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DECLARATION OF CONDOMINIUM
OF
GRAND BAY CONDOMINIUM

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Condominium Exhibits filed in Condominium Book 35 Pages 41-
44 Public Records of Collier County, Sept. 28, 1990.
James C. Gies, Clerk

by: Dale Craig DC

DECLARATION OF CONDOMINIUM
OF
GRAND BAY CONDOMINIUM

TABLE OF CONTENTS

ARTICLE	TITLE	Page(s)
I	Submission Statement.....	1
II	Name.....	1
III	Land.....	1
IV	Identification of the Improvements.....	2
V	Survey, Plot Plan and Graphic Description of Improvements.....	6
VI	Undivided Shares in the Common Elements and Shares in the Common Expenses and Common Surplus Appurtenant to Each Unit.....	7
VII	Condominium Association.....	7
VIII	Bylaws.....	8
IX	Membership in the Condominium Association and Voting Rights of Unit Owners.....	9
X	Amendment to Declaration.....	10
XI	Purpose and Use Restrictions.....	11
XII	Conveyances, Leases and Transfers.....	16
XIII	Rights of Heirs and Devises of Deceased Unit Owners.....	17
XIV	Assessments.....	18
XV	Lien of the Association.....	20
XVI	Property Taxation and Assessments.....	20
XVII	Maintenance and Repairs.....	20
XVIII	Alteration of Units.....	22
XIX	Alterations, Additions and Improvements to Common Elements.....	24
XX	Liability Insurance.....	24
XXI	Casualty Insurance, Payment of Proceeds, Reconstruction, Insurance Trustee, Condemnation.....	25
XXII	Mortgages and Mortgagees.....	29
XXIII	Developer's Units, Rights and Privileges....	30
XXIV	Recreational Facilities.....	32
XXV	Separability of Provision.....	33
XXVI	Termination.....	33
XXVII	Easements for Encroachments.....	33
XXVIII	Special Insurance and Maintenance Provisions	34

001562
OR BOOK

000102
PAGE

XXIX	Miscellaneous Provisions.....	35
	A. Assessments Not Paid by the Developer.....	35
	B. Right of Entry.....	35
	C. Contractual Liens Authorized.....	35
	D. Easements.....	36
	E. Master Television Antenna and Cable Television.....	37
	F. Security System.....	37
	G. Association May Waive Leasehold Restrictions.....	37
	H. Developer's Rights to Use Units as Offices or Models.....	38
	I. Architectural Review Board.....	38
	J. Modification of Boundaries Between Abutting Units.....	38
	K. Restrictions on Amendments.....	39
	L. Approval by Condominium Association	40
	M. Shares of Ownership Upon Termination	40
XXX	Enforcement, Default.....	40
EXHIBIT "A"	Survey, Plot Plan and Graphic Description of Improvements	
EXHIBIT "B"	Articles of Incorporation of the Condominium Association	
EXHIBIT "C"	Bylaws of the Condominium Association	
EXHIBIT "D"	Parking Space Assignment Form	
EXHIBIT "E"	Storage Locker Assignment Form	
EXHIBIT "F"	Boat Slip Assignment Form	

001562
OR BOOK

000103
PAGE

DECLARATION OF CONDOMINIUM

OF

GRAND BAY CONDOMINIUM

ARTICLE I
SUBMISSION STATEMENT

Grand Bay Developments, L.C., a Florida limited liability company (the "Developer"), the Developer of GRAND BAY CONDOMINIUM and the owner and holder of the fee simple title in and to the real property hereinafter described in Article III hereof entitled LAND hereby submits the same to condominium ownership pursuant to Chapter 718, Florida Statutes (the "Condominium Act") upon the terms, conditions, restrictions, reservations and limitations hereinafter set forth, except for variances permitted by law appearing in this Declaration or in the attached Bylaws or in lawful amendments to either of them. The provisions of the Condominium Act as presently constituted, including the definitions therein contained, are adopted and included herein by express reference.

001562
OR BOOK

ARTICLE II
NAME

The name by which this Condominium is to be known and identified is:

00104
PAGE

GRAND BAY CONDOMINIUM

ARTICLE III
LAND

The legal description of the real property included in the Condominium and submitted herewith to condominium ownership is:

A portion of Tract "A" of MARCO BEACH UNIT FOUR according to the plat thereof as recorded in Plat Book 6 at Pages 32 through 37 of the Public Records of Collier County, Florida, being more particularly described as follows:

Commence at the Northwest corner of said Tract "A" (said corner also being the Southwest corner of Lot 14, Block 133, of said Marco Beach Unit Four), said corner bearing S 82°35'39" W from the center of the next described circular curve; thence Southerly along the arc of said circular curve having a radius of 1860.08 feet, through a central angle of 12°29'50", for an arc distance of 405.72 feet to a point of tangency; thence S 20°52'10" E for 122.98 feet; thence N 69°07'50" E for 514.14 feet; thence S 23°32'36" E for 358.14 feet; thence East for 121.30 feet; thence N 41°21'36" E for 155.82 feet to the POINT OF BEGINNING of the herein described parcel of land;

thence continue N 41°21'36" E for 288.25 feet to a point;

thence S 85°38'53" E for 100.00 feet;

thence S 32°39'23" E for 421.65 feet to the most Easterly point of said Tract "A", said point lying on a circular curve bearing S 18°10'44" E from the center of said circular curve and the North Right-of-Way of North Barfield Drive;

thence Southwesterly along the arc of said circular curve and the North Right-of-Way of North Barfield Drive, having a radius of 960.00 feet, through a central angle of 04°38'34" for an arc distance of 77.78 feet to a point of tangency;

thence S 76°27'50" W for 187.04 feet;

thence N 13°32'10" W for 95.00 feet;

thence N 63°32'10" W for 266.81 feet to the POINT OF BEGINNING.

001562
OR BOOK

000105
PAGE

ARTICLE IV
IDENTIFICATION OF THE IMPROVEMENTS

A. Condominium Property. The "Condominium Property" means and consists of the land described in Article III, LAND, hereof and all easements and rights appurtenant thereto, together with the buildings and other improvements constructed thereon, which include the Units, Common Elements and Limited Common Elements. In addition, the Condominium Property shall include as Common Elements any interest in real property acquired by the Condominium Association in accordance with the provisions of Article XXIV. RECREATIONAL FACILITIES herein contained, or any other provision herein. The principal improvements of the real property submitted herewith to condominium ownership consist of one building which houses the sixty (60) condominium Units, the pool, spa, tennis court, recreation room, BAR-BQ patio, parking areas, storage areas, boat slips and the pool restroom facility. The Units are designated on the plot plan as Units 101 through 115, 201 through 215, 301 through 315, and 401 through 415, all inclusive. There are three (3) types of Units: Type "A" Units have two (2) bedrooms and a screened porch; Type "B" Units contain two (2) bedrooms, a large

den, two screened porches and a balcony; and Type "C" Units have two (2) bedrooms, a den and a screened porch (the den may be constructed to permit a sliding door rather than open entry). Developer reserves the right to change the mix of Floor Plan types within the building without the consent of any Unit Owner or mortgagee until the initial conveyance of the Unit provided supplemental drawings are filed with an amendment to this Declaration showing the as-built floor plan for each Unit.

B. Common Elements. The "Common Elements" shall include the land and all other improvements not within the Units or designated Limited Common Elements, including but not limited to the exterior walls extending in to the vertical plane of the interior surface of all exterior wall sheathing, roofs down to the inside surface of the roof decking, all roof components wherever located, ground floor slabs below the horizontal plane of the undecorated finished floor, drives or driveways and parking areas (except those designated as assignable Limited Common Elements in paragraph C.2, below), green areas, pool, recreation room, and other accessory areas. The Association shall have the power to determine the use to be made of the Common Elements, provided that no such use shall discriminate against a Unit Owner. The Association shall not charge any fee to a Unit Owner for the use of Common Elements or Association Property unless such use is the subject of a lease between the Association and the Unit Owner.

C. Limited Common Elements. The "Limited Common Elements" shall mean and consist of the following:

1. The terraces, porches, balconies, patios, courtyards, or lanais, including any screened or fenced-in porches, balconies, patios or terraces, abutting each Unit, the space between the common wall Unit boundary and the vertical plane of the center line of the common firewall between Units, all conduits, wires up to their outlets, all other utility lines and pipes up to their outlets and which serve the respective Units regardless of location outside Unit boundaries, the use of which is restricted to the Units to which they are appurtenant. The boundary lines of each Unit terrace, patio, balcony, lanai, or porch, are the interior vertical surfaces thereof and the exterior unpainted, unfinished surface of the perimeter balustrade or railing, if any, abutting the porch, terrace or patio or lanai, or if said terrace, lanai, balcony, porch or patio is screened or otherwise enclosed, the exterior unfinished surface of the perimeter wall and the interior finished surfaces of the floor and ceiling of said porch. The air conditioning and heating equipment servicing a Unit and located outside of that Unit, and all integral parts thereof, including but not limited to ground level compressors, all duct work, all refrigeration lines, and all piping appurtenant thereto, are Limited Common Elements appurtenant to the Unit which they service, the use of which is restricted to the Unit to which they are appurtenant. Maintenance and upkeep of the Limited Common Elements defined in this subparagraph C.1. is the exclusive responsibility of the

DR BOOK 001562
PAGE 00106

Owner of the Unit to which the Limited Common Elements are appurtenant.

2. Parking Spaces. A total of one hundred thirty-six (136) parking spaces will be located upon the Condominium Property. Of these spaces, sixty-four (64) will be covered and located in areas denoted on the Plot Plan as carports and parking under the tennis court. The sixty-four (64) covered parking spaces constitute Limited Common Elements and are designated by a number on the Plot Plan. All Units will be assigned one of the numbered covered parking spaces, except for Units 108, 208, 308 and 408, which will be respectively assigned two covered parking spaces. The parking spaces will be numbered as shown on the Plot Plan. The covered parking spaces will be assigned to the initial Unit Owners as appurtenances to their respective Units on a first-come, first-serve basis. Parking Space assignments will be in the form attached hereto as Exhibit "D". The Developer reserves the right to file an amendment to the Plot Plan specifically designating the assignments of the numbered covered parking spaces as made. The remainder of uncovered, unnumbered parking spaces shall be Common Elements for the general use of Unit Owners, residents and their guests.

3. Storage Lockers. Sixty (60) storage lockers ("Storage Lockers") will be located on the floors of the Condominium building, as shown on the Plot Plan and will be Limited Common Elements. The Storage Lockers will be numbered as shown on the Plot Plan. The Storage Lockers will be assigned to the initial Unit Owners as appurtenances to their respective Units on a first-come, first-serve basis. Storage Locker assignments will be in the form attached hereto as Exhibit "E". The Developer reserves the right to file an amendment to the Plot Plan specifically designating the assignments of the Storage Lockers as made.

4. Boat Slips. A total of thirty-five (35) boat slips, consisting of twenty-two (22) slips beside finger boat docks and thirteen (13) layalong slips ("Boat Slips") will be located upon the Condominium Property. The intersecting vertical rectangular surface dimensions of the perimetrical boundaries of the Boat Slips are shown on the Plot Plan. The lower perimetrical boundary of each Boat Slip shall be the horizontal undulating plane immediately above the surface of the sovereign submerged land. The upper boundary of each Boat Slip shall extend upwards to the heavens. Of these thirty-five (35) slips, six (6) will be assigned to the Association and may be rented by Unit Owners from the Association on such terms as the Board of Directors of the Association may from time to time determine. All Boat Slips constitute Limited Common Elements and are designated by a number on the Plot Plan and can be owned only by Unit Owners. Unit Owners purchasing such an assignment of a Boat Slip are hereinafter called "Boat Slip Owners". A limited number of Unit Owners will have the opportunity to purchase and receive an

000107
PAGE

001562
OR BOOK

001562
OR BOOK
000108
PAGE

exclusive assignment of one (1) Boat Slip from the Developer for an additional price. The Boat Slips will be assigned to such purchasing initial Unit Owners as an appurtenance to their respective Units on a first-come, first-serve basis. No Boat Slip may be transferred at any time to anyone other than Unit Owners. Boat Slip Owners may sell and assign their Boat Slip to other Unit Owners independently of any transfer of their Units, but only if a copy of each such assignment is delivered to the Association by the selling Boat Slip Owner. A Boat Slip Owner may transfer his Unit without also transferring his Boat Slip, only if he (i) owns another Unit in the Condominium and (ii) provides to the Association a copy of a recorded instrument executed by the Boat Slip Owner transferring the Boat Slip to be an appurtenance to the new Unit and eliminating the Boat Slip as an appurtenance to the Unit that the Boat Slip Owner proposes to sell with the notice of intention to sell his Unit required in Article XII of this Declaration. If any Boat Slip Owner fails to provide the Association with a copy of such an assignment, his Unit shall continue to be subject to a lien for Boat Slip assessments until such time as a copy is provided to the Association. All Boat Slip assignments will be recorded in the Public Records in the form attached hereto as Exhibit "F". Upon the recording of such an assignment, the subject Boat Slip shall constitute an appurtenance to the Unit owned by the purchasing Unit Owner. The Developer reserves the right to file an amendment to the Plot Plan specifically designating the initial assignments of the numbered Boat Slips as made. The Boat Slips are subject to a sovereign submerged land lease between the Developer, as tenant, and the State of Florida, as landlord. The Developer's interest under said sovereign submerged land lease will be assigned to the Association when all Boat Slips have been assigned, subject to the approval of the State of Florida.

D. Condominium Unit. The "Condominium Unit" shall mean and consist of the following (sometimes referred to as a "Unit"):

(a) The upper boundary of each Unit shall be the horizontal plane of the inside surface of the roof decking and the lower boundary shall be the horizontal plane of the undecorated, finished floor. 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 inclusive of the garage, extended to the intersections with each other and with the upper and lower boundaries. The space between the common wall Unit boundary and the vertical plane of the center line of the common firewall between the Units is Limited Common Element appurtenant to the Unit. The space between the exterior plane of the outer wall studs and the vertical plane of the Unit boundary of the exterior walls is also a Limited Common Element appurtenant to the Unit. All conduits, wires up to their outlets, all other utility lines and pipes up to their outlets and which serve the respective Units regardless of location outside Unit boundaries are Limited Common Elements appurtenant to the Units they serve.

(b) The roof down to the inside surface of the roof decking, all roof components wherever located, the exterior walls extending in to the vertical plane of the interior surface of all exterior wall sheathing, and the floor below the horizontal plane of the undecorated finished floor constitute part of the Common Elements.

(c) Each Unit includes the undivided interest of each Unit Owner in and to the Common Elements, it being understood that all conduits and wires up to their outlets and all other utility lines and pipes up to their outlets, regardless of location, constitute part of the Limited Common Elements appurtenant to the Units they serve. Each Unit includes the undivided share of the Common Elements which is appurtenant to that Unit and the interest of each Unit in any Limited Common Elements appurtenant to that Unit such as parking spaces, storage lockers, boat slips, terraces, porches, and patios.

E. **Miscellaneous.** The land and the areas and spaces which are not within the boundaries of a Unit are Common Elements, or Limited Common Elements as described above and shall be used, occupied, dealt with and managed as provided for in the Declaration Act and hereinafter in this Declaration of Condominium.

F. **Floorcovering.** Any Unit above the first living floor shall always have floors covered by the Unit Owner, at the Unit Owner's expense (unless otherwise agreed by the Developer), with wall-to-wall carpeting, except in the dining room, kitchen, bathrooms, foyer, and porches, where other types of non-resilient floorcoverings, installed with acoustically acceptable underlayment material, as approved in writing by the Board of Directors, may be substituted. Non-resilient floorcovering may be installed in bathrooms without the use of acoustical underlayment.

**ARTICLE V
SURVEY, PLOT PLAN AND GRAPHIC
DESCRIPTION OF IMPROVEMENTS**

There is attached hereto as an Exhibit and made a part hereof and recorded simultaneously herewith, a Survey, Plot Plan and Graphic Description of Improvements mentioned above, showing the Units, Common Elements and Limited Common Elements, their location and approximate dimensions in sufficient detail to identify them, and said Survey, Plot Plan and Graphic Description of Improvements and the notes and legends appearing thereon are made a part hereof and shall be deemed and identified as Exhibit "A" to this Declaration. Construction of the Condominium is not substantially complete at the time of recording this Declaration but, upon substantial completion of construction this Declaration shall be amended to include the certificate of substantial completion required by Section 718.104(4)(e), Florida Statutes, The Condominium Act, and which shall be recorded in the Official Records of Collier County, Florida.

ARTICLE VI**UNDIVIDED SHARES IN THE COMMON ELEMENTS AND SHARES IN THE COMMON EXPENSES AND COMMON SURPLUS APPURTENANT TO EACH UNIT**

A. Each Unit shall have as an appurtenance thereto an undivided one-sixtieth (1/60th) share in the land, Common Elements, and Limited Common Elements (except Boat Slips), common expenses, and in the common surplus. The Unit Owners shall share equally in the ownership and common expenses and common surplus of the condominium and each Unit shall have one (1) vote. The basis for the share of ownership and share of common expenses and common surplus and voting shares is the number of Units in the Condominium, sixty (60), therefore, each Unit shall have one-sixtieth (1/60th) share of the ownership, common expenses, common surplus and voting. The total number of undivided fractional shares equals 100%. That portion of the common expenses attributable solely to the upkeep of the Boat Slips as determined by the Board of Directors of the Association shall be borne by those Unit Owners holding the right to use such slips in shares of one thirty-fifth (1/35) each. The basis for the share of expenses for maintenance and repair of Boat Slips is the number of Boat Slips in the Condominium, thirty-five (35); therefore, each Unit Owner holding the right to use a Boat Slip (including the Association for any Boat Slips held by it) shall have one thirty-fifth (1/35) share of the Boat Slip expenses. The total number of undivided fractional shares of responsibility for Boat Slip expenses equals 100%.

B. The common expenses shall be borne by the Condominium Unit Owners and the said Unit Owners shall share in the common surplus in the proportions set forth in paragraph A of this Article.

C. In the event of the termination of the Condominium, the Condominium Property shall be owned in common by the Unit Owners in accordance with the provisions contained in Paragraph M of Article XXIX, SHARES OF OWNERSHIP UPON TERMINATION.

ARTICLE VII**CONDOMINIUM ASSOCIATION**

A. The Association responsible for the operation of this Condominium is Grand Bay Condominium Association, Inc., a Florida not-for-profit corporation (the "Association"). The Association shall have all the powers, rights and duties set forth in this Declaration, the Articles, the Bylaws and the rules and regulations enacted pursuant to such Bylaws. This Declaration, the Articles and the Bylaws are sometimes herein referred to as the "Condominium Documents." A copy of the Articles of Incorporation of the Association are appended hereto as Exhibit "B".

B. Amendments to the Articles of Incorporation shall be valid when adopted in accordance with their provisions and filed with the Secretary of State or as otherwise required by Chapter 617, Florida Statutes, as amended from time to time. Article X, AMENDMENT TO DECLARATION, of this Declaration regarding amendments to this Declaration shall not pertain to amendments to the Articles of Incorporation, the recording of which shall not be required among the Public Records to be effective unless such recording is otherwise required by law. No amendment to the articles shall, however, change any Unit or the share of Common Elements, common expenses or common surplus attributable to a Unit nor the voting rights appurtenant to a Unit unless the record owner or owners thereof and all record owners of liens upon such Unit or Units shall join in the execution of such amendment.

C. The Developer retains the right to elect the majority of the members of the Board of Directors of the Association until three (3) years after fifty percent (50%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers; or three (3) months after ninety percent (90%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers; or when all the Units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business; or when some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, whichever occurs first. The Developer is entitled to elect at least one (1) member of the Board of Directors of the Association as long as Developer holds for sale in the ordinary course of business at least one of the Units in the Condominium. The Developer may relinquish any of such rights sooner than provided herein by written instrument. When fifteen percent (15%) of the Unit Owners have taken fee title, the Association members shall be entitled to elect not less than one-third (1/3) of the members of the Board of Directors and may call a special meeting, if needed, to do so.

**ARTICLE VIII
BYLAWS**

The operation of the Condominium Property shall be governed by the Bylaws of the Association which are annexed to this Declaration as Exhibit "C" and made a part hereof (the "Bylaws"). Amendments to the Bylaws shall be valid when adopted in accordance with their provisions and when set forth in or annexed to a recorded amendment to the Declaration.

001562
OR BOOK

000111
PAGE

ARTICLE IX
MEMBERSHIP IN THE CONDOMINIUM ASSOCIATION AND
VOTING RIGHTS OF UNIT OWNERS

A. Every owner of a Unit, whether he has acquired title by purchase from the Developer, the Developer's grantee, successor or assigns, or by gift, conveyance or by operation of law, is bound to and hereby agrees that he shall accept membership in the Association described in Article VII, CONDOMINIUM ASSOCIATION, and does hereby agree to be bound by this Declaration, the Articles of Incorporation, the Bylaws of the Association and the rules and regulations enacted pursuant thereto and the provisions and requirements of the Condominium Act and of the lawful amendments thereto. Membership is automatic upon acquisition of ownership of a Unit and may not be transferred apart and separate from a transfer of the ownership of the Unit. Membership shall likewise automatically terminate upon sale or transfer of the Unit, whether voluntary or involuntary.

B. The Owner of every Unit shall accept ownership of said Unit subject to all restrictions, easements, reservations, conditions and limitations now of record and affecting the land and improvements constituting the Condominium Property, including without limitation those certain Restrictions recorded in Official Records Book 765, Page 1960, of the Public Records of Collier County, Florida.

C. Unit Owners or members shall be entitled to inspect the documents, books and records of the Association, and the Association shall make available for inspection, upon request, and during normal business hours or under other reasonable circumstances, to Unit Owners, current copies of the Declaration, Bylaws and other rules concerning the Condominium and the books, records and financial statements of the Association.

D. Subject to the provisions and restrictions set forth in the Condominium Documents, each Unit Owner is entitled to one vote in the Association. If a person or corporation owns more than one Unit, he or it shall be entitled to one vote for each Unit owned. If one or more people own a Unit jointly or in common, only one vote can be cast for the Unit. Voting rights and qualifications of voters and membership in the Association are more fully stated, qualified and determined by the provisions of the Articles of Incorporation and by its Bylaws. Whenever a particular numerical or percentage vote is called for or provided for in the Condominium Documents (such as "66% of the Unit Owners" or "a majority of the members") unless the particular provision describing the vote required shall specifically require to the contrary, the vote required shall be that percentage of the total number of votes of the Unit Owners present and voting or, if the provision involved so requires, of the total number of votes entitled to be voted on the matter. Unless a particular provision shall require otherwise, a majority vote of the number of votes of Unit Owners present and voting entitled to vote on any matter shall be controlling, providing a quorum is present.

**ARTICLE X
AMENDMENT TO DECLARATION**

A. Except as elsewhere provided in this Declaration and unless otherwise required by Florida Statutes 718.110, this Declaration may be amended from time to time by resolution adopted at any regular or special meeting of the Unit Owners of the Condominium called in accordance with the Bylaws at which a quorum is present, such adoption to be by the affirmative vote of sixty-six percent (66%) of the total number of votes to which the Unit Owners present and voting shall be entitled. Any such amendment shall be duly recorded in compliance with requirements of the Condominium Act. No such amendment shall change any Unit nor the share of the Common Elements, common expenses or common surplus attributable to any Unit, nor the voting rights appurtenant to any Unit, unless the record owners or owner thereof and all record owners of liens or mortgages upon such Unit or Units shall join in the execution of such amendments.

B. The provisions of Paragraph A above notwithstanding, the provisions of this Declaration or of the Articles or Bylaws of the Condominium Association which in order to be effective, operational or to be enacted, require a vote of the Unit Owners greater than that required in Paragraph A above, shall not be amended or changed by any amendment to this Declaration or to the Articles or Bylaws of the Condominium Association insofar as they appertain to said provisions, unless in addition to all other requirements of Paragraph A above being met, said amendment or change shall be approved by a vote of the membership not less than that required by such provision of this Declaration or the Articles or Bylaws that is proposed to be amended, whichever shall be applicable. Furthermore, no amendment or change to this Declaration or to the Articles or Bylaws shall be effective to affect or impair the validity or priority of any mortgage encumbering a Condominium Unit or Units without the written consent thereto by all of the mortgagees owning and holding the mortgage or mortgages encumbering the said Unit or Units, which consent shall be executed with the formalities required for deeds and recorded the same as the aforesaid amendment.

C. The provisions of Paragraphs A and B to the contrary notwithstanding, if it shall appear that through scrivener's error in any of the Condominium Documents all of the common expenses or interest in the common surplus or all of the Common Elements in this Condominium have not been distributed such that the sum total of the shares of Common Elements which have been distributed or the shares of the common expenses or ownership of common surplus fails to equal 100%; or, if it shall appear that through such error more than 100% of the Common Elements or common expenses or ownership of the common surplus shall have been distributed; or, if it shall appear that through scrivener's error a Unit has not been designated an appropriate undivided share of the Common Elements, common expense

or common surplus; or, if it appears that there is an omission or error in any of the Condominium Documents required by law to establish this Condominium, the Association may correct the error and/or omission by an amendment to such Condominium Document by simple resolution of the Board of Directors of the Association approved by a majority of the whole number of Directors or by a majority vote of the Unit Owners voting at a meeting of Unit Owners (members of the Association) called at least in part for such purpose, at which a quorum is present. If such an amendment, considered and approved pursuant to this paragraph, materially adversely affects property rights of Unit Owners, the Unit Owners whose property rights are so materially adversely affected must consent to the amendment in writing for the amendment to become effective. If the amendment, considered and approved pursuant to this paragraph, modifies the shares of common expense, Common Elements or common surplus appurtenant to one or more Units, then the owners of the Units and the owners of liens upon the Units for which changes in the shares of Common Elements, common expenses or common surplus are being made must consent in writing to such amendment for such amendment to be effective. For the purpose of this paragraph, no Unit Owner's property rights shall be deemed to be materially adversely affected nor shall his share of the Common Elements, common expenses or common surplus be deemed modified for reason of the modification of the shares of common expense, Common Elements or common surplus appurtenant or attributable to another Unit.

001562
BOOK

00114
PAGE

**ARTICLE XI
PURPOSE AND USE RESTRICTIONS**

A. **Units.** Units shall be used and occupied by the respective owners thereof as private single-family residences for themselves, their families and social guests, and for no other purpose, except where specific exceptions are made in this Declaration.

B. **General.** In order to provide for a congenial occupation of the Condominium and to provide for the protection of the value of the Units, the use of the Condominium Property shall be restricted in accordance with the following provisions:

1. The Units shall be used and occupied as single-family residences only, unless written approval for such other use is obtained from the Association in advance and, except as used by the Developer or its successors or assigns for promotion of sales or leasing and conduct of a sales or leasing office or model Units. No more than six (6) persons may occupy any two (2) bedroom Unit and no more than eight (8) persons may occupy any two (2) bedroom Unit having a den. The Common Elements and other areas which are not Units and are not Limited Common Elements appurtenant to one or more Units may be used for such purposes as shall be lawful and permitted by the Association. The designations of any areas or spaces by a particular name

shall be descriptive of the use to which the space or area may be put but shall not be deemed restrictive of the power of the Association to vary such use.

2. The Common Elements shall be used for the furnishing of services and facilities for which they are reasonably intended, for the enjoyment of the Unit Owners, and subject to such regulation by rules and Bylaws as may, in the opinion of the Association achieve the maximum beneficial use thereof.

3. Units may be rented or leased for a minimum term of seven (7) days, provided compliance is had with any restrictions on conveyances, leases or transfers, and provided occupancy is only by a single tenant, his family, servants and guests.

4. No Unit may be divided or subdivided into a smaller Unit, nor may any portion thereof be sold or transferred without first amending this Declaration.

5. There is no prohibition on occupancy of Units by children. Children shall be closely supervised at all times by an adult to insure that they do not become a source of annoyance to other residents of the Condominium. The Board of Directors of the Association or Manager appointed by said Board shall at all times have the authority to reasonably require that the Unit Owner, lessee, guest or other adult who is responsible for a particular child remove him or her from any Common Element area if the child's conduct is such that the Board believes this action is necessary. In no event shall children under the age of ten (10) years be permitted in the pool area unless accompanied by an adult.

6. No nuisance shall be allowed upon the Condominium Property, nor shall any practice be allowed which is a source of annoyance to residents or which will interfere with the peaceful possession and proper use of the Condominium Property by residents. All Unit Owners and other residents shall deposit any garbage for garbage collection in the dumpsters provided at such locations, times and on such days as the Association may designate.

7. Unit Owners may be privileged to keep one (1) small pet of a normal domesticated household type such as a cat or dog, in the Unit. The pet must be less than twenty (20) pounds in weight and the pet must be leashed at all times while on the Condominium Property outside of the Unit. Any Unit Owner maintaining a pet within the Condominium shall be fully responsible for and shall bear the expense of, any damage to persons or property caused by such pet. No pets are permitted upon the Common Elements, Recreation or Pool Areas and facilities. Each pet owner shall be responsible for the removal and disposal of their pet's body waste. The ability to have such a pet is a privilege, not a right, and the Board of

000115
PAGE

001562
OR BOOK

Directors is empowered to order and enforce the removal of any pet which becomes a reasonable source of annoyance to other residents of the Condominium. No pets of any kind are permitted in leased Units. No reptiles, amphibians or livestock may be kept in the Condominium.

8. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property nor of any Unit or any part thereof.

9. No satellite dish, antennae or solar panels shall be installed, erected or placed upon the Common Elements, Limited Common Elements, or individual Units or any improvements thereon by any Unit Owner or Owners, nor shall any Unit Owner permit any other person to place such fixtures upon said portions of the Condominium; provided however, that the Association may provide for the installation of a single satellite dish antennae to serve the entire Condominium pursuant to Article XXIX, Paragraph E hereof.

10. No Unit Owner shall park or store any equipment, vehicles (except passenger cars in unassigned parking spaces in full compliance with the Rules and Regulations of the Association), motorcycles, boats or trailers on the Common Elements or Limited Common Elements, including without limitation any outside parking spaces. No wheeled vehicles, other than automobiles in good operating condition with inflated tires and current license tags, shall be kept in, on or about any building, or on Condominium Property. All vehicles shall be parked within marked spaces only, and not in areas designated "No Parking" or on the lawns, walks, curbs, stoops or patios of any building or the Condominium Property. Each Unit Owner, for himself and his guests, agrees that any violation of the foregoing rules shall subject the equipment, vehicle, motorcycle, boat and/or boat trailer, camper or other vehicles to be towed without notice at the Unit Owner's sole expense. Neither Developer nor the Association, nor their respective agents and/or employees shall be liable for any damages arising as a result of towing; alternatively, each violating Unit Owner agrees to indemnify (to include attorneys' fees) the Developer and the Association for any liability that may be imposed on them. All bicycles must be stored within the Unit or storage locker appurtenant to each Unit.

11. No Unit Owner shall ever, at any time, permit, keep or store ammunition, explosive devices, highly flammable liquids or other dangerous items or substances, gasoline or other combustible materials whatsoever in, on or about his Unit or the Condominium Property, or do anything which would increase the rate of fire insurance upon the building or Condominium Property.

12. Reasonable regulations concerning use of the Condominium Property and especially the Common Elements and

00116
PAGE

001562
OR BOOK

Limited Common Elements may be promulgated by the Association. Such regulations shall not impair or limit the rights of mortgagees as elsewhere recited herein. Such rules and regulations may include provisions restricting the use of Common Elements, Limited Common Elements, and recreational areas to members of the Association and their families, guests, lessees, invitees and servants.

C. Boat Slips. In order to provide for a congenial occupation of the Condominium and to provide for the protection of the value of the Units and Boat Slips, the use of the Boat Slips shall be restricted in accordance with the following provisions:

1. Each Boat Slip is restricted to marine mooring occupancy for a single non-commercial pleasure boat and its tender, not requiring Coast Guard licenses for carrying passengers for hire. The Owner of each Boat Slip shall not permit regular or unreasonable levels of visits from the public, utility burdens, or trash. No sign indicating commercial uses for a Boat Slip may be displayed on or from any Boat Slip or on the Condominium Property. A "pleasure boat" is defined as a registered pleasure boat under the licensing laws of the State of Florida, not licensed for carrying passengers or cargo for hire, and operated by its owners on a nonprofit, noncommercial basis except for income from bareboat charters to Unit Owners.

2. All boats of the Boat Slip Owners must fit within the boundaries of the Boat Slips, including all bowsprits, booms, pulpits, and other projections or overhangs.

3. All boats shall:

(a) be well maintained by the Boat Slip Owners in tidy and seaworthy condition;

(b) not be of such size, height or bulk as to (i) exceed the boundary of the Boat Slip in which such boat is berthed; or (ii) unreasonably block views of other Boat Slip and Unit Owners of the waters adjacent to the Condominium;

(c) be fully equipped and operable for operation on the sea (except during the period of temporary repairs not to exceed eight [8] days);

(d) be equipped with all safety of life at sea equipment required by Coast Guard regulations and federal, state and local laws; and

(e) comply with all licensing and registration requirements.

000117
PAGE

001562
OR BOOK

4. No boat may be used at any time for a residence. Barges with no method of self-propulsion are prohibited. All boats must be equipped with sanitary holding tanks, and may not discharge household sewage, trash, petroleum products, or other waste overboard into the sea.

5. All boats occupying Boat Slips must be safe and seaworthy. An agent of the Association may periodically inspect boats for seaworthiness, and order removal of any non-seaworthy boat. Boats sunk in Boat Slips will be removed by the Boat Slip Owner within 12 hours of sinking, or the Association may cause the removal of the sunken boat at the expense of the Boat Slip Owner. The Association may prohibit certain contractors from providing services to boats on the Boat Slips for cause relating to safety.

6. From time to time, piers and boats may be required by the Association to be removed for maintenance, repairs and dredging, at which time the Boat Slip may be entered for such period as may be necessary. To the extent fill is removed from the bottom of the Boat Slip, subject to the rights of the State of Florida, it will be treated as the property of the Association.

7. When a Boat Slip is to be unoccupied by the Boat Slip Owner for a period of over three (3) days, the Boat Slip Owner may, at his option, notify the Association who may place the Boat Slip into a transient guest pool. Rents charged for transient occupancy will be divided, a portion to be given as a credit against general Boat Slip expense assessments of the particular Boat Slip and the remainder to be paid to defray the expenses of the Association in administering such transient guest pool. The proportions shall be decided by resolution of the Board of Directors of the Association.

8. All Boat Slip Owners shall maintain liability and property damage insurance for their boats in amounts set by the Board of Directors of the Association. Each such policy shall name the Association as an additional co-insured and shall contain a requirement that the Association be notified by the insurer at least thirty (30) days in advance of any cancellation or other termination of such policy. Copies of all such policies and original certificates evidencing such insurance coverage must be delivered to the Condominium Association by the Boat Slip Owner upon original acquisition of a Boat Slip and at least annually thereafter, or at such other frequency as the Board of Directors may determine by resolution.

9. Each Boat Slip Owner shall indemnify the Association and hold it harmless against all claims, loss, damage and

liability that may arise from all of the acts and omissions of the Boat Slip Owner, his family, guests, invitees and licensees in regard to the use of his Boat Slip and his boat. Each Boat Slip Owner, by acceptance of the assignment of his Boat Slip from the Developer, hereby releases and discharges the Developer from any liability for theft, damage, and any liability therefore arising from or caused by other Boat Slip, Unit Owners or third parties, in connection with the storage, use or operation of his boat and Boat Slip.

10. Boat Slip Owners shall comply with all additional rules and regulations that may be promulgated by the Board of Directors of the Association from time to time.

ARTICLE XII
CONVEYANCES, LEASES AND TRANSFERS

In order to assure a community of congenial residents and occupants and protect the value of the Units and to further the continuous harmonious development of the condominium community, the sale, lease and mortgage of Units shall be subject to the following provisions which shall be covenants running with the land so long as the Condominium Property shall be subject to the condominium form of ownership under the laws of the State of Florida:

A. In the event of an attempted conveyance in contravention of the directions herein contained, such conveyance shall be void *ab initio*, and the Association shall have the right to enforce these provisions by legal proceedings, by injunctive proceedings, or by any legal means calculated to produce compliance.

B. A Unit Owner intending to make a bona fide sale or lease of his Unit or any interest therein shall give to the Association a written notice of his intention to sell or to lease, together with the name and address of the intended purchaser or lessee, and such other information as the Association may reasonably require, and the terms of the proposed transaction. The giving of such notice shall constitute a warranty and representation by the Unit Owner that he believes the proposal to be bona fide in all respects. As a condition of closing the parties must give the Association a notice of the closing date, the specific Unit, and the name and mailing address of the purchaser or lessee. The Association may, within fifteen (15) days after receipt of such notice, and only if all prior assessments (whether regular, special or Boat Slip) have been fully paid, together with any costs of collection, and interest accrued thereon, issue to the proposed purchaser or lessee a certificate approving such lease or sale. In the event that the Association fails to timely supply such a certificate, then the proposed lessee or purchaser shall be deemed to be automatically approved, unless the Association notifies the selling or leasing Unit Owner within said fifteen

000119
PAGE

001562
OR BOOK

(15) day period that the Unit Owner has not fully complied with the requirements of this Article XII, and in the event of such notice of non-compliance, the Association shall not be obligated to issue the approval certificate until the Unit Owner cures such non-compliance.

C. The provisions of this ARTICLE XII shall apply to all successive sales, leases, transfers, subleases or assignments, but shall not apply to sales, leases, transfers, subleases or assignments by the Developer.

D. No Unit Owner shall sell or lease his Unit until and unless all assessments past and due are paid or their payment provided for to the satisfaction of the Association and unless the proposed lessee can qualify as to the use restrictions.

E. A Unit Owner may not lease a Unit for a term of less than seven (7) days and if a Unit Owner shall lease his Unit, he shall remain liable for the performance of all agreements and covenants in the Condominium Documents and shall be liable for the violations by his lessee of any and all restrictions.

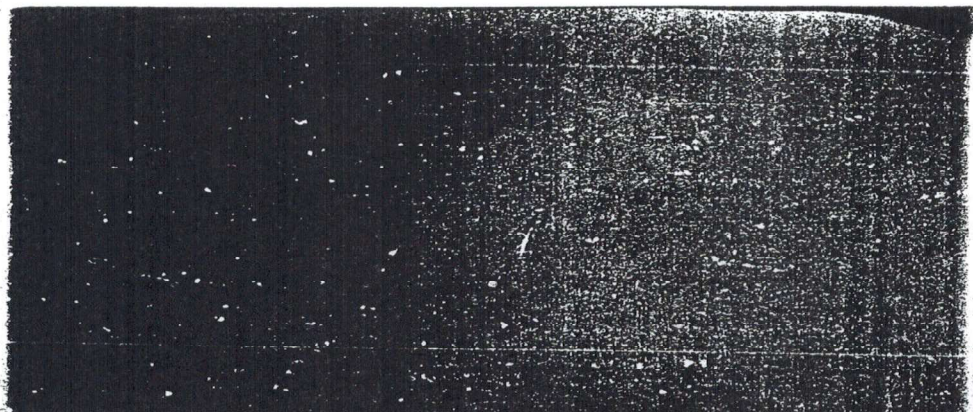
F. Every purchaser or lessee who acquires any interest in a Unit shall acquire the same subject to all Condominium Documents, and rules and regulations of the Condominium Association and the provisions of the Condominium Act.

G. Should any Unit at any time become subject to a mortgage or similar lien given as security, in good faith and for value, the holder thereof (hereinafter called the "Mortgagee"), upon becoming the owner of such interest through foreclosure of that mortgage or deed in lieu of foreclosure, shall have the unqualified right to sell, lease or otherwise dispose of said Condominium Unit, including the fee ownership thereof, without complying with the provisions of Paragraphs C through F above; provided, however, that in all other respects the provisions of the Condominium Documents and rules and regulations of the Association and the provisions of the Condominium Act shall be applicable thereto; and, provided further, that nothing herein contained shall be deemed to allow or cause a severance from the Condominium Unit of the share of the Common Elements and Limited Common Elements or other appurtenances of said Unit. Once the Mortgagee mentioned above has sold, transferred or conveyed his fee simple interest to any person whomsoever, the provisions of Paragraphs A through F above shall again be fully effective with regard to subsequent sales or conveyances of said Unit.

ARTICLE XIII
RIGHTS OF HEIRS AND DEVISEES OF DECEASED UNIT OWNERS

A. If the owner of a Unit should die and the title to the Unit shall pass to his surviving spouse or to any member of his family

7
OR BOOK
PAGE



regularly in residence with him in the Unit prior to his death, who is over the age of eighteen (18) years, then such successor in title shall fully succeed to the ownership, rights, duties and obligations of the Unit Owner, the provisions of ARTICLE XII, CONVEYANCES, LEASES AND TRANSFER, of this Declaration notwithstanding.

B. If the title to the Unit of such deceased owner shall pass to any person other than a person or persons designated in Paragraph A above, then within ninety (90) days of such person or persons taking title, occupancy or possession of the Unit of the deceased owner, he shall advise the Association in writing of his intention of residing in the Unit and of his or their current address.

C. Every person who acquires title or any interest in a Unit under this Article shall acquire the same subject to all Condominium Documents, and rules and regulations of the Association and provisions of the Condominium Act.

D. Nothing in this Article XIII shall be deemed to reduce, forgive or abate any amounts due the Association from the Unit Owner at the time of his death, nor the assessments attributable to the Unit becoming due after the Unit Owner's death, all of which shall be fully due and payable as if the Unit Owner had not died.

E. Nothing herein shall prevent the sale and transfer of a Unit by the owner thereof in the manner otherwise provided in this Declaration.

ARTICLE XIV ASSESSMENTS

A. The Association, through its Board of Directors, shall have the power to make and collect assessments, special assessments and such other assessments as are provided for by the Condominium Act, this Declaration and the Articles and Bylaws.

B. "Common Expenses" shall include but not be limited to costs and expenses of operation, maintenance and management, property taxes and assessments against the Condominium Property, including recreational facilities, (until such time as any of such taxes and assessments are made against the Units individually and thereafter only as to such taxes or assessments, if any, as may be assessed against the Condominium as a whole), insurance premiums for fire, windstorm and extended coverage insurance on the Condominium real property and personal property, premiums for public liability insurance, legal and accounting fees, management fees and operating expenses of the Condominium Property and the Association; maintenance, repairs and replacements (but only as to the Common Elements and Limited Common Elements, except for emergency repairs or replacements deemed necessary to protect the Common Elements and properly chargeable to the individual Unit concerned), charges for utility, electricity and gas, water and garbage and trash

000121
PAGE

001562
OR BOOK

collection, used in common for the benefit of the Condominium, cleaning and janitorial services for the Common Elements and Limited Common Elements, expenses and liabilities incurred by the Association in and about the enforcement of its rights and duties against the members or others, and the creation of reasonable contingency or reserve requirements for the protection of the members and the Condominium Property (i.e., reserves for replacement, operating and reserve to cover deficiencies in collections), and all other expenses declared by the Board of Directors of the Association to be Common Expenses from time to time, and any and all other sums due from the Association under any lease, contract or undertaking for recreational facilities permitted in ARTICLE XXIV, RECREATIONAL FACILITIES.

C. The Association shall estimate from time to time the amount of Common Expenses it expects to incur and the period of time involved therein and may assess sufficient monies from Unit Owners to meet this estimate. Assessments for Common Expenses shall be borne by Unit Owners in the proportions or shares set forth in ARTICLE VI, UNDIVIDED SHARES IN THE COMMON ELEMENTS AND SHARES IN THE COMMON EXPENSES AND COMMON SURPLUS APPURTENANT TO EACH UNIT, hereof pertaining thereto. Assessments shall be payable quarterly or in such other installments and at such times as may be fixed by the Board of Directors.

D. Should the Association through its Board of Directors at any time determine that the assessments made are not sufficient to pay the Common Expenses, or, in the event of emergencies, the Board of Directors shall have authority to levy and collect additional assessments to meet such needs of the Association.

E. All notices of assessments from the Association to the Unit Owners shall designate when they are due and payable. Assessments and installments thereof not paid when due shall bear interest from due date at eighteen percent (18%) per annum, or at such other rate as may be determined by the Board of Directors of the Condominium Association; however, such rate shall not exceed the maximum rate allowed by law.

F. In the event that assessments levied against any Unit Owner or any installments thereof shall remain unpaid for ninety (90) days or more, then so long as such delinquent assessments and/or installments are not received by the Association, such unpaid assessments and/or installments shall be deemed to be a Common Expense of the Association to be paid out of Association reserves or surplus and, in the event said reserves or surplus are exhausted, then by means of a special assessment as the Board of Directors of the Association shall determine. Nothing herein shall be deemed to forgive or abate the obligation of the delinquent Unit Owner to pay the amount of such unpaid assessments to the Association or to pay assessments thereafter becoming due.

PAGE

OR BOOK

ARTICLE XV
LIEN OF THE ASSOCIATION

The Association shall have a lien on each Unit and all appurtenances thereto for any unpaid assessments and interest thereon against the Unit Owner of each Unit as provided in the Condominium Act. In the event such lien is asserted or claimed, the delinquent Unit Owner agrees to pay reasonable attorneys' fees and costs sustained by the Association incident to the collection of such unpaid assessment or the enforcement of such lien (including without limitation court costs and attorneys' fees at trial and appellate levels) and the said lien shall also secure the payment of such attorneys' fees and costs. Said lien shall be effective from and after its recording in accordance with the provisions of the Condominium Act, and shall otherwise be enforceable as provided in the Condominium Act.

ARTICLE XVI
PROPERTY TAXATION AND ASSESSMENTS

A. The Condominium Act provides that property taxes and special assessments shall be assessed against and collected on the Units and not upon the Condominium Property as a whole. Such taxes, when assessed, shall be paid by each Unit Owner in addition to the payment of such Unit Owner's share of the Common Expenses.

B. However, until such procedure is put into effect and operation by the taxing authorities, it is likely that tax bills may be rendered against the entire Condominium Property, including Common Elements, Limited Common Elements and the Units. In such case, the tax will be apportioned against each Unit according to the schedule of ownership of Common Elements contained in Article VI of this Declaration and otherwise shall be treated as a part of the Common Expenses of the Condominium Association.

C. Whenever a tax is assessed against the Condominium Property as a whole instead of against each Unit it shall be treated as a common expense in accordance with the provisions of this ARTICLE XVI.

ARTICLE XVII
MAINTENANCE AND REPAIRS

A. The Association shall maintain, replace and repair at the Association's expense all boundary walls of a Unit (excluding the space between the common wall Unit boundary and the vertical plane of the center line of the common firewall between Units, and the space between the exterior plane of the outer wall studs and the vertical plane of the Unit boundary of the exterior walls) and all portions of a Unit contributing to the support of a building and related improvements, which portions to be maintained shall include

but not be limited to the outside sheathing of the walls of each building and perimeter wall and all fixtures on its exterior, structural floor slabs, all roof components wherever located and roofs. It shall also be the Association's responsibility to maintain, repair and replace, at the Association's expense, all conduits, ducts, plumbing, pipes, wiring and other facilities for the furnishing of utility services contained in the portions of a Unit maintained by the Association that service part or parts of the Condominium other than the Unit in which they are contained. The Association shall also be responsible for maintenance, replacement and repairs of the Common Elements, parking spaces, exterior surfaces of storage lockers and Boat Slips.

UU1562
OR BOOK
UU124
PAGE

B. The Unit Owner shall maintain, repair and replace at his own expense all portions of the Owner's Unit and the Limited Common Elements appurtenant to his Unit, except the portions to be maintained, repaired and replaced by the Association. This shall be done without disturbing the rights of other Unit Owners. The portions of the Unit to be maintained, repaired and replaced by the Unit Owner shall include but not be limited to the plastered surfaces, dry wall or sheet rock within the Unit or forming the boundaries of the Unit, air conditioner and heater and air handling equipment for space cooling and heating (including any portions thereof which may be located outside of the boundaries of the Unit), service equipment, such as dishwasher, washer, dryer, range or stove and oven, range hood, trash compactor, disposal, water heater, refrigerator, whether or not these items are built-in equipment; interior fixtures such as electrical and plumbing fixtures; windows, screens, doors, inside paint and other inside wall finishes or coverings, ceiling finishes, carpets and any other floor coverings. Mechanical equipment and the installation of such equipment shall be such that its operation will not cause annoyance to the occupants of other Units.

C. The Unit Owner shall maintain, repair and replace at his own expense the Limited Common Elements appurtenant to his Unit, including, but not limited to, the space between the common wall Unit boundary and the vertical plane of the center line of the common firewall between Units, all conduits, wires up to their outlets, and all other utility lines and pipes up to their outlets serving the Unit regardless of location, interior of storage lockers, the patios, porches, balconies, terraces, or lanais and any Boat Slip. The foregoing maintenance and repair obligation notwithstanding, the Condominium Association in the exercise of its discretion may require established levels of maintenance and repair with respect to the Limited Common Elements, and may reasonably regulate and control and make rules relating to the appearance, upkeep, painting and decorating and utilization of the Limited Common Elements. The Association may likewise undertake the painting, maintenance and/or repair of all exterior walls of the Condominium, whether or not falling within a lanai, balcony, terrace, balustrade or railing, as part of an overall program of maintenance and repair. Unit Owners shall not paint or otherwise decorate, alter or change the appearance of any

portion of the exterior of any building, including the Common Elements, Limited Common Elements and the door or doors to the Unit, unless approved as provided in this Declaration by the Association or an Architectural Review Board.

D. Notwithstanding the responsibility of the Association to maintain and repair those portions of the Condominium Property as set forth in Paragraph A above, if such required maintenance and repair is required because of the negligence or misuse of the Condominium property or Unit by a Unit Owner, such Unit Owner shall be liable and responsible for the cost and expense of such required maintenance and repair; and such cost of maintenance, repair or reconstruction shall be charged to the Unit Owner concerned and may be collected if not paid within twenty (20) days after invoice with interest at the rate of eighteen percent (18%) per annum from and after the expiration said twenty (20) days with reasonable attorneys' fees and costs of enforcement. Until so collected from the Unit Owner, such costs shall be treated as a common expense. In the event that the Unit Owner does not maintain, repair and replace that portion of the Unit and Limited Common Elements required to be maintained, repaired, and replaced at the Unit Owner's cost and expense, and such lack of maintenance, repair or replacement has or will have an adverse effect on the Condominium or will cause damage to the Condominium Property or portions of the Condominium to be maintained by the Association, then, and in that event, the Association shall have the right to perform such maintenance, repair and replacement necessary in the Unit or Limited Common Elements, and such cost of maintenance, repair or replacement shall be charged by the Condominium Association to the Unit Owner concerned and may be collected if not paid within twenty (20) days after invoice with interest at the rate of eighteen percent (18%) per annum from and after the expiration said twenty (20) days with reasonable attorneys' fees and costs of enforcement. Until so collected from the Unit Owner, such costs shall be treated as common expense; provided, however, that notwithstanding the above, capital contribution funds may not be used for the payment of Common Expenses during the period of time that the Developer has guaranteed assessments, if any.

001562 OR BOOK
000125 PAGE

**ARTICLE XVIII
ALTERATION OF UNITS**

A. Unit Owners may apply to the Board of Directors of the Association for prior written approval for installation of hurricane shutters, which shall not be unreasonably withheld. No owner of a Unit shall make or cause to be made any structural modifications or alterations in his Unit or in the water, gas, electrical, plumbing, air-conditioning equipment or utilities therein without the consent of the Association, which consent may be withheld in the event the Board of Directors determines that such structural alteration or modification would in any manner endanger the building. If the modification or alteration desired by a Unit Owner involves the

000126
PAGE

001562
OR BOOK

walls, or in any other manner change the appearance of the exterior of the building or any portion of the building not totally within the Unit, without consent of the Association. No Unit Owner nor any other person shall install upon the roof or exterior of the Unit upon the Condominium Property, or upon the Common Elements or Limited Common Elements of the Condominium, any TV antenna, radio antenna, electric, electronic or electromechanical device, decorative item or affixed furnishing without the consent of the Association. This paragraph in no way modifies the absolute prohibition of the erection, installation or placement of satellite dish antennae and solar panels upon the Condominium Property, any Unit, or any improvement thereon contained in Article XI, paragraph B.9. of this Declaration.

B. Provisions of Paragraph A to the contrary notwithstanding, with the permission of the Condominium Association or of the Developer, abutting Units may be physically combined into a single dwelling, but they shall nevertheless, for all other pertinent purposes including but not limited to assessments, attribution of Common Elements and voting, be deemed separate Units. Units which have been or are combined to form one dwelling may be severed into their component Units (separate Units) at any time the owner of the combined Units so desires. Any construction or modification of the interior of such Units as may be required to effectuate the severance of the combined Units into separate Units shall be subject to the approval of the Board of Directors of the Condominium Association, which approval shall not be unreasonably withheld. Such modifications for the combining or severing of combined Units shall in any and all events be accomplished at the sole expense of the Unit Owner or owners of the combined Units and not at the expense of the Condominium Association. Nothing herein shall be deemed to require the Association or the Developer to approve any structural modification which involves the weakening, movement or significant modification of any load bearing element. Furthermore, nothing herein shall be deemed to require the Condominium Association or the Developer to approve any modification which will alter the exterior appearance of the building in which the combined Units being severed into its component Units is located or in which the separate Units being combined are located.

C. Any alteration in Units owned by the Developer or a successor Developer, as hereinafter defined, shall not require the approval of the Condominium Association, but such approval may be given solely by the Developer herein named or by his designee or nominee specifically granted such authority. The provisions of this

Association on or in connection with the use of the Common Elements except to the extent that and only if the laws mandate such personal liability.

B. A Unit Owner shall be liable for injuries or damages resulting from an accident in his own Unit, or in, on or due to any boat he may own, to the same extent and degree that the owner of a house would be liable for an accident occurring within the house. If there shall become available to the Condominium Association a program of insurance which will not only insure the Association's liability and the liability of Unit Owners with respect to the Common Elements and Limited Common Elements, but also the liability of individual Unit Owners with respect to the interior of their Units, boats or Boat Slips, then the Association may obtain such liability insurance coverage (and shall, upon a Unit Owner's request, provide a certificate of insurance evidencing such coverage) protecting both the Condominium Association and the Unit Owner against all liabilities for damage to persons and property whether occurring within or without a Unit, and the premium therefor shall be common expense. If it shall appear that Unit Owners in such a program of insurance are entitled to elect additional coverages or excess coverages above those coverages elected by the Association for all Unit Owners, then the Association may require the individual Unit Owners selecting the excess coverage to pay the reasonable premium for such additional or excess coverage.

000128

PAGE

001562

OR BOOK

ARTICLE XXI
CASUALTY INSURANCE, PAYMENT OF
PROCEEDS, RECONSTRUCTION, INSURANCE TRUSTEE, CONDEMNATION

A. PURCHASE OF INSURANCE. The Board of Directors of the Association shall keep the Condominium Property insured. The Condominium Property shall include all the buildings erected upon the land, all fixtures and personal property appurtenant thereto owned or used by the Association or constituting part of the Common Elements or Limited Common Elements and all Units contained therein. The insurance shall insure the interest of the Association and all Unit Owners and their mortgagees as their respective interests may appear against loss or damage by fire and hazards covered by a standard coverage endorsement, flood insurance, if applicable, and such other risks of a similar or dissimilar nature as are customarily covered with respect to buildings similar in construction, location and use to the buildings erected upon the Condominium Property, in an amount which shall be equal to the maximum insurable replacement value as determined no less than every four (4) years by the insurance carrier if such insurance is reasonably available. Because of the location of the Condominium Property, the Association is authorized to obtain and accept a policy with a deductible clause if the Association cannot reasonably obtain coverage without such a clause. The Directors shall have no liability to the Association, the members of the Association, or any other person for the failure to obtain insurance without a

deductible clause and/or for the failure to obtain insurance in the full amount of the coverage required hereunder if, in good faith, a majority of their whole number shall have determined that such insurance is not reasonably available.

B. ASSURED AND LOSS PAYABLE. All casualty insurance policies purchased by the Association hereunder shall be for the benefit of the Association and all Unit Owners and their mortgagees as their interests may appear and shall provide that all proceeds covering casualty losses of \$10,000.00 or less shall be paid to the Association. Any sum in excess of \$10,000.00 may be paid to an insurance trustee. An insurance trustee, if an insurance trustee is appointed, shall be any bank or trust company or other corporate trustee authorized to and doing business in Collier County, Florida designated by the Board of Directors of the Association and approved by a majority of the mortgagees of the Units in the Condominium (the term "majority" meaning the holders of debts secured by the first mortgages, the unpaid balance of which is more than one-half (1/2) the unpaid principal balance of all first mortgages on said Units). Said trustee is herein referred to as the "Insurance Trustee". The Insurance Trustee shall not be liable for the payment of premiums or the sufficiency of premiums nor for the failure to collect any insurance proceeds. The Insurance Trustee shall be responsible only for monies which come into its possession and only for its willful misconduct, bad faith or gross negligence. The duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust pursuant to the terms of the Insurance Trust Agreement between the Association and the Insurance Trustee, which shall not be inconsistent with any of the provisions herein set forth.

C. PAYMENT OF PREMIUMS, TRUSTEE'S EXPENSES AND COLLECTION. The Board of Directors shall collect and pay the premiums for casualty insurance and all fees and expenses of any Insurance Trustee (if one is appointed) as a part of the Common Expenses for which assessments are levied. Each Unit Owner shall pay and be responsible for casualty insurance premiums and all fees and expenses of the Insurance Trustee in the same manner as all other assessments.

D. MANDATORY REPAIR. Unless there occurs substantial damage or destruction to all or a substantial part of the Condominium Property as hereinafter defined, and subject to the provisions hereinafter provided, the Association and the Unit Owners shall repair, replace and rebuild the damage caused by casualty loss, which shall be borne by the Unit Owners in proportion to the shares of the Common Elements as set forth in Article VI of this Declaration.

E. REPAIR AND RECONSTRUCTION, USE OF PROCEEDS. Immediately after a casualty damage of any part of the Condominium Property, the Board of Directors shall obtain reliable and detailed estimates of the cost necessary to repair and replace the damaged property to a

000129

PAGE

001562

OR BOOK

000130

PAGE

001562

OR BOOK

assessment against all Unit Owners for that portion of the deficiency related to Common Elements and Limited Common Elements in accordance with the shares set forth in Article VI of this Declaration and against the individual Unit Owner for that portion of the deficiency related to individual damaged Units; provided, however, that if in the opinion of the Board of Directors it is impossible to accurately and adequately determine the portion of the deficiency relating to individual damaged Units, the Board of Directors shall levy the special assessment for the total deficiency against each of the Unit Owners according to the percentages set forth in Article VI of this Declaration.

Unless there occurs substantial damage to or destruction of all or a substantial portion of the Condominium Property and the Unit Owners elect not to rebuild and repair as provided in Paragraph F below, the Insurance Trustee or Association shall disburse the net proceeds and the funds collected by the Board of Directors from the assessments hereinabove set forth to repair and replace any damage or destruction of property, and shall pay any balance remaining to the Unit Owners and their mortgagees as their interests may appear. The proceeds of insurance and the funds collected by the Board of Directors from the assessments as hereinabove provided shall be held by the Insurance Trustee or Association in trust for the uses and purposes herein provided. The Insurance Trustee shall not have the obligation or duty to see that the repairs, reconstruction or replacements required hereunder are performed or accomplished, but such shall be the Association's duty.

F. TOTAL DESTRUCTION. As used in this Declaration and in any other connection or context dealing with this Condominium, "Substantial damage to or destruction of all or a substantial portion of the Condominium Property" shall mean that sixty-six percent (66%) or more of all Units are or have been rendered untenable by casualty or damage.

Should there occur such substantial damage or destruction of all or a substantial part of the Condominium Property, the Condominium Property shall be reconstructed unless at least two-thirds (2/3) of the first mortgagees, (based upon one vote for each first mortgage owned), or Unit Owners, (other than the Developer) shall agree in writing not to reconstruct within sixty (60) days after the casualty loss or damage occurs. Should the Unit Owners and mortgagees agree not to reconstruct and repair as aforesaid, the Insurance Trustee or Association is authorized to pay proceeds of the insurance to the Unit Owners and their mortgagees as their interest may appear and the Condominium Property shall be removed from the provisions of the

such time as the Developer has sold the last Unit, Developer shall have the sole and exclusive right to require that the Condominium Property be reconstructed in the event of damage or destruction.

PAGE

OR BOOK

G. RIGHTS OF MORTGAGEES. If any first mortgagee of any Unit shall require it, the Association shall from time to time deposit in a savings account established for the purpose or with the Insurance Trustee, sufficient monies in escrow to insure the payment of the casualty insurance premiums insuring the Condominium Property. A majority of such mortgagees (as hereinabove defined in Paragraph B) may designate the bank, savings and loan association or Insurance Trustee as the depository of these funds and may determine the provisions of the escrow, but only one escrow account shall be required. However, the Association shall not be required to fund this escrow more frequently than once a month nor deposit therein from month-to-month an amount greater than one-twelfth (1/12) of the reasonably estimated casualty insurance premium next due. Any mortgagee in any mortgage which in accordance with the provisions of the mortgage shall have the right to demand insurance proceeds in the event of a casualty loss to the property secured by said mortgage, waives the right to such proceeds if the proceeds are used pursuant to this Declaration to repair, replace or restore the Condominium Property subject to the mortgage lien. However, nothing herein shall be deemed a waiver by the mortgagee of its rights, if any, to require that any surplus proceeds over and above the amounts actually used for repair, replacement or reconstruction of that portion of the Condominium Property subject to the mortgage, be distributed to the mortgagee and the Unit Owner as their interests may appear. The owner and holder of any first mortgage on any Unit shall have the right to approve the plans and proposals for any repairs, reconstruction or replacements to the Unit or Units encumbered by its mortgage or mortgages, and no such repairs, reconstruction or replacements shall be begun or undertaken without such approval, which approval shall not be unreasonably withheld.

H. ASSOCIATION AS AGENT. The Association is hereby irrevocably appointed agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association and to execute releases thereof.

I. CONDEMNATION. In the event that any Unit of the condominium or any portion thereof, or the Common Elements or any portion thereof, shall be made the subject of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then any holder of a first mortgage on a Unit

will be entitled to timely written notice of any such proceeding and proposed acquisition. The priority of the first mortgage and any rights of the first mortgagee of the Unit pursuant to its mortgage shall not be disturbed with respect to distribution of the proceeds of any award or settlement for losses to or taking the Units and/or Common Elements.

ARTICLE XXII
MORTGAGES AND MORTGAGEES

000132

PAGE

A. An owner who mortgages his Unit must notify the Association of the name and address of his mortgagee and the Association shall maintain such information in a register which shall, among other things, contain the names of all the owners of Units and the names of mortgagees holding mortgages on Units. The failure to notify the Association of the existence of a mortgage shall in no way impair the validity of the mortgage. If a Unit Owner mortgages his Unit he shall not be permitted to modify, alter or change the physical aspect of the Unit without the written permission of the mortgagee.

001562

OR BOOK

B. The Association shall, upon the written request of a mortgagee, or holder, insurer or guarantor of an institutional mortgage as defined in paragraph D of this Article, furnish timely written notice of any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit, any delinquency in the payment of assessments or charges owed by a Unit Owner which remains uncured for a period of sixty (60) days, any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, or any proposed action which would require the consent of a specified percentage of mortgage holders. The Association shall make available for inspection, upon request and during normal business hours or under other reasonable circumstances, to lenders and to holders, insurers or guarantors of any first mortgage, current copies of the Declaration, Bylaws and other rules concerning the Condominium and the books, records and financial statements of the Association.

C. If the holder of a first mortgage of record or other purchaser of a Unit obtains title to the Unit as a result of foreclosure of the first mortgage or as a result of a deed given in lieu of foreclosure, such acquirer of title and his successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association pertaining to the Unit so acquired or chargeable to the former Unit Owner of the acquired Unit which became due prior to the acquisition of the title as a result of the foreclosure or deed in lieu of foreclosure unless the share is secured by a claim of lien for assessments recorded prior to the recording of the mortgage which is foreclosed or for which a deed was given in lieu of foreclosure. That unpaid share of the Common Expenses or assessments shall be Common Expenses collectible from all of the Unit Owners including such acquirer, his successors and assigns.

000133
PAGE

001562
OR BOOK

D. The term "institutional mortgagee" as used in this Declaration shall mean a bank, savings and loan association, insurance company or union pension fund authorized to do business in the State of Florida or an agency of the United States Government, or the holder of any mortgage insured or guaranteed by any agency of the United States Government, such as Federal Housing Authority or the Veterans Administration, or guaranteed, insured or held by agencies such as Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or Government National Mortgage Association, or any other generally recognized institutional type lender. Where an institutional first mortgage by some circumstance fails to be a first mortgage but it is evident that it is intended to be a first mortgage, it shall nevertheless for the purposes of this Declaration and the Exhibits annexed hereto be deemed an institutional first mortgage and the holder thereof shall be deemed an institutional first mortgagee.

ARTICLE XXIII
DEVELOPER'S UNITS, RIGHTS AND PRIVILEGES

A. The provisions of ARTICLE XII, CONVEYANCES, LEASES AND TRANSFERS, of this Declaration respecting sale and transfer of Units shall not be applicable to the Developer who is submitting the Condominium Property to the condominium form of ownership. The Developer has and reserves the right to sell Units to any purchaser approved by it subject, however, to the use restrictions herein provided. The Developer shall have the right to transact any business necessary to consummate the sale of Units including but not limited to the right to maintain models, advertise on the Condominium Property and use the Common Elements. In the event there are unsold Units, the Developer retains the right to ownership thereof under the same terms and obligations as other owners of Units except as elsewhere herein provided. The Developer may sell Units owned by it to any person or persons whomsoever and the provisions of Paragraphs C through F of ARTICLE XII shall not be applicable to Developer or to any such sale by the Developer notwithstanding anything to the contrary in this Declaration, the Articles or the Bylaws of the Association.

B. So long as the Developer holds any Units for sale in the ordinary course of business none of the following actions may be taken by the Condominium Association, either through act of its Board of Directors or its membership, without Developer's approval in writing:

1. Assessment of the Developer as a Unit Owner for capital improvements; and
2. Any action by the Association that would be detrimental to the sale of Units by the Developer; however, an

increase in assessments for Common Expenses without discrimination against the Developer shall not be deemed to be detrimental to the sales of Units for the purpose of this Paragraph.

3. Amendment to the Declaration of Condominium, Articles of Incorporation or Bylaws, Amendments under this provision shall not be construed to permit amendments contrary to the requirements set forth in Florida Statute Section 718.110.

C. The provisions of ARTICLE XI, PURPOSE AND USE RESTRICTIONS, of this Declaration to the contrary notwithstanding, the Developer may retain and use as sales offices, promotion and developmental offices and models any Units, Common Elements and Limited Common Elements retained by the Developer or owned by the Developer for the use of which has been reserved to the Developer in this Declaration and other Condominium Documents or by contract or otherwise lawfully enforceable as a contract obligation by the Developer against the Condominium Association or any of the Unit Owners other than the Developer, so long as such use shall also conform with applicable laws, zoning, rules and ordinances of the appropriate governmental jurisdictions.

D. For the purpose of this ARTICLE XXIII and the powers, rights and authorities granted to the Developer, the Developer shall be deemed to mean not only the Developer, as defined in ARTICLE I, SUBMISSION STATEMENT, hereof, but also any of its parent and subsidiary corporations designated by it by instrument in writing to be considered the Developer herein for the purposes set forth herein or any of them and/or any corporate agent of said Developer similarly designated by the Developer to be treated as a Developer for the purposes herein contained or any of them, which agent is involved in the development, promotion, construction and/or sales of this Condominium and its Units. The term "Developer" shall also include for all purposes contained in this Declaration and its Exhibits, any successor or alternate developer appointed by the said Developer, as a successor or alternate Developer by an instrument in writing specifically setting forth that such successor or alternate is to have the rights, duties, obligations and responsibilities, in whole or in part, of the Developer hereunder together with the said Developer, providing that such instrument in writing shall be executed by such successor or alternate developer indicating its consent to be so treated as the "Developer."

E. This Article shall not be amended without the written consent of the Developer and any successor or alternate Developer designated in accordance with the provisions of Paragraph D above.

000134
PAGE

001562
OR BOOK

**ARTICLE XXIV
RECREATIONAL FACILITIES**

A. Any recreational facilities and such other facilities as may be added to condominium ownership by the Developer and/or Association, shall be part of the Common Elements, and the cost of operation, maintenance, repair and reconstruction shall be a Common Expense for which Unit Owners shall be liable.

B. The Association, upon recommendation of a majority of its Board of Directors and with the consent of sixty-six (66%) percent of the Association's members and subject to the requirements of Paragraph D below, may from time to time acquire and enter into agreements whereby it acquires leaseholds, memberships and other possessory or use interests in lands or facilities, including, but not limited to, country clubs, golf courses, marinas and other recreational facilities, whether or not contiguous to the lands of the Condominium, intended to provide for the enjoyment, recreation or other use or benefit of the Unit Owners. Such agreements shall provide the manner in which they may be amended, otherwise an amendment shall require all the approvals set forth in this Paragraph B and Paragraph D below.

C. So long as the Association shall be subject to the provisions, covenants, conditions or promises contained in any agreement, lease or other undertakings entered into under the authority of this ARTICLE XXIV, this Article may not be modified, amended or changed in any regard without the consent in writing of the lessor therein or the equivalent party if he be not properly denominated "lessor", which consent shall be evidenced by said lessor or equivalent party joining in the execution of the certificate of amendment with the formalities required for deeds.

D. The provisions of Paragraph B above notwithstanding mortgagees holding first mortgages on any Unit or Units shall, if they acquire such Units by foreclosure or deed in lieu of foreclosure, take such Unit or Units exempt from and free and clear of any of the terms and obligations and without the use benefits of such agreements entered into under the authority granted in Paragraph B above to the same extent and effect as if such agreements did not exist, unless such mortgagee or subsequent owner of such Unit taking title through such mortgagee shall at any time consent in writing to such agreement or agreements, in which case the exemption granted in this Paragraph D shall thereafter not apply to such Unit or Units. The exemption granted in this Paragraph D shall include, but not be limited to, an exemption from the payment of the pro rata share of any rent, license fees, use fees, maintenance charges or other exactions imposed upon the Condominium Association and/or its Unit Owners under the terms of such agreements, whether or not such impositions or obligations shall constitute Common Expenses of the Condominium. If, however, at or before the time the Association enters into such agreement or

000135
PAGE

001562
OR BOOK