

**DECLARATION OF CONDOMINIUM  
OF  
NAUTILUS COVE, A CONDOMINIUM**

MADE this 14<sup>th</sup> day of September 2006, by, Nautilus Development Partners, L.L.P., a Florida limited liability ~~lim~~ ited partnership, hereinafter called the "Developer," for itself and its successors, grantees and assigns.

WHEREIN the Developer makes the following declarations:

PLAN OF DEVELOPMENT. The Condominium may be developed in fourteen (14) Phases pursuant to F.S. 718.403 with Phase 1 consisting of the real property described in Exhibit "A" attached hereto. Exhibit "B" contains the legal description of the entire Condominium Property, if all phases are submitted to condominium form of ownership. Phases 1 through 14 consist of the Units in the buildings and other improvements as shown and set forth in Exhibit "B" attached hereto. The Units in Phases 1 through 14 of this Condominium shall own a fractional undivided interest in the Common Elements of this Condominium as set forth hereinafter in this Declaration. The general size of each Unit in all phases shall be a minimum of 600 square feet and a maximum of 1,600 square feet.

Should the Developer decide, in its sole discretion, to add Phases 2 through 14 to this Condominium, each Phase shall consist of the lands, Units in the buildings and other improvements as shown on Exhibit "B." Included in Exhibit "B" is a proposed survey, plot plan and legal description showing the Condominium if all Phases are developed and added to this Condominium. Exhibit "B" also shows the legal descriptions and surveys of Phases 2 through 14. Each Phase shall contain the number of Units and each Owner's fractional undivided interest in the Common Elements, Common Expenses and Common Surplus, to be determined as follows:

See Exhibit "E"

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Note: If the Developer submits additional Phases, the Developer shall not be obligated to submit such Phases in any particular order. If the Developer submits additional Phases non-sequentially, this provision shall be automatically amended to reflect said submittal.

An Owner's individual share in the Common Elements, Expenses and Surplus shall be determined by the following fraction: One divided by Total number of Units submitted to Condominium form of ownership. The chart above reflects the Owner's share in Common Elements, expenses and surplus upon the submission of each phase by the Developer.

Exhibit "B" to this Declaration sets forth the building footprints and general size of each Unit that will be contained in Phases 1 through 14 of this Condominium and that may be built by the Developer if Phases 2 through 14 are added to this Condominium. The Developer reserves the right, pursuant to F.S. 718.403 and this Declaration, to redesign the buildings, model types and general size of Units within each building and building types in Phases 1 through 14. Any change of the model types, Unit size or building type within a Phase or Phases will not vary the Owner's share in the Common Elements, Surplus or Expenses as determined by the above formula. The Developer may also make nonmaterial changes to the legal description of a Phase.

If Phases 2 through 14 are added to this Condominium, the impact on the Condominium will be to increase the number of Units from 8 Units to a maximum of 168 Units, and the number of persons who will be entitled to use the Common Elements will also be increased accordingly. The further impact will be to increase the Common Expenses; however, the number of Units sharing such costs will be increased as provided for above. Upon submission of a particular Phase to the Condominium Act, each Owner of a Unit constructed on Phase Land shall automatically become a Member of the Condominium Association and shall become entitled to all rights, privileges and obligations in connection therewith. If Developer does not submit the Phase Land or any part thereof to the condominium form of ownership, the relative voting strength in the Condominium Association and the relative undivided share for each Unit shall remain as they were, respectively, upon the recording of this Declaration of Condominium. Time-share estates shall not be created with respect to a Unit on any part of the Properties.

Should the Developer, in its sole discretion, decide to construct and add all or a portion of the Units in Phases 2 through 14 to this Condominium, then upon substantial completion of the construction of the improvements, including the condominium building or buildings to be added in said Phase, the Developer shall cause a surveyor, authorized to practice in the State of Florida, to prepare a survey of the Phase to be added and certify said survey as required by and pursuant to the applicable provisions of F.S. 718. This survey shall be attached to an amendment or amendments to this Declaration and the same shall be executed solely by the Developer and recorded in the Public Records of Bay County, Florida, together with such other exhibits relating thereto as the Developer determines, in its sole discretion, are necessary. Pursuant to F.S. 718.403 of the Condominium Act and this Declaration, said amendment or amendments shall be executed by Developer. Developer shall have the right to make any amendments without the consent of Owners, Condominium Association, or members thereof, or the Owners or holders of any mortgages, except as specifically prohibited by F.S. 718.110. Otherwise Developer shall obtain the approval necessary as required by F.S. 718.110. Developer shall notify each Owner of

the decision not to include any additional Phase in the Condominium. Notice shall be given by regular mail, addressed to each Owner at the address of his Unit or last known address.

Nothing contained herein shall be construed as requiring the Developer to construct the additional Units and buildings referred to herein and add the same to this Condominium; but if said Units and condominium buildings are constructed and added to this Condominium in one or more subsequent Phases and amendments, all such construction will be completed, and the condominium buildings and Units added to this Condominium by seven (7) years from the date of recording of this Declaration of Condominium.

1. THE LAND. The Developer owns title in fee simple to certain real property located in Bay County, Florida, as more particularly described in Exhibit "A" attached hereto (the "Land"). Developer acquired title by Warranty Deed dated January 13, 2005, and recorded in O.R. Book 2553, page 1375, of the Public Records of Bay County, Florida.

2. SUBMISSION STATEMENT. The Developer hereby submits Phase 1 as described on Exhibit "A" and all improvements erected thereon, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, located thereon and intended for use in connection therewith, to the condominium form of ownership and use in the manner provided by the Florida Condominium Act as it exists on the date hereof, excluding therefrom all public utility installations, cable television lines, water and sewer lines and other similar equipment owned by the utility or entity furnishing services to the Condominium.

3. NAME. The name by which this Condominium shall be identified is Nautilus Cove, a Condominium (the "Condominium"), and its address is 13700 Panama City Beach Parkway, Panama City Beach, Florida, 32408.

3.1 Applicability of Declaration of Condominium. The covenants and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future owners of Condominium Units. The acquisition of title to a Unit or any interest in the Condominium Property, or the lease, occupancy, or use of any portion of the Condominium Property, shall constitute an acceptance and ratification of all provisions of this Declaration and an agreement to be bound by its terms.

3.2 Construction. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan of condominium ownership.

4. DEFINITIONS. The terms used in this Declaration and its exhibits shall have the meanings stated below and in Chapter 718, Florida Statutes, unless the context otherwise requires. Whenever the singular is used, it shall include the plural, use of the plural shall include the singular, and the use of any gender shall include all genders.

4.1 "Assessment" means a share of the funds required for the payment of Common Expenses, which from time to time is assessed against a Unit or its Owner.

4.2 "Association Property" means all real or personal property owned by the Association or leased by the Association and not part of the Common Elements.

4.3 "Association" means the Nautilus Cove Condominium Association, Inc., a Florida Corporation, not-for-profit, which is the entity responsible for the operation of the Condominium.

4.4 "Board of Directors" or "Board" means the representative body that is responsible for the administration of the Association, and is the same body referred to in the Condominium Act as the "Board of Administration."

4.5 "By-Laws" means the By-Laws of the Association as they are amended from time to time.

4.6 "Common Elements" means the portions of the Condominium Property not included in the Units as defined in Florida Statute 718.108, including the land, all parts of the improvements which are not included within the Units, all easements, and installments for the furnishing of services to more than one Unit or to the Common Elements, an easement for support in every portion of a Unit which contributes to the support of a building and any other parts of the Condominium Property designated as Common Elements in the Declaration of Condominium or any recorded exhibits thereto.

4.7 "Common Expenses" means all expenses properly incurred by the Association in its performance of its duties, as set forth further in Section 10.1 of this Declaration.

4.8 "Common Surplus" means the amount of all receipts or revenues, including Assessments, rents, or profits collected by the Association which exceeds Common Expenses.

4.9 "Condominium Documents" means and includes this Declaration of Condominium for Nautilus Cove, a Condominium, and all recorded exhibits thereto, as amended from time to time.

4.10 "Condominium Parcel" means a Unit, together with the undivided share in the Common Elements appurtenant to the Unit.

4.11 "Condominium Property" or "Property" means the lands and personal property subject to the condominium form of ownership, whether or not contiguous and all improvements thereon and all easements and rights appurtenant thereto.

4.12 "Declarant" or "Developer" shall mean and refer to Nautilus Development Partners, L.L.L.P., a Florida limited liability limited partnership, its successors and assigns. It shall not include any person or entity who purchases a Condominium Unit from Nautilus Development Partners, L.L.L.P., unless such purchaser is specifically assigned some or all rights of Nautilus Development Partners, L.L.L.P., by a separately recorded instrument.

4.13 "Family" means two or more persons, each of whom is related to each of the others by blood, marriage, or adoption, or not more than two persons not so related who reside together as a single housekeeping unit.

4.14 "Fixtures" mean those items of tangible personal property which by being physically annexed or constructively affixed to the Unit have become accessory to it and are part

and parcel of it, including, but not limited to, interior partitions, walls, appliances which have been built in or permanently affixed, and plumbing fixtures. Fixtures do not include wall, floor or ceiling coverings.

4.15 "Guest" means any person who is physically present in, or occupies a Unit at the invitation of the Owner or Occupant without the payment of consideration or rent.

4.16 "Institutional First Mortgagee" shall mean and refer to the holder of a first mortgage against a Unit which holder is a bank, savings and loan association, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, any agency of the United States of America; or any entity recognized in the community as an institutional lender. The mortgage may be placed through and closed in the name of a mortgage broker.

4.17 "Lease" means the grant by a Unit Owner of a temporary right of use of the Owner's Unit for a valuable consideration.

4.18 "Limited Common Elements" means those portions of the Common Elements that are reserved for the use of a particular Unit or Units to the exclusion of all other Units.

4.19 "Member" shall mean and refer to all those Owners who are members of the Association.

4.20 "Occupant" when used in connection with a Unit, means any person who is physically present in a Unit on two or more consecutive days, including staying overnight.

4.21 "Phase Land" means those certain tracts of land located in Bay County, Florida, described in metes and bounds in 14 separate parcels as Phase "1," Phase "2," Phase "3" Phase "4", Phase "5", Phase "6", Phase "7", Phase "8", Phase "9", Phase "10", Phase "11", Phase "12", Phase "13" and Phase "14" on Exhibit "B" attached to the Declaration of Condominium of Nautilus Cove, a Condominium. The Phase Land may be added, in whole or in part, to the Condominium Property pursuant to the terms of the Declaration.

4.22 "Phase" means one of fourteen (14) separate parcels of land identified as a Phase on Exhibit "B" attached to the Declaration of Condominium of Nautilus Cove, a Condominium, together with all improvements thereon and easements and rights appurtenant thereto.

4.23 "Primary Occupant" shall mean the natural person approved for occupancy when title to the Unit is held in the name of a trustee or a corporation or other entity which is not a natural person.

4.24 "Survey and Architectural Exhibits" means the Surveyor's Certificate, the legal descriptions of and survey of the Land; graphic descriptions of improvements and plot plans thereof; and floor plans of each type of Unit on the Land, all of which are attached as a part of Exhibit "B" to the Declaration of Condominium of Nautilus Cove, a Condominium, and are incorporated herein by reference, including, without limitation, any amendments thereof.

4.25 "Unit Owner" or "Owner" means the record owner of a fee simple interest in a Condominium Parcel.

4.26 "Unit" or "Condominium Unit" shall mean and refer to a Condominium Unit as that term is used in the Declaration of Condominium of Nautilus Cove, a Condominium, to be recorded in the Public Records of Bay County, Florida, which Unit shall be subject to exclusive ownership.

## 5. SURVEY, PLOT PLAN, GRAPHIC DESCRIPTION AND IDENTITY OF UNITS.

5.1 Survey and Architectural Exhibits. The Survey Exhibits attached hereto and made a part of this Declaration include the following in Exhibit "B": plot plan, survey, graphic description, unit floor plans and legal description of the Condominium.

All of the above are hereinafter referred to as the "Survey and Architectural Exhibits."

At the date of recording of this Declaration, Phase 1 shall be submitted to the condominium form of ownership. Exhibit "B" is in sufficient detail to identify the location, dimensions and size of each Unit and the location of the Common Elements and Limited Common Elements. Accordingly, the Condominium, as represented in the Survey and Architectural Exhibits, has been certified by a Florida Registered Land Surveyor indicating statutory compliance with Section 718.104(4)(e), Florida Statutes.

Phases 2 through 14 are also set forth in Exhibit "B" and are delineated in sufficient detail to identify the location, dimensions of each building and the location of the Common Elements. Upon the submission of each Phase, an Amendment will be made to this Declaration in accordance with the procedure provided herein, at which time final Survey and Architectural Exhibits as to each Phase will be provided.

5.2 Unit Identification. The Condominium Property consists of the land described in Exhibits "A" and "B" attached hereto that have been made a part of this Condominium from time to time, together with the buildings and other improvements constructed thereon, which includes the Units, Common Elements and Limited Common Elements. Exhibit "B" to this Declaration sets forth the building floor plans for the different types of Units in the Condominium. In each of the buildings there are Units, each one of which is declared to be a Unit, and each Unit is designated by a three-digit or four-digit identifying number as shown on Exhibit "B".

The aforesaid three-digit or four-digit identifying number, shall legally identify that Unit. Each Unit, together with all appurtenances thereto, shall, for all purposes, constitute a separate parcel of real property which may be owned in fee simple and which may be conveyed, transferred or encumbered in the same manner as any other parcel of real property, subject only to the provisions of the Condominium Documents and easements, restrictions, reservations and limitations of record.

5.3 Unit Boundaries. Each Unit shall include that part of the building that lies within the following boundaries:

A. Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries.

(1) Upper Boundaries. The upper boundary shall be the unfinished lower surface of the ceiling.

(2) Lower Boundaries. The horizontal plane of the unfinished upper surface of the base floor of the Unit.

B. Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished exterior surface of the sheet rock walls bounding the Unit, extended to their planar intersections with each other and with the upper and lower boundaries.

C. Apertures. Where there are apertures in any boundary, including, but not limited to, windows and doors, the Unit boundaries shall extend to the interior unfinished surfaces of such apertures, including all frameworks thereof.

D. Additional Items Included with Units. All of the following items are included with each Unit (some of which items may not necessarily be provided to Owners by the Developer), if such items are wholly or partially located within a Unit and designed and installed to serve only such Unit:

(1) All non-load bearing walls and partitions, doors, door frames, door hardware, and window panes;

(2) All kitchen equipment and fixtures, including without limitation, ovens, refrigerators, freezers, sinks, ranges, cabinets, dishwashers, exhaust fans and waste disposal units;

(3) All bathroom, lavatory and plumbing fixtures and equipment, including, without limitation, sinks, tubs, showers, toilets, vanities, exhaust fans, and medicine cabinets;

(4) All electrical and lighting fixtures, including, without limitation, outlets, switches, lamps, bulbs, outlet boxes, switch boxes, telephone outlets, circuit breakers, and circuit breaker panels;

(5) All clothes washers, clothes dryers, water heaters, heating equipment, and air conditioning equipment, which serve each Unit;

(6) All floor and wall covering, including, without limitation, carpeting, tiling, wallpaper and paint; and

(7) All piping, ducts, wiring, cables and conduits of any kind or type serving only the particular Unit.

E. Exceptions. As to matters not specifically covered in this Section 5.3, or in any case of conflict or ambiguity, the survey and plot plans set forth on Exhibit "B" hereto shall control in determining the boundaries of a Unit.

6. CONDOMINIUM UNITS; APPURTENANCES AND USE; RECREATION FACILITIES.

6.1 Ownership of Unit. Each Unit, together with space within it, and together with all appurtenances thereto, for all purposes, constitutes a separate parcel of real property, which may be owned in fee simple and which may be conveyed, transferred and encumbered only as provided in and subject to the provisions of this Declaration and applicable laws.

6.2 Appurtenances to Unit. The ownership of each Unit shall include, and there shall pass as appurtenances thereto, whether or not separately described, all of the right, title and interest of a Unit Owner in the Condominium property which shall include but not be limited to the following:

A. Fractional Ownership and Shares. The undivided fractional ownership interest in the Common Elements and Common Surplus, and the fractional share of the Common Expenses, appurtenant to each Unit, is as set forth on Exhibit "E" attached to this Declaration and made a part hereof. Such undivided shares are stated as a fraction and are based on One (1) share per Unit divided by the total number of Units submitted to the Condominium. Developer, in its sole discretion, may add one, some or all of phases 2 through 14, inclusive, to the Condominium. If additional phases are added to the Condominium, the undivided shares in Common Elements, Common Expenses and Common Surplus, for all Units in the Condominium shall be adjusted. Each Unit Owner shall own any Common Surplus of the Association in the same percentages as the Common Expenses appurtenant to each Unit are shared as set forth herein. The ownership, however, does not include the right to withdraw or require payment of distribution of said Common Surplus.

B. Membership and voting rights in the Association, which shall be acquired and exercised pursuant to the Articles of Incorporation and By-Laws of the Association, attached hereto as Exhibits "C" and "D," respectively.

C. The exclusive right to use the Common Elements and Limited Common Elements as provided for in this Declaration, including the right to transfer such right to other Units or Owners to the extent authorized by Declaration as originally recorded.

D. Other appurtenances as may be provided in this Declaration and its exhibits.

6.3 Use and Possession. An Owner is entitled to exclusive use and possession of his Unit subject only to the Association's right of access provided in the Condominium Act. He shall be entitled to use the Common Elements in accordance with the purposes for which they are intended, but such use may not hinder or encroach upon the lawful rights of other Owners or other persons having rights to use the Condominium Property. No Unit may be divided or any fractional portion sold or otherwise transferred. The use of the Units, Common Elements and Limited Common Elements shall be governed by the Condominium Documents and by the rules



and regulations adopted by the Association, through its Board of Directors, in the manner set forth in the By-Laws.

#### 6.4 Recreational Facilities.

If constructed, the recreational facilities will consist of the following:

A. Community Building. The Community Building shall be located as shown on the Survey and Plot Plan attached to the Declaration of Condominium as Exhibit "B" and contains approximately 2,200 square feet of interior space and provides the following facilities:

(1) A women's restroom, which contains approximately 40 square feet, is designed to accommodate one (1) person at one time, and is equipped with one (1) sink and one (1) toilet.

(2) A women's restroom, which contains approximately 50 square feet, is designed to accommodate one (1) person at one time, and is equipped with one (1) sink and one (1) toilet.

(3) A men's restroom containing approximately 40 square feet is designed to accommodate one (1) person at one time, and is equipped with one (1) sink and one (1) toilet

(4) A men's restroom containing approximately 50 square feet is designed to accommodate one (1) person at one time, and is equipped with one (1) sink and one (1) toilet.

(5) An Exercise Room containing approximately 340 square feet

(6) A Great Room containing approximately 490 square feet.

(7) A Conference Room containing approximately 220 square feet.

(8) An Office containing approximately 149 square feet.

(9) An Office containing approximately 115 square feet.

B. Swimming Pool and Deck Area. Adjacent to the Community Building is a commercial-grade swimming pool measuring approximately 2,450 square feet, ranging from approximately 3 feet to 4.5 feet in depth. If constructed, the pool will be surrounded by an open deck of approximately 5,100 square feet, which is designed to accommodate a bathing load of approximately 58 people at one time

C. Pool Equipment Area. There is a Pool Equipment Area containing approximately 518 square feet of space, and designed to store the pump and other pool-related equipment, to be located near the swimming pool and deck area.

D. Tot Lot. There is a Tot Lot containing approximately 906 square feet of space containing a universal jungle gym for children to play and located adjacent to the pool.

Completion. The above-described recreation facilities will be completed by December 31, 2006. No additional facilities will be provided by the Developer.

## 7. EASEMENTS.

7.1 Easements. Each of the following easements and easement rights are reserved through the Condominium Property and is a covenant running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any of the lands of the Condominium from the Condominium.

A. Utilities. The Developer, on its behalf and on behalf of all Owners, shall have the right to grant such electric, gas, water, sewer, cable television, telephone, internet service or other utility or service or other easements, or relocate any existing easements, or drainage facilities, in any portion of the Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Developer shall deem necessary or desirable for the proper operation and maintenance of the Common Elements or condominium buildings, or any portion thereof, or for the general health or welfare of the Owners, or for the purpose of carrying out any provisions of this Declaration or otherwise. Such easements or the relocation of existing easements may not prevent or unreasonably interfere with the reasonable use of the Units for their intended purposes. The Developer, on behalf of itself and all Owners, shall also have the right to transfer title to utility-related equipment, facilities or material to any public utility company or governmental agency which is assuming the obligation to maintain such equipment, facilities or material. In connection with the foregoing, bills of sale may be granted for items of personal property owned or governed by the Developer. Furthermore, the Developer shall have the authority to take any other action, on behalf of itself and all Owners, to satisfy the requirements of any public utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred. When the Developer no longer owns any Unit(s), all of the Developer's rights in this Paragraph 7.1A. shall transfer to the Association.

B. Encroachments. In the event that any Unit shall encroach upon any of the Common Elements or upon any other Unit for any reason other than the intentional act of the Owner, or in the event any Common Element shall encroach upon any Unit, then an easement shall exist to the extent of that encroachment for so long as the encroachment shall exist.

C. Ingress and Egress. A non-exclusive easement in favor of each Owner and Occupant, their respective Guests and invitees, shall exist for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through, and across such portions of the Common Elements as from time to time may be paved and intended for such purposes, and for purposes of ingress and egress to the public or private ways. None of the easements specified in this subparagraph shall be encumbered by any leasehold or lien other than those on the Condominium Units. Any lien encumbering such easements shall automatically be subordinate to the rights of Owners with respect to such easements.

D. Structural Supports. Each Unit shall have an easement for structural support over every other Unit and portion of the Common Elements supporting such Unit, and each portion of the Common Elements shall have an easement for support over all Units and all portions of the Common Elements supporting such portion of the Common Elements.

E. Future Phases. In the event any Phase Land is not added to the Condominium, a non-exclusive easement for ingress, egress and utilities shall exist through the Condominium Property to the owners of the land comprising Phase Land which is not added to the Condominium.

## 7.2 Restraint Upon Separation and Partition.

A. The undivided share in the Common Elements appurtenant to a Unit shall not be separated from the Unit and shall pass with the title to the Unit, whether or not separately described. No legal action for partition of the Common Elements shall be permitted.

B. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to the Units.

7.3 Easements. The Developer may enter into an exclusive easement with BellSouth for the provision of cable television, telephone service, internet service and other related services. The Developer may enter into an exclusive easement with Gulf Power for the provision of electric services. The Developer may enter into an exclusive easement with the City of Panama City Beach, Florida for the provision of water and sanitary sewer. There is an existing Fifteen foot utility easement granted to the City of Panama City Beach, Florida from the St. Joe Company as recorded in O.R. Book 2131, Page 838. Other than as described in the Declaration of Condominium, no additional easements will be located on the condominium property without action by the Condominium Association

## 8. LIMITED COMMON ELEMENTS.

8.1 Description of Limited Common Elements. Certain Common Elements have been designated as Limited Common Elements, reserved for the use of a particular Unit or Units, to

the exclusion of other Units. The Limited Common Elements and the Units to which their use has been designated are as described herein and as further identified on the attached Survey and Architectural Exhibits. The following Common Elements are hereby designated as Limited Common Elements.

A. Parking Spaces. There have been designated on the Survey and Architectural Exhibits certain parking spaces as Limited Common Elements. These parking spaces will be initially assigned to the exclusive use of specific Units by the Developer. Each Unit shall always have the exclusive use of one (1) parking space, and Developer reserves the right to grant the exclusive use of additional space(s) to particular Units.

B. Air Conditioning and Heating Equipment. All equipment, fixtures and installations located outside of a Unit, which furnish air conditioning or heating exclusively to that Unit, shall be Limited Common Elements, and shall be maintained, repaired and replaced solely at the expense of the Owner of the Unit.

C. Others. Any part of the Common Elements that is connected to or exclusively serves a single Unit, and is specifically required in Section 11 of this Declaration to be maintained, repaired or replaced by or at the expense of the Unit Owner, shall be deemed a Limited Common Element appurtenant to that Unit, whether specifically described above or not. This paragraph includes windows, window glass, screens, or other transparent or translucent material and doors, including all hardware casings and framings therefor.

8.2 Exclusive Use. The exclusive use of a Limited Common Element is appurtenant to the Unit or Units to which it is designated or assigned. The right to such use shall pass with the Unit on transfer, whether or not separately described, and cannot be separated from it.

9. ASSOCIATION. The operation of the Condominium shall be by Nautilus Cove Condominium Association, Inc., a Florida Corporation, not-for-profit, which shall perform its function pursuant to the following:

9.1 Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached as Exhibit "C."

9.2 By-Laws. The By-Laws of the Association shall be the By-Laws attached as Exhibit "D."

9.3 Delegation of Management. The Association may contract for the management and maintenance of the Condominium Property and authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Elements with funds made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties provided in the Condominium Act. Any management contract entered into by the Association shall be in compliance with the provisions of the Condominium Act.

9.4 Membership and Voting Rights. The membership of the Association shall be comprised of Owners of the Condominium Units, as further provided herein and in the By-Laws. The Members' voting rights shall be provided for in the By-Laws.

9.5 Acts of the Association. Unless the approval or affirmative vote of the Owners is specifically made necessary by some provision of the Condominium Act or the Condominium Documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors or its designee, without a vote of the Owners. The Officers and Directors of the Association have a fiduciary relationship to the Owners. A Owner does not have the authority to act for the Association by reason of being a Owner.

9.6 Powers and Duties. The powers and duties of the Association include those set forth in the Condominium Act and the Condominium Documents. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the condominium property.

9.7 Official Records. The Association shall maintain its Official Records as required by law. The records shall be open to inspection by Owners or their authorized representatives at reasonable times, and copies shall be available at reasonable cost to the owner requesting copies. The records shall include, but are not limited to the following:

A. A record of all receipts and expenditures.

B. All financial source documents.

C. An account for each Unit designating the name and current mailing address of the Unit Owner, the amount of each Assessment, the dates and amounts in which Assessments come due, the amounts paid on account, and the balance due.

D. Declaration of Condominium, Articles of Incorporation, By-Laws and Amendments.

E. Rules.

F. Question and Answer Sheet.

9.8 Purchase of Units. The Association has the power to purchase Units in the condominium and to acquire and hold, lease, mortgage, and convey them, subject to the approval of a majority of the Board of Directors.

9.9 Roster. The Association shall maintain a current roster of names and mailing addresses of Unit Owners. A copy of the up-to-date roster shall be made available to each Unit Owner upon request.

9.10 Limitation on Liability. Notwithstanding its duty to maintain and repair the Common Elements and the Association 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 maintained and repaired by the Association, or caused by the elements or Unit Owners or other persons.

10. ASSESSMENTS AND LIENS. The Association has the power to make and collect Assessments against each Condominium Parcel [as defined in Florida Statute Section 718.103(12)] and Owner in order to provide the necessary funds for proper operation and management of the condominium and for the operation of the Association. The Association has the power to levy and collect Assessments based on the annual budget; to levy special Assessments for non-recurring or unbudgeted Common Expenses; and to impose special charges against any individual Condominium Parcel for any amounts, other than for Common Expenses, which are properly chargeable against such Condominium Parcel under this Declaration or the Association's By-Laws. Assessments will be paid quarterly, in advance, by the Unit Owners. Assessments shall be levied and payment enforced as provided by law and as follows:

10.1 Common Expenses. Common expenses include all expenses for the operation, maintenance, repair or replacement of the Common Elements and Association Property, the expenses of operating the Association and any other expenses properly incurred by the Association for the Condominium, including any amounts budgeted for the purpose of funding reserve accounts. The cost of trash removal shall also be a Common Expense.

10.2 Share of Common Expense. Each Unit Owner shall be liable for its proportional share of the Common Expenses as provided herein, and shall share in the Common Surplus in the same proportion. Said share is equal to the Owner's share in the Common Elements. Such right shall not vest or create in any Owner the right to withdraw or receive distribution of his share of the Common Surplus, except as otherwise provided herein.

10.3 Ownership. Assessments collected by or on behalf of the Association become the property of the Association. No Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Unit.

10.4 Liability for Assessments. The owner of each Unit, regardless of how title was acquired, is liable for all Assessments or installments thereon coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as provided in Section 10.11 below, whenever title to a Unit is transferred for any reason, the grantee is jointly and severally liable with the grantor for all unpaid Assessments against the grantor without prejudice to any right the grantee may have to recover from the grantor any amounts paid by the grantee. Any Lease of a Unit shall be subordinate to any Claim of Lien filed by the Association against the Unit, regardless of whether the Lease was executed before or after the Claim of Lien was recorded.

10.5 No Waiver. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by abandonment of the Unit for which the Assessments are made, or by interruption in the availability of the Unit or the Common Elements for any reason whatsoever. No Owner may be excused from payment of his share of the Common Expenses unless all Owners are likewise proportionately excused from payment, except as provided below as to first mortgagees and the Developer.

**10.6 Failure to Pay; Interest.** All sums for Assessments and installments thereon not so paid within thirty (30) days from the date said installment is due shall bear interest at the highest rate allowed by law until paid. In addition, the Association may charge an administrative late fee, not to exceed the greater of \$25.00 or 5% of each delinquent Assessment installment thereon. All payments on account shall be applied as provided in the By-Laws. Assessments and installments thereon shall become due, and the Owner shall become liable for said assessments and installments, on the date set by the Association for payment.

**10.7 Liens.** The Association has a lien on each Condominium Parcel securing payment of any unpaid Assessments, including interest and reasonable attorney's fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien. The lien is perfected upon recording a Claim of Lien in the Public Records of Bay County, Florida, stating the legal description of the Condominium Unit, the name of the record Owner, the name and address of the Association, the amount due and due dates. The lien shall be in effect for one year after the claim of lien has been recorded, unless within the one-year period, the lien is released, or an action to enforce the lien is commenced in a court of competent jurisdiction. The Claim of Lien secures payment of all Assessments which are due until the entry of a judgment of foreclosure. A Claim of Lien must be signed and acknowledged by an officer, agent or attorney of the Association. Upon full payment, the person making the payment is entitled to a satisfaction of the lien as provided in Chapter 718, Florida Statutes.

**10.8 Priority of Lien.** The Association's Claim of Lien for unpaid Assessments shall be effective as of the date of recording of the Declaration of Condominium. The Association's Claim of Lien for unpaid Assessments is limited by the rights of an Institutional First Mortgagee as set forth in Section 10.11 of this Declaration. Any lease of a Unit shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed.

**10.9 Foreclosure.** The Association may bring an action in its name to foreclose a lien for unpaid Assessments in the manner provided in the Condominium Act and may also bring an action to recover a money judgment for the unpaid Assessments without waiving any claim of lien. The Association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid Assessments. If a Unit is rented during the pendency of a foreclosure proceeding by the Association, the Association may apply to the court to have a receiver appointed to collect the rent and the expenses of the receiver will be paid by the party which does not prevail in the foreclosure action.

**10.10 Transfer of Ownership of Foreclosed Unit.** If a foreclosure action is brought against the owner of a Condominium Unit and the interest of the owner in the Condominium Unit is sold, the Condominium Owner's Membership shall be canceled, and Membership shall be issued to the purchaser at the foreclosure sale.

**10.11 Mortgage Foreclosure.** Except as otherwise provided by law, an Institutional First Mortgagee who acquires title to the Unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid Assessments that became due prior to the mortgagee's receipt of the deed. However, in no event shall the mortgagee be liable for more than six (6) months of the Unit's unpaid Common Expenses or Assessments accrued before the acquisition of the title to the Unit by the mortgagee or one percent (1%) of the original mortgage debt, whichever amount is less.

The unpaid share of Common Expenses or Assessments is a Common Expense collectible from all of the Owners, including such acquirer and his successors and assigns. No Owner may be excused from the payment of any Assessments coming due during the period of such ownership, whether or not such Owner's Unit is occupied or such Owner fails to use any portion of the Common Elements.

10.12 Certificate as to Assessments. Within fifteen (15) days after request by an Owner or Unit mortgagee, the Association shall provide a certificate stating all Assessments and other monies owed to the Association by the Owner with respect to the Condominium Parcel. Any person other than the owner who relies upon such certificate shall be protected thereby.

11. MAINTENANCE; LIMITATION UPON ALTERATION AND IMPROVEMENT. Responsibility for the maintenance of the Condominium Property and restrictions on its alteration and improvements shall be as follows:

11.1 Units.

A. By the Association. The Association shall maintain, repair and replace at the Association's expense the portions of any Unit that contribute to the support of the buildings, including but not limited to perimeter walls, columns, roofs, floors, wiring, piping, duct work and other mechanical or electrical or other installations or equipment serving the Common Elements or more than one Unit. However, if any such maintenance, repair or replacement shall be made necessary because of a negligent act or omission of an Owner, his Family, lessees, invitees or Guests, then the work shall be done by the Association at the expense of the Owner. All incidental damage caused to a Unit by work done or ordered by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the Unit as nearly as practical to its condition before the damage.

B. By the Owner. The responsibilities of an Owner shall be as follows:

(1) Each Owner shall be responsible, at his own expense, for all maintenance, repairs, and replacements of and within his own Unit, and of such portions of the heating and air conditioning equipment and other facilities or fixtures as are located or contained entirely within his own Unit or which service only his Unit; provided, however, that any insurance proceeds payable to the Association with respect to loss or damage to the fixtures within the Unit which are covered by the Association's insurance provided for in this Declaration, and which loss would otherwise be borne by the Owner, shall be paid to such Owner, less any deductible required by the insurance policy. Each Owner shall be responsible for all maintenance and decorating within his own Unit, including painting, wallpapering, paneling, floor covering, draperies, window shades, curtains, lamps and other light fixtures, and other furnishings and interior decorating, including the inside surface of the Unit entrance door. No Owner may make any additions to the Common Elements or Limited Common Elements or do anything which would adversely affect the safety or soundness of the Common



Elements or Limited Common Elements, or any portion of the Condominium which is to be maintained by the Association.

(2) No Owner shall paint, decorate or change the appearance of any exterior portion of the building, the Limited Common Elements or the Common Elements, unless the prior written consent of the Association is first obtained.

(3) An Owner may not make any alterations to his Unit which would add to or remove any portion of the Common Elements or Limited Common Elements without prior approval of the Association, nor do anything which would adversely affect the safety or soundness of any portion of the Condominium Property.

11.2 Common Elements. The maintenance, repair and replacement of the Common Elements is the responsibility of the Association and is a Common Expense. All Limited Common Elements not elsewhere required to be maintained by an Owner shall also be maintained by the Association. Except as otherwise provided herein, there shall be no material alteration of, nor substantial additions to, the Common Elements without prior approval by not less than two-thirds (2/3) of all Owners. No Owner consent or vote is required for work required to be done by the Association in order to perform its duties to repair or replace the Common Elements, even if such repair or replacement also constitutes a material alteration of or substantial addition to the Common Elements. Owners shall be responsible for the costs of maintenance or repair of the Limited Common Elements or Common Elements which are caused by their negligence or willful misconduct, or that of their Family, Guests, agents or lessees.

11.3 Alterations and Additions to Common Elements and Association Property By Association. The protection, maintenance, repair and replacement of the Common Elements and Association property is the responsibility of the Association and the cost is a Common Expense. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the Common Elements or Association Property without prior approval of at least two-thirds (2/3) of the voting interests. However, no prior Owner approval is required for work reasonably necessary to protect, insure, maintain, repair or replace the Common Elements, even if such work constitutes a material alteration or substantial addition to the Common Elements.

11.4 Enforcement of Maintenance. If an Owner fails to maintain his Unit or its appurtenant Limited Common Elements as required above, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation. The Association has the irrevocable right of access to each Unit during reasonable hours, when necessary for making emergency repairs which are necessary to prevent damage to the Common Elements or to another Unit. Any expenses so incurred by the Association shall be charged against the Owner, together with reasonable attorney's fees and other expenses of enforcement.

11.5 Negligence; Damage Caused by Condition Within Unit. Each Owner shall be personally liable for the expenses of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his Family or his Guests, employees, agents, or lessees, but, unless the negligence is of such character as to evidence gross recklessness or

willful or wanton disregard for life or property, the Owner shall be liable only to the extent that such expense is not met by the proceeds of insurance carried by the Association. If any condition, defect or malfunction existing within a Unit, whether caused by the Owner's negligence or otherwise, shall cause damage to the Common Elements or to other Units, the Owner of the offending Unit shall be liable to the persons or entity responsible for repairing the damaged areas for all costs of repair or replacement not paid by insurance.

11.6 Maintenance and Appearance. Each Member shall maintain his Unit and all fixtures and appliances located therein in good condition and repair at all times. No glass, screen, curtain, blind, shutters or awning may be installed on any porch or terrace without prior written approval by the Board of Directors. Each Owner is prohibited from painting or otherwise decorating or changing the appearance of any portion of the exterior of his Unit or the building except with prior written approval of the Board of Directors. All curtains, blinds, shades or other window coverings in the Unit shall be of such material, construction and installation that the only color visible from outside the Unit is white or a nearly white neutral color.

11.7 Association Access to Units. The Association has the irrevocable right of access to the Units during reasonable hours, when necessary, for the maintenance, repair or replacement of any Common Element or for making emergency repairs which are necessary to prevent damage to the Common Elements or to another Unit. Further, the Association has the irrevocable right of access to the Units for maintenance, repair or replacement of any part of the Unit which is to be maintained by the Association under this Declaration. The Association's right of access includes, without limitation, entry for purposes of pest control, if necessary, and preventative maintenance of safety equipment such as smoke alarms. The exercise of the Association's access rights shall be accomplished with due respect for the Owner's rights to privacy and freedom from unreasonable annoyance, as well as with appropriate precautions to protect the Owner's property. The Association shall retain a passkey to all Units. No Owner shall alter any lock, nor install a new lock which prevents access when the Unit is unoccupied, without notifying the Board of Directors in writing and providing the Association with a key.

12. USE RESTRICTIONS. The use of the Units shall be in accordance with the following provisions as long as the Condominium exists.

12.1 Residential Use. The Condominium Units subject to these covenants and restrictions may be used for single-family residential living and for no other purpose. No trade, business, profession or other type of commercial activity may be conducted on any part thereof.

12.2 Minors. There is no restriction on occupancy by children. Children shall be closely supervised at all times by an adult to insure that they do not become a source of annoyance to other residents of the Condominium. The Board of Directors shall at all times have the authority to reasonably require that the Unit Owner, lessee, Guest or other adult who is responsible for a particular child remove him or her from any Common Element area if the child's conduct is such that the Board believes this action is necessary. Skateboarding is prohibited.

12.3 Pets. The Owner(s) of each Unit may keep two (2) pets, under 36 lbs each, of a normal domesticated household type such as a cat or dog, in the Unit. The pets must be leashed

at all times while on the Condominium Property outside of the Unit. No pets are permitted in the recreation areas or facilities. Each pet owner shall be responsible for the removal and disposal of their pet's body waste. The ability to have such a pet is a privilege, not a right, and the Board of Directors is empowered to order and enforce the removal of any pet which becomes a reasonable source of annoyance to other residents of the Condominium. No pets of any kind are permitted in leased Units. No reptiles, amphibians or livestock may be kept in the Condominium.

12.4 Nuisance. No Owner shall use or permit a Unit to be used in any manner which would be unreasonably disturbing, detrimental or a nuisance to the occupant of another Unit or which would not be consistent with the maintenance of the highest standards for a first class residential condominium, nor permit the premises to be used in a disorderly or unlawful way. The use of each Unit shall be consistent with existing laws and the Condominium Documents, and Occupants shall at all times conduct themselves in a peaceful and orderly manner.

12.5 Parking. No boats, trucks, commercial vehicles, trailers, recreational vehicles or other motor vehicles, except four-wheel passenger automobiles, sport utility vehicles or vans, and passenger pick-up trucks, as determined by the Board, shall be placed, parked or stored in the Common Elements for a period of more than four hours unless such vehicle is necessary in the actual construction or repair of a structure or for ground maintenance, nor shall any maintenance or repair be performed upon any boat or motor vehicle not owned or controlled by the Association or the Declarant in the Condominium Properties, except within a building where totally isolated from public view.

12.6 Antennas and Signs. No aerial, antenna, antenna poles, antenna masts, citizen band or amateur band antennas, or satellite dish or any wiring for any purpose may be installed on the exterior of the building in which the Unit is located. No signs or banners shall be placed on or exhibited from any Unit, Common Element or Limited Common Element without the prior written approval of the Association. Notwithstanding the foregoing, no provision of this Declaration shall prevent an Owner from respectfully displaying a United States flag in accordance with Florida Statute Section 718.113(4).

12.7 Access. The sidewalks, entrances, passages, vestibules, stairways, corridors and halls must not be obstructed or encumbered or used for any purposes other than ingress and egress to and from the premises.

12.8 Stairs and Halls. All stairways shall be used for the purposes intended and shall not be used for hanging garments or other objects, or for the cleaning of rugs or other household items. No wash lines of any kind shall be maintained outside any Unit. No items shall be thrown or allowed to fall from any window on the Property, nor shall any foreign objects be placed in the hallways, stairways or other Common Elements.

12.9 Common Elements. All Common Elements shall be used only for their intended purposes, and no articles belonging to people other than the Association shall be kept therein or thereon. The Common Elements shall at all times be kept free of obstruction.

12.10 Garbage. Disposition of garbage and trash shall be only by the use of garbage disposals in the Units or by use of receptacles approved by the Association.

12.11 Fire Hazards. No garbage cans, supplies or other articles shall be placed in the halls or on the staircase landings, nor shall anything be hung from the windows or balconies or placed upon the windowsills. Nor shall any linens, cloths, clothing, curtains, rugs, or mops be shaken out or hung from any of the windows or doors. No fire exits shall be obstructed in any manner.

12.12 Leasing. An Owner may Lease or rent his Unit as permitted by and subject to the provisions of this Condominium Declaration herein.

12.13 Association. In addition to other obligations and duties set forth in this Declaration, every Owner or Occupant of a Unit shall abide by these use restrictions and any rules and regulations adopted by the Association which are not inconsistent with the provisions set forth herein or the Exhibits hereto.

13. TRANSFER OF OWNERSHIP OF UNITS. In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the Units and facilitating the development of a stable, quiet community and peace of mind for all residents, the transfer of ownership of a Unit by an Owner shall be subject to the following provisions, as long as the Condominium exists, which provisions each Owner covenants to observe:

13.1 Forms of Ownership.

A. Individual. A Unit may be owned by an individual person who has qualified and been approved as elsewhere provided herein.

B. Co-ownership. Co-Ownership of Units may be permitted, but all Owners must be members of a single family or living together as a single housekeeping unit. If co-ownership is to be by more than two persons, the Board shall condition its approval upon occupancy only by one approved natural person as "Primary Occupant," and the use of the Unit by other persons shall be as if the Primary Occupant is the actual Owner. Any change in the Primary Occupant shall be treated as a transfer of ownership subject to all the provisions of this Section 13.

C. Ownership by Corporations, Trusts or Partnerships. A Unit may be owned in trust or by a corporation, partnership, or other entity which is not a natural person, if approved in the manner provided for other transfers of title. However, the intent of this provision is to allow flexibility in estate or tax planning, and not to create circumstances in which the Unit may be used as short term transient accommodations for several individuals or families. The approval as an Owner of a corporation, trustee or any entity which is not a natural person shall be conditioned upon designation of one natural person to be the Primary Occupant, and the use of the Unit by other persons shall be as lessees and as if the Primary Occupant is the only actual owner. Any change in the Primary Occupant shall be treated as a transfer of ownership subject to all the provisions of this Section 13. No more than one such change will be approved in any twelve-month period.

D. Life Estate. A Unit may become subject to a life estate, either by operation of law or by approved voluntary conveyance. In that event, the life tenant shall be the only

member in the Association from such Unit and occupancy of the Unit shall be as if the life tenant was the only Owner. Upon termination of the life estate, the holder of the remainder interest shall have no occupancy right unless separately approved by the Association. The life tenant and remaindermen shall be jointly and severally liable for all Assessments and charges against the Unit. The life tenant may, by signed agreement, transfer the right to vote in all Association matters to any one remainderman, subject to approval by the Association of such arrangement. If there is more than one life tenant, they shall be treated as if they were co-owners for purposes of voting and occupancy rights.

### 13.2 Transfers.

A. Sale or Gift. No Owner may dispose of a Unit or any interest therein by sale or gift without the prior written approval of the Board of Directors of the Association.

B. Devise or Inheritance. If any Owner acquires his title by devise or inheritance, his right to occupy or use the Unit shall be subject to the approval of the Board of Directors of the Association. The approval of the Association shall not be denied to any devisee or heir who was the Owner's lawful spouse at the time of death, or was related to the owner by blood or adoption within the first degree.

C. Other Transfers. If any Owner shall acquire his title in any manner not considered in the foregoing subsections, his right to occupy or use the Unit shall be subject to the approval of the Board of Directors of the Association under the procedures outlined in 13.3 below.

D. Mortgaging of Units. There shall be no restrictions on the mortgaging of Units. All mortgages, other than a first mortgage of record, shall be subject to and inferior to the Association lien for Assessments regardless of when recorded.

### 13.3 Procedures.

#### A. Notice to Association.

(1) Sale or Gift. An Owner intending to make a sale or gift of his Unit or any interest therein shall obtain written approval from the Board of Directors or its designee and shall submit written notice of such intention at least twenty (20) days prior to the date of the proposed transfer, together with the name and address of the proposed purchaser or donee and such other information as the Board may reasonably require. The Board may require the personal appearance of any purchasers or donee and his spouse, if any, as a condition of approval.

(2) Devise, Inheritance, or Other Transfers. The Transferee must notify the Association of his ownership and submit to the Association a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. The transferee shall have no occupancy right unless approved by the Board, but may sell or lease the Unit following the

procedures provided in this Section and in Section 14, except automatic approval shall be given to any devisee or heir who was the Owner's spouse.

(3) Failure to Give Notice. If no notice is given, the Association at its election may approve or disapprove the transfer without prior notice. If it disapproves, the Association shall proceed as if it received notice on the date of such disapproval; however, the proposed transferee may provide the Board with the required notice and request consideration.

B. Within fifteen (15) days of receipt of the required notice and all information or appearances requested, whichever occurs last, the Board shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by an Officer of the Association in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within said fifteen (15) days, such failure to act shall be deemed the equivalent of approval, and on demand, the Board shall issue a Certificate of Approval to the transferee.

C. Disapproval.

(1) Approval by the Association shall be denied only if a majority of the whole Board so votes.

(2) If the Board disapproves of the transfer, the Association shall have forty-five (45) days from date of disapproval within which to find an alternate purchaser or to purchase the Unit. In either case, the purchase shall be on the same terms and conditions as contained in the contract of sale, except that the purchase price shall be paid in cash and the closing will take place within forty-five (45) days from the date of disapproval.

If the Association fails to close the purchase within said forty-five (45)-day period other than through the fault of the Owner or the Owner's inability to convey clear and marketable title to the Association, the Owner shall be free to sell and convey the Unit to the intended purchaser.

13.4 Exception. The provisions of Sections 13.2 and 13.3 are not applicable to the acquisition of title by an institutional mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure, nor shall the Association's approval be required for the subsequent resale or lease of a unit by such mortgagee of the unit so acquired, but shall apply to the acquisition of title by any other person.

13.5 Unapproved Transfers. The purchaser of any sale or transfer of ownership which is not approved pursuant to the terms of this Declaration shall have no occupancy right unless subsequently approved in writing by the Board.

13.6 Fees for Processing Applications for Approval to Purchase or Lease. If the Association's approval is required to allow the sale, lease, or other transfer of an interest in a Unit, the Association may charge the Owner a fee for processing the approval, such fee not to exceed \$50.00 per applicant. No fee may be charged for approval of the renewal or extension of a lease with the same lessee.

14. LEASING OF UNITS. The lessee must be at least one natural person. The provisions of this Declaration shall be deemed expressly incorporated into any lease of a Unit. An Owner may lease his entire Unit only in accordance with the following provisions:

14.1 Procedures.

A. Licensing. All Owners who intend to lease their Unit shall comply with all requirements of the Florida Division of Hotels and Restaurants concerning transient housing. In the event an Owner fails to comply with all such requirements, the Owner shall be responsible for any and all costs and fees incurred by the Association due to the Owner's failure to comply. Further, the Board may terminate any existing lease of the Unit and prevent the Owner from further leasing the Unit until the Owner is in full compliance with all state laws.

14.2 Term of Lease and Frequency of Leasing. Units in Phases I, III, IV and V may be leased for the shortest lease term allowed by any and all applicable laws or other governmental regulations. Other than first floor units in Phases I, III, IV and V no unit may be leased for a period less than thirty (30) days. There is no limit on the number of times per year a Unit may be leased.

14.3 Occupancy During Lease Term. No one but the lessee, his family within the first degree of relationship by blood, adoption or marriage, and their guests may occupy the Unit. No Unit may be permanently occupied by more persons than the number of bedrooms times two, nor may more persons, including guests occupy a Unit overnight than the number of bedrooms times two, plus two. This paragraph may not be amended in a way that would be detrimental to sales of Units by the Developer as long as the Developer holds Units for sale in the ordinary course of business.

14.4 Occupancy in Absence of Lessee. If a lessee absents himself from the Unit for any period of time during the lease term, his family already in residence may continue to occupy the Unit. If the lessee and all of the family members mentioned in the foregoing sentence are absent, no other person may occupy the Unit, except the approved Unit Owner.

15. INSURANCE. In order to adequately protect the Association and the Common Elements, insurance shall be carried and kept in force at all times in accordance with the following provisions:

15.1 Duty and Authority to Obtain. The Board of Directors shall obtain and keep in force at all times the insurance coverage which it is required to carry, and may obtain and keep in force any or all of such other or additional insurance coverage as it is authorized to carry. The name of the insured shall be the Association or, in the discretion of the Board an insurance trustee, individually and as agent for the Association and for the Owners without naming them, and their mortgagees.

15.2 Required Coverage. The Association shall maintain property and liability insurance covering all of the buildings and other insurable improvements within the Condominium Property and the Association Property, including Common and Limited Common Elements, such insurance to afford the following protection:

A. Property Damage. Loss or damage by fire, extended coverage (including Windstorm), vandalism and malicious mischief, and other hazards covered by the standard "All Risk" property contract.

B. Flood Insurance. If required by law, the maximum amount available from time to time as underwritten and insured by the federal, state or local government.

C. Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as shall be required by the Board with cross liability endorsement to cover liabilities of the Owners as a group to an Owner.

D. Automobile. Automobile liability for bodily injury and property damage for all owned and/or non-owned motor vehicles in such limits of protection and with such coverage as shall be required by the Board.

E. Worker's Compensation. If required by law, the Association shall maintain Worker's Compensation insurance on at least a minimum premium basis.

F. Fidelity Bond. The Association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Association. The amount of the bond shall be based upon the maximum funds that will be in the custody of the Association or its management agent at any one time, pursuant to Section 718.111(1)(d), Florida Statutes.

15.3 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association and charged to the Owners as Common Expenses.

15.4 Optional Coverage. The Association may purchase and carry other such insurance coverage as the Board of Directors may determine from time to time to be in the best interest of the Association and Owners. Owners are encouraged to procure insurance on their own Units, however, any insurance obtained by Owners must contain waivers of subrogation and may not affect the coverage under Association policies.

15.5 Description of Coverage. A detailed summary of the coverage included in the master policies shall be available for each Owner. The master policies shall be available for inspection by Owners upon request.

15.6 Waiver of Subrogation. If available and where applicable, the Board shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against Owners, the Association, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

15.7 Insurance Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the Owners and their mortgagees as their interests may appear, and all proceeds shall be payable to the Association. The duty of the Association shall be to



receive such proceeds as are paid and hold and disburse the same in trust for the purposes stated herein and for the benefit of the Owners and their respective mortgagees in the following shares:

A. Common Elements. Proceeds on account of damage to Common Elements shall be held in as many undivided shares as there are Units, the shares of each Owner being the same as his share in the Common Elements.

B. Units. Proceeds on account of Units or contents of Units shall be held in the following undivided shares:

(1) Partial Destruction, When the Buildings are to be Restored. For the Owners of damaged Units, in proportion to the cost of repairing the damage suffered by each Owner less the deductible.

(2) Total Destruction of the Buildings, or When the Buildings are not to be Restored. For owners of all Units, each Owner's share being in proportion to his share in the Common Elements.

(3) Mortgagee. If a mortgagee endorsement has been issued as to a Unit, the shares of the mortgagee and the Owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against Units, except to the extent that insurance proceeds exceed the actual cost of repair or restoration of improvements or if the Condominium is being terminated. No mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.

15.8 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the Owners in the following manner:

A. Cost of Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying costs shall be distributed to the beneficial Owners, remittances to an Owner and his mortgagees being paid jointly to them. This is a covenant for the benefit of mortgagees and may be enforced by them.

B. Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the Owners (remittances to Owners and their mortgagees being payable jointly to them). This is a covenant for the benefit of mortgagees and may be enforced by such mortgagees.

C. Certificate. In making distributions to Owners and their mortgagees, the Association may rely upon a certificate of an abstract attorney or title company as to the names of the Owners and mortgagees.

15.9 Association as Agent. The Association is hereby irrevocably appointed agent for each Owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the Condominium Property.

16. RECONSTRUCTION OR REPAIR AFTER CASUALTY. If any part of the Condominium Property is damaged by casualty, whether it shall be reconstructed or repaired shall be determined in the following manner:

16.1 Damage to Units Only, Not Common Elements. Where loss or damage occurs to a Unit without damage to the Common Elements, the insurance proceeds, less the deductible (which shall be paid by the Owner) shall be distributed to the Owner (remittances to Owners and their mortgagees being payable jointly to them). This is a covenant for the benefit of mortgagees and may be enforced by such mortgagees.

16.2 Damage to Common Elements - Less than "Very Substantial." Where loss or damage occurs to the Common Elements, or to any Unit and the Common Elements, but the loss is less than "very substantial," as hereinafter defined, it shall be mandatory for the Association and the Owners to repair, restore, and rebuild the damage caused by the loss, and the following procedures shall apply:

A. The Board shall promptly obtain at least three (3) reliable and detailed estimates of the cost of repair and restoration.

B. The Board shall have the obligation to promptly negotiate and contract for the repair and restoration of the premises.

C. If the net proceeds of insurance appear to be, or are, insufficient to pay for the cost of restoration and repair, the Association shall promptly levy a special Assessment against all Owners in proportion to their shares in the Common Elements for any deficiency. Such special Assessments need not be approved by the Owners. The special Assessments shall be added to the proceeds available for repair and restoration of the property.

16.3 "Very Substantial" Damage. As used in this Declaration, the term "very substantial" damage shall mean loss or damage whereby three fourths (3/4) or more of the total Units are rendered uninhabitable. Should such "very substantial" damage occur, then:

A. The Board shall promptly obtain at least three (3) reliable and detailed estimates of the cost of repair and restoration.

B. A membership meeting shall be called by the Board to be held not later than sixty (60) days after the casualty, to determine the wishes of the membership with reference to rebuilding or abandonment of the Condominium Project, subject to the following:

(1) If the net insurance proceeds available for restoration and repair are sufficient to cover at least 90% of the estimated cost thereof, then the Condominium Property shall be restored or repaired unless two-thirds (2/3) of the

Owners vote for abandonment, or unless the then applicable zoning or other regulatory laws will not allow reconstruction of the same number and general type of Units, in which case the Condominium shall be terminated.

(2) If the net insurance proceeds available for restoration and repair are not sufficient to cover 90% of the estimated cost thereof, and a substantial special Assessment will be required, then unless two-thirds (2/3) of the Owners vote in favor of such special Assessment and against termination of the Condominium, it shall be terminated and the property removed from the provisions of the Condominium Act. If two-thirds (2/3) of the Owners vote in favor of the special Assessment, the Association, through its Board, shall levy the Assessment and shall proceed to negotiate and contract for such repairs and restoration.

C. If any dispute shall arise as to whether "very substantial" damage has occurred, a determination by the Board shall be binding upon all Owners.

16.4 Application of Insurance Proceeds. It shall be presumed that the first monies disbursed for repair and restoration shall be from the insurance proceeds; if there is a balance in the reconstruction funds after the payment of all costs of repair and restoration, such balance shall be distributed to the Owners, except as otherwise provided herein.

16.5 Equitable Relief. In the event of substantial damage to the Condominium Property, and if the Property is not repaired, reconstructed, or rebuilt within a reasonable period of time, any Owner may petition a court for equitable relief, which may include a termination of the Condominium and a subsequent partition of the Property. For the purposes of this provision, it shall be presumed that repair, reconstruction or rebuilding has occurred within a "reasonable period of time" if substantial work is commenced within four (4) months and completed within nine (9) months following the damage or destruction. The fact that a Unit is untenantable does not excuse the Owner from paying Assessments for Common Expenses. In the event of a termination of the Condominium and subsequent partition of the Property as a result of substantial damage to the Condominium, the net proceeds or the salvage value shall be divided among Owners and their mortgagees in accordance with their undivided interest in the Common Elements.

16.6 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original buildings, or in lieu thereof, according to plans and specifications approved by the Board and by the Owners of three-fourths (3/4) of the Units.

## 17. CONDEMNATION.

17.1 Deposit of Awards with Association. The taking of all or any part of the Condominium Property by condemnation or eminent domain shall be deemed to be a casualty as to the portion taken, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards may be payable to Owners, the Owners shall deposit the awards with the Association; and if any fail to do so, a charge shall be

made against a defaulting Owner in the amount of his award.

17.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after a condemnation affecting all or part of the Condominium Property will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after a casualty.

17.3 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of all awards and special Assessments will be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, but the size of the Condominium will be reduced, the Owners of condemned Units, if any, will be made whole, and any property damaged by the taking will be made usable in the manner provided below. Proceeds of awards and special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds after a casualty.

17.4 Association as Agent. The Association is hereby irrevocably appointed as each Owner's agent for purposes of negotiating or litigating with the condemning authority for the purposes of realizing just compensation for the taking.

17.5 Units Reduced, But Tenantable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made tenantable, the awards for the taking of a portion of that Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

A. Restoration of Unit. The Unit shall be made tenantable. If the cost of restoration exceeds the amount of the award, the additional funds required shall be charged against the owner of the Unit.

B. Distribution of Surplus. The balance of the award, if any, shall be distributed to the owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the owner and mortgagees.

C. Adjustment of Shares in Common Elements. There shall be no adjustments to the share in the Common Elements as each Unit Owner's ownership is on an equal basis.

17.6 Unit Made Untenantable. If the taking is of any entire Unit or so reduces the size of a Unit that it cannot be made tenantable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium.

A. Payment of Award. The fair market value of the Unit immediately prior to the taking shall be paid to the Owner of the Unit and to each mortgagee of the Unit (the remittance being made payable jointly to the Owner and mortgagee[s]).

B. Addition to Common Elements. If possible and practical, the remaining portion of the Unit shall become a part of the Common Elements and shall be placed in condition for use by all Owners in the manner approved by the Board.

C. Adjustment of Shares in Common Elements. The reduction (caused by a taking) in the floor area of a Unit shall not cause the share in the Common Elements, Common Expenses and/or Common Surplus appurtenant to the Unit to be reduced nor shall such reduction in the floor area entitle cause an increase in the share of the Common Elements, Common Expenses and/or Common Surplus.

D. Assessments. If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned Unit to the Owner and to condition the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for those purposes shall be raised by special Assessment against all Owners who will continue as Owners of Units after the changes in the Condominium affected by the taking. The Assessments shall be made in proportion to the shares of those owners in the Common Elements after the changes effected by the taking.

E. Arbitration. If the fair market value of a Unit prior to the taking cannot be determined by agreement between the Owner and the Association within thirty (30) days after notice by either party, the value shall be determined by appraisal in accordance with the following. The Owner, the first mortgagee, if any, and the Association shall each appoint one M.A.I. appraiser, who shall appraise the Unit and shall determine the fair market value by computing the arithmetic average of their appraisals of the Unit; and a judgment of specific performance upon the value arrived at by the appraisers may be entered in any court of competent jurisdiction. The cost of appraisal shall be paid by the party selecting the appraiser.

17.7 Taking of Common Elements. Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board of Directors. The balance of such awards, if any, shall be distributed to the Owners in the shares in which they own the Common Elements after adjustment of these shares on account of the condemnation. If a Unit is mortgaged, the remittance shall be paid jointly to the Owner and mortgagee(s) of the Unit.

17.8 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements and liability for Common Expenses that are necessitated by condemnation, if any, shall be evidenced by an amendment of the Declaration of Condominium by the approval required in F.S.718.110 (2) and (4).

18. TERMINATION. The Condominium may be terminated in the following manner:

18.1 Agreement. The Condominium may be terminated at any time by approval, in writing, of the Owners of ninety percent (90%) of the Units and all Institutional First Mortgagees of record.

18.2 Very Substantial Damage. If the Condominium, as a result of common casualty, be damaged to the extent defined in Section 16.3, and it not be decided as therein provided that it will be reconstructed or repaired, the condominium form of ownership will thereby terminate without agreement.

18.3 Notification of Division. Upon recordation of the instrument evidencing termination, the Association shall, within thirty (30) business days, notify the Division of Florida Land Sales, Bureau of Condominiums, of the termination, the date and county where the document was recorded, the O.R. Book and page number, and shall provide the Division with a copy of the recorded termination notice certified by the clerk of courts.

18.4 General Provisions. Upon termination, the Unit Owners shall be the owners as tenants in common of the Condominium Property and the assets of the Association. The shares of such tenants in common shall be the same as were their shares of the Common Elements. The mortgagee or lienor of an Owner shall have a mortgage or lien solely and exclusively upon the undivided share of such tenant in common in and to the lands and other properties and rights which he may receive by reason of such termination. 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. Termination shall become effective when the certificate is recorded in the Public Records of Bay County, Florida.

18.5 New Condominium. The termination of a Condominium does not bar creation of another Condominium affecting all or any portion of the same property.

18.6 Partition; Sale. Following termination, the Condominium Property may be partitioned and sold upon the application of any Owner. If following a termination, the owners of seventy-five percent (75%) of the Units determine to accept an offer for the sale of the Condominium Property, each Owner shall be bound to execute deeds and other documents reasonably required to effect the sale. In such event, any action for partition of the former Condominium Property shall be held in abeyance pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto.

18.7 Last Board. The members of the last Board of Directors shall continue to have the powers granted in this Declaration and in Chapter 718 for the purpose of winding up the affairs of the Association, notwithstanding the fact that the Association itself may be dissolved upon a termination.

18.8 Provisions Survive Termination. The provisions contained in this Section 18 shall be deemed covenants running with the land, and shall survive the termination of the Condominium for a period long enough to accomplish all the purposes stated herein.

## 19. OBLIGATION OF OWNERS.

19.1 Actions for Damages. Each Owner, his tenants, Guests and invitees, and the Association shall be governed by and shall comply with the provisions of the Condominium Act, this Declaration, the documents creating the Association, the By-Laws, any Rules and Regulations promulgated by the Association and the Master Declaration, its Articles and By-Laws. Actions for damages or for injunctive relief, or both, for failure to comply with these provisions may be brought by the Association or by a Unit Owner against:

A. The Association;

B. An Owner;

C. Directors designated by the Developer, for actions taken by them prior to the time control of the Association is assumed by Unit Owners other than Developer.

D. Anyone who occupies a Unit, including but not limited to any tenant leasing a Unit or other invitee occupying a Unit (such action in this instance may also include eviction proceedings); or

E. Any member of the Board who willfully and knowingly fails to comply with these provisions.

19.2 Waiver. A provision of the Condominium Act may not be waived by an Owner if the waiver would adversely affect the rights of the Owner or defeat the purpose of the provision, except that Owners or members of the Board may waive notice of specific meetings in writing as provided by the By-Laws. Any instrument given in writing by an Owner or prospective purchaser of a Unit to an escrow agent may be relied upon by an escrow agent, whether or not such instruction and the payment of funds thereunder might constitute a waiver of any provision of the Condominium Act.

19.3 Attorney's Fees. In any legal proceeding arising out of an alleged failure of a tenant, Owner or the Association to comply with the requirements of the Condominium Act or the Condominium Documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the court.

19.4 No Waiver. The failure of the Association or of a member to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future.

19.5 No Election of Remedies. All rights, remedies and privileges granted to the Association or Owner, pursuant to any terms, provisions, covenants or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the Condominium Documents, or at law or in equity.

## 19.6 Notice of Lien or Suit.

A. Notice of Lien. An Owner shall give to the Association written notice of every lien upon his Unit other than for permitted mortgages, taxes and special assessments, within five (5) days after the Owner receives actual notice of the attachment thereof.

B. Notice of Suit. An Owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his Unit, such notice to be given five (5) days after the Owner receives actual knowledge thereof.

C. Failure to Comply. Failure to comply with this Section will not affect the validity of any judicial suit, however, if such failure is a substantial contributing cause of damage or harm to the Association or other Owners, the Owner shall be liable to the injured party.

## 20. RIGHTS OF MORTGAGEES.

20.1 Approvals. Prior written approval of the record holder of a first mortgage lien on a Unit in the Condominium shall be required for any amendment to the Declaration which would decrease the percentage interests of the Unit in the ownership of the Common Elements.

20.2 Notice of Condemnation. In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of, any Unit or any part of the Common Elements, the record holder of any first mortgage on the Unit shall be entitled to notice of any termination of the Condominium.

20.3 Lender's Notices. Upon written request to the Association, any institutional mortgagee shall be entitled to timely written notice of any 60-day or longer delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds a mortgage.

21. DEVELOPER'S RIGHTS AND DUTIES. As long as the Developer or any successor developer holds any Units in the Condominium for sale in the ordinary course of business, the following shall apply:

21.1 Developer's Use. Until the Developer has completed all of the contemplated improvements and has sold all of the Units in the Condominium and until such time as each contemplated phase is completed and all Units owned by the Developer in each Phase and control of the Association has been turned over to Owners other than the Developer, neither the Owners nor the Association, nor their use of the Condominium Property shall unreasonably interfere with the completion of the contemplated improvements or sale of Units. The Developer may make such use of the unsold Units and of the Common Elements as may reasonably facilitate completion and sale, including, but not limited to, maintenance of a sales office, display of signs, and showing the Units for sale to prospective purchasers. No "For Sale" or "Lease" sign may be displayed upon the Condominium Property, other than the Developer's signage, during this period. Developer's rights under this provision shall end when the Developer no longer holds a Unit for sale in the ordinary course of business.



21.2 Assignment. All or any portion of the right, privileges, powers and immunities granted or reserved to the Developer in the Condominium Documents may be assigned by the Developer to any person or entity, without the consent of any other Owner or any holder of a mortgage secured by any Unit (other than the holder of a first mortgage secured by an interest of the Developer), but only if the assignee agrees without qualification to assume all of the duties and obligations of the Developer under this Declaration, and the Articles of Incorporation and By-Laws of the Association from and after the date of such assignment.

21.3 Amendment of Plans and Alterations of Phase Lines, Boundaries and Apartment Dimensions. The Developer may modify the plot plan as to Units or building types in its sole discretion. The Developer may also make non-material changes in the legal description of a phase.

21.4 Turnover. Prior to, or not more than seventy-five (75) days after, the time that Owners other than the Developer are entitled to elect a majority of the Directors of the Association, the Developer shall relinquish control of the Association, and the Owners shall accept control. Simultaneously, the Developer shall deliver to the Association all property of the Owners and of the Association held or controlled by the Developer and all items and documents that the Developer is required to deliver or turn over to the Association under Florida law. The Developer may turn over control of the Association to Owners other than the Developer prior to the above mentioned dates, in its sole discretion, by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of Owners other than the Developer to elect Directors and assume control of the Association. Provided at least sixty (60) days' notice of Developer's decision to cause its appointees to resign is given to Unit Owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations even if Owners other than the Developer refuse or fail to assume control.

21.5 Assessments. The Developer shall be excused from payment of its share of the Common Expenses as to the Units owned by the Developer during the "Guaranty Period" which is the earlier of a period commencing upon the recording of this Declaration until twelve (12) months from the date of recording, or the date the Developer turns over the control of the Association to Owners other than the Developer. During the period of time when the Developer is excused from paying its share of the Common Expense, the Developer shall be obligated to pay the difference between the Association's Common Expenses and the sums collected as the annual Assessment for Common Expenses from Owners other than the Developer. This obligation applies to the original Units contained in this Condominium, as well as the Units contained in future Phases, if such phases are added during the Guaranty Period. During the Guaranty Period, the monthly Assessment for each Unit, including reserves, shall not exceed \$225.00. The Developer may extend the Guaranty Period for one or more additional one-year periods at its sole option; provided, however, that the guaranteed level of assessment set forth herein shall not be increased.

Upon the conclusion of the Guaranty Period, any working capital funds collected by the Association from Owners upon their purchase of the Unit shall be available to the Association.

21.6 Condominium Name. Nothing herein contained shall be construed as giving this Condominium or the Association the exclusive right to use the name Nautilus Cove, a

Condominium, or any derivation thereof, and the Developer reserves the right to use said name in future projects. Further, nothing herein contained shall be construed as allowing this Association to manage future condominium projects.

21.7 Assignment of Rights. All rights in favor of Developer reserved in this Declaration of Condominium and the exhibits attached hereto are freely assignable in whole or in part by Developer and may be exercised by the nominee of Developer and/or exercised by the successor or successors in interest of Developer.

21.8 Amendments by Developer. As long as the Developer owns any Units for sale in the ordinary course of business, the Developer reserves the right to amend this Declaration and its exhibits for one or any combination of the following purposes.

A. To depict all of the improvements existing on the Condominium Property; to depict all Common Elements and Limited Common Elements on the Condominium Property; to comply with the requirements of any federal, state or local law, government, quasi-government, agency or government-related corporation, including, without limitation, the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the provisions of the Fair Housing Act of 1968 as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. Section 3601-3631 (the "FHAA").

B. To conform to the requirements of any Institutional First Mortgagee or government agency willing to make, purchase or insure mortgage loans secured by Units or any portion of the Properties. Notwithstanding anything to the contrary contained in this Declaration, until the satisfaction of record of any mortgage placed upon the Condominium Property to finance the construction of the improvements for the Condominium Property (hereinafter referred to as the "Mortgage"), the following provisions shall be a part of this Declaration and shall supersede any inconsistent provisions contained elsewhere in this Declaration:

(1) Whenever the consent of Developer is required under this Declaration, the written consent of the holder of the Mortgage (hereinafter referred to as "Mortgagee") shall also be required for all amendments materially affecting the rights or interests of the mortgagees, or as otherwise required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, and such consent will not be unreasonably withheld.

C. No amendment shall be made to this Declaration which would alter the procedure for repairing or restoring the commonly insured real property or alter the rights of Mortgagee, or, in the opinion of Mortgagee, in any other way affect the security of Mortgagee, without Mortgagee's joinder and written consent to such amendment for all amendments materially affecting the rights or interests of the mortgagees, or as otherwise required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, and such consent will not be unreasonably withheld; and

D. If Mortgagee either assumes possession of any portion of the Condominium Property upon which said Mortgage is a lien or acquires title to unsold Units upon foreclosure of the Mortgage, by purchase of the unsold Units upon foreclosure of the Mortgage, by purchase of the unsold Units at foreclosure sale, or by deed in lieu of foreclosure, Mortgagee and its successors and assigns shall have and enjoy all of the rights and privileges granted to the Developer by this Declaration of Condominium, including the right to guarantee the deficiency, as defined in Section 21.5.

E. For the purpose of adding lands comprising additional phases.

F. For the purpose of making non-material changes in the legal description of a phase.

Said Amendments may be made and executed solely by the Developer and recorded in the Public Records of Bay County, Florida, and without any requirement of securing the consent of any Owner, the Association, the Members thereof or the owner and holder of any lien encumbering a condominium parcel. No amendment shall unlawfully discriminate against any Owner or any class of Owners; and no amendment shall change any Unit's share in the Common Elements and other appurtenances, nor increase the Owner's proportionate share of the Common Expenses, unless the Owners of the Units concerned and their institutional mortgagees shall consent in writing to the amendment, and a majority of the voting interests approve the amendment.

21.9 Sales/Leasing of Units. The Developer shall have the right to sell or transfer any Unit owned by it on such terms and conditions as it deems in its own best interest. No purchaser from the Developer shall be required to obtain Association approval for the said purchase or transfer.

22. AMENDMENT OF DECLARATION. Amendments to this Declaration shall be proposed and adopted in the following manner:

22.1 Proposal. In addition to the provisions contained in Section 21.8 herein, amendments to this Declaration may be proposed by the Board of Directors or by written petition signed by the Owners of one-fourth (1/4) of the Units.

22.2 Procedure. Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be transmitted to the President of the Association, who shall thereupon determine which of the methods shown in 22.3 below shall be used for voting. The appropriate notices and copies of the proposed amendments shall be mailed to the members not later than ninety (90) days after transmittal to the President.

22.3 Vote Required. Except as otherwise provided by law, or by specific provision of the Condominium Documents this Declaration may be amended by concurrence of two-thirds (2/3) of the voting interests present in person or by proxy and voting at any annual or special meeting for which notice has been given to the Members in accordance with law. Alternatively, amendments may be adopted without a meeting following the procedure set forth in the By-Laws.

22.4 Certificate; Recording. A copy of each amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be in the form required by law and shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Bay County, Florida.

22.5 Proviso. Except as to provisions contained in the Plan of Development Section and Sections 21.3 and 21.8 of this Declaration, any amendment which changes the configuration or size of any Condominium Unit in any material fashion, materially alters or modifies the appurtenances to the Unit, or changes the proportion or percentage by which the owner of the Unit shares the common expenses and owns the common surplus, must be approved by two-thirds of the voting interests, the record Owner of the Unit and his institutional mortgagee, if any, in writing. This proviso does not apply to changes caused by condemnation or a taking by eminent domain as provided in Section 17 or by the submission of additional phases to this Declaration. No amendment shall unlawfully discriminate against any Owner nor against any Unit or class or group of Unit Owners or Units.

22.6 Correction of Errors. Notwithstanding any provision herein to the contrary, if there is any omission or scrivener's error in this Declaration of Condominium or in any document required to establish the Condominium, then the Association may correct the error or omission, without a vote of the Members, by the recording of a properly executed amendment that has been approved by a majority of the Board of Directors of the Association.

22.7 Exceptions. Wherever in this Declaration the consent, approval, or affirmative vote of more than two-thirds (2/3) of the voting interests, is required in order to take a particular action, the section requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to take the action.

22.8 Amendment of Provision Relating to Developer. As long as the Developer holds any Units for sale in the ordinary course of business, no amendment may make any change in any provision relating specifically to the Developer without the Developer's written consent. No amendment may be made which in the Developer's sole judgment may impair or prejudice the rights or privileges of the Developer reserved in the Declaration without the Developer's prior written approval.

22.9 Amendment to Conform to Federal Fair Housing Act. This Condominium shall be in compliance with the provisions of the Fair Housing Act of 1968 as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C., Section 3601-3631 (the "FHAA"). To the extent that the Declaration of Condominium must be amended to comply with the FHAA, the Board of Directors shall amend the Declaration without the necessity of obtaining the approval of Unit Owners as may otherwise be required hereunder or under the Bylaws.

## 23. FINES.

23.1 Compliance. Every Owner and his tenants, Guests, invitees and agents shall comply with any and all rules and regulations as same exist and as may be adopted in the future by the Board of Directors.

23.2 Enforcement. Failure to comply with such rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums for damages, an action for injunctive relief, or any combination thereof.

23.3 Procedure. In addition to all other remedies, in the sole discretion of the Board, a fine or fines may be levied upon an Owner for failure of an Owner, his tenants, Family, Guests, invitees, or employees to comply herewith or with any rules or regulations, provided the following procedures are followed:

A. Notice. The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing before a committee of Owners after reasonable notice of not less than fourteen (14) days, and the notice shall include:

- (1) A statement of the date, time and place of the hearing;
- (2) A statement of the provisions of the Declaration, By-Laws or rules which have allegedly been violated; and
- (3) A short and plain statement of the matters asserted by the Association.

B. Hearing. The party against whom the fine may be levied shall have a reasonable 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 considered by the Association.

C. Penalties. The Board of Directors may levy a fine against a Unit not to exceed \$100.00 per violation. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed \$1,000.00. If the hearing committee does not agree with the fine, then the fine may not be levied.

D. Payment of Penalties. Fines shall be paid not later than five (5) days after notice of the imposition of same.

E. Remedy. For non-payment of fines the Association shall have all of the remedies applied by law.

F. Non-Exclusive Remedy. The fines provided for herein shall not be construed to be an exclusive remedy of the Association, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any

penalty paid by the offending Owner shall be deducted from or offset against any damage which the Association may otherwise be entitled to recover by law.

24. MISCELLANEOUS.

24.1 Severability. The invalidity in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, the By-Laws, any Rules and Regulations of the Association, and any exhibit attached hereto, shall not affect the remaining portions thereof.

24.2 Applicable Statutes. The validity, application, and construction of this Declaration and its exhibits shall be governed by the Laws of Florida, particularly the Condominium Act.

24.3 Conflicts. If there is a conflict between any provision of this Declaration and the Condominium Act, the Condominium Act shall control. If there is a conflict between this Declaration and the Association's By-Laws or Articles of Incorporation, the Declaration shall control.


24.4 Interpretation. The Board shall be responsible for interpreting the provisions of this Declaration and of any of the exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

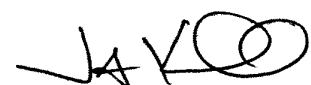
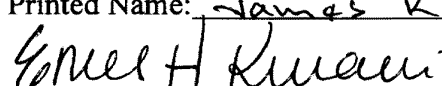
24.5 Exhibits. There is hereby incorporated within this Declaration any materials contained in the exhibits attached hereto which under Condominium Act are required to be part of, or provided for in, the Declaration.

24.6 Notices. All notices required to be given under the provisions of this Declaration shall be addressed to the Developer at 1551 Sandspur Road, Maitland, Florida, 32751, or wherever the Developer may so designate, and to the Association at 13700 Panama City Beach Parkway, Panama City Beach, Florida, 32408, and to the Owners at the address of the Unit or the address of the Unit Owner that appears on the current roster of Owners.

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

WITNESSES:

By: Nautilus Development Partners, L.L.L.P., a  
Florida limited liability partnership  
Nautilus Development Group Managers,  
L.L.C., a Florida limited liability company,  
its Managing Partner  
By:   
Printed Name: Jay P. Brock  
Its: Manager

  
Printed Name: James Kohn  
  
Printed Name: Emel H. Kurani

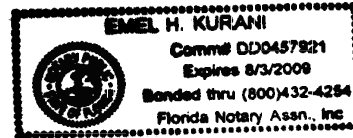
(Corporate Seal)

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 14<sup>TH</sup> day of September, 2006 by Jay P. Bricci, as Manager of sole as the sole general partner of Nautilus Development Partners, L.L.P., on behalf of the company, who is personally known to me or produced as identification.

(Seal)

Emel H. Kurani  
Notary Public  
Printed Name: Emel H. Kurani  
My Commission Expires: \_\_\_\_\_



## JOINDER OF MORTGAGE

The undersigned Mortgagee, Am South Bank, as holder of those certain Mortgages by and between Nautilus Cove Developers, Ltd., a Florida limited partnership, as Mortgagor, and Am South Bank, as Mortgagee, recorded in O.R. Book 2720, page 2286, of the Public Records of Bay County, Florida, hereby joins in the making of the foregoing Declaration of Condominium of Nautilus Cove, a Condominium.

WITNESSES:

Am South Bank,  
a Alabama corporation

Aileen W. Leach  
Printed Name: Aileen W. Leach

Lisa M. Bott  
Printed Name: Lisa M. Bott

By: John A. Koromilas  
Printed Name: John A. Koromilas  
Its: VICE PRESIDENT

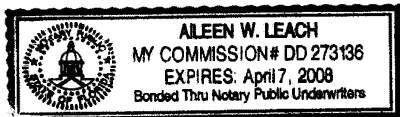
(Corporate Seal)

STATE OF FLORIDA

COUNTY OF Ocean

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of September, 2006, by John A. Koromilas, a S  
Vice President of AmSouth Bank, on behalf of the bank, who is personally known to me or produced \_\_\_\_\_ as identification.

(Seal)



Aileen W. Leach  
Notary Public  
Printed Name: Aileen W. Leach  
My Commission Expires: 4-7-08