

DECLARATION OF CONDOMINIUM

OF

WEYBRIDGE, a Condominium

REC 205
 FRM 205
 DCC _____
 INT _____
 IND _____

MADE this 7th day of November, 1990, by ISLAND VENTURES, L. C., a Florida limited company, hereinafter called the "Developer", for itself and its successors, grantees and assigns.

WHEREIN the Developer makes the following declarations:

1. THE LAND. The Developer owns or has a contractual interest in certain real property located in Collier County, Florida, as more particularly described on Page A-1 of Exhibit "A" (hereinafter the "Land"). Developer acquired fee simple title to a portion of the Land through Trustee's Deed executed January 29, 1990, and recorded in Official Record Book 1501, Page 715, of the Public Records of Collier County, Florida.

2. SUBMISSION STATEMENT. The Developer hereby submits only those portions of the Land described on Exhibit "A" as Phase I, and appurtenances belonging thereto, and all other property, real, personal or mixed, located on and intended for use in connection therewith, to the condominium form of ownership and use in the manner provided by the Florida Condominium Act, as it exists on the date of recording this Declaration; excluding therefrom, however, all public utility installations, cable television lines, and other similar equipment, if any, owned by the utility furnishing services to the Condominium.

2.1 Covenants Run with Land. The covenants and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future owners of condominium parcels. The acquisition of title to a unit, or any interest in the condominium property, or the lease, occupancy, or use of any portion of the condominium property shall constitute an acceptance and ratification of all provisions of this Declaration as it shall be amended from time to time, and an agreement to be bound by its terms. The provisions of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan of condominium ownership.

3. NAME. The name by which this Condominium shall be identified is "WEYBRIDGE, a Condominium" (the "Condominium"), and its address is 1500 Imperial Golf Course Boulevard, Naples, Florida 33942.

4. DEFINITIONS: The terms used in this Declaration and its exhibits shall have the meanings stated below and in Chapter 718, Florida Statutes, unless the context otherwise requires.

4.1 "Apartment" has the same meaning as the term "unit" as defined in the Condominium Act.

4.2 "Apartment Owner", "Unit Owner" or "Owner" means any person who owns a record fee simple interest in a unit in this Condominium.

4.3 "Assessment" means a share of the funds required for the payment of common expenses which from time to time is assessed against the units.

4.4 "Association" means WEYBRIDGE CONDOMINIUM ASSOCIATION OF NAPLES, INC., a Florida corporation not for profit, the entity responsible for the operation of this Condominium.

4.5 "Association Property" means all property, real or personal, owned or leased by the Association for the use and benefit of the unit owners.

4.6 "Board of Directors" or "Board" means the representative body which is responsible for the administration of the Association's affairs, and is the same body referred to in the Condominium Act as the "Board of Administration".

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4.7 "Condominium Documents" means and includes this Declaration and all recorded exhibits hereto, as amended from time to time.

4.8 "Family" or "Single Family" shall refer to any one of the following:

(A) One natural person.

(B) Two or more natural persons, each of whom is related by blood, marriage or adoption to each of the others.

(C) Two or more natural persons meeting the requirements of (B) above, except that there is among them one person who is not related to some or all of the others.

4.9 "Fixtures" means those items of tangible personal property which by being physically annexed or constructively affixed to the unit have become accessory to it and part and parcel of it, including but not limited to, interior partitions, walls, appliances which have been built in or permanently affixed, and plumbing fixtures in kitchens and bathrooms. Fixtures do not include floor, ceiling or wall coverings.

4.10 "Guest" means any person (other than the unit owner or his family) who is physically present in, or occupies an apartment on a temporary basis at the invitation of the apartment owner or other legally permitted occupant, without the payment of consideration.

4.11 "Institutional Mortgagee" means the mortgagee (or its assignee) of a first mortgage against a condominium parcel, which mortgagee is a bank, savings and loan association, private mortgage company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a first mortgage against a condominium parcel, which mortgage is guaranteed or insured, as evidenced by a recorded instrument, by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private corporation engaged in the business of guaranteeing or insuring residential first mortgage loans, and their successors and assigns.

4.12 "Lease" means the grant by a unit owner of a temporary right of use of the owner's unit for valuable consideration.

4.13 "Limited Common Elements" means and includes those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

4.14 "Occupant" or "Occupy", when used in connection with a unit, means any person who is physically present in a unit on two or more consecutive days, including staying overnight.

4.15 "Primary Institutional Mortgagee" means that institutional mortgagee which, at the time a determination is made, holds more first mortgages on units in the Condominium than any other institutional mortgagee, such determination to be made by reference to the number of units encumbered, and not by the dollar amount of such mortgages.

4.16 "Recreation Area" or "Amenities Parcel" means the area described on Page B-2 of Exhibit "B".

4.17 "Recreation Association" means and refers to The Island Association of Naples, Inc.

4.18 "Rules and Regulations" means the rules and regulations promulgated by the Board of Directors concerning the use of the common elements and the operation of the Association.

5. DESCRIPTION OF IMPROVEMENTS: SURVEY AND PLANS:

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5.1 Survey and Plot Plans. Attached to this Declaration as part of Exhibit "B" and incorporated by reference herein, are surveys of the Land being submitted to condominium ownership, and plot plans which graphically describe the improvements in which units are located, and which show all the units, including their identification numbers, locations and approximate dimensions and the common elements and limited common elements. Together with this Declaration, the exhibit is in sufficient detail to identify each unit, the common elements and limited common elements, and their relative locations and dimensions.

5.2 Unit Boundaries. Each unit shall include that part of the building that lies within the following boundaries:

- (A) Upper and Lower Boundaries. The upper and lower boundaries of the unit shall be the following boundaries and as illustrated in Exhibit "B", extended to their planar intersections with the perimeter boundaries:
 - (1) Upper Boundaries. The horizontal plane of the unfinished lower surface of the ceiling of the unit.
 - (2) Lower Boundaries. The horizontal plane of the unfinished upper surface of the concrete floor of the unit.
- (B) Perimeter Boundaries. The perimeter boundaries of the unit shall be the vertical planes of the unfinished exterior surfaces of the walls bounding the unit as shown in Exhibit "B" hereto, extended to their planar intersections with each other and with the upper and lower boundaries.
- (C) Interior Walls. No part of the non-structural interior partition walls within an apartment shall be considered part of the boundary of a unit.
- (D) Apertures. Where there are apertures in any boundary, including, but not limited to, windows and doors, the perimeter boundaries shall extend to the interior unfinished surfaces of such apertures, and their frameworks thereof. Exterior surfaces made of glass or other transparent material and all framings, casings and hardware therefor, shall be excluded from the unit.

In cases not specifically covered in this Section 5.2, or in any case of conflict or ambiguity, the graphic depictions of the unit boundaries set forth in Exhibit "B" hereto shall control in determining the boundaries of a unit, except the provisions of 5.2(D) above shall control over Exhibit "B".

6. CONDOMINIUM PARCELS, APPURTENANCES AND USE:

6.1 Unit Identification. The identification of each unit shall be by number, as indicated in Exhibit "B".

6.2 Appurtenances to Each Unit: Shares of Ownership. The owner of each unit shall have certain rights and own a certain interest in the condominium property, including without limitation the following:

- (A) An undivided ownership share in the Land and other common elements and the common surplus, as follows: Each unit owner shall own a one thirty-fifth (1/35th) interest in and to the common elements and common surplus. Provided, however, that when and if Phase II and III are added, each unit owner's proportional share of ownership in the common elements (including the common elements comprising Phase II and Phase III and common surplus shall be one forty-third (1/43rd) after adding Phase II, and one fifty-third (1/53rd) after adding Phase III.
- (B) Membership and voting rights in the Association, which shall be acquired and exercised as provided in the Articles of Incorporation and Bylaws of the Association, attached hereto as Exhibits "C" and "D" respectively.

- (C) The exclusive right to use the limited common elements reserved for the unit, and the right to use the common elements.
- (D) An exclusive easement for the use of the airspace occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.
- (E) The non-exclusive right to use the property and facilities comprising a portion of the common elements of The Island Condominium.
- (F) The non-exclusive right to use Imperial Golf Course Boulevard from U.S. Highway 41 to the entrance of the Imperial Golf Club to gain access to the Condominium.
- (G) Other appurtenances as may be provided by law or by this Declaration and its exhibits.

Each unit, together with its appurtenances, constitutes a "condominium parcel".

6.3 Use and Possession. A unit owner is entitled to exclusive use and possession of his unit. He is entitled to use the common elements and Association property in accordance with the purposes for which they are intended, but no use may unreasonably interfere with the rights of other unit owners or other persons having rights to use the condominium property. No unit may be divided nor may any fractional portion of a unit be sold, leased or otherwise transferred. The use of the units, common elements and limited common elements shall be governed by the condominium documents and by rules and regulations adopted by the Association through its Board of Directors, as set forth in the Bylaws.

7. COMMON ELEMENTS: EASEMENTS

7.1 Definition. The term "common elements" means all portions of the condominium property not included within the units, and includes without limitation the following:

- (A) All portions of the Land which have been submitted to condominium ownership by this Declaration or an amendment hereto.
- (B) All portions of the buildings and other improvements not included within the units, including limited common elements.
- (C) Easements through units for conduits, ducts, plumbing, wiring, and other facilities for furnishing utility services to units and the common elements.
- (D) An easement of support in every portion of the Condominium which contributes to the support of a building.
- (E) The property and installations required for furnishing utilities and other services to more than one unit or to the common elements.

7.2 Easements. Each of the following easements and easement rights is reserved through the condominium property and is a covenant running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Condominium. None of the easements specified in this section may be encumbered by any leasehold or lien other than those on the condominium parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of unit owners with respect to such easements.

- (A) **Utility and other Easements.** The Association has the power, without the joinder of any unit owner, to grant easements such as electric, gas, cable television, or other utility or service easements, or relocate any existing easements, in any portion of the common elements, and to

grant access easements or relocate any existing access easements in any portion of the common elements, as the Association shall deem necessary or desirable for the proper operation and maintenance of the Condominium. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the units. The Association may also transfer title to utility-related equipment, facilities or material, and to take any other action to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred.

- (B) Encroachments. If any unit encroaches upon any of the common elements or upon any other unit for any reason other than the intentional act of the unit owner, or if any common element encroaches upon any unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.
- (C) Ingress and Egress. A non-exclusive easement shall exist in favor of each unit owner and occupant including future owners in Phase II and Phase III, if added to this Condominium, their respective guests and invitees for pedestrian traffic over, through, and across sidewalks, streets, paths. A non-exclusive easement shall exist in favor of each unit owner and occupant including future owners in Phase II and Phase III, if added to this Condominium, their respective guests and invitees for vehicular and pedestrian traffic over, through, and across such portions of the common elements as from time to time may be paved and used for purposes of ingress and egress to the public ways.
- (D) Construction; Maintenance. The Developer (including its designees and contractors) shall have the right to enter the condominium property and take any action reasonably necessary or convenient for the purpose of completing the construction thereof including the construction of Phases II and III, or any part thereof, or any improvements located thereon, provided such activity does not prevent or unreasonably interfere with the use or enjoyment by the unit owners of the condominium property.
- (E) Sales Activity. For as long as it holds any unit for sale in the ordinary course of business in Phase I, II or III, the Developer and its designees shall have the right to use, without charge, any units owned by it, and the common elements and Association property in order to establish modify, maintain and utilize, as it and they deem appropriate, model apartments and sales and other offices. Without limiting the generality of the foregoing, the Developer and its designees may show model apartments on the common elements to prospective purchasers or tenants, erect on the condominium property signs and other promotional material to advertise units for sale or lease, and take all other action helpful for sales and promotion of the Condominium.
- (F) The easements and rights described in (D) and (E) above shall terminate upon the sale of all units in the Condominium to purchasers other than a successor Developer.

7.3 Restraint Upon Separation and Partition. The undivided share of ownership in the common elements and common surplus appurtenant to a unit cannot be conveyed or encumbered separately from the unit and shall pass with the title to the unit, whether or not separately described. No action shall lie for partition of the common elements. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to the units.

8. LIMITED COMMON ELEMENTS:

8.1 Description of Limited Common Elements. Certain common elements have been designated as limited common elements, reserved for the use of a particular unit or units, to the exclusion of the other units. The limited common elements and the units to which their use has been designated are as described in this Declaration and as further identified on the attached survey and plot plan.

- (A) Air Conditioning and Heating Equipment. All equipment, fixtures and installations located outside of a unit, which furnish air conditioning or heating exclusively to that unit, shall be limited common elements, and shall be maintained, repaired and replaced solely at the expense of the owner of the unit.
- (B) Patios. The airspace comprising the screened patio (sometimes referred to as a "lanai") attached to and serving exclusively each unit, shall be a limited common element. The unit owner shall be responsible for day-to-day cleaning and care and replacement of screens. All exterior painting shall be the responsibility of the Association and shall be a common expense. No porch may be carpeted, covered or enclosed in any way other than as it is enclosed or covered upon the initial purchase from the Developer, nor may storm shutters of any kind be installed, without the prior written approval of the Board of Directors. The maintenance, repair or replacement and insurance of such approved carpeting, covering, shutters or enclosure shall be the responsibility of the unit owner.
- (C) Driveways. The driveway attached to and serving exclusively each unit shall be a limited common element. Maintenance of such driveways shall be a common expense.
- (D) Others. Any part of the common elements connected to or exclusively serving a single unit, and specifically required in Section 11 of this Declaration to be maintained, repaired or replaced by or at the expense of the unit owner, shall be deemed a limited common element appurtenant to that unit, whether specifically described above or not. This paragraph includes windows, screens and doors, including all hardware and framings therefor.

8.2 Exclusive Use. The exclusive use of a limited common element is appurtenant to the unit or units to which it is designated or assigned. The right to such use passes with the unit, whether or not separately described, and cannot be separated from it.

9. ASSOCIATION: The operation of the Condominium is by WEYBRIDGE CONDOMINIUM ASSOCIATION OF NAPLES, INC., a Florida corporation not for profit, which shall perform its function pursuant to the following:

9.1 Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached as Exhibit "C".

9.2 Bylaws. The Bylaws of the Association shall be the Bylaws attached as Exhibit "D", as they shall be amended from time to time.

9.3 Delegation of Management. The Association may contract for the management and maintenance of the Condominium property and authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, keeping of records, enforcement of rules and maintenance, repair and replacement of the common elements and Association property with funds made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties provided in the Condominium Act.

9.4 Membership. The membership of the Association shall be comprised of owners of the units, as further provided in the Bylaws.

9.5 Acts of the Association. Unless the approval or affirmative vote of the unit owners is specifically made necessary by some provision of the Condominium Act or the condominium documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the unit owners. The officers and Directors of the Association have a fiduciary relationship to the unit owners.

A unit owner does not have the authority to act for the Association by reason of being a unit owner.

9.6 Powers and Duties. The powers and duties of the Association include those set forth in the Condominium Act and the condominium documents. The Association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the condominium property and Association property. The Association has the power to enter into agreements to acquire leaseholds, memberships and other possessory or use interests in lands or facilities contiguous to the lands of the Condominium, for the use and enjoyment of the unit owners.

9.7 Official Records. The Association shall maintain its Official Records as required by law. The records shall be open to inspection by members or their authorized representatives at all reasonable times. The right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the member seeking copies.

9.8 Roster. The Association shall maintain a current roster of names and mailing addresses of unit owners. A copy of the roster shall be made available to any member upon request.

9.9 Purchase of Units. The Association has the power to purchase units in the Condominium and to acquire and hold, lease, mortgage, and convey them, such power to be exercised by the Board of Directors.

9.10 Disposition of Property. Any property owned by the Association, whether real, personal or mixed, may be mortgaged, sold, or otherwise encumbered or disposed of by the affirmative vote of the Board of Directors, without need for authorization by the unit owners.

10. ASSESSMENTS AND LIENS. The Association has the power to levy and collect assessments against each unit and unit owner in order to provide the necessary funds for proper operation and management of the Condominium and for the operation of the Association. The power of the Association to levy and collect assessments includes regular assessments for each unit's share of the common expenses as set forth in the annual budget, and special assessments for unusual, non-recurring or unbudgeted common expenses. The Association may also levy special charges against any individual unit for any amounts other than common expenses which are properly chargeable against such unit under this Declaration or the Association's Bylaws. Assessments shall be levied and payment enforced as provided in Section 6 of the Bylaws and as follows:

10.1 Common Expenses. Common expenses include all expenses of the operation, maintenance, repair or replacement of the common elements and association property as well as assessments levied by the Recreation Association against this Condominium, if any, the expenses of operating the Association, and any other expenses properly incurred by the Association for the Condominium, including any amounts budgeted for the purpose of funding reserve accounts.

10.2 Share of Common Expenses. The common expenses of the Condominium shall be shared by the unit owners in the same proportion as they share ownership of the common elements, as set forth in Section 6.2 above.

10.3 Ownership. Assessments collected by or on behalf of the Association become the property of the Association; no unit owner has the right to claim, assign or transfer any interest therein except as an apurtenance to his unit. No owner has the right to withdraw or receive distribution of his share of the common surplus, except as otherwise provided herein or by law.

10.4 Who is Liable for Assessments. The owner of each unit, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the owner. Multiple owners are jointly and severally liable. Except as provided in Section 20.3 below, whenever title to a condominium parcel is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments against the

transferee may have to recover from the transferee any amounts paid by the transferee. PAGE

10.5 No Waiver or Excuse from Payment. The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any common elements or Association property, by abandonment of the unit for which the assessments are made, or by interruption in the availability of the unit or the common elements for any reason whatsoever. No unit owner may be excused from payment of his share of the common expenses unless all unit owners are likewise proportionately excused from payment, except as provided below as to the Developer and certain mortgagees.

10.6 Application of Payments; Failure to Pay; Interest. Assessments and installments thereon paid on or before ten (10) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, calculated from the date due until paid. Assessments and installments thereon shall become due, and the unit owner shall become liable for said assessments or installments, on the date established in the Bylaws or otherwise set by the Board of Directors for payment. All payments on account shall be applied to interest, delinquencies, costs and attorney's fees, other charges, and regular or special assessments, in such manner and amounts as the Board of Directors may determine. The Association may refuse to accept a partial payment which bears a restrictive endorsement and such will be the equivalent of no payment. No payment by check is deemed received until the check has cleared.

10.7 Acceleration. If any special assessment or quarterly installment of a regular assessment as to a unit becomes more than thirty (30) days past due and a Claim of Lien has been recorded in the public records, the Association shall have the right to accelerate the due date of the entire unpaid balance of the unit's assessments for that fiscal year. The due date for all accelerated amounts shall be the date the Claim of Lien was recorded in the public records. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorneys fees and costs as provided by law; and said Claim of Lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent owner a notice of the exercise, which notice shall be sent by certified or registered mail to the owner's last known address, and shall be deemed given upon mailing of the notice, postpaid. The notice may be given as part of the notice of intent to foreclose required by Section 718.116 of the Condominium Act, or may be sent separately.

10.8 Liens. The Association has a lien on each condominium parcel securing payment of past due assessments, including interest and reasonable attorney's fees and costs incurred by the Association incident to the collection of the assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit. The lien is perfected upon recording a Claim of Lien in the Public Records of Collier County, Florida, stating the description of the condominium parcel, the name of the record owner, the assessments past due and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid assessments and charges coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

10.9 Priority of Lien. Except as otherwise provided by law, the Association's lien for unpaid assessments shall be subordinate and inferior to any recorded first mortgage, any recorded institutional mortgage, as well as that certain Mortgage from The Island Ventures, L.C., a Florida limited liability company to George L. Varnadoe, Trustee, which was recorded in Official Records Book 1501, Page 741, Public Records of Collier County, Florida, unless the Association's Claim of Lien was recorded before the mortgage, but shall be superior to, and take priority over, any other mortgage regardless of when the mortgage was recorded. Any lease of a unit shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed.

10.10 Foreclosure of Lien. The Association may bring an action in its name to foreclose its lien for unpaid assessments in the manner provided in the Condominium Act, and may also bring an action to recover a money judgment for the unpaid assessments without waiving any lien rights.

10.11 Transfer of Ownership of Foreclosed Unit. If a foreclosure action is brought against the owner of a condominium parcel and the interest of the owner in the condominium parcel is sold, the owner's membership shall be cancelled and membership shall be issued to the purchaser at the foreclosure sale.

10.12 Certificate As To Assessments. Within fifteen (15) days after request by a unit owner or mortgagee, the Association shall provide a certificate stating whether all assessments and other monies owed to the Association by the unit owner with respect to the condominium parcel have been paid. Any person other than the owner who relies upon such certificate shall be protected thereby.

10.13 Statutory Assessment Guarantee; Liability of Developer for Common Expenses. The Developer guarantees that from the date of recording this Declaration until December 31, 1990, or such earlier date as unit owners other than the Developer first elect a majority of the Directors of the Condominium Association (the "turnover date"), assessments against unit owners for common expenses will not exceed \$300.00 per quarter (\$100.00 per month). If the turnover date has not occurred by December 31, 1990, then the developer further guarantees that from January 1, 1991, until the first to occur of the turnover date or December 31, 1991, assessments against unit owners for common expenses will not exceed \$345.00 per quarter (\$115.00 per month). If the turnover date has not occurred by December 31, 1991, the Developer further guarantees that from January 1, 1992, until the first to occur of the turnover date or December 31, 1992, assessments against unit owners for common expenses will not exceed \$396.75 per quarter (\$132.25 per month). During this guarantee period, the Developer and unit owners by the Developer shall be exempt from the payment of assessments for common expenses. The Developer shall, however, be obligated to fund any deficit caused by the failure of assessments at the guaranteed level receivable from other unit owners to meet the common expenses incurred by the Association.

11. MAINTENANCE; LIMITATION UPON ALTERATION AND IMPROVEMENT: Responsibility for the maintenance, repair and replacement of the condominium property and restrictions on its alteration and improvements shall be as follows:

11.1 Association Maintenance. The maintenance, repair and replacement of all common elements and association property (other than limited common elements required elsewhere herein to be maintained by the unit owner) shall be performed by the Association, and the cost is a common expense. The Association's responsibility includes, without limitation, all electrical conduit, rough plumbing, and other installations, located within a unit but serving another unit, or located outside the unit, for the furnishing of utilities to one or more units or the common elements including the installations and facilities furnishing sewer utility services to the Condominium, but does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within the unit. All incidental damage to a unit or the limited common elements caused by work done or ordered by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly practical to its condition before the damage.

11.2 Unit Owner Maintenance. Each unit owner is responsible, at his own expense, for all maintenance, repairs, and replacements within his own unit, whether ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of screens, windows and window glass, the interior side of the entrance door and all other doors within or affording access to the unit, the electrical, mechanical and plumbing fixtures and outlets (including connections), appliances, all portions of the heating and air conditioning equipment, carpeting and other floor covering, door and window hardware and locks, other facilities or fixtures located or contained entirely within his own unit or which serve only his own unit, and all interior partition walls which do not form part of the boundary of the unit. However, any insurance proceeds paid to the Association with respect to any loss or damage within the unit which is covered by the Association's casualty insurance, and which loss would otherwise be borne by the unit owner, shall be paid to the unit owner. The unit owner shall also have the following responsibilities:

- (A) Patios and Lanais. The unit owner shall be responsible for the day-to-day maintenance, care and preservation of the paint and surface of the walls, floor and ceiling, within said area, any doors serving said area, and the wiring, electrical outlet(s) and fixture(s) thereon, if any; the swimming pool and all swimming pool equipment located thereon, if any; the spa or jacuzzi located thereon, if any; all screens, and the replacement of light bulbs.
- (B) Interior Decorating. Each unit owner is responsible for all decorating within his own unit, including painting, wallpapering, panelling, floor covering, draperies, window shades, curtains, lamps and other light fixtures, and other furnishings and interior decorating.
- (C) Window Coverings. The coverings and appearance of patios, windows and doors, whether by draperies, shades, solar film or other materials visible from the exterior of the unit, shall be subject to regulation by the Board of Directors.
- (D) Modifications, Installations or Additions by Unit Owner. If a unit owner makes any modifications, installations or additions to his unit or the common elements, the unit owner shall be financially responsible for the maintenance, care, insurance and preservation of the modifications, installations or additions.

11.3 Alteration to Units and Limited Common Elements by Unit Owner. No owner shall make or cause the making of any structural modifications or alterations to his unit or its appurtenant limited common elements or in any manner change the exterior appearance of any portion of the Condominium without first obtaining the written consent of the Association, which consent shall be denied if a majority of the Board of Directors determines that the proposed modifications or alterations might adversely affect, or in any manner be detrimental to, the Condominium in part or whole. If any unit owner requests approval of an alteration or modification involving the removal of any interior partition, the Association may permit such removal if the partition to be removed is not a load-bearing partition and so long as the removal thereof would not materially affect or interfere with the utility services constituting common elements, if any, located therein. No owner shall cause his patio or lanai to be enclosed or enlarged or cause any changes, structural or non-structural, to be made to the unit, including painting or other decoration outside of the unit, or the installation of any electrical wiring, television or radio antenna, appliance, swimming pool or jacuzzi, or in any manner change the exterior appearance of any portion of the Condominium, without the prior written consent of the Board of Directors. Any glass, screen, curtain, blind, shutter, awning or other item which may be installed on any porch or lanai is subject to regulation by the Board of Directors.

11.4 Alterations and Additions to Common Elements. The protection, maintenance, repair and replacement of the common elements is the responsibility of the Association and the cost is a common expense. Material alterations may be made with Board approval, however, the Association shall make no such alterations or additions costing more than \$5000.00 in the aggregate in any calendar year without prior approval of at least a majority of the voting interests. However, if work reasonably necessary to protect, maintain, repair or replace the common elements also constitutes a material alteration or substantial addition to the common elements, no prior unit owner approval is required.

11.5 Enforcement of Maintenance. If after reasonable notice the owner of a unit fails to maintain the unit or its appurtenant limited common elements as required above, the Association may institute legal proceedings to enforce compliance, or may take any and all other lawful actions to remedy such violation.

11.6 Negligence: Damage Caused by Condition in Unit. Each unit owner shall be liable for the expenses of any maintenance, repair or replacement of common elements or personal property made necessary by his act or negligence, or by that of any member of his family or his guests, employees, agents, or lessees. Each owner has a duty to maintain his unit and personal property therein in such a

manner as to prevent foreseeable and reasonably preventable damage to the common elements or the property of other owners and residents. If any condition, defect or malfunction existing within a unit, whether caused by the owner's failure to perform his duty, shall cause damage to the common elements or within other units, the owner of the offending unit shall be liable to the person or entity responsible for repairing the damaged areas for all costs of repair or replacement not paid by insurance. If one or more of the units involved is not occupied at the time the damage is discovered, the Association may enter the unit without prior notice to the owner and make emergency repairs if necessary to prevent damage to the common elements or to another unit or units.

11.7 Association's Access to Units. The Association has an irrevocable right of access to the units for the purposes of protecting, maintaining, repairing and replacing the common elements and any other purpose permitted by law. The Association's right of access includes the right, but not the duty, to enter under circumstances where the health or safety of residents may be endangered. The exercise of the Association's access rights shall be accomplished with prior notice where practical and with due respect for the unit owner's rights to privacy and freedom from unreasonable annoyance, as well as with appropriate precautions to protect the owner's property. The Association may retain a pass-key to all units. If any unit owner shall alter any lock, or install a new lock which prevents access when the unit is unoccupied, the unit owner shall provide the Association with a key.

12. USE RESTRICTIONS: The use of the units and the common elements shall be in accordance with the following provisions as long as the Condominium exists:

12.1 Units. Each unit shall at all times be occupied by only one family, its servants and guests, as a residence and for no other purpose. No business or profession may be conducted from any unit.

12.2 Minors. There is no restriction on the age of occupants or units. All occupants under eighteen (18) years of age must be closely supervised at all times by an adult to insure that they do not become a source of annoyance to other residents.

12.3 Pets. The owner of each unit may keep not more than two (2) small pets, of a normal domesticated household type (such as a cat or dog) in the unit. The pet must be leashed or carried at all times while on the condominium property outside of the unit. The ability to keep such a pet is a privilege, not a right, and the Board of Directors is empowered to order and enforce the removal of any pet which becomes a reasonable source of annoyance to other residents. No pets of any kind are permitted in leased units. No reptiles, rodents, amphibians, poultry or livestock may be kept in the Condominium, but tropical fish or caged birds are permitted.

12.4 Refuse Disposal. Trash, garbage or other waste shall not be kept except in sanitary containers screened from the street and adjacent units. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

12.5 Nuisances. No owner shall use his unit, or permit it to be used, in any manner which is reasonably disturbing, detrimental or a nuisance to the occupants of another unit, or which would not be consistent with the maintenance of the highest standards for a first class residential condominium, nor permit the premises to be used in a disorderly or unlawful way. The use of each unit shall be consistent with existing laws and the condominium documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner.

12.6 Signs. No unit owner other than the Developer may post or display any signs anywhere on the condominium property, including "For Sale", "For Rent", "Open House" and other similar signs.

12.7 Motor Vehicles; Parking. No boats, trailers, motor homes, travel trailers, campers, recreational vehicles, motorcycles, commercial trucks or trucks of any description or vehicles which are primarily used for commercial purposes, shall be parked outside of the garages overnight, or for longer than six (6) hours at any time. Parking of motor vehicles is restricted to garages and driveways. No motor vehicle may be parked on the common elements.

12.8 Garages. Each unit has included within its boundaries a double garage. Garages are intended to be used for storage of motor vehicles. No garage shall be enclosed or converted to any other use. When ingress and egress to the garage is not desired, the garage door shall remain closed.

13. LEASING OF UNITS: All leases of units must be in writing. A unit owner may lease only his entire unit, and then only in accordance with this Section.

13.1 Procedures.

- A. Notice. An owner intending to lease his unit must give to the Board of Directors (or its designee) written notice of such intention at least five (5) days prior to the starting date of the proposed lease, together with the name and address of the proposed lessee, and other information about the lessee or the lease that the Board may reasonably require.
- B. Failure to Give Notice. Any lease entered into without notice in violation of the above provisions shall, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee by summary proceedings without securing consent to such eviction from the unit owner.

13.2 Term of Lease and frequency of Leasing. No unit may be leased for a term of less than thirty (30) consecutive days. No lease may begin sooner than thirty (30) days after the beginning of the last lease. No subleasing or assignment of lease rights by the lessee is allowed.

13.3 Occupancy During Lease Term. No one but the lessee and his family within the first degree of relationship by blood, adoption or marriage may occupy the unit. The total number of overnight occupants of a lease unit is limited to six (6) persons. No pets are permitted.

13.4 Use of Common Elements and Common Areas. To prevent overtaxing the facilities, a unit owner whose unit is leased may not use the recreation facilities during the lease term.

13.5 Regulation by Association. All of the provisions of the condominium documents and the rules and regulations of the Association shall be applicable and enforceable against any person occupying a unit as a lessee or guest to the same extent as against the owner. A covenant on the part of each occupant to abide by the rules and regulations of the Association and the provisions of the condominium documents, designating the Association as the owner's agent with the authority to terminate any lease agreement and evict the tenants in the event of breach of such covenants, shall be deemed to be included in every lease agreement, whether oral or written, and whether specifically expressed in such agreement or not.

14. OWNERSHIP OF UNITS: The transfer of ownership of units shall be subject to the following restrictions:

14.1 Notice to Association. An owner intending to transfer title to his unit shall give the Association written notice of such intent at least seven (7) days prior to the making of such transfer. An owner acquiring title shall provide to the Association a copy of the recorded deed, or other instrument evidencing title, within thirty (30) days after the transfer occurred.

14.2 Life Estate. A unit may be subject to a life estate, either by operation of law or by a voluntary conveyance. In that event, the life tenant

shall be the member from such unit, and occupancy of the unit shall be as if the life tenant was the only owner. The life tenant shall be liable for all assessments and charges against the unit. Any consent, approval or vote required may be given by the life tenant, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights.

15. INSURANCE. In order to adequately protect the Association, the Association property and the condominium property required to be insured by the Association, insurance shall be carried and kept in force at all times in accordance with the following provisions:

15.1 Duty and Authority to Obtain. The Board of Directors shall obtain and keep in force the insurance coverage which it is required to carry, and may obtain and keep in force any or all additional insurance coverage it deems necessary. The name of the insured shall be the Association and the unit owners without naming them, and their mortgagees, as their interests shall appear.

15.2 Required Coverage. The Association shall maintain adequate insurance covering all of the buildings and the common elements as well as all Association property, in an amount determined annually by the Board of Directors, such insurance to afford at least the following protection:

- (A) Property. Loss or damage by fire, extended coverage (including windstorm) vandalism, malicious mischief, and all other hazards covered by the standard "all risk" property contract.
- (B) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as required by the Board of Directors of the Association, with cross liability endorsement to cover liabilities of the unit owner as a group to a unit owner.
- (C) Compensation. The Association shall maintain Workers' Compensation insurance on at least a minimum premium basis.

15.3 Optional Coverage. The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and unit owners. Some of the more common options include:

- (A) Flood insurance.
- (B) Broad Form Comprehensive General Liability Endorsement.
- (C) Directors and Officers Liability.
- (D) Medical Payments.
- (E) Leakage, seepage and wind-driven rain.
- (F) Fidelity Bonding. (In accordance with Section 718.112(2)(j) of the Condominium Act, such bond at a minimum of \$10,000.00 per person having access to Association funds shall be required if all three phases of this Condominium are submitted to condominium ownership).

15.4 Description of Coverage. A detailed summary of the coverage included in the master policies, and copies of the master policies, shall be available for inspection by unit owners upon request.

15.5 Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against unit owners, the Association, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

15.6 Insurance Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the unit owners and their mortgagees as their interests may appear, and all proceeds shall be payable to the Association as trustee. The duty of the Association shall be to receive such proceeds as are paid and hold in trust and disburse the same for the purposes stated herein and for the benefit of the unit owners and their respective mortgagees in the following shares:

- (A) **Common Elements.** Proceeds on account of damage to common elements shall be held in as many undivided shares as there are units, the shares of each unit owner being the same as his share in the common elements.
- (B) **Units.** Proceeds on account of damage within units shall be held in undivided shares, based on the prorated amount of damage within each damaged unit as a percentage of the total damage within all units.
- (C) **Mortgagee.** If a mortgagee endorsement has been issued as to a unit, the shares of the mortgagee and the unit owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against units, except to the extent that insurance proceeds exceed the actual cost of repair or restoration, no mortgagee shall have any right to participate in determining whether improvements will be rebuilt after casualty.

15.7 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the unit owners in the following manner:

- (A) **Cost of Reconstruction or Repair.** If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying costs shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being paid jointly to them.
- (B) **Failure to Reconstruct or Repair.** If it is determined in the manner elsewhere provided that the damages for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them.

15.8 Association as Agent. The Association is hereby irrevocably appointed agent for each unit owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the condominium property.

16. RECONSTRUCTION OR REPAIR AFTER CASUALTY: If any part of the condominium property is damaged by casualty, whether and how it shall be reconstructed or repaired shall be determined as follows:

16.1 Damage to Units. Where loss or damage occurs within a single unit or several units, any Association insurance proceeds on account of the damage, less the deductible, shall be distributed to the owner(s) of the damaged units in shares as provided in 15.6 above. The owners of damaged units shall be responsible for reconstruction and repair within their units.

16.2 Damage to Common Elements - less than "Very Substantial". Where loss or damage occurs to the common elements, but the loss is less than "very substantial", as hereinafter defined, it shall be mandatory for the Association to repair, restore and rebuild the damage caused by the loss, and the following procedures shall apply:

- (A) The Board of Directors shall promptly obtain detailed estimates of the cost of repair and restoration, and shall negotiate and contract for the repair and reconstruction of the premises.

- (B) If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the common elements, the Association shall promptly, upon determination of the deficiency, and if other funds such as reserves are not available, levy a special assessment against all unit owners in proportion to their shares in the common elements for any deficiency. Such special assessments need not be approved by the unit owners. The special assessments shall be added to the funds available for repair and restoration of the property.

16.3 "Very Substantial" Damage. As used in this Declaration, the term "very substantial" damage shall mean loss or damage whereby three-fourths (3/4ths) or more of the units are rendered uninhabitable. Should such "very substantial" damage occur then:

- (A) The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration.
- (B) A membership meeting shall be called by the Board of Directors to be held not later than sixty (60) days after the casualty, to determine the wishes of the membership with reference to rebuilding or termination of the Condominium, subject to the following:
- (1) If the insurance proceeds and reserves available for restoration and repair are sufficient to cover the cost thereof, so that no special assessment is required, then the condominium property shall be restored or repaired unless two-thirds (2/3rds) of the voting interests shall vote for termination, or unless the then applicable zoning or other regulatory laws will not allow reconstruction of the same number and general type of unit, in either of which cases the Condominium shall be terminated.
 - (2) If the insurance proceeds and reserves available for restoration and repair are not sufficient to cover the cost thereof so that a special assessment will be required, then unless two-thirds (2/3rds) of the voting interests vote in favor of such special assessment and against abandonment of the Condominium, it shall be terminated and the property removed from the provisions of the Condominium Act. If two-thirds (2/3rds) of the voting interests approve the special assessment, the Association shall levy such assessment and shall contract for such repairs and restoration. The special assessment shall be added to the funds available for repair and restoration of the property.
- (C) If any dispute shall arise as to whether "very substantial" damage has occurred, a determination by the Board of Directors shall be binding upon all unit owners.

16.4 Application of Insurance Proceeds. It shall be presumed that the first monies disbursed for repair and restoration shall be from insurance proceeds; if there is a balance in the funds after the payment of all costs of repair and restoration, such balance shall be distributed to the unit owners, except as otherwise provided in Section 15.6(c).

16.5 Equitable Relief. In the event of damage to the common elements which renders any unit untenable, and the property is not repaired, reconstructed, or rebuilt within a reasonable period of time, the owner of the untenable unit may petition a court for equitable relief, which may include a termination of the Condominium and a partition. For the purposes of this provision, it shall be conclusively presumed that repair, reconstruction or rebuilding has occurred within a reasonable period of time if substantial work is commenced within four (4) months following the damage or destruction and is completed within twelve (12) months thereafter.

16.6 Plans and Specifications. Any reconstruction or repairs must be substantially in conformity to plans and specifications for the original buildings, or according to different plans and specifications approved by the

