

This instrument prepared by or under the supervision of and after recording return to		
Name	Jeffrey R. Pegler, Esq	
Address	Block Block & Pegler 21 Royal Palm Pointe, Suite 100 Vero Beach, Florida 32960	

**DECLARATION**

**OF**

**COCOA CABANAS CONDOMINIUM ASSOCIATION, INC.**

**COCOA CABANAS DEVELOPMENT, LLC, a Florida limited liability company,** does hereby declare as follows

1 Introduction and Submission

1.1 The Land The Developer owns the fee simple title to certain land located in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto (the "Land")

1.2 Submission Statement The Developer hereby submits the Land and all Improvements erected or to be erected thereon, all easements, rights and appurtenances belonging thereto, all other property, real, personal or mixed, intended for use in connection therewith (excluding public utility installations), to the condominium form of ownership in the manner provided herein and in the Florida Condominium Act as it exists on the date hereof and as it may be hereafter amended

1.3 Name The name by which this condominium is to be identified is **COCOA CABANAS CONDOMINIUM** (hereinafter called the "Condominium")

2 Definitions The following terms when used in this Declaration and in its exhibits and as it and they may hereafter be amended, shall have the respective meanings ascribed to them in this Section, except where the context clearly indicates a different meaning

2.1 "Act" means the Florida Condominium Act (Chapter 718 of the Florida Statutes) as it exists on the date this Declaration is recorded and as it may be hereafter amended

2.2 "Articles" or "Articles of Incorporation" mean the Articles of Incorporation of the Association, as amended from time to time

2.3 "Assessment" means a share of the funds required for the payment of Common Expenses which from time to time is assessed against the Unit Owner

- 2 4 "Association" means the COCOA CABANAS CONDOMINIUM ASSOCIATION INC , a not for profit Florida corporation, the sole entity responsible for the operation of the Condominium
- 2 5 "Association Property" means that property, real and personal, which is owned or leased by, or is dedicated by a recorded plat to, the Association for the use and benefit of its members
- 2 6 "Board" or "Board of Directors" means the board of directors and the members of the board of directors, from time to time, of the Association
- 2 7 "Building" means the structure or structures on the Condominium Property in which the Units and the Common Elements are located, regardless of the number of structures
- 2 8 "By-Laws" means the By-Laws of the Association, as amended from time to time
- 2 9 "Common Elements" mean and include
- (a) The portions of the Condominium Property which are not included within the Units, including the swimming pool referred to in Section 3, of this Declaration
  - (a) Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units and the Common Elements
  - (b) An easement of support in every portion of a Unit which contributes to the support of the Building
  - (c) The property and installations required for the furnishing of utilities and other services to no more than one Unit or to the Common Elements
  - (d) Any other parts of the Condominium Property designated as Common Elements in this Declaration
- 2 10 "Common Expenses" mean all expenses incurred by the Association for the operation, maintenance, repair, replacement or protection of the Condominium and Association Property, the costs of carrying out the powers and duties of the Association, and any other expense, whether or not included in the foregoing, designated as a "Common Expense" by the Act, the Declaration, the Articles or the By-laws. For all purposes of this Declaration, "Common Expenses" shall also include (a) all reserves required by the Act or otherwise established by the Association, regardless of when reserve funds are expended, (b) the cost of a master antenna television system or duly franchised cable television service, if any, obtained pursuant to a bulk contract, (c) insurance for directors and officers, road maintenance and operation expenses, in-house communications and surveillance systems, (d) costs attributable to any Units acquired by the Association or conveyed to the Association, including, without limitation, assessments payable with respect thereto, the real property taxes attributable thereto and the costs of maintenance and insurance thereof, and (e) the costs of a staffed front desk, if any, community mail and package receipt and distribution area, telephone switchboard and optional Unit cleaning services. Common Expenses shall not include any separate obligations of individual Unit owners

- 2 11 "Common Surplus" means the amount of all receipts of the Association including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, in excess of the amount of Common Expenses
- 2 12 "Condominium Parcel" means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit, and when the context permits, the term includes all other appurtenances to the Unit
- 2 13 "Condominium Property" means the land and personal property that is subjected to condominium ownership under this Declaration, all improvements on the Land, and all easements and rights appurtenant thereto intended for use in connection with the condominium
- 2 14 "County" means the County of Brevard, State of Florida
- 2 15 "Declaration" or "Declaration of Condominium" means this instrument, and all exhibits attached hereto, as same may be amended from time to time
- 2 16 "Developer" means COCOA CABANAS DEVELOPMENT, L L C , a Florida limited liability company, its successors and such of its assigns as to which the rights of Developer hereunder are specifically assigned Developer may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with specific portions of the Condominium. In the event of any partial assignment, the assignee shall not be deemed the Developer, but may exercise such rights of Developer as are specifically assigned to it Any such assignment may be made on a nonexclusive basis
- 2 17 "Dispute" for purposes of Section 19 1, means any disagreement between two or more parties that involves (a) the authority of the Board, under any law or under this Declaration, the Articles or By-laws to (i) require any Owner to take any action, or not to take any action, involving that Owner's Unit, or (ii) alter or add to a common area or Common Element, or (b) the failure of the Association, when required by law or this Declaration, the Articles or By-laws to (i) properly conduct elections, (ii) give adequate notice of meetings or other actions, (iii) properly conduct meetings, or (iv) allow inspection of books and records "Dispute" shall not include any disagreement that primarily involves title to any Unit or Common Elements, the interpretation or enforcement of any warranty, or the levy of a fee or Assessment or the collection of an Assessment levied against a party
- 2 18 "Division" means the Division of Florida Land Sales, Condominium and Mobile Homes of the Department of Business and Professional Regulation, State of Florida
- 2 19 "Improvements" mean all structures, or any portion thereof, and artificial changes to the natural environment (exclusive of landscaping), located on the fee portion of the Condominium Property, including, but not limited to, the Building
- 2 20 "Institutional First Mortgagee" means a bank, savings and loan association, insurance company, real estate mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") or any other lender generally recognized as an institutional lender, or the Developer, holding a first

mortgage on a Unit or Units. A "Majority of Institutional First Mortgagees" shall mean and refer to Institutional First Mortgagees of Units to which at least fifty-one percent (51 %) of the voting interests of Units subject to mortgages held by Institutional First Mortgagees are appurtenant.

2.21 "Limited Common Elements" mean those Common Elements the use of which are reserved to a certain Unit or Units to the exclusion of other Units. References herein to Common Elements shall include also all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided.

2.22 Primary Institutional First Mortgagee means the Institutional First Mortgagee which owns, at the relevant time, Unit mortgages securing a greater aggregate indebtedness than is owed to any other Institutional First Mortgagee.

2.23 "Unit" means a part of the Condominium Property which is subject to exclusive ownership.

2.24 "Unit Owner" or "Owner" means a record owner of legal title to a Condominium Parcel.

### 3 Description of Condominium

3.1 Identification of Buildings and Units The Condominium Property consists of the following: (1) the Land, which shall have constructed thereon one (1) five (5) story Building containing a total of eight (8) Units. The designation of the Property and Units is set forth on Exhibit "B" attached hereto. Exhibit "B" consists of a survey of the Land, a graphic description of the Improvements located thereon, including, but not limited to, the Building in which the Units are located, and a plot plan thereof. Said Exhibit "B", together with this Declaration, is sufficient in detail to identify the Property, the Common Elements and each Unit and their relative locations and approximate dimensions. There shall pass with each Unit as appurtenances thereto: (a) an undivided share in the Common Elements and Common Surplus, (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration, (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically, (d) membership in the Association with the full voting rights appurtenant thereto, and (e) other appurtenances as may be provided in this Declaration or the Act.

3.2 Unit Boundaries Except as otherwise provided herein, each Unit shall include that part of the Building containing the Unit that lies within the boundaries of the Unit, which boundaries are as follows:

(a) Upper and Lower Boundaries The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries:

1. Upper Boundaries The plane of the unfinished ceiling of the Unit, whether horizontal or vaulted.

ii Lower Boundaries The horizontal plane of the unfinished lower surface of the floor of the Unit

(b) Perimetrical Boundaries The perimetrical boundaries of the Unit shall be, as applicable, (i) the vertical planes formed by the interior undecorated unfinished surfaces of all walls bounding the Unit, and (ii) the vertical plane formed by the centerline of the divider wall and where there is no such divider wall and the Unit consists in whole or in part of unenclosed space, the vertical plane lying on the survey line defining the Unit Perpendicular to the upper and lower boundaries as amended or supplemented, extended to their planar intersections with each other and with the upper and lower boundaries

(c) Apertures and Miscellaneous Where there are apertures in any boundary, including, but not limited to, windows, doors and skylights, such boundaries shall be extended to include the windows, doors and other fixtures located in such apertures, including all frameworks, window casings and weather stripping thereof, together with exterior surfaces made of glass or other transparent materials. All wires, conduits, ducts, vents, concrete joists and other such facilities serving more than one Unit located within any walls, including divider walls, or above the nonstructural acoustical ceiling lying below the upper boundary of the Unit, shall be Common Elements

(d) Exceptions In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units set forth as Exhibit "B" hereto shall control in determining the boundaries of a Unit

(e) Property Excluded from Units A Unit shall not be deemed to include foundations, columns, girders, beams, supports, interior load bearing walls, pillars, underlying floors, essential and permanent installations and equipment for power, lights, and exhaust fans, and all pipes, conduits, ducts, vents and other service and utility lines which are utilized for, serve, or pass through more than one Unit or the Common Elements

3.4 Limited Common Elements Each applicable Unit or Units shall have the following Limited Common Elements, regardless of whether same are appurtenant to one, or more than one, Unit

(a) Balconies Any balcony, terrace or similar area other than ground level courtyard areas shall be a Limited Common Element of the Unit(s) which has exclusive physical access thereto. The Association shall be responsible for the maintenance of the structural and mechanical elements of any such Limited Common Elements, with the owner of the Unit to which they are appurtenant to be responsible for the costs of same and, directly, for the general cleaning, plant care and the upkeep of the appearance of the area

(b) Cooling Tower and Other Equipment A cooling tower, air conditioning equipment or other equipment serving one or more but not all Units shall be a Limited Common Element of the Unit(s) so served, with the Association to maintain such equipment at the sole expense of the Unit(s) served thereby. In the event that physical changes in the Building result in additional Units being served by such equipment or, in the alternative, Units ceasing to be so served,

then the equipment shall be a Limited Common Element appurtenant to the Units added and shall cease to be one to the Units deleted

- (c) Other Any other portion of the Common Elements which, by its nature, cannot serve all Units but serves one or more Units (other than exterior staircases and walkways not labeled as Limited Common Elements on Exhibit "B" hereto) shall be deemed Limited Common Elements of the Units served. In the event of any doubt or dispute as to whether any portion of the Common Elements constitutes Limited Common Elements or in the event of any question as to which Units are served thereby, a decision shall be made by the Board of Directors and shall be binding and conclusive when so made.

3.5 Easements The following easements are hereby created (in addition to any easements created under the Act)

- (a) Support Each Unit, the Building and the Improvements shall have an easement of support and of necessity over, under and upon, and shall be subject to an easement of support and necessity in favor of, all other Units, the Common Elements, and any other structure or improvement which abuts any Unit, the Building or the Improvements.
- (b) Utility and Other Services Drainage Easements are reserved under, through and over the Condominium Property as may be required from time to time for utility and other services, cable television, communications and security systems, and drainage in order to serve the Condominium and/or the members of the Association. A Unit Owner shall do nothing within or outside his Unit that interferes with or impairs, or may interfere with or impair, the provision of such utility, cable television, communications and security systems or other services or drainage facilities or the use of these easements. The Board of Directors or its agent shall have a right of access to each Unit to maintain, repair or replace the pipes, wires, ducts, vents, cables, conduits and other utility, cable television, communications, and similar systems, services and drainage facilities, and Common Elements contained in the Unit or elsewhere in the Condominium Property, and to remove any improvements interfering with or impairing such facilities or easements herein reserved, provided such right of access, except in the event of an emergency, shall not unreasonably interfere with the Unit Owner's permitted use of the Unit, and except in the event of an emergency (which shall not require prior notice), entry shall be made on not less than one (1) days' notice (which notice shall not, however, be required if the Owner is absent when the giving of such notice is attempted). Drainage systems on the Condominium Property, if any, shall be maintained continuously in good condition by the Association and easements are granted hereby over all Units in favor of all Owners and the Association with respect thereto.
- (c) Encroachments If (a) any portion of the Common Elements encroaches upon any Unit (or Limited Common Element appurtenant thereto) (b) any Unit (or Limited Common Element appurtenant thereto) encroaches upon any other Unit or upon any portion of the Common Elements or (c) any encroachment shall hereafter occur as a result of (i) construction of the improvements, (ii) settling or shifting of the improvements, (iii) any alteration or repair to the Common Elements made by or with the consent of the Association or the Developer as

appropriate, or (iv) any repair or restoration of the improvements (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the improvements shall stand

- (d) Ingress and Egress A non-exclusive easement in favor of each Unit owner, their employees, agents, licensees and invitees, shall exist for pedestrian traffic over, through and across sidewalks, paths, walks and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as from time to time may be paved and intended for such purpose. None of the easements specified in this subparagraph (d) shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering, such easements (other than those on Condominium Parcels) shall automatically be subordinate to the rights of Unit Owners and the Association with respect to such easements.
- (e) Construction Maintenance The Developer (including its designees, contractors, successors and assigns) shall have the right, in its (and their) sole discretion from time to time, to enter the Condominium Property and take all other action necessary or convenient for the purpose of completing the construction thereof, or any part thereof, or any improvements or Units located or to be located thereon, or for any other purpose, provided such activity does not prevent or unreasonably interfere. In the opinion of the Developer, with the use or enjoyment by the Unit Owners of the Condominium Property or otherwise usurp the authority granted the Association herein and/or under the Act.
- (f) Sales and Leasing Activity For as long as there are any unsold Units, the Developer, its designees, successors and assigns, shall have the right to use any such Units and parts of the Common Elements or Association Property as guest accommodations, model units and sales and construction offices, to show the models and the Common Elements to prospective purchasers and tenants of Units, to erect on the Condominium and/or Association Property signs and other promotional material to advertise Units for sale or lease and for any other similar purpose the Developer deems appropriate in its opinion.
- (g) Additional Easements The Association, through its Board, on the Association's behalf and on behalf of all Unit Owners (each of whom hereby appoints the Association irrevocably as its attorney-in-fact for this purpose), shall have the right to grant such additional general ("blanket") and specific electric, drainage, gas or other utility, cable television, security systems, communications or service easements (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or relocate any such existing utility or service easements or drainage facilities in any portion of the Condominium and/or Association Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium and/or Association Property, as the Association (upon a majority vote of the Board) shall deem necessary or desirable for the proper operation and maintenance of the improvements, or any portion thereof, or for the general

health, welfare or business opportunities of the Unit owners or their tenants, or for the purpose of carrying out any provisions of this Declaration or otherwise, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for their lawful purposes

- 4 Restraint Upon Separation and Partition of Common Elements The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and the appurtenant right to use all appropriate appurtenant Limited Common Elements, shall not be separated therefrom, and shall pass with the title to the Unit, whether or not separately described. The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all Limited Common Elements appurtenant to a Unit, except as elsewhere herein provided to the contrary, cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium.
- 5 Ownership of Common Elements and Common Surplus and Share of Common Expenses Voting Rights
  - 5.1 Percentage Ownership and Shares The undivided percentage interest in the Common Elements and Common Surplus, and the percentage share of the Common Expenses, appurtenant to each Unit, is as set forth in Exhibit "C" attached hereto.
  - 5.2 Voting Each Unit shall be entitled to one vote to be cast by its Owner in accordance with the provisions of the By-laws and Articles of incorporation of the Association. Each Unit Owner shall be a member of the Association. This applies to all Unit Owners.
- 6 Amendments Except as elsewhere provided herein, amendments may be effected as follows:
  - 6.1 By The Association Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors of the Association or by not less than a majority of the Unit Owners. Directors and members not present in person or by proxy at the meeting considering the amendment may submit in writing his or her agreement or disagreement with any action taken at a meeting that the board member did not attend, but the agreement or disagreement may not be used as a vote for or against the action taken and may not be used for purposes of creating a quorum. Except as elsewhere herein provided, approvals must be by affirmative vote of Unit Owners owning in excess of two-thirds (2/3) of the voting interests.
  - 6.2 Material Amendments Unless otherwise provided specifically to the contrary in this Declaration, no amendments shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, or change the percentage by which the owner of a Unit shares the Common Expenses and owns the Common Elements and Common Surplus (any such change or alteration being a "Material Amendment"), unless the record Owner(s) thereof, and all record owners of mortgages or other liens thereon, shall join in the execution of the amendment, and such amendment receives the affirmative vote of not less than two-thirds (2/3) of the voting interests in the Condominium. The acquisition of property by the Association, material

alterations or substantial additions to such property or the Common Elements by the Association and installation, replacement and maintenance of approved hurricane shutters, if in accordance with the provisions of this Declaration, shall not be deemed to constitute a material alteration or modification of the appurtenances of the Units, and accordingly, shall not constitute a Material Amendment

6.3 Mortgagee's Consent No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to mortgagees of Units without the consent of said mortgagees in each instance, nor shall an amendment make any change in the sections hereof entitled "Insurance", "Reconstruction or Repair after Casualty", or "Condemnation" unless the Primary Institutional First Mortgagee shall join in the amendment. Except as specifically provided herein or if required by FNMA or FHLMC, the consent and/or joinder of any lien or mortgage holder on a Unit shall not be required for the adoption of an amendment to this Declaration and, whenever the consent or joinder of a lien or mortgage holder is required, such consent or joinder shall not be unreasonably withheld,

6.4 By The Developer Notwithstanding anything herein contained to the contrary, during the time the Developer has the right to elect a majority of the Board of Directors of the Association, the Declaration, the Articles of Incorporation or the By-laws of the Association may be amended by the Developer alone, without requiring the consent of any other party to effect any change whatsoever. If the Developer holds units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer

(a) Assessment of the Developer as a Unit Owner for capital improvements

(b) Any action by the Association that would be detrimental to the sales of Units by the Developer. However, an increase in Assessments for Common Expenses without discrimination against the Developer shall not be deemed to be detrimental to the sales of Units

6.5 Execution and Recording An amendment, other than amendments made by the Developer alone pursuant to the Act or this Declaration, shall be evidenced by a certificate of the Association, executed either by the President of the Association or a majority of the members of the Board of Directors which shall include recording data identifying the Declaration and shall be executed with the same formalities required for the executed of a deed. An amendment of the Declaration is effective when the applicable certificate is properly recorded in the public records of the County. No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision 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 Declaration See provision for present text". Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly adopted amendment.

7 Maintenance and Repairs

7.1 Units and Limited Common Elements All maintenance, repairs and replacements of, in or to any Unit and Limited Common Elements appurtenant thereto, whether structural or non-structural, ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of the divider walls, screens, screen enclosures, windows, interior nonstructural walls, the interior side of the entrance door and all other doors within or affording access to a Unit, and the electrical (including wiring), plumbing (including fixtures and connections), heating and air-conditioning equipment, fixtures and outlets, appliances, carpets and other floor coverings, all interior surfaces and the entire interior of the Unit lying within the boundaries of the Unit or constituting Limited Common Elements or other Property belonging to the Unit Owner, shall be performed by the Owner of such Unit or the Association, according to the applicable provision hereof, but in either case at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein

7.2 Common Elements and Association Property Except to the extent (i) expressly provided to the contrary herein, or (ii) proceeds of Insurance are made available therefore, all maintenance, repairs and replacements in or to the Common Elements (other than those Limited Common Elements to be maintained by the Unit Owners as provided above) and Association Property shall be performed by the Association and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense, except to the extent arising from or necessitated by the negligence, neglect or misuse of specific Unit Owners in the opinion of the Board, in which case such cost and expense shall be paid solely by such Unit Owners

8 Additions, Alterations or Alterations by the Association Whenever in the judgment of the Board of Directors, the Common Elements, the Association Property, or any part of either, shall require capital additions, alterations or improvements (as distinguished from repairs and replacements) costing in excess of \$50,000 in the aggregate in any calendar year, the Association may proceed with such additions, alterations or improvements only if the making of such additions, alterations or improvements shall have been approved by a majority of the voting interests represented at a meeting at which a quorum is attained. Any such additions, alterations or improvements to such Common Elements, the Association Property, or any part of either, costing in the aggregate \$50,000 or less in a calendar year may be made by the Association without approval of the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Elements or Association Property shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners as Common Expenses. For purposes of this section, "aggregate in any calendar year" shall include the total debt incurred in that year, if such debt is incurred to perform the above-stated purposes, regardless of whether the repayment of any part of that debt is required to be made beyond that year

9 Additions, Alterations or Improvements by Unit Owner

9.1 Consent of the Board of Directors No Unit Owner shall make any addition, alteration or improvement in or to the Common Elements and the Association Property without the prior written consent of the Board of Directors

Additionally, no Unit Owner shall make any addition, alteration or improvement to his Unit or any Limited Common Element without the prior written consent of the Board of Directors. The Board shall have the obligation to answer, in writing, any written request by a Unit Owner for approval of such an addition, alteration or improvement within thirty (30) days after such request and all additional information requested is received, and the failure to do so within the stipulated time shall constitute the Board's rejection. The Board may condition the approval in any manner, including, without limitation, retaining approval rights of the contractor to perform the work. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. Once approved by the Board of Directors, such approval may not be revoked. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, the Developer and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Condominium and/or Association Property and expenses arising therefrom. When a Unit Owner has made any addition, alteration or improvement to his Unit or any Limited Common Element, said Unit Owner shall be solely responsible for the maintenance and repair thereof from and after that date of installation or construction thereof as may be required by the Association. The Association's rights to review and approval of plans and other submissions under this Declaration are intended solely for the benefit of the Association. Neither the Developer, the Association nor any of its officers, directors, employees, agents, contractors, consultants or attorneys shall be liable to any Owner or any other person by reason of mistake in judgment, failure to point out or correct deficiencies in any plans or other submissions, or negligence arising out of or in connection with the approval or disapproval of any plans or submissions. Anyone submitting plans hereunder, by the submission of same, and any Owner, by acquiring title to same, agrees not to seek damages from the Developer and/or the Association arising out of the Association's review of any plans hereunder. Without limiting the generality of the foregoing, the Association shall not be responsible for reviewing, nor shall its review of any plans be deemed approval of, any plans from the standpoint of structural safety, soundness, workmanship, materials, usefulness, conformity with building or other codes or industry standards, or compliance with governmental requirements. Further, each Owner (including the successors and assigns) agrees to indemnify and hold the Developer and the Association harmless from and against any and all costs, claims (whether rightfully or wrongfully asserted), damages, expenses or liabilities whatsoever (including, without limitation, reasonable attorneys' fees and court costs at all trial and appellate levels), arising out of any review of plans by the Association hereunder.

10 Improvements, Additions or Alterations by Developer

- 10.1 Anything to the contrary notwithstanding, the foregoing restrictions of Section 9 shall not apply to Developer-owned Units. The Developer shall have the additional right, without the consent or approval of the Board of Directors or other Unit Owners, to (i) to make alterations, additions or improvements in, to and upon Units owned by the Developer, whether structural or non-structural, interior or exterior, ordinary or extraordinary, (ii) change the layout or number of rooms in any Developer-owned Units, (iii) change the size of Developer-owned Units by combining separate Developer-owned Units into a single apartment (although being kept as two separate legal Units), or otherwise, and (iv)

reapportion among the Developer-owned Units affected by such change in size pursuant to the preceding clause, their appurtenant interests in the Common Elements and share of the Common Surplus and Common Expenses. Pursuant to the foregoing, the Developer may combine Penthouse Units 1 and 2 into a single Unit, however, in such event, the owner of the single Penthouse Unit shall be deemed to own two (2) Units and shall have an undivided interest in the Common Elements and Common Surplus and a percentage share of the Common Expenses equivalent to the ownership of two (2) Units.

Any amendment to this Declaration required by a change made by the Developer pursuant to this Section 10 shall be adopted in accordance with Section 6 and this Section 10 of this Declaration.

No amendment made by the Developer, (constituting a Material Amendment, see Section 6.2) may change the configuration or size of any Unit that is not Developer-owned in any material fashion, materially alter or modify the appurtenances of a Unit that is not Developer-owned, or change the proportion or percentage by which a non Developer Unit Owner shares the Common Expenses of the condominium and owns the Common Surplus of the condominium unless the record owner of the unit and all record owners of liens on the unit join in the execution of the amendment and all the record owners of all other not Developer-owned Units in the same condominium approve the amendment. Said approval shall require not less than two-thirds (2/3) of the total voting interests of the condominium.

When making any alterations, additions, or improvements in, to and upon Units owned by the Developer, that Developer shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction in so doing. In making the above alterations, additions and improvements, the Developer may relocate and alter Common Elements adjacent to or near such Units, incorporate portions of the Common Elements into adjacent Units and incorporate Units into adjacent Common Elements, provided that such relocation and alteration does not materially adversely affect the market value or ordinary use of Units owned by Unit owners other than the Developer. Any amendments to this Declaration required by changes of the Developer made pursuant to this Section 10 prior to recording the Declaration, shall be effected by the Developer alone pursuant to Section 6.4, without the vote or consent of the Association or Unit owners (or their mortgagees) required, except to the extent that any of same constitutes a Material Amendment, in which event, the amendment must be approved as set forth in Section 6.2 above.

## 11 Operation of the Condominium by the Association Powers and Duties

11.1 Power and Duties The Association shall be the entity responsible for the operation of the Condominium and the Association Property. The powers and duties of the Association shall include those set forth in the Articles and By-laws (respectively, Exhibits "D" and "E" attached hereto), as amended from time to time. In addition, the Association shall have all the powers and duties set forth in the Act, as well as all powers and duties granted to or imposed upon it by this Declaration, including, without limitation:

- (a) The irrevocable right to have access to each Unit from time to time during reasonable hours to the extent deemed necessary for pest control purposes and the maintenance, repair or replacement of any Common Elements or any

portion of a Unit, if any, to be maintained by the Association, or at any time and by force, if necessary, to prevent damage to the Common Elements, the Association Property or to a Unit or Units

- (b) The power to make and collect Assessments and other charges against Unit Owners and to regulate, administer, maintain, repair and replace the Common Elements and Association Property
- (c) The duty to maintain accounting records according to accounting practices normally used by similar associations, which shall be open to inspection by Unit Owners or their authorized representatives at reasonable times upon prior request
- (d) The power to contract for the management and maintenance of the Condominium Property and to authorize a management agent (who/which may be an affiliate of the Developer or the Developer itself) to assist the Association in carrying out its powers and duties by performing 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 with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by this Declaration, the Articles, By-laws, rules and regulations and the Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association. Any contract as aforesaid shall be entered into only after (i) any competitive bidding requirements set forth in the Act have been met and (ii) a majority of the Unit Owners have approved the contract
- (e) The power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security therefore mortgages and security interests in property owned by the Association, if any, provided that such actions are approved by a majority of the Unit Owners
- (f) The Association, when authorized by a majority of the Unit Owners, shall have the power to acquire, convey, lease and encumber personal and real Property, whether or not contiguous to the lands of the Condominium. The expenses of ownership (including the expense of making and carrying any mortgage related to such ownership), rental, membership fees, operation, replacements and other expenses and undertakings in connection therewith shall be Common Expenses. Notwithstanding the foregoing, the Association shall be authorized to obtain title to Units through foreclosure of its lien without requiring the consent of Unit owners
- (g) The power to adopt and amend, upon a majority vote of the Board, rules and regulations covering the details of the operation and use of the Condominium Property
- (h) The power to employ personnel (part-time or full-time), and if part-time, such personnel may be employees of other condominium associations and the allocation of their compensation shall be equitably apportioned among the associations for which such employee provides services

- (i) The power, but not the obligation, to maintain hotel-type facilities for the Condominium, including, without limitation, a staffed front desk, community mail and package receipt and distribution area, occupational and hotel licenses, telephone switchboard and optional Unit cleaning services
- (j) All of the powers which a corporation not for profit in the State of Florida may exercise pursuant to this Declaration, the Articles of Incorporation, the Bylaws, Chapters 607 and 617, Florida Statutes and the Act, in all cases except as expressly limited or restricted in the Act

In the event of any conflict between the powers and duties of the Association or the terms and provisions of this Declaration, and the Exhibits attached hereto or otherwise, the Declaration shall take precedence over the Articles of Incorporation, By-laws and applicable rules and regulations, the Articles shall take precedence over the By-laws and applicable rules and regulations, and the By-laws shall take precedence over applicable rules and regulations, all as amended from time to time. Notwithstanding anything in this Declaration or its Exhibits to the contrary, the Association shall at all times be the entity having ultimate authority over the Condominium, consistent with the Act

- 11.2 Limitation Upon Liability of Association Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations, improvements or other activities done by or on behalf of any Unit Owner(s) regardless of whether or not same shall have been approved by the Association pursuant to Section 9 hereof. Further, the Association also shall not be liable to any Unit Owner or lessee or to any other person or entity for any property damage, personal injury, death or other liability on the grounds that the Association did not obtain or maintain insurance (or carried insurance with any particular deductible amount) for any particular matter where (i) such insurance is not required hereby, or (ii) the Association could not obtain such insurance at reasonable costs or upon reasonable terms or as a result of the Association's failure or inability to access a Unit in accordance with Section 11.1 (a) above
- 11.3 Restraint Upon Assignment of Shares in Assets The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit
- 11.4 Approval or Disapproval of Matters Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of record owners is specifically required by this Declaration or by law
- 11.5 Acts of the Association Unless the approval or action of Unit owners, and/or a certain specific percentage of the Board of Directors of the Association, is

specifically required in this Declaration, the Articles or By-laws, applicable rules and regulations or applicable law, all approvals or actions required or permitted to be given or taken by the Association shall be given or taken by the Board of Directors, without the consent of Unit Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution. When an approval or action of the Association is permitted to be given or taken hereunder or thereunder, such action or approval may be conditioned in any manner the Association deems appropriate or the Association may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal.

11.6 Effect on Developer If the Developer holds a Unit for sale in the ordinary course of business, none of the following actions may be taken without the prior written approval of the Developer:

- (b) Assessment of the Developer as a Unit Owner for capital improvements,
- (c) Any action by the Association that would be detrimental to the sales of Units by the Developer, provided, however, that an increase in Assessments for Common Expenses without discrimination against the Developer shall not be deemed to be detrimental to the sales of Units.

11.7 Master Association Each Owner, by accepting a deed to a Unit, recognizes that (a) by virtue of his or her ownership of a Unit, he or she has become a member of the Fisherman's Wharf Club & Marina Master Association, Inc. ("Fisherman's Wharf"), (b) such Owner is subject to any rules and regulations of Fisherman's Wharf, and (c) such Owner is entitled to all of the benefits and subject to all of the burdens of such membership. Each Owner, by accepting a deed to a Unit, acknowledges that he or she has received a copy of the Fisherman's Wharf Declaration, Articles of Incorporation, By-Laws and Rules and Regulations. Each Owner agrees to perform his or her obligations as a member of Fisherman's Wharf, as they may from time to time exist, including the obligation to pay annual, special, and default assessments as required under the governing documents of Fisherman's Wharf.

12 Determination of Common Expenses and Fixing Assessments Therefore The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses of the Condominium and allocate and assess such expenses among the Unit Owners in accordance with the provisions of this Declaration and the By-laws. The Board of Directors shall advise all Unit Owners promptly in writing of the amount of the Assessments payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of each budget, on which such Assessments are based, to all Unit Owners and (if requested in writing) to their respective mortgagees. The Board shall then adopt such budget, as presented or as amended by them, by a majority vote. The Common Expenses shall include the expenses of and reserves for (if required by law and not lawfully waived) the operation, maintenance, repair and replacement of the Common Elements and/or Association Property, costs of carrying out the powers and duties of the Association and any other expenses designated as Common Expenses by the Act, this Declaration, the Articles or By-laws of the Association, applicable rules and regulations or by the Association. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve

accounts, or otherwise as the Board shall determine from time to time and need not be restricted or accumulated. Any budget adopted shall be subject to change, upon the approval of such change by the Board to cover actual expenses at any time. Any such change shall be adopted consistent with the provisions of this Declaration and the By-laws.

### 13 Collection Of Assessments

13.1 Liability for Assessments A Unit owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments coming due while he is the Unit owner. In the case of a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor for his share of the Common Expenses or otherwise up to the time of the conveyance without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit against which the Assessments are made or otherwise.

13.2 Special and Capital Improvement Assessment In addition to Assessments levied by the Association to meet the Common Expenses of the Condominium and the Association, the Board of Directors may levy "Special Assessments" and "Capital Improvement Assessments" upon the following terms and conditions:

- (a) "Special Assessments" shall mean and refer to a charge against each Owner and his Unit, representing a portion of the costs incurred by the Association for specific purposes of a nonrecurring nature which are not in the nature of capital improvements.
- (b) "Capital Improvement Assessments" shall mean and refer to a charge against each Owner and his Unit, representing a portion of the costs incurred by the Association for the acquisition, installation, construction or replacement (as distinguished from repairs and maintenance) of any capital improvements located or to be located within the Common Elements or Association Property.
- (c) Special Assessments and Capital Improvement Assessments may be levied by the Board and shall be payable by Unit Owners in lump sums or installments, in the discretion of the Board, provided that, if such Special Assessments or Capital Improvement Assessments, in the aggregate in any year, exceed \$5,000.00 or cause the total Assessments levied to exceed 115% of Assessments for the preceding calendar year, the Board must obtain approval of a majority of the Units represented at a meeting at which a quorum is attained.

13.3 Default in Payment of Assessments for Common Expenses Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at fifteen percent (15%) per annum from the date due until paid and shall be subject to an administrative late fee in an amount not to exceed the greater of \$25.00 or five percent (5%) of each delinquent installment. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such Parcel, interest thereon and reasonable attorney's fees and costs incurred by the Association incident to the collection of the Assessments or enforcement of the lien. Except as set forth below, the lien is effective from, and shall relate back to, the date of the recording of this Declaration. However, as to first mortgages of record, the lien is effective from and

United States, sending the notice to that address and to the unit address by first-class United States mail is sufficient. Delivery of the notice shall be deemed given upon mailing.

- 13.5 Appointment of Receiver to Collect Rental If the Unit Owner remains in possession of the Unit after a foreclosure judgment has been entered, the court in its discretion may require the Unit owner to pay a reasonable rental for the Unit. If the Unit is rented or leased during the pendency of the foreclosure action, the Association is entitled to the appointment of a receiver to collect the rent. The expenses of such receiver shall be paid by the party which does not prevail in the foreclosure action.
- 13.6 Institutional First Mortgagee An Institutional First Mortgagee who acquires title to a Unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid Assessments (or installments thereof) that became due prior to the Institutional First Mortgagee's receipt of the deed. The Institutional First Mortgagee shall pay the amount owed to the association within thirty (30) days after transfer of title. In no event shall the Institutional First Mortgagee be liable for more than six (6) months of the Unit's unpaid Common Expenses or Assessments accrued before the acquisition of title to the Unit by the Institutional First Mortgagee or one percent (1%) of the original mortgage debt, whichever amount is less. The limitation on liability for assessments only applies if the first mortgagee joined the association in the foreclosure action.
- 13.7 Developer's Liability for Assessments During the period from the date of the recording of this Declaration until the earlier of the following dates (the "Guarantee Expiration Date") (i) the last day of the twelfth (12th) complete calendar month after the applicable recording date, (ii) the occurrence of an "Extraordinary Financial Event" (as hereinafter defined), or (iii) the date that control of the Association is transferred to Unit Owners other than the Developer as provided in the By-laws and the Act, the Developer shall not be obligated to pay the share of Common Expenses and Assessments attributable to the Units owned by the Developer, provided (i) that the regular Assessments for Common Expenses imposed on each Unit Owner other than the Developer prior to the Guarantee Expiration Date shall not increase during such period over the amount of \$750.00, and (ii) that the Developer shall be obligated to pay any amount of Common Expenses actually incurred during such period and not produced by the Assessments at the guaranteed level of \$750.00 receivable from other Unit Owners or other cash payments made by the Developer/Guarantor. After the Guarantee Expiration Date, the Developer shall have the option of extending the guarantee for one period consisting of 12 months, or paying the share of Common Expenses and Assessments attributable to Units it then owns. As used in this subsection, an "Extraordinary Financial Event" shall mean a casualty loss affecting the Condominium and/or Association Property which exceeds by more than \$5,000.00 the insurance proceeds receivable by the Association as a result of the loss, or the entry of a judgment against the Association (or against a member or members of the Board of Directors if and to the extent those members are entitled to be indemnified by the Association as more particularly described in the Articles of Incorporation) that exceeds by more than \$5,000.00 the insurance proceeds receivable by the Association as a result of the judgment, or an agreement by the Association (or said member or members of the Board of Directors to whom indemnification is owed) to pay an amount in settlement of a lawsuit against it (or against said Board members) that exceeds by more than \$5,000.00 the insurance proceeds receivable by the Association as a result of the settlement agreement.
- 13.8 Certificate of Unpaid Assessments Within fifteen (15) days after written request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating all Assessments and other moneys owed to the Association by the Unit Owner with respect to

require the Unit owner to pay a reasonable rental for the Unit. If the Unit is rented or leased during the pendency of the foreclosure action, the Association is entitled to the appointment of a receiver to collect the rent. The expenses of such receiver shall be paid by the party which does not prevail in the foreclosure action.

- 13.6 Institutional First Mortgagee An Institutional First Mortgagee who acquires title to a Unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid Assessments (or installments thereof) that became due prior to the Institutional First Mortgagee's receipt of the deed. The Institutional First Mortgagee shall pay the amount owed to the association within thirty (30) days after transfer of title. In no event shall the Institutional First Mortgagee be liable for more than six (6) months of the Unit's unpaid Common Expenses or Assessments accrued before the acquisition of title to the Unit by the Institutional First Mortgagee or one percent (1%) of the original mortgage debt, whichever amount is less. The limitation on liability for assessments only applies if the first mortgagee joined the association in the foreclosure action.
- 13.7 Developer's Liability for Assessments During the period from the date of the recording of this Declaration until the earlier of the following dates (the "Guarantee Expiration Date") (i) the last day of the twelfth (12th) complete calendar month after the applicable recording date, (ii) the occurrence of an "Extraordinary Financial Event" (as hereinafter defined), or (iii) the date that control of the Association is transferred to Unit Owners other than the Developer as provided in the By-laws and the Act, the Developer shall not be obligated to pay the share of Common Expenses and Assessments attributable to the Units owned by the Developer, provided (i) that the regular Assessments for Common Expenses imposed on each Unit Owner other than the Developer prior to the Guarantee Expiration Date shall not increase during such period over the amount of \$850.00, and (ii) that the Developer shall be obligated to pay any amount of Common Expenses actually incurred during such period and not produced by the Assessments at the guaranteed level of \$850.00 receivable from other Unit Owners or other cash payments made by the Developer/Guarantor. After the Guarantee Expiration Date, the Developer shall have the option of extending the guarantee for one period consisting of 12 months, or paying the share of Common Expenses and Assessments attributable to Units it then owns. As used in this subsection, an "Extraordinary Financial Event" shall mean a casualty loss affecting the Condominium and/or Association Property which exceeds by more than \$5,000.00 the insurance proceeds receivable by the Association as a result of the loss, or the entry of a judgment against the Association (or against a member or members of the Board of Directors if and to the extent those members are entitled to be indemnified by the Association as more particularly described in the Articles of Incorporation) that exceeds by more than \$5,000.00 the insurance proceeds receivable by the Association as a result of the judgment, or an agreement by the Association (or said member or members of the Board of Directors to whom indemnification is owed) to pay an amount in settlement of a lawsuit against it (or against said Board members) that exceeds by more than \$5,000.00 the insurance proceeds receivable by the Association as a result of the settlement agreement.
- 13.8 Certificate of Unpaid Assessments Within fifteen (15) days after written request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating all Assessments and other moneys owed to the Association by the Unit Owner with respect to his Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

- 13 9 Installments Regular Assessments shall be collected monthly or quarterly, in advance, at the option of the Association. Initially, assessments will be collected monthly.
- 13 10 Application of Payments Any payments received by the Association from a delinquent Unit Owner shall be applied first to any interest accrued on the delinquent installment(s) as aforesaid, then to any administrative late fees, then to any costs and reasonable attorneys' fees incurred in collection and then to the delinquent and any accelerated Assessments. The foregoing shall be applicable notwithstanding any restrictive endorsement, designation or instruction placed on or accompanying a payment.
- 14 Insurance Insurance covering the Condominium Property and the Association Property shall be governed by the following provisions:
- 14 1 Purchase Custody and Payment
- (a) Purchase All insurance policies described herein covering portions of the Condominium and Association Property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.
  - (b) Approval Each insurance policy, the agency and company issuing the policy and the Insurance Trustee (if appointed) hereinafter described shall be subject to the approval of the Primary Institutional First Mortgagee in the first instance, if requested thereby.
  - (c) Named Insurer The named insured shall be the Association, individually, and as agent for Owners of Units covered by the policy, without naming them, and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be deemed additional insureds.
  - (d) Custody of Policies and Payment of Proceeds All policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and all policies and endorsements thereto shall be deposited with the Insurance Trustee (if appointed).
  - (e) Copies to Mortgagees One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by the Association upon request to each Institutional First Mortgagee who holds a mortgage upon a Unit covered by the policy. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy, or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, as appropriate.
  - (f) Personal Property and Liability Except as specifically provided herein or by the Act, the Association shall not be responsible to Unit Owners to obtain Insurance coverage upon the property lying within the boundaries of their Unit, including, but not limited to, their personal property, and for their personal liability and living expense and for any other risks not otherwise insured in accordance herewith.

14.2 Coverage The Association shall maintain insurance covering the following

- (a) Casualty The Building (including all fixtures, installations or additions comprising that part of the Building within the boundaries of the Units and required by the Act to be insured under the Association's policies) and all improvements located on the Common Elements and the Association Property from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Elements or Association Property (collectively the "Insured Property"), shall be insured in an amount not less than 100% of the full insurable replacement value thereof, excluding foundation and excavation costs. Notwithstanding the foregoing, the Insured Property shall not include, and shall specifically exclude, all furniture, furnishings, Unit floor coverings, wall coverings and ceiling coverings, other personal property owned, supplied or installed by Unit Owners or tenants of Unit Owners, and all electrical fixtures, appliances, air conditioner and heating equipment, water heaters and built-in cabinets, to the extent that any of same are required to be repaired or replaced by the Unit Owners. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.
- (b) Liability Comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Insured Property, with such coverage as shall be required by the Board of Directors of the Association, but with combined single limit liability of not less than \$500,000 for each accident or occurrence, \$50,000 per person and \$25,000 property damage, and with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa.
- (c) Workmen's compensation and other mandatory insurance, when applicable.
- (d) Flood Insurance covering the Common Elements, Association Property and Units if required by the Primary Institutional First Mortgagee or FNMA/FHLMC, or if the Association so elects.
- (e) Fidelity Bonding. The Association shall obtain and maintain adequate insurance or 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 agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but is 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.

- (f) Association Property Appropriate additional policy provisions, policies or endorsements extending the applicable portions of the coverage described above to all Association Property, where such coverage is available
- (g) Such Other Insurance as the Board of Directors of the Association shall determine from time to time to be desirable

When appropriate and obtainable each of the foregoing policies shall waive the insurer's right to (i) subrogation against the Association and against the Unit Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, a member of the Board of Directors of the Association, one or more Unit Owners or as a result of contractual undertakings. Additionally, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any act or omissions of individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss

Every casualty insurance policy obtained by the Association, if required by FNMA/FHLMC, shall have the following endorsements (1) agreed amount and inflation guard and (ii) steam boiler coverage (providing at least \$50,000 coverage for each accident at each location), if applicable

- 14.3 Additional Provisions All policies of insurance shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days' prior written notice to all of the named insureds, including all mortgagees of Units. Prior to obtaining any policy of casualty insurance or any renewal thereof, the Board of Directors may (or if required by FNMA/FHLMC, shall) obtain an appraisal from a fire insurance company, or other competent appraiser, of the full insurable replacement value of the Insured Property (exclusive of foundations), without deduction for depreciation, for the purpose of determining the amount of insurance to be effected pursuant to this Section
- 14.4 Premiums Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the costs of fidelity bonding for any management company employee may be paid by such company pursuant to its contract with the Association. Premiums may be financed in such manner as the Board of Directors deems appropriate
- 14.5 Insurance Trustee Share of Proceeds All insurance policies obtained by or on behalf of the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee which may be designated by the Board of Directors as provided in Section 14.10 below, and which, if so appointed, shall be a bank or trust company in Florida with trust powers, with its principal place of business in the State of Florida. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective

mortgagees in the following shares, but shares need not be set forth on the records of the Insurance Trustee

- (a) Insured Property Proceeds on account of damage to the Insured Property shall be held in undivided shares for each Unit Owner, such shares being the same as the undivided shares in the Common Elements appurtenant to each Unit, provided that if the Insured Property so damaged includes Property lying within the boundaries of specific Units, that portion of the proceeds allocable to such Property shall be held as if that portion of the Insured Property were Optional Property as described in paragraph (b) below
- (b) Optional Property Proceeds on account of damage solely to Units and/or certain portions or all of the contents thereof not included in the Insured Property (all as determined by the Association in its sole discretion) (collectively the "Optional Property," if any is collected by reason of optional insurance which the Association elects to carry thereon (as contemplated herein), shall be held for the benefit of Owners of Units or other portions of the Optional Property damaged in proportion to the cost of repairing the damage suffered by each such affected Owner, which cost and allocation shall be determined in the sole discretion of the Association
- (c) Mortgagees No mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds, except for actual distributions thereof made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration

14.6 Distribution of Proceeds Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners thereof in the following manner

- (a) Expenses of the Trust All expenses of the Insurance Trustee shall be first paid or provision shall be made therefore
- (b) Reconstruction or Repair If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners thereof, remittances to Unit Owners and their mortgagees being payable jointly to them
- (c) Failure to Reconstruct or Repair If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the beneficial owners as provided in Section 14.5 above, and distributed first to all Institutional First Mortgagees in an amount sufficient to pay off their mortgages, and the balance, if any, to the beneficial owners
- (d) Certificate In making distributions to Unit Owners and their mortgagees, the Insurance Trustee (if appointed) may rely upon a certificate of the Association

made by its President and Secretary as to the names of the Unit Owners and their mortgagees and their respective shares of the distribution

- 14 7 Association as Agent The Association is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner and for each owner of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims
- 14 8 Unit Owners' Personal Coverage Unless the Association elects otherwise, the insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within his Unit, nor casualty or theft loss to the contents of an Owner's Unit. It shall be the obligation of the individual Unit owner. If such owner so desires, to purchase and pay for insurance as to all such and other risks not covered by insurance carried by the Association
- 14 9 Benefit of Mortgagees Certain provisions in this Section 14 entitled "Insurance" are for the benefit of mortgagees of Units and may be enforced by such mortgagees
- 14 10 Appointment of Insurance Trustee The Board of Directors of the Association shall have the option in its discretion of appointing an Insurance Trustee hereunder. If the Association fails or elects not to appoint such Trustee, the Association will perform directly all obligations imposed upon such Trustee by this Declaration. Fees and expenses of any Insurance Trustee are Common Expenses
- 14 11 Presumption as to Damaged Property In the event of a dispute or lack of certainty as to whether damaged property constitutes a Unit(s) or Common Elements, such property shall be presumed to be Common Elements
- 15 Reconstruction or Repair After Fire or other Casualty

- 15 1 Determination to Reconstruct or Repair Subject to the immediately following paragraph, in the event of damage to or destruction of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) and the Insurance Trustee (if appointed) shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments

If 75% or more of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) is substantially damaged or destroyed and if all Unit Owners of the applicable interests in the Common Elements duly and promptly resolve not to proceed with the repair or restoration thereof and all of the holders of recorded liens affecting any of the condominium parcels approve such resolution, the Condominium Property will not be repaired and the Board of Directors may initiate the Termination process of the condominium. The Board of Directors must first notify the division before taking any action to terminate the condominium or association. Upon termination of the condominium or association property, the condominium property and its assets will be treated as if they were owned in common, in which event the net proceeds of insurance resulting from such damage or destruction

shall be divided among all the Unit Owners in proportion to their respective interests in the Common Elements (with respect to proceeds held for damage to the Insured Property other than that portion of the Insured Property lying within the boundaries of the Unit), and among affected Unit Owners in proportion to the damage suffered by each such affected Unit Owner, as determined in the sole discretion of the Association (with respect to proceeds held for damage to that Optional Property, if any, and/or that portion of the Insured Property lying within the boundaries of the Unit), provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such fund all mortgages and liens on his Unit in the order of priority of such mortgages and liens

Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than sixty (60) days from the date the Insurance Trustee (if appointed) notifies the Board of Directors and Unit owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work, or not more than ninety (90) days after the Insurance Trustee (if appointed) notifies the Board of Directors and the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work. The Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired

- 15.2 Plans and Specifications Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements and then applicable building and other codes, or if not, then in accordance with the plans and specifications approved by the Board of Directors of the Association and then applicable building and other codes, and, if the damaged property which is to be altered is the Building or the Optional Property, by the Owners of not less than 80% of the applicable interests in the Common Elements, as well as the Owners of all Units and other portions of the Optional Property (and their respective mortgagees) the plans for which are to be altered
- 15.3 Special Responsibility If the damage is only to those parts of the Optional Property for which the responsibility of maintenance and repair is that of the respective Unit Owners, then the Unit Owners shall be responsible for all necessary reconstruction and repair, which shall be effected promptly and in accordance with guidelines established by the Board of Directors (unless insurance proceeds are held by the Association with respect thereto by reason of the purchase of optional insurance thereon, in which case the Association shall have the responsibility to reconstruct and repair the damaged Optional Property, provided the respective Unit Owners shall be individually responsible for any amount by which the cost of such repair or reconstruction exceeds the insurance proceeds held for such repair or reconstruction on a Unit-by-Unit basis, as determined in the sole discretion of the Association) In all other instances, the responsibility for all necessary reconstruction and repair shall be that of the Association
- (a) Disbursement The proceeds of insurance collected on account of a casualty, and the sums collected from Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order

- i Association - Lesser Damage If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is less than \$100,000, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors of the Association, provided, however, that upon request to the Insurance Trustee (if appointed) by an Institutional First Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage
- ii Association - Major Damage If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than \$100,000, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by subparagraph (i) above, but then only upon the further approval of an architect or engineer qualified to practice in Florida and employed by the Association to supervise the work
- iii Unit Owners If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance may be used by the Association to effect repairs to the Optional Property (if not insured or if under-insured), or may be distributed to Owners of the Optional Property who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board, provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Optional Property. All proceeds must be used to affect repairs to the Optional Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Optional Property and promptly affect the repairs. Any balance remaining after such repairs have been affected shall be distributed to the affected Unit Owners and their mortgagees jointly as elsewhere herein contemplated
- iv Surplus It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, Such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated, except, however, that part of a distribution to an Owner which is not in excess of Assessments paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee
- v Certificate Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be made upon the order of the Association alone

Association, this balance may be used by the Association to effect repairs to the Optional Property (if not insured or if under-insured), or may be distributed to Owners of the Optional Property who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board, provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Optional Property. All proceeds must be used to affect repairs to the Optional Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Optional Property and promptly affect the repairs. Any balance remaining after such repairs have been affected shall be distributed to the affected Unit Owners and their mortgagees jointly as elsewhere herein contemplated.

- iv Surplus It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established. Such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated, except, however, that part of a distribution to an Owner which is not in excess of Assessments paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee.
- v Certificate Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be made upon the order of the Association alone or upon the additional approval of an architect, engineer or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine the payees nor the amounts to be paid. The Insurance Trustee may rely upon a certificate of the Association, made by its President and Secretary, as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the names of the payees and the amounts to be paid.

- 15.4 Assessments If the proceeds of the Insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Assessments on account of damage to the Insured Property shall be in proportion to all of the Owners' respective shares in the Common Elements, and on account of damage to the Optional Property, the Association shall charge the Owner (but shall not levy an Assessment) in proportion to the cost of repairing the damage suffered by each Owner thereof, as determined by the Association.

16.4 Unit Reduced but Habitable If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable (in the sole opinion of the Association), the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium

- (a) Restoration of Unit The Unit shall be made habitable if the cost of the restoration exceeds the amount of the award, the additional fund required shall be charged to and paid by the Owner of the Unit
- (b) Distribution of Surplus The balance of the award in respect of the Unit, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the owner and such mortgagees
- (c) Adjustment of Shares in Common Elements If the floor area of the Unit is reduced by the taking, the percentage representing the share in the Common Elements and of the Common Expenses and Common Surplus appurtenant to the Unit shall be reduced by multiplying the percentage of the applicable Unit prior to reduction by a fraction, the numerator of which shall be the area in square feet of the Unit after the taking and the denominator of which shall be the area in square feet of the Unit before the taking. The shares of all Unit Owners in the Common Elements, Common Expenses and Common Surplus shall then be restated as follows
  - i add the total of all percentages of all Units after reduction as aforesaid (the "Remaining Percentage Balance") and
  - ii divide each percentage for each Unit after reduction as aforesaid by the Remaining Percentage Balance

The result of such division for each Unit shall be the adjusted percentage for such Unit

16.5 Unit Made Uninhabitable If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made habitable (in the sole opinion of The Association), the award for the taking of the Unit shall be used for the purposes in the order stated and the following changes shall be made to the Condominium

- (a) Payment of Award The awards shall be paid first to the applicable Institutional First Mortgagees in amounts sufficient to payoff their mortgages in connection with each Unit which is not so habitable second, to the Association for any due and unpaid Assessments third, jointly to the affected Unit Owners and other mortgagees of their Units. In no event shall the total of such distributions in respect of a specific Unit exceed the market value of such Unit immediately prior to the taking. The balance, if any, shall be applied to repairing and replacing the Common Elements
- (b) Addition to Common Elements The remaining portion of the Unit, if any shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors of the Association, provided that if the cost

of the work therefore shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required to capital improvements to the Common Elements

- (c) Adjustment of Shares The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Unit Owners (and among reduced Units) This shall be effected by restating the shares of continuing Unit owners as follows

- i add the total of all percentages of all Units of continuing owners prior to this adjustment, but after any adjustments made necessary by Section 16 4(c) hereof (the "Percentage Balance"), and
- ii divide the percentage of each Unit of a continuing owner prior to this adjustment, but after any adjustments made necessary by Section 16 4(c) hereof, by the Percentage Balance

The result of such division for each Unit shall be the adjusted percentage for such Unit

- (d) Assessments If the balance of the award (after payments to the Unit Owner and such Owner's mortgagees as above provided) for the taking is not sufficient to alter the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by Assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking The Assessments shall be made in proportion to the applicable percentage shares of those Owners after all adjustments to such shares effected pursuant hereto by reason of the taking
- (e) Arbitration If the market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and mortgagees of the Unit and the Association within 30 days after notice of a dispute by any affected party, such value shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit A judgment upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction in accordance with the Florida Arbitration Code The cost of arbitration proceedings shall be assessed against all Units Owners in proportion to the applicable percentage shares of such owners as they exist prior to the adjustments to such shares effected pursuant hereto by reason of the taking

- 16 6 Taking of Common Elements Awards for the taking of Common Elements shall be used to render the remaining portion of the Common Elements usable in the manner approved by the Board of Directors of the Association, provided, that the cost of such work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner elsewhere required for capital improvements to the

Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustments to these shares effected pursuant hereto by reason of the taking. If there is a mortgage on a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit.

16.7 Amendment of Declaration The changes in Units, in the Common Elements and in the ownership of the Common Elements and share in the Common Expenses and Common Surplus that are effected by the taking shall be evidenced by an amendment to this Declaration of Condominium that is only required to be approved by, and executed upon the direction of, a majority of all Directors of the Association.

17 Occupancy and Use Restrictions In order to provide for congenial occupancy of the Condominium and Association Property and for the protection of the value of the Unit, the use of the Condominium Property shall be restricted to and shall be in accordance with the following provisions:

17.1 Occupancy Each Residential Unit shall be used as a residence only, whether for permanent, temporary or transient use, except as otherwise herein expressly provided. The provisions of this Section 17.1 shall not be applicable to Units used by the Developer for model apartments, sales offices or management services.

17.2 Children Children shall be permitted to be occupants of Units.

17.3 Pet Restrictions Each Residential Unit Owner or occupant (regardless of the number of joint owners or occupants) may maintain two (2) household pets in his Residential Unit, to be limited to a dog or cat (or other household pet defined as such and specifically permitted by the Association). If a dog, and in either event, provided further, that the pet is not kept, bred or maintained for any commercial purpose and does not become a nuisance or annoyance to neighbors. No reptiles or wildlife shall be kept in or on the Condominium Property (including Units). Unit Owners must pick up all solid wastes of their pets and dispose of such wastes appropriately. All pets (including cats) must be kept on a leash of a length that affords reasonable control over the pet at all times when outside the Unit or enclosed patio. No pets may be kept in patio areas or on balconies when the owner is not in the Unit. Without limiting the generality of Section 19 hereof, violation of the provisions of this Section 17.3 shall entitle the Association to all of its rights and remedies, including, but not limited to, the right to fine Unit Owners (as provided in any applicable rules and regulations) and/or to require any pet to be permanently removed from the Condominium Property. This Section 17.3 shall not prohibit the keeping of domestic fish in a Unit.

17.4 Alterations Without limiting the generality of Section 9.1 hereof, but subject to Section 11 hereof, no Residential Unit Owner shall cause or allow improvements or changes to any Residential Unit, Limited Common Elements appurtenant thereto, Common Elements or Association Property, including, but not limited to, painting or other decorating of any nature, installing any electrical wiring, television antenna, machinery, or air-conditioning units, which in any manner change the appearance of any portion of the Building, without obtaining the prior written consent of the Association (in the manner specified in section 9.1 hereof). Curtains or drapes (or linings thereof) which face the exterior windows or glass doors of Units shall be white or off-white in color.

and shall be subject to disapproval by the Association, in which case they shall be removed and replaced with acceptable items

- 17.5 Use of Common Elements and Association Property The Common Elements and Association Property shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units. In that regard, each Unit Owner, by acceptance of a deed for a Unit, thereby covenants and agrees that it is the intention of the Developer that the stairwells of the Building are intended for ingress and egress in the event of emergency only, and as such are constructed and left unfinished solely as to be functional for said purpose, without regard to the aesthetic appearance of said stairwells. The foregoing is not intended to prohibit the use of the stairwells for any other proper purpose.
- 17.6 Nuisances No nuisances (as defined by the Association) shall be allowed on the Condominium or Association Property, nor shall any use or practice be allowed which is a source of annoyance to occupants of Units or which interferes with the peaceful possession or proper use of the Condominium and/or Association Property by its residents, occupants or members.
- 17.7 No Improper Uses No improper, offensive, hazardous or unlawful use shall be made of the Condominium or Association Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium and/or Association Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Section 17.7. No activity specifically permitted by this Declaration shall be deemed to be a violation of this Section.
- 17.8 Leases No Unit owner may lease his or her Unit more than two (2) times during any twelve (12) month period. The minimum duration of a lease shall be three (3) months. Leasing of Units or portions thereof shall not be subject to the approval of the Association, but every lease shall be in writing, shall require a copy of the lease to be submitted to the Association as a precondition of the tenant being permitted occupancy of the Unit, and shall provide (and if not expressly in the written lease, if any, shall be deemed to provide) that the Association shall have the right (i) to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles of Incorporation or By-laws of the Association, applicable rules and regulations, or other applicable provisions of any agreement, document or instrument governing the Condominium or administered by the Association, and (ii) to collect all rental payments due to the Owner and apply same against unpaid Assessments if, and to the extent that, the Unit Owner is in default in the payment of Assessments. Regardless of whether or not expressed in the applicable lease, if any, a Unit Owner shall be jointly and severally liable to the Association for the acts and omissions of his tenant(s) and occupant(s) which constitute a violation of, or non-compliance with, the provisions of this Declaration and of any and all rules and regulations of the Association. All leases are hereby made subordinate to any lien filed by the Condominium Association, whether prior or subsequent to such lease. If so required by the Association, Unit

Owners wishing to lease their Units shall be required to place in escrow with the Association a reasonable sum, not to exceed the equivalent of one month's rental, which may be used by the Association to repair any damage to the Common Elements and/or Association Property resulting from acts or omissions of tenants (as determined in the sole discretion of the Association). Payment of interest, claims against the deposit, refunds and disputes regarding the disposition of the deposit shall be handled in the same fashion as provided in Part II of Chapter 83, Florida Statutes.

- 17.9 Weight and Sound Restriction The installation of any improvement or heavy object must be submitted to and approved by the Board, and be compatible with the overall structural design of the Building. The Board of Directors may require a structural engineer to review certain of the proposed improvements, with such review to be at the Owner's sole expense. The Board will have the right to specify the exact material to be used on balconies. Any use guidelines set forth by the Association shall be consistent with good design practices for the waterproofing and overall structural design of the Building. Owners will be held strictly liable for violations of these restrictions and for all damages resulting therefrom and the Association has the right to require immediate removal of violations. Applicable warranties of the Developer, if any, shall be voided by violations of these restrictions and requirements. Each Owner, by acceptance of a deed or other conveyance of their Unit, hereby acknowledges and agrees that sound transmission in a high-rise building such as the Condominium is very difficult to control, and that noises from adjoining or nearby Units and/or mechanical equipment can often be heard in another Unit. The Developer does not make any representation or warranty as to the level of sound transmission between and among Units and the other portions of the Condominium Property, and each Unit Owner hereby waives and expressly releases any such warranty and claim for loss or damages resulting from sound transmission.

- 17.10 Exterior Improvements Without limiting the generality of Sections 9.1 or 17.4 hereof, but subject to any provision of this Declaration specifically permitting same, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, balconies or windows of the Building including, but not limited to, awnings, signs, storm shutters, screens, window tinting, furniture, fixtures and equipment), without the prior written consent of the Association.

Any Unit Owner may display one portable, removable United States flag in a respectful manner regardless of any declaration rules or requirements dealing with flags or decorations.

- 17.11 Association Access to Units In order to facilitate access to Units by the Association for the purposes enumerated in Section 11.1 (a) hereof, it shall be the responsibility of all Unit Owners to deliver a set of keys to their respective Units to the Association to use in the performance of its functions. No Owner shall change the locks to his Unit without so notifying the Association and delivering to the Association a new set of keys to such Unit.

- 17.12 Hurricane Shutters The Board of Directors shall, from time to time, establish hurricane shutter specifications which comply with the applicable building codes, and establish permitted colors, styles and materials for hurricane shutters. Subject to the provisions of Section 9.1 of this Declaration, the Association shall approve the installation or replacement of hurricane shutters conforming with the Board's specifications. All

shutters shall remain open unless and until a storm watch or storm warning is announced by the National Weather Center or other recognized weather forecaster. A Unit Owner or occupant who plans to be absent during all or any portion of the hurricane season must prepare his Unit prior to his departure by designating a responsible firm or individual to care for his Unit should a hurricane threaten the Unit or should the Unit suffer hurricane damage, and furnishing the Association with the name(s) of such firm or individual. Such firm or individual shall be subject to the approval of the Association.

- 17.13 Parking Each Unit shall have the right at no charge to the exclusive use of two (2) parking spaces. The Developer shall assign the right to use two (2) parking space to a Unit at or about the time it closes its sale of the Unit. At any time thereafter, the Association through and at the discretion of its Board of Directors, may change the spaces assigned any Unit by re-assigning a different space or spaces to the Unit, provided only that every such change is consented to beforehand in writing by that Unit's Owner and, if the Developer then owns any Units, by the Developer. Every original assignment and reassignment made pursuant to this paragraph shall be effected by delivering to the assignee Unit Owner an appropriate instrument duly executed by the assigning party (i.e., the Developer in the case of an initial assignment and the Board of Directors in the case of a re-assignment). An executed counterpart of every such instrument shall be maintained by the Association as part of its permanent records, but no such instrument shall be recorded in any public records.
18. Selling, Leasing, and Mortgaging of Units Subject to the provisions of this Declaration, each Unit Owner shall have the right to sell, lease or mortgage his Unit without restriction. When a Unit is leased, a tenant shall have all use rights in Association Property and those Common Elements otherwise readily available for use generally by Unit Owners, and the Owner of the leased Unit shall not have such rights, except as a guest. Nothing herein shall interfere with the access rights of the Unit Owner as a landlord pursuant to Chapter 83, Florida Statutes. The Association shall have the right to adopt rules to prohibit dual usage by a Unit Owner and a tenant of Association Property and Common Elements otherwise readily available for use generally by Owners.
19. Compliance and Default The Association, each Unit owner, occupant of a Unit, tenant and other invitee of a Unit Owner shall be governed by and shall comply with the terms of this Declaration and all exhibits annexed hereto, and the rules and regulations adopted pursuant to those documents, as the same may be amended from time to time and the provisions of all of such documents shall be deemed incorporated into any lease of a Unit whether or not expressly stated in such lease. The Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:
- 19.1 Mandatory Non-binding Arbitration of Disputes Prior to the institution of court litigation, the parties to a Dispute shall petition the Division for non-binding arbitration. The arbitration shall be conducted according to rules promulgated by the Division and before arbitrators employed by the Division. The filing of a petition for arbitration shall toll the applicable statute of limitation for the applicable Dispute, until the arbitration proceedings are completed. Any arbitration decision shall be presented to the parties in writing, and shall be deemed final. If a complaint for trial de novo is not filed in a court of competent jurisdiction in which the Condominium is located within thirty (30) days following the issuance of the arbitration decision. The prevailing party in the arbitration proceeding shall be awarded the costs of the arbitration, and attorney's fees and costs.

incurred in connection with the proceedings. The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, courts costs and other reasonable costs, including, without limitation, attorneys' fees, investigation expenses and expenses for expert or other testimony or evidence incurred after the arbitration decision. If the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed complaint for trial de novo shall be awarded reasonable court costs and attorneys' fees. If the judgment is more favorable, the party who filed complaint for trial de novo shall be awarded reasonable court costs and attorney's fees.

- 19.2 Negligence and Compliance A Unit Owner and/or tenant of a Unit shall be liable for the expense of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent such expense is not met by the proceeds of insurance actually collected by the Association with respect to such negligence. In the event a Unit Owner, tenant or occupant fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions of the Declaration, the By-laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property or administered by the Association, in the manner required, the Association shall have the right to proceed in equity to require performance and/or compliance, to impose any applicable fines, to sue at law for damages, and to charge the Unit Owner for the sums necessary to do whatever works is required to put the Unit Owner or Unit in compliance. In any proceeding arising because of an alleged failure of a Unit Owner, a tenant or the Association to comply with the requirements of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees). A Unit Owner prevailing in an action with the Association, in addition to recovering his reasonable attorneys' fees, may recover additional amounts as determined by the court to be necessary to reimburse the Unit Owner for his share of Assessments levied by the Association to fund its expenses of the litigation.

20. Termination of Condominium The Condominium shall continue until (i) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration, or (ii) such time as withdrawal of the Condominium Property from the provisions of the Act is authorized by a vote of owners owning at least 80% of the applicable interests in the Common Elements and by the Primary Institutional First Mortgagee. In the event such withdrawal is authorized as aforesaid, the Condominium Property shall be subject to an action for partition by any Unit Owner, mortgagee or lien or as if owned in common in which event the net proceeds of the partition sale shall be divided among all Unit owners in proportion to their respective interests in the Common Elements, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such net proceeds all mortgages and liens on his Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the basis of the termination and said certificate shall be recorded among the public records of the County. This Section may not be amended without the consent of the Primary Institutional First Mortgage and the Developer as long as it owns any Unit.

When the Board of Directors intends to terminate or merge the condominium association, the board shall so notify the division before taking any action to terminate or merge the condominium or the association. Upon recordation of the instrument evidencing consent of all of the unit owners to terminate the condominium, the association within 30 business days shall notify the division of the termination and the date the document was recorded, the county where the document was recorded, and the book and page number of the public records where the document was recorded, and shall provide the division a copy of the recorded termination notice certified by the clerk.

## 21 Additional Rights of Mortgagees and Others

21.1 Availability of Association Documents The Association shall have current and updated copies of the following available for inspection by Institutional First Mortgagees during normal business hours or under other reasonable circumstances as determined by the Board: (a) this Declaration, (b) the Articles, (c) the By-laws, (d) the rules and regulations of the Association, and (e) the books, records and financial statements of the Association.

21.2 Notices Any holder, insurer or guarantor of a mortgage on a Unit shall have, if first requested in writing, the right to timely written notice of

(a) any condemnation or casualty loss affecting a material portion of the Condominium and/or Association Property or the affected mortgaged Unit.

(b) sixty (60) day delinquency in the payment of the Assessments on mortgaged Unit,

(c) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association,

(d) any proposed action which requires the consent of a specified number of mortgage holders.

21.3 Additional Rights Institutional First Mortgagees shall have the right, upon written request to the Association, to: (a) receive a copy of an audited financial statement of the Association for the immediately preceding fiscal year if such statements were prepared, and (b) receive notices of and attend Association meetings.

22 Covenant Running With the Land All provisions of this Declaration, the Article, By-laws and applicable rules and regulations of the association, shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Developer and subsequent owner(s) of the land or any part thereof, or interest therein, and their respective heirs, personal representative, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Unit Owners, tenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration and such Articles, By-laws and applicable rules and regulations, as they may be amended from time to time. The acceptance of a deed or conveyance, or the entering into a lease, or the entering into occupancy of any Unit, shall constitute an adoption and ratification of the provisions of this Declaration, and the

Articles, By-laws and applicable rules and regulations of the Association, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained herein

- 23 Disclaimer of Warranties Developer hereby disclaims any and all express or implied warranties as to design, construction, sound transmission, furnishing and equipping of the Condominium Property, except only those set forth in section 718 203 of the Act, to the extent applicable and to the extent that same have not expired by their terms. As to such warranties which cannot be disclaimed, and to other claims, if any, which can be made as to the aforesaid matters, all incidental and consequential damages arising therefrom are hereby disclaimed

Without limiting the generality of the foregoing, Developer further disclaims any liability to comply with, or upgrade any improvements and/or the Condominium Property as a result of, any changes or modifications to, or adoption of further federal, state or municipal laws, codes, ordinances regulations or rules hereafter applicable to the Condominium Property. All Unit owners, by virtue of acceptance of title to their respective Units (whether from the Developer or another party) shall be deemed to have automatically waived all of the aforesaid disclaimed warranties and incidental and consequential damages

- 24 Coastal Construction Control Line Each Unit owner, by acceptance of a deed or other conveyance of their Unit, acknowledges and agrees that the Units, the Building and other portions of the Condominium Property may be located in coastal areas partially or totally seaward of the coastal construction control line as defined in section 161 053 Florida Statutes. Each Unit owner is fully apprised of the character of the regulation of property in such coastal areas and thereby expressly waives and releases any claim against the Developer as a result of the limitation on improvements or reconstruction resulting from the regulation of property in such coastal areas

25 Additional Provisions

- 25.1 Notices All notices to the Association required or desired hereunder or under the By-laws of the Association shall be sent by certified mail (return receipt requested) to the Association in care of its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit owners. Except as provided specifically in the Act, all notices to any Unit Owner shall be sent by first class mail to the Condominium address of such Unit Owner, or such other address as may have been designated by him from time to time, in writing, to the Association. All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association. All notices shall be deemed to have been given when mailed in a postage prepaid sealed envelope, except notices of a change of address, which shall be deemed to have been given when received, or 5 business days after proper mailing, whichever shall first occur

- 25.2 Interpretation The Board of Directors of the Association shall be responsible for interpreting the provisions hereof and of any of the Exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of legal counsel that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation

- 25 3 Mortgagees Anything herein to the contrary notwithstanding, the Association shall not be responsible to any mortgagee or lienor of any Unit hereunder, and may assume the Unit is free of any such mortgages or liens, unless written notice of the existence of such mortgage or lien is received by the Association
- 25 4 Exhibits There is hereby incorporated in this Declaration all materials contained in the Exhibits annexed hereto
- 25 5 Signature of President and Secretary Wherever the signature of the President of the Association is required hereunder, the signature of the vice-president may be substituted therefore, and wherever the signature of the Secretary of the Association is required hereunder, the signature of an assistant secretary may be substituted therefore, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities
- 25 6 Governing Law Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits annexed hereto or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida
- 25 7 Severability The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, paragraph clause, phrase or word, or other provision of this Declaration, the Exhibits annexed hereto, or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect
- 25 8 Waiver The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, this Declaration, the Exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter
- 25 9 Ratification Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Unit, by reason of this occupancy, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and By-laws of the Association, and applicable rules and regulations, are fair and reasonable in all material respects
- 25 10 Execution of Documents Attorney-in-Fact Without limiting the generality of other Sections of this Declaration and without such other Sections limiting the generality hereof, each Owner, by reason of the acceptance of a deed to such Owner's Unit, hereby agrees to execute, at the request of the Developer, all documents or consents which may be required by all governmental agencies to allow the Developer and its affiliates to complete the plan of development of the Condominium as such plan may be hereafter amended, and each such Owner further appoints hereby and thereby the Developer as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of such Owners, any and all of such documents or consents This Power of attorney is irrevocable and coupled with an interest The provisions of this Section may not be amended without the consent of the Developer

- 25 11 Gender, Plurality Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders
- 25 12 Captions The captions herein and in the Exhibits annexed hereto are inserted only as a matter of convenience and for ease of reference and in no way define or limit the scope of the particular document or any provision thereof
- 25 13 Liability Notwithstanding anything contained herein or in the Articles of Incorporation, By-laws, any rules or regulations of the Association or any other document governing or binding the Association (collectively, the "Association Documents"), the Association, except to the extent, specifically provided to the contrary herein, shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any owner, occupant or user of any portion of the Condominium and/or Association Property including, without limitation, owners and their guests, invitees, agents, servants, contractors, or subcontractors or for any property of any such persons Without limiting the generality of the foregoing
- (a) it is the express intent of the Association Documents that the various provisions thereof which are enforceable by the Association and which govern or regulate the uses of the properties have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the properties and the value thereof,
  - (b) the Association is not empowered, and has not been created, to act as an entity which enforces or ensures the compliance with the laws of the United States, State of Florida, Brevard County, Vero Beach, and/or any other jurisdiction or the prevention of tortious activities, and
  - (c) the provisions of the Association Documents setting forth the uses of assessments which relate to health, safety and/or welfare shall be interpreted and applied only as limitations on the uses of assessment funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if assessment funds are chosen to be used for any such reason

Each Owner (by virtue of his acceptance of title to his Unit) and each other person having an interest in or lien upon, or making use of, any portion of the properties (by virtue of accepting such interest or lien or making such use) shall be bound by this provision and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed hereby As used herein "Association" shall include within its meaning all of Association's directors, officers, committee and board members, employees, agents, contractors successors and assigns The provisions hereof shall also inure to the benefit of Developer, which shall be fully protected hereby

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed and its corporate seal to be hereunto affixed as of the 23<sup>rd</sup> day of July, 2014

Witnessed by

Linda H. Dellenberger

Print

Linda H Dellenberger

Signature

Elizabeth Eberwein

Print

Elizabeth Eberwein

Signature

**COCOA CABANAS DEVELOPMENT, LLC,**  
a Florida limited liability company

By

YANE F ZANA  
Vice President

Cocoa Cabanas Development, LLC

STATE OF FLORIDA )

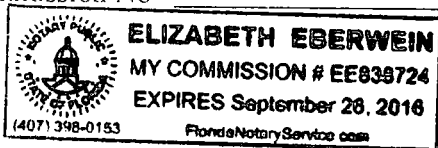
) ss

COUNTY OF INDIAN RIVER )

The foregoing instrument was acknowledged before this 23<sup>rd</sup> day of July, 2014, by YANE F. ZANA as Vice President of COCOA CABANAS DEVELOPMENT, LLC, a Florida limited liability company, on behalf of the company. He is personally known to me or has produced as identification

My Commission Expires  
Commission No

Name Elizabeth Eberwein  
Notary Public, State of Florida



**INDEX OF EXHIBITS**

Exhibit "A"	Legal Description
Exhibit "B"	Floor Plans, Plot Plan and Survey
Exhibit "C"	Undivided Fractional Share in Common Elements Surplus
Exhibit "D"	Articles of Incorporation for Cocoa Cabanas Condominium Association, Inc
Exhibit "E"	By-Laws for Cocoa Cabanas Condominium Association, Inc and attached Schedule "A", Rules and Regulations

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**COCOA CABANAS CONDOMINIUM ASSOCIATION, INC.**

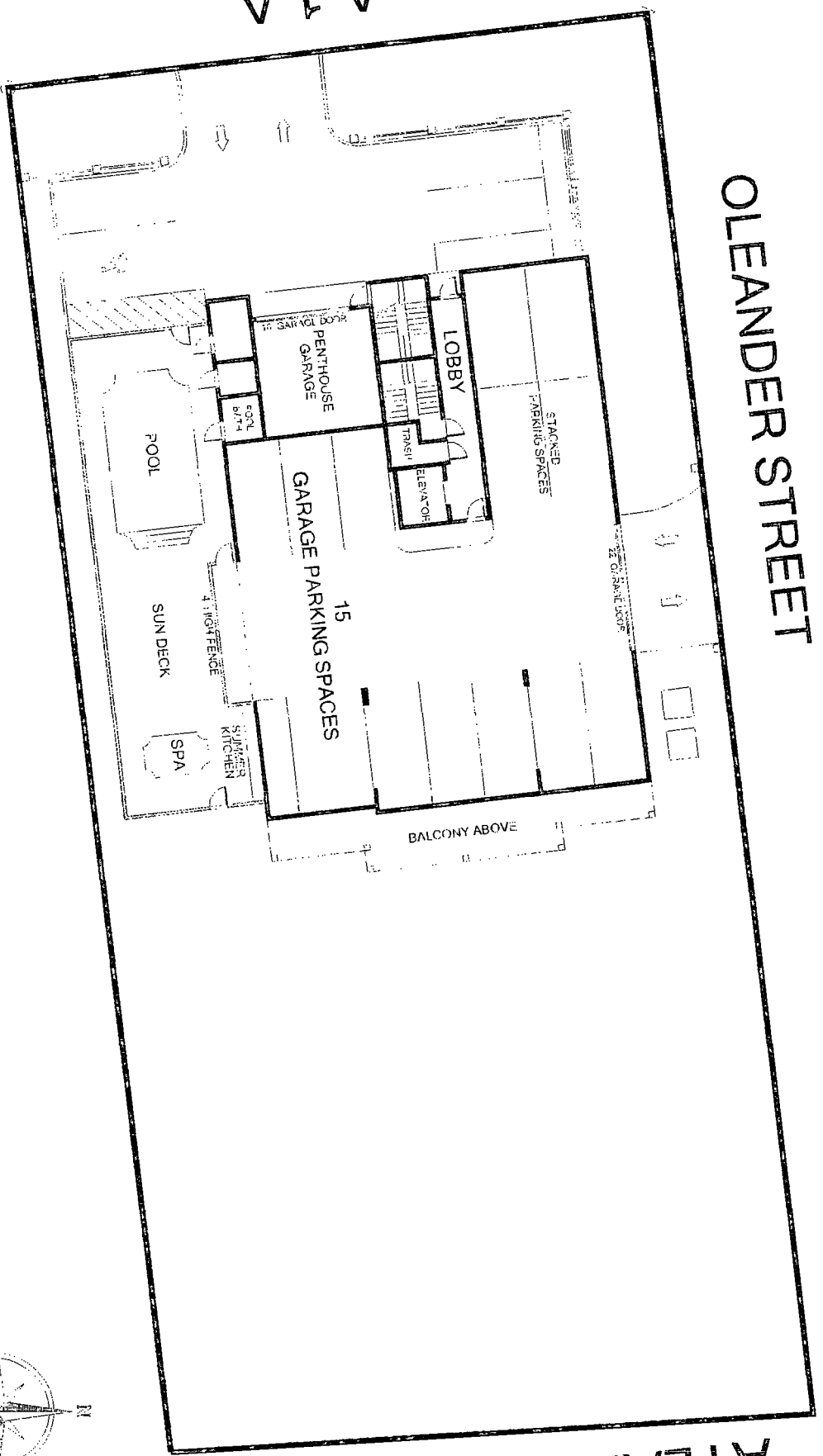
Lots 1 and 2, and the North one-half of Lot 10, Block C, together with the vacated ally lying adjacent to Lots 1 and 2 and together with the South 10 feet of vacated Oleander Street, Plat of Re-Subdivision of Blocks D, G, E and H and Tracts I, J and K, BURCHFIEL AND BRUNERS ADDITION TO CRESCENT BEACH, according to the Plat thereof, recorded in Plat Book 3, Page(s) 5, of the Public Records of Brevard County, Florida.

**EXHIBIT "B"**

**FLOOR PLANS, PLOT PLAN AND SURVEY**

A 1 A

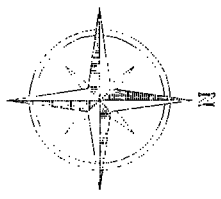
OLEANDER STREET



ATLANTIC OCEAN

# Site Plan

**Cocoa Cabanas Condominium**  
1915 South Atlantic Avenue, Cocoa Beach, Florida



91'0"

22' GARAGE DOOR

STACKED  
PARKING SPACES

LOBBY  
C E

66'0"

C E

C E

TRASH  
C E

ELEVATOR  
C E

PENTHOUSE  
GARAGE  
L C E

16' GARAGE DOOR

ELEC  
ROOM

FIRE  
PUMP

POOL  
BATH

15  
GARAGE PARKING SPACES  
C E

BALCONY ABOVE

4' HIGH FENCE

POOL

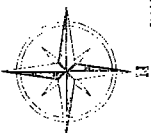
SUN DECK  
C E

SUMMER  
KITCHEN  
SPA

## Ground Floor Plan

### Cocoa Cabanas Condominium

1915 South Atlantic Avenue, Cocoa Beach, Florida

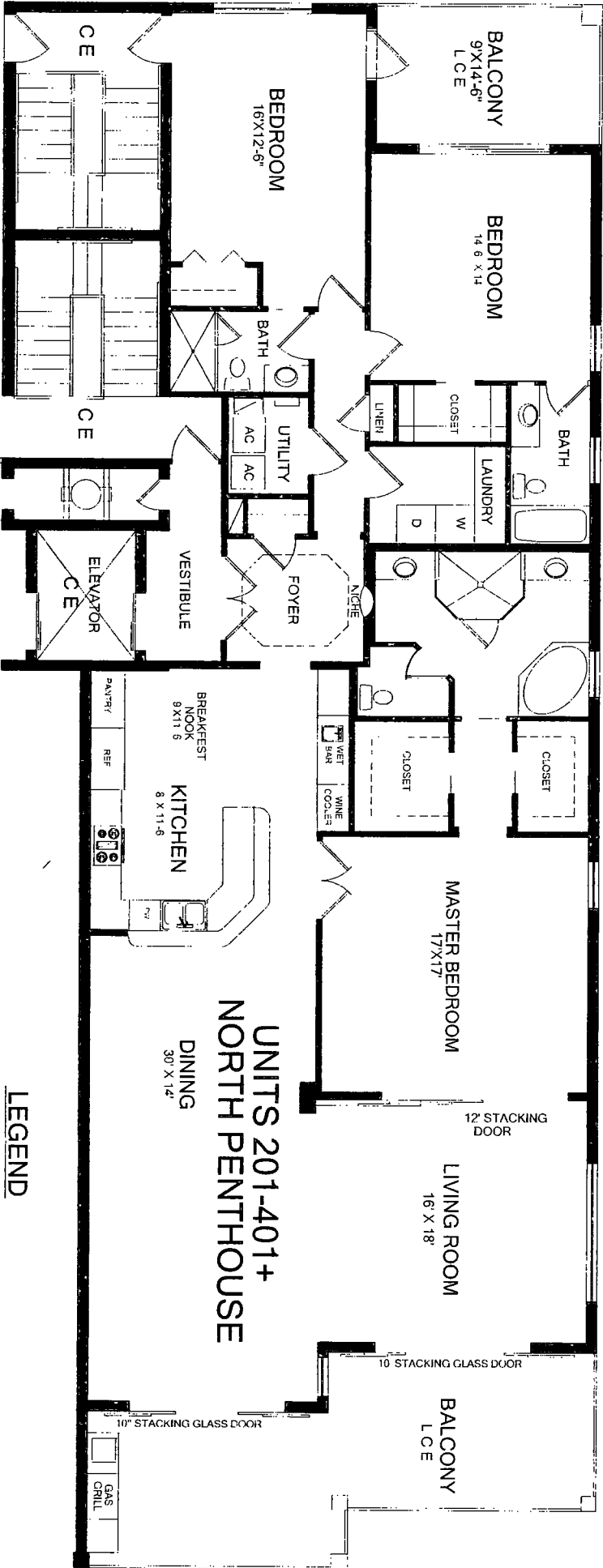


GRAPHIC SCALE IN FEET  
0 2 4 6 8 10

DIMENSIONS SHOWN ARE APPROXIMATE

LEGEND (L C E ) LIMITED COMMON ELEMENT

(C E ) COMMON ELEMENT



DIMENSIONS SHOWN ARE APPROXIMATE

**LEGEND**

(C E ) COMMON ELEMENT  
(L C E ) LIMITED COMMON ELEMENT

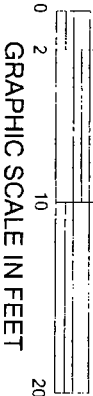
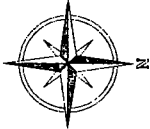
**TYPICAL END UNIT LIVING AREA**

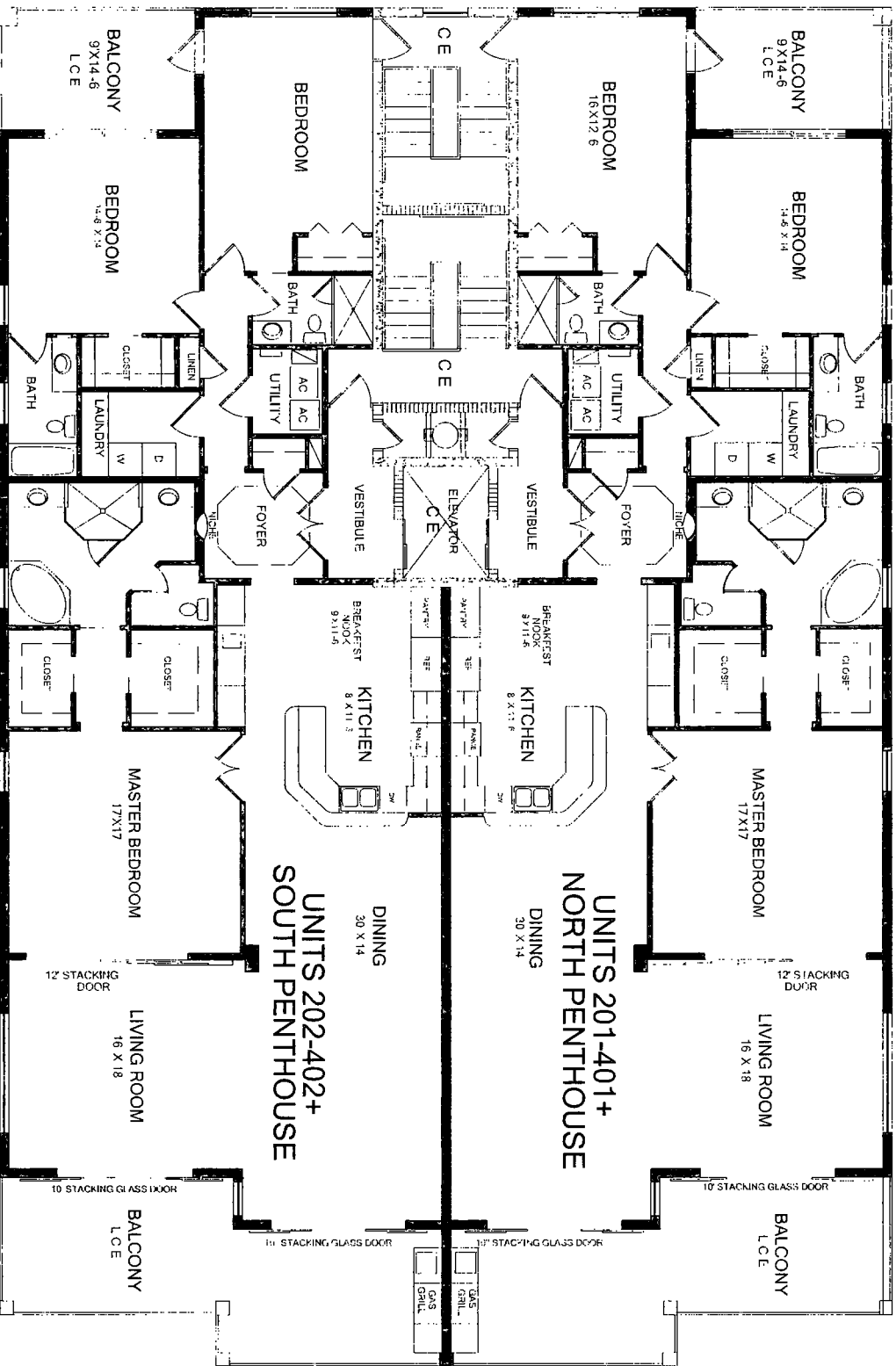
UNDER AIR=	2,580 S F
BALCONIES=	475 S F
TOTAL AREA=	3,055 S F

**Typical North Corner Unit Floor Plan Levels 2-5**

**Cocoa Cabanas Condominium**

1915 South Atlantic Avenue, Cocoa Beach, Florida



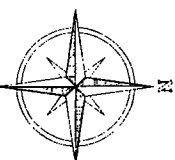


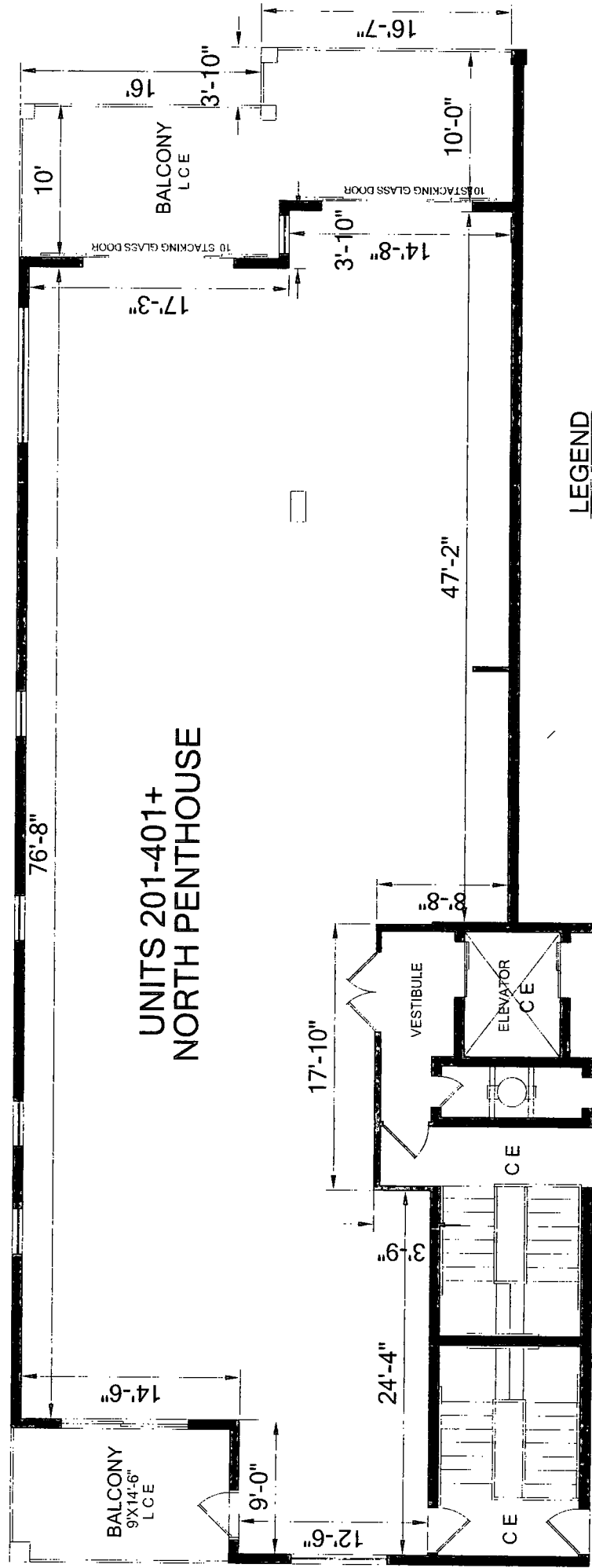
# Typical Floor Plan Levels 2-5

## Cocoa Cabanas Condominium

1915 South Atlantic Avenue, Cocoa Beach, Florida

DIMENSIONS SHOWN ARE APPROXIMATE  
LEGEND (L.C.E.) LIMITED COMMON ELEMENT  
(C.E.) COMMON ELEMENT



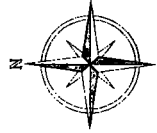


**LEGEND**  
(C E ) COMMON ELEMENT  
(L C E ) LIMITED COMMON ELEMENT

DIMENSIONS SHOWN ARE APPROXIMATE

**NOTES:**

THE INNERMOST LINE SURROUNDING THE UNIT SPACE DEFINES THE LIMITS OF THE RESPECTIVE UNIT EXCEPT OTHERWISE DESCRIBED IN THE DECLARATION  
DECKS ARE LIMITED COMMON ELEMENTS TO THE UNIT ADJACENT THERETO

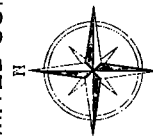


**Typical North Corner Unit Floor Plan Levels 2-5**  
**Cocoa Cabanas Condominium**  
1915 South Atlantic Avenue, Cocoa Beach, Florida

DIMENSIONS SHOWN ARE APPROXIMATE

## LEGEND

(CE ) COMMON ELEMENT  
(LCE ) LIMITED COMMON ELEMENT



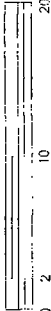
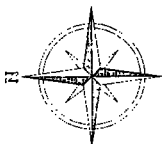
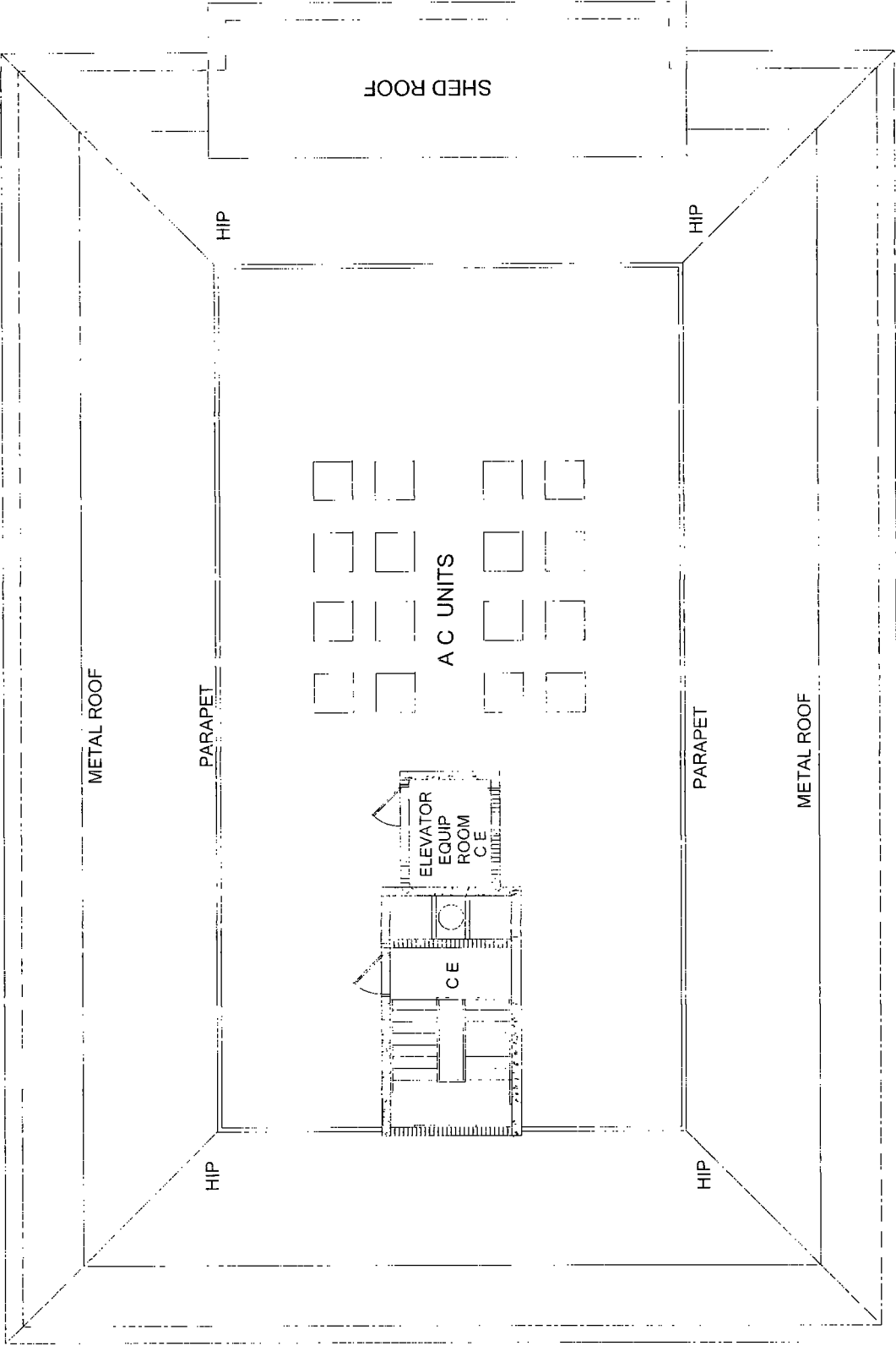
TYPICAL END UNIT LIVING AREA	
UNDER AIR=	2,580 S F
BALCONIES=	475 S F
TOTAL AREA=	3,055 S F



## Typical South Corner Unit Floor Plan Levels 2-5

# Cocoa Cabanas Condominium

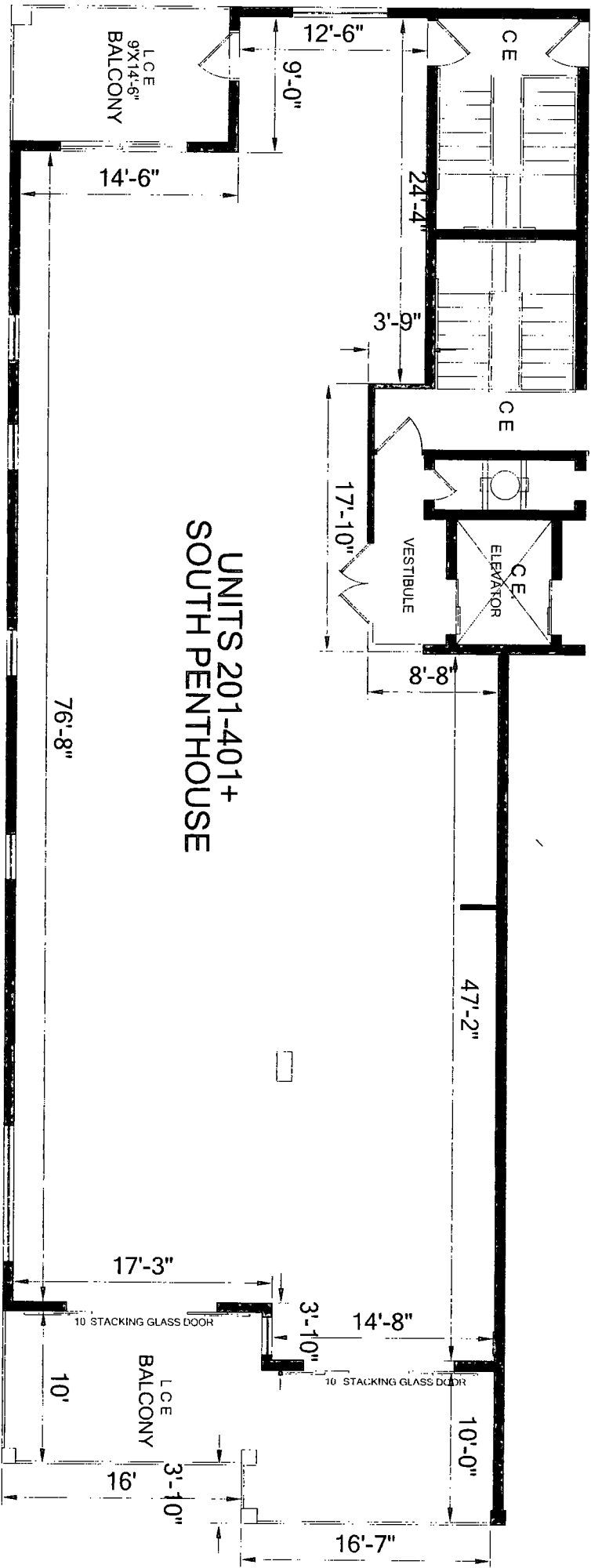
1915 South Atlantic Avenue, Cocoa Beach, Florida



GRAPHIC SCALE IN FEET

**Roof Floor Plan**  
**Cocoa Cabanas Condominium**  
1915 South Atlantic Avenue, Cocoa Beach, Florida

DIMENSIONS SHOWN ARE APPROXIMATE  
LEGEND (L C E ) LIMITED COMMON ELEMENT  
(C E ) COMMON ELEMENT



UNITS 201-401+  
SOUTH PENTHOUSE

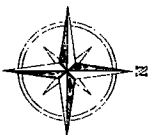
DIMENSIONS SHOWN ARE APPROXIMATE

NOTES.

THE INNERMOST LINE SURROUNDING THE UNIT SPACE DEFINES THE LIMITS OF THE RESPECTIVE  
UNIT EXCEPT OTHERWISE DESCRIBED IN THE DECLARATION  
DECKS ARE LIMITED COMMON ELEMENTS TO THE UNIT ADJACENT THERETO

LEGEND

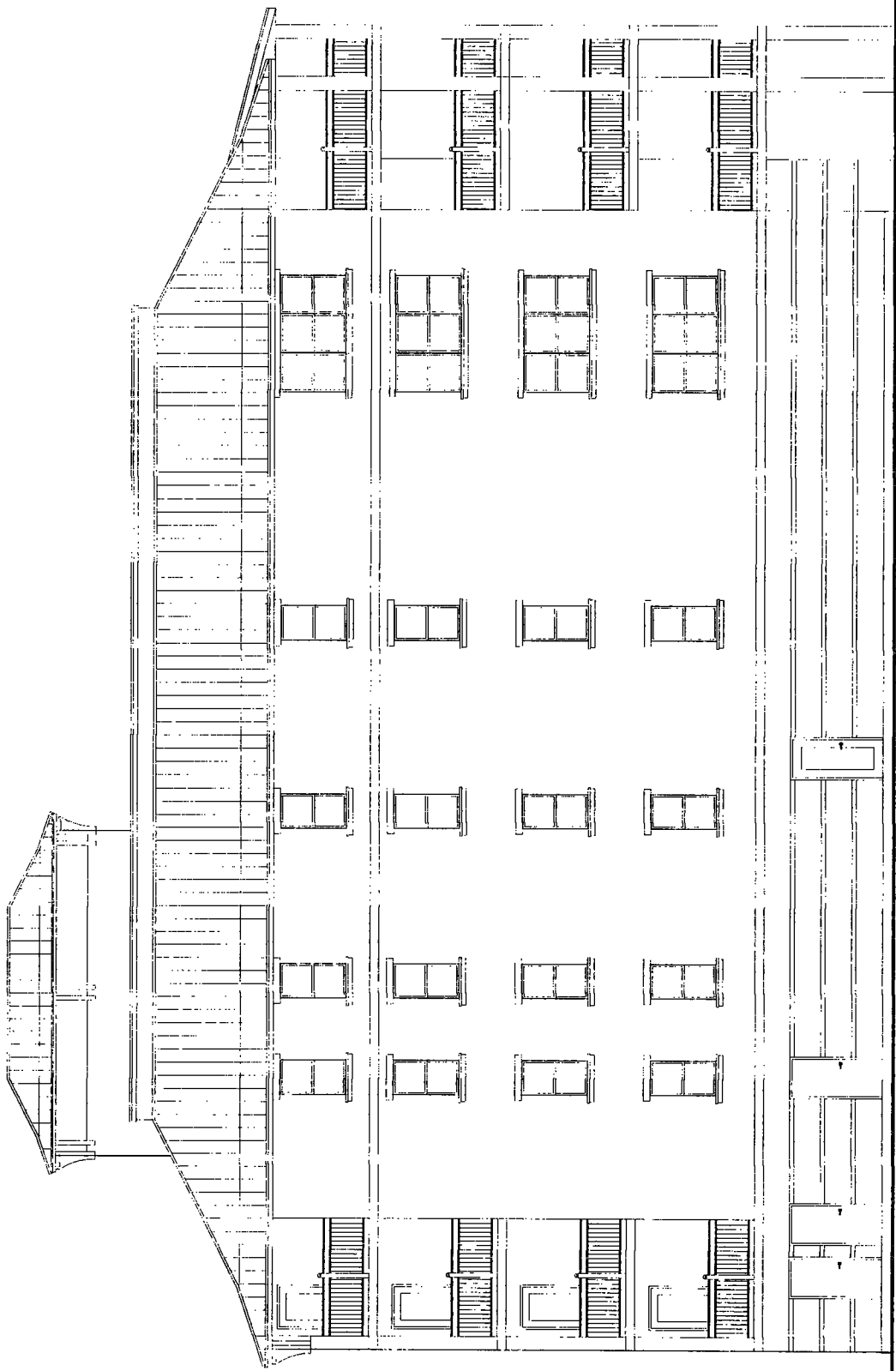
(C E ) COMMON ELEMENT  
(L C E ) LIMITED COMMON ELEMENT



Typical South Corner Unit Floor Plan Levels 2-5

Cocoa Cabanas Condominium

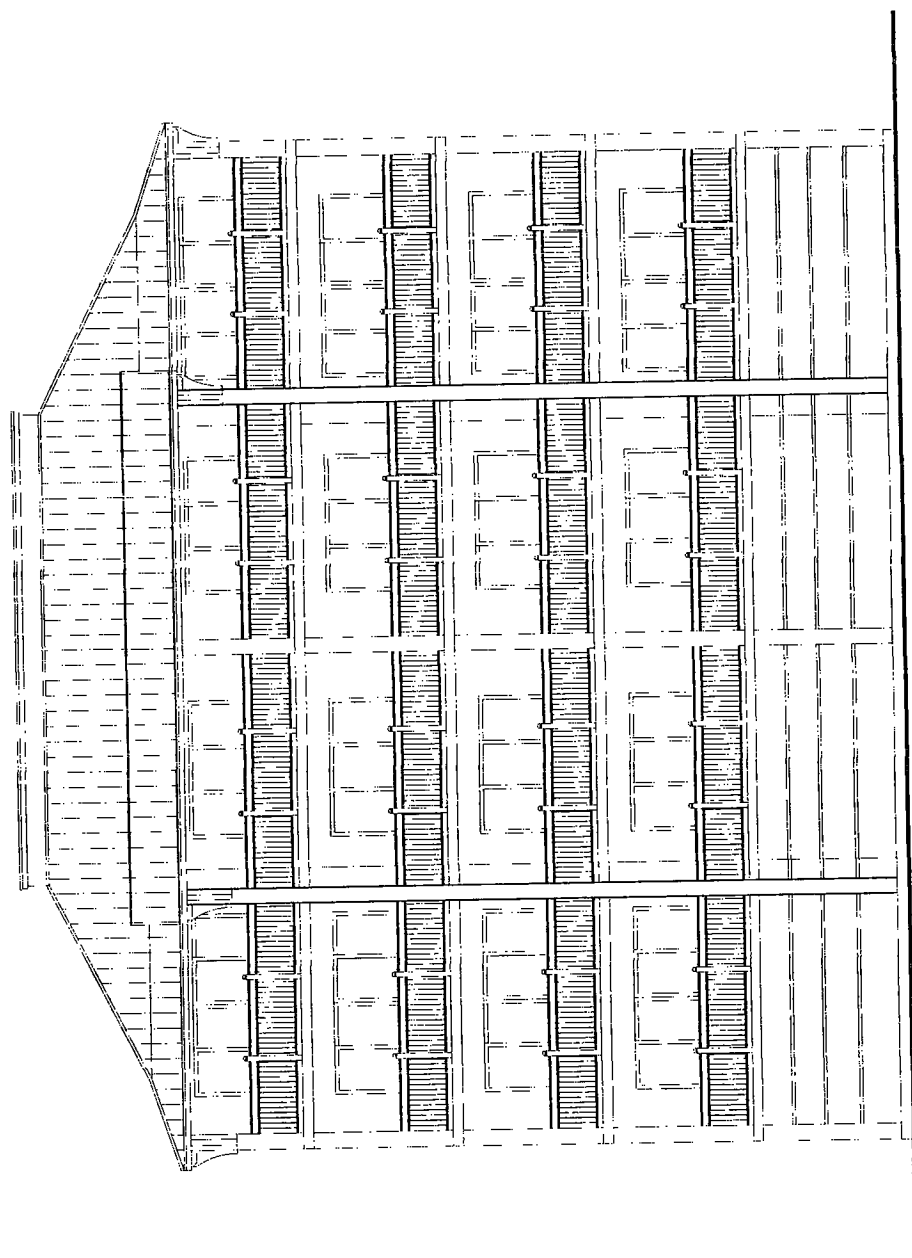
1915 South Atlantic Avenue, Cocoa Beach, Florida



**South Elevation**  
**Cocoa Cabanas Condominium**  
1915 South Atlantic Avenue, Cocoa Beach, Florida



GRAPHIC SCALE IN FEET  
DIMENSIONS SHOWN ARE APPROXIMATE



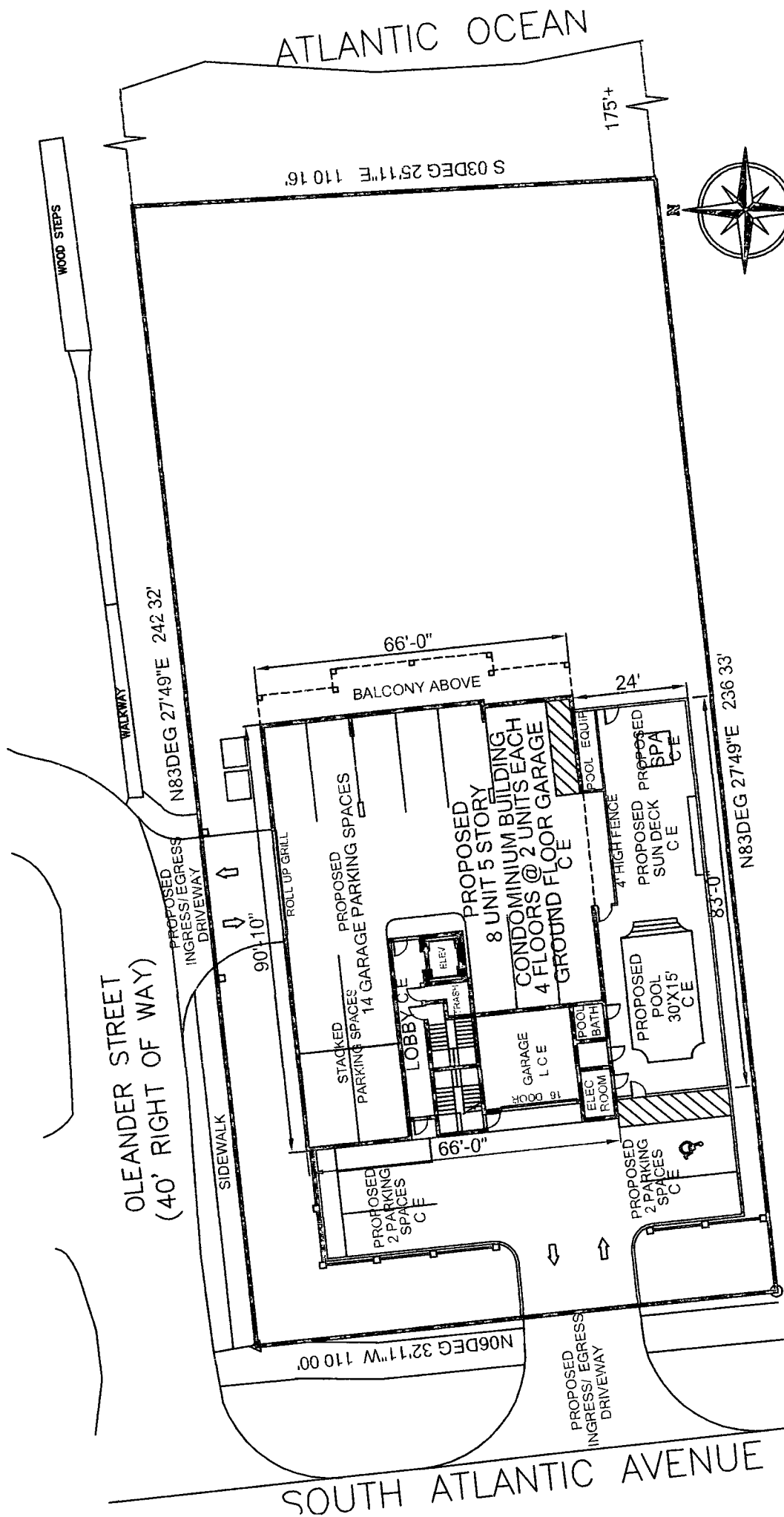
**East Elevation**  
**Cocoa Cabanas Condominium**  
1915 South Atlantic Avenue, Cocoa Beach, Florida

0 2 10 20  
GRAPHIC SCALE IN FEET  
DIMENSIONS SHOWN ARE APPROXIMATE



**West Elevation**  
**Cocoa Cabanas Condominium**  
1915 South Atlantic Avenue, Cocoa Beach, Florida

0 2 10 20  
GRAPHIC SCALE IN FEET  
DIMENSIONS SHOWN ARE APPROXIMATE



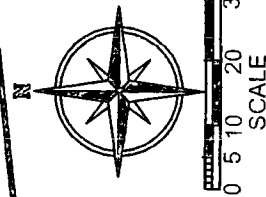
**LEGEND**

(C E ) COMMON ELEMENT  
(L C E ) LIMITED COMMON ELEMENT

**Plot Plan**

**Cocoa Cabanas Condominium**  
1915 South Atlantic Avenue, Cocoa Beach, Florida

PREPARED BY  
**WILLIAM H. STEPHENSON P.E.**  
2540 FAIRFIELD DRIVE, COCOA, FLORIDA 32926  
(321) 632-8182 P.E. NO. 21639  
Date 10-21-2009





**EXHIBIT "C"****UNDIVIDED FRACTIONAL SHARES OF OWNERSHIP  
ELEMENTS AND COMMON AREA SURPLUS**

The Unit Owners shall own the following undivided fractional interests of the common elements and common surplus, and shall be obligated for the same fractional interests of the common expenses, which have been calculated based upon the total number of units in the condominium

Unit	Fractional Share of Common Elements and Common Surplus
Unit 201	1/8
Unit 202	1/8
Unit 301	1/8
Unit 302	1/8
Unit 401	1/8
Unit 402	1/8
Unit 501	1/8
Unit 502	<u>1/8</u>
	1

**EXHIBIT "D"**

**ARTICLES OF INCORPORATION**

**COCOA CABNAS CONDOMINIUM ASSOCIATION, INC.**

850-617-6381

8/17/2009 12 56 32 PM PAGE 2/002 Fax Server



August 17, 2009

FLORIDA DEPARTMENT OF STATE  
Division of Corporations

COCOA CABANAS CONDOMINIUM ASSOCIATION, INC  
21 ROYAL PALM POINTE STE 100  
VERO BEACH, FL 32960

The Articles of Incorporation for COCOA CABANAS CONDOMINIUM ASSOCIATION, INC were filed on August 13, 2009, and assigned document number N09000007936. Please refer to this number whenever corresponding with this office

Enclosed is the certification requested. To be official, the certification for a certified copy must be attached to the original document that was electronically submitted and filed under FAX audit number H09000181498

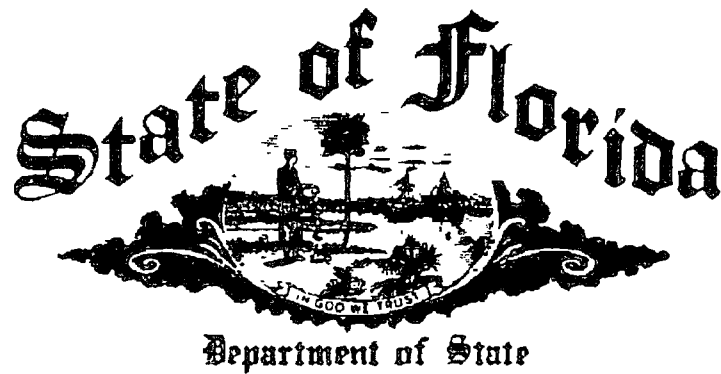
A corporation annual report/uniform business report will be due this office between January 1 and May 1 of the year following the calendar year of the file/effective date year. A Federal Employer Identification (FEI) number will be required before this report can be filed. Please apply NOW with the Internal Revenue Service by calling 1-800-829-4933 and requesting form SS-4 or by going to their website at [www.irs.ustreas.gov](http://www.irs.ustreas.gov)

Please be aware if the corporate address changes, it is the responsibility of the corporation to notify this office

Should you have questions regarding corporations, please contact this office at (850) 245-6924

Stacy Prather  
Document Specialist Supervisor  
New Filings Section  
Division of Corporations

Letter Number: 209A00027849



I certify the attached is a true and correct copy of the Articles of Incorporation of COCOA CABANAS CONDOMINIUM ASSOCIATION, INC., a Florida corporation, filed on August 13, 2009, as shown by the records of this office

I further certify the document was electronically received under FAX audit number H09000181498. This certificate is issued in accordance with section 15 16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N09000007936

Authentication Code 209A00027849-081709-N09000007936-1/1



Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Seventeenth day of August, 2009

Kurt S Browning  
Secretary of State

H09000181498 3

**ARTICLES OF INCORPORATION****COCOA CABNAS CONDOMINIUM ASSOCIATION, INC.**

The undersigned incorporator, for the purpose of forming a corporation not for profit pursuant to the laws of the State of Florida, hereby adopts the following Articles of Incorporation

**ARTICLE 1**  
**NAME**

The name of the corporation shall be COCOA CABANAS CONDOMINIUM ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Association", these Articles of Incorporation as the "Articles", and the By-Laws of the Association as the "By-Laws"

**ARTICLE 2**  
**OFFICE**

The principal office and mailing address of the Association shall be at 21 Royal Palm Pointe, Suite 100, Vero Beach, Florida 32960, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at its principal office or at such other place as may be permitted by the Florida Condominium Act (Chapter 718, Florida Statutes)

**ARTICLE 3**  
**PURPOSE**

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act as it exists on the date hereof (the "Act") for the operation of that certain condominium located in Brevard County, Florida known as COCOA CABANAS CONDOMINIUM (the "Condominium")

**ARTICLE 4**  
**DEFINITIONS**

The terms used in these Article shall have the same declinations and meanings as those set forth in the Declaration of the Condominium to be recorded in the Public Records of Brevard, Florida unless herein provided to the contrary, or unless the context otherwise requires

**ARTICLE 5**  
**POWERS**

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

H09000181498 3

H09000181498 3

- 5 1 General The Association shall have all of the common law and statutory powers of a corporation not for profit under the laws of Florida, except as expressly limited or restricted by the terms of these Articles, the Declaration, the By-Laws or the Act
- 5 2 Enumeration The Association shall have all of the powers and duties set forth in the Act, except as limited by these Articles, the By-Laws and the Declaration (to the extent that they are not in conflict with the Act), and all of the powers and duties reasonably necessary to operate the Condominium pursuant to the Declaration and as more particularly described in the By-Laws, as they may be amended from time to time, including, but not limited to, the following
- (a) To make and collect assessments and other charges against members as unit owners (whether or not such sums are due and payable to the Association), and to use the proceeds thereof in the exercise of its powers and duties
  - (b) To buy, accept, own, operate, lease, sell, trade and mortgage both real and personal property in accordance with the provisions of the Declaration
  - (c) To maintain, repair, replace, reconstruct, add to and operate the Condominium property and/or Association property, and other property acquired or leased by the Association
  - (d) To purchase insurance upon the Condominium property and Association property land insurance for the protection of the Association, its officers, directors and unit owners.
  - (e) To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Condominium property and association Property and for the health, comfort, safety and welfare of the unit owners
  - (f) To approve or disapprove the leasing, transfer, ownership and possession of units as may be provided by the Declaration
  - (g) To enforce by legal means the provisions of the Act, the Declaration, these Articles, the By-Laws, and the rules and regulations for the use of the Condominium property and Association property
  - (h) To contract for the management and maintenance of the Condominium property and/or Association property and to authorize a management agent (which may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing 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 Association property with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Condominium Act, including, but not limited to, the making of assessments, promulgation of rules and execution of contracts on behalf of the Association

H09000181498 3

H09000181498 3

- (i) To employ personnel to perform the services required for the proper operation of the Condominium and the Association property
- (j) To execute all documents or consents, on behalf of all unit owners (and their mortgagees), required by all governmental and/or quasi-governmental agencies in connection with land use and development matters (including, without limitation, plats, waivers of plat, unities of title, covenants in lieu thereof, etc ), and in that regard, each owner, by acceptance of the deed to such owner's unit, appoints and designates the Board of Directors of the Association as such owner's agent and attorney-in-fact to execute, any and all such documents or consents

5 3 Association Property All funds and the title to all properties acquired by the Association and their proceeds shall be held for the benefit and use of the members in accordance with the provisions of the Declaration, these Articles and the By-Laws.

5 4 Distribution of Income. The Association shall not pay a dividend to its members and shall make no distribution of income to its members, directors or officers, unless otherwise authorized by the Florida Not For Profit Corporation Act (Chapter 617, Florida Statutes)

5 5 Limitation The powers of the Association shall be subject to and shall be exercised in accordance with the provisions hereof and of the Declaration, the By-Laws and the Act, provided that in the event of conflict, the provisions of the Act shall control over those of the Declaration and By-Laws

## ARTICLE 6 MEMBERS

6 1 Membership. The members of the Association shall consist of all of the record title owners of units in the Condominium from time to time, and after termination of the Condominium, shall also consist of those who were members at the time of such termination, and their successors and assigns

6 2 Assignment The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the unit for which that share is held

6.3 Voting On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each unit All votes shall be exercised or cast in the manner provided by the Declaration and By-Laws Any person or entity owning more than one unit shall be entitled to cast the aggregate number of votes attributable to all units owned

6 4 Meetings The By-Laws shall provide for an annual meeting of members, and may make provision for regular and special meetings of members other than the annual meeting

H09000181498 3

**ARTICLE 7**  
**TERM OF EXISTENCE**

The Association shall have perpetual existence

**ARTICLE 8**  
**INCORPORATOR**

The name and address of the Incorporator of this Corporation is

<u>Name</u>	<u>Address</u>
Jeffrey R Pegler, Esq.	Block, Block & Pegler, P A 21 Royal Palm Pointe, Suite 100 Vero Beach, Florida 32960

**ARTICLE 9**  
**OFFICERS**

The affairs of the Association shall be administered by the officers holding the offices designated in the By-Laws. The officers shall be elected by the Board of Directors of the Association at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. The By-Laws may provide for the removal from office of officers, for filling vacancies and for the duties and qualifications of the officers. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows

<u>President</u>	<u>Address</u>
Samuel A Block	21 Royal Palm Pointe, Suite 100 Vero Beach, Florida 32960
 <u>Vice President</u>	
Yane F Zana	21 Royal Palm Pointe, Suite 100 Vero Beach, Florida 32960
 <u>Secretary-Treasurer</u>	
Justin S Faires	21 Royal Palm Pointe, Suite 100 Vero Beach, Florida 32960

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H09000181498 3

**ARTICLE 10**  
**BOARD OF DIRECTORS**

The affairs of the Corporation shall be conducted, managed and controlled by the Board of Directors. The initial Board of Directors shall consist of three (3) directors.

The names and addresses of the members of the initial Board of Directors, who shall hold office until their successors are elected and have qualified, or until removed, are as follows:

Samuel A Block	21 Royal Palm Pointe, Suite 100 Vero Beach, Florida 32960
Yane F Zana	21 Royal Palm Pointe, Suite 100 Vero Beach, Florida 32960
Justin S Faires	21 Royal Palm Pointe, Suite 100 Vero Beach, Florida 32960

**ARTICLE 11**  
**INDEMNIFICATION AND WAIVER OF CLAIMS**

11.1 Indemnification The Association shall indemnify any person, who was or is a party to any proceeding by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee, or agent of the Association against expenses and amounts paid in settlement not exceeding. In the judgment of the Board of Directors, the estimated expense of litigating the proceeding to conclusion, actually and reasonably incurred in connection with the defense or settlement of such proceeding, including any appeal thereof. Such indemnification shall be authorized if such person acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, except that no indemnification shall be made under this subsection in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable unless, and only to the extent that, the court in which such proceeding was brought, or any other court of competent jurisdiction shall determine upon Application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

11.2 Indemnification for Expenses To the extent that a director, officer, employee, or agent of the Association has been successful on the merits or otherwise in defense of any proceeding referred to in subsection 11.1 or 11.2, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses actually and reasonably incurred by him in connection therewith.

H09000181498 3

- 11 3 Determination of Applicability Any Indemnification under subsection 11 1 or subsection 11 2, unless pursuant to a determination by a court, shall be made by the association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper under the circumstances because he has the applicable standard of conduct set forth in subsection 11 1 or subsection 11 2 Such determination shall be made
- (a) By the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such proceeding,
  - (b) If such a quorum is not obtainable, by majority vote of a Committee duly designated by the Board of Directors (In which Directors who are parties may participate) consisting solely of two or more Directors not at the time parties to the proceeding,
  - (c) By independent legal counsel:
    - 1 selected by the Board of Directors prescribed in paragraph (a) or the Committee prescribed in paragraph (b), or
    - 2 if a quorum of the Directors cannot be obtained for paragraph (a) and the Committee cannot be designated under paragraph (b), then by a majority of the voting interests of the members of the Association who were not parties to such proceeding
- 11 4 Determination Regarding Expenses Evaluation of the reasonableness of expenses and authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible However, if the determination of permissibility is made by independent legal counsel, persons specified by paragraph 11 4(c) shall evaluate the reasonableness of expenses and may authorize indemnification
- 11 5 Advancing Expenses Expenses incurred by an officer or director in defending a civil or criminal proceeding may be paid by the Association in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of such Director or officer to repay such amount, if he is ultimately found not to be entitled to indemnification by the Association pursuant to this section Expenses incurred by other employees and agents may be paid in advance upon such terms or conditions that the Board of Directors deems appropriate
- 11 6 Exclusivity Exclusions The indemnification and advancement of expenses provided pursuant to this section are not exclusive, and the Association may make any other or further indemnification or advancement of expenses of any of its directors, officers, employees, or agents, under any by-law, agreement, vote of unit owners or disinterested directors, or otherwise However, indemnification or advancement of expenses shall not be made to or on behalf of any director, officer, employee, or agent if a judgment or other final adjudication establishes that his actions, or omissions to act, were material to the cause of action so adjudicated and constitute

H09000181498 3

H09000181498 3

- (a) A violation of the criminal law, unless the director, officer, employee, or agent had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful,
- (b) A transaction from which the director, officer, employee, or agent derived an improper personal benefit, or
- (c) Willful misconduct or a conscious disregard for the best interests of the Association in a proceeding by or in the right of the Association to procure a judgment in its favor or in a proceeding by or in the right of the members of the Association

11 7 Continuing Effect. Indemnification and advancement of expenses as provided in this section shall continue to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person, unless otherwise provided when authorized or ratified

11 8 Application to Court Notwithstanding the failure of the Association to provide indemnification in any specific case, a director, officer, employee or agent of the association who is or was a party to a proceeding may apply for indemnification or advancement of expenses, or both to the court conducting the proceeding, to the circuit court, or to another court of competent jurisdiction. On receipt of an application, the court, after giving any notice that it considers necessary, may order indemnification and advancement of expenses, including expenses incurred in seeking court ordered indemnification or advancement of expenses. If it determines that

- (a) The director, officer, employee, or agent is entitled to mandatory indemnification under subsection 11 3, in which case the court shall also order the Association to pay the director reasonable expenses incurred in obtaining court ordered indemnification or advancement of expenses,
- (b) The director, officer, employee, or agent is entitled to indemnification or advancement of expenses, or both, by virtue of the exercise by the Association of its power pursuant to subsection 11 6, or
- (c) The director, officer, employee, or agent is fairly and reasonably entitled to indemnification or advancement of expenses, or both, in view of all the relevant circumstances, regardless of whether such person met the standard of conduct set forth in subsection 11 1, subsection 11 2, or subsection 11 6

H09000181498 3

H09000181498 3

- 11.9 Definitions For purposes of this Article 11, the term "expenses" shall be deemed to include attorneys' fees, including those for any appeals, the term liability shall be deemed to include obligations to pay a judgment, settlement, penalty, fine, and expenses actually and reasonably incurred obligations to pay a judgment, settlement, penalty, fine, and expenses actually and reasonably incurred with respect to a proceeding, the term "proceeding" shall be deemed to include any threatened, pending, or completed action, suit, or other type of proceeding, whether civil, criminal, administrative or investigative, and whether formal or informal, and the term "agent" shall be deemed to include a volunteer, the term "serving at the request of the Association" shall be deemed to include any service as a director, officer, employee or agent of the Association that imposes duties on such person
- 11 10 Amendment Anything to the contrary herein notwithstanding, no amendment to the provision of this Article 11 shall be applicable as to any party eligible for indemnification hereunder who has not given his prior written consent to such amendment

## ARTICLE 12 BY-LAWS

The first By-Laws of the association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided in the By-Laws and the Declaration

## ARTICLE 13 AMENDMENTS

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

- 13 1 Notice Notice of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered and shall be otherwise given in the time and manner provided in Chapter 617, Florida Statutes. Such notice shall contain the proposed amendment or a summary of the changes to be affected thereby
- 13 2 Adoption Amendments shall be proposed and adopted in a manner provided in Chapter 617, Florida Statutes and in the Act (the latter to control over the former to the extent provided for in the Act)
- 13 3 Limitation No amendment shall make any changes in the qualifications for membership, nor in the voting rights or property rights of members, nor, any changes in sections 5 3, 5 4 and 5 5 of Article 5, entitled "Powers", without the approval in writing of all members and the joinder of all record owners of mortgage upon units. No amendment shall be made that is in conflict with the Act, the Declaration or the By-Laws, nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of or reserved to the Developer and/or Institutional First Mortgagees, unless the Developer and/or the

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institutional First Mortgagees, as applicable, shall join in the execution of the amendment. No amendment of this paragraph 13.3 shall be effective.

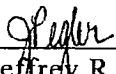
- 13.4 Developed Amendments To the extent lawful, the Developer may amend these Articles consistent with the provisions of the Declaration allowing certain amendments to be effected by the Developer alone.
- 13.5 Recording A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the public records of Brevard County, Florida with an identification on the first page thereof of the book and page of said public records where the Declaration was recorded which contains, as an exhibit, the initial recording of these Articles.

**ARTICLE 14**  
**INITIAL REGISTERED OFFICE:**  
**ADDRESS AND NAME OF REGISTERED AGENT**

The initial registered office of this corporation shall be 21 Royal Palm Pointe, Suite 100, Vero Beach, Florida 32960, with the privilege of having its office within Indian River County, in the State of Florida.

IN WITNESS WHEREOF, the Incorporator has affixed his signature the day and year set forth below.

Incorporator

  
 Jeffrey R. Pegler, Esq  
 Block, Block & Pegler,  
 21 Royal Palm Pointe, Suite 100  
 Vero Beach, Florida 32960

DATED this 13th day of  
August, 2009

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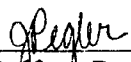
**CERTIFICATION DESIGNATING PLACE OF BUSINESS DOMICILE FOR THE**  
**SERVICE OF PROCESS WITHIN THIS STATE,**  
**NAMING AGENT UPON WHOM PROCESS MAY BE SERVED.**

In compliance with the laws of Florida, the following is submitted

That desiring to organize under the laws of the State of Florida with its principal office, as indicated in the foregoing Articles of Incorporation, in the County of Indian River, State of Florida, the Association named in the said Articles has named Jeffrey R Pegler, Esq , Block, Block & Pegler, P A , 21 Royal Palm Pointe, Suite 100, Vero Beach, Florida 32960, as its statutory registered agent

Having been named the statutory agent of said Association at the place designated in this certificate, I am familiar with the obligations of that position, and hereby accept the same and agree to act in this capacity, and agree to comply with the provisions of Florida law relative to keeping the registered office open

Registered Agent

  
\_\_\_\_\_  
Jeffrey R Pegler  
Block, Block & Pegler,

DATED this 13th day of  
August, 2009

H09000181498 3

**EXHIBIT "E"****BY-LAWS OF****COCOA CABANAS CONDOMINIUM ASSOCIATION, INC.**

- 1 **Identity** These are the By-laws of **COCOA CABANAS CONDOMINIUM ASSOCIATION, INC.** (the "Association"), a corporation not for profit incorporated under the laws of the State of Florida, and organized for the purposes set forth in its Articles of Incorporation
  - 1 1 **Fiscal Year** The fiscal year of the Association shall be the twelve month period commencing January 1st and terminating December 31st of each year
  - 1 2 **Seal** The seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation Not for Profit", and the year of incorporation
- 2 **Definitions** For convenience, these By-Laws shall be referred to as the "By-Laws" and the Articles of Incorporation of the Association as the "Articles" The other terms used in these By-laws shall have the same definitions and meanings as those set forth in the Declaration for Cocoa Cabanas Condominium, unless herein provided to the contrary, or unless the context otherwise requires
- 3 **Members**
  - 3 1 **Annual Meeting** The annual members' meeting shall be held on the date, at the place and at the time determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and, to the extent possible, no later than twelve (12) months after the last preceding annual meeting The purpose of the meeting shall be, except as provided herein to the contrary, to elect Directors, and to transact any other business authorized to be transacted by the members, or as stated in the notice of the meeting sent to Unit Owners in advance thereof Unless changed by the Board of Directors, the first annual meeting shall be held in the month of December following the year in which the Declaration is filed
  - 3 2 **Special Meetings** Special members' meetings shall be held at such places as provided herein for annual meetings, and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary upon receipt of a written request from a majority of the members of the Association The business conducted at a special meeting shall be limited to that stated in the notice of the meeting Special meetings may also be called by Unit Owners in the manner provided for in the Act Notwithstanding the foregoing (i) as to special meetings regarding the adoption of the Condominium's estimated operating budget, reference should be made to Section 10 1 of these By-laws, and (ii) as to special meetings regarding recall of Board members, reference should be made to Section 4 3 of these By-laws

- 3 3 Procedure for Unit Owner Inquiries When a unit Owner files a written inquiry by certified mail with the Board of Directors, the Board shall respond in writing to the Unit Owner within 30 days of receipt of the inquiry. The Board's response shall either give a substantive response to the inquirer, notify the inquirer that a legal opinion has been requested or notify the inquirer that advice has been requested from the Division. If the Board requests advice from the Division, the Board shall within 10 days of its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the Board shall, within 60 days after the receipt of the inquiry, provide a substantive response in writing to the inquiry. The failure to provide a substantive response to the inquiry as provided herein precludes the Board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. The Association may through its Board of Directors adopt reasonable rules and regulations regarding the frequency and manner of responding to Unit owner inquiries, one of which may be that the Association is only obligated to respond to one written inquiry per Unit owner in any given 30-day period. In such a case, any additional inquiry or inquiries must be responded to in the subsequent 30-day period, or periods, as applicable.
- 3 4 Participation by Unit Owners Subject to the following and such further reasonable restrictions as may be adopted from time to time by the Board, Unit Owners shall have the right to speak at the annual and special meetings of the Unit Owners, committee meetings and Board meetings with reference to all designated agenda items. A Unit Owner does not have the right to speak with respect to items not specifically designated on the agenda, provided, however, that the Board may permit an Owner to speak on such items in its discretion. Unless waived by the chairman of the meeting (which may be done in the chairman's sole and absolute discretion and without being deemed to constitute a waiver as to any other subsequent speakers), all Unit Owners speaking at a meeting shall be limited to a maximum of three (3) minutes per speaker. Any Unit Owner may tape record or videotape a meeting, subject to the following and such further reasonable restrictions as may be adopted from time to time by the Board:
- (a) The only audio and video equipment and devices which Unit Owners are authorized to utilize at any such meeting is equipment which does not produce distracting sound or light emissions,
  - (b) Audio and video equipment shall be assembled and placed in position in advance of the commencement of the meeting,
  - (c) Anyone videotaping or recording a meeting shall not be permitted to move about the meeting room in order to facilitate the recording, and
- 3 5 Notice of Meeting, Waiver of Notice Notice of a meeting of members (annual or special) stating the time and place and the purpose(s) for which the meeting is called,

shall be given by the President or Secretary. A copy of the notice, which notice shall specifically incorporate an identification of agenda items, shall be posted at a conspicuous place on the Condominium Property. The notice of the annual meeting shall be hand delivered or sent by regular mail to each Unit Owner, unless the Unit Owner waives in writing the right to receive notice of the annual meeting by mail. The delivery or mailing shall be to the address of the member as it appears on the roster of members. Where a Unit is owned by more than one person, the Association shall provide notice, for meetings and all other purposes, to that one address initially identified for that purpose by the Developer 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 if the Owners disagree, notice shall be sent to the address for the Owner as set forth on the deed of the Unit. The posting and mailing of the notice for either special or annual meetings, which notice shall incorporate an identification of agenda items, shall be effected not less than fourteen (14) continuous days, nor more than sixty (60) days prior to the date of the meeting. The Board shall adopt by rule, and give notice to Unit Owners of a specific location on the Condominium property upon which all notices of members' meetings shall be posted.

Notice of specific meetings may be waived before or after the meeting and the attendance of any member (or person authorized to vote for such member), either in person or by proxy, shall constitute such member's waiver of notice of such meeting, and waiver of any and all objections to the place of the meeting, the time of the meeting or the manner in which it has been called or convened, except when his (or his authorized representative's) attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called. An officer of the Association, or the manager or other person providing notice of the 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 notices of meetings were posted and mailed or hand delivered in accordance with this Section and Section 718.112(2)(d) of the Act, to each Unit Owner at the appropriate address for such Unit Owner. No other proof of notice of a meeting shall be required.

3.6 Quorum A quorum at members' meetings shall be attained by the presence, either in person or by proxy (limited or general), of persons entitled to cast in excess of 33 1/3% of the votes of members entitled to vote at the subject meeting.

3.7 Voting

(a) Number of Votes Except as provided in Section 3.11 hereof, and except when the vote is to be determined by a percentage of shares of ownership in the Condominium (as contemplated in specific portions of the Declaration), in any meeting of members, the Owners of each Unit shall be entitled to cast one vote for each Unit owned. The vote of a Unit shall not be divisible.

(b) Majority Vote The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum shall have been attained shall be binding upon all Unit Owners for all purposes, except where otherwise provided by law.

the Declaration, the Articles or these By-laws. As used in these By-laws, the Articles or the Declaration, the terms "majority of the Unit Owners" and "majority of the members" shall mean a majority of the votes entitled to be cast by the members and not a majority of the members themselves and shall further mean more than 50% of the then total authorized votes present in person or by proxy and voting at any meeting of the Unit Owners at which a quorum shall have been attained. Similarly, if some greater percentage of members is required herein or in the Declaration or Articles, it shall mean such greater percentage of the votes of members and not of the members themselves.

- (c) Voting Member If a Unit is owned by one person, that person's right to vote shall be established by the roster of members. If a Unit is owned by more than one person, those persons (including husbands and wives) shall decide among themselves as to who shall cast the vote of the Unit. In the event that those persons cannot so decide, no vote shall be cast. A person casting a vote for a Unit shall be presumed to have the authority to do so unless the President or the Board of Directors is otherwise notified. If a Unit is owned by a corporation, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by an appropriate officer of the corporation and filed with the Secretary of the Association. Such person need not be a Unit Owner. Those certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote for a Unit may be revoked by any record owner of an undivided interest in the Unit. If a certificate designating the person entitled to cast the vote for a Unit for which such certificate is required is not on file or has been revoked, the vote attributable to such Unit shall not be considered in determining whether a quorum is present, nor for any other purpose, and the total number of authorized votes in the Association shall be reduced accordingly until such certificate is filed.

- 3 8 Proxies Votes to be cast at meetings of the Association membership may be cast in person or by proxy. Except as specifically provided herein, Unit Owners may not vote by general proxy, but may vote by limited proxies substantially conforming to the limited proxy form approved by the Division. Limited proxies shall be permitted for votes taken to waive or reduce reserves, waive financial statements, amend the Declaration, Articles or By-Laws, or for any other matter requiring or permitting a vote of 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 non-substantive changes to items for which a limited proxy is required and given. A proxy may be made by any person entitled to vote, but shall only be valid for the specific meeting for which originally given and any lawful adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be in writing, signed by the person authorized to cast the vote for the Unit (as above described), name the person(s) voting by proxy and the person authorized to vote for such person(s) and filed

with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Each proxy shall contain the date, time and place of the meeting for which it is given and, if at limited proxy, shall set forth the matters on which the proxy holder may vote and the manner in which the vote is to be cast. There shall be no limitation on the number of proxies which may be held by any person (including a designee of the Developer). If a proxy expressly provides, any proxy holder may appoint, in writing, a substitute to act in its place. If such provision is not made, substitution is not permitted.

- 3.9 Adjourned Meetings. If any proposed meeting cannot be organized because a quorum has not been attained, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Except as required above, proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked for reasons other than the new date of the meeting.
- 3.10 Order of Business. If a quorum has been attained, the order of business at annual members' meetings, and, if applicable, at other members' meetings, shall be
- (a) Collection of election ballots
  - (b) Call to order by president,
  - (c) Appointment by the President of a chairman of the meeting (who need not be a member or a director),
  - (d) Appointment of inspectors of election,
  - (e) Counting of Ballots for election of Directors,
  - (f) Proof of notice of the meeting or waiver of notice,
  - (g) Reading of minutes,
  - (h) Reports of officers
  - (i) Reports of committees,
  - (j) Unfinished business,
  - (k) New business,
  - (l) Adjournment

Such order may be waived in whole or in part by direction of the chairman

3 11 Minutes of Meeting The minutes of all meetings of Unit Owners shall be kept in a book available for inspection by Unit owners or their authorized representatives and Board members at any reasonable time The Association shall retain these minutes for a period of not less than seven (7) years

3 12 Action Without A Meeting Anything to the contrary herein notwithstanding to the extent lawful, any action required or which may be taken at any annual or special meeting of members may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the members (or persons authorized to cast the vote of any such members as elsewhere herein set forth) having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of members at which all members (or authorized persons) entitled to vote thereon were present and voted In order to be effective, the action must be evidenced by one or more written consents describing the action taken, dated and signed by approving members having the requisite number of votes and entitled to vote on such action, and delivered to the Secretary of the Association, or other authorized agent of the Association Written consent shall not be effective to take the corporate action referred to in the consent unless signed by members having the requisite number of votes necessary to authorize the action within sixty (60) days of the date of the earliest dated consent and delivered to the Association as aforesaid Any written consent may be revoked prior to the date the Association receives the required number of consents to authorize the proposed action A revocation is not effective unless in writing and until received by the Secretary of the association, or other authorized agent of the Association Within ten (10) days after obtaining such authorization by written consent, notice must be given to members who have not consented in writing The notice shall fairly summarize the material features of the authorized action A consent signed in accordance with the foregoing has the effect of a meeting vote and may be described as such in any document

#### 4 Directors

4 1 Membership The affairs of the Association shall be governed by a Board of not less than three (3) nor more than nine (9) directors, the exact number to be determined in the first instance in the Articles, and, thereafter, except as provided herein, from time to time upon majority vote of the membership Directors must be natural persons who are 18 years of age or older Directors may not vote at Board meetings by proxy or by secret ballot, except that Directors may vote by secret ballot to elect officers of the association

4 2 Election of Directors Election of Directors shall be held at the annual members' meeting, except as herein provided to the contrary Not less than sixty (60) days prior to a scheduled election, the Association shall mail or deliver to each Unit Owner entitled to vote, a first notice of the date of election Any Unit Owner or other eligible person desiring to be a candidate for the Board shall give written notice to the Secretary of the Association not less than forty (40) days prior to the scheduled election Together with the written notice and agenda, 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, no less than fourteen (14) days and no more than thirty four (34) days prior to the election. Upon request of a candidate, the Association shall include an information sheet, no larger than 8-1/2 inches by 11 inches, which must be furnished by the candidate not less than thirty five (35) days before the election, to be included with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association. The election of directors shall be by written ballot or voting machine. Proxies shall in no event be used in electing the Board at general elections or to fill vacancies caused by resignation or otherwise, provided, however, that limited proxies may be used to fill a vacancy resulting from the recall of a director, in the manner provided by the rules of the Division. Elections shall be decided by a plurality of those ballots and votes cast. There shall be no quorum requirement, however at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the Board. There shall be no cumulative voting.

Notwithstanding the provisions of this Section 4.2, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the Board.

#### 4.3 Vacancies and Removal

- (a) Except as to vacancies resulting from removal of Directors by members (as addressed in subsection (b) below), vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors at any Board meeting, provided that all vacancies in directorships to which Directors were appointed by the Developer pursuant to the provisions of paragraph 4.15 hereof shall be filled by the Developer without the necessity of any meeting.
- (b) Any Director elected by the members (other than the Developer) may be removed by concurrence of a majority of the voting interests of the members at a special meeting of members called for that purpose or by written agreement signed by a majority of all voting interests. The vacancy in the Board of Directors so created shall be filled by the members at a special meeting of the members called for such purpose, or by the Board of Directors, in the case of removal by a written agreement unless said agreement also designates a new Director to take the place of the one removed. The conveyance of all Units owned by a Director in the Condominium (other than appointees of the Developer or Directors who were not Unit Owners) shall constitute the resignation of such Director.
- (c) Anything to the contrary herein notwithstanding, until a majority of the Directors are elected by members other than the Developer of the Condominium, neither the first Directors of the Association, nor any Directors replacing them, nor any Directors named by the Developer, shall be subject to removal by members other than the Developer. The first Directors and Directors replacing them may be removed and replaced by the Developer without the necessity of any meeting.

- (d) Unless otherwise provided in the bylaws, any vacancy occurring on the Board of Directors before the expiration of a term may be filled by the affirmative vote of the majority of the remaining Directors, even if the remaining directors constitute less than a quorum, or by the sole remaining Director. In the alternative, the Board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of subparagraph 4.2 referenced above. Unless otherwise provided in the Bylaws, a Board Member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled.

- 4.4 Term Except as provided herein to the contrary, the term of each Director's service shall extend until the next annual meeting of the members and subsequently until his successor is duly elected and has taken office, or until he is removed in the manner elsewhere provided. Notwithstanding the foregoing, any Director designated by the Developer shall serve at the pleasure of the Developer and may be removed and replaced by the Developer at any time.
- 4.5 Organizational Meeting The organizational meeting of newly-elected or appointed Directors shall be held within ten (10) days of their election or appointment. The directors calling the organizational meeting shall provide adequate notice, which shall incorporate an identification of agenda items, and which shall be posted conspicuously on the condominium property at least 48 continuous hours preceding the meeting. The notice shall also state the time and place of the meeting.
- 4.6 Meetings Meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone or telegraph, and shall be transmitted at least three (3) days prior to the meeting. 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 Unit Owners. Any Unit Owner may tape record or videotape meetings of the Board, in accordance with the rules of the Division. The right to attend such meetings includes the right to speak at such meetings with respect to all designated agenda items. The Association may adopt reasonable rules governing the frequency, duration and manner of Unit Owner statements. Adequate notice of such meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the Condominium Property at least forty-eight (48) continuous hours preceding the meeting, except in the event of an emergency. Notwithstanding the foregoing, written notice of any meeting of the Board at which non-emergency special assessments, or at which amendment to rules regarding Unit use will be proposed, discussed or approved, shall be mailed or delivered to all Unit owners and posted conspicuously on the Condominium property not less than fourteen (14) continuous days prior to the meeting. Evidence of compliance with this fourteen (14) continuous day notice shall be made by an affidavit executed by the Secretary of the Association and filed among the official records of the Association. The Board shall adopt by rule and give notice to Unit Owners of a specific location on the Condominium Property upon

which all notices of Board and/or Committee meetings shall be posted. Special meetings of the Directors may be called by the President, and must be called by the President or Secretary at the written request of one third (1/3) of the Directors or where required by the Act.

- 4 7 Waiver of Notice Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of the meeting, to the time of the meeting or the manner in which it has been called or convened, except when a Director states at the beginning of the meeting, or promptly upon arrival at the meeting, any objection to the transaction of affairs because the meeting is not lawfully called or convened.
- 4 8 Quorum A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is specifically required by the Declaration, the Articles or these By-laws.
- 4 9 Adjourned Meetings If, at any proposed meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted as long as notice of such business to be conducted at the rescheduled meeting is given, if required (e.g. "with respect to budget adoption").
- 4 10 Joinder in Meeting by Approval of Minutes Directors and members not present in person or by proxy at the meeting may submit in writing his or her agreement or disagreement with any action taken at a meeting that the board member did not attend, but the agreement or disagreement may not be used as a vote for or against the action taken and may not be used for purposes of creating a quorum.
- 4 11 Presiding Officer The presiding officer at the Directors' meeting shall be the President (who may, however, designate any other Unit Owner to preside).
- 4 12 Order of Business If a quorum has been attained, the order of business at Directors' meetings shall be:
- (a) Proof of due notice of meeting;
  - (b) Reading and disposal of any unapproved minutes;
  - (c) Reports of officers and committees.

- (d) Election of officers,
- (e) Unfinished Business,
- (f) New Business,
- (g) Adjournment

Such order may be waived in whole or in part by direction of the presiding officer

- 4 13 Minutes of Meetings The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Unit Owners, or their authorized representatives, and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years
- 4 14 Committees The Board may by resolution also create Committees and appoint persons to such Committees and vest in such Committees such powers and responsibilities as the Board shall deem advisable
- 4 15 Proviso Notwithstanding anything to the contrary contained in this Section 4 or otherwise, the Board shall consist of three directors during the period that the Developer is entitled to appoint a majority of the Directors as hereinafter provided. The Developer shall have the right to appoint all of the members of the Board of Directors until Unit Owners other than the Developer own fifteen (15%) percent or more of the Units in the Condominium. 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 not less than one-third (1/3) of the members of the Board of Directors. Upon the election of such director(s), the Developer shall forward to the Division of Florida Land Sales, Condominiums and Mobile Homes the name and mailing address of the director(s) elected. Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors (a) three years after fifty (50%) percent of the Units that will be operated ultimately by the Association have been conveyed to purchasers, (b) three months after ninety (90%) percent of the Units that will be operated ultimately by the Association have been conveyed to purchasers, (c) when all of the Units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business, (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, whichever comes first. The Developer is entitled (but not obligated) to elect at least one (1) member of the Board of Directors as long as the Developer holds for sale in the ordinary course of business five percent (5%) of the Units that will be operated ultimately by the Association

The Developer may transfer control of the Association to Unit Owners other than the Developer prior to such dates in its sole discretion by causing enough of its appointed Directors to resign, whereupon it shall be the affirmative obligation of Unit Owners other than the Developer to elect Directors and assume control of the Association, provided at least ninety (90) days' notice of Developer's decision to cause its appointees to resign is given to Unit Owners

Within seventy five (75) days after the Unit Owners other than the Developer are entitled to elect a member or members of the Board of Directors, or sooner if the Developer has elected to accelerate such event as aforesaid, the Association shall call, and give not less than sixty (60) days' notice of an election for the member or members of the Board of Directors. The notice may be given by any Unit Owner if the Association fails to do so

At the time the Unit Owners other than the Developer elect a majority of the members of the Board of Directors of the Association, the Developer shall relinquish control of the Association and such Unit Owners shall accept control. At that time (except as to subparagraph (g), which may be ninety (90) days thereafter) Developer shall deliver to the Association or at Developer's expense, all property of the Unit Owners and of the Association held or controlled by the Developer, including, but not limited to, the following items, if applicable to the Condominium

- (a) The original or a photocopy of the recorded Declaration of Condominium, and all amendments thereto. If a photocopy is provided, the Developer must certify by affidavit that it is a complete copy of the actual recorded Declaration
- (b) A certified copy of the Articles of Incorporation of the Association
- (c) A copy of the By-laws of the Association
- (d) The minute book, including all minutes, and other books and records of the Association
- (e) Any rules and regulations which have been adopted
- (f) Resignations of resigning officers and Board members who were appointed by the Developer
- (g) The financial records including financial statements of the Association, and source documents from the incorporation of the Association through the date of the turnover. The records shall be audited for the period from the incorporation of the Association or from the period covered by the last audit, if applicable, by an independent certified public accountant. All financial statements shall be prepared in accordance with generally accepted auditing standards as prescribed by the Florida Board of Accountancy. The accountant performing the audit shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were

for Association purposes, and billings, cash receipts and related records to determine that the Developer was charged and paid the proper amounts of Assessments

- (h) Association funds or the control thereof
- (i) All tangible personal property that is the property of the Association or is or was represented by the Developer to be part of the Common Elements or is ostensibly part of the Common Elements, and an inventory of such property
- (j) A copy of the plans and specifications utilized in the construction or remodeling of improvements and the supplying of equipment, and for the construction and installation of all mechanical components serving the improvements and the Condominium Property, with a certificate, in affidavit form, of an officer of the Developer or an architect or engineer authorized to practice in Florida, that such plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the Condominium Property and the construction and installation of the mechanical components serving the improvements and the Condominium Property
- (k) A list of the names and addresses of all contractors, subcontractors and suppliers, of which Developer had knowledge at any time in the development of the Condominium, utilized in the construction or remodeling of the improvements and the landscaping of the Condominium and/or Association Property
- (l) Insurance policies
- (m) Copies of any Certificates of Occupancy which may have been issued for the Condominium Property
- (n) Any other permits issued by governmental bodies applicable to the Condominium Property in force or issued within one (1) year prior to the date the Unit Owners take control of the Association
- (o) All written warranties of contractors, subcontractors, suppliers and manufacturers, if any, that are still effective
- (p) A roster of Unit Owners and their addresses and telephone numbers, if known, as shown on the Developer's records
- (q) Leases of the Common Elements and other leases to which the Association is a party, if applicable
- (r) Employment contracts or service contracts in which the Association is one of the contracting parties, or service contracts in which the Association or Unit Owners

have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service

- (s) All other contracts to which the Association is a party

## 5 Authority of the Board

- 5.1 Powers and Duties The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Condominium and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these By-laws may not be delegated to the Board of Directors by the Unit owners. Such powers and duties of the Board of Directors shall include, without limitation (except as limited elsewhere herein), the following
- (a) Operating and maintaining all Common Elements and the Association Property
  - (b) Determining the expenses required for the operation of the Association and the Condominium
  - (c) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Elements and the Association Property
  - (d) Adopting and amending rules and regulations concerning the details of the operation and use of the Condominium and Association Property, subject to a right of the Unit Owners to overrule the Board as provided in Section 14 hereof
  - (e) Maintaining bank accounts on behalf of the Association and designating the signatories required therefore
  - (f) Purchasing, leasing or otherwise acquiring title to, or an interest in, property in the name of the Association, or its designee, for the use and benefit of its members. The power to acquire personal property by the Board and the power to acquire real property by the Board is described herein and in the Declaration
  - (g) Purchasing, leasing or otherwise acquiring Units or other property, including, without limitation, Units at foreclosure or other judicial sales, all in the name of the Association, or its designee
  - (h) Selling, leasing, mortgaging or otherwise dealing with Units acquired, and subleasing Units leased, by the Association, or its designee
  - (i) Organizing corporations and appointing persons to act as designees of the Association in acquiring title to or leasing Units or other property
  - (j) Obtaining and reviewing insurance for the Condominium and Association Property

- (k) Making repairs, additions and improvements to, or alterations of, Condominium Property and Association Property, in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise
- (l) Enforcing obligations of the Unit Owners, allocating profits and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of the Condominium
- (m) Levying fines against appropriate Unit owners for violations of the rules and regulations established by the Association to govern the conduct of such Unit Owners. No fine shall be levied except after giving reasonable notice and opportunity for a hearing to the affected Unit Owner and, if applicable, his tenant, licensee or invitee. The fine hearing must be held before a committee of other Unit Owners, and if the committee does not agree with the fine, the fine may not be levied. No fine may exceed \$100.00 per violation, however, a fine may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing, provided however, that no such fine shall in the aggregate exceed \$1,000.00. No fine shall become a lien upon a Unit.
- (n) Purchasing or leasing Units for use by resident superintendents and other similar persons or for the general use and enjoyment of the Unit Owners
- (o) Borrowing money on behalf of the Association or the Condominium when required in connection with the operation, care, upkeep and maintenance of Common Elements (if the need for the funds is unanticipated) or the acquisition of real property, and granting mortgages on and/or security interests in Association owned property, provided, however, that the consent of the Owners of at least two-thirds (2/3rds) of the Units represented at a meeting at which a quorum has been attained in accordance with the provisions of these By-laws shall be required for the borrowing of any sum which would cause the total outstanding indebtedness of the Association to exceed \$10,000.00. If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this subparagraph (o) is not repaid by the Association, a Unit Owner who pays to the creditor such portion thereof as his interest in the Common Elements bears to the interest of all the Unit Owners in the Common Elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against, or which will affect, such Owner's Unit.
- (p) Subject to the provisions of Section 5.2 below, contracting for the management and maintenance of the Condominium and Association Property and authorizing a management agent (who may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing 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 Association Property with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Declaration, the Articles, these By-laws and the Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.

- (q) At its discretion, but within the parameters of the Act, authorizing Unit Owners or other persons to use portions of the Common Elements or Association Property for private parties and gatherings and imposing reasonable charges for such private use.
- (r) Exercising (i) all powers specifically set forth in the Declaration, the Articles, these By-laws and in the Act, (ii) all powers incidental thereto, and (iii) all other powers of a Florida corporation not for profit.
- (s) Contracting with and creating or joining in the creation of special taxing districts, joint councils and the like.

5.2 Contracts Any contract which is not to be fully performed within one (1) year from the making thereof, for the purchase, lease or renting of materials or equipment to be used by the Association in accomplishing its purposes, and all contracts for the provision of shall be in writing. Where a contract for purchase, lease or renting materials or equipment, or for the provision of services, requires payment by the Association on behalf of the Condominium in the aggregate exceeding \$5,000.00, the Association shall obtain competitive bids for the materials, equipment or services. Nothing contained herein shall be construed to require the Association to accept the lowest bid. Notwithstanding the foregoing, contracts with employees of the Association and contracts for attorneys' and accountants' services shall not be subject to the provisions hereof. Further, nothing contained herein is intended to limit the ability of the Association to obtain needed products and services in an emergency, nor shall the provisions hereof apply if the business entity with which the Association desires to contract is the only source of supply within the County.

## 6 Officers

6.1 Executive Officers The executive officers of the Association shall be a President, a Vice-President, a Treasurer and a Secretary (none of whom need be Directors), all of whom shall be elected by the Board of Directors and who may be peremptorily removed at any meeting by concurrence of a majority of all of the Directors. A person may hold more than one office, except that the President may not also be the Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs

of the Association. Officers, other than designees of the Developer, must be Unit Owners (or authorized representatives of corporate/partnership/trust Unit Owners)

- 6.2 President The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of president of an Association.
- 6.3 Vice-President The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice president of an Association and as may be required by the Directors or the President.
- 6.4 Secretary The Secretary shall keep the minutes of all proceedings of the Directors and the members. The Secretary shall attend to the giving of all notices to the members and Directors and other notices required by law. The Secretary shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. The Secretary shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an Association and as may be required by the Directors or the President.
- 6.5 Treasurer The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. The Treasurer shall submit a treasurer's report to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer and as may be required by the Directors or the President. All monies and other valuable effects shall be kept for the benefit of the Association, in such depositories as may be designated by a majority of the Board of Directors.
- 6.6 Developer Appointees No officer appointed by the Developer may be removed except as provided in Section 4.15 hereof and by law.
- 7 Fiduciary Duty The officers and directors of the Association, as well as any manager employed by the Association, have a fiduciary relationship to the Unit Owners. No officer, director or manager shall solicit, offer to accept, or accept any thing or service of value for which consideration has not been provided for his own benefit or that of his immediate family, from any person providing or proposing to provide goods or services to the Association. Any such officer, director or manager who knowingly so solicits, offers to accept or accepts any thing or service of value, in addition to all other rights and remedies of the Association and Unit owners, be subject to a civil penalty in accordance with the Act. Notwithstanding the foregoing, this paragraph shall not prohibit an officer, director or manager from accepting services or items received in connection with trade fairs or education programs.

- 8 Compensation Neither Directors nor officers shall receive compensation for their services as such, but this provision shall not preclude the Board of Directors from employing a Director or officer as an employee of the Association, nor preclude contracting with a Director or officer for the management of the Condominium or for any other service to be supplied by such Director or officer. Directors and officers shall be compensated for all actual and proper out of pocket expenses relating to the proper discharge of their respective duties.
- 9 Resignations Any Director or officers may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Units owned by any Director or officer (other than appointees of the Developer or officers who were not Unit owners) shall constitute a written resignation of such Director or officer.
- 10 Fiscal Management The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:

10.1 Budget

- (a) Adoption by Board, Items The Board of Directors shall from time to time, and at least annually, prepare a budget for all Condominiums governed and operated by the Association (which shall detail all accounts and items of expense and contain at least all items set forth in Section 718-504(21) of the Act, if applicable), determine the amount of Assessments payable by the Unit Owners to meet the expenses of such Condominium(s) and allocate and assess such expenses among the Unit Owners in accordance with the provisions of the Declaration. In addition, if the Association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements, the budget or a schedule attached thereto shall show amounts budgeted therefore. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance (to the extent required by law). These accounts shall include, but not be limited to, roof replacement, building painting and pavement resurfacing regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000.00. The amount of reserves shall be computed by means of a formula which is based upon the estimated remaining useful life and the estimated replacement cost of each reserve item. The Association may adjust replacement and reserve assessments annually to take into account any extension of the remaining useful life of a reserve item caused by deferred maintenance. Reserves shall not be required if the members of the Association have, by a majority vote at a duly called meeting of members, determined for a specific fiscal year to provide no reserves or reserves less adequate than required hereby. Prior to transfer of control of the Association to Unit Owners other than the Developer, the Developer may vote to waive reserves for the first two (2) years of operation of the Association, beginning with the

fiscal year in which the initial declaration is recorded, with the vote taken each fiscal year and shall be effective for only one annual budget. After such time, reserves may only be waived, reduced or used for purposes other than that for which they were intended upon the vote of a majority of non-Developer voting interests present or by limited proxy at a duly called meeting of the Association. If a meeting of 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 authorization reserve expenditures, unless their use for any other purposes is approved in advance by a vote of the majority of the voting interests present or by limited proxy at a duly called meeting of the Association.

The adoption of a budget for the Condominium shall comply with the requirements hereinafter set forth

- (i) Notice of Meeting A copy of the proposed budget of Common Expenses shall be mailed to each Unit Owner not less than fourteen (14) days prior to the meeting of the Board of Directors at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meeting.
- (ii) Special Membership Meeting If a budget is adopted by the Board of Directors which requires Assessments against such Unit owners in any year exceeding one hundred fifteen percent (115%) of such Assessments for the preceding fiscal year, as hereinafter defined, the Board of Directors shall conduct a special meeting of the Unit Owners to consider a substitute budget if the Board receives, within twenty one (21) days after adoption of the annual budget, a written request for a special meeting from at least ten percent (10%) of all voting interests. The special meeting shall be conducted with sixty (60) days after adoption of the annual budget and notice of the special meeting shall be hand delivered or mailed to each Unit Owner at least fourteen (14) days prior to such special meeting. At the special meeting, Unit owners shall consider and adopt a budget. The adoption of said budget shall require a vote of owners of not less than a majority of all the Units (including Units owned by the Developer). If a meeting of the Unit Owners has been called as aforesaid and a quorum is not obtained or a substitute budget has not been adopted by the Unit Owners, the budget adopted by the Board of Directors shall go into effect as scheduled.
- (iii) Determination of Budget Account In determining whether a budget requires Assessments against Unit Owners in any year exceeding one hundred fifteen percent (115%) of Assessments for the preceding year, there shall be excluded in the computations any authorized provisions for reasonable reserves made by the Board of Directors in respect of repair or

replacement of the Condominium Property or in respect of anticipated expenses of the Association which are not anticipated to be incurred on a regular or annual basis, and there shall be excluded further from such computation Assessments for improvements to the Condominium Property

- (iv) Proviso As long as the Developer is in control of the Board of Directors of the Association, the Board shall not impose Assessments for a year greater than one hundred fifteen percent (115%) of the prior year's Assessments, as herein defined, without the approval of a majority of Unit Owners other than the Developer

- (b) Adoption by Membership In the event that the Board of Directors shall be unable to adopt a budget for a fiscal year, in accordance with the requirements of Subsection 10 1(a) above, the Board of Directors may call a special meeting of Unit Owners for the purpose of considering and adopting such budget, which meeting shall be called and held in the manner provided for such special meetings in said subsection, or propose a budget in writing to the members, and if such budget is adopted by the members, upon ratification by a majority of the Board of Directors, it shall become the budget for such year

- 10 2 Assessments Assessments against Unit Owners for their share of the items of the budget shall be made for the applicable fiscal year annually at least twenty (20) days preceding the year for which the Assessments are made. Such Assessments shall be due in equal installments, payable in advance on the first day of each month (or each quarter at the election of the Board) of the year for which the Assessments are made. If annual Assessments are not made as required, Assessments shall be presumed to have been made in the amount of the last prior Assessments, and monthly (or quarterly) installments on such Assessments shall be due upon each installment payment date until changed by amended Assessments. In the event the annual Assessments prove to be insufficient, the budget and Assessments may be amended at any time by the Board of Directors, subject to the provisions of Section 10 1 hereof, if applicable. Unpaid Assessments for the remaining portion of the fiscal year for which amended Assessments are made shall be payable in as many equal installments as there are full months (or quarters) of the fiscal year left as of the date of such amended Assessments, each such monthly (or quarterly) installment to be paid on the first day of the month (or quarter), commencing the first day of the next ensuing month (or quarter). If only a partial month (or quarter) remains, the amended Assessments shall be paid with the next regular installment in the following year, unless otherwise directed by the Board in its resolution

- 10 3 Special Assessments and Assessments for Capital Improvements Special Assessments and Capital Improvement Assessments (as defined in the Declaration) shall be levied as provided in the Declaration and shall be paid in such manner as the Board of Directors of the Association may require in the notice of such Assessments. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in the notice of adoption of same. However, upon completion of such specific

purpose or purposes, any excess funds will be considered Common Surplus, and may, at the discretion of the Board, either be returned to the Unit Owners or applied as a credit towards future assessments

- 10.4 Depository The depository of the Association shall be such bank or banks in the State of Florida as shall be designated from time to time by the Board and in which the monies of the Association shall be deposited. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons as are authorized by the Board. All sums collected by the Association from Assessments or otherwise may be co-mingled in a single fund or divided into more than one fund, as determined by a majority of the Board. In addition, a separate reserve account should be established for the Association in such a depository for monies specifically designated as reserves for capital expenditures and/or deferred maintenance. Notwithstanding the foregoing, reserve and operating funds of the Association shall not be co-mingled.
- 10.5 Acceleration of Installment Upon Default If a Unit Owner shall be in default in the payment of an installment upon his Assessments, the Board of Directors or its agent may accelerate the Assessments. Accelerated Assessments shall be due and payable on the date the claim of lien is filed and shall include the amounts due for the remainder of the budget year in which the claim of lien was filed.
- 10.6 Fidelity Bonds Fidelity bonds shall be required by the Board of Directors for all persons handling or responsible for Association funds in such amounts as shall be determined by a majority of the Board. The premiums on such bonds shall be paid by the Association as a Common Expense.
- 10.7 Accounting Records and Reports The Association shall maintain accounting records in the State, according to accounting practices normally used by similar Associations. The records shall be open to inspection by Unit Owners or their authorized representatives at reasonable times and written summaries of them shall be supplied at least annually. The records shall include, but not be limited to (a) a record of all receipts and expenditures, and (b) an account for each Unit designating the name and current mailing address of the Unit Owner, the amount of Assessments, the dates and amounts in which the Assessments come due, the amount paid upon the account and the dates so paid, and the balance due. Written summaries of the records described in clause (a) above, in the form and manner specified below, shall be supplied to each Unit Owner annually.

Within sixty (60) days following the end of the fiscal year, the Board shall mail, or furnish by personal delivery, to each Unit Owner and to the Division a complete financial report of actual receipts and expenditures for the previous twelve (12) months or a complete set of financial statements for the preceding fiscal year prepared in accordance with generally accepted accounting principles. The report shall show the amount of receipts by accounts Units and receipt classifications and shall show the amount of expenses by accounts and expense classifications, including, if applicable, but not limited to, the following

- (a) Costs for security,
- (b) Professional fees and expenses,
- (c) Taxes,
- (d) Costs for recreation facilities,
- (e) Expenses for refuse collection and utility services,
- (f) Expenses for lawn care,
- (g) Costs for building maintenance and repair,
- (h) Insurance costs,
- (i) Administrative and salary expenses, and
- (j) Reserves for capital expenditures, deferred maintenance and any other category for which the Association maintains a reserve account or accounts

10 8 Application of Payment All payments made by a Unit Owner shall be applied as provided in these By-laws and in the Declaration or as otherwise determined by the Board

10 9 Notice of 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

11 Roster of Unit Owners Each Unit Owner shall file with the Association a copy of the deed or other document showing his ownership. The Association shall maintain such information. The Association may rely upon the accuracy of such information for all purposes until notified in writing of changes therein as provided above. Only Unit Owners of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other Owners shall produce adequate evidence, as provided above, of their interest and shall waive in writing notice of such meeting

12 Parliamentary Rules Except when specifically or impliedly waived by the chairman of a meeting (either of members or directors), Robert's Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Act, the Declaration, the Articles or these By-laws, provided, however, that a strict or technical reading of said Robert's Rules shall not be made so as to frustrate the will of the persons properly participating in said meeting

13 Amendments Except as may be provided in the Declaration to the contrary, these By-laws may be amended in the following manner

13 1 Notice Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered

13 2 Adoption A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or by not less than one-third (1/3) of the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may submit in writing his or her agreement or disagreement with any action taken at a meeting that the board member did not attend, but the agreement or disagreement may not be used as a vote for or against the action taken and may not be used for purposes of creating a quorum. The approval must be

(a) by not less than a majority of the votes of all members of the Association represented at a meeting at which a quorum has been attained and by not less than 66-2/3% of the entire Board of Directors, or

(b) after control of the Association has been turned over to Unit Owners other than the Developer by no less than 80% of the votes of the members of the Association represented at a meeting at which a quorum has been attained

13 3 Proviso If the Developer holds units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer

(a) Assessment of the Developer as a Unit Owner for capital improvements

(b) Any action by the Association that would be detrimental to the sales of Units by the Developer. However, an increase in Assessments for Common Expenses without discrimination against the Developer shall not be deemed to be detrimental to the sales of Units

No amendment to this Section shall be valid

13 4 Execution and Recording A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of these By-laws, which certificate shall be executed by the President or Vice-President and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed, or by the Developer alone if the amendment has been adopted consistent with the provisions of the Declaration allowing such action by the Developer. The amendment shall be effective when the certificate and a copy of the amendment is recorded in the Public Records of the County with an identification on the first page of the amendment of the official Records Book and Page of said Public Records where the Declaration is recorded

14 Rules and Regulations Attached hereto as Schedule A and made a part hereof are initial rules and regulations concerning the use of portions of the Condominium and Association Property. The Board of Directors may, from time to time, modify, amend or add to such rules and regulations, except that subsequent to the date control of the Board is turned over by the Developer to Unit Owners other than the Developer. Owners of a majority of the Units may

override the Board with respect to any such modifications, amendments or additions. Copies of such modified, amended or additional rules and regulations shall be furnished by the Board to each affected Unit Owner no less than thirty (30) days prior to the effective date thereof. At no time may any rule or regulation be adopted which would prejudice the rights reserved to the Developer.

- 15 Official Record From the inception of the Association, the Association shall maintain for the Condominium a copy of each of the following where applicable, which shall constitute the official records of the Association:
- (a) The plans, permits, warranties, and other items provided by the Developer pursuant to Section 718.301(4) of the Act.
  - (b) A photocopy of the recorded Declaration of Condominium and all amendments thereto,
  - (c) A photocopy of the recorded By-Laws of the Association and all amendments thereto.
  - (d) A certified copy of the Articles of Incorporation of the Association or other documents creating the Association and all amendments thereto,
  - (e) A copy of the current Rules and Regulations of the Association,
  - (f) A book or books containing the minutes of all meetings of the Association, of the Board, and of Unit Owners which minutes shall be retained for a period of not less than 7 years.
  - (g) A current roster of all Unit Owners, their mailing addresses, Unit identifications, voting certifications, and if known, telephone numbers,
  - (h) All current insurance policies of the Association and of all Condominiums operated by the Association,
  - (i) A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility,
  - (j) Bills of Sale or transfer for all property owned by The Association,
  - (k) Accounting records for the Association and the accounting records for the Condominium, according to good accounting practices. All accounting records shall be maintained for a period of not less than 7 years. The accounting records shall include, but not be limited to:
    - (i) Accurate, itemized, and detailed records for all receipts and expenditures

- (ii) A current account and a monthly, bimonthly, or quarterly statement of the account for each Unit designating the name of the Unit Owner, the due date and amount of each Assessment, the amount paid upon the amount, and the balance due
- (iii) All audits, reviews, accounting statements, and financial reports of the Association or Condominium
- (iv) All contracts for work to be performed Bids for work to be performed shall also be considered official records and shall be maintained for a period of 1 year
- (l) Ballots, sign-in sheets, voting proxies and all other papers relating to elections which shall be maintained for a period of 1 year from the date of the meeting to which the document relates
- (m) All rental records where the Association is acting as agent for the rental of Units
- (n) A copy of the current Question and Answer Sheet, in the form promulgated by the division, which shall be updated annually
- (o) All other records of the Association not specifically listed above which are related to the operation of the Association

The official records of the Association shall be maintained in the County in which the Condominium is located, or if in another county, then within twenty five (25) miles of the Condominium

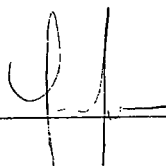
The official records of the Association shall be open to inspection by any Association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at reasonable expense, if any, of the Association member. The Association may adopt reasonable rules regarding the time, location, notice and manner of record inspections and copying. The failure of an Association to provide official records to a Unit Owner or his authorized representative within five (5) working days after receipt of a written request therefore shall create a rebuttable presumption that the Association willfully failed to comply with this paragraph. Failure to permit inspection of the Association records as provided herein entitles any person prevailing in an enforcement action to cover reasonable attorneys' fees from the person in control of the records who, directly or indirectly, knowingly denies access to the records for inspection. The Association shall maintain on the Condominium Property an adequate number of copies of the Declaration, Articles, By Laws and rules, and all amendments to the foregoing, as well as the Question and Answer Sheet, to ensure their availability to Unit Owner and prospective purchasers. The Association may charge its actual costs for preparing and furnishing these documents to those persons requesting same.

- 16 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 Units to the applicable condominium fire and life safety code

- 17 Construction Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders
- 18 Captions The captions herein are insert only as a matter of convenience and for reference, and in no way define or limit the scope of these By-laws or the intent of any provision hereof

The foregoing was adopted as the By-laws of COCOA CABANAS CONDOMINIUM ASSOCIATION, INC , a corporation not for profit under the laws of the State of Florida, as of the 23rd day of July, 2014

Approved

  
\_\_\_\_\_  
Vice President  
Cocoa Cabanas Condominium Association, Inc

**SCHEDULE "A"****RULES AND REGULATIONS**  
**FOR**  
**COCOA CABANAS CONDOMINIUM ASSOCIATION, INC.**

1 The sidewalks, entrances, passages, lobbies and hallways and like portions of the common elements shall not be obstructed nor used for any purpose other than for ingress and egress to and from the Condominium property, nor shall any carts, bicycles, carriages, chairs, tables or any other objects be stored therein, except in areas (if any) designated for such purposes

2 The personal property of unit owners and occupants must be stored in their respective units

3 Except as permitted by Section 9.1 of the Declaration, no enclosures and/or articles other than patio-type furniture shall be erected or placed on the balconies, patios or other common elements. No linens, cloths, clothing, bathing suits and/or swimwear, curtains, rugs, mops, or laundry of any kind, or other articles shall be shaken or hung from any of the windows, doors, balconies, terraces or other portions of the Condominium or Association property

4 No unit owner or occupant shall permit anything to fall from a window or door of the Condominium or Association property, nor sweep or throw from the Condominium or Association property any dirt or other substance onto any of the balconies or elsewhere in the building or upon the common elements

5 No garbage, refuse, trash or rubbish shall be deposited except as permitted by the Association. The requirements from time to time of the company or agency providing trash removal services for disposal or collection shall be complied with. All equipment for storage or disposal of such material shall be kept in a clean and sanitary condition

6 Employees of the Association shall not be sent out by unit owners or occupants for personal errands. The Board of Directors shall be solely responsible for directing and supervising employees of the Association

7 No repair of vehicles shall be made on the Condominium property

8 No unit owner or occupant shall make or permit any disturbing noises by himself or his family, servants, employees, pets, agents, visitors or licensees, nor permit any conduct by such persons or pets that will interfere with the rights, comforts or conveniences of other unit owners or occupants. No unit owner or occupant shall play or permit to be played any musical instrument, nor operate or permit to be operated a phonograph, television, radio or sound amplifier in his unit in such a manner as to disturb or annoy other residents. No unit owner or occupant shall conduct, nor permit to be conducted, vocal or instrumental instruction at any time which disturbs other residents

9 No sign, advertisement, notice or other graphics or lettering shall be exhibited, displayed, inscribed, painted or affixed in, on, or upon any part of the Condominium or Association property,

except signs used or approved by the Developer or the Association, as applicable. Additionally, no awning, canopy, shutters or other projection shall be attached to or placed upon the outside walls or roof of the building or on the common elements, without the prior written consent of the Board of Directors of the Association.

Any unit owner may display one portable, removable United States flag in a respectful way regardless of any declaration rules or requirements dealing with flags or decorations.

10 No flammable, combustible or explosive fluids, chemicals or substances shall be kept in any unit or on the common elements.

11 A unit owner or occupant who plans to be absent during the hurricane season must prepare his unit prior to his departure by designating a responsible firm or individual to care for his unit should a hurricane threaten the unit or should the unit suffer hurricane damage, and furnishing the Association with the name(s) of such firm or individual. Such firm or individual shall be subject to the approval of the Association.

12 No unit shall have any aluminum foil placed in any window or glass door or any reflective or tinted substance, placed on any glass, unless approved, in advance by the Board of Directors in writing. No unsightly materials may be placed on any window or glass door or be visible through such window or glass door.

13 Children will be the direct responsibility of their parents or legal guardians, including full supervision of them while within the Condominium property and including full compliance by them with these Rules and Regulations and all other rules and regulations of the Association. Loud noises will not be tolerated. All children under ten (10) years of age must be accompanied by a responsible adult when entering and/or utilizing the recreational facilities.

14 Pets, birds, fish and other animals, reptiles or wildlife shall neither be kept nor maintained in or about the Condominium property except in accordance with the following, in addition to the applicable terms of the Declaration:

- (a) Dogs and cats shall not be permitted outside of their owner's unit unless attended by an adult and on a leash not more than six (6) feet long. Said dogs and cats shall only be walked or taken upon those portions of the common elements designated by the Association from time to time for such purposes, if any. In no event shall a dog or cat ever be allowed to be walked or taken on or about any recreational facilities contained within the Condominium property.
- (b) Tropical fish may be kept in the units, subject to the provisions of the Declaration.

15 Every owner and occupant shall comply with these Rules and Regulations as set forth herein, any and all rules and regulations which from time to time may be adopted, and the provisions of the Declaration, By-Laws and Articles of Incorporation of the Association, as amended from time to time. Failure of an owner or occupant to so comply shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination

thereof. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an owner for failure of an owner, his family, guests, invitees, lessees or employees, to comply with any covenant, restriction, rule or regulation herein or in the Declaration, Articles of Incorporation or By-Laws, provided the following procedures are adhered to.

- (a) Notice The Association shall notify the owner or occupant of the infraction or infractions. Included in the notice shall be a date and time of the next Board of Directors meeting at which time the owner or occupant shall present reasons why penalties should not be imposed.
- (b) Hearing The non-compliance shall be presented to the Board of Directors after which the Board and a committee of other unit owners shall hear reasons why penalties should not be imposed. A written decision of the Board and committee shall be submitted to the owner or occupant by not later than twenty-one (21) days after the meeting. The fine hearing must be held before a committee of other unit owners, and if the committee does not agree with the fine, the fine may not be levied.
- (c) Fines The Board of Directors may impose fines against the applicable unit up to the maximum amount permitted by law from time to time.
- (d) Violations Each separate incident which is grounds for a fine shall be the basis of one separate fine. In the case of continuing violations, each continuation of same after a notice thereof is given shall be deemed a separate incident.
- (e) Payment of Fines Fines shall be paid not later than thirty (30) days after notice of the imposition thereof.
- (f) Application of Fines All monies received from fines shall be allocated as directed by the Board of Directors.
- (g) Non-exclusive Remedy These fines shall not be construed to be exclusive and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled, however, any penalty paid by the offending owner or occupant shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such owner or occupant.

16 These rules and regulations shall be cumulative with the covenants, conditions and restrictions set forth in the Declaration of Condominium, provided that the provisions of same shall control over these rules and regulations in the event of a conflict or a doubt as to whether a specific practice or activity is or is not permitted. These rules and regulations shall not apply to the Developer, nor its agents or employees and contractors, nor to the units owned by the Developer, except that no rule shall partially or totally exempt the Developer, its agents or employees and contractors from the

requirements of any such rule which apply to all other owners or units and which pertain to the following

- (a) requirements that leases or lessees be approved by the Association,
- (b) restrictions on the presence of pets,
- (c) restrictions on occupancy of units based on age,
- (d) restrictions on the type of vehicles allowed to park on condominium property or association property, however the Developer and its agents or employees and contractors shall have the right to be exempted from any such restriction on parking if the vehicle is engaged in any activity relating to construction, maintenance or marketing of units

All of these rules and regulations shall apply to all other owners and occupants even if not specifically so stated in portions hereof. The Board of Directors shall be permitted (but not required) to grant relief to one or more unit owners from specific rules and regulations upon written request therefore and good cause shown in the sole opinion of the Board.