

HILLTOP PLACE
CLUSTER TWO CONDOMINIUM DECLARATION

by Hilltop Place of New London, Incorporated

This Declaration is made this 13th day of April, 1972, by Hilltop Place of New London, Incorporated, a New Hampshire Corporation with its principal place of business in the Town of New London, County of Merrimack, doing business under the registered tradename of Hilltop Place (sometimes hereinafter called the “Declarant”), for the purpose of submitting certain property to Condominium use and ownership in accordance with the provisions of the New Hampshire Unit Ownership of Real Property Act (Chapter 479-A, New Hampshire Revised Statutes Annotated, 1955).

WHEREAS the Declarant owns a certain tract of land generally located on the westerly side of County Road in New London, New Hampshire, on which it has constructed or hereafter will construct, a Condominium project known as “Hilltop Place Cluster Two,” together with other improvements, and whereas the Declarant intends to sell and convey, the Condominium Units in said Cluster Two subject to certain mutually beneficial restrictions, covenants, conditions, equitable servitudes and charges which it desires to impose thereon under a general plan of improvement of said Cluster Two for the benefit of all of said Condominium Units and the future owners thereof;

NOW THEREFORE, the Declarant hereby declares that all of the premises described in Appendix A hereto including all of the Condominium Units and other improvements located and to be located thereon are held and shall be held, conveyed, encumbered, leased, used, occupied and improved subject to the following restrictions, covenants, conditions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a general plan for Cluster Two and for the improvement of the aforesaid premises and the division of said premises into Condominium Units; and said restrictions, covenants, conditions, uses, limitations and obligations are intended to enhance and protect the value and desirability of Cluster Two as a whole and to mutually benefit each of the Condominium Units located and to be located therein and to create mutually equitable servitudes upon each of said Condominium Units in favor of each and all other Condominium Units therein, to create reciprocal rights and privity of contract and estate between all persons acquiring or owning an interest of any said Condominium Units, including the Declarant, and their grantees, heirs, devisees, successors and assigns, and shall be deemed to run with the land and be a burden and benefit to all such persons, including Declarant their grantees, heirs, devisees, successors and assigns.

1. Definitions. Certain of the terms as used in this Declaration and in the By-Laws, which are annexed hereto as Appendix C and are made a part hereof, are defined and shall have meaning as follows, unless the context clearly indicates a different meaning therefor:

(a) “Declaration” means this instrument.

(b) “Declarant” means Hilltop Place of New London, Incorporated, which has made and executed this Declaration, and its successors and assigns.

(c) “Act” means the New Hampshire Unit Ownership of Real Property Act (Chapter 479-A) of the New Hampshire Revised Statutes Annotated 1955).

(d) “Hilltop Place Cluster Two” or “Cluster Two” means the premises described in Appendix A hereto including land, all buildings and other improvements and structures now or hereafter constructed thereon, all easements, rights and appurtenances belonging thereto, and all personal property now or hereafter used in connection therewith, which have been or are intended to be submitted to the provisions of the Act.

(e) “Unit” means a part of Cluster Two intended for independent ownership, including one or more rooms or enclosed spaces located in any residential building in Cluster Two, and including equipment used exclusively in connection with said Unit.

(f) “Common Area” means all that portion of Cluster Two which is not located within any Unit, plus any pipes, ducts, flues, chutes, conduits, wires, and other utility installations to the outlets located within any Unit, and is more particularly described in Paragraph 2(d) hereof.

(g) “Limited Common Area” means that portion of the Common Area which is designated herein as reserved for the use of the Owner or Owners of a certain Unit or Units to the exclusion of the Owners of other Units and which is more particularly described in Paragraph 2(e) hereof.

(h) “Condominium” means a Unit together with an undivided interest in the Common Area, including Limited Common Area, and all easements, rights and appurtenances belonging thereto.

(i) “Owner” means any person or persons or other entity owning a completed Unit in fee simple absolute together with an undivided interest in the fee simple of the Common Area, including Limited Common Area.

(j) “Association” or “Cluster Two Association of Owners” means the Owners acting as a group in accordance with the Act, the Declaration and the By-Laws.

(k) “By-Laws” means the by-Laws of the Association, annexed hereto as Appendix C and hereby made a part hereof.

(l) "Board" or "Board of Directors" means the governing body of Cluster Two elected pursuant to the By-Laws.

(m) "Manager" means the person or other entity designated by the Board to manage the affairs of the Cluster Two and to perform various other duties assigned by the Board and by the provisions of the Declarant and the By-Laws.

(n) "Condominium Rules" means such rules and regulations as the Board from time to time may adopt relative to the use of Cluster Two or of any part thereof.

(o) "Common Expenses" means all sums lawfully assessed against the Owners by the Cluster Two Association of Owners including both regular and periodic assessments and special assessments, as provided for in the Declaration and By-Laws.

2. Descriptions Required by Section 10 of the Act.

(a) A description of the land on which the buildings and other improvements in Cluster Two are or are to be located is contained in Appendix A to this Declaration, which is hereby made a part hereof.

(b) The buildings which are part of Cluster Two are listed and in part described in Appendix B to this Declaration. All buildings are of frame construction set upon concrete foundations. They are one, one and a half, and two stories high, with no basements. The roofs are covered with asphalt shingles, and the exterior walls with vertically-marked plywood siding. The interior walls are of plasterboard, and the floors are largely carpeted.

(c) The boundaries of each Unit are the interior surfaces of its perimeter walls, bearing walls, floors, ceilings, windows and window frames, doors and door frames, and trim, and it includes both the portions of the buildings so described and the space so encompassed. Additional descriptions of each Unit, including its numerical designation, location, approximate area and number of rooms is contained in Appendix B hereto.

(d) The Common Area includes, but not by way of limitation, all of the real property, improvements and facilities of Cluster Two, other than the Units, as same are hereinabove defined, and shall include easements through Units for conduits, pipes, ducts, plumbing, wiring and other facilities for the furnishing of utility services to Units and Common Areas and facilities and easements of support in every portion of a Unit which contributes to the support of the improvements, and shall further include all personal property held and maintained for the joint use and enjoyment of all Owners of all such Units.

(e) The Limited Common Area includes that portion of the Common Area consisting of twenty-four separate garage areas, which are in each case designated as appurtenant to a

particular Unit and so identified on the Hilltop Place Cluster Two Floor Plans which are recorded in Merrimack County Records pursuant to RSA 479:A-12, and also includes certain patios, balconies, attic storage space and garage storage space, all of which are identified and designated as appurtenant to specific numbered Units in Cluster Two as set forth in Appendix B. Each such Limited Common Area which is identified and designated on Appendix B as appurtenant to a particular Unit shall be exclusively reserved for the use of the Owner of such Unit.

3. Unit Values and Related Percentages. The value of each Condominium and of Cluster Two and the percentage of undivided interest in Common Area appertaining to each Unit are set forth in Appendix B hereto. There shall appertain to each Condominium in Cluster Two for voting purposes in connections with meetings of the Cluster Two Association of Owners, a number of votes which is equal to the aforementioned percentage. Where a particular Condominium is owned by more than one person, said Owners may not divide the number of votes appertaining to their Condominium, but must cast the said number of votes as a whole. Assessments of Common Expenses by the Association against the Owners, pursuant to the Declaration and By-Laws, shall be allocated to the owners according to the aforementioned percentages.

4. Statement of Purposes of Condominium Use. Hilltop Place Cluster Two is primarily intended for use as a residential community and the following provisions, together with the provisions of the Condominium Rules, are in furtherance of this purpose: (As Amended 19 July 2007 Book 3004 1161/2)

(a) Each Unit is hereby restricted to private residential use only, except for such limited professional use as the Board, upon application of an Owner, from time to time may authorize as not being incompatible with the residential character of the community. This restriction shall not be construed to prohibit Owners from leasing their Condominiums so long as the lessees thereof use and occupy the leased premises in accordance with the provisions hereof. No Owner or Owners of any Condominiums shall permit the use of Condominium for transient, hotel or commercial purposes.

(b) The Common Area and Limited Common Area shall not be used in a manner which is inconsistent with the residential character of Cluster Two. No one shall obstruct, commit any waste in or otherwise cause any damage beyond reasonable wear and tear to the Common Area or the Limited Common Area and, except as may be herein provided, nothing shall be stored in the Common Area or Limited Common Area without the prior written consent of the Board, except in storage areas appurtenant to particular Units, as provided in Paragraph 2(e) herein above. Nothing shall be altered, constructed in or removed from the Common Area or Limited Common Area without the prior written consent of the Board.

(c) No noxious or offensive use shall be made of any part of Cluster Two and nothing shall be done therein which is or will become an annoyance or nuisance to the other Owners. No use shall be made of any part of Cluster Two which shall constitute a fire hazard or which will result in the cancellation of insurance on any part of Cluster Two, or which is in violation of any law, ordinance or governmental regulation applicable thereto. No use shall be made of any part of Cluster Two which will increase the rate of insurance on the Common Area or Limited Common Area without prior written consent of the Board.

(d) No signs, clothes line, television antennas, refuse, air conditioning equipment or loose clothing or equipment shall be hung, posted or otherwise placed so as to be within the public view or within the view of other Owners without prior written consent of the Board.

(e) No animals, livestock, or poultry shall be kept anywhere within Cluster Two, except that dogs, cats, or other household pets may be kept in Condominiums with the prior written consent of the Board, which consent may be withdrawn whenever any such household pet becomes a nuisance to the other Owners, and which consent shall be subject to the Condominium Rules.

(f) The Board of Directors is empowered to adopt and amend, from time to time, Condominium Rules concerning use of Cluster Two and various parts thereof, which rules shall be furnished in writing to all Owners and which rules shall not be violated.

(g) None of the rights and obligations of the Owners created herein, shall be altered in any way by encroachments as a result of construction of any structures or due to settling or shifting of structures. There shall be valid easements for the maintenance of such encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners.

(h) The consents of the Board referred to in this paragraph 4 may be withdrawn by the Board whenever it deems such withdrawal to be in the best interest of Cluster Two.

5. Delegation of Administrative Functions of Board of Directors. Substantially all of the administrative and managerial functions of the Board of Directors shall be delegated to the Hilltop Place Community Association as provided in detail in the By-Laws of Hilltop Place Cluster Two Association of Owners. The purpose of this delegation of managerial and administrative functions is to provide a reasonable uniformity of maintenance, management and administration of the entire Hilltop Place Project during the period of its development. This delegation shall apply only to those functions specifically so designated for delegation in the By-Laws and shall not affect the other powers and prerogatives reserved to the Board and the Owners under the provisions of this Declaration and By-Laws. (Amended 16 June 1975 Book1251/Page 399).

6. Person to Receive Serve of Process. Until such time as the Declarant transfers the right and responsibility to elect a Board of Directors to the Owners as provided in the By-Laws, the name and address of the person in Merrimack County, New Hampshire, for the service of process in accordance with the Act is:

Richard E. Mann, Jr.
Hilltop Place of New London, Incorporated
New London, New Hampshire

Thereafter the person to receive service of process shall be any member of the Board of Directors or Manager whose residence is in Cluster Two. For the purpose of this paragraph the place of business of the Manager shall be considered to be Hilltop Place Cluster Two, New London, New Hampshire.

7. Insurance and Voting in the Event of Damage or Destruction.

(a) Insurance to be obtained. The Board of Directors shall obtain and maintain to the extent obtainable, the following insurance:

(i) Fire insurance with extended coverage, vandalism and malicious mischief endorsements, insuring the Units, Common Areas and Limited Common Areas in Cluster Two in behalf of the Owners and Mortgagees, as their respective interests may appear; including, without limiting the foregoing: the entire buildings containing the Units and any other structures, and improvements thereto; all such portions of the interior of such buildings as are for insurance purposes normally deemed to constitute part of the building and customarily covered by such insurance, such as heating and central air conditioning and other service machinery; interior walls, including paint and wall coverings thereon; floor coverings attached to the floors such as wall-to-wall carpeting and hardwood floors; bathroom fixtures and cabinets; built-in kitchen fixtures and kitchen cabinets; plumbing fixtures; lighting fixtures; and built-in bookcases and closets; but not including improvements made by individual Owners which exceed a total value of One Thousand Dollars (\$1,000.00) and are not reported in writing to the insurer. Said insurance shall be in an amount equal to the full replacement value of the Units, Common Areas, Limited Common Areas, and other items required to be insured hereunder, and shall be payable to the Board for the Owners. For the purpose of this Declaration, the term "full replacement value" shall mean \$2,020,383.00; provided, however, that said amount shall be adjusted annually starting in 1986 by the percentage increase or decrease in local building costs determined by reference to the Marshall Swift Company-National Appraisal Service Factor, or if said Marshall Swift Company-National Appraisal Service Factor is no longer published, as determined by reference to a similar index of local building costs which is generally accepted by the property insurance industry; and provided further that the insurance company providing the

amount of property coverage required hereunder shall execute an “Agreed Amount” endorsement to the Cluster’s insurance policy which requires said company to pay One Hundred (100) percent of the actual replacement cost for any loss with respect to one or more of the Cluster’s buildings up to at least the full replacement value as defined herein above. (Amended 27 October 1983 Book 1458 P 0770.) (Amended 9 September 1985 Book 1530 Page 0173/4)

(ii) Public liability insurance in such amounts as the Board may from time to time determine, but in no event shall the limits of liability be less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) for bodily injury and property damage per occurrence, insuring each member of the Board and the Owners, and with cross liability insurance coverage with respect to liability claims of any one insured thereunder against any other insured thereunder. This insurance, however, shall not insure against the individual liability of an Owner for negligence occurring within his own Unit or within the Limited common Area of which he has exclusive use.

(iii) Workmen’s Compensation Insurance as required by law.

(iv) Such other insurance as the Board may determine.

(b) General Insurance Provisions.

(i) The Board shall deal with the insurer in connection with the adjusting of all claims covered by insurance policies provided for under paragraph 7(a) above and shall review with the insurer, at least annually, the coverage under said policies, said review to include an appraisal of improvements within Cluster Two, and shall make any necessary changes in the policy provided for under paragraph 7(a) (i) above (prior to the expiration date set forth in any agreed amount endorsement contained in said policy) in order to meet the coverage requirements of such paragraph.

(ii) The Board shall be required to make every effort to see that all policies of physical damage insurance provided for under paragraph 7(a) above:

1. Shall contain waivers of subrogation by the insurer as to claims against the Association, its employees, members of the Board, Owners and members of the family of any Owner who resides with said Owner, except in cases of arson and fraud;

2. Shall contain an agreed amount endorsement suspending coinsurance provisions and shall contain a waiver of defense of invalidity on account of the conduct of any of the Owners over which the Association has “no control”;

3. Shall provide that such policies may not be cancelled or substantially modified without at least then (10) days written notice to all of the insured thereunder and all mortgagees of Condominiums in Cluster Two;

4. Shall provide that in no event shall the insurance under said policies be brought into contribution with insurance purchased by Owners or their mortgagees; and

5. Shall exclude policies obtained by individual Owners from consideration under “no other insurance” clause.

(iii) Each Owner may obtain additional insurance for his own benefit at his own expense. No such policy shall be written so as to decrease the coverage under any of the policies obtained by the Board pursuant to paragraph 7(a) above, and each Owner hereby assigns to the Board the proceeds of any such policy to the extent that any such policy does in fact result in a decrease in such coverage, said proceeds to be applied pursuant to the terms hereof as if produced by such coverage. Copies of all such policies (except policies covering only personal property, owned or supplied by individual Owners) shall be filed with the Association.

(iv) Each Owner shall notify the Board of all improvements to his Unit, (except personal property other than fixtures) which exceed a total value of one thousand dollars (\$1,000.00), and upon receipt of such notice, the Board shall notify the insurer, under any policy obtained pursuant to paragraph 7(a) (i) hereof, of any such improvements.

(c) Procedure in the event of damage or destruction. In the event of damage to or destruction of any of the Cluster Two Property (Common Areas, building or buildings, Unit or Units) as a result of fire or other casualty:

(i) The Board shall arrange for the prompt repair and restoration of the damaged or destroyed property, and the Board shall disperse any insurance proceeds to the contractors engaged in such repair and restoration in appropriate progress payments, unless the said Cluster Two* Property is damaged or destroyed to the extent of seventy-five percent (75%) or more of the value of the Cluster Two Property and the Cluster Two Association of Owners by a voted of seventy-five percent (75%) of the Owners' total voting power does not, within sixty (60) days of the date of such damage or destruction, determine to repair, reconstruct or rebuild said damage or destroyed property. Any cost of such repair and restoration in excess of the said insurance proceeds shall constitute a Common Expense, and the Board may assess all the Owners for such excess in the same manner as such Common Expenses are assessed. If the cost of such repair and restoration is less than the amount of said insurance proceeds, the

excess of said insurance proceeds over said cost shall be distributed by the Board to the Owners and their mortgagees, as their interests may appear, in accordance with the percentages set forth in Appendix B hereto. (In the event that the said Cluster Two property is damaged or destroyed to the extent of less than seventy-five percent (75%) of the total value of Cluster Two property, unless the Owners by vote of seventy-five (75%) of their total voting power determine otherwise in accordance with paragraph 7 (c) (iii) hereof, the arrangement by the Board for the repair and restoration of the damaged or destroyed property shall be deemed a determination by the Association to repair, reconstruct and rebuild.) (*Original document erroneously referred to Cluster One. (Affidavit of Scriveners Error recorded 29 September 1972 Book 1146 Page 324.)

(ii) If the Cluster Two property is damaged or destroyed to the extent of seventy-five percent (75%) or more of the total value, and the Cluster Two Association of Owners by a vote of seventy-five percent (75%) of the Owners' total voting power does not, within sixty (60) days of such damage or destruction, determine to repair, reconstruct or rebuild, the Board shall record at the Merrimack County Registry of Deeds a notice to that effect, and upon the filing of said notice Cluster Two property shall be deemed to be owned in common by the individual Owners, each owning an undivided interest equal to the percentage set forth in Appendix B hereto, any liens of any Condominium being deemed to be transferred to the undivided interest of the Owner of said encumbered Condominium in accordance with the then existing priorities, and upon the recording of said notice and said Property shall be subject to a petition by any Owner to the board for its sale and for partition of the net proceeds of such sale. In the event of such a partition, the said Property shall be sold, as a whole or in parts and at one or more sales, upon such terms and conditions as the Board in its sole discretion deems in the best interest of the Owners and the net proceeds of such sale or sales, together with the net proceeds of insurance on said Property, if any, shall be considered as one fund and shall be divided by the Board among all the Owners in proportion to their respective undivided interests in said Property, after first paying out of the share of each Owner, to the extent sufficient for that purpose, the amount of any unpaid liens on his undivided interest in the order of the priority of such liens.

(iii) Notwithstanding the provisions of sub-paragraphs (i) and (ii) herein above, the Owners by vote of seventy-five percent (75%) of their total voting power may elect to sell said Property, in which event the said Property shall be sold and the net proceeds thereof, together with the net proceeds of insurance on said Property, if any, shall be divided in accordance with the provisions of said sub-paragraph (ii). In the event of any sale, or sales, either under said sub-paragraph (ii) or this sub-paragraph, the members of the Board are hereby authorized to execute and deliver, in behalf of the Association and all of the Owners, any instruments necessary or required to effect said sale or sales and each Owner shall be obligated to execute and deliver such instruments and to perform such acts as may be necessary or required to effect such sale or sales.

8. Extent of Ownership and Possession by Owner. Subject to the provisions of this Declaration, each Owner shall be entitled to exclusive ownership and possession of his Unit. No Owner shall be deemed to own the undecorated or unfinished surfaces of the perimeter walls, floors, ceilings, windows, and doors bounding his Unit, except as a tenant in common with the other Owners. An Owner, however, shall be deemed to own and shall have exclusive right, at his own expense, to paint, repaint, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, floors, ceilings, and doors bounding his Unit. No Owner shall be deemed to own the utilities running through his Unit which are utilized for, or service, more than one Unit, except as a tenant in common with the other Owners.

Each Owner shall own an undivided interest in the Common Area, including Limited Common Area, in the percentage expressed in Appendix B, hereto. No such percentage shall be altered without the consent of all Owners in accordance with the Act, as amended from time to time, and no such interest shall be separated from the Unit to which it appertains, it being deemed to be conveyed or encumbered with the Unit even though it is not expressly mentioned or described in the instrument of conveyance or encumbrance. Subject to the provisions of this Declaration, each Owner may use the Common Area, excepting Limited Common Area, in accordance with the purposes for which it is intended, so long as he does not hinder or encroach upon the lawful rights of other Owners.

Subject to the provision of this Declaration, each Owner shall be entitled to the exclusive use of the Limited Common Area appurtenant to his Unit. Exclusive use of the Limited Common Area shall not be altered without the consent of all Owners expressed in an amended Declaration duly recorded and shall not be separated from the Unit to which it is appurtenant, it being deemed to be conveyed or encumbered with the unit even though it is not expressly mentioned or described in the instrument or conveyance or encumbrance.

9. Owner's Obligation to Repair. Each Owner shall at his own expense keep his Unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating, painting and varnishing which may be at any time be necessary to maintain the good appearance and condition of his Unit. In addition to redecorating and keeping the interior of the Unit in good repair, each Owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, heating equipment, lighting fixtures, refrigerators, dishwashers, disposals, ranges or other appliances which are exclusively for use in connection with his Unit, whether they are located within the Unit or in the Common Area. Each Owner shall immediately notify the Manager or a member of the Board of any damage to or malfunction of any pipe, wire, or other utility installation which is Common Area within his unit. Each Owner shall also, at his own expense, keep the Limited Common Area appurtenant to his Unit in a clean and sanitary condition.

10. Prohibition Against Changes by Owner. No Owner shall, without first obtaining written consent of the Board, make or permit to be made any structural alteration, improvement or addition in or to his Unit or in or to any part of the Cluster Two property. No Owner shall take any action or permit any action to be taken that will impair the structural soundness or integrity or safety of any building or other structure in Cluster Two or impair any easement or right or personal property which is a part of Cluster Two, without the written consent of all Owners. No Owner shall paint or decorate any portion of the exterior of any building or other structure in Cluster Two or any Common Area or Limited Common Area therein, without first obtaining written consent of the Board.

11. Entry for Repairs. The Association shall have the irrevocable right to be reasonably exercised by the Board or its agents, including the Manager, to enter any Unit when necessary in connection with any repair, maintenance, landscaping or construction for which the Board is responsible and shall have the irrevocable right, to be reasonably exercised by the Board or its agents, including the Manager or by any two or more Owners acting as a group, to enter any Unit for the purpose of making emergency repairs necessary to prevent damage to other parts of Cluster Two. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby or expense in connection therewith shall be repaired or satisfied by the Board out of the Common Expense fund.

12. Sale or Lease: Right of First Refusal.

(Amended to delete totally 16 June 1975 Book 1251 Page 399.)

13. Notice of Transfer. Immediately after any transfer of any Condominium, by sale, lease, gift, devise, intestate succession, death of a joint tenant, or otherwise, either the transferring Owner or the acquiring Owner shall give notice to the Board of such transfer, including the name and address of the acquiring Owner and the date of transfer.

14. Assessments. Each Owner shall pay all common Expenses assessed against him and all other assessments made against him by the Board in accordance with the terms of the Declaration and By-Laws and all sums to assessed but unpaid shall be secured by a lien as provided in Section 22 of the Act. No owner shall convey, mortgage, sell, or lease his Condominium unless and until he shall have paid in full to the Board all such sums theretofore assessed by the Board against his Condominium, which are due and unpaid. Within ten (10) days after receiving an appropriate request and payment of a reasonable fee, not to exceed Ten Dollars (\$10.00), the Board shall supply a certificate executed by any one of its members stating the amount of any unpaid Common Expenses or other assessments secured by a lien against any particular condominium in accordance with the Act, the Declaration and the By-Laws, and the amount thereof which is then due, and the amounts so stated shall be conclusively established as of such date in favor of all persons who rely thereon in good faith, as against Cluster Two Association of Owners. A purchaser of a Condominium shall be liable for the payment of any assessments against said Condominium prior to its acquisition by him

which are unpaid as of the time of said acquisition, whether or not such assessments are then due, except that a first mortgagee or other purchaser at the foreclosure sale of a first mortgage lien or at a sale in lieu of such foreclosure, and a purchaser from a first mortgagee who purchases at such a foreclosure sale or such a sale in lieu of foreclosure, shall not be liable for the payment of assessments unpaid due as of the time of his acquisition but shall be liable for unpaid assessments becoming due thereafter.

A lien for unpaid Common Expenses or other assessments shall be subordinate to any first mortgage lien of record and to certain tax liens, as provided in Section 22 of the Act.

15. Condemnation. In the event of a taking in condemnation or by eminent domain of part or all of the Common Area, the award made for such taking shall be payable to the Board. If the Cluster Two Association of Owners by a vote of seventy-five percent (75%) or more of the Owners' total voting power, within sixty (60) days of such taking, approves the repair and restoration of such Common Area, the Board shall arrange for the repair and restoration of such Common Area, and the Board shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that said Association does not so approve the repair and restoration of such Common Area, the Board shall disburse the net proceeds of such award in the same manner as they are required to distribute insurance proceeds where there is no repair or restoration of damage, as provided in paragraph 7 (c) (ii) hereof.

16. Liability of the Board. The members of the Board shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith and except as provided herein below. The Unit Owners shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board in behalf of Cluster Two unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of the By-Laws. It is intended that the members of the Board shall have no personal liability with respect to any contract made by them in behalf of Cluster Two. It is also intended that the liability of any Owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the members of the Board shall be limited to such proportion of the total liability thereunder as his interest in the Common Area bears to the interests of all the Owners in the Common Area. The provisions of this paragraph 16 do not apply to and shall not preclude a claim for physical damage by an Owner against the Board or any other insured under the liability insurance required by paragraph 7 (a) (ii).

17. Enforcement. Each Owner shall comply strictly with the provisions of this Declaration, the By-Laws and the Condominium Rules as the same may be lawfully amended from time to time and with decisions adopted pursuant to said Declaration, By-Laws and Condominium Rules, and failure to comply shall be grounds for an action to recover sums due for damages or

injunctive relief, or both, maintainable by the Board or Manager in behalf of the Owners, or in a proper case, by an aggrieved Owner.

18. Personal Property. The Board may acquire and hold, for the benefit of the Owners, tangible, and intangible personal property and may dispose of the same by sale or otherwise; and the beneficial interest in such personal property shall be owned by the Owners in the same proportion as their respective interests in other Common Area. A transfer of a condominium shall convey to the transferee ownership of the transferor's beneficial interest in such personal property, whether or not such personal property is specifically mentioned therein.

19. Notices. All notices mailed hereunder and under the By-Laws and the Act, to the Cluster Two Association of Owners, the Board and the Manager shall be sent by registered or certified mail to the Board or Manager at said Cluster, or to such other address as the Board may designate from time to time by notice in writing to all Owners. All notices to the Declarant shall be sent by registered or certified mail to Hilltop Place of New London, Incorporated, New London, New Hampshire, or to such other address as the Declarant may designate from time to time by notice in writing to all Owners. All notices to any owner shall be sent by registered or certified mail to Cluster Two or to such other address as may be designated by him from time to time, in writing, to the Board. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received, and except as otherwise provided herein.

20. Invalidity. The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforce ability or effect of the balance of the Declaration.

21. Gender. The use of the masculine gender herein shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

22. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a Condominium Project.

23. Amendment. Except as otherwise provided herein and in the Act, as amended from time to time, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged by Owners holding seventy-five percent (75%) of the total voting power hereunder, which amendment shall be effective upon recordation at the Merrimack County Registry of Deeds, provided that prior to October 1, 1976, no amendment shall become effective without the written concurrence of Declarant.

