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DECLARATION OF CONDOMINIUM
OF
SOUTHPARK CONDOMINIUM

804, 808, 812 & 816 South Street
Key West, Florida 33040

Developed by Roderick J. Thorne

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CONFIDENTIAL

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DECLARATION OF CONDOMINIUM

FOR

SOUTHPARK CONDOMINIUM

Monroe County, Florida

MADE this 5th day of April, 1983, by Roderick J. Thorne, as owner of the real property hereinafter described, and developer of the improvements thereon (hereinafter called the "Developer" for himself, his successors, grantees, assigns and or his transferees.

WHEREAS, said Developer, as owner, makes the following declaration:

1. PURPOSE

The purpose of this Declaration is to submit the lands described in this instrument and improvements on such lands, to the condominium form of ownership and use, in the manner provided by Chapter 718, Florida Statutes (hereinafter referred to as the "Condominium Act"), and the Developer does hereby submit the lands described in this instrument and improvements on such lands to the condominium form of fee simple ownership and use.

1.1 Name. The name by which this condominium is to be identified is Southpark Condominium, a condominium.

1.2 Address. The address of this condominium is 804, 808, 812 and 816 South Street, Key West, Florida 33040.

1.3 The Lands. The lands owned by the Developer, which by this instrument are submitted to the condominium form of ownership are those certain lands lying in Monroe County, Florida, as described in Exhibit B attached hereto and made a part hereof, which shall hereinafter be referred to as "the land". Said land shall be subject to conditions, restrictions, limitations, easements and reservations of record.

1.4 General. All provisions of the Declaration shall be construed to be perpetual covenants running with the land and with every part thereof and interest therein, and every condominium parcel owner and claimant of the land or any part thereof or interest therein, and his heirs, executors and administrators, successors and assigns, shall be bound by all of the provisions of the Declaration, unless this Declaration shall be terminated pursuant to the Condominium Act and/or as provided herein. Both the burdens imposed and the benefits shall run with each condominium parcel as herein defined.

2. DEFINITIONS

The terms used in this Declaration and in the Articles of Incorporation, the Bylaws and the Rules and Regulations of Southpark Condominium Owners Association, Inc., shall have the meaning stated in the Condominium Act and as follows, unless the context otherwise requires. Further whenever the context so requires, the use of any gender shall be deemed to include all genders, the use of the plural shall include the singular and the singular shall include the plural.

2.1 Assessment. Assessment means a share of the funds required for the payment of common expenses, limited common expenses, and direct expenses, which from time to time is assessed against the unit owner.

2.2 Association. Association means the corporate entity responsible for the operation of a condominium.

2.3 Board of Administration. Board of Administration means the board of directors or other representative body responsible for administration of the association.

2.4 Bylaws. Bylaws means the bylaws of the association existing from time to time.

2.5 Common Elements. Common elements includes within its meaning the following:

2.5.1 The condominium property which is not included within the units.

2.5.2 Easements through units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to units and the common elements.

2.5.3 An easement of support in every portion of a unit which contributes to the support of a building.

2.5.4 The property and installations required for the furnishing of utilities and other services to more than one (1) unit or to the common elements.

2.6 Common Expenses. "Common expenses" are expenditures made or liabilities incurred by the Association, together with payments or obligations to reserve accounts. Common expenses include: (a) expenses of administration and management of the condominium property; (b) expenses of maintenance, operation, repair or replacement of common elements, and of the portions of units to be maintained by the Association; (c) expenses declared common expenses by the provisions of this Declaration or the bylaws; and (d) any valid charge against the condominium as a whole.

2.7 Common Surplus. "Common surplus" means the amount by which the receipts of the Association including but not limited to, assessments received on account of common elements, exceed the amount of common expenses. Provided, however, in the event that the management of the condominium property is delegated in full, or in part, by the Association to a separate management corporation by means of a management contract, the portion of

receipts of the association representing fees contracted for and to be collected by said management corporation, or a part thereof, shall not be considered as part of the common surplus. Limited common surplus has a like meaning relating to limited common elements.

2.8 Condominium. Condominium means that form of ownership of real property which is created pursuant to the provisions of the Florida Condominium Act and which is comprised of units that may be owned by one (1) or more persons, and there is, appurtenant to each unit, an undivided share of the common element.

2.9 Condominium Property. Condominium property means the land, leaseholds and personal property that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

2.10 Declaration. Declaration or declaration of condominium means the instrument or instruments by which the condominium is created, as they are from time to time amended.

2.11 Developer. Developer means a person who creates a condominium or offers condominium parcels for sale or lease in the ordinary course of business, but does not include an owner or lessee or a unit owner who has acquired his unit for his owner occupancy.

2.12 Institutional Mortgages. "Institutional Mortgage" means a bank, savings and loan association, insurance company, mortgage company, real estate investment trust, pension fund, pension trust, or any other generally recognized institutional-type lender or its loan correspondent, or any agency of the United States Government or any lender providing funds to the Developer for the purpose of constructing improvements upon the Condominium property (and such lender's successors and assigns), holding a mortgage encumbering a unit.

2.13 Insurance Trustee. "Insurance Trustee" means that Florida bank having trust powers, designated by the Board to receive proceeds on behalf of the Association, which proceeds are paid as a result of casualty or fire loss covered by insurance policies.

2.14 Lease. A lease shall mean the grant, either oral or in writing, by a unit owner of a temporary right of use of said owner's unit for a valuable consideration.

2.15 Limited Common Elements. Limited common elements means those common elements which are reserved for the use of certain condominium unit or units to the exclusion of other units, as specified in the declaration of condominium.

2.16 Operation. Operation or "operation of the condominium" includes the administration and management of the condominium property.

2.17 Reasonable Attorneys' Fees. "Reasonable attorneys' fees" means and included reasonable fees for the services of attorneys at law whether or not judicial or administrative proceedings are involved, and if judicial or administrative proceedings are involved, then all review of the same by appeal or otherwise.

2.18 Unit. Unit means a part of the condominium property which is subject to exclusive ownership. A unit may be in improvements, land or land and improvements together, as specified in the declaration of condominium.

2.19 Unit Owner. Unit owner or "owner of a unit" means the owner of a condominium parcel.

2.20 Utility Services. Utility services as used in the Condominium Act and as construed with reference to this condominium, and as used in the Declaration and all exhibits attached thereto, shall include, but not be limited to, electric power, gas, hot and cold water, heating and refrigeration, air conditioning, garbage and sewage disposal and other required services imposed by governmental authorities.

3. DEVELOPMENT PLANS

3.1 Improvements.

3.1.1 General Description. The condominium consists of four (4) two-story buildings, as depicted on the survey and plat plans attached hereto as Exhibit C. Each building contains four (4) units, each unit being one bedroom and one bath.

3.1.2 Survey, Site Plan and Graphic Description. Annexed hereto and made a part hereof as Exhibit C are the survey and site plan and graphic descriptions of all units, including their identification numbers, locations and dimensions. The legend and notes contained therein are incorporated herein and made a part hereof by reference.

3.1.3 Surveyor's Certificate. Affixed to the survey is a certificate of a surveyor authorized to practice in the State of Florida, certifying that the construction of the improvements are substantially complete, as defined in Section 718.104 (4)(e), Florida Statutes.

3.1.4 Multiple Units. Where more than one (1) typical unit has been acquired by the same owner and combined in a single dwelling place, the unit plans as described in Exhibit C may not reflect the interior plans of the combined units, but the exterior boundaries of the combined unit shall remain the same. Should any units be combined, combined units shall exist as separate units as described in this Declaration for the purpose of applying the provisions of this Declaration and all exhibits attached hereto.

3.2 Unit Boundaries. Each unit shall be bounded as to both upper and lower boundaries and perimetrical boundaries as below defined, whether the same exist now or are created by construction, settlement or movements of the building, or permissible repairs, reconstruction or alterations. The boundaries are intended to be as follows and shall be determined in the following manner:

3.2.1 Upper and Lower Boundaries. The upper and lower boundaries of the unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:

3.2.1.1 Upper Boundary. Shall be the horizontal plane of the undecorated, finished ceiling.

3.2.1.2 Lower Boundary. Shall be the horizontal plane of the undecorated, finished floor.

3.2.2 Perimetrical Boundaries. The perimetrical boundaries of the unit shall be the vertical plane of the undecorated and/or unfinished inner surfaces of the walls bounding the unit, extended to intersections with each other and with the upper and lower boundaries.

3.2.3 Boundaries - Further Defined. The boundaries of the unit shall not include all of those spaces and improvements lying within the undecorated and/or unfinished inner surfaces of the perimeter walls and those surfaces above the undecorated finished ceilings of each unit, and those surfaces below the undecorated finished floor of each unit, and further, shall not include those spaces and improvements lying within the undecorated and/or unfinished inner surfaces of all interior bearing walls and/or bearing partitions, and further, shall exclude all pipes, ducts, wires, conduits and other utilities running through any interior wall or partition for the furnishing of utility services to other units and/or for common elements. In those units services to other units and/or for common elements. In those units where attic storage access is provided, a unit owner may use the crawl space for storage at the unit owner's risk. Any damage caused to the unit or common elements by using this storage area shall be the singular expense of the unit owner.

3.3 Limited Common Elements. All porches, patios, storage areas, or any such structure attached to the exterior main walls of the building that serve the individual building adjacent to such structure, shall be a limited common element for the benefit of that particular unit building only. Such limited common elements are show graphically on Exhibit C attached hereto.

3.4 Common Elements. The common elements include the land and all the parts of the condominium not within the units as defined in Section 3.2.

4. THE UNITS

4.1 Units. There are sixteen (16) units, identified and described in the Plat Plans attached hereto as Exhibit C.

4.2 Appurtenances to Each Unit. The owner of each unit shall own a certain interest in the condominium property which is appurtenant to that unit, including but not limited to, the following items:

4.2.1 Common Elements. The undivided share in the land and other common elements which is appurtenant to each unit, and is shown more particularly in Exhibit C attached hereto.

4.2.2 Association Membership. Each unit owner shall hold membership in the Association. Membership of each unit owner in the Association shall be acquired pursuant to the provisions of the Articles of Incorporation and Bylaws of the Association.

4.2.3 Automobile Parking Space. The right to use for automobile parking only the parking space assigned to the exclusive use of the owner of each unit. The initial assignment of such space shall be made by the Developer. Subsequent transfers may be made by each unit owner, or by operation of law, to any other unit owner in an exchange of spaces or the sale or transfer of a unit, provided an apartment always has an assigned parking space. Every assignment and transfer of a parking space shall be evidenced by a Certificate issued by the Association, and such certificate shall be transferable only upon the books and records of the Association and not upon the Public Records. Open unassigned spaces may be used by owners and guests as available.

4.2.4 Ingress and Egress. A unit owner's right to ingress to and egress from his or her unit shall be perpetual and appurtenant to the unit ownership. There may be no restrictions upon such right.

4.2.5 Liability for Direct Expenses. Each unit owner shall be liable for all expenses not uniformly incurred for utilities, materials and services furnished directly to or for the unit, owner or occupant.

5. MAINTENANCE, ALTERATIONS AND IMPROVEMENT

Responsibility for the maintenance of the condominium property and restrictions upon the alteration and improvement thereof shall be as follows:

5.1 Common Element.

5.1.1 By the Association. The Association shall maintain, repair, and replace at the Association's expense all common elements at common expense including, but not limited to:

5.1.1.1 Such portions of the unit as contribute to the support of the building, including but not limited to the perimeter walls, columns, roof and floors; also, wiring, piping, ductwork and other mechanical or electrical and other installations or equipment serving the common elements or more than one unit; and all the common elements and limited common elements.

5.1.1.2 Provided that if the maintenance, repair and replacement of any of the above shall be made necessary because of the negligence, act or omission of a unit owner, his family, lessees, visitors, and guests, then the work shall be done by the Association at the expense of the unit owner; and the cost shall be secured as an assessment.

5.1.1.3 All incidental damage caused to a unit by work done or ordered by the Association shall be promptly repaired by and at the expense of the Association.

5.1.2 Alteration and Improvement. There shall be no alteration nor further improvement of common elements (other than (i) on the Common Property and (ii) common boundaries between two units under common ownership) without prior approval, in writing, by record owners of 75 percent of all units. The costs

of such alteration or improvement shall be a common expense and so assessed; provided, however, that any alteration or improvement having the approval in writing of record owners of not less than 50 percent of the units in the building, may be done if the owners who do not approve are not assessed the cost thereof as a common expense. The share of any cost not so assessed shall be assessed to the owners of other units in said building in the proportion which their shares in the common elements bear to each other. There shall be no change in the shares or rights of a unit owner in the common elements which are altered and further improved, whether or not the unit owner contributes to the cost thereof. For the purpose of combining the area of two units which are under common ownership, the common boundary between those units may be altered at the owner's expense after compliance with Section 5.4. As contemplated in Section 3, Developer reserves the right to alter and improve the Common Property, from time to time.

5.2 Limited Common Elements.

5.2.1 By the Association. The maintenance and operation of the limited common elements shall be the responsibility of the Association and a limited common expense to be paid by the owners to whom the use of such limited common elements have been assigned.

5.2.2 Alteration and Improvement. There shall be no alteration or further improvement of the limited common elements without prior approval, in writing, by the record owners of 75 percent of the units in the building; provided, however, that any alteration or improvement having the approval in writing of record owners of not less than 50 percent of the units in the building, may be done if the owners who do not approve are not assessed the cost thereof as a limited common expense. The share of any cost not so assessed shall be assessed to the owners of other units in said building in the proportion which their shares in the limited common elements bear to each other. There shall be no change in the shares or rights of a unit owner in the limited common elements which are altered or further improved, whether or not the unit owner contributes to the cost thereof.

5.3 Units.

5.3.1 By Association. The Association shall maintain, repair and replace as a common expense:

5.3.1.1 Those exterior surfaces of the porch which are exposed to public view and all portions of a unit contributing to the support of the unit building, which portions shall include but not be limited to the outside walls of the unit building and all fixtures on the exterior thereof, boundary walls of a unit, floors and ceilings, slabs, loadbearing columns and loadbearing walls, but shall not include screening, windows, exterior doors, glass, and interior surfaces of walls, ceilings and floors.

5.3.1.2 All conduits, rough plumbing but not fixtures, wiring and other facilities for the furnishing of utility services which are contained in the unit but which service all or parts of the building other than the unit within which contained.

5.3.1.3 All incidental damage caused to a unit by such work shall be promptly repaired by the Association.

5.3.2 By the Unit Owner. The responsibility of the unit owner shall include:

5.3.2.1. To maintain, repair and replace at his sole and personal expense, all doors, windows, glass, screens, electric panels, electric wiring, electric outlets and fixtures, air-conditioners, heaters, hot water heaters, refrigerators, dishwashers, other appliances, drains, plumbing fixtures and connections, interior surfaces of all walls, including boundary and exterior walls, floors and ceilings, and all other portions of his unit including the part which is part of the unit except the portions specifically to be maintained, repaired and replaced by the Association, whether located inside or outside the unit.

5.3.2.2. Not to enclose, paint or otherwise decorate or change the appearance of any portion of the exterior of the unit building, including the exposed surfaces of the porch unless the written consent of the Association is obtained in advance.

5.3.2.3. To promptly report to the Association any defect or need for repairs, the responsibility for the remedying of which is that of the Association.

5.3.3 Alteration and Improvement. Subject to the other provisions of 5.3, and which in all cases shall supersede and have priority over the provisions of this section when in conflict therewith, a unit owner may make such alteration or improvement to this unit at his sole and personal cost as he may be advised, provided all work shall be done without disturbing the rights of other unit owners and further provided that a unit owner shall make no changes or alterations to any interior boundary wall, exterior wall, porch balcony or patio, screening, exterior door, windows, structural or loadbearing member, electrical service or plumbing service, without first obtaining approval in writing of the board of administration of the Association.

5.3.4 Alterations and Improvements - General. Except as elsewhere reserved to the Developer, neither a unit owner nor the Association shall make any alteration in the portions of a unit or unit building which are to be maintained by the Association or remove any portion thereof or make any additions thereto or do anything which would jeopardize the safety or soundness of the unit building or impair any easement without first obtaining approval in writing of the board of administration of the Association. A copy of plans for all such work shall be filed with the Association prior to the granting of such approval and the start of the work.

5.4 Enforcement of Maintenance. In the event the owner of a unit fails to maintain a unit as required above, the Association, Developer and any other unit owner shall have the right to proceed to any appropriate court to seek compliance with the foregoing provisions; or the Association shall have the right to assess the unit owner and the unit for the necessary sums to put the improvements within the unit in good condition. After such assessment, the Association shall have the right to have its employees or agents enter the unit and do the necessary work to enforce compliance with the above provisions.

Further, in the event a unit owner violates any of the provisions of this section, the Developer and/or the Association shall have the right to take any and all such steps as may be necessary to remedy such violation, including, but not limited to, entry of the subject unit with or without the consent of the unit owner, and the repair and maintenance of any items requiring same, all at the expense of the unit owner.

6. ASSESSMENTS

The making and collection of assessments against unit owners for common expenses, limited common expenses, direct expenses and reserves, shall be pursuant to the Bylaws and subject to the following provisions:

6.1 Share of Common Expenses. Each unit owner shall be liable for a proportionate share of the common expenses and shall share in the common surplus, as set forth in Exhibit D, but the same shall not vest or create in any unit owner the right to withdraw or receive distribution of his share of the common surplus.

6.2 Share of Limited Common Expenses. Each unit owner shall be liable for the proportionate share of the limited common expenses and shall share in the limited common surplus, as set forth in Exhibit D, but the same shall not vest or create in any unit owner the right to withdraw or receive distribution of his share of the limited common surplus, except the expense of the limited common area shown on Exhibit attached hereto.

6.3 Direct Expenses. Each unit owner shall be liable for all expenses not uniformly incurred by all unit owners for utilities, materials and services furnished by the Association directly to or for the unit, owner or occupant.

6.4 Weighting of Common and Limited Common Expenses. The expenses of maintenance and operation of limited common elements, and of common facilities other than unusual repairs, need not be allocated to each unit or to each unit building on the basis of actual cost as to each unit or building, but may, at the discretion of the board of administration of the Association be allocated on a weighted basis to each unit or each building benefited by such limited common expense, such weighting to be in relationship to the number of units benefited or the extent of each building's respective fractional interest in the common facilities, as the case may be.

6.5 Payments. Assessments and installments thereon paid on or before ten (10) days after the day when the same shall become due, shall not bear interest but all sums not paid on or before ten (10) days after the date when due shall bear interest at the highest rate allowed by law from the date when due. All payments on account shall be first applied to interest and then to the assessment payment first due. If any installment of an assessment be not paid on or before thirty (30) days after the same shall become due, the board of administration may declare the entire assessment as to the delinquent owner then due and payable in full as if so originally assessed.

6.6 Lien For Assessments. The Association shall have a lien on each unit for any unpaid assessments and for interest thereon and a claim against the owner thereof, which lien shall also secure and which claim shall also include reasonable attorneys' fees incurred by the Association incident to the collection of such assessment or enforcement of such lien. Said lien shall be effective from and after the time of recording in the Public Records a claim of lien stating the description of the unit, the name of the record owner thereof, the amount due and the date when due, and the lien shall continue in effect until all sums secured by the lien shall have been fully paid. Such claims of lien shall be signed and verified by an officer of the Association.

or by a managing agent of the Association. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien. Such liens shall be subordinate to the lien of a mortgage or other liens recorded prior to the date of recording the claim of lien. Liens for assessment may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mortgage on real property. In any such foreclosure the owner of the unit shall be required to pay a reasonable rental for the unit and the Association shall be entitled, as a matter of law, to the appointment of a receiver to collect the same.

6.7 Personal Liability of Unit Owners. Each assessment against a unit shall also be the personal obligation of the owner at the time the assessment fell due. Such personal obligation shall not pass to successors in title unless assumed by them or required by applicable law. The Association may bring suit and obtain a judgment on such personal obligation without waiving its lien, or its right to impose a lien, upon the owner's unit.

6.8 Liability of Mortgagee, Lienor or Judicial Sale Purchaser for Assessment. Where the mortgagee of a first mortgage of record or other purchaser of a unit obtains title to the unit as a result of the foreclosure of the first mortgage or where a mortgagee of a first mortgage of record obtains title to the unit as a result of a conveyance in lieu of foreclosure of the first mortgage, such acquirer of title, its successors and assigns, shall not be liable for the share of the common expenses, limited common expenses, or assessments by the Association pertaining to such unit or chargeable to the former owner of such unit which became due prior to acquisition of title in the manner above provided. Such unpaid share of common expenses, limited common expenses, direct expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners including such acquirer, its successors and assigns.

6.9 Certain Mortgages Protected. Notwithstanding anything herein set forth to the contrary, any lien for an assessment set out in 6.6 above shall be junior, inferior and subordinate to any recorded institutional first mortgage regardless of when said assessment was due or notice thereof recorded, but not to any other mortgage recorded after the aforesaid notice of lien.

6.10 Reserve Fund. Except to the extent so established by the Developer, the Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the common areas and those limited common areas which the Association may be obligated to maintain. The fund shall be maintained out of regular assessments for common expenses. Reserve funds established by the Developer shall thereafter be maintained by the Association in accordance with the foregoing provision.

6.11 Working Capital. Each unit owner shall be liable for (a) an initial one month's contribution to working capital to be made upon the first transfer of title of that unit from the Developer, and (b) thereafter a proportionate share of any additional capital funds required. Working capital may be used to meet cash flow deficiencies on account of postponed, delayed or inadequate assessments and to pay advance insurance premiums, utility and other security deposits, and for the acquisition of capital items. Any amount of working capital used to pay expenses shall be treated as supplemental current assessment revenues.

6.12 Commencement of Assessment. The Developer may decide when monthly maintenance assessment payments start. However, the payment shall not start later than the first day of the month succeeding thirty days from the first transfer of title by the Developer of any unit in the Condominium.

6.13 Assignment of Claim and Lien Rights. The Association, acting through its Board of Directors, shall have the right to assign its claim and lien rights for the recovery of any unpaid assessment to the Developer, or to any unit owner or group of unit owners, or to any third party.

6.14 Unpaid Assessments - Certificate. Any unit owner shall have the right to require from the Association a certificate showing the amount of unpaid assessments against him with respect to this condominium parcel. The holder of a mortgage or other lien shall have the same right as to any condominium parcel upon which he has a lien. Any person other than the owner who relies upon such certificate shall be protected thereby.

7. ASSOCIATION

The operation of the condominium shall be by SOUTHPARK CONDOMINIUM OWNERS ASSOCIATION, INC., a corporation not for profit under the laws of Florida, which shall fulfill its functions pursuant to the following provisions:

7.1 Articles of Incorporation. A copy of the Charter and Articles of Incorporation of the Association is attached as Exhibit "E". Article IV of the Articles of Incorporation sets out membership of unit owners in the Association.

7.2 Bylaws. A copy of the Bylaws of the Association is attached as Exhibit "F". Section 2 of the Bylaws sets out membership and voting rights of unit owners in the Association.

7.3 Limitation upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable for injury nor damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, nor caused by the elements or other owners or persons.

7.4 Management. The Association may contract with a professional management corporation for the management and maintenance of the condominium and authorize the management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of assessments, preparation of records, enforcement of rules, and maintenance of the common elements. The Association shall, however, retain at all times the powers and duties granted them by the Condominium Act, including, but not limited to, the making of assessments, promulgation of rules and execution of contracts on behalf of the Association without cause upon ninety (90) days written notice, without payment of a termination fee.

8. INSURANCE

Insurance, other than title insurance, which shall be carried upon the condominium property and the property of the unit owners, shall be covered by the following provisions:

8.1 Authority to Purchase. All insurance policies upon the condominium property shall be purchased by the Association for the benefit of the Association, and in case of insurance covering damage to the unit building and its appurtenances, also for the benefit of unit owners and their mortgagees as their interests may appear and provisions shall be made for the dollar amount of first mortgages against units in the condominium. Such policies and endorsements thereon shall be deposited with the Insurance Trustee as may from time to time be approved by the board of administration of the Association, which trustee is herein referred to as "Insurance Trustee"; provided, however, that the foregoing right of the board of administration to select the Insurance Trustee shall be subject to the approval of the institutional lender holding the greatest dollar amount of first mortgages against units in the condominium. It shall not be the responsibility or duty of the Association to obtain insurance coverage upon the personal liability, personal property or living expenses of any unit owner but the unit owner may obtain such insurance at his own expense provided such insurance may not be of a nature to affect policies purchased by the Association.

8.2 Coverage.

8.2.1 Casualty. All buildings and improvements upon the land and all personal property included in the common elements shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, as determined by the board of administration of the Association. Such coverage shall afford protection against:

a) Loss or damage by fire and other hazards covered by a standard extended coverage; and

b) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including but not limited to vandalism and malicious mischief.

8.2.2 Public Liability. In such amounts and such coverage as may be required by the board of administration of the Association and with cross liability endorsements to cover liabilities of the unit owners as a group to a unit owner.

8.2.3 Workmen's Compensation Policy. To meet the requirements of law.

8.2.4 Other. Such other insurance as the board of administration of the Association shall determine from time to time to be desirable.

8.3 Premiums. Premiums for casualty insurance shall be common expenses and shall be paid by the Association.

8.4 Insurance Trustee Share of Proceeds. All property casualty insurance policies purchased by the Association shall be for the benefit of the Association and the unit owners and their mortgagees as their interest may appear and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee. The duty of the Insurance Trustee shall be to receive

such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the unit owners and their mortgagees in the following shares but which shares need not be set forth on the records of the Insurance Trustee:

8.4.1 Common Elements. Proceeds on account of damage to common elements - an undivided share for each unit owner of the condominium, such share being the same as the undivided share in the common elements appurtenant to his apartment.

8.4.2 Limited Common Elements. Proceeds on account of damage to limited common elements - an undivided share for each unit owner who has a share therein, the share of such proceeds being the same as the undivided share in the limited common expenses and surplus appurtenant to his apartment.

8.4.3 Units. Proceeds on account of damage to units shall be held in the following undivided shares:

a) When the building is to be restored - for the owners of damaged units in proportion to the cost of repairing the damage suffered by each unit owner, which cost shall be determined by the board of administration of the Association.

b) When the building is not to be restored - the the owners of units in such building in undivided shares being the same as their respective shares in the limited common expenses and surplus thereof.

8.4.4 Mortgagees. In the event a mortgagee endorsement has been issued as to a unit, the share of a unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired except as in 9.1 provided.

8.5 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

8.5.1 Expense of Trust. All expenses of the Insurance Trustee shall be first paid or provisions made therefor.

8.5.2 Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to unit owners and mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.

8.5.3 Failure to Reconstruct or Repair. If it is determined in a manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.

8.5.4 Certificate. In making distribution to unit owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association made by its president and secretary or by the Association's managing agent as to the names of unit owners and their respective shares of the distribution.

8.6 Association as Agents. The Association is hereby irrevocably appointed agent, with full power of substitution, for each unit owner and for each owner of any other insured interest in the condominium property to adjust all claims arising under insurance policies purchased by the Association, to bring suit thereon in the name of the Association and/or other insureds and deliver releases upon payments of claims, and to otherwise exercise all of the rights, powers and privileges of the Association and each owner of any other insured interests in the condominium property as an insured under such insurance policies.

9. RECONSTRUCTION OR REPAIR AFTER CASUALTY

9.1 Determination to Reconstruct or Repair. If any part of the condominium property shall be damaged by casualty, whether or not it shall be constructed or repaired shall be determined in the following manner:

9.1.1 Common Elements. If the damaged improvement is a common element other than the unit building the damaged property shall be reconstructed or repaired unless within sixty (60) days after the casualty 75 percent of the unit owners and all mortgagees, being institutional lenders holding first mortgages upon units, agree in writing that the same shall not be reconstructed or repaired.

9.1.2 Limited Common Elements. If the damaged improvement is a limited common element, the same shall be reconstructed or repaired unless the damages to the unit building containing such limited common element extend to units contained within such building, in which case the provisions relative to reconstruction and repair of the common elements, as elsewhere herein provided, shall pertain.

9.1.3 Unit Building.

a) Partial Destruction. If the damaged improvement is a unit building and less than 90 percent of the amount of insurance applicable to such unit building is forthcoming by reason of such casualty, then the unit building shall be reconstructed and repaired unless 75 percent of the owners of the units contained within such building and all mortgagees, being institutional lenders holding first mortgages upon units contained within such building, shall within sixty (60) days after casualty agree in writing that the same shall not be reconstructed or repaired.

b) Total Destruction. If the damages improvement is a unit building and 90 percent or more of the amount of casualty insurance applicable to such unit buildings is forthcoming by reason of such casualty, the unit building shall not be reconstructed or repaired unless 75 percent of the owners of

the units contained within such building and all mortgagees, being institutional lenders holding first mortgages upon units contained within such building shall within sixty (60) days after casualty agree, in writing, that the same shall be reconstructed or repaired.

9.1.4 Certificate. The Insurance Trustee may rely upon a certificate of the Association made by its president and secretary or managing agent to determine whether or not the unit owners, where so provided, have made a decision whether or not to reconstruct or repair.

9.1.5 Extension of Time. The Board of Administration may within such sixty (60) days or extension extend the time for up to an additional 120 days to obtain the written agreement provided in this Section 9.

9.2 Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications of the original building and improvements; or if not, then according to plans and specifications approved by the board of administration of the Association and if the damaged property is a unit building, by the owners of all damaged units therein, which approvals shall not be unreasonably withheld.

9.3 Responsibility. If the damage is only to those parts of units for which the responsibility of maintenance and repair is that of the unit owners, then the unit owners shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association.

9.4 Estimate of Costs. When the Association shall have the responsibility of reconstruction or repair, prior to the commencement of reconstruction and repair the Association shall obtain reliable and detailed estimates of the cost to repair or rebuild.

9.5 Assessments for Reconstruction and Repair.

9.5.1 Common Elements. Assessments shall be made against all unit owners in amounts sufficient to provide funds for the payment of such costs. Such assessments shall be in proportion to each unit owner's share in the common elements.

9.5.2 Limited Common Elements. Assessments shall be made against the unit owners for whose use the limited common elements were reserved in the case of damage to the limited common elements in sufficient amount to provide for the payment of such costs. Such assessments against unit owners for damage to limited common elements shall be in proportion to the cost of reconstruction and repair of their respective limited common elements. Such assessments on account of damage to all the limited common elements shall be in proportion to each unit owner's share in the limited common expenses and surplus.

9.6 Construction Funds. The funds for the payment of costs for reconstruction and repair after casualty, which shall consist of the proceeds of insurance held by the Insurance Trustee and funds collected by the Association from assessments against unit owners shall be disbursed in payment of such costs in the following manner:

9.6.1 By Whom Held. If the total of assessments made by the Association in order to provide funds for the payment of reconstruction and repair which is the responsibility of the Association is more than \$5,000.00, then the sums paid upon such assessments shall be deposited by the Association with the Insurance Trustee. In all other cases the Association shall hold the sums paid upon such assessments and shall disburse the same in the payment of the costs of reconstruction and repair.

9.6.2 Insurance Trustee. The proceeds of insurance collected on account of a casualty and the sums deposited with the Insurance Trustee by the Association from collection of assessments against unit owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

a) Unit Owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with a unit owner, shall be paid by the Insurance Trustee to the unit owner or if there is a mortgage endorsement as to such unit, then to the unit owner and the mortgagee jointly, who may use such proceeds as they may be advised.

b) Association - Lesser Damage. If the amount of the estimated cost of reconstruction and repair which is the responsibility of the Association is less than \$5,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided however, that upon request to the Insurance Trustee by a mortgagee which is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

c) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than \$5,000.00, then the construction fund shall be disbursed in payment of such costs in the manner required by the board of administration of the Association.

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 of 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 the part of a distribution to a beneficial owner which is not in excess of assessments paid by such owner into the construction fund shall not be made payable 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 upon the order of the Association, 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 any other fact or

after relating to its duties hereunder. Instead, the Insurance Trustee may rely upon a certificate of the Association made by its president and secretary or the Association's managing agent as to any or all of such matters and stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided that when a mortgagee is herein required to be named as payee the Insurance Trustee shall also name the mortgagee as payee.

10. RESTRICTIONS

The use of the condominium property shall be in accordance with the following provisions as long as the condominium exists and the unit buildings in useful conditions exist upon the land.

10.1 Residential Use. The lands of the condominium and all improvements constructed thereon shall be for residential use only and no portion of such lands or improvements shall be used for business or commercial purposes. No structures shall be constructed upon the lands other than unit buildings or other structures intended for residential use and appurtenances thereto. Each unit or other residential living unit shall be occupied only by a single family, its servants and guests, as a residence, and for no other purpose whatever. Except as reserved to the Developer, no apartment may be divided or subdivided into a smaller unit or any portion thereof sold or otherwise transferred without first amending this Declaration in accordance with the provisions of 15 to show the changes in the unit or residential living unit to be affected thereby.

10.2 Residents. No persons who have not yet attained 16 years of age shall be permitted to reside upon the lands except that persons under such age may be permitted to visit and temporarily reside thereon provided that such temporary residence shall not be a source of nuisance or exceed fourteen days in any one calendar year or fourteen days within any consecutive 12 month period, whichever may provide the least permissible residence except with the written approval of the Association, which approval may be revoked upon finding that such juvenile is the source of unreasonable nuisance to any unit owner.

10.3 Number of Residents. No more than two persons shall reside in any unit at any one time. For the purposes of this provision, to "reside" shall mean to live in a unit for more than four (4) days.

10.4 Number of Guests. No more than two (2) guests shall stay in any residential unit at any one time. For the purpose of this provision, a "guest" shall be any person who stays overnight in a unit but who does not reside in that unit.

10.5 Nuisances. No nuisances shall be allowed upon the condominium property nor any use or practice which is the source of nuisances to residents or which interferes with the peaceful possession and proper use of the property by its residents. All

parts of the condominium property shall be kept in a clean and sanitary condition and no rubbish, refuse nor garbage allowed to accumulate nor any fire hazard allowed to exist. No unit owner shall permit any use of his unit or make any use of the common elements or limited common elements which will increase the rate of insurance upon any part of the condominium property.

10.7 Common Elements and Limited Common Elements. The common elements and limited common elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the benefit of the unit owners, their guests, visitors, agents or lessées.

10.8 Leasing. All leases or rental agreements for units shall be subject to the requirements of the condominium documents.

10.9 Rules and Regulations. Reasonable Rules and Regulations concerning the use of the condominium property may be made and amended from time to time by the Association in the manner provided by its Articles of Incorporation and Bylaws. Copies of such Rules and Regulations and amendments thereto shall be furnished by the Association to all unit owners and residents of the condominium.

10.10 Developer's Use. As otherwise provided herein, until such time as the Developer has completed all of the contemplated improvements and has sold all of the units contained within the condominium property, neither the unit owners nor the Association, nor their use of the condominium property shall interfere with the completion of the contemplated improvements or sale of said units. The Developer may make such use of the unsold units and the common element as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, display of sales signs, leasing said units and showing the units for sale to prospective purchasers.

10.11 Restrictions on Signs. No "For Sale" or "Lease" signs may be displayed upon the condominium property without the consent of the Developer or the Association.

10.12 Corporation Owned Unit. Each unit owned by a corporation may be occupied only by persons approved by the Association in writing, and such approval shall be granted to carry out the use of the unit for residential purposes.

10.13 Parking. Only automobiles, pickup trucks, motorcycles, motorbikes and bicycles may be parked on the condominium property. These may be parked only in the spaces provided therefor. No other vehicles may be parked or stored on the condominium property at any time. This prohibition includes, but is not limited to, boats, trailers, campers and vans.

11. MAINTENANCE OF COMMUNITY INTERESTS.

In order to maintain a community of congenial residents and thus protect the value of the units and in order to assure the financial ability of each unit owner to pay assessments made against him, the transfer of units by any owner other than the Developer shall be subject to the following provisions so long as the condominium exists, which provisions each owner covenants to observe.

11.1 Transfers Subject to Approval.

11.1.1 Sale. No unit owner may dispose of a unit or any interest therein by sale without approval of the Association.

11.1.2 Lease. No unit owner may dispose of a unit or any interest therein without the approval of the Association.

11.1.3 Gift. If any unit owner shall acquire his title by gift, the continuance of his ownership of his unit shall be subject to the approval of the Association.

11.1.4 Devise or Inheritance. If any unit owner shall acquire his title by devise or inheritance, the continuance of his ownership of his unit shall be subject to the approval of the Association.

11.1.5 Other Transfers. If any unit owner shall acquire his title by any manner not heretofore considered in the foregoing subsections, the continuance of his ownership of his unit shall be subject to the approval of the Association.

11.2 Approval by Association.

11.2.1 Notice to Association.

11.2.1.1 Sale. A unit owner intending to accept a bona fide offer of sale of his unit, or any interest therein, shall give the Association notice of such intention, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonably require. (A bona fide offer being defined as an offer in writing binding upon the offeror and containing all the pertinent terms of such sale or lease, and accompanied by an earnest money deposit in an amount equal to ten percent (10%) of the purchase price if such offer is an offer to purchase a unit.) Such notice at the unit owner's option may include a demand by the unit owner that the Association furnish a purchaser, if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell.

11.2.1.2 Lease. A unit owner intending to make a bona fide lease of his unit or any interest shall give to the Association notice in writing of such intention, together with the name and address of the intended lessee, and such other information concerning the intended lessee as the Association may reasonably require, and a copy of the proposed lease.

11.2.1.3 Failure to Give Notice. If the Notice to the Association herein required is not given, then at any time after receiving knowledge of a transaction or even transferring ownership or possession of a unit, the Association, at its election and without notice, may approve or disapprove the transaction or ownership. If the Association disapproves the transaction or ownership, the Association shall proceed as if it has received the required notice on the date of such disapproval.

11.2.2 Certificate of Approval.

11.2.2.1 Sale. If the proposed transaction is a sale, then within forty-five days after receipt of such notice and information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the Association in recordable form, delivered to the unit owner.

11.2.2.2 Lease. If the proposed transaction is a lease, then within forty-five days after receipt of written notice and information, the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the Association, in non-recordable form, and delivered to the unit owner.

11.2.3 Approval of Corporate Owner or Purchaser. Inasmuch as the condominium may be used only for residential purposes and a corporation cannot occupy a unit for such use, if the unit owner, purchaser or lessee of a unit is a corporation, the approval of ownership or lease by the corporation may be conditioned by requiring that all persons occupying the unit be also approved by the Association.

11.3 Disapproval by Association. If the Association shall disapprove a transfer of ownership of a unit, the matter shall be disposed in the following manner:

11.3.1 Sale. If the proposed transaction is a sale, then the Association shall within the forty-five day period provided in 11.2.2 notify the unit owner of the disapproval and enter into a contract with the unit owner under the same terms and conditions as those of the proposed sale which was disapproved by the Association.

11.3.2 If the Association shall fail to purchase in the manner provided, or if the Association shall default in its agreement to purchase, the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided.

11.3.3 Lease. If the proposed transaction is a lease, the unit owner shall be advised of the disapproval in writing and the lease shall note be made.

11.4 Mortgage. No unit owner may mortgage his unit nor any interest therein without the approval of the Association except to a bank, life insurance company, savings and loan association, institutional mortgagee, the Developer or the successors in title to the Developer. The approval of any other mortgagee may be upon conditions determined by the Association or may be arbitrarily withheld.

11.5 Exceptions. The foregoing provisions of Section 11 (Maintenance of Community Interests) and each subpart of Section 11 shall not apply to a transfer to or purchase by a bank, life insurance company, savings and loan association or other institutional first mortgagee which acquired its title as a result of owning a mortgage upon a unit concerned, and this shall be so whether the title is acquired by deed or assignment from the mortgagor or his successor in title in lieu of foreclosure or through foreclosure proceedings or any other manner of obtaining title by

virtue of the remedies provided first mortgagee in its mortgage; nor shall such provisions apply to a transfer, sale or lease of a unit by a bank, life insurance company, savings and loan association, or other institutional first mortgagee, which so acquires its title; nor shall such provisions apply to a transfer to or a purchase by the Developer or a transfer, sale or lease by the Developer; nor shall such provisions require the approval of a purchaser who acquires the title to a unit at a duly advertised public sale with open bidding which is provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale.

11.6 Separation of Interests. A sale of a unit shall include all of its appurtenances and appurtenances may not be sold separate from a unit. A lease of a unit shall include the parking space appurtenant to it, if any, and no parking space may be leased separate from the unit to which it is appurtenant.

11.7 Unauthorized Transactions. Any sale, mortgage, or lease which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

11.8 Notice of Lien or Suit.

11.8.1 Notice of Lien. A unit owner shall give notice, in writing, to the Association of every lien upon his unit other than for permitted mortgages, taxes and special assessments, within five (5) days after the attaching of the lien.

11.8.2 Notice of Suit. A unit owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his unit, such notice to be given within five (5) days after the unit owner receives knowledge thereof.

12. PURCHASE BY
ASSOCIATION

The Association shall have the power to purchase units, subject to the following provisions:

12.1 Decision. The decision of the Association to purchase a unit shall be made by its Directors, without approval of its membership except as elsewhere provided in this section.

12.3 Limitation. If at any one time the Association be the owner or agreed purchaser of three (3) or more units, it may not purchase any additional units without the prior written consent of two-thirds (2/3) of the members eligible to vote thereon. A member whose unit is the subject matter of the proposed purchase shall be ineligible to vote thereon. Provided, however, that the foregoing limitation shall not apply to units to be purchased at public sale resulting from a foreclosure of the Association's lien for delinquent assessments where the bid of the Association does not exceed the amount found due the Association, or to be acquired by the Association in lieu of foreclosure of such lien if the consideration therefor does not exceed the cancellation of such lien.

13. COMPLIANCE AND
DEFAULT

Each unit owner shall be governed by and shall comply with the terms of this Declaration, the Bylaws and the Rules and Regulations adopted pursuant thereto, and Management Agreement (if any), and said documents as they may be amended from time to time. Failure of the unit owner to comply therewith shall entitle the Association or other unit owners to the following relief in addition to other remedies provided in this Declaration and the

Condominium Act.

13.1 Enforcement. The Association and/or Association Manager, if any, are hereby empowered to enforce this Declaration and the Bylaws and Rules and Regulations of the Association.

13.2 Negligence. A unit owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family, his lessees, or his or their guests, visitors, employees, or agents, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a unit or its appurtenances, or of the common elements or of the limited common elements.

13.4 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a unit owner to comply with the terms of the Declaration, Bylaws, Management Agreement and Rules and Regulations adopted pursuant thereto, and said documents as they 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 as may be awarded by the Court, provided no attorneys' fees may be recovered against the Association in any such action.

13.4 No Waiver of Rights. The failure of the Developer, or the Association, or any unit owner to enforce any covenant, restriction or other provisions of the Condominium Act, this Declaration, the Bylaws, or the Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

14. EASEMENTS

Each of the following easements is a covenant running with the land of the condominium and notwithstanding any of the other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with their proper and intended use and purpose, and shall survive the termination of the condominium and the exclusion of any lands of the condominium from the condominium.

14.1 Utilities. As may be required for utility services in order to adequately serve the condominium property; provided, however, easements through a unit shall be only according to the plans and specifications for the building or as the building is actually constructed, unless approved, in writing, by the unit owner.

14.2 Pedestrian and Vehicular Traffic. For pedestrian traffic over, through and across sidewalks, paths, lane and walks, as the same may from time to time exist, upon the common elements; and for the vehicular traffic over, through and across such portions of the common elements as may be from time to time paved and intended for such purposes.

14.3 Support. Every portion of a unit contributing to the support of the condominium building or an adjacent unit shall be burdened with an easement of support for the benefit of all other units and common elements in the building.

14.4 Perpetual NonExclusive Easement in Common Elements.
The common elements shall be, and the same is hereby declared to be subject to a perpetual non-exclusive easement in favor of all of the owners of units in the condominium for their use and the use of their immediate families, guests and visitors, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said owners.

14.5 Right of Entry into Private Dwellings in Emergencies.
In case of an emergency originating in or threatening any unit, regardless of whether or not the owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, or the building manager or managing agent, shall have the right to enter such unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate and to facilitate entry in the event of any such emergency, the owner of each unit, if required by the Association, shall deposit under the control of the Association, a key to such unit.

14.6 Right of Entry for Maintenance of Common Property.
Whenever it is necessary to enter any unit for the purpose of performing any maintenance, alteration or repair to any portion of the condominium property, the owner of each unit shall permit other owners by their representatives, or the duly constituted and authorized agent of the Association, to enter such unit for such purpose, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

14.7 Easement for Unintentional and Non-Negligent Encroachment.
In the event that any unit shall encroach upon any of the common elements for any reason not caused by the purposeful or negligent act of the unit owner or owners, or agents of such owner or owners, then an easement appurtenant to such unit shall exist for the continuance of such encroachment into the common elements for so long as such encroachment shall naturally exist; and, in the event that any portion of the common elements shall encroach upon any condominium unit, then an easement shall exist for the continuance of such encroachment of the common elements into any unit for so long as such encroachment shall naturally exist.

14.8 Air Space. An exclusive easement for the use of the air space occupied by a condominium unit as it exists at any particular time and as the unit may lawfully be altered.

14.9 Easements or Encroachments. Easements or encroachments by the perimeter walls, ceilings and floor surrounding each condominium unit.

14.10 Easement for Overhangs. Easement for overhanging troughs or gutters, downspouts and the discharge therefrom of rainwater and the subsequent flow thereof over condominium units or any of them.

14.11 Easement for Air Space of Common Elements. An exclusive easement for the use of the area and air space occupied by the air conditioning compressor and the equipment and fixtures appurtenant thereof, situated in and/or on common elements of the condominium but exclusively serving and individually owned by the owner of the unit, as the same exist in and on the land, which exclusive easement shall be terminated automatically in any air space which is permanently vacated by such air conditioning compressor, and the

equipment and fixtures appurtenant thereto; provided, however, that the removal of same for repair and/or replacement shall not be construed to be a permanent vacation of the air space which it occupies.

15. AMENDMENTS

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

15.2 Resolution. An amendment may be proposed by either the Board of Directors or by two-thirds (2/3) of the members of the Association. A resolution adopting a proposed amendment must bear the approval of not less than a majority of the Board of Directors and two-thirds (2/3) of the members of the Association. Directors and members not present at the meetings considering the amendment may express their approval, in writing, delivered to the Secretary before such meetings.

15.3 Agreement. In the alternative, an amendment may be made by an agreement signed and acknowledged by all of the record owners of units in the condominium in the manner required for the execution of a deed, and such amendments shall be effective when recorded in the Public Records of Monroe County, Florida.

15.4 Exception. Anything herein to the contrary notwithstanding, for so long as the Developer shall hold fee simple title to any unit, the Developer may amend this Declaration of Condominium, including but not limited to, an amendment that will combine two or more units owned by Developer, or any amendment required by a governmental agency or an institutional mortgagee willing to make or purchase permanent mortgage loans secured by units, by recording such amendment in the Public Records of Monroe County, Florida, and such amendment shall be effective without the necessity of a meeting of the unit owners or the approval and joinder of any unit owner, or the joinder of the owner and holder of any lien thereon. Provided, such amendment shall not increase the number of condominium units nor alter the boundaries of the common elements beyond the extent provided for under the provisions of the section entitled "Development Plan" hereof, nor shall such amendment adversely affect the lien or priority of any institutional first mortgage recorded prior to the amendment.

15.5 Proviso. No amendment shall discriminate against any unit owner or against any unit, or class or group of units, unless the unit owners so affected and their institutional mortgagees shall consent; and no amendment shall change any unit or the share in the common elements, and other of its appurtenances or increase the owner's share of the common elements, and other of its appurtenances or increase the owner's share of the common expenses, except as hereinabove provided, unless the owner of the unit concerned and all such mortgagees as first above recited, shall join in the execution of the amendment. Neither shall an amendment make any change in the section entitled "Insurance", nor in the section entitled "Reconstruction or Repair After Casualty", unless the record owner of all mortgages upon the condominium shall join in the execution of the amendment; nor shall any amendment of this Declaration make any change which would in any way affect any of the rights, privileges, powers and options of the Developer unless the Developer shall join in the execution of such amendment.

15.6 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with formalities of a deed. The amendment shall be effective when such certificate and copy of amendment are recorded in the Public Records of Monroe County, Florida.

16. TERMINATION

The condominium may be terminated in the following manner:

16.1 By Statute. As provided by the Condominium Act.

16.2 Destruction. In the event it is determined in the manner elsewhere provided that the unit buildings shall not be reconstructed after casualty, the condominium plan of ownership will be thereby terminated. The determination not to reconstruct after casualty shall be evidenced by a certificate of the Association executed by the president and secretary certifying as to the facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of Monroe County, Florida.

16.3 By Agreement.

16.3.1 Unanimous Agreement. The condominium may be

terminated at any time by the unanimous agreement, in writing, of all of the members and by all record owners of mortgages owned by institutional lenders. Such agreement shall be evidenced by a certificate of the Association executed by the president and secretary certifying as to the unanimous agreement to terminate, which certification shall become effective upon being recorded in the Public Records.

16.3.2 Less Than Unanimous Agreement. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting gives notice of the proposed termination, and less than all but at least 75% of the members, with the consent of their respective mortgagees, within sixty (60) days of such meeting, agree to terminate, then the Association and the approving members shall have an option to buy all of the units of the other members for a period ending on the 120th day from the date of such meeting. Such option shall be exercised upon the following terms:

a) Exercise of Option. The option shall be exercised by delivery or mailing by certified or registered mail to each of the record owners of the units to be purchased of an agreement to purchase signed by the Association and/or record owners of units who will participate in the purchase. Such agreement shall indicate which units will be purchased by the Association and/or each participating owner and shall agree to purchase all of the units owned by owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

b) Price. The sale price for each unit shall be the fair market value determined by agreement between the seller and the purchaser within 30 days from the delivery or mailing of such agreement, and in the absence of agreement as to price, it shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals; and a judgment of a specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expenses of arbitration shall be paid by the purchaser.

c) Payment. The purchase price shall be paid in cash.

d) Closing. The sale shall be closed within 30 days following the determination of the sale price, or within 15 days after seller furnishes the purchaser an abstract of title reflecting a good and insurable or marketable title, whichever is later.

16.4 General Provisions. Upon termination of the condominium the mortgagee and lienor of a unit owner who shall thereby become a tenant in common, shall have a mortgage and lien solely and exclusively upon the undivided share of such tenant in common in and to the lands and other properties and rights which he may receive by reason of such termination. The termination of the condominium shall be evidenced by a certificate of the Association executed by its president and secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records.

16.5 Amendment. This Section 16 cannot be amended without the consent of all unit owners and of all record owners of mortgages upon the units.

17. CONDEMNATION

The following provisions shall apply in the event of the partial or total condemnation of the Condominium:

17.1 Representation by Owners' Association. The Association shall represent the unit owners in any condemnation proceedings or in negotiations, settlement and agreement with the condemning authority for acquisition of the common areas, or part thereof. Each unit owner shall be deemed to have appointed the Association as attorney-in-fact for such purposes.

17.2 Award for Common Areas Payable to Association. In the event of a taking or acquisition of part of all of the common areas by a condemning authority, the award of proceeds of settlement shall be payable to the Association for the use and benefit of the unit owners and their mortgagees as their interest may appear.

17.3 Consequential Damages. Noting in this Section 17 shall prevent unit owners from joining in the taking or condemnation proceeding and petitioning on their own behalf for consequential damages relating to loss of value of the affected units, or personal improvements therein, exclusive of damages relating to common areas.

17.4 Partial Taking. In the event that a condemnation or taking of part of the Condominium would result in some, but not all, of the units being habitable hereafter, the owners of those remaining habitable units shall vote to determine whether to terminate the condominium. The owners of units rendered, or to be rendered, not habitable as a result of the condemnation shall not be entitled to so vote, but all other provisions of this Declaration in respect to termination of the condominium shall apply to such a decision. In the event it is determined that the condominium is to be terminated, the unit owners shall own the property as tenants in common according to reapportioned shares. The reapportioned share of each unit owner shall be a fraction, the numerator of which is the remaining fair market value of this unit (including his share of the remaining appurtenances computed according to his percentage of ownership of common elements prior to reapportionment), and the denominator of which shall be the total remaining fair market value of the condominium. In the event that it is determined that the condominium shall be terminated, the Association shall pay to the owners of units rendered not habitable the remaining fair market value of such units (including their shares of the remaining appurtenances). Such payment shall be conditioned upon those unit owners conveying to the Association their remaining interests in the Condominium. Payment shall be funded by assessments on the remaining habitable units. After such conveyances the percentage of ownership of common elements shall be reapportioned exclusively to the remaining habitable units, according to the ratios of ownership existing among such owners prior to reapportionment.

18. SEVERABILITY

The invalidity in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, the Bylaws, the Rules and Regulations of the Association, and any exhibit attached hereto, shall not affect the remaining portions thereof.

19. ASSIGNMENT

All or any portion of the rights, privileges, powers and immunities granted or reserved to the Developer in this Declaration, and in the Articles of Incorporation and Bylaws of the Association, may be assigned by the Developer to any person or entity, without the consent of any unit owner or any holder of a mortgage secured by any unit (other than the holder of a first mortgage secured by any interest of the Developer in the condominium), but only if such person or entity shall agree to assume all of the duties and obligations of the Developer under this Declaration, and the Articles of Incorporation and Bylaws of the Association from and after the date of such assignment. In the event of the foreclosure of any mortgage on a unit owned by the Developer, or conveyance of any such unit or interest in lieu of such foreclosure, the person first acquiring title to such unit or units or interest by reason of such foreclosure, or deed in lieu of foreclosure, shall succeed to all rights, powers, privileges and immunities of the Developer in and to such unit or units or interest.

20. AVAILABILITY OF RECORDS; AUDITED STATEMENTS

20.1 Records. The Association shall make available to unit owners and lenders, and to holders, insurers or grantors of any first mortgage, current copies of the Declaration, Bylaws, other rules concerning the condominium and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

20.2 Audited Statements. The holders of 51 percent or more of first mortgages shall be entitled, upon written request, to have an audited financial statement for the immediately preceding fiscal year, prepared at their expense if one is not otherwise available.

20.3 Time for Furnishing Audited Statement. Any financial statement requested pursuant to this Section, shall be furnished by the Association within a reasonable time following such request.

21. MISCELLANEOUS PROVISIONS

21.1 Covenants Run With Land. All provisions of this Declaration and Exhibits attached hereto, and Amendments thereof, shall be construed as covenants running with the land, and of every part thereof and therein, including, but not limited to, every unit and the appurtenances thereto, and every unit owner and

claimant of the property, or any part thereof, or of any interest therein, and his heirs, executors, administrators, successors and assigns, shall be bound by all of the provisions of said Declaration and Exhibits annexed hereto and any Amendments thereof.

21.2 Captions. The captions used in this Declaration of Condominium and Exhibits annexed hereto are inserted solely as a matter of convenience and shall be not relied upon and/or used in construing the effect or meaning of any of the text of this Declaration or Exhibits hereto annexed.

21.3 Provisions Pertaining to Developer. The Developer specifically disclaims any intent to have made any warranty or representation in connection with the property or the condominiums documents except as specifically set forth therein and no person shall rely upon any warranty or representation not specifically made therein unless provided by valid Statute. Equipment, material and construction warranties are as supplied by the suppliers and the contractor. The estimates of common expenses are deemed accurate, but no warranty or guaranty is made or intended, nor may one be relied upon.

The Developer shall not be responsible for: conditions resulting from condensation on or expansion or contraction of materials; paint over walls, both interior and exterior; loss or injury caused in any way by the elements; the water tightness of windows and doors; defects which are the result of characteristics common to the materials used; and damage due to ordinary wear and tear or abusive use; intrusion or collection of water within the building or on any portion of the condominium property and improvements thereon; nor anything of any type or nature except such items are specifically delineated and agreed to in writing between the Developer and the individual unit owner; and it shall be understood and agreed that the Developer shall bear no responsibility in any way as to the matters provided in this paragraph to the condominium Association. Any available guaranties have been obtained from all sub-contractors, such as for plumbing, electrical, air conditioning and roof, and any available warranties have been obtain from the manufacturers of all appliances and equipment as specified by said manufacturer and sub-contractors, and it shall be the obligation of the condominium Association and its member to enforce such guaranties. The condominium unit owners, by virtue of their acceptance of the Deed of Conveyance as to their condominium unit, and other parties, by virtue of their occupancy of units, hereby approve the foregoing and all of the terms and conditions, duties and obligations of this Declaration of Condominium and Exhibits attached thereto.

21.4 The real property submitted to condominium ownership herewith is subject to conditions, limitations, restrictions, reservations of record, taxes, applicable zoning ordinances now existing or which may hereafter come into existence as a result of a valid legislation, and easements for ingress and egress for pedestrian and vehicular purposes, easements for utility service and drainage now existing or hereafter granted by the Developer for the benefit of such persons as the Developer designates, and the said Developer shall have the right to grant such easements and designate the beneficiaries thereof for such time as they determine in their sole discretion; and thereafter the Association shall be empowered to grant such easements on behalf of its members. During the period of time that the Developer has the right to grant the foregoing easements, the consent and

approval of the Association and its members shall be required. The right to grant the foregoing easements shall be subject to said easements not structurally weakening the building improvements upon the condominium property nor unreasonable interfering with the enjoyment of the condominium property by the Association's members.

IN WITNESS WHEREOF, the undersigned has hereunto fixed his signature this 5th day of April, 1983.

Witnesses:

M. H. Wells
Grace Hunter

Roderick J. Thorne
Roderick J. Thorne
DEVELOPER

STATE OF FLORIDA
COUNTY OF MONROE

I HEREBY CERTIFY, that on this day, before me the undersigned officer, personally appeared RODERICK J. THORNE, to me well known to be the person described in and executed the foregoing instrument and he acknowledged before me that he executed the same freely and voluntarily for the purpose therein expressed.

WITNESS my hand and official seal at Key West, Monroe County, Florida, this 5th day of April, 1983.

Grace Hunter
Notary Public - State of Florida

My Commission Expires: 8/2/84