

AMENDED AND RESTATED  
DECLARATION OF CONDOMINIUM

for

HOWE COURT CONDOMINIUM

ARTICLE I

SUBMISSION: DEFINED TERMS

Section 1.1. Declarant; Property; County; Name. MOTHERAL, INC., a Pennsylvania corporation, (the "Declarant"), owner in fee simple of the Real Estate described in Exhibit A attached hereto, located in the City of Pittsburgh, Allegheny County, Pennsylvania, hereby submits the Real Estate, including all easements, rights and appurtenances thereunto belonging and the buildings and improvements erected or to be erected thereon (collectively, the "Property") to the provisions of the Pennsylvania Uniform Condominium Act, 68 PA. C.S. §3101 et. seq. (the "Act"), and hereby creates with respect to the Property a condominium, to be known as "Howe Court Condominium" (the "Condominium"). This Declaration supersedes and replaces the Declaration recorded in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, under the Unit Property Act on June 10, 1980 in Deed Book Volume 6262, page 383.

Section 1.2. Easements and Licenses. The following are the recorded easements and licenses affecting the Real Estate hereby submitted to the Act:

a. Coal and mining rights and all rights and privileges incident to the mining of coal heretofore conveyed or reserved by instruments of record; right of surface, lateral or subjacent support; or any surface subsidence.

b. Easements and servitudes apparent from an inspection of the premises.

c. Rights or claims of parties in actual possession of the property other than the owners.

d. Zoning ordinances of the City of Pittsburgh.

Section 1.3. Defined Terms.

1.3.1. Terms Defined in the Act. Capitalized terms not otherwise defined herein or in the Plats and Plans shall have the meanings specified or used in the Act.

1.3.2. Terms Defined Herein. The following terms shall have specific meanings herein as follows:

a. "Association" means the unit owners' association of the Condominium and shall be known as the "Howe Court Condominium Association."

b. "Building" means any building included in the Property.

c. "Common Expenses" shall mean those expenses for which the Association is responsible under this Declaration and the Act including, but not limited to, the actual and estimated costs of maintenance, management, operation, repair and replacement of the Common Elements; the cost of utilities metered to more than one Unit; costs of trash collection and removal; costs of management and administration of the Association including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and other employees; the costs of all landscaping, snow removal and other services benefitting the Common Elements; the costs of fire, casualty and liability insurance, workers' compensation insurance, errors and omissions and director, officer and agent liability insurance, and other insurance covering the Common Elements and the directors, officers and agents of the Association; taxes paid by the Association; and the costs of any other expenses incurred by the Association for the common benefit of the Unit Owners. Excluded from the Common Expenses are all expenses which are the sole responsibility of the owner of the Carriage House Unit, or not required to be paid to be paid by the owner of said Unit.

d. "Carriage House Expenses". The owner of the Carriage House Unit shall be solely responsible for the cost of interior and exterior maintenance of the Carriage House, including the roof, walls, foundation and windows. All utilities to the Carriage House shall be either separately metered or submetered and shall be paid separately to either the provider (or the Association if submetered). The Carriage House Unit shall not be required to contribute to the maintenance, repair or replacement of the main building or to pay for any utilities used in the main building. The only Common Expenses to which the Carriage House contributes will be landscaping, repair of sidewalks, maintenance and snow removal of the sidewalks and driveway, management fees, and insurance. All such expenses shall be "Common Expenses" under the Act for collection and lien purposes.

e. "Condominium" means the Condominium described in Section 1.1 above.

f. "Declarant" means the Declarant described in Section 1.1 above and all successors to any Special Declarant Rights.

g. "Declaration" means this document, as the same may be amended from time to time.

h. "Executive Board" means the Executive Board of the Association.

i. "Percentage Interest" means the undivided ownership interest in the Common Elements appurtenant to each Unit as set forth in Exhibit "C" attached, as the same may be amended from time to time.

j. "Limited Common Elements" means the Common Elements described as such in the Act, including the balconies or patios, indoor storage lockers and exterior parking spaces, as shown on the Plats and Plans.

k. "Reserved Common Elements" means portions of the Common Elements which the Executive Board may designate as such from time to time pursuant to Section 3.2 hereof.

l. "General Common Expenses" means Common Expenses excluding Limited Expenses.

m. "Limited Expenses" means the Common Expenses described as such in Section 3314(c) of the Act as modified by Section 2.4 of this Declaration.

n. "Main Building" means the building housing Units 1 through 16.

o. "Plats and Plans" means the Plats and Plans being recorded contemporaneously herewith in the office of Recorder of Deeds of Allegheny County, Pennsylvania as the same may be amended from time to time, which are hereby incorporated herein as Exhibit B.

p. "Property" means the Property described in Section 1.1 above.

q. "Unit" means a Unit as described herein and in the Plats and Plans.

r. "Permitted Mortgage" means any mortgage to the seller of a Unit and a first mortgage to (i) the Declarant; (ii) a bank, trust company, savings bank, savings and loan association, mortgage service institutional investor or lender; (iii) any other mortgagee approved by the Executive Board. A holder of a Permitted Mortgage is referred to herein as a "Permitted Mortgagee".

## ARTICLE II

### ALLOCATION OF PERCENTAGE INTERESTS, VOTES AND COMMON EXPENSE LIABILITIES; UNIT IDENTIFICATION AND BOUNDARIES; MAINTENANCE RESPONSIBILITIES

Section 2.1. Plats and Plans. The location and dimensions of the Building and other improvements comprising the property and the location of the Units, Common Elements and Limited Common Elements of the Condominium are shown on the Plats and Plans.

Section 2.2. Percentage Interests. Attached as Exhibit "C" hereto is a list of all Units by their identifying Numbers and the Percentage Interest

allocated to each Unit, determined by a fraction having one (1) as the numerator and as a denominator the total number of Units in the condominium at the time the instrument is recorded. The Percentage Interest shall determine the share of the Common Expense liability appurtenant to each Unit.

Section 2.3. Unit Boundaries and Contents.

(a) Main Building. The title lines or boundaries of each Unit in the main Building are situated as shown on the Plats and Plans and described as follows: All perimeter walls, floors, ceilings, doors and windows within or comprising part of each Unit.

(b) Carriage House. The title lines or boundaries of the Carriage House are situated as shown on the Plats and Plans and described as follows:

(1) Horizontal Boundaries: The upper and lower (horizontal) boundaries of the Unit shall be the following extended to intersections with the vertical boundaries:

(i) Upper Boundary: The surface of the roof.

(ii) Lower Boundary: The horizontal plane of the bottom surface of the structural concrete floor slab.

(2) Vertical Boundaries: The vertical boundaries of the Unit shall be the vertical planes, extended to intersections with each other and with the upper and lower boundaries of the outside surface of the exterior walls of the building.

(c) Other. Each Unit shall also consist of:

(1) The finished or decorated surfaces, including paint, lacquer, varnish, wallpaper, paneling, tile, carpeting and any other material applied to wall, floor or ceiling areas; both sides of all doors and windows in interior and perimeter walls (including sliding glass doors);

(2) All built-in and installed fixtures and equipment located within a Unit for the exclusive use of the Unit, commencing at the point of connection with the structural part of the Building and with utility pipes, lines or systems serving the Building, including furnaces, water heaters and ductwork and piping serving only one Unit; and

(3) All spaces, interior partitions and other fixtures and improvements within the title lines described above. Each Unit shall include the items within the title lines described in §3202 of the Act which are appurtenant to the Unit.

Section 2.4. Maintenance Responsibilities: Notwithstanding the ownership of the various portions of the Common Elements and the Units by virtue of the foregoing boundary descriptions, the Units and Common Elements shall be

maintained and repaired by each Unit Owner and by the Association in accordance with the provisions of §3307 of the Act, except as expressly set forth to the contrary herein. All Common Expenses associated with the maintenance of a Limited Common Element shall be assessed as Limited Expenses against the Units to which such Limited Common Element was assigned at the time the expense was incurred in the same proportions as the respective Percentage Interests of all such Units. Structural repairs or replacements of all General Common Elements, including but not limited to the roof and landscaped areas, shall be the responsibility of the Association, the costs to be charged as General Common Expenses. In addition, the Association may provide for Association maintenance of unit components where such items involve matters of concern relative to the general health, safety and welfare of all occupants of the Building and may promulgate guidelines governing the division of maintenance and repair responsibilities between the Unit Owner and the Association. Cost of maintenance of Limited Common Elements shall be the responsibility of the owners of said Limited Common Elements, jointly and severally.

Section 2.5. Relocation of Unit Boundaries: Relocation of boundaries between Units and conversion of Units by the Declarant will be permitted subject to compliance with the provisions of §§3214 and 3215 of the Act. Subdivision or conversion of Units by the Declarant pursuant to §3215(c) of the Act may not result in more than ten (10) additional Units. Unit Owners may not subdivide Units after the initial purchase from Declarant. Declarant shall also have the right to convert Common Elements to Limited Common Elements.

### ARTICLE III

#### LIMITED AND RESERVED COMMON ELEMENTS

Section 3.1. Limited Common Elements. Portions of the Common Elements are marked on the Plats and Plans as "Limited Common Elements" including the storage lockers, parking spaces, balconies and patios. Declarant reserves the right to make the initial assignment of the parking spaces and storage areas as Limited Common Elements for the exclusive use of certain Unit Owners to whose Units these parking spaces and storage areas shall become appurtenant. The Declarant may assign such Limited Common Element parking spaces or storage areas pursuant to the provisions of Section 3209 of the Act by making such an assignment in a written instrument of assignment or in the deed to the Unit to which such Limited Common Element shall be appurtenant or by recording an appropriate amendment to this Declaration. Such assignments by the Declarant may be to Units owned by the Declarant.

Section 3.2. Designation of Reserved Common Elements. Reserved Common Elements are those parts of the Common Elements which the Executive Board may designate from time to time for use by less than all of the Unit Owners or by non-owners of any Units for specified periods of time or by only those persons paying fees or satisfying other reasonable conditions for use as may be established by the Executive Board. Included in the Reserved Common Elements shall be the laundry room and such other areas as the Executive Board may designate.

ARTICLE IV

EASEMENTS

Section 4.1. Additional Easements. In addition to and in supplementation of the easements provided for by §§3216, 3217, 3218 of the Act, the following easements are hereby created:

a. Declarant's Use for Sales Purposes. Declarant shall have the right to maintain sales offices, management offices and models throughout the Property. Declarant reserves the right to place models, management offices and sales offices on any portion of the Common Elements in such manner, of such size and in such locations as Declarant deems appropriate or to use any Unit for such purposes. Declarant may from time to time relocate models, management offices and sales offices to different locations within the Common Elements. Upon the relocation of a model, management office or sales office constituting a Common Element, Declarant may remove all personal property and fixtures therefrom. Any fixtures not so removed shall be deemed Common Elements, and any personal property not so removed shall be deemed the property of the Association.

b. Utility Easements. The Units and Common Elements shall be, and are hereby, made subject to easements in favor of the Declarant, the Association, appropriate utility and service companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created in this Section shall include, without limitation, rights of Declarant, the Association, or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television equipment and facilities (cable or otherwise), electric wires, conduits and equipment and ducts and vents over, under, through, along and on the Units and Common Elements. Notwithstanding the foregoing provisions of this Section, unless approved in writing by the Unit Owner or Unit Owners affected thereby, any such easement through a Unit shall be located either in substantially the same location as such facilities or similar facilities existed at the time of first conveyance of the Unit by the Declarant, or so as not to materially interfere with the use or occupancy of the Unit by its occupants.

c. Declarant's Easement to Correct Drainage. Declarant reserves an easement on, over and under those portions of the Common Elements not located within the Building for the purpose of maintaining and correcting drainage of surface water in order to maintain reasonable standards of health, safety and appearance. The easement created by this Section expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil, or to take any other action reasonably necessary to achieve this purpose, following which the Declarant shall restore the affected property as closely to its original condition as practicable.

d. Signs. Declarant shall have the right to maintain on the property such advertising signs as Declarant in its sole discretion may deem appropriate, provided that such signs comply with applicable governmental requirements. Declarant may from time to time relocate such advertising signs.

e. Construction Easement. Until the expiration of five (5) years after the date thereof, the Declarant shall have an easement through the Units and the Common Elements for access or any other purposes necessary to complete any renovations or work to be performed by the Declarant.

## ARTICLE V

### AMENDMENT OF DECLARATION

Section 5.1. Amendment Procedure. This Declaration may be amended only in accordance with the procedures specified in Section 3219 of the Act, the other Sections of the Act referred to in Section 3219 thereof and the express provisions of this Declaration.

Section 5.2. Rights of Permitted Mortgagees. Subject to the limitations imposed by Section 3221 of the Act and except as set forth below, no amendment of this Declaration may be made without the prior written approval of all Permitted Mortgagees if and to the extent that such approval is required by the Act or if and to the extent that such amendment would have the effect of (i) terminating or abandoning the Condominium (except for termination or abandonment as a result of taking of all the Units by eminent domain); (ii) abandoning, encumbering, selling or transferring the Common Elements; (iii) partitioning or subdividing any Unit or the Common Elements; or (iv) changing the Percentage Interests of any Unit Owners. Such approval shall not be required with respect to any Amendment pursuant to Articles VI, VII or VIII below. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed to be a transfer within the meaning of this Section.

Section 5.3. Other Amendments. If any amendment is necessary in the judgment of the Executive Board to cure any ambiguity or to correct or supplement any provision of this Declaration or the Plats and Plans which is defective or inconsistent with any other provision hereof or appearing or failing to appear in the Plats and Plans which is incorrect, defective or similarly inconsistent, or if such amendment is necessary to conform to then current requirements of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with respect to Condominium projects, the Executive Board may, at any time and from time to time effect such amendment without the approval of the Unit Owners or Permitted Mortgagees, upon receipt by the Executive Board of an opinion from independent registered architect or licensed professional engineer in the case of any such amendment to the Plats and Plans. Each such amendment shall be effective upon the recording of an appropriate instrument setting forth the amendment and its due adoption, execution and acknowledgement by one or more officers of the Executive Board.

ARTICLE VI

USE RESTRICTIONS

6.1. Use and Occupancy of Units and Common Elements: The occupancy and use of the Units and Common Elements shall be subject to the following restrictions:

a. All Units, or any two or more adjoining Units used together, shall be used only as a residence for a single family (or housekeeping Unit) or such other uses permitted by this Declaration. With the prior consent of the Executive Board, portions of the Common Elements may be used for any lawful commercial purposes, not inconsistent with all applicable laws, codes or ordinances. No Unit owner shall permit his Unit to be used or occupied for any prohibited purpose.

b. Except as set forth in subparagraph "a" above, no industry, business, trade, occupation or profession of any kind shall be conducted, maintained, or permitted on any part of the Property. Except for a single small, non-illuminated name sign on the door of a Unit, no signs, advertising or other displays shall be maintained or permitted on any part of the Property except at such location and in such form as shall be determined by the Executive Board. The right is reserved by the Declarant or its agent or agents to place "For Sale" or "For Rent" signs on any unsold or unoccupied Units, and on any part of the Common Elements, and the right is hereby given to any Permitted Mortgagee, who may become the Owner of any Unit, to place such signs on any Unit owned by such Permitted Mortgagee.

c. There shall be no obstruction or alteration of the Common Elements nor shall anything be stored in or on the Common Elements without the prior consent of the Executive Board except as herein expressly provided. The use and the covering of the interior surfaces of windows, whether by draperies, shades or other items visible on the exterior of the Buildings, shall be subject to the Rules and Regulations of the Executive Board.

d. Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance on the Property, or contents thereof, without the prior written consent of the Executive Board, which consent may be conditioned upon the Unit Owner of such Unit being required to bear the full amount of such increase. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will violate any law, statute, ordinance or regulation of any governmental body or which will result in the cancellation of any insurance maintained by the Executive Board. No waste shall be committed in the Common Elements.

e. No person shall create a nuisance on the Property or engage in any use or practice which interferes with the peaceful possession or proper use of any of the Units or of the Common Elements.

f. No Unit Owner, or Occupant shall (i) make any installation which extends beyond the physical limits of Unit Owner's or Occupant's Unit into the Common Elements; (ii) paint or otherwise alter the structure, form or appearance of the exterior portion of any wall,



window, door or other portion of the Property which is visible from outside of such Unit; or (iii) place any sign, notice, advertisement or the like on any part of the Property which is visible from outside of such Unit.

g. No Unit Owner shall do any work or any other act which would jeopardize the soundness or safety of the Property or any part thereof, or impair any easement or hereditaments without the unanimous consent of the Unit Owners affected thereby.

h. No animals of any kind shall be raised, bred or kept in the condominium, except as specifically authorized by the Rules and Regulations adopted from time to time by the Executive Board.

6.2. Additions, Alterations or Improvements to Units. No Unit Owner shall make or permit any addition, alteration or improvement to his Unit which could or might affect the structural integrity of the Building. No Unit Owner shall make or permit any other structural change, addition, alteration or improvement in or to his Unit without the prior written consent of the Executive Board, which shall not be unreasonably withheld, and, if such change so consented to would result in rendering inaccurate the description of that Unit on the Plats and Plans, it shall not be undertaken until the Plats and Plans have been duly amended at the cost and expense of such Unit Owner. Requests for such consent shall be accompanied by detailed plans and specifications showing the proposed addition, alteration or improvement, and shall name the contractors and subcontractors to be employed. The Executive Board shall act upon requests within thirty (30) days after receipt thereof, and shall be deemed to have acted favorably in cases where no response is made within that period. Application to any governmental authority for necessary permits shall be made only by the Executive Board as agent for and at the expense of the Unit Owner, without incurring any liability to such authority or to any contractor, subcontractor or materialman or to any person having any claim for injury to person or damage to property from such work.

6.3. Rules and Regulations: Reasonable Rules and Regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the Property, may be promulgated from time to time by the Executive Board, subject to the right of the Association to change such Rules and Regulations. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to all Unit Owners by the Executive Board promptly after the adoption of such Rules and Regulations or any amendments thereto.

6.4. Right of First Refusal. Any owner who wishes to sell his or her Unit shall, at least ten (10) days prior to accepting any offer to sell, give to the Association written notice of the terms of such offer, which notice shall specify the name and address of the offeror. If, within said ten-day period, time being of the essence, the Association or its nominee submits to the Owner an identical or more favorable offer, the Owner must accept the offer of the Association in preference to the original offer. If the Association does not make an offer within said ten-day period, time being of the essence, then the Owner may sell his or her Unit to the original offeror. The Association shall have sole discretion in this matter and no vote or approval of the Unit Owners is required. Any holder of a mortgage which comes into possession of a Unit

pursuant to the remedies provided in the mortgage or any purchaser at a Sheriff's sale of the Unit or any mortgagee, or its designee, who accepts a Deed for the Unit in lieu of foreclosure, shall be exempt from the provisions of this section with respect to their obtaining title to the Unit. Thereafter they shall be subject to the provisions of this paragraph.

## ARTICLE VII

### MORTGAGES

7.1. Permitted Mortgages. A Unit Owner other than the Declarant or the Executive Board may not voluntarily encumber or subject his or its Unit to any lien, other than the lien of a Permitted Mortgage. Whether or not they expressly so state, all such Permitted Mortgages and the obligations secured thereby shall be deemed to provide, generally, that the Permitted Mortgage, and the rights and obligations of the parties thereto, shall be subject to the terms and conditions of the Act and this Declaration and shall be deemed to provide specifically, but without limitation, that the Permitted Mortgagee shall have no right (a) to participate in the adjustment of losses with insurers or in the decision as to whether or not or how to repair or restore damage to or destruction of the Property, or (b) to accelerate the mortgage debt or to have any other remedies by virtue of waste or alleged waste or other conditions occurring anywhere on the Property other than within the affected Unit, and the obligation secured shall be prepayable, without penalty, upon the happening of any termination of the Condominium or determination not to restore or replace the affected Unit. No Unit Owner shall deliver any Permitted Mortgage, or any obligation to be secured thereby, unless it has first notified the Executive Board of the name and address of the proposed Permitted Mortgagee. Upon receipt of notice of a Permitted Mortgage, the Secretary of the Executive Board shall instruct the insurer of the Property to add the name of the Permitted Mortgagee to the mortgagee loss payable provision of the hazard insurance policy covering the Property and to provide such Permitted Mortgagee with a Certificate of Insurance showing that the Permitted Mortgagee's name has been so added. The Secretary shall maintain a register of such Permitted Mortgages, showing the names and addresses of the Permitted Mortgagees.

7.2. Rights of Permitted Mortgagees: Upon the specific written request of a holder of a mortgage on a Unit or its servicer to the Executive Board, the mortgagee shall be entitled to receive some or all of the following as designated in the request:

a. Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Executive Board to the Owner of the Unit covered by the mortgage;

b. Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Unit Owners;

c. Copies of notices of meetings of the Unit Owners and the right to designate a representative to attend such meetings;

d. Notice of the decision of the Unit Owners to make any material amendment to this Declaration;

e. Notice of substantial damage to or destruction of any Unit (the repair of which would cost in excess of \$1,000) or any part of the Common Elements (the repair of which would cost in excess of \$10,000);

f. Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Property;

g. Notice of any default by the owner of the Unit which is subject to the mortgage, where such default is not cured by the Unit Owner within thirty (30) days after the giving of notice by the Association to the Unit Owner of the existence of the default;

h. The right to examine the books and records of the Executive Board at any reasonable time; or

i. Notice of any decision by the Executive Board to terminate professional management and assume self-management of the Property.

The request of a mortgagee or its servicer shall specify which of the above items it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Executive Board. The Executive Board need not inquire into the validity of any request made by a mortgagee hereunder.

Failure to comply with the requirements set forth above shall in no way invalidate otherwise proper actions of the Association and the Executive Board.

## ARTICLE VIII

### LEASING

A Unit Owner may lease or sublease his Unit (but not less than his entire Unit) at any time and from time to time provided that: (1) no Unit may be leased or subleased for transient or hotel purposes or for an initial term of less than one year; (2) no Unit may be leased or subleased without a written lease or sublease on a form approved by the Executive Board; (3) a copy of such lease or sublease shall be furnished to the Executive Board within ten (10) days after execution thereof; and (4) a breach of the Declaration, By-laws or Rules and Regulations of the Condominium shall constitute a default under the lease or sublease and the lessee or sublessee shall be bound by and subject to the Declaration, By-laws and Rules and Regulations of the Condominium.

## ARTICLE IX

### BUDGETS; COMMON EXPENSES; ASSESSMENTS AND ENFORCEMENT

9.1. Monthly Payments: All Common Expense assessments made in order to meet the requirements of the Association's annual budget shall be deemed to be

adopted and assessed on a monthly basis (rather than on an annual basis payable in monthly installments) and shall be due and payable in advance on the first day of each month. Special assessments and fines shall be due and payable in one or more monthly payments, in advance, on the first day of each month, as determined by the Executive Board.

9.2. Subordination of Certain Charges: Any fees, charges, late charges, fines and interest which may be levied by the Executive Board pursuant to §§3302(a) (10), (11) and (12) of the Act, shall be subordinate to the lien of a Permitted Mortgage on a Unit.

9.3. Surplus: The budget of the Association shall segregate Limited Expenses from General Common Expenses. Any amounts accumulated from assessments and income from the operation of the Common Elements in excess of the amount required for actual expenses and reserves for future expenses shall be credited to each Unit Owner in accordance with their Percentage Interests, said credits to be applied to the next monthly assessments of General or Limited Common Expenses due from said Unit Owners under the current fiscal year's budget, and thereafter, until exhausted.

9.4. Limitation on Expenditures: There shall be no structural alterations, capital additions to, or capital improvements on the Common Elements (other than for purposes of repairing, replacing and restoring portions of the Common Elements) requiring an expenditure in excess of ten percent of the Association's total budget for that fiscal year without the prior approval of a majority of the Unit Owners entitled to vote.

9.5. Reserve: Each annual budget for Common Expenses shall include an amount reasonably considered by the Executive Board to be sufficient as a reserve for replacements, contingencies, capital expenditures, working capital and deferred maintenance. To initiate such reserve, the Declarant shall collect from each of its grantees, at time of settlement a sum equal to three (3) times the monthly common charge for that unit based on the current budget of the association, and shall remit such amount to the Association. In addition, the Executive Board shall have the right to segregate all or any portion of the reserve for any specific replacement or contingency upon such conditions as the Executive Board deems appropriate.

9.6. Accounting: Within One Hundred Twenty (120) days after the end of the fiscal year of the Association, the Executive Board shall supply to all Unit Owners an itemized accounting of the Common Expenses for the preceding fiscal year actually incurred and paid together with a tabulation of the amounts collected pursuant to the annual budget or assessments and leases and sales of property owned or managed by the Executive Board on behalf of the Association, and showing the net excess or deficit of income over expenditures plus reserves.

✓ 9.7. Interest and Charges: All sums assessed by the Executive Board against any Unit Owner shall bear interest thereon at the rate of fifteen (15%) percent per annum or such other rate as may be determined by the Executive Board from the tenth (10th) day following default in payment of any assessment when due. Any delinquent Owner shall also be obligated to pay (1) all expenses of the Executive Board, including reasonable attorneys' fees, incurred in the collection of the delinquent assessment by legal proceedings or otherwise, and

(ii) any amounts paid by the Executive Board for taxes or on account of superior liens or otherwise to protect its lien, which expenses and amounts, together with accrued interest, shall be deemed to constitute part of the delinquent assessment and shall be collectible as such.

## ARTICLE X

### DECLARANT'S RIGHTS

10.1. Control: Election of the members of the Executive Board shall be subject to the following conditions:

a. Until the 60th day after conveyance of 4 Units to Unit Owners other than Declarant, Declarant shall have the right to appoint and remove any and all officers and members of the Executive Board. Declarant may not unilaterally remove any members of the Executive Board elected by Unit Owners other than Declarant.

b. Not later than 60 days after conveyance of 4 units to Unit Owners other than Declarant, one of the three initial members of the Executive Board shall be elected by Unit Owners other than Declarant.

c. Not later than the earlier of (i) five years after the date of the recording of this Declaration, or (ii) 180 days after 12 of the Units have been conveyed to Unit Owners other than Declarant, all members of the Executive Board appointed by Declarant shall resign, and the Unit Owners (including Declarant to the extent of Units owned by Declarant) shall elect a new Executive Board.

10.2. Declarant Owned Units: Declarant will only be required to pay its pro-rata share of actual operating expenses of the Building for any Units which it owns but which are not occupied by Declarant (or a tenant of Declarant).

## ARTICLE XI

### LIMITATION OF LIABILITY

11.1. Limited Liability of the Executive Board: The Executive Board, and its members in their capacity as members, officers and employees:

a. Shall not be liable for the failure of any service to be obtained by the Executive Board and paid for by the Association, or for injury or damage to Persons or property caused by the elements or by another Unit Owner or person on the Property, or resulting from electricity, gas, water, rain, dust or sand which may leak or flow from the outside or from any part of the Building, or from any of its pipes, drains conduits, appliances, or equipment, or from any other place unless in each such instance such injury or damage has been

caused by the willful misconduct or gross negligence of the Association or the Executive Board;

b. Shall not be liable to the Unit Owners as a result of the performance of the Executive Board members' duties for any mistake of judgment, negligence or otherwise, except for the Executive Board members' own willful misconduct or gross negligence;

c. Shall have no personal liability in contract to a Unit Owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Executive Board or the Association in the performance of the Executive Board members' duties;

d. Shall not be liable to a Unit Owner, or such Unit Owner's tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal property left by such Unit Owner or his tenants, employees, agents, customers or guests in a Unit, or in or on the Common Elements or Limited Common Elements, except for the Executive Board members' own willful misconduct or gross negligence;

e. Shall have no personal liability in tort to a Unit Owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Executive Board members' own willful misconduct or gross negligence in the performance of their duties; and

f. Shall have no personal liability arising out of the use, misuse or condition of the Building, or which might in any other way be assessed against or imputed to the Executive Board members as a result of or by virtue of their performance of their duties, except for the Executive Board members' own willful misconduct or gross negligence.

11.2 Indemnification. Each member of the Executive Board, in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not he is an Executive Board member, officer or both at the time such expenses are incurred, except in such cases wherein such Executive Board member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties; provided that, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if he is then an Executive Board member) approves such settlement and reimbursement as being in the best interests of the Association; and provided further that, indemnification hereunder with respect to any criminal action or proceeding is permitted only if such Executive Board member and/or officer had no reasonable cause to believe his conduct was unlawful. The indemnification by the Unit Owners set forth in this Section shall be paid by the Association on behalf of the Unit Owners and shall constitute a Common

Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Unit Owners or otherwise.

11.3 Defense of Claims. Complaints brought against the Association, the Executive Board or the officers, employees or agents thereof in their respective capacities as such, or the Condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Unit Owners and the holders of any mortgages on Units and such complaints shall be defended by the Association. The Unit Owners and the holders of mortgages on Units shall have no right to participate in such defense other than through the Association.

11.4 Insurance. The Executive Board shall obtain insurance to satisfy the indemnification obligation of the Association and all Unit Owners set forth above, if and to the extent reasonably available.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed on this \_\_\_\_\_ day of \_\_\_\_\_, 1985.

ATTEST:

MOTHERAL, INC.

By \_\_\_\_\_

\_\_\_\_\_  
(CORPORATE SEAL)

EXHIBIT A

DESCRIPTION OF PROPERTY

ALL those certain lots or pieces of ground situate in the Seventh Ward of the City of Pittsburgh, County of Allegheny and Commonwealth of Pennsylvania, being bounded and described as follows, to-wit:

FIRST PARCEL:

BEGINNING at a point on the Northerly side of Howe Street, distant Eastwardly from the corner of College Avenue and said Howe Street, 269.51 feet, at the dividing line between land herein conveyed and land now or late of Helen Kinney; thence Northwardly along said Kinney line and at right angles to said Howe Street, a distance of 147.48 feet to a point at the line dividing land herein conveyed and land now or late of Schenley Land Company; thence Eastwardly along said Schenley Land Company line and parallel to said Howe Street, a distance of 50 feet to a point at the line dividing land herein conveyed and land late of A.L. Weil and now or formerly of City Deposit Bank and Trust Company; thence Southwardly along said dividing line and at right angles to said Howe Street, a distance of 147.48 feet to a point on the Northerly side of said Howe Street; and thence Westwardly along the Northerly side of said Howe Street, a distance of 50 feet to a point at the place of beginning.

SECOND PARCEL:

BEGINNING at a point on the Northerly side of Howe Street distance thereon 140.23 feet Westwardly from the Northwesterly corner of Howe Street and Highland Avenue, and at the Westerly line of a 20-foot alley; thence along said side of Howe Street, South 63° 46' West, a distance of 48.56 feet to a point; thence North 26° 14' West, a distance of 147.45 feet to a point midway between Howe Street and Walnut Street at line of land now or late of Thomas Liggett; thence by said lands, North 63° 46' East, a distance of 56.97 feet to the aforesaid 20-foot alley; thence along the Westerly side of said alley, South 22° 58' East, a distance of 147.70 feet to Howe Street at the place of beginning.

DESIGNATED as Block and Lot 84-P-115 in the Deed Registry Office of Allegheny County, Pennsylvania.

SUBJECT to any and all exceptions, easements, rights-of-way, conditions, restrictions and reservations contained in prior instruments of record, and to all such matters apparent upon inspection of the premises.

BEING the same property which Thomas L. Simons and Lavinia Simons, his wife, and William M. Laird, III and Sally Hughes, formerly Sally Laird, by their Deed dated May 31, 1985 granted and conveyed unto Motheral, Inc., a Pennsylvania corporation, the Declarant herein.



EXHIBIT B

THE PLATS AND PLANS FOR HOWE COURT CONDOMINIUM  
WERE RECORDED CONTEMPORANEOUSLY HEREWITH  
IN THE OFFICE OF THE RECORDER OF DEEDS  
OF ALLEGHENY COUNTY, PENNSYLVANIA

EXHIBIT C

HOWE COURT CONDOMINIUM

INTEREST IN COMMON ELEMENTS APPURTENANT TO EACH UNIT

<u>Unit No.</u>	<u>Unit Type</u>	<u>% Interest for Ownership Purposes</u>	<u>% Interest for Maintenance Assessment</u>
B-1	2 bedroom	.06875	.07636
B-2	1 bedroom	.04573	.05079
B-3	Efficiency	.02860	.03176
101	2 bedroom	.07840	.08707
102	2 bedroom	.06652	.07388
103	1 bedroom	.05282	.05866
104	1 bedroom	.05386	.05981
105	1 bedroom	.04214	.04654
201	2 bedroom	.07297	.08096
202	2 bedroom	.06788	.07539
203	1 bedroom	.05131	.05698
204	1 bedroom	.04660	.05176
205	1 bedroom	.04764	.05291
301	1 bedroom	.05322	.05945
302	1 bedroom	.05290	.05875
303	2 bedroom	.07107	.07893

Carriage House

.09959

*Requires  
Special  
HANDLING  
re: cond  
to be used  
for  
landscaping  
& snow  
& removal & maintenance  
& sidewalk  
repairs only.  
(See Sect 1.3.2 (d)  
of Declaration)*

ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA :  
  : SS:  
COUNTY OF ALLEGHENY               :

On this, the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 1985, before me, a Notary Public, the undersigned officer, personally appeared G. BRINTON MOTHERAL, III, the President of Motheral, Inc., a Pennsylvania corporation, and on behalf of said corporation acknowledged that he executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

Amendment to Article VIII of the Declaration

A Unit Owner may not lease or sublease his or her Unit within 18 months of taking title to the unit.

(Voted on and approved at the Special Meeting of June 5, 2016.)

Amendment to Article VI of the Declaration

- i. Each owner is permitted to purchase two units in Howe Court. This amendment overrides the previous limitation of one unit.

(Voted on and approved at the Special Meeting of December 3, 2017.)