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DECLARATION OF CONDOMINIUM FOR
VILLAS OF WEST MIAMI CONDOMINIUM

MADE this 28th day of March, 1994, by SORIANO INVESTMENTS, A FLORIDA CORPORATION, hereinafter called the "Developer," the owner in fee simple title to the land described herein and by which the Developer makes the following declaration:

I. SUBMISSION TO CONDOMINIUM OWNERSHIP

Developer hereby submits to the condominium form of ownership and use the land described in Article III hereof, the improvements now and thereafter situated thereon, and the easements and rights appurtenant thereto (the "Condominium Property") pursuant to Chapter 718, Florida Statutes as amended to the date hereof (the "Condominium Act"). Except as terms are expressly defined herein, the terms used herein shall have the meaning given them in the Condominium Act.

II. NAME AND ADDRESS

The name by which this Condominium is to be identified is VILLAS OF WEST MIAMI CONDOMINIUM, sometimes herein called the "Condominium." The street address is _____ S.W. 12 Street, West Miami, Florida.

III. THE LAND

The land submitted to condominium (the "Land") is situated in Dade County, Florida and it is described in Exhibit "A" annexed hereto as a part hereof.

IV. DESCRIPTION OF CONDOMINIUM PROPERTY

The description of the improvements comprising part of the Condominium Property, consisting of 7 buildings for a total of 49 units.

The identification of the residential units within the building is made by a building number numbered 6550, 6570, 6590, 6620, 6640, 6670 and 6690 and the unit numbers numbered one through seven. Exhibits 1 and 2 of this Declaration of Condominium contains a survey of the Land showing the location of the buildings, a graphic description of the building contents, of the units and of the elevations of the buildings, of the common elements and of the limited common elements in sufficient detail to reflect their respective locations and dimensions prepared and certified by a registered land surveyor in the manner required by the Condominium Act. The improvement are further described as:

- A. Residential Buildings: The improvements includes seven (7) buildings. There are seven buildings which contains 7 units in each building.
- B. Other Improvements: In addition to the residential buildings, the Condominium Property also includes improvements other than buildings such as parking areas, roads, streets, walks, landscaping and all other underground structures and improvements which are not a part or located within residential buildings such as wires, cables, drains, pipes, ducts, conduits, valves and fittings.

V. DEFINITION OF UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

The Condominium will consist of "Units," "Common Elements," and "Limited Common Elements."

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- A. **Units:** The terms "Units" as used herein, shall mean and comprise of 49 separate dwellings in the Condominium which are located and individually described in Exhibit " 2A " thereto. Each unit shall include the enclosed apartment living areas depicted on Exhibit " 2B." The horizontal boundaries thereof shall be the vertical plan, or planes, formed by the unfinished or undecorated perimeter interior wall surfaces thereof. The lower vertical boundary shall be the horizontal plan formed by the undecorated or unfinished interior floor surface of the unit and the upper vertical boundary shall be the horizontal plane formed by the undecorated or unfinished interior ceiling surface of the unit. Provided however, all heating, cooling, plumbing apparatus, utility installations and bearing columns or supports within a unit serve more than one unit shall be part of the common elements. Doors, glass, screen and other material covering openings in vertical exterior walls shall be part of the unit.
- B. **Common Elements:** The term "Common Elements" as used herein, shall mean and comprise of all the real property on the Condominium except units, including as a part of the Common Elements, without limitations: (1) Easements through units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of utility services, heating and cooling and/or ventilation to units and Common Elements; (2) Easements of support in every portion of a Unit which contributes to the support of other units and/or common elements; (3) Installations for the furnishing of utility services to more than one unit or to the common elements or to a Unit other than the unit containing the installation; (4) The property and installations in connection therewith required for the furnishing of services to more than one unit or to the common elements; (5) Fixtures owned or held for the common use, benefit and enjoyment of all owners of units in this Condominium.
- C. **Limited Common Elements:** The term "Limited Common Elements" as used herein, shall mean and comprise of the common elements which are reserved or assigned or granted separately here from for the use of a certain unit or units (as an appurtenance thereto) to the exclusion of other units, consisting of the balcony, patio, yard, terrace, storage areas or balconies or patios and front entry alcoves, if they exist, abutting each unit as depicted in the Floor Plans, Elevations and Survey of this Condominium included in Exhibit " 1 and 2 " to this Declaration. Since there are no parking spaces which will be owned by a Unit Owner, as each condominium unit is purchased, the Association shall assign in writing to said unit one parking space. Once said parking spaces are assigned by the Association, then said parking spaces shall be deemed as an appurtenance to said condominium unit to which it was assigned and such parking space may not thereafter be separately conveyed, hypothecated, transferred, encumbered or otherwise dealt with, and title thereto shall pass only with title to the unit to which it is appurtenance, subject to the hereinafter provisions. All "unassigned parking spaces" are hereby deemed to be parking spaces for the purpose of guests, employees, servants and visitors parking. Notwithstanding anything herein to the contrary contained, a unit owner upon written request may exchange his assigned parking space for an unassigned parking space providing that the Board of Administration approves same in writing. In the event of the foregoing the original parking space shall be deemed an unassigned space and conversely the subject unassigned parking space shall be deemed an assigned parking space as an appurtenance to the said condominium unit to which it was subsequently assigned. No parking space bears the same identifying numbers as any other.

VI. APPURTENANCES TO UNITS

There shall be appurtenant and pass with title to each condominium unit the right, shares and interests provided by the Condominium Act which shall be deemed to include, without limitation, the following:

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- A. An undivided share in the Common Elements and in the Common Surplus (as that term is elsewhere herein defined). The undivided share in the Common Elements and the Common Surplus of the Condominium appurtenant to each unit is that proportion of the total set forth and made a part hereof as Exhibit "3" ; and
- B. The right to use exclusively those portions of the Common Elements designated and/or reserved herein and/or granted elsewhere or assigned by the Association to a certain Condominium Unit as Limited Common Element; and
- C. An exclusive easement for the use of the air space occupied by the Unit as it exist at any particular time (as shown in Exhibit "1" hereto) and as it may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space permanently vacated from time to time; and
- D. Irrevocable, perpetual, non-exclusive easements, to be used and enjoyed in common with the owners of all units in the Condominium for use of those Common Elements not designated elsewhere herein as Limited Common Elements, including without limitation, easements for:
1. The furnishing and maintenance of public utility services to all parties of the real property of the condominium over, across, in and through the land, buildings and other improvements, as the fixtures and equipment therefore now exists and/or may be modified or relocated; and
 2. Vehicular and pedestrian access over, across, upon in and through the drives, entries, gates, walks, grounds and other portions, of any of the Common Elements as are intended and/or provided for pedestrian and vehicular traffic through out the Condominium; and
 3. Recreational purposes, pedestrian access, over, across, upon, in and through to drives, entries, gates, walks, ground and other portions, if any of the VILLAS OF WEST MIAMI CONDOMINIUM Parcel ; and
 4. Vehicular and pedestrian access over, across, upon in and through the drives, entries, gates, walks, grounds and other portion in the paved surfaces, green and open areas in the properties known as VILLAS OF WEST MIAMI Condominium Parcel.
- E. An exclusive easement for the unintentional and non-negligent encroachment by any unit upon any other unit or Common Elements or vice-versa for any reason not caused by or resulting from the willful or negligent act of Developer or any owner or owners including without limitation, encroachments, caused by or resulting from the original construction of improvements, which exclusive easement shall exist at all times during the continuance of such encroachments as easements appurtenant to the encroaching unit or other improvement, to the extent of such encroachment; and
- F. An exclusive easement for the use of the area of land and air space occupied by air conditioning compressors, and the equipment and fixtures appurtenant thereto, situated in and/or common elements of the condominium but exclusively servicing and individually owned by the owner of a unit, as the same exist in and on each building and/or unit, 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 the same for repair and/or replacement shall not be construed to be a permanent vacation of the air space which it occupies; and
- G. Membership in the Association designated in the Declaration with the full voting rights appertaining thereto.

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REC. 16302P2658**VII. COMMON EXPENSES AND COMMON SURPLUS**

The term Common Expenses as used herein shall mean all the expenses for which all the owner of units in the Condominium (except the Association) shall be liable to the Association. The term Common Surplus as used herein shall mean the excess of all receipts of the Association including without limitation assessments, rents, profits and revenues on account of the Common Elements over the amount of the Common Expenses. All of the owners of units shall share the portions of percentages set forth in the schedule annexed hereto and made a part hereof as Exhibit "3."

VIII. VOTING RIGHTS OF UNIT OWNERS

The owner or owners of each unit shall become a member or members of the Association automatically upon and simultaneously with delivery of a deed of conveyance of fee simple title thereto from Developer, in conveyance by a grantee or a remote grantee of Developer, a deed that complies with the terms and conditions of the Declaration of Condominium, the Articles of Incorporation and the Bylaws of the Association. There shall be appurtenant and pass with title, to each unit owner one (1) vote as member of the Association, which may be exercised by the owner or owners or the duly constitute proxy of the owner or owners, from time to time, of each unit at all meetings of members and in connection with all matters upon which members of the Association are entitled to vote. The qualifications for member and manner of admission to membership in the Association, the determination of such membership and voting by member shall be as provided for in the Articles of Incorporation and Bylaws of the Association.

IX. NAME OF THE ASSOCIATION

The entity responsible for the operation of the condominium shall be VILLAS OF WEST MIAMI CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit (The Association, a copy of the certificate of incorporation is annexed hereto and made part hereof as Exhibit "4."

X. BYLAWS OF THE ASSOCIATION

A copy of the Bylaws of the Association is annexed hereto and made a part hereof as Exhibit "5."

XI. AMENDMENT OF DECLARATION

Except for amendments which Developer is authorized and/or obligated elsewhere herein to make and except as may be elsewhere herein or in the Condominium Act otherwise specifically provided, this Declaration may be amended only in the following manner:

- A. Notice: Notice of the subject matter of any proposed amendment to this Declaration shall be included in the notice of any meeting at which such proposed amendment is to be considered.
- B. Proposal: Amendments to this Declaration may be proposed by the Board of Administration of the Association by resolution adopted by a majority vote of the members present at any regular or special meeting of the Board at which a quorum is present, or in the alternative, by a written instrument signed by a majority of the Board, or by owners of a majority of the units, whether by vote of such owners as members of the Association at a special or regular meeting of the member or by written instrument signed by them.

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C. Adoption: Any amendment to this Declaration so proposed by the Board or members of the Association shall be transmitted to the President of the Association or in the absence of the President, to a Vice-President or other acting chief executive officer, who shall thereupon call a special meeting of the members of the Association to consider and vote upon such proposed amendment; provided, however, that a proposed amendment may be considered and voted upon at any annual meeting of the member of the Association if the next such meeting is to be held within the time hereafter limited and if notice of the proposed amendment shall be included in the notice of such meeting. The special or annual meeting, as the case may be, of the members shall be held not sooner than thirty days nor later than sixty days from the date of receipt by the Association of the proposed amendment. Notice of the meeting shall be in the form and shall be delivered and the meeting shall be called and held as provided for in the Bylaws of the Association and such waiver, when delivered to the Secretary of the Association for filing in its records, whether before, during or after such meeting shall be construed to be the equivalent of going notice to such member. The proposed amendment may be adopted and shall become effective, by and upon the affirmative vote at such meeting of members owning units to which not less than two third percent of the common elements are appurtenant; provided that any amendment so proposed may be adopted, without a formal meeting of the members owning units not less than two thirds percent of the common elements are appurtenant. Notwithstanding the foregoing provisions, for adoption of amendments to this Declaration, or any other provisions for amendments in the Condominium Act no amendment which:

1. Changes the size or configuration or any Condominium Parcel as defined in the Condominium Act in any material fashion shall be adopted unless the record owner of the unit and all record owners of liens on it join in the execution of the amendment and unless all record owners of all the other units approve the amendment,
2. Discriminate against any unit owner or against any unit or buildings comprising part of the condominium property, unless the record owner of the unit and all record owners of liens on it join in the execution of the amendment and unless all record owners of all the other units approve the amendment; or
3. Change, modify or alter the appurtenances to any unit or units or the share of any unit owner in the common elements or common surplus unless the record owner of all such units so affected and the record owner of all liens encumbering such units join in the execution of the document.
4. No amendment to this declaration shall make any change in the provisions of this Declaration regarding "Insurance" and "Reconstruction or Repair after Casualty" unless the record owners of all mortgages of units shall join the execution and acknowledgement of the amendment.
5. No new amendment shall adversely affect the interest of any and all record owners of all mortgage liens thereon unless that record owner mortgagees joins in a consent to the execution and/or acknowledgement of the amendment.

D. Effective Date and Recording Evidence of Amendment: As to the members of the Association and persons having actual knowledge of the adoption of any amendments to this Declaration, such amendment shall be effective as of the date of the adoption or otherwise as may be specified in the resolution or instrument creating the amendment. As to non-members of the Association without actual knowledge of an amendment to the Declaration, the same shall be effective at the time the affected person acquires actual knowledge thereof or at the time of filing

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the amendment or certificate of amendment in the Public Records of Dade County, Florida, whichever occurs first. The President of the Association or in the absence of the President, a Vice-President or other acting chief executive officer of the Association shall cause to be filed in the Public Records of Dade County, Florida, the original amendment to the Declaration, if it is in the form of an instrument executed and acknowledged by unit owners and the holders of liens thereon, or a certificate of amendment, if it is a certification by the proper officers of the Association that such amendment was adopted by the Association at a meeting of the members. A true and correct copy of each such amendment or certificate shall be delivered, after adoption thereof, to the record owners of all units and to the record owners of all liens on units by the President, Vice-President or other acting chief executive officer of the Association upon request to such officer, but delivery of such copies shall not be a condition precedent to the effectiveness of any such amendment.

XII. MAINTENANCE, REPAIRS AND REPLACEMENTS

Responsibility for maintenance, repairs and replacements of condominium property and property of unit owners located or situated within the condominium shall be as follows:

- A. **Units:** Each unit, and the fixtures, equipment, such as air conditioning equipment, plumbing, heating and electrical wiring and appliances comprising a part thereof, located inside the unit shall be maintained, kept in good repair and replaced by and at the expense of the owner thereof. Exterior doors, gates, fences and windows shall be maintained and replaced at the expense of the unit owner whose unit is service by such items. All maintenance, repairs and/or replacement for which unit owners are responsible and obligated to perform, which, if not performed or omitted would affect other units or common elements, shall be performed promptly as the need arises. Notwithstanding the obligation of the unit owner for maintenance, repair and replacement, the proceeds of all insurance awards or payments under insurance carried by the Association for loss of or damage to or within units shall be applied against repairs and replacement to the extent that such award or payments exceed the deductible provisions of such insurance.
- B. **Common Elements:** The Association shall be responsible for, and shall assess against and collect from the owners of all units in the Condominium, as common expense, the cost of maintaining, repairing and replacing and keeping in clean and orderly condition, all of the common elements. The Association shall, at the expense of the owners of all units in the Condominium, repair all incidental damage to units resulting from maintenance, repair and/or replacement of or to common elements.

XIII. INSURANCE

Insurance shall be carried and kept in force at all times in accordance with the following provisions:

- A. **Duty and Authority to Obtain:** The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force any or all such other or additional insurance coverage as it is authorized hereby to carry. All insurance obtained by the Association shall be purchased for the benefit of the Association and the unit owners and their mortgagees, provided that a certificate evidencing a mortgagee endorsement shall be issued to the mortgage of each unit. The owner of each unit may, at the

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expense of such owner obtain insurance coverage against damage to and loss of the contents of the unit, personal liability for injury to other and against additional liability for injury to other and against additional living expenses, provided that all such purchase by unit owners shall be obtained from the insurer from which the Association purchases coverage against the same risk, liability or peril, if the Association has such coverage and if the same is required by the Association's insurer; and provided that each policy of such insurance purchased by a unit owner shall where such provision is available, provided that the insurer waives its right of subrogation as to any claim or claims against other unit owners, the Association and their respective employees, agents, guest and invites.

B. Required Coverage: The Association shall purchase and carry insurance coverage as follows:

1. Casualty Insurance: Casualty insurance covering all of the buildings and other improvements of the condominium including without limitation units and common elements in an amount equal to the maximum insurance replacement value thereof, exclusive of excavation and foundation costs, as determined annually by the Board of Administration of the Association; such insurance to afford protection against:

- a. Loss of damage by fire or other hazards covered by the standard extended coverage or other perils endorsement; and
- b. Such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings and other improvements similar in construction, location and use to the buildings and other improvements of the condominium including without limitation, vandalism, malicious mischief, windstorm, water damage and war risk insurance, if available; and
- c. Public liability insurance, in such amounts with such coverage and in such forms as shall be required by the Board of Administration of the Association to protect the Association and the owners or all units, including without limitation, hired automobiles, non-owned automobiles, off-premises employee coverage, water damage and legal liability, with cross-liability endorsements to cover liability of all unit owners as a group to each unit owner; and
- d. Workmen's compensation and employer's liability insurance to meet the requirements of the law; and
- e. Flood insurance, if the same shall be necessary under the laws of the United States for federally related mortgage lenders to make mortgage loans on units.
- f. Errors and omissions in favor of all officers and members of the Board of Administration.
- g. Fidelity bonds. - The association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the association. As used in this section, the term "persons who control or disburse bonds of the association" means those individuals authorized to sign checks and the president, secretary and treasurer of the association. If an association's annual gross receipts do not exceed \$100,000, the bond shall be in the principle sum of not less than \$10,000 for each such person. If an association's annual gross receipts exceed \$100,000, but not to exceed \$300,000, the bond shall be in the principle sum of \$30,000, for each such person. If an association's annual gross receipt exceeds

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\$300,000, the bond shall be in the principle sum of \$50,000, for each such person. The association shall bear the cost of the bonding.

- C. **Optional Coverage:** The Association may purchase and carry such other insurance coverage other than title insurance as the board of Administration in its sole discretion may determine from time to time to be in the best interest of the Association and the unit owners or as an institutional lenders may reasonably require while it holds a mortgage encumbering any unit.
- D. **Premiums:** Premiums for all insurance obtained and purchased by the Association shall be paid by the Association. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out the provision of this Article, shall be assessed against and collected from unit owners as common expenses.
- E. **Assured:** All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, the owners of units and their mortgagees as their interest may appear, and shall provided that all proceeds covering casualty, losses shall be paid to the Insurance Trustee as herein identified, or their successors and the proceeds from insurance against any casualty loss shall be held for the use of the Association, the unit owners and their respective mortgagees, as their interest may appear to be applied or distributed in the manner herein provided. The Association is hereby constituted an appointed agent for all unit owners with authority to negotiate and settle the value and extend of any and all losses covered under any policy of casualty insurance, and the association is granted full right and authority to execute in favor of any insurer, a release of liability arising out of any occurrence coverage by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.
- F. **Insurer:** All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the Association shall be bound by the Associations selection of its insurer and the amount of insurance coverage carried and kept in force by the Association.
- G. **Insurance Trustee:** The Association shall have the right, prior to or upon the occurrence of any event causing or resulting in the need for the same to designate the Insurance Trustee and all persons beneficially interested in such insurance coverage shall be bound by the Association's selection of the Insurance Trustee.
 - 1. **Qualifications, Rights and Duties:** The Insurance trustee shall be a bank with trust powers doing business in the State of Florida. The Insurance Trustee shall not be liable for the payment of premiums, the renewal of any policy of policies of casualty insurance, the sufficiency of coverage, the form or content of policies nor the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds of casualty insurance as are paid and to hold the same in trust for the purposes herein stated and for the benefit of the Association, unit owners and their respective mortgagees to be disbursed as herein provided. The Association shall pay a reasonable fee to the Insurance Trustee for services rendered hereunder and shall pay such costs and expenses and the Insurance Trustee may incur in the performance of its duties hereunder. Such fees and costs to be assessed against and collected from unit owners as a common expense. The Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence and then only for such money as may come into possession of the Insurance Trustee. If and when the Insurance Trustee is required to distribute insurance proceeds to unit owners and their mortgagees, as their

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respective interest may the Insurance Trustee may rely upon a certificate of the President and Secretary of the Association executed under oath and provided to the Insurance Trustee upon request to the Association; such certificate to certify the name or names of the owners of each unit, the mortgagees thereof, and the respective percentages of any distribution which is to be made to such owners and mortgagees as their respective interest may appear. If and when insurance proceeds are paid to the Insurance Trustee for any casualty loss, the holders of any mortgage or mortgages encumbering a unit shall not have the right to determine or participate in the determination of repair or replacement of any loss or damage and shall not have the right to elect to apply insurance proceeds to the reduction of indebtedness secured by such mortgages unless the insurance proceeds represent a distribution to the owners of the unit and the mortgagees thereof, after such insurance proceeds have been first applied to the repair, replacements or reconstruction of any loss or damage or unless such casualty insurance proceeds are authorized to be distributed to the owners of the unit and mortgagees thereof by reason of loss of or damage to personal property constituting a part of the common elements and as to which a determination is made not to repair, replace or restore such personal property.

H. Application of Insurance Proceeds: The proceeds of casualty insurance paid to the Insurance Trustee by an insurer for loss or damage to real and/or personal property upon which the Association carries insurance, shall be applied and paid as follows:

1. Common Elements Only: The proceeds paid to the Insurance Trustee for loss or damage to real property constituting Common Elements only shall be applied to the repair, replacement or reconstruction of such loss or damage. If such insurance proceeds exceed the cost of repair, replacement or reconstruction of such common elements, the excess shall be paid by the Insurance Trustee to the owners of all units and their respective mortgagees as their interest may appear in appurtenant to each unit in the common elements. If the insurance proceeds shall be insufficient to pay the cost of the repair, replacement or reconstruction of such common elements the Association shall deposit with the Insurance Trustee, from any Association Reserve Fund which may have been established the difference between the total cost of repairing, replacing or reconstructing such loss or damage and the amount of the insurance proceeds. If no such Association Reserve Fund has been established and is insufficient to pay to the Insurance Trustee such difference, the Association shall assess the amount of the difference against and collect is from the unit owners as a common expense.
2. Units: The proceeds paid to the Insurance Trustee for a loss or damage to a building, constituting common elements and one or more units thereof, shall be first applied to the repair, replacement or reconstruction of common elements, then to the repair, replacement or reconstruction of any unit or units in such building which have been destroyed or damaged. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such common elements and units, the excess shall be paid by the Insurance Trustee to the owners of the damage or destroyed units and their respective mortgagees as their interest may appear in shares or proportions equal to the undivided interest appurtenant to each such unit in the common elements. If the insurance proceeds shall be sufficient to pay for the repair, replacement or reconstruction of the damage or destroyed common elements but shall be insufficient to pay the cost of the repair, replacement or reconstruction of the damaged or destroyed unit or units in such building, the Association shall collect for the amount of the

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difference against and collect the same from the owner(s) of the unit(s) damaged or destroyed in proportion that the amount of damage sustained to each such unit bears to the total deficit and deposit such sum with the Insurance Trustee to be applied by the Insurance Trustee toward the total cost of repairing, replacing or reconstructing all of such damage or destroyed common elements and units. If the insurance proceeds shall be insufficient to pay the cost of the repairs, replacement or reconstruction of the common elements to which the Insurance Trustee is required first to apply such proceeds before applying any part thereof to the repair, replacement or reconstruction of unit(s) the difference between the total cost of repairing, replacing or reconstructing the common elements and the amount of the insurance proceeds shall be collected by the Association against and collected from all unit owners. The cost of repairing, replacing or reconstructing the unit or units destroyed or damaged shall be collected by the Association against and collected from the owner(s) of such damaged or destroyed unit(s).

- I. **Deposits to Insurance Trustee After Damage:** Within sixty days after a loss or damage to Condominium Property covered by casualty insurance, the Association shall obtain estimates of the cost of repairing, replacing or reconstructing the same including the cost of professional fees and any construction bond which the Board of Administration may require. If, from such estimates, it shall appear that the insurance proceeds payable for such loss or damage will be insufficient to pay the cost of such repair, replacement or reconstruction, the additional money required to pay the total cost thereof, whether it is to be paid by one or more unit owners, shall be deposited with the Insurance Trustee not later than thirty days from the day on which the Insurance Trustee receives the insurance proceeds.

XIV. RECONSTRUCTION OR REPAIR AFTER CASUALTY

Whether, and the manner in which, any or all of the Condominium Property damaged or destroyed by casualty shall be repaired, reconstructed or replaced, shall be determined as follows:

- A. **Residential Buildings:** If one or more residential buildings shall be damaged or destroyed, repair or reconstruction thereof or termination of the condominium shall be in accordance with the following:
 1. **Total Destruction of all Buildings:** If all of the residential buildings of the Condominium are totally destroyed or are so damaged that no unit therein is habitable, none of the buildings and none of the improvements comprising common elements shall be reconstructed and the condominium shall be terminated unless the owners of units to which seventy five per cent of the common elements are appurtenant agree in writing within sixty days after the date of such destruction to reconstruct the same and unless the then applicable zoning and other regulatory laws and ordinances shall allow the same to be reconstructed or unless a policy or policies of casualty insurance covering the same shall require reconstruction thereof as a condition precedent to the payment of proceeds thereunder.
 2. **Damage to and Destruction of Some Buildings:** If some, but not all, of the residential buildings are damaged and/or destroyed and one or more of the units in one or more of the buildings remain habitable, the damaged or destroyed common elements and/or units shall be repaired or reconstructed so that each building and/or units shall be restored to substantially the same condition as existed prior to such damage or destruction unless within sixty days after the casualty it is determined by

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agreement in the manner elsewhere herein provided that the condominium shall be terminated.

- B. **Common Elements:** Damage or destroyed improvements constituting part of the common elements shall be repaired, reconstructed and/or replaced unless in the event of total destruction of the units or by agreement after partial destruction, the condominium shall be terminated.
- C. **Certificate:** The Insurance Trustee may rely upon a certificate executed by the President and Secretary of the Association to determine whether or not damage or destroyed Condominium Property shall be repaired or reconstructed.
- D. **Plans and Specifications:** Repairs or reconstruction of Condominium Property shall be substantially completed in accordance with the plans and specifications pursuant to which the same was originally constructed; provided, however, that the Board of Administration of the Association may authorize reasonable variations from the original plans and specifications as may appear to them to be necessary or desirable.
- E. **Responsibility:** If the damaged or destruction shall be limited only to one or more units for which the responsibility of maintenance and repair is that of the affected unit owners, then such unit owners shall be responsible for carrying out the repairs or reconstruction thereof. In all other instance of damages or reconstruction, the Association shall be responsible for carrying out the repair and reconstruction thereof.
- F. **Construction Funds:** All funds for the payment of repair and reconstruction costs, consisting of insurance proceeds and/or funds collected by the Association from unit owners, shall be disbursed toward payment of such costs in the following manner:
 - 1. **Association:** If the total funds assessed against and collected from unit owners by the Association for payment of repair and reconstruction is more than Fifteen Thousand Dollars then all such sum shall be deposited by the Association with and disbursed by the Insurance Trustee. In all other cases the Association shall hold such sums so assessed and collected and shall disburse the same in payment of the cost or reconstruction and repair.
 - 2. **Insurance Trustee:** The proceeds of insurance collected on account of a casualty and the sum assessed against and collected from unit owners by the Association and deposited with the Insurance Trustee shall constitute a construction fund which shall be disbursed in payment of the cost of repair and reconstruction in the following manner:
 - a. **Unit Owner:** The portion of insurance proceeds representing damage for which the responsibility of repair and reconstruction is upon one or more but less, than all unit owners shall be paid by the Insurance Trustee to the affected unit owners and if any of such units are mortgaged, to the affected and their mortgagees jointly.
 - b. **Association-Lesser Damage:** If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than Fifteen Thousand Dollars, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however

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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 hereinafter provided for the reconstruction and repair of a 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 Fifteen Thousand Dollars then the construction fund shall be disbursed in Payment of such costs in the manner require by the Board of Administration of the Association and upon approval of an architect registered to practice in Florida and employed by the Association to supervise the work.
- d. Surplus: It shall be presumed that the first monies disbursed in payment of the costs of reconstruction and repair shall be from the insurance proceeds. If there is a balance in the 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 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 disbursement from the construction funds are to be upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid nor to determine whether surplus funds to be distributed are less than the assessment paid by owners. Instead the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to any or all of such matters and stating the sums to be paid are due and properly payable and stating the names of the payees 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; and further provided that when the Association or a mortgagee which is the beneficiary of an insurance policy the proceeds of which are included in the construction fund, so requires, the approval of an architect named by the Association shall be first obtained by the Association.

XV. USE RESTRICTIONS

Use of the Condominium Property shall be in accordance with the following provisions so long as the Condominium exists and these restrictions shall be for the benefit of an enforceable by all owners of units in this Condominium.

- A. Units: Each of the units shall be occupied only by a family, its servants and guests, as a residence and not for other purposes. No unit may be divided or subdivided into a smaller unit, nor any portion thereof sold or otherwise transferred.

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- B. Common Elements: The common elements and Limited Common Elements shall be used only for the purposes for which there were intended in the furnishing of services and facilities for the enjoyment of units.
- C. Nuisances: No nuisances shall be allowed upon the Condominium Property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property by residents. All parts of the Condominium Property shall be kept in clean and sanitary condition and no rubbish, refuse or garbage shall be allowed to accumulate nor shall any fire hazard be allowed to exist. No use shall be made of any unit or of the common elements or limited common elements which would increase the rate of insurance upon the Condominium Property.
- D. Lawful Use: No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or any part thereof; all valid laws, zoning ordinances and restrictions and limitations of records shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Condominium Property shall be the same as is elsewhere herein specified.
- E. Pets: Pets shall never be allowed to run freely upon any of the Condominium Property except within a unit, or any Limited Common Elements adjacent and appurtenant to it, and when outside of a unit shall be leashed and in the company of an individual willing and able to fully control it. All pets shall be walked only in that part of the common elements designated by the Association for that purpose. Any owner maintaining a pet upon the Condominium Property, or whose guests, lessees or invites bring any animal upon the Condominium Property shall be fully responsible for and shall bear the expense of any damage to persons or property resulting therefrom. Any such damage shall be determined by the Board of Administration and collected by the Association. If the Board of Administration determines, in its sole judgment, that any particular pet is a nuisance, it shall have the power to compel the owner thereof to remove said pet from the Condominium Property.
- F. Regulations: Reasonable regulations concerning the use of the Condominium Property may be made and amended from time to time by the Board of Administration provided, however, that all such restrictions and amendments thereto shall be approved by not less than a majority of the members of the Association before the same shall become effective. Copies of such regulations and amendments thereto shall be furnished by the Association to all unit owners and residents of the Condominium upon request.
- G. Proviso: Provided, however, that until Developer has completed and sold all of the units, neither unit owners or the Association nor the use of the Condominium Property shall interfere with the completion of the proposed improvements and the sale of the units. Developer may make such use of the unsold units and common elements as may facilitate such completion and sale, including but not limited to, maintenance of a sales office, the showing of the Condominium Property and the display of signs.

XVI. COMPLIANCE AND DEFAULT

Each unit owner shall be governed by and shall comply with the terms of the Declaration of Condominium, the Articles of Incorporation and Bylaws of the Association and any and all regulations adopted pursuant thereto, as they may be amended from time to time. Failure of the unit owner to comply therewith shall entitle the Association or other unit owner to the following relief in addition to the remedies provided by the Condominium Act:

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- A. 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, or his or their guests, employees, agents, lessees or other invites.
- B. Costs and Attorney's Fees: In any proceeding arising because of an alleged failure of a unit owner to comply with the terms of the Declaration, the Articles of Incorporation and the Bylaws of the Association, any and all regulations adopted pursuant thereto, 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 attorney's fees as may be awarded by the court.
- C. No Waiver of Rights: The failure of the Association or any unit owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration of Condominium the Articles of Incorporation and Bylaws of the Association or the regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

XVII. ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

To provide the funds necessary for proper operation and management of the Condominium the Association has been granted the right to make, levy and collect assessments against the owners of all units and said units. The following provisions shall govern the making, levying and collection of such assessment and the payment of the costs and expenses of operating and managing the Condominium by the Association.

- A. Determination of Assessments: Assessments by the Association, against each owner of a unit and his unit shall be a fractional share of the total assessment to be made against all owners of unit and their units as is set forth in the Schedule annexed thereto and made a part hereof as Exhibit 4. Should the Association become the owner of any units the assessment which would otherwise be due and payable to the Association by the owner of such unit reduced by an amount of income which may be derived from the leasing of such unit by the Association, shall be apportioned and the assessment therefore levied ratably among the owners of all units which are not owned by the Association, based upon their proportionate interests in the common elements exclusive of the interest therein appurtenant to any unit or units owned by the Association.
- B. Developer's Duty to Pay Assessments: The Developer will be excused from the payment of his share of the common expenses which would have been assessed against those unit owners during the first one year of the existence of the Condominium. Pursuant to Florida Statute 718.116, the Developer guarantees to the initial purchaser of units in the Condominium that the assessment for the common expenses incurred during the first one year shall not increase over \$40.00 a month and the Developer is obligated to pay any amount of the common expense incurred during this period of time and not produced by the assessment at the guaranteed level receivable from other unit owners. This guarantee shall begin with the recording of the Declaration of Condominium in the public records of Dade County, Florida and shall end one year from this date. The developer has an option to extend the guarantee for one more year.
- C. Time for Payment: The assessment levied against the owner of each unit and his unit shall be made not less frequently than quarterly in an amount which is not less than that required to be provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred.

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- D. Annual Budget: The Board shall, in accordance with the Bylaws of the Association, establish an Annual Budget in advance for each fiscal year, which shall correspond to the calendar year, which shall estimate all expenses for the forthcoming year required for the proper operation, management and maintenance of the Condominium including when deemed necessary or advisable by the Board, a reasonable allowance for contingencies and reserves and shall estimate all income to be collected during the year. Upon adoption of each annual budget by the Board, copies thereof shall be delivered to each unit owner and the assessment for the year shall be based upon such Budget. Failure to receive a copy of the budget to a unit owner shall however not affect the liability of such owner for such assessment. Should the Board at any time and from time to time determine in the sole discretion of the Board, that the Assessment levied are or may prove to be insufficient to pay the cost of operation and management of the Condominium or in the event of emergency, the board shall have the authority to levy such additional assessment as it shall deem to be necessary.

The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 718.504(20). In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached thereto shall show amounts budgeted therefor.

In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to budgets in which the level of assessments has been guaranteed pursuant to s. 718.116(10)¹ prior to October 1, 1979, provided that the absence of reserves is disclosed to purchasers, or to budgets in which the members of an association have, by a vote of the majority of the members present at a duly called meeting of the association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a developer pursuant to s. 718.301, the developer may vote to waive the reserves for the first two years of the operation of the association, after which time reserves may only be waived or reduced upon the vote of a majority of nondeveloper voting interests present at a duly called meeting of the association. If a meeting of the unit owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect.

- F. General Operating Reserve: The Board, when establishing each annual budget, may when deemed necessary or desirable, include therein a sum to be collected and maintained as a general operating reserve to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies from time to time existing as a result of delinquent payments of assessment by owners of units, as a result of emergencies or for other reasons placing financial stress upon the Association.

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G. **Use of Association Funds:** All monies collected by the Association shall be treated as the separate property of the Association and such monies may be applied by the Association to the payment of any expense of pertaining and managing the condominium or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and Bylaws and as monies for annual assessments are paid to the Association by any unit owner, the same may be commingled with monies paid to the Association by the other owners of units, but separate ledgers must be maintained for each account. Although all funds and other assets of the Association and any increments thereto or profits derived therefrom, or from the leasing or use of common elements including without limitation Common Surplus, shall be held for the benefit of members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his unit.

H. **Delinquency or Default:** The payment of any assessment or installment hereof due to the Association shall be in default if not paid to the Association on or before the due date thereof.

When in default, the delinquent assessment or installment thereof shall bear interest at the rate not to exceed the rate allowed by law, and, if no rate is provided in the declaration, interest shall accrue at the rate of 18 percent per year. Also, if the declaration or bylaws so provide, the association may charge an administrative late fee in addition to such interest, in an amount not to exceed the greater of \$25.00 or 5 percent (5%) of each installment of the assessment for each delinquent installment that the payment is late. Any payment received by an association shall be applied first to any interest accrued by the association received by an association shall be applied first to any interest accrued by the association, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessments. When in default, the delinquent assessment or installment thereof shall bear interest at the rate of ten percent per annum until the same and interest due thereof has been paid in full.

I. **Personal Liability of Unit Owner:** The owner of each unit shall be personally liable, jointly and severally, as the case may be, to the Association for the payment of all assessment or installments, late charges thereof as above provided and for all costs of collecting the assessments and interest thereon, including attorney's fees, whether suit be brought or not, levied or otherwise coming due while such person or entity owns a unit.

J. **Liability not Subject to Waiver:** No owner of a unit may except himself from liability for any assessment levied against such owner and his unit by waiver of the use or enjoyment of any of the common elements or by abandonment of the unit or in any other manner.

K. **Lien for Assessment:** A unit owner, regardless of how his title has been acquired, including a purchaser at a judicial sale, is liable for all assessments which come due while he is the unit owner. The grantee is jointly and severally liable with the grantor for all unpaid assessments against the grantor for his share of the common expenses up to the time of transfer of title without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. A first mortgagee who acquires title to the unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the deed. However, the mortgagee's liability is limited to a period not exceeding six months, but in no event does the first mortgagee's liability exceed one percent (1%) of the original mortgage debt. The first mortgagee's liability for such expenses or assessments does not commence until thirty days after the date the first mortgagee received last payment of

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principal or interest. In no event shall the mortgagee be liable for more than 6 months of the unit's unpaid common expenses or assessments accrued before the acquisition of the title to the unit by the mortgagee or one percent of the original mortgage debt, whichever amount is less.

The liability for assessments may not be avoided by waiver of the use or enjoyment of any common element or by abandonment of the unit for which the assessments are made. Assessments and installments on them which are not paid when due bear interest at the rate provided in the declaration, from the due date until paid. This rate may not exceed the rate allowed by law, and, if no rate is provided in the declaration, interest shall accrue at the rate of 18 percent per year. Also, if the declaration or bylaws so provide, the association may charge an administrative late fee in addition to such interest, in an amount not to exceed the greater of \$25.00 or 5 percent of each installment of the assessment for each delinquent installment that the payment is late. Any payment received by an association shall be applied first to any interest accrued by the association received by an association shall be applied first to any interest accrued by the association, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessments. The foregoing shall be applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. A late fee shall not be subject to the provisions in chapter 687 or s. 718.303(3).

The association has a lien on each condominium parcel for any unpaid assessments with interest and for reasonable attorney's fees incurred by the association which are incident to the collection of the assessments or enforcement of lien. Except as set forth below, the lien is effective from and shall relate back to April 1, 1992, or the recording of the original declaration of condominium, whichever shall last occur. However, as to first mortgages of record, the lien is effective from and after recording of a claim of lien. The lien shall be recorded in the public records in the county in which the condominium parcel is located which states the description of the condominium parcel, the name of the record owner, the amount due, and the due dates. No such lien shall continue for a longer period than 1 year after the claim of lien has been recorded unless, within that time, an action to enforce the lien is commenced in a court of competent jurisdiction. The claim of lien shall secure all unpaid assessments, interest, costs, and attorney's fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgement of foreclosure. A claim of lien must be signed and acknowledged by an officer or agent of the association. Upon payment, the person making the payment is entitled to a satisfaction of the lien.

The association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgement for the unpaid assessments without waiving any claim of lien. The association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgement for unpaid assessments.

No foreclosure judgements may be entered until at least 30 days after the association gives written notice to the unit owner of its intention to foreclose a lien to collect the unpaid assessments. If this notice is not given at least 30 days before the foreclosure action is filed, and if the unpaid assessments, including those due after the claim of lien is recorded, are paid before the entry of a final judgement of foreclosure, the association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the unit owner or by certified or registered mail, return receipt requested, address to the unit owner at his last known address; and, upon such mailing, the notice shall be deemed to have been given, and the court shall proceed with the foreclosure action and may

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by certified or registered mail, return receipt requested, address to the unit owner at his last known address; and, upon such mailing, the notice shall be deemed to have given, and the court shall proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the unit owner records a Notice of Contest of Lien as provided in subsection (5). The notice requirements of this subsection do not apply if an action to foreclose a mortgage on the condominium unit is pending before any court; if the rights of any association would be affected by such foreclosure; and if actual, constructive, or substitute service of process has been made on the unit owner.

If the unit owner remains in possession of the unit after a foreclosure judgement has been entered, the court, in its discretion, may require the unit owner to pay a reasonable rental for the unit. If the unit is rented or leased during the pendency of the foreclosure action, the association is entitled to the appointment of a receiver to collect the rent. The expenses of the receiver shall be paid by the party that does not prevail in the foreclosure action.

The association has the power to purchase the condominium parcel at the foreclosure sale and to hold, lease, mortgage, or convey it.

A first mortgage acquiring title to a condominium parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not, during the period of ownership of such parcel, whether or not such parcel is unoccupied, be excused from payment of some or all of the common expenses coming due during the period of such ownership.

Within 15 days after a request therefor by unit owner or unit mortgagee, the association shall provide a certificate stating all assessments and other moneys owed to the association by the unit owner with respect to the condominium parcel. Any person other than the owner who relies upon such certificate shall be protected thereby.

No unit owner may be excused from the payment of his share of common expenses of a condominium unless all unit owners are likewise proportionately excused from payment, except:

The developer who owns condominium units is excused from the payment of his share of the common expense which would have been assessed against those units during the period of time that he has guaranteed to each purchaser in the purchase contract, declaration, prospectus, or by agreement between the developer and a majority of the unit owners other than the developer, that the assessment for common expense of the condominium imposed upon the unit owners would not increase over a stated dollar amount and has obligated himself to pay any amount of common expenses incurred during that period and not produced by the assessments at the guaranteed level receivable from other unit owners and other income as provided herein. The guarantee is for one year and the developer has an option or options to extend the guarantee for one more year from the recording of the Declaration of Condominium.

No Funds from purchasers or owners and payable to the association or collected by the developer on behalf of the association, other than regular periodic assessments for common expenses as provided in the declaration and disclosed in the estimated opening budget shall be used for payment of common expenses prior to the expiration of the period during which the developer or the other person is so excused. The restriction applies to funds including, but not limited to, capital contributions or startup funds collected from unit purchasers at closing.

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pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered common surplus, and may, at the discretion of the board, either be returned to the unit owners or applied as a credit toward future assessments.

The Association is hereby granted a lien upon each unit and its appurtenant undivided interest in common elements and upon any exclusive right to use any parking space or limited common elements appurtenant to any such unit, which lien shall and does secure the monies due for all: (1) assessment levied against the unit and owner thereof; (2) interest, if any, which may become due on delinquent assessment owing to Association; (3) reasonable attorney's fees which may be incurred by the Association in enforcing its lien upon the unit and its appurtenances. The lien granted to the Association may be established and foreclosed in the Circuit Court in and for Dade County, Florida, and in any suit for the foreclosure of said lien the Association if granted by the Court, the association may collect rent from the owner of the unit from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a Receiver for said unit.

The lien of the Association shall be effective from and after recording in the Public Records of Dade County, Florida, a claim of lien stating the description of the unit encumbered thereby, the name of the record owner, the amount and the date when due and shall continue in effect until all sums secured thereby have been fully paid. Such claims of lien shall include only assessment which are due and payable when the claim of lien is recorded plus interests, and reasonable attorney's fees. Such claims of lien, shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien of the Association shall be subordinated to the lien of any mortgage or any other lien recorded prior to the time of recording the Association's claim of lien.

Effect of Voluntary Transfer. When the owner of any unit proposes to lease, sell or mortgage the same in compliance with other provisions of this Declaration, the Association upon written request of the owner of such unit, shall furnish to the proposed lessee, purchaser or mortgagee a statement verifying the status of payment of any assessment which shall be due and payable to the Association by the owner of such unit. Such statement shall be executed by any officer of the Association and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction and the Association shall be bound by such statement.

In any voluntary conveyance of a unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessment against the grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefore.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessments shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt collection of any sum then remaining owing to it.

XVIII. REGISTRY OF OWNERS AND MORTGAGEES

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The Association shall at all times maintain a Register of the name of the owners and mortgagees of all units. Upon the transfer of title to any unit, the transferee shall notify the Association in writing of his interest in such unit together with recording information identifying the instrument by which such transferee acquire his interest in the unit. The owner of each unit encumbered by a mortgage shall notify the Association of the name and address of the mortgagee, the amount of such mortgage or mortgages and the recording information identifying the same. The holder of any mortgage encumbering a unit may notify the Association of any such mortgages and upon receipt of such notice the Association shall register in its records all pertinent information pertaining to the same.

XIX. ALTERATIONS OF AND IMPROVEMENTS TO UNITS AND COMMON ELEMENTS

A. Unless the unit owner shall first submit plans for such work to the Board, and the Board by resolution unanimously adopted by the affirmative vote of all member thereof, shall approve and consent thereto, no alteration or improvement or addition to a unit or to any limited common element to which the owner has an exclusive right of use, shall be made, constructed, erected or installed, which shall: (a) remove in whole or in part, replace, reroute or otherwise affect any column, bearing, wall or partition, pipe, duct, wire or conduit or obstruct any easement herein provided for, or (b) remove, or change the style, pattern material, texture or outside color of any door, window, screen, fixture, equipment, enclosure or appliance in or an exterior unit or building wall, or (c) cove, from the inside or outside, the glass of other transparent and/or translucent material in any exterior door or window with or apply or affix thereto, any materials or substances which shall render the same opaque or change the exterior color therefore, except interior draperies, curtains, shades or shutters which are lined, backed, covered or painted on the side visible from the exterior with a neutral color, material or (d) affix to or cover any exterior door or window or otherwise install on the exterior of any unit or building any storm or hurricane shutter or awning or any protective or decorative panel, trim, enclosure, fixture or appliance, or (e) otherwise change, modify, or alter the exterior of any unit or building so that it thereby differs in appearance from any other units or buildings of the same type. There shall be no material alterations or substantial improvements or additions to the common elements except in the following manner: subject to the foregoing restrictions against changing the exterior appearance of units and/or buildings, the Association shall have the right to make or cause to be made alterations, improvements and additions to the common elements, except the acquisition of additional real property, which have been approved by the owners of units to which seventy-five percent of the common elements are appurtenant. The cost of such alterations, improvements and/or additions shall be assessed against and collected from the owners of all units as Common Expenses.

B. Notwithstanding any provision hereinabove set forth to the contrary, the Board of Administration of the Association may adopt a basic approved plan for screening balconies and ground level rear area patios.

If such plan is adopted, owner of the units of each building in the condominium may screen said balconies of ground level rear area patios attached to their unit in accordance with said approved basic plan without specific consent from then Board of Administration, provided that such screening conforms in all respects to the approved basic plans therefore.

XX. TERMINATION

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The Condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act:

- A. **Destruction:** In the event it is determined in the manner elsewhere herein provided that the improvements shall not be reconstructed because the total destruction or major damage, the condominium plan of ownership will be thereby terminated without agreement.
- B. **Agreement:** The condominium may be terminated at any time by the approval in writing of all the owners of units in the condominium and by all record owners of mortgages upon units therein owned by institutional lenders and other mortgages approved by institutional lenders and other mortgages approved by the Association. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting of the members of the Association, the notice of which meeting gives notice to the proposed termination, and if the approval of the owners of units in the condominium to which not less than seventy-five percent of the common elements are appurtenant and of the record owners of all mortgages upon units in the condominium owned by institutional lenders and other mortgages approved by the Association are obtained not later than thirty days from the date of such meeting, the approving owners shall have an option to buy all of the units of the other member of the Association for the period ending the sixtieth (60th) day from the date of such meeting. Such option shall be upon the following terms:
1. **Exercise of Option:** The option shall be exercised by delivery or mailing by certified mail to each of the record owners of the units to be purchased of any agreement to purchase signed by the record owners of units who will participate in the purchase. Such agreement shall indicate which units will be purchased by each particular owner and shall agree to purchase of the unit owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.
 2. **Price:** The sale price for each unit shall be the fair market value determined by agreement between the seller and purchaser within thirty 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 of the unit; and judgment of specific performance of the sale upon award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.
 3. **Payment:** The purchase price shall be paid in cash.
 4. **Closing:** The sale shall be closed within thirty days following the determination of the sale price.
- C. **Certificate:** The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the facts effecting the termination which certificate shall become effective upon being recorded in the Public Records of Dade County, Florida.
- D. **Shares of Owners After Termination:** After termination of the condominium the unit owners shall own the condominium property and all assets of the Association as tenants in common in undivided shares and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the

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unit owners. Such undivided shares of the unit owners shall be the same as the undivided shares in the common elements appurtenant to the unit owner's prior to the termination as set forth in Exhibit 4 hereto.

- E. Amendment: This article shall not be amended without consent of all unit owners and of all owners of mortgages required to approve termination by agreement.

XXI. RIGHTS OF DEVELOPER TO SELL OR LEASE UNITS AND AMEND THIS DECLARATION

So long as Developer, or any mortgages succeeding Developer in title, shall own any unit, it shall have the absolute right to sell any such unit to any person, firm or corporation upon any terms and conditions as it shall deem to be in its own best interest and as to sale of such unit, the right of first refusal and any right of redemption herein granted to the Association shall not be operative or effective in any manner.

The Developer reserves the right to amend this Declaration in order to change the size and/or type of units and/or buildings before recording this Declaration in the Public Records of Dade County, Florida.

XXII. MISCELLANEOUS

- A. Severability: The invalidity in whole or in part of any covenant or restriction or any Article, sub-article, sentence, clause, phrase or word, or other provisions of this declaration, the articles of incorporation and bylaws of the Association and the rules and regulations set forth by the Association shall not affect the validity of the remaining portions thereof.
- B. Applicability of Declaration of Condominium: All present or future owners, tenants or any other persons who might use the facilities of the condominium in any manner, are subject to the provisions of this declaration and the mere acquisition or rental of any unit, nor the mere act of occupancy of any unit shall signify that the provisions of this Declaration of Condominium are accepted and ratified in all respects.
- C. Construction: The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership. In the event of any conflict between the provisions of the Declaration and the Condominium Act, the provisions of the Declaration shall prevail.
- D. Parties Bound: The restrictions and burdens imposed by this Declaration are intended to and shall constitute covenants running with the land and shall constituted an equitable servitude upon each unit and its appurtenant undivided interest in common elements and this Declaration shall be binding upon developer, its successors and assigns and upon all parties who may subsequently become owners of units in the condominium and their respective heirs, legal representatives, successors and assigns.

XXIII. GRANT OF EASEMENTS; COVENANT RUNNING WITH THE LAND AND CONVEYANCE TO TRUSTEE

The Developer hereby grants a non-exclusive easement to be use and enjoyed in common by the owners, lessees, tenants and occupants of residential units to be constructed in the VILLAS OF WEST MIAMI Subdivision for the following purposes:

OFF. REC. 16302PG2677

Subdivision. Grace Villas II Condominium is part of Grace Villas Subdivision.

- B. Vehicular and pedestrian access over, across, upon, in and through the drives, entries, gates, walks, grounds and other portions as they are intended and/or provided for pedestrians and vehicular traffic through the entire parcel known as VILLAS OF WEST MIAMI Subdivision.
- C. Recreational purposes, pedestrian access, over, across, upon, in and through the drives, entries, gates, walks, grounds, and other portions in the paved surface, green and open areas and lakes as shown in the proposed Plot Plan of VILLAS OF WEST MIAMI Subdivision attached as exhibit to this declaration of condominium or any other plan adopted thereafter.

IN WITNESS WHEREOF, Developer has caused the foregoing Declaration of Condominium to be executed and its seal affixed by its undersigned duly authorized officers on the date set forth above.

Signed, sealed, and delivered
In the presence:

SORIANO INVESTMENT INC.,
A FLORIDA CORPORATION

Quinn Oscar I. Trujillo
Attest: ANGEL SORIANO

Dennis Soriano
DENNIS SORIANO 3837 SW 8 St
Miami, Fla

Quinn Oscar I. Trujillo
Attest: ANGEL SORIANO

Grace M. Soriano
GRACE M. SORIANO
3837 SW 8 St
Miami, Fla

State of Florida
County of Dade

OFF.
REC. 16302P2678

The foregoing instrument was acknowledged before me by DENNIS SORIANO as President of Soriano Investments, a Florida Corporation, and GRACE SORIANO as Secretary of Soriano Investments, a Florida Corporation, on behalf of the Corporation, this 28 day of March, 1994, who is personally known to me or who has produced _____, as identification and who did (did not) take an oath.

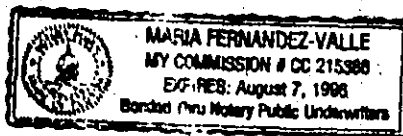


Notary Public

MARIA FERNANDEZ-VALLE

Name of Notary Public

My Commission Expires:

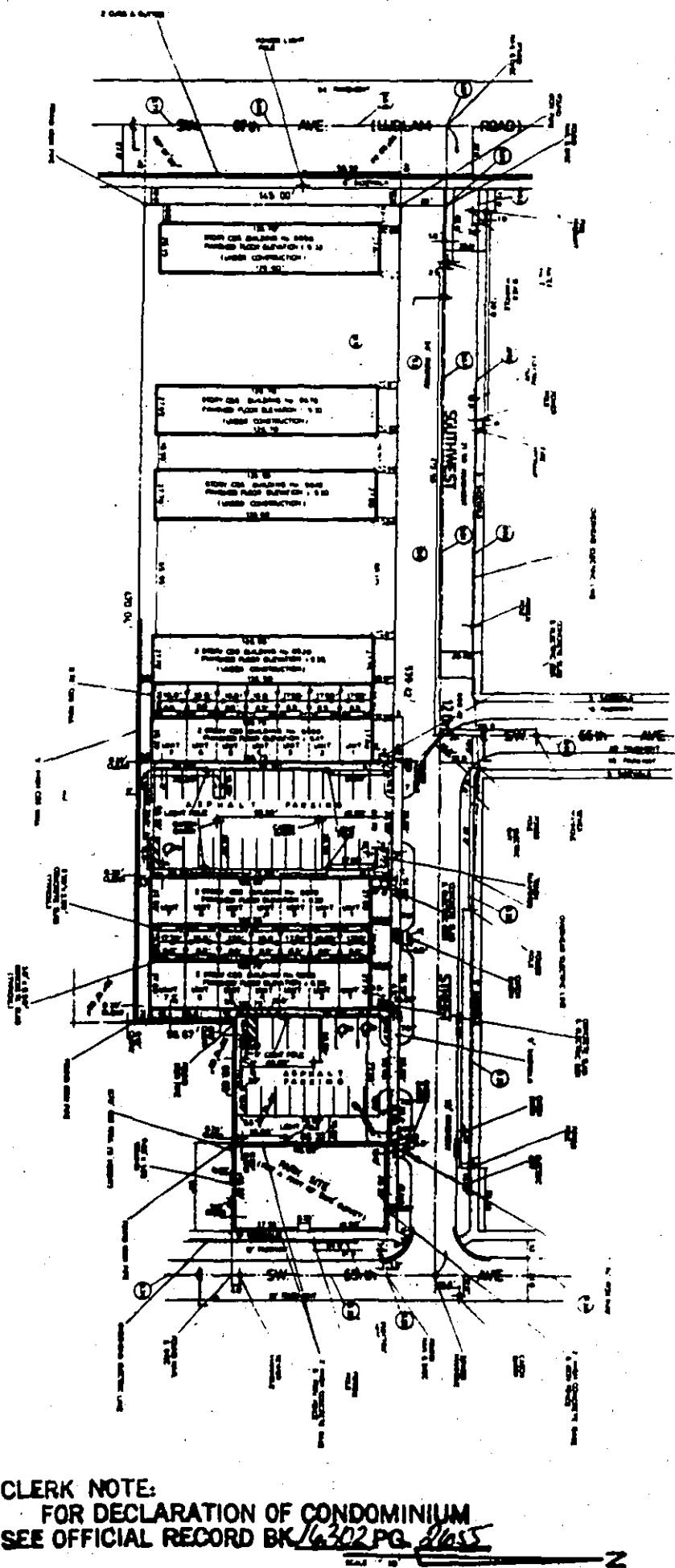
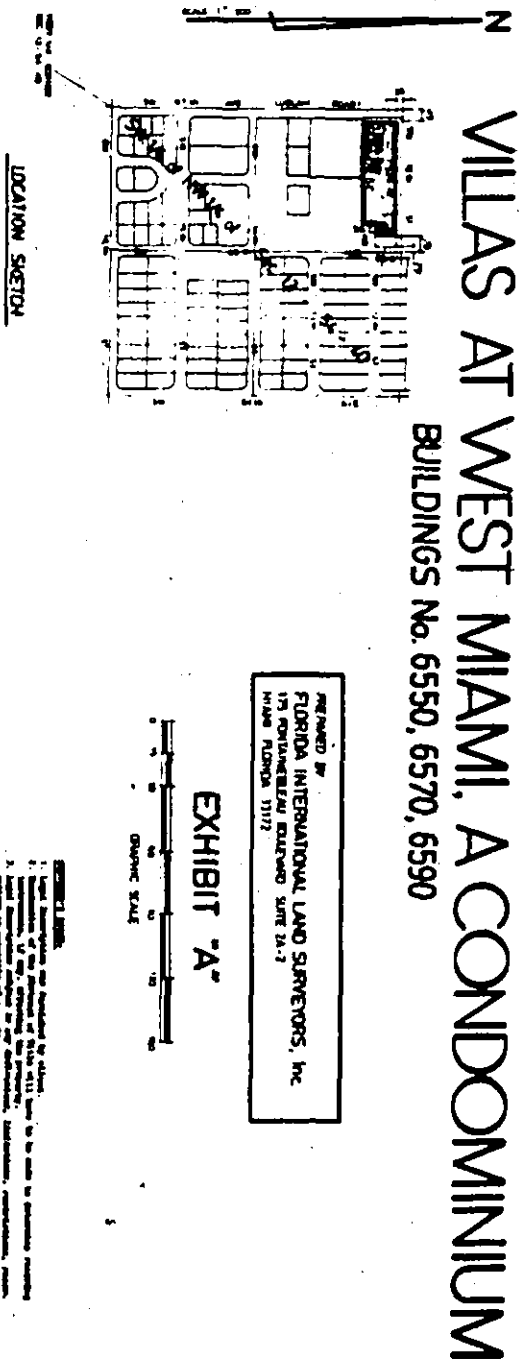


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EXHIBIT A

THE NORTH 170.00 FEET OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4, LESS THE SOUTH 56.67 FEET OF THE EAST 144.00 FEET IN SECTION 12, TOWNSHIP 54 SOUTH, RANGE 40 EAST DADE COUNTY, FLORIDA, LESS THE WEST 35 FEET, THE NORTH 25 FEET AND THE EAST 25 FEET THEREOF, DEDICATED FOR STREET PURPOSES AND IN ADDITION THERETO LESS THE EAST 50 FEET OF THE APPLICANT'S PROPERTY DEDICATED FOR THE PUBLIC PARK PURPOSES MAKING A TOTAL OF LESS THE EAST 75 FEET THEREOF FOR STREET AND PUBLIC PARK PURPOSES.

Exhibit 1

OFF. 16302 PG 2680
REC.**VILLAS AT WEST MIAMI, A CONDOMINIUM**

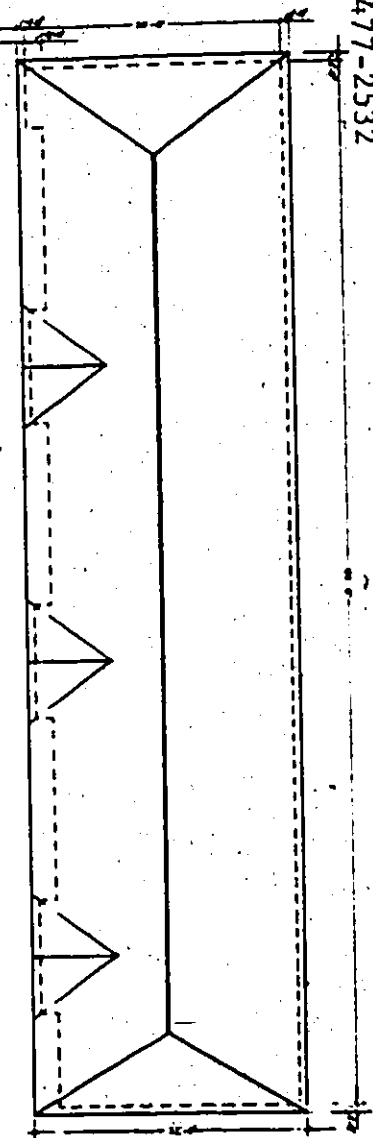
A PORTION OF LAND IN THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 34 SOUTH, RANGE 40 EAST, LYING AND BEING IN DADE COUNTY, FLORIDA.

OFF. REC. 16302PG2682

2-B
Floor Plans

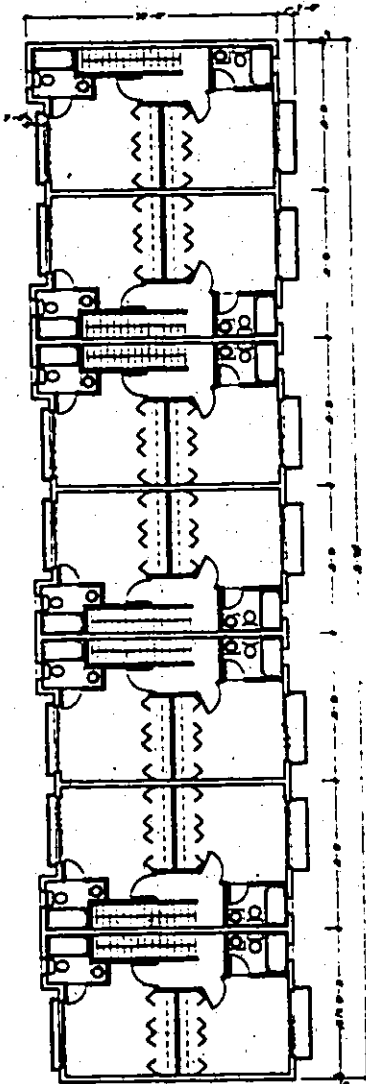
PREPARED BY: FELIX PARDO & ASSC.
8399 N.W. 68 Street Miami, Fla.
497-2532

Ingress and Egress is thru
12th Street

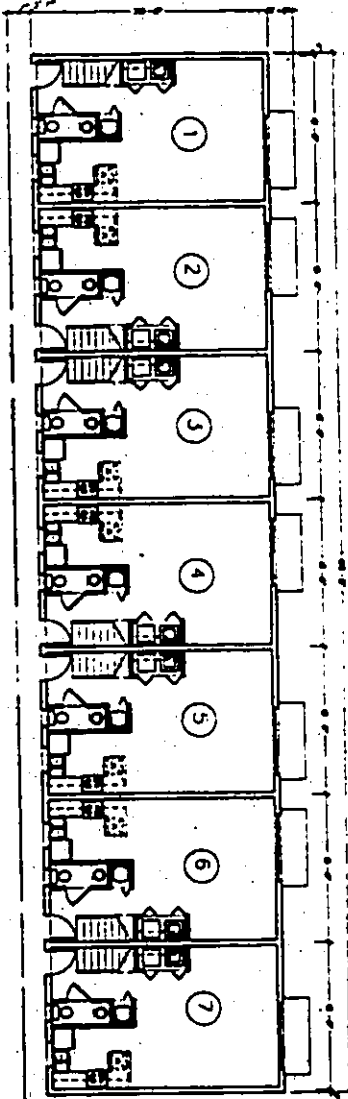


TYPICAL BLDG ROOF PLAN

All is Proposed



TYPICAL BLDG SECOND FLOOR PLAN

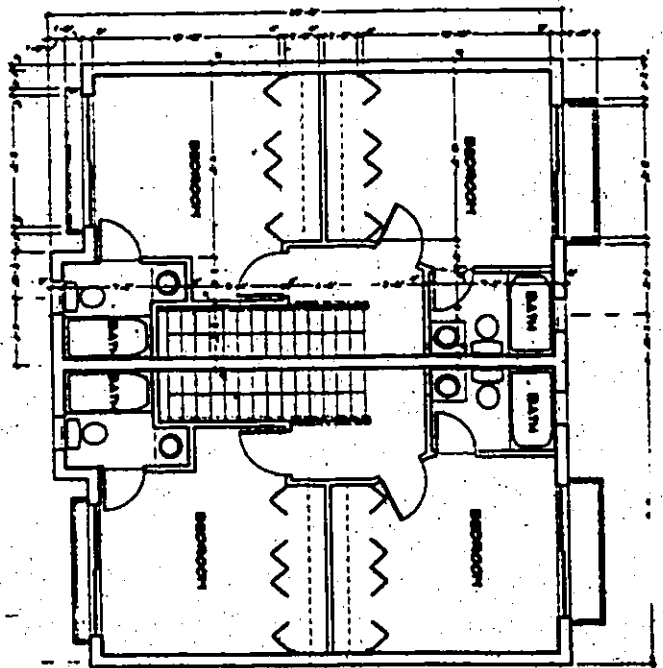


TYPICAL BLDG GROUND FLOOR PLAN

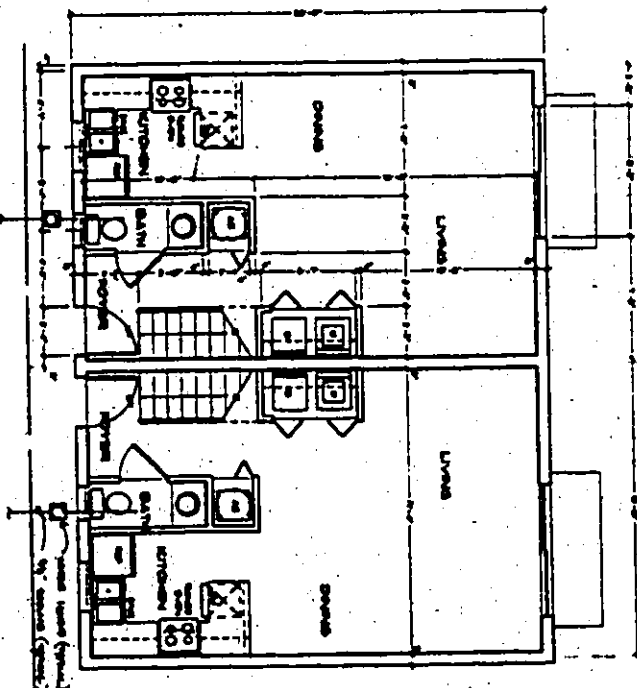
SCALE: 1/4" = 1' 0"

DATE: December 15, 1992

NAME OF CONDOMINIUM
VILLAS OF WEST MIAMI CONDOMINIUM



UNIT SECOND FLOOR PLAN



UNIT GROUND FLOOR PLAN

SCALE: 1/4" = 1' 0"

North ↑ 40

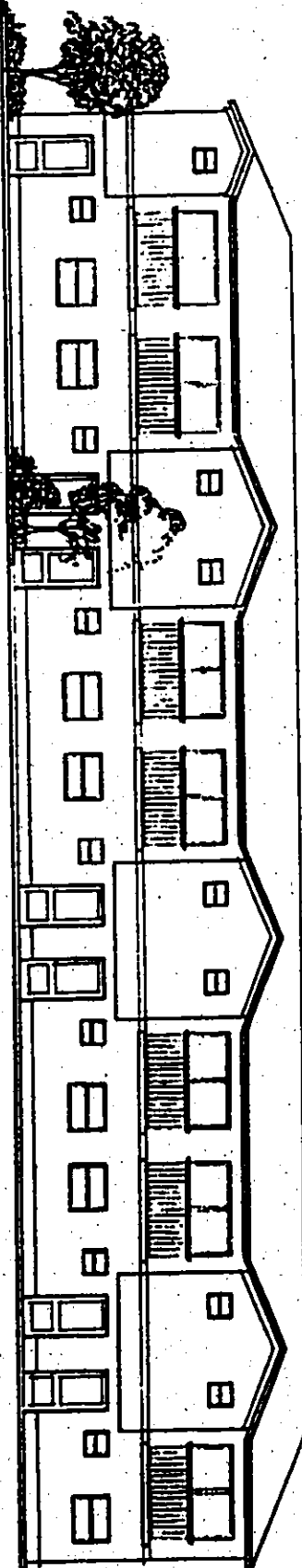
2-C
Elevation

OFF. REC. 16302PG2683

Name of Condominium
VILLAS OF WEST MIAMI CONDOMINIUM

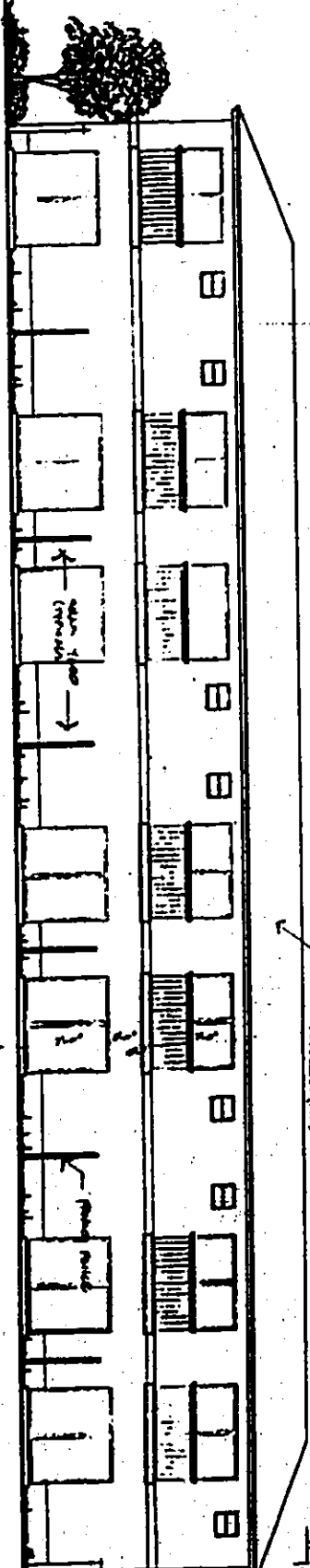
Ingress and Egress is
thru 12 Street

Prepared by: Felix Pardo & Assoc.
—8390 N.W. 68 Street Miami, Fla.—
(305) 477-2532

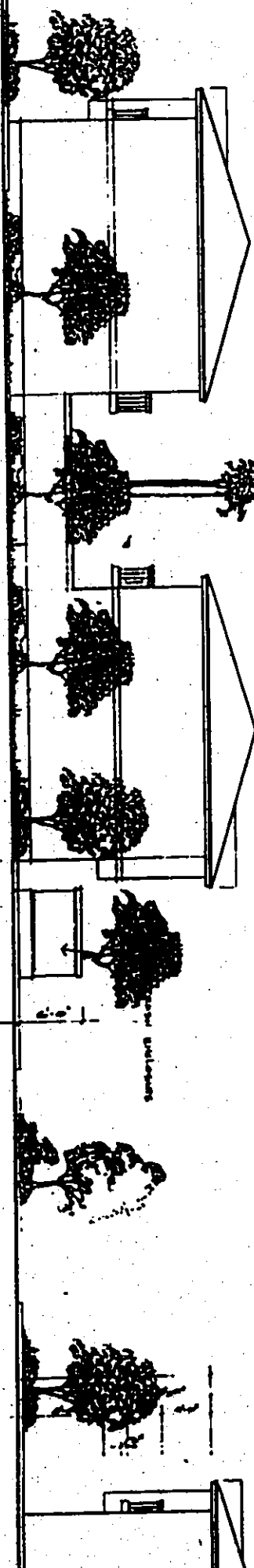


EAST ELEVATION

All is Proposed



WEST ELEVATION



NORTH ELEVATION

Scale 3/16"

Date: December 15, 1992

The Villas of West Miami
Southwest 67 Avenue and 12 Street
West Miami, Florida

FELIX PARDO & ASSOCIATES
ARCHITECTURE, PLANNING, INTERIORS
ONE UNIVERSITY OF MIAMI
MIAMI, FLORIDA 33136
PHONE (305) 477-2532

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EXHIBIT 3 TO DECLARATION OF CONDOMINIUM

OF

VILLAS OF WEST MIAMI CONDOMINIUM

Percentage of ownership in common elements and common surplus and sharing of common expenses.

Each Owner of a residential unit of this Condominium owns one-forty-ninth (1/49) of the common elements and the common surplus and will be responsible for one-forty-ninth (1/49) of the common expenses of this condominium.

44

OFF. REC. 16302PC2685

ARTICLES OF INCORPORATION
OF
VILLAS OF WEST MIAMI CONDOMINIUM ASSOCIATION, INC.
(a Florida corporation not for profit)

In order to form a corporation not for profit under the laws of the State of Florida, we, the undersigned, do hereby associate ourselves into a corporation for the purposes herein specified and to that end we do by these Articles of Incorporation set forth:

ARTICLE I

The name of the corporation shall be VILLAS OF WEST MIAMI CONDOMINIUM ASSOCIATION, INC., hereinafter referred to as the "Association."

ARTICLE II

The purpose and objectives of the Association shall be to administer the operation and management of VILLAS OF WEST MIAMI CONDOMINIUM, INC. (the "Condominium") in accordance with the Florida Condominium Act (the "Act") upon land situated in Dade County, Florida described in Exhibit "A" attached hereto and made a part hereof, in accordance with the rights reserved by Developer as contained in the Declaration of Condominium of VILLAS OF WEST MIAMI CONDOMINIUM ASSOCIATION INC. that will be recorded in the Public Records of Dade County, Florida and to perform the acts and duties incident to the administration, operation and management of such condominium in accordance with the terms, provisions, conditions and authorizations of these Articles of Incorporation, the Bylaws of the Association to be adopted (the "Bylaws") and in the formal Declaration of Condominium (the "Declaration") which will be recorded in the Public Records of Dade County, Florida, when the land and the improvements constructed thereof are submitted to the condominium form of ownership; and to own, operate, encumber, lease, sell, manage, convey, trade and otherwise deal with the land, the improvements and such other property, whether real and/or personal, as may be or become part of the Condominium (the "Condominium Property") to the extent necessary or convenient in the administration of the Condominium. The Association shall be conducted as a non-profit organization for the benefit of its members.

ARTICLE III

The powers of the Association shall include and be governed by the following provisions:

- A. All of the powers and privileges granted to corporations not for profit under the laws pursuant to which this corporation is chartered.
- B. All of the powers reasonable and necessary to implement and effectuate the purposes of the Association, including, without limitation, the power, authority and right to:
 - 1. Make and establish reasonable rules and regulations governing use of the units, common elements and limited common elements in and of the Condominium as such terms are defined in the Declaration.
 - 2. Levy and collect assessments against members of the Association to defray the common expenses of the Condominium as provided in the Declaration and Bylaws; including the power to levy and collect assessments for the purpose of paying assessments levied against units in the condominium by governmental entities and for the purpose of acquiring, owning, holding, operating, leasing, encumbering, selling, conveying, exchanging, managing and otherwise dealing with the Condominium Property, including units, which may be necessary or convenient in the operation and management of the condominium and in accomplishing the purposes set forth in the Declaration. However, the Association may not charge a

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use fee against a unit owner for the use of common elements or association property unless otherwise provided for in the Declaration of Condominium or by a majority vote of the Association or unless the charges relate to expenses incurred by an owner having exclusive use of the common elements or association property.

3. Maintain, repair, replace, operate and manage the Condominium Property including the right to reconstruct improvements after casualty and further to improve and add to the Condominium Property.
4. Contract for the management of the Condominium and in connection therewith, to delegate any and/or all of the powers and duties of the Association to the extent and in the manner permitted by the Declaration, the Bylaws and the Act.
5. Enforce the provisions of these Articles of Incorporation, the Declaration, the Bylaws and all rules and regulations governing use of the Condominium which may from time to time establish.
6. Contract, sue or be sued with respect to the exercise or non-exercise of its powers. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management and operation of the Condominium Property. The Association may institute, maintain, settle or appeal actions or hearings in its name on behalf of all unit owners concerning matter of common interest, including but not limited to, the common elements; the roof and structural components of a building or other improvements; mechanical, electrical and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities and protesting ad valorem taxes on commonly used facilities and on units; and may defend actions in eminent domain or bring inverse condemnation actions. Nothing herein limits any statutory or common-law right of any individual unit owner or class of unit owners to bring any action which may otherwise be available.
7. The Association has the irrevocable right of access to each unit during reasonable hours, when necessary for the maintenance, repair or replacement of any common elements or for making emergency repairs which are necessary to prevent damage to the common elements or to another unit or units.
8. Exercise, undertake and accomplish all of the right, duties and obligations which may be granted to or imposed upon the Association in the Declaration and the Act.
9. The Association has the power to acquire title to property or otherwise hold property for the use and benefit of its members. The owner to acquire personal property shall be exercised by the Board of Administration. Except as otherwise permitted in subsection 10 and 11 below, and in Florida Statute 718.114, there shall be no acquisition of title to real property by the Association except in the manner provided in the declaration.
10. The Association has the power to purchase any land or recreation lease upon the approval of such voting interest as is required by the declaration. If the declaration makes no provision for acquisition of the land or recreation lease, the vote required shall be required to amend the declaration to permit the acquisition.

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11. The Association has the power, unless prohibited by the Declaration, Articles of Incorporation or Bylaws of the Association, to purchase units in the condominium and to acquire and hold, lease, mortgage, and convey them. There shall be no limitation on the Association's right to purchase a unit at a foreclosure sale resulting from the Association's foreclosure of its lien for unpaid assessments, or to take title by deed in lieu of foreclosure.
12. Unless prohibited by the declaration, the Board of Administration has the authority, without the joinder of any unit owner, to grant, modify, or move any easement if the easement constitutes part of or crosses the common elements or association property. This subsection does not authorize the Board of Administration to modify, move, or vacate any easement created in whole or in part for the use or benefit of anyone other than the unit owners, or crossing the property of anyone other than the unit owners, without the consent or approval of those other persons having the use or benefit of the easement, as required by law or by the instrument creating the easement. Nothing in this subsection affects the minimum requirements of Florida Statute 718.104(4)(m) or the powers enumerated in subsection 6.
13. The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association, the association property, the common elements, and the Condominium property required to be insured by the Association pursuant to paragraph 14. The association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the association. As used in this section, the term "persons who control or disburse bonds of the association" means those individuals authorized to sign checks and the president, secretary and treasurer of the association. If an association's annual gross receipts do not exceed \$100,000, the bond shall be in the principal sum of not less than \$10,000 for each such person. If an association's annual gross receipts exceed \$100,000, but not to exceed \$300,000, the bond shall be in the principal sum of \$30,000, for each such person. If an association's annual gross receipt exceeds \$300,000, the bond shall be in the principal sum of \$50,000, for each such person. The association shall bear the cost of the bonding and flood insurance for common elements, association property, and units. An association or group of associations may self-insure against claims against the Association, the association property required to be insured by an Association, upon compliance with Florida Statute 624.460-624.488. A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.
14. Every hazard policy which is issued to protect a condominium building shall provide that the word "building" wherever used in the policy include, but not necessarily be limited to, fixtures, installations, or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual units initially installed, or replacements thereof of like kind or quality, in accordance with the original plans and specifications, or as they existed at the time the unit was initially conveyed if the original plans and specifications are not available. However, unless prior to October, 1, 1986, the Association is required by the declaration to provide coverage therefore, the word "building" does not include unit floor coverings, wall coverings, or ceiling coverings and as to Contracts entered into after January 1, 1992, does not include the following equipment: electrical fixtures, appliances, air conditioning or

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heating equipment, water heaters, or built in cabinets. With respect to the coverage provided for by this paragraph, the unit owners shall be considered additional insured under the policy.

15. Every insurance policy issued to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property without rights of subrogation against the Association.

ARTICLE IV

The qualification of members, the manner of their admission to and termination of membership and voting by members shall be as follows:

- A. The record owners of all units in the Condominium shall be members of the Association and no other persons or entities shall be entitled to membership, except as provided in Paragraph E, Article IV, hereof.
- B. Membership shall be established by the acquisition of fee title to a unit in the Condominium or in added units or by acquisition of a fee ownership interest therein, by voluntary conveyance or operation of law and the membership of any person or entity shall be automatically terminated when such person or entity is divested of all title or his entire fee ownership in such unit; provided that nothing herein contained shall be construed as terminating the membership of any person or entity owning fee title to or a fee ownership interest in two or more units at any time while such person or entity shall retain fee title to or a fee ownership interest in any unit.
- C. The interest of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to the unit owned by such member. The funds and assets of the Association shall be expended, held or used only for the benefit of the membership and for the purposes authorized herein, in the Declaration and in the Bylaws.
- D. On all matters upon which the membership shall be entitled to vote, there shall be one vote, and only one vote, for each unit in the condominium, which vote may be exercised or cast by the owner of each unit as may be provided in the Bylaws of the Association. Should any person or entity own more than one unit, such member shall be entitled to exercise or cast one vote for each such unit in the manner provided by the Bylaws.
- E. Until such time as the land and the improvements constructed thereon are submitted to the condominium form of ownership by recordation of the Declaration in the Public Records of Dade County, Florida, the membership of the Association shall be comprised of the subscribers to these Articles each of whom shall be entitled to cast one vote on all matters on which the membership shall be entitled to vote.

ARTICLE V

The term of the Association shall be perpetual or if the condominium is terminated, the term shall end as soon after termination of the condominium as its affairs can be concluded.

ARTICLE VI

The principal office of the Association shall be located in Florida, but the Association may maintain offices and transact business in such places within or without the State of Florida as may from time to time be designated by the Board of Administration.

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The affairs of the Association shall be managed by the Board of Administration. The Board of Administration shall be comprised of three persons until such time as the Developer has conveyed title to all units in the Condominium. After such event occurs, the Board of Administration shall be comprised of five persons. The members of the Board of Administration shall be elected by the members of the Association at the annual meeting of the membership as provided by the Bylaws. The Board of Administration may employ a managing agent, agency and/or other managerial and supervisory personnel or entity to administer or assist in the administration of the operation and management of the condominium and the affairs of the Association and any and all such persons and/or entities may be so employed without regard to whether any such person or entity is a member of the Association or a member of the Board of Administration or officer of the Association, as the case may be.

The Board of Administration shall have a President, a Secretary and a Treasurer, and if so decided one or more assistants to such offices. The officers of the Association shall act subject to the direction of the Board of Administration and shall be elected by a majority of the Board of Administration. The President shall be elected from the membership of the Board of Administration but no other officer need to be a member of the Board of Administration. The same person may hold two offices.

The Developer shall have the right to maintain control of the Association subject to the provisions of the Condominium Act and considering the fact that this Association is created for the purposes of operating and managing the condominium property.

ARTICLE VII

The name and address of the members of the first Board of Administration, who subject to the provisions of the laws of the State of Florida, these Articles of Incorporation and the Bylaws, shall hold office until their successors are elected and take possession, are as follows:

<u>NAME</u>	<u>ADDRESS</u>
GRACE SORIANO	3837 S.W. 8 STREET MIAMI, FLORIDA 33134
ANGEL SORIANO	3837 S.W. 8 STREET MIAMI, FLORIDA
DENNIS SORIANO	3837 S.W. 8 STREET MIAMI, FLORIDA

The subscribers to these Articles of Incorporation are the persons wherein named to act and serve as members of the first Board of Administration of the Association. The names of the subscribers and their addresses are set forth in Article VII hereof.

ARTICLE VIII

The officers of the corporation who shall hold office until their successors are elected pursuant to these Articles of Incorporation and the Bylaws shall be the following:

PRESIDENT:	DENNIS SORIANO
SECRETARY:	GRACE SORIANO
TREASURER:	ANGEL SORIANO

ARTICLE IX

The original Bylaws of the Association shall be adopted by a majority of the subscribers to these Articles of Incorporation at a meeting at which a majority of the subscribers is present, and thereafter, the Bylaws may be altered or rescinded only by affirmative vote of two-thirds (2/3) of the votes entitled to be cast by members of the Association.

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ARTICLE X

Every member of the Board of Administration and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party, or in which he may become involved by reason of his being or having been a member of the Board of Administration or officer of the Association, whether or not he is a Board of Administration or officer at the time such expenses are incurred, except in such cases wherein the member of the Board of Administration or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that, in the event of any claims for reimbursement or indemnification hereunder based upon a settlement by the member or officer seeking such reimbursement or indemnification, the indemnification herein shall apply only if the Board of Administration approves such settlement and reimbursement as being for the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights which such member or officer may be entitled. The Association shall carry errors and omission insurance in favor of officers and members of the Board of Administration.

ARTICLE XI

An amendment or amendments to these Articles of Incorporation may be proposed by the Board of Administration or the Association acting upon a vote of the majority of the members, or by the members of the Association owning a majority of the units in the condominium at that time declare or added, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to these Articles of Incorporation being proposed by the Board or member, such proposed amendment shall be transmitted to the President of the Association or the acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the membership for a date not sooner than twenty days or later than sixty days from the receipt by him of the proposed amendment, and it shall be the duty of the Secretary to give each member written notice for such meeting stating the time and place of the meeting and reciting the proposed amendments in reasonable detailed form which notice shall be mailed or presented personally to each member not less than fourteen days nor more than thirty days before the date set for such meeting. If mailed, such notice shall be deemed properly given when deposited in the United States mail, addressed to the member at his post office address as it appears on the records of the Association with postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice and such waiver when filed in the records of the Association whether before, during or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such meeting the amendment proposed must be approved by an affirmative vote of the member owning not less than two-thirds of the units in the condominium in order for such amendment to become effective. Thereupon, such amendments of these articles of incorporation shall be transcribed and certified in such form as may be necessary to file the same in the office of the Secretary of the State of Florida. A certified copy of each such amendment shall be recorded in the Public Records of Dade County, Florida within thirty days from the date on which the same is filed in the office of the Secretary of State. Notwithstanding the Incorporation which shall abridge, amend or alter the right of the Developer to designate and select members of the Board of Administration, may be adopted or become effective without the prior written consent of Developer.

ARTICLE XII

- (1) When unit owners other than the developer own 15 percent or more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the developer shall be entitled to elect no less than one-third of the members of the board of administration of the association. Unit owners other than the developer are entitled to elect not less than a majority of the members of the board of administration of an association:
 - (a) Three years after 50 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

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- (b) Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;
 - (c) 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 by sale by the developer in the ordinary course of business;
 - (d) 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; or
 - (e) Seven years after recordation of the declaration of condominium; or, in the case of an association which may ultimately operate more than one condominium, 7 years after recordation of the declaration for the first condominium it operates; or, in the case of an association operating a phase condominium created pursuant to s. 718.403, 7 years after recordation of the declaration creating the initial phase, whichever occurs first. The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, and 2 percent, in condominiums with more than 500 units, of the units in a condominium operated by the association. Following the time the developer relinquishes control of the association, the developer may exercise the right to vote any developer-owned units in the same manner as any other unit owner except for purposes of reacquiring control of the association or selecting the majority members of the board of administration.
- (2) At the time unit owners other than the developer elect a majority of the members of the board of administration of an association, the developer shall relinquish control of the association, and the unit owners shall accept control. Simultaneously, or for the purposes of paragraph (c) not more than 90 days thereafter, the developer shall deliver to the association, at the developer's expense, all property of the unit owners and of the association which is held or controlled by the developer, including, but not limited to, the following terms, if applicable, as to each condominium operated by the association:
- (a)
 - 1. The original or photocopy of the recorded declaration of condominium and all amendments thereto. If a photocopy is provided, it shall be certified by affidavit of the developer or an officer or agent of the developer as being a complete copy of the actual recorded declaration.
 - 2. A certified copy of the articles of incorporation of the association or, if the association was created prior to the effective date of this act and it is not incorporated, copies of the document creating the association.
 - 3. A copy of the bylaws.
 - 4. The minute books, including all minutes, and other books and records of the association, if any.
 - 5. Any house rules and regulations which have been promulgated.
 - (b) Resignations of officers and members of the board of administration who are required to resign because the developer is required to relinquish control of the association.
 - (c) The financial records, including financial statements of the association through the date of the turnover. The records shall be audited for the period from the incorporation of the association or from the period

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covered by the last audit, if applicable, by an independent certified public accountant. All financial statements shall be prepared in accordance with generally accepted auditing standards, as prescribed by the Florida Board of Accountancy, pursuant to chapter 473. The accountant performing the audit shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for association purposes and the billings, cash, receipts, and related records to determine that the developer was charged and paid the proper amounts of assessments.

- (d) Association funds or control thereof.
- (e) All tangible personal property that is property of the association, which is represented by the developer to be part of the common elements or which is ostensibly part of the common elements, and an inventory of that property.
- (f) A copy of the plans and specifications utilized in the construction or remodeling of improvements and the supplying of equipment to the condominium and in the construction and installation of all mechanical components serving the improvements and the site with a certificate in affidavit form of the developer or his agent or an architect or engineer authorized to practice in this state that such plans and specifications represent to the best of his knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the condominium property and for the construction and installation of the mechanical components serving the improvements. If the condominium property has been declared a condominium more than 3 years after the completion of construction or remodeling of the improvements, the requirements of this paragraph do not apply.
- (g) A list in the names and addresses, of which the developer had knowledge at any time in the development of the condominium, of all contractors, subcontractors, and suppliers utilized in the construction or remodeling of the improvements and in the landscaping of the condominium or association property.
- (h) Insurance policies.
- (i) Copies of any certificates of occupancy which may have been issued for the condominium property.
- (j) Any other permits applicable to the condominium property which have been issued by governmental bodies and are in force or were issued within 1 year prior to the date the unit owners other than the developer take control of the association.
- (k) All written warranties of the contractor, subcontractor, suppliers, and manufactures, if any, that are still effective.
- (l) A roster of unit owners and their addresses and telephone numbers, if known, as shown on the developer's records.
- (m) Leases of the common elements and other leases to which the association is a party.
- (n) Employment contracts or service contracts in which the association is one of the contracting parties or service contracts in which the association or unit owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service.
- (o) All other contracts to which the association is a party.

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ARTICLE XIII

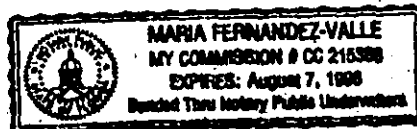
The Principal Place of Business is 3837 S.W. 8 STREET, MIAMI, FLORIDA 33134.

ARTICLE XIV

The Registered Agent and his address is:

DENNIS SORIANO 3837 S.W. 8 STREET
MIAMI, FLORIDA 33134IN WITNESS WHEREOF, the Subscribers have hereunto set their hands and seals this
28 day of March, 1994.Signed, sealed and delivered
in the presence of:[Signature] Osam J. Twigg[Signature]
DENNIS SORIANO[Signature] Osam J. Twigg[Signature]
GRACE SORIANO[Signature] Osam J. Twigg[Signature]
ANGEL SORIANOSTATE OF FLORIDA
COUNTY OF DADEThe foregoing instrument was acknowledged before me by DENNIS SORIANO AS
PRESIDENT, GRACE SORIANO AS SECRETARY AND ANGEL SORIANO AS
TREASURER OF SORIANO INVESTMENTS, INC., a Florida Corp., this 28th day of
March, 1994, who are personally known to me or who have produced the following
identification _____ and who did (did not) take an oath.WITNESS my hand and official seal at Miami, Dade County, Florida, this 28 day
of March, 1994.[Signature]
NOTARY PUBLIC

My commission expires:



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BYLAWS OF
VILLAS OF WEST MIAMI CONDOMINIUM

Generally.-

(a) The operation of the association shall be governed by the articles of incorporation if the association is incorporated, and the bylaws of the association, which shall be included as exhibits to the recorded declaration.

(b) No amendment to the articles of incorporation or bylaws is valid unless recorded with identification on the first page thereof of the book and page of the public records where the declaration of each condominium operated by the association is recorded.

1. IDENTITY

A- These are the Bylaws of VILLAS OF WEST MIAMI CONDOMINIUM, ASSOCIATION-INC. (the Association), a Florida Corporation not for profit, the Articles of Incorporation (the articles) which were filed in the office of the Secretary of the State of Florida on the 29 day of March, 1994. The Association has been organized for the purposes of administering the operation and management of the VILLAS OF WEST MIAMI CONDOMINIUM, (the Condominium) to be established in accordance with the Florida Condominium Act (the Act) upon the land situated in Dade County, Florida, described on Exhibit A, attached hereto and made a part hereof.

B- The provision of these ByLaws are applicable to the condominium and are subject to the provision of the Articles, a copy of the Articles and a copy of these Bylaws will be annexed as an exhibit to the Declaration of Condominium of the Condominium (the Declaration) which will be recorded in the Public records of Dade County, Florida. The terms and provisions of the Articles of Declaration shall control wherever the same may be in conflict herewith.

C- All members of the Association and their invites, including without limitation, all present or future owners and tenants of dwelling units in the Condominium (the units) and other persons using the Condominium or any of the facilities thereof in any manner, are subject to these ByLaws, the Articles and the Declaration.

D- This office of the Association shall be at the site of the premises of the Condominium or at such other place as may be established by resolution of the Board of Administration.

E- The Fiscal year of the Association shall be the calendar year.

F- The seal of the Association shall bear the name of the Association, the word Florida, the words Corporation not for profit and the year of incorporation.

II- MEMBERSHIP, VOTING, QUORUM AND PROXIES

A- The qualification of members of the Association (the members), the manner of their admission to membership and termination of such membership and voting by members and termination of such membership and voting by members shall be as set forth in the Articles, the provisions of which are incorporated herein by reference.

B- A quorum at meeting of Members shall consist of persons entitled to cast a majority of the votes, of the entire membership. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof, shall constitute the presence of such persons for the purposes of determining a quorum.

C- The vote of the ownership of a unit owned by more than one natural person, as tenants in common, joint tenants (except a husband and a wife as tenants by the entirety), a partnership or any other association of natural person, or by a corporation, a trust, or any other

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entity shall be cast or otherwise exercised, at all meeting at which members of the Association are entitled to vote or otherwise act by one natural person designated by the owner of such unit as the "primary Occupant" thereof. In each instance when title to a unit is proposed to be occupied or is otherwise to become vested in more than one natural person (except a husband and wife as tenants by the entirety), a partnership or any association of natural persons, or a corporation at or any other entity, the prospective owner shall by written instrument acceptable to the Association, designate one natural person as the Primary Occupant. The instrument designating the Primary Occupant shall be and remain the Primary Occupancy of the Unit until such designation has been revoked by a written instrument executed by the owner of the unit or by lawful conveyance of the unit. The Primary Occupancy of the unit shall be the only person entitled to cast, or exercise in person or by proxy, the vote of the owner of such unit at any meeting of members or in connection with any action concerning which members of the association shall be required or allowed to vote or otherwise act. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meeting thereof. In no event shall any proxy be valid for a person longer than 90 days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the unit owner executing it.

D- Evidence of the approval or disapproval of the owner of a unit upon any matter, whether or not the subject of an Association meeting shall be given to the Association by the same person who would cast the vote of such owner if in an Association meeting.

E- Except, where otherwise required under the provisions of the Articles, these Bylaws, or the Declaration or where the same otherwise be required by law, the affirmative vote of the owners of a majority of the units represented at any meeting of the members duly called and at which a quorum is present shall be binding upon the members.

Except as specifically otherwise provided herein, after January 1, 1992, unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the divisions. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with subparagraph (f)2.; for votes taken to waive financial statement requirements as provided by s. 718.111(14); for votes taken to amend the articles of incorporation or bylaws pursuant to this section; and for any other matter for which this chapter requires or permits a vote of the unit owners. After January 1, 1992, no proxy, limited or general, shall be used in the election of board members. General proxies may be used for other matters for which limited proxies are not required, and may be used in voting for non substantive changes to items for which a limited proxy is required and given. Notwithstanding the provisions of this subparagraph, unit owners may vote in person at unit owner meetings. Nothing contained herein shall limit the use of general proxies or require the use of limited proxies for any agenda item or election at any meeting of a time-share condominium association.

3. Any proxy given shall be effective only for the specific meeting for which originally given at any lawfully adjourned meeting thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the unit owner executing it.

III ANNUAL AND SPECIAL MEETING OF THE MEMBERSHIP

A- The annual meeting of member shall be held at the office of the Association or such other place in Dade County, Florida as may be specified in the notice of the meeting at 7:00 P.M. on the second Tuesday in May of each year for the purposes of electing members of the Board of Administration and transacting any other business authorized to be transacted by the members. If such date shall be a legal holiday, the annual meeting date shall be the next succeeding regular business day. Written Notice shall be mailed or given to each unit owner at least 14 ~~business~~ days prior to the annual meeting and shall be posted in a conspicuous place on the condominium property at least 14 continuous days prior to the annual meeting.

B- Special meeting of Member shall be held whenever called by the President, or

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Vice President or by a majority of the Board of Administration and must be called by such officer upon receipt of a written request from members owning a majority of the units.

C- Notice of all meeting shall be given by the Secretary or in the absence of the Secretary another officer of the Association to each member (unless waived in writing). Each of the notice shall be written or printed and shall state the time and place of and purpose for which the meeting is called. Each notice shall be given to each member not less than fourteen continuous days not more than sixty days prior to the day set for the meeting and shall be mailed. Such Notice shall be deemed properly given when deposited in the United States Regular Mail, addressed to the member at his post office address as it appears on the records of the Association with postage thereof prepaid. Proof of mailing shall be given by an affidavit of the person giving the notice. Any member may, in writing signed by such member, waive such notice and such waiver, when filed in the records of Association whether before, at or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. Each Notice shall be in addition be posted in a conspicuous place in each building of the Condominium at least fourteen continuous days prior to said meeting. If any meeting of members cannot be held because a quorum is not present, or because a greater percentage of the membership required to constitute a quorum for the particular purposes is not present, wherever the latter percentage of attendance may be required as set forth in the Articles, Bylaws or the Declaration, the members who are present either in person or by proxy, may adjourn the meeting from time to time until a quorum or the required percentage of attendance if greater than a quorum is present. Where a unit is owned by more than one person the association shall provide notice for meetings and all other purposes to that one address which Developer initially identifies for that purpose and thereafter as one or more of the unit owners shall so advise the association in writing or if no address is provided or if the owner of the unit do not agree, to the address provided on the Deed of record.

D- At meeting of members the Chairman of the Board, or in his absence, the President shall preside or in the absence of both, the members present shall select a chairman of the meeting.

E- The order of business at the annual meeting of the members, and at any other meetings of members shall be:

- (1) Calling of the roll and certifying of proxies
- (2) Proof of notice of meeting or waiver of notice
- (3) Reading or waiver of reading of the minutes of previous meeting
- (4) Reports of the Officers
- (5) Reports of Committees
- (6) Appointments by Chairman of inspectors of election
- (7) Election of Members of the Board of Administration
- (8) Unfinished business
- (9) New Business
- (10) Adjournment

IV BOARD OF ADMINISTRATION

A- The first Board of Administration shall consist of three persons who shall be the subscribers to the Articles of Incorporation, succeeding Board of Administration members shall consist of three persons. At least the majority of each succeeding Board of Administration

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shall be members of the Association or shall be authorized representative, officer, or employees of a corporate member of the association.

(1) When unit owners other than the developer own 15 percent or more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the developer shall be entitled to elect no less than one-third of the members of the board of administration of the association. Unit owners other than the developer are entitled to elect not less than a majority of the members of the board of administration of an association:

(a) Three years after 50 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(b) Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(c) 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 by sale by the developer in the ordinary course of business;

(d) 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; or

(e) Seven years after recordation of the declaration of condominium; or, in the case of an association which may ultimately operate more than one condominium, 7 years after recordation of the declaration for the first condominium it operates; or, in the case of an association operating a phase condominium created pursuant to s. 718.403, 7 years after recordation of the declaration creating the initial phase, whichever occurs first. The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, and 2 percent, in condominiums with more than 500 units, of the units in a condominium operated by the association. Following the time the developer relinquishes control of the association, the developer may exercise the right to vote any developer-owned units in the same manner as any other unit owner except for purposes of reacquiring control of the association or selecting the majority members of the board of administration.

B- Directors shall be elected in the following manner:

1) Commencing with the election of the first Board to succeed the Board comprised of the subscribers of the Articles, Developer shall designate the number and the identity of the members of the Board which it shall be entitled to designate in accordance with the Articles and these Bylaws and upon such designation by Developer by written instrument presented to the meeting at which such election is held, the persons so designated by Developer shall be deemed and considered for all purposes members of the Board and shall thenceforth hold the offices and perform the duties of such officers until their successors shall have been elected or designated as the case may be and qualified in accordance with the provision of these bylaws.

2) All members of the Board whom Developer shall not be entitled to designate under these Bylaws shall be elected by a majority of votes cast at the annual meeting of the members immediately following the designation of the members of the Board whom Developer shall be entitled to designate.

3) Vacancies of the Board may be filled to expire on the date of the next annual meeting by the remaining members, except that, should any vacancy in the Board be created in any membership previously filled by any person designated by Developer, such vacancy shall be filled by Developer, such vacancy shall be filled by the Developer designating, by written instrument delivered to any officer of the Association the successor member of the Board who shall fill the vacated membership for the unexpired term thereof.

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4) If, at the time of the first annual meeting of the members unit owners other than the Developer are entitled to elect some or all of the members of the Board, the terms of office of such members shall be one year. The term of office of all member of the Board designated by the Developer shall also be for one year. Members of the Board shall hold office for the terms which were elected or designated and thereafter until their successor are duly elected, designated by Developer and qualified or until removed in the manner elsewhere herein provided for or as provided by law.

5) In the election of member of the Board there shall be appurtenant to each units as many votes from members of as there are members of the Board to be elected provided however that no member or owner or any unit may cast more than one vote for any person nominated as a member of the Board, it being the intent hereof that voting for members of the Board shall be non-cumulative.

6) In the event that Developer selects any person or persons to serve on any Board, Developer shall have the absolute right at any time in its sole discretion to replace any such person or persons with another person or persons to serve on the Board. Replacement of any person or persons designated by Developer to serve on any board shall be made by written instrument delivered to any officer of the Association which instrument shall specify the name or names of the person or persons designated as successor or successors to the person so removed from the Board. The removal of any member and designation of his successors shall be effective immediately upon delivery of such written instrument by Developer to any officer of the Association.

C- The organization meeting of a newly elected or designated Board shall be held immediately following the adjournment of the membership meeting at which that were elected and no further notice of the organizational meeting shall be necessary; provided that a quorum shall be present.

D- Regular meeting of the Board may be held at such time and place as shall be determined from time to time by a majority of the members of the Board and shall be open to all members of the Association. Notice of regular meeting shall be given to each member of the Board, personally or by mail, telephone or telegram at least fourteen days prior to the day named for such meeting, unless notice is waived, notice shall also be posted in a conspicuous place in each building of the Condominium at least fourteen continuous days prior to said meeting.

E- Special meeting of the Board may be called by the President and must be called by the Secretary at the written request of one third of the member of the Board. Not less than 14 days notice of a special meeting shall be given to each member of the Board, personally or by mail, telephone or telegram which notice shall state the time, place and purpose of the meeting. Such notice shall also be posted in a conspicuous place in each building of the Condominium at least 14 continuous days prior to said meeting.

F- All meetings of the Board of Administration shall be open to all unit owners.

G- Any member of the Board may waive notice of a meeting before, at or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

H- A quorum at meetings of the Board shall consist of the members entitled to cast a majority of the votes of the entire Board. The act of the Board approved by a majority of the votes presents at a meeting, at which a quorum is present shall constitute the act of the Board of Administration, except as may be specifically otherwise provided in the Articles, these By-Laws or the Declaration. If any meeting of the Board cannot be held because a quorum is not present or because the greater percentage of the member of the Board required to constitute a quorum for the particular purposes is not present, then the meeting shall be lawfully adjourned and rescheduled pursuant to Section 718.112.

I- The presiding officer of meetings of the Board shall be the Chairman of the

Board, if such officer has been elected or if not the President of the Association. In the absence of the presiding officer, the members of the Board shall designate one of their number to preside.

J- All of the powers and duties of the Association shall be exercised by the Board, including those existing under the law of Florida, the Articles, these Bylaws and the Declaration. Such powers and duties shall be exercised in accordance with the Articles, these Bylaws and the Declaration and shall include, without limitation, the right, power and authority to do the following:

- 1) Make, levy and collect assessments against members of the Association and member's units to defray the cost of the Condominium and to use the proceeds of assessments in exercise of the power and duties of the Association. Assessments shall be made against units not less frequently than quarterly in an amount which is not less than that required to provide funds in advance for payments of all of the anticipated current operating expenses and for all of the unpaid operating expenses and for all of the unpaid operating expenses previously incurred. Nothing in this paragraph shall preclude the right of the Association to accelerate assessment of an owner delinquent in payment of common expenses. Accelerated assessments shall be due and payable on date the claim of lien is filed. Such accelerated assessments shall include the amount due for the remainder of the budget year in which the claim of lien was filed.
- 2) Maintain repair replace operate and manage the condominium wherever the same is required to be done and accomplished by the Association for the benefit of members;
- 3) Repair and reconstruct improvement after casualty
- 4) Make and amend regulations governing the use of the property real and personal, in the condominium provided that such regulation or amendments thereto shall not conflict with the restrictions and limitation which may be placed upon the use of such property under the terms of the Articles and the declaration.
- 5) Approve or disapprove proposed purchaser and lessees of units and to exercise or waive the Association right of first refusal of each proposed sale of a unit in the manner specified in the Declaration. The president or vice president of the Association are and shall be authorized to approve (but not to disapprove) any proposed purchaser or lessee or to waive (but not to exercise) the association right of first refusal and to execute on behalf of the association, appropriate documents to evidence same;
- 6) Acquire, own, hold, operate, lease, encumber, convey, exchange, manage, and otherwise deal and trade with the property real and personal, including units of and in the Condominium, as may be necessary or convenient in the operation and management of the condominium, and in accomplishing the purposes set forth in the Declaration.
- 7) Contract for the management of the condominium and in connection therewith to delegate all of the powers and duties of the Association, except those which may be required by the Declaration to have approval of the Board members of the Association
- 8) Enforce by legal means the provision of the Articles, these bylaws the Declaration and all regulation governing use of the property of and in condominium hereafter adopted.
- 9) Pay off taxes and assessments which are liens against any part of the condominium other than units and appurtenances thereto and to assess the same against the member and their respective units subject to such liens.
- 10) Fidelity bonds. - The association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the association. As used in this section, the term "persons who control or disburse bonds of the association" means those individuals authorized to sign checks and the president, secretary and treasurer of the association. If an

association's annual gross receipts do not exceed \$100,000, the bond shall be in the principal sum of not less than \$10,000 for each such person. If an association's annual gross receipts exceed \$100,000, but not to exceed \$300,000, the bond shall be in the principal sum of \$30,000, for each such person. If an association's annual gross receipt exceeds \$300,000, the bond shall be in the principal sum of \$50,000, for each such person. The association shall bear the cost of the bonding.

11) Pay all cost of power, water, sewer and other utility services rendered to the condominium and not billed to the owners of the separate units.

12) Employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association.

13) No charge shall be made by the association in connection with the sale, mortgage, lease, sublease or other transfer of a unit unless such a fee is adopted by an amendment to these bylaws by the units owners in the manner provided for hereinbelow. If such a fee is adopted, in no event may such fee exceed \$100.00 per applicant other than husband/wife or parent/ dependent child, which are considered one applicant. However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee no charge shall be made. Nothing in this paragraph shall be construed to prohibit the association from requiring as a condition to permitting the letting or renting of unit, when the association has such authority in these bylaws, the depositing into an escrow account maintained by the association a security deposit in an amount not to exceed the equivalent of one month rent. The security deposit shall protect against damages to the common elements or association property. Within 15 days after a tenant vacates the premises, the association shall refund the full security deposit or give written notice to the tenant of any claim made against the security. Disputes under this paragraph shall be handled in the same fashion as disputes concerning security deposit under F.S. 83.49.

J- The first Board of Administration of the Association shall be comprised of the three subscribers to the Articles. Thereupon, subscribers of the Articles who shall serve until their successors are designated by the Developer or elected at the annual meeting of the Board to be held by the Association. Should any member of the first Board be unable to serve for any reason, Developer shall have the right to select and designate a successor to act and serve for the unexpired term of the member who is unable to serve.

K- Members of the Board maybe removed from office in the manner provided by law for the removal of directors of Florida Corporations not for profit.

L- Board of administration meetings.- Meetings of the board of administration and any committee thereof at which a quorum of the members of that committee is present shall be open to all unit owners. Any unit owner may tape record or videotape meetings of the board of administration. The right to attend such meetings include the right to speak at such meetings with reference to all designated agenda items. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt reasonable rules governing the frequency, duration, and manner of unit owner statements.

Adequate notice of all meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the condominium property at least 14 continuous days preceding the meeting except in an emergency. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use, will be proposed, discussed, or approved, shall be mailed or delivered to the unit owners and posted conspicuously on the condominium property not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the secretary and filed among the official records of the association. Upon notice to the unit owners, the board shall by duly adopt rule designate a specific location on the condominium property upon which all notices of the board meeting shall be posted. Notice of any meeting in which regular assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

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Unit owner meetings.-

1. There shall be an annual meeting of the unit owners. Unless the bylaws provide otherwise, a vacancy on the board of administration caused by the expiration of a director's term shall be filled by electing a new board member. If there are no provisions in the bylaws for the terms of the members of the board of administration, the terms of all the members of the board of administration shall expire upon the election of their successors at the annual meeting. Any unit owner desiring to be a candidate for board membership shall comply with subparagraph 3.

2. The bylaws shall provide the method of calling meetings of unit owners, including annual meeting. Written notice, which notice shall incorporate an identification of agenda items, shall be given to each unit owner at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the condominium property at least 14 continuous days preceding the annual meeting. Upon notice to the unit owners, the board shall duly adopt rule designating a specific location on the condominium property upon which all notices of unit owner meetings shall be posted. Unless a unit owner waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be sent by mail to each unit owner. Where a unit is owned by more than one person, the association shall provide notice, for meetings and all other purposes, to that one address which the developer initially identifies for that purpose and thereafter as one or more of the owners of the unit shall so advise the association in writing, or if no address is given or the owners or the owners of the unit do not agree, to the address provided on the deed of the record.

An officer of the association, or the manager or other person providing notice of the association meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered, in accordance with this provision, to each unit owner at the address last furnished to the association.

3. After January 1, 1992, the members board of administration shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the board of administration, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter. Not less than 60 days before a scheduled election, the association shall mail or deliver, whether by separate association mailing or included in another association mailing or delivering including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of the election. The board shall hold a meeting within five (5) days after the deadline for a candidate to provide notice to the association of intent to run. At this meeting, the board shall accept additional nominations. Any unit owner or other eligible person may nominate himself or may nominate another unit owner or eligible person, if he has permission in writing to nominate the other person. Any unit owner or other eligible person desiring to be a candidate for the board of administration must give written notice to the secretary of the association not less than 40 days before a scheduled election. Not less than 30 days before the election, the association shall then mail or deliver a second notice of the election to all unit owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of a candidate the association shall include an information sheet, no larger than 8½ inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing of the ballot, with the cost of mailing and copying to be borne by the association. However the association has no liability of the contents of the information sheet prepared by the candidates. The division shall by rule establish voting procedures consistent with the provisions contained herein, including rules providing for the secrecy of ballots. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the board of administration. No unit owner shall permit any other person to vote his ballot, and any such ballots improperly cast shall be deemed invalid. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. Any unit owner violating this provision may be fined by the association in accordance with s. 718.303. The regular election must occur on the date of the annual meeting. The provisions of this subparagraph shall not apply to time-share condominium associations. Not

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withstanding the provisions of this subparagraph, an election and balloting are not required unless more candidates files notices of intent to run or are nominated than vacancies exist on the board.

4. Any approval by unit owners called for by this chapter or the applicable declaration bylaws, including, but not limited to, the approval requirement in s. 718.111(8), shall be made at a duly noticed meeting of the unit owners and shall be subject to all requirements of this chapter or the applicable condominium documents relating to unit owner decision making, except that unit owners may take action by written agreement without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any statute which provides for such action.

5. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration of any statute.

6. Unit owners shall have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

7. any unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division.

V ADDITIONAL PROVISION - MEETING OF MEMBER AND DIRECTORS

a- The Board shall elect a President, Secretary Treasurer and as many vice president assistant secretaries and assistant treasurers as the Board shall deem advisable from time to time. The president shall be elected from the membership of the Board, but no other officer need be a member of the Board. The same person may hold two offices, the duties of which are not incompatible. The Board may from time to time elect such other officers and designate their powers and duties as the Board may deem necessary properly to manage the affairs of the Association. Officer may be removed from office by the Board.

b- The President shall be the chief executive officer of the Association. He shall have all of the power and duties which are usually vested in the office of President of a corporation not for profit, including but not limited to the power to appoint committees among the members from time to time as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association. He shall have such additional powers as the Board may designate.

c- The Vice president shall in the absence of disability of the President exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other duties as shall be prescribed by the Board.

d- The Secretary shall keep the minutes of all proceeding of the Board and the members. He shall attend to the giving and serving of all notices to the members of the board and such other notices as may be required by law. He shall have custody of the seal of the association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association except those of the Treasurer and shall perform all other duties incident to the office of Secretary of a corporation not for profit and as may be required by the Board and the President. The assistant Secretary shall perform the duties of Secretary when the Secretary is absent.

e- The treasurer shall have custody of all of the property of the Association, including funds securities and evidence of indebtedness. He shall keep the assessment rolls and account of the members; he shall keep the books of the association in accordance with good accounting practices and he shall perform all other duties incident to the office of Treasurer.

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f- The officers shall serve without compensation and at the pleasure of the Board of Administration. This provision shall not preclude the Board from employing a member of the Board as an employee of the Association, nor preclude contracting with a member of the Board for the management of the condominium.

g- Any member of the Board of Administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all the voting interest. A special meeting of the unit owners to recall a member or members of the board of administration may be called by 10% of the voting interest giving notice of the meeting as required for a meeting of unit owners and the notice shall state the purpose of the meeting

(i) If the recall is approved by a majority of all voting interest by a vote at a meeting the recall will be effective immediately, and the recalled member or members of the board of administration shall turn over to the Board any and all records of the association in their possession within 72 hours after the meeting.

(ii) If the proposed recall is by an agreement in writing by a majority of all voting interests the agreement in writing shall be severed on the association by certified mail. The Board of administration shall call a meeting of the Board within 72 hours after receipt of the agreement in writing and shall either certify the written agreement to recall a member or members of the Board, in which case such member or members shall be recalled effective immediately and shall turn over to the Board within 72 hours any and all records of the association in their possession or proceed as described in subparagraph (iii)

(iii) If the board determined not to certify the written agreement to recall a member or members of the board or if the recall by a vote at a meeting is disputed, the board shall within 72 hours, file with the division a petition for Mandatory Nonbinding arbitration pursuant to the procedure in F.S. 718.1255. For the purposes of this section, the unit owners who vote at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certified, the recall as to any member or members of the board, the recall will be effective upon the service of the final order of arbitration upon the association. If the association fails to comply with the order of the arbitrator, the division may take action pursuant to F.S. 718.501. Any member or members so recalled shall deliver to the Board any and all records of the association in their possession within 72 hours of the effective date of the recall.

VI FISCAL MANAGEMENT

The provision for fiscal management of the Association set forth in the Declaration and Articles shall be supplement by the following provision:

A- The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each unit. Such account shall designate the name and mailing address of the owner and mortgagee (if known) of each unit, the amount of each assessment and due date thereof, and all amount paid and the balance due upon such assessment.

B- The Board shall adopt for and in advance of each calendar year a budget showing the estimated cost of performing all of the functions of the Association from the year.

i) The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by account and expenses classifications, including if applicable but not limited to, those expenses listed in F.S. 718.504.(20).

ii) In addition to annual operating expense the budget shall include a reserve account for the capital expenditure and deferred maintenance for may item for which the deferred maintenance expense or replacement cost is greater than \$10,000.00 these accounts all include but not limited to roof, replacement, building painting and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost or deferred maintenance expenses of each reserve item.

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deferred maintenance expense or replacement cost is greater than \$10,000.00 these accounts all include but not limited to roof, replacement, building painting and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost or deferred maintenance expenses of each reserve item.

Unless changed by the Board the fiscal year of the Association shall be the calendar year. If any budget is subsequently amended, a copy shall be furnished to each effected member. Delivery of a copy of any budget or amended budget to a member shall not effect the liability of any member for any such budget or amended budget be considered as a condition precedent to effectiveness of the budget and assessments levied pursuant thereto. Nothing herein contained shall be construed as a limitation upon the additional assessment in the event that any budget originally adopted shall appear to be insufficient to pay cost and expenses or operation and management or in the event of emergencies.

C- A copy of the proposed annual budget of the association shall be mailed to the units owners not less than thirty days prior to the meeting of the board at which the budget will be considered, together with a Notice of the time and place of that meeting. Such meeting of the Board shall be open to unit owners. If a budget is adopted by the Board which requires assessment of the unit owners in any budget year exceeding 115% such assessment of the preceding budget year, upon written application of ten per cent of the unit owners, a special meeting of the units owners shall be held upon not less than ten days written notice to each unit owner but within thirty days of the delivery of such application of the Board or any member thereof, at which special meeting unit owners may consider only and enact only a revision of the budget or recall any and all members of the Board and elect their successor. Any such revision of the budget or recall of any and all member of the board shall require a vote of not less than two third of the whole number of votes of all unit owners. The Board may in any event first propose a budget to the unit owner either at such meeting or by writing such budget shall not thereafter be reexamined by the unit owners in the manner herein able set forth not shall any and all members of the Board be recalled under the terms hereof.

D- In determining whether assessment exceed 115% of similar assessments in the prior budget year, there shall be excluded in the computation for reasonable reserves made by the Board in respect of repair and replacement of condominium property; provided however that so long as Developer is in control of the Board, the Board shall not impose an assessment for a budget year's assessment greater than 115% of the prior budget year's assessment without the approval of a majority of the votes of all unit owners.

E- Upon adoption of budgets, the Board shall cause a written copy thereof to be delivered to each unit owner showing the Assessments established by the Board and in accordance with terms of the Declaration and the Articles. Assessments shall be made against units not less frequently than quarterly in an amount which is not less than that required to provide funds in advance for payments of all of the anticipated current operating expenses and for all of the unpaid operating expenses and for all of the unpaid operating expenses previously incurred. Provided however, that the lien of lien rights of the Association shall not be impaired by failure to comply with procedures established pursuant to these bylaws.

F- The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board, in which all monies of the Association shall be deposited. Withdrawals of monies from such bank shall be only be checks signed by such persons as are designated by the Board.

G- A summary of the accounts of the Association shall be prepared annually and a copy of the report shall be furnished to each member not later that April first of the year following the year for which the report is made.

H- (b) Fidelity bonds. - The association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the association. As used in this section, the term "persons who control or disburse bonds of the association" means those individuals authorized to sign checks and the president, secretary and treasurer of the

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association. If an association's annual gross receipts do not exceed \$100,000, the bond shall be in the principal sum of not less than \$10,000 for each such person. If an association's annual gross receipts exceed \$100,000, but not to exceed \$300,000, the bond shall be in the principal sum of \$30,000, for each such person. If an association's annual gross receipt exceeds \$300,000, the bond shall be in the principal sum of \$50,000, for each such person. The association shall bear the cost of the bonding.

I. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 718.504(20). In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached thereto shall show amounts budgeted therefor.

J. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to budgets in which the level of assessments has been guaranteed prior to October 1, 1979, provided that the absence of reserves is disclosed to purchasers, or to budgets in which the members of an association have, by a vote of the majority of the members present at a duly called meeting of the association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a developer, the developer may vote to waive the reserves for the first two years of the operation of the association, after which time reserves may only be waived or reduced upon the vote of a majority of nondeveloper voting interests present at a duly called meeting of the association. If a meeting of the unit owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect.

K. Reserve funds and any interest accruing thereon shall remain in the reserve account for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the voting interest present at a duly called meeting of the association.

VIII PARLIAMENTARY RULES

Robert Rules of Order shall govern the conduct of the corporate proceeding when not in conflict with the Articles, these ByLaws or the Laws of the State of Florida.

IX AMENDMENT TO BYLAWS

Amendments to these By Laws shall be proposes and adopted to the following manner:

a- Amendments to these Bylaws may be proposed by the Board, acting upon vote of a majority of the member or members of the association owning a majority of the units in the condominium whether meeting as member or by instruments in writing signed by them.

b- Upon any amendment or amendments to these Bylaws being proposed by the Board of member of the Association, such proposed amendment shall be transmitted to the president of the Association or acting chief executive officer in the absence of the President, who

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and voted upon at annual meeting of the members.

c- In order for such amendment to become effective, the same must be approved by an affirmative vote of the owners of units to which not less than seventy five per cent of the common elements are appurtenant and a copy of such amendment to these bylaws shall be transcribed, certified by President and Secretary of the Association and a copy thereof shall be incorporated into and Amendment of the Declaration and recorded in the Public Records of Dade County, Florida within thirty days from the date of which amendment have been affirmatively approved by the members.

d- At any meeting held to consider such amendment to these bylaws the written vote of any member shall be recognized if such member is not present at such meeting in person or by proxy provided such written vote is delivered to the Secretary at or prior to the meeting.

e- No amendment to the Bylaws is valid unless recorded with identification on the first page thereof of the book and page of the public records where the Declaration of each condominium operated by the association is recorded.

f- Notwithstanding the foregoing provision of this Articles IX no amendment to these bylaws which shall abridge, amend or alter the right of the Developer to designate members of each Board of Administration as provided in these bylaws may be adopted or become effective without the written consent of the Developer.

IX MANDATORY NONBINDING ARBITRATION OF DISPUTES

The division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of business Regulation shall employ full-time arbitrators to conduct the arbitration hearings provided by this chapter. No person may be employed by the department as a full-time arbitrator unless he is a member in good standing of The Florida Bar. The department shall promulgate rules of procedure to govern such arbitration hearings. The decision of an arbitrator shall be final; however, such a decision shall not be deemed final agency action. Nothing in this provision shall be constructed to foreclose parties from proceeding in a trial de novo. If such judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence.

(a) Prior to the institution of court litigation, the parties to a dispute shall petition the division for mandatory nonbinding arbitration which shall not toll the applicable statute of limitations.

(b) At the request of any party to the arbitration, such arbitration shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by the law.

(c) The arbitration decision shall be presented to the parties in writing. An arbitration decision shall be final if a complaint for a trial de novo is not filed in a court of competent jurisdiction within 30 days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party may be awarded reasonable attorney's fees.

(d) The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorney's fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgement upon the trial de novo is not more favorable than the arbitration decision. If the judgement is more favorable, the party who filed the complaint for trial de novo shall be awarded reasonable court costs and attorney's fees.

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(e) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in the circuit court for the circuit in which the arbitration took place. A petition may not be granted unless the time for appeal by the filing of a complaint for trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed.

X CERTIFICATE OF COMPLIANCE

A certificate of compliance from a licensed electrical contractor or electrician may be accepted by the association's board as evidence of compliance of the Condominium units to the Condominium Fire and Life Safety Code. 718.112 Bylaws

XI ASSESSMENTS

The manner of collecting from the unit owners their shares of the common expenses shall be stated in the bylaws. Assessments shall be made against units not less frequently than quarterly in an amount which is not less than that required to provide funds in advance for payment of all of the anticipated current operating expenses and for the all of the unpaid operating expenses previously incurred. Nothing in this paragraph shall preclude the right of an association to accelerate assessments of an owner delinquent in payment of common expenses. Accelerated assessments shall be due and payable on the date the claim of lien is filed. Such accelerated assessments shall include the amounts due for the remainder of the budget year in which the claim of lien was filed.

Assessments; liability; lien and priority; interest; collection

(1)(a) Lien for Assessment: A unit owner, regardless of how his title has been acquired, including a purchaser at a judicial sale, is liable for all assessments which come due while he is the unit owner. The grantee is jointly and severally liable with the grantor for all unpaid assessments against the grantor for his share of the common expenses up to the time of transfer of title without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. A first mortgagee who acquires title to the unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the deed. However, the mortgagee's liability is limited to a period not exceeding six months, but in no event does the first mortgagee's liability exceed one percent (1%) of the original mortgage debt. The first mortgagee's liability for such expenses or assessments does not commence until thirty days after the date the first mortgagee received last payment of principal or interest. In no event shall the mortgagee be liable for more than 6 months of the unit's unpaid common expenses or assessments accrued before the acquisition of the title to the unit by the mortgagee or one percent of the original mortgage debt, whichever amount is less.

(2) The liability for assessments may not be avoided by waiver of the use or enjoyment of any common element or by abandonment of the unit for which the assessments are made.

(3) Assessments and installments on them which are not paid when due bear interest at the rate provided in the declaration, from the due date until paid. This rate may not exceed the rate allowed by law, and, if no rate is provided in the declaration, interest shall accrue at the rate of 18 percent per year. Also, if the declaration or bylaws so provide, the association may charge an administrative late fee in addition to such interest, in an amount not to exceed the greater of \$25 or 5 percent of each installment of the assessment for each delinquent installment that the payment is late.

Any payment received by an association shall be applied first to any interest accrued by the association received by an association shall be applied first to any interest accrued by the association, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessments. The foregoing shall be applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or

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accompanying a payment. A late fee shall not be subject to the provisions in chapter 687 or s. 718.303(3).

The association has a lien on each condominium parcel for any unpaid assessments with interest and for reasonable attorney's fees incurred by the association which are incident to the collection of the assessments or enforcement of lien. Except as set forth below, the lien is effective from and shall relate back to April 1, 1992, or the recording of the original declaration of condominium, whichever shall last occur. In the case of lien on a parcel located in a phase condominium created pursuant to s. 718.403, the lien is effective from and shall relate back to April 1, 1992, or the recording of the declaration or amendment thereto creating the parcel, whichever shall last occur. However, as to first mortgages of record, the lien is effective from and after recording of a claim of lien. The lien shall be recorded in the public records in the county in which the condominium parcel is located which states the description of the condominium parcel, the name of the record owner, the amount due, and the due dates. No such lien shall continue for a longer period than 1 year after the claim of lien has been recorded unless, within that time, an action to enforce the lien is commenced in a court of competent jurisdiction. The claim of lien shall secure all unpaid assessments, interest, costs, and attorney's fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgement of foreclosure. A claim of lien must be signed and acknowledged by an officer or agent of the association. Upon payment, the person making the payment is entitled to a satisfaction of the lien.

The association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgement for the unpaid assessments without waiving any claim of lien. The association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgement for unpaid assessments.

No foreclosure judgements may be entered until at least 30 days after the association gives written notice to the unit owner of its intention to foreclose a lien to collect the unpaid assessments. If this notice is not given at least 30 days before the foreclosure action is filed, and if the unpaid assessments, including those due after the claim of lien is recorded, are paid before the entry of a final judgement of foreclosure, the association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the unit owner or by certified or registered mail, return receipt requested, address to the unit owner at his last known address; and, upon such mailing, the notice shall be deemed to have been given, and the court shall proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the unit owner records a Notice of Contest of Lien as provided in subsection (5). The notice requirements of this subsection do not apply if an action to foreclose a mortgage on the condominium unit is pending before any court; if the rights of any association would be affected by such foreclosure; and if actual, constructive, or substitute service of process has been made on the unit owner.

If the unit owner remains in possession of the unit after a foreclosure judgement has been entered, the court, in its discretion, may require the unit owner to pay a reasonable rental for the unit. If the unit is rented or leased during the pendency of the foreclosure action, the association is entitled to the appointment of a receiver to collect the rent. The expenses of the receiver shall be paid by the party that does not prevail in the foreclosure action.

The association has the power to purchase the condominium parcel at the foreclosure sale and to hold, lease, mortgage, or convey it.

A first mortgage acquiring title to a condominium parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not, during the period of ownership of such parcel, whether or not such parcel is unoccupied, be excused from payment of some or all of the common expenses coming due during the period of such ownership.

Within 15 days after a request therefore by unit owner or unit mortgagee, the association shall provide a certificate stating all assessments and other moneys owed to the

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association by the unit owner with respect to the condominium parcel. Any person other than the owner who relies upon such certificate shall be protected thereby.

The specific purpose or purposes of any special assessments approved in accordance with the condominium documents shall be set forth in a written notice of such assessments sent or delivered to each unit owner. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered common surplus, and may, at the discretion of the board, either be returned to the unit owners or applied as a credit toward future assessments.

XII Transfer of association control

(1) When unit owners other than the developer own 15 percent or more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the developer shall be entitled to elect no less than one-third of the members of the board of administration of the association. Unit owners other than the developer are entitled to elect not less than a majority of the members of the board of administration of an association:

(a) Three years after 50 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(b) Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(c) 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 by sale by the developer in the ordinary course of business;

(d) 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; or

(e) Seven years after recordation of the declaration of condominium; or, in the case of an association which may ultimately operate more than one condominium, 7 years after recordation of the declaration for the first condominium it operates; or, in the case of an association operating a phase condominium created pursuant to s. 718.403, 7 years after recordation of the declaration creating the initial phase, whichever occurs first. The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, and 2 percent, in condominiums with more than 500 units, of the units in a condominium operated by the association. Following the time the developer relinquishes control of the association, the developer may exercise the right to vote any developer-owned units in the same manner as any other unit owner except for purposes of reacquiring control of the association or selecting the majority members of the board of administration.

(2) At the time unit owners other than the developer elect a majority of the members of the board of administration of an association, the developer shall relinquish control of the association, and the unit owners shall accept control. Simultaneously, or for the purposes of paragraph (c) not more than 90 days thereafter, the developer shall deliver to the association, at the developer's expense, all property of the unit owners and of the association which is held or controlled by the developer, including, but not limited to, the following terms, if applicable, as to each condominium operated by the association:

(a) 1. The original or photocopy of the recorded declaration of condominium and all amendments thereto. If a photocopy is provided, it shall be certified by affidavit of the developer or an officer or agent of the developer as being a complete copy of the actual recorded declaration.

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2. A certified copy of the articles of incorporation of the association or, if the association was created prior to the effective date of this act and it is not incorporated, copies of the document creating the association.

3. A copy of the bylaws.

4. The minute books, including all minutes, and other books and records of the association, if any.

5. Any house rules and regulations which have been promulgated.

(b) Resignations of officers and members of the board of administration who are required to resign because the developer is required to relinquish control of the association.

(c) The financial records, including financial statements of the association through the date of the turnover. The records shall be audited for the period from the incorporation of the association or from the period covered by the last audit, if applicable, by an independent certified public accountant. All financial statements shall be prepared in accordance with generally accepted auditing standards, as prescribed by the Florida Board of Accountancy, pursuant to chapter 473. The accountant performing the audit shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for association purposes and the billings, cash, receipts, and related records to determine that the developer was charged and paid the proper amounts of assessments.

(d) Association funds or control thereof.

(e) All tangible personal property that is property of the association, which is represented by the developer to be part of the common elements or which is ostensibly part of the common elements, and an inventory of that property.

(f) A copy of the plans and specifications utilized in the construction or remodeling of improvements and the supplying of equipment to the condominium and in the construction and installation of all mechanical components serving the improvements and the site with a certificate in affidavit form of the developer or his agent or an architect or engineer authorized to practice in this state that such plans and specifications represent to the best of his knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the condominium property and for the construction and installation of the mechanical components serving the improvements. If the condominium property has been declared a condominium more than 3 years after the completion of construction or remodeling of the improvements, the requirements of this paragraph do not apply.

(g) A list in the names and addresses, of which the developer had knowledge at any time in the development of the condominium, of all contractors, subcontractors, and suppliers utilized in the construction or remodeling of the improvements and in the landscaping of the condominium or association property.

(h) Insurance policies.

(i) Copies of any certificates of occupancy which may have been issued for the condominium property.

(j) Any other permits applicable to the condominium property which have been issued by governmental bodies and are in force or were issued within 1 year prior to the date the unit owners other than the developer take control of the association.

(k) All written warranties of the contractor, subcontractor, suppliers, and manufactures, if any, that are still effective.

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(l) A roster of unit owners and their addresses and telephone numbers, if known, as shown on the developer's records.

(m) Leases of the common elements and other leases to which the association is a party.

(n) Employment contracts or service contracts in which the association is one of the contracting parties or service contracts in which the association or unit owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service.

(o) All other contracts to which the association is a party.

XIII MISCELLANEOUS

(a) **Transfer fees:** No charge shall be made by the association or any body thereof in connection with the sale, mortgage, lease, sublease, or other transfer of a unit unless the association is required to approve such transfer and a fee for such approval is provided for in the declaration, articles, or bylaws. Any such fee may be preset, but in no event may such a fee exceed \$100 per applicant other than husband/wife or parent/dependent child, which are considered one applicant. However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, no charge shall be made. The foregoing notwithstanding, an association may, if the authority to do so appears in the declaration or bylaws, require that a prospective lessee place a security deposit, in an amount not to exceed the equivalent of 1 month's rent, into an escrow account maintained by the association. The security deposit shall protect against damages to the common elements or association property. Payment of interest, claims against the deposit, refunds, and disputes under this paragraph shall be handled in the same fashion as provided in part II of chapter 83.

(b) **Fidelity bonds:** The association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the association. As used in this section, the term "persons who control or disburse bonds of the association" means those individuals authorized to sign checks and the president, secretary and treasurer of the association. If an association's annual gross receipts do not exceed \$100,000, the bond shall be in the principal sum of not less than \$10,000 for each such person. If an association's annual gross receipts exceed \$100,000, but not to exceed \$300,000, the bond shall be in the principal sum of \$30,000, for each such person. If an association's annual gross receipt exceeds \$300,000, the bond shall be in the principal sum of \$50,000, for each such person. The association shall bear the cost of the bonding.

(c) The following is the procedure for a hearing for all unit owners before the association may levy a fine against an owner of a unit or it's occupant, licensee or invitee for failure to abide by any provision of the Declaration, the association bylaws or rules of the association the association must allow the following:

(a) The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days and said notice shall include:

- 1) A statement of the date, time and place of hearing;
- 2) A statement of the provision of the declaration, association, bylaws or association rules which have allegedly been violated; and
- 3) A short and plain statement of the matters asserted by the association.

b) The party against whom the fine may be levied shall have an opportunity to respond to evidence and to provide written and oral argument on all issues involved and shall have an opportunity to at the hearing to review,

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challenge and respond to any material considered by the association.

(d) Interest charges for nonpayment of assessment are not a late fee, fine or other penalty where such charges are calculated over the actual period of deficiency.

(e) Assessment shall be utilized by the association only for common expenses as such expenses are defined in Section 718.115(1) Florida Statutes. Assessments specifically including any accelerated payment of common expenses levied by the association against a unit for nonpayment or late payment of assessments for common expenses, shall be levied against a unit not less frequently than quarterly.

(f) The cost of a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract shall be deemed a common expense.

(g) In the event of a unit owner defaults in the payment of assessments, the association's remedies as provided in the condominium documents shall be restricted to those remedies provided by Chapter 718 Florida Statutes, the Condominium Act.

RECORDED IN OFFICIAL RECORDS BOOK
OF DADE COUNTY, FLORIDA
RECORD VERIFIED
HARVEY RUVIN,
Clerk of Circuit & County
Courts

CLERK NOTE:

FOR CONDOMINIUM PLANS SEE OFFICIAL
RECORDS CONDOMINIUM PLANS BK. 261 PAGE 11

HARVEY RUVIN, CL'RK.
CIRCUIT & COUNTY COURTS

BY *Dwight Hardy* D. C.

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