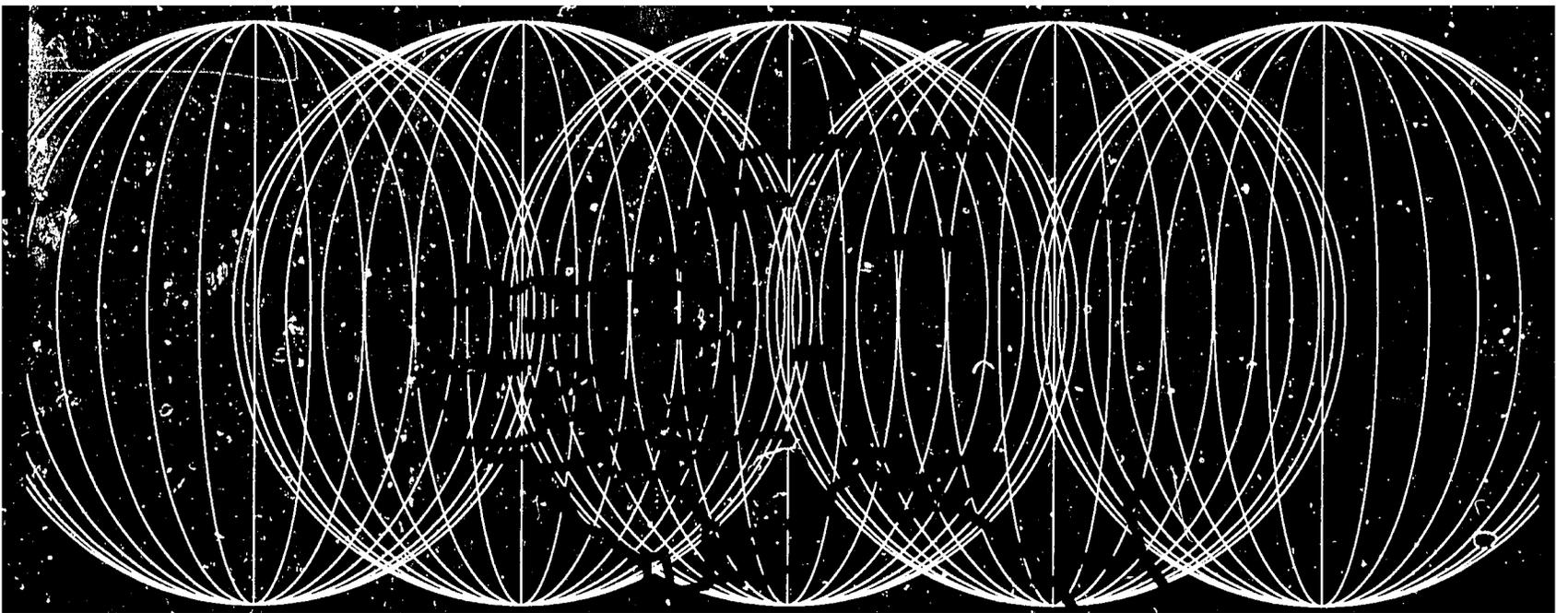


PA-ABL-168

**FROM PLANNING TO MARKETS**  
**HOUSING IN EASTERN EUROPE**



**THE URBAN INSTITUTE**  
**Prepared for the Office of Housing and Urban Programs (USAID)**

PN-ABL-168

USA 76891

**CONDOMINIUM LEGISLATION  
FOR CZECHOSLOVAKIA**

Sheldon L. Schreiber, G. Thomas Kingsley,  
and Petr Tajčman

April 1992

Report Prepared for the  
Office of Housing and Urban Programs  
U.S. Agency for International Development

Contract No. AID/DHR-1008-C-00-0108-00

Project 6127-99

**THE URBAN INSTITUTE**  
Washington, D.C.

**TABLE OF CONTENTS**

**SECTION 1: INTRODUCTION**

Purpose .....	1
Context .....	1
Organization of the Report .....	2
References .....	3

**SECTION 2: THE CONDOMINIUM AND ITS ADVANTAGES**

Condominium Ownership and Financing .....	5
Condominium Management .....	5
An Undemocratic Critique .....	6
What Will Happen When the Proposed Condominium Law Is Passed? .....	7

**ANNEXES**

A. Text of Long Form of Condominium Law .....	8
B. Text of Short Form of Condominium Law .....	23
C. Plan of Ownership--Model Enabling Declaration .....	28
D. Plan of Ownership--Model Master Deed .....	35
E. Checklist--Matters That Should Be Included in Drafting Bylaws of an Association of Owners .....	43
F. Model Bylaws of an Association of Owners .....	44
G. Model Bylaws Provisions .....	53
H. Model Rules and Regulations .....	55
I. Model Management Agreement--Form 1 .....	60
J. Model Management Agreement--Form 2 .....	68

*Section 1*

**INTRODUCTION**

**PURPOSE**

Since March 1991, a team from the Urban Institute has been working under contract to the Office of Housing and Urban Programs of the U.S. Agency for International Development to provide a program of training and technical assistance to further the housing reform objectives of the Czech and Slovak Federative Republics (CSFR). (The basic structure of this program and the purposes of the housing reform agenda are reviewed in Kingsley et al., 1991, and Telgarsky and Struyk, 1990. A recent discussion of the progress and likely directions of Czechoslovakia's broader economic restructuring program is provided in Janaček et al., 1992.)

In October 1991, the team was asked to assist the Office of the Deputy Prime Minister to assist in developing legislation to establish, for the first time, a condominium form of housing ownership in the CSFR. Sheldon L. Schreiber of Brownstein, Zeidman, and Lore was assigned as the team's lead attorney. He was assisted by Monika Kolderova, Renata Vaněčková, Petr Tajčman, and G. Thomas Kingsley. The purpose of this report is to assemble in one place the major documentation that resulted from that work.

**CONTEXT**

The development of condominium legislation is extremely important at this time to the success of market-oriented housing reform in the CSFR. The country did have legislation in the mid-1960s that permitted the sale of individual social housing units to

their occupants (Act No. 52/1966) but, largely because the law was vague about the form of building management after sale, the option was never extensively utilized.

In May 1991, the ownership of all social housing was transferred to Municipal governments. There appears to be widespread agreement at the Municipal (as well as the Federal and Republic) level that a large share of all social housing should be privatized and many local governments hope to sell most of this housing to the current occupants on an apartment-by-apartment basis. To do that, new legislation is required. (See Kingsley and Struyk, 1992 for a review of recent trends in housing privatization overall in the CSFR and other Eastern European countries; for further background on legal aspects, also see Hetzel, 1991).

At the outset, the Office of the Deputy Prime Minister accepted the condominium form as optimal for this purpose. They also accepted the basic legal structure for condominiums as it is established and operates in the United States--a marked contrast to approaches in some European countries where government retains involvement and responsibility in operating a building's common spaces and facilities.

## **ORGANIZATION OF THE REPORT**

Section 2 is a "concept paper" on the advantages of the condominium form. It was written to explain to CSFR audiences in a simple and direct way what a condominium is and how it works. It focuses on several factors that have made the condominium such a popular form in Western Europe and the United States. A particular concern when the idea was first discussed in the CSFR was how a stable (non-government) organizational form could be introduced as units are sold to assure adequate ongoing control of operations and maintenance. This aspect is also highlighted.

The remainder of the document consists of a series of annexes. The first two are different versions of the proposed condominium law. The first version (Annex A) was drafted to present a reasonably thorough treatment of the main features of the condominium form. The second version (Annex B) is shorter, and in a form that fits more easily into the existing CSFR legal framework (with a view that the additional details from the first version would be incorporated in subsequent regulations).

The remaining Annexes together might be called a "tool kit" for establishing condominiums. They contain model drafts for plans of ownership (an enabling declaration in Annex C and a master deed in Annex D); the bylaws of a condominium association and related provisions (Annexes E through G); and two alternative forms of management agreements (Annexes H and I). All of these models are direct copies of U.S. legal forms, but they provide an indication of needed provisions that should be easily adapted in different ways to fit CSFR circumstances.

## REFERENCES

- Hetzel, Otto. 1991. *Reforms of Czechoslovakia's Legal System Affecting Housing*, Urban Institute Project Report 6127-55A. Washington, D.C.: The Urban Institute.
- Janacek, Kamil, et al. 1992. *Transformation of the Czechoslovak Economy: Macroeconomic and Social Problems and Perspectives*. Prague: Institute of Economics, Czechoslovak Academy of Sciences.
- Kingsley, G. Thomas, Jeffrey P. Telgarsky, Elspeth Taylor, and Petr Tajčman. 1991. *A Preliminary Review of Housing Policy Reform in the Czech and Slovak Federal Republic*, Urban Institute Project Report 6127-39. Washington, DC: The Urban Institute.
- Kingsley, G. Thomas, and Raymond J. Struyk. 1992. *Progress in Privatization: Eastern Europe's Social Housing*. Washington, D.C.: The Urban Institute.
- Telgarsky, Jeffrey P., and Raymond J. Struyk. 1990. *Toward a Market-Oriented Housing Sector in Eastern Europe: Developments in Bulgaria, Hungary, Poland, Romania, and Yugoslavia*. Urban Institute Report 90-10. Washington, DC: The Urban Institute Press.

Section 2

**THE CONDOMINIUM AND ITS  
ADVANTAGES**

Democracy means giving individual families control over their own lives. They are themselves free to choose how best to earn and use income and where and how to live, and they also bear more direct responsibility for making these choices wisely. The overwhelming popular choice of a democratic form of government in the Czech and Slovak Federative Republic (CSFR) is a strong indication that its families want the freedoms, and are willing to accept the responsibilities.

Nowhere are these themes more relevant than in housing. Those who live in large apartment buildings in the CSFR have long suffered under problems created by the monopolistic bureaucracies that have owned and operated those buildings--institutions that have had no incentives to be efficient or to be responsive to the concerns of the residents. There are many indications that a large number of these families want more control for themselves.

A proposed law now being reviewed in parliament would introduce into the CSFR the form of ownership and management that experience elsewhere suggests would be the most effective response to these desires: the *condominium*. Over the past few decades, the condominium has been the fastest growing form of ownership for multi-unit buildings in Western Europe and North America. The reasons for its success are: (1) it gives resident families more direct control over their own living environments (they have clear ownership of their own apartments and a share a vote on building management); (2) unlike the situation in cooperatives, financial default by one resident in a condominium does not create problems for the other residents; and (3) partly because of this, condominiums have proven financially and managerially more stable over time--private lenders are much more willing to provide financing for them (and to do so on reasonable terms).

Condominiums started in the West as a solution to inadequacies of the cooperative and other forms of ownership in housing. The form also works effectively for multi-unit office and commercial buildings, however. In fact, after its success in housing, the condominium has also become a popular form for office and commercial use, for basically the same reasons.

### **CONDOMINIUM OWNERSHIP AND FINANCING**

In cooperatives, residents only own a share of the assets of the organization as a whole. In condominiums, residents receive independent title to their own unit, clearly defined in space. They can freely sell their unit without approval from any governing body. Condominium purchasers can also independently take on a private mortgage to finance the purchase of their units, and this is a major advantage of this form.

Private financing for condominiums is generally easier to obtain than it is for cooperatives (and on better terms) because there is less risk for the lender. If the individual family in a condominium does not make its required mortgage payments, the lender can foreclose and take over ownership of that particular unit. This also protects the other residents of a condominium--if one resident defaults, there is no effect on the financial position of the building overall. In cooperatives, by way of contrast, it is the cooperative entity as a whole that must make the mortgage payments. If several residents default on their payments, the whole entity is threatened. Lenders see much greater risk in getting their money back when the whole cooperative has financial problems.

### **CONDOMINIUM MANAGEMENT**

Condominium owners (commercial as well as residential) also own a share of the common spaces (hallways, lobbies, elevators) and other assets of the development, usually in proportion to the amount of floor space in their own units. They form a Condominium Association to be responsible for policy and management. Voting rights are in proportion to ownership shares; for example, if a family's apartment has 3 percent of the floor space in the building, its vote will count for 3 percent of the total.

The Condominium Association elects some of its own members to serve as its board of directors. The board usually meets once each month to review the performance of full-time management and maintenance staff, and give them revised instructions and set revised policies as may be appropriate. Provisions in the Association by-laws permit the removal of board members if the overall membership is not satisfied with their performance, therefore, the board has strong reasons to act in a responsible manner.

Almost always, the Condominium Association contracts with a separate professional management organization to handle the day-to-day work of building

management and maintenance. In the CSFR, they could contract with the management unit of a neighboring cooperative or, more probably, with a private firm. Even a year ago, many people said that private housing management firms did not exist in the CSFR and would take a long time to develop, but that view has been proven false. For example, District 2 of Prague offered to contract out the management of its communal housing stock in June 1991 and 39 firms responded to the request. The District entered into contracts with 22 of these firms (those they judged to be the most qualified and experienced) and, so far, their performance has been excellent--certainly much better than that of the old government management bureaucracy (OPBH). The new firms are in fact composed of experienced housing management and maintenance personnel--in many cases, some of the harder working former OPBH employees in the Prague area who decided that work in a private firm would be much more satisfying than it was in the old OPBH bureaucracy.

A new Condominium Association could also request competitive bids from private firms. After looking over the property, the firms would present estimated budgets for costs and fees. The Association board would select the firm that looked best from the standpoint of both qualifications and price, and enter into a contract with it, probably for a one year period. (The important feature of this arrangement is that the firm would know that if it did not perform well, the residents could terminate the contract and select another firm--again providing strong incentives for hard work and efficiency.)

The board would use the budget of the winning firm as a basis for setting the payments all residents would have to make each month to cover operations and maintenance (the board would also be required to make copies of the budget available to all the residents so they can see for themselves whether the payment has been set fairly).

### **AN UNDEMOCRATIC CRITIQUE**

In discussion about the current condominium bill in Parliament, some have suggested that families in the CSFR may have neither the skills nor the ability to reach agreement needed to operate the condominium form successfully. Presumably, these critics would go back to a situation where individual families could not own their own apartments and the building management would be done by government or some other bureaucracy.

This position is indeed ironic--surely, an unjustified criticism of the character of the people of the Czech and Slovak Republics. Citizens of the United States have much more of a reputation for being independent-minded and unable to reach consensus on issues with their neighbors than citizens of the CSFR. And when the condominium was introduced, U.S. citizens had no more experience with overseeing building financing and management than those of the CSFR do today. Yet the condominium form has been extremely successful throughout the United States.

To be sure, basic information on financing and management (in some cases, training) had to be provided, but the people learned what they needed to learn very quickly. The reason is that the condominium form gave them direct control and they had powerful natural incentives to watch over how their own resources were being used in the Condominium Association.

That is, in fact, the reason why condominiums have been more stable, financially and managerially, than buildings owned and run by separate institutions--the people themselves have both the responsibility and the freedom to choose and, while no system is perfect, this gives more reason to act responsibly than is true in any other system.

### **WHAT WILL HAPPEN WHEN THE PROPOSED CONDOMINIUM LAW IS PASSED?**

The bill now before parliament is an "enabling" act. It does not force a change in the status of any building, but it permits the change to a condominium form where, under democratic principles, that form is selected. However, the condominium would seem a very attractive option in the transitions to be faced in both the cooperative and communal housing stocks in the CSFR. It is doubtful that all buildings in these housing categories would convert to the condominium form, but it should be an ideal form for many of them.

Detailed guidelines for implementing the transition to the condominium form are readily available (guidelines that have proven successful elsewhere are already in the process of being adapted to fit the CSFR legal system; for example, model Association by-laws, financial rules and structures, operating procedures, and management contracts). Literature and training courses to help individual families understand this new form also can be provided easily. The transition should not be a difficult one.

Annex A

**TEXT OF LONG FORM OF CONDOMINIUM LAW**

\* \* \* \* \*

**THE ACT ON THE "OWNERSHIP OF A UNIT"**

The Parliament of the Czech intending to abolish Act No. 52/1966 "Act on Personal Ownership of Apartments" and Slovak Federal Republic ("CSR") passed the following act:

**Basic Provisions**

**§ 1**

To be able to satisfy the housing needs of those who want to use their own money in satisfying these needs, we legalize the right of ownership of a unit situated in a building which right of ownership shall be called condominium.

**§ 1-101. Applicability.**

(a) This Act applies to all apartments existing within this Nation after the effective date of this Act.

(b) The provisions of this Act including those dealing with declaration, bylaws, plats and plans do not affect any apartments sold before the effective date of this Act.

**§ 1-102. Definitions. [Others will be added.]**

Unless specifically provided otherwise or the context otherwise requires, in this Act:

(1) "Allocated Interests" means the undivided interest in the common elements, the common expense liability, and votes in the association allocated to each unit.

(2) "Association" or "unit owners' association" means the unit owners' association.

(3) "Common elements" means all portions of a condominium other than the units.

(4) "Common expenses" means expenditures made by or financial liabilities of the association, together with any allocations to reserves.

(5) "Common expense liability" means the liability for common expenses allocated to each unit.

(6) "Condominium" means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

(7) "Declarant" means any legal entity, including a municipality, state-owned enterprise or person or group of persons acting together, who offer to dispose of his or its interest in a unit.

(8) "Declaration" means any contract or instruments, however described, that create a condominium, and any amendments to those instruments.

(9) "Nonresidential purposes" is defined in Act on nonresidential space in Civil Code #116/90.

(10) "Person" means a Czech or Slovak or Czechoslovakian natural person or legal entities, corporation or business arrangement.

(11) "Purchaser" means any person, other than a declarant or a person in the business of selling real estate for his own account, who by means of a voluntary transfer acquires a legal interest in a unit.

(12) "Residential purposes" means use for dwelling or recreational purposes, or both.

### **§ 1-103.**

The apartment can be owned by a Czech or Slovak or a Czechoslovakian national person or legal entity, a partnership or corporation. One person can own more than one apartment and a share in more than one apartment and can own an apartment or share as well as a family house.

**§ 1-104.**

The rights and responsibilities of joint owners are addressed in the provisions of the Civil Code concerning shared or shareless ownership (corporate or noncorporate form).

**§ 1-105.**

The rights and responsibilities of a unit owner are basically the same as those of the owner of a private family house except that the rights of the other unit owners must be taken into consideration.

**CREATION OF A CONDOMINIUM**

**§ 2A**

**§ 2A-101.**

The owner of a building has the right to transfer the ownership to someone else or to create a condominium. A condominium may be created pursuant to this Act only by recording a declaration executed in the same manner as a deed. The declaration must be recorded where the condominium is located, and must be indexed [in the Grantee's index] in the name of the condominium and the association and [in the Grantor's index] in the name of each person executing the declaration.

**§ 2A-102.**

The declaration for a condominium must contain:

(a) a legally sufficient description of the real estate included in the condominium;

(b) a description of the boundaries of each unit created by the declaration, including the unit's identifying number;

(c) The declaration must include the owners of the units, the locations of the units, the area of the rooms (rooms, bathrooms and lavatories), the range of the living and other space, the equipment of the units.

(d) a description of any common elements.

**§ 2A-103.** The Declaration may contain any other matters the declarant deems appropriate.

**§ 2A-104.** Rights given in the Declaration may be transferred in the same manner to a legal successor.

**§ 2A-105.** The declaration shall allocate a fraction or percentage of undivided interests in the common elements and in the common expenses of the association, and a portion of the votes in the association, to each unit and state the formulas used to establish those allocations. Those allocations may not discriminate in favor of units owned by the declarant.

**§ 2A-106.** If units may be added to or withdrawn from the condominium, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the condominium after the addition or withdrawal.

**§ 2A-107.** The declaration may provide for class voting (residential and commercial units) on specified issues affecting the class if necessary to protect valid interests of the class.

**§ 2A-108.** Except for minor variations due to rounding, the sum of the undivided interests in the common elements and common expense liabilities allocated at any time to all the units must each equal one if stated as fractions or 100 percent if stated as percentages.

**§ 2A-109.** Unless otherwise provided in the Declaration, costs will be shared on the basis of proportion of the number of square meters in a unit to the total square footage of all of the individual units.

## **TENANT'S PRIORITY RIGHTS TO PURCHASE**

### **§ 2B**

**§ 2B-101.** A declarant shall give each of the tenants a conversion building notice. The notice must set forth generally the rights of tenants and subtenants under this and related the section and shall be hand delivered to the unit or mailed. For ninety (90) days after delivery or mailing of the notice described, the person required to give the notice shall offer to convey each unit to the tenant who leases that unit. If a tenant fails to

purchase the unit during that ninety-day period, the offeror may not dispose of that unit during the following 180 days at a price or on terms more favorable than the price or terms offered to the tenant. After 270 days, the unit may be sold to any other person or entity at a price or terms more favorable to the purchaser, subject to the rights of the tenant as prescribed in the Civil Code and other laws.

**THE OWNERSHIP AND OPERATION  
OF THE BUILDING INCLUDING THE COMMON PARTS**

**§ 3A**

**§ 3A-101.** The common parts of the building as well as the land included within the condominium are a shared joint ownership of the units owners. This provision relates also to the equipment and belongings of the building, even if it is located out of the building. In case some units are not sold, the Declarant remains the owner of the common area proportionate to the footage of the unsold units and bears the proportionate share of expense.

**§ 3A-102.** The percentage amount of the joint ownership shares is derived from the proportions of the total floor area of the units owned by all of the unit owners to the common areas as set forth in the Declaration.

**§ 3A-103.** The amount of the joint ownership shares is based on the floor area proportion. The initial costs for a unit can be different from the joint ownership share on the common parts of the building and land.

**THE RIGHTS AND RESPONSIBILITIES OF THE JOINT OWNERS**

**§ 3B**

**§ 3B-101.** The joint owners are obliged to contribute to costs of maintenance, repairs and improvements of the common parts of the building and land. The rate of the costs is set in the Declaration. Unless an agreement or a legal regulation sets something else, costs shall be set on the basis of owned footage.

**§ 3B-102.** The owners of the units pay (in advance) certain set amounts to a fund designated for repairs and maintenance of the common parts of the building and land. The amount of the payments is usually set by the owners for one year so that costs like

repairs, maintenance, insurance, water, trash, central heating, etc. could be covered and so that there is still a reserve for replacements.

**§ 3B-103.** The establishing of a special fund facilitates the management and maintenance of the building. The amount of the payments is based on an agreement of the owners. The forecasted needs are taken into consideration when setting the amount. The owners must also contribute to some urgent costs; they can also decide the use the fund for other purposes.

**§ 3B-104.** The owner of the unit is obliged to maintain his unit on his own costs. When using, maintaining developing the unit (or a part of it), etc. the owner must not infringe and endanger the ownership or joint ownership rights of the others.

**§ 3B-105.** The owner of a unit must do away with the defect made by him (or those who live in his unit) in other units or in the common parts of the building.

**§ 3B-106.** The conditions of using the unit by somebody else are governed by the Civil Code.

**§ 3B-107.** The owner of a unit has the right to use the unit and the common parts of the building and land for his own needs as well as for the needs of his family and household. He has the right to move in this unit. Provided he does not occupy this unit, his married children or his parents can move in or can rent it.

**§ 3B-108.** The citizen who was allowed to live in the unit does not participate in the management of the building, does not propose the ways of management, the kinds of repairs and how to improve the common parts of the building and land.

**§ 3B-109.** The owner of nonresidential unit can also let somebody else to use the nonresidential space.

**§ 3B-110.** The owner of the unit has the right and the duty to participate in the management of the building. Since he is a joint-owner of the common parts of the building and the land, he has the right and duty to decide about those parts (maintenance, repairs).

**§ 3B-111.** When deciding by voting, majority of votes is necessary. Each unit has one vote. In those cases in which significant decisions must be made the outvoted owners can go and propose the court to change the decision.

**§ 3B-112.** The joint owners of a unit have one vote together.

### **MISCELLANEOUS PROVISIONS**

#### **§ 3C**

**§ 3C-101.** Any portion of the common elements for which the declarant has reserved must be separately taxed and assessed against the declarant, and the declarant alone is liable for payment of those taxes.

**§ 3C-102.** A zoning, subdivision, building code, or other real estate use law, ordinance, or regulation may not prohibit the condominium form of ownership or impose any requirement upon a condominium which it would not impose upon a physically identical development under a different form of ownership. Otherwise, no provision of this Act invalidates or modifies any provision of any zoning, subdivision, building code, or other real estate use law, ordinance, or regulation.

**§ 3C-103.** Subject to the provisions of the declaration and other provisions of law, a unit owner:

(a) may make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium;

(b) may not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the condominium, without permission of the association;

(c) after acquiring an adjoining unit or an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity of mechanical systems or lessen the support of any portion of the condominium.

**§ 3C-104.** Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration upon application to the association by the owners of those units.

**§ 3C-105.** The association shall prepare and record plats or plans necessary to show the altered boundaries between adjoining units, and their dimensions and identifying numbers.

**§ 3C-106.** A newly constructed building that has been constructed by its joint owners must be given a land registry number and registered in the real estate records (individual units, owners of these units and the joint ownership shares concerning the common parts must be included). The records are based on the contract registered by the State Notary's Office as well as on the floor plans.

**§ 3C-107.** Changes of owners are based on the contracts of the unit transfers.

### **THE TRANSFER AND SUCCESSION OF OWNERSHIP AND TERMINATION OF THE CONDOMINIUM**

#### **§ 3D**

**§ 3D-101.\*** The owner has the right to devolve his unit on somebody else. The ownership transfer or devolution is made according to the general provisions of the Civil Code concerning the transfer of personally-owned real estates (unless this Act otherwise provides).

**§ 3D-102.** The transfer of a unit does not require an approval of the other joint owners.

**§ 3D-103.** The joint ownership of the common parts of the building (or land) and the ownership of non-living rooms is bound with the ownership of units. When transferring or devolving a unit, the above mentioned forms of joint ownership (i.e., common areas or land) and ownership are being transferred or devolved, too.

**§ 3D-104.** The non-living room can also be devolved on some other unit owner in the building.

**§ 3D-105.** A unit can be exchanged when based on an exchange contract according to § 406 of the Civil Code.

**§ 3D-106.** If a unit owner wants to pledge his interest as security, he must pledge his unit before and together with a pledge of his interest in the common elements.

**§ 3D-107.** Except in the case of a taking of all the units by eminent domain, a condominium may be terminated only by agreement of unit owners of units to which at least eighty percent (80%) of the votes in the association are allocated, or any larger percentage which the declaration specifies.

**\*EXPLANATION:** Provided that the transfer of a unit was based on an approval of the other joint owners the disposal rights of the owners would be restricted. It would be inconsistent with the idea of this institution which, actually, provides the unit owners the same rights as the family house owners.

## **ORGANIZATION OF UNIT OWNERS**

### **§ 4**

**§ 4-101.** A unit owners' association must be organized no later than the date the first unit in the condominium is conveyed. The membership of the association at all times shall consist exclusively of all the unit owners including the Declarant until such time as he shall sell the last unit. The association shall be organized as a profit or nonprofit corporation [or as an unincorporated association.]

**§ 4-102.** (a) Except as otherwise provided herein and subject to the provisions of the declaration, the association may:

- (1) adopt and amend bylaws and rules and regulations;
- (2) adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners;
- (3) hire and discharge managing agents and other employees, agents, and independent contractors;

(4) institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium;

(5) make contracts and incur liabilities;

(6) regulate the use, maintenance, repair, replacement, and modification of common elements;

(7) cause additional improvements to be made as a part of the common elements;

(8) impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements and for services provided to unit owners;

(9) impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association;

(10) exercise any other powers conferred by the declaration or bylaws;

(11) exercise all other powers that may be exercised in this nation by legal entities of the same type as the association; and

(12) exercise any other powers necessary and proper for the governance and operation of the association.

(b) The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

**§ 4-103.** (a) The unit owners shall elect an executive board. Except as provided in the declaration, this Act, the executive board may act in all instances on behalf of the association.

(b) The executive board may not act on behalf of the association to amend the declaration to terminate the condominium or to elect members of the executive board, but the executive board may fill vacancies in its membership for the unexpired portion of any term.

(c) The declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by him, may appoint and remove the officers and members. Regardless of the period provided in the

declaration, a period of declarant control terminates when more than fifty percent (50%) of the units have been transferred to purchasers at which time a meeting may be called to elect a new executive board.

**§ 4-104.** If entered into before the executive board elected by the unit owners takes offices, (i) any management contract, employment contract, or lease, (ii) any other contract or lease between the association and a declarant or an affiliate of a declarant, or (iii) any contract or lease that is not bona fide or was unconscionable to the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association at any time after the executive board elected by the unit owners takes office upon not less than sixty (60) days' notice to the other party.

**§ 4-105.** (a) The bylaws of the association must provide for:

(1) the number of members of the executive board and the titles of the officers of the association;

(2) election by the executive board of a president, treasurer, secretary, and any other officers of the association the bylaws specify;

(3) the qualifications, powers and duties, terms of office, and manner of electing and removing executive board members and officers and filling vacancies;

(4) which, if any, of its powers the executive board or officers may delegate to other persons or to a managing agent;

(5) which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association; and

(6) the method of amending the bylaws.

(b) Subject to the provisions of the declaration, the bylaws may provide for any other matters the association deems necessary and appropriate.

**§ 4-106.** Except to the extent otherwise provided by the declaration or required to be in accordance with Section 4-111, the association is responsible for maintenance, repair, and replacement of the common elements, and each unit owner is responsible for maintenance, repair, and replacement of his unit.

**§ 4-107.** (a) The joint-owners are obliged to contribute to costs of maintenance, repairs and improvements of the common parts of the building and land. The rate of the costs is set in the Declaration. Unless an agreement or a legal regulation sets something else, costs shall be set on the basis of owned footage.

(b) The owners of the units pay (in advance) certain set amounts to a fund designed for repairs and maintenance of the common parts of the building and land. The amount of the payments is usually set by the owners for one year (so that costs like repairs, maintenance, insurance, water, trash, central heating, etc. could be covered and so that there was still a reserve for overhauls left).

**§ 4-108.** A meeting of the association must be held at least once each year. Special meetings of the association may be called by the president, a majority of the executive board or by unit owners having twenty percent (20%), or any lower percentage specified in the bylaws, of the votes in the association.

**§ 4-109.** **LIABILITY.** Neither the association nor any unit owner except the declarant is liable for that declarant's actions in connection with any part of the condominium which that declarant has the responsibility to maintain. Otherwise, an action alleging a wrong done by the association must be brought against the association and not against any unit owner. If the wrong occurred during any period of declarant control and the association gives the declarant reasonable notice and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit owner.

**§ 4-110.** Portions of the common elements may be conveyed by the association if persons entitled to cast at least eighty percent (80%) of the votes in the association, including eighty percent (80%) of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action.

**§ 4-111.** Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available:

property insurance on the common elements insuring against all risks of direct physical loss commonly insured against or, in the case of a conversion building, against fire and extended coverage perils.

**§ 4-112.** The association has a claim on a unit for any assessment levied against that unit or fines imposed against its unit owner from the time the assessment or fine

becomes due. The association's lien may be foreclosed in like manner as a mortgage on real estate.

**§ 4-113.** This section does not prohibit actions to recover sums for which a lien may be created or prohibit an association from taking a deed in lieu of foreclosure.

**§ 4-114.** If the association has an obligation for unit or services in the common elements to a creditor of the association, the holder of that security interest may exercise its right against the common elements.

**§ 4-115.** A third person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise.

## **PROTECTION OF CONDOMINIUM PURCHASERS**

### **§ 5**

**§ 5-101.** A declarant, prior to the offering of any interest in a unit to the residents or public, shall prepare an offering statement conforming to the requirements of this Section.

**§ 5-102.** A public offering statement must contain or fully and accurately disclose.

(1) Copies and a brief narrative description of the significant features of the declaration, including restrictions and reservations affecting the condominium; the bylaws, and any rules or regulations of the association; copies of any contracts and leases to be signed by purchasers at closing, and a brief narrative description of any contracts or leases that will or may be subject to cancellation by the association.

(2) A projected budget for the association, either within or as an exhibit to the offering statement, for one year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget, and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include, without limitation:

(a) a statement of the amount, or a statement that there is not amount, included in the budget as a reserve for repairs and replacement;

- (b) a statement of any other reserves;
- (c) the projected common expense assessment by category of expenditures for the association; and
- (d) the projected monthly common expense assessment for each type of unit.

(3) Any services not reflected in the budget that the declarant provides, or expenses that he pays, and that he expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit.

(4) A statement that within fifteen (15) days after receipt of a public offering statement a purchaser, before conveyance, may cancel any contract for purchase of a unit from a declarant.

(5) A statement that any deposit made in connection with the purchase of a unit will be held in an escrow account until closing and will be returned to the purchaser if the purchaser cancels the contract.

(6) Any current or expected fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the condominium.

(7) All unusual and material circumstances, features, and characteristics of the condominium and the units.

(8) A statement based on a report prepared by an independent (registered) architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the building.

(9) A statement by the declarant of the expected useful life of each item reported on in paragraph (9) or a statement that no representations are made in that regard.

(10) A list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the estimated cost of curing those violations.

**§ 5-103.** Any deposit made in connection with the purchase of a unit shall be placed in an escrow account with a public agency, bank or third party as further provided in the law.

**§ 5-104.** Any warranties made by any Declarant or seller to a purchaser, if relied upon by the purchaser, are created as follows:

any affirmation of fact or promise which relates to the unit, its use, or rights appurtenant thereto, area improvements to the condominium that would directly benefit the unit, or the right to use or have the benefit of facilities not located in the condominium, creates an express warranty that the unit and related rights and uses will conform to the affirmation or promise.

**§ 5-105.** A declarant and any person in the business of selling units for his own account warrants that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.

**§ 5-106. REGULATION AND REGISTRATION (OPTIONAL)**

A declarant may not offer or dispose of a unit intended for residential use unless the condominium and the unit are registered with the agency, but a condominium consisting of no more than 12 units and which is not subject to development rights is exempt from the requirements of this section.

**§ 5-107. APPLICATION FOR REGISTRATION; APPROVAL OF UNCOMPLETED UNITS**

An application for registration must contain the information and be accompanied by any reasonable fees required by the agency's [rules] [regulations]. A declarant promptly shall file amendments to report any factual or expected material change in any document or information contained in his application.

*Annex B*

**TEXT OF SHORT FORM OF CONDOMINIUM LAW**

\* \* \* \* \*

**THE ACT**

**on Ownership to Apartments and Commercial Space in Buildings**

from ..... 1992  
(2nd version)

The Federal Assembly of the Czech and Slovak Federal Republic has passed the following act:

Part One

*General Provisions*

**Subject and Scope of the Regulation**

Article 1

(1) This Act determines the conditions under which the ownership of apartments and commercial space in buildings comes into existence; it regulates the rights and responsibilities of landlords, unit owners and commercial space owners. This Act doesn't touch on special provisions related to conditions according to which the foreigners (introducing foreign currency) acquire the property.<sup>1</sup>

(2) For the purposes of this Act, an apartment is a room or a complex of rooms which -- based on the decision of the Construction Office -- are designed for housing and which -- for its purpose -- can serve as an independent living unit.

---

Article 25 of the Act No. 528/1990, on Foreign Currency.

(3) For the purposes of this Act, commercial space is:

(a) a room or a complex of rooms that -- based on the decision of the Construction Office -- serve other purposes than housing;

(b) an apartment, the use of which has been changed according to special by-laws and it serves commercial (non-residential) purposes. Neither amenities nor common areas are commercial space.

## Article 2

Unless otherwise provided by this Act, the rights and responsibilities of landlords, unit owners and commercial space owners are regulated by the Civil Code.

## Part Two Corporation of Unit Owners

### Article 3

(1) Upon the sale of a unit, a corporation of unit owners comes into existence. Such corporation is a legal entity. It makes decisions on all issues pertaining to the building and to the use of the common areas and the land which belongs to the building.

(2) The decision-making requires a majority of votes. Each unit has one vote. The value of the vote is set according to the size of the unit share (= the proportion of the unit floor space to the total floor space of the building). Provided that votes are equal or that majority or agreement was not reached, the court can make the decision upon request (proposal) of each of the unit owners.

### Article 4

(1) Within six months after the day on which the corporation of unit owners came into being, the Articles (Statutes) of the corporation must be adopted, namely including the following:

- (a) appointment (determination) of the building manager,
- (b) appointment of a representative of the corporation, representing it in legal issues,
- (c) determination of the way and amount of paying common expenses and downpayments designed for maintenance and repairs of the building and its equipments,
- (d) settlement of rights and responsibilities of unit owners, related to common areas: the joint-ownership shares are set according to the size of the unit shares,

- (e) determination of the relationship to the land being part of the building,
- (f) settlement of the restrictions facing the unit owners when related to the sale and way of the use of the unit,
- (g) provided that the building has both the living and commercial space, the Articles must include the determination of the mutual share = provided that the shares are equal, or provided there exist some important reasons, the shares can be set irrespective of the floor space proportions.

(2) Before the Articles are adopted, the functions under par. 1 point (a), (b) and (c) are performed by the original landlord. Common expenses will be paid to the original landlord by all of the unit owners according to the size of their shares.

#### Article 5

(1) All of the unit owners have the same (joint) rights and responsibilities to legal activities related to the building.

(2) Unless all units are sold, the landlord has the rights and responsibilities of the owners of such units.

(3) To cover the claims caused by legal activities related to the building and common areas, a mortgage right of the unit owners corporation to the units is being established.

### Part Three

#### Article 6

#### **Rights and Responsibilities of Unit Owners**

(1) The unit owner has the obligation to maintain the unit in good conditions (= so that the unit can be used properly); namely, he is obliged to provide necessary maintenance and do necessary repairs.

(2) If necessary, the unit owner is obliged to provide access to the unit upon request. The purpose of the access is to do necessary repairs and remove deficiencies.

(3) The unit owner is obliged to enable the representatives of the unit owners corporation to inspect the unit and its conditions; the date of the inspection and other conditions -- as the case may be -- will be agreed on between the unit owner and the corporation of unit owners.

### Article 7

(1) The unit owner has the right to use the unit, common areas and equipments of the building as well as other equipments related to the use of the unit.

(2) Unless otherwise provided by the Articles of the unit owners corporation, the lease and sub-lease of the unit is regulated by special by-laws (regulations).<sup>2</sup>

(3) The tenant (resident) of the unit has the right of first purchase of the unit. The agreement on sale of the unit, breaking the right of the tenant to purchase the unit, becomes ineffective. Regarding the rights and responsibilities of the landlord and the tenant, the provisions addressing the right of first purchase will be used as well (Article 602 and the next one of the Civil Code).

(4) The agreement on sale of the unit must include the description of the unit and common areas transferred, as well as the commitment of the acquirer on taking on the rights and responsibilities resulting from the adopted Articles.

(5) The ownership of a unit is connected with joint-ownership to common areas and equipments of the building.

### Article 8

The unit owner has no right to make improvements in his unit, changing the appearance of the building, unless approved by the corporation of unit owners.

## **Ownership of Common Areas of the Building**

### Article 9

(1) The common areas and equipments of the building are jointly owned by unit owners. Upon change or transfer of the ownership of a unit, the joint-ownership right to common areas and equipments of the building as well as the right related to the land is being transferred.

(2) To cover (secure) a claim, the unit owners cannot sign a contract pertaining only to the joint-ownership right to common areas and equipments of the building.

---

<sup>2</sup>

Article 663 and the next one of the Civil Code. Act No. 116/1990, on Lease and Sub-Lease of Commercial Space, in version of subsequent by-laws.

#### Article 11

The joint owners are obliged to contribute to expenses related to maintenance and -- as the case may be -- to improvements of common areas of the building and land in accordance to the adopted Articles; they share the costs according to the proportion of their ownership shares unless otherwise provided by the Articles.

#### Article 12

##### **Records Related to Buildings and Apartments**

(1) The buildings the apartments and commercial space of which have been sold must be included in the records of real-estates (titles). Such record must include each unit and its owner.

(2) For signing an agreement on unit transfer, registration by the State Notary's Office is required. The agreement becomes effective by the day of the registration.

#### Part Four

##### **Provisional and Final Provisions**

#### Article 13

(1) The Act No. 52/1966, on Personal Ownership of Units, is being abolished. The ownership of apartments pursuant to that Act is being considered to be the ownership of a unit pursuant to this Act.

(2) Owners of buildings the apartments of which are personally owned by people as well as owners of such apartments and commercial space are obliged to ensure the consistence of the regulation of legal relationship with this Act.

2nd version

In Prague, on December 1, 1991

Annex C

**PLAN OF OWNERSHIP--MODEL ENABLING DECLARATION**

\* \* \* \* \*

**ENABLING DECLARATION  
ESTABLISHING A PLAN FOR  
CONDOMINIUM OWNERSHIP**

Grantor, its successors and assigns, by this declaration, and all future owners of the family units, by their acceptance of individual deeds, covenant as follows:

**SECTION ONE  
OWNERSHIP OF PROPERTY**

\_\_(1)\_[Name], referred to as grantor, owns certain real property described in this instrument.

**SECTION TWO  
DESCRIPTION OF PROJECT**

Grantor has improved the described property by constructing on it a \_\_(2)\_[unit] multifamily structure known as \_\_(3)\_[name of condominium], which was constructed in accordance with plans and specifications prepared by \_\_(4)\_[architect], on record in the \_\_(5)\_[city office] of the City of \_\_(6)\_, State of \_\_(7)\_, and styled \_\_(8)\_[characterization or class of project], FHA Project No. \_\_(9)\_, and consisting of sheets \_\_(10)\_[number] through \_\_(11)\_[number], \_\_(12)\_[number] through \_\_(13)\_[number], and the like, all inclusive.

Attached and made a part as Exhibit "A" is a survey consisting of \_\_(14)\_[number] sheets prepared by \_\_(15)\_[surveyor], dated \_\_(16)\_, 19(17).

**SECTION THREE  
ALLOCATION OF AREAS**

Grantor, in order to establish a plan of condominium ownership for the described property and improvements, covenants that it divides the real property into the following separate freehold estates:

a. The \_\_ (18) \_\_ [number] separately designated and legally described freehold estates, consisting of the spaces or areas contained within the perimeter walls of each apartment unit in the multifamily structure constructed on the described property, which spaces are defined and referred to as "apartment spaces."

b. A freehold estate consisting of the remaining portion of the real property, described and referred to as the "common area and facilities," which definition includes the multifamily structure and the property on which it is located, and specifically includes, but is not limited to, the land, roof, main walls, slabs, elevator, elevator shaft, staircases, lobbies, halls, parking spaces, storage spaces, community and commercial facilities, swimming pool, pumps, water tank, trees, pavement, balconies, pipes, wires, conduits, air conditioners and ducts, and other public utility lines.

A portion of the common areas and facilities is set aside and allocated for the restricted use of the respective apartment spaces, as is shown on the attached survey, and those areas shall be known as "restricted common areas and facilities." The restricted common areas and facilities allocated for the restricted uses of the respective family units are as follows:

Family Unit Type One: That portion of the parking area designated as parking space No. 1; storage space No. 1; together with the balcony adjoining the apartment space associated with Family Unit Type One on the South. Restricted areas are further described, located, and shown on the attached survey.

\_\_ (19) \_\_ [Include similar descriptions of the other types of family units.]

The owners of the respective apartment spaces agree that if any portion of the common areas and facilities encroaches on the apartment spaces, a valid easement for the encroachment and for the maintenance of the encroachment so long as it stands, shall exist. In the event the multifamily structure is partially or totally destroyed and then rebuilt, the owners of apartment spaces agree that minor encroachment of parts of the common areas and facilities due to construction shall be permitted and that valid easement for such encroachment and its maintenance shall exist.

#### SECTION FOUR DESCRIPTION OF UNITS AND COMMON AREAS

The \_\_ (20) \_\_ [number] individual apartment spaces established, and which shall be individually conveyed, are described as follows: \_\_ (21) \_\_ [legal description of apartment spaces].

The undivided interest in the common areas and facilities established, and which shall be conveyed with each respective apartment space, is as follows: \_\_ (22) \_\_ [apartment number and percentage of undivided interest].

**SECTION FIVE  
COMMON AREAS AND FACILITIES**

The common areas and facilities shall remain undivided; and no owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the condominium.

**SECTION SIX  
UNDIVIDED INTERESTS**

The undivided interest, established and to be conveyed with the respective apartment spaces, cannot be changed, and grantor, its successors and assigns, and grantees, covenant that the undivided interests in the common areas and facilities, and the fee titles to the respective apartment spaces conveyed therewith, shall not be separated or separately conveyed, and each undivided interest shall be deemed to be conveyed or encumbered with its respective apartment space, even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the apartment space.

**SECTION SEVEN  
PLAN OF OWNERSHIP**

Grantor establishes a plan for the individual ownership of the real property estates consisting of the area or space contained in each of the apartment units in the multifamily structure, and the co-ownership by the individual and separate owners, as tenants in common, of all the remaining real property, defined and referred to as the "common areas and facilities."

For the purpose of this declaration, the ownership of each apartment space shall include the respective owner's undivided interest in the common areas and facilities specified and established in this instrument, and each apartment space together with the undivided interest is defined and referred to as "family unit."

The owners of the respective "apartment spaces" shall not be deemed to own the undecorated or unfinished surfaces of the perimeter walls, floors, and ceilings surrounding the respective apartment spaces, nor shall owners be deemed to own pipes, wires, conduits, or other public utility lines running through the respective apartment spaces that are utilized for, or serve, more than one apartment space, except as tenants in common, as provided in Paragraph E. The owners, however, shall be deemed to own the walls and partitions that are contained in their respective "apartment spaces," and also shall be deemed to own the inner decorated or finished surfaces of the perimeter walls, floors, and ceilings, including plaster, paint, wallpaper, and the like.

**SECTION EIGHT  
COVENANT OF GRANTOR**

Grantor, the fee owner of the real property described as \_\_ (23) \_\_ [legal description] makes the following declaration as to divisions, covenants, restrictions, limitations, conditions, and uses to which the described real property and improvements thereon, consisting of a \_\_ (24) \_\_ -unit multifamily structure and appurtenances, may be put, and specifies that the declaration shall constitute covenants to run with the land and shall be binding on grantor, its successors and assigns, and all subsequent owners of all or any part of the described real property and improvements, together with their grantees, successors, heirs, executors, administrators, devisees, or assigns.

So long as grantor, its successors and assigns, owns one or more of the family units, grantor, its successors and assigns, shall be subject to the provisions of this declaration and of Exhibits "A," "B," and "C" attached; and grantor covenants to take no action that would adversely affect the rights of the association with respect to assurances against latent defects in the property or other right assigned to the association, the members of such association, and their successors in interest, as their interests may appear, by reason of the establishment of the condominium.

**SECTION NINE  
TITLE AND INTEREST OF GRANTEEES**

The proportionate shares of the separate owners of the respective family units in the profits and common expenses of the common areas and facilities, as well as their proportionate representation for voting purposes in the association of owners, is based on the proportionate value that each family unit bears to the value of \_\_ (25) \_\_ Dollars (\$\_\_), which represents the total value of all of the family units. The value of the respective family units, their respective interests for voting purposes, and their proportionate shares in the common profits and expenses shall be as follows: \_\_ (26) \_\_ [include family unit number, value, proportionate representation for voting, and share in common profits and expenses].

**SECTION TEN  
RESTRICTION ON USE**

The apartment space shall be occupied and used by the respective owner only as a private dwelling for the owner, and family, tenants, and social guests, and for no other purpose. The respective family units shall not be rented by the owners for transient or hotel purposes, which shall be defined as (a) rental for any period less than 30 days; or (b) any rental if the occupants of the family unit are provided customary hotel services, such as room service for food and beverage, maid service, laundry and linen services, and bellboy service. Other than the foregoing obligations, the owner of a respective family unit shall have the absolute right to lease the unit provided the lease is made subject to

the covenants and restrictions contained in this declaration and further subject to the bylaws and regulatory agreement attached.

SECTION ELEVEN  
ADMINISTRATION OF PROJECT

An owner of a "family unit," on becoming the owner of a "family unit or units," shall automatically be a member of \_\_(27)\_\_ [association of owners], referred to as the association, and shall remain a member of the association until such time as ownership ceases for any reason, at which time membership in the association shall automatically cease.

All agreements and determinations lawfully made by the association in accordance with the voting percentages established in the \_\_(28)\_\_ [enabling statute], this declaration, or the bylaws, shall be deemed to be binding on all owners of family units, their successors and assigns.

SECTION TWELVE  
RULES AND REGULATIONS

The owners of family units agree that the administration of the condominium shall be in accordance with the provisions of this declaration and the bylaws of the association, which are made a part and attached as Exhibit "B," and shall be subject to the terms of a regulatory agreement executed by the association and the Commissioner of the Federal Housing Administration, which agreement is made a part and attached as Exhibit "C."

Each owner, tenant or occupant of a family unit shall comply with the provisions, of this declaration, the bylaws, decisions, and resolutions of the association or its representative, and the regulatory agreement, as lawfully amended from time to time, and failure to comply with any such provisions, decisions, or resolutions, shall be grounds for action to recover damages or to seek injunctive relief.

SECTION THIRTEEN  
CONTRIBUTION TO COMMON EXPENSES

No owner of a family unit may exempt such owner from liability for contribution toward the common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by the abandonment of the family unit.

SECTION FOURTEEN  
REPAIR OF PROPERTY

In the event the property subject to this Enabling Declaration is totally or substantially damaged or destroyed, the repair, reconstruction, or disposition of the property shall be as provided by \_\_(29)\_\_ [cite appropriate provision].

**SECTION FIFTEEN  
ASSESSMENT LIENS**

All sums assessed by the association but unpaid for the common expenses chargeable to any family unit shall constitute a lien on such family unit prior to all other liens except only (1) tax liens on the family unit in favor of any assessing unit and special district and (2) all sums unpaid on the first mortgage of record. Such lien may be foreclosed by suit by the manager or board of directors, acting on behalf of the owners of the family units, in like manner as a mortgage of real property. In any such foreclosure, the family unit owner shall be required to pay a reasonable rental fee for the family unit, if so provided in the bylaws, and the plaintiff in the foreclosure action shall be entitled to the appointment of a receiver to collect the rent. The manager or board of directors, acting on behalf of the owners of the family units, shall have power, unless prohibited herein, to bid in the unit at foreclosure sale, and to acquire and hold, lease, mortgage, and convey the unit. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the expenses.

**SECTION SIXTEEN  
ASSESSMENTS; LIABILITY OF MORTGAGEE**

Where the mortgagee of a first mortgage of record or other purchaser of a family unit obtains a title to the unit as a result of foreclosure of the first mortgage, such acquirer of title, and successors and assigns, shall not be liable for the share of the common expenses or assessments by the association chargeable to such family unit that became due prior to the acquisition to the family unit by the acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from owners of all of the family units, including the acquirer, and successors and assigns.

**SECTION SEVENTEEN  
ASSESSMENTS; LIABILITY OF SUBSEQUENT GRANTEE**

In a voluntary conveyance of a family unit, grantee of the unit shall be jointly and severally liable with grantor for all unpaid assessments by the association against the grantor for the grantor's share of the common expenses up to the time of the grant or conveyance, without prejudice to grantee's right to recover from grantor the amounts paid by grantee for such assessments. However, any such grantee shall be entitled to a statement from the manager or board of directors of the association, as the case may be, setting forth the amount of the unpaid assessments against grantor to the association; and such grantee shall not be liable for, nor shall the family unit conveyed by subject to a lien for, any unpaid assessments made by the association against grantor in excess of the amount set forth in the statement.

**SECTION EIGHTEEN  
BLANKET PROPERTY INSURANCE**

The board of directors of the   (30)  [association of owners] or the management or the agent or manager, shall obtain and continue in effect blanket property insurance in forms and amounts satisfactory to mortgagees holding first mortgages covering family units but without prejudice to the right of the owner of a family unit to obtain individual family unit insurance.

**SECTION NINETEEN  
INSURANCE PREMIUMS**

Insurance premiums for any blanket insurance coverage shall be a common expense to be paid by monthly assessments levied by the association, and such payments shall be held in a separate escrow account of the association and used solely for the payment of the blanket property insurance premiums as such premiums become due.

**SECTION TWENTY  
REVOCATION OR AMENDMENT**

This declaration shall not be revoked or any of the provisions amended unless all of the owners and all of the mortgagees of family units unanimously agree to such revocation or amendment by recorded instruments.

[Signatures]

Dated   (31)  , 19(32)  
[Acknowledgment]

Annex D

**PLAN OF OWNERSHIP--MODEL MASTER DEED**

\* \* \* \* \*

**§ 64:16 Plan of ownership--Master deed**

MASTER DEED

In the City of \_\_ (1) \_\_, County of \_\_ (2) \_\_, and State of \_\_ (3) \_\_, on \_\_ (4) \_\_, 19\_\_ (5) \_\_, \_\_ (6) \_\_, a corporation organized and existing under the laws of the State of \_\_ (7) \_\_, whose principal office and domicile is situated in the city of \_\_ (8) \_\_, State of \_\_ (9) \_\_, referred to as grantor, represented in this deed by its president, \_\_ (10) \_\_ [name], who is fully empowered and qualified to execute this deed on behalf of the corporation, states that:

SECTION ONE  
OWNERSHIP OF PROPERTY

Grantor owns the following property situated in the City of \_\_ (11) \_\_, State of \_\_ (12) \_\_, which is described as follows: \_\_ (13) \_\_ [legal description], and recorded in the Office of the Recorder of the County of \_\_ (14) \_\_, State of \_\_ (15) \_\_, in Book \_\_ (16) \_\_ of Deeds at Page \_\_ (17) \_\_.

SECTION TWO  
PROJECT APPROVAL

Grantor has constructed on the described parcel of land a project known as \_\_ (18) \_\_ [name of project], according to the plans, attached as Exhibit "A," which plans were approved by the planning board of the City of \_\_ (19) \_\_, State of \_\_ (20) \_\_, on \_\_ (21) \_\_, 19\_\_ (22) \_\_, and which are made a part of this instrument.

SECTION THREE  
DESCRIPTION OF PROJECT

The project consists of a basement, ground floor and \_\_ (23) \_\_ [number] upper floors. The ground floor will be used for commercial facilities or other common purposes. The \_\_ (24) \_\_ [number] upper floors consist of individual apartments, all to be sold and

used for residential purposes. The \_\_(25)\_\_ upper floors are all capable of individual utilization, each apartment having its own exit to a common area and facility of the project, and each apartment to be sold to one or more owners, each owner obtaining a particular and exclusive property right thereto, referred to as "family unit," and also an undivided interest in the general and restricted common areas and facilities of the project, as listed in this deed, necessary for their adequate use and enjoyment and referred to as "general and restricted common areas and facilities," all of the above in accordance with \_\_(26)\_\_ [statute establishing apartment ownership].

#### SECTION FOUR ALLOCATION OF AREAS

The project has a total building area of \_\_(27)\_\_ square feet, of which \_\_(28)\_\_ square feet will constitute family units and \_\_(29)\_\_ square feet will constitute general and/or restricted common areas and facilities.

#### SECTION FIVE DESCRIPTION OF UNITS AND COMMON AREAS

The family units and common areas and facilities of the project will be as follows:

a. Family Units--Floors: On each of the \_\_(30)\_\_ [number] upper floors there are \_\_(31)\_\_ [number] family units referred to as Family Unit Type Number One, and the like. The family units will be numbered consecutively from 1 to \_\_(32)\_\_ on each floor. These numbers will be appended to the number in hundreds that corresponds to each floor: Those on the first floor will bear the numbers "101," "102," and so on; those on the higher floors will be numbered similarly according to the corresponding number in hundreds that corresponds to each floor.

Each family unit is equipped with \_\_(33)\_\_ [describe air conditioning units, if any, and other equipment that is attached to or is a part of realty of the family unit].

The measures of the family unit include all of the outside walls and one-half of the block partitions, but exclude bearing walls.

(1) Family Unit Type Number One. It is a rectangular-shaped apartment measuring \_\_(34)\_\_ feet long and \_\_(35)\_\_ feet wide, making a total area of \_\_(36)\_\_ square feet, as specifically shown in Exhibit "A" of this deed. Its boundaries are as follows: \_\_(37)\_\_ [conform boundary description to actual facts]. Its main door has access to the floor corridor.

The family unit consists of the following rooms: \_\_(38)\_\_ [a hall of \_\_(39)\_\_ square feet, a living room of \_\_(40)\_\_ square feet, a dining room of \_\_(41)\_\_ square feet, a kitchen of \_\_(42)\_\_ square feet, \_\_(43)\_\_ (number) bedrooms of \_\_(44)\_\_ square feet, \_\_(45)\_\_

bathrooms of \_\_(46)\_\_ square feet]. \_\_(47)\_\_ [In addition, the family unit has a balcony facing \_\_(48)\_\_ (street) of \_\_(49)\_\_ square feet.]

(2-4) \_\_(50)\_\_ [Describe each type of family unit in separate items.]

b. Common Areas and Facilities. Common areas and facilities of the project include:

(1) The parcel of land described in Section One of this deed.

(2) A basement, as shown in Exhibit "A" attached, and consisting of \_\_(51)\_\_ square feet.

(3) The following facilities located in the basement: \_\_(52)\_\_.

(4) Parking facilities, as shown in Exhibit "A" attached, and consisting of \_\_(53)\_\_ square feet.

(5) The ground floor, as shown in Exhibit "A" attached, and consisting of \_\_(54)\_\_ square feet.

(6) The following facilities located in the ground floor: \_\_(55)\_\_ [describe facilities, such as: commercial areas and facilities, as shown in Exhibit "A" attached, consisting of \_\_(56)\_\_ square feet and described as follows: \_\_(57)\_\_ or a lobby and facilities, as shown in Exhibit "A" attached, consisting of \_\_(58)\_\_ square feet and described as follows: \_\_(59)\_\_. ]

(7) The following facilities located throughout the project, as shown in Exhibit "A" attached:

(A) \_\_(60)\_\_ [Number] elevators.

(B) An elevator shaft of \_\_(61)\_\_ square feet, for the \_\_(62)\_\_ [number] elevators extending from the ground floor up to the \_\_(63)\_\_ floor.

(C) A stairway, referred to in this deed as stairway "A," of \_\_(64)\_\_ square feet, which leads from the ground floor to the roof of the project.

(D) Plumbing network throughout the project.

(E) Electric and telephone wiring network throughout the project.

(F) Necessary public light, telephone, and water connections.

(G) Foundations and main walls of the project, as described in the plans that form part of this deed, attached as Exhibit "A."

(8) The following common areas and facilities located on each one of the \_\_(65)\_\_ [number] upper floors, as shown on Exhibit "A" attached, restricted to the use of family units of each respective floor:

(A) A lobby that gives access to the elevators, to the family units, to a janitor's room, \_\_(66)\_\_ to the corridor and to Stairway "A."

- (B) A room for the use of the janitor.
- (C) A corridor extending from the lobby to Stairway "B."

SECTION SIX  
COMMON AREAS AND FACILITIES

The general and restricted common areas and facilities shall remain undivided, and no owner shall bring any action for partition or division.

SECTION SEVEN  
UNDIVIDED INTERESTS

The percentage of the undivided interest in the general and restricted common areas and facilities shall not be changed except with the unanimous consent of all of the owners expressed in a recorded amendment to this deed.

The undivided interest in the general and restricted common areas and facilities shall not be separated from the unit to which it appertains and shall be deemed conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

SECTION EIGHT  
RECORDATION; VALUATION

For the purpose of the recording fees to be imposed on the recordation of this deed in the Book of Deeds, the value of the \_\_ (67) \_\_ [name of project] is distributed as follows:

- (a) Parcel of land described in Section One is valued at \_\_ (68) \_\_ Dollars (\$\_\_).
- (b) The project described in Sections Two and Three is valued at \_\_ (69) \_\_ Dollars (\$\_\_).

SECTION NINE  
PLAN OF OWNERSHIP

As appears above, a plan of apartment ownership is constituted under and subject to the provisions of \_\_ (70) \_\_ [statute establishing apartment ownership] so that the family units of the upper floors may be conveyed and recorded as individual properties capable of independent use, each having its own exit to a common area and facility of the project, and each family unit owner having an exclusive and particular right over the respective family unit and, in addition, the specified undivided interest in the common areas and facilities and restricted common areas and facilities.

SECTION TEN  
COVENANT OF GRANTOR

So long as grantor owns one or more of the family units, grantor shall be subject to the provisions of the deed and of the Exhibits "A," "B," and "C" attached. Grantor covenants to take no action that will adversely affect the rights of the association with respect to assurance against latent defects in the property or other rights assigned to the association, the members of the association, and their successors in it, as their interests may appear, by reason of the establishment of the condominium project.

SECTION ELEVEN  
TITLE AND INTEREST OF GRANTEES

(1) The title and interest of the owner of each family unit in the general common areas and facilities listed under (1) through (7) of Paragraph b of Section Five, and their proportionate share in the profits and common expenses in the general common areas and facilities, as well as proportionate representation for voting purposes in the meeting of the \_\_(71)\_\_ [Association of Owners of the \_\_(72)\_\_ (name of project) or as the case may be], are based on the proportionate value of each family unit to the total value of all family units as follows:

Family Unit Type Number One:

\_\_(73)\_\_ percent ( \_\_%) based on a value of \_\_(74)\_\_ Dollars (\$ \_\_) for this apartment and a total value of \_\_(75)\_\_ Dollars (\$ \_\_)[value to correspond to FHA appraised value] for all family units.

\_\_(76)\_\_ [Set out proportionate value of Family Unit Type Number Two through Family Unit Type Number \_\_(77)\_\_.]

(2) The title and interest of each owner of the family units located on each of the upper floors in the restricted common areas and facilities located on each floor and listed under (8) of Paragraph 6 of Section five, and their proportionate share in the profits and common expenses in the restricted common areas and facilities, as well as the proportionate representation for voting purposes with respect to the restricted common areas and facilities in the meeting of the \_\_(78)\_\_ [Association of Owners of the \_\_(79)\_\_ (name of project) or as the case may be], are based on the proportionate value of each family unit to the total value of all family units located on its respective floor, as follows:

Family Unit Type Number One:

\_\_(80)\_\_ percent ( \_\_%)

\_\_(81)\_\_ [Insert title and interest of the family unit owners of Family Unit Type Number Two through Family Unit Type Number \_\_(82)\_\_, in the restricted common areas and facilities located on their respective floors.]

(3) Proportionate representation for voting purposes provided in (1) and (2) may be limited in accordance with the provisions of the bylaws attached as Exhibit "D."

**SECTION TWELVE  
RATIFICATION OF MASTER DEED; RESTRICTION ON USE**

All present or future owners, tenants or future tenants, or any other person that might use the facilities of the project in any manner, are subject to the provisions of this deed; and the mere acquisition or rental of any of the family units of the project or the mere act of occupancy of any of the units shall signify that the provisions of this deed are accepted and ratified.

The respective family units shall not be rented by the owners for transient or hotel purposes, which shall be defined as (a) rental for any period less than 30 days; or (b) any rental if the occupants of the family unit are provided customary hotel services, such as room service for food and beverage, maid service, furnishing laundry and linen, and bellboy service. Other than the foregoing obligations, the owners of the respective family units shall have the absolute right to lease the family unit, provided that the lease is made subject to the covenants and restrictions contained in this declaration and further subject to the bylaws and regulatory agreement attached.

**SECTION THIRTEEN  
ADMINISTRATION OF PROJECT**

The administration of \_\_ (83) \_\_ [name of project], consisting of the project and parcel of land described in Sections One and Five of this deed, shall be in accordance with the provisions of this deed and with the provisions of the bylaws, which are made a part of this deed and are attached as Exhibit "B," and shall be subject to the terms of a regulatory agreement executed by the association of owners and the Commissioner of the Federal Housing Administration, which is made a part and is attached as Exhibit "C."

**SECTION FOURTEEN  
RULES AND REGULATIONS**

Each owner shall comply with the provisions of this deed, the bylaws, decisions, and resolutions of the association of owners or its representatives, and the regulatory agreement, as lawfully amended from time to time; and failure to comply with any such provisions, decisions, or resolutions shall be grounds for an action to recover sums due, for damages, or for injunctive relief.

**SECTION FIFTEEN  
CONTRIBUTION TO COMMON EXPENSES**

No owner of a family unit may exempt such owner from liability for contribution toward the common expenses by waiver of the use or enjoyment of any of the general and restricted common areas and facilities or by the abandonment of the family unit.

**SECTION SIXTEEN  
REPAIR OF PROPERTY**

If the property subject to the plan of apartment ownership is totally or substantially damaged or destroyed, the repair, reconstruction, or disposition of the property shall be as provided by  (84)  [applicable statutory reference, or in the absence of statute, insert the following: an agreement approved by  (85)  percent (  %) of the votes].

**SECTION SEVENTEEN  
ASSESSMENTS; LIABILITY OF MORTGAGEE**

Where a mortgagee or other purchaser of a family unit obtains title by reason of foreclosure of a mortgage covering a unit, such acquirer of title, and successors or assigns, shall not be liable for any assessments by the association that became due prior to the acquisition of title by such acquirer, it being understood, however, that the above shall not be construed to prevent the association from filing and claiming liens for such assessments and enforcing them as provided by law, and that such assessment liens shall be subordinate to such mortgage. [This provision is to be included in all plans of apartment ownership where local law permits.]

**SECTION EIGHTEEN  
ASSESSMENTS; LIABILITY OF SUBSEQUENT GRANTEE**

In a voluntary conveyance of a family unit, grantee of the unit shall be jointly and severally liable with grantor for all unpaid assessments by the association against the grantor for the grantor's share of the common expenses up to the time of the grant or conveyance without prejudice to grantee's right to recover from grantor the amounts paid by grantee for such assessments. However, any such grantee shall be entitled to a statement from the manager or board of directors of the association, as the case may be, setting forth the amount of the unpaid assessments against grantor due the association, and such grantee shall not be liable for, nor shall the family unit conveyed by subject to lien for, any unpaid assessments made by the association against grantor in excess of the amount set forth in the statement.

**SECTION NINETEEN  
BLANKET PROPERTY INSURANCE**

The board of directors of the association of owners or the management agent, or manager, shall obtain and continue in effect blanket property insurance in forms and amounts satisfactory to mortgagees holding first mortgages covering family units but without prejudice to the right of the owner of a family unit to obtain individual family unit insurance.

**SECTION TWENTY  
INSURANCE PREMIUMS**

The insurance premium for any blanket insurance coverage shall be a common expense to be paid by monthly assessments levied by the association of owners; and such payments shall be held in a separate escrow account of the association of owners and used solely for the payment of the blanket property insurance premiums as they become due.

**SECTION TWENTY-ONE  
REVOCATION OR AMENDMENT OF PLAN**

The dedication of the property of the plan of apartment ownership shall not be revoked, or the property removed from the plan of apartment ownership, or any of the provisions herein amended, unless all of the owners, and the mortgagees of the mortgages covering the units, unanimously agree to such revocation, or amendment, or removal of the property from the plan by recorded instruments.

*[Signatures]*

Dated \_\_(86)\_\_, 19(87)

*Annex E*

**CHECKLIST--MATTERS THAT SHOULD BE INCLUDED  
IN DRAFTING BYLAWS OF AN ASSOCIATION OF OWNERS**

\* \* \* \* \*

- Ownership.
- General applicability of bylaws.
- Personal applicability of bylaws.
- Voting rights, quorum requirements, proxies of owners.
- Form of action.
- Responsibility of association of owners.
- Place of meetings of association.
- Manner of calling meetings.
- Manner of calling special meetings.
- Notice of regular and special meetings.
- Order of business at meetings.
- Number and qualifications of board of directors.
- Powers and duties of board of directors.
- Election and term of office of board of directors.
- Removal of directors and filling of vacancies.
- Organizational, regular, and special meetings of board of directors.
- Waiver of notice.
- Quorum of board of directors.
- Requirement of bond.
- Management agent.
- Election, qualification, and removal of officers.
- Designation of officers.
- Assessments against owners.
- Responsibilities for maintenance and repair.
- Uses permitted of individual condominium units, common areas, and facilities.
- Right of entry.
- Rules of conduct.
- Notice of mortgages.
- Notice of unpaid assessments.
- Amendment of bylaws.
- Compliance with FHA regulations and/or other plan.

Annex F

**MODEL BYLAWS OF AN ASSOCIATION OF OWNERS**

\* \* \* \* \*

BYLAWS OF \_\_ (1) \_\_ [condominium project]

**ARTICLE I  
PLAN OF APARTMENT OWNERSHIP**

*Section One: Apartment Ownership.* The project located at \_\_ (2) \_\_ [address], City of \_\_ (3) \_\_, State of \_\_ (4) \_\_, known as \_\_ (5) \_\_ [condominium project] is submitted to the provisions of \_\_ (6) \_\_ [state law establishing apartment ownership].

*Section Two: Bylaws Applicability.* The provisions of these bylaws are applicable to the project. (The term "project" as used in these bylaws shall include the land.)

*Section Three: Personal Application.* All present or future owners, tenants, future tenants, or their employees, or any other person that might use the facilities of the project in any manner, are subject to the regulations set forth in these bylaws and to the regulatory agreement, attached as Exhibit "C" to the recorded plan of apartment ownership.

The mere acquisition or rental of any of the family units, referred to as units, of the project, or the mere act of occupancy of any of the units, will signify that these bylaws and provisions of the regulatory agreement are accepted, ratified, and will be complied with.

**ARTICLE II  
VOTING; MAJORITY; QUORUM; PROXIES**

*Section One: Voting.* Voting shall be on a percentage basis, and the percentage of the vote to which the owner is entitled is the percentage assigned to such owner's family unit or units in the master deed.

*Section Two: Majority of Owners.* As used in these bylaws, the term "majority of owners" shall mean those owners holding 51 percent (51%) of the votes in accordance with the percentages assigned in the master deed.

*Section Three: Quorum.* Except as otherwise provided in these bylaws, the presence in person or by proxy of a "majority of owners" as defined in the preceding paragraph of this article shall constitute a quorum.

*Section Four: Proxies.* Votes may be cast in person or by proxy. Proxies must be filed with the secretary before the appointed time of each meeting.

### ARTICLE III ADMINISTRATION

*Section One: Association Responsibilities.* The owners of the units will constitute the (7) [name of association of owners], referred to as association, who will have the responsibility of administering the project, approving the annual budget, establishing and collecting monthly assessments, and arranging for the management of the project pursuant to an agreement containing provisions relating to the duties, obligations, removal and compensation of the management agent. Except as otherwise provided, decisions and resolutions of association shall require approval by a majority of owners.

*Section Two: Place of Meetings.* Meetings of association shall be held at the principal office of the project or such other suitable place convenient to the owners as may be designated by the board of directors.

*Section Three: Annual Meetings.* The first annual meeting of association shall be held on (8), 19(9). Thereafter, annual meetings shall be held on the (10) [first or second or third or as the case may be] (11) [Monday or Tuesday or Wednesday or as the case may be] of (12) [indicate month] of each succeeding year. At such meetings there shall be elected by ballot a board of directors in accordance with the requirements of Section Five of Article IV of these bylaws. The owners may also transact such other business of association as may properly come before them.

*Section Four: Special Meetings.* It shall be the duty of the president of the board of directors to call a special meeting of the owners as directed by resolution of the board of directors or on a petition signed by a majority of the owners and having been presented to the secretary, or at the request of the federal housing commissioner or a duly authorized representative. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths of the owners present, either in person or by proxy.

*Section Five: Notice of Meetings.* It shall be the duty of the secretary to mail a notice of each annual or special meeting, stating the purpose as well as the time and

place of the meeting, to each owner of record, at least five but not more than 10 days prior to such meeting. The mailing of notice in the manner provided in this section shall be considered notice served. Notices of all meetings shall be mailed to the director of the local insuring office of the Federal Housing Administration.

*Section Six: Adjourned Meetings.* If any meeting of owners cannot be organized because a quorum has not attended, the owners who are present either in person or by proxy may adjourn the meeting to a time not less than 48 hours from the time the original meeting was called.

*Section seven: Order of Business.* The order of business at all association meetings shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notices.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Report of Federal Housing Administration representative, if present.
- (f) Report of committees.
- (g) Election of inspectors of election.
- (h) Election of directors.
- (i) Unfinished business.
- (j) New business.

#### ARTICLE IV BOARD OF DIRECTORS

*Section One: Number and Qualification.* Association's affairs shall be governed by a board of directors composed of   (13)   *[odd number not less than five]* persons, all of whom must be owners of units in the project.

*Section Two: Powers and Duties.* The board of directors shall have the powers and duties necessary for the administration of association's affairs and may do all such acts and things as are not by law or by these bylaws directed to be exercised and done by the owners.

*Section Three: Other Duties.* In addition to duties imposed by these bylaws or by resolutions of association, the board of directors shall be responsible for the following:

- (a) Care, upkeep, and surveillance of the project and common areas and facilities and the restricted common areas and facilities.
- (b) Collection of monthly assessments from the owners.

- (c) Designation and dismissal of the personnel necessary for the maintenance and operation of the project, the common areas and facilities, and the restricted common areas and facilities.

*Section Four: Management Agent.* The board of directors may employ for association a management agent at a compensation established by the board to perform such duties and services as the board shall authorize, including, but not limited to, the duties listed in Section Three of this article.

*Section Five: Election and Term of Office.* At the first annual meeting of association, the term of office of \_\_(14)\_\_ [two] directors shall be fixed for three years. The term of office \_\_(15)\_\_ [two] directors shall be fixed at two years, and the term of office of \_\_(16)\_\_ [one] director shall be fixed at two years, and the term of office of \_\_(16)\_\_ [one] director shall be fixed at one year. At the expiration of the initial term of office of each respective director, a successor shall be elected to serve a term of three years. The directors shall hold office until their successors have been elected and hold their first meeting. (If a larger board of directors is contemplated, the terms of office should be established in a similar manner so that they will expire in different years.)

*Section Six: Vacancies.* Vacancies in the board of directors caused by any reason other than the removal of a director by a vote of association shall be filled by vote of the majority of the remaining directors, even though they may constitute less than a quorum; and each person so elected shall be a director until a successor is elected at association's next annual meeting.

*Section Seven: Removal of Directors.* At any regular or special meeting duly called, any one or more of the directors may be removed with or without cause by a majority of the owners, and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the owners shall be given an opportunity to be heard at the meeting.

*Section Eight: Organization Meeting.* The first meeting of the newly elected board of directors shall be held within 10 days of election at such place as shall be fixed by the directors at the meeting at which such directors were elected, and no notice shall be necessary to the newly elected directors in order legally to constitute such meeting, provided a majority of the whole board shall be present.

*Section Nine: Regular Meetings.* Regular meetings of the board of directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the board of directors shall be given to each director, personally or by mail, telephone, or telegraph, at least three days prior to the day named for such meeting.

*Section Ten: Special Meetings.* Special meetings of the board of directors may be called by the president on three days' notice to each director, given personally or by mail, telephone, or telegraph, which notice shall state the time, place, and purpose of the meeting. Special meetings of the board of directors shall be called by the president or secretary in like manner and on like notice on the written request of at least three directors.

*Section Eleven: Waiver of Notice.* Before or at any meeting of the board of directors, any director, in writing, may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the board shall be a waiver of notice by such director of the time and place of the meeting. If all the directors are present at any meeting of the board, no notice shall be required and any business may be transacted at such meeting.

*Section Twelve: Quorum.* At all meetings of the board of directors, a majority of the directors shall constitute a quorum for the transaction of business, and the acts of the quorum shall be the acts of the board of directors. If, at any meeting of the board of directors, there be less than a quorum present, the members present may adjourn the meeting from time to time. At any such meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

*Section Thirteen: Fidelity Bonds.* The board of directors shall require that all officers and employees of association handling or responsible for association funds shall furnish adequate fidelity bonds. The premiums of such bonds shall be paid by the association.

## ARTICLE V OFFICERS

*Section One: Designation.* The principal officers of association shall be a president, a vice-president, a secretary, and a treasurer, all of whom shall be elected by and from the board of directors. The directors may appoint an assistant treasurer, and an assistant secretary, and such other officers as in their judgment may be necessary. *[In the case of an association of 100 owners or less the offices of treasurer and secretary may be filled by the same person.]*

*Section Two: Election of Officers.* The officers of association shall be elected annually by the board of directors at the organization meeting of each new board and shall hold office at the pleasure of the board.

*Section Three: Removal of Officers.* On an affirmative vote of majority of the members of the board of directors, any officer may be removed, either with or without cause, and a successor elected at any regular meeting of the board of directors, or at any special meeting of the board called for such purpose.

*Section Four: President.* The President shall be the chief executive officer of the association. The president shall preside at all meetings of the association and of the board of directors. The president shall have all of the general powers and duties that are usually vested in the office of president of an association, including but not limited to the power to appoint committees from among the owners from time to time as the president may decide is appropriate to assist in the conduct of association's affairs.

*Section Five: Vice-President.* The vice-president shall take the place of the president and perform duties whenever the president shall be absent or unable to act. If neither the president nor the vice-president is able to act, the board of directors shall appoint some other member of the board to do so on an interim basis. The vice-president shall also perform such other duties as shall from time to time be imposed by the board of directors.

*Section Six: Secretary.* The secretary shall keep the minutes of all meetings of the board of directors and the minutes of all meetings of association; shall have charge of such books and papers as the board of directors may direct; and shall, in general, perform all the duties incident to the office of secretary.

*Section Seven: Treasurer.* The treasurer shall have responsibility for association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to association. The treasurer shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit of, association in such depositories as may from time to time be designated by the board of directors.

## ARTICLE SIX OBLIGATIONS OF OWNERS

*Section One: Assessments.* All owners are obligated to pay monthly assessments imposed by association to meet all project communal expenses, which may include a liability insurance policy premium and an insurance premium for a policy to cover repair and reconstruction work in case of hurricane, fire, earthquake, or other hazard. The assessments shall be made pro rata according to the value of the unit owned, as stipulated in the master deed. Such assessments shall include monthly payments to a general operating reserve and a reserve fund for replacements, as required in the regulatory agreement attached as Exhibit "C" to the plan of apartment ownership.

*Section Two: Maintenance and Repair.*

- (a) Every owner must perform promptly all maintenance and repair work within the individual unit which, if omitted, would affect the project in its entirety or in a part belonging to other owners, being expressly responsible for the damages and liabilities that failure to do so may engender.
- (b) All the repairs of internal installations of the unit such as water, light, gas, power, sewage, telephones, air conditioners, sanitary installations, doors, windows, lamps, and all other accessories belonging to the unit area shall be at the owner's expense.
- (c) An owner shall reimburse association for any expenditures incurred in repairing or replacing any common area and facility damaged through such owner's fault.

*Section Three: Use of Family Units--Internal Changes.*

- (a) All units shall be utilized for residential purposes only.
- (b) An owner shall not make structural modifications or alterations in a unit or installations located therein without previously notifying association in writing, through the \_\_(17)\_[management agent if any, or president of the board of directors if no management agent is employed]. Association shall have the obligation to answer within \_\_(18)\_\_\_ days, and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification or alteration.

*Section Four: Use of Common Areas and Facilities and Restricted Common Areas and Facilities.*

- (a) An owner shall not place or cause to be placed in the lobbies, vestibules, stairways, elevators, and other project areas and facilities of a similar nature, both common and restricted, any furniture, packages, or objects of any kind. Such areas shall be used for no other purpose than for normal transit through them.
- (b) Project shall have \_\_(19)\_[number] elevators, \_\_(20)\_\_\_ of them devoted to the transportation of owners and their guests, and \_\_(21)\_\_\_ elevators for freight service or auxiliary purposes. Owners and tradesmen are expressly required to utilize exclusively a freight or service elevator for transporting packages, merchandise, or any other object that may affect the comfort or well-being of the passengers of the elevator dedicated to the transportation of owners, residents, and guests.

*Section Five: Right of Entry.*

- (a) An owner shall grant the right of entry to the management agent or to any other person authorized by the board of directors or association in case of any emergency originating in or threatening the owner's unit, whether the owner is present at the time or not.
- (b) An owner shall permit other owners, or their representatives, when so required, to enter the unit for the purpose of installing, altering, or repairing the mechanical or electrical services, provided that requests for entry are made in advance and that such entry is at a time of convenient to the owner. In case of an emergency, such right of entry shall be immediate.

*Section Six: Rules of Conduct.*

- (a) No resident of the project shall post any advertisements or posters of any kind in or on the project except as authorized by association.
- (b) Residents shall exercise extreme care in making noises or using musical instruments, radios, television, and amplifiers that may disturb other residents. Keeping of domestic animals will be in accordance with municipal sanitary regulations.
- (c) Hanging of garments, rugs, and the like, from the windows or from any of the facades of the project is prohibited.
- (d) Dusting and shaking out of rugs and the like, from the windows, or by beating on the exterior part of the project is prohibited.
- (e) Throwing of garbage or trash outside the disposal installations provided for such purposes in the service area is prohibited.
- (f) No owner, resident, or lessee shall install wiring for electrical or telephone installation, television antennae, machines, air conditioning units, or the like, on the exterior of the project or that protrude through the walls or the roof of the project except as authorized by association.

ARTICLE VII  
AMENDMENTS TO PLAN OF APARTMENT OWNERSHIP

*Section One: Bylaws.* These bylaws may be amended by association in a duly constituted meeting for such purpose, and no amendment shall take effect unless

approved by owners representing at least   (22)   percent (  %) of the total value of all units in the project as shown in the master deed.

#### ARTICLE VIII MORTGAGEES

*Section One: Notice to Association.* An owner who mortgages a unit shall notify association through the management agent, if any, or the president of the board of directors in the event there is no management agent, the name and address of the mortgagee; and the association shall maintain such information in a book entitled   (23)  ["Mortgagees of Unit"].

*Section Two: Notice of Unpaid Assessments.* The association, at the request of a mortgagee of a unit, shall report any unpaid assessments due from the owner of such unit.

#### ARTICLE IX COMPLIANCE

These bylaws are set forth to comply with the requirements of   (24)  [statute]. In case any of these bylaws conflict with the provisions of that statute, it is agreed and accepted that the provisions of the statute will apply.

Annex G

**MODEL BYLAWS PROVISIONS**

\* \* \* \* \*

**Bylaws--Provision--Rules and regulations**

The board of directors may adopt administrative rules and regulations governing the use and operation of condominium property not in conflict with the declaration or these bylaws and amendments thereto by a vote of the majority of the members of the board. such rules and regulations shall be recorded with the secretary and shall be sent to each unit owner by registered mail prior to the effective date of their application. Such rules and regulations may be amended from time to time by a majority vote of the members of the board of directors.

**Bylaws--Provision--Use of unit and compliance with bylaws**

Each unit shall be used and occupied only as a private dwelling by the owner or a tenant. Each unit or any part shall not be used for any other purpose. Each owner or any other occupant of the unit shall respect the comfort and peace of mind of neighbors, as well as other occupants of the condominium. Each owner shall not do, or permit to be done, or keep in the unit, anything which will increase the rate of fire insurance for the condominium, or do or suffer to be done any act or thing which shall be a nuisance, annoyance, inconvenience, or damage to the unit or any occupant of the condominium.

**Bylaws--Provision--Maintenance and improvement charges**

All property and improvements (except portions or parcels devoted to public or semi-public uses and not assessed by or included in any assessment by the city, county, or other political subdivision having jurisdiction for general tax purposes) shall be subject to a continuous maintenance lien securing payment of an annual assessment or be charged to be fixed, established and collected from time to time as herein provided. Association shall have sole authority:

- (a) To fix and established annually the amount of such annual charge or assessment (including penalties and costs of collection, together with reasonable attorney fees) on each and every lot or parcel of the real property or any interest and on the

improvements, which annual charge of assessment shall be based on the assessed valuation of the real property and of the improvements as established by the County Assessor of County of \_\_ (1) \_\_, State of \_\_ (2) \_\_, for the then current fiscal year at a ratio never in any one year in excess of the total annual tax rate established for all purposes for the then current fiscal year by the City Council for the City of \_\_ (3) \_\_, or in accordance with some other legal or equitable plan to be adopted by association, provided that the total amount of the annual charge or assessment under such alternate plan shall never exceed one and one-half percent (1-1/2%) of the fair cash value of the property and all improvements as determined by the assessor appointed by association.

(b) To expend for the purposes specified herein the money paid on such charges or assessments.

### **Bylaws--Provision--Collection of maintenance and improvement charges**

The right to collect and enforce the collection of maintenance and improvement charges or assessments, together with costs and penalties imposed for their nonpayment, is granted to and vested in association, and \_\_ (1) \_\_ [developer], as to any property conveyed by it, except as otherwise provided.

Such annual charge or assessment shall be fixed on or about \_\_ (2) \_\_, 19\_\_ (3) \_\_, for the fiscal year beginning \_\_ (4) \_\_, 19\_\_ (5) \_\_, and annually thereafter on or about the first day of \_\_ (6) \_\_ [month] of each year, for each current fiscal year, and such charge or assessment shall be paid annually in advance to association on \_\_ (7) \_\_, 19\_\_ (8) \_\_ and each and every year, beginning in \_\_ (9) \_\_, 19\_\_ (10) \_\_, on which date such annual charge or assessment shall become enforceable against the real property and so continue until full payment of the charge or assessment, together with all penalties and cost of collection thereof, including reasonable attorney fees. \_\_ (11) \_\_ [Developer], in respect to portions of real property not conveyed by it, and the purchaser of such property, by acceptance of a deed therefore, whether from \_\_ (12) \_\_ [developer] or from subsequent owners of such property, shall be and become personally obligated to pay such annual charge and assessments as are fixed during the time of their ownership, and the right and power to bring all actions for the collection of such charges and assessments and the enforcement of such liens is granted to and shall be vested in association and its successors in interest.

*Annex H*

**MODEL RULES AND REGULATIONS**

\* \* \* \* \*

**RULES AND REGULATIONS**

**SECTION ONE  
USE FOR RESIDENTIAL PURPOSES**

Units shall be occupied and used by their respective owners only as private dwellings for such owners, their families, tenants, and social guests, and for no other purpose whatsoever.

No portion of a unit other than the entire unit may be rented, and no unit may be rented for hotel or transient purposes.

No immoral, improper, offensive, or unlawful use shall be made any part of condominium property, and each unit owner, at the owner's expense, shall comply with, perform, and fully satisfy all city, state, and federal laws, statutes, ordinances, regulations, orders, or requirements affecting the unit.

**SECTION TWO  
NUMBER OF OCCUPANTS**

Units containing one bedroom or less may be regularly occupied by no more than \_\_ (1) \_\_ persons. Units containing two bedrooms may be regularly occupied by no more than \_\_ (2) \_\_ persons. Units containing three bedrooms may be regularly occupied by no more than \_\_ (3) \_\_ persons. As used in this rule, "regularly occupied" means occupancy for a period in excess of \_\_ (4) \_\_ days consecutively, or \_\_ (5) \_\_ days in any one calendar year.

**SECTION THREE  
TRANSIT AREAS TO REMAIN UNOBSTRUCTED**

Vestibules, halls, stairways, elevators and other condominium areas and facilities of a similar nature must remain unobstructed, and shall be used only for purposes of normal transit.

Lobbies, vestibules, hallways, stairways, elevators and other condominium areas and facilities of a similar nature shall not be used for storage or placement of any furniture, packages, or objects of any kind.

Children shall not be permitted to loiter or play in the lobbies, vestibules, hallways, stairways, elevators, and other condominium areas and facilities of a similar nature.

Unit owners shall require their tradesmen to utilize exclusively the elevators designated for freight service when transporting packages, merchandise, or other objects which may adversely affect the comfort and well being of passengers in elevators devoted to the transportation of owners, residents, and guests.

**SECTION FOUR  
POSTING OF SIGNS**

No owner, occupant, or licensee shall post their names, or any other notice in any lobby, vestibule, hallway, stairway, or other condominium area, except in places provided therefor, and no signs of any kind shall be placed in or on windows, doors, terraces, facades, or other exterior surfaces of the building.

**SECTION FIVE  
EXTERIOR UNIFORMITY**

No draperies, shades, awnings, or the like shall be used except as shall have been installed or approved by the board of managers.

**SECTION SIX  
FIRE HAZARDS**

Owners shall not permit or suffer anything to be done or kept in their units which would increase the rate of fire insurance on the unit or on the condominium as a whole.

**SECTION SEVEN  
NOISE LEVELS**

Residents shall exercise extreme care about making noises or playing music which may disturb other residents. No resident shall play or allow to be played any musical instrument, radio, television, phonograph, or the like between the hours of \_\_ (6) \_\_ p.m. and \_\_ (7) \_\_ a.m. if the noise level shall disturb or annoy any other resident.

**SECTION EIGHT  
DUST POLLUTION**

Hanging, cleaning, or beating garments, rugs, or the like from or on the windows, terraces, or facades of the building, or in lobbies, vestibules, hallways, stairways, or other condominium areas of a similar nature is prohibited.

**SECTION NINE  
GARBAGE DISPOSAL**

All garbage shall be disposed of in a sanitary manner in the facilities provided in the condominium project. Throwing garbage or trash outside of disposal installations provided for such purposes is prohibited.

**SECTION TEN  
KEEPING OF PETS**

Residents shall be permitted to keep domestic animals only if such animals do not disturb or annoy other residents. Residents keeping domestic animals shall abide by municipal sanitary regulations, and shall be responsible for any inconvenience or damage caused by such animals.

**SECTION ELEVEN  
WATER USE**

Water shall not be kept running for an unreasonable and unnecessary length of time.

**SECTION TWELVE  
DAMAGE TO COMMON ELEMENTS**

All damage to common elements caused by the moving or carrying of articles therein shall be the responsibility of, and shall be paid for by the owner or person in charge of such articles.

**SECTION THIRTEEN  
SERVICE INSTALLATIONS**

No owner, lessee, or licensee shall install wiring for electrical or telephone installation, television antenna, machines, or air-conditioning units or the like, on the exterior of the project, or which protrude through the walls or the roof of the project except as authorized by \_\_ (8) \_\_ [the board of managers or a majority of unit owners].

**SECTION FOURTEEN  
REPAIRS WITHIN PARTICULAR UNIT**

Each unit owner shall promptly perform all maintenance and repair work within each unit, which if omitted would affect any of the common elements, any portion of the property belonging to other owners, or the project as a whole, and each unit owner shall be responsible for all damages and liabilities that any failure to maintain or repair may engender.

**SECTION FIFTEEN  
KEYS; ACCESS TO UNIT**

Each unit owner shall provide the \_\_ (9) \_\_ [manager or managing agent] with such key or keys as are necessary to gain access to the unit, and any owner altering a lock or installing a new lock on any door providing access to the unit shall provide a key or keys to such new or altered lock to the \_\_ (10) \_\_ [manager or managing agent].

**SECTION SIXTEEN  
TRAFFIC AND PARKING RESTRICTIONS**

Unit owners, their families, guests, tenants, and employees will abide by the following parking and traffic regulations:

- (a) Horns are to be used only when necessary for the safe operation of vehicles.
- (b) Owners shall not park, nor shall they permit their families, guests, or tenants to park, in the parking spaces of other owners, or in such manner as to prevent ready

access to the parking spaces of other owners. Improperly parked vehicles are subject to removal at the owners' expense.

(c) Owners, their families, guests, tenants, and employees shall abide by such traffic and parking regulations as may be posted in the parking areas and on the driveways of the condominium.

**SECTION SEVENTEEN  
NOTICE OF REGULATIONS**

These regulations shall be posted at all times at \_\_ (11) \_\_, and a copy shall be furnished to each unit owner.

**SECTION EIGHTEEN  
AMENDMENT OF REGULATIONS**

The board of managers reserves the right, subject to approval by a majority of unit owners, to amend, repeal, or add to these rules and regulations from time to time as may be deemed necessary for the safe and efficient maintenance of the condominium and for the comfort and convenience of the occupants.

Annex I

**MODEL MANAGEMENT AGREEMENT--FORM 1**

\* \* \* \* \*

Agreement made \_\_ (1) \_\_, 19\_\_ (2) \_\_, between the \_\_ (3) \_\_ [name of association, cooperative or corporation of unit owners] for the \_\_ (4) \_\_ [condominium project], referred to as association, organized and established in accordance with the plan of apartment ownership executed and recorded in the office of the Recorder of the County of \_\_ (5) \_\_, State of \_\_ (6) \_\_, in Book of \_\_ (7) \_\_ Deeds at Page \_\_ (8) \_\_, having its principal office at \_\_ (9) \_\_ [address], city of \_\_ (10) \_\_, County of \_\_ (11) \_\_, State of \_\_ (12) \_\_, and \_\_ (13) \_\_, having its principal office at \_\_ (14) \_\_ [address], City of \_\_ (15) \_\_, County of \_\_ (16) \_\_, State of \_\_ (17) \_\_, referred to as agent.

In consideration of the terms, conditions, and covenants set forth, the parties mutually agree as follows:

**SECTION ONE  
APPOINTMENT OF AGENT**

(a) Association appoints agent and agent accepts appointment, on the terms and conditions herein provided, as exclusive managing agent of the condominium known as \_\_ (18) \_\_, located in the County of \_\_ (19) \_\_, State of \_\_ (20) \_\_, and consisting of \_\_ (21) \_\_ [number] dwelling units.

(b) Agent fully understands that the function of association is the operation and management of the condominium; and agent, notwithstanding the authority given to agent in this agreement, will confer fully and freely with the directors of association in the performance of duties as set forth and will attend membership or director's meetings at any time or times requested by association.

**SECTION TWO  
DOCUMENTS SUPPLIED AGENT**

To facilitate efficient operation, association shall furnish agent with a complete set of the plans and specifications of the condominium as finally approved by the Federal Housing Administration, and, with the aid of these documents and inspection made by competent personnel, agent will inform itself with respect to the layout, construction,

location, character, plan, and operation of the lighting, heating, plumbing, and ventilating systems, as well as elevators, if any, and other mechanical equipment in the condominium. Copies of guarantees and warranties pertinent to the construction of the condominium and in force at the time of the execution of this agreement shall be furnished to agent.

### SECTION THREE DEFINITIONS

As used in this agreement:

(a) The term "consenting party" shall mean the Federal Housing Administration acting through its commissioner or authorized representatives.

(b) The term "assessments" shall mean those monthly rates established by association that the members are bound to pay as their share of the common expenses under the plan of apartment ownership.

(c) The term "gross collections" shall mean all amounts actually collected by agent, either as assessments or as rents.

(d) The term "association" shall mean an association, cooperative, or corporation consisting of all of the owners of family units in the condominium organized and existing under state law   (22)  [statute] for the purpose of administering the condominium established by the plan of apartment ownership.

### SECTION FOUR DUTIES OF AGENT

It is understood that the authority and duties conferred on agent are confined to the common areas and facilities and the restricted common areas and facilities as defined in the plan of apartment ownership. Such authority and duties do not and shall not include supervision or management of family units except as directed by association.

Under the personal and direct supervision of one of its principal officers, agent shall render services and perform duties as follows:

(a) On the basis of an operating schedule, job standards, and wage rates previously approved by association on agent's recommendation, investigate, hire, pay, supervise, and discharge the personnel necessary to be employed in order properly to maintain and to operate the condominium. Such personnel shall in every instance be in association's, and not in agent's, employ. Compensation for the services of such employees (as evidenced by certified payrolls) shall be considered an operating expense of the condominium.

(b) Immediately ascertain the general condition of the property, and, if the accommodations there afforded have yet to be occupied for the first time, establish liaison with the general contractor to facilitate the completion of such corrective work, if any, as is yet to be done; also, cause an inventory to be taken of all furniture, office equipment, maintenance tools, and supplies, including a determination as to the amount of fuel on hand.

(c) Coordinate the plans of the condominium's family units, referred to as members, for moving their personal effects into the condominium or out of it with a view towards scheduling such movements so that there shall be a minimum of inconvenience to other members.

(d) Maintain businesslike relations with members, whose service requests shall be received, considered, and recorded in systematic fashion in order to show the action taken with respect to each, report complaints of a serious nature to association with appropriate recommendations after thorough investigation; as part of a continuing program, secure full performance by the members of all items and maintenance for which they are responsible.

(e) Collect all monthly assessments due from members, all rents due from users of garage spaces and users of lessees of other nondwelling facilities in the condominium; also, all sums due from concessionaires in consequence of the authorized operation of facilities in the condominium maintained primarily for the benefit of the members; under association's authorization, request, demand, collect, receive, and receipt for any and all charges or rents that may at any time be or become due to association and to take such action in the name of association by way of legal process or otherwise as may be required for the collection of delinquent monthly assessments. As a standard practice, agent shall furnish association with an itemized list of all delinquent accounts immediately following the tenth day of each month.

(f) Cause the building, appurtenances, and grounds of the condominium to be maintained according to standards acceptable to association, including but not limited to interior and exterior cleaning, painting, decorating, plumbing, steamfitting, carpentry, and such other normal maintenance and repair work as may be necessary, subject to any limitations imposed by association in addition to those contained herein. For any one item of repair or replacement, the expense incurred shall not exceed the sum of   (23)   Dollars (\$  ) unless specifically authorized by association; excepting, however, that emergency repairs immediately necessary for the preservation and safety of life and property or required to avoid the suspension of any necessary service to the condominium may be made by agent, irrespective of the cost limitation imposed by this paragraph. Notwithstanding this authority as to emergency repairs, agent, if at all possible, will confer immediately with association regarding every such expenditure. Agent shall not incur liabilities (direct or contingent) that will at any time exceed the aggregate of   (24)   Dollars (\$  ), or any liability maturing more than one year from the creation of the liability, without first obtaining association's approval.

(g) Take such action as may be necessary to comply promptly with any and all orders or requirements affecting the premises placed on it by any federal, state, county, or municipal authority having jurisdiction and orders of the Board of Fire underwriters or other similar bodies subject to the same limitation contained in subparagraph (f) in connection with the making of repairs and alterations. Agent, however, shall not take any action under this paragraph so long as association is contesting or has affirmed its intention to contest any such order or requirement. Agent shall promptly, and in no event later than 72 hours from the time of their receipt, notify association in writing of all orders and notices of requirements.

(h) Subject to approval by association, make contracts for water, electricity, gas, fuel oil, telephone, vermin extermination, and other necessary services, or such of them as association shall deem advisable; also, place orders for such equipment, tools, appliances, materials, and supplies as are necessary properly to maintain the condominium. All such contracts and orders shall be made in the name of association and shall be subject to the limitations set forth in paragraph (f). When taking bids for issuing purchase orders, agent shall act at all times under the direction of association and shall be under a duty to secure for, and credit to association, any discount, commissions, or rebates obtainable as a result of such purchases.

(i) When authorized by association in writing, cause to be placed and kept in force all forms of insurance needed to protect adequately association, its members, and mortgagees holding mortgages covering family units, as their respective interests appear (or as required by law), including but not limited to workers' compensation insurance, public liability insurance, boiler insurance, fire and extended coverage insurance, and burglary and theft insurance. All of the various types of insurance coverage required shall be placed with such companies, in such amounts, and with such beneficial interests obtained therein, as shall be acceptable to association and to mortgagees holding mortgages covering family units. Agent shall promptly investigate and make a full written report as to all accidents or claims for damage relating to the management, operation, and maintenance of the condominium, including any damage or destruction to the condominium and the estimated cost of repair, and shall cooperate and make any and all reports required by any insurance company.

(j) From the funds collected and deposited in special accounts herein provided, cause to be disbursed regularly and punctually: (1) salaries and any other compensation due and payable to the employees of association and the taxes payable under paragraph (k), (2) fire and other property insurance premiums and the amount specified in the regulatory agreement for allocation to the reserve fund for replacements and to the general operating reserve fund, and (3) sums otherwise due and payable by association as operating expenses authorized to be incurred under the terms of this agreement, including agent's commission. After disbursement in the order specified, any balance remaining in the special account may be disbursed or transferred from time to time, but only as specifically directed by association in writing, but such balance must be within

the limits of agent's fidelity bond, which shall be in an amount equal to the gross monthly collections.

(k) Working in conjunction with an accountant, prepare for execution and filing by association all forms, reports, and returns required by law in connection with unemployment insurance, workers' compensation insurance, disability benefits, Social Security benefits, and other similar taxes now in effect or hereafter imposed, and also requirements relating to the employment of personnel.

(l) Maintain a comprehensive system of office records, books, and accounts in a manner satisfactory to association and to the consenting parties, which records shall be subject to examination by their authorized agents at all reasonable hours. As a standard practice, agent shall render to association by not later than the tenth of each succeeding month a statement of receipt and disbursements as of the end of every month.

(m) On or about   (25)   [date] and thereafter at least 60 days before the beginning of each new fiscal year, prepare with the assistance of an accountant, if need be, an operating budget setting forth an itemized statement of the anticipated receipts and disbursements for the new fiscal year based on the then current schedule of monthly assessments, and taking into account the general condition of the condominium. Each such budget, together with a statement from agent outlining a plan of operation and justifying the estimates made in every important particular, shall be submitted to association in final draft at least 30 days prior to the commencement of the annual period for which it has been made, and following its adoption by association, copies of it shall be made available, on request, for submission to the consenting party. The budget shall serve as a supporting document for the schedule of monthly assessments proposed for the new fiscal year. It shall also constitute a major control under which agent shall operate, and there shall be no substantial variances therefrom, except such as may be sanctioned by association. By this is meant that no expenses may be incurred or commitments made by agent in connection with the maintenance and operation of the condominium in excess of the amounts allocated to the various classifications of expense in the approved budget without the prior consent of association, except that if necessary because of an emergency or lack of sufficient time to obtain such prior consent, an overrun may be experienced, provided it is brought promptly to the attention of association in writing.

(n) Agent shall actively handle the renting of any garage spaces or other nondwelling accommodations, arranging for the execution of such leases or permits as may be required.

(o) Operate and maintain the condominium according to the highest standard achievable consistent with the overall plan of association and the interests of the consenting party. Agent shall see that all members are informed with respect to such rules, regulations, and notices as may be promulgated by association from time to time.

Agent shall be expected to perform such other acts and deeds as are reasonable, necessary, and proper in the discharge of its duties under this agreement.

**SECTION FIVE  
EMPLOYMENT OF PERSONNEL**

Agent shall hire in its own name all managerial personnel necessary for the efficient discharge of the duties of agent. Compensation for the services of such employees shall be agent's responsibility. Those employees of agent who handle or are responsible for the handling of association's moneys shall, without expense to association, be bonded by a fidelity bond acceptable both to agent and association.

**SECTION SIX  
EXPENSES OF AGENT**

Everything done by agent under the provisions of this agreement shall be done as agent of association, and all obligations or expenses incurred shall be for the account, on behalf, and at the expense of association, except that association shall not be obligated to pay the overhead expenses of agent's office. Any payments to be made by agent under the provisions of this agreement shall be made out of such sums as are available in the special account of association, or as may be provided by association. Agent shall not be obliged to make any advance to or for the account of association or to pay any sum, except out of funds held or provided as aforesaid, nor shall agent be obliged to incur any liability or obligation for the account of association without assurance that the necessary funds for discharge will be provided.

**SECTION SEVEN  
FUNDS**

Agent shall establish and maintain, in a bank whose deposits are insured by the Federal Deposit Insurance Corporation and in a manner to indicate the custodial nature, a separate bank account as agent of association for the deposit of association's moneys, with authority to draw thereon for any payments to be made by agent to discharge any liabilities or obligations incurred pursuant to this agreement, and for the payment of agent's fee, all of which payments shall be subject to the limitations in this agreement.

**SECTION EIGHT  
COMPENSATION OF AGENT**

The sole compensation that agent shall be entitled to receive for all services performed under this agreement shall be a fee computed and paid monthly in the amount equivalent to   26   percent (   %) of gross collections, exclusive of all surcharges.

SECTION NINE  
TERM OF AGREEMENT

(a) Unless canceled pursuant to section (b), (c), or (d) of this paragraph, this agreement shall be in effect for a term of   (27)   from the date of execution, provided that in no event shall it be of any force and effect until there is endorsed hereon the consent of the consenting party.

(b) This agreement may be terminated by mutual consent of the parties at the end of any calendar month, but not without prior written notice to the consenting party.

(c) In the event a petition in bankruptcy is filed by or against agent, or in the event that agent shall make an assignment for the benefit of creditors or take advantage of any insolvency act, either party may terminate this agreement without notice to the other, but prompt advice of such action shall be given to the consenting party.

(d) It is expressly understood and agreed by and between the parties that the Federal Housing Administration shall have the right to terminate this agreement at the end of any calendar month, with or without cause, on 30 days' written notice to association and agent of its intention to do so. It is further understood and agreed that no liability shall attach to Federal Housing Administration in the event of termination of this agreement pursuant to this section.

(e) On termination, the contracting parties shall account to each other with respect to all matters outstanding as of the date of termination, and association shall furnish agent security satisfactory to agent, against any outstanding obligations or liabilities that the agent may have incurred under this agreement.

SECTION TEN  
BINDING EFFECT

(a) This agreement, which is made subject and subordinate to all rights of the Federal Housing Administration as insurer of mortgages on family units in the condominium, shall inure to the benefit of and constitute a binding obligation on the contracting parties, their respective successors and assigns; and, to the extent that it confers rights, privileges, and benefits on the consenting party, the consenting party shall be deemed to inure to its benefit, but without liability, in the same manner and with the same force and effect as though the Federal Housing Administration was a signatory to this agreement.

(b) This agreement shall constitute the entire agreement between the contracting parties, and no variance or modification shall be valid and enforceable, except by supplemental agreement in writing, executed and approved in the same manner as this agreement.

(c) For the convenience of the parties, this agreement has been executed in several counterparts, which are in all respects similar and each of which shall be deemed to be complete in itself so that any one may be introduced in evidence or used for any other purpose without the production of the other counterparts. Immediately following endorsement of the consenting parties, counterparts will be furnished to the consenting parties so that each may be advised of the rights, privileges, and benefits that this agreement confers.

In witness whereof, the parties have executed this agreement at \_\_ (28) \_\_ [place of execution] the day and year first above written.

[Association]  
By \_\_ (29) \_\_

[Agent]  
By \_\_ (30) \_\_

The Federal Housing Administration consents to the foregoing management agreement and the managing agent designated therein.

Dated \_\_ (31) \_\_, 19(32).

\_\_ (33) \_\_  
[Federal Housing Commissioner]

By \_\_ (34) \_\_  
[Authorized Agent]

Annex J

**MODEL MANAGEMENT AGREEMENT--FORM 2**

\* \* \* \* \*

Contract made on \_\_ (1) \_\_, 19\_\_ (2) \_\_, by and between \_\_ (3) \_\_, a corporation organized and existing under the laws of the State of \_\_ (4) \_\_, having an office at \_\_ (5) \_\_, referred to as agent, and the governing board, referred to as the board, acting on behalf of all unit owners as the unit owners' association of \_\_ (6) \_\_, a condominium under the laws of the State of \_\_ (7) \_\_ pursuant to a declaration of condominium executed on \_\_ (8) \_\_, 19\_\_ (9) \_\_, and recorded on \_\_ (10) \_\_, 19\_\_ (11) \_\_, in the office of the Recorder of Deeds of \_\_ (12) \_\_ County, State of \_\_ (13) \_\_, in \_\_ (14) \_\_ [volume and book] at page \_\_ (15) \_\_.

In consideration of the mutual covenants set forth below, the parties agree as follows:

**SECTION ONE  
COMPENSATION OF AGENT**

The board shall pay to agent as full compensation for its services under this agreement:

(a) The sum of \_\_ (16) \_\_ Dollars (\$ \_\_) per month payable in advance on the first day of each month; and

(b) For services in connection with \_\_ (17) \_\_ [unemployment insurance, withholding taxes, social security taxes, hospitalization, group life insurance, disability insurance, and labor relations] the following fees: \_\_ (18) \_\_.

Agent shall be entitled to deduct such compensation and fees, when due, from funds then in its possession regardless of any other claims against such funds. The compensation set forth is intended to cover the normal and usual administrative expenses of agent; unusual expenses required or authorized by action of the board shall be separately compensated and shall be agreed on between the parties.

## SECTION TWO FISCAL MANAGEMENT

Agent shall perform the following services with regard to the fiscal management of the condominium:

(a) *Collection of assessments.* Agent shall bill or cause to be billed all unit owners for assessments levied against them and shall make every effort to collect the assessments promptly. In the event of delinquency, agent shall mail notice to the delinquent owner, and shall use every effort to collect delinquent accounts, including the sending of notices and letters and the making of telephone calls and personal contracts. In the event such efforts fail, agent shall refer the account to the board for disposition.

(b) *Disbursements.* Agent shall make all disbursements as provided in the annual budget from common charges assessed against and collected from unit owners. In addition, agent is granted authority to make unbudgeted expenditures necessary or appropriate for the maintenance, operation, or care of the condominium not exceeding (19) Dollars (\$  ), or not exceeding (20) Dollars (\$  ) when approved by the treasurer of the association. All other unbudgeted expenditures may be made only with the approval of the board except in case of emergencies requiring prompt action to minimize loss.

(c) *Employee taxes.* Agent shall compute and pay employee taxes, and shall prepare and file or cause to be prepared and filed the necessary forms for withholding taxes, social security taxes, unemployment insurance, and all other tax and other forms, federal, state, or municipal, relating to the employment of condominium personnel.

(d) *Annual operating budget.* Prior to the last meeting of the board held in each (21) [calendar] year, agent shall prepare and submit to the board an annual operating budget setting forth income and expenses of the association for the preceding and current years, anticipated income of the association for the following year, and explanations necessary to account for differences between such figures.

(e) *Records and books of account.* Agent shall establish and maintain, in accordance with generally accepted accounting principles, an accurate and complete set of books, including records, in chronological order, of receipts and disbursements of the association arising from operation of the property. Agent shall also establish and maintain accounts for each unit, detailing assessments levied against such unit, amounts paid, and amounts remaining unpaid. Orderly files shall also be kept, containing invoices, statements, vouchers, correspondence, insurance policies, and all other documents and papers pertaining to the condominium or its operation. All records and books of account shall be open to inspection during business hours by owners, their tenants, mortgagees, and representatives.

(f) *Monthly statements.* Agent shall, not later than the tenth day of each month, render a monthly statement to the board supported by disbursement vouchers and bills, setting forth the receipts and disbursements of the association for the preceding month. Agent shall further remit to the board any amounts collected during the preceding month less (1) disbursements made pursuant to this agreement for the care and maintenance of the property (including agent's compensation hereunder), and (2) such amounts as may in agent's judgment be necessary or advisable to be retained as reserves for future obligations.

(g) *Annual report; certification.* Agent shall prepare and distribute to each unit owner at the end of each (22) [calendar] year, an annual report of the operations of the condominium for that year, including a statement of receipts and disbursements, and a balance sheet showing the assets and liabilities of the association as of the close of such (23) [calendar] year. Agent shall cooperate with the certified public accountant of the association in the audit and certification of such report, in the audit of the books of account of the condominium, and in the preparation of federal income and other tax returns.

### SECTION THREE FUNDS

(a) *Bank accounts.* All funds collected by agent on behalf of the board shall be deposited in such bank or trust company as may be designated by the board, and shall be held in a special trust account to be entitled "(24)." Such funds will not be commingled with other funds collected by agent as agent for others, including individual unit owners.

(b) *Advances.* In no event shall agent be required to perform any act or duty involving the expenditure of funds unless agent shall have in its possession funds sufficient therefor. If at any time funds in the possession of agent are insufficient for the performance of any act or duty, agent may in its discretion advance such sums as it may deem necessary, and in such event the board agrees to reimburse agent for such advances, together with interest at the rate of (25) percent (   %) per annum from and after (26) days from the date of such advance.

(c) *Rebates, discounts and fees.* Agent shall not collect or charge any undisclosed rebates, discounts, or fees, and should any such rebate, discount or fee be received by agent, it shall be treated as the receipt of the board.

### SECTION FOUR MANAGEMENT OF PHYSICAL PLANT

Agent shall perform the following services with regard to the physical management of the condominium:

(a) *Contracting for services.* Agent is authorized on behalf of all unit owners to hire, pay, supervise, and discharge, or cause to be hired, paid, supervised, and discharged, all employees and independent contractors that may be required for the proper maintenance and operation of the condominium. Unless otherwise specified in writing by agent, employees so hired (including the resident manager) shall be deemed employees of agent; provided however, that the compensation of such employees shall be the responsibility of the board.

(b) *Maintenance of building.* Agent shall cause the building, other improvements, and equipment of the condominium to be maintained in such condition as may be deemed advisable by the board, and shall direct, supervise, and order to be done all things requested by the board or which are, in agent's judgment, necessary to the proper maintenance of the condominium property \_\_ (27) \_\_ [subject only to the limitations imposed by this agreement]. Agent is further authorized to do all things reasonably deemed necessary or desirable by the board for the proper maintenance and operation of the property.

(c) *Inspections of property.* Agent shall make regular inspections of the condominium, and render reports as to its condition, including recommendations for repair, restoration, and maintenance.

(d) *Sale and lease of units.* When directed by the board, agent shall list and offer for sale or lease through its own organization and, if so directed, through other brokers, units acquired or reacquired by the board, acting on behalf of all unit owners, and agent shall use its best efforts to sell or lease any such units.

(d) *Rental of commercial space.* Agent shall use its best efforts to keep commercial space in the building and rented to desirable tenants on such terms as the board may deem appropriate, and, in so doing, is authorized to enlist the services of real estate brokers on behalf of the board.

## SECTION FIVE ADMINISTRATIVE MANAGEMENT

Agent shall perform the following services for the benefit of the board and unit owners:

(a) *Meetings.* Agent shall provide suitable meeting places for, prepare agendas for, send notices to unit owners and board members of, and cause a representative of its organization to attend all meetings of unit owners and of the board. If requested by the board, agent shall have its representative act as assistant secretary of the association and assist in recording keeping the minutes of meetings.

(b) *Letters and reports.* Agent shall prepare and post all letters and reports as the board may direct.

(c) *Records.* Agent shall keep all records of the affairs and proceedings of the association, and of the board, including but not limited to minutes of meetings, bylaws, rules and regulations, and amendments.

(d) *Fidelity bonds.* Agent shall procure and maintain throughout the term of this agreement, a fidelity bond indemnifying the board in an amount up to  (26)  Dollars (\$  ) from and against any loss of money or other personal property belonging to the association or for which the association is legally liable, occasioned by any dishonest or fraudulent acts committed on or after the date hereof by agent, its officers, directors, or employees.

(e) *Insurance.* Agent shall have responsibility for the supervision of all condominium insurance policies, which responsibility shall include the filing and pressing of claims, and review and recommendations, from time to time, as to the adequacy of coverage.

(f) *Newsletter.* From time to time agent shall prepare and mail, or cause to be prepared and mailed a newsletter containing decisions of the board and other items of interest to unit owners.

#### SECTION SIX SERVICES TO UNIT OWNERS

Agent shall perform the following services for the benefit of unit owners:

(a) *Complaints.* Agent shall consider, and when reasonable, attempt to remedy complaints of unit owners or their tenants. Agent shall refer any complaints it deems unreasonable to the board.

(b) *Moving assistance.*  (29)  *[If agent is to assume duties prior to completion of construction, add: At the time the building is completed and ready for occupancy, agent shall inspect the common elements and each unit for any apparent defects, and render a report thereon to the board.]* Agent shall make arrangements for the delivery of units to their owners, including keys, copies of the rules and regulations, and any relevant documents or warranties. Agent shall also coordinate the delivery of furniture and household effects, shall inspect the property, and shall render an inventory to absentee owners.

(c) *Report of assessments.* When the books of tentative assessed valuations of  (30)  *[location]* are opened for public inspection each year, agent shall ascertain the assessments of the units and report such assessments to the respective unit owners.

(d) *Insurance and real estate services.* Agent shall be permitted to render to individual unit owners insurance and real estate services, including service as agent in the sale or rental of units, and agent may receive from individual unit owners such additional compensation therefor as is customary.

(e) *Rental services.* Agent and any resident manager employed by agent shall have primary responsibility to the board, and should agent be retained by individual unit owners to serve as rental agent, it shall not render any service for unit owners in its capacity as rental agent which would be detrimental to the board representing the condominium as a whole. Compensation received by any resident manager for rental services shall be distinct from compensation paid to such resident manager for management services, and any provision of rental services by a resident manager shall be subject to the approval and control of the board.

#### SECTION SEVEN INDEMNIFICATION OF AGENT

Agent shall not be liable to the board for any loss or damage not occasioned by agent's own negligence or failure to comply with its obligations. Additionally, the board agrees to indemnify agent from and against.

(a) Any and all liability, loss, costs and expenses, including reasonable attorney fees, incurred or sustained by reason of any injury to person or property in or about the condominium from any cause whatsoever, unless such injury shall have been occasioned by the negligence of agent or its failure to comply with its obligations under this agreement; and

(b) Any and all liability, damages, penalties, costs and expenses (including reasonable attorney fees) incurred or sustained by reason of any act properly performed by agent pursuant to the instructions of the board.

The obligation of the board under this agreement is expressly conditioned on its prompt receipt of information concerning any such injury and the amount of any such liability, damages, penalties, costs, and expenses. The board shall carry liability insurance including agent as a party insured, in such reasonable amounts as may be acceptable to agent, and shall deliver a copy of such liability policy or a certificate evidencing the same to agent.

#### SECTION EIGHT TERM OF AGREEMENT

This agreement shall take effect on   (31)  , shall continue in effect until   (33)  , 19  (34)  , and may not be terminated by either party prior to such date except as provided in this paragraph. This agreement shall terminate, and all obligations other than those having previously arisen shall cease, on the happening of any one of the following events:

(a) *Insolvency.* If either party shall file or have filed against it a petition in bankruptcy, or if either shall make an assignment for the benefit of creditors, the other may terminate this agreement by serving   (36)   days' written notice by certified mail on the insolvent party.

(b) *Destruction or condemnation.* On the destruction or taking by any governmental unit through lawful condemnation proceedings of the entire property or a substantial portion, either party may terminate this agreement by serving \_\_(36)\_\_ days' written notice by certified mail on the other.

(c) *Termination for cause.* If, in the opinion of either party, the other party has committed a material breach of this agreement, the aggrieved party may serve written notice on the offending party setting forth the details of such alleged breach. If within \_\_(37)\_\_ days after service of such notice by certified mail, return receipt requested, the offending party does not cure such breach, or has not commenced and at all times thereafter continued diligently to proceed with such acts as may be required to cure such breach, this contract may be terminated by the aggrieved party, subject to any and all rights and remedies available to the offending party, on \_\_(38)\_\_ days' written notice served by certified mail, return receipt requested.

#### SECTION NINE LIABILITY OF UNIT OWNERS

Anything elsewhere in this agreement to the contrary notwithstanding, the liability of each unit owner arising out of this agreement or any provision, including any indemnification of agent provided for, shall be limited to that proportion of the total liability under this agreement as such unit owner's interest in the common elements bears to the interest of all unit owners in such common elements. Anything elsewhere in this agreement to the contrary notwithstanding, members of the board shall have no liability to agent or others under this agreement except such liability as they may have as unit owners.

#### SECTION TEN ENTIRE AGREEMENT

This contract represents the entire agreement of the parties, and supersedes all prior and contemporaneous written and oral agreements, representations, and understandings. Any modification of this agreement shall be in writing and signed by the party to be charged.

#### SECTION ELEVEN BINDING EFFECT; ASSIGNMENT

This agreement shall bind and inure to the benefit of the parties and their heirs or successors. This agreement may not be assigned by either party.

In witness whereof, the parties have executed this agreement at   (30)   *[place of execution]* the day and year first above written.

*[Signatures]*