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DECLARATION
FOR
MALLERY VILLAS CONDOMINIUM

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DECLARATION
FOR
MALLERY VILLAS CONDOMINIUM

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STATE OF GEORGIA

COUNTY OF GLYNN

THIS DECLARATION FOR MALLERY VILLAS CONDOMINIUM is made this 20th day of October, 1982, by the undersigned owners and mortgagees of property comprising Mallery Villas Condominium for themselves, their heirs, representatives, successors and assigns;

W I T N E S S E T H:

WHEREAS, that certain tract or parcel of land described in Exhibit "A" attached hereto and those tracts or parcels of land described as Parcel One and Parcel Two in Exhibit "B" attached hereto were heretofore submitted to the condominium form of ownership as evidenced by that certain Declaration of Mallery Villas Condominium dated September 12, 1974, recorded September 16, 1974, in Deed Book 18-D, Page 920, Glynn County Records, as amended by that certain Amendment to Declaration of Mallery Villas Condominium dated April 18, 1975, recorded May 6, 1975, in Deed Book 18-K, Page 612, Glynn County Records, (hereinafter referred to as the "Original Declaration"); and

WHEREAS, said tracts or parcels of land are shown as Phase I and Phase II on that certain plat of survey prepared by Conine-Kicklighter, Inc., Land Surveyors, Brunswick, Georgia, dated April 6, 1974, revised August 13, 1974, revised further August 19, 1974, recorded in Plat Drawer 13, Map 491, Glynn County Records, and said plat of survey as further revised on April 17, 1975, recorded in Plat Drawer 13, Map 503, Glynn County Records (hereinafter referred to as the "Original Plats"); and

WHEREAS, architectural floor plans relating to Mallery Villas Condominium were recorded in the Office of the Clerk of the Superior Court of Glynn County (hereinafter referred to as the "Original Plans"); and

WHEREAS, only that tract or parcel of land described in Exhibit "A" attached hereto has been improved by the construction thereon of 41 condominium units, a club house and swimming pool as shown on plat of survey entitled "Mallery Villas Condominium" prepared by Conine-Kicklighter, Inc., Land Surveyors, Brunswick, Georgia, dated October 15, 1981 (hereinafter called the "Plat"), to be recorded, simultaneously with the recording of this Declaration, in the Office of the Clerk of the Superior Court of Glynn County, Georgia; and

WHEREAS, the 41 condominium units were constructed substantially in accordance with those certain architectural drawings entitled "Mallery Villas, St. Simons Island, Ga." prepared by Baldwin Cheshire, Inc., Architects, Brunswick - Atlanta, consisting of Sheets A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, A-10, A-11, A-12, E-1, P-1, M-1, AD-1 and AD-2 (hereinafter called the "Plans"), to be recorded,

simultaneously with the recording of this Declaration, in the Office of the Clerk of the Superior Court of Glynn County, Georgia; and

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WHEREAS, the undersigned constitute all owners and mortgagees of the 41 condominium units comprising that tract or parcel of land described in Exhibit "A" attached hereto and all owners and mortgagees of the undeveloped property comprising those tracts or parcels of land described in Exhibit "B" attached hereto; and

WHEREAS, the undersigned desire to amend the Original Declaration so as to establish a condominium under the Georgia Condominium Act, (Ga. Code Ann., Ch. 85-16E), (hereinafter referred to as the "Act"), consisting only of that tract or parcel of land described in Exhibit "A" attached hereto together with the improvements constructed thereon (which tract or parcel of land together with the improvements constructed thereon is hereinafter referred to as the "Submitted Property"); and

WHEREAS, the undersigned desire to provide for the subsequent development in one or more stages of those tracts or parcels of land described in Exhibit "B" attached hereto (which tracts or parcels of land are hereinafter referred to as the "Additional Property");

NOW, THEREFORE, the Original Declaration, the Original Plats and the Original Plans are hereby stricken in their entirety and the following Declaration of Mallery Villas Condominium (hereinafter referred to as the "Declaration"), the Plat and the Plans are substituted in lieu thereof. The Plat and Plans are, by reference, incorporated in and made a part of this Declaration. Accordingly, the undersigned do hereby make, declare and publish their intention and desire to submit, and do hereby submit, the Submitted Property to the provisions of the Act as therein provided. From and after the date on which this Declaration is filed for record in the Office of the Clerk of the Superior Court of Glynn County, Georgia, each of the undersigned unit owners shall own in fee simple the condominium unit or units identified by number immediately following such unit owner's signature, each of the undersigned mortgagees shall have its existing lien or liens transferred to the condominium unit or units identified by number immediately following such mortgagee's signature and the Additional Property shall be owned in fee simple by the undersigned Federal Deposit Insurance Corporation without any liens or encumbrances thereon. (Federal Deposit Insurance Corporation is the successor-in-title to Homes of Tomorrow, Inc., the original developer of the condominium. Such successor-in-title, together with its successors and assigns, is hereinafter referred to as the "Declarant".) The undersigned hereby grant, bargain, sell and convey unto themselves, their heirs, representatives, successors and assigns, such interest or interests in the Submitted Property and in the Additional Property as may be necessary to vest title in the respective owners and mortgagees as set forth above with no further conveyances being necessary for such purpose. The undersigned owners and mortgagees agree that their respective interests in the Submitted Property (but not the Additional Property) shall be subject and subordinate to this Declaration and the related condominium instruments.

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DEFINITIONS

Section 1. General. The terms used in this Declaration, unless otherwise specified or unless the context otherwise requires, shall have the meanings specified in Ga. Code Ann., §85-1603e. Statutory references shall be construed as meaning the referenced statute or portion thereof as the same may exist from time to time.

ARTICLE II

THE CONDOMINIUM

Section 1. General Description. The name of the condominium located at 1000 Mallory Street, St. Simons Island, Glynn County, Georgia, is "Mallery Villas Condominium". The condominium consists of 3.02 acres of land together with the improvements situated thereon. The improvements include, but are not limited to, various buildings containing a total of 41 residential condominium units.

 Section 2. Description of Units. Each unit is depicted on the Plat and Plans and is constructed substantially in accordance with the Plans as evidenced by the certification attached hereto as Exhibit "C", said certification being that which is required by Ga. Code Ann., §85-1620e(b). Subject to the provisions of Ga. Code Ann., §85-1612e, the boundaries of each unit shall be the walls, floors and ceilings thereof which separate the unit from other units and the common elements. The 41 units are identified on the plat by the numbers 1 through 14, 55 through 77 and 81 through 84.

Section 3. Alterations Within Units. Alterations within units may be made pursuant to the provisions of Ga. Code Ann., §85-1626e.

Section 4. Description of Common Elements. The common elements consist of all portions of the condominium other than the units.

Section 5. Allocation of Undivided Interests in Common Elements. Pursuant to the provisions of Ga. Code Ann., §85-1615e, an equal undivided interest in the common elements is hereby allocated to each unit. The undivided interest in the common elements hereby allocated shall not be altered except to the extent otherwise expressly provided by the Act.

Section 6. Description of Limited Common Elements. Supplementing the provisions of Ga. Code Ann., §85-1612e, ownership of each unit shall entitle the owner thereof to the exclusive use of those portions of the common elements consisting of (a) any heating and/or air conditioning compressors, units, components or other apparatus serving such unit which may be located beyond the boundaries thereof, (b) any entranceways, stairways and appurtenant fixtures and facilities providing direct access to the units, and (c) any patio, balcony, porch or enclosed yard, together with the enclosure therefor, if any, now or hereafter located in whole or in part adjacent to a unit. In the event that any of the items described herein or in Ga. Code Ann., §85-1612e, serve more than one but less than all units in a particular building, such items shall be limited common elements appurtenant to the units served thereby.

← serves only that unit

Section 8. Subsequent Assignment of Common Elements as Limited Common Elements. In the event that the Association's board of directors should authorize or otherwise provide for the assignment of parking spaces as limited common elements, an amendment to this Declaration making any such assignment shall be prepared, executed and recorded pursuant to the provisions of Ga. Code Ann., §85-1619e(c). Any other assignment of common elements as limited common elements shall be effected only by means of an amendment to this Declaration duly executed and recorded pursuant to the provisions of Ga. Code Ann., §85-1629e.

Section 9. Upkeep of the Condominium. Upkeep of the condominium shall be governed by the provisions of Ga. Code Ann., §85-1637e, except that all powers and responsibilities with regard to maintenance, repair, renovation, restoration and replacement of structural portions of the limited common elements shall appertain to the Association rather than to the individual unit owners. Each unit owner shall be responsible for landscaping maintenance within the limited common elements appurtenant to such owner's unit. Maintenance responsibilities of the Declarant as the owner of one or more of the units shall be same as any other owner, and therefore, the Declarant shall maintain, repair, renovate, restore and replace all units owned by the Declarant and the limited common elements appurtenant thereto with the exception of structural portions of such limited common elements as hereinabove provided.

Section 10. Expansion of the Condominium. The condominium is adjacent to those parcels of land described as Parcels One and Two in Exhibit "B" attached hereto, which parcels are currently owned by the Declarant. Said parcels of land or such portions thereof as may from time to time be owned by the Declarant are hereinafter referred to collectively as the "Additional Property." The Declarant may wish to submit the Additional Property or portions thereof to the provisions of the Act and this Declaration in such manner as to cause same to be and become a part of the condominium. Therefore, the Declarant shall have the following option regarding subsequent expansion of the condominium.

(a) Option to Expand the Condominium. The Declarant hereby reserves and is hereby granted the option, to be exercised in its sole discretion at any time or times within seven years from the date on which this Declaration is recorded, to submit the Additional Property or any portion thereof to the provisions of the Act and this Declaration and thereby cause same to be and become a part of the condominium; provided, however, that the unit owners of units to which two-thirds (2/3) of the votes in the Association appertain, exclusive of any vote or votes appurtenant to any unit or units then owned by the Declarant, may consent to the extension of such option within one year prior to the date upon which such option would otherwise have expired. Portions of the Additional Property may be added to the condominium at different times without limitation as to (1) the boundaries of such portions, (2) the order in which such portions may be added to the condominium or (3) the location of any improvements that may be made on any such portions. The maximum average number of units per acre that may be created on any portion of the Additional Property added to the condominium is the maximum average number of units per acre permitted by the zoning authority having jurisdiction

thereof, which number is currently uncertain. The units shall be restricted exclusively to residential use. All structures erected on portions of the Additional Property added to the condominium will be compatible with structures on the submitted property in terms of quality of construction, the principal materials to be used and architectural style. Units created on any portion of the Additional Property added to the condominium shall be similar to units on the Submitted Property in terms of layout, spacing of parking areas, architectural style and coloring. No limitations or assurances are made as to other improvements that may be made on any portion of the Additional Property added to the condominium. The Declarant hereby reserves and is hereby granted the right, without limitation, to create limited common elements within portions of the Additional Property and to designate common elements therein which may subsequently be assigned as limited common elements.

(b) Exercise of the Option. The Option hereby reserved and granted unto the Declarant to expand the condominium may be exercised only in accordance with the provisions of the Act and this Declaration, as amended from time to time, whereupon the provisions of the Declaration shall thenceforth be understood and construed as embracing the property then and theretofore submitted to said provisions together with all improvements constructed or to be constructed thereon. Unless the property being added to the condominium at any particular time consists solely of common elements, undivided interests in the common elements, votes in the Association and liabilities for future common expenses shall be reallocated automatically so that each unit then comprising a part of the condominium shall have as appurtenances thereto an equal undivided interest in the common elements, one vote in the Association and an equal liability for future common expenses.

(c) Limitations Upon Exercise of Option. The option hereby reserved and granted unto the Declarant to expand the condominium shall be subject to the following limitations:

(i) If, as and when the Declarant shall exercise its option so as to include all of Parcels One and Two within the condominium, the Declarant shall set aside within Parcel One or Parcel Two a recreational area which may be developed at a later date as a tennis court, swimming pool or playground facility at the desire and expense of the Association. The exact size and location of said recreational area shall be determined by the Declarant, but shall not be less than 140 feet in length or 70 feet in width.

(ii) If, as and when the Declarant shall exercise its option so as to include all of Parcel One within the condominium, the Declarant shall set aside within Parcel One an area to be used for a visually screened trash and garbage dumpster. If, as and when the Declarant shall exercise its option so as to include all of Parcel Two within the condominium, the Declarant shall set aside within Parcel Two an area to be used for a visually screened trash and garbage dumpster. The exact size and location of the areas to be set aside for such use is to be determined in each case by the Declarant, but shall be sufficient for the intended purpose.

(iii) If, as and when the Declarant shall exercise its option to expand the condominium, the Declarant shall have a transferable easement on and over the

on the submitted property and any additional property, and for the purpose of doing all things reasonably necessary and proper in connection therewith. To the extent that damage is inflicted on any part of the condominium by the Declarant or any contractor, subcontractor or materialman utilizing the easements herein reserved to the Declarant or created by the Act, the Declarant together with the person or persons causing the same shall be jointly and severally liable for the prompt repair thereof and for the restoration of the same to a condition compatible with the remainder of the condominium.

(iv) If, as and when the Declarant shall exercise its option to expand the condominium and shall undertake any construction activity in connection therewith, the Declarant shall conduct such construction activity so as to not create any unreasonable construction noise, not block unnecessarily any streets within the condominium and complete promptly the construction of all structures that may, from time to time, be commenced.

(d) Failure to Exercise the Option. The option to expand the condominium, to the extent that it has not been exercised prior thereto, may be waived in whole or in part at any time prior to its expiration upon the execution by the Declarant of an instrument to that effect and the recording of same. Should the option be waived as herein provided or should the option not be exercised as to all of the Additional Property prior to its expiration, it shall, with respect to that portion of the Additional Property not theretofore submitted to the provisions of the Act and this Declaration, expire and be of no further force or effect. Notwithstanding anything contained herein which might otherwise be construed to the contrary, the Declarant shall not be obligated to impose on any portion of the Additional Property not submitted to the provisions of the Act and this Declaration any covenants, conditions or restrictions the same as or similar to those contained herein.

(e) Access and Utilities. Until such time, if any, as all of the Additional Property is submitted to the provisions of the Act and this Declaration in such manner as to cause same to be and become a part of the condominium, the Declarant reserves unto itself, for the benefit of the Declarant and its successors, assigns, licensees, invitees, mortgagees, tenants, agents, employees and representatives, a non-exclusive easement across all streets and roads at any time constructed within the condominium which may be necessary or convenient for the purpose of pedestrian and motor vehicular access to and from the Additional Property or any portion thereof and a non-exclusive easement to connect into and use in common all utility systems within the condominium including, without limitation, all pipes, wires and other apparatus used in providing electricity, gas, water, sanitary sewer, storm sewer and drainage and telephone; provided, however, that nothing contained in this paragraph shall be deemed to impose any affirmative obligation upon any present or future owner or owners of the property now or hereafter comprising the condominium to construct thereon or on any portion thereof any street, road or utility system or to require that any such street, road or utility system be located in any particular location or configuration so long as access and usage are provided as aforesaid regarding any such street, road or utility system as may from time to time be constructed. Until such time, if any, as all of the Additional Property is submitted to the provisions of the Act

... shall, for the benefit of such unit owner and his successors, assigns, licensees, invitees, mortgagees, tenants, agents, employees and representatives, a non-exclusive easement across all streets and roads at any time constructed within the Additional Property which may be necessary or convenient for the purpose of pedestrian and motor vehicular access to and from the condominium or any portion thereof and a non-exclusive easement to connect into and use in common all utility systems within the Additional Property including, without limitation, all pipes, wires and other apparatus used in providing electricity, gas, water, sanitary sewer, storm sewer and drainage and telephone; provided, however, that nothing contained in this paragraph shall be deemed to impose any affirmative obligation upon any present or future owner or owners of the Additional Property to construct thereon or on any portion thereof any street, road or utility system or to require that any such street, road or utility system be located in any particular location or configuration so long as access and usage are provided as aforesaid regarding any such street, road or utility system as may from time to time be constructed. Under no circumstances shall the association or any unit owner be required to pay, directly or indirectly, any expenses attributable to or in connection with the development of, construction on or use of the Additional Property or any other property not a part of the condominium at the time such expenses are incurred, which expenses shall include without limitation charges for utility services such as electricity, gas, water, sanitary sewer, storm sewer and drainage, garbage pickup and trash removal.

ARTICLE III

THE CONDOMINIUM ASSOCIATION

Section 1. General. The condominium association, "Mallery Villas Condominium Association, Inc.", has been incorporated as a nonprofit membership corporation under the Georgia Nonprofit Corporation Code. The organization of the Association has been duly effectuated including appointment of the first board of directors and election of its initial officers. The Declarant shall have the authority to appoint and remove one member of the Association's board of directors pursuant to the provisions of Ga. Code Ann., §85-1633e. No limitations or restrictions on the powers of the Association or its board of directors are provided herein.

Section 2. Allocation of Votes in the Association. Each unit owner shall automatically be a member of the Association, which membership shall continue during the period of ownership by such unit owner. Pursuant to the provisions of Ga. Code Ann., § 85-1616e, the number of votes in the Association hereby allocated to each unit is one. Said votes shall be cast under such rules and procedures as may be prescribed in the By-Laws of the Association, as amended from time to time, or by law. Notwithstanding the foregoing, the number of votes which may be cast by the Declarant on matters pertaining to amendments to this Declaration, amendments to the Association's Articles of Incorporation, amendments to the Association's By-Laws or the election of directors of the Association shall not exceed five although the Declarant may, from time to time, own more than five units.

Section 1. General. Each owner of a unit shall pay to the Association assessments regarding common expenses, including those described in Ga. Code Ann., § 85-1617e(b), such assessments to be fixed, established and collected from time to time as hereinafter provided. The assessments shall constitute a lien on the unit or units against which each such assessment is made pursuant to Ga. Code Ann., § 85-1641e, which lien shall include late charges, interest, costs of collection and fair rental value in accordance with and to the maximum extent permitted by Ga. Code Ann., § 85-1641e(b). The Association may, in its discretion, require payment of a fee not exceeding Ten Dollars (\$10.00) as a prerequisite to the issuance of each statement setting forth the amount of assessments past due and unpaid which the Association is obligated to provide pursuant to Ga. Code Ann., § 85-1641e(d).

Section 2. Specially Assessed Common Expenses. Each owner of a unit shall be liable for and shall pay a share, on the basis of the allocation made as provided in Section 4(a) of this Article IV, of the common expenses incurred by the Association (a) which benefit less than all of the units, (b) which are occasioned by the conduct of less than all of those entitled to occupy all of the units or by the licensees or invitees of any such unit or units, and (c) which significantly disproportionately benefit all of the units.

Section 3. Other Common Expenses. Each owner of a unit shall be liable for and shall pay a share, on the basis of the allocation made as provided in Section 4(b) of this Article IV, of the common expenses not specially assessed which shall include, but not be limited to, all charges for taxes (except ad valorem taxes and other such taxes assessed separately on each condominium unit or on the property or any other interest of the unit owner), insurance (including fire and other casualty and liability insurance), wages, accounting fees, legal fees, management fees, and other expenses of upkeep, maintenance and management actually incurred by the Association, the costs of operation of the common elements, and the costs of and a reserve for maintenance, repair and replacement of the common elements, which reserve shall be replaced on a periodic basis payable in regular installments rather than by special assessments.

Section 4. Allocation of Liability for Common Expenses. For the purpose of determining the assessments to be made as hereinabove provided, the Association shall determine for each year, as soon as practicable, the estimated aggregate amount of the common expenses for such year. For purposes of such determination, each year shall be the calendar year, except that the first year shall begin on the date upon which the condominium is legally constituted and end on the 31st day of December of said year. The Association may, from time to time during each year, make reasonable adjustments in said estimated amounts on the basis of actual costs incurred. Assessments for the estimated amount of common expenses for each year, as determined by the Association, shall be allocated and assessed by the Association as follows:

(a) The estimated common expenses to be specially assessed shall be allocated to and assessed equitably among the units in proportion to the benefits of the related services provided to such units as may be determined by the Association or such person or persons as may be selected by the Association for such purpose.

assessed shall be allocated to and assessed among the units equally.

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Section 5. Payment of Assessments. The assessments provided for herein shall be established on a calendar year basis and, unless otherwise provided by the Association, shall be payable by the unit owners in equal monthly installments in advance on or before the 10th day of each month. Any omission or delay in determining and allocating said expenses or in levying assessments therefor shall not relieve the unit owners therefrom. In such event, the unit owners, pending such determination, allocation and levy, shall pay monthly installments of common expenses in accordance with the last determination and allocation of such expenses for the preceding year, and shall pay the deficiency, if any, upon the proper determination and allocation of the estimated expenses within ten days after notice thereof. At all times, the most recent determination in relation to the allocation of said expenses shall be effective and shall govern all allocations of said expenses until another such determination shall be made. Amounts allocated and assessed to any unit of which payment shall not have become due, shall be subject to reallocation and reassessment in accordance with a later determination in relation to such allocation and assessment.

Section 6. Non-Payment of Assessments. Any assessment or installment thereof not paid within ten days after the due date shall be delinquent and shall (a) subject the delinquent unit owner to the imposition of a late charge in such amount, not in excess of the greater of Ten Dollars (\$10.00) or ten percent (10%) of each assessment or installment thereof not paid when due, as determined from time to time by the Association, (b) with any late charge relating thereto, bear interest from the date the same was first due and payable at the rate of eight percent (8%) per annum, (c) entitle the Association to collect from the delinquent unit owner all costs of collection including court costs, expenses of sale, expenses required for the protection and preservation of the delinquent owner's unit and reasonable attorney's fees actually incurred, and (d) entitle the Association to collect from the delinquent unit owner the fair rental value of such unit owner's condominium unit from the time of the institution of suit until the sale of the condominium unit at foreclosure or until the judgment rendered in such suit is otherwise satisfied.

Section 7. Disposition of Surplus Common Profits. The common profits shall be applied to the payment of common expenses, and any surplus remaining shall appertain to the condominium units in proportion to the liability for common expenses appertaining to each such unit or, in the alternative, such surplus or any portion thereof may be added to a reserve for maintenance, repair and replacement of the common elements or other reserves of the Association as may from time to time be determined by the Association in the exercise of its sole discretion.

ARTICLE V

INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Association shall obtain and maintain at all times insurance for all of the insurable improvements on the property (with the exception of improvements and betterments made by the respective unit owners or

including extended coverage, vandalism and malicious mischief in an amount sufficient to cover the full replacement cost, minus ordinary deductible amounts, of any repair or reconstruction in the event of damage or destruction from any such hazard, and shall also obtain and maintain at all times a public liability policy covering all common elements and all damage or injury caused by the negligence of the Association, its officers, directors, agents, employees, all unit owners and other persons entitled to occupy any unit or other portion of the condominium, with cross liability endorsement to cover liability of the unit owners as a group to a unit owner, which public liability policy shall be in amounts authorized from time to time by the Association not less than \$500,000.00 for injury, including death, to a single person, \$1,000,000.00 for injury or injuries, including death, arising out of a single occurrence, and \$50,000.00 property damage. Premiums for all such insurance shall be common expenses not specially assessed. All such insurance coverage obtained by the Association shall be written in the name of the Association as trustee for each of the unit owners in their respective percentages of undivided interest in and to the common elements. Such insurance shall be governed by the provisions hereinafter set forth.

(a) All policies shall be written with a company or companies licensed to do business in the State of Georgia and holding a rating of "XIV" or better by Best's Insurance Reports.

(b) All policies shall be for the benefit of the unit owners and their mortgagees as their interests may appear.

(c) Provision shall be made for the issuance of a certificate of insurance to each unit owner and his mortgagee, if any, which shall specify the proportionate amount of such insurance attributable to the particular unit owner's interest in the property.

(d) Exclusive authority to adjust losses under policies hereafter in force on the property shall be vested in the Association; provided, however, that no mortgagee may be prohibited from participating in the settlement negotiations, if any, related thereto.

(e) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual unit owners or their mortgagees.

(f) Each unit owner may obtain additional insurance at his own expense; provided, however, that no unit owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all of the unit owners and their mortgagees, may realize under any insurance policy which the Association may have in force on the property at any particular time.

(g) Any unit owner who obtains an individual insurance policy covering any portion of the property shall file a copy of each such individual policy with the Association within 30 days after purchase of such insurance.

(h) It shall be the individual responsibility of each unit owner at his own expense to provide, as he sees fit, title insurance on his individual unit, public liability insurance, theft and other insurance covering improvements, betterments and personal property damage and loss.

(i) The Association shall conduct an annual insurance review which shall include a replacement cost appraisal, without respect to depreciation, of all insurable improvements on the property by one or more qualified persons at least one of whom should be a qualified building cost estimator.

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(j) The Association shall make reasonable effort to secure insurance policies that will provide for the following: (1) a waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the unit owners and their employees, agents and invitees; (2) a waiver by the insurer of its right to repair and reconstruct instead of paying cash; (3) that the policy on the property cannot be cancelled, invalidated or suspended on account of the conduct of any officer, director, agent or employee of the Association without a prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any unit owner or mortgagee; and (4) that any "other insurance" clause in the policy exclude individual unit owners' policies from consideration.

(k) The Association shall obtain also fidelity coverage against dishonest acts on the part of all persons responsible for handling funds belonging to or administered by the Association. The fidelity insurance policy must name the Association as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than one and one-half times the Association's estimated annual operating expenses and reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

Section 2. Handling of Casualty Insurance Proceeds. All insurance policies purchased by and in the name of the Association shall provide that proceeds covering property losses shall be paid to the Association. The Association shall receive such proceeds as are paid and delivered to it and hold same in trust for the benefit of the unit owners and their mortgagees in accordance with the respective undivided interests of the unit owners in and to the common elements. Such proceeds, or such portion thereof as may be required for such purpose, shall be disbursed by the Association in payment of repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying all costs of repairs or reconstruction shall be disbursed to the beneficial unit owners, remittances to unit owners and their mortgagees being payable jointly to them. Notwithstanding the foregoing, in the event of a determination that the damage or destruction for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed to such persons as hereinafter provided.

Section 3. Damage and Destruction. (a) Immediately after any damage or destruction by fire or other casualty to the property covered by insurance written in the name of the Association, the Association shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other casualty with each unit and the common elements having the same vertical and horizontal boundaries as before.

destruction by fire or other casualty to any part of the property, the Association shall provide written notice of same to each mortgagee having an interest therein whose name and address have theretofore been furnished to the Association together with a written request for such notice.

(c) Any damage or destruction shall be repaired or reconstructed unless (1) the condominium is terminated pursuant to the provisions of Ga. Code Ann., § 85-1630e, (2) the damaged or destroyed portion of the property is withdrawn from the condominium pursuant to the provisions of Ga. Code Ann., § 85-1631e, or (3) the unit owners of the damaged or destroyed units, if any, together with the unit owners of other units to which two-thirds of the votes in the Association appertain, exclusive of the votes appertaining to any damaged or destroyed units, agree not to repair or reconstruct such damage or destruction, pursuant to the provisions of Ga. Code Ann., § 85-1607e. Any such determination shall be conclusively made within a period of time which shall in no event exceed 90 days after the casualty. No mortgagee shall have the right to participate in the determination as to whether the damage or destruction shall be repaired or reconstructed. Should a determination be made to terminate the condominium, withdraw from the condominium the damaged portion of the property or not to repair or reconstruct the damage or destruction as provided above, then the insurance proceeds shall be disbursed by the Association to the beneficial unit owners, remittances to unit owners and their mortgagees being payable jointly to them.

Section 4. Repair and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Association may levy a special assessment against the unit owners of the damaged or destroyed units, and against all unit owners in the case of damage to the common elements, in sufficient amounts to provide funds to pay such excess cost of repair or reconstruction. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. Such assessments, if any, against unit owners for damage to units shall be levied in proportion to the cost of repair and reconstruction of their respective units. Such assessments, if any, against unit owners for damage to the common elements shall be levied in proportion to the unit owners' shares of liability for common expenses not specially assessed. The proceeds from insurance and assessments, if any, received by the Association hereunder when the damage or destruction is to be repaired or reconstructed shall be disbursed as provided for in Section 2 of this Article V.

ARTICLE VI

EMINENT DOMAIN

Section 1. General. Whenever all or any part of the property shall be taken by any authority having the power of condemnation or eminent domain, such shall be governed by the provisions of Ga. Code Ann., § 85-1606e.

Section 2. Notice to Mortgagees. The Association, immediately upon having knowledge of the institution, or threat of institution of any proceedings or other action with respect to the taking of units, the common elements, or any portion of any unit or common element in condemnation,

any unit of government or any other person having the power of eminent domain, shall so notify all unit owners and all mortgagees having an interest therein whose name and address have theretofore been furnished to the Association together with a written request for such notice. Any such mortgagee may, if permitted by law, participate in any such proceedings or actions or, in any event, may participate in negotiations in connection therewith, but shall have no obligation to do so.

ARTICLE VII

USE RESTRICTIONS

Section 1. Residential Purposes. All units shall be, and the same hereby are, restricted exclusively to residential use. No structures of a temporary character, trailer, tent, shack, barn or other outbuilding shall be used as a residence on any portion of the property at any time either temporarily or permanently. The provisions of this Section 1 shall not apply, however, to the Declarant, its agents or assigns or the construction, marketing or business activities of such persons.

Section 2. Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any part of the property, except that dogs, cats or other household pets may be kept by the respective owners in their respective units provided that they are not kept, bred, or maintained for any commercial purpose and do not endanger the health of or, in the sole discretion of the Association, unreasonably disturb the owner of any unit or any occupant thereof.

Section 3. Signs and Business Activities. No advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the property, nor shall the property be used in any way or for any purpose which may endanger the health of or unreasonably disturb the owner of any unit or any occupant thereof. No business activities of any kind whatever shall be conducted in any unit or in any portion of the property, provided, however, the foregoing covenants shall not apply to the business activities, signs and billboards of the Declarant, its agents or assigns during such time as the Declarant owns one or more units primarily for the purpose of sale.

Section 4. Clotheslines, Garbage Cans, Etc. All clotheslines, garbage cans, woodpiles, equipment, etc. shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring units and streets. All rubbish, trash and garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon.

Section 5. Planting. No planting or gardening shall be done except in the limited common elements appurtenant to a unit or as otherwise approved in writing by the Association.

Section 6. Exterior Antennas. Without prior written approval of the Association, no exterior television or radio antenna shall be placed, allowed or maintained upon any portion of the property or improvements situated thereon other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna.

Section 7. Number of Occupants. approval of the Board of Directors of the Association, no unit shall be occupied by more than the "maximum number" of occupants, as hereinafter defined. The "maximum number" of occupants for all units shall be calculated by multiplying the number of bedrooms in a given unit times two. Thus two-bedroom units shall not be occupied by more than four persons, and three-bedroom units shall not be occupied by more than six persons.

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Section 8. Common Elements. All occupants of units and their guests shall have a nonexclusive right to use the common elements, other than limited common elements, for the purposes for which they are intended subject, however, to the following provisions: (a) no such use shall enter or encroach upon the lawful rights of other persons; (b) the right of the Association to limit the number of guests that may use the common elements; (c) the right of the Association to limit the time within which guests may use the common elements; (d) the right of the Association to charge reasonable admission and other fees for the use of any recreational facilities comprising a portion of the common elements; (e) the right of the Association to provide for the exclusive use of such recreational facilities by one or more persons during such times and on such terms and conditions as the Association may determine; (f) the right of the Association to suspend the right to use such recreational facilities by a unit owner, occupants of his unit and their guests for any period during which any assessment against his unit remains unpaid and for a period not to exceed 30 days for any infraction of its published rules and regulations; and (g) the right of the Association to restrict the use and govern the operation of the common elements by promulgating reasonable rules and regulations with respect thereto.

Section 9. Leasing of Units. With the exception of mortgagees who become owners of units following foreclosure or transfers in lieu of foreclosure, no unit owner may lease his unit unless first approved in writing by the Association. It being the intention of the unit owners that the units be owner occupied, approval by the Association may be arbitrarily withheld. Approval by the Association of any such lease shall not constitute or be deemed to be a waiver of the necessity for such approval to any further lease or to any assignment or subletting of any previously approved leasing. All leasing of units shall be governed by the following provisions of this Section 9: No unit owner may lease less than his entire unit, lease his unit for a period of time less than six months or for purposes of occupancy by persons other than the individual lessee and his or her immediate family unless otherwise first approved in writing by the Association. No room may be rented and no transient tenants may be accommodated. Each lease shall be in writing and shall provide that the terms contained therein shall be subject in all respects to the condominium instruments and that any failure by the lessee to comply with the terms of such instruments shall constitute a default under the lease.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Amendments. This Declaration may be amended pursuant to the provisions of Ga. Code Ann., §§ 85-1625e, 85-1629e and 85-1638e(c). Each unit owner agrees that, if requested to do so by the Association's board of directors, such unit owner will consent to amendments to this Declara-

tion for the sole purpose of complying with the requirements of any governmental or quasi-governmental entity authorized to fund or guarantee mortgages on individual condominium units, as such requirements may exist from time to time.

Section 2. Termination of the Condominium. The condominium may be terminated pursuant to the provisions of Ga. Code Ann., §85-1630e.

Section 3. Withdrawal of Submitted Property. Portions of the condominium may be withdrawn pursuant to the provisions of Ga. Code Ann., § 85-1631e.

Section 4. Rights of First Mortgagees. In addition to the rights of mortgagees elsewhere provided, each first mortgagee of a unit shall (a) be entitled to written notice from the Association of any default by a unit owner in the performance of his obligations under the condominium instruments which is not cured within 60 days, (b) be entitled to attend and observe all meetings of unit owners, but not meetings of the Association's board of directors; (c) be furnished copies of annual financial reports made to the unit owners; and (d) be entitled to inspect the financial books and records of the Association during reasonable business hours; provided, however, that such mortgagee shall first file with the Association a written request that notices of default, notices of meetings and copies of financial reports be sent to a named agent or representative of the mortgagee at an address stated in such notice.

Section 5. Consent of First Mortgagees. Unless at least two-thirds (2/3) of the mortgagees holding mortgages constituting first lines on units subject to such mortgages (based upon one vote for each mortgage owned) have given their prior written approval, the Association shall not be entitled to: (a) by act or omission seek to abandon or terminate the condominium; (b) change the pro rata interest or obligations of any unit for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (ii) determining the pro rata share of ownership of each unit in the common elements; (c) partition or subdivide any unit, which shall require in addition the prior written approval of the holder of any first mortgage on such unit; (d) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common elements; provided, that the granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium shall not be deemed a transfer within the meaning of this clause; (e) use hazard insurance proceeds for losses to any of the property (whether to units or to common elements) for other than the repair, replacement or reconstruction of such improvements; (f) amend materially this Declaration or the bylaws of the Association; or (g) terminate professional management, if any, and assume self management of the condominium.

Section 6. Priority of First Mortgagees. No provision of the condominium instruments shall be construed to grant to any unit owner, or to any other party, any priority over any rights of first mortgagees of the units pursuant to their first mortgages in the case of a distribution to unit owners of insurance proceeds or condemnation awards for losses to or a taking of units and/or the common elements or any portions thereof.

Section 7. Professional Management. Any agreement for professional management of the condominium must provide for

days written notice thereof. The term of any such agreement may not exceed one year, renewable by agreement of the parties for successive periods of one year each.

Section 8. Duration. So long as the laws of the State of Georgia limit the period during which covenants restricting lands to certain uses may run, it shall be the duty of the Association to cause such covenants contained herein, as amended from time to time, to be extended when necessary by recording a document bearing the signatures of unit owners of units to which a majority of the votes in the Association appertain reaffirming and newly adopting such covenants then existing in order that the same may continue to be covenants running with the land. Adoption by such majority shall be binding on all persons whomsoever, and each unit owner, by acceptance of a deed therefor or other evidence of title thereto, is deemed to agree that such covenants may be extended as provided herein.

Section 9. Enforcement. In order to enforce compliance with all lawful provisions of the condominium instruments and the Association's Articles of Incorporation, bylaws, and rules and regulations by the unit owners and those persons entitled to occupy units and in addition to other rights of and remedies available to the Association, the Association shall be empowered to impose and assess fines and suspend temporarily the right of use of certain of the common elements in such manner and to such extent as the Association may from time to time determine; provided, however, that no such suspensions shall deny any unit owner or occupant access to the unit owned or occupied nor cause any hazardous or unsanitary condition to exist. The Association shall not impose fines or suspend any rights of a unit owner or occupant unless and until the following procedure is followed:

(a) Demand. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying: (i) the alleged violation; (ii) the action required to abate the violation, and (iii) a time period, not less than ten days, during which the violation may be abated without further sanction if such violation is continuing one, or a statement that any further violation of the same rule may result in the imposition of sanction after notice and hearing if the violation is not continuing.

(b) Notice. Within 12 months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same rule is subsequently violated, the Association shall serve the alleged violator with written notice of a hearing to be held by the board of directors in executive session. The notice shall contain: (i) the nature of the alleged violation; (ii) the time and place of the hearing, which time shall be not less than ten days from the giving of the notice; (iii) an invitation to attend the hearing and produce any statement, evidence and witnesses on his or her behalf; and (iv) the proposed sanction to be imposed.

(c) Hearing. The hearing shall be held in executive session pursuant to the notice affording the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of the delivery is entered by the officer or director who delivered such notice. The notice requirement shall be

meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

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IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals the day and year first above written.

Signature pages 312 through 345 on file in office of Golden Isles Realty Company, Inc. and are available upon request.

ALL that tract or parcel of land lying and being in Georgia Militia District 25, Saint Simons Island, Glynn County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin placed at the northeast corner of the northerly terminus of Mallery Drive (50-foot right of way) north 11 degrees 12 minutes east one hundred eighteen and ninety-six hundredths (118.96) feet as measured along the southeasterly side of Mallery Drive from the corner formed by the intersection of the southeasterly side of Mallery Drive with the northeasterly side of Mallery Street (60-foot right of way); run thence north 78 degrees 48 minutes west along the northerly terminus of Mallery Drive fifty (50.0) feet to an iron pin placed at the northwest corner of the northerly terminus of Mallery Drive; continue thence north 78 degrees 48 minutes west two hundred thirty-seven and twenty-two hundredths (237.22) feet to an iron pin placed; run thence north 11 degrees 12 minutes east ninety-four and eighty-nine hundredths (94.89) feet to an iron pin placed; run thence north 78 degrees 48 minutes west eleven (11.0) feet to an iron pin placed; run thence north 11 degrees 12 minutes east fifty-five and five tenths (55.50) feet to an iron pin placed; run thence south 78 degrees 48 minutes east seventy (70.0) feet to an iron pin placed; run thence north 11 degrees 12 minutes east one hundred five (105.00) feet to an iron pin placed; run thence south 78 degrees 48 minutes east thirty-five and seventy-five hundredths (35.75) feet to an iron pin placed; run thence north 11 degrees 12 minutes east eighty-five and twenty-six hundredths (85.26) feet to an iron pin placed; run thence south 76 degrees 13 minutes east three hundred seventy-three and eight hundredths (373.08) feet to an iron pin placed; run thence south 11 degrees 12 minutes west eighty-one and eighty-eight hundredths (81.88) feet to an iron pin placed; run thence south 78 degrees 48 minutes east seventy-five (75.0) feet to an iron pin placed; run thence south 11 degrees 12 minutes west one hundred twenty-four and fifty-seven hundredths (124.57) feet to an iron pin placed; run thence north 78 degrees 48 minutes west two hundred twenty and nineteen hundredths (220.19) feet to an iron pin placed; run thence south 11 degrees 12 minutes west twenty-three and five tenths (23.5) feet to an iron pin placed; run thence north 78 degrees 48 minutes west thirty-five (35.0) feet to an iron pin placed; run thence south 11 degrees 12 minutes west ninety-four and eighty-seven hundredths (94.87) feet to the northeast corner of the northerly terminus of Mallery Drive and the point of beginning, containing 3.02 acres and being more particularly shown as "Condominium Tract" on plat of Mallery Villas Condominium, prepared by Conine-Surveying Planning, bearing the seal of James L. Conine, Registered Land Surveyor, dated October 15, 1981.

SECTION A

PARCEL ONE:

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ALL that tract or parcel of land lying and being in Georgia Militia District 25, Saint Simons Island, Glynn County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, commence at an iron pin placed at the northeast corner of the northerly terminus of Mallery Drive (50-foot right of way) north 11 degrees 12 minutes east one hundred eighteen and ninety-six hundredths (118.96) feet as measured along the southeasterly side of Mallery Drive from the corner formed by the intersection of the southeasterly side of Mallery Drive with the northeasterly side of Mallery Street (60-foot right of way); run thence north 78 degrees 48 minutes west along the northerly terminus of Mallery Drive fifty (50.0) feet to an iron pin placed at the northwest corner of the northerly terminus of Mallery Drive; continue thence north 78 degrees 48 minutes west two hundred thirty-seven and twenty-two hundredths (237.22) feet to an iron pin placed and the TRUE POINT OF BEGINNING; run thence north 78 degrees 48 minutes west three hundred and ninety-eight hundredths (300.98) feet to an iron pin placed; run thence north 36 degrees 06 minutes east three hundred eighty-seven and twelve hundredths (387.12) feet to an iron pin placed; run thence south 76 degrees 13 minutes east two hundred thirty-two and ninety-five hundredths (232.95) feet to an iron pin placed; run thence south 11 degrees 12 minutes west eighty-five and twenty-six hundredths (85.26) feet to an iron pin placed; run thence north 78 degrees 48 minutes west thirty-five and seventy-five hundredths (35.75) feet to an iron pin placed; run thence south 11 degrees 12 minutes west one hundred five (105.00) feet to an iron pin placed; run thence north 78 degrees 48 minutes west seventy (70.0) feet to an iron pin placed; run thence south 11 degrees 12 minutes west fifty-five and five tenths (55.50) feet to an iron pin placed; run thence south 78 degrees 48 minutes east eleven (11.0) feet to an iron pin placed; run thence south 11 degrees 12 minutes west ninety-four and eighty-nine hundredths (94.89) feet to the true point of beginning, containing 2.08 acres and being more particularly shown as "Parcel One" on plat of Mallery Villas Condominium, prepared by Conine-Surveying Planning, bearing the seal of James L. Conine, Registered Land Surveyor, dated October 15, 1981.

SECTION B

PARCEL TWO:

ALL that tract or parcel of land lying and being in Georgia Militia District 25, Saint Simons Island, Glynn County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin placed at the northeast corner of the northerly terminus of Mallery Drive (50-foot right of way) north 11 degrees 12 minutes east one hundred eighteen and ninety-six hundredths (118.96) feet as measured along the southeasterly side of Mallery Drive from the corner formed by the intersection of the southeasterly side of Mallery Drive with the northeasterly side of Mallery Street (60-foot right of way); run thence north 11 degrees 12 minutes east ninety-four and eighty-seven hundredths (94.87) feet to an iron pin placed; run thence south 78 degrees 48 minutes east thirty-five (35.0) feet to an iron pin placed; run thence north 11 degrees 12 minutes east twenty-three and five tenths (23.5) feet to an iron pin placed; run thence south 78 degrees 48 minutes east two hundred twenty and nineteen hundredths (220.19) feet to an iron pin placed; run thence north 11 degrees 12 minutes east one hundred twenty-four and fifty-seven hundredths (124.57) feet to an iron pin placed; run thence north 78 degrees 48 minutes west seventy-five (75.0) feet to an iron pin placed; run thence north 11 degrees 12 minutes east eighty-one and eighty-eight hundredths (81.88) feet to an iron pin placed; run thence south 76 degrees 13 minutes east two hundred seventy-five and two tenths (275.20) feet to an iron pin placed; run thence south 11 degrees 12 minutes west two hundred eleven and twenty-nine hundredths (211.29) feet to an iron pin placed; run thence north 78 degrees 48 minutes west thirty-five and twenty-three hundredths (35.23) feet to an iron pin placed; run

thence south 11 degrees 12 minutes west one hundred and thirteen hundredths (100.13) feet to an iron pin placed; run thence north 78 degrees 48 minutes west four hundred nineteen and eighty-eight hundredths (419.88) feet to the northeast corner of the northerly terminus of Mallery Drive and the point of beginning, containing 2.18 acres and being more particularly shown as "Parcel Two" on plat of Mallery Villas Condominium, prepared by Conine-Surveying Planning, bearing the seal of James L. Conine, Registered Land Surveyor, dated October 15, 1981.

COUNTY OF GLYNN

BEFORE me came in person E. F. Ledford, who, having been duly sworn, on oath says as follows:

THAT he is a Registered Engineer, registered to practice in and by the State of Georgia under Certificate of Registration No. 667, and

THAT he has visited the site at 1000 Mallory Street, St. Simons Island, Glynn County, Georgia, and viewed the property known or to be known as "Mallery Villas Condominium", and that, to the best of his knowledge, information and belief: (a) the exterior walls and roof of each structure on said property which contains or constitutes all or any part of any unit or units are in place as shown on plans therefor entitled "Mallery Villas, St. Simons Island, Ga." prepared by Baldwin Cheshire, Inc., Architects, Brunswick - Atlanta, consisting of sheets A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, A-10, A-11, A-12, E-1, P-1, M-1, AD-1 and AD-2 (hereinafter called the "Plans"), which plans are to be filed in the Office of the Clerk of the Superior Court of Glynn County, Georgia, simultaneously with the filing of the Declaration for Mallery Villas Condominium, to which this Certification shall be attached and, by reference, made a part thereof, and (b) such walls, partitions, floors and ceilings, to the extent shown on said plans as constituting the horizontal boundaries, if any, and the vertical boundaries of each unit, have been sufficiently constructed so as to clearly establish the physical boundaries of such unit.

Sworn to and subscribed
before me this 19th
day of October, 1982.

E. F. Ledford

