

**EXHIBIT #1**

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**DECLARATION OF CONDOMINIUM  
OF  
SUN LAKE CONDOMINIUM**

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**DECLARATION OF CONDOMINIUM**  
**OF**  
**SUN LAKE CONDOMINIUM**

GEORGE CHEN, as Successor Trustee under Trust Agreement dated September 15, 1988, and not individually, hereinafter called "Developer", for itself, its successors, grantees, and assigns, being the owner of the fee simple title to the real property in Osceola County, Florida, more particularly described in Section 2.2 herein, (hereinafter referred to as the "Land"), hereby submits the Land and the improvements thereon in fee simple to condominium ownership pursuant to the provisions of Chapter 718, Florida Statutes, hereinafter referred to as the "Condominium Act", in existence as of the date of the recording of this Declaration in the Public Records of Osceola County, Florida, upon the terms, conditions, restrictions, reservations and limitations hereinafter set forth.

NOW THEREFORE, the Developer makes the following declarations:

**ARTICLE 1: DEFINITIONS**

As used herein, in the exhibits attached hereto, and in all amendments hereto, unless the context requires otherwise:

1.1     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.

1.2     Association - means Sun Lake Condominium Association, Inc., a Florida corporation, not for profit, which is the entity responsible for the operation of this Condominium. A copy of the Articles of Incorporation of the Association are attached hereto as **Exhibit A**

1.3     Board of Directors - means the representative body responsible for the management of the property and business of the Association.

1.4     Bylaws - means the Bylaws of the Association which are attached hereto as **Exhibit B**, as they may be amended from time to time.

1.5     Common Elements - means the portions of the Condominium Property (including the tangible personal property required for the maintenance and operation of the Condominium Property) not included in the Units.

1.6     Common Expenses - means all expenses and assessments properly incurred by the Association for the Condominium and includes, but is not limited to: the expenses of administration and maintenance, operation, repair and replacement of the Common Elements and of the portions of Units to be maintained by the Association; taxes, special assessments and insurance for the Common Elements; other expenses declared to be common expenses herein and in the Bylaws; and any other valid charge against the Condominium as a whole.

1.7 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.

1.8 Community Systems - means any and all cable television, telecommunication, internet access, security or other lines, conduits, wires, amplifiers, towers, antennae equipment, materials, installations and fixtures (including those based on, containing or serving future technological advances not now known) installed by Developer or the Association or pursuant to any grant of easement or authority by Developer or the Association within the Condominium Property and serving more than one Unit.

1.9 Condominium - means all of the Condominium Property as a whole when the context so permits, as well as that form of ownership of real property which is comprised of Units that may be owned by one or more persons or entities, and in which there is appurtenant to each Unit an undivided share in the Common Elements and Common Surplus.

1.10 Condominium Act - means Chapter 718, Florida Statutes, in existence as of the date of the recording of this Declaration in the Public Records of Osceola County, Florida, and as the Condominium Act may be amended from time to time.

1.11 Condominium Documents - means this Declaration, the Articles of Incorporation of the Association, the Bylaws of the Association, all as they may be amended from time to time, and any rules or regulations adopted by the Association.

1.12 Condominium Parcel - means a Unit, together with any Limited Common Elements appurtenant thereto and the undivided share in the Common Elements and Common Surplus which is appurtenant to the Unit.

1.13 Condominium Property - means and includes the lands, and personal property that are subject to condominium ownership, whether or not contiguous, all improvements thereon, and all easements and rights appurtenant thereto intended for use in connection with the Condominium.

1.14 Declaration or Declaration of Condominium - means this Declaration of Condominium, as it may from time to time be amended.

1.15 Developer - means GEORGE CHEN, as Successor Trustee under Trust Agreement dated September 15, 1988, but not individually, its successors and assigns, and whoever offers for sale Condominium Parcels created herein in the ordinary course of business; except the term shall not include the owners of Units who have not acquired all the right, title and interest of Developer, in the Condominium Property.

1.16 Institutional Mortgagee - means a bank, bank holding company, or subsidiary thereof, savings and loan association, insurance company, union pension fund, mortgage company, agency of the United States Government and each successor, grantee or assign holding a first mortgage of public record on a Condominium Parcel or on any portion of the Condominium



Property, or a vendor of a Condominium Parcel holding a purchase money first mortgage of record on a Condominium Parcel.

1.17 Land - means the real property in Osceola County, Florida, submitted to condominium ownership and is more particularly described in Section 2.2.

~~1.18 Limited Common Elements - means those Elements of the Condominium Property which are reserved for the use of a certain Unit to the exclusion of other Units.~~

1.19 Master Association - means Formosa Gardens Master Property Owners' Association, Inc., a Florida corporation not-for-profit

1.20 Master Declaration - means that Master Declaration of Easements, Covenants, Conditions and Restrictions for Formosa Gardens recorded in Official Records Book 1037, page 1864, Public Records of Osceola County, Florida, and all amendments and supplements thereto.

1.21 Special Assessment - means a share of the funds required for payment of Common Expenses which are unbudgeted or for which insufficient provision is made in the budget, occasioned by unforeseeable and infortuitous events, which from time to time may be assessed against the Unit Owners.

1.22 Unit - means a part of the Condominium Property which is subject to private ownership, as designated on the exhibits attached to this Declaration.

1.23 Unit Owner - means the owner of a Condominium Parcel.

## ARTICLE 2: STATEMENT OF DEDICATION

The purpose of this Declaration is to submit the Land and the improvements thereon to the condominium form of ownership and use in the manner provided in the Condominium Act. Except where variances permitted by law appear in this Declaration, in the exhibits attached hereto, or in lawful amendments to any of them, the provisions of the Condominium Act, as constituted on the date of the recording of this Declaration in the Public Records of Osceola County, Florida, including the definitions therein contained, are adopted and included herein by express reference. All restrictions, reservations, covenants, conditions and easements contained herein shall constitute covenants running with the land or equitable servitudes upon the Land, as the case may be, and shall rule perpetually unless terminated as provided herein, and shall be binding upon all Unit Owners. In consideration of receiving and by acceptance of a grant, devise or mortgage, all grantees, devisees or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions hereof, and all exhibits hereto. Both the burdens imposed and the benefits provided shall run with each unit and the interests in common property appurtenant thereto, as defined herein.

2.1 Name. The name by which this Condominium is known and identified is SUN LAKE CONDOMINIUM.

2.2 The Land. The legal description of the Land, which is hereby being submitted to condominium ownership, is as follows:

Lot 2, FORMOSA GARDENS REPLAT, as recorded in Plat Book 8, Pages 85, 86 and 87, of the Public Records of Osceola County, Florida, less that portion known as Silk Road.

2.3 Master Declaration. This Declaration supplements the Master Declaration. The Master Declaration is incorporated herein by reference; and the Condominium Property is hereby declared subject to all provisions of the Master Declaration. Unless the conflicting provision of this Declaration specifically states that it controls notwithstanding other contrary or conflicting provisions, the provisions of the Master Declaration shall control over conflicting, contradictory, or inconsistent provisions of this Declaration. To the extent possible, the provisions of the Declaration are to be interpreted consistently with the Master Declaration. Except where the particular provision or the context require otherwise, the Condominium Property and the Units shall be deemed "Property" and "Property Units", respectively, within the meaning of the Master Declaration. The Association shall be deemed a "Community Association" under the Master Declaration. As prescribed in the Master Declaration, the Assessment shall also include assessments levied by the Master Association, the collection of which is the Association's responsibility. The Association shall collect and remit to the Master Association all such assessments. The Association shall faithfully and timely perform all functions and fulfill all duties and obligations of a Community Association under the Master Declaration. The Master Association shall be entitled to compel the Association's performance hereunder and under the Master Declaration by injunction or otherwise, to enforce against the Association the provisions hereof and of the Master Declaration by one or more of all available remedies at law or in equity.

### ARTICLE 3: SURVEY, SITE PLAN AND IMPROVEMENTS

Attached hereto as **Exhibit C** is the survey of the Land, graphic descriptions of the improvements in which Units are located, a Plot Plan locating the Common Elements, Limited Common Elements, floor plans and cross sections for the Units in the Condominium, all of which were recorded with the Declaration.

3.1 Surveyor's Certificate. Attached hereto as part of **Exhibit C** and incorporated herein by reference is a copy of the original certificate of a surveyor authorized to practice in Florida, which was recorded with the Declaration. The certificate certified that the construction of the improvements is complete so that **Exhibit C**, together with the provisions of this Declaration describing the Condominium Property, is an accurate representation of the location and dimensions of the improvements and that the identification, location and dimensions of the Common Elements and of each Unit can be determined from these materials.

## ARTICLE 4: CONDOMINIUM PROPERTY AND COMMON ELEMENTS

The condominium property consists of the Land, all easements and rights appurtenant thereto, and the buildings and other improvements constructed thereon, comprising in total the Units, common elements and limited common elements. The principal improvements on the Land consist of eleven (11) buildings in which all the residential Units are located, and a Clubhouse complex which includes one commercial unit, one play room, one administrative office, one exercise room, one office, two restrooms, one swimming pool and one tennis court. The condominium contains 113 Units, 112 residential Units and one commercial Unit.

The Common Elements as shown and located on **Exhibit C** attached hereto include within their meaning the following terms:

- 4.1 The ventilation chases, plumbing chases, and structural elements within the Units;
- 4.2 Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to Units and the Common Elements;
- 4.3 An easement of support in every portion of a Unit which contributes to the support of the building;
- 4.4 Installation for the furnishing of utility and other services to more than one Unit or to the Common Elements or to a Unit other than the Unit containing the installation;
- 4.5 The condominium property which is not included within the Units.
- 4.6 No Material Alteration to Common Elements. There shall be no material alteration or further substantial improvement of Common Elements without prior approval, in writing, by record owners of seventy-five percent (75%) of all Units. The cost of such alteration or improvement shall be a special assessment and so assessed.

## ARTICLE 5: UNITS

5.1 Designation of Units. Each Unit is designated by a letter and a number. The identification, type and location of each Unit can be established from **Exhibit C** attached hereto and incorporated herein by reference. No Unit bears the same designation as any other Unit.

5.2 Unit Boundaries. Each Unit shall have as its boundary lines:

- 5.2.1 The interior unpainted finished surfaces of the ceiling, floor and perimeter walls. All structural elements located within a Unit constitute part of the Common Elements up to the unpainted surface of the walls and columns. All doors and windows, glass or otherwise, which are in the perimeter walls of a Unit shall be deemed a part of the Unit up to the exterior unfinished surface thereof.

5.2.2 All pipes, wires, conduits and other utility lines, regardless of location, constitute part of the Common Elements, up to their outlets.

5.2.3 Any ventilation chases and plumbing chases located within a Unit are Common Elements. The boundary lines of each chase shall be the exterior unpainted surfaces thereof.

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5.3 Exteriors of Units. No change shall be made in the color of any exterior window, door, glass or screen of a Unit, or floor covering of any balcony, except with the prior written consent of the Board of Directors of the Association. No Unit Owner shall cause anything to be placed on the exterior walls or floors outside of Units, including awnings, doors and windows of the building, except with the prior written consent of the Board of Directors of the Association, subject to the rules and regulations adopted by the Board of Directors of the Association. No clothesline or similar device shall be allowed on any portion of the condominium property, nor shall clothes be hung anywhere except where designated by the Board of Directors of the Association.

5.4 Hurricane Shutters. The Board of Directors of the Association shall, from time to time, establish specifications for the installation of hurricane shutters, which may include color, style and other factors deemed relevant by the Board, all of which shall comply with Osceola County building codes. After the specifications are adopted, while the Board may require advance approval of installations, it may not refuse to approve the installation of hurricane shutters which comply with the specifications. Hurricane shutters installed by Unit Owners shall be properly maintained in working order at the Unit Owner's expense. The Board of Directors may elect to install uniform hurricane shutters on all Units, Limited Common Elements and Common Elements, as a common expense of the Association to be funded by a Special Assessment, which decision must be approved by a vote of no less than 75% of the Unit Owners. If any Unit Owner has previously installed hurricane shutters which conform to the Association's specifications for hurricane shutters, that Unit Owner shall be exempt from the said Special Assessment and thereafter, the cost of maintenance of all hurricane shutters shall be a Common Expense of the Association.

5.5 Floor Coverings. In all Units which are located above other Units, all rooms and hallways other than foyers, kitchens, and bathrooms shall be carpeted with a good quality of carpeting and padding, except hardwood flooring without carpeting may be installed on an acoustical subflooring if approved by the Board of Directors.

5.6 Alteration of Unit Interior Floor Plans. The Board of Directors of the Association shall have the right to approve or disapprove, without amendment of this Declaration, alteration of the layout of interior walls of Units, or in the water, gas, electrical, plumbing, air-conditioning equipment or utilities therein, provided that such alteration shall: (i) not result in the removal of a load bearing partition; (ii) not interfere with any common utility source; and (iii) not increase the number of Units nor alter the boundaries of the Common Elements. Prior to any alteration as set forth above, the Unit Owner shall submit to the Board of Directors of the Association complete plans and specifications for the proposed alteration, prepared by an architect or engineer licensed

to practice in the State of Florida, sealed with the seal of said architect or engineer, and which shall state that the proposed alteration, in accordance with the said plans and specifications, will not affect the structural integrity of the Condominium Property, of any adjacent Unit or of common utility lines. Approval or disapproval of the proposed alteration shall be in the Board's absolute discretion. All construction of proposed alterations shall be performed by a general contractor licensed by the State of Florida. Prior to commencement of such work, the contractor shall post a performance and completion bond showing the Association as a beneficial party entitled to the benefit of the bond in the event that the contractor fails to complete the proposed alterations in accordance with the plans and specifications prepared by the architect or engineer.

5.7 Combination of Two or More Units. The Board of Directors of the Association, by a 75% vote of the full Board of Directors and without any requirement for approval by the Unit Owners, shall have the power to permit the combination of two or more Units into one Condominium Parcel, provided that no change in the Common Elements or change in the percentage ownership as set forth in **Exhibit D** results therefrom. Following approval of such a combination by the Board, the combined Unit shall be designated by both/all of the Unit designation numbers which existed prior to the combination and shall be assessed as a single Unit for purposes of regular and special assessments, the amount of such assessments being equal to the sum of assessments as would previously have been attributable to the separate Units. The undivided percentage ownership of the Common Elements and percentage of the Common Expenses and Common Surplus attributable to such combined Unit shall be exactly equal to the sum of the undivided percentage ownership interests and percentage of the Common Expenses and Common Surplus of the previously separate Units. Such combination of multiple Units shall be subject to the express prior written approval of any parties holding mortgages encumbering any involved Unit, whether or not such mortgage holder is an Institutional Mortgagee. The Board shall record, at the Unit Owner's expense, an amendment to this Declaration, which shall contain: (i) the legal description of the Units being combined; (ii) the name(s) of the Unit Owner(s) owning each Unit; (iii) the new undivided percentage interests attributable to the combined Unit; (iv) a recitation that the combination of the Units was approved by the Board; and (v) the joinder of any mortgagee(s) holding mortgages encumbering any involved Units. The Unit Owner shall also record a Unity of Title containing the foregoing information.

## ARTICLE 6: LIMITED COMMON ELEMENTS

Those areas reserved for the use of a certain Unit to the exclusion of other Units are designated as Limited Common Elements, and are shown and located on **Exhibit C** attached hereto. The Unit Owner who has the right to the exclusive use of a Limited Common Element shall be responsible, at his cost and expense, for the maintenance, care, and preservation of the Limited Common Element, but the Association shall maintain and repair the exterior railings and stairways. The Limited Common Elements include porches, balconies, air conditioning and heating equipment, including but not limited to condensers, compressors and evaporators, located outside of the Unit, and any items listed in Section 16.2.1 of this Declaration that are located outside of the Unit.

## ARTICLE 7: EASEMENTS

The following easements appurtenant are hereby granted:

7.1 Easements for Unintentional Encroachments. Perpetual easements are granted and reserved for encroachments presently existing or which may hereafter be caused by settlement or movement of the building or minor inaccuracies in construction, which easements shall continue until such encroachments no longer exist. If any part of the Condominium Property is destroyed and then re-built, encroachments due to construction shall be permitted and a valid easement for the encroachments and the maintenance thereof shall exist.

7.2 Utility Easements. Easements are hereby granted and reserved through the Condominium Property as may be required for utility service in order to serve the Condominium adequately; provided, however, such easements through a Unit shall be only according to the plans and specifications for the Condominium building, or as the Condominium building is constructed, unless approved in writing by the Unit Owner.

7.3 Ingress and Egress. An easement is hereby granted for pedestrian and vehicular traffic over, through and across such portions of the Common Elements as may from time to time be intended and designated for such uses and purposes, for the use and benefit of the Unit Owners, their families and invitees, in obtaining ingress and egress from the Units to the abutting public way.

7.4 Roof Access. An easement is hereby granted for the Association's access to the roofs of the Condominium buildings for purposes of maintenance, repair and replacement as set forth in Article 16.

## ARTICLE 8: POSSESSION AND ENJOYMENT

8.1 Condominium Parcels. Each Condominium Parcel is a separate parcel of real property, the ownership of which shall be in fee simple. Each Condominium Parcel includes the Unit and the undivided share of the Common Elements which is appurtenant to that Unit and the interest of the Unit in the Limited Common Elements appurtenant thereto.

8.2 Appurtenances. There shall pass with each Unit as appurtenances thereto, the following:

8.2.1 An undivided share in the Common Elements;

8.2.2 An undivided share in the Common Surplus;

8.2.3 An exclusive easement for the use of air space 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, which easement shall be terminated automatically in any air space which is vacated from time to time;

- 8.2.4 Membership of each Unit Owner in the Association and the interests of each Unit in the funds and assets held by the Association;
- 8.2.5 The right to use all of the Common Elements for their intended purposes, subject to the provisions of this Declaration, the Bylaws, and such reasonable rules and regulations as may from time to time be established by the Association; but no use shall hinder or encroach upon the lawful rights of other Unit Owners;
- 8.2.6 The exclusive right to use such portion of the common elements as may be provided by this Declaration to be limited common elements appurtenant exclusively to the Unit.

## ARTICLE 9: RESTRAINT UPON SEPARATION AND PARTITION

The undivided share in the Common Elements and Limited Common Elements which is appurtenant to a Unit shall not be separated therefrom and shall pass with the title to the Unit, whether or not separately described.

9.1 A share in the Common Elements and Limited Common Elements appurtenant to a Unit may not be conveyed or encumbered, except together with the Unit.

9.2 The shares in the Common Elements and Limited Common Elements appurtenant to the Units shall remain undivided, and no action for partition of the Common Elements or Limited Common Elements shall lie.

## ARTICLE 10: PERCENTAGE OWNERSHIP; EXPENSES AND SURPLUS

The undivided share in the Common Elements appurtenant to each Unit and the percentage of sharing Common Expenses and of ownership Common Surplus attributable to each Unit is shown on **Exhibit D** attached hereto and incorporated herein by reference. The respective undivided interests as set forth in **Exhibit D** were carefully established in accordance with Florida Statutes §718.104(4)(f), and cannot be changed, altered or amended except as provided in this Restated Declaration or the Condominium Act. Each Unit Owner, by acceptance of the conveyance of the Unit from the Developer or the Developer's assignees agrees to pay his percentage share of the costs associated with the operation of the Condominium in accordance with the annual budget and any special assessments duly approved by the Association.

Any expense for the maintenance, repair or replacement relating to Common Elements shall be treated and paid for as a part of the Common Expenses of the Association. Except as provided in Article 16 and as elsewhere provided herein, any expense for the maintenance, repair or replacement relating to Common Elements shall be treated and paid for as a part of the Common Expenses of the Association. Should any maintenance, repair or replacement be made

necessary by negligence or misuse by a Unit Owner, his family, guests, employees, and licensees, the Unit Owner shall be responsible therefor, and the Association shall have the right to levy an assessment against the Unit Owner's Unit, which assessment shall have the same force and effect as all other assessments.

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## ARTICLE 11: ASSESSMENTS

11.1 Power to Fix Assessments. The Association, through its Board of Directors, shall have the power to fix and determine, from time to time, the sums necessary to provide for the Common Expenses to the extent maintained by, contracted for, or the responsibility of the Association and to pay for such sums by the assessment of maintenance fees and special assessments as may be required. The Board of Directors of the Association shall approve the annual budget for the Condominium in advance for each fiscal year, which budget shall be in the form prescribed in the Bylaws of the Association.

11.2 Liability for Assessments. A Unit Owner, regardless of how title is acquired, shall be liable for all assessments coming due while he is the owner of a Unit. In a voluntary conveyance and any conveyance by operation of law, 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 up to the time of such voluntary conveyance.

11.3 No Avoidance By Waiver of Use. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or services, or by abandonment of the Unit for which the assessment was made.

11.4 Interest on Default and Late Fee. Assessments and installments thereon, not paid when due shall bear interest from the date when due until paid at the highest rate allowed by the Florida usury laws. In the event the Unit Owner shall be more than fifteen (15) days delinquent in the payment of any assessment or fee, an administrative late fee of the greater of twenty-five dollars or five percent (5%) of the delinquent assessment or fee shall be added thereto, and the Board of Directors, at its discretion, may upon five (5) days written notice to the Unit Owner following the filing of a claim of lien for past due assessments, declare due and payable all assessments applicable to such Unit for the fiscal year of the Association in which the delinquency occurs or, if the delinquency shall occur in the last quarter of any fiscal year, for the next fiscal year of the Association.

11.5 Lien For Unpaid Assessments. The Association shall have a lien on each condominium parcel and all tangible personal property located within the parcel for the amount of any unpaid assessments, and interest thereupon, until paid. Such lien shall also include a reasonable attorney's fee incurred by the Association incident to the collection of such assessments or enforcement of such lien, including such fee in connection with any appellate proceedings arising out of any suit for collection or enforcement and further including costs of collection. Notices of claims for such liens shall be executed and recorded in the Public Records of Osceola County, Florida in the manner provided by the Condominium Act and shall relate back to the date of this Declaration, except as to Institutional Mortgagees described below in Section 11.7.



11.6 Foreclosure of Lien. Liens for assessments may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mortgage on real property, (including the appointment of a receiver for the Unit) as more fully set forth in the Condominium Act. The Association may, at any sale, bid in the sale and apply as a cash credit against its bid all sums due the Association covered by the lien being enforced.

11.7 Liability of Institutional Mortgagees. An Institutional Mortgagee holding a first mortgage lien upon a Condominium Parcel, its successors and assigns, shall be liable for the Assessments by the Association pertaining to such Condominium Parcel applicable to the time prior to the acquisition of title as a result of the foreclosure or deed or other arrangements in lieu of foreclosure, provided, however that in no event shall any Institutional Mortgagee holding a first mortgage lien be liable for more than: (i) six months' Assessments, beginning with the date thirty (30) days after the date the first mortgagee received the last payment of principal or interest; or (ii) one percent (1%) of the original mortgage debt, whichever is less. Any assessments remaining unpaid shall be deemed to be a Common Expense collectable from all of the Unit Owners, including such Institutional Mortgagee. No other type of sale or transfer shall relieve any Unit from liability for any and all Assessments due, nor from the lien of any subsequent Assessment. The written statement of the Association that the lien is subordinate to the institutional mortgage or that the Unit is not subject to the assessment shall be dispositive of any question pertaining thereto. Nothing herein shall abridge or limit the rights or responsibilities of an Institutional Mortgagee of a Unit, as set out herein or in the statutes made and provided for same.

11.8 Liability of Others. Any person who acquires an interest in a Unit, except through foreclosure of a first mortgage of record (or deed or other arrangements in lieu thereof), as specifically provided in the subparagraph immediately preceding, including, without limitation, persons acquiring title by operation of law, including purchasers at judicial sales, shall be jointly liable for all outstanding liens, delinquencies and assessments.

#### 11.9 Guarantee of Assessments.

11.9.1 The Developer shall be excused from the payment of the Developer's share of the common expenses which would have been assessed against units owned by the Developer during the period of time beginning on the date of the recording of this Declaration and ending on July 31, 2002, and during such time period, the Developer hereby guarantees to each purchaser that the assessment for common expenses of the Condominium imposed upon the Unit Owners shall not exceed the amount of \$2,167.56 per unit annually (\$180.63 per unit monthly), and 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. Notwithstanding this limitation, if the Developer-controlled Association has maintained all insurance coverages required by law, the common expenses incurred during the guarantee period resulting from a natural disaster or an act of God, which are not covered by insurance proceeds from the insurance maintained by the Association, may be

assessed against all Unit Owners owning Units on the date of such natural disaster or act of God, and their successors and assigns, including the Developer with respect to Units owned by the Developer. In the event of such an assessment, all Units shall be assessed in accordance with their ownership interest in the common elements. After the initial guarantee period, the Developer has three successive options to extend the guarantee for up to three more additional periods of one year each.

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- 11.9.2 No funds which are receivable from Unit purchasers or owners and payable to the Association or collected by the Developer on behalf of the Association, other than regular periodic assessments for common expenses as provided in this Declaration and disclosed in the initial Estimated Operating Budget, shall be used for payment of common expenses prior to the expiration of the guarantee period. This restriction applies to funds including, but not limited to, capital contributions or startup funds collected from Unit purchasers at closing.

## ARTICLE 12: TAX ASSESSMENT

For the purposes of ad-valorem taxation, the interest of the Unit Owner in a Condominium Parcel, his Condominium Unit, and the Common Elements shall be considered as a Unit. The value of the Unit shall be equal to the percentage of the value of the entire Condominium, including land and improvements, as has been assigned to the Unit as its undivided share of the Common Elements by this Declaration and no portion of the Common Elements shall be separately taxable to the Association. The total of all of the percentages equals 100% of the value of all of the Land and improvements thereon.

## ARTICLE 13: THE ASSOCIATION

The operation of the Condominium Property shall be by the Association. The Association shall have all of the powers and duties set forth in the Condominium Act, and all of the powers and duties granted to or imposed upon it by this Declaration, the Articles of Incorporation, and the Bylaws of the Association. Copies of the Articles of Incorporation and the Bylaws of the Association are attached hereto as **Exhibit A** and **Exhibit B**, respectively, and are incorporated herein by reference.

13.1 **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 the cost of maintenance and repair, caused by any latent condition of the property to be repaired and maintained by the Association or caused by the elements or other Unit Owners or persons.

13.2 **Notice of Contingent Liability.** In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the Unit Owners, the

Association shall give notice of the exposure within a reasonable time to all Unit Owners who may be exposed to the liability, and they shall have the right to intervene and defend. A copy of each insurance policy obtained by the Association shall be made available for inspection by Unit Owners at reasonable times.

### 13.3 Limitation of Owners' Liability.

13.3.1 The liability of the Unit Owner for Common Expenses shall be limited to the amounts for which he is assessed from time to time in accordance with the Declaration and exhibits.

13.3.2 The Unit Owner may be personally liable for acts or omissions of the Association in connection with the use of the Common Elements, but only to the extent of his prorata share of interest in the Common Elements, and then in no case in an amount greater than the value of his Unit. A Unit Owner shall be liable for injuries or damages resulting from an occurrence in his own Unit to the same extent and degree that the owner of a house would be liable for an occurrence within his house.

### 13.4 Control of the Association.

13.4.1 The first Board of Directors designated in the Articles of Incorporation of the Association shall hold office and exercise all power of the Board of Directors, until their successors shall be elected and qualified.

13.4.2 The Developer shall be entitled to appoint all members of the Board of Directors except for those directors that the Unit Owners other than the Developer shall be entitled to elect as set forth below. When Unit Owners other than the Developer own fifteen percent (15%) or more of the Units in the Condominium, the Unit Owners other than the Developer shall be entitled to elect no less than one third of the members of the Board of Directors of the Association. Unit Owners other than the Developer shall be entitled to elect not less than a majority of the members of the Board of Directors upon the first to occur of any of the following events:

13.4.2.1 Three years after fifty percent (50%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers;

13.4.2.2 Three months after ninety percent (90%) of the Units that will be operated ultimately the Association have been conveyed to purchasers;

13.4.2.3 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; or

13.4.2.4 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.

13.4.2.5 Seven (7) years after recordation of the Declaration of Condominium.

13.4.3 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, the Association shall call (and give not less than 60 days nor more than 80 days notice of) a meeting of the Unit Owners to elect the members of the Board of Directors. The meeting may be called and notice given by any Unit Owner if the Association fails to do so. The Developer is entitled to elect at least one member of the Board of Directors as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the Units in the Association. Following the time the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer-owned Units in the same manner as any other Unit Owner, except for purposes of reacquiring control of the Association or selecting the majority members of the Board of Directors.

## ARTICLE 14: MEMBERSHIP IN ASSOCIATION AND VOTING RIGHTS

14.1 Membership. Every Unit Owner, whether he has acquired title by purchase from Developer, Developer's grantees, successors or assigns, or by gift, conveyance or operation of law, is bound to and hereby agrees that he shall accept membership in the Association and does hereby agree to be bound by this Declaration, the Bylaws of the Association and the rules and regulations enacted pursuant thereto, and the provisions and requirements of the Condominium Act and lawful amendments thereto. Membership is required upon acquisition of a Unit and approval of the transferee pursuant to Article 18 of this Declaration and may not be transferred apart and separate from a transfer of the ownership of the Unit. Membership shall automatically terminate upon sale or transfer of the Unit whether voluntary or involuntary. No lessee of a Unit, by virtue of the lease, shall become a member of the Association.

14.2 Voting Rights. There shall be one person with respect to each Unit who shall be entitled to vote at any meeting of the Unit Owners. Such person is hereafter referred to as a "Voting Member." If a Unit is owned by more than one individual, the Unit Owners of said Unit shall designate one of them as the Voting Member at the time of the meeting. If a Unit is owned by a corporation, the board of directors of the corporation by duly passed resolution shall designate one of its officers or employees as the Voting Member. If a Unit is owned by a partnership, all of the partners by an appropriate resolution shall designate one of the partners as the Voting Member. If a Unit is owned by a trust having more than one trustee, all of the trustees

shall designate one of the trustees as the Voting Member. The Bylaws of the Association shall govern the proceedings to follow in designating an individual as the Voting Member of the Unit. In the event one individual or entity owns two or more Units, that individual or entity shall have as many votes as the number of Units owned by the individual or entity and may designate one Voting Member for each vote or a single Voting Member with multiple votes. The vote of a Unit is not divisible.

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## ARTICLE 15: BYLAWS

The operation of the Condominium shall be governed by the Bylaws of the Association, which are attached hereto as **Exhibit B**. No modification of or amendment to the Bylaws shall be valid unless set forth in or annexed to a duly recorded amendment to this Declaration in accordance with the formalities set forth herein. No amendment to the Bylaws shall be adopted which would materially affect or impair the validity or priority of any mortgage held by an Institutional Mortgagee covering any condominium parcel without the consent of the Institutional Mortgagee, which consent shall not be unreasonably withheld or delayed. Defects or omissions in the Bylaws shall not affect the validity of the Condominium or title to the Condominium Parcels.

## ARTICLE 16: MAINTENANCE

Responsibility for the maintenance of the Condominium Property shall be designated as follows:

16.1 Association Responsibility. The Association shall maintain, repair and replace as a Common Expense:

16.1.1 The Common Elements as set forth in Article 4 herein, including but not limited to repainting the exterior of each building every three (3) years and cleaning the mildew off of the roof of each building every five (5) years.

16.1.2 All portions of a Unit contributing to the support of the building, which portions shall include, but not be limited to, the outside walls of the building, all fixtures on the exterior thereof, the stairs and railings serving each Unit, the boundary walls of a Unit up to the interior surface thereof, subfloors, ceiling slabs, and load-bearing walls, but shall not include screening, windows, exterior doors, glass and interior surfaces of walls, ceilings and floors;

16.1.3 All conduits, plumbing (but not fixtures), wiring and other facilities for the furnishing or utility services which are contained in a Unit but which service all or parts of the building other than the Unit within which contained;

16.1.4 Ventilation and plumbing chases that are Common Elements;

16.1.5 All incidental damage caused to a Unit by such work which shall be promptly repaired by the Association.

16.1.6 Hurricane shutters if the Association shall hereafter accept responsibility as set forth in Section 5.4.

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16.2 Unit Owner Responsibility. The responsibility of the Units Owners shall include:

16.2.1 Each Unit Owner shall maintain, repair and replace, at his sole and personal expense, all doors, windows, glass, screens, hurricane shutters, electric panels, electric wiring, electric outlets and fixtures, air-conditioning and heating equipment, including but not limited to condensers, compressors and evaporators whether located within or outside of the Unit, refrigerators and other appliances, drains, plumbing fixtures and connections; interior surfaces of all walls, including the interior surfaces of boundary and exterior walls, floors and ceilings including balcony floor coverings, and all other portions of his Unit and Limited Common Elements appurtenant thereto except the portions specifically to be maintained, repaired and replaced by the Association;

16.2.2 No Unit Owner shall enclose, paint or otherwise decorate or change the appearance of any portion of the exterior of the Condominium building or balcony appurtenant to the Unit including, but not limited to balcony floor coverings and enclosures, screening, windows, window coverings, and exterior doors, without the prior written approval of the Association;

16.2.3 Each Unit Owner shall promptly report to the Association any defect or need for repairs, the responsibility for which is that of the Association.

16.3 Power to Enforce Maintenance. In the event a Unit Owner fails to maintain the property as required above, or otherwise violates the provisions hereof, the Association shall have the right to proceed in a court of equity to seek compliance with the foregoing provisions, or the Association shall have the right to assess the Unit for the necessary sums to put the improvement within the Unit in good condition, and to collect assessments and have a lien for same as is otherwise provided herein. After such assessment, the Association shall have the right, for its employees or agents, to enter the Unit and do the necessary work to enforce compliance with the above provisions. If the Association fails or refuses to enforce the Association's rights under this paragraph, any Unit Owner may proceed to do so in a court of equity.

16.4 Association's Right of Access for Repairs. The Association shall have the irrevocable right of access to all Units during reasonable hours when necessary for the maintenance, repair or replacement of any Common Element therein or assessable therefrom or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements, Limited Common Elements or to a Unit

or Units. Each Unit Owner shall provide the Association with all keys necessary for entrance to the Unit.

16.5 Association's Right of Access During Emergency. It is the responsibility of every Unit Owner to secure his Unit in the event of imminent emergency. The Association shall have the irrevocable and unconditional right of access to all Units at any time prior to, during and after any emergency situation, including but not limited to imminent or present hurricane, flooding, windstorm, or other natural or man-made emergency, as may be necessary to prevent or minimize damage to the Common Elements, Limited Common Elements or to a Unit or Units. Each Unit Owner shall provide the Association with all keys necessary for entrance to the Unit. In the event that the Association shall reasonably believe that any Unit Owner is absent from his Unit prior to, during or after such emergency situation, the Association is authorized, but shall not be obligated, without limitation and without liability to the Unit Owner and at the Unit Owner's expense, to: (i) close hurricane shutters if a Unit has hurricane shutters; (ii) turn off electrical power to any Unit; (iii) empty and dispose of food from refrigerators and freezers; (iv) turn off the water supply to any Unit; and (vi) remove furniture and other objects from balconies. The Association shall be under no obligation whatsoever to secure the windows or doors of Units which do not have properly installed hurricane shutters.

#### ARTICLE 17: THIRD PARTY LIENS

17.1 No Liens Against Common Elements. No liens of any nature may be created subsequent to the recording of the Declaration against the Condominium Property as a whole (as distinguished from individual Units) except with the unanimous consent of the Unit Owners.

17.2 Consent of Unit Owners. Unless a Unit Owner has expressly requested or consented to work being performed or materials being furnished to his Unit, such labor or materials may not be the basis for the filing of a lien against the Unit. No labor performed or materials furnished to the Common Elements shall be the basis for a lien thereon unless such labor performed or materials furnished was authorized by the Association, in which event same may be the basis for the filing of a lien against all Condominium Parcels in the proportions for which the owners thereof are liable for Common Expenses.

17.3 Partial Release of Lien. In the event a lien against two or more Condominium Parcels becomes effective, each owner thereof may relieve his Condominium Parcel of the lien by paying the proportionate amount attributable to his Condominium Parcel. Upon such payment, it shall be the duty of the lienor to release the lien of record for such Condominium Parcel. When the Association has filed a Notice of Commencement pursuant to Florida Statutes Chapter 713 for repairs or improvements to the Common Elements, upon request of any Unit Owner or Institutional Mortgagee, the Association shall furnish a sworn affidavit stating either: (i) that all work to be performed pursuant to such Notice of Commencement has been completed and payment made therefor; or (ii) that all work to be performed pursuant to such Notice of Commencement has not been completed and setting forth the estimated total cost of such work and the estimated percentage amount of such cost attributable to the Unit about which inquiry is made.

## ARTICLE 18: ALIENATION, LEASING AND MORTGAGE OF UNITS

In order to maintain a community of congenial residents who are financially responsible and to protect the value of the Units, the transfer, sale, leasing and mortgaging of Units by an Unit Owner other than Developer shall be subject to the following provisions so long as the Condominium exists and the improvements, in useful condition, exist upon the Land, which provisions each Unit Owner covenants to observe. Leasing by the Developer is subject to the leasing restrictions as set forth herein.

18.1 Sale or Other Transfer of Ownership. No Unit Owner may dispose of a Unit or any interest in a Unit or any interest in a legal entity which owns a Unit by sale or other form of conveyance, nor may any Unit Owner enter into any lease of his Unit (or other arrangement which permits occupancy of a Unit) for a term of more than one year, without the prior written approval of the Association, except to another Unit Owner.

18.1.1 Notice to Association. A Unit Owner intending to make a bona fide sale or other conveyance of his Unit or any interest therein shall give to the Association written notice of such intention which notice shall include the name and address of the proposed purchaser, the purchase price and terms, and such other information concerning the proposed purchaser as the Association may reasonably require, an executed copy of the proposed contract to sell and a processing fee as may be prescribed by the Board. Within fifteen (15) days after receipt of such notice and all requested information, the Association must either approve or disapprove the proposed transaction. Such approval or disapproval shall be transmitted to the seller in writing within the fifteen (15) day period. Failure to do so shall constitute approval of the sale or transfer.

18.1.2 Approval by Association. If the proposed sale or other conveyance for value is approved by the Association, the approval shall be stated in a certificate executed by the President or Vice President of the Association, which shall be recorded in the Public Records of Osceola County, Florida, at the expense of the Seller.

18.1.3 Disapproval by Association. If the notice of sale or other transfer for value given by the Unit Owner shall so demand and if the Association shall disapprove the sale or other transfer, then within fifteen (15) days after receipt of such notice and information, the Association shall deliver or mail to the Unit Owner an agreement to purchase the Unit by the Association or by a purchaser approved by the Association to whom the Unit Owner must sell the Unit upon the following terms:

18.1.3.1 The price to be paid shall be the bona fide price stated in the disapproved contract to sell. If a question arises as to whether or not the sale price is a bona fide price, the



question shall be resolved by having the price 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 the average of their appraisals of the Unit. A judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in favor of the Association in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

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

18.1.3.3 The purchase price shall be paid in cash.

18.1.3.4 A certificate of the Association executed by its President or Vice President approving the substituted purchaser shall be recorded in the Public Records of Osceola County, Florida, at the expense of the substituted purchaser.

18.1.3.5 If the Association shall fail to provide a purchaser upon demand of the Unit Owner in the manner provided, or if the 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, which shall be recorded in the Public Records of Osceola County, Florida, at the expense of the seller.

18.2 Gift, Devise, or Inheritance. If a transferee shall acquire his title by gift, devise or inheritance, the continuance of his ownership of his Unit shall be subject to the approval of the Association, unless he is already a Unit Owner approved by the Association.

18.2.1 Notice to Association. Any transferee who has obtained his title by gift, devise or inheritance or by any other manner not previously considered, shall give to the Association written notice of the acquisition of his title, together with such information concerning the transferee as the Association may reasonably require, and a certified copy of the instrument evidencing the transferee's title. Within fifteen (15) days after receipt of such notice and all requested information, the Association must either approve or

disapprove the continuance of the transferee's ownership of his Unit. Such approval or disapproval shall be transmitted to the transferee in writing within the fifteen (15) day period, and failure to do so shall constitute approval of the ownership.

18.2.2 Approval by Association. If the proposed transfer is approved, the approval shall be stated in a certificate executed by the President or Vice President of the Association, which shall be recorded in the Public Records of Osceola County, Florida, at the expense of the transferee.

18.2.3 Disapproval by Association. Within fifteen (15) days after receipt from the Unit Owner of the notice and information required to be furnished, if the Association disapproves the transfer, the Association shall deliver or mail to the transferee 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:

18.2.3.1 The sale price shall be the fair market value determined by agreement between Seller and Purchaser within thirty (30) days from the delivery or mailing of the notice of disapproval. 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. The arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon the average of their appraisals of the Unit. A judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in favor of the Association in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

18.2.3.2 The purchase price shall be paid in cash.

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

18.2.3.4 A certificate of the Association executed by its President or Vice President and approving the Purchaser shall be recorded in the Public Records of Osceola County, Florida, at the expense of the purchaser.

18.2.3.5 If the Association shall fail to provide a purchaser as required herein, 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, which shall be recorded in the Public Records of Osceola County, Florida, at the expense of the transferee.

~~18.3 Lease or Rental.~~ Each Unit Owner shall be responsible for his lessee's or tenant's observance of the provisions of the Condominium Documents and shall reimburse the Association for any expense incurred in enforcing the Association's rights against the lessee or tenant under the Condominium Documents or the lease. The Association is empowered, as agent of each Unit Owner, to terminate any lease of a Unit and to apply to a court of competent jurisdiction for eviction of the lessee thereof, for violation by such lessee of the provisions of the Condominium Documents. The cost of such action, including attorneys' fees at the trial and appellate level, shall be the responsibility of the Unit Owner.

18.4 Mortgage. No Unit Owner shall grant a mortgage encumbering a Unit, other than an Institutional First Mortgage or a purchase money first mortgage held by said Unit Owner in connection with a sale of the Unit, without the prior written approval of the Association.

18.4.1 Notice to Association. A Unit Owner desiring to encumber his Unit with a mortgage other than an Institutional First Mortgage as set forth in Section 1.16 shall submit to the Association, at least two weeks prior to the recording of such mortgage, a copy of the lender's approval for such mortgage which shall set forth the amount of the proposed mortgage, the name and address of the proposed lender, the interest rate to be charged and the term, in years, of the proposed mortgage. All non-institutional mortgages shall contain a provision requiring the mortgagee thereunder to notify the Association upon the occurrence of any event of default under the mortgage. The Association shall give notice of the approval or disapproval of any proposed mortgage within seven (7) days of receipt of the lender approval. The failure of the Association to approve or disapprove such mortgage shall be deemed approval.

18.4.2 Approval by Association. If the Association approves the proposed mortgage, the Unit Owner shall provide to the Association a copy of the executed and recorded mortgage and the promissory note secured thereby. Failure timely to so provide either shall void the approval and the lien of the mortgage.

18.4.3 Disapproval by Association. Upon the disapproval of a proposed mortgage by the Association, the Unit Owner may appeal the decision to the full Board, whose decision shall be dispositive of the matter.

18.5 Application Form. The Association shall have the authority to prescribe an application form which may require specific personal, financial and other information relating to the intended purchaser, transferee, or mortgagee, as may reasonably be required by the

Association in order to enable the Association to responsibly investigate the intended purchaser, transferee, or mortgagee within the time limits extended to the Association for that purpose and which application shall be completed and submitted to the Association along with and as an integral part of the notice. A reasonable fee may be charged to the Unit Owner for the purpose of defraying the cost of investigation and the costs associated with granting approval, changing books and records and other matters associated with a transfer. Under no circumstances shall any such application form require photographs of applicants or information about applicants' race, religion, national origin, marital status, or other classifications prohibited by Federal, State or local law. Notwithstanding the foregoing, applicants' employment status, income and criminal record are specifically identified as relevant to the Association's inquiries regarding any applicant.

18.6 Exceptions. The foregoing provisions of this Article 18 shall not apply in the following instances:

18.6.1 A transfer to or purchase by an Institutional Mortgagee, that acquires its title as the result of owning a first mortgage upon the Unit concerned, and this shall be so whether the title is acquired by deed or other conveyance from the mortgagor, the mortgagor's successor or assigns, or through foreclosure proceedings.

18.6.2 To a purchaser who acquires 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; provided, however, that a public auction occurring by or for the benefit of a Unit Owner shall not be so exempted.

18.6.3 A transfer or sale by an Institutional Mortgagee that acquires its title as set forth in 18.6.1.

18.6.4 The sale of any Unit to or by Developer.

18.7 Failure to Give Notice. If the required notice to the Association as set forth above is not given, then at any time after receiving knowledge of a transaction or event transferring any interest in title, or granting a mortgage lien interest, the Association at its election and without notice may approve or disapprove the transaction or event. If the Association disapproves the transaction or event, the Association shall proceed as if it had received the required notice on the date of such disapproval.

18.8 Unauthorized Transactions. Any sale, transfer or mortgage not authorized pursuant to the terms of this Declaration shall be void unless subsequently expressly approved by the Association. The Association shall have the power to apply to a court of competent jurisdiction for the cancellation of any instruments recorded in violation hereof and for the eviction of any person occupying a Unit pursuant to such void transfer or mortgage. The prevailing party in any such action shall be entitled to recover from the non-prevailing party attorneys' fees at the trial and any appellate levels.

## ARTICLE 19: PROHIBITION AGAINST TIME SHARE OWNERSHIP.

No Unit Owner shall make any conveyance or record any instrument purporting to create any form of "time sharing" ownership in connection with any Unit. For purposes of this Declaration, "time sharing ownership" shall be deemed to include, but shall not be limited to the following: (1) conveyance by deed conveying undivided interests in any Unit for any recurring designated time period for a definite or indefinite number of years; (2) execution of any lease granting a leasehold interest for multiple periods of time over the course of one or more years; (3) conveyance to any corporation, partnership, joint venture, limited partnership, Real Estate Investment Trust, trust or other legal entity, the effect of which will be to vest or allow more than one family, as that term is defined in Section 20.2, the use of any Unit as legal or beneficial right; (4) the registration of any time share plan as prescribed by Florida Statutes Section 721.

## ARTICLE 20: USE AND OCCUPANCY RESTRICTIONS

20.1 Common Elements. The Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the occupants of the Units.

20.2 Units. Except for the one commercial unit, all Units shall be used only for residential purposes, and no business or business activity shall be conducted upon such Units, except with the written approval of the Association. Leasing of a Unit for purposes of human habitation (including long-term and short-term rentals) shall not be considered a business activity and shall be permitted. No Unit shall be divided or subdivided into smaller Units nor any portion sold or otherwise transferred.

20.3 Maximum Occupancy. No owner of a two bedroom Unit shall permit the occupancy of his Unit by more than four persons at any time when the owner is not actually in residence at the Unit. No owner of a three or four bedroom Unit shall permit the occupancy of his Unit by more than six persons at any time when the Unit Owner is not actually in residence at the Unit. The Association shall have the right to enforce this occupancy restriction by the termination of a lease of a Unit if the tenants thereof are in violation or by a fine of fifty dollars per day if the guests of the Unit Owner or other persons occupying the Unit without a lease are in violation thereof.

20.4 Employees and Servants. No employees or servants of a Unit Owner shall be allowed to use any of the recreational facilities which are Common Elements of the Condominium or to use any of the property owned or operated by the Association, without the express written consent of the Association.

20.5 Pets. A maximum of two common household pet animals such as a dog, cat, tropical fish tank or bird in a cage shall be permitted in each Unit, provided that no pet's weight shall exceed twenty-five pounds. All pet animals must be hand carried through hallways and other covered Common Areas. In all other instances, all pet animals must be under leash and shall be

permitted only in areas designated by the Board of Directors. The owner of any pet animal shall be liable for all damage caused by such animal to any part of the Condominium Property or property owned or operated by the Association. No pet animal shall be allowed to create or cause any disturbance or nuisance of any kind. If any pet animal causes a disturbance or becomes a nuisance, the pet owner shall be required to permanently remove such pet from the Condominium Property within three (3) days of receipt of written notice by the Association. The ownership of any pet animal occupying a Unit or portion of the Condominium Property or any property owned or operated by the Association shall be subject to the rules and regulations promulgated from time to time by the Association. Lessees and other non-owners of Units shall not be permitted to have pets in the Units.

20.6 Nuisances. No use or practice which is either an annoyance to Unit Owners or an interference with the peaceful possession and proper use of the property by the Unit Owners shall be allowed. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate or any fire hazard allowed to exist.

20.7 Lawful Use. No improper, offensive or unlawful use shall be made of the Condominium Property. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modification or repair of the condominium property shall be the same as the responsibility for maintenance and repair of the property concerned.

20.8 Noise Abatement. No unreasonable noise shall be permitted to be transmitted from one Unit to another. In the event the Board of Directors of the Association determines that any noise is being transmitted from one Unit to another Unit and that such noise is unreasonable, the owner of such Unit shall, at his own expense, take such steps as shall be necessary to abate the noise to the satisfaction of the Board of Directors of the Association. In the event the Unit Owner fails to satisfactorily abate the noise, the Board of Directors shall take such steps as shall be necessary to abate the noise and the Unit Owner shall be liable to the Association for all expenses incurred by the Association in abating the noise, including attorney's fees.

20.9 Signs. No signs, advertisements or notices of any type shall be placed on the Condominium property, except that the Board of Directors may authorize the use of one central bulletin board for messages to be posted by the Association, Unit Owners and Unit Owners' immediate families.

20.10 Bicycles. Bicycles shall be stored, kept or parked only in those areas specifically designated for such purposes by the Association.

20.11 Prohibited Vehicles. The following vehicles are prohibited within the Condominium Property:

- (a) Heavy equipment, tractor-trailers, and other construction or commercial vehicles.
- (b) Recreational and all-terrain vehicles, and the like.

- (c) Any other vehicle that the Association determines in its discretion is a nuisance or unreasonable inconvenience or disturbance, or likely to cause extra-ordinary damages or pose an unreasonable hazard.

The Association may promulgate rules and restrictions relating to the permitted and prohibited vehicles within the Condominium Property. Those rules and restrictions may allow temporary approval of any vehicle prohibited above, under circumstances that the Association deems reasonable.

**20.12 Regulations.** Reasonable regulations concerning the use of the Condominium property may be made and amended from time to time by the Board of Directors of the Association. In accordance with Florida Statutes §718.303(3), the Association, by and through the Officers and/or the Manager, may levy reasonable fines against a Unit for the failure of the Unit Owner, or its occupant, licensee or invitee, to comply with any provision of the Declaration, the Bylaws or the reasonable regulations of the Association. No fine will exceed One Hundred Dollars (\$100.00) for each such failure, and One Hundred Dollars (\$100.00) per day for a continuing violation, nor shall any such fine become a lien against a Unit. Prior to the levy of any such fine, the Unit Owner, and any occupant, licensee or invitee, if applicable, shall be afforded no less than fourteen days' notice thereof, which notice shall include: (i) a statement of the date, time and place of the hearing; (ii) a statement of the provisions of the Declaration, Association Bylaws or Association rules which allegedly have been violated; and (iii) a short and plain statement of the matters asserted by the Association. The party against whom the violation is asserted shall have an opportunity for a hearing before a committee of not less than three Unit Owners, at which hearing that party shall have an opportunity to respond, to present evidence and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge and respond to any material to be considered by the Association.

**20.13 Antennas and Aerials.** No Unit Owner may place any exterior aerial, antenna or satellite dish on the Condominium Property.

**20.14 Community Systems.**

**20.14.1** The Board of Directors of the Association may enter into contracts for the provision of master antenna television system or bulk cable television services for the Association, the cost of which shall be a Common Expense of the Association.

**20.14.2** Developer shall have the right, but not the obligation, to convey, transfer, sell or assign all or any portion of the Community Systems located within the Condominium Property, or all or any portion of the rights, duties or obligations with respect thereto to the Association or any other person or entity (including an Owner, as to any portion of a Community System located on or in such Owner's Unit). Without limiting the generality of Section 1.8 hereof, if and when any of the aforesaid entities receives such a conveyance, sale, transfer or assignment, such entity shall automatically be deemed vested with such

rights of Developer with regard thereto as are assigned by Developer in connection therewith; provided, however, that if the Association is the applicable entity, then any Community Systems or portions thereof shall be deemed Common Elements hereunder and the Association's rights, duties and obligations with respect thereto shall be the same as those applicable to other Common Elements unless otherwise provided by Developer. ~~Any conveyance, transfer, sale or assignment made by~~ Developer pursuant to this Section: (i) may be made with or without consideration, (ii) shall not require the consent or approval of the Association or any Owner and (iii) if made to the Association, shall be deemed to have been automatically accepted (with all rights, duties, obligations and liabilities with respect thereto being deemed to have been automatically assumed).

- 20.14.3 In recognition of the intended increased effectiveness and potentially decreased installation and maintenance costs and user fees arising from the connection of all Units in the Condominium Property to the applicable Community Systems, each Owner and occupant of a Unit shall by virtue of the acceptance of the deed or other right of occupancy thereof, be deemed to have consented to and ratified any and all agreements to which the Association is a party which is based upon (in terms of pricing structure or otherwise) a requirement that all Units be so connected and all Owners pay for basic cable television, alarm, security, Internet access or similar services through Association assessments. The foregoing shall not, however, prohibit the Association from making exceptions to any such 100% use requirement in its reasonable discretion.
- 20.14.4 Developer, the Association, or their successors, assigns or franchisees and any applicable cable telecommunications system operator (an "Operator"), may enter into contracts for the provision of security services through any Community Systems. DEVELOPER, THE ASSOCIATION, OPERATORS AND THEIR FRANCHISEES, AND ANY OPERATOR, DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR IMPLIEDLY, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SUCH SECURITY SYSTEM OR SERVICES, OR THAT ANY SYSTEM OR SERVICES WILL PREVENT INTRUSIONS, FIRES OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF SUCH OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE SYSTEM OR SERVICES ARE DESIGNED TO MONITOR SAME; AND EVERY OWNER OR OCCUPANT OF CONDOMINIUM PROPERTY SERVICED BY THE COMMUNITY SYSTEMS ACKNOWLEDGES THAT DEVELOPER, THE ASSOCIATION OR ANY SUCCESSOR, ASSIGN OR FRANCHISEE OF THE DEVELOPER OR ANY OF THE OTHER AFORESAID ENTITIES AND ANY OPERATOR, ARE NOT



INSURERS OF THE OWNER OR OCCUPANT'S CONDOMINIUM PROPERTY OR OF THE CONDOMINIUM PROPERTY OF OTHERS LOCATED ON THE PREMISES AND WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES OR DEATHS RESULTING FROM SUCH OCCURRENCES. It is extremely difficult and impractical to determine the actual damages, if any, which may ~~proximately result from a failure on the part of a security service~~ provider to perform any of its obligations with respect to security services and, therefore, every owner or occupant of Condominium Property receiving security services through the Community Systems agrees that Developer, the Association or any successor, assign or franchisee thereof and any Operator assumes no liability for loss or damage to Condominium Property or for personal injury or death to persons due to any reason, including, without limitation, failure in transmission of an alarm, interruption of security service or failure to respond to an alarm because of (a) any failure of the Owner's security system, (b) any defective or damaged equipment, device, line or circuit, (c) negligence, active or otherwise, of the security service provider or its officers, agents or employees, or (d) fire, flood, riot, war, act of God or other similar causes which are beyond the control of the security service provider. Every owner or occupant of Condominium Property obtaining security services through the Community Systems further agrees for himself, his grantees, tenants, guests, invitees, licensees, and family members that if any loss or damage should result from a failure of performance or operation, or from defective performance or operation, or from improper installation, monitoring or servicing of the system, or from negligence, active or otherwise, of the security services provider or its officers, agents, or employees, the liability, if any, of Developer, the Association, any franchisee of the foregoing and the Operator or their successors or assigns, for loss, damage, injury or death sustained shall be limited to a sum not exceeding Two Hundred Fifty and No/100 (\$250.00) U.S. Dollars, which limitation shall apply irrespective of the cause or origin of the loss or damage and notwithstanding that the loss or damage results directly or indirectly from negligent performance, active or otherwise, or nonperformance by an officer, agent or employee of Developer, the Association or any franchisee, successor or assign of any of same or any Operator. Further, in no event will Developer, the Association, any Operator or any of their franchisees, successors or assigns, be liable for consequential damages, wrongful death, personal injury or commercial loss.

- 20.14.5 In recognition of the fact that interruptions in cable television and other Community Systems services will occur from time to time, no person or entity described above shall in any manner be liable, and no user of any Community System shall be entitled to any refund, rebate, discount

or offset in applicable fees, for any interruption in Community Systems services, regardless of whether or not same is caused by reasons within the control of the then-provider(s) of such services.

1.1.6 Without limiting the generality of any other applicable provisions of this Declaration, and without such provisions limiting the generality hereof, ~~Developer hereby reserves and retains to itself:~~

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20.14.6.1 the title to any Community Systems and a perpetual easement for the placement and location thereof;

20.14.6.2 the right to connect, from time to time, the Community Systems to such receiving or intermediary transmission source(s) as Developer may in its sole discretion deem appropriate including, without limitation, companies licensed to provide CATV service in Osceola County, Florida, for which service Developer shall have the right to charge any users a reasonable fee (which shall not exceed any maximum allowable charge provided for in applicable governmental ordinances and regulations); and

20.14.6.3 the right to offer from time to time monitoring/alarm services through the Community Systems.

20.14.6.4 the right to offer from time to time Internet access services through the Community Systems.

Neither the Developer, the Association nor any officer, director, employee, committee member or agent (including management company) thereof shall be liable for any damage to Condominium Property, personal injury or death arising from or connected with any act or omission of any of the foregoing during the course of performing any duty or exercising any right or privilege (including, without limitation, performing maintenance work which is the duty of the Association or exercising any remedial maintenance or alteration rights under this Declaration) required or authorized to be done by the Association, or any of the other aforesaid parties, under this Declaration or otherwise as required or permitted by law.

## ARTICLE 21: INSURANCE

Insurance, other than title insurance, that shall be carried upon the Condominium Property and the personal property of the Unit Owners shall be governed by the following provisions:

21.1 Authority to Purchase. All insurance policies upon the Common Elements and the property of the Association shall be purchased by the Board of Directors of the Association. The named insured shall be the Association, individually and as agent for the Unit Owners, without naming them, and their mortgagees as their interests may appear. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of Unit

Owners. The policies shall provide that payments by insurer for losses shall be made to an Insurance Trustee to be designated by the Association. Any officer or director of the Association, any attorney admitted to practice in the State of Florida or any bank in Florida with trust powers, may be designated as the Insurance Trustee prior to payment of any insurance claim. All policies and their endorsements shall be deposited with the Association.

~~Unit Owners may obtain coverage at their own expense upon the interior of their Units and upon personal property and for their personal liability and living expenses. All such insurance payments shall be payable solely to the Unit Owner and any mortgagee as their interest may appear.~~

## 21.2 Coverage.

21.2.1 Liability. The Board of Directors of the Association shall obtain public liability and property damage insurance covering all of the Common Elements of the Condominium and all property of the Association, and insuring the Association and the Unit Owner as their interests may appear, in such amounts and providing such coverage as the Board of Directors of the Association may determine from time to time, provided, that the minimum amount of coverage shall be Three Million Dollars (\$3,000,000.00). The insurance shall include, but not be limited to, hired and non owned automobile coverage and a cross-liability endorsement to cover liabilities of the Unit Owners as a group to any individual Unit Owner.

21.2.2 Casualty Insurance. The Board of Directors of the Association shall obtain fire and extended coverage insurance, and vandalism and malicious mischief insurance, insuring all of the insurable improvements within the Condominium, including property owned by the Association, in and for the Association, all Unit Owners and their mortgagees, as their interest may appear, with a company meeting the standards set by the Board of Directors of the Association, in an amount equal to the maximum insurable replacement value of the property, as determined annually by the Board of Directors of the Association. The casualty insurance policy shall cover fixtures, installations or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the individual Units initially installed or replacements thereof, in accordance with the original plans and specifications.

21.2.3 Workmen's Compensation. The Board of Directors of the Association shall obtain Workmen's Compensation Insurance in order to meet the requirements of law.

21.2.4 Flood. The Board of Directors of the Association shall obtain flood insurance to meet the requirements of federal, state or local law, or any regulation enacted pursuant to federal, state or local law.

21.2.5 Fidelity Bonds. The Board of Directors of the Association, as an Association expense, 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 set forth in Florida Statutes §718.111(11)(d), the term "persons who control or disburse funds of the Association" shall include, but not be limited to, those individuals authorized to sign checks, and the president, secretary and treasurer of the Association.~~

21.2.6 Other Insurance. The Board of Directors of the Association shall have the authority to obtain such other insurance as the Board of Directors, in their reasonable discretion, deem necessary for the protection of the Condominium property, the Association, its officers and directors and the Unit Owners.

21.2.7 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out any of the provisions of this Article 21 shall be assessed against and collected from Unit Owners as a Common Expense.

21.2.8 Subrogation Waiver. If available, the Board of Directors of the Association shall endeavor to obtain policies which provide that the insurer waives its right to subrogation as to any claim against Unit Owners, the Association, and their respective servants, agents and guests.

21.2.9 Notice of Contingent Liability. In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the Unit Owners, the Association shall give notice of the exposure within a reasonable time to all Unit Owners who may be exposed to the liability, and they shall have the right to intervene and defend. A copy of each insurance policy obtained by the Association shall be made available for inspection by Unit Owners at reasonable times.

21.3 Shares of Proceeds. All insurance policies purchased by the Board of Directors of the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their interests may appear, and shall provide that all proceeds covering losses shall be paid to the Insurance Trustee. The Insurance Trustee shall be designated by the Board of Directors of the Association either prior to or at the time an insured loss occurs. The Insurance Trustee shall neither be liable for payment of the premiums, the renewal or the sufficiency of policies, nor the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the benefit of the Association, the Unit

Owners and their mortgagees, in the following shares which shares need not be set forth on the records of the Insurance Trustee:

21.3.1 Common Elements. Proceeds received on account of damaged Common Elements shall be held as an undivided share for each Unit, such share being the same as the undivided share in the Common Elements appurtenant to the Unit.

21.3.2 Property (Real and Personal) of the Association other than Common Elements. Proceeds received on account of damaged property of the Association shall be credited as an undivided share for each Unit, such share being the same as the undivided share in the Common Elements appurtenant to the Unit.

21.3.3 Units. Proceeds received on account of damage to Units shall be held in the following undivided shares:

21.3.3.1 When the building is to be restored, for the Owners of damaged Units in proportion to the cost of repairing the damage suffered by each Unit, which cost shall be determined by the Board of Directors of the Association.

21.3.3.2 When the building is not to be restored, an undivided share for each Unit in the building, such share being divided to Unit Owners in the building not to be restored in proportions equal to their ownership in the Common Elements.

21.3.4 Mortgagees. In the event a mortgagee endorsement has been issued regarding a Unit, the share of the Unit shall be held in trust for the mortgagee and the Unit Owner as their interests 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, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distribution of such proceeds made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.

21.4 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:

21.4.1 Expenses of the Trustee. All expenses of the Insurance Trustee shall be paid first, or provision made for such payment.

21.4.2 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 hereinafter 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.

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21.4.3 Failure to Reconstruct or Repair. If it is determined in the manner hereinafter 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. There shall be no distribution of remaining proceeds until all debris, remains and residue have been cleared and removed, and the Condominium Property has been properly landscaped. In the event of loss or damage to personal or real property belonging to the Association, and should the Board of Directors of the Association determine not to replace such personal or real property as may be lost or damaged, the proceeds shall be disbursed to the beneficial owners as Common Surplus.

21.4.4 Certificate. In making distribution to Unit Owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Board of Directors of the Association, as to the names of the Unit Owners and their respective shares of the distribution provided, however, that such certificates shall not be binding insofar as Institutional Mortgagees of Units are concerned. The Insurance Trustee shall obtain appropriate certificates from all such Mortgagees prior to any disbursement to Unit Owners or mortgagees.

21.5 Association's Power to Compromise Claims. The Board of Directors of the Association is hereby irrevocably appointed agent for each Unit Owner and for each owner of any other interest in the Condominium Property, for the purpose of compromising and settling all claims arising under insurance policies purchased by the Board of Directors of the Association, and to execute and deliver releases therefor upon payment of claims.

21.6 Uses Which Increase Premiums. No Unit Owner shall permit any use of his Unit or make any use of the Common Elements that will increase the cost of insurance upon the Condominium Property.

21.7 Mortgagee's Right to Advance Premiums. Should the Association fail to pay insurance premiums when due, or should the Association fail to comply with other insurance requirements set forth in this Declaration, the Institutional Mortgagee holding the greatest dollar volume of Unit mortgages shall have the right, at its option, to order insurance policies and to advance such sums as are required to maintain or procure such insurance, and to the extent of the money so advanced, the Institutional Mortgagee shall be subrogated to the assessment and lien

rights of the Association as against the individual Unit Owners for the payment of such items of common expense.

## ARTICLE 22: RECONSTRUCTION OR REPAIR AFTER CASUALTY

~~22.1 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:

22.1.1 Common Elements. If the damaged improvement is a common element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner hereinafter provided that the Condominium shall be terminated.

22.1.2 Property (Real and Personal) of the Association other than Common Elements. If the damaged improvement is property owned (in whole or part) by the Association, the damaged property shall be reconstructed, replaced or repaired unless it is determined in the manner hereinafter provided that the Condominium shall be terminated.

22.1.3 Condominium Building Containing Units.

22.1.3.1 Lesser Damage. If the damaged improvement is a condominium building, and if Units to which fifty percent (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 sixty (60) days after the casualty it is determined by agreement in the manner hereinafter provided that the Condominium shall be terminated.

22.1.3.2 Substantial Damage. If the damaged improvement is a condominium building, and if Units to which more that fifty percent (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 hereinafter provided, unless within sixty (60) days after the casualty, the owners of Units to which more that seventy-five percent (75%) of the common elements are appurtenant agree in writing to such reconstruction or repair.

22.1.3.3 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.

22.2 Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building as renovated immediately prior to the recording of this Declaration; or if not, then according to plans and specifications approved by the owners of Units to which at least seventy-five percent (75%) of the Common Elements are appurtenant, including the Unit Owners and Institutional Mortgagees of all damaged Units, which approval shall not be unreasonably withheld.

22.3 Responsibility. If the damage is only to those parts of Units 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 for reconstruction and repair after casualty shall be that of the Association.

22.4 Estimates of Costs. Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair. Such costs may include professional fees and premiums for such bonds as the Board of Directors may require.

22.5 Special Assessments. The amount by which an award of insurance proceeds to the Insurance Trustee is reduced on account of a deductible clause in an insurance policy shall be assessed against all Unit Owners in proportion to their shares in the Common Elements. If the proceeds of such assessments and of the 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 in sufficient amounts to provide funds for the payment of such costs. Such assessments on account of damage to Units shall be in proportion to the shares of insurance proceeds attributable to each damaged Unit if the building is to be restored.

22.6 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:

22.6.1 Association. If the total special assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair which are the responsibility of the Association are more than Twenty Five Thousand Dollars (\$25,000.00), 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 the same in payment of the costs of reconstruction and repair.



**22.6.2 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:

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**22.6.2.1 Minor Damage for Which the Association is Responsible.**

If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than Twenty-Five Thousand Dollars (\$25,000.00), then the construction fund shall be disbursed in payment of such costs upon the order of the Association provided; however, upon request to the Insurance Trustee by a 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 hereafter provided for the reconstruction and repair of major damage.

**22.6.2.2 Major Damage for Which the Association is Responsible.**

If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than Twenty-Five Thousand Dollars (\$25,000.00) 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.

**22.6.2.3 Damage for Which the Unit Owner is Responsible.** 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 such Unit, then to the Unit Owner and the mortgagee jointly, who may use such proceeds as they may be advised.

**22.6.2.4 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 the construction fund after payment of all costs of there construction and repair for which the fund is established, such balance shall be distributed to the beneficial owners

of the fund in the manner herein before stated; except, however, that the part of a distribution to a Unit Owner which is not in excess of assessments paid by such owner into the construction fund shall not be made payable to any mortgagee.

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~~22.6.2.5~~ 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 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 whether surplus funds to be distributed are less than the assessments paid by Unit Owners. 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 the sums to be paid are due and properly payable, and stating the name of the payee and the amount to be paid, provided, that when a mortgagee is required 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 which is the beneficiary of any insurance policy, the proceeds of which are included in the construction fund, so requires, the approval of an architect named by the Association shall be first obtained by the Association before disbursements in payment of costs of reconstruction and repair.

22.7 Equitable Relief. In the event of major damage to or destruction of all or a substantial part of the Condominium Property, and in the event the property is not repaired, reconstructed, or rebuilt within a reasonable period of time, any Unit Owner shall have the right to petition a court of equity, having jurisdiction in and for Osceola County, Florida, for equitable relief which may, but need not necessarily, include a termination of the Condominium and a partition thereof.

## ARTICLE 23: TERMINATION OF THE CONDOMINIUM

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

23.1 Destruction. If it is determined in the manner elsewhere provided herein that the building shall not be reconstructed because of substantial damage, the Condominium form of ownership shall be terminated without agreement.

23.2 Agreement. The Condominium may be terminated at any time by the unanimous approval in writing of all Unit Owners of record and all record owners of mortgages on Units.

23.3 Certificate. The termination of the Condominium shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts effecting the termination and setting forth the recording information of this Declaration, the legal description of the Land as set forth in Section 2.2 and the names of all Unit Owners who shall be tenants in common after recording of the Certificate, which certificate shall become effective upon being recorded in the Public Records of Osceola County, Florida.

23.4 Shares of Unit 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 Unit Owners' respective Units prior to the termination.

23.5 Amendment. This Article concerning termination cannot be amended without consent of at least four-fifths of all Unit Owners.

## ARTICLE 24: AMENDMENT TO DECLARATION

This Declaration may be amended from time to time by resolution adopted at any regular or special meeting of the Unit Owners called in accordance with the Bylaws at which a quorum is present, such adoption to be by the affirmative vote of seventy-five percent (75%) of the Unit Owners. Such amendment shall be duly recorded in compliance with requirements of the Condominium Act.

24.1 Amendments Regarding Alteration of Units. No amendment may change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to the Unit, or change the proportion or percentage by which the owner of the parcel shares the Common Expenses and owns the Common Surplus unless the record title owner of the Unit and all record holders of liens on the Unit join in the execution of the amendment.

24.2 Required Approval For Certain Amendments. No amendment to this Declaration which, in order to become effective, requires an affirmative vote of more than seventy-five percent (75%) of the Unit Owners, whether or not present at a meeting in person or by proxy shall be effective without such affirmative vote.

24.3 Rights of Institutional Mortgagees. No amendment or change to this Declaration or to the exhibits hereto shall be effective to materially affect or impair the validity or priority of a first mortgage held by an Institutional Mortgagee encumbering a Condominium Parcel, or to materially affect or impair the rights granted herein to Institutional Mortgagees, without the

written consent thereto by the Institutional Mortgagee holding the mortgage encumbering the parcel, which consent shall not be unreasonably withheld or delayed and which shall be executed with the formalities required for deeds and recorded with the amendment.

24.4 Scrivener's Errors. If it appears that through scrivener's error all of the Common Expenses or interests in the Common Surplus or all of the Common Elements 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 appears that through such error more than 100% of the Common Elements, Common Expenses, or ownership of the Common Surplus has been distributed; or if it appears that through scrivener's errors 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 or in any other documents required by law to establish this Condominium, the Association may correct the error or omission by an amendment to this Declaration or the other documents by resolution of the Board of Directors of the Association 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 called at least in part for the purpose, at which a quorum is present. If such an amendment, considered and approved pursuant to this subparagraph, 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 in order for the amendment to become effective. If the amendment, considered and approved pursuant to this subparagraph, modifies the shares of Common Expenses, 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 Expenses or Common Surplus are being made, must consent in writing to such amendment in order for such amendment to be effective. For the purpose of this subparagraph, 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 appurtenant or attributable to another Unit.

24.5 Non-Material Errors and Omissions. Notwithstanding anything to the contrary contained in this Declaration, the Association expressly reserves the right to amend this Declaration to correct any errors or omissions not materially adversely affecting the rights of the Unit Owners, lienors or Institutional Mortgagees. Such amendment need not be approved by the Unit Owners, lienors or Institutional Mortgagees of Units of the Condominium whether or not elsewhere required for amendments.

24.6 Discrimination. No amendment shall discriminate against any Unit Owner or against any Unit or class or group of Units, unless the Unit Owner so affected shall consent.

## ARTICLE 25: REGISTRY OF UNIT OWNERS AND MORTGAGEES

The Association shall at all times maintain a current registry setting forth the names of the owners of Units. Following the sale or transfer of a Unit, the purchaser or transferee shall provide to the Association a copy of the recorded instrument by which such purchaser or transferee has acquired his interest in the Unit. Each holder of a mortgage encumbering a Condominium Unit shall notify the Association of the existence of its mortgage and any transfer thereof, the original principal balance of such mortgage, and shall provide to the Association a copy of the mortgage as recorded. If there is any change in such information, it shall be the Mortgagee's responsibility to so notify the Association.

## ARTICLE 26: INSTITUTIONAL MORTGAGEES

Provided an Institutional Mortgagee has provided the information described in Article 25, an Institutional Mortgagee shall have the following rights:

26.1 Casualty. In the event of any substantial damage or destruction to a Unit or any part of the Common Elements, Institutional Mortgagees will be entitled to timely notice of such damage or destruction.

26.2 Default. In the event a Unit Owner shall be in default in the payment of any assessments as provided for herein, and said default shall not be cured within thirty (30) days, the Association shall cause notice of such default to be given to any Institutional Mortgagee of the Unit.

26.3 Condemnation. In the event any portion of the Condominium Property is made the subject matter of a condemnation proceeding, all Institutional Mortgagees shall be entitled to timely written notice of such proceeding.

26.4 Other Rights of Institutional Mortgagees. All Institutional Mortgagees shall, upon request, be entitled to:

26.4.1 Inspect the books and records of the Association;

26.4.2 Receive an annual financial statement of the Association within ninety (90) days following the end of the fiscal year;

26.4.3 Receive written notice of all meetings of the Association, and be permitted to designate a representative to attend all such meetings; but the representative shall have no right to participate or vote at the meeting.

## ARTICLE 27: MISCELLANEOUS

27.1 Rideshare Program. Notice is hereby given to all owners and all tenants and residents within the Condominium Property that the Orlando metropolitan area has an existing rideshare program operated by Tri-County Transit (the "Rideshare Program"). All such Owners, tenants and residents are encouraged to utilize the Rideshare Program. For further information, contact Tri-County Transit.

27.2 Beltway. Notice is hereby given to all owners and all tenants and residents within the Condominium Property that a beltway or expressway is planned to be located in close proximity to the Condominium Property.

27.3 Singular, Plural, Gender. Whenever the context so permits the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

27.4 Remedies for Violation. Each Unit Owner, his family, servants, invitees and lessees shall be governed by and conform with the Declaration and exhibits hereto. Failure to do so shall entitle the Association or any Unit Owner to recover damages or obtain injunctive relief or both, but such relief shall not be exclusive of other remedies provided by law. Should the Association or any Unit Owner find it necessary to bring court action to bring about compliance with the law, this Declaration, or the exhibits hereto, upon a finding by the court that the violation complained of is willful and deliberate, the prevailing party in such action shall reimburse the non-prevailing party for reasonable attorney's fees (including appellate attorney's fees) incurred by the prevailing party in bringing or defending such action, as determined by the court.

27.5 Covenants Run With The Land. All provisions of this Declaration and exhibits attached hereto, and amendments thereof, shall be construed as covenants running with the Land, and of every part thereof and interest therein, including but not limited to every Unit and the appurtenances thereto, and every Unit Owner and occupant of the property or any part thereof, or of any interest therein, and his heirs, executors, administrators, successors and assigns, shall be bound by all of the provisions of this Declaration and exhibits hereto, and any amendments thereof.

27.6 Severability. If any of the provisions of this Declaration, Bylaws, or Articles of Incorporation of the Association, or of the Condominium Act, or any article, section, clause, phrase or word, shall be found or held void, unenforceable or invalid, all other such provisions shall not be affected thereby.

27.7 Notices. Except when expressly provided otherwise, whenever notices are required to be sent hereunder, the same may be delivered as follows:

27.7.1 To Unit Owners: (i) personally; (ii) by certified mail, return receipt requested; or (iii) by commercial overnight courier. Notices shall be addressed to such Unit Owners at their place of residence in the Condominium, unless a Unit Owner has, by written notice duly receipted

for, specified a different address. Notices required to be given to the personal representative of a deceased owner, or devisee when there is no personal representative, may be delivered by any of the foregoing methods to such party at his or its address appearing in the records of the court wherein the estate of such deceased owner is being administered. Any Unit Owner may change his mailing address by written notice given to the Association in the manner set forth in Section 27.7.2. The change of the mailing address of Unit Owners, as specified herein, shall not require an amendment to this Declaration.

27.7.2 To the Association by certified mail addressed to the Secretary of the Association, at the Association offices, or in case of the Secretary's absence, to the President of the Association at the Association offices, and in his absence, to any member of the Board of Directors of the Association.

27.7.3 All notices sent by certified mail shall be deemed received three business days following mailing. All notices which are personally delivered shall be deemed received on the date of delivery. Proof of personal delivery by the Association shall be given by the affidavit of the person personally delivering said notice. All notices sent by commercial overnight courier shall be deemed received on the date of delivery shown on said overnight courier's bill of lading.

27.8 Construction of Declaration. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a condominium.

27.9 Captions. The captions used in this Declaration and exhibits annexed hereto are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of this Declaration or exhibits hereto.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be executed on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Witnesses:

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
GEORGE CHEN, as Successor Trustee  
under Trust Agreement dated September  
15, 1988, and not individually

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing Declaration of Condominium of Sun Lake Condominium was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by GEORGE CHEN, as Successor Trustee under Trust Agreement dated September 15, 1988, who is [ ] personally known to me or who [ ] has produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC

Printed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



**EXHIBIT A**  
**ARTICLES OF INCORPORATION OF**  
**SUN LAKE CONDOMINIUM ASSOCIATION, INC.**

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**EXHIBIT B**

**BYLAWS OF**

**SUN LAKE CONDOMINIUM ASSOCIATION, INC.**

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## **EXHIBIT C**

### **IDENTIFICATION OF UNITS AND COMMON ELEMENTS**

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## **EXHIBIT D**

### **PERCENTAGE OF OWNERSHIP OF COMMON ELEMENTS AND SHARING OF COMMON EXPENSES AND COMMON SURPLUS**

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Each Unit - 1/113