the portion of the Hotel Parcel so damaged shall be repaired and restored by the Hotel Owner in accordance with the then existing Building Plans (with such changes as are permitted by §9.1). The Hotel Owner shall, in accordance with the provisions of this Article VIII, be entitled to withdraw any insurance proceeds held by the Insurance Trustee by reason of such damage for application to the cost and expense of such repair and restoration.

(c) Mandatory Repair and Restoration of Damage Affecting All Parcels and/or Shared Facilities. If any portion of the Building is damaged, and if the provisions of the preceding paragraphs of this §8.1 are not applicable, then the repair and restoration of such damage (i) to any Shared Facility, Visible Areas, facility located in one Parcel but serving another Parcel or portions of the Condo-Hotel Parcel insured under policies maintained pursuant to §7.1 hereof shall be performed by the Hotel Owner on behalf of all the Owners; (ii) to any portions of a Parcel other than those areas described in item (i) shall be performed by the Owner of the damaged Parcel. The Hotel Owner shall, in accordance with the provisions of this Article VIII be entitled to withdraw any insurance proceeds held with regard to any Parcel by the Insurance Trustee by reason of such

damage for application to the cost and expense of such repair and restoration. To the extent necessary, such repair and restoration shall include installation in the Condo-Hotel Units of such fixtures and appliances of the same kind and quality as originally found in the kitchens and baths of said Condo-Hotel Units, or if such are unavailable then such fixtures and appliances as shall commonly be found in kitchens, if any, and bathrooms of similar units in other first class hotels.

(d) Self-Help. If at any time any Owner including any owner of a Condo-Hotel Unit (hereinafter referred to in this paragraph as the “Non-Performing Owner”) shall not be proceeding diligently with any work of repair and restoration required of it hereby, then any other Owner who would be benefited by such repair and restoration shall give written notice to the Non-Performing Owner and any other Owner specifying the respect in which such repair and restoration is not proceeding diligently. If, upon expiration of thirty (30) days after the giving of notice, the work of repair and restoration is not proceeding diligently, then, subject to the Non-Performing Owner’s right to dispute as set forth below, the Owner giving notice may perform such repair and restoration in accordance with the then existing Building Plans (thereby releasing the Non-Performing Owner from any liability for the quality of such repair or restoration performed by said other Owner) and may take all appropriate steps to carry out the same, including, without limitation, entry onto the Parcel of any Owner to the extent necessary to perform such repair and restoration. The Owner performing such repair and restoration shall, in accordance with this Article VIII, be entitled to withdraw any insurance proceeds held by the Insurance Trustee by reason of such damage, for application to the cost and expense of such repair and restoration. If at any time the Owners disagree as to whether the work of repair and restoration is proceeding diligently, then such dispute shall be settled by arbitration in accordance with Article XIV, and the Owner giving notice shall not perform such repair and restoration until the dispute shall have been settled. Any Owner who is diligently negotiating in good faith the settlement of any insurance claim under a policy held by it pursuant to Article VII, which is required to fund repair of a casualty insured by the policy in question, shall not be regarded as failing to proceed diligently with any repair or restoration required of it.

(e) Repair and Restoration. If any portion of a particular Parcel is damaged by fire or other casualty and there is no damage to any facility serving another Parcel, or to a Shared Facility, then the portion so damaged shall be repaired and restored by the Owner of such damaged Parcel. The Owner shall be entitled to withdraw any insurance proceeds held by the Insurance Trustee by reason of such damage.

(f) Water Damage. In the event of water damage each Owner of a Condo-Hotel Unit is responsible for drying out the cabinetry and other fixtures and personal property located within his or her Unit. In the event an owner of a Condo-Hotel Unit fails to perform such work in a timely manner, the Hotel Owner may do so and charge the owner of the Condo-Hotel Unit for the cost thereof. The Hotel Owner is responsible for drying out the other portions of the Unit in the event of water damage and must take prompt action in that regard to preserve the integrity of the Building.

(g) Emergency. The Hotel Owner has the right to enter a Unit in the event of an emergency such as a water leak in the event damage is suspected.

8.2 Repair and Restoration Procedures. The plans and specifications for any repair or restoration to be performed under §8.1 shall be prepared by the Architect designated in accordance with §11.2. Unless the Hotel Owner otherwise agrees, plans and specifications for any repair or restoration shall be developed consistent with the then existing Building Plans. The Architect shall assist the Owner responsible for performing the repair or restoration in question in obtaining bids therefor from responsible contractors. Such contractor shall be chosen in the manner provided in Article XI hereof. The contractor shall work under the administration of the Architect and the Owner responsible under §8.1 for causing such repair and restoration to be performed. The

Architect for a given repair or restoration is hereby authorized and directed to deliver such certifications and instructions as may be required by Article XII to the Insurance Trustee, from time to time as such repair and restoration progress, to obtain disbursement for application to the cost and expense of such repair and restoration of (a) the insurance proceeds and (b) any other monies for such repair or restoration, which may have been deposited with the Insurance Trustee pursuant to §8.3. All instructions to the Insurance Trustee shall be made available by the Architect at reasonable times for inspection by any Owner who will benefit from the repair or restoration being made.

### 8.3 Application of Insurance Proceeds and other Funds to Repair and Restoration.

(a) Insufficient Insurance Proceeds. All insurance proceeds paid in connection with a casualty shall be used to their full extent to fund restoration and repair hereunder. If the cost and expense of performing any repair and restoration provided for in §8.1 shall exceed the amount of insurance proceeds paid under policies maintained by the Owners by reason of the damage being repaired and restored, then such excess cost and expense shall be borne (subject to §8.3 (b) by the Owners in proportion to the cost and expense of repairing and restoring the improvements within each of their respective Parcels. For the purpose of determining such proportions, the cost and expense of repairing and restoring any Shared Facility shall be allocated by the Architect to the Owners in the proportion which shall be determined pursuant to Article XXIII and **Exhibit "D"**. In any such instance of repair or restoration which is to be performed pursuant to §8.1, if the Architect's estimate of the cost and expense of performing such repair or restoration (or, if a fixed cost construction contract shall have been executed providing for the performance of such repair and restoration, then the fixed costs so provided for, plus all other expenses estimated by the Architect) exceeds the amount of insurance proceeds paid by reason of the damage which shall have necessitated such repair and restoration, then the Hotel Owner shall impose a Reconstruction Assessment upon each Owner for its proportionate share of the amount of such excess cost and expense which shall be borne as provided above in this §8.3(a), whereupon each Owner shall so deposit with the Insurance Trustee the amount of such Owner's Reconstruction Assessment. If any Owner (hereinafter referred to in this sentence as the "Defaulting Owner") shall fail to pay, or, as the case may be, deposit, the Defaulting Owner's Reconstruction Assessment in accordance with this paragraph, then the Defaulting Owner's obligation may be enforced and the lien on the Defaulting Owner's Parcel securing payment of Assessments may be foreclosed, in accordance with Article V hereof.

(b) Limitations on Repair or Restoration of the Condo-Hotel Parcel. In the event a casualty occurs, and (i) the Building is totally destroyed or Substantially Damaged, as hereinafter defined in §8.3(d), and seventy-five percent (75%) of the voting interests of the unit owners (within the meaning of the Condominium Act), duly and promptly resolve not to proceed with repair or restoration or (ii) the Building is not totally destroyed or Substantially Damaged but more than eighty percent (80%) of the voting interests of the unit owners (within the meaning of the Condominium Act) duly and promptly elect not to pay for repair or restoration, then the Building, if the Hotel Owner so elects shall be restored as provided in §8.1, but the liability of the unit owners (within the meaning of the Condominium Act) constituting the Condo-Hotel Owner, for the costs of such repair or restoration shall be limited to the extent of the proceeds of insurance maintained pursuant to §7.1 hereof. Any deficit in the funds needed to fully repair and restore the Building in the manner provided for in §8.1 which is due to such election of the Condo-Hotel Owner, shall be compensated for by a commensurate decrease in the amount of repair and restoration to be done to the Building, or Hotel Owner shall have the option but not the obligation to pay any such deficit. No unit owner (within the meaning of the Condominium Act) shall be subject to suit or claim by the Hotel Owner for monies in excess of such insurance proceeds, or for the proceeds of insurance maintained pursuant to §7.4 hereof, and the board of directors of the Condo-Hotel Association, shall not be required to assess the unit owners (within the meaning of the Condominium Act) for such excess cost or expenses. Hotel Owner shall have the option but not the obligation to purchase

the Condo-Hotel Parcel, pursuant to §24.1 in the event of an election by the unit owners (within the meaning of the Condominium Act) as and for the Condo-Hotel Owner, as applicable, under this paragraph. In the event Hotel Owner elects to make such purchase, the proceeds paid to the Insurance Trustee from the casualty insurance policies of the Condo-Hotel Owner and the Hotel Owner shall first be utilized to fund the purchase price and closing costs of such purchase of Condo-Hotel Parcel, by Hotel Owner, and any funds thereafter remaining shall be disbursed by the Insurance Trustee to the Hotel Owner, or its mortgagee(s), as their interests may appear, for utilization in the repair of the Building or for such other purposes as Hotel Owner and/or such mortgagee(s) may reasonably determine.

(c) Excess Repair and Restoration Funds. Upon completion of the repair and restoration in accordance with this Article of any damage to the Building, any insurance proceeds and any construction Assessments paid to the Insurance Trustee by reason of such damage in excess of the cost and expense of performing such repair and restoration shall be refunded to the Owners in the respective proportions by which each Owner contributed funds to the funds held by the Insurance Trustee, attributing to each Owner as its contribution the proceeds paid into the Insurance Trustee fund by the insurer under any insurance policy maintained by such Owner, plus any Reconstruction Assessment paid by such Owner for such repair and restoration.

(d) Substantial Damage. For the purpose of §8.2 and generally in this Declaration, Substantial Damage to the Building shall be defined as follows: (i) If greater than or equal to fifty percent (50%) of the replacement value of the Building is destroyed by such a casualty or loss occurring during the period commencing with the initial recordation of this Declaration and terminating thirty (30) years thereafter (“Initial Period”); (ii) If greater than or equal to thirty-five percent (35%) of the replacement value of the Building is destroyed by a casualty or loss occurring at any time during the period commencing with the end of the Initial Period and terminating ten (10) years thereafter (“Second Period”); (iii) If an amount greater than or equal to twenty-five percent (25%) of the replacement value of the Building is destroyed by a casualty or loss occurring at any time during the period commencing with the end of the Second Period.

8.4 Limitations on Repair or Restoration by the Hotel Owner. In the event that any casualty or loss results in Substantial Damage to the Hotel Parcel, the Hotel Owner shall have the option not to proceed with repair or restoration of the Hotel Parcel, as well the option not to proceed with any concurrently required repairs to the Condo-Hotel Parcel, notwithstanding any obligation the Hotel Owner might otherwise have to make such repairs under §8.1 (b) and/or (d). The Hotel Owner shall elect whether to exercise such option on or before the ninetieth (90th) day following the date such casualty or loss occurred, and shall deliver written notice to the Condo-Hotel Owner and the Insurance Trustee of any election by it to exercise such option. In the event the Hotel Owner does exercise such option, the Hotel Owner shall be deemed concurrently to have exercised the option to purchase the Condo-Hotel Parcel granted it under §24.1. In such event, the proceeds paid to the Insurance Trustee from the casualty insurance policies of the Condo-Hotel Owner on the Condo-Hotel Parcel and the Hotel Owner on the Hotel Parcel as a result of the casualty or loss occurrence in question shall first be utilized to fund the purchase price and closing costs of the Hotel Owner’s purchase of the Condo-Hotel Parcel in accordance with Article XXIV, and any funds thereafter remaining shall be disbursed by the Insurance Trustee to the Hotel Owner, or its mortgagee(s), as their interests may appear, for utilization in demolition of the Building or such other purposes as the Hotel Owner and/or such mortgagee(s) may reasonably determine.

8.5 Legal Variances. If, to perform any repair or restoration provided for in §8.1, it shall be necessary to obtain a variance, special permit or exception to or change in zoning or other laws (“variance”) in order to repair or restore the Building to its condition as described in the Building Plans immediately prior to such damage, and if the Owner responsible for carrying out such repair and restoration believes it is possible to obtain the variance, and so notifies the Owners in writing, then the Owners shall cooperate to obtain the variance. If architectural and/or legal services shall

be necessary to obtain the variance, then the Owner responsible for carrying out such repair and restoration shall retain an architect and/or attorney to perform such services. The legal and architectural fees and all other costs and expenses of applying for obtaining the variance, shall be considered as a part of the cost and expense of carrying out the repair and restoration. There shall be no obligation to commence any repair or restoration if a variance is sought in accordance with this Section, while such variance is being diligently sought.

If any repair or restoration to be performed pursuant to §8.1 hereof cannot be carried out in compliance with the law, and if the variance is not obtained pursuant to the immediately preceding paragraph within six (6) months of the date of the casualty, then necessary adjustments shall be made in the plans and specifications for such repair and restoration so that the Building, as repaired and restored, shall comply with law. However, no substantial reduction in the floor area contained within the Hotel Parcel or serving the Hotel Parcel and no substantial reduction in the floor area contained within the Condo-Hotel Parcel, or areas serving the Condo-Hotel Parcel, shall be made without the consent of the Owner who shall be affected by such reduction. If said Owner shall be unwilling to so consent, and if it shall not be feasible to make such adjustments without substantially reducing said floor areas, then such repair and restoration shall not be performed pursuant to §8.1. Subject to the provisions of the following paragraph, any insurance proceeds, less costs and expenses paid or incurred in applying for the variance, shall be paid out by the Insurance Trustee to the Owners in proportion to the amount such proceeds shall have been paid by the insurers for damage to improvements within the respective Parcels of each of the Owners.

If, pursuant to the immediately preceding paragraph, repair and restoration is not to be performed pursuant to §8.1, then the improvements within each Parcel shall be demolished, or repaired and restored, as the Owner of each Parcel shall elect, to such extent, if any, as may be necessary to comply with all laws, rules, orders, ordinances, regulations and requirements of any government or municipality or any agency thereof having jurisdiction. Such demolition, or repair and restoration, shall be mandatory and shall be performed by the Owner of the damaged Parcel, who shall be entitled to withdraw any insurance proceeds held by the Insurance Trustee by reason of such damage. The cost and expense of such demolition, repair and restoration shall be allocated among the Owners in proportion with the cost and expense of repairing and restoring the improvements within each of their respective Parcels, except that for the purpose of determining such proportions, the cost and expense of repairing or restoring any Shared Facility, shall be allocated to the Owners in the proportions which shall be determined pursuant to Article XXIII. Notwithstanding the foregoing, in the event that pursuant to this §8.3 repair or restoration is not to be performed as to a particular Parcel, the Owner of such Parcel shall not demolish Visible Areas or such portion of such Parcel which shall serve as support for the other Parcel or any portions which contain facilities or areas which serve the other Parcel unless such demolition shall be necessary to comply with applicable law or unless such Parcel is to be demolished. Also notwithstanding the foregoing, in the event that pursuant to this §8.5, (i) if repair and restoration is not to be performed as to the Condo-Hotel Parcel, then Hotel Owner shall have the option but not the obligation to purchase the Condo-Hotel Parcel pursuant to §24.1(a), and (ii) if repair and restoration is not to be performed as to the Hotel Parcel, the Hotel Owner shall have the option to purchase, and the Condo-Hotel Owner shall have the option to require the Hotel Owner to purchase, in accordance with §24.1(b). In the event a purchase of the Condo-Hotel Parcel is to be made under the preceding sentence, the proceeds paid to the Insurance Trustee from the casualty insurance policies of the Condo-Hotel Owner and Hotel Owner shall first be utilized to fund the purchase price and closing costs of such purchase of the Condo-Hotel Parcel by the Hotel Owner, and any funds remaining thereafter shall be disbursed by the Insurance Trustee to the Hotel Owner, or its mortgagees, as their interest may appear, for utilization in the repair of the Building or for such other purposes as Hotel Owner and/or such mortgagee(s) may reasonably determine.



8.6 Disputes. If any dispute shall arise pursuant to the provisions of this Article then the dispute shall be settled by arbitration in accordance with Article XIV hereof, but the arbitrators shall have no power or authority to vary the provisions of this Article VIII without the consent of each Owner.

ARTICLE IX.  
ALTERATIONS; ARCHITECTURAL CONTROL

9.1 Alterations. Subject to the provisions of **Exhibit "D"** with respect to cost-sharing of Shared Facilities, to the provisions of Article XXIII, and to the limitations contained in this Article, the Hotel Owner may at any time at Hotel Owner's sole cost and expense make alterations to the improvements to the Building and Hotel Parcel. In connection with such alterations the Hotel Owner may relocate any easement within such Parcel granted to any other Owner pursuant to Article II, provided, however, that such alterations shall not, without such other Owner's consent, diminish the benefits afforded to such other Owner by such easement or interrupt such other Owner's use of such easement. Condo-Hotel Owner shall not alter any Shared Facility without the consent of the Hotel Owner. Condo-Hotel Owner agrees that it shall not make, nor permit to be made any alteration of the Condo-Hotel Parcel or the Condo-Hotel Units therein which shall necessitate the erection of additional columns, bearing walls, or other structures upon the Hotel Parcel for the support such alteration. Further, the Hotel Owner will have the right to specify the exact material(s) to be used for sound insulation purposes. In the event of a conflict between the materials specified, the decision of the Hotel Owner shall control.

If at any time any Owner proposes to make any such alterations, and if such alterations will change the location of, reduce the area of, or otherwise affect, any easement granted to another Owner pursuant to Article II, or such alteration is of the type for which the consent of the other Owner is required under the preceding paragraph, then, before commencing such alterations, the Owner who proposes to make such alterations shall give to such other Owners a copy of the plans and specifications showing the proposed alterations. If such other Owners shall not, within thirty (30) days after delivery of said plans and specifications, give the Owner who proposes to make such alterations a written notice objecting to the proposed alterations, then, subject to the other restrictions set forth in this Article, the proposed alterations may be made by the Owner who proposes same, provided that alterations actually made are shown on the plans and specifications furnished to such other Owner. If the other Owner shall give a written notice objecting to the proposed alterations, and if the Owner who proposes to make such alterations and the other Owner objecting thereto do not resolve their differences within fifteen (15) days after the giving of such notice, then the Owner who proposes to make such alterations shall not commence the same until the dispute has been settled by arbitration in accordance with Article XIV.

Any Owner making alterations shall comply with all laws, rules, orders, ordinances, regulations and requirements of any government or municipality or any agency thereof having jurisdiction and shall, within thirty (30) days after demand by any other Owner, discharge, by the filing of a bond or otherwise, any construction, materialman's or other lien asserted against the Parcel of such other Owner by reason of the making of such alterations. Any Owner making an alteration shall provide to the Hotel Owner a complete set of as-built plans with respect to the work performed within thirty (30) days of substantial completion of said work. An Owner shall, to the extent reasonably practicable, make alterations in such a manner as to minimize any noise or vibration or odor which would disturb an occupant or occupants of a Parcel owned by any other Owner.

Any such alterations shall be made at the cost of the Owner performing the same; provided, however, if the same are performed by the Hotel Owner to a Shared Facility or as a capital improvement to the Building as a whole, then such alterations shall be paid for through Common Assessments or a Capital Improvement Assessment, as may be applicable.

Upon completion of any alteration pursuant to this §9.1, the Building Plans shall be amended to reflect such alteration “as-built”.

9.2 Composition. An Architectural Committee shall be formed by Developer and shall consist of three (3) members, who initially shall be persons designated by Developer (hereinafter, the “Architectural Committee”). Each of those persons shall hold office until Developer no longer owns any portion of the Condo-Hotel Parcel (or sooner at Developer’s option) unless Developer removes him or her and replaces him or her with a new appointee before that time. Thereafter, two (2) members of the Architectural Committee shall be appointed by the Hotel Owner and one (1) member by the Condo-Hotel Owner. Members of the Architectural Committee appointed by an Owner may be removed by such Owner at any time without cause.

9.3 Review of Proposed Construction. Subject to §9.10 and such rights of approval granted in §9.1 or elsewhere in this Declaration, no improvement or alteration as provided for in this Article, or reconstruction, repair, demolition or the like as provided for in Articles VIII and X, (including landscaping) shall be performed, erected or installed on or in the Building by the Hotel Owner or the Condo-Hotel Owner, nor any subdivision, platting or replatting of the Hotel Parcel or the Condo-Hotel Parcel shall be made, unless and until, in any such case, the plans and specifications showing the nature, kind, shape, height, materials and location of the same have been submitted to, and approved in writing, by the Architectural Committee. The Architectural Committee shall approve proposals or plans and specifications submitted for its approval only if it considers that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the Building as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. The Architectural Committee may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Architectural Committee may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The Architectural Committee may require such detail in plans and specifications submitted for its review as it considers proper, including, without limitation, floor plans, surveys, elevation drawings and descriptions or samples of materials and colors. Until receipt by it of required plans and specifications and other requested information as necessary, the Architectural Committee may postpone review of any proposal submitted for approval. The Architectural Committee shall have thirty (30) days after delivery of all required materials to approve or reject any such plans, and a proposal that is not rejected within such thirty (30) day period shall be deemed approved. Notwithstanding any provisions in this Article IX to the contrary, the approval of the Architectural Committee shall not be required for any non-structural additions, changes or alterations if the non-structural additions, changes or alterations are not in a Visible Area within either the Hotel Parcel or the Condo-Hotel Parcel.

9.4 Weight and Sound Restriction. Hard and/or heavy surface floor coverings, including, without limitation, tile or wood. The Hotel Owner shall not approve the installation of any hard and/or heavy surface floor coverings (for which approval is required) unless the aggregate sound isolation and acoustical treatment carries a minimum Sound Transmission Classification (STC) of 48 and a minimum Impact Isolation Classification (IIC) of 46. The installation of the foregoing insulation materials shall be performed in a manner that provides proper mechanical isolation of the flooring materials from any rigid part of the building structure, whether of the concrete subfloor (vertical transmission) or adjacent walls and fittings (horizontal transmission) and must be installed prior to the Condo-Hotel Unit being occupied. The installation of any improvement or heavy object must be submitted to and approved by the Hotel Owner, and be compatible with the overall structural design of the Building. The Hotel Owner may require a structural engineer to review the proposed improvements, with such review to be at the Condo-Hotel Owner’s sole expense. Condo-Hotel Owners will be held strictly liable for violations of these restrictions and

for all damages resulting therefrom and the Hotel Owner has the right to require immediate removal of violations. Each Condo-Hotel Owner is hereby advised that sound transmission in a high-rise building such as the Building is very difficult to control, and that noises from adjoining or nearby Condo-Hotel Units and or mechanical equipment can often be heard in another Condo-Hotel Unit. Developer does not make any representation or warranty as to the level of sound transmission between and among Condo-Hotel Units and the other portions of the Building, and/or from elevators or mechanical equipment, and each purchaser hereby waives and expressly releases any such warranty and claim for loss or damages resulting from sound transmission

9.5 Meetings of the Architectural Committee. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The Architectural Committee may from time to time, by resolution unanimously adopted in writing, designate a representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Architectural Committee, except the granting of variances pursuant to §9.10. In the absence of such a designation, the vote of any two (2) members of the Architectural Committee, after at least seven days prior notice of a vote to all members, shall constitute an act of the Architectural Committee. After Developer no longer owns any of the Condo-Hotel Parcel, one of the members of the committee appointed by the Hotel Owner shall be designated to receive notice of alterations, and to schedule and give notice to the members of Architectural Committee meetings and votes.

9.6 No Waiver of Future Approvals. The approval of the Architectural Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

9.7 Compensation of Members. The members of the Architectural Committee shall receive no compensation for services rendered, other than reimbursement for third party expenses incurred by them on behalf of the Architectural Committee in the performance of their duties hereunder. The Architectural Committee may retain an architect or engineer to advise it in its deliberations, to review plans and specifications submitted and to inspect work for which approval is required. The Architectural Committee may impose a fee upon an Applicant/Owner to defray the costs and fees of the architect or engineer in reviewing the Applicant's plans and specifications and inspecting the work.

9.8 Inspection of Work. The inspection of work and correction of defects therein, if any, shall proceed as follows:

(a) Notice of Completion. Upon the completion of any work for which approved plans are required under this Article, the applicant (who may be an Owner or the Condo-Hotel Association) for such approval ("Applicant") shall give the Architectural Committee written notice of the completion.

(b) Inspection. Within thirty (30) days thereafter, the Architectural Committee or its authorized representative may inspect the work. If the Architectural Committee finds that the work was not done in substantial compliance with the approved plans, it shall notify the Applicant in writing of the noncompliance within thirty (30) days thereafter, specifying the particulars of noncompliance.

(c) Non-Compliance. Any Applicant who receives notice of a non-compliance as provided in §9.7(b) of this Article shall remedy the noncompliance within thirty (30) days of being notified, and, if he/she fails to, the Architectural Committee shall notify the Owners in writing of

the failure, its nature and the estimated cost of correcting or removing it. If the Applicant does not comply within said thirty (30) days, then any Owner at its option, may either remove the non-complying improvement or remedy the non-compliance, and in either case the Applicant shall reimburse such Owner, upon demand, for all expenses incurred in connection with such Owner's action. If the Applicant fails to promptly reimburse such Owner its expenses, such Owner may request that the Hotel Owner shall levy a Special Assessment against the Applicant and its Parcel for reimbursement.

(d) Effect of Committee's Failure to Notify Applicant. If for any reason the Architectural Committee fails to notify the Applicant of any non-compliance within thirty (30) days after its receipt of a written notice of completion from the Applicant, the Improvements shall be deemed to be in accordance with the plans approved by the Architectural Committee.

9.9 Non-Liability of Committee Members. Neither the Architectural Committee, any of its members, nor its authorized representative, shall be liable to the Condo-Hotel Association, any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Committee's duties hereunder, unless the loss, damage or injury is due to the willful misconduct or bad faith of one of its members (in which case only the culpable member shall have any liability). The Architectural Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition on the basis of aesthetic considerations and the overall benefit or detriment which would result to the Building. The Architectural Committee shall take into consideration the aesthetic aspects of the architectural designs, landscaping, color schemes, finishes and materials and similar features. It shall not, however, be responsible for reviewing any plan or design from the standpoint of structural safety or conformance with building or other codes.

9.10 Variances. The Architectural Committee may authorize a variance from compliance with any of the architectural provisions of this Declaration when circumstances such as natural obstructions, hardship, or aesthetic or environmental considerations dictate a variance. Any such variance must be evidenced in a writing signed by at least two (2) members of the Architectural Committee. No violation of this Declaration shall be deemed to have occurred with respect to a matter for which the variance was granted. The granting of such a variance shall not, however, operate to waive any of the restrictions in this Declaration for any purpose except as to the particular Parcel and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his or her use of the Parcel covered by the variance, including, but not limited to, zoning ordinances and set-back lines or requirements imposed by any governmental or municipal authority, nor the Owner's obligation to seek approval by another Owner as set forth in §9.1.

9.11 Developer's Exemption. The provisions of this Article IX shall not apply to Developer and to any and all construction, alterations, additions or other work planned or performed by Developer or any affiliate of Developer. The provisions of this Article IX shall not apply to the Hotel Owner and to any and all construction, alterations, additions or other work planned or performed by the Hotel Owner.

## ARTICLE X. CONDEMNATION

10.1 Payment to Insurance Trustee. Any awards for damage, direct and consequential, resulting from the taking, other than a temporary taking, by the exercise of the power of eminent domain, by any sovereign, municipality or other public or private authority, of all or any part of the Building or the easements or other appurtenances thereto shall be paid to the Insurance Trustee provided for in §12.1.

10.2 Allocation of Awards. The awards received by the Insurance Trustee pursuant to §10.1 shall be allocated by the Architect among the Owners in that proportion which the damage to each Owner's Parcel and to all easements and other appurtenances thereto shall bear to the damage to all of the Parcels and the easements and other appurtenances thereto, taking into account the allocation provided for in Article XXIII and **Exhibit "D"**, and the award shall be distributed by the Insurance Trustee to the respective Owners (or to any lessee or mortgagee to whom any Owner's rights to such award are assigned pursuant to §17.4) in accordance with such allocation, subject, however, to the provisions of §10.4 and §10.5. If the damages to each Owner's Parcel and the easements and other appurtenances thereto shall have been determined by a court of law or equity in connection with the taking proceeding, then, subject to any right of appeal, such determination shall be conclusive as to the proportions of the total award to be allocated to each of the Owners pursuant to this §10.2, in lieu of application of the preceding sentence. Notwithstanding the foregoing, all condemnation proceeds allocated to any Owner shall first be paid to the Insurance Trustee, for utilization pursuant to §10.4 in funding repair and restoration, and §10.3 and §10.4 shall control the timing and amount of any subsequent distribution to the Owners.

10.3 Repair and Restoration Following Condemnation. If the taking authority shall take a portion of the improvements within only one Parcel and if such taking does not include any facilities within such Parcel which serve or benefit the Owner of another Parcel or any Shared Facilities, then, subject to the provisions of §10.5, the repair and restoration of such improvements shall be performed by the Owner of such improvements, and such Owner shall be entitled to withdraw, for application to the cost of said repair and restoration, in accordance with the provisions of Article VIII, that portion (which may be one hundred percent (100%)) of any condemnation award or awards paid to the Insurance Trustee by reason of such taking which shall have been allocated to the Owner of such improvements pursuant to §10.2.

In the event of a taking, if the provisions of the preceding paragraph shall not be applicable, then, subject to the provisions of §10.5, the repair and restoration of any damage to the Building occasioned by such taking shall be performed by the Hotel Owner on behalf of all of the Owners. The plans and specifications for such repair and restoration shall be prepared by the Architect. Such plans and specifications shall provide for such changes in the Building as shall be required by reason of such taking. After completing the preparation of such plans and specifications, the Architect shall furnish to each Owner a set of such plans and specifications, and shall assist the Hotel Owner in obtaining bids for such repair and restoration from responsible contractors. On the basis of such bids the Architect shall furnish each Owner with an estimate of the portions of the cost and expense of such repair and restoration which are to be borne by each of the Owners, respectively, in accordance with the allocation provided for in §10.4. Such contractor shall be selected in the manner provided in Article XI hereof. The contractor shall work under the administration of the Architect and Hotel Owner. The Hotel Owner is hereby authorized, empowered and directed to instruct the Insurance Trustee from time to time as such repair and restoration progress, to disburse in accordance with the Architect's certificate issued pursuant to §12.2 the condemnation award or awards paid to the Insurance Trustee pursuant to §10.1 by reason of the taking and any other moneys deposited with the Insurance Trustee pursuant to §10.4, for application to the cost and expense of such repair and restoration. Each such instruction given by the Hotel Owner to the Insurance Trustee to disburse funds for such cost and expense shall be accompanied by a statement of the Architect setting forth the portion of such cost and expense which is to be borne by each of the respective Owners pursuant to the allocation provided for in §10.4. The Insurance Trustee shall charge each Owner's portion of such cost and expense against the portion of the condemnation award or awards allocated to such Owner pursuant to §10.2.

10.4 Allocation of Costs of Repair and Restoration. All condemnation awards paid to the Insurance Trustee shall first be used to fund all repair and restoration to be performed under §10.3. To the extent the condemnation awards paid into the Insurance Trustee are insufficient to

fully fund any repair and restoration to be performed under §10.3, or if there are no such awards, the cost and expense of performing the repair and restoration provided for in §10.3 shall be borne by the respective Owners in that proportion which the cost and expense of repairing and restoring the improvements within the Parcel of each Owner, respectively, shall bear to the entire cost and expense of such repair and restoration, except that the cost and expense of repairing and restoring any Shared Facility shall be allocated to the Owners pursuant to Article XXIII.

If the condemnation awards paid to the Insurance Trustee exceed one-hundred twenty percent (120%) of the estimate of the cost of the repair and restoration determined by the Architect pursuant to §10.3, then the Insurance Trustee shall distribute to the Owners, in advance of performance of restoration and repair, and surplus awards in excess of one-hundred twenty percent (120%) of the estimated cost of repair and restoration, such surplus to be distributed to the Owner in the respective proportions determined under §10.2 to be their respective shares of the condemnation awards. The sum retained by the Insurance Trustee shall be held and disbursed in accordance herewith to fund restoration and repair. If the cost of repair and restoration as determined by the Architect exceeds the amount of the condemnation awards paid to the Insurance Trustee, then a Reconstruction Assessment shall be payable by the Owners for the difference, which amount shall be deposited with the Insurance Trustee, the proportionate responsibility of each Owner for such amount being determined as provided in the second sentence of the first paragraph of this §10.4. If any Owner (the "Defaulting Owner") shall fail to pay the Defaulting Owner's Reconstruction Assessment in accordance with this paragraph, then the Defaulting Owner's Obligation may be enforced and the lien on the Defaulting Owner's Parcel securing payment of the Assessment may be foreclosed, in accordance with Article V hereof.

Upon completion of any repair and restoration of the Building in accordance with this Article, any condemnation awards and Reconstruction Assessments paid to the Insurance Trustee which remain after payment of the cost and expense of performing such repair and restoration shall be refunded to the Owners in the respective proportions by which each Owner contributed funds to the funds held by the Insurance Trustee, attributing to each Owner as its contribution any condemnation award amount paid into the Insurance Trustee fund and allocated to such Owner under §10.2, plus any Reconstruction Assessment paid by such Owner for such repair and restoration.

10.5 Limitations on Repair or Restoration of the Condo-Hotel Parcel. In the event a condemnation occurs, and (a) there is a total condemnation or Substantial Taking, as hereinafter defined in §10.6 (d) , of the Building and seventy-five percent (75%) of the voting interests of the unit owners (within the meaning of the Condominium Act), duly and promptly resolve not to proceed with repair or restoration or (b) there is no Substantial Taking of the Building, but more than eighty percent (80%) of the voting interests of the unit owners (within the meaning of the Condominium Act) duly and promptly elect not to pay for repair or restoration, then the Building, if the Hotel Owner so elects shall be restored as provided in §10.3, but the liability of the unit owners (within the meaning of the Condominium Act) constituting the Condo-Hotel Owner for the costs of such repair or restoration shall be limited to the extent of the proceeds of condemnation for the Condo-Hotel Parcel pursuant to §10.2 hereof. Any deficit in the funds needed to repair and restore the Building in the manner provided for in §10.3 which is due to such election of the Condo-Hotel Owner shall be compensated for by a commensurate decrease in the amount of repair and restoration to be done to the Condo-Hotel Parcel, or the Hotel Owner shall have the option but not the obligation to pay any such deficit. No unit owner (within the meaning of the Condominium Act) shall be subject to suit or claim by the Hotel Owner for monies in excess of such condemnation proceeds, and the board of directors of the Condo-Hotel Association shall not be required to assess the unit owners (within the meaning of the Condominium Act) for such excess cost or expenses. Hotel Owner shall have the option but not the obligation to purchase the Condo-Hotel Parcel pursuant to §24.1 in the event of an election by the unit owners (within the meaning of the Condominium Act) as and for the Condo-Hotel Owner, under this paragraph. In the event

Hotel Owner elects to make such purchase, the proceeds paid to the Insurance Trustee from the proceeds of condemnation of the Condo-Hotel Parcel shall first be utilized to fund the purchase price and closing costs of such purchase of the Condo-Hotel Parcel by Hotel Owner, and any funds thereafter remaining shall be disbursed by the Insurance Trustee to the Hotel Owner, or its mortgagee(s), as their interests may appear, for utilization in the repair of the Building or for such other purposes as Hotel Owner and/or such mortgagee(s) may reasonably determine.

10.6 Substantial Taking. For the purpose of §10.5 and generally in this Declaration, Substantial Taking of the Building shall be defined as follows: (i) If greater than or equal to fifty percent (50%) of the replacement value of the Building is destroyed by such a condemnation occurring during the period commencing with the initial recordation of this Declaration and terminating thirty (30) years thereafter (“Initial Period”); (ii) If greater than or equal to 35% of the replacement value of the Building is destroyed by a condemnation occurring at any time during the period commencing with the end of the Initial Period and terminating ten (10) years thereafter (“Second Period”); (iii) If an amount greater than or equal to twenty-five percent (25%) of the replacement value of the Building is destroyed by a condemnation occurring at any time during the period commencing with the end of the Second Period.

10.7 Limitations on Repair or Restoration by the Hotel Owner. In the event that any condemnation results in a Substantial Taking of the Building, the Hotel Owner shall have the option not to proceed with repair or restoration of the Building, notwithstanding any obligation the Hotel Owner might otherwise have to repair or restore under §10.3. The Hotel Owner shall elect whether to exercise such option on or before the ninetieth (90th) day following the date the order establishing the amount of the condemnation award becomes final, and shall deliver written notice to the Condo-Hotel Owner and the Insurance Trustee of any election by it to exercise such option. In the event the Hotel Owner does exercise such option, the Hotel Owner shall be deemed concurrently to have exercised the option to purchase the Condo-Hotel Parcel granted it under §24.1. In such event, the condemnation proceeds paid to the Insurance Trustee from the condemnation of the Condo-Hotel Parcel and Hotel Parcel as a result of the condemnation in question shall first be utilized to fund the purchase price and closing costs of Hotel Owner’s purchase of the Condo-Hotel Parcel in accordance with Article XXIV, and any funds thereafter remaining shall be disbursed by the Insurance Trustee to the Hotel Owner, or its mortgagee(s), as their interests may appear, for utilization in demolition of the Building or such other purposes as Hotel Owner and/or such mortgagee(s) may reasonably determine.

10.8 Temporary Taking. In the event of a taking of the temporary use of any space, the respective Owners shall be entitled to receive directly from the taking authority any award or awards for such taking of space within their respective Parcels or within any easement or appurtenance, according to the law then applicable.

10.9 Disputes. If any dispute shall arise pursuant to this Article X, such dispute shall be settled by arbitration in accordance with Article XIV, but the arbitrators shall have no power or authority to vary the provisions of this Article X without the consent of each Owner.

## ARTICLE XI. SELECTION OF CONTRACTORS OR THE ARCHITECT

11.1 Selection of Contractors. When any repair, restoration, reconstruction, demolition, removal of debris or filling required to be performed pursuant to §8.1 or §10.3 is to be funded with funds attributable to the insurance policies, condemnation awards and/or Reconstruction Assessments of a single Owner, such Owner may choose the contractor who shall perform such work, provided that the Architectural Committee shall have the right to approve any such contractor chosen by the Condo-Hotel Owner, which approval shall not be unreasonably withheld, conditioned or delayed. In each event wherein a contractor is needed to perform any repair,

restoration, demolition, removal of debris or filling required to be performed pursuant to §8.1 or §10.3, and such work is to be funded under the terms of this Declaration with funds attributable to the insurance policies, condemnation awards and/or Reconstruction Assessment of more than one Owner, then the Hotel Owner shall invite all of the contractors nominated by itself and by the Condo-Hotel Owner to submit bids for the work to be performed. The Condo-Hotel Owner may nominate more than one, but not more than two contractors. The terms of bidding shall require that all bids be for a fixed cost and submitted at a particular place or places by a specified time and date. The Hotel Owner shall allow the contractors a reasonable time, following the announcement of the invitation to bid, to review any plans and specifications and to prepare estimates. The conditions of bidding shall require, unless such requirement is waived by the Hotel Owner, that the successful contractor post a performance bond and a labor and material payment bond, issued by a company authorized to engage in the business of issuing such bonds in the State of Florida, in an amount equal to the amount of such contract. The bond shall name the Hotel Owner, the Condo-Hotel Association and the holder or holders of the first mortgage upon each Parcel or upon the leasehold interest of such lessee, as joint and individual obligees, shall provide that all amounts which may be payable to the obligees thereunder shall be paid to the Insurance Trustee, and shall be conditioned on the completion of and payment for the work to be performed. Unless the Condo-Hotel Association on whose behalf such work is to be performed otherwise instructs the Hotel Owner in writing, the Hotel Owner shall select the lowest bidding responsive and responsible contractor, and shall, in the name of and for the account of the Owners to be benefited by the work to be performed, enter into a construction contract with such contractor providing for the completion of and payment for such work. In lieu of the foregoing bidding procedure, the Owners, in any contractor selection in which they are jointly interested, may at their option designate, without pursuing such procedure, such contractor as they may mutually agree upon.

11.2 Selection of the Architect. The Architect shall be the preparer of the Building Plans, to wit, Bumpus and Associates, for the Building exterior, the Condo-Hotel Units, and the interior of the Hotel Parcel unless, either due to the aforementioned firm no longer being in practice or to a choice not to utilize such firm by persons herein empowered to make such choice, another practitioner or firm is chosen as hereafter provided. In all instances where no affirmative action to the contrary is taken by persons so authorized as hereafter provided in this §11.2, the Architect shall be as specified in the preceding sentence. The Hotel Owner shall have the power to appoint an Architect for purposes of any repair, restoration reconstruction, and the like, under this Declaration concerning only the Hotel Parcel or a Shared Facility. The Condo-Hotel Owner shall have the power to appoint an Architect for purposes of any repair, restoration reconstruction, and the like, under this Declaration concerning only the Condo-Hotel Parcel provided that no Shared Facility shall be a part of any such repair, restoration or reconstruction. In all other cases of repair or restoration, the Hotel Owner shall have the right to select an Architect, and shall give written notice of such choice to the Condo-Hotel Owner.

## ARTICLE XII. DISBURSEMENT OF FUNDS BY INSURANCE TRUSTEE

12.1 Insurance Trustee. The Insurance Trustee shall be a bank or trust company authorized to do business in the State of Florida which shall be reasonably satisfactory to the first mortgagee on the Hotel Parcel. The Insurance Trustee may retain free of trust, from the monies held by it, the Insurance Trustee's reasonable fees and expenses for acting as Insurance Trustee.

The Insurance Trustee shall have no obligation to pay interest on any monies held by it unless the Insurance Trustee shall have given an express written undertaking by Hotel Owner to do so. However, if the monies on deposit are not held in an interest bearing account pursuant to agreement among the Insurance Trustee and the Hotel Owner, then the Insurance Trustee, within thirty (30) days after request from any Owner given to the Insurance Trustee and to the other Owners, shall purchase with such monies, to the extent feasible, United States Government



securities payable to bearer and of the most practicable maturities, not in excess of one year, except insofar as it would, in the good faith judgment of the Insurance Trustee, be impracticable to invest in such securities by reason of any disbursement of such monies which the Insurance Trustee expects to make shortly thereafter, and the Insurance Trustee shall hold such securities in trust hereunder. Any interest paid or received by the Insurance Trustee on monies or securities held in trust, and any gain on the redemption or sale of any securities, shall be added to the monies or securities so held in trust by the Insurance Trustee. Unless the Insurance Trustee shall have undertaken to pay interest thereon, monies received by the Insurance Trustee pursuant to any of the provisions of this Declaration shall not be mingled with the Insurance Trustee's own funds and shall be held by the Insurance Trustee in trust for the use and purposes herein provided.

The Insurance Trustee shall have the authority and duty to disburse funds held by it pursuant to this Declaration in the manner, to the persons, and at the times provided in this Declaration. The Insurance Trustee shall not be liable or accountable for any action taken or suffered by the Insurance Trustee, or for any disbursement of monies by the Insurance Trustee, in good faith in reliance on advice of legal counsel. The Insurance Trustee shall have no affirmative obligation to make a determination of the amount of, or to effect the collection of, any insurance proceeds or condemnation award, unless the Insurance Trustee shall have given an express written undertaking to do so, which shall otherwise be the obligation of the Owners.

The Insurance Trustee may rely conclusively on any Architect's certificate furnished to the Insurance Trustee in accordance with the provisions of §12.2 hereof and shall not be liable or accountable for any disbursement of funds made by it in reliance upon such certificate.

The Insurance Trustee shall also be the Insurance Trustee for the Condo-Hotel Owner notwithstanding the fact that the Condo-Hotel Owner may have chosen a different Insurance Trustee for their respective parcels.

12.2 Architect's Certificate. In any instance when, pursuant to any provision of this Declaration, the Insurance Trustee shall be required to disburse insurance proceeds, condemnation awards or other funds for application to the cost of repair, restoration and/or demolition, the Insurance Trustee shall not be required to make disbursements more often than at thirty (30) day intervals, and each request for disbursement shall be made in writing at least five (5) days in advance. Each request for disbursement shall be accompanied by a certificate of the Architect, dated not more than ten (10) days prior to the request for disbursement, setting forth the following:

- (i) That the sum then requested to be disbursed either has been paid by or on behalf of an Owner or Owners (in which case the certificate shall name such Owner or Owners) or is justly due to contractors, subcontractors, materialmen, engineers, architects or other persons (whose names and addresses shall be stated) who have rendered or furnished, or agreed to render or furnish, certain services, equipment, and materials and the principal subdivisions or categories thereof and the respective amounts so paid or due to each person in respect thereof and stating the progress of the work up to the date of the certificate;
- (ii) That the sum then requested to be withdrawn, plus all sums previously withdrawn, does not exceed the cost of the work actually accomplished up to the date of such certificate plus the cost of materials supplied and actually stored on-site (which materials shall be adequately insured against fire, theft and other casualties for the benefit of all Owners);

- (iii) That no part of the cost of the services and materials described in the foregoing paragraph (i) which is being counted as a basis for the then pending application has been the basis of the withdrawal of any funds in any previous application; and
- (iv) That following the making of the requested advance, the funds remaining with the Insurance Trustee shall be sufficient to complete the repair and restoration based upon the Architect's estimate of such cost to complete.

Upon compliance with the foregoing provisions of this §12.2, the Insurance Trustee shall, out of the moneys held by the Insurance Trustee, pay or cause to be paid to the Owners, contractors, subcontractors, materialmen, engineers, architects and other persons named in the Architect's certificate the respective amounts stated in the certificate to be due them.

12.3 No Reliance by Contractors. No contractor, subcontractor, mechanic, materialman, laborer or any other person whatsoever, other than the Owners and any mortgagee or lessee to whom an Owner's rights shall have been assigned as permitted in §17.4, shall have any interest in or rights to or lien upon any funds held by the Insurance Trustee. The Owners and pursuant to such assignment any such mortgagees and lessees by agreement among themselves, may at any time provide for a different disposition of funds than that provided for in this Declaration, without the necessity of obtaining the consent of any contractor, subcontractor, mechanic, materialman, laborer or any other person whatsoever. If at any time the Owners, and such mortgagees and lessees, if any, shall jointly instruct the Insurance Trustee with regard to the disbursement of any funds held by the Insurance Trustee, then the Insurance Trustee shall disburse said funds in accordance with said instructions. The Insurance Trustee shall have no liability to anyone by reason of having so disbursed said funds in accordance with said instructions.

### ARTICLE XIII. FORCE MAJEURE

13.1 Force Majeure. An Owner (hereafter in this §13.1 referred to as a "Non-Performing Owner") shall not be deemed to be in default in the performance of any obligation of such Non-Performing Owner under this Declaration, other than an obligation requiring the payment of a sum of money, if and so long as non-performance of such obligation shall be directly caused by fire or other unavoidable casualty, worldwide pandemic, national emergency, laws, governmental or municipal restrictions, enemy action, civil commotion, strikes, inability to obtain labor or materials (except where due to the economic inability of such Non-Performing Owner for reasons other than the failure of the Insurance Trustee to disburse funds), war or national defense preemptions, acts of God or other similar causes beyond the control of such Non-Performing Owner. Within fifteen (15) days after the giving of any written notice by another Owner (hereafter in this §13.1 referred to as "the Other Owner") to the Non-Performing Owner describing the non-performance by such Non-Performing Owner of any such obligation, the Non-Performing Owner shall notify the Other Owner in writing of the existence and nature of any such cause for non-performance which is beyond the control of the Non-Performing Owner, and the steps, if any, which the Non-Performing owner shall have taken to eliminate the cause for non-performance. Thereafter, the Non-Performing Owner shall from time to time on written request of the Other Owner keep the Other Owner fully informed in writing of all further developments concerning such cause for nonperformance and the efforts, if any, being made by the Non-Performing Owner to end the cause for non-performance.

### ARTICLE XIV. ARBITRATION

14.1 Notice to Arbitrate. If a dispute shall arise between or among any of the Owners, and if, pursuant to any provision of this Declaration, the dispute is to be settled by arbitration, then any Owner may serve upon the other Owner or Owners involved in the dispute a written notice demanding that the dispute be arbitrated pursuant to this Article XIV.

14.2 Appointment of Arbitrators and Procedure. The arbitrators shall be appointed pursuant to the then applicable rules of the American Arbitration Association, or any organization successor thereto, and the proceeding shall follow said rules and shall take place in the County. Judgment upon the determination rendered by the arbitrators may be entered in any court having jurisdiction thereof. The fees and expenses of the arbitrators shall be divided equally between or among such Owners. If any Owner shall fail to pay its share of any fees or expenses of the arbitrators it shall be deemed to be a "Defaulting Owner" and any other Owner or Owners may pay the same and become a Creditor Owner. The Defaulting Owner shall upon demand reimburse the Creditor Owner for such payment (failure to so do permitting the Creditor Owner to levy a Special Assessment on the Defaulting Owner and its Parcel therefor). If in connection with any arbitration it shall be necessary to determine the value of any Parcel or portion thereof, the arbitrators who shall be selected shall be disinterested persons of recognized competence in the field of real estate appraisal.

## ARTICLE XV. ESTOPPEL CERTIFICATES

15.1 Estoppel Certificates. Each Owner agrees, within thirty (30) days after written request by any other Owner, to execute and deliver to such Owner or to any existing or prospective purchaser, mortgagee or lessee designated by such Owner, a certificate in recordable form stating to the best of its knowledge: (a) whether or not there is any existing default hereunder by any Owner in the payment of any sum of money owing to the Owner executing such certificates; (b) whether or not there is any existing default by any Owner with respect to which a notice of default has been given or received by the Owner executing such certificate and if there is any such default, specifying the nature and extent thereof; (c) whether or not there are any sums (other than those arising within the previous forty-five (45) days out of the normal course of operation of the Building) which the Owner executing such certificate is entitled to receive or demand from any other Owner hereunder, and if there is any such sum, specifying the nature and extent thereof; (d) whether or not the Hotel Owner has performed or caused to be performed, or is then performing or causing to be performed, any Maintenance or other work not in the normal course of operation of the Building, the cost of which the Hotel Owner is or may be entitled to charge in whole or in part to any Owner but has not yet charged to such other Owner, and if there be any such Maintenance or other work, specifying the nature and extent thereof; (e) whether or not there are any set-offs, defenses or counterclaims then being asserted or otherwise known against enforcement of any obligations hereunder which are to be performed by the Owner executing such certificate, and, if so, the nature and extent thereof; (f) whether or not any Owner has given any notice to the Owner executing such certificate making a demand or claim hereunder which has not yet been discharged or otherwise resolved, or given any notice of a dispute to be settled or resolved by arbitration in accordance with the provisions of Article XIV, and if so, a copy of any such notice shall be delivered with the certificate; (g) whether or not there is any pending dispute involving the Owner executing such certificate which has been submitted for arbitration hereunder, and if so, specifying the nature of the dispute; (h) whether or not the arbitrators have made any ruling or decision involving the Owner executing such certificate within the ninety (90) days preceding the date of such certificate, and if so, identifying such ruling or decision; and (i) whether or not the Owner executing such certificate has made any then outstanding assignment of rights, privileges, easements or rights of entry pursuant to §17.4 or otherwise, and if so, identifying such assignment. Any such certificates which are required of the Condo-Hotel Owner with respect to the Condo-Hotel Parcel shall be given by the president or vice president of the Condo-Hotel Association and such certificate shall be regarded as that of the Condo-Hotel Owner.

In addition to the estoppel certificates delivered pursuant to the foregoing paragraph, Condo-Hotel Owner shall deliver to Hotel Owner, within thirty (30) days after written request therefor (but not more often than twice in each calendar year), a certificate setting forth the names of the owners of record (as shown by the Public Records of the County), of all Condo-Hotel Units in the Condo-Hotel Parcel, as the case may be, at the time of the giving of such certificate, as well as the names of the directors and the officers of the Condo-Hotel Association.

ARTICLE XVI.  
NOTICES

16.1 Giving of Notice. Any notice, demand, election or other communication (hereafter in this Article XVI collectively referred to as “Notices”, and singly referred to as a “Notice”) which any Owner or other party hereto shall desire or be required to give pursuant to the provisions of this Declaration shall be sent by registered or certified mail, by a nationally recognized overnight carrier, or by electronic mail, and the giving of such notice shall be deemed complete at the time the same is deposited in the United States mail, with postage, including registration or certification charges, prepaid, enclosed in a sealed envelope addressed to the person intended to be given such notice at the address herein provided, or when the electronic mail is sent to the correct email as provided by the Owner. Notices to any Owner shall be sent to such Owner addressed as follows or to such other address as may be designated by such Owner from time to time in a notice given pursuant to this §16.1:

If to Hotel Owner: PRIMELAND REAL ESTATE DEVELOPMENT, LLC  
6965 Piazza Grande Ave Ste 314  
Orlando, FL 32835  
Attn: Karen Costa  
Email: karen@primelandusa.com

With a copy to: Greenspoon Marder LLP  
200 East Broward Boulevard, Suite 1800  
Fort Lauderdale, FL 33301  
Attn: Mark F. Grant, Esq.  
Email: mark.grant@gmlaw.com

If to Condo-Hotel Owner: PRIMELAND REAL ESTATE DEVELOPMENT, LLC  
6965 Piazza Grande Ave Ste 314  
Orlando, FL 32835  
Attn: Karen Costa  
Email: karen@primelandusa.com

With a copy to: Greenspoon Marder LLP  
200 East Broward Boulevard, Suite 1800  
Fort Lauderdale, FL 33301  
Attn: Mark F. Grant, Esq.  
Email: mark.grant@gmlaw.com

Any Owner who has previously complied with the notice provisions may from time to time by written notice to the other Owners, designate a different address which shall be substituted for that specified above.

Copies of notices to any lessee or holder of a mortgage entitled to receive such copies pursuant to §17.4 shall be addressed to such lessee or holder at the address or addresses, designated

by such lessee or holder or to such other address or addresses, as such lessee or holder may thereafter from time to time designate by written notice given pursuant to the provisions of this Article XVI.

If at any time and from time to time any person, corporation, or other entity shall succeed in whole or in part to the interest or estate of any Owner, then such person, corporation, or other entity shall not be entitled to receive any notice hereunder, and any notice given (or deemed to have been given) to the prior Owner of such interest or estate shall be deemed to have been given to such person, corporation or other entity, unless and until the party giving such notice shall be given written notice of the change of ownership by which such person, corporation or other entity shall have acquired such interest or estate. Nothing herein contained shall be construed to preclude personal service of any notice, demand, request or other communication in the same manner that personal service of a summons or other legal process may be made.

16.2 Multiple Ownership. If at any time the interest or estate of any Condo-Hotel Owner hereto shall be owned by more than one person, corporation or other entity (hereafter in this paragraph collectively referred to as "said Owners"), then, said Owners shall give to such other Condo-Hotel Owner a written notice, executed and acknowledged by all of said Owners, in form proper for recording, which shall designate the Responsible Individual (as described in §1.12.1 of this Declaration) as agent for all of said Owners for all notices thereafter given to said Owners hereunder and for the service of process in any action or proceeding, whether before a court or by arbitration, involving the determination or enforcement of any rights or obligations hereunder. Thereafter, until such Responsible Individual designation is revoked by written notice given by all of said Owners or their successors in interest, any notice, and any summons, complaint or other legal process or any notice given in connection with an arbitration proceeding (which such summonses, complaints, legal processes and notices given in connection with arbitration proceedings are hereafter in this §16.2 collectively referred to as "legal process") given to, or served upon, such Responsible Individual shall be deemed to have been given to, or served upon, each and every one of said Owners at the same time that such notice or legal process is given to, or served upon, such agent. If said Owners shall fail so to designate in writing one such Responsible Individual to whom all notices are to be given and upon whom any legal process is to be served, or if such designation shall be revoked as aforesaid and a new Responsible Individual is not designated, then any notice or legal process may be given to, or served upon, any one of said Owners as agent for all of said Owners and such notice or legal process shall be deemed to have been given to, or served upon, each and every one of said Owners at the same time that such notice or legal process is given to, or served upon, any one of them, and each of said Owners shall be deemed to have appointed each of the other Condo-Hotel Owners as the Responsible Individual for the receipt of notices and the service of legal process as aforesaid.

Notwithstanding the foregoing provisions of this §16.2, to the extent permitted by law, notices to Condo-Hotel Owner, as applicable, and all of its constituent Condo-Hotel Unit Owners shall be served upon the president of the Condo-Hotel Association for the Condo-Hotel Parcel and such president shall be the agent for service of process of the Condo-Hotel Owner and its constituent Condo-Hotel Unit Owners. Legal process served upon such agent shall be effective service upon the Condo-Hotel Owner and its respective constituent Condo-Hotel Unit Owners as though served individually on each and all such persons. Said president of the Condo-Hotel Association may be empowered to give notice and/or serve process on behalf of the Condo-Hotel Owner and any or all Condo-Hotel Unit Owners for any purposes under this Declaration, which notice shall be binding upon the Condo-Hotel Owner and/or or the Condo-Hotel Unit Owners in whose behalf it shall have been given.

ARTICLE XVII.  
HEIRS, SUCCESSORS AND ASSIGNS

17.1 Provisions Run with the Land. This Declaration is intended to and shall run with the real property benefited and burdened hereby, and shall bind and inure to the benefit of the parties hereto and their successors in title.

17.2 Release on Conveyance. In the event that any person or entity (the "Grantor") who owns all or any portion of any Parcel conveys to another (the "Grantee") all of the right, title and interest of such Grantor in such Parcel or portion thereof, then the Grantor shall from the time of such conveyance be entirely relieved from the obligation to observe and perform all covenants and obligations which the Grantor would otherwise be liable hereunder to observe and perform by virtue of ownership of the interest conveyed. In the event of any such conveyance by a Grantor of all of its interest in a Parcel or portion thereof, the Grantee shall from the time of such conveyance be deemed to have assumed the liability to observe and perform all the covenants and obligations imposed by this Declaration on the person owning the interest conveyed. No Grantor shall be released by virtue of this §17.2 from liability incurred under any covenant or obligation in this Declaration prior to the time of its conveyance of all of its interest. In any case in which a transfer or conveyance of title occurs by reason of eminent domain, and such taking is only for a temporary period, or for only a portion of a Parcel, the Grantor in such instance shall be relieved from performance of its covenants and obligations hereunder only to the extent prescribed elsewhere in this Declaration, and to the extent not so prescribed, as may be prescribed by such legal or equitable principles then applicable in the State of Florida.

17.3 Easements Benefit Tenants, etc. Subject to the provisions of §2.5, any easement or right of entry herein granted to any Owner shall be for the benefit not only of such Owner but also for the benefit of any tenants, licensees, employees, guests, invitees, agents and contractors of such Owner whom such owner shall permit to use such easement or right of entry.

17.4 Assignment of Rights to Lessees, Mortgagees. Any Owner may, without the necessity of conveying title to such Owner's Parcel, assign or otherwise transfer to any lessee of the entire Parcel, or to the holder of a first mortgage covering the entire Parcel, all or any of the rights, privileges, easements and rights of entry herein given to such Owner (including, without limitation, any right to make any election, to exercise any option or discretion, to give any notice, to perform any work of demolition, restoration, repair, replacement or rebuilding, to receive moneys from the Insurance Trustee other than the moneys required for restoration, repair or reconstruction of the Building or Parcel and to receive any and all other moneys payable to such Owner). Any such lessee may in turn assign or otherwise transfer all or any of such rights, privileges, easements and rights of entry to the holder of a first mortgage covering the leasehold estate of such lessee, and any such lessee or holder may exercise any such right, privilege, easement or right of entry so assigned or otherwise transferred to it to the same extent as if in each instance this Declaration specifically granted such right, privilege, easement or right of entry to such lessee or holder. No other Owner (or the Insurance Trustee or any other person having any rights hereunder) shall be bound to recognize any assignment, lease, mortgage or other transfer referred to in this §17.4, or the exercise or accrual of any rights pursuant to such assignment, lease, mortgage or other transfer, or to recognize any holder of a first mortgage as a Mortgagee hereunder, until such other Owner and the Insurance Trustee are given written notice, in the manner provided in Article XVI for the giving of notice, of such assignment, lease, mortgage or other transfer, which notice shall then be imputed to any other person having rights hereunder. Said notice shall be accompanied by a certified copy of the instrument effecting such assignment or other transfer. Any Owner, the Insurance Trustee, mortgagee or lessee who is given written notice as aforesaid of such assignment or other transfer, and any successor, personal representative, heir or assign of such Owner or such other person, shall thereafter, simultaneously with the giving of any "notice" (as that term is defined in the first sentence of Article XVI) under this Declaration to such assignor or transferor, give to such lessee or holder a copy of such notice pursuant to said Article XVIII. No such notice shall be effective against such lessee or holder unless a copy thereof is given to such lessee or holder as aforesaid.

Any such lessee or holder to whom rights, privileges, easements or rights of entry are assigned or otherwise transferred pursuant to this §17.4 shall, within ten (10) days after written request made by any Owner (but not more than twice during each calendar year), execute, acknowledge and deliver to such Owner, or to any existing or prospective purchaser, mortgagee or lessee designated by such Owner, an estoppel certificate in recordable form containing the statements called for in §15.1 except that the words “the Owner executing such certificate”, wherever the same appear in §15.1, shall be deemed instead to refer to the lessee or holder executing such estoppel certificate. Any Owner of a Condo-Hotel Unit in the Condo-Hotel Parcel may assign or otherwise transfer its rights in the manner described in this §17.1 with respect to its portion of the Condo-Hotel Parcel. To be considered a Mortgagee of the Condo-Hotel Parcel, or of a Condo-Hotel Unit for purposes of this Declaration, the holder of such a first mortgage shall give notice as prescribed in the preceding paragraph. In addition to giving notice as prescribed in this §17.4, the holder of a first mortgage lien as to either Parcel or any Condo-Hotel Unit in the Condo-Hotel Parcel shall also satisfy the definition of Mortgagee included in Article I, in order to be considered a Mortgagee under this Declaration.

17.5 Certain Imputations and Stipulations Concerning Notice under Article XVII. If pursuant to §17.4, notice of the identity of a particular lessee of an entire Parcel or holder of a first mortgage on a Parcel or a Condo-Hotel Unit in the Condo-Hotel Parcel is given to the Owner of the other Parcel and/or the Insurance Trustee, as those parties are then identified and constituted, knowledge of such notice and its contents shall be imputed without further action to the successors and assigns of such Owner and Insurance Trustee. Knowledge of such notice shall likewise continue to be imputed to the persons to whom knowledge of notices to other Owner and Insurance Trustee is imputed under §17.4, regardless of any succession or assignment among the other Owner and Insurance Trustee and/or among such person to whom knowledge or notice is imputed under §17.4.

ARTICLE XVIII.  
CERTAIN RESTRICTIONS AND OBLIGATIONS  
WITH RESPECT TO CONDO-HOTEL PARCEL

18.1 Condominium Declaration and Condo-Hotel Declaration and Amendments Thereto. The Condominium Documents and Condo-Hotel Declaration shall be initially in the form approved by the Hotel Owner, and no amendment thereto shall be made without the prior written consent of Hotel Owner. Condo-Hotel Owner agree that Hotel Owner may exercise the rights of the board of directors of the Condo-Hotel Association and aggrieved unit owners under Section 718.303 of the Condominium Act in the case of the failure of any unit owner of such condominium to comply with the Condo-Hotel Declaration, or the bylaws, articles, rules and regulations of the Condo-Hotel Association.

ARTICLE XIX.  
SEVERABILITY

19.1 Severability. If any provision of this Declaration is prohibited by or is unenforceable under any applicable law, such provision shall be severed without invalidating the remaining provisions of this Declaration. To the full extent permitted by law the remaining provisions of this Declaration shall be deemed to be a valid and binding agreement in accordance with its terms.

ARTICLE XX.  
REMEDIES

20.1 Remedies. The remedies provided in this Declaration shall not be exclusive and, in the event of a breach of any of the terms, covenants and conditions hereof, the Owners shall be entitled to pursue any remedies available at law or in equity, including specific performance, in addition to or in lieu of any of the remedies provided herein.

ARTICLE XXI.  
MISCELLANEOUS

21.1 Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

21.2 Gender. The use of any gender in this Declaration shall be deemed to include all other genders and the use of the singular shall be deemed to include the plural, and vice versa, unless the context otherwise requires.

21.3 Amendments. This Declaration and the provisions herein may be amended, changed, terminated or modified by Developer without the consent of any other Owner.

21.4 Governing Law. This Declaration shall be governed, construed, applied and enforced in accordance with the laws of Florida including matters affecting title to all real property described herein.

21.5 Further Assurances. From time to time after the date hereof each party hereto shall furnish, execute and acknowledge, without charge, such other instruments, documents, materials and information as the other parties hereto may reasonably request in order to confirm to such parties the benefits contemplated hereby.

21.6 Exculpation. Notwithstanding anything herein to the contrary, the representations, covenants, undertakings and agreements made in this Declaration by Developer and/or Hotel Owner are not made and intended as personal representations, covenants, undertakings or agreements by Developer or the Hotel Owner or for the purpose or with the intention of binding either Developer or the Hotel Owner personally, but are made and intended for the purpose of binding the property of Developer and Hotel Owner. No personal liability is assumed by nor shall at any time be asserted or enforceable against Developer or Hotel Owner on account of any representation, covenant, undertaking or agreement of Developer or Hotel Owner contained in this Declaration either expressed or implied. All such personal liability, if any, is expressly waived and released by the Owners and by all persons claiming by, through or under the Owners.

21.7 Limitation on Powers. Anything in this Declaration to the contrary notwithstanding, the existence or exercise of any easement, right, power, authority, privilege or duty of the Hotel Owner as the same pertains to any condominium located within the Building which would cause the Hotel Owner or Hotel Parcel to be subject to Chapter 718 or Chapter 721, Florida Statutes, shall at the option of Hotel Owner be null, void and of no effect to the extent, but only to the extent, that such existence or exercise is finally determined to subject the Hotel Owner or Hotel Parcel to the provisions of said Chapter 718 or Chapter 721. It is the intent of this provision that the Hotel Owner not be deemed to be a condominium association, and that the fee interest of Hotel Owner in the Shared Facilities located in the Hotel Parcel (or any other portion of the Building) not be deemed to be common elements of any such condominium, within the meaning of applicable laws or administrative rules for any purpose. This Declaration shall not be deemed a declaration of condominium under Chapter 718 Florida Statutes.

21.8 CPI. Whenever a specific dollar amount is recited in this Declaration, unless limited by law or by the specific text hereof or unless held to be unconscionable, such amounts



shall be increased from time to time by application of a nationally recognized consumer price index using the date of recordation of this Declaration is as the base year. The index used shall be that published by the United States Department of Labor, Bureau of Labor Statistics, designated as "Consumer Price Index, all urban consumers, United States, 1982-84 = 100, all items". If the Bureau of Labor Statistics shall change the method for determining the consumer price index or in the event the Bureau of Labor Statistics shall cease to publish said statistical information and it is not available from any other source, public or private, then the Hotel Owner shall choose a reasonable alternative to compute such increases.

21.9 Disclaimers and Releases. Any disclaimers or releases given by Owners of Condo-Hotel Units in favor of the Condo-Hotel Owner shall automatically be deemed to also release the Hotel Owner and its affiliates.

ARTICLE XXII.  
MEANING OF CONDO-HOTEL OWNER

22.1 Meaning of Condo-Hotel Owner. In the event of the recording of the Condo-Hotel Declaration, wherever in this Declaration the consent or approval of Condo-Hotel Owner is required or provided for, and no other means by which such consent or approval shall be given is specified, the same shall be deemed to have been given if the president of the Condo-Hotel Association for the Condo-Hotel Parcel shall have given such consent or approval.

ARTICLE XXIII.  
STANDARD OF ALLOCATION

23.1 Standard of Allocation, Repair and Restoration. Whenever, pursuant to this Declaration, it shall be necessary to determine the proportion of any Assessment hereunder which is to be borne by each Owner, the following shall apply:

(a) The proportion to be borne by the Owner of any Parcel shall be determined in the manner provided in **Exhibit "D"**.

(b) In the event that any new facilities, not presently called for or shown in the Building Plans, shall hereafter be constructed pursuant to this Declaration, and such new facility meets the definition of a Shared Facility, Assessments pertaining to such facility shall be allocated as determined by agreement of the Owners, or, if the Owners shall fail to agree, by arbitration in accordance with the provisions of Article XIV.

ARTICLE XXIV.  
HOTEL OWNER'S PURCHASE OR OPTION TO PURCHASE THE CONDO-HOTEL  
PARCEL OR CONDO-HOTEL UNITS IN CERTAIN CIRCUMSTANCES

24.1 Purchase of Condo-Hotel Parcel in Certain Instances of Casualty or Condemnation.

(a) Hotel Owner Options. The Hotel Owner shall have and is hereby granted the right and option to purchase the entire Condo-Hotel Parcel in the following instances: (i) in the event that the Condo-Hotel Owners acting as and for the Condo-Hotel Owner make an election as provided for in §8.3(b) not to pay for repair or restoration in the event of casualty; (ii) in the event of an election by the Condo-Hotel Owner under §8.5 not to proceed with the repair and restoration of the Building in the circumstances described therein; (iii) in the event of an election by the Hotel Owner under §8.4 not to proceed with the repairs and restoration described therein; (iv) in the

event that the Condo-Hotel Owners acting as and for the Condo-Hotel Owner make an election as provided for in §10.5 not to pay for repair or restoration in the event of a condemnation; (v) in the event of an election by Hotel Owner under §10.7 not to proceed with the repairs and restorations described therein. By making the election described in §10.7 the Hotel Owner shall be deemed to have automatically exercised its option described in (v) of the first sentence. By making the election described in §8.4, the Hotel Owner shall be deemed to have automatically exercised its option described in (iii) of the first sentence.

(b) Condo-Hotel Owner Right. Each Condo-Hotel Owner shall have and is hereby granted the right and option to require the Hotel Owner to purchase the entire Condo-Hotel Parcel in the event of an election by the Hotel Owner under §8.4 or §10.7 not to proceed with the repair and restoration of the Building described therein.

(c) Purchase Price. The purchase price for the Condo-Hotel Parcel in any sale arising from the circumstances described in items (i), (ii) or (iii) of subsection (a) of this §24.1 shall be the amount of the condemnation award for such parcels or the actual insurance proceeds paid under the insurance policy carried for the Condo-Hotel Parcel under §7.1, less the actual cost of demolition of such parcels to the extent demolition is required by applicable law or governmental authorities following such casualty or condemnation and to the extent such cost of demolition is utilized by the Hotel Owner to accomplish such demolition, provided such insurance coverage is a “Full Replacement Value” policy. In the event a “Full Replacement Value” policy is not the type of insurance in place, then the purchase price for the Condo-Hotel Parcel shall be the replacement value of the Condo-Hotel Parcel, as the case may be. Said purchase price shall be distributed among the Condo-Hotel Owners based upon the relative values of such Condo-Hotel Units as evidenced by the latest assessed values for ad valorem tax purposes (i.e., a Condo-Hotel Unit’s ad valorem assessed value shall be the numerator and the total ad valorem assessed value of all Condo-Hotel Units shall be the denominator).

To fund the purchase price and closing costs for any purchase of the Condo-Hotel Parcel under this Section, the Hotel Owner shall be entitled to draw upon and utilize any and all funds paid to the Insurance Trustee, including proceeds from the insurance policies on the Parcels maintained under §7.1 or condemnation awards, and any funds thereafter remaining with the Insurance Trustee shall be payable to Hotel Owner, or its mortgagee(s), as their interests may appear, for utilization in repair, restoration or demolition of the Building or for such other purposes as such parties as their interest appear may reasonably determine.

24.2 Closing. In the event Hotel Owner elects or is required to purchase the Condo-Hotel Parcel pursuant to §24.1, the closing of title for §24.1(c) purchase shall occur ninety (90) days after a final determination of the purchase price pursuant to §24.1(c). The closing of title for any purchase of a Condo-Hotel Unit or Units by Hotel Owner pursuant to this §24.2 shall take place on the date designated by Hotel Owner, but not later than thirty (30) days from the date of Hotel Owner’s notice of election to purchase. At the closing, Hotel Owner shall pay the purchase price and all owners of each Condo-Hotel Unit to be conveyed shall execute and deliver to the Hotel Owner a General Warranty Deed for such Condo-Hotel Unit conveying said Condo-Hotel Unit to the Hotel Owner. The purchase price shall be adjusted at closing for any taxes, insurance premiums, or utility deposits, such adjustments to be allocated between the parties in accordance, with the allocations then customary in the County, as may be varied in the case of a sale pursuant to this §24.2 by specific terms accepted by Hotel Owner.

24.3 Disputes. All disputes under this Article XXIV shall be settled by arbitration in accordance with the provisions of Article XIV, provided, that the arbitrators shall not vary the terms of this Article.

IN WITNESS WHEREOF, this Declaration has been duly executed and delivered by Developer on the day and year first above written.

Signed, sealed and delivered in the presence of:

**PRIMELAND REAL ESTATE DEVELOPMENT, LLC**, a Florida limited liability company

By: Primeland Enterprises LLC (??? Not on Sunbiz), a Florida limited liability company, its managing member

Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
[KAREN COSTA]

Print Name: \_\_\_\_\_

Address: 6965 Piazza Grande Ave Ste 314  
Orlando, FL 32835

Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
[MARLI QUADROS]

Print Name: \_\_\_\_\_

Address: 6965 Piazza Grande Ave Ste 314  
Orlando, FL 32835

STATE OF FLORIDA            )  
  ) ss:  
COUNTY OF ORANGE        )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by \_\_\_\_\_, \_\_\_\_\_ of **Primeland Enterprises LLC**, a Florida limited liability company, the managing member of **Primeland Real Estate Development, LLC**, a Florida limited liability company, freely and voluntarily under authority duly vested in them. Each are personally known to me.

(Notarial Seal)

\_\_\_\_\_  
Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

SCHEDULE OF EXHIBITS

|             |   |
|-------------|---|
| Exhibit A   | Legal Description of Land               |
| Exhibit B-1 | Legal Description of Condo-Hotel Parcel |
| Exhibit B-2 | Legal Description of Hotel Parcel       |
| Exhibit B-3 | Legal Description of the Community      |
| Exhibit C   | Description of Shared Facilities        |
| Exhibit D   | Allocations and Allocations Schedule    |

**EXHIBIT "A"**

**Legal Description of Land**

**(COMPRISED OF THE LEGAL DESCRIPTION OF HOTEL PARCEL AND CONDO-HOTEL PARCEL):**

**EXHIBIT "B-1"**

**Legal Description of Condo-Hotel Parcel**

**EXHIBIT "B-2"**

**Legal Description of Hotel Parcel**

**LESS AND EXCEPT:**  
**(CONDO-HOTEL PARCEL)**





**EXHIBIT "B-3"**

**Legal Description of the Community**

**EXHIBIT “C”**

**DESCRIPTION OF  
THE  
SHARED FACILITIES AND HOTEL SERVICES**

(1) The Shared Facilities consist of all portions, features, systems or components of the Hotel Parcel which meet the definition of Shared Facilities contained in the foregoing Declaration of Covenants, Easements & Restrictions for Sycamore Resort, and specifically include, but are not limited to, the following:

(a) All foundations, caissons, pilings, structural columns, joists, girders, beams, supports, load bearing walls, and all structural components which provide load-bearing capabilities to the Building;

(b) The “public” areas, excluding any areas therein specifically demised to tenants of the Hotel Parcel and the demising partitions of and any tenant improvements contained in any such areas, and specifically including, without limitation, (i) all areas therein open for pedestrian and public passage and use, including the lobby, lobby restrooms, cameras, and all lighting, plantings, planters, vegetation, fountains, water features, seats, benches, railings, mats and other fixtures and equipment therein; (ii) loading dock and service/passenger elevator corridors; (iii) trash handling and disposal facilities, including trash rooms, chutes, dumpsters, and compactors; (iv) Building engineer’s office; (v) electrical and telephone distribution rooms; (vi) mechanical equipment room; (vii) common hallways and corridors; (viii) plumbing and fire pump rooms and fire command center; and (ix) maintenance sheds;

(c) All exterior walls of the Building and surfaces of the Building, including glass or like-material curtain walls and windows, and framing therefor, including, without limitation, glass in the windows and sliding glass balcony doors of the Condo-Hotel Units and the balconies adjacent to the Condo-Hotel Units;

(d) All exterior doors, entry doors, entry door mechanisms and locks, entry door key-cards of the Condo-Hotel Units, all bare drywall, interior structural columns between the Condo-Hotel Units, demising walls, corridors;

(e) Life safety and monitoring systems including fire sprinklers and smoke detectors in the Condo-Hotel Units, and life safety and monitoring systems including fire sprinklers, fire alarms, smoke detectors and security monitoring which serve the Building or serves the Shared Facilities;

(f) The resort pool, fitness center, business center, and office space for shared staff;

(g) The roof, aircraft warning lights, antennae and roof structures of the Building, the lobby area of the lower floor of the Building, but the equipment on such roof structures shall not be a Shared Facility except for such equipment which serves more than one Condo-Hotel Unit of the Building or serves the Shared Facilities;

(h) The complete elevator shafts for all passenger elevators and the service passenger elevator and the elevator cabs, doors, equipment and related controls for such shafts, and the enclosing walls of such shafts, including the elevators and related equipment, elevator lobbies, ventilation shaft, controls and shafts which service the Building;

(i) Solid waste and garbage storage and disposal areas and equipment which processes or handles solid waste and garbage generated by each Parcel or in public areas;

(j) Any electrical, telephone, cable television, internet, storage, and heating, ventilating and air-conditioning (“HVAC”) rooms which are of service to or benefit more than one Parcel or the Shared Facilities;

(k) All Community Systems or other utilities providing services for the Community, the Building, or to the Condo-Hotel Units on a bulk basis, such as water, gas, electricity, telephone, cable television, internet access, pest control, sewer, trash collection and recycling services, and any type of utility or any other type of service charge which is not separately billed to a Condo-Hotel Unit Owner;

(l) All water usage relating to and the use, maintenance and repair of the irrigation system(s);

(m) All utility lines, pipes, wires, vents, flues, chimneys, ducts, cables, conduits, antennae, utility lines and installations located in any Parcel (from and including the point of tap-in to the distribution lines of the provider of the utility in question, and also including all sewer and drainage pipes), pertaining to any utility whatsoever (including, without limitation, electric, telephone, water, sewer, internet and cable television), and also all pass-card systems equipment, but excluding such of the foregoing items which serve only the Condo-Hotel Parcel or a particular Condo-Hotel Unit therein, or only the portions of the Hotel Parcel that are not Shared Facilities or a particular demised space therein;

(n) All electrical lines and equipment located in any Parcel, including incoming lines, service and equipment (from and including the point of tap-in to the distribution lines of the electric utility company), main switchgear and distribution panel boards, conduits, wires, feeders, meters, transformers and panelboards, excluding, however, all such items serving only the portions of the Hotel Parcel that are not Shared Facilities or a particular demised space therein or only the Condo-Hotel Parcel or a particular Condo-Hotel Unit therein;

(o) All plumbing fixtures and equipment for distribution of hot and cold water located in any Parcel (from and including the point of connection with the City of Orlando water distribution and disposal systems, and including pipes, mains, pumps, valves, spigots, tanks, pressure reducers, meters and water heaters), excluding, however, all such items serving only the Condo-Hotel Parcel or a particular Condo-Hotel Unit therein, and all such items serving only the portions of the Hotel Parcel that are not Shared Facilities or a particular demised space therein;

(p) All equipment associated with the fire protection, life safety, and monitoring systems in the Building (including pumps, alarms, loudspeakers and address systems, flow indicators, switches, valves, sprinklers, hoses, and monitor cameras and viewer screens), excluding, however, all such items serving only the Condo-Hotel Parcel or a particular Condo-Hotel Unit therein, and all such items serving only the portions of the Hotel Parcel that are not Shared Facilities or a particular area or demised space therein;

(q) All heating, ventilating and air-conditioning equipment, general ventilation fans, ducts, air-handling equipment, heating coils and air compressors, piping, ducts and valves, including, without limitation, the chilled water system that is part of the HVAC system and the expenses related thereto (the “Chilled Water Expense”), excluding, however, all such items located or serving only the Condo-Hotel Parcel or a particular Condo-Hotel Unit therein, or only the portions of the Hotel Parcel that are not Shared Facilities or a particular area or demised space therein;

- (r) All fire egress stairways in the Towers; and
- (s) All parking areas.

If any component or item of equipment in a Parcel serves an area of such Parcel which area is a Shared Facility (e.g. equipment for provision of electricity, water or air-conditioning to an area which is a Shared Facility), such component or item of equipment shall not be deemed to serve only the Parcel in which it is located and shall be deemed a Shared Facility.

(2) The Hotel Services to be furnished or provided by the Hotel Owner and the expenses included in the "Resort Subsidy Charge" shall include the following:

- (a) Supervisory Wages & Benefits;
- (b) Accounting Wages & Benefits;
- (c) PBX Wages & Benefits;
- (d) Computer System Maintenance;
- (e) Management Fees; and
- (f) Operations, Maintenance and Administration of the following facilities and amenities:
  - (i) Fitness Center;
  - (ii) Resort Pool;
  - (iii) Pool bar
  - (iv) Poolside towel service;
  - (v) Welcome Center;
  - (vi) Resort Wi-Fi;
  - (vii) Parking

\*The Hotel Owner is entitled to retain all income received from the sale of food and beverage to offset its maintenance costs and other expenses since the operation and maintenance costs of the aforementioned facilities are not a Shared Expense.

The Hotel Owner reserves the right to change the name of any of the aforementioned facilities, their location and/or use.

(3) The Hotel Owner may permit persons who are not Owners or their guests to use the following facilities located within the Hotel Parcel for a fee:

- (a) Kid's Club;
- (b) Pet's Hotel;
- (c) Restaurants;
- (d) Bar;
- (e) Convention Center;
- (f) Spa and Beauty Salon;
- (g) Gift shop;
- (h) Sports Bar;
- (i) Rooftop bar;
- (j) Sycamore Pet Club;
- (k) Laundry;
- (l) Gatehouse.

The Hotel Owner is entitled to retain all such fees to offset its maintenance costs and other expenses since the operation and maintenance costs of the aforementioned facilities are not a Shared Expense.

The Hotel Owner reserves the right to change the name of any of the aforementioned facilities, their location and/or use.

(4) The Hotel Owner may elect to offer surf simulator lessons for a fee. If and when surf simulator lessons are offered within the future water park, Hotel Owner shall be solely responsible for all labor costs associated with such lessons. Since the aforementioned labor costs will not be a Shared Expense, Hotel Owner shall be entitled to retain all fees collected from any surf simulator lessons.

(5) Pets are permitted on the Hotel Parcel and within the Shared Facilities, but must be kept on a leash of a length that affords reasonable control over the pet at all times.

Pets shall not be left unattended in any Condo-Hotel Unit or within any part of the Shared Facilities and Hotel Parcel, unless the Pet is boarded at the Sycamore Pet Club. If a pet becomes a nuisance by barking or otherwise, the pet owner thereof must cause the problem to be corrected; or, if it is not corrected, the pet owner, upon notice by the Hotel Owner, will be required to permanently remove the pet from the Condo-Hotel Unit, Shared Facilities and Hotel Parcel. Hotel Owner retains the right to terminate the occupancy of the guest or owner of such pet. All pets must be registered, licensed and inoculated as required by law.

Trained seeing-eye dogs will be permitted for those persons holding certificates of blindness and necessity. Other assistance/support animals will be permitted if such animals serve as physical aides to handicapped persons and such animals have been trained or provided by an agency or service qualified to provide such animals. The guide or assistance animal will be kept in direct custody of the assisted person or the qualified person training the animal at all times when on the Hotel Parcel and the animal shall wear and be controlled by a harness or orange-colored leash and collar.

A pet owner shall immediately pick up and remove any solid animal waste deposited by his or her pet, including but not limited to, within and surrounding any designated dog walk area (if applicable) and dispose of such animal waste appropriately.

Any damage to the Shared Facilities or other portions of the Hotel Parcel caused by a pet must be promptly repaired by the owner of such pet. The Hotel Owner retains the right to effect said repairs and charge the Condo-Hotel Owner therefor. A Condo-Hotel Owner shall be responsible for the payment of repair costs to Hotel Owner for any damages caused by his or her pet and, for any damages caused by a pet belonging to such Condo-Hotel Owner's guests, invitees, employees and/or occupants.

Under no circumstances will any dog whose breed is noted for its viciousness or ill-temper, in particular, the "Pit Bull" (as hereinafter defined), Rottweiler, Mastiff, Presa Canario, or any crossbreeds of such breeds, be permitted in any Condo-Hotel Unit, within the Shared Facilities or on any portion of the Hotel Parcel. A "Pit Bull" is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying a majority of the physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.

Violation of the provisions of this Section 5 shall entitle the Hotel Owner to all of its rights and remedies, including, but not limited to, the right to (i) fine Owners, as provided in any applicable provisions in the Declaration; and/or (ii) to require any pet to be permanently removed from any Condo-Hotel Unit, the Hotel Parcel and Shared Facilities.

The Hotel Owner may promulgate additional regulations from time to time designating

other provisions as necessary to regulate pets within Condo-Hotel Units, the Shared Facilities and Hotel Parcel.

(6) Smoking and vaping is prohibited in all portions of the Condo-Hotel Units and on all portions of the Hotel Parcel and Shared Facilities. Smoking, which includes all types of nicotine and tobacco products (i.e., cigarettes, cigars, pipes) and vaping, which includes all types of handheld electronic devices that vaporize a flavored liquid which permeates an odor (electronic cigarettes, electronic nicotine delivery systems, electronic non-nicotine delivery systems and personal vaporizers), shall only be permitted in those areas of the Hotel Parcel designated as smoking areas by the Hotel Owner.

## EXHIBIT "D"

### ALLOCATIONS

(1) Allocation of Common Assessments. As provided in §4.2 of the foregoing Declaration, Common Assessments shall include all Shared Expenses, which shall include the Shared Facilities Expenses and Resort Subsidy Charge as set forth and defined in the Declaration. All Common Assessments which are levied under the Declaration shall be allocated to each Parcel as set forth on the Schedule attached to this Exhibit "D."

All expenses incurred by the Hotel Owner in association with the maintenance, repair, and replacement of the balconies, terraces, windows, and doors leading to the balconies and terraces adjacent to a Condo-Hotel Unit, except for the cleaning of the windows which shall be a Shared Facilities Expense, shall be the subject of a Special Assessment against the Condo-Hotel Parcel only as set forth below on an as-needed basis. The Hotel Owner shall have the right to collect Shared Facilities Expenses and Assessments levied against individual Condo-Hotel Units.

Allocations shall be subject to change upon the terms and conditions set forth in the Declaration and exhibits thereto.

(2) Allocation of Cost of Repair and Reconstruction and of Reconstruction Assessments. The costs of repairing and reconstructing Shared Facilities and the Reconstruction Assessments therefor shall be allocated as provided in §§8.3 (a) and 10.4 of the Declaration, provided that the cost included in any Reconstruction Assessment for reconstructing or repairing any Shared Facility shall be allocated based upon the formula described on the following page as Exhibit "D" Allocation Schedule.

(3) Special Assessments. Special Assessments shall be allocated one-hundred percent (100%) to any Owner against whom such an Assessment is levied.

(4) Capital Improvements, Replacements, Repairs. Both Parcels shall contribute to capital improvements, maintenance, replacements and repairs in the following categories: Roof Replacement, Pavement Resurfacing, Building Painting, other Capital Improvements, maintenance, replacements and repairs. These expenses shall be allocated to each Parcel as set forth on the Allocation Schedule attached to this Exhibit "D." When maintenance and replacements are required for the above items, the work shall be performed by the Hotel Owner.

(5) Pursuant to the Condo-Hotel Declaration, the Hotel Owner has the right to remove portions of the Hotel Parcel and add them to the Condo-Hotel Parcel, in which event the allocations set forth on the Allocation Schedule attached to this Exhibit "D" shall be revised based upon the relative square footage of the Parcels or as otherwise deemed advisable by the Hotel Owner in Hotel Owner's sole and absolute discretion. Section 4.5 of the Declaration also provides for the right of the Hotel Owner to modify the allocations on the terms set forth therein.

A breakdown by percentage of the allocation of Shared Expenses, by line item of each Shared Expense, is shown on the following page as Exhibit "D" Allocation Schedule.

## SAMPLE ALLOCATION SCHEDULE

| SHARED FACILITIES EXPENSE BUDGET | HOTEL PARCEL ALLOCATION | CONDO-HOTEL PARCEL ALLOCATION |
|----------------------------------|-------------------------|-------------------------------|
| <b>SHARED FACILITIES</b>         |                         |                               |
| <b><u>ROOMS</u></b>              |                         |                               |
| Guest Services Personnel         | 70%                     | 30%                           |
| Housekeeping Management          | 70%                     | 30%                           |
| Housekeeping Personnel           | 30%                     | 70%                           |
| PTEB                             | 70%                     | 30%                           |
|                                  |                         |                               |
| Cable Television - Rooms         | 0%                      | 100%                          |
| Cable Television - Public Area   | 100%                    | 0%                            |
| Guest Supplies                   | 100%                    | 0%                            |
| Contract Services                | 30%                     | 70%                           |
| Guest Transportation             | 70%                     | 30%                           |
| Uniform                          | 70%                     | 30%                           |
|                                  |                         |                               |
| <b><u>RECREATION</u></b>         |                         |                               |
| Recreation Personnel             | 70%                     | 30%                           |
| PTEB                             | 70%                     | 30%                           |
|                                  |                         |                               |
| Operating Supplies               | 70%                     | 30%                           |
| Laundry                          | 70%                     | 30%                           |
| Uniforms                         | 70%                     | 30%                           |
|                                  |                         |                               |
| <b><u>A&amp;G</u></b>            |                         |                               |
| A&G Management                   | 70%                     | 30%                           |
| HOA Personnel                    | 50%                     | 50%                           |
| Security Personnel               | 70%                     | 30%                           |
| PTEB                             | 64%                     | 36%                           |
|                                  |                         |                               |
| Bank Charges                     | 70%                     | 30%                           |
| Contract Services                | 70%                     | 30%                           |
| Dues And Subscriptions           | 70%                     | 30%                           |
| Human Resources                  | 70%                     | 30%                           |
| Legal Services                   | 100%                    | 0%                            |
| Operating Supplies               | 70%                     | 30%                           |
| Payroll Processing               | 70%                     | 30%                           |
| Postage                          | 0%                      | 100%                          |
| Printing And Stationary          | 70%                     | 30%                           |
| Training                         | 70%                     | 30%                           |
| Travel - Meals And Entertainment | 70%                     | 30%                           |
| Travel - Other                   | 70%                     | 30%                           |
| Uniform Laundry                  | 70%                     | 30%                           |
| Uniforms                         | 70%                     | 30%                           |



| SHARED FACILITIES EXPENSE BUDGET            | HOTEL PARCEL ALLOCATION | CONDO-HOTEL PARCEL ALLOCATION |
|---|-------------------------|-------------------------------|
| <b>SHARED FACILITIES (CONTINUED)</b>        |                         |                               |
| <b><u>IT</u></b>                            |                         |                               |
| IT Personnel                                | 70%                     | 30%                           |
| PTEB  | 70%                     | 30%                           |
| HOA Website - Maintenance                   | 0%                      | 100%                          |
| Email Exchange                              | 70%                     | 30%                           |
| Cost of Telephone - Rooms                   | 10%                     | 90%                           |
| Cost of Internet - Rooms                    | 10%                     | 90%                           |
| Cell Phones                                 | 70%                     | 30%                           |
| System Maintenance (IQWare / PBX /Security) | 50%                     | 50%                           |
| Cost of Fiber                               | 50%                     | 50%                           |
| <b><u>PROPERTY OPERATIONS</u></b>           |                         |                               |
| Engineering Personnel                       | 70%                     | 30%                           |
| PTEB  | 70%                     | 30%                           |
| Building                                    | 30%                     | 70%                           |
| Contract Services                           | 30%                     | 70%                           |
| Electrical And Mechanical Equipment         | 30%                     | 70%                           |
| Elevators And Escalators                    | 30%                     | 70%                           |
| Engineering Supplies                        | 30%                     | 70%                           |
| Equipment Rental                            | 30%                     | 70%                           |
| Floor Covering                              | 17%                     | 83%                           |
| Furniture And Equipment                     | 30%                     | 70%                           |
| Grounds Maintenance & Landscaping           | 30%                     | 70%                           |
| Heating, Ventilation & Air Conditioning     | 30%                     | 70%                           |
| Licenses And Permits                        | 30%                     | 70%                           |
| Life/Safety                                 | 30%                     | 70%                           |
| Light Bulbs                                 | 30%                     | 70%                           |
| Operating Supplies                          | 30%                     | 70%                           |
| Painting And Decorating                     | 30%                     | 70%                           |
| Plumbing                                    | 30%                     | 70%                           |
| Printing And Stationary                     | 30%                     | 70%                           |
| Swimming Pool                               | 70%                     | 30%                           |
| Uniform Laundry                             | 30%                     | 70%                           |
| Uniforms                                    | 30%                     | 70%                           |
| Waste Removal                               | 30%                     | 70%                           |
| <b><u>UTILITIES</u></b>                     |                         |                               |
| Hotel Parcel - Water / Sewer                | 30%                     | 70%                           |
| Hotel Parcel - Electric                     | 18%                     | 82%                           |
| Pools & Water Park - Electric               | 70%                     | 30%                           |
| Pools & Water Park - Water / Sewer          | 70%                     | 30%                           |
| Pools & Water Park - Propane                | 70%                     | 30%                           |
| <b><u>FIXED COSTS</u></b>                   |                         |                               |
| Insurance                                   | 30%                     | 70%                           |
| Real Estate Taxes                           | 100%                    | 0%                            |

**In the event an expense to maintain the Shared Facilities was omitted from the foregoing Allocation Schedule, such expense shall be allocated 30% to the Hotel Parcel and 70% to the Condo-Hotel Parcel.**

CERTIFICATE REGARDING RECEIPT FOR PAID REAL ESTATE TAXES

This is to certify that attached hereto as **Exhibit "1"** is a receipted bill indicating that all real estate taxes due and owing on the property upon which the Building is located, as described in the foregoing Declaration of Covenants, Easements & Restrictions for Sycamore Resort, ("Declaration") have been paid as of the date of recordation of the Declaration.

WITNESSES:

**PRIMELAND REAL ESTATE DEVELOPMENT, LLC**, a Florida limited liability company

By: Primeland Enterprises LLC (??? Not on Sunbiz), a Florida limited liability company, its managing member

Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
[KAREN COSTA]

Print Name: \_\_\_\_\_

Address: 6965 Piazza Grande Ave Ste 314  
Orlando, FL 32835

By: \_\_\_\_\_  
[MARLI QUADROS]

Address: 6965 Piazza Grande Ave Ste 314  
Orlando, FL 32835

STATE OF FLORIDA            )  
  ) ss:  
COUNTY OF ORANGE        )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by \_\_\_\_\_, \_\_\_\_\_ of **Primeland Enterprises LLC**, a Florida limited liability company, the managing member of **Primeland Real Estate Development, LLC**, a Florida limited liability company, freely and voluntarily under authority duly vested in them. Each are personally known to me.

(Notarial Seal)

\_\_\_\_\_  
Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

**EXHIBIT "1"**

Receipt for 20\_\_ Paid Real Estate Taxes

**CONSENT OF MORTGAGEE**

THIS CONSENT is given as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (“Mortgagee”), being the owner and holder of that certain [INSERT MORTGAGEE INFO], recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_ (“Mortgage”), encumbering the Property described in the foregoing Declaration.

WHEREAS, PRIMELAND REAL ESTATE DEVELOPMENT, LLC, a Florida limited liability company (“Developer”) has requested Mortgagee to consent to the recording of the Declaration of Covenants, Easements and Restrictions for Sycamore Resort (the “Declaration”).

NOW, THEREFORE, Mortgagee consents to the recordation of the Declaration and agrees that the lien and effect of the Mortgage shall be subject and subordinate to the terms of the Declaration.

Mortgagee makes no warranty or any representation of any kind or nature concerning the Declaration, any of its terms or provisions, or the legal sufficiency thereof, and disavows any such warranty or representation as well as any participation in the development of the Sycamore Resort, a Condominium (the “Condominium”), and does not assume and shall not be responsible for any of the obligations or liabilities of Developer contained in the Declaration or the prospectus, (if any) or other documents issued in connection with the promotion of the Condominium. None of the representations contained in the prospectus, (if any) or other documents shall be deemed to have been made by Mortgagee, nor shall they be construed to create any obligation on Mortgagee to any person relying thereon. Except only as expressly provided herein, this consent does not affect or impair the rights and remedies of Mortgagee as set forth in the Mortgage or in the Declaration.

Made as of the day and year first above written.

Witnessed by: [Mortgagee]

Print Name \_\_\_\_\_ By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of \_\_\_ physical presence or \_\_\_ online notarization, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, freely and voluntarily under authority duly vested in him by said bank. He or she is personally known to me or who has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Notarial Seal) Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_