

**COMMONWEALTH OF THE BAHAMAS
GRAND BAHAMA ISLAND**

**DECLARATION OF CONDOMINIUM
AMENDED & RESTATED**

THIS DECLARATION is made the 23rd day of April, A.D. 1993 whereby **R.S.D. LIMITED** a Company incorporated under the Laws of The Commonwealth of The Bahamas and carrying on business within the said Commonwealth (hereinafter called "the Declarant") **DOTH HEREBY DECLARE** as follows: -

Condominium 1. That the property more particularly described in Clause 4 hereof (which together with the building erected thereon is hereinafter referred to as "the property") shall from the date of lodgment of this Declaration for record in the Registry of Records in the City of Nassau in the Island of New Providence one of the Islands of the said Commonwealth be a Condominium property in accordance with The Law of Property and Conveyancing (Condominium) Act, 1965 (as amended) (hereinafter referred to as "the Act") under the name of "**BAHAMA REEF CONDOMINIUMS**" to which the provisions of the Act shall apply and which shall be subject to the terms and conditions hereinafter set forth.

Interest
and Intent 2. That the Declarant is the Owner of the property for an estate in fee simple in possession subject to the restrictions exceptions reservations limitations provisions and conditions referred to in an Indenture of Conveyance (hereinafter referred to as "the said Indenture of Conveyance") dated the 30th day of April, A.D., 1968 and made between Bahama Reef Development Company Limited of the one part and R.S.D. Limited of the other part and now of record in the said Registry of Records in Volume 3066 at pages 325 to 338 but otherwise free from encumbrances and intends by virtue of this Declaration to subject the property to the provisions of the Act.

Vesting
Interest 3. The property is vested in the Declarant for an estate in fee simple in possession subject as hereinbefore mentioned but otherwise free from encumbrances AND the Declarant for the purposes of Section 4 of the Act has the legal and equitable title in fee simple absolute to the property.

Description
of Property 4. That the property to be henceforth known as of property "**BAHAMA REEF CONDOMINIUMS**" as aforesaid consists of **ALL THAT** piece parcel or part of a tract of land comprising One and Eight Hundred and Forty-eight Thousandths (1.848) Acres known as "Parcel B-4A" and being a portion of Tract B of Bahama Reef Yacht and Country Club Subdivision Section 2 in the City of Freeport in the Island of Grand Bahama and which said piece parcel or part of a tract of land has such position boundaries shape marks and dimensions as are shown on the Plan annexed hereto as Exhibit "A" and thereon coloured Pink **TOGETHER WITH** the easements and rights of way contained or referred to in the said Indenture of Conveyance.

- Building 5. The Declarant has constructed on the property One (1) Five (5) storey building containing Twenty- four (2) Units comprising Twelve (12) Three (3) bedroom and Twelve (12) Two (2) Bedroom residential Units (hereinafter referred to as " the Building") which said Building is constructed principally of reinforced concrete and concrete blocks with a masonry finish and with the roof being of metal and rubber membrane construction.
- Plans 6. The drawings and plans of the Building (hereinafter referred to as "the said plans") showing the distinguishing number location approximate floor area limits and boundaries of each Unit are annexed hereto and Numbered A-1, 2, 3, 4, 5, 6, 7, A-7A, A-8, A-9, and A-10.
- Architect's Certificate 7. The said plans were prepared by D. Keith Griffiths Architect, whose professional qualifications have been recognised in writing by The Minister for Works and Utilities for the purposes of Section 5(3) of the Act (a copy of which said writing is annexed hereto as Exhibit "B") and the said D. Keith Griffiths has issued his Certificate for the purposes of Section 5(2) of the Act certifying that the said Plans are accurate copies of the drawings and plans of the Building as approved by such proper authority as has power to approve plans for the construction of buildings and that the said Plans accurately depict the Building as erected and completed (which said Certificate is annexed hereto as Exhibit "C") .
- Identification of Units 8. The Units comprising the Building shall be of numbered or named 101, 102, 103, 104, 105, 106, 201, 202, 203, 204, 205, 206, 301, 302, 303, 304, 305, 306, 401, 402, 403, 404, 405 and 406 and each such Unit has the number or name assigned to it on the said Plans. In order to remove any doubt, the boundary of any such Unit which is shown on the said Plans as being a floor wall ceiling door or window shall be: -
(a) In the case of a door or window the exterior surface thereof;
(b) In the case of a wall dividing Two (2) Units a line drawn vertically through such wall midway between its external and internal surfaces;
(c) In the case of any other wall the exterior surface thereof; and
(d) In the case of a floor or ceiling (other than the ground floor and the top floor ceiling) a line drawn horizontally through such floor or ceiling midway between its external and internal surface notwithstanding that in the case of a ceiling its external surface may constitute the floor of another Apartment Unit or in the case of a floor that its external surface may constitute the ceiling of another Unit.
- Nature of Unit 9. A Unit comprising part of the Building and the extent of which has been ascertained by reference to the said Plans and Clause 8 hereof shall from the effective date hereof constitute an estate in real property which subject to the Act can be dealt with in exactly the same way as land subject to the restrictions exceptions reservations limitations provisions and conditions herein contained or referred to.

Unit Owner 10. The owner in fee simple for the time being of any Unit is herein referred to as a "Unit Owner" which expression shall include persons owning the Unit as Joint Tenants or Tenants in Common.

First Unit Sale Free Mortgage 11. The original purchase of each Unit shall be made free of any mortgage or charge which may then exist on the property and if any purchase is not so made it shall by virtue of Section 6(2) of the Act be void and of no effect.

Dower 12. No right to dower shall accrue from the ownership in fee simple of any Unit or any share in the Common property appertaining thereto.

Common Property 13. Those portions of the property which do not fall within the boundaries of any Unit as defined herein shall be Common Property and are hereinafter referred to as such and the following provisions shall apply thereto: -

(a) The Common Property shall be vested in the various Owners for the time being of all the Units as Tenants in Common in undivided shares in the proportions set out in the First Schedule hereto;

(b) The Common Property shall be held for the joint use and enjoyment of all the Unit Owners for the time being and their interests therein may only be dealt with or disposed of in accordance with Section 22 of the Act;

(c) No undivided share in the Common Property may be disposed of in any way except as appurtenant to the Unit to which it relates and any assurance mortgage charge or other disposition of a Unit shall operate also to assure mortgage charge or otherwise dispose of its appurtenant undivided share in the Common Property without express reference thereto; and

(d) The undivided shares into which the Common property is divided shall not be varied without the unanimous consent of all the Unit Owners affected which shall be given in a manner satisfactory to the Directors of the Management Company (as defined in Clause 16 hereof and hereinafter referred to as "the Management Company")

Unit Entitlement 14. The undivided share of any Unit Owner in the Common Property is herein referred to as his "Unit Entitlement" and has been calculated by taking the approximate proportion that the floor area of the Unit at the date of the Declaration bears to the then aggregate floor area of all the Units taken together provided nevertheless that any substantially exclusive advantages (if any) in the Common property that may be enjoyed by a Unit compared with another Unit or Units have been reflected in the assessment of such proportion; the resulting fraction applicable to each Unit is set forth in the First Schedule hereto and is herein referred to as the "Unit Entitlement" of that particular Unit. The "Unit Entitlement" shall have a permanent character and shall not be varied unless all Unit Owners affected consent in a manner satisfactory to the Directors of the Management Company.

Conditions
and
Restrictions

15. In addition to the easements and rights for support shelter and the provisions of services made appurtenant to other Units and to the Common Property by the Act each Unit shall from the effective date hereof be subject to the restrictions exceptions reservations limitations provisions and conditions referred to in the said Indenture of Conveyance and to the conditions and restrictions set out in the Second Schedule hereto. All the easements' rights obligations conditions and restrictions contained or referred to in this Declaration or in the Bye-Laws of the Management Company or in any deed relating to the Unit and to which the Unit is made subject shall run with and bind the Unit and be enforceable against the owner thereof for the time being by the Management Company the Declarant and all Unit Owners.

Management
Company

16. To enable the Unit Owners for the time being to manage and operate the Condominium as an efficient whole a Body Corporate is hereby constituted by virtue of the Act and together with the powers and duties prescribed by the Act; the Body Corporate hereby constituted shall have the style and title of "**BAHAMA REEF CONDOMINIUMS ASSOCIATION**" which term shall include any managers duly appointed or designated by the Management Company to carry out its functions; the Bye-Laws of the Management Company in the first instance being those set forth in the Schedule to the Act.

Membership
of
Management
Company

17. Each Unit Owner shall by virtue of his ownership of a Unit be as of right a member of the Management Company and be entitled to exercise his voting rights in the manner prescribed by the Act; each Unit Owner shall also be subject to all obligations of a member in accordance with and by virtue of the Act.

Powers of
Management
Company

18. The Management Company shall have the following powers together with those conferred upon it by the Act: -

- (a) To enforce the conditions and restrictions set out in the Second Schedule hereto in the event of any breach thereof by any Unit Owner;
- (b) To enforce 'compliance by all Unit Owners with its Bye-Laws (as amended from time to time by Special Resolution passed by its Members in General Meeting);
- (c) To establish funds for the operation and maintenance of the property and the Building;
- (d) To make demand upon and recover from each Unit Owner his contribution in respect of common expenses ascertained in accordance with Clause 20 hereof and to enforce any charge in respect of unpaid contributions;
- (e) To recover from any Unit Owner any sum of money expended by the Management Company for repairs or work done by it or at its direction in complying with any Notice or Order issued by a competent public authority

in respect of any part of the said property or the Building comprising the Unit of any Unit Holder.

Duties of the
Management
Company
Repairs, etc.

19. In addition to the duties imposed on it by the Act the Management Company shall be responsible for: -

(a) Maintaining and repairing the Common Property including the structure of the Building and all conduits ducts pipes cables drains plumbing wiring and other service facilities located in the Building or the property or serving the same and for this purpose its servants agents or contractors shall have the right to enter any Unit Provided (save in an emergency) such entry shall be made only at reasonable times and upon reasonable notice and any damage caused to a Unit by virtue of any of the work which may be done in pursuance of such maintenance and repair shall be remedied by the Management Company at its own expense;

Insurance

(b) Subject to Section 24 and 25 of the Act insuring the Building and the property and the appurtenances thereto to the full replacement value thereof against fire hurricane sea wave and public liability and against such other risks as are standard in respect of buildings similar in construction site and use or as may be prescribed by a Special Resolution of the members of the Management Company without prejudice to the right of any Unit Owner to insure his own Unit or its contents thereof for such risks as he shall think fit;

Receipts

(c) Producing on demand to any Unit Owner the Policy of Insurance and the receipt for any premium payable in respect thereof;

Cleaning, etc.

(d) Ensuring that: -

(i) the Common Property; and

(ii) the Roadway the Car Parks and the Recreational Areas (hereinafter collectively referred to as "the amenity areas") together with any buildings structures and machinery thereon are maintained in a good state of repair and kept clean and tidy.

(e) Such other duties as may from time to time be prescribed by the members of the Management Company in General Meeting; and

Accounts

(f) Maintaining detailed and accurate accounts and records in chronological order of the receipts and expenditures arising from its operation of the property and the Building such accounts and records and all vouchers authorizing any payments shall be available for inspection by any Unit Owner at all reasonable times and accounts duly audited by a qualified auditor shall (unless waived in writing by a majority of the Unit Owners for the time being) be rendered to all Unit Owners at least once in every year.

Common

Expenses

20. All expenses incurred by the Management Company in connection with the discharge of the powers and duties referred to in Clauses 18 and 19 hereof and any administrative or operational costs incurred by the Management Company and all reserves established for such purposes are hereinafter referred to as "Common Expenses" which shall include the cost of complying with any Notice or Order issued by a competent public authority and any rates charges taxes or assessments on the property and the Building as a whole and the Management Company shall be entitled to recover such Common Expenses from the Unit Owners for the time being by contributions to be made by each Unit Owner at whatever intervals the Board of the Management Company may think fit and the amount of which is to be calculated in accordance with Clause 21 hereof save and except that until a contrary Resolution is passed by the said Board each Unit Owner shall pay semi-annual contributions to the Management Company in advance on 31st January and 31st July in each year based on the budgeted or preceding years cost of Common Expenses Provided however that:-

(a) The Management Company if authorized by its members in General Meeting may from time to time agree that expenditures for any other purposes may be considered Common Expenses and any expenses declared to be Common Expenses by the provisions of the Act or by the Declaration or the Bye-Laws may be charged as Common Expenses and recovered from the Unit Owners; and

(b) The expression "Common Expenses" shall not include the cost of repairs and maintenance work carried out by the Management Company to:

(i) any Unit at the request of the Unit Owner;

(ii) any conduit duct pipe cable drain wire or plumbing or sanitary apparatus situate within any Unit which was installed only for the benefit and use of the occupiers for the time being of that Unit and no other; or

(iii) any portion of the Common Property or any conduit duct pipe cable drain wire or plumbing or sanitary apparatus situate within the Building damaged due to the act neglect or carelessness of any Unit Owner or his guest employees agents or lessees;

and all such moneys so expended shall be recoverable from the Unit Owner.

Contributions

21A. Each Unit Owner shall be obliged to pay to the Management Company a contribution in respect of Common Expenses which shall be ascertained by multiplying the Unit Entitlement of each Unit by the amount budgeted by the Board of the Management Company for the upcoming year (or in default of an annual budget being approved by the Board of the Management Company, then calculated by multiplying the Unit Entitlement of each Unit by the amount expended for Common Expenses in the preceding year). In addition, each Unit Owner shall be obliged to pay to the Management Company a contribution to such special assessments as may be assessed by the Board of the Management Company from time to time in respect of major or capital expenditure on items of Common Expenses or to make up any shortfall in the cost of Common Expenses above the amount budgeted or contributed by Unit Owners, with each Unit Owner's contribution being ascertained by multiplying the Unit Entitlement of each Unit by the total amount of the special assessment. All such contributions shall be payable within Seven (7) days after service of a notice

requesting payment thereof; any unpaid contributions together with interest as herein prescribed shall subject to the provisions of the Act constitute a charge upon the appropriate Unit enforceable as a mortgage under seal and ranking prior to all other encumbrances except any charge under Section 25(1) of The Real Property Tax Act 1969 (as amended).

21B. If any contribution in respect of Common Expenses or any other payment due from a Unit Owner shall be in arrears for at least thirty (30) days after becoming due, the Board of the Management Company reserves the right to charge interest at the rate of 1½% per month (or some other legally allowable rate that may be set by a vote of the Unit Owners) on the outstanding amount from time to time until paid in full.

Obligations of
a Unit Owner

22. Each Unit Owner shall: -

- (a) During the occupancy of his Unit observe the restrictions exceptions reservations limitations provisions and conditions referred to in the said Indenture of Conveyance and the conditions and restrictions set out in the Second Schedule hereto and do nothing to obstruct or interfere with the condition's restrictions and easements in favour of other Units set out in the Act or in this Declaration;
- (b) In his use and enjoyment of his Unit, the Common Property and the amenity areas observe the Bye-Laws set out in the Schedule to the Act (as amended from time to time by the Management Company) or such Bye-Laws as may from time to time be in force; and
- (c) Punctually pay all contributions demanded of him by the Management Company in respect of Common Expenses in accordance with Clause 21 hereof.

Register of
Unit Owners

23. The Management Company shall at all times maintain a register containing the names of the Owners of all of the Units together with an address for service which unless the Unit Owner shall reside permanently in the Building shall be one which is not within the Building and in the event of a sale or transfer of any Unit the purchaser or transferee shall notify the Management Company in writing of his interest in such Unit together with such recording information as shall enable the instrument by which such purchaser or transferee has acquired his interest to be identified in the said Registry of Records.

Mortgages

24. (a) Any person to whom a Unit or Units may be conveyed by way of legal mortgage (hereinafter called "the legal mortgagee") shall subject to the service of written notice thereon on the Management Company be considered the Unit Owner in respect of that Unit and in the legal mortgagee shall be vested the Unit Entitlement and membership in the Management Company which are appurtenant to such Unit; the legal mortgagee may give a proxy to his mortgagor enabling the mortgagor to exercise the voting rights in respect of such membership and such proxy shall (so far as may be necessary) constitute a notice of waiver for the purposes of Section 16(3) of the Act and may be revoked by the legal mortgagee at any time.

(b) In the absence of any legal mortgage upon a Unit any person to whom the same may be charged by way of equitable mortgage or charge (hereinafter called "the equitable

mortgagee") shall subject to the recording of such mortgage in the said Registry of Records and the service of written notice thereof upon the Management Company and where there is more than one such equitable charge or mortgage subject to its being first in priority upon the Unit Owner by virtue of his membership in the Management Company and such power of voting shall not be exercised by the Unit Owner unless such equitable mortgagee has by notice in writing to the Management Company waived the right conferred upon him by this Sub-clause. Such equitable mortgagee may at any time by further notice in writing to the Management Company revoke such waiver of his right in this Sub-clause.

Service of Documents

25. Service on Unit Owners shall be by prepaid registered post to the address for service shown in the Register maintained under the provisions of Clause 23 hereof and when such address is outside the said Commonwealth the notice shall be sent by prepaid registered airmail; service on the Management Company shall be made in accordance with Section 29 of the Act.

Amendments to Declaration

26. Save as herein otherwise expressly stipulated this Declaration can be amended from time to time by a Special Resolution of the Management Company passed by Unit Owners representing a minimum of eighty percent (80%) of the Unit Entitlement subject to the same being lodged in the said Registry of Records within sixty (60) days from the date thereof AND the Management Company shall immediately after the passing of such Resolution notify all Unit Owners thereof.

Copies of Declaration

27. The Management Company shall at its Principal Office keep copies of this Declaration (including the Bye-Laws) and all amendments thereto and such copies shall be available for inspection at reasonable hours by any Unit Owner (including any mortgagee) or other interested party or by any person duly authorised in writing by any of them.

Rights of Declarant

28. From the effective date of this Declaration each Unit together with its Unit Entitlement shall until sale be vested in the Declarant in the manner herein recited subject to the provisions of the Act and of this Declaration.

Termination of Declaration & Removal of The property & Building from the Act

29. The property and the Building may only be removed from the provisions of the Act pursuant to the provisions of Section 31 thereof.

30. The marginal notes are for the purpose of ease of reference only and do not form a part of this Declaration.

THE FIRST SCHEDULE HEREINAFTER REFERRED TO

Unit Entitlement
Figures

<u>Apartment Unit Number</u>	<u>Unit Entitlement and Unit Fraction</u>
101	4.43%
102	3.66%
103	3.82%
104	3.82%
105	3.66%
106	4.43%
201	4.43%
202	3.66%
203	3.82%
204	3.82%
205	3.66%
206	4.43%
301	4.43%
302	3.66%
303	3.82%
304	3.82%
305	3.66%
306	4.43%
401	4.43%
402	4.80%
403	5.04%
404	5.04%
405	4.80%
406	4.43%

THE SECOND SCHEDULE HEREINBEFORE REFERRED TO

Conditions and Restrictions

Conditions
and
Restrictions

(1) No Unit may be divided or sub-divided into a Unit or Units.

(2) No incinerator or garbage disposal Unit shall be permitted in or about any Units or its appurtenances nor shall garbage or other waste be kept in anything other than sanitary containers.

(3) No weeds or other unsightly growth shall be permitted to grow or remain in or about any Unit or its appurtenances and if after Thirty (30) days the Unit Owner shall fail to or refuse to keep his Unit and appurtenances free of weeds refuse piles or other unsightly growths or objects then the Management Company may enter upon the said Unit and remove the same at the expense of the Unit Owner and such entry shall not be deemed a trespass.

(4) No Unit Owner shall permit or suffer to be done or kept in his Unit or its appurtenances anything which will increase the rate of insurance on the Building or which will obstruct or interfere with the rights of other occupants of the Building or cause annoyance to them by noise or smell.

(5) No structural modifications or alterations shall be made to Units without the prior written consent of the Management Company (such consent not to be unreasonably withheld). Such consent however shall not be given if the Management Company decides that the modifications or alterations in question would affect or endanger any part of the rest of the property or the Building.

(6) In order to ensure the safety of all Unit Owners and other occupants of the Building and/or to preserve the appearance of the Building and the property, no Unit Owner shall:

a. make any modification or alteration (including but not limited to painting, decoration, the installation or modification of wiring or antennae or air-conditioning apparatus or otherwise) to the exterior of the Building including exterior doors and windows;

b. make any modification or alteration to the interior of a Unit (including but not limited to the plumbing, electrical, air-conditioning therein or the layout thereof) which adversely affects any other Unit or any other part of the Building or the occupation thereof;

without the prior written consent of the Board, such consent not to be unreasonably withheld. All applications for consent of the Board shall be made by submitting to the Board a full and complete Application for Architectural Modification, in such form as may be prescribed by the Board from time to time. The Board shall respond with written approval or denial of all such applications within fourteen (14) business days, failing which the application shall be deemed to be approved.

In the event of any modification or alteration as set out in (a) or (b) above without the prior written consent or deemed consent of the Board, the offending Unit Owner may be required, in the Board's sole discretion, to reinstate the exterior of the Building or the interior of the Unit or any other part of the Building affected by the modification or alteration to its original condition at the Unit Owner's expense. Alternatively, the Board may assess the offending Unit Owner with a Charge for the cost of reinstating the Building or Unit to its original condition and such Charge shall be payable by the offending Unit Owner within thirty (30) days after service of a notice requesting payment thereof. Such charge together with interest if prescribed by the Bye-Laws shall subject to the provisions of the Act constitute a charge upon the appropriate Unit enforceable as a mortgage under seal and ranking prior to all other encumbrances except any charge under Section 25 of The Real Property Tax Act 1969 (as amended).

7(a) No trade manufacture business or commercial undertaking (other than the lease or rental of any Unit in accordance with paragraph 7(b) hereof) shall be permitted in any Unit and no Unit shall be used for any purposes other than residential purposes.

7(b) No lease or rental of any Unit shall be made for a period of less than six months. In the event of the termination or surrender of any lease or rental of a Unit in under six months from commencement otherwise than for a bona fide reason, no further lease or rental of that Unit shall be made until the said period of six months shall have expired.

(8) No immoral improper of offensive or unlawful use shall be made of any Unit or its appurtenances.

(9) No Unit Owner shall allow his Unit to fall into a state of disrepair.

(10) No dogs, cats nor other domestic animals shall be permitted in any Unit.

(11) No Unit Owner shall disobey the rules and regulations or any variations or amendments thereto that may be imposed from time to time by the Management Company.