

**LOFTS AT MAYFAIR, A CONDOMINIUM**

**DECLARATION OF CONDOMINIUM**

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**EXHIBITS TO DECLARATION OF CONDOMINIUM OF  
LOFTS AT MAYFAIR, A CONDOMINIUM**

- "A" Legal Description of the Property
- "B" Plot Plan, Survey and Graphic Description
- "C" Allocation of Shares of Common Expenses, Common Elements and Common Surplus
- "D" Articles of Incorporation of Lofts at Mayfair Condominium Association, Inc.
- "E" By-Laws of Lofts at Mayfair Condominium Association, Inc.
- "F" Rules and Regulations.

**DECLARATION OF CONDOMINIUM**  
**OF**  
**LOFTS AT MAYFAIR, A CONDOMINIUM**

1. Introduction and Submission. The Developer hereby submits the following terms, conditions and covenants:

- 1.1 Name and Address. The name of this Condominium is LOFTS AT MAYFAIR, A CONDOMINIUM. The address of this Condominium is 3339 Virginia Street, Miami, Florida 33133.
- 1.2 Land. The land comprising this condominium is described in Exhibit "A," Sheet 1, attached hereto and made a part hereof as if fully set forth herein (the "Land"). Said land is owned in fee simple by the Developer (defined below), lying and being suitable in Miami-Dade County, Florida. The improvements upon the land described in Exhibit "A" shall contain a total of ninety-nine (99) residential condominium units and three (3) commercial (retail use) condominium units, and all the common elements and improvements appurtenant thereto.
- 1.3 Submission Statement. Mayfair Lofts, LLC, a Florida limited liability company, hereinafter called the "Developer," for itself, its successors, grantees and assigns, being the holder of fee simple title to the real property described in Exhibit "A," attached hereto and made a part hereof, hereby states and declares that the property described in Exhibit "A" attached hereto is submitted to the condominium form of ownership, pursuant to the requirements of Chapter 718 of the Statutes of the State of Florida, hereinafter sometimes referred to as the "Condominium Act," the provisions of which are hereby incorporated by reference as if fully set forth herein, and does hereby file for record this Declaration of Condominium. Time-share estates will not be created.
- 1.4 Covenant Running with Land. All restrictions, reservations, covenants, conditions and easements contained herein shall constitute covenants running with the land or equitable servitudes upon the Land as the case may be, shall be non-exclusive and perpetual unless sooner terminated, and all Unit Owners, as hereinafter defined, and their grantees, devisees or mortgagees, their heirs, personal representatives, successors and assigns and all parties claiming by, through or under such persons agree to be bound by the provisions hereof and the By-Laws of the Association. Both the burdens imposed and the benefits granted shall run with each Unit and the interests in the Common Elements.

2. Definitions. The terms used in the Condominium Documents shall have the meanings Stated in the Condominium Act, and as follows, unless the context otherwise requires:

- 2.1 "Agencies and Corporations" means the Department of Housing and Urban Development ("HUD"), the Veterans Administration ("VA"), Federal National Mortgage Association ("FNMA") and Federal Home Loan Mortgage Corporation ("FHLMC").
- 2.2 "Articles of Incorporation" means the Articles of Incorporation of the Association, as filed in the Office of the Secretary of State of Florida and as amended from time to time and attached hereto as Exhibit "D."
- 2.3 "Assessment" means a share of the funds required for the payment of Common Expenses as set forth herein which is assessed against any Unit Owner from time to time.
- 2.4 "Association" or "Condominium Association" means Lofts at Mayfair Condominium Association, Inc., a not-for-profit Florida corporation responsible for the operation of the Condominium.
- 2.5 "Association Common Expenses" means all expenses of the Association that are not directly attributable to the operation of any specific condominium or condominiums within that certain condominium project hereafter referred to as the Association Property.
- 2.6 "Association Property" means that property, real and personal, in which title or ownership is vested in the Association for the use and benefit of its members, including without limitation, the Common Elements and Limited Common Elements. If in these Condominium Documents the Association is given certain powers over Condominium Property, or other reference is made to Condominium Property, such term or reference shall also include Association Property, if any.
- 2.7 "Board" or "Board of Directors" means the Board of Directors of the Association.
- 2.8 "Bylaws" means the Bylaws of the Association, as amended from time to time and attached hereto as Exhibit "E."
- 2.9 "Charge" means a share of the funds required by the Association for the payment of any sums needed by the Association under Section 13.13 of this Declaration, which required sum is not a Common Expense that can be collected by means of an Assessment against all Unit Owners. A charge or charges shall be charged against Unit Owners in the manner provided in Section 13.13 of this Declaration.
- 2.10 "Common Elements" means the portions of the Condominium Property not included in the Units.

- 2.11 "Common Expenses" means all expenses properly incurred by the Association for the Condominium as specified in F.S. 718.115 and as set forth in the provisions of the Condominium Documents.
- 2.12 "Common Surplus" means all receipts of the Association, collected on behalf of the Condominium, including but not limited to, assessments, rents, profits, and revenues on account of the Common Elements, in excess of the amount of Common Expenses.
- 2.13 "Condominium" means that form of real property ownership which is created pursuant to the provisions of the Condominium Act and which is comprised of Units that may be owned by one or more persons, and there is appurtenant to each Unit an undivided share in the Common Elements. The term shall also mean the Condominium established by this Declaration of Condominium.
- 2.14 "Condominium Act" or "Act" means the Florida Condominium Act (F.S. 718, et. seq.) as it exists at the time of recording this Declaration of Condominium in the Public Records.
- 2.15 "Condominium Documents" means this Declaration of Condominium and all exhibits attached hereto.
- 2.16 "Condominium Property" means the Land and the real and personal property hereby subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the Condominium.
- 2.17 "Declaration of Condominium" means this instrument.
- 2.18 "Developer" means Mayfair Lofts, LLC, a Florida limited liability company.
- 2.19 "Institutional Mortgagee" means a state or federal bank, savings and loan association or service company, Developer, an insurance company, real estate investment trust, any agency of the United States Government, or the Federal National Mortgage Association, or like entity being a mortgagee of a Unit, any first mortgagee of a Unit, and any lender designated as such by Developer.
- 2.20 "Limited Common Elements" means those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of other Units.
- 2.21 "Management Agreement" means the Management Agreement entered into, from time to time, by the Association.
- 2.22 "Management Firm" means the firm hired by the Association, if any, pursuant to a Management Agreement.

- 2.23 "Occupant" means the person or persons in actual possession of a Unit.
- 2.24 "Special Assessments" means any assessment levied against Unit Owners other than the assessments required by the annual budget adopted by the Association.
- 2.25 "Unit," "Condominium Unit" or "Condominium Parcel" means a part of the Condominium Property that is to be subject to exclusive ownership as specified in the Condominium Documents.
- 2.26 "Commercial Unit" means a Unit intended to be used exclusively for retail, office or other commercial purposes.
- 2.27 "Residential Unit" means a Unit to be used primarily for residential purposes, although certain non-residential functions are permitted as contemplated by applicable City of Miami Live-Work Ordinance.
- 2.28 "Unit Owner" means the owner of a Condominium Unit.

These definitions shall apply as the context requires whether or not the same are capitalized in their usage.

3. Survey and Description of Improvements. Exhibit "A" to this Declaration contains a legal description of the Land hereby submitted to condominium ownership and Exhibit "B" to this Declaration contains a survey of the Land, a graphic depiction of the improvements, and a plot plan thereof. Such documents identify the Common Elements, Limited Common Elements and all Units, with their relative locations and approximate description. The parking areas are depicted thereon. Each Residential Unit is identified on Exhibit "B" by a specific number. No Unit bears the same number as any other Unit.

3.1 Use Restriction. Residential Units shall be used primarily for residential purposes, except they may be used as live-work units pursuant to City of Miami ordinance. Commercial Units shall be used primarily either as office or retail purposes, subject to applicable ordinance. No Units shall be used for unlawful purposes.

3.2 Time Sharing. There will be no time-share estates in this Condominium.

4. Interest in Common Elements; Ownership and Boundaries of Units; Parking. The Units shall have the following appurtenances and be as described herein:

4.1 Interest in Common Elements. Each Unit Owner shall own, as an appurtenance to the Unit, an undivided interest or share in the Common Elements, as assigned and allocated to that Unit in Exhibit "C" to this Declaration. The undivided interest of each Unit in the Common Elements shall not be changed without the unanimous consent of all Unit Owners (except as provided for elsewhere herein).

- 4.2 Partition. No action shall lie for partition or division of undivided interests in the Common Elements.
- 4.3 Boundaries. A Unit consists of the space and improvements lying within the following boundaries:
- (a) Upper and Lower Boundaries. The upper and lower boundaries of a Unit shall be the following horizontal planes bounding the Unit extended to intersections with the perimetrical boundaries:
- (i) Upper Boundary -- The horizontal plane of the unfinished lower surface of the structural ceiling; and
- (ii) Lower Boundary -- The horizontal plane of the unfinished upper surface of the concrete floor of the Unit.
- (b) Perimetrical Boundaries. The perimetrical boundaries of a Unit shall be the vertical planes of the unfinished interior surfaces of the walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries.
- (c) Boundary Limitations. The horizontal and perimetrical boundaries shall be subject to:
- (i) Where there is an aperture in any boundary, including, but not limited to, skylights, windows and doors, the boundary at such places shall be coincident with the unfinished interior surface of such aperture, including the framework. Exterior walls made of glass or glass fixed to metal framing, exterior windows and frames, exterior glass sliding doors, frames and casings, are part of the Unit and are not Common Elements. Screens are part of the Unit.
- (ii) The interior partitions within a Unit are part of the Unit.
- 4.4 Exceptions. In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units set forth in Exhibit "B" hereto shall control in determining the boundaries of a Unit.
- 4.5 Maintenance Easement. There shall exist, as a Common Element, an easement through each Unit for the ducts, pipes, conduits, plumbing, wiring or other facilities, maintenance of the Common Elements and easements relating thereto, and for the furnishing of support of the structure, maintenance of corridor wall, utility services and cable television service to the Units and the Common Elements, and for maintaining, repairing and servicing same.

- 4.6 Pipes. Any pipes, ducts, wires, conduits, electrical panels, plumbing, drains, or any utility services serving only one Unit are part of the Unit and are not part of the Common Elements.
- 4.7 Air Conditioning. The air conditioning room and air handler in the Unit or outside the Unit and the air conditioning compressors located on the roof or near any building and the refrigerant and electrical lines running from such compressors to the Unit serving one Unit constitute part of the Unit and are not Common Elements.
- 4.8 Automobile Parking Areas. Each Unit is entitled to the exclusive use of one (1) parking space. The Developer may, from time to time prior to the sale of the last Unit, assign the exclusive use of additional parking spaces to a Unit or to a third party. Developer may charge a fee for such assignments and retain the fee for its own account. The parking spaces shall be assigned by the Developer, or its designee, at the closing of each Unit. Each assigned parking space is a Limited Common Element for the use and benefit of that Unit as an appurtenance thereto or to a designated user, and shall not subject the owner thereof to any assessments or charges by the Association beyond its percentage share of Common Expenses as an owner of a Unit. If a parking space has been assigned to a non Unit Owner by the Developer, then such designated user may be charged a reasonable fee toward maintenance and security. Parking spaces which are not assigned to a Unit or to a designated user shall be Common Elements utilized by the owners of all Units, the Developer and the Management Firm, if any, on a non-exclusive, unreserved basis. All parking spaces are subject to Rules and Regulations adopted by the Association from time to time. No rule or regulation shall effect the assignment of exclusive use, as aforesaid. Unit Owners are required to use the parking spaces on the Condominium Property assigned to their respective Unit and other non-assigned parking spaces designated by the Developer for parking and located within the Condominium Property. Unit Owners shall not park their automobiles on the private drives within the Condominium Property. The Association is authorized to and shall enforce the requirements contained herein as to parking in the same manner in which the Association is entitled to enforce other agreements, rules and regulations of this Declaration and its Exhibits. The Association shall enter into a Contract with a towing company in accordance with Florida Statutes Section 715.07 as amended from time to time to tow vehicles away that are illegally parked and the Association shall post such warning sign as may be required under said Section. The Association shall have no liability to any party for towing of any improperly parked vehicles. The City of Miami Police Department may enforce the parking prohibitions in this Section if the prohibitions are not strictly enforced by the Association.
- 4.9 Valet Parking. The Association shall have the right to designate an area within the Common Elements near the lobby entrances to provide valet parking for Unit Owners and their guests or invitees with the charge for such service reimbursed through fees payable by those Units that use such valet service.

- 4.10 Limited Common Elements. Balconies, terraces, patios, storage lockers, if any, as designated on Exhibit "B," are also Limited Common Elements for the use and benefit of the Unit to which they are adjacent as an appurtenance thereto. In addition, certain penthouse Units have exclusive access to rooftop terraces immediately above such Units as shown in Exhibit B, which rooftop terraces shall be Limited Common Elements appurtenant to such penthouse Units as depicted in Exhibit B, subject at all times to the right of access by the Association, its employees and agents for maintenance and repair purposes. The Association shall have the right from time to time to convert portions of the hallway to Limited Common Elements in conjunction with the ownership or lease of multiple Units.
- 4.11 Roof Common Elements. No Unit Owner shall have the right to go upon the roof. Any Unit Owner assumes the risk of going upon the roof. Notwithstanding the foregoing, certain Units have, as an appurtenant Limited Common Element, rooftop terraces, with portions of those terraces containing equipment serving other Units within the Condominium. The rooftop terraces may only be used by the Unit Owner of the appurtenant Unit, his guests and invitees, subject at all times to access to such terraces and all Limited Common Elements by the Association and its employees and agents.

5. Restrictions Against Further Subdividing of Units. Except as specified above, no Unit may be divided or subdivided into smaller Units, and no Unit, or portion thereof, shall, except as specifically authorized by Developer, be added to or incorporated into any other Unit. If two or more Commercial Units that are contiguous to each other are owned by the same Unit Owner, such Commercial Units may be combined into one Unit, subject to Association approval. If the owner of such contiguous Commercial Units is the Developer, Association approval is not required.

6. Easements. The Condominium shall be subject to the following easements:

- 6.1 Perpetual Non-Exclusive Easement. The Common Elements are, except as limited herein or in the Rules and Regulations of the Association, subject to a perpetual non-exclusive easement in favor of all Unit Owners and or Occupants of the Condominium for their use and the use of their immediate families, guests and invitees, for all proper and normal purposes, including the providing of services for the benefit of all Units.
- 6.2 Easement for Unintentional Encroachments. In the event that any Unit, Common Element or Limited Common Element encroaches upon any other Unit, Common Element or Limited Common Element for any reason other than the purposeful act of any person, then an easement appurtenant to the encroachment shall exist for so long as the encroachment shall naturally exist.
- 6.3 Support and Utility Easements. Support, maintenance and utility easements are reserved throughout the Condominium Property as may be required for support, the

maintenance of the Condominium Property and the construction and maintenance of utility, and Internet and cable T.V. services to adequately serve the Condominium. In the event any Unit, recreation area, Common or Limited Common Element encroaches upon any utility easement either granted or reserved hereby, by plat or otherwise, such encroachment shall entitle the Owner or Owners of such encroaching property and their mortgagees, if any, to an automatic non-exclusive easement on said utility easement for as long as such encroachment shall continue.

- 6.4 Ingress and Egress. Except for exclusionary rights specific to Limited Common Elements, a non-exclusive easement for ingress and egress is hereby created in favor of all Unit Owners and/or Occupants of the Condominium, their families, guests and invitees for pedestrian traffic over, and through and across sidewalks, paths, walks, driveways, passageways and lanes as the same, from time to time, may exist upon the Common Elements, and for vehicular traffic over, through and across such portions of the Common Elements as, from time to time, may be paved and intended for such purposes.
- 6.5 Developer/Association Easements. The Association, its members and future members, the Developer, its successors, assigns and designees, by virtue of the execution of this Declaration and Exhibits by the Association and Developer hereby grant to each other and the designees of the Developer an easement for ingress and egress over, through and across the paved area of the Common Elements, other than the parking spaces, which are intended for vehicular and pedestrian traffic, and such parties are further hereby granted a pedestrian easement over, through and across the common elements of the Condominium intended to be used for pedestrian and vehicular traffic, as well as to all Common Elements for all proper and normal purposes. The foregoing easement over, through and across the paved area of the Common Elements of the Condominium other than the parking spaces shall be referred to as an "access easement" or "roadway" or "drive" or "drive or roadway easement." The Condominium Property may not be abutting, contiguous or adjacent to any public street, road or rights-of-way. Where such is the case, the Developer covenants to provide access from the nearest public street, road or right of way to the Condominium Property for ingress and egress for vehicular and pedestrian traffic and said area shall be referred to as an "ingress and egress easement" or "street easement" or "access easement" or "roadway" or "drive" or "drive or roadway easement." The easements as provided above are hereby granted by virtue of the execution of this Declaration and Exhibits by the Association and the Developer to each other and the Developer's designees and same are further granted thereby to and for the benefit of owners and occupants, including the Association and its members located within the Condominium, as determined by the Developer. The easements hereinbefore provided in this paragraph for vehicular and/or pedestrian purposes shall also apply to the Recreation Facilities, which are described in Section 28 of this Declaration. The aforesaid easements in this Section shall also be for the benefit of all owners of a portion of the real property and persons resident upon the Land and lands or portions

of the lands which are located in the Condominium. Nothing contained herein shall require Developer to construct any other Condominium within the Condominium.

- 6.6 Condominium Documents. The Condominium Property is subject to all easements necessary to accomplish the provisions of the Condominium Documents.
- 6.7 Survey Exhibit – Easements. The Developer shall have the right to create for others, or reserve unto itself, such rights and easements as are necessary to accomplish the purposes referred to in this Paragraph 6. If such right or easement is granted as of the date hereof, the portion thereof that falls within the confines of the Condominium Property may be shown on Exhibit "B" and shall be governed by the language thereon or may be created by separate document. Developer, or its designees shall have the right, but not the obligation, to enter the Condominium Property for the purpose of constructing, maintaining and repairing easements and the equipment thereon.
- 6.8 Of Record. The Condominium Property is subject to easements, reservations, restrictions, conditions, declarations and limitations of record.
- 6.9 Development Easement. Developer reserves an easement, for itself and its designees, over, upon, across, and under the Condominium Property as may be required in connection with the development of this Condominium and to promote or otherwise facilitate the sales and/or leasing of Units in this Condominium.
- 6.10 Warranty Easement. In the event there is an insured warranty program associated with this Condominium, then the Warrantor, its agents and/or insurers shall have an easement upon and within any Unit to effect the necessary corrections in the Unit or Common Elements.
- 6.11 Cable TV. The Developer reserves unto itself (to the extent not previously assigned), its successors, assigns, contractors, designees and nominees, (i) ownership of any closed circuit, master antenna, community antenna or cable television system or the like (including any and all related conduits, wires, amplifiers, antennas, towers and other apparatus and equipment which it (or one of its successors, assigns, designees or nominees) installs in part or whole on the Condominium Property (any such system and its related apparatus and equipment) being hereinafter referred to as the "CATV System"), (ii) a perpetual easement over, through and across the Condominium Property for the installation, servicing, maintenance, repair, replacement and removal of the CATV System or any part thereof, (iii) the right to connect the CATV System to whatever receiving source the owner of the CATV System deems appropriate, (iv) the right to enter the Units, upon reasonable notice to the Unit Owner for the purpose of repairing or replacing any portion of any closed circuit, master antenna, community antenna, or cable television system of which he has retained ownership; and (v) the right to provide (or cause to be provided) mandatory or non-mandatory services to Units through the CATV System (and

related, ancillary services to Units, including, but not limited to, security-related services) at charges not to exceed those normally paid for like services by residents of single-family homes or condominium units within the general vicinity of the Condominium, and to retain or assign all such charges.

- 6.12 Special Telephone Services. The Developer reserves unto itself (to the extent previously assigned), its successors, assigns, contractors, designees and nominees, (i) ownership of any telephone system (including any and all related conduits, wires and other apparatus and equipment) which it (or one of its successors, assigns, designees or nominees) installs in part or whole on the Condominium Property (any such system and its related apparatus and equipment being hereinafter referred to as the "Telephone System"), (ii) a perpetual easement over, through and across the Condominium Property for the installation, servicing, maintenance, repair, replacement and removal of the Telephone System or any part thereof, and (iii) the right to provide (or cause to be provided) mandatory or non-mandatory services to Units through the Telephone System (and related, ancillary services), and to retain or assign the charges collected from Owners therefor.
- 6.13 Additional Easements. The Developer (as long as it owns at least one Unit) and the Association, on their behalf and on behalf of all Unit Owners (each of whom hereby appoints the Developer and the Association as its attorney-in-fact for this purpose), each shall have the right to grant such additional general ("blanket") and specific electric, gas or other utility, cable television, hurricane shutters, security systems, communications or service easements (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or relocate any such existing easements or drainage facilities, in any portion of the Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Developer or the Association shall deem necessary or desirable for the proper operation and maintenance of the Condominium Property, or any portion thereof, or for the general health, safety, welfare or recreation of the Unit Owners, or for the purpose of carrying out any provisions of this Declaration, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for dwelling purposes.

7. Liability and Method of Sharing; Common Expenses; Common Surplus. The Units shall be charged with the following financial obligations:

- 7.1 Share. Each Unit shall share in the Common Surplus and be liable for Common Expenses of the Condominium in the same percentage as the percentage of undivided interest of each Unit in the Common Elements as specified in Exhibit "C" to this Declaration. The right to share in the Common Surplus does not include the right to withdraw or to require payment or distribution thereof except upon termination and dissolution of the Condominium as stated herein. Certain Common Expenses of the Association pertain to the Condominium as a whole and are not attributable to the

operations of any one condominium as a whole within the Condominium Property. These Common Expenses and Common Surplus shall be charged and shared to and by each Unit Owner by the Association, pursuant to the following formula: The share of liability for the Association Common Expenses and of ownership of the Common Surplus of the Association allocated to each Unit in each condominium operated by the Association shall be a fraction of the whole, the numerator of which is the number one and the denominator of which is the interest of each Unit in the Common Elements as specified in Exhibit "C." The Common Expenses of this Condominium are the Common Expenses directly attributable to the operation of this Condominium Property.

- 7.2 Developer's Liability for Assessments. During the period from the date of recording of this Declaration until one (1) year after the first closing (the "Guarantee Expiration Date"), the Developer shall not be obligated to pay the share of the Common Expenses and Assessments attributable to Units the Developer is offering for sale, provided that the regular monthly Assessments for Common Expenses imposed on each Unit Owner including but not limited to Common Expenses imposed upon the Unit Owner (other than the Developer) that are Common Expenses of the Association resulting from the operation of the Condominium shall not increase during such period over the stated dollar amount which is set forth as the Lofts at Mayfair, a Condominium Unit Monthly Maintenance Charge within the Operating Budget and Schedule of Association Expenses for each Unit contained in Exhibit 4 of the Prospectus delivered to such Unit Owner when such Owner contracted to purchase the Unit (the "Guaranteed Level"), and provided further that the Developer shall be obligated to pay any amount of Common Expenses actually incurred during such period and not produced by the Assessments at the Guaranteed Level. For purposes of this Section, income to the Association other than Assessments (as defined herein and in the Act) shall not be taken into account when determining the deficits to be funded by the Developer.

8. Administration of the Condominium. The Condominium shall be managed and operated as follows:

- 8.1 The Association. The Association shall administer the operation and management of the Condominium and Condominium Property and undertake and perform all acts and duties incident thereto in accordance with the provisions of the Condominium Documents and the Condominium Act.
- 8.2 Membership. Each Unit Owner shall automatically become a member of the Association upon acquisition of title to a Unit. Membership shall terminate automatically upon the Unit Owner being divested of title to the Unit, regardless of the means by which such ownership may be divested. No person holding any lien, mortgage or other encumbrance upon any Unit shall be entitled, by virtue thereof, to membership in the Association or to any of the rights or privileges of membership.

- 8.3 Powers of the Association. The Association has the authority and power to enforce the provisions of the Condominium Documents, levy and collect assessments, and to adopt, promulgate and enforce rules and regulations governing the use of Condominium Property. The Association has all of the powers and duties set forth in the Condominium Documents and in the Condominium Act. Subject to the Condominium Act, the Association has the right to grant licenses, easements, permits, leases or privileges to any individual or entity, including non-unit owners, which affect the Condominium Property, and to alter, add to, relocate or improve Common Elements and Limited Common Elements; provided, however, if any Limited Common Elements are affected, the consent of the Owner(s) of the Unit(s) to which the Limited Common Elements are appurtenant and of any Institutional Mortgagee must be obtained by the Association. Subject to the Condominium Act, the Association has the right to exercise its powers, as appropriate, as may be reasonably necessary to promote the health, safety, welfare and recreation of the Unit Owners in this Condominium. Notwithstanding the foregoing, except for alterations and additions made by the Developer, there shall not be any material alteration of, or substantial addition to, the common elements of this Condominium unless approved by a majority of the total voting interests in the Condominium. In connection with real property owned by the Association, except for alterations and additions made by the Developer, there shall not be any material alteration or substantial addition made to Association real property except if approved by a majority of the total voting interests of the Association.
- 8.4 Reports to Members. The Association or its designees shall maintain records and render reports as required by F.S. 718.111.
- 8.5 Reports to Lenders and Agencies and Corporations. So long as an Institutional Mortgagee is the owner or holder of a mortgage encumbering a Unit in the Condominium, the Association shall, if requested, furnish the Institutional Mortgagee with one (1) copy of the annual financial statement and report of the Association pertaining to the Unit upon which the mortgage is held. The official records of the Association shall be available for inspection, upon request, during normal business hours or under other reasonable circumstances by any Institutional Mortgagees and related parties. Upon written request from any of the Agencies and Corporations which has an interest or a prospective interest in the Condominium, the Association shall be required to prepare and furnish within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year.
- 8.6 Insurance Reporting. In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the Unit Owners, the Association shall give notice of the exposure within a reasonable time to all Unit Owners who may be exposed to the liability and they shall have the right to intervene and defend.

A copy of each insurance policy obtained by the Association shall be made available for inspection by Unit Owners and Institutional Mortgagees at reasonable times.

- 8.7 Voting. Each Unit, including those owned by the Developer, shall be entitled to one (1) vote. The vote of each Unit shall be governed by the provisions of the By-Laws attached hereto as Exhibit "E" to this Declaration.
- 8.8 Management Agreement. The Association may enter into agreements with any person, firm or corporation for the administration, maintenance and repair of Condominium Property and Association property and may delegate to such person, firm or corporation those powers and duties of the Association as the Association and such person, firm or corporation may agree. The Developer may cause the Association to enter into a Management Agreement prior to a transfer of control of the Association provided that the Association shall have a right of termination without penalty under such Management Agreement upon providing not more than 90 days notice to the other party thereto. If the Association enters into the initial Management Agreement of the Association subsequent to the recording of this Declaration of Condominium, the Declaration of Condominium shall be amended to include such Management Agreement.

9. Rules and Regulations. Attached hereto as Exhibit "F," and incorporated herein by reference, are the initial Rules and Regulations relating to the use and occupancy of the Condominium Property. As used in the Condominium Documents, "Rules and Regulations" shall include all modifications adopted from time to time by majority vote of the Board. The Unit Owners hereby covenant and agree to be bound by all of such Rules and Regulations as the Association may from time to time promulgate as to the Condominium, including without limitation, those applicable to the Recreation Facilities and said parties shall obey same and be responsible for their being obeyed by the said Unit Owners, their families, guests, invites and servants.

10. Maintenance and Repair. The Association is responsible for and shall maintain, repair and replace all of the Common Elements, Limited Common Elements (except as indicated herein to the contrary), the weight bearing walls or columns which are within the boundaries of a Unit (from the undecorated and unfinished surfaces thereof), the exterior surface of all hallway doors, corridor walls (from undecorated and unfinished interior surface thereof) and other areas as indicated in the Condominium Documents.

- 10.1 Maintenance by Association. Should the Association or a Unit Owner fail to fulfill its maintenance obligations or should the Association make unauthorized changes in appearance, the Developer may give thirty (30) days notice to the Association to cure the default. If not cured within the time allowed, the Developer may: (i) As agent for the Association cause the problem to be remedied at the Association's sole cost and expense; or (ii) enforce this obligation through legal action in which event the Association shall pay the Developer's costs and attorneys' fees. It is agreed that this agency is coupled with an interest and that Developer's interests are irreparably affected if the maintenance standards of the Condominium are allowed to deteriorate.

- 10.2 Maintenance by Unit Owner. Each Unit owner shall, in accordance with the standards set forth by the Association, maintain, repair and replace in good condition, at its expense, all portions of their Unit, including, but not limited to, the glass, screens, electric panels, electric wiring, electric outlets and fixtures, heaters, hot water heaters, all appliances, drains, plumbing fixtures and connections, interior surfaces of all walls, floors and ceilings, air conditioning compressor and blower, refrigerant and electrical lines.
- 10.3 Maintenance of Limited Common Elements. Limited Common Elements shall be maintained as follows:
- (a) Parking and Storage. The Association shall maintain the parking and storage areas, including the Limited Common Elements assigned to Units.
- (b) Terraces and Patios. Except as specified to the contrary, the Unit Owner of Units to which the terraces and patios (if any), and any portions of the hallways designated by the Association as Limited Common Elements (if any), are appurtenant, shall be responsible to, at the Unit Owner's expense, to maintain, repair, and preserve such areas, including, but not limited to, clean and maintain the surfaces and replace and repair light and other fixtures. The Association shall be responsible for the painting thereof (at such time as the surrounding portion of the exterior of the building is being painted) and for the repair and maintenance of the structural components thereof.
- 10.4 Liability of Unit Owner. If a Unit Owner or Occupant makes an unauthorized addition or modification to a Unit, Limited Common Element, or other portion of the Condominium Property, or if a Unit Owner fails or refuses to maintain and make repairs as required, or causes any damage to the Condominium Property, the Association may take such action as it deems necessary and make such repairs, replacements or maintenance. The Association shall levy a charge for the cost thereof against the Unit Owner. In the event a Unit Owner threatens to or violates the provisions hereof, the Association shall have the right to proceed in a court of equity for an injunction to seek compliance with the provisions hereof.
- 10.5 Insurance Proceeds. Whenever any maintenance, repair and replacement of any items for which a Unit Owner is responsible is made necessary by any loss covered by insurance maintained by the Association, the proceeds of the insurance received by Association, or the Insurance Trustee (as hereinafter defined), shall be used for the purpose of accomplishing the maintenance, repair or replacement. The Unit Owner shall be required to pay all of the costs thereof that exceed the amount of the insurance proceeds, including, but not limited to, the amount of any deductibles.
- 10.6 Right of Entry By Association. Whenever it is necessary to enter a Unit or Limited Common Element for the purpose of performing any maintenance, replacement or

repair to any portion of the Common Elements, Limited Common Elements, or to prevent damage to the Common Elements or another Unit or Units, the Unit Owner shall permit an authorized agent of the Association to enter the Unit, or to go upon the Limited Common Elements. Such entry shall be made at reasonable times and, with reasonable advance notice. In the case of emergency such as, but not limited to, fire or hurricane, entry may be made without notice. The Association shall retain a master pass key to all of the Units in the Condominium. Each Unit Owner does hereby appoint the Association as an agent for the Unit Owner for the purposes herein provided. The Association shall not be liable for any alleged property damage or theft caused or occurring on account of any entry.

10.7 Utility Lines. Water, sewer and other utility service shall be provided to the Condominium by government or other authorities. The Association shall own and maintain the same as required by the governmental or other authority.

10.8 Cable Television. Cable television cables and equipment shall be owned as provided in the agreement, if any, with the cable provider.

11. Apportionment of Tax or Assessment. Each Unit Owner shall promptly pay all *ad valorem* real property taxes and special assessments levied against that Unit and all personal property taxes levied against the contents thereof. All personal property taxes levied or assessed against personal or other property owned by the Association are a Common Expense.

12. Maintenance of Community Interests. In order to maintain a community of congenial residents who are financially and socially responsible and thus protect the value of the Condominium Property, the transfer, leasing and mortgaging of Units shall be subject to the following provisions:

12.1 Transfers Not Subject to First Refusal. The transfer of any Unit by sale, lease, gift, devise or inheritance or otherwise is not subject to a right of first refusal in favor of the Association, but is subject to approval by the Association when transferred by owners other than the Developer.

12.2 Leases. All leases must be in writing. No lease may be made for a term of less than ninety (90) days. No transient accommodations shall be provided.

12.3 Notice and Approval by Association.

(a) Sale. A Unit Owner, except the Developer, who sells a Unit shall give to the Association notice of the sale together with the name, address and such information concerning the intended purchaser as the Association may require, on forms provided for that purpose by the Association. The Association shall, within fifteen (15) business days of submission of all requested reasonable information, approve or disapprove such sale. Upon closing of the sale, a copy of the recorded deed to the Unit shall be furnished to the Association.

(b) Lease. A Unit Owner intending to enter into a lease of a Unit shall give to the Association notice of such intention, together with the name, address and such other information concerning the intended lessee as the Association may require, on forms provided for that purpose by the Association. The notice shall be accompanied by a copy of the proposed lease. The Association shall, within fifteen (15) business days of submission of all requested reasonable information, approve or disapprove such lease. Both the Unit Owner and lessee shall be responsible for compliance with the terms of the Condominium Documents notwithstanding the fact that the Unit may have been leased. Upon entering into the Lease, the Unit Owner shall furnish to the Association a fully executed copy of the Lease.

(c) Gift, Devise or Inheritance, Other Transfers. A Unit Owner or other person who has obtained title or use rights by gift, devise or inheritance, or by any other manner not previously considered, shall give to the Association notice thereof, together with such information concerning the Unit Owner as the Association may require. The notice shall be accompanied by a copy of the instrument evidencing the owner's title or use right.

- 12.4 Fees and Security Deposit. The Association may charge a fee for the screening of proposed buyers or lessees not to exceed \$150.00 per request. Also, the Association may establish and collect a security deposit from a tenant to secure the Association against damage to the Common Elements by the tenant or its guests and invitees.
- 12.5 Mortgage. If a Unit Owner (other than the Developer) intends to mortgage a Unit, or any interest therein, in favor of a mortgagee or holder who is not an Institutional Mortgagee or Unit Owner, then approval by the Association is required.
- 12.6 Condominium Documents. It shall be the responsibility of the transferor of a Unit to transfer to the transferee all of the Condominium Documents originally provided to the transferor and the documents required under Florida Statute Section 718.503(2). The transferee shall be bound by the terms of the Condominium Documents even though the transferor fails to deliver the required documents.
- 12.7 Unauthorized Transactions. Any sale, lease or mortgage not authorized pursuant to the provisions of this Declaration shall be void unless subsequently approved by the Association.
- 12.8 Inapplicability to the Developer. Notwithstanding anything to the contrary herein, none of the provisions of this Section 12 shall apply to any Unit owned, initially or re-acquired, by the Developer or any corporation that is a parent, affiliate, subsidiary, assignee or successor of the Developer.

13. Insurance Provisions. The insurance which shall be purchased and maintained for the benefit of the Condominium shall be governed by F.S. 718.111(11) and the following provisions:

- 13.1 Purchase of Insurance. All insurance purchased pursuant to this Section 13 shall be purchased by the Association for the benefit of the Association, the Unit Owners and their respective mortgagees, as their interests may appear. The policies shall provide for the issuance of Certificates of Insurance (to Institutional Mortgagees and Unit Owners) and Mortgagee Endorsements to any or all Institutional Mortgagees upon request. The policies shall provide that the insurer waives its rights of subrogation as to any claims against Unit Owners and the Association, their respective servants, agents, tenants and guests. Each Unit Owner and the Association waive any claim against each other and against other Unit Owners for any loss or damage for which insurance is carried where the insurer has waived its rights of subrogation.
- 13.2 Cost and Payment Premiums. The cost of obtaining all insurance hereunder any other related fees and expenses, excluding insurance purchased by individual Unit Owners, is a Common Expense.
- 13.3 Unit Owners' Responsibility. Each Unit Owner shall obtain insurance, at his own expense, affording coverage upon the Unit Owner's personal property, floor coverings, wall coverings and ceiling coverings. Each Unit Owner may obtain insurance, at its own expense, affording coverage for liability and living expenses as the Unit Owner deems advisable. All insurance issued to Unit Owners shall provide that the coverage afforded by such policies is in excess of the amount recoverable under any other policy covering the same property, without rights of subrogation against the Association.
- 13.4 Coverage. The following coverages shall be obtained by the Association from insurers acceptable to FNMA and FHLMC:
- (a) The buildings (as defined in F.S. 718.111 [11]) and all other insurable improvements upon the land, including all of the Units as originally constructed by Developer and as furnished and equipped, Common Elements, Limited Common Elements and all personal property owned by the Association shall be insured in an amount equal to the maximum insurable replacement value thereof (exclusive of excavations and foundations) as determined annually by the Association in consultation with the insurance company providing the coverage or by an independent appraisal service. The coverage shall afford protection against loss or damage by fire and other perils normally covered by the standard extended coverage endorsement, together with all other perils customarily covered with respect to condominiums similar to this, including the standard "all risk" endorsement, if available. The policy shall not be cancelable or substantially modified without at least ten (10) days' prior written notice to the Association and to each Institutional Mortgagee listed in the policies. The policies shall not contain any limiting clauses other than insurance conditions which could prevent collection of the insurance proceeds. The policy should also contain a "Special Condominium Endorsement," an "Agreed Amount Endorsement," an "Inflation Guard Endorsement" (if available), and certain construction endorsements (if required by FNMA or FHLMC).

(b) Commercial General Liability Insurance in such amounts and form as required by the Association, providing limits of not less than \$1,000,000 combined single limit (bodily injury liability and property damage liability, combined), each occurrence \$1,000,000 personal injury liability, each person or organization, \$2,000,000 general aggregate. The coverage shall include, but not be limited to, water damage, legal liability for property damage, bodily injury and deaths of persons in connection with the operation, maintenance and use of the Common Elements and arising from lawsuits related to employment contracts of the Association. The policy may not be canceled or substantially modified without at least ten (10) days' prior written notice to each Institutional Mortgagee listed in the policy, legal liability and liability of the Association for its employees while off premises. Business auto coverage covering hired automobile and non-owned automobile liability shall be written, either separately or as part of the commercial general liability policy, providing limits of liability not less than \$1,000,000 combined single limit each accident. All liability policies shall contain cross liability endorsements to cover liabilities of the Unit Owners as a group to an individual Unit Owner. FNMA or FHLMC may require additional endorsements.

(c) Blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons who control or disburse funds of or administered by the Association, and/or, if applicable, officers, employees and agents of the Management Firm responsible for controlling or disbursing Association funds, or administering funds on behalf of the Association. The fidelity/insurance bond shall not be less than the greater of amounts required in F.S. Section 718.112(2)(J) or the amounts not less than the estimated maximum of funds, including reserve funds in the custody of the Association or the Management Firm, or a sum equal to no less than three months aggregate Assessments plus reserve funds. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion, of persons serving without compensation, from the definition of "employees" or similar terms or expressions. The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment) without at least ten (10) days' prior written notice to the Association or Use Insurance Trustee and to the FNMA Servicer, if applicable, on behalf of FNMA.

(d) A "master" or "blanket" policy of flood insurance on the condominium building and any other property covered by the required form of policy in an amount not less than the following: the lesser of: (i) the maximum coverage available under the National Flood Insurance Program for all buildings and other insurable property located within a designated flood hazard area; or (ii) one hundred percent (100%) of current "replacement cost" of all buildings and other insurable property located within a designated flood hazard area.

(e) Worker's compensation policies to meet the requirements of law.

(f) Such other insurance as the Association may determine to be necessary from time to time or as required by law.

- 13.5 Named Insured. The name of the insured under any insurance policies shall be Lofts at Mayfair Condominium Association, Inc. (or the Insurance Trustee) for the use and benefit of the individual Unit Owners.
- 13.6 Insurance Trustee. All insurance policies purchased in accordance with Paragraph 13.4(a) shall provide that all proceeds payable to the Association as a result of any insured loss, except those specifically herein excluded, shall be paid to a bank with trust powers doing business in the County in which the Condominium is located, and which is designated as Insurance Trustee from time to time by the Association. The appointment of the Insurance Trustee is subject to the reasonable approval of the Institutional Mortgagee holding the greatest dollar amount of first mortgages on the Units. The Insurance Trustee shall not be liable for payment of premiums, the renewal of the policies, the sufficiency or content of the policies, or for failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive insurance proceeds, as paid, to hold the proceeds in trust for the benefit of the Condominium, the Association, the Unit Owners and their respective mortgagees as their interests may appear. Proceeds on account of damage to the Units shall be paid for the benefit of the Association, affected Unit Owners and their respective mortgagees as their interests may appear.
- 13.7 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed (after first paying or making provision for payment of the expenses, including a reasonable fee for services rendered, of the Insurance Trustee) in the following manner:
- (a) If the damaged improvement for which the proceeds were paid is to be reconstructed, the proceeds shall be paid to defray the costs of the reconstruction. Any proceeds remaining after defraying the costs shall be distributed to the Association, except as otherwise provided.
- (b) If it is determined that the damaged improvement for which the proceeds were paid is not to be reconstructed, the proceeds shall be distributed to the Unit Owners for whom the proceeds are being held and their mortgagees as their interest may appear.
- (c) In making distribution to Unit Owners and their mortgagees, the Insurance Trustee may rely upon a certificate provided by the Association as to the names of the Unit Owners and mortgagees and their respective shares of the distribution. Upon request of the Insurance Trustee, the Association shall promptly deliver the certificate.

- 13.8 Association As Agent. The Association is irrevocably appointed agent for each Unit Owner, for each mortgagee and for each owner of any other interest in a Unit or the Condominium Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.
- 13.9 Determination to Repair. If any part of the Condominium Property is damaged by casualty the determination as to whether or not it shall be repaired (which term shall include reconstruction) shall be made in the following manner:
- (a) Common Elements. If the damage is only to Common Elements or Association Property (if any) the damage shall be repaired.
  - (b) Damage to Units.
    - (i) If the damage is to Units, except as set forth below, the damage shall be repaired.
    - (ii) If the damage is to Units and if the Units to which more than 70% of the Common Elements are appurtenant are found by the Board to be untenable, then the damaged property will not be repaired and the Condominium will be terminated (provided that approval is obtained from the eligible holders of first mortgages on units to which at least fifty one percent (51%) of the votes of Units subject to mortgages held by such eligible holders are allocated), unless within sixty (60) days after the casualty, voting interests representing 70% or more of the Common Elements agree in writing to the repair.
  - (c) Certificate. The Insurance Trustee may rely upon a certificate of the Association to determine whether or not the damage is to be repaired.
- 13.10 Responsibility. If the damage is only to those parts of a Unit for which the Unit Owner is responsible, then the Unit Owner shall be responsible for repair after casualty. A Unit Owner shall promptly repair the damage. In all other instances, the responsibility of repair after casualty shall be that of the Association.
- 13.11 Nature of Repair. Any repairs shall be substantially in accordance with the plans and specifications of the original building(s), or as the building(s) was last constructed, subject to modification to conform with then current governmental restrictions and codes, if applicable, unless approval is obtained from the holders of first mortgages on Units to which at least fifty one percent (51%) of the votes of Units subject to mortgages held by such first mortgagees are allocated.

- 13.12 Estimates. Immediately after a casualty causing damage to the property for which the Association has the responsibility of repair, the Association shall obtain a reliable, detailed estimate of the cost to repair. The cost may include professional fees and premiums for such bonds as the Board may desire, or those required by any Institutional Mortgagee involved.
- 13.13 Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of repair by the Association, or if, at any time during repair or upon completion of repair, the funds for the payment of the costs are insufficient, charges shall be made against all Unit Owners in sufficient amounts to provide funds for the payment of the costs in the manner hereinafter provided. If the insurance proceeds are insufficient to cover the estimated cost of repair or the payment of the cost of the repair of Association Property, Common Elements or Limited Common Elements required to be maintained by the Association, then the amount of the insufficiency shall be treated as a Common Expense to be collected by the Association from the Unit Owners by means of an Assessment or Assessments. If the insurance proceeds are insufficient to cover the estimated cost of repair or the payment of the cost of repair of a Unit or Units, or Limited Common Elements which are required to be maintained by Unit Owners, the amount of the insufficiency or insufficiencies shall be treated as a Charge to be collected by the Association from the Unit Owners in proportion to the cost of reconstruction of their respective Unit or Limited Common Element(s) which the Unit Owner has the responsibility to maintain under this Declaration.
- 13.14 Disposition of Proceeds. The proceeds of insurance and any assessments collected on account of a casualty shall be deposited with the Insurance Trustee and shall constitute a construction fund which shall be disbursed for payment of the costs of repair in the following manner:
- (a) That portion of insurance proceeds representing damage for which the responsibility of repair lies with Unit Owners shall be paid to contractors, suppliers, and personnel for work done, materials supplied or services required for the repair. Payments shall be in amounts and at times as the Unit Owners may direct, or if there is a mortgagee endorsement, to the payees as the Unit Owner and the mortgagee direct. Nothing contained herein shall be construed to limit or modify the responsibility of the Unit Owner to make the repair.
- (b) If the amount of the estimated cost of repair is less than \$25,000.00, and is the responsibility of the Association, the construction fund shall be disbursed directly to the Association in payment of the costs and upon the Association's order.
- (c) If the amount of the estimated cost of reconstruction is more than \$25,000.00, and is the responsibility of the Association, then the reconstruction fund shall be applied by the Insurance Trustee to the payment of the costs and shall be paid for the account of the Association, from time to time, as the work progresses.

The Insurance Trustee shall make payment upon the written request of the Association accompanied by an appropriate certificate signed by both an officer of the Association and by the architect or engineer in charge of the work, if any, setting forth:

- (i) That the sum then requested either has been paid by the Association or is justly due and certifying that the sum requested does not exceed the value of the services and materials described in the certificate.
- (ii) That, except for the amounts stated in said certificate to be due, there is no outstanding indebtedness which may become the basis of vendor's, construction, mechanic's or materialmen's liens.
- (iii) That the cost, as estimated, of the work remaining to be done subsequent to the date of the certificate does not exceed the amount of funds remaining in the construction fund after the payment of the sums requested.

(d) The first monies disbursed in payment of the costs shall be from insurance proceeds and shall first be applied to repair of the Common Elements and then to the Units. If there is a balance in the construction fund after the payment of all costs, the balance shall be distributed to the Association, provided, however, if charges were made under Section 13.12 hereof, then all or a part of the balance shall be returned to the Units Owners paying the charges, pro-rata, according to the amount each paid, up to the full amount each paid, and then to the Association.

13.15 Effect of Mortgage Endorsements Concerning Insurance Proceeds. In the event a mortgagee endorsement has been issued concerning any Unit, the share of the Unit Owner shall be held in trust for the Unit Owner and mortgagee as provided above. No mortgagee shall have the right to determine or participate in the determination as to whether or not the damage shall be repaired. No mortgagee shall have the right to apply, or have applied to, the reduction of its mortgage debt any insurance proceeds except distributions of such proceeds made to the Unit Owner and mortgagee where the damage is not to be repaired. All mortgagees agree to waive the right to the proceeds if the proceeds are used to pay for the repair of the damage. The provisions hereof shall not affect the right, if any, of the mortgagee to require any surplus proceeds payable to a Unit Owner to be distributed to it. All covenants contained herein for the benefit of any mortgagee may be enforced by such mortgagee. Nothing contained herein, however, shall be construed as relieving the Unit Owner from the duty to repair damage to the Unit as provided above.

13.16 Authority of Association. In all instances herein, except when a vote of the voting interests in the Association is specifically required, all decisions, duties and

obligations of the Association hereunder shall be made by the Board. The Association and its members shall jointly and severally be bound thereby.

- 13.17 Repair of Land. In the event, pursuant to the provisions of Section 13.8, the Condominium is not to be restored, the remains of the building shall be razed and the underlying land restored to a landscaped green area. The cost thereof is a Common Expense. The expenses thereof shall be deducted from any insurance proceeds paid on account of the damage.
- 13.18 Condemnation. Issues arising from the taking, under power of eminent domain, of Condominium Property shall be dealt with as if the condemned property was destroyed by casualty and the proceeds of the condemnation were insurance proceeds relating to a casualty.
- 13.19 Reallocation of Interests in Common Elements. No reallocation of interests in the Common Elements after a partial condemnation or partial destruction of the Condominium Property may be effected without the approval of the Institutional Mortgagees on Units to which at least 51% of the votes of Units is subject to mortgages held by such Institutional Mortgagees are allocated.

14. Assessments; Liability; Lien and Enforcement. The Association has the power to make, levy and collect regular and special assessments for Common Expenses, such other assessments as provided by the Condominium Act, the provisions of the Condominium Documents and all other expenses declared by the Board to be Common Expenses from time to time. The Association shall also have the power to make, levy and collect a Charge or Charges when needed pursuant to Section 13.13 of this Declaration. Assessments are subject to the following terms:

- 14.1 Unit Owner's General Liability. All assessments levied against Unit Owners shall be on a uniform basis in the same proportion as the percentage of the undivided shares in the ownership of the Common Elements except that in connection with Association Common Expenses attributable to the operation of the multi-condominium complex, Association Assessments shall be levied against each Unit Owner as provided for in Section 7.1. Assessments shall not be increased or decreased based on the existence, or lack of existence, of any right to use a Limited Common Element. Should the Association be the owner of any Unit(s), the assessment, which would otherwise be due and payable to the Association by the Owner of such Unit(s), shall be a Common Expense. Developer's liability for assessments shall be as specified in Section 7 hereof.
- 14.2 Payment. Assessments levied against each Unit shall be payable in such installments, and at such times, as determined by the Board.
- 14.3 Special Assessments. The specific purpose of any special assessment shall be set forth in a written notice of the special assessment sent to each Unit Owner. The funds collected pursuant to a special assessment shall be used only for the specific

purpose(s) set forth in the notice. However, upon discharge of the specific purpose(s), any excess funds shall be considered common surplus.

14.4 Emergencies. If assessments levied are, or may prove to be insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board shall have the authority to levy additional assessment(s) as necessary.

14.5 Reserves. The Board in assessing for Common Expenses shall include a sum to be collected as reserve funds in compliance with F.S. 718.112 [unless waived as therein provided. Reserves are subject to the following provisions:

(a) Reserve Fund. If a meeting of the Unit Owners has been called to waive reserves, in whole or in part, and waiver is not adopted or a quorum is not attained, the reserves, as included in the budget, shall go into effect]. Reserves and interest earned thereon shall be segregated in a separate fund and shall only be used for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote by the majority of the voting interest, voting in person or by limited proxy at a duly called meeting of the Association. Prior to turnover of control of an association by a Developer to Unit Owners, other than the Developer, pursuant to 718.301 the Developer-controlled association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all non-developer voting interests, voting in person or by limited proxy at a duly called meeting of the Association.

(b) Operating Reserve Fund. The Board in assessing for Common Expenses may include a sum to be collected and maintained as a general operating reserve to provide a measure of financial security during periods of special stress. Those sums may be used to meet deficiencies from time to time existing as a result of delinquent payments of assessments by Unit Owners or as a result of emergencies. During the initial months of the Condominium's Operations, this fund shall be equal to at least two months' estimated Common Expenses for each Unit.

14.6 Separate Property. All funds collected by the Association shall, unless collected for the benefit of others, be the separate property of the Association. Association funds shall not be subject to attachment or levy by a creditor or judgment creditor of a Unit Owner. All funds may be applied by the Association to the payment of any expenses of operating and managing the Condominium, and to the expenses of the multi-condominium complex if the expenses collected are Association Common Expenses, or to the proper undertaking of all acts and duties imposed upon it by virtue of the provisions of the Condominium Documents. Reserve and operating funds of the Association shall not be co-mingled. All funds shall be held and spent for the benefit of the Unit Owners and/or Condominium and/or members of the Association in connection with multi condominium Association Expenses. This section does not prohibit the Association in the operation of multiple Condominiums from

commingling the operating funds of separate condominiums or the reserve funds of separate condominiums. Furthermore for investments purposes only, the Association may commingle the operating funds of separate condominiums with the reserve funds of separate condominiums. No Unit Owner shall have the right to assign, hypothecate, pledge or in any manner transfer his interest therein, except as an appurtenance to a Unit. When a Unit Owner ceases to be a member of the Association by the divestment of ownership of a Unit by whatever means, the Association shall not be required to account to such owner of any share of other funds or assets of the Association.

- 14.7 Default. The failure to pay to the Association any assessments, charges or installments thereof when due shall be a default. If a default exists for a period in excess of ten (10) days, the delinquent assessments, charges (including Charges charged under Section 13.13 of this Declaration), or delinquent installments thereof and all advances permitted by the Condominium Documents, shall bear interest at the rate equal to the maximum rate then allowed to be charged under applicable law in the State of Florida. In the event that any Unit Owner is in default in payment of any assessments, charges (including Charges charged under Section 13.13 of this Declaration) or installments thereof, that Unit Owner shall be liable for (A) all costs of collection, including reasonable attorneys' fees and expenses at all levels of proceeding; and (B) the payment to the Association of an administration late fee to be charged by the Board in an amount not to exceed the highest amount provided for in the Act (as the Act may be amended from time to time).
- 14.8 No Waiver. No Unit Owner may exempt himself from liability for any assessment or charge by waiver of the use or enjoyment of any of the Condominium Property or by abandonment of the Unit against which the assessment is made or in any other manner.
- 14.9 Lien. In accordance with F.S. 718.116(5)(a), the Association has a lien upon each Condominium Parcel. The lien granted to the Association may be foreclosed as provided in the Condominium Act. The Association shall have a lien for any Charges charged against a Unit Owner and not paid when due. The lien for Charges, however, does not arise pursuant to the Act and is effective from and after recording of a claim of lien which can be foreclosed in the same manner as foreclosing mortgages. The Association may also bring an action to recover a money judgment for the unpaid monies without waiving any claim of lien. No lien shall continue for longer than the period provided by statute after the claim of lien has been recorded, unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction.
- 14.10 Acquisition at Foreclosure. Subject to the provisions of Florida Statute Section 718.116(1)(a), a first mortgagee who acquires title to a Unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the deed. However, the mortgagee's liability is limited

to a period not exceeding six (6) months, but in no event does the first mortgagee's liability exceed 1% of the original mortgage debt. Nothing herein contained shall be construed as releasing the party liable for such delinquent assessments from the payment thereof or the enforcement of collection of such payment by means other than foreclosure. Following acquisition, all Unit Owners of any nature, including, without limitation a purchaser at a judicial sale or Institutional Mortgagee, shall be liable for all assessments coming due while the Owner of the Unit.

- 14.11 Acquisition. Except as otherwise provided in F.S. 718.116, the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor made prior to the time of the transfer of title.
- 14.12 Fines. The Board is also hereby empowered to impose a fine against any Unit in an amount not to exceed \$1,000.00 for any violation by the Unit Owner or its licensees or invitees of the agreements, covenants and reasonable rules and regulations of this Declaration and all exhibits thereto. The fine imposed may be levied for each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine in the aggregate shall exceed \$5,000.00. No fine may be levied except after the giving of the Unit Owner written notice of the offense. If the Unit Owner requests in writing within ten days of the date of the notice, the fine will not be levied until the Unit Owner (or its invitee or licensee, if applicable) is given a hearing to contest the fine. If the Unit Owner (or invitee or licensee, if applicable) does not file its request for a hearing within ten (10) days of the date of the notice, the fine will be levied. If the Unit Owner (or licensee or invitee) requests a hearing within the ten (10) day period, the alleged offender shall be entitled to hearing before a Committee of Unit Owners selected by the Board. If the Committee does not agree with the fine, the fine may not be levied against Unit.
- 14.13 Certificate of Status of Assessments. Within fifteen (15) days after request by a Unit Owner or Institutional Mortgagee, the Association shall provide a certificate stating the status of all assessments and other funds owed to the Association by the Unit Owner with respect to the Unit. The Association may charge a reasonable fee not to exceed \$50.00 to furnish such certificate or information. Any person other than the Owner who relies upon such certificate shall be protected thereby.
- 14.14 No Election of Remedies. The institution of a suit at law for collection of any delinquent assessments may be maintained without waiving the lien securing the same. Proceeding by foreclosure to attempt to effect such collection shall not be deemed an election precluding the institution of suit at law for collection of the same.
- 14.15 Construction Liens. The creation and enforcement of construction and other liens against the Units and Condominium Property, except those created by this Declaration, shall be governed by the provisions of (F.S. 718.121--Liens) the Condominium Act.

15. Termination. The Condominium may be terminated in the following manner:
- 15.1 Destruction. If it is determined because of the circumstances and in the manner provided in Section 13.9(b) hereof that the Condominium Property shall not be repaired, the Condominium will be terminated (subject to the provisions of Section 13.16).
  - 15.2 Agreement. As provided in Section 718.117 of the Condominium Act, the Condominium may be terminated at any time by consent of all of the Unit Owners, and by written consent by all of the holders of recorded liens affecting any of the Units.
  - 15.3 Certificate. The termination of the Condominium shall be evidenced by a certificate of the Association certifying the fact of the termination. The termination shall become effective upon the certificate being recorded in the Public Records.
  - 15.4 Shares of Owners After Termination. After termination of the Condominium, the Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common of undivided shares that shall be equal to the sum of its undivided shares in the Common Elements appurtenant to the Units prior to termination.
  - 15.5 Exclusive Rights Extinguished by Termination. Exclusive rights of use of common property shall not be extinguished by virtue of the termination of the Condominium during the period that the assets are being held as tenants in common as set forth above.
  - 15.6 Amendment. This Section 15 concerning termination cannot be amended without written consent of four-fifths (4/5) of the Unit Owners.
  - 15.7 Easements Continue. All easements necessary for the operation and maintenance of the property after termination shall continue.
  - 15.8 Equitable Rights. Unit Owners shall have the rights provided in F.S. 718.118.

16. Amendment. Except as herein or elsewhere provided, and subject to the requirements and limitations of Florida Statute Section 718.110, this Declaration may be amended in the following manner:

- 16.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

- 16.2 Proposal of Amendment. An amendment may be proposed by either a 75% vote of the entire Board or by a 33% vote of the voting interest in this Condominium at a duly called and noticed meeting. Directors and/or voting interests not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided such approval is delivered to the Secretary within ten (10) days after the meeting. Except as elsewhere provided, a resolution adopting the proposed amendment must be approved by either:
- (a) Not less than 50% of the entire membership of the Board and by not less than 50% of the voting interests in this Condominium; or,
  - (b) Not less than 75% of the voting interests in this Condominium; or,
  - (c) Subject to the limitations contained in Section 16.4, until the first election of a majority of the Board by the membership other than Developer as provided for in Article IX of the Articles of Incorporation, by the Developer alone.
- 16.3 Omission or Error. Pursuant to Section 718.110, F.S., whenever it shall appear that there is an omission or error in the Condominium Documents, the correction of which would not materially or adversely affect the property rights of any Unit Owner, the Condominium Documents may be amended by a majority of the Board at any duly called and noticed regular or special meeting. In the event the property rights of any Unit Owners are materially or adversely affected, the error or omission may be adopted in this manner if such affected Unit Owner(s) joins in the execution of the Certificate of Amendment to be recorded.
- 16.4 Limitations. The following limitations shall apply to changes in the terms of this Declaration:
- (a) No amendment shall be passed which shall alter a Unit's percentage in the Common Elements, alter a Unit's proportionate share in the Common Elements or Common Surplus, change voting rights, alter the basis for apportionment of assessment which may be levied by the Association against a Unit, or change the fractional share of liability for the Common Expenses of the Association and Ownership of the Common Surplus of the Association without the written consent of the voting interest attributable to that Unit, the consent of a majority of the voting interests attributable to all Units within the Condominium, and the consent of all Institutional Mortgagees owning of record a mortgage lien upon that Unit, which consent shall not be unreasonably withheld by such Institutional Mortgagees.
  - (b) No amendment may change the configuration or size of any Unit in any material fashion, unless the record owner of the Unit and all record owners of liens on it join in the execution of the amendment and unless at least a majority of the record owners of all other units approve the amendment.

(c) No amendment shall be passed which shall impair or prejudice the material rights and priorities of any Institutional Mortgagee without the prior written consent of the Institutional Mortgagee affected, which consent shall not be unreasonably withheld.

(d) No amendment shall be passed which shall impair or prejudice the rights, easements, exemptions and priorities of Developer without the prior written consent of the Developer.

(e) No amendment shall be passed which shall impair or alter the right to lease a Unit as set forth herein unless written consent of four-fifths (4/5) of the voting interests in this Condominium is obtained.

(f) No Amendment shall be passed which permits time share estates unless approved (if at all) by all Unit Owners and their Mortgagees.

(g) Except as otherwise provided in the Condominium Documents, the Association has the power to purchase any land or recreation lease upon the approval of a majority of the voting interests of the Association.

17. Remedies. Each Unit Owner and the Association shall be governed by and shall comply with the provisions of the Condominium Documents. The following remedies apply in the event of a violation of the Condominium Documents:

17.1 Relief. A violation of the Condominium Documents shall entitle the appropriate party to pursue an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof, or any other action available pursuant to the Condominium Act or law. Subject to Florida Statutes Section 718.1255 and the rendering of an arbitration decision as contemplated therein, suit may be brought by the Association, Developer and one or more Unit Owners. Each Unit Owner acknowledges that the failure to comply with any of the provisions of the Condominium Documents shall or may constitute an irreparable injury to the Association, the Managing Agent, Developer or the other Unit Owners.

17.2 Costs and Attorneys' Fees. Subject to Florida Statutes Section 718.303(1), in any proceeding arising because of an alleged default, act, failure to act, or violation by a Unit Owner or Association, including the enforcement of any lien granted pursuant to the Condominium Documents, the prevailing party shall be entitled to recover the costs of the proceeding, including reasonable attorneys' fees.

17.3 No Waiver. The failure of Association, the Management Firm, a Unit Owner, or the Developer to enforce any right, provision, covenant, or condition created or granted by the Condominium Documents shall not constitute a waiver of the right to enforce that right, provision, covenant or condition in the future.

- 17.4 Rights Cumulative. All rights, remedies, and privileges granted to Developer, Association, the Management Firm, or Unit Owner pursuant to any of the provisions of the Condominium Documents shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising other and additional rights, remedies, or privileges as may be available to such party at law or in equity. Each Unit Owner agrees in any proceeding brought pursuant to the provisions hereof not to plead or defend the same on the theory of "election of remedies."
- 17.5 Venue; Waiver of Trial by Jury. The Association, Developer, Management Firm, all Unit Owners or Occupants and all persons claiming any interest in a Unit agree that in any suit or court proceeding brought pursuant to the provisions of the Condominium Documents, suit shall be brought in the Courts in Miami-Dade County, or the United States District Court, as the same is now constituted or any court in the future that may be the successor to the courts contemplated herein. All parties waive the right to trial by jury and consent to a trial by the Court without a jury.
- 17.6 Appointment of Agent; Proviso. Should suit be instituted, all Unit Owners or Occupants do hereby irrevocably appoint the Secretary of State of the State of Florida as their Agent for the acceptance of service of process should, at the time of such service of process, any such person not be residing in the Condominium, if service cannot be accomplished in any other reasonable fashion. The provisions hereof shall not be applicable to service upon the Developer.
18. Miscellaneous Rights of Developer. The Developer has the following additional rights:
- 18.1 Sales by Developer. Until the Developer has completed and sold all the Units of the Condominium, neither the Unit Owners nor the Association nor their use of the Condominium shall interfere with the completion of the contemplated improvements and the sale of Units. The Developer (or its duly authorized agents or assigns) may make such use of the unsold Units and the Common Elements as may facilitate such completion and sale, including, but not limited to, the maintenance of sales offices for the showing of the property and display of signs, billboards, placards and visual promotional materials. It is specifically understood that the Developer has the right and authority to use the reservation office, manager's office and the Common Elements of the Condominium for the purpose of sales and administrative office for so long as Developer has not sold all Units in the Condominium. The Developer may use unsold Units as model units or as sales offices for display purposes to prospective Condominium purchasers. The Developer shall have the right to use parking spaces for prospective purchasers and such other parties as Developer determines. The sales office personal property, model furnishings, signs and all items pertaining to sales shall not be considered Common Elements and shall remain the property of the Developer. It should be understood that prior to the conversion of the improvements

to a Condominium that the operation of the Condominium was an apartment operation and, accordingly, the Developer may continue such apartment rentals as its discretion for any unsold Units and Developer, until all Units are sold, shall have the full right and authority to use the Common Elements and the areas described above in furtherance of such apartment rentals as the Developer may so desire.

- 18.2 Conflicts of Interests. No representative of the Developer serving on the Board shall be required to disqualify himself upon any vote upon any management contract, lease, or other matter involving the Developer, or Management Firm, where Developer or Management Firm may have a pecuniary or other interest. Developer, as a member of the Association, shall not be required to disqualify itself in any vote which may come before the membership of the Association upon any management contract, lease or other matter where Developer may have a pecuniary or other interest, nor shall any conflict of interests be a cause of partial or total invalidity of the matter voted upon whether or not such vote was necessary for the adoption, ratification, or execution of the same.
- 18.3 Assignment of Developer's Rights. Any and all of the rights, privileges or options of Developer provided in the Condominium Documents may be assigned to a successor Developer pursuant to an assignment to that effect or as provided by law.
- 18.4 Leasing by Developer. It is understood and agreed by all parties hereto and all Unit Owners that certain Units may be occupied by tenants of the Developer under lease agreements, or month to month tenancies, or other types of tenancies heretofore or hereinafter consummated and agreed upon. Such tenants of Developer shall have the full right and authority to continue to occupy said premises in accordance with their lease agreements or other types of tenancies and to use and enjoy on a nonexclusive basis all Common Elements of the Condominium and the recreational facilities without any cost or expense.

19. Security System. The Association may enter into agreement providing for security systems, road maintenance, common area maintenance and other matters relating to the Condominium. The Association shall not be liable for the failure of the security system or of any contractor to monitor the security system.

20. Notices. Whenever notices are required to be sent hereunder, the same may be delivered to Unit Owners, either personally or by mail, at their place of residence in the Condominium or at the then address as shown in the Association's records. Notices to the Association shall be delivered or mailed to the Secretary of the Association, or in case of the Secretary's absence, then to the President of the Association. Notices to the Developer shall be made by registered mail to Developer at the following address: Mayfair Lofts, LLC, 3737 Collins Avenue, Miami Beach, Florida 33140, Attention: Mr. John Casey.

21. Construction. All of the provisions of this Declaration shall be construed in accordance with the Laws of the State of Florida.

22. Gender. Unless the contrary appears to have been intended, words in plural number shall include the singular and words in the singular shall include the plural, and words of the male gender shall include the female gender and the neuter gender.

23. Captions. The Captions to the paragraphs of this Declaration are intended for convenience only and are not deemed to be all inclusive as to the matters contained in such paragraphs or considered in connection with the construction of any of the provisions of this Declaration.

24. Severability. If any term or provision of this Declaration or the application thereof to any person or circumstance shall, to any extent, be determined to be invalid or unenforceable, the remainder of this Declaration, or the application of such term or provision to persons or circumstances other than those to which such term may be held invalid or unenforceable, shall not be affected thereby and each term and provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

25. Assignment. The Developer may, upon conveyance of all or a portion of the Units it owns, prior or subsequent to any such conveyance, designate the grantee thereof as a successor developer who shall then be deemed to have all rights granted or reserved to Developer herein.

26. Institutional Mortgagee. Any person or entity that holds a mortgage executed by Developer, either prior to or subsequent to the recordation of this Declaration, encumbering any part or all of the Condominium Property, shall be deemed to be an Institutional Mortgagee for the purposes of this Declaration and shall have all rights and privileges appertaining thereto. So long as any Institutional Mortgagee shall hold any mortgage upon any Unit or Units or shall be the owner of any Unit or Units and complies with the provisions of Section 26.5 hereof, such Institutional Mortgagee shall have the following rights, to-wit:

- 26.1 To be entitled to be furnished with at least one copy of the annual financial statement and report of the Association prepared by a certified public accountant designated by the Association, including a detailed statement of annual carrying charges or income collected and operating expenses, such financial statements and report to be furnished, upon written demand, within ninety (90) days following the end of each calendar year.
- 26.2 To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration or the Articles of Incorporation and By-Laws of the Association, which notice shall state the nature of the amendment being proposed.
- 26.3 To be given notice of default by any member owning any Unit encumbered by a mortgage held by an Institutional First Mortgagee or Institutional First Mortgagees, such notice to be given in writing and sent to the principal office of such Institutional First Mortgagee or Institutional First Mortgagees, or to the place which it or they may designate in writing to the Association.

- 26.4 To cause the Association to create and maintain an escrow account for the purpose of assuring the availability of funds with which to pay premium or premiums due from time to time on insurance policy or policies which the Association is required in keep in existence, it being understood that the Association shall deposit in an escrow depository satisfactory to the Institutional First Mortgagee having the highest dollar indebtedness on Units in the Condominium Property a monthly sum equal to one twelfth (1/12th) of the annual amount of such insurance expense and to contribute such other sums as may be required therefor to the end that there shall be on deposit in said escrow account at least one (1) month prior to the due date for payment of such premium or premiums a sum which will be sufficient to make full payment therefor. The Insurance Trustee designated by the Association shall be the escrow depository for purposes hereof or the Board of Directors may designate any Institutional First Mortgagee interested in this Condominium to act in such capacity.
- 26.5 Whenever any Institutional Mortgagee desires to enjoy the benefits of the provisions of this Article, it shall serve written notice of such fact upon the Association by registered mail or certified mail addressed to the Association and sent to its address stated herein with a copy by registered or certified mail addressed to the Institutional Mortgagee having the highest dollar indebtedness on Units in the Condominium Property, which written notices shall identify the Unit or Units upon which any such Institutional Mortgagee holds any mortgage or mortgages or identifying any Unit owned by it, and which notice shall designate the place to which notices are to be given by the Association to such Institutional First Mortgagee.
- 26.6 Premiums for insurance required to be placed by the Association shall be a Common Expense and shall be paid by the Association. Should the Association fail to pay such premiums when due, or should the Association fail to comply with other insurance requirements imposed by the Institutional Mortgagee owning and holding the total highest dollar indebtedness against the Units in the Condominium, then the Institutional Mortgagee shall have the right at its option to order and advance such sums as are required to maintain or procure such insurance, and to the extent of the monies so advanced, plus interest thereon at the highest legal rate, said mortgagee shall have a right of action against the Association and the individual Unit Owners for the repayment of any monies so advanced.
- 26.7 If two (2) or more Institutional Mortgagees hold any mortgage or mortgagee upon any Unit and/or shall be the owner of any Unit, the exercise of the rights above described or manner of exercising said rights shall vest in the Institutional Mortgagee holding the total highest dollar indebtedness against the Units, and the decision of such Institutional Mortgagee shall be controlling.

27. FNMA Requirements. If the FNMA requirements are applicable, upon written request to the Association, identifying the name and address of the Institutional Mortgagee, or insurer or guarantor thereof and the Unit number or address, any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of: (a) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a

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first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable; (b) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first mortgage held, insured or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of 60 days; (c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; (d) any proposed amendment of the Condominium Documents affecting a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto, (ii) the interests in the Common Elements or the Limited Common Elements appertaining to any Unit or the liability for Common Expenses appertaining thereto, (iii) the number of votes in the Association appertaining to any Unit, or (iv) the purposes to which any Unit or the Common Elements are restricted; or (e) any proposed termination of the Condominium.

28. Recreational Facilities. The Condominium Recreation Facilities (the "Recreation Facilities") is the real property with improvements thereon as depicted in Exhibit "B" attached hereto and labeled "Community Facilities," and are subject to the following terms:

- 28.1 Expenses of Recreation Facilities. All of the Condominium Units shall be entitled to the use and enjoyment of the Recreation Facilities. The Association shall pay for all of the costs and expenses of any type or nature as to the Recreation Facilities, including without limitation expenses, taxes, assessments, insurance premiums, costs of maintenance and repair and replacements and all other costs applicable thereto, and the sums due shall be charged by the Association to each Unit Owner as a Common Expense with said sum due and payable as set forth herein, and said sum shall be a lien upon the applicable Condominium Unit with the same force and effect as all other sums which are a lien against the applicable Condominium Unit for Common Expenses. Each Condominium Unit entitled to the use and enjoyment of said Recreation Facilities shall pay an equal share of said costs and expenses subject, however, to any exemption of the Developer's Units under Section 718.116(9)(b) and (c) for the term of the Developer's Guaranty. The Association hereby agrees to assess its members as hereinbefore provided.
- 28.2 Restrictions on Recreation Facilities. Notwithstanding the foregoing provisions of this Section 28, it is understood and agreed that the Developer is not required to create condominiums within all of the Land. In such case, should the Developer construct non-condominium Units within the Condominium it shall have the right in its sole discretion to determine whether the owner of said Units and the lessees thereof shall be entitled to the use and enjoyment of the Recreation Facility and, in such event, although the total interest in and to the fee simple title to said Recreation Facility may be owned by the Association, and the Association covenants and agrees and it shall be legally required, at the option of the Developer, its successors and assigns, to enter into an agreement(s) with the owner and/or party responsible for the operation and management of said non-condominium Units whereby the owners and/or occupants of said Units are entitled to the equal use and enjoyment of the Recreation Facilities.

28.3 Recreation Facilities Agreements. The agreement(s) shall be prepared by the Developer and it shall contain such matters as the Association shall determine in its sole discretion; however, the non-condominium Unit Owners and/or occupants shall be entitled to the equal use and enjoyment of said Recreation Facilities to the same extent as are the Association's members and all Rules and Regulations as to said Recreation Facilities shall be the same as to all parties entitled to the use and enjoyment of same. The aforesaid agreement(s) shall be duly recorded in the Public Records at the cost and expense of the non-condominium Unit Owners and/or occupants and said agreement(s) shall incorporate therein such provisions for payment and enforcement of the payment of the obligations of said non-condominium Unit Owners and/or occupants as to the Recreation Facilities. Every condominium Unit or non-condominium Unit entitled to the use and enjoyment of the Recreation Facilities shall pay the cost and expense of same on the same basis as hereinbefore provided as to only condominium Units sharing said costs and expenses. The Association is bound to the provisions of this Section. Each Unit Owner, his heirs, legal representatives, successors and assigns, agrees to make payment to the Association of his share of the monies due pursuant to and in the amount or proportion as specified in the Declaration. It shall be mandatory for the Unit Owner to make said payments regardless of whether or not said Unit Owner uses the Recreation Facilities.

28.4 Use of Recreation Facilities. Any person who is a Unit Owner together with the spouse and other members of said Unit Owner's immediate family who are in residence in the Unit, as provided herein, may use the Recreation Facility. Where a corporation is a Unit Owner, the use of the Recreation Facility shall be limited at any one time to such officer, director or employee of said corporation who is in actual residence and such individual shall be deemed to be the Condominium Unit Owner for the purposes of this Section. All Unit Owners' children and children of guests or invite who are under such age as determined by the Association must be accompanied by an adult to such portions of the Recreation Facility as the Association determines. Guests, tenants and invitees of a Unit Owner, whether in temporary residence in the Condominium or not, may only be permitted to use the Recreation Facility, if at all, with the permission of the Association. The Association in accordance with this Declaration is the owner of the Recreational Facility for the use and benefit of the Unit Owners.

29. Gate. According to the Plot Plan as depicted in Exhibit "B," part of the gate is located in this Condominium and part may be located outside of the Condominium Property. Notwithstanding the location of the gate, the costs of repair, replacement and maintenance of same and any costs of manning same with a security guard shall be Common Expenses of the Association as the security service provided by the gate benefits all of the property located within the Condominium. The Unit Owners covenant and agree to pay the costs of the gate and road in the same manner as other Common Expenses.

30. FHLMC Guidelines. Notwithstanding anything contained in this Declaration to the contrary, it is the intent of Developer to comply with the requirements of the Federal Home Loans Mortgage Corporation (FHLMC) established as of the date hereof. Specifically, the following provisions are hereby made a part of this Declaration: Except as provided by statute, in the case of condemnation or substantial loss to the Units and/or Common Elements of the Condominium project, unless at least two thirds (2/3) of the Institutional Mortgagees (based upon one (1) vote for each first mortgage owned) or Unit Owners (other than the Developer) of the individual Units have given their prior approval, the Condominium Association shall not be entitled to: (i) By act or omission, seek to abandon or terminate the Condominium project; (ii) change the pro-rata interest or obligations of any individual Condominium Unit for the purpose of: (A) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (B) determining the pro rate share of ownership of each Condominium Unit in the Common Elements; (iii) partition or subdivide any Condominium Unit; (iv) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Condominium project shall not be deemed a transfer within the meaning of this clause); and (v) use hazard insurance proceeds for losses to any Condominium Property (whether to Units or to Common Elements) for other than repair, replacement or reconstruction of such Condominium property.

31. Transfer of Association Control. When Unit Owners, other than the Developer, own fifteen (15%) percent or more of the Units in this Condominium that will be operated ultimately by the Association, the Unit Owners, other than the Developer, shall be entitled to elect not less than one-third (1/3) of the members of the Board of Directors of the Association. Unit Owners, other than the Developer, are entitled to elect not less than a majority of the members of the Board of Directors of the Association, as follows:

- 31.1 Three (3) years after fifty (50%) percent of the Units that will be operated ultimately by the Association have been conveyed to purchasers;
- 31.2 Three (3) months after ninety (90%) percent of the Units that will be operated ultimately by the Association have been conveyed to purchasers;
- 31.3 When all of the Units that will be operated ultimately by the Association have been completed, some of these have been conveyed to purchaser; and none of the others are being offered for sale by the Developer in the ordinary course of business;
- 31.4 When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, whichever occurs first. The Developer is entitled to elect at least one (1) member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business at least five (5%) percent in Condominiums with less than five hundred (500) Units and two (2%) percent in

Condominiums with more than five hundred (500) Units of the Condominium Units operated by the Association; or,

31.5 Seven (7) years after the recordation of the Declaration of Condominium in the Public Records of Miami-Dade County.

31.6 If the Developer holds Units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer:

(a) Assessment of the Developer as a Unit Owner for capital improvements.

(b) Any action by the Association that would be detrimental to the sale of Units by the Developer; provided, however, that an increase in Assessments for Common Expenses without discrimination against the Developer shall not be deemed to be detrimental to the sale of Units.

IN WITNESS WHEREOF, the Developer has caused this Declaration of Condominium to be executed this \_\_\_\_ day of \_\_\_\_\_, 2007.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
\_\_\_\_\_

DEVELOPER:

MAYFAIR LOFTS, LLC, a Florida limited liability company, acting by and through its Managing Member, to-wit: MAYFAIR HOLDINGS, LLC, a Florida limited liability company

By: \_\_\_\_\_  
David F. Christa, Manager

STATE OF FLORIDA                    )  
  ) ss  
COUNTY OF MIAMI-DADE         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2007 by David F. Christa as Manager of Mayfair Holdings, LLC, a Florida limited liability company, as Managing Member of Mayfair Lofts, LLC, a Florida limited liability company, on behalf of the companies. He is personally known to me, or has produced the following type of identification \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC, State of Florida  
Print Name \_\_\_\_\_  
Commission No. \_\_\_\_\_  
My Commission Expires:

**EXHIBIT "A"**  
**TO**  
**DECLARATION OF CONDOMINIUM**  
**FOR**  
**LOFTS AT MAYFAIR, A CONDOMINIUM**

**LEGAL DESCRIPTION OF REAL PROPERTY**

**PARCEL 1:**

Lots 34, 35 and 36, Block 3, less the South 5 feet of all three Lots, and less the West 7.5 feet of Lot 36, of WILLIAM A. RICE SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 1, Page 13, of the Public Records of Miami-Dade County, Florida.

**PARCEL 2:**

Lots 37, 38 and 39, Block 3, less the North 5 feet of all three Lots, and less the following portions of Lot 37: (i) the West 5 feet; (ii) the East 2.5 feet of the West 7.5 feet of the North 88 feet; and (iii) the external area of a circular curve having a radius of 25 feet and tangents which are 30 feet South of and parallel with the City of Miami Monument Line of Oak Avenue and 32.5 feet East of and parallel with the City of Miami Monument Line of Virginia Street, of WILLIAM A. RICE SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 1, Page 13, of the Public Records of Miami-Dade County, Florida.

**EXHIBIT "B"**  
**TO**  
**DECLARATION OF CONDOMINIUM**  
**FOR**  
**LOFTS AT MAYFAIR, A CONDOMINIUM**

**PLOT PLAN, SURVEY AND GRAPHIC DESCRIPTION**

**EXHIBIT "C"**  
**TO**  
**DECLARATION OF CONDOMINIUM**  
**FOR**  
**LOFTS AT MAYFAIR, A CONDOMINIUM**

**ALLOCATION OF SHARES OF COMMON EXPENSES, COMMON  
ELEMENTS AND COMMON SURPLUS**

**EXHIBIT "D"**  
**TO**  
**DECLARATION OF CONDOMINIUM**  
**FOR**  
**LOFTS AT MAYFAIR, A CONDOMINIUM**

**ARTICLES OF INCORPORATION OF**  
**LOFTS AT MAYFAIR CONDOMINIUM ASSOCIATION, INC.**

**EXHIBIT "E"**  
**TO**  
**DECLARATION OF CONDOMINIUM**  
**FOR**  
**LOFTS AT MAYFAIR, A CONDOMINIUM**

**BY-LAWS OF**  
**LOFTS AT MAYFAIR CONDOMINIUM ASSOCIATION, INC.**

**EXHIBIT "F"**  
**TO**  
**DECLARATION OF CONDOMINIUM**  
**FOR**  
**LOFTS AT MAYFAIR, A CONDOMINIUM**

**RULES AND REGULATIONS**