

b. Association - Major Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than \$100,000, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by subparagraph (a) above, but then only upon the further approval of an architect or engineer qualified to practice in Florida and employed by the Association to supervise the work.

c. Unit Owners. If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance may be used by the Association to effect repairs to the Optional Property (if not insured or if under-insured), or may be distributed to Owners of the Optional Property who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Optional Property. All proceeds must be used to effect repairs to the Optional Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Optional Property and promptly effect the repairs. Any balance remaining after such repairs have been effected shall be distributed to the affected Unit Owners and their mortgagees jointly as elsewhere herein contemplated.

d. Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that part of a distribution to an Owner which is not in excess of Assessments paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee.

e. Certificate. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be made upon the order of the Association alone or upon the additional approval of an architect, engineer or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine the payees nor the amounts to be paid. The Insurance Trustee may rely upon a certificate of the Association, made by its President and Secretary, as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the names of the payees and the amounts to be paid.

O. Assessments. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for

the payment of the costs of reconstruction and repair are insufficient, Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Assessments on account of damage to the Insured Property shall be in proportion to all of the Owners' respective shares in the Common Elements, and on account of damage to the Optional Property, the Association shall charge the Owner (but shall not levy an Assessment) in proportion to the cost of repairing the damage suffered by each Owner thereof, as determined by the Association.

P. Benefit of Mortgagees. Certain provisions in this Article IX are for the benefit of mortgagees of Units and may be enforced by any of them.

ARTICLE X Condemnation: Eminent Domain

A. Taking of Common Elements; Deposit of Awards with Association. The taking of Common Elements by condemnation or eminent domain ("the taking") shall be deemed to be a casualty, and the awards for that taking shall be treated as insurance proceeds and shall be with the Association. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Association.

B. Taking of Limited Common Elements; Deposit of Awards with Association. The taking of Limited Common Elements by condemnation or eminent domain ("the taking") shall be deemed to be a casualty, and the awards for that taking shall be treated as insurance proceeds and shall be deposited with the Association. Even though the awards may be payable to the Association or Unit Owners, the Unit Owners shall deposit the awards with the Association.

C. Taking of Common Elements. Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board.

D. Amendment. Changes in the Condominium caused by the taking shall be evidenced in an amendment to the Declaration, which amendment shall require the approval only of a majority of the Board.

ARTICLE XI Institutional Lenders

A. Rights. So long as any Institutional Lender(s) shall hold any mortgage(s) upon any Unit(s) or shall be the owner(s) of any Unit(s), such Institutional Lender(s) shall have the following rights that may be exercised by written notice to the Association:

1. to be furnished, within ninety (90) days following the end of each fiscal year, with a copy of the Association's annual financial statement and report prepared by a certified public accountant designated by the Association, including a detailed statement of annual carrying charges or income collected and operating expenses,
2. to be given notice by the Association of any membership meeting;
3. to inspect the books and records maintained by the Association upon not less than five (5) days' advance, written notice to the Association, which inspection shall take place at the office of the Association during the Association's normal business hours;
4. to receive written notice of default concerning any Unit encumbered by a mortgage held by such lender; and
5. to receive prompt notice of any substantial damage to the Common Elements or any Unit on which it holds a mortgage without being required to provide the Association with a written request for this information.

B. Notice. Any Institutional Lender seeking to come within the provisions of this Article shall serve written notice of its intention upon the Association, by registered or certified mail, return receipt request, which notice shall: (1) identify the Unit(s) upon which each such Institutional Lender holds any mortgage(s), (2) identify any Unit(s) owned by such lender together with sufficient pertinent facts to identify the mortgage(s) on such Unit(s); and (3) designate the place to which notices are to be given by the Association to such Institutional Lender.

ARTICLE XII

Compliance; Default

A. Compliance, Generally. Each owner, tenant and occupant of a Unit shall comply with the provisions of the Master Lease, this Declaration, the Articles of Incorporation and the By-Laws of the Association. Failure to comply therewith shall be grounds for relief sought by the Association that may include an action for damages, injunctive relief, foreclosure of lien or any combination of the foregoing.

B. Unit Owner's Liability. Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by the act of any member of his family, any guest, employee, agent or tenant, but only to the extent that such expense is not met by the insurance proceeds paid to the Association. Nothing herein, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation. The prevailing party in any action shall be entitled to recover reasonable attorneys' fees and costs pursuant to F.S. 718.303(1).

C. No Waiver. The failure of the Association or of a Unit Owner to enforce any rights, provisions, covenants or conditions which may be granted by this Declaration or other Condominium documents shall not constitute a waiver to enforce such rights, provisions, covenants or conditions in the future.

D. Mandatory Non-Binding Arbitration of Disputes. Prior to the institution of court litigation, the parties to a Dispute shall petition the Division for non-binding arbitration. The arbitration shall be conducted according to rules promulgated by the Division and before arbitrators employed by the Division. The filing of a petition for arbitration shall toll the applicable statute of limitation for the applicable Dispute, until the arbitration proceedings are completed. Any arbitration decision shall be presented to the parties in writing, and shall be deemed final if a complaint for trial de novo is not filed in a court of competent jurisdiction in which the Condominium is located within thirty (30) days following the issuance of the arbitration decision. The prevailing party in the arbitration proceeding shall be awarded the costs of the arbitration, and attorneys' fees and costs incurred in connection with the proceedings. The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, courts costs and other reasonable costs, including, without limitation, attorneys' fees, investigation expenses and expenses for expert or other testimony or evidence incurred after the arbitration decision, if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorneys' fees. Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the Condominium is located. A petition may not be granted unless the time for appeal by the filing of a complaint for a trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition is granted, the petitioner may recover reasonable attorneys' fees and costs incurred in enforcing the arbitration award.

E. Negligence and Compliance. A Unit Owner and/or tenant of a Unit shall be liable for the expense of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent such expense is not met by the proceeds of insurance actually collected in respect of such negligence by the Association. In the event a Unit Owner, tenant or occupant fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property or administered by the Association, in the manner required, the Association shall have the right to proceed in equity to require performance and/or compliance, to impose any applicable fines, to sue at law for damages, and to charge the Unit Owner for the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance, provided, however, that nothing contained in this Paragraph E shall authorize the Association to enter a Unit to enforce compliance. In any proceeding arising because of an alleged failure of a

Unit Owner, a tenant or the Association to comply with the requirements of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees). A Unit Owner prevailing in an action with the Association, in addition to recovering his reasonable attorneys' fees, may recover additional amounts as determined by the court to be necessary to reimburse the Unit Owner for his share of Assessments levied by the Association to fund its expenses of the litigation.

E. Fines.

1. In the event a Unit Owner or occupant fails to observe and perform all of the provisions of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to impose a fine against the Unit Owner and the Unit. The amount of any fine shall be determined by the Board of Directors of the Association, but in any event shall not exceed any maximum amount permitted by the Condominium Act, as such Act may be amended from time to time. Any fine shall be imposed by written notice to the Unit Owner or tenant, signed by an officer of the Association. The Unit Owner, tenant, or other party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days. Said notice shall specifically state the amount of the fine, the date, time and place of the hearing; the provisions of the Declaration, By-Laws, or rules which have allegedly been violated; and a short and plain statement of the matter asserted by the Association.

2. The party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge and respond to any material considered by the Association.

3. Hearing shall be held before a committee of other Unit Owners appointed by the Board (the "Committee"). At the hearing, the Committee shall conduct a reasonable inquiry to determine whether the alleged violation in fact occurred, and that the fine imposed is appropriate. The Unit Owner, tenant or other party against whom the fine is sought to be levied shall have the right to attend the hearing and to produce evidence on his behalf, and if the Unit Owner or tenant fails to attend then the hearing will be deemed waived and the Committee may ratify the fine without further proceedings. At the hearing the Committee shall ratify, or disagree with, the fine. If the Committee does not agree with the fine, the fine may not be levied. If a majority of the Committee members agrees with the fine, the Association shall give the Unit Owner, tenant or other party against whom the fine is sought, written notice of the Committee's decision. Any fine shall be due and payable within ten (10) days after written notice of the Committee's imposition of the fine. If any fine is levied against a tenant and is not paid within ten (10) days after same is due, the Association shall have the right to evict the tenant as

provided in Subparagraph F of this Declaration.

G. Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).

H. Cumulative Remedies. All rights, remedies and privileges granted to the Association or the Unit Owners pursuant to any terms, provisions, covenants or conditions of this Declaration or other Condominium documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available at law or in equity. The failure of Developer to enforce any rights, privileges, covenants or conditions which may be granted to Developer by this Declaration or other Condominium documents shall not constitute waiver of the right of Developer thereafter to enforce such right, provision, covenant or condition in the future.

ARTICLE XIII Official Records

A. Itemization. From the inception of the Association, the Association shall maintain a copy of each of the following, where applicable, which shall constitute the official records of the Association:

1. The plans, permits, warranties and other items provided by Developer pursuant to the Act.
2. A photocopy of the recorded Master Lease and Declaration and all amendments thereto.
3. A photocopy of the recorded By-Laws and all amendments thereto.
4. A certified copy of the Articles of Incorporation and all amendments thereto.
5. A copy of the current Rules of the Association.
6. A book or books containing the minutes of all meetings of the Association and the Board, which minutes shall be retained for a period of not less than seven (7) years.
7. A current roster of all Unit Owners, their mailing addresses, Unit identifications, voting certifications, and if known, telephone numbers. In the event of the sale

or other transfer of any Unit to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such Unit, together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Unit. Further, each Unit Owner shall immediately notify the Association of each and every mortgage on the Unit, the mortgagee(s), the amount of each mortgage and all pertinent recording information. The mortgagee(s) for any Unit may notify the Association of the existence of any such mortgage(s). Upon receipt of such notice, the Association shall register in its records all pertinent information.

8. All current insurance policies of the Association.

9. A current copy of any management agreement, lease or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the Association.

11. Accounting of the Association prepared according to good accounting practices, which accounting records shall be maintained for a period of not less seven (7) years. The accounting records shall include, but not be limited to:

a. accurate, itemized and detailed records of all receipts and expenditures.

b. a current account and a quarterly or annual statement of the account for each Unit designating the name of the Unit Owner, the due date and amount of each assessment, the amount paid upon the account and the balance due.

c. all audits, reviews, accounting statements and financial reports of the Association.

d. all contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of one (1) year.

12. Ballots, sign-in sheets, voting proxies, and all other papers relating to voting by Unit Owners, which shall be maintained for a period of one (1) year from the date of the election, vote, or meeting to which the document relates.

13. A copy of the current question and answer sheet as described by Section 718.504 of the Act.

14. All other records of the Association not specifically included in the foregoing which are related to the operation of the Association.

15. Notwithstanding any provision in this Declaration to the contrary, the following records shall not be accessible to Unit Owners:

a. Any record protected by the lawyer-client privilege as described in Florida Statutes, Section 90.502; and any record protected by the work-product privilege, including any record prepared by an Association attorney or prepared at the attorney's express direction; which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the Association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings until the conclusion of the litigation or adversarial administrative proceedings;

b. Information obtained by the Association in connection with the approval of any lease, sale or other transfer of a Unit; and

c. Medical records of Unit Owners.

B. Inspection. The official records of the Association shall be maintained in Monroe County and shall be open to inspection by any member of the Association or the authorized representative of such member at all reasonable times.

C. Financial Reporting. Within ninety (90) days after the end of the fiscal year, or annually on a date provided in the Bylaws, the Association shall prepare and complete, or cause to be prepared and completed by a third party, a financial report for the preceding fiscal year. Within twenty-one (21) days after the financial report is completed or received by the Association from the third party, the Association shall mail to each Unit Owner at the address last furnished to the Association by the Unit Owner, or hand deliver to each Unit Owner, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the Unit Owner, without charge, upon receipt of a written request from the Unit Owner. Financial reports shall be prepared in accordance with such rules and regulations adopted by the Division from time to time.

ARTICLE XIV Termination of Condominium

A. Termination, Generally. This Condominium may be terminated only by the unanimous consent of the Unit Owners and the holders of mortgages, liens or other encumbrances against such Units. Such election to terminate shall be executed in writing by all

of the aforesaid parties, and such instrument(s) shall be recorded in the Public Records of Monroe County, Florida.

B. Termination of Condominium at Termination of Master Lease. The Master Lease has a term of 99 years commencing February 28, 2008, as set forth in that certain Corrective Second Lease Amendment and Estoppel Certificate, as recorded in Official Record Book ~~2256~~at Page 2291, Public Records of Monroe County, Florida. At such time as the Master Lease terminates, the condominium shall automatically terminate without the consent of Unit Owner or holder of any mortgage lien or other encumbrance against a unit.

C. Effect. Upon such termination, the Condominium Property shall be owned in Common by the Unit Owners in the same undivided shares as each Owner previously owned in the Common Elements, and the Condominium Property shall be subject to an action for partition by any Unit Owner or mortgagee. The net proceeds of such a partition shall be divided among all Unit Owners in proportion to their Common Interests; provided that no payment shall be made to a Unit Owner until all liens against his Unit have been satisfied out of his share of the proceeds in order of their priority.

D. Creation of New Condominium. The termination of this Condominium shall not bar the creation of another condominium affecting all or any portion of the same property.

ARTICLE XV Amendments

A. Proposal. Amendment(s) to this Declaration may be proposed by: (1) the Board acting upon a majority vote; or (2) members owning at least one-third (1/3) of the Voting Interests in the Condominium. Such proposals shall contain the full text of the provision(s) to be amended; new words shall be inserted in the text underlined, and words deleted shall be lined through with hyphens, provided, however, that if the proposed change shall be so extensive that this procedure would hinder, rather than assist the proposed amendment, it shall not be necessary to use underlinings and hyphens as indicators of words added and deleted, but instead, a notation shall be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration. See provision _____ for present text." Such proposed amendment(s) shall be transmitted to the President of the Association (or other officer in the President's absence) who shall thereupon call a special meeting of the members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed amendment(s).

B. Notice. The Secretary shall give each member written notice of such special meeting, stating the time and place thereof, and reciting the proposed amendment(s) in reasonably detailed form, which notice shall be mailed not less than ten (10) days nor more than thirty (30) days before the date set for such special meeting. Any member may waive such

notice in writing and such waiver, when filed in the records of the Association, whether before or after the meeting, shall be deemed equivalent to the giving of such notice to such member.

C. Adoption by Members. At such meeting, an affirmative vote of not less than seventy-five percent (75%) of the Voting Interest present in person or by proxy, at a meeting at which a quorum was established, shall be required for the adoption of any proposed amendment(s). Thereupon, such amendment(s) shall be transcribed and certified by the President and Secretary as having been duly adopted. The original or an executed copy thereof, certified and executed with the same formalities as a deed, shall be recorded in the Public Records of Monroe County, Florida, within ten (10) days from the effective date of such amendment(s). No provision of this Declaration shall be amended by reference only to its title or number. The certificate of amendment(s) shall set forth the change in the manner provided in Article XV, Paragraph A and shall refer specifically to the record data identifying this Declaration. Thereafter, a copy of such amendment(s) in recorded form shall be delivered to all of the Unit Owners, but such delivery shall not be a condition precedent to the effectiveness of such amendment(s). A member may submit his written vote in lieu of either attending such meeting or being represented by proxy, provided that such written vote is delivered to the Secretary of the Association prior to such meeting or at such meeting. Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

D. Adoption by Developer. Without prior approval or participation of any Unit Owners or the Association, Developer may amend the Declaration: (1) to correct omissions or errors; and (2) to make such other changes as provided for in the Act and/or in this Declaration. Amendments by Developer shall require execution only by Developer and shall be recorded in the Public Records of Monroe County, Florida.

E. Prohibition of Certain Amendments. Except as provided in Article XV, Paragraph D, anything herein to the contrary notwithstanding, the following matters shall not be amended without the prior written consent of all Unit Owners and their respective mortgagees: (1) the change of configuration or size of any Unit in any material fashion; (2) the material alteration or modification of the appurtenances to any Unit; (3) the change of the proportion or percentage by which the owner of a Unit shares the Common Expenses and owns the Common Surplus, (4) any provision inconsistent with the requirements of the Master Lease, or (5) any provision inconsistent with the requirements of the Key West Work Force Housing Code. No amendment creating time-share estates shall be permitted.

Notwithstanding anything herein to the contrary, the approval of a majority of Institutional First Mortgagees shall be required to effect an amendment to the Declaration which materially affects the rights or interests of the Institutional First Mortgagees, including but not limited to those matters set forth in Section 718.110(4) and 718.110(8), Florida Statutes, as amended from time to time, and as limited by Section 718.110(11), Florida Statutes, which approvals shall not be unreasonably withheld. Notwithstanding anything herein to the contrary,

Developer's rights and privileges granted and reserved hereunder in favor of Developer shall not be amended without Developer's prior written approval. The provisions of this Article XV, Paragraph E shall not be amended.

F. Material Amendments. Unless otherwise provided specifically to the contrary in this Declaration, no amendment shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, permit timeshare estates, or change the percentage by which the Owner of a Unit shares the Common Expenses and owns the Common Elements and Common Surplus (any such change or alteration being a "Material Amendment"), unless all the record Owner(s) thereof, and all record owners of mortgages or other liens thereon, shall join in the execution of the amendment. The acquisition of property by the Association, material alterations or substantial additions to such property or the Common Elements by the Association and installation, replacement and maintenance of approved hurricane shutters, if in accordance with the provisions of this Declaration, shall not be deemed to constitute a material alteration or modification of the appurtenances of the Units, and accordingly, shall not constitute a Material Amendment.

G. Consent by Developer. Notwithstanding anything herein contained to the contrary, no amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer, without the consent of the Developer in each instance.

ARTICLE XVI Miscellaneous Provisions

A. Covenants Running with the Land. The restrictions and burdens imposed by this Declaration shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Unit. This Declaration shall be binding upon Developer and all parties who become Unit Owners in the Condominium, and their respective heirs, legal representatives, successors and assigns.

B. Limitation on Warranties and Representations. Developer hereby disclaims any and all express or implied warranties as to continuance of any particular view, design, construction, sound transmission, furnishing and equipping of the Condominium Property, except only those set forth in Section 718.203 of the Act, to the extent applicable and to the extent that same have not expired by their terms. Further, each Unit Owner, by acceptance of a deed or other conveyance of a Unit shall be deemed to waive and release the applicable "Developer" from any and all express or implied warranties as to design, construction, sound transmission, furnishing and equipping of any improvements thereon, or otherwise. As to such warranties that cannot be disclaimed, and to other claims, if any, which can be made as to the aforesaid matters, all incidental and consequential damages arising therefrom are hereby disclaimed. All Unit Owners, by virtue of acceptance of title to their respective Units (whether from the Developer or another party) shall be deemed to have automatically waived all of the

aforesaid disclaimed warranties and incidental and consequential damages. Other than as set forth in Section 718.203, Florida Statutes, Developer specifically disclaims any intent to have made any warranty or representation in connection with the Condominium Property or the Condominium documents, except as specifically set forth therein, and no person shall rely upon any warranty or representation not so specifically made therein. Any estimates of Common Expenses, taxes or other charges are deemed accurate, but no warranty or guaranty is made or intended, nor may one be relied on.

C. Developer's Miscellaneous Rights. For as long as there are any unsold Units, Developer shall have the right: (1) to use any such Units and portions of the Common Elements for model Units and sales and resales offices or for any other purpose; (2) to display models and the Common Elements to prospective purchasers; and (3) to erect signs and other promotional materials upon the Condominium Property.

D. Governing Law. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the exhibits annexed hereto or the Rules and Regulations, such dispute or litigation shall be governed by the laws of the State of Florida and all litigation shall originate in the appropriate court in Monroe County, Florida.

E. No Waiver. No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches that may occur.

F. Ratification. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law, or otherwise) shall be deemed to have agreed that all the provisions of this Declaration, and the exhibits attached hereto, as they may be amended, are fair and reasonable in all material respects.

G. Severability. In the event that any of the terms, provisions or covenants of this Declaration are held to be invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants.

H. Interpretation of Content. Whenever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the singular shall include the plural, and plural shall include the singular. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Condominium.

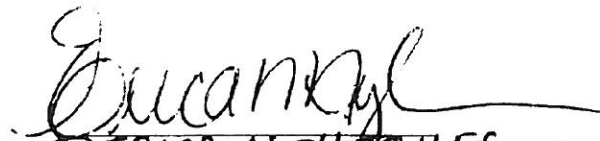
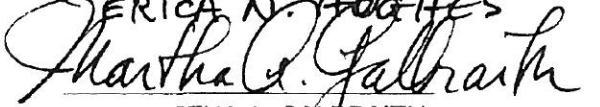
I. Captions. The captions in this Declaration and exhibits annexed hereto are inserted solely as a matter of convenience and shall not be used in construing the effect of meaning of any of the text of this Declaration or exhibits.

J. Notices. Unless otherwise provided, whenever notices are required to be sent hereunder, the same may be delivered to Unit Owners, either personally or by mail, addressed to such Unit Owners at their places of residence in the Condominium Property. Proof of such mailing or personal delivery by the Association shall be given by the affidavit of the person mailing or delivering said notices. Notices to the Association shall be sent by certified mail, return receipt requested, to the office of the Association at: 201 Front Street, Suite 224, Key West, Florida 33040. All notices shall be deemed given when mailed. Any party may change his mailing address by written notice duly receipted for. Notices required to be given to the personal representative of a deceased owner, or devisee when there is not a personal representative, may be delivered either personally or by mail to such party at his or its address appearing in the records of the court wherein the estate of such deceased owner is being administered.

K. Schedule of Exhibits. Exhibits attached hereto and made a part hereof are the following:

- Exhibit A - Master Lease and Amendments
- Exhibit B - Legal Description;
- Exhibit C - Survey, Graphic Description and Plot Plans and Parking Plan;
- Exhibit D - Articles of Incorporation of Condominium Association;
- Exhibit E - By-Laws of Condominium Association;
- Exhibit F - Designation of Work Force Housing Income for Units;
- Exhibit G - Cross Access Easement.

IN WITNESS WHEREOF, Developer has caused this Declaration to be duly executed this 21st day of April, 2008.


ERICA N. HUGHES

MARTHA A. GALBRAITH

OLD TOWN KEY WEST
DEVELOPMENT, LLC,
a Florida limited liability company

By: 

Edwin O. Swift, III, Manager

STATE OF FLORIDA)
)
COUNTY OF MONROE)

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Bk# 2357 Pg# 122

BEFORE ME, the undersigned authority, a notary public, authorized to administer oaths in the State of Florida, personally appeared Edwin O. Swift, III, as manager of Old Town Key West Development, LLC, a Florida limited liability company (X) to me known to be the individuals described in, or () who produced Florida driver's licenses for identification, and () did X did not take an oath.

SWORN and subscribed to before me this 21st day of April, 2008.



Martha A. Galbraith
Notary Public, **MARTHA A. GALBRAITH**
State of Florida at Large

My Commission Expires:

CONSENT OF CONDOMINIUM ASSOCIATION


RAILWAY CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation, having a vested interest in the parcel of real property described in the foregoing Declaration of Condominium, hereby consents to and joins in the filing of the Declaration of Condominium of RAILWAY CONDOMINIUM.

This Consent of Condominium Association is executed at Key West, Florida, this 21st day of April, 2008.

ATTEST:


Secretary

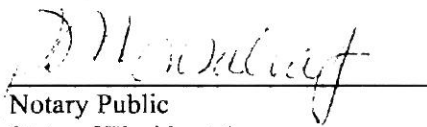
RAILWAY CONDOMINIUM
ASSOCIATION, INC., a Florida not-for-profit corporation


By: Edwin O. Swift, III, President

STATE OF FLORIDA)
) SS.
COUNTY OF MONROE)

BEFORE ME, the undersigned authority, a notary public, authorized to administer oaths in the State of Florida, personally appeared Edwin O. Swift, III and Christopher C. Belland, as president and secretary, respectively, of RAILWAY CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation to me known to be the individuals described in, or who produced Florida driver's licenses for identification, and () did () did not take an oath.

SWORN and subscribed to before me this 21st day of April, 2008.


Notary Public
State of Florida at Large

My Commission Expires:




S. Monsalvatge
Commission # DD611406
Expires November 23, 2010
Bonded Troy Fair Insurance, Inc. 800-385-7019

CONSENT AND JOINDER OF MORTGAGE

TIB BANK, formerly known as, TIB BANK OF THE KEYS, being the owner and holder of the mortgage lien encumbering the parcel of real property described in the foregoing Declaration of Condominium, hereby consents to and joins in the filing of the DECLARATION OF CONDOMINIUM OF RAILWAY CONDOMINIUM, for the purpose of subordinating its mortgage interest thereto.

This consent of Mortgage is executed at Key West, Florida, this 15th day of April, 2008.

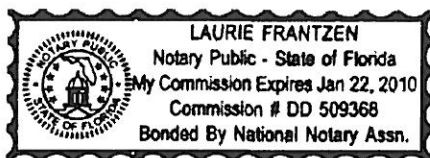
TIB BANK, formerly known as TIB BANK OF THE KEYS, a Florida banking corporation

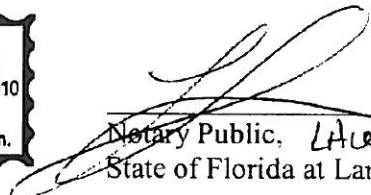
By: 
Paul A. Rothaus, Senior Vice President

STATE OF FLORIDA)
) SS:
COUNTY OF MONROE)

Before me personally appeared Paul Rothaus, as Vice President of TIB BANK, formerly known as TIB BANK OF THE KEYS, a Florida banking corporation, (☒) to me known to be the individuals described in, or () who produced Florida driver's licenses for identification, and () did (☒) did not take an oath.

WITNESS, my hand and official seal, this 15th day of April, 2008.




Notary Public, Laurie Frantzen
State of Florida at Large

My Commission Expires: