

208548

CONDITIONS AND RESTRICTIONS OF

HARBOUR POINTE ESTATES

BOOK 214 PAGE 309

A SUBDIVISION = M LOTS

The undersigned, owner and developer of the real estate described in Exhibit A, hereby lay off, plat, and subdivide said real estate in accordance with the plat recorded of even date. We adopt the following covenants and restrictions to apply to said subdivision of real estate.

This subdivision shall be known and designated as Harbour Pointe Estates.

There are strips of ground as shown on the within plat marked "Drainage and Utility Easements" (D.E. and U.E.) which are reserved for the use of public utility companies, governmental agencies, and Harbour Pointe Homeowners Association, Inc. as follows:

1. To provide paths and courses for area and local storm drainage, either overland or in adequate underground conduit, to serve the needs of this and adjoining ground and/or the public drainage system. No structure which will obstruct flow from the area being served, including fences, shall be built upon said easements.
2. Are created for the use of the local governmental agency having jurisdiction over the storm and sanitary waste disposal system of said town and/or county for the purposes of installation and maintenance of sewers that are part of said system.
3. Are created for the use of all public utility companies, excluding transportation companies, and Harbour Pointe Condominiums acting through the Harbour Pointe Homeowners Association, Inc. for the installation and maintenance of mains, ducts, lines, wires, and also all rights and uses for sewer easements designated above.

The owners of all lots in this addition shall take title subject to the rights of the public utilities, governmental agencies, Harbour Pointe Homeowners Association, Inc., and the rights of the other lot owners in this subdivision to said easements herein granted for ingress and egress in, along and through the strips of ground for the purposes therein stated.

RECORDED  
A.M. \_\_\_\_\_ P.M. 1:40

MAY 20 1992

*Eric Kelly*  
RECORDER MONROE CO., LA

The following covenants and restrictions shall run with the land hereby conveyed and shall be binding upon the grantors and grantees herein named, their remote grantors and grantees, their heirs, successors, and assigns.

Said land shall be used for single or duplex residential purposes only and shall not be used for business or commercial purposes. If one residential structure is placed on a lot, it shall have a minimum square footage, including any attached garage but excluding porches, of 2,200 square feet for a one-story building and 2,600 square feet for a multi-level building. Duplexes are authorized on that portion of Harbour Pointe Estates on the east side of Harbour Pointe Drive. Minimum square footage for individual units on the east side of Harbour Pointe Drive is 1,400 square feet.

For any residential structure, there shall be no more than three rows of concrete or lightweight blocks exposed above the grade level. No detached structure (for example garage or utility building) shall be permitted on the lot. All structures shall have a shake shingle roof. Exterior of the units shall be brick, stone, cedar or a combination of these materials. Sheets of cedar siding are not permitted.

All plans for any structure placed on said real estate must be submitted to the developer of said real estate prior to the start of construction and must have his approval before construction is begun. Developer reserves the right to disapprove plans not in architectural compatibility with existing and planned future development of Harbour Pointe Estates. Approval by Developer will not be unreasonably withheld. Any dwelling structure placed upon this real estate shall be fully completed on the outside before occupancy. Building paper or similar materials shall not be construed to constitute in whole or in part the outside finish of any building. Built-up roofs shall be prohibited. Construction shall be completed within one year after started, including finish grading. No outside television or radio aerial or antenna shall be permitted.

Developer recognizes that Harbour Pointe Estates will be developed in and around the Harbour Pointe Condominium regime located at The Pointe, Monroe County, Indiana. In order to maintain harmony and consistency in quality and style of development, all exterior painting and remodeling or reconstruction of structures built at Harbour Pointe Estates requires the approval of the architectural control committee or similar body of Harbour Pointe Condominiums. Approval shall not be unreasonably withheld. This requirement for approval of the

architectural control committee shall not apply to original construction by developer, its successors or assigns.

No fence may be erected upon the real estate without the prior approval of the Harbour Pointe Board of Administrators or its designee.

Building set backs shall be as follows:

30 foot minimum set back from the front lot line (along the road)

10 foot minimum set back from the rear lot line (along the golf course)

10 foot minimum set back from the side lot lines.

No animals known as farm animals or pets or animals known as farm animals for commercial purposes shall be kept and maintained on this real estate. Dogs, cats, or recognized household pets may be kept; provided they are not kept, bred, or maintained for commercial purposes.

This real estate shall not be used for business or commercial purposes and no noxious trade or activity shall be pursued or permitted upon this real estate which in any manner may become an annoyance or nuisance to the neighborhood at large. No advertisement, billboard displays, or signs of any type shall be erected on the premises except as permitted by Pointe Services Association, Inc. and no house trailers shall be permitted on said premises.

All vehicles are to be parked off the road on a driveway leading to the residence. Garage doors and the doors of any other storage room or the like shall be maintained in a closed position whenever possible.

The owner of each lot and the developer prior to the sale of a lot shall be liable for and hereby assumes and agrees to maintain his property neat and clean and free of any paper, trash, weeds, or unsightly growth or other debris. Trash and garbage or other waste shall be kept in a clean and sanitary container.

No automobiles or trailers, junk or otherwise, shall be permitted to be parked permanently on said lots, unless located inside a garage, basement or other utility building.

This real estate shall be subject to the declaration of covenants, conditions, and restrictions dated October 24, 1974 and recorded as Instrument Number 6254 in the office of the Recorder of Monroe County, Indiana. Use, development, and occupancy of said real estate shall comply with said declaration. Should a conflict exist between the declaration and these subdivision covenants and restrictions, the terms of the declaration shall control. Wherever the declaration and these covenants and restrictions address the same subject, both requirements will be applied.

Owners of lots in Harbour Pointe Estates own a Class A membership in Pointe Services Association, Inc, and shall be assessed in accordance with the by-laws of Pointe Services Association, Inc. all as more particularly described in the Declaration of Covenants, Conditions and Restrictions.

Owners of lots within Harbour Pointe Estates shall contribute to maintenance, repair, and capital reserve accumulation for roadway and utility services, trash removal and maintenance of recreational areas both as currently owned by developer and as may be owned, operated or maintained by Harbour Pointe Homeowners Association, Inc. at any future date. Contributions to maintenance, repair, and accumulation of capital reserve shall be as provided in a contribution agreement to be signed by owner, developer, and/or Harbour Pointe Homeowners Association, Inc. prior to or upon conveyance of any lot in Harbour Pointe Estates to the prospective owner. All contribution agreements shall be binding on successors in interest of the original owner of a lot in the subdivision.

These subdivision conditions and restrictions may be amended at any time upon a vote of two-thirds of the then owners of lots in Harbour Pointe Estates. In no event, shall any amendment of these conditions and restrictions be effective without the consent of the Harbour Pointe Board of Administrators.

Except during periods of primary construction, lots shall be maintained in a slightly manner, consistent with the standards of lawn maintenance of Harbour Pointe Condominium.

These conditions and restrictions may be enforced by the developer, his successors and assigns, by any owner of a lot in Harbour Pointe Estates and by the Harbour Pointe Homeowners Association, Inc. or its assignee by injunction or suit for damages, to include costs and attorney fees incurred in enforcing these conditions and restrictions.

## **MAINTENANCE AND INSURANCE AGREEMENT**

THIS MAINTENANCE AND INSURANCE AGREEMENT ("Agreement") made by and between HARBOUR POINTE HOMEOWNERS ASSOCIATION, INC. and the undersigned Owners effective January 1, 2008.

### **RECITALS**

1. Harbour Pointe Condominium Regime ("Harbour Pointe") is organized pursuant to the Indiana Horizontal Property Act as a condominium regime located in Monroe County, Indiana.
2. The parties executing this Agreement and identified below as Owners each own a condominium unit in Harbour Pointe.
3. The Harbour Pointe Homeowners Association ("Association") was formed pursuant to the Indiana Horizontal Property Act as a governing body for Harbour Pointe with the powers and duties as specified in the Declaration of Harbour Pointe Condominium recorded as Instrument Number \_\_\_\_\_ in the office of the Recorder of Monroe County, Indiana, as amended ("Declaration"), together with the Association By-Laws.
4. The condominium units owned by Owners each is a detached, single-family dwelling having the appearance of and many of the characteristics of a subdivision lot (hereinafter the "Estate Unit").
5. The remaining condominium units in Harbour Pointe are located within multi-unit buildings, having the appearance and the characteristics of a more traditional condominium development (hereinafter the "Traditional Units").
6. The Estate Units are substantially larger than a Traditional Unit, increasing the Association's maintenance, repair and capital reserve portion of the budget and increasing insurance costs per unit greater than a Traditional Unit.
7. The Estate Units require substantially greater expenditure per square foot than a Traditional Unit for maintenance and repairs in accordance with the duties and responsibilities of the Association as stated in the Declaration.
8. The Estate Units incur a substantially greater insurance expense per square foot than is attributable to the Traditional Units.
9. Owners of the Estate Units and Association desire to reach an equitable arrangement whereby Owners shall be individually responsible for maintenance, repair, and replacement of capital components of the Estate Units to include provision for insurance for casualty loss or damage of the Estate Units and for provision of insurance for casualty loss or damage to the Estate Units in consideration for a reduction in assessments to be paid by the Estate Unit Owners.

NOW THEREFORE, in consideration of the mutual covenants expressed herein, Association for itself and on behalf of all Owners of Units in Harbour Pointe and the undersigned Owners agree as follows:

1. The Owners of the Estate Units shall be individually responsible for maintenance and repair, including capital replacement for their respective Estate Units. Each Owner shall maintain his Estate Unit in good order and repair to a standard at least as favorable as the Association maintains the Traditional Units. Maintenance and repair as required by Owners of the Estate Units shall include:
  - a. Maintenance, repair and replacement of the structural and mechanical components of the residence.
  - b. Maintenance and repair of driveways and sidewalks appurtenant to the Estate Unit.
  - c. Lawn care of the lawn and ground appurtenant to the Estate Unit except for mowing, such lawn care to include mulching, weeding, pruning and maintaining plants, trees and shrubs.
  - d. Maintenance of the lawn area appurtenant to the unit for erosion control.
  - e. Maintenance, repair and replacement of utility lines (gas, water and electric) from the utility meter to the residence.
  - f. Maintaining full insurance coverage at replacement costs for the estate unit with an endorsement naming Harbour Pointe Homeowners Association, Inc. as an additional insured.
2. Association shall provide services to Estate Units including:
  - a. Lawn mowing;
  - b. Chemical weed treatment of lawns;
  - c. Fall leaf removal;
  - d. Snow removal on roads and driveways (sanding as necessary);
  - e. Maintenance of roads, Association swimming pool, pool house, tennis court, front entry signs and plantings, trash removal bins, street lights and mailbox structure;
  - f. Trash removal;
  - g. Utilities within common areas up to meter serving individual estate units (gas water and electric);





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 HOMEOWNERS ASSOCIATION, INC.

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HARBOUR POINTE  
HOMEOWNERS ASSOCIATION, INC.

ARTICLE I - PLAN OF UNIT OWNERSHIP

- Section 1. Unit Ownership. The Property located in Monroe County, State of Indiana, and more particularly described in the Declaration to which these By-Laws are attached has been submitted to the provisions of Chapter 349 of the Acts of the Indiana General Assembly of 1963 entitled "Horizontal Property Act" by Declaration recorded in the Office of the Recorder for Monroe County, State of Indiana, simultaneously herewith, and shall hereinafter be known as "Harbour Pointe Homeowners Association, Inc." (hereinafter called the "Condominium").
- Section 2. Applicability of By-Laws. The provisions of these By-Laws are applicable to the Property of the Condominium and to the use and occupancy thereof. These By-Laws are adopted simultaneously with the execution of that certain Declaration creating the Harbour Pointe Condominium to which these By-Laws are attached and made a part thereof. The Declaration is incorporated herein by reference and all of the covenants, rights, definitions, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws.
- Section 3. Application. All present and future owners, mortgagees, lessées and occupants of Units and their employees, and any other persons who may use the facilities of the Property in any manner are subject to the Declaration, these By-Laws and rules and regulations made pursuant hereto and any amendment to these By-Laws upon the same being passed and duly set forth in an amendment to the Declaration, duly recorded.

The acceptance of a deed of conveyance or the entering into of a lease or the act of occupancy of a Unit shall constitute an agreement that these By-Laws (and any rules and regulations made pursuant hereto) and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified and will be complied with.

ARTICLE II - UNIT OWNERS

- Section 1. Name and Nature of Association. The Harbour Pointe Homeowners Association, Inc. shall be an association

comprised of all of the Unit Owners as herein provided which such Homeowners Association shall be governed by the Board of Administrators as herein provided.

- Section 2. Place of Meetings. All meetings of the Homeowners Association (hereafter referred to as "Association") of the Condominium shall be held at the Property or at such other place either within or without the State of Indiana, as shall be designated in a notice of the meeting.
- Section 3. Annual Meeting. At the election of Declarant, but in no event later than 90 days after all Units in Harbour Pointe have been sold and deeded by Declarant, Declarant shall notify all Unit Owners that the first annual meeting of the Unit Owners shall be held on a day specified and to be within 30 days of the date of such notice. At such meeting, the members of the Board of Administrators selected by Declarant and constituting the initial Board of Administrators shall resign and all of the Unit Owners, including Declarant, shall elect a new Board of Administrators. Said initial meeting shall be held for the purpose of electing said Board of Administrators to succeed the initial Board and for the transaction of such other business as may be properly brought before the meeting. Thereafter, an annual meeting of the Unit Owners shall be held at 2:30 p.m. on the first Saturday of March of each year, if not a legal holiday, and if a legal holiday, then at the same time on the next day following not a legal holiday for the purpose of electing members of the Board of Administrators and for the transaction of such other business as may be properly brought before the meeting.
- Section 4. Substitute Annual Meeting. If the annual meeting shall not be held on the day designated by the By-Laws, a substitute annual meeting may be called in accordance with the provisions of Section 5 of this Article. A meeting so called shall be designated and treated for all purposes as the annual meeting.
- Section 5. Special Meetings. Special meetings of the Unit Owners may be called at any time by the Board of Administrators or upon the written request of not less than 40% in Common Interest, in the aggregate, of the Unit Owners.
- Section 6. Notice of Meetings. Written or printed notice stating the place, day and hour of the meeting shall be delivered

or mailed not less than ten (10) days nor more than fifty (50) days before the date thereof, either personally or by mail at the direction of the Board of Administrators or Unit Owners calling the meeting, to each person entitled to vote at such meeting.

In case of an annual or substitute meeting, the notice of meeting need not specifically state the business to be transacted thereat unless it is a matter other than the election of Administrators on which the vote of Unit Owners is expressly required by the provisions of the Indiana Horizontal Property Act. In the case of a special meeting, the notice of meeting shall specifically state the purpose or purposes for which the meeting is called.

When a meeting is adjourned for less than thirty (30) days in any one adjournment, it is not necessary to give any notice of adjourned meeting other than by announcement at the meeting at which the adjournment is effective.

Section 7.

Quorum. The presence in person or by proxy at any meeting of the Voting Members (as defined in Section 8 of this Article) having 30% of the total votes shall constitute a quorum; provided, however, should the Association be subsequently incorporated, a quorum shall constitute that percentage of the total votes as may be required by the applicable provisions of the Indiana Not for Profit Corporation Act, but in no event less than 30% of such total votes. If there is no quorum at the opening of the meeting of Unit Owners, such meeting may be adjourned from time to time by the vote of a majority of the Voting Members present, either in person or by proxy; and at any adjourned meeting at which a quorum is present any business may be transacted which might have been transacted at the original meeting.

The Voting Members at a meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than a quorum.

Section 8.

Voting Rights. There shall be one person with respect to each Unit who shall be entitled to vote at any meeting of the Unit Owners. Such person shall be known and hereafter referred to as a "Voting Member." Such Voting Member may be the Owner, or one of a group composed of all of the Owners of a Unit, or may be some other person designated by such Owner or Owners to act as proxy on his

or their behalf and who need not be an Owner. Such designation shall be made in writing to the Board and shall be revocable at any time by judicially declared incompetence of any designator, or by written notice to the Board by the Owner or Owners. The total number of votes of all Voting Members shall be 100, and each Owner or group of Owners (including the Board of Administrators, if the Board of Administrators, or its designee, shall then hold title to one or more Units) shall be entitled to the number of votes equal to the total of the percentage of ownership in the Common Areas and Facilities applicable to his or their Unit as set forth in Exhibit E of the Declaration.

- Section 9. Majority Vote. The vote of a majority in Common Interest of Unit Owners present at a meeting at which a quorum shall be present shall be binding upon all Unit Owners for all purposes except where a higher percentage vote is required by the Declaration or By-Laws or by provision of law.
- Section 10. Proxies. Unit Owners may vote either in person or by agents duly authorized by written proxy executed by such Unit Owner or by his duly authorized attorney-in-fact. A proxy shall not be valid after the expiration of eleven (11) months from the date of its execution unless the person executing it specifies therein the length of time for which it is to continue in force, or limits its use to a particular meeting, but no proxy shall be valid after ten (10) years from the date of its execution. Unless a proxy otherwise provides, any proxyholder may appoint in writing a substitute to act in his place. In order to be effective, all proxies must be filed with the Secretary or duly Acting Secretary of the Association either during or prior to the meeting in question.
- Section 11. Waiver of Notice. Any Unit Owner may, at any time, waive notice of any meeting of the Association in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Unit Owner at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof except where a Unit Owner attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the Unit Owners are present at any meeting of the Association, no notice shall be required and any business may be transacted at such meeting.
- Section 12. Informal Action by Unit Owners. Any action which may be taken at a meeting of the Association may be taken

without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting (that is, the Voting Members), and filed with the Secretary of the Association to be kept in the Association Minute Book.

ARTICLE III - BOARD OF ADMINISTRATORS

Section 1. Number. The business and Property of the Condominium shall be managed and directed by the Board of Administrators composed of five persons (except that the initial Board shall be three in number) or by such Executive Committees as the Board may establish pursuant to the By-Laws.

Section 2. Initial Administrators. The initial Administrators shall be selected by the Declarant and shall serve, at the election of the Declarant, from the date upon which the Declaration is recorded in the Monroe County, Indiana, public records until 90 days after all of the Units of all phases of development have been sold and conveyed, or until such time as their successors are duly elected and qualified.

The names of the persons who shall serve on the initial Board of Administrators (which such initial Board shall be composed of three members) from the date upon which the Declaration is recorded in the Monroe County, Indiana public records until the first annual meeting of the members or until such time as their successors are duly elected and qualified and all of whom are representatives of Declarant, are as follows:

Ronald J. Killion  
William F. Kirtley  
Thomas Garrison

Section 3. Election, Term and Qualification. Except as provided in Sections 2 and 5 of this Article, the Administrators shall be elected at the annual meeting of the Association and those persons who receive the highest number of votes shall be deemed to have been elected; provided, however, that so long as Declarant shall own one or more Units, Declarant shall have the right to designate and appoint one member to the Board of Administrators. The size of the Board of Administrators may be increased or decreased from time to time upon the affirmative vote of 75% in Common Interest of all Unit Owners provided that said Board shall not be less than three (3) in number. Each Administrator shall hold office for the period for which

elected or until his death, resignation, retirement, removal, disqualification or his successor is elected and qualifies. Each member of the Board (after the first annual meeting of the Association and the election and qualification of the successors to the initial Board of Administrators) shall be one of the Owners or Co-Owners; provided, however, that in the event an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then an officer or director of such corporation, partner of such partnership, beneficiary of such trust or manager of such other legal entity, shall be eligible to serve as a member of the Board.

At the first annual meeting of the Association the members of the Board of Administrators shall be divided into three classes, the first class to consist of two members, the second class to consist of two members, and the third class to consist of one member. The members of the first class shall initially hold office for a term of three years; the members of the second class shall initially hold office for a term of two years; and the member of the third class shall initially hold office for a term of one year. At all annual elections thereafter a number of Administrators shall be elected by the Voting Members to succeed those Administrators whose terms then expire and each such Administrator shall serve for a 3-year term. So long as Declarant shall own one or more Units the member to the Board which Declarant has the right to appoint shall be the member which constitutes the third class. Nothing herein contained shall be construed to prevent the election of an Administrator to succeed himself.

Section 4.

Removal. Administrators may be removed from office with or without cause by the affirmative vote of the Unit Owners having a majority of the total votes entitled to vote at an election of Administrators. However, unless the entire Board is removed, an individual Administrator may not be removed if the number of Unit Owners voting against the removal would be sufficient to elect an Administrator if such Unit Owners voted cumulatively at an annual election. If any Administrators are so removed, new Administrators may be elected at the same meeting; provided, however, that so long as Declarant owns one or more Units, the Administrator elected by Declarant cannot be removed without the prior written consent of Declarant.

Section 5. Vacancies. A vacancy occurring in the Board of Administrators, including administratorships not filled by the Unit Owners, may be filled by a majority of the remaining Administrators, though less than a quorum, or by the sole remaining Administrator; but a vacancy created by an increase in the authorized number of Administrators shall be filled only by election at an annual meeting or a special meeting of Unit Owners called for that purpose. Voting Members may elect an Administrator at any time to fill any vacancy not filled by the Administrator.

Section 6. Compensation. The Board of Administrators shall receive no compensation for their services.

Section 7. Executive Committees. The Board of Administrators may, by resolution adopted by a majority of the number of Administrators fixed by these By-Laws, designate two or more Administrators to constitute an Executive Committee, which committee to the extent provided in such resolution shall have and may exercise all of the authority of the Board of Administrators in the management of the Condominium.

The Board of Administrators may, in like manner, create such other committees as it deems necessary and appropriate in aiding the Board of Administrators to carry out its duties and responsibilities with respect to the management of the Condominium.

Section 8. Powers and Duties. The Board of Administrators shall have the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things, except such acts as by law, or by the Declaration, or by these By-Laws may not be delegated to the Board of Administrators. Such powers and duties of the Board of Administrators shall include, but shall not be limited to, the following:

(a) Operation, care, upkeep and maintenance of the Common Areas and Facilities;

(b) Determination of the Common Expenses and special assessments required for the affairs of the Condominium including, without limitation, the operation and maintenance of the Property;

(c) Collection of the Common Expenses and special assessments from the Unit Owners;

(d) Employment and dismissal of the personnel necessary for the maintenance and operation of the Common Areas and Facilities;

(e) The adoption and amendment of such reasonable rules and regulations as it may deem advisable for the maintenance, conservation, and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Owners and occupants and the entire Property shall at all times be maintained subject to such rules and regulations;

(f) Opening of bank accounts on behalf of the Condominium and designating of the signatories required therefor;

(g) Purchasing or leasing or otherwise acquiring in the name of the Board of Administrators, or its designee, corporate or otherwise, on behalf of all Units Owners, Units offered for sale or lease or surrendered by their Owners to the Board; provided, however, such action has been duly authorized by the affirmative vote of Unit Owners owning 75% in Common Interest of the Condominium;

(h) Purchasing of Units at foreclosure or other judicial sales in the name of the Board of Administrators, or its designee, corporate or otherwise, on behalf of all Unit Owners; provided, however, such action has been duly authorized by the affirmative vote of Unit Owners owning 75% in Common Interest of the Condominium;

(i) Selling, mortgaging, voting the votes appurtenant to or otherwise dealing with Units acquired by the Board of Administrators or its designee, corporate or otherwise, on behalf of all Unit Owners, subject to the Declaration and other applicable restrictions, and organizing corporations to act as designees of the Board in acquiring title to Units on behalf of all Unit Owners;

(j) Maintaining and repairing any Unit, if such maintenance or repair is necessary in the discretion of the Board or by operation of applicable restrictions to protect the Common Areas and Facilities or any other portion of the building(s), if any Owner of any Unit has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered or mailed by the Board to said Owner; provided, that the Board shall levy a special assessment against such Owner for the costs of said maintenance or repair;

(k) Entering any Unit when necessary in connection with any maintenance or construction for which the Board is responsible; provided, such entry shall be made during reasonable hours with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Board and such expenses shall be treated as a Common Expense. The Board shall have the right to retain keys for each Unit;

(l) Signing all agreements, contracts, deeds and vouchers for payment of expenditures and other instruments in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the Treasurer and countersigned by the President;

(m) Obtaining insurance for the Property, including the Units, pursuant to the applicable provisions of the Declaration;

(n) Making repairs, additions and improvements to or alterations or restoration of the Property in accordance with the other provisions of these By-Laws and the Declaration, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceeding; and

(o) Contract for all goods, services and insurance, payment for which is to be made from the Common Expense Fund.

Section 9.

Managing Agent. The Board of Administrators for the Condominium may engage the services of any person, firm or corporation to act as managing agent, for a term not to exceed five years, at a compensation established by the Board, to perform such duties and services as the Board of Administrators shall authorize including, but not limited to, the duties listed in subdivisions (a), (c), (d), (f), (j), (k), (m), (n) and (o) of Section 8 of this Article III. The Board may delegate to the managing agent, all of the powers granted to the Board of Administrators by these By-Laws other than the powers set forth in subdivisions (b), (e), (g), (h), (i) and (l) of Section 8 of this Article III. Such managing agent may be a corporation or partnership which is an affiliate of Declarant.

ARTICLE IV - MEETINGS OF ADMINISTRATORS

- Section 1. Organizational Meeting. The first meeting of the initial Board of Administrators designated in these By-Laws shall be held at such time as the Declarant shall determine. The first meeting of a newly elected Board of Administrators shall be held within fifteen (15) days following the meeting of the Unit Owners at which the Board was elected. No notice shall be necessary to the newly elected members of the Board of Administrators in order to legally constitute such meeting, providing a quorum shall be present.
- Section 2. Regular Meetings. A regular meeting of the Board shall be held immediately after, and at the same place as the annual meeting or substitute annual meeting of the Unit Owners. In addition, the Board of Administrators may provide by resolution the time and place either within or without the State of Indiana, for the holding of a regular meeting of the Board.
- Section 3. Special Meetings. Special meetings of the Board of Administrators may be called by or with the request of the President or by any two Administrators. Such meetings may be held either within or without the State of Indiana.
- Section 4. Notice of Meetings. Regular meetings of the Board of Administrators may be held without notice. The person or persons who called a special meeting of Administrators shall, at least two days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called.
- Attendance by an Administrator at a meeting shall constitute a waiver of notice of such meeting except where an Administrator attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called.
- Section 5. Waiver of Notice. Any member of the Board of Administrators may at any time waive notice of any meeting of the Board of Administrators in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all the members of the Board of Administrators are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

- Section 6. Quorum. A majority of the number of Administrators fixed by these By-Laws shall be required for and shall constitute a quorum for the transaction of business at any meeting of the Board of Administrators.
- Section 7. Manner of Acting. Except as otherwise provided in this section, the act of the majority of the Administrators present at a meeting at which a quorum is present shall be the act of the Board of Administrators.
- A vote of a majority of the number of Administrators fixed by the By-Laws shall be required to adopt a resolution constituting an Executive Committee. The vote of a majority of the Administrators then holding office shall, subject to approval by the Unit Owners as herein provided, be required to adopt, amend or repeal a by-law. Vacancies in the Board of Administrators may be filled as provided in Article III, Section 5, of these By-Laws.
- Section 8. Organization. Each meeting of the Board of Administrators shall be presided over by the President, and in the absence of the President, by any person selected to preside by vote of the majority of the Administrators present. The Secretary, or in the absence of both the Secretary and Assistant Secretary any person designated by the President of the meeting, shall act as Secretary of the meeting.
- Section 9. Informal Action of Administrators. Action taken by a majority of the Administrators without a meeting is nevertheless Board action if written consent to the action in question is signed by all of the Administrators and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.
- Section 10. Minutes. The Board shall keep minutes of its proceedings, which shall be available for inspection by the Unit Owners during reasonable business hours.
- Section 11. Fidelity Bonds. The Board of Administrators may in its discretion require all officers and employees of the Condominium handling or responsible for Condominium funds to be covered by an adequate fidelity bond. The premiums on such bonds shall constitute a Common Expense.
- Section 12. Liability of the Board. The members of the Board of Administrators shall not be liable to the Unit Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board

on behalf of the Condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these By-Laws. It is intended that the members of the Board of Administrators shall have no personal liability with respect to any contract made by them on behalf of the Condominium, except to the extent that they are Unit Owner(s). It is also intended that the liability of any Unit Owner arising out of any contract made by the Board of Administrators, or out of the aforesaid indemnity in favor of the members of the Board, shall be limited to such proportion of the total liability thereunder as his interest in the Common Areas and Facilities bears to the interests of all the Unit Owners in the Common Areas and Facilities. Every agreement made by the Board or by the managing agent on behalf of the Condominium shall provide that the members of the Board of Administrators, or the managing agent, as the case may be, are acting only as agents for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability as his interest in the Common Areas and Facilities bears to the interest of all Unit Owners in the Common Areas and Facilities.

ARTICLE V - OFFICERS

- Section 1. Number. The principal officers of the Condominium shall consist of a President, a Secretary, a Treasurer, and such Vice Presidents, Assistant Secretaries, Assistant Treasurers, and other officers as the Board of Administrators may from time to time elect. Any two or more offices may be held by the same person except the offices of President and Secretary.
- Section 2. Election and Term. The officers of the Condominium shall be elected by and from among the Board of Administrators. Such elections may be held at the regular annual meeting of the Board.
- Each officer shall hold office for a period of one year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.
- Section 3. Removal. Any officer or agent elected or appointed by the Board of Administrators may be removed by the Board with or without cause; but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

- Section 4. Compensation. No officer shall receive any compensation from the Condominium for acting as such.
- Section 5. President. The President shall be the principal executive officer of the Condominium and, subject to the control of the Board of Administrators, shall supervise and control the management of the Condominium. The President shall, when present, preside at all meetings of the Board and of the Unit Owners and, in general, shall perform all duties incident to the office of President and such other duties as may be prescribed from time to time by the Board.
- Section 6. Vice President. The Vice President, and if there be more than one, the Vice President designated by the Board of Administrators, shall, in the absence or disability of the President, have the powers and perform the duties of said office. In addition, each Vice President shall perform such other duties and have such other powers as shall be prescribed by the President of the Board.
- Section 7. Secretary. The Secretary shall keep accurate records of the acts and proceedings of all meetings of Unit Owners and Administrators. He shall give, or cause to be given, all notices required by law and by these By-Laws. He shall have general charge of the minute books and records of both the Association and the Board. He shall sign such instruments as may require his signature, and, in general, shall perform all duties incident to the office of Secretary and such other duties as may be assigned him from time to time by the President or by the Board of Administrators.
- Section 8. Treasurer. The Treasurer shall have custody of all Condominium funds and securities and shall receive, deposit or disburse the same under the direction of the Board of Administrators. He shall keep full and accurate accounts of the finances of the Condominium in books especially provided for that purpose. He shall cause a true statement of its assets and liabilities as of the close of each fiscal year, and of the results of its operations and of changes in surplus for each fiscal year, all in reasonable detail, to be prepared and distributed to all Unit Owners and members of the Board of Administrators on or before the 15th day of the third month following the close of each fiscal year. The statement so filed shall be kept available for inspection by any Unit Owner for a period of three (3) years and the Treasurer shall mail or otherwise deliver a copy of the latest such statement to each Unit Owner annually on or

before March 15 covering the preceding calendar year. The Treasurer shall also prepare and file all reports and returns required by Federal, State or local law and shall generally perform all other duties as may be assigned to him from time to time by the President or the Board of Administrators. Such functions may, in the discretion of the Board of Administrators, be delegated to a managing agent.

Section 9. Assistant Secretaries and Treasurers. The Assistant Secretaries and Assistant Treasurers, if any, shall, in the absence or disability of the Secretary and Treasurer, respectively, have all the powers and perform all of the duties of those officers, and they shall in general perform such other duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Administrators.

ARTICLE VI - OPERATION OF THE PROPERTY

Section 1. Assessment and Determination of Common Expenses and Fixing of the Common Expenses. (a) The Board of Administrators shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of the Common Expenses payable by the Unit Owners to meet the Common Expenses of the Condominium as set forth in the budget, and allocate and assess such Common Expenses among the Unit Owners according to their respective Common Interests, taking into consideration any expected income and any surplus from the prior year's operation.

(b) The Common Expenses shall include, among other things,

(i) the expenses, costs and charges incurred in connection with the administration, operation and management of the Condominium Property;

(ii) the cost of maintenance, repair, replacement and restoration of the Common Areas and Facilities, or any part thereof;

(iii) the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Administrators pursuant to the provisions of the Declaration;

(iv) such amounts as the Board of Administrators may deem proper for the convenience, comfort and well-

being of the Unit Owners, and for the operation, management and maintenance of the Property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the Common Expenses for any prior year;

(v) such amounts as may be required for the purchase or lease by the Board of Administrators or its designee, corporate or otherwise, on behalf of all or less than all Unit Owners, of any Unit whose Owner has elected to sell or lease such Unit or of any Unit which is to be sold at a foreclosure or other judicial sale;

(vi) assessments by The Pointe Service Association, Inc.;

(vii) in proper cases, the cost of administration and of maintenance and repair of the Limited Common Areas and Facilities; and

(viii) any other expense lawfully agreed upon.

The Board of Administrators shall advise all Unit Owners promptly, in writing, of the amount of Common Expenses payable by each of them respectively, as determined by the Board of Administrators, as aforesaid, and shall furnish copies of each budget on which such Common Expenses are based to all Unit Owners and to their Mortgagees. Provided, however, that (i) any increase in the per Unit assessment for any period in excess of 20% of the amount of such assessment for the previous period, or (ii) any expenditure in any one budget period which causes the per Unit assessment to increase by more than 20%, shall require the approval of 66-2/3% in Common Interest of all Unit Owners. Provided further, however, (i) that the initial Administrators may elect to assess Common Expenses in an amount less than that required by the budget(s) presented by them and (ii) increases in assessments due to increasing the number of Units of the Regime pursuant to paragraph 30(c) of the Declaration shall not require approvals of the Unit Owners.

Section 2.

Payment of Common Expenses. All Unit Owners shall be obligated to pay the Common Expenses assessed by the Board of Administrators pursuant to the provisions of Section 1 of this Article VI at such time or times as the Board shall determine, but in no event less frequently than quarterly.