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Robert G. Montgomery
Franklin County Recorder

DECLARATION OF CONDOMINIUM

AND

BY-LAWS OF CONDOMINIUM ASSOCIATION

FOR

The Brunson

Condominium

FOR REFERENCE PLEASE SEE
CONDOMINIUM PLAT BOOK NO. 153 PAGE 90-96

Franklin County Auditor

by: _____
Jane Lenning, Deputy Auditor

This instrument prepared by

Kenton L. Kuehnle
Allen, Kuehnle & Stovall, LLP
21 West Broad Street
Columbus, Ohio 43215

TRANSFERRED

AUG 25 2005

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FRANKLIN COUNTY, OHIO

DECLARATION INDEX

ITEM	PAGE
RECITALS	1
DEFINITIONS	1
THE PLAN	4
THE LAND (ARTICLE I)	4
NAME (ARTICLE II)	4
PURPOSE; RESTRICTIONS (ARTICLE III)	4
Purposes (Section 1)	4
Restrictions (Section 2)	4
(a) Residential Unit Uses	4
(b) Commercial Unit Uses	5
(c) Common Element Uses	6
(d) Limited Common Element Uses	6
(e) Visible Areas	6
(f) Commercial Unit Exteriors	6
(g) Nuisances	7
(h) Vehicles	7
(i) Renting and Leasing	7
(j) Signs	8
(k) Replacements	9
(l) Structural Integrity	9
(m) Animals	9
(n) Conveyances	9
(o) Discrimination	10
(p) Architectural Control	10
(q) Arbitration	10
(r) Rules and Regulations	11
IMPROVEMENT DESCRIPTIONS (ARTICLE IV)	12
UNITS (ARTICLE V)	12
Unit Designations (Section 1)	12
Composition of Units (Section 2)	12
(a) Unit Composition	12
(b) Units Sizes; Locations and Components	13
Conversion of Commercial Units (Section 3)	13
(a) General; Conditions	13
(b) Mechanics	14
(c) Effect of Conversions	14

ITEM	PAGE
UNITS (ARTICLE V) (Continued)	
Relocation of Boundaries of Units & Limited Common Elements (Section 4)	14
(a) Right to Relocate Boundaries	14
(b) Board Approval of Relocation & Re-allocation	15
(c) Recordation of Amendment	15
COMMON AND LIMITED COMMON ELEMENTS (ARTICLE VI)	16
Common Elements - Description (Section 1)	16
Limited Common Elements - Description (Section 2)	16
(a) Limited Common Elements Appurtenant to All Residential Units	16
(b) Limited Common Elements Appurtenant to Individual Residential Units	16
Undivided Interest (Section 3)	16
Limited Common Elements - Reallocation (Section 4)	17
UNIT OWNERS' ASSOCIATION (ARTICLE VII)	17
Establishment of Association (Section 1)	17
Membership (Section 2)	17
Voting Rights (Section 3)	18
Board of Directors (Section 4)	18
Authority (Section 5)	18
Procedures for Enforcement of Violations (Section 6)	21
(a) Notice	21
(b) Hearing	21
(c) Manner of Notice	22
Delegation of Authority; Professional Management (Section 7)	22
AGENT FOR SERVICE (ARTICLE VIII)	23
MAINTENANCE AND REPAIR (ARTICLE IX)	23
Association Responsibility (Section 1)	23
Individual Responsibility (Section 2)	24
(a) General	24
(b) Failure to Maintain	24
UTILITY SERVICES (ARTICLE X)	24
INSURANCE; LOSSES; BONDS (ARTICLE XI)	25
Fire and Extended Coverage Insurance (Section 1)	25
Liability Insurance (Section 2)	27
Fidelity Coverage (Section 3)	27
Other Association Insurance (Section 4)	28
Insurance Representative; Power of Attorney (Section 5)	28

ITEM	PAGE
INSURANCE; LOSSES; BONDS (ARTICLE XI) (Continued)	
Unit Owners' Insurance (Section 6)	29
Sufficient Insurance (Section 7)	29
Insufficient Insurance (Section 8)	29
Compliance with Institutional Requirements (Section 9)	30
RESTORATION OF DAMAGE OR DESTRUCTION (ARTICLE XII)	30
Obligation to Restore (Section 1)	30
Election not to Restore (Section 2)	30
(a) Dissolution of Condominium and Partition Sale	31
(b) No Partition Sale/Dissolution	31
CONDEMNATION (ARTICLE XIII)	32
Standing (Section 1)	32
Use of Proceeds (Section 2)	32
Power of Attorney (Section 3)	33
GRANTS AND RESERVATION OF RIGHTS AND EASEMENTS (ARTICLE XIV)	34
Easements of Enjoyment; Limitations (Section 1)	34
Right of Entry for Repair, Maintenance and Restoration (Section 2)	34
Easements for Encroachments (Section 3)	34
Easement for Support (Section 4)	34
Easements for Utilities and Operation of Condominium (Section 5)	35
Easement for Services (Section 6)	35
Easements Reserved to Declarant (Section 7)	35
Grant of Permanent Easement (Section 8)	36
General (Section 8)	36
ASSESSMENTS AND ASSESSMENT LIENS (ARTICLE XV)	37
Types of Assessments (Section 1)	37
Purpose of Assessments (Section 2)	37
Elements-Apportionment: Due Dates (Section 3)	37
(a) Annual Operating Assessments	37
(b) Special Assessments for Capital Improvements	39
(c) Special Individual Unit Assessments	40
Effective Date of Assessment (Section 4)	40
Effect of Nonpayment; Remedies of Association (Section 5)	41
(a) Interest, fees and Costs	41
(b) Application of Payment	41
(c) Certificate of Lien	42
(d) Expiration of Lien	42
(e) Action to Discharge Lien	42
(f) Personal Obligation of Owners	42
(g) Legal Actions	43

ITEM	PAGE
ASSESSMENTS AND ASSESSMENT LIENS (ARTICLE XV)	
Effect of Nonpayment; Remedies of Association (Section 5) (Continued)	
(h) No Waiver	43
Subordination of the Lien to First Mortgages (Section 6)	43
Certificate Regarding Assessments (Section 7)	43
Declarant's Obligations (Section 8)	43
NOTICES TO MORTGAGEES (ARTICLE XVI)	44
AMENDMENTS (ARTICLE XVII)	45
Amendments Requiring 100% of Owners & 75% of Lenders (Section 1)	45
Action requiring 80% of Owners & 75% of Lenders (Section 2)	46
Action requiring 75% of Owners (Section 3)	46
Amendments Requiring 75% of Owners & 51% of Lenders (Section 4)	46
Action requiring 67% of Owners & 51% of Lenders (Section 5)	48
Amendments Not Requiring Consent of Owners or Lenders (Section 6)	48
(1) Amendments by Declarant to Expand Condominium	49
(2) Amendments by Declarant to Address Compliance	49
(3) Amendments by Board pursuant to Statutory Authority	49
Certain Amendments Requiring Additional Approval of 75% of Owners of Commercial Units (Section 7)	50
Approval by Eligible Holders (Section 8)	50
Method to Amend (Section 9)	50
EXPANSIONS (ARTICLE XVIII)	50
Reservation of Expansion Option (Section 1)	50
Limitations on Option (Section 2)	51
Maximum Expansion Time (Section 3)	51
Legal Description (Section 4)	51
Compositions of Portions Added (Section 5)	51
Time for Adding Portions (Section 6)	51
Improvement Location Limitations (Section 7)	51
Maximum Number of Units (Section 8)	51
Non-Residential Uses (Section 9)	52
Compatibility of Structures (Section 10)	52
Improvements other than Structures (Section 11)	52
Types of Units (Section 12)	52
Limited Common Elements (Section 13)	52
Supplementary Drawings (Section 14)	53
Successor not Liable for Actions of Declarant (Section 15)	53
Procedures for Expansion (Section 15)	53
Effects of Expansion (Section 16)	53

ITEM	PAGE
GENERAL PROVISIONS (ARTICLE XIX)	54
Covenants Running with the Land (Section 1)	54
Enforcement (Section 2)	54
Severability (Section 3)	54
Gender and Grammar (Section 4)	55
Captions (Section 5)	55
LEGAL DESCRIPTION, CONDOMINIUM PROPERTY	EXHIBIT A
UNIT DESIGNATIONS	EXHIBIT B
ADDITIONAL PROPERTY	EXHIBIT C

BY-LAWS INDEX

ITEM	PAGE
NAME AND LOCATION (ARTICLE I)	1
DEFINITIONS (ARTICLE II)	1
UNIT OWNERS (MEMBERS) (ARTICLE III)	1
Composition (Section 1)	1
Annual Meetings (Section 2)	1
Special Meetings (Section 3)	1
Notice of Meetings (Section 4)	2
Quorum (Section 5)	2
Proxies (Section 6)	2
Voting Power (Section 7)	2
Action in Writing Without Meeting (Section 8)	2
BOARD OF DIRECTORS (ARTICLE IV)	2
Initial Directors (Section 1)	2
Successor Directors (Section 2)	3
Removal (Section 3)	3
Nomination (Section 4)	3
Election (Section 5)	3
Compensation (Section 6)	3
Regular Meetings (Section 7)	4
Special Meetings (Section 8)	4
Quorum (Section 9)	4
Voting Power (Section 10)	4
Conduct of Meetings (Section 11)	4
Action in Writing Without Meeting (Section 12)	4
Powers (Section 13)	4
Duties (Section 14)	6

ITEM	PAGE
OFFICERS (ARTICLE V)	7
Enumeration of Offices (Section 1)	7
Selection and Term (Section 2)	7
Special Appointments (Section 3)	7
Resignation and Removal (Section 4)	7
Duties (Section 5)	7
COMMITTEES (ARTICLE VI)	8
BOOKS AND RECORDS (ARTICLE VII)	8
AUDITS (ARTICLE VIII)	9
FISCAL YEAR (ARTICLE IX)	9
AMENDMENTS (ARTICLE X)	10

THE BRUNSON CONDOMINIUM DECLARATION

This is the Declaration of The Brunson Condominium made on or as of the 22nd day of August, 2005, pursuant to the provisions of Chapter 5311 of the Revised Code of Ohio.

Recitals

A. Brunson Building LLC, an Ohio limited liability company, "Declarant", is the owner in fee simple of all of the real property hereinafter described and the improvements thereon and appurtenances thereto.

B. The Declarant desires to create of this property a site of individually owned units, and commonly owned areas and facilities, and to these ends to submit this property to condominium ownership under the provisions of the Condominium Act.

Definitions

The terms used in this document shall have these meanings, unless the context requires otherwise:

1. "**Additional Property**" means the land, and improvements thereon, that may, at a later date, be added to the Condominium Property and become a part of the Condominium.

2. "**Articles**" and "**Articles of Incorporation**" mean the articles, filed with the Secretary of State of Ohio, incorporating The Brunson Condominium Association as a corporation not-for-profit under the provisions of Chapter 1702 of the Revised Code of Ohio, as the same may be lawfully amended from time to time. (The State of Ohio's non-profit corporation statutory act).

3. "**Association**" and "**The Brunson Condominium Association**" mean the corporation not-for-profit created by the filing of the Articles and is also one and the same as the association created for the Condominium pursuant to the provisions of the Condominium Act.

4. "**Board**" and "**Board of Directors**" mean those persons who, as a group, serve as the board of directors of the Association.

5. "**By-Laws**" mean the by-laws of the Association, as the same may be lawfully amended from time to time, created under and pursuant to the provisions of the condominium law for the Condominium, and which also serve as the code of regulations of the Association under and pursuant to the provisions of Chapter 1702. A true copy of the By-Laws is attached hereto and made a part hereof.

6. "**Commercial Unit**" is the Unit which is restricted to Commercial or office Use, and designated as Unit C-1, C-2 or C-3 on the Drawings and in Exhibit B. The Commercial Units are hereby designated as "convertible units" as that term is defined herein, and in Section 5311.033 of the Ohio Revised Code.

7. "**Common Elements**" means all of the Condominium Property, except that portion thereof described in this Declaration as constituting a Unit or Units, and is that portion of the Condominium Property constituting "Common Elements" of the Condominium under the provisions of the Condominium Act.

8. "**Condominium**" and "**The Brunson Condominium**" mean the condominium regime for the Condominium Property created under and pursuant to the provisions of the Condominium Act.

9. "**Condominium Act**" means the statutory law of the State of Ohio regulating the creation and operations of condominiums and is presently Chapter 5311 of the Revised Code of Ohio.

10. "**Condominium Instruments**" means this Declaration, the By-Laws, the Drawings, the development disclosure statement provided to purchasers pursuant to §5311.26 of the Ohio Revised Code, any contracts pertaining to the management of the Condominium Property and, as provided by the Condominium Act, "any other documents, contracts, or instruments establishing ownership of or exerting control over the Condominium Property or Unit."

11. "**Condominium Organizational Documents**" means the Articles, the By-Laws, the Drawings, and this Declaration, as the same may lawfully be amended from time to time.

12. "**Condominium Property**" means the tract of land hereinafter described as being submitted to the Condominium Act, all buildings, structures and improvements situated thereon, and all easements, rights and appurtenances belonging thereto.

13. "**Convertible Units**" means a unit which may be converted into one or more units or common elements, including Limited Common Elements, pursuant to Section 5311.033 of the Ohio Revised Code, and in accordance with the provisions of Section 3 of Article V of this Declaration. The Commercial Units are hereby designated as Convertible Units.

14. "**Declarant**" means Brunson Building LLC, an Ohio limited liability company, and its successors and assigns, provided the rights specifically reserved to Declarant under the Condominium Organizational Documents shall accrue only to such

successors and assigns as are designated in writing by Declarant as successors and assigns of such rights.

15. "**Declaration**" means this instrument by which the Condominium Property is submitted to the Condominium Act, as this instrument may be lawfully amended from time to time.

16. "**Director**" and "**Directors**" mean that person or those persons serving, at the time pertinent, as a Director or Directors of the Association.

17. "**Drawings**" means the drawings for the Condominium, as defined in the Condominium Act, filed simultaneously with the submission of this Declaration for recording, as the same may be lawfully amended from time to time.

18. "**Eligible Holder of a First Mortgage Lien**" means the holder of a valid recorded first mortgage on a Unit, which holder has given written notice to the Association requesting notification of any proposed action that requires the consent of a specified percentage of Eligible holders of first mortgage liens.

19. "**Limited Common Elements**" means those Common Elements serving exclusively one Unit or more than one but less than all Units, the enjoyment, benefit or use of which are reserved to the lawful Occupants or the guests or invitees of the Occupants of such Unit or Units, either in this Declaration, or by the Board, and is that portion of the Condominium Property constituting "Limited Common Elements" of the Condominium under the provisions of the Condominium Act.

20. "**Occupant**" means a person lawfully residing in a Unit, regardless of whether that person is a Unit Owner.

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

22. "**Residential Units**" are Units which are restricted to Residential Use, and are designated as such in this Declaration or in Exhibit B.

23. "**Unit**" and "**Units**" mean that portion or portions of the Condominium Property described as a unit or units in this Declaration, and is that portion of the Condominium constituting a "unit" or "units" of the Condominium under the provisions of the Condominium Act. Units are either "**Residential Units**" or a "**Commercial Unit.**"

24. "**Unit Owner**" and "**Unit Owners**" mean that person or those persons owning a fee-simple interest in a Unit or Units, each of whom is also a "member" of the Association, as defined in Ohio's non-profit corporation statutory act.

The Plan

NOW, THEREFORE, Declarant hereby makes and establishes the following plan for condominium ownership of this property under and pursuant to the Condominium Act:

ARTICLE I

THE LAND

A legal description of the land constituting a part of the Condominium Property, located in the Franklin County, Ohio, is attached hereto and marked "Exhibit A".

ARTICLE II

NAME

The name by which the Condominium shall be known is "The Brunson Condominium."

ARTICLE III

PURPOSES; RESTRICTIONS

Section 1. **Purposes**. This Declaration is being made to establish separate individual parcels from the Condominium Property, to which fee-simple interests may be conveyed; to establish a Unit Owners' Association to administer the Condominium; to provide for the preservation of the values of Units and the Common Elements; to provide for and promote the benefit, enjoyment and well being of Unit Owners and Occupants; to administer and enforce the covenants, easements, charges and restrictions hereinafter set forth; and to raise funds through assessments to accomplish these purposes.

Section 2. **Restrictions**. The Condominium Property shall be subject to the following restrictions:

(a) **Residential Unit Uses**. Except as otherwise specifically provided in this Declaration, no Residential Unit shall be used for any purpose other than that of a residence and purposes customarily incidental thereto. Notwithstanding the foregoing: (i) professional and quasi-professional Occupants may use a Unit as an auxiliary or secondary facility to an office established elsewhere; (ii) an Occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, or conducting personal business or professional telephone calls or correspondence,

in or from a Residential Unit, is engaging in a use expressly declared customarily incidental to principal residential use and is not in violation of these restrictions; (iii) it shall be permissible for the Declarant to maintain, during the period of its sale of Units, one or more Units as sales models and offices and/or for storage and maintenance purposes; and (iv) one or more Units may be maintained for the use of the Association in fulfilling its responsibilities.

(b) **Commercial Units Uses**. Except as otherwise specifically provided in this Declaration, the Commercial Units may not be used for any residential purpose, but shall be used exclusively for commercial, office or retail purposes uses incidental thereto. Without limiting the generality of the foregoing, it shall be permissible for the Declarant to maintain one or more Units as sales models and offices and/or for storage and maintenance purposes, and one or more Units may be maintained for the use of the Association in fulfilling its responsibilities.

In addition to the requirements contained herein which relate to the Condominium in general, no commercial unit shall be used for:

(1) indecent or illegal purposes (such as the sale of pornography or drug paraphernalia). Notwithstanding the foregoing, a book store or news stand which sells materials which may be viewed by some as pornography shall not be considered to violate the foregoing restriction unless a substantial portion of the merchandise offered for sale (no less than 25%) relates to sexual themes.

(2) any activity which produces noise or sound that is audible beyond the Unit from which it originates and that is objectionable due to intermittence, beat, frequency, shrillness or loudness to reasonable persons in other units or on the Common Elements.

(3) any activity which produces obnoxious odors that are perceptible beyond the Unit from which they originate (such as a pet shop).

(4) any activity which causes the cancellation of insurance policies carried by the association or by the owners of other units within the Condominium.

(5) any video arcade, pool room or billiard parlor, massage parlor, casino, card club, or bingo parlor;

(6) any activity which, because of parking requirements in excess of normal commercial uses, places the Condominium in violation of City of Columbus requirements for adequate parking.

(c) **Common Element Uses**. The Common Elements (except the Limited Common Elements) shall be used in common by Unit Owners and Occupants and their agents, servants, customers, invitees and licensees, in accordance with the purposes for which they are intended, and as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of Units, provided, however, that unless expressly provided otherwise herein, no Common Elements shall be used for any purpose other than the health, safety, welfare, convenience, comfort, recreation or enjoyment of Unit Owners and Occupants, subject to such rules and regulations as may from time to time be promulgated by the Board. Notwithstanding the foregoing, the Owners of Commercial Units may use the Common Element sidewalk areas between their respective Units and High Street, provided such use is in compliance with all applicable governmental codes, ordinances and regulations.

(d) **Limited Common Element Uses**. Except as specifically provided otherwise herein, those portions of the Common Elements described herein and shown on the Drawings as Limited Common Elements shall be used and possessed exclusively by the Unit Owners and Occupants of the Unit or Units served by the same, subject to the restrictions on use of Common Elements and Limited Common Elements set forth in this Declaration and such rules and regulations as may from time to time be promulgated by the Board.

(e) **Visible Areas**. Except for displays in the windows of the commercial units and merchandise visible from outside of the Commercial Units, signage on the Commercial Units, and improvements made in connection with the use of the Commercial Units, nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows (except inoffensive drapes, blinds or curtains or other inoffensive window treatment) or placed on the outside walls of a building or otherwise outside of a Unit, or any part thereof, and no sign (except those of the Declarant), awning, canopy, shutter or (to the extent that such limitation is not prohibited by law) television or citizens' band or other radio antenna or transmitter, or any other device or ornament, shall be affixed to or placed upon the exterior walls or roof or any part thereof, or in or on a terrace unless authorized by the Board, and subject to such rules and regulations as the Board may adopt from time to time. The Board may designate locations for antennae, and may require coverings for such devices, to the extent not prohibited by law.

(f) **Commercial Units Exterior.** Notwithstanding any provision hereof to the contrary, the Commercial Units shall be permitted to have the following, subject only to such rules and guidelines as may, from time to time, be established by Board with the consent of the owners of all the Commercial Units: (a) signage on the exterior of the building (and access reasonably necessary to install, maintain, repair and replace the same) which is reasonably

sized, does not cast light in the direction of the windows of any Residential Unit, and complies with all regulations of the City of Columbus; (b) window displays and merchandise visible from the outside of the Commercial Units; (c) access to risers connecting the Commercial Units to the roof, and communication devices on the roof (at a location satisfactory to the Board) for use in connection with the businesses conducted in the Commercial Units; provided that with respect to all of the foregoing, the user shall: (i) be responsible for all costs in connection therewith; (ii) comply with all governmental rules and regulations and all insurance requirements; (iii) post a security deposit with the Association, in an amount deemed reasonable by the Board at the time of installation, to ensure the removal of all equipment and wiring; (iv) remove all equipment and wiring upon the discontinuance of the use of any such devices; and (v) avoid any interference with the Occupants of the building, including any interference created by the use of any such facilities.

(g) **Nuisances**. No noxious or offensive activity shall be carried on in any Unit, or upon the Common Elements, nor shall either be used in any way or for any purpose which may endanger the health of or unreasonably disturb any Occupant. No unit shall be used for any purpose which increases the cost of insurance above that which would otherwise be available for normal uses conducted within such Unit unless the owner of such Unit responsible for the increase reimburses the Association and any other Unit Owner who experiences such increase.

The Board may, if it determines that an owner has allowed the Limited Common Elements appurtenant to a Unit to become unsightly, come on the Limited Common Elements to clean debris therefrom, and charge the owner the cost thereof (plus any other fees and penalties assessed pursuant to the Rules and Regulations of the Board in connection therewith), which shall become a special individual unit assessment against such Unit.

(h) **Vehicles**. The Board may promulgate regulations restricting the parking of automobiles, inoperable vehicles, trucks, boats and recreational vehicles on the Common Elements, (including, without limitation, Limited Common Elements), and may enforce such regulations or restrictions by levying fines or enforcement charges, having such vehicles towed away, or taking such other actions as it, in its sole discretion, deems appropriate.

(i) **Renting and Leasing**. No Unit or part thereof, unless the same is owned by the Association, shall be rented or used for transient or hotel purposes, which is defined as: (i) rental for any period less than thirty (30) days; (ii) rental under which occupants are provided customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and similar services; or (iii) rental to roomers or

boarders, that is, rental to one or more persons of a portion of a Unit only. No lease of a Residential Unit may be of less than an entire Unit. Any lease agreement executed after the submission of a unit to the Condominium shall be in writing, shall provide that the tenant shall be subject in all respects to the provisions hereof, and to the rules and regulations promulgated from time to time by the Board, and shall provide that the failure by the lessee to comply with the terms of the Condominium Organizational Documents and lawful rules and regulations shall be a default under the lease.

Notwithstanding any contrary provision in the Condominium Act regarding the eviction of tenants for the violation of covenants in this Declaration or in the rules and regulations promulgated by the Board:

With respect to Commercial Units, the Association shall not exercise any right to evict a tenant without the consent of the owners of, and the holder of any recorded first mortgage lien on, the Unit involved; and

With respect to Residential Units, the Association shall not exercise any right to evict a tenant without notice to the tenant and Unit Owner specifying the actions required to bring the tenant into compliance with the declaration and rules and regulations; opportunity for the tenant to comply; and the right of the tenant and Unit Owner to a hearing, all done in accordance with the procedures set forth in Section 6 of Article XV of this Declaration. (In the case of repeated violations of the same nature, the Board may insist upon reasonable assurance and evidence that such violations will not be repeated.)

In addition to the other requirements for the amendment of this Declaration, the foregoing provisions of this section dealing with the eviction of tenants of Commercial Units may not be amended without the written consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of the Owners of Commercial Units.

(j) Signs. Except for signs permitted to Commercial Units in accordance with the provisions of paragraph (f), above, no sign of any kind shall be displayed to the public view on the Condominium Property except: (a) on the Common Elements, signs regarding and regulating the use of the Common Elements, provided they are approved by the Board; and (b) on the Common Elements and model Units, signs advertising the sale of Units by the Declarant during the initial sales/rental period, which shall continue until all Units have been sold to parties unrelated to the Declarant. By acquiring title to a Unit, Unit owners waive, for themselves and their heirs, successors and assigns, any and all rights or claims of rights to any signage not specifically permitted herein.

unless the same is permitted by rules and regulations promulgated by the Board of Directors.

(k) **Replacements**. Any building erected to replace an existing building containing Units shall be of new construction, be of comparable size, design and construction to that replaced, and shall contain a like number of Units of comparable size to the Units in the building replaced.

(l) **Structural Integrity**. Nothing shall be done in any Unit, or in, on or to the Common Elements, which may impair the structural integrity of any improvement.

(m) **Animals**. Except as hereinafter provided, no animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or on the Common Elements. Notwithstanding the foregoing, household domestic pets, not bred or maintained for commercial purposes, may be maintained in a Unit, provided that: (i) no animals shall be permitted in any portion of the Common Elements except on a leash (not longer than six feet in length) maintained by a responsible person; (ii) the permitting of animals on the Common Elements shall be subject to such rules and regulations as the Board may from time to time promulgate, including, without limitation, the right to place limitations on the size, number and type of such pets, and the right to levy fines and enforcement charges against persons who do not clean up after their pets; and (iii) the right of an Occupant to maintain an animal in a Unit shall be subject to termination if the Board, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance or creates a detrimental effect on the Condominium or other Units or Occupants.

(n) **Conveyances**. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof. The undivided interest of a Unit in the Common Elements shall be deemed to be conveyed or encumbered with the Unit even though that interest is not expressly mentioned or described in the deed, mortgage or other instrument of conveyance or encumbrance.

The right of a Unit Owner to sell, transfer or otherwise convey that owner's Unit is not subject to any right of first refusal or similar restriction, and any Unit Owner may transfer that owner's Unit free of any limitations. To enable the Association to maintain accurate records of the names and addresses of Unit Owners, each Unit Owner is required, at the following times, to provide the Association (by delivery to the office of the Association or to any member of the Board) written notice of the name, home address, home and business mailing addresses, and the home and business telephone numbers of the Unit Owner and all Occupants of the Unit and the name, business address