

117778

DECLARATION OF CONDOMINIUM

OF

THE ATLANTIS SHERBROOKE VILLAS EAST

a condominium

Made this 22nd day of October, 1976, by REDFEARN SHERBROOKE CORP., a corporation and existing under the laws of the State of Florida.

WHEREIN the Developer makes the following declarations:

I

PURPOSE

The purpose of this Declaration is to submit the lands described in this instrument and improvements on such lands to the condominium form of ownership and use in the manner provided by Chapter 711, Florida Statutes, hereafter called the Condominium Act.

II

The name by which this condominium is to be identified is The Atlantis Sherbrooke Villas East Condominium, and its address is 250 John F. Kennedy Drive, City of Atlantis, Florida.

THE LANDS

The lands owned by the Developer, which by this instrument are submitted to the condominium form of ownership, are those certain lands lying in Palm Beach County, Florida, and more particularly described on Exhibit No. 1 attached hereto and made a part of this Declaration, which lands are called "the lands".

IV

DEFINITIONS

The terms used in this Declaration and its exhibits shall have the meanings stated in the Condominium Act, Chapter 711, Section 711.03, Florida Statutes, and as follows unless the context otherwise requires:

4.1. Apartment, means unit as defined by the Condominium Act.

4.2. Apartment Owner, means unit owner as defined by the Condominium Act.

4.3. Association, means The Atlantis Sherbrooke Villas East Condominium Association, Inc., a non-profit corporation and its successors, being the entity responsible for the operation of the Condominium, copies of the Articles of Incorporation and By-laws of which corporation are annexed hereto and made parts hereof, as Exhibits No. 3 and No. 4 respectively.

This Instrument Was Prepared By  
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4.4. By-laws, means the By-laws of The Atlantis Sherbrooke Villas East Condominium Association, Inc., as they exist from time to time.

4.5. Common Elements, means the portions of the Condominium property not included in the units.

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

4.7. Condominium, means that form of ownership of condominium property under which units are subject to ownership by one (1) or more owners, and there is appurtenant to each unit, as part thereof, an undivided share in the common elements.

4.8. Common Expenses, means the expenses for which the unit owners are liable to the Association.

4.9. Common Surplus, means the excess of all receipts of the Association, including but not limited to assessments, rents, profits and revenues on account of the common elements, over the amount of common expenses.

4.10. Condominium Property, means and includes the lands that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon, and all easements and right appurtenant thereto, intended for use in connection with the condominium.

4.11. Condominium Parcel, means a Unit, together with the undivided share in the common elements, which is appurtenant to the Unit.

4.12. Condominium Unit, or Unit, means a part of the condominium property which is to be subject to private ownership.

4.13. Unit Owner, or Owner of a Unit, or Parcel Owner, means the owner of a condominium parcel.

4.14. Declaration, or Declaration of Condominium, means this instrument by which the condominium is created, as it may from time to time be amended.

4.15. Developer, means REDFEARN SHERBROOKE CORP., a corporation organized and existing under the laws of the State of Florida, its successors, representatives or assigns.

4.16. Institutional Mortgagee, means a Bank, Savings and Loan Association, or Insurance Company, authorized to do business in the State of Florida, or an Agency of the United States Government. The mortgage may be placed through a Mortgage or Title Company.

4.17. Condominium Documents, means this Declaration of Condominium and all Exhibits attached hereto and as the same may, from time to time, be amended.

4.18. 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.

4.19. Occupant, means the person or persons, other than the Unit Owner, in possession of a Unit.

4.20. Recreational Area Lease, or said Recreational Area Lease, means the long term recreational lease between REDFEARN SHERBROOKE CORP. Lessor, and THE ATLANTIS SHERBROOKE VILLAS EAST CONDOMINIUM ASSOCIATION, INC., Lessee, a copy of which is annexed hereto and made a part hereof as Exhibit No. 5.

IDENTIFICATION OF UNITS

The condominium property consists essentially of 40 units in all and for the purpose of identification all units in the building located on said condominium property are given identifying numbers and delineated on the survey exhibits collectively identified as Exhibit 2 attached hereto and made a part of this Declaration. A limited common element reserved for the use of a certain condominium unit bears the same identifying number as the condominium unit for which it is reserved. No unit bears the same identifying number as does any other unit. The aforesaid identifying number as to the unit is also the identifying number as to the parcel. The said Exhibit 2 also contains a Survey of the land, a graphic description of the improvements in which the units are located, and a plot plan and, together with this Declaration, they are in sufficient detail to identify the location, dimensions and size of the common elements, limited common elements and of each unit, as evidenced by the Certificate of the Registered Land Surveyor hereto attached. The legend and notes contained within the said Exhibit are incorporated herein and made a part hereof by reference.

The aforesaid building was constructed substantially in accordance with the Plans and Specifications prepared by Ralph S. Moe, Jr., Architect, copies of which Plans and Specifications shall be on file with the Association.

OWNERSHIP OF COMMON ELEMENTS,  
COMMON EXPENSES AND COMMON SURPLUS

Each of the unit owners of the Condominium shall own an undivided interest in the common elements and limited common elements, and the undivided interest stated as fractions of such ownership in the said common elements and limited common elements as hereinafter set forth.

The common expenses and assessments of the Condominium shall be shared by the unit owners as hereinafter set forth. The ratio of sharing common expenses and assessments shall remain, as hereinafter set forth, regardless of the purchase price of the condominium parcels, their location, or the building square footage included in each condominium unit.

Any common surplus of the Association shall be owned by each of the unit owners in the same proportion as the unit owners share common expenses and assessments.

SHARE OF UNDIVIDED INTEREST IN  
COMMON ELEMENTS, LIMITED COMMON  
ELEMENTS, COMMON EXPENSES AND  
ASSESSMENTS AND COMMON SURPLUS

UNIT NUMBER

Unit 101	One Fortieth (1/40th)
Unit 102	One Fortieth (1/40th)
Unit 103	One Fortieth (1/40th)
Unit 104	One Fortieth (1/40th)
Unit 105	One Fortieth (1/40th)
Unit 106	One Fortieth (1/40th)
Unit 107	One Fortieth (1/40th)
Unit 108	One Fortieth (1/40th)
Unit 201	One Fortieth (1/40th)
Unit 202	One Fortieth (1/40th)
Unit 203	One Fortieth (1/40th)

Unit 204	One Fortieth (1/40th)
Unit 205	One Fortieth (1/40th)
Unit 206	One Fortieth (1/40th)
Unit 207	One Fortieth (1/40th)
Unit 208	One Fortieth (1/40th)
Unit 301	One Fortieth (1/40th)
Unit 302	One Fortieth (1/40th)
Unit 303	One Fortieth (1/40th)
Unit 304	One Fortieth (1/40th)
Unit 305	One Fortieth (1/40th)
Unit 306	One Fortieth (1/40th)
Unit 307	One Fortieth (1/40th)
Unit 308	One Fortieth (1/40th)
Unit 401	One Fortieth (1/40th)
Unit 402	One Fortieth (1/40th)
Unit 403	One Fortieth (1/40th)
Unit 404	One Fortieth (1/40th)
Unit 405	One Fortieth (1/40th)
Unit 406	One Fortieth (1/40th)
Unit 407	One Fortieth (1/40th)
Unit 408	One Fortieth (1/40th)
Unit PH1	One Fortieth (1/40th)
Unit PH2	One Fortieth (1/40th)
Unit PH3	One Fortieth (1/40th)
Unit PH4	One Fortieth (1/40th)
Unit PH5	One Fortieth (1/40th)
Unit PH6	One Fortieth (1/40th)
Unit PH7	One Fortieth (1/40th)
Unit PH8	One Fortieth (1/40th)

The fee simple title to each condominium parcel shall include both the condominium unit and the above respective undivided interest in the common elements and limited common elements, said undivided interest in the common elements and limited common elements to be deemed to be conveyed or encumbered with its respective condominium unit, even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the condominium unit. Any attempt to separate the fee title to a condominium unit from the undivided interest in the common elements and limited common elements appurtenant to each unit shall be null and void. The term - "common elements" when used throughout this Declaration, shall mean both common elements and limited common elements, unless the context otherwise specifically requires.

The condominium unit shall be constituted as follows:

6.1. Condominium Unit. Each condominium unit shall include that part of the building which lies within the boundaries of that condominium unit, which boundaries are more particularly described in Exhibit #2 attached hereto.

6.2. Appurtenances. The ownership of each condominium unit shall include, and there shall pass with each condominium unit as appurtenances thereto, whether or not separately described, in addition to the undivided interest in the common elements and limited common elements, all of the rights, title and interest of a condominium unit owner in the condominium property which shall include, but not be limited to, the following:

- (a) Easements for the benefit of the condominium unit.
- (b) Association membership and interest in funds and assets held by the Association.
- (c) An exclusive easement for the use of the air space occupied by the condominium unit as it exists at any particular time and as the condominium unit may be altered or re-constructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time.

6.3. Easements. Each condominium unit shall be subject to the following easements from each condominium unit owner to each other condominium unit owner and to the Association:

(a) Easements through the common elements areas for ingress and egress.

(b) Easements through the condominium units and common elements areas for maintenance, repair and replacement of the condominium units and common elements and limited common elements. Such access to the condominium units shall be only during reasonable hours except that access may be had at any time in case of emergency.

(c) Every portion of a condominium unit contributing to the support of the condominium building shall be burdened with an easement of support for the benefit of all other condominium units and common elements and limited common elements in the condominium building.

(d) Easements through the condominium units and common elements areas and limited common elements areas for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to other condominium units and the common elements and limited common elements provided, however, that such easements through a condominium unit shall be only according to the plans and specifications for the condominium building unless approved in writing by the condominium unit owner.

VII  
ASSOCIATION

7.1. The operation, management and administration of the condominium shall be by REDFERN SHERBROOKE CORP., a corporation not for profit under the laws of the State of Florida. The owner of a condominium unit shall automatically become a member of said corporation and membership shall be an incidence of ownership and not separately transferable. Each condominium unit shall be entitled to one vote in determining the affairs of the corporation. The operation, management and administration of the condominium shall be conducted pursuant to the provisions of this Declaration, the Articles of Incorporation of the Association, the By-laws of the Association, and Exhibits attached hereto, and the Rules and Regulations hereafter adopted by the Association from time to time. Each owner or occupant of a condominium unit covenants and agrees to comply with the provisions of this Declaration, the Articles of Incorporation of the Association, the By-laws of the Association, and Exhibits attached hereto, and the Rules and Regulations of the Association adopted by the Association from time to time, as lawfully amended from time to time. Failure to comply with such provisions, rules and regulations shall be grounds for an action to recover sums due for damages and for injunctive relief, or both. This Declaration, the Articles of Incorporation of the Association, and the By-laws of the Association, may be amended in the manner provided for herein and therein, but no amendment to this Declaration, or to said Articles of Incorporation, or to said By-laws shall be adopted which would affect or impair the validity or priority of any mortgage encumbering any condominium unit(s) without the written approval of all Institutional Mortgagees of record.

7.2. Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain the repair parts of the condominium property, the Association shall not be liable to condominium unit owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or

caused by the elements or other owners or persons.

7.3. Restraint upon assignment of shares in assets. The share of member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his condominium unit.

#### VIII

#### USE RESTRICTIONS

In addition to the other obligations set forth in this Declaration, the Articles of Incorporation of the Association, the By-laws of the Association, and Exhibits attached hereto, the following use restrictions shall govern the use of the condominium units located in the condominium property and the conduct of all residents thereof:

(a) The condominium units shall be used only for residential purposes.

(b) Unit owners shall not use or permit the use of their units in any manner which would be disturbing or be a nuisance to other owners, or in such a way as to be injurious to the reputation of the property.

(c) The entrances, passages and stairways or fire escapes and other common elements shall not be obstructed by any of the unit owners or other persons, and shall not be used by them for any other purpose than those of ingress to and egress from their respective condominium units, and the sidewalks shall not be obstructed in any manner.

(d) No signs, advertisements or notices shall be painted or affixed upon any part of the building, outside or inside, no articles shall be suspended outside of the building or placed on its window sills and no unit owner shall erect or maintain a radio or television aerial, without the consent in writing of the Board of Directors.

(e) No unit owner or occupant shall do anything in the condominium property or suffer or permit anything to be done in the premises, or bring or keep anything in the premises that in any manner will increase the rate of fire insurance on the condominium building or on the property, or obstruct or interfere with the right of other condominium unit owners, or do anything or suffer or permit anything to be done that shall conflict with the laws, regulations, rules and ordinances of the City of Atlanta, Florida, or other properly authorized governmental agency.

(f) No children shall be permitted to permanently reside in a Condominium unit who are under the age of thirteen (13) years except with the written permission of the Association, and once permission is granted it may not be rescinded. Children under the age specified in the preceding sentence shall be permitted to reside temporarily in a Condominium unit as a guest of a unit owner. House pets shall be permitted to reside in a Condominium unit with the unit owner only with the prior written approval of the Association and said unit owner shall comply with all rules and regulations applicable to pets. Unit owners acknowledge and agree that some Officers, Directors and Stockholders of the Developer may constitute the first Board of Directors and Officers of the Condominium Association and notwithstanding same, they are authorized by the unit owners to grant permission upon the request of unit owners as to house pets and children under thirteen (13) years of age as they determine in their sole discretion.

(g) No clothesline (for drying washed clothes) shall be permitted or maintained upon the condominium property except in a place and location that may subsequently be designated and provided by the Board of Directors. Common elements shall not be littered, defaced or misused in any manner.

(h) Condominium units may not be used for business or commercial purposes in any manner whatsoever.

(i) Additional reasonable regulations concerning the use of the condominium property may be made, added or amended from time to time by the Board of Directors of the Association, and copies of such regulations and amendments thereto shall be furnished by the Association to all of the condominium unit owners and residents of

the condominium upon request. All occupants of condominium units, whether owners, lessees, or otherwise, must conform to and obey all such regulations.

IX

LONG-TERM RECREATIONAL AREA LEASE

The Association, the Atlantis Sherbrooke Villas East Condominium Association, Inc., a corporation not for profit under the laws of the State of Florida, LESSEE, has entered into a long term recreational lease with Redfearn Sherbrooke Corp., a corporation organized and existing under the laws of the State of Florida, as LESSOR, for the following described real property in Palm Beach County, Florida;

A parcel of land in Section 31, Township 44 South, Range 43 East, Palm Beach County, Florida, being more specifically described as follows:

Commencing at the Northeast corner of Tract "B", Plat No. 6, CITY OF ATLANTIS, FLORIDA, as recorded in Plat Book 28, Page 174, public Records of Palm Beach County, Florida; Thence South 89°-34'-12" East, along the Southerly right of way line of Atlantis Boulevard, an 80 foot right of way shown on said Plat No. 6, a distance of 21.86 feet to a point of curvature of a curve to the right, having a radius of 1220.0 feet; Thence, Southeasterly, along said curve and said right of way line, through a central angle of 14°-14'-12", a distance of 303.14 feet; Thence, South 13°-34'-46" West, a distance of 140.03 feet; Thence, South 47°-31'-02" West, a distance of 94.19 feet to a point on a curve concave to the Southwest, having a radius of 465.68 feet, and whose center bears South 38°-16'-33" West; Thence, Southeasterly, along said curve, through a central angle of 15°-20'-57", a distance of 124.75 feet for a POINT OF BEGINNING. Thence continue along said curve, through a central angle of 12°-18'-13", a distance of 100.0 feet to the end of said curve; Thence, North 65°-55'-43" East, radial to aforesaid curve, a distance of 51.30 feet; Thence North 20° East, a distance of 106.50 feet; Thence, South 79°-01'-56" East, a distance of 96.15 feet; Thence, North 31°-01'-02" East, a distance of 109.89 feet; Thence, North 65°-29'-44" West, a distance of 43.28 feet; Thence, South 31°-01'-02" West, a distance of 104.98 feet; Thence, North 58°-58'-58" West, a distance of 104.86 feet; Thence, South 47°-31'-02" West, a distance of 137.29 feet to the POINT OF BEGINNING.

Containing: 0.563 Acre

Subject to a new 6 foot utility easement running along the rear property line of the above parcel (also being contiguous to the golf course).

A copy of said lease is annexed hereto marked Exhibit No. 5, for reference. Said long term recreational lease has been entered into by the Association for the use and benefit of the condominium unit owners, and each unit owner in the condominium shall make payment to the condominium association of his pro-rata share of the rental due and pursuant to its terms as part of the general common expenses chargeable to his condominium parcel. Pro-rata share of the rental therefor is defined as One Fortieth (1/40th) of the Association

rental due under the said long term recreational lease. It shall be mandatory for each condominium unit owner to make his pro-rata payments, as assessed by the Condominium Association as part of the common expense, in order to keep in force and effect the afore-described long term recreational lease, regardless of whether said condominium unit owner uses the facilities or not. Said pro-rata rental payments for each condominium unit shall be assessed by the Condominium Association as other assessments, and included within the total assessment levied. In the event rental is not paid when due, the Association shall have a lien on each condominium parcel or unit for any such unpaid assessment, enforceable in the same manner as provided for under the Condominium Act, Chapter 711, Florida Statutes, and any and all other applicable laws, including all applicable provisions of this Declaration, the By-laws of this Association, and Exhibits attached hereto. Each condominium unit owner is hereby given notice that the Association, as Lessee under the Recreational Area Lease, has covenanted and agreed, with the Lessor therein, to enforce its lien for such unpaid assessments, pursuant to said Condominium Act, Chapter 711, Florida Statutes, and to pay to said Lessor any and all such delinquent rentals then due Lessor from the first proceeds available to the Association upon completion of the enforcement of its lien. Each condominium unit owner agrees that the Lessor under said Recreational Area Lease has further reserved and shall have a lien on each condominium unit for any such unpaid assessments and which said lien may be enforced by the Lessor in the same manner as mortgages are enforced and foreclosed under Florida law, or may be enforced under any other remedy available to Lessor. Said Recreational Area Lease is not an exclusive lease in favor of the Association. The Lessor has heretofore entered into a similar long term recreational lease with THE ATLANTIS SHERBROOKE VILLAS CONDOMINIUM ASSOCIATION, INC., dated August 28, 1972, and recorded August 28, 1972 in Official Record Book 2050, page 525, and in Official Record Book 2050, page 1099, Public Records of Palm Beach County, Florida, which condominium association contains a building with 40 units and the unit owners, and their guests, have the privilege of using the leased premises.

The Lessor has reserved and shall have the right to enter into one additional and similar Recreational Area Lease with one additional condominium association to be formed for the operation of a condominium on adjoining lands and the members of THE ATLANTIS SHERBROOKE VILLAS EAST CONDOMINIUM ASSOCIATION, INC. and the members of two (2) other condominium associations shall have equal access and use of the premises covered by said Recreational Area Lease between REDFEARN SHERBROOKE VILLAS EAST CONDOMINIUM ASSOCIATION, INC., as Lessee, and REDFEARN SHERBROOKE CORP., as Lessor.

The recreational facilities located upon the above described parcel are leased to the Association, The Atlantis Sherbrooke Villas East Condominium Association, Inc. and said facilities and said parcel are not a part of the condominium property. That only by said lease are condominium unit owners in The Atlantis Sherbrooke Villas East given the right, privilege, access, and use of said recreational facilities, including the swimming pool, social hall, buildings and other improvements now or hereafter located thereon; and each condominium unit owner agrees to be bound by the terms and conditions of said lease. Further, no unit owner in the condominium can transfer his condominium unit separately from the obligation of said lease as well as the benefits accruing thereunder.

Anything to the contrary contained in this Declaration of Condominium notwithstanding, no amendment to this Declaration of Condominium shall be effective or shall be implemented that will in any manner change or impair the rights or the entitlements of the Lessor under the aforesaid Recreational Area Lease between the Lessor and The Atlantis Sherbrooke Villas East Condominium Association, Inc., as Lessee, or its successor, or that will change the covenants, duties, or obligations of the Lessee under said lease without the consent of the Lessor, its successors or assigns.



Whenever any of the provisions of the said Recreational Area Lease and/or this Declaration and other Exhibits attached hereto, shall be in conflict, the provisions of the Recreational Area Lease shall be controlling, and as between the Declaration of Condominium and other Exhibits attached hereto, excluding the Recreational Area Lease, the provisions of the Declaration of Condominium, in case of conflict, shall be controlling.

Each unit owner, his heirs, successors and assigns, shall be bound by said Recreational Area Lease, to the same extent and effect as if he had executed said Lease for the purpose therein expressed, including but not limited to:

A. Subjecting all of his right, title and interest in his Condominium parcel to the lien rights granted to the Lessor in said Recreational Area Lease.

B. Adopting, ratifying, confirming and consenting to the execution of said Recreational Area Lease by the Association.

C. Covenanting and promising to perform each and every of the covenants, promises and undertakings to be performed by unit owners in the cases provided therefor in said Recreational Area Lease.

D. Ratifying, confirming and approving each and every provision of said Recreational Area Lease, and acknowledging that all of the terms and provisions thereof are reasonable, including the rent thereunder.

E. It is specifically recognized that some or all of the persons comprising the original Board of Directors and Officers of the Association are or may be Lessors under said Recreational Area Lease, or where the Lessor is a Corporation, are or may be stockholders, officers and directors of said Corporation, or beneficiaries of the Lessor entity, and that such circumstance shall not and cannot be construed or considered as a breach of their duties and obligations to the Association, nor as possible grounds to invalidate such Recreational Area Lease, in whole or in part.

F. Agreeing that the persons acting as Directors and Officers of the Association entering into such Lease Agreement have not breached any of their duties or obligations to the Association.

G. The acts of the Board of Directors and Officers of the Association in acquiring the non-exclusive leasehold interest under said Recreational Area Lease, be and the same is hereby ratified, approved, confirmed and adopted.

X

#### MAINTENANCE, ALTERATION AND IMPROVEMENT

Responsibility for the maintenance of the condominium property and restrictions upon its alteration and improvement, shall be as follows:

10.1. The Association shall be responsible for the maintenance, repair and replacement of the common elements and of the

premises covered under the long-term Recreational Area Lease, copy of which is attached as Exhibit No. 5, and all portions of the condominium property not required to be maintained, repaired or replaced by the unit owner(s).

10.2. The responsibility of each condominium unit owner shall be as follows:

(a) To maintain, repair and replace at his expense all portions of his apartment (unit) and to maintain and repair the fixtures and equipment therein, which includes, but is not limited to, the following: air conditioning and heating units, including the air conditioning condenser unit which may be outside a unit; refrigerators, stoves, fans, hot-water heaters, garbage disposals, and all other appliances, drains, plumbing fixtures and connections, sinks, all plumbing and water-lines within the unit, electric panels, electric wiring and electric outlets and fixtures within the unit, interior doors, exterior doors, sliding glass doors including the operating mechanism, windows, screening and glass, replacement of lights on entryway, terrace or balcony, and electric wiring therefor, and payment for utilities furnished a unit - i.e., electric, water, sewerage and telephone.

(b) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of a unit or building or any portion of the common elements, or any portion of the limited common elements.

(c) To maintain, repair and replace portions of the limited common elements as provided in Article XI(a) hereinafter.

10.3. There shall be no alteration nor further improvement of the real property constituting the common elements and limited common elements without prior approval in writing by the owners of not less than 75% of the common elements except as may be provided by the By-laws. Any such alteration or improvement shall not interfere with the rights of any unit owners without their consent. The cost of such work shall not be assessed against an Institutional Mortgagee that acquired its title as the result of owning a mortgage upon the unit owned, unless such unit owner shall approve the alteration or improvement, and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings. The share of any cost not so assessed shall be assessed to the other unit owners in the shares that their shares in the common elements bear each to the other. There shall be no change in the shares and rights of a unit owner in the common elements altered or further improved, whether or not the unit owner contributes to the cost of such alteration or improvements.

## XI

### LIMITED COMMON ELEMENTS

11.1. Those areas reserved for the use of a certain unit or the owners of a certain unit, to the exclusion of other unit owners, are designated as "limited common elements", and are shown and located on the Surveys annexed hereto as "Exhibit No. 2". Any expense for the maintenance, repair or replacement relating to limited common elements shall be treated as and paid for as part

of the common expense of the Association except as hereinafter provided.

(a) Should said maintenance, repair or replacement be caused by the negligence of, or misuse by, a unit owner, his family, guest, servants and invitees, he shall be responsible therefor, and the Association shall have the right to levy an assessment against the owner of the unit, which said assessment shall have the same force and effect as all other special assessments.

## XII

### ASSESSMENTS

The making and collection of assessments against unit owners for common expenses shall be pursuant to this Declaration, the Articles of Incorporation of this Association, the By-laws of this Association, and Exhibits attached hereto, and subject to the following provisions:

12.1. Share of common expense. Each unit owner shall be liable for a proportionate share of the common expenses, and shall share in the common surplus, such shares being the same as the undivided share in the common elements and limited common elements appurtenant to the condominium unit owned by him.

12.2. Interest; application of payments. Assessments and installments on such assessments paid on or before 15 days after the date when due shall not bear interest, but all sums not paid on or before fifteen days after the date when due shall bear interest at the rate of six per cent per annum from the date when due until paid. All payments upon account shall be first applied to interest and then to the assessment payment first due.

12.3. The Association shall have a lien on each unit for unpaid assessments. The lien for unpaid assessments shall also secure interest and reasonable attorneys' fees incurred by the Association incident to the collection of such assessment or enforcement of such lien.

12.4. Where the Mortgagee of an Institutional First Mortgage of record, or other purchaser of a condominium unit, obtains title to a condominium parcel as a result of foreclosure of the Institutional First Mortgage, or when an Institutional First Mortgagee of record accepts a Deed to said condominium parcel in lieu of foreclosure, such acquirer of title, its successors and assigns, shall not be liable for the share of common expenses or assessment by the Association pertaining to such condominium parcel, or chargeable to the former unit owner of such parcel, which became due prior to acquisition of title as a result of the foreclosure or the acceptance of such Deed in lieu of foreclosure. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners, including such acquirer, his successors and assigns.

Any person who acquires an interest in a unit, except through foreclosure of an Institutional First Mortgage of record, as specifically provided in the Paragraph immediately preceding, including without limitation, persons acquiring title by operation of law, including purchasers at judicial sales, shall not be entitled to occupancy of the unit or enjoyment of the common

elements until such time as all unpaid assessments due and owing by the former unit owners have been paid.

12.5. Anything herein or in the By-Laws to the contrary notwithstanding with respect to any units which have not been sold by the Developer and which the Developer continues to own, the Developer shall not be required to pay to the Association any portion of the common expenses in respect of those units which have not been sold by the Developer for a period of 12 months from the date the Declaration of Condominium was recorded in the Public Records, provided, however, the Developer shall be obligated to pay any amount of common expenses incurred during that period and not produced by the assessments at the guaranteed level receivable from other unit owners.

### XIII

#### INSURANCE

The insurance that shall be carried upon the condominium property and the property of the unit owners shall be governed by the following provisions:

13.1. Authority to purchase: named insured. All insurance policies upon the condominium property shall be purchased by the Association. The named insured shall be the Association, individually and as agent for the unit owners, without naming them, and as agent for their mortgagees. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of unit owners. Such policies shall provide that payments by the insurer for losses shall be made to the Insurance Trustee designated below, and all policies and their endorsements shall be deposited with the Insurance Trustee. Unit owners may obtain coverage at their own expense upon their personal property and for their personal liability and living expense.

#### 13.2. Coverage.

(a) Casualty. All buildings and insurable improvements upon the land shall be insured in an amount not less than full replacement value, and all personal property included in the common elements shall be insured for its value, all as determined annually by the Board of Directors of the Association. Such coverage shall afford protection against:

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

(2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including but not limited to, vandalism and malicious mischief.

(b) Public liability in such amounts and with such coverage as shall be required by the Board of Directors of the Association, and with cross liability endorsement to cover liabilities of the unit owners as a group to a unit owner, if available.

(c) Workmen's Compensation policy to meet the requirements of law.

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

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

13.4. Insurance Trustee; shares of proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, and the unit owners and their mortgagees as their interest may appear, and shall provide that all proceeds covering property losses shall be paid to First Marine National Bank and Trust Company of Lake Worth, as Trustee, or to such other bank in Florida with trust powers as may be designated as insurance trustee by the Board of Directors of the Association, which said trustee is referred to in this instrument as the Insurance Trustee. 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 sole duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this instrument and for the benefit of the unit owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee:

(a) Common elements. Proceeds on account of damage to common elements - an undivided share for each unit owner, such share being the same as the undivided share in the common elements appurtenant to his unit.

(b) Units. Proceeds on account of damage to units shall be held in the following undivided shares:

(1) When the units are to be restored - for the owners of damaged units in proportion to the cost of repairing the damage suffered by each unit owner, which cost shall be determined by the Association.

(2) When the units are not to be restored - an undivided share for each unit owner, such share being the same as the undivided share in the common elements appurtenant to his unit.

(c) Mortgagees. In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interest may appear; provided, however, that 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.

13.5. Distribution of proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

(a) Expense of the trust. All expenses of the Insurance Trustee shall be paid first or provision made for such payment.

(b) Reconstruction or repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost of such as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.

(c) Failure to reconstruct or repair. If it is determined in the manner elsewhere provided that the damage for which proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.

(d) Certificate. In making distribution to unit owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to the names of the unit owners and their respective shares of the distribution.

13.6. Association as agent. The Association is irrevocably appointed agent 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.

#### XIV

#### RECONSTRUCTION OR REPAIR AFTER CASUALTY

14.1. Determination to reconstruct or repair. If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

(a) Common element. If the damaged improvement is a common element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium shall be terminated.

(b) Apartment Unit.

(1) Lesser Damage. If units to which 50% of the common elements are appurtenant are found by the Board of Directors of the Association to be tenantable, the damaged property shall be reconstructed or repaired unless within 60 days after the casualty it is determined by agreement in the manner elsewhere provided that the condominium shall be terminated.

(2) Major Damage. If units to which more than 50% of the common elements are appurtenant are found by the Board of Directors to be not tenantable, then the damaged property will not be reconstructed or repaired and the condominium will be terminated without agreement as elsewhere provided, unless within 60 days after the casualty the owners of 75% of the common elements agree in writing to such reconstruction or repair.

(c) Certificate. The Insurance Trustee 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.

14.2. Plans and Specification. Any reconstruction or repair must be substantially in accordance with the Plans and Specification for the original buildings, or if not, then according to Plans and Specifications approved by the Board of Directors of the Association, and if there is major damage, by the owners of not less than 75% of the common elements, including the owners of all damaged units, which approval shall not be unreasonably withheld.

14.3. Responsibility. If the damage is only to those parts of one unit for which the responsibility of maintenance and repair is that of the unit owner, then the unit owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of the reconstruction and repair after casualty shall be that of the Association.

14.4. Estimates of costs. Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility or reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

14.5. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair 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 who own the damaged units, and against all unit owners in the case of damage to common elements, in sufficient amounts to provide funds for the payment of such costs. Such assessments against unit owners for damage to units shall be in proportion to the cost of reconstruction and repair of their respective units. Such assessments on account of damage to common elements shall be in proportion to the owner's share in the common elements.

14.6. Construction funds. The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from assessments against unit owners, shall be disbursed in payment of such costs in the following manner:

(a) Association. If the total of assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair that is the responsibility of the Association is more than \$20,000.00, then the sums paid upon such assessments shall be deposited by the Association with the Insurance Trustee. In all other cases the Association shall hold the sums paid upon such assessments and disburse them in payment of the costs of reconstruction and repair.

(b) Insurance Trustee. The proceeds of insurance collected on account of a casualty, and the sums deposited with the Insurance Trustee by the Association from collections of assessments against 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:

(1) Association - lesser damage. If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is less than \$20,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request to the Insurance Trustee by a Mortgagee that 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 for the reconstruction and repair of major damage.

(2) Association - major damage. If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is more than \$20,000.00, then the construction fund shall be disbursed in payment of such costs

in the manner required by the Board of Directors of the Association and upon approval of an architect qualified to practice in Florida and employed by the Association to supervise the work.

(3) Unit Owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with a unit owner shall be paid by the Insurance Trustee to the unit owner, or if there is a mortgagee endorsement as to the unit, then to the unit owner and the mortgagee jointly, who may use such proceeds as they may be advised.

(4) Surplus. It shall be presumed that the first monies distributed in payment of costs or reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated, except, however, that the part of a distribution to a beneficial owner that is not in excess of assessments paid by such owner into the construction fund shall not be made payable to any mortgagee.

(5) Certificate. Notwithstanding the provisions of this instrument, the Insurance Trustee shall not be required to determine whether or not sums paid by the 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 upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid. Instead the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to any or all of such matters and stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; providing that when a mortgagee is required in this instrument to be named as payee, the Insurance Trustee shall also name the mortgagee as a payee of any distribution of insurance proceeds to a unit owner; and further provided that when the Association or a mortgagee that is the beneficiary of an insurance policy whose proceeds are included in the construction fund, so requires, the approval of an architect named by the Association shall first be obtained by the Association upon disbursements in payment of costs of reconstruction and repair.

XV

MAINTENANCE OF COMMUNITY INTERESTS

In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the units, the transfer of units by any owner, other than the Developer, shall be subject to the following provisions as long as the condominium exists upon the land, which provisions each unit owner covenants to observe:

15.1. Transfers subject to approval.

(a) Sale. No unit owner may dispose of a unit or any interest in a unit by sale without approval of the Association except to a unit owner.

(b) Lease. No unit owner may dispose of a unit or any interest in a unit by lease without approval of the Association except to a unit owner.



(c) Gift. If any unit owner shall acquire his title by gift, the continuance of his ownership of his unit shall be subject to the approval of the Association.

(d) Devise or inheritance. If any unit owner shall acquire his title by devise or inheritance, the continuance of his ownership of his unit shall be subject to the approval of the Association.

(e) Other transfers. If any unit owner shall acquire his title by any manner not considered in the foregoing subsections, the continuance of his ownership of his unit shall be subject to the approval of the Association.

15.2. Approval by Association. The approval of the Association that is required for the transfer or ownership of units shall be obtained in the following manner:

(a) Notice to Association.

(1) Sale. A unit owner intending to make a bona fide sale of his unit or any interest in it shall give to the Association notice of such intention, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonably require. Such notice at the unit owner's option may include a demand by the unit owner that the Association furnish a purchaser of the unit if the proposed purchaser is not approved; and if such notice shall be accompanied by an executed copy of the proposed contract to sell.

(2) Lease. A unit owner intending to make a bona fide lease of his unit or any interest in it shall give to the Association notice of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Association may reasonably require and an executed copy of the proposed lease.

(3) Gift; devise or inheritance; other transfers. A unit owner who has obtained his title by gift, devise or inheritance, or by any other manner not previously considered, shall give to the association notice of the acquiring of his title, together with such information concerning the unit owner as the Association may reasonably require, and a certified copy of the instrument evidencing the owner's title.

(4) Failure to give notice. If the above required notice to the Association is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a unit, the Association at its election and without notice may approve or disapprove the transaction or ownership. If the Association disapproves the transaction or ownership, the Association shall proceed as if it had received the required notice on the date of such disapproval.

(b) Certificate of Approval.

(1) Sale. If the proposed transaction is a sale, then within thirty (30) days after receipt of such notice and information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the President and Secretary of the Association in recordable form.

(2) Lease. If the proposed transaction is a lease, then within thirty (30) days after receipt of such notice and information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the President and Secretary of the Association in recordable form.

(3) Gift; devise or inheritance; other transfers. If the unit owner giving notice has acquired his title by gift, devise or inheritance or in any other manner, then within thirty (30) days after receipt of such notice and information the Association must either approve or disapprove the continuance of the unit owner's ownership of his unit. If approved, the approval shall be stated in a certificate executed by the President and Secretary of the Association in recordable form.

(c) Approval of corporate owner or purchaser. Inasmuch as the condominium may be used only for residential purposes and a corporation cannot occupy a unit for such use, if the unit owner or purchaser of a unit is a corporation, the approval of ownership by the corporation may be conditioned by requiring that all persons occupying the unit be approved by the Association.

15.3. Disapproval by Association. If the Association shall disapprove a sale, lease, gift or inheritance, or other transfer of a unit, the matter shall be disposed in the following manner:

(a) Sale. If the proposed transaction is a sale and if the notice of sale given by the unit owner shall so demand, then within thirty (30) days after receipt of such notice and information the Association shall deliver or mail by registered mail to the unit owner an agreement to purchase the unit concerned by a purchaser approved by the Association who will purchase and to whom the unit owner must sell the unit upon the following terms:

(1) At the option of the purchaser to be stated in the agreement, the price to be paid shall be that as stated in the disapproved contract to sell or shall be the fair market value determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisal of the unit, and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(2) The purchase price shall be paid in cash.

(3) The sale shall be closed within thirty (30) days after the delivery or mailing of the agreement to purchase, or within ten (10) days after the determination of the sale price if such is by arbitration, whichever is the later.

(4) A certificate of the Association executed by its President and Secretary, in recordable form, and approving the purchaser shall be delivered to the purchaser.

(5) If the Association shall fail to provide a purchaser upon the demand of the unit owner in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided.

(b) Lease. If the proposed transaction is a lease, the unit owner shall be advised of the disapproval in writing, and the lease shall not be made.

(c) Gifts; devise or inheritance; other transfers. If the unit owner giving notice has acquired his title by gift, devise, or inheritance, or in any other manner, then within thirty (30) days after receipt from the unit owner of the notice and information to be furnished, the Association shall deliver or mail by registered mail to the unit owner an agreement to purchase the unit concerned by a purchaser approved by the Association who will purchase and to whom the unit owner must sell the unit upon the following terms:

(1) The sale price shall be the fair market value determined by agreement between the seller and the purchaser within thirty (30) days from the delivery or mailing of such agreement. In the absence of agreement as to price, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the unit, and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(2) The purchase price shall be paid in cash.

(3) The sale shall be closed within ten (10) days following the determination of the sale price.

(4) A certificate of the Association executed by its President and Secretary in recordable form and approving the purchaser shall be delivered to the purchaser.

(5) If the Association shall fail to provide a purchaser as required by this instrument, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval such ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided.

15.4. Mortgage. No unit owner may mortgage his unit nor any interest in it without the approval of the Association except to an Institutional Mortgagee or to a vendor to secure a portion of all of the purchase price. The approval of any other mortgagee may be upon conditions determined by the Association or may be arbitrarily withheld.

15.5 Exceptions. The foregoing provisions of this section entitled "Maintenance of Community Interests" shall not apply to a transfer to or purchase by an Institutional Mortgagee that acquires its title as the result of owning a mortgage upon the unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor, his successors or assigns, or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale, or lease by an Institutional Mortgagee that so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to a unit at a duly advertised public sale with open bidding provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale.

15.6 Unauthorized transaction. Any sale, mortgage or lease not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

COMPLIANCE AND DEFAULT

Each unit owner shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation and By-Laws and the Rules and Regulations adopted pursuant to those documents, and all of such as they may be amended from time to time. Failure of a unit owner to comply with such documents and regulations shall entitle the Association or other unit owners to the following relief in addition to the remedies provided by the Condominium Act:

16.1. Negligence. A unit owner shall be liable for the expense of any maintenance, repair or replacement rendered 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 that such expense is not met by the proceeds of insurance carried by the Association. A unit owner shall pay the Association the amount of any increase in its insurance premiums occasioned by use, misuse, occupancy, or abandonment of a unit or its appurtenances, or of the common elements, by the unit owner.

16.2. Costs and attorneys' fees. In any proceeding arising because of an alleged failure of a unit owner or the Association to comply with the terms of the Declaration, Articles of Incorporation of the Association, the By-laws of the Association, or the Rules and Regulations adopted pursuant to them, and the documents and Rules and Regulations as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the Court.

16.3. No waiver of rights. The failure of the Association or any unit owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation of the Association, the By-laws of the Association or the Rules and Regulations shall not constitute a waiver of the right to do so thereafter.

AMENDMENTS

Except as elsewhere provided otherwise, this Declaration of Condominium may be amended in the following manner:

17.1. Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

17.2. A resolution for the adoption of a proposed amendment may be proposed by either the Board of Directors of the Association or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

(a) Not less than 75% of the entire membership of the Board of Directors and by not less than 75% of the votes of the entire membership of the Association; or

(b) Not less than 80% of the votes of the entire membership of the Association.

(c) The provisions of paragraph 19.4 of Article XIV of the Declaration may be used for certain amendments, as set forth in said paragraph.

17.3. Proviso. Provided, however, that no amendment shall discriminate against any unit owner nor against any unit or group of units, unless the unit owners so affected shall consent; and no amendment shall change any unit nor the share in the common elements appurtenant to it, nor increase the owners' share of the common expenses, unless the record owner of the unit concerned and all record owners of mortgages on such units shall join in the execution of the amendment. Neither shall an amendment make any change in Article XIII, "Insurance", or in Article XIV, "Reconstruction or Repair After Casualty", or in sub-article 10.3 of Article X, "Maintenance, Alteration and Improvement", or in sub-article 12.5 of Article XII, "Assessments", or in sub-article 15.5 of Article XV, "Maintenance of Community Interests", or in this sub-article 17.3 of this Article XVII, "Amendments", unless the record owners of all mortgages upon the condominium shall join in the execution of the amendment. No amendment shall change sub-article 12.5 of Article XII, "Assessments", unless the Developer shall join in the execution of the amendment. No amendment shall change Article IX, Long Term Recreational Lease, that will change or impair the rights and entitlements of the Lessor under said lease or change the covenants, duties, or obligations of the Lessee without the consent of the Lessor, its successors or assigns.

17.4. Execution and recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with the formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded in the public records of Palm Beach County Florida.

#### XVIII

#### TERMINATION

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

18.1. Destruction. If it is determined in the manner elsewhere provided that the units shall not be reconstructed because of major damage, the condominium plan of ownership will be terminated without agreement.

18.2. Agreement. The condominium may be terminated at any time by the approval in writing of all record owners of units and all record owners of mortgages on units. If the proposed termination is submitted to a meeting of the members of the Association, the notice of the meeting giving notice of the proposed termination, and if the approval of the owners of not less than 75% of the common elements, and of the record owners of all mortgages upon the units, are obtained in writing not later than thirty (30) days from the date of such meeting, then the approving owners shall have an option to buy all of the units of the other owners for the period ending on the 60th day from the date of such meeting. Such approvals shall be irrevocable until the expiration of the option, and if the option is exercised, the approvals shall be irrevocable. The option shall be upon the following terms:

(a) Exercise of option. The option shall be exercised by delivery or mailing by registered mail to each of the

record owners of the units to be purchased an agreement to purchase signed by the record owners of the units who will participate in the purchase. Such agreement shall indicate which units will be purchased by each participating owner and shall require the purchase of all units owned by owners not approving the termination but the agreement shall effect a separate contract between each seller and his purchaser.

(b) Price. The sale price for each unit shall be the fair market value determined by agreement between the seller and purchaser within thirty (30) days from the delivery or mailing of such agreement, and in the absence of agreement as to price it shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(c) Payment. The purchase price shall be paid in cash.

(d) Closing. The sale shall be closed within ten (10) days following the determination of the sale price.

18.3. Certificate. The termination of the condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to all facts effecting the termination, which certificate shall become effective upon being recorded in the public records of Palm Beach County, Florida.

18.4. Shares of owners after termination. After termination of the condominium the unit owners shall own the condominium property and all assets of the Association as tenants in common in undivided shares that shall be the same as the undivided shares in the common elements appurtenant to the owners' units prior to the termination.

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

#### XIX

#### MISCELLANEOUS

19.1. Covenants running with the Land: All provisions of the condominium documents shall be construed to be covenants running with the land and with every part thereof and interest therein including but not limited to every unit and the appurtenances thereto; and every unit owner and claimant of the property or any part thereof or interest therein, and his heirs, executors, administrators, successors and assigns shall be bound by all of the provisions of the condominium documents.

19.2. The owners of the respective condominium units shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding their respective condominium units, nor shall the unit owner be deemed to own pipes, wires, conduits or other public utility lines running through said respective condominium units which are utilized for or serve more than one condominium unit, which items are, by these presents, hereby made a part of the common elements.

Said unit owner, however, shall be deemed to own the walls and partitions which are contained in said unit owner's condominium unit, and shall also be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floors, and ceilings, including plaster, paint, wallpaper, etc.

19.3. The owners of the respective condominium units agree that if any portion of a condominium unit or common element or limited common element encroaches upon another, a valid easement for the encroachment and maintenance of same, so long as it stands, shall and does exist. In the event a Condominium building or building is partially or totally destroyed and then rebuilt, the owners of the condominium parcels agree that encroachments on parts of the common elements or limited common elements or condominium units, as aforescribed, due to construction, shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist.

19.4. The provisions of Paragraph 17.2, Article XVII above to the contrary notwithstanding, if it shall appear that through scrivener's error all of the common expenses or interest in the common surplus or all of the common elements in this Condominium have not been distributed in this Declaration, such that the sum total of the shares of common elements which have been distributed or the sum total of the shares of the common expenses or ownership of common surplus fails to equal 100%; or, if it shall appear that through such error more than 100% of the common elements or common expenses, ownership of the common surplus shall have been distributed; or if it shall appear that through scrivener's error a unit has not been designated an appropriate undivided share of the common elements, common expense or common surplus; or if it appears that there is an omission or error in this Declaration of Condominium or in any other Condominium documents required by law to establish this Condominium, the Condominium Association may correct the error and/or omission by an amendment to this Declaration and/or the other documents by simple resolution of the Board of Directors of the Condominium Association (Board of Administration) approved by a majority of the whole number of directors, or by a majority vote of the unit owners voting at a meeting of unit owners (members of the Association) called at least in part for the purpose, at which a quorum is present. If such an amendment, considered and approved pursuant to this paragraph, materially adversely affects property rights of unit owners, the unit owners whose property rights are so materially adversely affected must consent to the amendment in writing for the amendment to become effective. If the amendment, considered and approved pursuant to this paragraph, modifies the shares of common expense, common elements or common surplus appurtenant to one or more units, then the owners of the units and the owners of liens upon the units for which changes in the shares of common elements or common expense or common surplus are being made must consent in writing to such amendment for such amendment to be effective. For the purpose of this paragraph, no unit owner's property rights shall be deemed to be materially adversely affected nor shall his share of the common elements, common expense or common surplus be deemed modified for reason of the modification of the shares of common expense, common elements or common surplus be deemed modified for reason of the modification of the shares of common expense, common elements or common surplus appurtenant or attributable to another unit.

19.5. Whenever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the singular shall include the plural, and plural shall include the singular. The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a condominium.

19.6. The captions used in this Declaration of Condominium and Exhibits annexed hereto, are inserted solely as a matter of convenience and shall not be relied upon and/or used in construing the effect or meaning of any of the text of this Declaration or Exhibits hereto annexed.

19.7. Where an Institutional First Mortgage, by some circumstance, fails to be a first Mortgage, but it is evident that it is intended to be a First Mortgage, it shall, nevertheless, for the purpose of this Declaration and Exhibits annexed, be deemed to be an Institutional First Mortgage.

19.8. Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration of Condominium and the Articles of Incorporation of this Association, the By-laws of the Association, and Rules and Regulations of the Association shall not affect the validity of the remaining portions.

19.9. The Developer specifically disclaims any intent to have made any warranty or representation in connection with the property or the condominium documents, except as specifically set forth therein, and no person shall rely upon any warranty or representation not so specifically made therein. Any estimates of common expenses, taxes, or other charges are deemed accurate, but no warranty or guaranty is made or intended, nor may one be relied upon, except where same is specifically warranted or guaranteed.

IN WITNESS WHEREOF, the Developer has executed this Declaration the day and year first above written.

Signed, sealed and delivered  
in the presence of:

Joanne C. Gronck

Patricia Ramseyer

REDFEARN SHERBROOKE CORP.

BY [Signature]  
As President

Attest:

[Signature]  
As Asst. Secretary





STATE OF FLORIDA )  
 ) SS.  
COUNTY OF PALM BEACH )

I HEREBY CERTIFY that on this day, before me, an officer  
duly authorized in the State and County aforesaid to take acknow-  
ledgments, personally appeared

ELLISON H. REDFEARN, JR. and LINDA DARLENE MAFFEO  
Asst.  
well known to me to be the President and Secretary, respectively,  
of REDFEARN SHERBROOKE CORP., a Florida corporation, and that they  
severally acknowledged executing the same in the presence of two  
subscribing witnesses freely and voluntarily under authority duly  
vested in them by said corporation and that the seal affixed there-  
to is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State  
last aforesaid this 22nd day of October, A. D. 1976.

Joanne Carlton  
Notary Public

My commission expires:

NOVARY 30 1977  
BY COMMISSION EXPIRES NOVEMBER 15, 1977  
BOULEVARD BY AMERICAN BANKERS INSURANCE CO.

