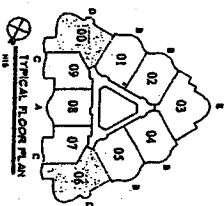


3 BEDROOM UNIT 'D' Floor Plan

Scale : 1/4" = 1'-0"

(38 UNITS TOTAL)
 2480 S.F. ENCLOSED
 237 S.F. BALCONY
 2177 S.F. TOTAL



All improvements shown are proposed.

PROJECT ARCHITECT
 ARCHITECT
 1111 17th Street, Suite 100
 Denver, Colorado 80202
 (303) 733-1111

OWNER
 OCEANSIDE REALTY & ASSOCIATES, INC.
 1111 17th Street, Suite 100
 Denver, Colorado 80202
 (303) 733-1111

GENERAL CONTRACTOR
 [Blank space for contractor name]

DATE
 [Blank space for date]

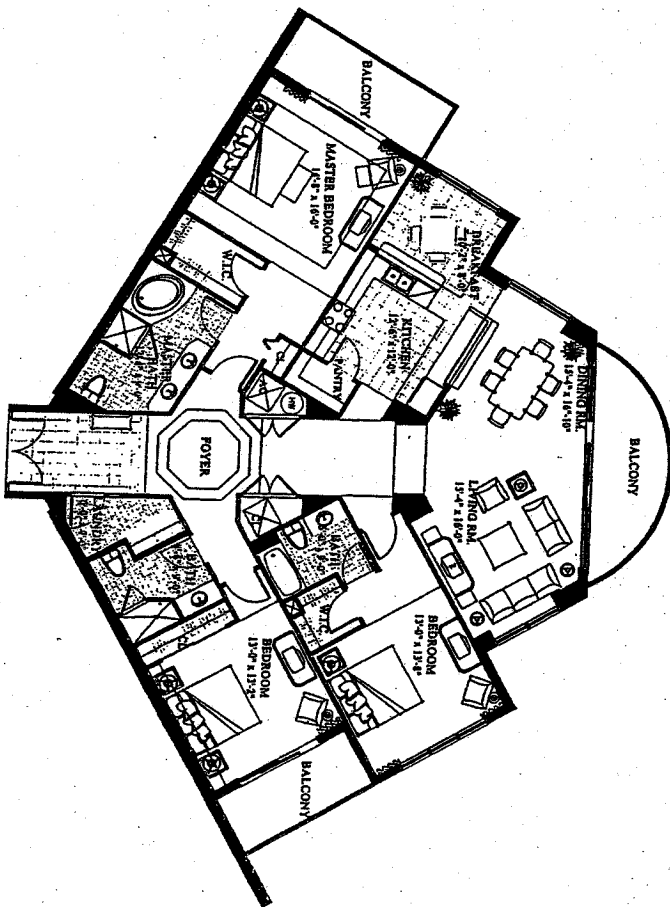
REVISIONS
 [Blank space for revisions]

DATE
 [Blank space for date]

PROJECT TITLE
 3 Bedroom Unit 'D' Partial Plan
 Unit 05

DATE
 [Blank space for date]

A-10



3 BEDROOM UNIT 'E' Floor Plan

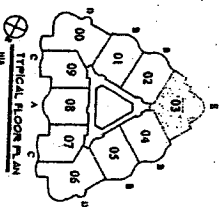
Scale: 1/4" = 1'-0"

(70 UNITS TOTAL)

2364 S.F. ENCLOSED

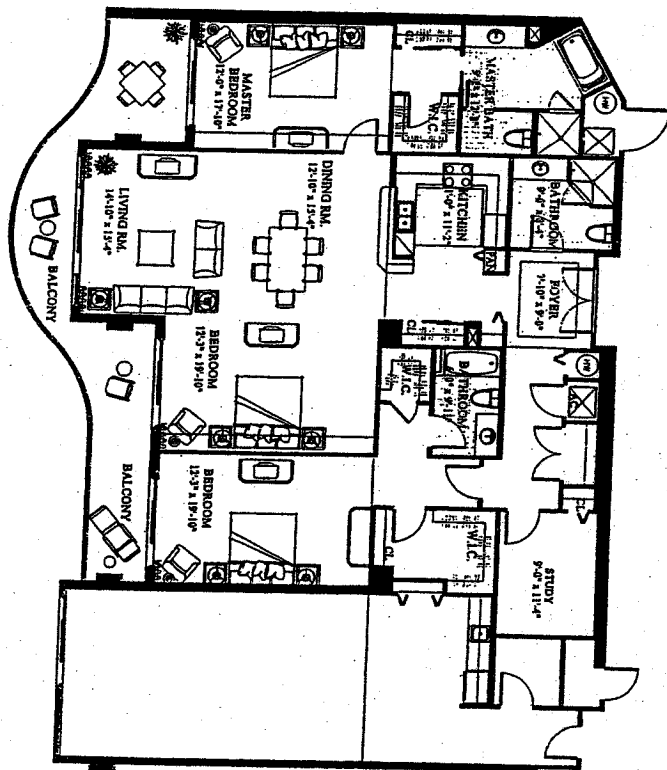
310 S.F. BALCONY

2574 S.F. TOTAL



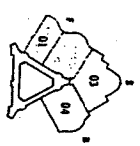
All improvements shown are proposed.

<p>OWNER: DIVERSIFIED HOLDINGS, INC. 4000 S. WILLOW BLVD., SUITE 200 MIRAMONTE BEACH, FL 33446</p>	<p>DESIGNER: JOHN S. STEINHAUER & ASSOCIATES, INC. 1600 N. W. 10TH AVENUE, SUITE 200 MIAMI, FL 33136</p> <p>CONSTRUCTION: DIVERSIFIED BUILDING, FLORIDA</p>	<p>REGISTERED ARCHITECT: J.S.S. STEINHAUER</p>	<p>REGISTERED ARCHITECT: J.S.S. STEINHAUER</p>	<p>REGISTERED ARCHITECT: J.S.S. STEINHAUER</p>	<p>REGISTERED ARCHITECT: J.S.S. STEINHAUER</p>
<p>DATE: 2006.05.01</p>	<p>PROJECT: 3 BEDROOM UNIT 'E' Floor Plan</p>	<p>SCALE: 1/4" = 1'-0"</p>	<p>PROJECT: 3 BEDROOM UNIT 'E' Floor Plan</p>	<p>SCALE: 1/4" = 1'-0"</p>	<p>PROJECT: 3 BEDROOM UNIT 'E' Floor Plan</p>



2 BEDROOM UNIT 'F' Floor Plan

Scale: 1/4" = 1'-0"
 (1 UNITS TOTAL)
 2376 S.F. ENCLOSED
 411 S.F. BALCONY
 2787 S.F. TOTAL



All improvements shown are proposed.

FIRST FLOOR PLAN

<p>PROJECT DESIGN TEAM ARCHITECT JAMES R. COLLIER & ASSOCIATES, INC. 1000 WEST 10TH AVENUE, SUITE 100 DENVER, COLORADO 80202 ARCHITECT ADDRESS</p>	<p>OWNER JAMES R. COLLIER & ASSOCIATES, INC. 1000 WEST 10TH AVENUE, SUITE 100 DENVER, COLORADO 80202 OWNER ADDRESS</p>	<p>DESIGNER A Subsidiary of Ocean's Island 1000 West 10th Avenue, Suite 100 Denver, Colorado 80202</p>	<p>ELECTRICAL</p>	<p>MECHANICAL</p>	<p>PLUMBING</p>	<p>DATE DRAWN DATE CHECKED DATE REVISION DATE APPROVED</p> <p>PROJECT NO. A-12</p>
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EXHIBIT "D"

Articles of Incorporation

**ARTICLES OF INCORPORATION
OF
OCEANS GRAND OWNERS ASSOCIATION, INC.
A FLORIDA CORPORATION NOT-FOR-PROFIT**

We, the undersigned, being desirous of forming a corporation not for profit, do hereby associate ourselves into a corporation for the purposes and with the powers herein specified and do hereby agree to the following Articles of Incorporation.

ARTICLE I.

NAME

The name of this corporation shall be OCEANS GRAND OWNERS ASSOCIATION, INC., (hereinafter referred to as the "Association").

ARTICLE II.

PURPOSE

The purposes and object of the Association shall be to administer the operation and management of Oceans Grand, A Condominium (hereinafter "the Condominium") to be established by Oceans Grand, L.L.C, a Delaware limited liability company (the "Developer") in accordance with the Florida Condominium Act, Chapter 718, Florida Statutes ("Condominium Act"), upon that certain real property in Volusia County, Florida, as described on Exhibit "A" attached to the Declaration of Condominium of Oceans Grand, A Condominium, and incorporated herein by reference.

The Association shall undertake and perform all acts and duties incident to the operation and management of the Condominium in accordance with the terms, provisions, and conditions of these Articles of Incorporation, the Bylaws of the Association and the Declaration of Condominium (the "Declaration") which will be recorded in the public records of Volusia County, Florida, and the Condominium Act.

ARTICLE III.

POWERS

The Association shall have the following powers:

A. All of the powers and privileges granted to corporations not for profit under the laws of the State of Florida and under the Condominium Act, and the Declaration of Condominium.

B. All of the powers reasonably 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 the use of the Units, Common Elements, and Limited Common Elements of the Condominium, as such terms will be defined in the Declaration.

2. Own, operate, lease, sell, manage, and otherwise deal with such real and personal property as may be necessary or convenient for the administration of the Condominium.
3. To own, manage, administer and operate such property as may be conveyed to it by the Developer, its successors or assigns for the mutual benefit and use of all members.
4. Levy and collect assessments against members of the Association to defray the Common Expenses of the Condominium, as will be provided in the Declaration and the Bylaws, including, without limitation, the right to levy and collect adequate assessments for the cost of maintenance and operation of the surface water or stormwater management system, the right to levy and collect assessments for the purpose of acquiring, owning, holding, operating, leasing, encumbering, selling, conveying, exchanging, managing and otherwise dealing with the Condominium Property, as such term is defined in the Declaration, 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.
5. Maintain, repair, replace, operate and manage the Condominium Property, and any property owned by the Association, including the right to reconstruct improvements after casualty and to further improve and add to the Condominium Property and other property owned by the Association.
6. 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 Condominium Act.
7. Enforce the provisions of these Articles of Incorporation, the Declaration, the Bylaws, and all Rules and Regulations and Covenants and Restrictions governing use of the Condominium which may hereafter be established.
8. Operate, maintain and manage the surface water or storm water management systems in a manner consistent with the St. Johns River Water Management District ("SJRWMD") Permit No. [REDACTED] requirements and applicable District rules, and shall assist in the enforcement of the provisions in the Declaration of Condominium which relate to the surface water or stormwater management system.

ARTICLE IV.

QUALIFICATION OF MEMBERS

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

- A. The 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 the subscribers hereof.

B. A person shall become a Member by the acquisition of a vested present interest in the fee title to a Unit in the Condominium. The membership of any person or entity shall be automatically terminated upon his being divested of his title or interest in such Unit.

C. Transfer of membership shall be recognized by the Association upon its being provided with a copy of the recorded warranty deed for the Unit.

D. If a corporation, partnership, joint venture or other entity is the fee simple title holder to a Unit, or the Unit is owned by more than one person, the Unit owner shall designate one person as the Member entitled to cast votes and/or to approve or disapprove matters as may be required or provided for in these Articles, the Bylaws or the Declaration of Condominium.

E. Except as an appurtenance to his dwelling Unit, no Member can assign, hypothecate or transfer in any manner, his membership in the Association or his interest in the funds and assets of the Association. The funds and assets of the Association shall belong solely to the Association subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein, in the Declaration, the Condominium Act and the Bylaws hereof.

ARTICLE V.

VOTING

A. On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each Unit in the Condominium. Such vote may be exercised or cast by the owner or owners of each Unit in such manner as may be provided in the Bylaws of this Association. Should any Member own more than one Unit, such Member shall be entitled to exercise or cast one vote for each such Unit, in the manner provided for in the Bylaws.

B. Until such time as the first property is submitted to the Condominium form of ownership by recordation of Declaration of Condominium therefor in the public records of Volusia County, Florida, the membership of the Association shall be comprised of the subscribers to these Articles, each of whom shall be entitled to cast a vote on all matters upon which the membership would be entitled to vote.

ARTICLE VI.

TERM OF EXISTENCE

Existence of the Association shall commence with the filing of these Articles with the Secretary of State, State of Florida. The Association shall have perpetual existence.

ARTICLE VII.

OFFICE

The principal office of the Association shall be 2827 South Ridgewood Avenue, South Ridgewood Avenue, South Daytona, Florida 32119, or such other place as the Board of Directors may designate.

ARTICLE VIII.

BOARD OF DIRECTORS

A. The business affairs of this Association shall be managed by the Board of Directors. The number of members of the first Board of Directors shall be three.

B. Subject to the Declaration of Condominium, the Board of Directors shall be elected by the members of the Association from among the membership at the annual membership meeting as provided in the Bylaws; provided, however, that the Developer shall have the right to elect all of the Directors on the Board subject to the following:

1. When Unit owners other than the Developer own fifteen percent (15%) or more of the Units in the Condominium that will be operated ultimately by the Association, the Unit owners other than the Developer shall be entitled to elect one-third (1/3) of the members of the Board of Directors.
2. Unit owners other than the Developer shall be entitled to elect a majority of the members of the Board of Directors upon the first to occur of the following:
 - (a) Three years after fifty percent of all of the Units in the Condominium have been conveyed to purchasers;
 - (b) Three (3) months after ninety percent (90%) of all of the Units in the Condominium have been conveyed to purchasers;
 - (c) When all the Units in the Condominium that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business; or
 - (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 (7) years after recordation of the Declaration.
3. The Developer is entitled to elect at least one member of the Board of Directors as long as the Developer holds for sale in the ordinary course of business at least five (5%) percent of all of the Units in the Condominium.
4. The names and residence addresses of the persons who are to serve as the initial Board of Directors until their successors are chosen, are as follows:

<u>Director</u>	<u>Address</u>
John T. Callahan III	1 Buttercup Lane South Yarmouth, Massachusetts 02664
Vartan Getzoyan	60 State Street Suite 1550 Boston, Massachusetts 02109
Edmund J. Waldron	125 Ann Rustin Drive Ormond Beach, Florida 32176

ARTICLE IX.

OFFICERS

A. The officers of the Association shall be a President, one or more Vice Presidents, Secretary and Treasurer and, if any, the Assistant Secretaries and Assistant Treasurers, who shall perform the duties of such offices customarily performed by like officers of corporations in the State of Florida subject to the directions of the Board of Directors.

B. Officers of the Association may be compensated in the manner to be provided in the Bylaws. The Board of Directors, or the President with the approval of the Board of Directors, 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 entity or entities may be so employed without regard to whether any such person or entity is a Member, Director or officer of the Association.

C. The persons who are to serve as officers of the Association until their successors are chosen are:

<u>Officer</u>	<u>Name</u>
President	John T. Callahan III
Vice President	Vartan Getzoyan
Secretary/Treasurer	Edmund J. Waldron

D. The officers shall be elected by the Board of Directors at their annual meeting as provided in the Bylaws. Any vacancies in any office shall be filled by the Board of Directors at any meeting duly held.

E. The President shall be elected from the membership of the Board of Directors, but no other officer need be a Director. The same person may hold two offices, provided, however, that the office of President and Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person. Officers shall be elected annually.

ARTICLE X.

AMENDMENT TO ARTICLES

A. For so long as the Developer is entitled to elect a majority of the members of the Board of Directors, the Articles can be amended upon adoption of a resolution by a majority of the members of the Board of Directors at a meeting of the Board of Directors.

B. After the Unit owners are entitled to elect a majority of the members of the Board of Directors, an amendment to the Articles shall be proposed by the Board of Directors after adopting a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members entitled to vote on the proposed amendment, which may be either an annual or a special meeting. Written notice setting forth the proposed amendment or a summary of the changes to be effected by the amendment shall be given to each member entitled to vote at such meeting in accordance with the bylaws. The proposed amendment shall be adopted upon receiving at least Sixty Six and two thirds percent (66 and-2/3%) of the votes which members present at such meeting or represented by proxy are entitled to cast; or

If there are no members or if members are not entitled to vote on proposed amendments to the articles of incorporation, an amendment may be adopted at a meeting of the Board of Directors by a majority vote of the directors then in office.

C. Any number of amendments may be submitted and voted upon at any one meeting.

ARTICLE XI.

BYLAWS

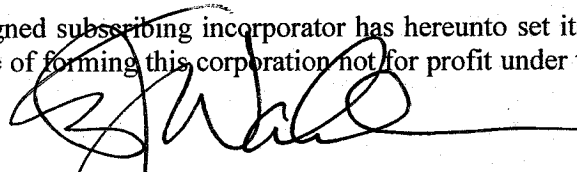
A. The Board of Directors shall adopt by a majority vote the original Bylaws of the Association which shall be subject to amendment in accordance with the procedures set forth in the Bylaws.

ARTICLE XII.

DISSOLUTION

In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity which would comply with Section 40C-42.027, F.A.C., and be approved by the District prior to such termination, dissolution or liquidation.

IN WITNESS WHEREOF, I, the undersigned subscribing incorporator has hereunto set its hand and seal this 5TH day of January, 2006, for the purpose of forming this corporation not for profit under the laws of the State of Florida.



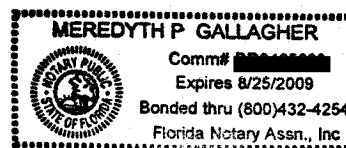
Edmund J. Waldron

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing Articles of Incorporation were acknowledged before me this 5th day of January, 2006, by Edmund J. Waldron, who is personally known to me

Meredyth P. Gallagher
Notary Public, State of Florida
Name: Meredyth P. Gallagher
My Commission Expires: 8/25/2009
My Commission Number is: DD0465690



CERTIFICATE NAMING AGENT
UPON WHOM PROCESS MAY BE SERVED

In pursuance of Chapter 48.091, Florida Statutes, the following is submitted:

That OCEANS GRAND OWNERS ASSOCIATION, INC., a corporation duly organized and existing under the laws of the State of Florida, with its principal office, as indicated in the Articles of Incorporation at 2827 South Ridgewood Avenue, South Daytona, State of Florida, has named Edmund J. Waldron, as its agent to accept service of process within this state.

Having been named to accept service of process for the above stated corporation, at the place designated in this certificate, I hereby accept to act in this capacity, and agree to comply with the provisions of said Florida Statute relative to keeping open said office.


Edmund J. Waldron

EXHIBIT "E"

Bylaws

**BYLAWS
OF
OCEANS GRAND OWNERS ASSOCIATION, INC.**

a Florida Corporation Not-For-Profit

1. IDENTITY.

1.1 **Applicability.** These are the Bylaws of **OCEANS GRAND OWNERS ASSOCIATION, INC.** (the "Association"), a Florida corporation not for profit organized pursuant to the provisions of Chapters 617 and 718, Florida Statutes, as amended to the date of filing of the Articles of Incorporation (the "Articles"). The purpose and object of the Association shall be to administer the operation and management of Oceans Grand, A Condominium (the "Condominium") to be established in accordance with the Florida Condominium Act, Chapter 718, Florida Statutes ("Act"), upon certain real property in Volusia County, Florida, as set forth in the Articles of Incorporation of the Association. The provisions of these Bylaws are applicable to the Condominium and are subject to the provisions of the Articles. All Members of the Association, as defined in the Articles, and their invitees, including, without limitation, all present or future owners and tenants of Units in the Condominium 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.

1.2 **Office.** The initial office of the Association shall be at 2970 South Atlantic Avenue, Daytona Beach Shores, Florida 32118, or at such other place as may be established by resolution of the Board of Directors.

1.3 **Fiscal Year.** The fiscal year of the Association shall be the first day of January through the last day of December.

1.4 **Seal.** The seal of the Association shall bear the name of Oceans Grand Owners Association, Inc., the word "Florida", the words "Corporation Not For Profit", and the year of incorporation.

2. MEMBERSHIP, VOTING, QUORUM, PROXIES.

2.1 **Membership.** 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, shall be as set forth in Article IV of the Articles, the provisions of which are incorporated herein by reference.

2.2 **Quorum.** A quorum at meetings of Members shall consist of persons entitled to cast one third (1/3) of the votes of the membership entitled to vote upon any matter or matters arising at said meeting.

2.3 **Voting.**

- (a) Each Unit shall be assigned the right to cast one vote at any meeting of Members.
- (b) If a Unit is owned by one person, his right to vote shall be established by the record title to his Unit.
- (c) If any Unit is owned by more than one person or a partnership, corporation, trust, or any other Association or entity, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the record owners of the Unit or by the President, general partner or other chief executive officer of the respective entity and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until ownership of the Unit is changed. A certificate designating the person entitled to cast the vote of a Unit may be revoked by any owner of that Unit. If such a certificate is not on file, the vote of such owners shall not be considered in determining the requirement for a quorum nor for any other purpose.

2.4 **Vote Required.** Except as otherwise required under the provisions of the Articles, these Bylaws or the Declaration, or where the same otherwise may be required by law, at any meeting of the general membership of the Association, duly called and at which a quorum is present, the acts approved by the affirmative vote of a majority of the votes present at such meeting shall be binding upon the Members.

2.5 **Proxies.** Except as specifically otherwise provided herein or in the Condominium Act, Unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the Division of Florida Land Sales, Mobile Homes and Condominiums (hereinafter referred to as the "Division"). 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 § 718.112(f)(2); for votes taken to amend the declaration pursuant to § 718.110; for votes taken to amend the articles of incorporation or bylaws; and for any other matter for which the Act requires or permits a vote of the Unit owners. 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 also be used in voting for nonsubstantive 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.

Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. All such proxies shall be filed with the Secretary prior to or during the roll call of such meeting. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the Unit owner executing it.

3. MEMBERS' MEETINGS.

3.1 Annual Meeting. The annual meeting of the Members shall be held at the office of the Association or such other place in Volusia County, and at such time as may be specified in the notice of the meeting, on the first Monday in November of each year for the purpose of electing Directors and of transacting any other business authorized to be transacted by the Members; provided, however, that if that day is a legal holiday, the meeting shall be held on the next succeeding Monday, or such day as the Directors shall determine and include in the notice of meeting.

3.2 Special Meeting. Special meetings of the entire membership of the Association shall be held whenever called by the President or Vice President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from Members entitled to cast a majority of the votes of the entire membership.

3.3 Notice of Meetings.

- (a) Generally. Written notice of all meetings of Members shall be given by the Secretary or, in the absence of the Secretary, another officer of the Association, to each Member or class of Members, if any, unless waived in writing. Each notice shall state the time and place of and purpose for which the meeting is called and shall include an agenda and shall be mailed or delivered to each Unit owner at least 14 days prior to the meeting. The Notice shall be posted at a conspicuous place on the Condominium property at least 14 continuous days preceding the meeting, except in the case of an emergency. Upon notice to the Unit owners, the Board shall by duly adopted rule designate 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 requiring mailed notice, 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 of the Unit do not agree, to the address provided on the deed of 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.
- (b) Annual. Notice of the Annual Meeting shall be given to each Member not less than fourteen (14) days nor more than sixty (60) days prior to the date set for the meeting, and shall be mailed by certified mail or delivered personally to each Member. If delivered personally, receipt of notice shall

be signed by the Member, indicating the date received and shall constitute that Member's waiver of his right to receive notice by mail. 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, and the post office certificate of mailing shall be retained as proof of such mailing.

- (c) Special. Notice of Special Meetings shall be given to each Member not less than fourteen (14) days prior to the date set for the meeting and shall be mailed by regular mail or delivered personally to the Member and shall be posted conspicuously on the Condominium Property.
- (d) Waiver. Any Member may, in writing signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, whether before, at or after the holding of the meeting, shall constitute notice to such Member.
- (e) Adjourned Meetings. 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 a particular purpose is not present, wherever the latter percentage of attendance may be required as set forth in the Articles, the 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.

3.4 Presiding Officer and Minutes. At meetings 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. Minutes shall be kept in a business like manner and available for inspection by Directors, Unit owners and their authorized representatives during normal business hours at the principal office of the Association. The Association shall retain these minutes for a period of not less than seven years.

3.5 Order of Business. The order of business at annual meetings of Members, and, as far as practical, at other meetings of Members, shall be:

- (a) Collection of ballots not yet cast;
- (b) Calling of the roll and certifying of proxies;
- (c) Proof of notice of meeting or waiver of notice;
- (d) Reading or waiver of reading of minutes of previous meeting of Members;
- (e) Reports of officers;
- (f) Reports of committees;

- (g) Appointment by Chairman of inspectors of election;
- (h) Election of Directors;
- (i) Unfinished business;
- (j) New business;
- (k) Adjournment.

4. **BOARD OF DIRECTORS.**

4.1 **First Board and Developer Control.** The affairs of the Association shall be managed by a Board of Directors. The first Directors shall consist of three (3) persons as designated in the Articles of Incorporation. Oceans Grand, LLC, a Delaware limited liability company, "Developer," reserves the right to appoint Directors to the Board as specified in Article VIII (B) of the Articles.

4.2 **Election of Directors.** Directors shall be elected in the following manner:

- (a) Commencing with the election of the Board to succeed the first Board as designated in the Articles, Developer shall appoint that number, and the identity, of the Members of the Board which it shall be entitled to appoint in accordance with the Articles and these Bylaws, and upon such appointment by Developer, by written instrument presented to the meeting at which such election is held, the persons so appointed by Developer shall be deemed and considered for all purposes Directors of the Association and shall thenceforth hold the offices and perform the duties of such Directors until their successors shall have been elected or appointed, as the case may be, and qualified in accordance with the provisions of these Bylaws.
- (b) For so long as the Developer shall retain the right to appoint at least one member of the Board of Directors, all Members of the Board of Directors whom Developer shall not be entitled to appoint under these Bylaws shall be elected at large, by a plurality of the votes cast at the annual meeting of the general membership, immediately following appointment of the Members of the Board whom Developer shall be entitled to appoint. Commencing with the first annual election of Directors after the Developer shall have lost or relinquished the right to appoint at least one Director, the Members shall elect three (3) Directors, by a plurality of the votes cast at the annual meeting of the general membership.
- (c) Vacancies on the Board may be filled, through the unexpired term thereof, as set forth in 4.2(e) below, except that, should any vacancy on the Board be created in a Directorship previously filled by any person appointed by Developer, such vacancy shall be filled by Developer appointing by written instrument delivered to any officer of the Association, the

successor Director, who shall fill the vacated Directorship for the unexpired term thereof.

- (d) In the election of Directors, there shall be appurtenant to each Unit one (1) vote for each Director to be elected provided, however, that no Member or owner of any Unit may cast more than one vote for any person nominated as a Director, it being the intent hereof that voting for Directors shall be non-cumulative.
- (e) After Unit owners other than the Developer are entitled to elect a Member or Members of the Board of Directors of the Association, the Board of Directors shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the Board of Directors, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise. Not less than sixty (60) days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing or included in another Association mailing or delivery including regularly published newsletters, to each Unit owner entitled to vote, a first notice of the date of the election. Any Unit owner or other eligible person desiring to be a candidate for the Board of Directors shall give written notice to the secretary of the Association not less than forty (40) days before a scheduled election. The Association shall then mail or deliver a second notice of the meeting 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 eight and one-half (8½) inches by eleven (11) inches, furnished by the candidate, to be included with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association, however, the Association shall have no liability for the contents of such information sheets prepared by the candidates. There shall be no quorum requirement; however, at least twenty percent (20%) of the eligible voters must cast a ballot in order to have a valid election. 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 Florida Statutes, Section 101.051 may obtain assistance in casting the ballot. Any Unit owner violating this provision may be fined by the Association in accordance with Florida Statutes, Section 718.303. The regular election shall occur on the date of the annual meeting. Notwithstanding the above provision, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than there are vacancies on the Board.
- (f) Until such time as the Members are entitled to elect all of the Directors, each Director shall serve for one year until the next annual meeting or such other time as his successor is elected. At the first annual meeting at which the Unit Owners are entitled to elect all of the Members of the Board of Directors, one Directorship shall be designated as a two-year

term director and the other two shall be for one-year terms. At the next succeeding annual meeting, one of such one-year term Directorships shall be, from that point on, designated as a two-year term Directorship. The intent hereof is to stagger the terms of the Directorships so that there shall be only two Directors elected each year with one member of the old Board continuing on the new Board. Therefore, there shall be two Directorships of two-year terms being up for election in different years, and the third Directorship shall always remain a one-year term Directorship.

- (g) In the event that Developer selects any person or persons to serve on the 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 other 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 persons so removed from the Board. The removal of any Director and designation of his successor shall be effective immediately upon delivery of such written instrument by Developer to any officer of the Association.

4.3 **Organizational Board Meeting.** The organizational meeting of a newly elected or designated Board shall be held within fifteen (15) days of their election or designation, at such time and place as shall be fixed at the meeting at which they were elected. Notice of the organizational meeting shall be provided by posting such notice conspicuously on the Condominium property at least 48 hours prior to such meeting. The Notice shall contain a list of all agenda items to be considered at the meeting.

4.4 **Board Meetings in General.** Meetings of the Board of Directors and any committee thereof at which a quorum of the Members of that committee are present shall be open to all Members. Notice of meetings shall be posted conspicuously in the Condominium at least forty-eight (48) continuous hours in advance for the attention of Unit owners, and shall include an identification of agenda items, except in an emergency. Any item not included on the Notice may be taken up on an emergency basis by at least a majority plus one of the Members of the Board. Such emergency action shall be noticed and ratified at the next regular meeting of the Board. Any Unit owner may tape record or videotape meetings of the Board of Directors. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The Association 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. Notwithstanding the foregoing, 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. Notice of any meeting where 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.

4.5 **Regular Board Meeting.** Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least seven (7) days prior to the day named for such meeting, unless notice is waived.

4.6 **Special Meetings.** Special meetings 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 Directors. Except in an emergency, not less than two (2) days notice of a special meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting. Notice of any meeting where 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.

4.7 **Board Minutes.** Minutes of all meetings of the Board shall be kept in a businesslike manner and available for inspection by Unit owners and Directors during normal business hours at the principal office of the Association. The Association shall retain these minutes for a period of not less than seven years.

4.8 **Waiver of Notice.** Any Director may waive notice of a meeting before, at or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

4.9 **Quorum.** A quorum at meetings of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as may be specifically otherwise provided in the Articles, these Bylaws 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 Directors required to constitute a quorum for particular purposes is not present, wherever the latter percentage of attendance may be required as set forth in the Articles, these Bylaws or the Declaration, the Directors who are present may adjourn the meeting from time to time until a quorum, or the required percentage of attendance, if greater than a quorum is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

4.10 **Removal.** Directors may be removed from office with or without cause by the vote or written agreement of a majority of all Unit owners, provided, however, that only the Developer can remove a member of the Board who was appointed by the Developer.

4.11 **Presiding Officer.** 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 Directors present shall designate one of their number to preside.

4.12 **Powers and Duties.** All of the powers and duties of the Association shall be exercised by the Board, including those existing under the laws 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:

- (a) Make, levy and collect assessments, including without limitation assessments for reserves and for betterments to Condominium and/or Association property, against Members and Members' Units to defray the costs of the Condominium and the property owned by the Association and use the proceeds of assessments in the exercise of the powers and duties of the Association;
- (b) Maintain, repair, replace, operate and manage the Condominium Property wherever the same is required to be done and accomplished by the Association for the benefit of Members;
- (c) Repair and reconstruct improvements after casualty;
- (d) Make and amend regulations governing the use of the property, real and personal, in the Condominium, and such property owned by the Association provided, that such regulations or amendments thereto shall not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles and Declaration, and to impose fines for violations of such rules and regulations;
- (e) Acquire, own, hold, operate, lease, encumber, convey, exchange, manage, and otherwise trade and deal with 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;
- (f) Contract for the management and maintenance of the Condominium property and Association property and to authorize a management agent to assist the Association in carrying out its powers and duties, including but not limited to the performance of such functions as the submission of proposals, collection of assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the common elements and property owned by the Association with funds as shall be made available by the Association for such purposes. Any such contract shall be terminable for cause upon the giving of thirty (30) days prior written notice, and shall be for a term of from one (1) to three (3) years. Any such contract shall be renewable by consent of the Association and the management. If such contract is negotiated by the Developer, the term of such contract shall not exceed one (1) year. The Association and its officers shall, however, retain at all times the powers and duties granted by the Condominium documents and the Condominium Act, including but not limited to the making of assessments, promulgation of rules and execution of contracts on behalf of the Association;

- (g) Enforce by legal means the provisions of the Articles, these Bylaws, the Declaration and all regulations governing use of property of and in the Condominium hereafter adopted;
- (h) Pay all taxes and assessments which are liens against any part of the Condominium other than Units and the appurtenances thereto, and assess the same against the Members and their respective Units subject to such liens;
- (i) Carry insurance for the protection of Members and the Association against casualty and liability, including Directors' liability insurance;
- (j) Pay all costs of power, water, sewer and other utility services rendered to the Condominium or to the Association and not billed to the owners of the separate Units;
- (k) Employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association;

5. OFFICERS.

5.1 **Generally.** The Board shall elect a President, Secretary, Treasurer, and as many Vice Presidents, 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 Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the office of President and Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person. The Board may from time to time elect such other officers, and designate their powers and duties, as the Board may deem necessary to properly manage the affairs of the Association. Officers may be removed from office by the Board.

5.2 **President.** The President shall be the chief executive officer of the Association. He shall have all of the powers 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 from 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.

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

5.4 **Secretary.** The Secretary shall keep the minutes of all proceedings of the Board and the Members. He shall attend to the affairs of the Association. He shall have such additional powers as the Board may designate.

5.5 **Treasurer.** The Treasurer shall have custody of all of the property of the Association including funds, securities and evidences of indebtedness. He shall keep the assessment roll and accounts 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.

5.6 **Compensation.** No compensation shall be paid to any officer of the Association except with the approval of a majority of the membership, reflected by a vote taken at a duly constituted membership meeting. No officer who is appointed by the Developer shall receive any compensation for his services as an officer. Nothing herein shall be construed so as to prohibit or prevent the Board of Directors from employing any director or officer as an employee of the Association at such compensation as the Board shall determine, nor shall anything herein be construed so as to preclude the Board from contracting with a director or officer or with any corporation in which a director or officer of the Association may be stockholder, officer, director or employee, for the management of the Condominium for such compensation as shall be mutually agreed between the Board and such officer, director or corporation, for the purpose of making available to the owners of Condominium Units such services as are contemplated by the provisions of Article 4.12 of these Bylaws. It is expressly contemplated that the first Board of Directors may enter into such contracts with persons who are initial officers or Directors of the Association, or with corporations having officers, Directors or employees who are also Members of the first Board of Directors of the Association.

6. **FISCAL MANAGEMENT.**

The provisions for fiscal management of the Association set forth in the Declaration of Condominium and Articles of Incorporation shall be supplemented by the following provisions:

6.1 **Books and Accounts.** Books and accounts of the Association shall be kept under the direction of the Treasurer and in accordance with standard accounting procedures and the Florida Condominium Act. Written summaries shall be supplied at least annually to Members. Such records shall include, but not be limited to:

- (a) A record of all receipts and expenditures.
- (b) An account for each Unit which shall designate the name and address of the Unit owner, the amount of each assessment, dates and amounts in which the assessments come due, the amounts paid upon the account and the balance due.

6.2 **Inspection of Books.** Financial reports and the membership records shall be maintained in the office of the Association and shall be available to Members for inspection during normal business hours. Within 90 days after the end of each fiscal year, the Association shall prepare and complete, or contract for the preparation and completion of, a financial report for the preceding fiscal year. Within 21 days after the final financial report is completed by the Association or received from the third party, but not later than 120 days after the end of the fiscal year, the Association shall mail to each Unit Owner, at the address last furnished to the Association by the Unit Owner, or hand deliver to each Unit Owner, a copy of the financial

report or a notice that a copy of the financial report will be mailed or hand delivered to the Unit Owner, without charge, upon receipt of a written request from the Unit Owner.

6.3 **Annual Budget.** The Board shall adopt, for, and in advance of, each fiscal year, a detailed budget showing the estimated cost of performing all of the functions of the Association for the year showing amounts budgeted by accounts and expense classification. Each budget shall show the total estimated expenses of the Association for that year and shall contain an itemized breakdown of the common expenses, which shall include without limitation, expenses listed in Florida Statutes, Section 718.504(21), the cost of operating and maintaining the Common Elements, taxes on Association property, wages and salaries of Association employees, management, legal and accounting fees, office supplies, public utility services not metered or charged separately to Units, premiums for insurance carried by the Association and any reserve accounts and/or funds which may be established from time to time by the Board. Each budget shall also show the proportionate share of the total estimated expenses to be assessed against and collected from the owner(s) of each Unit and due date(s) and amounts of installments thereof.

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, if applicable, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement costs exceeds \$10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining 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 changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to budgets in which the Members of the 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 the Association by Developer to Unit owners other than Developer pursuant to Florida Statutes, Section 718.301, Developer may vote to waive the reserves for the first two fiscal years of the operation of the Association, beginning with the fiscal year in which the Declaration is recorded, which vote must be taken each fiscal year. After the first two fiscal years 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.

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 interests present at a duly called meeting of the Association. Prior to turnover of control of the Association by Developer to Unit owners other than Developer pursuant to Section 718.301, the Developer-controlled Association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the Association.

Copies of the proposed budget and proposed assessments shall be transmitted to each Member at least fourteen (14) days prior to the meeting of the Board of Directors at which the budgets will be considered, together with a notice of the time and place of said meeting, which shall be open to Unit owners. Evidence of compliance with this 14-day notice must be made by an affidavit executed by an officer of the Association or a manager or other person providing notice of the meeting and filed among the official records of the Association. If any budget is subsequently amended, a copy shall be furnished each affected Member. Delivery of a copy of any budget or amended budget to a Member shall not affect the liability of any Member for any such assessment, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the 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 costs and expenses of operation and management, or in the event of emergencies.

6.4 Amount of Budget. If a budget is adopted by the Board which requires assessment of the Unit owners in any budget year exceeding 115% of such assessments for the preceding budget year, upon written application of ten percent (10%) of the Unit owners, a special meeting of the Unit owners shall be held upon not less than ten (10) days written notice to each Unit owner, but within thirty (30) days of the delivery of such application to 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 successors. Any such revision of the budget shall require a vote of not less than two-thirds (2/3) of the votes of all Unit owners. The Board may, in any event, first propose a budget to the Unit owners at any such meeting of Members or by writing, and if such budget or proposed budget be approved by a majority of the votes of all Unit owners either at such meeting or by writing, such budget shall not thereafter be reexamined by the Unit owners in the manner herein above set forth. If a meeting of the Unit owners has been called and a quorum is not attained or a substitute budget is not adopted by the Unit owners, the budget adopted by the Board of Directors shall go into effect as scheduled.

In determining whether assessments exceed 115% of similar assessments in the prior budget year, there shall be excluded from the computation reasonable reserves made by the Board in respect of repair and replacement of Condominium or Association property, or in respect of anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis; and there shall be excluded from such computation assessments for betterments to the Condominium or Association property. Provided, however, that so long as Developer is in control of the Board of Directors the Board shall not impose an assessment for a budget year greater than 115% of the prior budget year's assessment without approval of a majority of the votes of all Unit owners.

6.5 Notice of Adopted Budgets. Upon adoption of budgets, the Board shall cause written copies thereof to be delivered to all Unit owners. Assessments shall be made against Unit owners pursuant to procedures established by the Board, and in accordance with terms of the Declaration and Articles. Provided, however, that the lien or lien rights of the Association shall not be impaired by failure to comply with procedures established pursuant to these Bylaws.

6.6 **Assessments.** Unless otherwise determined by the Board of Directors, assessments shall be payable monthly on the first day of each calendar month. Assessments shall be made 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 all of the unpaid operating expenses previously incurred. Nothing in this paragraph shall preclude the right of the 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. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment, and installments on such assessment shall be due upon each installment payment date until changed by an amended assessment. In the event the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board of Directors. Unpaid assessments for the remaining portion of the fiscal year for which an amended assessment is made shall be payable in equal installments through the end of the fiscal year; provided, nothing herein shall serve to prohibit or prevent the Board of Directors from imposing a lump sum assessment in case of any immediate need or emergency.

6.7 **Special Assessments.** Special assessments, other than special assessments to meet shortages or emergencies, shall be approved by the Members at a duly convened meeting and shall be levied and paid in the same manner as heretofore provided for regular assessments. Special assessments to meet shortages or emergencies can be adopted by the Board of Directors and written notice thereof given to the Member or Members affected thereby. Special assessments can be of two kinds: (i) those chargeable to all Members of the Condominium in the same proportions as regular assessments to meet shortages or emergencies, to construct, reconstruct, repair or replace all or any part of the Common Elements (including fixtures and personal property related thereto); and (ii) and for such other purposes as shall have been approved by the Members at a duly convened meeting.

6.8 **The Depository.** The depository of the Association shall be such bank or banks or savings and loan association or associations as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks or withdrawals signed by such persons as are authorized by the Directors, provided that any management agreement may include in its provisions authority for the Manager to sign checks on behalf of the Association for payment of the obligations of the Association.

6.9 **Audit.** An audit of the accounts of the Association may be made from time to time as directed by the Board of Directors.

6.10 **Fidelity Bonds.** The Association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management at any one time. As used in this section, the term "persons who control or disburse funds of the Association" includes, but is not limited to, those individuals authorized to sign checks, and the president, secretary, and treasurer of the Association. The Association shall bear the cost of bonding.

6.11 **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.

7. **PARLIAMENTARY RULES.**

Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration of Condominium, Articles of Incorporation, or these Bylaws.

8. **AMENDMENTS TO BYLAWS.**

Amendments to these Bylaws shall be proposed and adopted in the following manner:

8.1 **Proposal.** Amendments to these Bylaws may be proposed by the Board, acting upon a vote of a majority of the Directors, or by Members owning a majority of the Units in the Condominium, whether meeting as Members or by instrument in writing signed by them.

8.2 **Notice.** Upon any amendment or amendments to these Bylaws being proposed by the Board or Members, such proposed amendment or amendments shall be transmitted to the President of the Association, or acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the Members for a date not sooner than fourteen (14) days nor later than sixty (60) days from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary to give each Member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the Members is required as herein set forth; provided, that proposed amendments to the Bylaws may be considered and voted upon at annual meetings of the Members.

8.3 **Content of Amendment.** No Bylaw shall be revised or amended by reference to its title or number only. Proposals to amend existing Bylaws shall contain the full text of the Bylaws to be amended; new words shall be inserted in the text underlined and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of bylaw. See bylaw . . . for present text." Nonmaterial errors or omissions in the bylaw process shall not invalidate an otherwise properly promulgated amendment.

8.4 **Voting.** In order for such amendment or amendments to become effective, the same must be approved by an affirmative vote of two-thirds of the votes present at a regular or special meeting at which a quorum is present. Thereupon, such amendment or amendments to these Bylaws shall be transcribed, certified by the President and Secretary of the Association, and a copy thereof shall be recorded in the public records of Volusia County, Florida, within fifteen (15) days from the date on which any amendment or amendments have been affirmatively approved by the Members.

8.5 **Written Vote.** At any meeting held to consider such amendment or amendments 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 such meeting.

8.6 **Developer's Reservation.** Notwithstanding the foregoing provisions of this Article 8, no amendment to these Bylaws which shall abridge, amend or alter the right of Developer to designate Members of the Board of Directors of the Association, as provided in Article 4 hereof, or any other right of the Developer provided herein or in the Articles of Declaration, may be adopted or become effective without the prior written consent of Developer.

8.7 **Proviso.** Provided, however, that no amendment shall discriminate against any Condominium Unit owner nor against any Condominium Unit or class or group of Units unless the Condominium Unit owners so affected shall consent. No amendment shall be made that is in conflict with the Condominium Act, the Declaration of Condominium, or the Articles of Incorporation.

8.8 **Proviso.** Anything herein to the contrary notwithstanding, until the first regular election of Directors by the membership, and so long as the Developer shall have the right to fill vacancies on the Board of Directors, an amendment shall require only the unanimous consent of the Board of Directors, and no meeting of the Condominium Unit owners nor any approval thereof need be had.

8.9 **Arbitration.** In the event of internal disputes arising from the operation of the Condominium among Unit owners, Associations, and their agents and assigns, the parties must comply with mandatory non-binding arbitration in accordance with Florida Statutes, Section [REDACTED]

9. **RECALL OF BOARD MEMBERS.**

Subject to the provisions of Florida Statutes, Section 718.301, any Member of the Board of Directors 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 interests. A special meeting of the Unit owners to recall a Member or Members of the Board of Directors may be called by ten percent (10%) of the voting interests giving notice of the meeting in the same manner as required for a meeting of Unit owners, and the notice shall state the purpose of the meeting.

9.1 If the recall is approved by a majority of all voting interests by a vote at a meeting, the recall will be effective as provided herein. The Board shall duly notice and hold a Board meeting within 5 full business days of the adjournment of the Unit owner meeting to recall one or more Board Members. At the meeting, the Board shall either certify the recall, in which case such Member or Members shall be recalled effective immediately and shall turn over to the Board within 5 full business days any and all records and property of the Association in their possession, or shall proceed as set forth in subparagraph 3.

9.2 If the proposed recall is by an agreement in writing by a majority of all voting interests, the agreement in writing or a copy thereof shall be served on the Association by certified mail or by personal service in the manner authorized by Chapter 48 of the Florida Rules of Civil Procedure. The Board shall duly notice and hold a meeting of the Board within 5 full business days after receipt of the agreement in writing. At the meeting, the Board 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 5 full business days any and all records and property of the Association in their possession, or proceed as described in subparagraph 3.

9.3 If the Board determines not to certify the written agreement to recall a Member or Members of the Board, or does not certify the recall by a vote at a meeting, the Board shall, within 5 full business days after the meeting, file with the Division a petition for arbitration pursuant to the procedures in Florida Statutes Section [REDACTED]. For the purposes of this section, the Unit owners who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any Member or Members of the Board, the recall will be effective upon mailing of the final order of arbitration to the Association. If the Association fails to comply with the order of the arbitrator, the Division may take action pursuant to Florida Statutes, Section 718.501. Any Member or Members so recalled shall deliver to the Board any and all records of the Association in their possession within 5 full business days of the effective date of the recall.

9.4 If the Board fails to duly notice and hold a Board meeting within 5 full business days of service of an agreement in writing or within 5 full business days of the adjournment of the Unit owner recall meeting, the recall shall be deemed effective and the Board Members so recalled shall immediately turn over to the Board any and all records and property of the Association.

9.5 If a vacancy occurs on the Board as a result of a recall and less than a majority of the Board Members are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining Directors, notwithstanding any provision to the contrary contained in this subsection. If vacancies occur on the Board as a result of a recall and a majority or more of the Board Members are removed, the vacancies shall be filled in accordance with procedural rules to be adopted by the Division, which rules need not be consistent with this subsection. The rules must provide procedures governing the conduct of the recall election as well as the operation of the Association during the period after a recall but prior to the recall election.

10. 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 applicable fire and life safety code.

11. POWER TO CONVEY COMMON ELEMENTS.

11.1 The Association shall have a limited power to convey a portion of the common elements to a condemning authority for the purpose of providing utility easements, right-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.

11.2 In any case where the Bylaws are silent as to the Association's power to convey common elements as described in subparagraph 11.1, the Bylaws shall be deemed to include the provision described in subparagraph 11.1.

12. INDEMNIFICATION OF DIRECTORS AND OFFICERS

The Association shall indemnify any and all persons who may serve or who have served at any time as Directors or officers, and their respective heirs, administrators, successors and assigns, against any and all expenses, including amounts paid upon judgments, counsel fees, and amounts paid in settlements (before or after suit is commenced), actually and necessarily incurred by such persons in connection with the defense or settlement of any claim, action, suit or proceeding in which they, or any of them, are made parties, or a party, or which may be asserted against them, or any of them, by reason of having been Directors or officers, or a director or officer of the Association, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance, or malfeasance, in the performance of his duties. Such indemnification shall be in addition to any rights to which those indemnified may be entitled under any law, by-law, agreement, vote of Members, or otherwise.

The foregoing were adopted as the Bylaws of OCEANS GRAND OWNERS ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida, at the first meeting of the Board of Directors on the ____ day of _____, 200 ____.

Secretary

APPROVED:

President

EXHIBIT "F"

Master Declaration

005989

FILED FOR RECORD
RECORD VERIFIED

JAN 17 1 26 PM '86

RESTATEMENT OF
AND
FOURTH AMENDMENT
TO
DECLARATION OF COVENANTS AND RESTRICTIONS
OCEANS WEST PLANNED UNIT DEVELOPMENT
AND
NOTICE OF PROVISIONS OF
OCEANS WEST HOMEOWNERS ASSOCIATION, INC.

U. Smith

CLERK OF COUNTY COURT
VOLUSIA COUNTY FLORIDA

THIS RESTATEMENT OF AND AMENDMENT TO DECLARATION is made this 23^d day of December, 1985, by Oceans West, Inc., (hereinafter referred to as the "Developer").

WITNESSETH:

WHEREAS, the Developer recorded the Declaration of Covenants and Restrictions, Oceans West Planned Unit Development and Notice of Provisions of Oceans West Homeowners Association, Inc., on November 17, 1981, in Official Records Book 2312, Pages 461 through 506, Public Records of Volusia County, Florida, and Amendment thereto on May 25, 1983, in Official Records Book 2453, Pages 920 through 928, Public Records of Volusia County, Florida, and Second Amendment thereto on July 11, 1983, in Official Records Book 2467, Pages 1553 through 1559, Public Records of Volusia County, Florida and Third Amendment thereto on May 21, 1984, in Official Records Book 2567, Pages 755 through 766, Public Records of Volusia County, Florida, and

WHEREAS, Developer, is the record owner of condominium parcels 2, 3, and 4 located in said Oceans West Planned Unit Development and said parcels are the only portions of said Planned Unit Development property upon which additional living units beyond those already constructed on Condominium parcel 1 can be constructed pursuant to the development agreement between the City of Daytona Beach Shores and Developer, and

WHEREAS, the maximum number of authorized living units which may be located within the confines of the Planned Unit Development property is 990, the number of living units already constructed is 249, and the additional authorized living units remaining to be built within the Planned Unit Development confines is 741, and

WHEREAS, Developer, has present plans to construct less than the 741 additional allowable living units within the confines of the Planned Unit Development property, and

WHEREAS, Developer, has determined that in order to prevent an adverse impact upon the living unit owners in the Planned Unit Development that it is desirable for additional living units located on property outside of the

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confines of the Planned Unit Development property to be subjected to the lien rights of the association and be granted use rights with respect to the common areas of the Planned Unit Development in order to allow the number of living units ultimately to be subject to the lien rights of the association and granted use rights with respect to the common areas of the Planned Unit Development property to remain at 990, and

WHEREAS, Developer, wishes to allow owners of living units located on properties outside the confines of the Planned Unit Development to have membership rights in the Oceans West Homeowners Association, Inc., and use privileges for the common areas located in the Planned Unit Development, and

WHEREAS, present plans call for some of the 990 authorized living units to be constructed outside the confines of the Planned Unit Development, Developer, hereby covenants and agrees to submit no more than 990 living units to the lien rights of the Association of the Planned Unit Development and reserves for itself, and its parent corporation, Bellemead Development Corporation, and their successors and assigns the right to submit additional property to the lien rights of the Association, with a corresponding grant of use privileges of the common areas and membership rights in the Homeowners Association for that number of living units located outside of the confines of the Planned Unit Development which when added to the number of living units constructed or to be constructed, on the Planned Unit Development property will be equal to or less than, the number 990, and

WHEREAS, Article V, Section 5.1 of said Declaration, as previously amended, presently provides "The Developer hereby reserves the right to amend, modify or rescind such parts of this Declaration as it deems necessary or desirable so long as it is the owner of at least 248 of the 990 living units authorized, whether constructed or not, and such amendment or modification does not impair or prejudice the rights of the Developer, the Association, or institutional mortgagee under this Declaration or its exhibits, and provided such amendment is approved by any construction lender providing funds for the construction of improvements on the Planned Unit Development at the time of the amendment. Such Amendment shall be evidenced by recording the original thereof, executed by the Developer with the formalities required for the execution of a deed attached to a certificate of the Association and recorded in the Public Records of Volusia County, Florida.", and

WHEREAS, Bankers Trust Company is at this time the only construction lender providing funds to construct improvements on the Planned Unit Development which, at the present time, consists of the property described on Exhibit "A", and

WHEREAS, Developer is the owner of over 248 of the 990 living units authorized and with the consent of Bankers Trust Company has the authority to amend said Declaration, and

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WHEREAS, Developer desires to further amend said Declaration and restate and integrate all prior amendments into a single document, and

WHEREAS, Developer certifies that: the restated provisions contained herein only restate and integrate and do not further amend, any amendments contained herein have been duly adopted and are identified, there are no discrepancies between the provisions as previously amended of record and these restated and amended provisions other than the inclusion of those amendments which are clearly identified.

NOW, THEREFORE, the Declaration of Covenants and Restrictions, Oceans West Planned Unit Development and Notice of Provisions of Oceans West Homeowners Association, Inc., as previously amended, is further amended and restated as follows:

ARTICLE I

DEFINITIONS AND DESCRIPTION OF PROPERTY

Section 1.1. Definitions. The following words and terms when used in this Declaration and any supplemental Declaration, the Articles of Incorporation and the By-Laws shall have the following meanings, unless the context shall clearly indicate otherwise:

(a) "Association" shall mean the Oceans West Homeowners Association, Inc., a Florida Corporation not for profit, and its successors and assigns, the membership of which shall be as specified in the Articles of Incorporation and By-Laws of that corporation. [4]

(b) "Developer" shall mean and refer to Oceans West, Inc., its successors and assigns. The developer shall, for the purpose of this Declaration and the Articles of Incorporation and By-Laws of the Association, be considered as the owner of all of the 990 authorized living units which have not been sold and titled out whether constructed or not. Developer shall also mean any affiliated developer of property located outside of the confines of the Planned Unit Development as living units located on that property are made subject to the lien rights of the Association and given the right to use the common areas of the Planned Unit Development. Affiliated developer shall mean any subsidiary corporation of Bellemead Development Corporation, Oceans West, Inc., or Oceans One West, Inc. [4]

(c) "Common Areas" shall mean those areas of land, as marked on the amended plat of Oceans West Planned Unit Development, and including parks, playgrounds, golf course, lakes, greenbelt areas and open space, together with any improvements thereon which are conveyed to the Association and designated in the deed as "common areas". Additionally, "common areas" shall include any property or facility leased by the Association, the required streets and road rights-of-way intended to be devoted to the common use and enjoyment of the residential owner and uses of the common areas, provided, however, this is

subject to the rights and interests acquired or to be acquired by the City of Daytona Beach Shores in said street and road rights-of-way as hereinafter set forth. The term "common areas" shall also include any tangible personal property acquired by the Association if such property is designated as such by the Association. All common areas are to be devoted to and intended for the common use and enjoyment of the members of the Association, their families, guests, persons occupying dwelling units on a guest or tenant basis, and visiting members of the general public (but only to the extent authorized by the Board of Directors of the Association). The common areas do not include condominium tracts of 1, 2, 3 and 4 as shown on said amended plat. [3]

(d) "Living Unit" shall mean and refer to any portion of a building situated upon the existing property and additions to existing property designed and intended for use and occupancy of the residents by a single family and susceptible to ownership in fee simple, such as a unit in a condominium and the Developer shall, for the purposes of this Declaration and the Articles of Incorporation and By-Laws of the Association, be considered as the owner of all of the 990 authorized living units which have not been sold and titled out whether constructed or not. Living unit shall also include living units located on property outside the confines of the Planned Unit Development as those units are made subject to the lien rights of the Association and given the right to use the common areas of the Planned Unit Development. In no event shall more than 990 living units be subjected to such lien rights or granted use privileges. [4]

(e) "The Property" shall mean and refer to the amended plat of Oceans West Planned Unit Development. [4]

(f) "Family" as used herein shall have the meaning set forth in the Code of Ordinances of the City of Daytona Beach Shores, Florida, Section 200.00(36)(1977).

(g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any living unit, owner shall also include living unit whether or not such unit is located within or outside the confines of the Planned Unit Development, but, notwithstanding any applicable theory of the law of mortgages, owner shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. [4]

Section 1.2. Development Tracts. Oceans West Planned Unit Development shall be developed in separate buildings or groups of buildings which shall be located or placed on each of four development tracts, lots or parcels as the Developer may elect. For identification these will be referred to from south to north as condominium tract 1, condominium tract 2, condominium tract 3 and condominium tract 4. Additional development tracts, located outside of the Planned Unit Development confines, may be subjected to the lien rights of the Association and granted use rights to the common areas. Each of the Planned Unit Development tracts shall be a separate condominium with its own covenants

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and restrictions and each shall have a director or directors on the Board of Directors of the Homeowners Association at such time and under the conditions provided in the Articles of Incorporation and By-Laws of said Homeowners Association. The tracts located outside the Planned Unit Development will be either a condominium or a Homeowners Association project with its own covenants and restrictions and each shall have a director or directors on the Board of Directors of the Homeowners Association at such time and under the conditions provided in the Articles of Incorporation and By-Laws of said Homeowners Association. [4]

Section 1.3. Plat of Development. The Developer has caused the plat of said development to be recorded in Map Book 38, pages 66 through 71, Public Records of Volusia County, Florida, and has caused the Amended Plat of Oceans West Planned Unit Development to be recorded in Map Book 39, pages 6 through 11, Public Records of Volusia County, Florida. Said Amended Plat showing the relocation of a portion of Oceans West Boulevard located outside of but serving as an access from and to the development. [4]

ARTICLE II

RESTRICTIVE COVENANTS

Section 2.1. No living unit shall be used for any purpose except single family residential. The term 'residential' is intended to prohibit any commercial use, even professional office use of any portion of any unit. This restriction shall not apply to units outside the confines of the Planned Unit Development which are now or hereafter made subject to the lien rights of this Association and given the right to use the common areas located in the Planned Unit Development. All such units shall be governed in this respect by the Declaration of Condominium and Condominium Association documents pertaining to the developments in which those units are located. [4]

Section 2.2. No structure of a temporary nature or character, including, but not limited to, a trailer, house trailer, mobile home, camper, tent, shack, shed, barn or other similar structure or vehicle shall be used or permitted to remain on any portion of the property as a storage facility or residence, or other living quarters whether temporary or permanent, unless for use during construction only.

Section 2.3. No automobile, truck, boat, boat and trailer, trailer, house trailer, mobile home, camper, or other similar vehicle shall be parked on the street (including the right-of-way thereof) overnight or for a continuous period of time in excess of ten consecutive hours.

Section 2.4. No boat, boat and trailer, or trailer alone shall be parked (for any period of time in excess of ten consecutive hours) or stored or otherwise permitted to remain on any portion of the property. No automobile, truck, or other commercial business or commercial activity, shall be parked

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(for any period of time in excess of ten consecutive hours) or stored or otherwise permitted to remain on any portion of the property.

Section 2.5. No livestock, poultry, or animals of any kind or size shall be raised, bred or kept on any portion of the property; provided, however, that dogs, cats or other domesticated household pets may be raised and kept provided such pets are not kept, bred or maintained for any commercial purposes. Such approved pets shall be housed in the owner's living unit and shall not be permitted to roam free on the property. The keeping of such pets may be regulated or may be prohibited by each individual condominium or homeowner's association. [4]

Section 2.6. No sign of any kind shall be erected, permitted to remain on or displayed to public view on or from any portion of the property unless approved by the Association.

Section 2.7. No obnoxious or offensive activity shall be conducted or permitted to exist upon any portion of the property, nor shall anything be done or permitted to exist on any portion of the property that may be or may become an annoyance or private or public nuisance.

Section 2.8. No portion of the property shall be used to maintain for dumping or discharge of rubbish, trash, garbage or other solid waste material. All portions of the property shall be kept free of the accumulation of rubbish, trash, garbage, other solid waste materials and all unsightly weeds and underbrush. No incinerators or other fixed equipment shall be used for the collection, storage or disposal of solid waste material. The restrictions set forth in this subsection shall not apply to those areas designated from time to time by the Developer for construction related activities.

Section 2.9. No wall or fence shall be erected, placed, altered, maintained or permitted to remain on any portion of the property unless and until the height, type and location thereof have been approved by the Association.

Section 2.10. No driveway shall be constructed, maintained, altered or permitted to exist on any portion of the property if the driveway obstructs or impedes the flow of surface drainage in the area adjacent to or in the street right-of-way or sale area adjoining or abutting the said property.

Section 2.11. The Developer for itself, its successors and assigns and for a lender which is providing the funds for the construction of improvements on the Planned Unit Development property or its designee in the event such lender or designee become the owner of such improvements by reason of foreclosure or acceptance of a deed in lieu of foreclosure, reserves the right to establish such easements as shall be necessary for the installation, construction, maintenance and repair of utility services and any transmission or distribution or communication or other like services and the Developer

reserves the right to establish easements for drainage as shall be necessary in the Planned Unit Development and contiguous property. Said right shall continue as long as Developer or its successor or assigns or said lender or its designee own land or lots in the Planned Unit Development and as long as Developer's parent corporation, Bellemead Development Corporation or its subsidiary corporations own land contiguous to the Planned Unit Development and as long as said lender shall have a mortgage on said land or lots, the provisions of this paragraph may not be amended without the written consent of the Developer and the lender or its designee as aforesaid.

Section 2.12. The Developer reserves the right to dedicate or grant easements or convey land contiguous to the Planned Unit Development for street purposes and reserves the right to convey property contiguous to or in close proximity to the Planned Unit Development to the City of Port Orange, Florida, which supplies the development with potable water for the construction of a one million gallon drinking water storage facility.

Section 2.13.

A. A non-exclusive easement for ingress and egress in favor of each unit owner is hereby created over the driveways, walks and other common areas to provide each unit owner access to the public ways. No easement for ingress or egress shall be encumbered or subject in any way to be encumbered. Easements are reserved through the common areas as may be required for utility services.

B. Developer for itself, its successors and assigns and for a lender which is providing the funds for the construction of improvements on the Planned Unit Development property or its designee in the event such lender or designee become the owner of such improvements by reason of foreclosure or acceptance of a deed in lieu of foreclosure, reserves an easement over and through all of the common areas of the Planned Unit Development for sales purposes and may maintain a sales office in one or more units until all of the units of the Developer or lender or its designee as aforesaid have been sold. During such time as the Developer, its successors or assigns or lender or its designee as aforesaid are in the process of construction on any of the condominium buildings or other construction in the Planned Unit Development, the Developer, reserves for itself, its successors or assigns and lender or its designee as aforesaid, the right to prohibit access to any portion of the common areas of the Planned Unit Development to any of the occupants of any of the buildings, and to utilize various portions of the common areas of the Planned Unit Development in connection with such construction and development. No unit owner or his guests, or invitees or lessee shall in any way interfere or hamper the Developer, its employees, successors or assigns, or lender or its designee as aforesaid, in connection with such construction. Thereafter, during such time as the Developer, its successors or assigns or lender or its designee as aforesaid own any units within the Planned Unit Development and is carrying on any business in connection therewith, including the selling, renting or leasing of such units, the unit owners, their guests or invitees or lessee shall in no way interfere with such activities or

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prevent access to such units by the Developer, its successors or agents or lender or its designee as aforesaid. The provisions of this section may not be amended without the written consent of Developer and the lender or its designee as aforesaid.

Section 2.14. One of the principal functions of the Association is to manage and maintain the golf facility construed on the common areas. [3]

ARTICLE III

ASSOCIATION

Section 3.1. To effectively provide for the management and administration of the common areas in Oceans West Planned Unit Development, a non-profit corporation (known as Oceans West Homeowners Association, Inc.; a non-profit Florida corporation) will be created. The Association shall operate, manage and maintain the common areas, enforce the restrictions and covenants contained herein, and undertake and perform all acts and duties necessary and incident to such duties, all in accordance with the provisions of the Declaration and the Articles of Incorporation and By-Laws of said Association. The Association shall have the authority on approval of its board of directors, to lease property to be used in connection with the operation of the common areas. (The Amended and Restated Articles of Incorporation and By-Laws of the Association as amended shall be as attached hereto as Exhibits "B" and "C", at the time of recording). [4]

Section 3.2. ~~The owner of each living unit shall automatically become members of the Association upon his, her or their acquisition of an ownership interest in or title to any living unit.~~ The membership of such owner shall terminate automatically at the time that such owner is divested of such ownership interest or title to such living unit, regardless of the means by which such ownership may have been divested. The Developer shall be considered as the owner of all of the 990 authorized living units which have not been sold and title out whether constructed or not. [4]

Section 3.3. No person, corporation or other business entity holding any lien, mortgage or other encumbrance upon any living unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in the Association or to any of the rights and privileges, or be charged with any of the duties of such membership; provided, however, that nothing contained herein shall be construed as prohibiting membership in the Association of a person, corporation, or by other business entity which acquires title to a living unit either by foreclosure or by voluntary conveyance from a mortgagor, his successor or assign.

Section 3.4. In the administration, operation and management the common areas and the enforcement of these covenants and restrictions, the Board of Directors of the Association shall have and is hereby granted full power and authority to adopt rules and regulations governing the conduct of the members

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of the Association and governing the use of the common areas, to appoint committees, to make agreements necessary to carry out its functions, to levy and collect assessments in accordance herewith, and to provide a method for the administration and enforcement of this Declaration and its Exhibits, and the rules and regulations adopted by the Board of Directors. [3]

Section 3.5. The Association shall provide insurance, other than title insurance, upon the Association property.

(a) All policies upon the Association's property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.

(b) Named Insured. The named insured shall be the Association individually and as agent for the owners of all units subject to the lien rights of the Association and given the right to use the common areas, without naming the owners of such units, and shall include mortgagees who hold mortgages upon Association property whether or not the mortgagees are named. [4]

(c) Custody of policies and payment of proceeds. All policies shall provide that payments for losses made by the insurer shall be paid to the Association, and all policies and endorsements on them shall be held by the Association.

(d) Improvements on the Association property or property leased by the Association, if required by the lease, shall be insured in an amount equal to the maximum insurable replacement value and afford protection against.

(1) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and

(2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the building on the land, including but not limited to insurance covering flooding, vandalism and malicious mischief. The bailee liability, if any, of the Association to unit owners shall be insured.

(e) Public liability in such amounts and with such coverage as shall be required by the Board of Directors of the Association, including but not limited to hired automobile and non-owned automobile coverages, and with cross liability, endorsement to cover liabilities of the unit owners as a group to a unit owner.

(f) Workmen's compensation policy to meet the requirements of law.

(g) Officer and Directors indemnification insurance as provided in the By-Laws.

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(h) Fidelity Bond. Fidelity bonding of all officers and directors of the Association who control or disburse the funds of the Association in such amount as may be determined by the Board of Directors, or, in the event insurance proceeds are payable to the Association as provided in this Declaration, then such fidelity bonding shall be increased by the amount of the insurance proceeds and maintained at such amount until such proceeds have been disbursed in the manner elsewhere stated in this instrument at which time the Board of Directors may again determine the amount.

(i) Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

(j) Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.

Section 3.6. As long as the Developer has rights and obligations under this Declaration, the Association shall not use its resources in opposition to the Developer's Plan of Development.

ARTICLE IV

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 4.1. Creation of Lien and Personal Obligation. The Developer covenants, and each owner of each and every living unit shall by acceptance of a deed or other instrument of conveyance therefore, whether or not it shall be so expressed in any such deed or instrument, be deemed to covenant and agree to all the terms, covenants, conditions, restrictions, and other provisions of this Declaration and to promptly pay to the Association or its successors or assigns the following:

(a) All periodic assessments or charges, including the initial monthly assessment, and

(b) All special assessments or charges for the purposes set forth in Section 4.3. Such assessments or charges shall be fixed, established, levied, and collected from time to time as hereinafter provided. The personal obligation of the owner for assessments shall not pass to successors in title unless assumed by them. [2]

The periodic and special assessments (together with such interest thereon and the cost of collection including reasonable attorneys' fees as hereinafter provided) shall be a charge and continuing lien on the living unit against which such assessment is made. Each such assessment (together with such interest thereon and the cost of collection including reasonable attorneys' fees) shall also be the personal obligation of the person who was the owner of such real property at the time when the assessment first became due and payable. In the case of joint ownership of a living unit, each owner shall be individually, jointly and severally liable for the entire amount of

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the assessment and the aforesaid interest, collection costs, and attorneys' fees. Each such assessment shall be paid directly to the Association.

Section 4.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the improvement, maintenance, enhancement, enlargement, and operation of the Common Areas and Properties leased by the Association and to provide services which the Association is authorized to provide including, but not limited to, the payment of taxes, governmental assessments and insurance thereon, construction and maintenance of improvements, repairs, replacements, payment of the costs of labor, services, equipment, materials, management, and other supervision necessary to carry out the authorized functions of the Association, and for the payment of rental payments on leased property, the payment of principal, interest and other charges connected with loans made by or assumed by the Association for the purpose of enabling the Association to perform its authorized functions, including the payment of mortgages covering the common area and property at the time of conveyance to the Association as a pre-condition to use of such facilities. The Association shall not be bound in setting assessments in subsequent years by the amount of the assessments set in earlier years. Notwithstanding any of the provisions of this Article, in no even shall the assessments and other revenues collected by the Association exceed its expenses and reasonable reserves to an extent which would violate the Association's non-profit status.

Section 4.3. The initial regular monthly assessment is hereby set at the rate of \$20.00 per living unit. Developer guarantees to each living unit owner that the initial assessment shall not exceed \$20.00 per month per living unit at least until January 1, 1987. Developer agrees 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. Commencing January 1, 1987, the Developer shall review and adjust said assessment annually thereafter as long as the Developer retains control of the Association. The Developer agrees to relinquish control of the Association when 75% or 742 of the 990 authorized living units have been sold and titled out to owners other than Developer or earlier at the option of the Developer. The Developer further agrees, notwithstanding any other provisions of this document and in spite of any rights reserved elsewhere herein to Developer, that after December 31, 1993, it shall have no right to "control" the Association, the Association Board of Directors, the Planned Unit Development, or the unit owners in any manner except through votes allocated to authorized living units owned by the Developer on the same basis as votes allocated to authorized living units belonging to other unit owners. The Developer further agrees that if "control", other than through votes allocated to authorized living units owned by the Developer on the same basis as votes allocated to authorized living units belonging to other unit owners, has not previously been relinquished under other provisions of this document prior to December 31, 1993, that all actions necessary to relinquish "control", other than through votes allocated to authorized living units owned by the Developer on the same basis as votes allocated to authorized living units belonging to

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other unit owners, will be taken on or before that date. After turnover of control has occurred, regular monthly assessments shall be determined as provided in the By-Laws and shall be in an amount sufficient to defray the expenses of the Association. The regular assessment may be increased beyond that set at the annual meeting upon approval by two-thirds (2/3) of the voting members in attendance in person or by proxy at any regular or special meeting of the Association, but only after notice of the recommendation is given to all members at least thirty (30) days prior to the date of said meeting. [4]

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of members who are voting in person or by proxy at a meeting duly called for this purpose. [4]

Section 4.4. There is hereby created an assessment and a lien securing it in favor of Developer on each of the 990 authorized living units which are subject to the lien rights of the Association and given the right to use the common areas of the Planned Unit Development, in the amount of \$500.00 on each unit which shall be due and payable on July 1, 1991 as to living units that have been sold and titled out to individual owners as of said date, the assessment and lien on units which have not been sold and titled out to individual owners on July 1, 1991 shall be due and payable to Developer at closing of the sale of each unit. Payment of the \$500.00 prior to July 1, 1991, is prohibited. The lien shall secure reasonable attorneys' fees incident to the collection of the assessment or enforcement of the lien. The lien created by this Section 4.4 is and shall be inferior and subordinate to the lien of an institutional mortgage that is a mortgage originally executed and delivered to a mortgage banking firm, a bank, savings and loan association, real estate investment trust, insurance company or to the Developer or Bellemead Development Corporation. [4]

Section 4.5. Assessments against Developer-Owned Units. During such time as the Developer owns one (1) or more of the authorized 990 units, the assessments, attributable to the Developer's units as provided for in these Articles, shall never be more than the actual sums necessary to pay for the current operating expenses. Notwithstanding any of the foregoing provisions respecting assessments, during the period of time following the expiration of the guaranteed assessment period in Section 4.3 and prior to turnover of control of the Association, the developer shall collect all assessments from unit owners in the basis of a Projected Estimate of Operating Budget and shall pay all expenses for the operation of the Association during such period of time, on an accrual basis (receiving pro-rata credit for prepaid expenses, deposits, etc.). Developer shall not be obligated to account for the monies collected or fees for golf membership or any surplus retained or deficit paid. After the expiration of said period all assessments and the individual

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unit owners' and the Developer's responsibility as to assessments shall be as is otherwise provided for herein. [4]

Section 4.6. Nothing herein shall prohibit the owner of a living unit from leasing such living unit, if permitted by the Declaration, Restrictions and Covenants of the separate condominium or subdivision, and requiring the tenant of such living unit to reimburse the owner for the monthly assessment against said living unit. In that event, however, the lessor shall retain his right to vote, and is prohibited from transferring his vote to the tenant. On the first day of each tenancy the owner of any living unit which has been leased shall certify to the Secretary of the Association the names of all tenants who are residents of such living unit as of that date. [4]

Section 4.7. Assessments which are not paid on or before the date the same shall become due shall be delinquent, and each delinquent assessment shall bear interest at ten (10%) per cent per annum until it is paid in full. In addition to the accrual of interest, when an assessment becomes delinquent in payment, the Association may file a claim of lien to perfect the lien for such assessment against the living unit. There shall be no exemption from the payment of any assessment or installment thereof by waiver of the use of the common areas, by abandonment of the living unit, by extended absence from the Planned Unit Development or by or for any other reason.

Section 4.8. The Association, upon written request of any owner, shall furnish to a prospective purchaser or prospective mortgagee or other authorized person a statement of the current status of the assessments on such owner's living unit. When executed by the Treasurer of the Association, the statement shall be binding on the Association, and any purchaser or mortgagee may rely upon such statement as an accurate statement of the status of assessments.

Section 4.9. All revenue collected by the Association shall be segregated, held and used as the separate property of the Association and such revenue may be applied by the Association, at the discretion of the Board of Directors, towards the payment of any expenses of operation and maintenance of the common areas. Revenue collected by the Association from an owner of a living unit may be commingled with monies collected from other owners.

Section 4.10. Although all funds and other assets of the Association, and any profits derived therefrom, shall be held for the benefit of the members of the Association, no member of said Association shall have the right to assign, encumber, hypothecate, pledge, or in any manner transfer his membership or interest in or to said funds and assets, except as an appurtenance to his living unit. When an owner of a living unit shall cease to be a member of the Association by reason of the divestment of his ownership of said living unit, by whatever means that occurs, the Association shall not be required to account to said owner for any share of the funds or assets of the Association.

Section 4.11. Recognizing that proper management and operation of the

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common area and property (including improvements thereto) result in benefit to all members of the Association, the Association and the Developer as provided in Article IV, Section 4.4 are hereby granted a lien upon all real property appurtenant to any of the 990 authorized living units located on property now or hereafter submitted to the lien rights of the Association and the interests of each member of the Association in the common area and property and improvements thereto, to secure the prompt payment of each and every assessment made and levied in this Declaration and in accordance with this Declaration and each owner shall be liable for, and this lien shall secure, the full amount of said assessment, and the costs and expenses, including attorneys' fees, which may be incurred by the Association in enforcing this lien or the provisions of this Declaration. [4]

Section 4.12. The lien herein established may be foreclosed in the same manner as real estate mortgages may be foreclosed in the State of Florida. The lien granted herein shall also secure such payment of or advances for taxes and payments on superior mortgages, liens, or encumbrances which may be required to be advances by the Association in order to protect its interests, and the Association shall be entitled to interest computed on the basis of advances made from time to time at the highest legal rate of interest on all such advances.

Section 4.13. All persons, firms, corporations, and other business entitles, which shall acquire, by whatever means, any interest in the ownership of any living unit, or who may be given or who may acquire a mortgage, lien or other encumbrance of a living unit are hereby placed on notice of the lien rights granted to the Association under this Declaration, and all such persons, firms, corporations, and other business entitles shall acquire their rights, title and interest in and to said living unit expressly subject to the lien rights provided herein.

Section 4.14. The lien created pursuant to this Declaration shall be effective from and after the recording in the Public Records of Volusia County, Florida of a "claim of lien" stating the description of the property encumbered by the lien, the name of the record owner of the property, the amounts due and the date when the same became due. The lien shall continue in effect until all sums secured by the lien have been fully paid. The claim of lien may include assessments which are due and payable when the claim is made and recorded, plus interest, collection costs, attorneys' fees, and advances to pay taxes and prior encumbrances and interest thereon, all as provided herein. The claim of lien shall be signed and verified by the President or Vice President of the Association. When full payment of all sums secured by such lien is made, the claim of lien shall be satisfied of record by the President or Vice President of the Association. The claim of lien filed by the Association shall be subordinate to the lien of any mortgage or any claim of lien if the said mortgage or claim of lien is recorded prior to the Association's claim of lien.

Section 4.15. Notwithstanding the language above, the Association may by

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arrangement with each individual condominium or subdivision controlling property subject to the lien rights of the Association, bill the Condominium or other Association on a monthly, quarterly or annual basis for the total due from its unit owners, other than the Developer. [4]

ARTICLE V

AMENDMENT AND TERMINATION

Section 5.1. Amendment by Developer. The Developer hereby reserves the right to amend, modify or rescind such parts of this Declaration as it deems necessary or desirable so long as it is the owner of at least 248 of the 990 living units authorized, whether constructed or not, and such amendment or modification does not impair or prejudice the rights of the Developer, the Association, or institutional mortgagee under this Declaration or its Exhibits, and provided such amendment is approved by any construction lender providing funds for the construction of improvements on the Planned Unit Development at the time of the amendment. Such amendment shall be evidenced by recording the original thereof, executed by the Developer with the formalities required for the execution of a deed attached to a certificate of the Association and recorded in the Public Records of Volusia County, Florida. [3]

Section 5.2. Amendment by Association. In addition to the manner of amendment set forth in the preceding paragraph, amendments may be proposed by the Board of Directors or by twenty-five (25%) percent of the unit owners, and the record owners of seventy-five (75%) percent of the 990 authorized living units subject to the lien rights of the Association may amend or modify such provisions of this Declaration as they deem necessary or desirable. In such event, the President and Secretary of the Association shall execute a certificate under oath reciting that the amendment was adopted at a meeting duly called at which a quorum was present in person (or by proxy) and that at least seventy-five (75%) per cent of those entitled to cast a vote approved the amendment. Such certificate executed with the formalities required for the execution of a deed together with the amendment adopted, shall be recorded in the Public Records of Volusia County, Florida. It shall not be necessary for the record owners to join in any document to effectuate such amendment. [4]

Section 5.3. Termination. This Association may be terminated by approval in writing of all record owners of the 990 authorized living units which are subject to the lien rights of the Association and given the right to use the common areas of the Planned Unit Development and all record owners of mortgages on said units. Such termination shall be evidenced by a certificate of the Association executed with the formalities required for the execution of a deed by its President and its Secretary certifying as to the facts affecting the termination, which certificate shall become effective upon being recorded in the public Records of Volusia County, Florida. [4]

Section 5.4. Shares of Owners After Termination. After termination of

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the Association, unit owners shall own the Planned Unit Development property and all assets of the Association as tenants in common equal undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the unit owners.

Section 5.5. Amendment. This section concerning termination cannot be amended without consent of all unit owners and of all record owners of mortgages upon the units.

ARTICLE VI

PROPERTY RIGHTS IN COMMON PROPERTY

Section 6.1. The common areas, as hereinabove specifically described, or hereafter designated by Developer, shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the owners of living units located on property subject to the lien rights of the Association as hereinabove described, for the use of such owners and the use of their immediate families, guests, lessees, invitees, and others designated by Developer as provided for in this Declaration for the playing of golf, for the furnishing of services and facilities for which the same are reasonably intended, and for the quiet enjoyment of said owners subject to the rules and regulations adopted by the Board of Directors of the Association now in effect or which may hereafter be adopted. [4]

Section 6.2. Maintenance and repair of the streets and road right-of-way within the common areas of Oceans West Planned Unit Development shall be the responsibility of the Developer for a period of 10 years as provided in the Development Agreement between Developer and the City of Daytona Beach Shores dated the 19th day of February, 1980. At the end of said period, responsibility shall automatically transfer to the City of Daytona Beach Shores for maintenance and repair of the designated streets as public thoroughfares of the City of Daytona Beach Shores. The Association shall execute such instruments of dedication and conveyance as shall be necessary to complete transfer to the City of Daytona Beach Shores subject to easements for the playing of golf.

Section 6.3. By accepting any instrument of conveyance or by taking possession or occupancy of any living unit in any existing unit hereafter filed in the Public Records of Volusia County, Florida, by the Developer, each such person does agree to abide by and comply with all rules and regulations promulgated by the Association now in effect or which may hereafter be adopted, it being understood that the compliance with such rules and regulations is necessary for the orderly enjoyment of all common areas and recreational facilities now existing or which may hereafter be designated by Developer.

Section 6.4. Developer hereby covenants, for itself, its heirs, successors and assigns that it shall transfer to the Association title to the

common areas and that such transfer shall take place no later than July 1, 1985.

Section 6.5. One of the principal features of the common areas is a golf course which has been constructed by the Developer and is to be maintained by the Association. The golf course is built for the use and enjoyment of the occupants of all of the authorized 990 living units as described herein, whether inside or outside the Planned Unit Development. The owners of the 990 living units shall automatically be members of the golf facility; however, in the event any assessment on their unit or units due Oceans West Homeowner's Association are not paid and current, such membership is automatically suspended until all assessments are current. Such membership may, at the option of the owner, be assigned to the tenant or lessee of the unit as part of the tenancy or such membership may be retained by the owner. In the event the membership is assigned to a tenant, the owner shall notify the manager of the golf facility in writing of the assignment, the name of the tenant and the duration of the tenancy. The owner and tenant may not both be members. The Developer reserves the right to make memberships for the use of the golf facilities available to non-owners of living units for a fee, to help defray the cost of maintaining the golf facilities, so long as the total unit owner members and non-unit owner members does not exceed 990. As the number of living units which are subject to the lien rights of the Association and given the right to use the common areas of the Planned Unit Development, are completed, sold or occupied increases, the number of non-owner memberships will be decreased. When control of the Association is turned over to unit owners other than the Developer, the memberships for the use of the golf facilities will be limited solely to the 990 authorized living unit owners or residents. Nothing contained in this Declaration shall prohibit the Board of Directors of the Association and the Developer prior to the turnover of control of the Association to the unit owners other than Developer, from requiring the unit owners to pay a greens fee or charge, the amount of which may be changed from time to time, for the playing of golf, provided all greens fees or charges collected from unit owner members and non-unit owner members are used for the maintenance and operation of the golf course. [4]

ARTICLE VII

COVENANTS AGAINST PARTITION AND

SEPARATE TRANSFER OR MEMBERSHIP RIGHTS

Recognizing that the full use and enjoyment of any of the 990 authorized living units is dependent upon the use and enjoyment of the common areas and the improvements made thereto, and that it is in the interests of all of the owners that the membership in the common areas be retained by the owners of living units, it is therefore declared that the membership rights of any owner in the common area shall remain undivided, and such owners shall have no right at law or equity to seek partition or severance of such membership rights in the common areas. In addition, there shall exist no right to transfer the

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membership rights in the common areas in ^{FLORIDA} any other manner than as an appurtenance to and in the same transaction with, a transfer of title to or lease of one of the 990 authorized living units provided, however, that nothing herein shall preclude a conveyance by the Developer herein of any undivided interest in the common areas to the owners of living units within the Planned Unit Development for the purpose of effectuating the intent of this Declaration and nothing herein shall preclude the Developer from granting non unit owner memberships in the golf facilities as provided in Section 6.5 of this Declaration. Any conveyance or transfer of any of the 990 authorized living units shall include the membership rights in the common areas appurtenant to such unit whether or not such membership rights shall have been described or referred to in the deed by which said unit is conveyed. [4]

ARTICLE VII

COVENANTS TO RUN WITH LAND

The restrictions and burdens imposed by the provisions and covenants of this Declaration shall constitute covenants running with the land, and each shall constitute an equitable servitude upon the owner of each living unit and the appurtenant undivided interest in the common areas upon the heirs, personal representatives, successors, and assigns of each owner, and the same shall likewise be binding upon the Developer and its successors and assigns. This Declaration shall be binding and in full force and effect for a period of 30 years from the date this Declaration is recorded, after which time this Declaration shall be automatically extended for successive ten year periods, unless an instrument, signed by seventy-five (75%) per cent of the then record owners of the 990 authorized living units subject to the lien rights of the Association is recorded within 30 days following the last day of said 30 year period or 30 days following the last day of any successive 10 year period, containing an agreement of the said owners with respect to the alteration, change, modification or repeal, in whole or in part, of the provisions of this Declaration.

ARTICLE VIII

COVENANTS FOR BENEFIT OF MORTGAGEES

Section 1. Notice to Association. A owner who mortgages a unit shall notify the Association through its Secretary of the name and address of the mortgagee and shall file with the Secretary a copy of such mortgage; and the Association shall maintain such information in a book entitled "Mortgages of Units".

Section 2. Notice of Unpaid Assessments. The Association shall, upon the request of a mortgagee, report any unpaid assessment due from the owner of a unit upon which such mortgage holds a mortgage.

Section 3. Availability of Information. The Association shall make available to unit owners and lenders, and to holders, insurers or guarantors

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of any first mortgage, current copies of the Declaration and all amendments, the Articles of Incorporation of the Association and its By-Laws with all amendments, all Rules and Regulations with amendments, and the books, records, accounts and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours at the Association office or under other reasonable circumstances.

Section 4. Financial Statements. Any holder, insurer or guarantor of an institutional mortgage or of a first mortgage is entitled, upon written request, to a copy of the financial statement of the Association for the immediately preceding fiscal year.

Section 5. Lender's Notices. Upon written request to the Association identifying the name and address of the holder, insurer or guarantor of a mortgage and identifying the unit covered by the mortgage, any mortgage holder, or the insurer or guarantor of a mortgage shall be entitled to time written notice of:

- a. Any condemnation or casualty loss that affects either a material portion of the project or the unit securing its mortgage.
- b. Any delinquency of sixty (60) days in the payment of assessment or charges owed by the owner of any unit upon which it holds a mortgage.
- c. A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- d. Any proposed action that requires the consent of a specified percentage of mortgage holders.

Section 6. Benefit of Mortgagees. All of the provisions of this Article VIII are for the benefit of mortgagees, may be enforced by a mortgagee and may be amended or repealed only with the written consent of all mortgagees, however, additional provisions for the benefit of mortgagees may be added without such consent.

IN WITNESS WHEREOF, the Developer has executed this Restatement of and Fourth Amendment to the Declaration the day and year first above written.

Signed, sealed and delivered
in the presence of:

OCEANS WEST, INC.

[Signature]

By: [Signature]
John Collins, Vice President

[Signature]