

Return to: Gold Coast Title Co.
75 S. E. 3rd Street
Boca Raton, Florida 33432

THIS INSTRUMENT WAS PREPARED BY:
John H. Patterson
Holland & Knight
5915 Ponde de Leon Blvd., Suite 63
Coral Gables, Florida 33146

DECLARATION OF CONDOMINIUM

OF

BANYAN PARK, A CONDOMINIUM

I. SUBMISSION STATEMENT.

BANYAN PARK ASSOCIATES, LTD., a Florida limited partnership (hereinafter referred to as "Developer"), pursuant to Chapter 718, Florida Statutes, hereby submits to the condominium form of ownership, the land legally described as:

A Parcel of Land lying in Section 32, Township 46 South, Range 43 East, City of Boca Raton, Palm Beach County, Florida, described as follows:

Begin at the South quarter corner of said Section 32, thence S. 89°13'08" W., along the south section line, 479.96 feet; thence N. 0°46'52" W. 669.25 feet; thence N. 89°44'20" E. 480.50 feet; thence S. 0°44'52" E. 665.13 feet to the Point of Beginning, less the north 30 feet thereof which were conveyed to the City of Boca Raton for the right-of-way of N.W. 70th Street by Right-of-Way Deed, recorded in Official Records Book 2429, page 78, of the Public Records of Palm Beach County, Florida;

together with all improvements erected or to be erected thereon and together with all easements and rights appurtenant thereto. The Condominium thus created shall be known as Banyan Park, a Condominium.

II. DEFINITIONS.

The terms used in this Declaration of Condominium and its Exhibits shall have the following meanings, unless the context in which they are used requires a different meaning:

- A. "Assessment" means a share of the funds required for the payment of common expenses which from time to time are assessed against the Unit Owner.
- B. "Association" means Banyan Park Condominium Association, Inc., a Florida corporation not-for-profit; the entity responsible for the operation of the Condominium.
- C. "Board of Directors" means the Board of Directors of the Association.
- D. "Building" means one of the seven residential buildings constituting the principal improvements located on the land hereby submitted to condominium ownership.
- E. "By-Laws" means the By-Laws of the Association, as they exist from time to time.
- F. "Common Elements" means the portions of the Condominium Property not included in the Units.
- G. "Common Expenses" means all expenses and assessments properly incurred by the Association for the Condominium.
- H. "Common Surplus" means the excess of all receipts of the Association, including, but not limited to, assessments, rents, profits and revenues on account of the common elements over the amount of common expenses.

82 043249

1992 MAR 19 AM 11:53

B3692 P1877

199.60

I. "Condominium Act" means the Condominium Act of the State of Florida (Chapter 718, Florida Statutes) as it exists on the date that this Declaration of Condominium is recorded in the Public Records of Palm Beach County, Florida.

J. "Condominium Documents" means this Declaration of Condominium and all Exhibits hereto as they may be amended from time to time.

K. "Condominium Parcel" means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit.

L. "Condominium Property" means the land and personal property that are subjected to condominium ownership under this Declaration, all improvements on said land, and all easements and rights appurtenant thereto for use in connection with the Condominium.

M. "County" means Palm Beach County, Florida.

N. "Declaration" or "Declaration of Condominium" means this instrument, as it may be amended from time to time.

O. "Developer" means Banyan Park Associates, Ltd., a Florida limited partnership, and any successor or assign to whom it assigns its rights under this Declaration of Condominium.

P. "Institutional Mortgage" means a first mortgage on Unit or Units in the Condominium held by an Institutional Mortgagee.

Q. "Institutional Mortgagee" means a bank, savings and loan association, insurance company, a real estate or mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, any other lender generally recognized as an institutional type lender, or the Developer, which holds a first mortgage on a Unit or Units.

R. "Limited Common Elements" means those Common Elements which are reserved by this Declaration of Condominium for the exclusive use of a certain Unit or Units.

S. "Primary Occupant" means the person who is designated, individually or together with the members of his or her family, to occupy a Unit where title to the Unit is held by a corporation, trust, partnership, or other entity and who is the person designated pursuant to the By-Laws who is entitled to cast the vote on behalf of multiple owners of a Unit or on behalf of the corporation, trust, partnership or other entity.

T. "Unit" means a part of the Condominium that is subject to exclusive ownership.

U. "Unit Owner" or "Owner of a Unit" means the owner of a Condominium Parcel.

V. "Utilities" shall include, but not be limited to, telephone, gas, electric power, water and sewerage, and garbage disposal.

III. DESCRIPTION OF THE CONDOMINIUM PROPERTY.

A. General Description. The Condominium is located at 170 N.W. 70th Street, Boca Raton, Florida 33431. The improvements of the Condominium include seven two-story residential buildings, parking areas, walks, swimming pool, pool deck, landscaping, club room and kitchen and other commonly used facilities.

B. Survey, Graphic Description, and Plot Plan. Attached hereto as Exhibit "A" is a survey of the land hereby submitted to Condominium, a graphic description of the improvements in which the Units are located, and a plot plan of the Condominium Property. Together with this Declaration of Condominium, Exhibit "A" is sufficient to identify the Common Elements of the Condominium and each Unit and their relative locations and dimensions. Exhibit "A" identifies each Unit by number so that no Unit bears the same designation as any other Unit. A certificate of a surveyor authorized to practice in the State of Florida is included as part of Exhibit "A". The certificate certifies that the construction of the improvements is substantially complete so that the material in Exhibit "A", together with the provisions of this Declaration of Condominium, is an accurate representation of the location and dimensions of the improvements included in the Condominium Property and that there can be determined from them the identification, location, and dimensions of the Common Elements and each Unit.

C. Identification of Units. The Condominium includes a total of 68 Units contained in seven buildings numbered 110, 120, 130, 140, 150, 160, and 170. Building 110 contains 8 Units and Buildings 120-170 each contain 10 Units. Each Unit is shown on Exhibit "A" and is designated by a double, hyphenated, three digit, numerical designation. The first three digits designate the Building and the last three indicate the Unit number within that Building. Units on the first floor are numbered from 101-104 or 105 as the case may be. Units on the second floor are numbered 201-204 or 205 as the case may be. Examples would be 110-101, 110-102, 110-201, 110-202, etc. Each Unit shall include those parts of the Building that lie within the Unit's boundaries, excluding, however, all items which are specifically designated by this Declaration of Condominium as Common Elements. The boundaries of each Unit shall be as follows:

1. Condominium Unit Boundaries. Each Condominium Unit shall include that part of the building containing the Condominium Unit that lies within the boundaries of the Condominium Unit, which boundaries are as follows:

(a) The Upper and Lower Boundaries. The upper and lower boundaries of the Condominium Unit shall be the following boundaries extended to an intersection with the perimetrical boundaries.

(1) Upper Boundaries - The horizontal plane of the undecorated finished ceiling.

(2) Lower Boundaries - The horizontal plane of the undecorated finished floor.

(b) Perimetrical Boundaries. The perimetrical boundaries of the Condominium Unit shall be the vertical planes of the undecorated finished interior of the walls bounding the Condominium Unit extended to intersections with each other and with the upper and lower boundaries, with the following exceptions: when the vertical planes of the unfinished interior surfaces of the bounding walls located on the same side of a Unit would pass each other (if not otherwise terminated) without intersecting, then if they would pass each other within an intervening partition, the vertical planes of the unfinished interior surfaces of bounding walls shall be extended to intersect with the plane of the

center, line of the intervening partition and that plane shall be one of the perimetrical boundaries of the Unit.

D. Common Elements. The Common Elements shall include all of the Condominium Property not included in the boundaries of a Unit, including, without limitation:

1. easements through Units for conduits, pipes, ducts, vents, plumbing, wiring, and other facilities, equipment and/or fixtures for the furnishing of utility services to Units and Common Elements;
2. easements of support in every portion of a Unit which contributes to the support of other Units or Common Elements;
3. the property and installations for the furnishing of utility services to more than one Unit other than the Unit containing the installation; and
4. all real property, personal property and fixtures now or hereafter owned by the Association.

E. Limited Common Elements The Limited Common Elements shall include the following:

1. Storage Area, Patio and Balcony. Each storage area, patio or balcony is a Limited Common Element for the Condominium Unit served.
2. Walkways, Staircases and Meter Rooms. Each walkway, staircase and meter room is a Limited Common Element for the Condominium Units in the building of which they are a part.
3. Parking Spaces. Each Unit in the Condominium shall be assigned the exclusive right to use one parking space by the Developer, which shall be a Limited Common Element of the particular Unit to which it is assigned.

IV. APPURTENANCES TO UNITS AND EASEMENTS.

There shall be appurtenant, and pass with title, to each Unit:

- A. an undivided one sixty-eighth (1/68) share in the Common Elements (including the Limited Common Elements) and in the Common Surplus of the Condominium;
- B. the right to use exclusively the Limited Common Elements which have been assigned or designated to the Unit by or in accordance with the terms of this Declaration of Condominium;
- C. an exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time and as it may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is permanently vacated from time to time;
- D. the right to membership in the Association;
- E. nonexclusive easements, to be used and enjoyed in common with the Owners of all Units in the Condominium, for use of those Common Elements which have not been designated as Limited Common Elements, including, but not limited to, easements for:

B3692 P.1880

1. the furnishing and maintenance of public utility services to all parts of the real property of the Condominium over, across, in and through the Condominium Property, as the fixtures and equipment therefor presently exist and/or may hereafter be modified or relocated;

2. vehicular and pedestrian access over, across, upon, in and through the drives, entries, gates, walkways, grounds, and other portions, if any, of the Common Elements as are presently or hereafter intended for pedestrian or vehicular use, together with easement for reasonable means of ingress and egress to public-ways;

3. recreational purposes, in and to the swimming pool, pool deck, club room, barbecue patio, kitchen, and other recreational facilities comprising a portion of the Common Elements of the Condominium;

F. an exclusive easement for the unintentional and non-negligent encroachment by any Unit upon any other Unit or Common Element, or vice versa, for any reason not caused by or resulting from the willful or negligent act of any Unit Owner or Owners, including without limitation, encroachments caused by or resulting from the original construction of the improvements by the Developer, any subsequent alteration or repair, any settling or shifting of the Building, or any reconstruction of all or any portion of the Building after casualty; and

G. an exclusive easement on that portion of the Common Elements which is occupied by the air conditioning and ventilating equipment exclusively serving and comprising a part of the Unit.

V. OPERATING ENTITY.

A. Identity. The entity responsible for the operation of the Condominium shall be Banyan Park Condominium Association, Inc., a Florida corporation not-for-profit. A copy of the Articles of Incorporation of the Association is attached hereto and made a part hereof as Exhibit "B." Subject to the rights reserved herein to Developer, the Association shall be responsible for the administration and management of the Condominium Property. The Association shall have all of the powers necessary or desirable for the operation of the Condominium as a first-class residential community, including those powers specifically delineated in the Articles of Incorporation and By-Laws.

B. By-Laws. The procedures for the internal administration and functioning of the Association are set forth in the By-Laws. A copy of the By-Laws is attached hereto and made a part hereof as Exhibit "C."

C. Membership and Voting Rights. The Owner of a Unit shall become a member of the Association automatically upon and simultaneously with receipt of a deed of conveyance of fee title from the Developer, or in the case of a conveyance by a grantee or remote grantee of Developer, upon receipt of a deed evidencing a conveyance of fee title pursuant to a sale which has been approved by the Association or which does not require approval. Membership in the Association may not be transferred separate and apart from a conveyance of the Unit. Membership in the Association shall terminate upon sale or transfer of the Unit, whether voluntary or involuntary. There shall be one vote appurtenant to each Unit and the total number of votes in the Association shall equal the total number of Units in the Condominium. If a Unit Owner owns more than one Unit, the Unit Owner shall be entitled to one vote for each Unit owned. If a Unit is owned by more than one person, the manner in

B3692 P.1881

which the vote, shall be cast shall be determined in the manner provided in the By-Laws.

D. Management Agreement. In order to facilitate the maintenance and operation of the Condominium, the Association shall have the power to enter into a Management Agreement with a manager or managing company. To the extent permitted by law, the Management Agreement may delegate maintenance, management, and operational duties and obligations of the Association.

E. Right to Access. The Association shall have the irrevocable right of access to each Unit during reasonable hours, when necessary for maintenance, repair or replacement of any Common Elements or for making emergency repairs necessary to prevent damage to the Common Elements or to another Unit or Units.

VI. ALTERATION AND IMPROVEMENT.

The rights, obligations and restrictions pertaining to alteration and improvement to the Condominium Property are as follows:

A. Alterations by Unit Owners other than Developer. No Unit Owner other than Developer shall, without first having obtained the written consent of the Board of Directors of the Association and all required governmental approvals and permits, make any alteration, replacement, decoration, enclosure, or addition to the Common Elements (including any Limited Common Element appurtenant to a Unit) or any exterior portion of the Buildings (whether a part of a Unit or a part of the Common Elements), except, however, for replacement of screening or glass in a window or sliding glass door contained in a Unit with screening or glass similar to the material that is being replaced. Without limiting the generality of the foregoing, no Unit Owner other than Developer, without having first obtained the prior consent of the Board of Directors of the Association, shall do any of the following:

1. remove, in whole or in part, replace, reroute, or otherwise affect any column, bearing wall or partition, pipe, duct, wire or conduit, or obstruct any easement herein provided for; or
2. remove, or change the style, pattern, material, texture or outside color of any door, window, screen, fixture or equipment in or on an exterior of a Unit or Building wall; or
3. cover, from the inside or outside, the glass or other transparent or translucent material in any exterior door or window with, or apply or affix thereto, any material or substance which shall render the same opaque or change the exterior color thereof, except interior draperies, curtains, shades or shutters which are lined, backed, covered or painted on the side visible from the exterior with a neutral color material; or
4. affix to or over any exterior door or window, or otherwise install on the exterior of any Unit or the Buildings, any storm or hurricane shutter (except upon issuance of hurricane warnings) or awning or any protective or decorative panel, panelling, trim, enclosure, fixture, or appliance; or
5. otherwise change, modify or alter the exterior of any Unit or a Building so that it thereby differs in appearance from any other Units of the same type.

B3692 P1882

B. Requests for Approval. All requests by Unit Owners for approval of alterations or additions shall be submitted to the Board of Directors in writing together with such plans and specifications as the Board of Directors shall require to evaluate the request. The Board of Directors of the Association shall approve or disapprove any request from a Unit Owner within 45 days from having received it. Any Unit Owner making an addition, alteration, or improvement shall be deemed to have agreed to hold the Association and all other Unit Owners harmless from all damages and liability which result. In the event any Unit Owner performs any alterations, improvements, or additions without having obtained the consent of the Board of Directors, the Association shall have all remedies provided by the Condominium Act as well as an action for injunctive relief. In addition, the Association may remove or modify any such alterations, improvements or additions at the Unit Owner's expense and shall be entitled to access to the Unit for the purpose of doing so.

C. Alterations by the Association. The Association shall not make any alteration of, addition to, or expansion of the Common Elements, unless the alteration, addition, or expansion has been approved by the Owners of Units to which at least 75% of the Common Elements are appurtenant.

D. Alterations by the Developer. As long as Developer shall own at least one Unit in the Condominium, Developer shall have the right, without the vote or consent of the Association to:

1. make structural and non-structural changes, alterations, additions, or improvements in and to the Units owned by Developer and to change the interior design and arrangement of Developer-owned Units; and
2. change the size and/or number of Developer-owned Units by combining all or part of two or more Developer-owned Units or by subdividing one or more Developer-owned Units (including any Units resulting from the prior combination of two or more Developer-owned Units) or otherwise. If Developer makes any such change in the size or number of Developer-owned Units, Developer shall have the right to reapportion among the affected Developer-owned Units their appurtenant undivided interest in the Common Elements; provided, however, that the percentage interest in the Common Elements of any other Units (other than the affected Developer-owned Units) shall not be changed by reason thereof unless the Owners of such other Units shall consent thereto in writing. Any change in the number or size of Developer-owned Units and any reapportionment of their appurtenant undivided interests in the Common Elements shall be reflected by an Amendment to this Declaration of Condominium which shall contain a survey reflecting the change and which need be executed only by Developer and all Institutional Mortgagees holding an Institutional Mortgage on the affected Units. The Amendment need not be approved or executed by the Association or by Unit Owners other than Developer.

E. Compliance with Laws and Regulations. All additions, alterations and approvals shall be made in compliance with all applicable governmental laws and regulations and all zoning and building code regulations. All work shall be performed in such a manner that the structural integrity of the Building is not adversely affected.

B3692 P 1883

VII. ADDITIONAL RIGHTS OF DEVELOPER.

In addition to all other rights, privileges and benefits reserved to Developer in this Declaration of Condominium, Developer shall also be entitled to the following rights, privileges and benefits:

A. Sales Activity. Until such time as the Developer has sold all Units in the Condominium, the Developer is irrevocably empowered, notwithstanding anything herein to the contrary, to sell, mortgage, and/or rent Units to any persons approved by it, free and clear of any right of first refusal of the Association. The Developer shall have the right to transact on the Condominium Property any business necessary for the offering for sale or rental of Units, including but not limited to the right to maintain models, have signs for sales or rentals and otherwise retain employees and agents in its office, use the Common Elements to show Units, and to use any Unit or Units for Developer's sales offices and as model apartments. Any sales or display office, signs, fixtures or furnishings or other tangible personal property belonging to the Developer shall not be considered Common Elements and shall remain the property of the Developer.

In the event there are unsold Units, or the Developer reacquires any Units, the Developer retains the right to be the Owner thereof and to sell, mortgage and/or rent said Units without the necessity of obtaining the approval of the Association and without the payment of any transfer, leasing or other type or form of fee or charge.

B. Control of Association. The Developer retains the right to elect a majority of the members of the Board of Directors of the Association until: three (3) years after sales by the Developer have been closed on fifty percent (50%) of the Units in the Condominium; or, three (3) months after sales have been closed by the Developer on ninety percent (90%) of the Units in the Condominium; or, when all of the Units in the Condominium have been completed and some of them have been sold and none of the others are being offered for sale by the Developer in the ordinary course of business, whichever shall occur first. The Developer shall be entitled to elect not less than one (1) member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business not less than five percent of the Units in the Condominium. All of the foregoing may, however, be waived by the Developer at its sole option.

C. Additional Easements. The Developer (so long as it owns any Units) and the Association each shall have the right to grant such additional utility easements or relocate any existing utility easements 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 or the Association shall deem necessary or desirable for the proper operation and maintenance of the improvements, or any portion thereof, or for the general health or welfare of the Unit Owners, or for the purpose of carrying out any provisions of this Declaration, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the use of the Units for dwelling purposes.

D. Construction; Contractors, Agents, Maintenance. The Developer (including its designees, contractors, agents and employees) shall have the right in its sole discretion from time to time to enter the Condominium Property for the purpose of completing the construction thereof and for repair, replacement and maintenance purposes where the Association fails to do so, provided same does not prevent or unreasonably interfere with the use or enjoyment of the Unit Owners of the Condominium Property.

VIII. AMENDMENT OF DECLARATION OF CONDOMINIUM.

Except as otherwise specifically provided for in this Declaration of Condominium, Amendments to this Declaration of Condominium shall be adopted as follows:

A. Amendments by the Association.

1. Notice. Notice of the subject matter of the proposed Amendment shall be included in the notice of any general or special meeting of the Association at which the proposed Amendment is to be discussed.

2. Resolution. A Resolution adopting and approving a proposed Amendment shall be proposed, adopted, and approved by the members. Approval of an Amendment shall require the affirmative vote of a majority of the Board of Directors and the affirmative vote of not less than 66-2/3% of the Units unless the proposed amendment is one which requires a higher percentage affirmative vote by other provisions of this Declaration or by law.

*Deleted by
B. P. April 12-03*

B. Amendments by Developer to Correct Errors. As long as the Developer owns any Units in the Condominium, Developer shall have the right to amend the Declaration to correct any omissions and errors; provided, however, no such Amendment shall substantially adversely affect rights of Unit Owners other than Developer without their written consent.

C. Recording. A copy of each Amendment to the Declaration shall be duly recorded as required by the Condominium Act and shall become effective upon recording.

D. Proviso. Except as otherwise specifically provided in this Declaration, no Amendment shall change the size or configuration of any Unit nor the share of the Common Elements or Common Expenses attributable to any Unit, unless the record Owner thereof and all record owners of mortgages or other liens thereon shall join in the execution of the Amendment. No Amendment may be adopted which would eliminate, modify, prejudice or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved in this Declaration to the Developer or to Institutional Mortgagees without the consent of the Developer and the Institutional Mortgagee in each instance. No Amendment shall make any change in the Articles entitled "Insurance," "Reconstruction or Repair After Casualty" or "Condemnation" unless all Institutional Mortgagees shall join in the execution of the Amendment. No amendment shall discriminate against any Unit Owner or mortgagee or against any Unit or class or group of Units unless all parties adversely affected shall consent in writing.

IX. MAINTENANCE.

Responsibility for maintenance, repairs, and replacement of Condominium Property and property of Unit Owners located within the Condominium shall be as follows:

A. Responsibility of Unit Owners. Each Unit Owner shall be responsible for maintaining, replacing, and keeping in good repair:

1. all portions of the Unit, including, but not limited to, the air conditioning unit and ventilating system serving the Unit exclusively, the interior surfaces of the ceilings, floors and exterior boundary walls of the Unit, all interior partition walls which are included as part of the Unit, all glass, screens and all glass and non-glass

83692 P1885

doors of the Unit (except, however, for the paint on the exterior of any non-glass door); and

2. all fixtures, appliances, personal property and equipment owned by the Unit Owner.

All maintenance, repairs, and/or replacements for which Unit Owners are responsible and which, if not promptly performed, would affect other Units or the Common Elements, shall be performed promptly as the need arises.

Notwithstanding the responsibility of the Unit Owner for maintenance, repair, and replacement, the proceeds of all insurance awards under insurance carried by the Association shall be applied against the costs of repair or replacement.

If a Unit Owner fails to perform promptly his responsibilities of repair, maintenance and replacement, the Association shall be entitled to seek all remedies available at law, including the right to take legal action to require the Unit Owner to perform the responsibilities. The Association in addition shall be entitled to perform the necessary work at the cost of the Unit Owner and shall be entitled to access to the Unit for that purpose.

B. Responsibility of the Association. The Association shall be responsible for the maintenance, repair and replacement of:

1. the Common Elements of the Condominium (other than those Common Elements for which the Unit Owner is specifically responsible pursuant to Section A above);
2. all parking spaces, whether or not Limited Common Elements appurtenant to a particular Unit;
3. the exterior surfaces of all non-glass doors of each Unit; and
4. the balconies and terraces that are Limited Common Elements appurtenant to Units, except, however, the surface of the floors and the interior surfaces of any parapets of the balconies and terraces.

C. Maintenance and Repair Caused by Negligence of Unit Owners.
A Unit Owner shall be responsible for the expense of any maintenance, repair or replacement rendered necessary by his or her act, neglect or carelessness or by that of any member of his or her family or any guests, employees, agents, lessees, or other invitees, but only to the extent that such expense is not met by proceeds of insurance carried by the Association. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances or the Common Elements.

X. INSURANCE.

Insurance shall be carried and kept in force at all times in accordance with the following provisions:

A. Duty and Authority to Obtain. The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry as well as all coverage which it is required by the Condominium Act to carry. The Association may also obtain and keep in force any or all such other or additional insurance coverage as it is authorized hereby to carry. All insurance obtained by the Association shall be purchased for the benefit of the Association and the Unit Owners and their mortgagees, and a certificate evidencing a mortgagee endorsement shall be issued to the Mortgagee of each Unit.

The Owner(s) of each Unit may, at the expense of such Owner(s), obtain insurance coverage against damage to and loss of the contents of the Unit, personal liability for injury to and death of persons and damage to and loss of personal property of others, and against additional living expenses; provided, that each policy of such insurance purchased by a Unit Owner shall, where such provision is available, provide that the insurer waives its right of subrogation as to any claim or claims against other Unit Owners, the Association, and their respective employees, agents, guests, and invitees.

B. Required Coverage. The Association shall purchase and carry insurance coverage as follows:

1. Casualty Insurance. Casualty insurance covering the Buildings and other improvements of the Condominium, including, without limitation, Units, the bathroom, kitchen fixtures and other additions initially installed within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the Units by the Developer or replacements thereof, pursuant to the original plans and specifications, and Common Elements, in an amount equal to the maximum insurance replacement value thereof (subject to reasonable deductible clauses), exclusive of excavation and foundation costs as determined annually by the Board of Directors of the Association; such insurance to afford protection against:

(a) Loss or damage by fire or other hazards covered by the standard extended coverage or other perils endorsement; and

(b) Such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings and other improvements similar in construction, location and use, to the Buildings and other improvements of the Condominium, including, without limitation, vandalism, malicious mischief, windstorm, water damage and war risk insurance, if available; and

(c) Public liability insurance, in such amounts, with such coverage and in such forms as shall be required by the Board of Directors of the Association to protect the Association and the owners of all Units, including, without limitation, hired automobile, non-owned automobile, off-premises employee coverage, water damage and legal liability, with cross-liability endorsements to cover liability of all Unit Owners as a group to each Unit Owner; and

(d) Workmen's compensation insurance to meet the requirements of law; and

(e) Flood insurance, if the same shall be necessary under the laws of the United States for federally related mortgage lenders to make mortgage loans on Units; and

(f) Fidelity insurance, if applicable, covering all officers and employees of the Association and any managing agent who handles Association funds.

2. Waiver by Insurer. Wherever obtainable and if practical the insurance policies shall waive the insurer's

right to (a) subrogation against the Association and against Unit Owners individually and as a group; (b) the pro rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk, and (c) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, or by a member of the Board of Directors of the Association or by one or more Unit Owners.

C. Optional Coverage. The Association may purchase and carry such other insurance coverage, other than title insurance, as the Board of Directors of the Association, in its sole discretion, may determine from time to time to be in the best interests of the Association and Unit Owners, or as an institutional lender may reasonably require while it holds a mortgage encumbering any Unit.

D. Premiums. Premiums for all insurance obtained and purchased by the Association shall be paid by the Association. The cost of insurance premiums, and other incidental expenses incurred by the Association in administering and carrying out the provisions of this Article, shall be assessed against and collected from Unit Owners as Common Expenses.

E. Assured. All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, the Owners of Units and their mortgagees, as their interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the "Insurance Trustee," as herein identified, or to its successor, and the proceeds from insurance against any casualty loss shall be held for the use of the Association, Unit Owners and their respective mortgagees, as their interests may appear, to be applied or distributed in the manner herein provided. The Association is hereby constituted and appointed agent for all Unit Owners, with authority to negotiate and settle the value and extent of any and all losses covered under any policy of casualty insurance, and the Association is granted full right and authority to execute, in favor of any insurer, a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.

F. Insurer. All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the Association shall be bound by the Association's selection of its insurer(s) and the amount of insurance coverage carried and kept in force by the Association. All insurance policies shall be issued by an insurance company authorized to do business in Florida and having an office or agent located in the County.

G. Insurance Trustee. The Association shall have the right, prior to or upon the occurrence of any event causing or resulting in the need for the same, to designate the Insurance Trustee and all persons beneficially interested in such insurance coverage shall be bound by the Association's selection of the Insurance Trustee.

1. Qualifications, Rights and Duties. The Insurance Trustee shall be a bank with trust powers doing business in the State of Florida. The Insurance Trustee shall not be liable for the payment of premiums, the renewal of any policy or policies of casualty insurance, the sufficiency of coverage, the form or content of policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds of casualty insurance as are paid and to hold the same in trust for the purposes herein stated, and for the benefit of the Association, Unit Owners and their respective mortgagees, to be disbursed as herein provided.

The Association shall pay a reasonable fee to the Insurance Trustee for services rendered hereunder and shall pay such costs and expenses as the Insurance Trustee may incur in the performance of its duties hereunder; such fees and costs to be assessed against and collected from Unit Owners as a Common Expense. The Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence, and then only for such money as may come into the possession of the Insurance Trustee. If and when the Insurance Trustee is required to distribute insurance proceeds to Unit Owners and their mortgagees, as their respective interests may appear, the Insurance Trustee may rely upon a certificate of the President and Secretary of the Association, executed under oath and provided to the Insurance Trustee upon request to the Association; such certificate to certify the name or names of the owners of each Unit, the mortgagee(s) thereof, and the respective percentages of any distribution which is to be made to such owner(s) and Mortgagee(s), as their respective interests may appear. If and when insurance proceeds are paid to the Insurance Trustee for any casualty loss, the holder(s) of any mortgage or mortgages encumbering a Unit shall not have the right to determine or participate in the determination of repair or replacement of any loss or damage, and shall not have the right to elect to apply insurance proceeds to the reduction of indebtedness secured by such mortgage(s), unless the insurance proceeds represent a distribution to the Owner(s) of the Unit and the mortgagee(s) thereof, after such insurance proceeds have been first applied to the repair, replacement or reconstruction of any loss or damage, or unless such casualty insurance proceeds are authorized to be distributed to the owner(s) of the Unit and the mortgagee(s) thereof by reason of loss of or damage to personal property constituting a part of the Common Elements and as to which a determination is made not to repair, replace or restore such personal property.

H. Application of Insurance Proceeds. The proceeds of casualty insurance paid to the Insurance Trustee by an insurer for loss or damage to real and/or personal property upon which the Association carries insurance, shall be applied and paid as follows:

1. Common Elements Only. The proceeds paid to the Insurance Trustee for loss of or damage to real property constituting Common Elements only shall be applied to the repair, replacement or reconstruction of such loss or damage. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements, the excess shall be paid by the Insurance Trustee to the Owners of all Units, and their respective mortgagees, as their interests may appear, in shares or proportions equal to the undivided interest appurtenant to each Unit in the Common Elements. If the insurance proceeds shall be insufficient to pay the cost of the repair, replacement or reconstruction of such Common Elements, the Association shall deposit with the Insurance Trustee, from any Association Reserve Fund which may have been established, the difference between the total cost of repairing, replacing or reconstructing such loss or damage and the amount of the insurance proceeds. If no such Association Reserve Fund has been established, or if any such Association Reserve Fund has been established and is insufficient to pay to the Insurance Trustee such difference, the Association shall assess the amount of the difference against, and collect it from, all Unit Owners as a Common Expense.

2. Units, The proceeds paid to Insurance Trustee for loss of or damage to the Buildings, constituting Common Elements and one or more Units thereof, shall be first applied to the repair, replacement or reconstruction of Common Elements, then to the repair, replacement or reconstruction of any Unit or Units in such building which have been destroyed or damaged. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements and Units, the excess shall be paid by the Insurance Trustee to the owners of the damaged or destroyed Units and their respective mortgagees, as their interests may appear, in shares or proportions equal to the undivided interest appurtenant to each such Unit in the Common Elements. If the insurance proceeds shall be sufficient to pay for the repair, replacement or reconstruction of the Common Elements but shall be insufficient to pay the cost of the repair, replacement or reconstruction of the damaged or destroyed Unit or Units in such building, the Association shall assess the amount of the difference against, and collect the same from, the Owner(s) of the Unit(s) damaged or destroyed, in proportion that the amount of damage sustained to each such Unit bears to the total deficit, and deposit such sum with the Insurance Trustee to be applied by the Insurance Trustee toward the total cost of repairing, replacing or reconstruction of all of such damaged or destroyed Common Elements and Units. If the insurance proceeds shall be insufficient to pay the cost of the repairs, replacements, or reconstruction of the Common Elements (to which the Insurance Trustee is required first to apply such proceeds before applying any part thereof to the repair, replacement or reconstruction of Units), the difference between the total cost of repairing, replacing or reconstructing the Common Elements and the amount of the insurance proceeds shall be assessed by the Association against, and collected from, all Unit Owners, as a common expense, and, in such event, the cost of repairing, replacing or reconstructing the Unit or Units destroyed or damaged shall be assessed by the Association against, and collected from the Owner(s) of such damaged or destroyed Units.

I. Deposits to Insurance Trustee After Damage. Within sixty (60) days after a loss of or damage to Condominium Property covered by casualty insurance, the Association shall obtain estimates of the cost of repairing, replacing or restoring the same, including the cost of professional fees and any construction bond which the Board of Directors may require. If, from such estimates, it shall appear that the insurance proceeds payable for such loss or damage will be insufficient to pay the cost of such repair, replacement or reconstruction, the additional money required to pay the total cost thereof, whether it is to be paid by one or more Unit Owners, shall be deposited with the Insurance Trustee not later than thirty (30) days from the day on which the Insurance Trustee receives the insurance proceeds.

J. Approval. Each insurance policy, the agency and company issuing the policy, and the Insurance Trustee shall be subject to the approval of the Institutional Mortgagee then holding the greatest dollar volume of mortgages encumbering the Units of the Condominium.

K. Benefit of Mortgagee. Certain of the provisions in this Article titled "Insurance" are for the benefit of Mortgagees of Condominium Units. Those provisions are covenants for the benefit of Mortgagees and may be enforced by such Mortgagees.

XI. RECONSTRUCTION OR REPAIR AFTER CASUALTY.

Whether, and the manner in which, any or all of the Condominium Property damaged or destroyed by casualty shall be repaired, reconstructed or replaced shall be determined as follows:

A. Residential Buildings. If the residential Building shall be damaged or destroyed, repair or reconstruction, thereof, or termination of the Condominium, shall be in accordance with the following:

1. Total Destruction of All Buildings. If the residential Buildings of the Condominium are totally destroyed or are so damaged that no Unit therein is habitable, none of the Buildings and none of the improvements comprising Common Elements shall be reconstructed, and the Condominium shall be terminated unless the Owners of Units to which seventy-five percent (75%) of the Common Elements are appurtenant agree in writing, within sixty (60) days after the date of such destruction, to reconstruct the same and unless the then applicable zoning and other regulatory laws and ordinances shall allow the same to be reconstructed, or unless any policy or policies of casualty insurance covering the same shall require reconstruction thereof as a condition precedent to the payment of proceeds thereunder.

2. Damage to and Destruction of Some Buildings. If some, but not all, of the residential Buildings are damaged and/or destroyed and one or more of the Units in one or more of the Buildings remain habitable, the damaged or destroyed Common Elements and/or Units shall be repaired or reconstructed, so that each Building and each Unit shall be restored to substantially the same condition as existed prior to such damage or destruction, unless within sixty (60) days after the casualty it is determined by agreement in the manner elsewhere herein provided that the Condominium shall be terminated.

B. Common Elements. Damaged or destroyed improvements constituting part of the Common Elements shall be repaired, reconstructed and/or replaced unless, in the event of total destruction of the Units, or, by agreement after partial destruction, the Condominium shall be terminated.

C. Certificate. The Insurance Trustee may rely upon a certificate executed by the President and Secretary of the Association to determine whether or not damaged or destroyed Condominium Property shall be repaired or reconstructed.

D. Plans and Specifications. Repair or reconstruction of Condominium Property shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed; provided, that the Board of Directors of the Association may authorize reasonable variations from the original plans and specifications as may appear to them to be necessary or desirable.

E. Responsibility. If the damage or destruction shall be limited only to one or more Units for which the responsibility of maintenance and repair is that of the affected Unit Owners, then such Unit Owners shall be responsible for carrying out the repair or reconstruction thereof. In all other instances of damage or destruction, the Association shall be responsible for carrying out the repair and reconstruction thereof.

F. Construction Funds. All funds for the payment of repair and reconstruction costs, consisting of insurance proceeds and/or funds

B3692 P.1891

collected by the Association from Unit Owners, shall be disbursed toward payment of such costs in the following manner:

1. Association. If the total funds assessed against and collected from Unit Owners by the Association for payment of repair and reconstruction costs is more than five thousand dollars (\$5,000.00), then all such sums shall be deposited by the Association with and disbursed by the Interest Trustee. In all other cases the Association shall hold such sums so assessed and collected and shall disburse the same in payment of the costs of reconstruction and repair.

2. Insurance Trustee. The proceeds of insurance collected on account of a casualty, and the sums assessed against and collected from Unit Owners by the Association and deposited with the Insurance Trustee shall constitute a construction fund which shall be disbursed in payment of the costs of repair and reconstruction in the following manner:

(a) Unit Owner. The portion of insurance proceeds representing damage for which the responsibility of repair and reconstruction is upon one or more, but less than all, Unit Owners, shall be paid by the Insurance Trustee to the affected Unit Owners and, if any of such Units are mortgaged, to the affected Unit Owners and their mortgagees jointly.

(b) Association - Lesser Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than five thousand dollars (\$5,000.00), then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request to the Insurance Trustee by a mortgagee which is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

(c) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than five thousand dollars (\$5,000.00), then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an architect registered to practice in Florida and employed by the Association to supervise the work.

(d) Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in the construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere herein stated; except, however, that the part of a distribution to a beneficial Owner which is not in excess of

B3692 P.1892

assessments paid by such owner into the construction fund shall not be made payable to any mortgagee.

(e) Certificate. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit Owners upon assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid, nor to determine whether surplus funds to be distributed are less than the assessments paid by Owners. Instead, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to any or all of such matters and stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided that when a mortgagee is herein required to be named as payee the Insurance Trustee shall also name the mortgagee as payee; and further provided that when the Association, or a mortgagee which is the beneficiary of an insurance policy the proceeds of which are included in the construction fund, so requires, the approval of an architect named by the Association shall be first obtained by the Association.

G. Benefit of Mortgagees. Certain provisions in this Article titled Reconstruction or Repair After Casualty are for the benefit of Mortgagees of Units and may be enforced by them.

XII. CONDEMNATION.

A. Deposit of Awards with Insurance Trustee. The taking of Condominium Property by condemnation shall be deemed to be a casualty, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee; and in the event of failure to do so, in the discretion of the Board of Directors of the Association a special assessment shall be made against a defaulting Unit Owner in the amount of his award, or the amount of that award shall be set off against the sums hereafter made payable to that Owner.

B. Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For that purpose, the taking by condemnation shall be deemed to be a casualty.

C. Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the awards and special assessments will be deemed to be Condominium Property and shall be owned and distributed in the manner provided for insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced, the Owners of condemned Units will

be made whole, and the property damaged by the taking will be made useable in the manner provided below. The proceeds of the awards and special assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Insurance Trustee after a casualty.

D. Unit Reduced but Tenantable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made tenantable, the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Condominium.

1. Restoration of Unit. The Unit shall be made tenantable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against the Owner of the Unit.

2. 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.

3. Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the number representing the share in the Common Elements appurtenant to the Unit shall be reduced in the proportion by which the floor area of the Unit is reduced by the taking, and then the shares of all Unit Owners in the Common Elements shall be restated as percentages of the total of the numbers representing their original shares as reduced by the taking.

E. Unit Made Untenantable. If the taking is of the 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:

1. Payment of Award. The award shall be paid first to all Institutional First Mortgagees in an amount sufficient to pay off their mortgages encumbering those Units which are not tenantable; and then jointly to the Unit Owners and mortgagees of Units not tenantable in an amount equal to the market value of the Unit immediately prior to the taking and with credit being given for payments previously reserved for Institutional First Mortgagees; and the balance, if any, to repairing and replacing the Common Elements.

2. Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in condition for use by all of the Unit Owners in the manner approved by the Board of Directors of the Association; provided that if the cost of the work shall exceed the balance of the fund from the award for the taking, the work shall be approved in the manner elsewhere required for further improvement of the Common Elements.

3. Adjustment of Shares in Common Elements. The shares in the Common Elements appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the Common Elements among the reduced number of Unit Owners. This shall be done by restating the shares of continuing Unit Owners in the Common Elements as percentages of the total of the numbers representing the shares of these Owners as they exist prior to the adjustment.

4. Assessments. If the amount of the award for the taking is not sufficient to pay the 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 assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking. The assessments shall be made in proportion to the shares of those Owners in the Common Elements after the changes effected by the taking.

5. Arbitration. If the market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and mortgagees of the Unit and the Association within thirty (30) days after notice by either party, the value shall be determined by arbitration in accordance with the existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific performance upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction. The cost of arbitration proceedings shall be assessed against all Unit Owners in proportion to the shares of the Owners in the Common Elements as they exist prior to the changes effected by the taking.

F. Taking of Common Elements. Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements useable in the manner approved by the Board of Directors of the Association; provided, that if the cost of the work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner elsewhere required for further improvement of the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustment of these shares on account of the condemnation. If there is a mortgage of a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit.

G. Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements that are effected by condemnation shall be evidenced by an Amendment of the Declaration of Condominium that need be approved only by a majority of all Directors of the Association.

XIII. USE RESTRICTIONS.

Use of the Condominium Property shall be in accordance with the following provisions so long as the Condominium exists:

A. Units. Each of the Units shall be occupied only by a single family, its servants and guests, as a residence and for no other purpose.

B. Common Elements. The Common Elements and Limited Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Unit Owners.

C. Leasing. Upon approval of the Association in the manner elsewhere herein required, Units may be leased. All lessees shall

*Deleted + Amended by
1st Am. P. 1962*

B3692 P 1895

be bound by all terms and provisions of this Declaration of Condominium, all Rules and Regulations of the Condominium, and all other Condominium documents. No portion of a Unit (other than an entire Unit) may be leased or rented. A Unit Owner who has leased a Unit shall remain fully responsible to the Association for all obligations contained herein.

D. Nuisances. No nuisances shall be allowed upon the Condominium Property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property by residents. All parts of the Condominium Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor shall any fire hazard be allowed to exist. No use shall be made of any Unit or of the Common Elements or Limited Common Elements which would increase the rate of insurance upon the Condominium Property.

E. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Condominium Property shall be the same as is elsewhere herein specified.

F. Minors. Children are permitted to reside in the Condominium, but Children twelve (12) years of age and younger shall be closely supervised at all times by an adult to insure that they do not become a nuisance to other residents of the Condominium.

G. Pets. No animals of any kind shall be kept under any circumstances in a Unit, or allowed upon the Condominium Property, except by prior written consent of and upon such terms and conditions as shall be imposed by the Board of Directors of the Association or of the Developer.

If consent is given, whether by the Developer or by the Board of Directors, the consent may be withdrawn at any time by the Board of Directors at a duly called meeting of the Board if the Board determines in its sole discretion that the pet has become a nuisance to the Condominium or to other Unit Owners or that the Rules and Regulations regarding pets are not being fully obeyed. If consent is withdrawn by the Board, the Unit Owner shall immediately remove the pet from the Condominium. Consent shall automatically terminate upon death or other disposition of a pet for which consent was granted.

The Board of Directors shall not grant consent for a Unit Owner to keep a pet or pets except for usual and ordinary domesticated pets weighing less than twenty-five pounds when fully grown.

Notwithstanding the above, Unit purchasers already owning a prohibited pet at the time of signing a Unit Purchase Agreement are exempt from these restrictions except that such pet owner(s) may not replace the pet(s) owned by such Purchaser when the Unit was purchased, and that all such pet owners shall identify and register their pets with the Association.

Pets shall never be allowed to run freely upon any of the Condominium Property except within a Unit, and when outside a Unit shall be leashed and in the company of an individual willing and able fully to control it. Any Owner maintaining a pet on Condominium Property shall be fully responsible for, and shall bear the expense of, any damage to persons or property resulting therefrom. Any such damage shall be determined by the Board of Directors of the Association and collected by the Association.

No guest, lessee, or invitee shall bring any animal whatsoever upon the Condominium Property.

H. Exterior Improvements; Landscaping. No Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors or windows of the Building (including awnings, antennae, signs, storm shutters, screens, furniture, fixtures and equipment), or to structures of the covered parking areas without the prior written consent of the Board of Directors of the Association.

I. Rules and Regulations. Reasonable Rules and Regulations concerning the use of the Condominium Property may be made and amended from time to time by the Board in the manner set forth in the By-Laws. Copies of such Rules and Regulations and amendments thereto shall be furnished by the Association to all Unit Owners, Lessees, and residents of the Condominium upon request.

J. Proviso. Provided, however, that until Developer has completed and sold all of the Units, neither Unit Owners nor the Association nor the use of the Condominium Property shall interfere with the completion of the proposed improvements and the sale of the Units. Developer may make such use of the unsold Units and common areas as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, the showing of the Condominium Property and the display of signs.

XIV. MAINTENANCE OF COMMUNITY INTERESTS.

In order to maintain a community of congenial residents, protect the value of the Units and to assure the financial ability of each Unit Owner to pay assessments made against the Unit, the transfer of Units by any owner other than the Developer shall be subject to the following provisions so long as the Condominium exists, which provisions each Owner covenants to observe.

A. Transfers Subject to Approval.

1. Sale. No Unit Owner may dispose of a Unit or any interest therein by sale without approval of the Association except to another Unit Owner.
2. Lease. No Unit Owner may transfer possession or otherwise dispose of a Unit or any interest therein by lease without approval of the Association except to another Unit Owner.
3. Gift. If any Unit Owner proposes to transfer his title by gift, the proposed transfer shall be subject to the approval of the Association.
4. Other Transfers. If any Unit Owner proposes to transfer his title in any manner not heretofore or hereafter considered, the proposed transfer shall be subject to the approval of the Association.

B. Approval by Association. The approval of the Association which is required for the transfer of Units shall be obtained in the following manner:

1. Notice to Association.
 - a. Sale. A Unit Owner intending to make a bona fide sale of his Unit or any interest therein shall give to the Association notice of such intention, together with the name and address

B3692 P1897

of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonably require. Such notice, at the Unit Owner's option, may include a demand by the Unit Owner that the Association furnish a purchaser if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell.

b. Lease. A Unit Owner intending to make a bona fide lease of his Unit or any interest therein shall give to the Association notice of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Association may reasonably require, and an executed copy of the proposed lease.

c. Gift; Other Transfers. A Unit Owner who proposes to transfer his title by gift or in any other manner not heretofore considered, shall give to the Association notice of the proposed transfer of his title, together with such information concerning the transferee as the Association may reasonably require, and a copy of all instruments to be used in transferring title.

d. Failure to Give Notice. If the notice to the Association herein required is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Unit, the Association at its election and without notice may approve or disapprove the transaction or ownership. If the Association disapproves the transaction or ownership, the Association shall proceed as if it has received the required notice on the date of such disapproval.

2. Certificate of Approval.

a. Sale. If the proposed transaction is a sale, then, within fifteen (15) days after receipt of such notice and information, the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the President and Secretary of the Association in recordable form and shall be delivered to the purchaser and shall be recorded in the Public Records of Palm Beach County, Florida.

b. Lease. If the proposed transaction is a lease, then, within fifteen (15) days after receipt of such notice and information, the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the President and Secretary of the Association in recordable form and shall be delivered to the lessee.

c. Gift; Other Transfers. If the Unit Owner giving notice proposes to transfer his title by gift or in any other manner, then, within fifteen (15) days after receipt of such notice and

And by 1/54 2nd in 92

83692 P1898

information, the Association must either approve or disapprove the proposed transfer of title to the Unit. If approved, the approval shall be upon such terms and conditions (pertaining to the primary occupant of the Unit and the voting of Association membership appurtenant to the Unit) as the Association may reasonably require, and the approval shall be stated in a certificate executed by the President and Secretary of the Association in recordable form and shall be delivered to the Unit Owner and shall be recorded in the Public Records of Palm Beach County, Florida.

3. Approval of Corporate Owner or Purchaser. Inasmuch as the Condominium may be used only for residential purposes and a corporation cannot occupy a Unit for such use, if the Unit Owner or purchaser of a Unit is a corporation, the approval of ownership by the corporation shall be conditioned by requiring that the primary occupant of the Unit be also approved by the Association. The approval of ownership by a Trustee or other holder of legal title for a beneficial Owner who is to be the primary occupant of a Unit shall also be conditioned upon approval of the primary occupant by the Association.

C. Disapproval by Association. If the Association shall disapprove a transfer of ownership of a Unit, the matter shall be disposed of in the following manner:

1. Sale. If the proposed transaction is a sale and if the notice of sale given by the Unit Owner shall so demand, then, within fifteen (15) days after receipt of such notice and information, the Association shall deliver or mail by certified mail to the Unit Owner an agreement to purchase by the Association, or a purchaser approved by the Association who will purchase and to whom the Unit owner must sell the Unit, upon the following terms:

a. At the option of the purchaser, to be identified in the agreement, the price to be paid shall be that stated in the disapproved contract to sell.

b. The purchase price shall be paid in cash.

c. The sale shall be closed within thirty (30) days after the delivery or mailing of said agreement to purchase.

d. If the Association shall fail to provide a purchaser upon the demand of the Unit Owner in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided.

2. Lease. If the proposed transaction is a lease, the Board of Directors, within fifteen (15) days after receiving such notice, and such supplemental information as is required by the Board of Directors, shall either consent to the transaction specified in said notice, or, by written notice to be delivered to the Unit Owner's Unit (or mailed to the place designated by the Unit Owner in his notice), designate the Association, or one or more

persons who are then Unit Owners, or any person or persons satisfactory to the Board of Directors, who is willing to lease or rent upon the same terms as those specified in the Unit Owner's notice. The stated designee of the Board of Directors shall have fourteen (14) days from the date of the notice sent by the Board of Directors to make a binding offer to lease or rent upon the same terms specified in the Unit Owner's notice. Thereupon, the Unit Owner shall either accept such offer or withdraw and/or reject the offer specified in his notice to the Board of Directors. Failure of the Board of Directors to designate such person or persons within said fifteen (15) day period; or failure of such person or persons to make such an offer within said fourteen (14) day period, shall be deemed as a consent by the Board of Directors to the transaction specified in the Unit Owner's notice, and the Unit Owner shall be free to make or accept the offer specified in his notice, and lease or rent said Unit pursuant thereto to the prospective tenant named therein within ninety (90) days after his notice was given.

3. Gifts; Other Transfers. If the Unit Owner giving notice proposes to transfer his title by gift or in any other manner, then, within fifteen (15) days after receipt from the Unit Owner of the notice and information required to be furnished, the Association shall deliver or mail by certified mail to the Unit owner written notice of the terms and conditions upon which the transfer must be made, including, without limitation, the requirements of the Association regarding occupancy of the Unit and by whom the votes in the Association affairs may be cast.

D. Mortgage. No Unit Owner may mortgage his Unit nor any interest therein without approval of the Association except to an Institutional Lender", which term shall mean and include banks, life insurance companies, Federal Savings and Loan Associations, and Real Estate Investment Trusts. The approval of any other mortgagee may be upon conditions determined by the Association or may be arbitrarily withheld.

E. Exceptions. The foregoing provisions of this Article shall not apply to a transfer or purchase by an Institutional Lender or other approved mortgagee which acquires its title as the result of owning a mortgage upon the Unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor or its successor in title or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by an Institutional Lender or other approved mortgagee which so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to a Unit at a duly advertised public sale with open bidding which is provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale.

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

G. Notice of Lien, Lease or Transfer.

1. Notice of Lien. A Unit Owner shall give notice to the Association of every lien upon the Unit other than for permitted mortgages, taxes and special assessments, within five (5) days after the attaching of the lien.

2. Notice of Suit. A Unit Owner shall give notice to the Association of every suit or other proceeding which may affect the title to the Unit; such notice to be given

B3692 P1900

within five (5) days after the Unit Owner receives knowledge thereof.

3. Failure to Comply. Failure to comply with Subsections 1 and 2 above will not affect the validity of any judicial sale.

4. Notice of Lease and Transfer. A Unit Owner shall give notice to the Association as to all transfers, leases, sales, or other conveyances of a Unit or interest therein, regardless of whether or not Association approval is required. The notice shall be in writing and shall contain the name of the transferee or lessee and shall include a copy of the instrument of transfer, lease, sale or other conveyance.

H. Exceptions. The foregoing provisions of this Article XIV shall not be applicable to any of the following: a purchaser who acquires title to a Unit at a duly advertised public sale at open bidding as provided by law such as, but not limited to, execution sales, foreclosure sales, judicial sales and tax sales; to institutional mortgagees and their immediate grantees with respect to Units acquired from such institutional mortgagees as a result of foreclosure of a mortgage or deed in lieu thereof; Units owned by the Developer and Units owned by any persons who may now or hereafter be general or limited partners of the Developer or Units owned by shareholders of any general or limited partners of Developer.

XV. COMPLIANCE AND DEFAULT.

Each Unit Owner shall be governed by and shall comply with the terms of the Declaration of Condominium, the Articles of Incorporation and By-Laws of the Association, and any and all rules and regulations adopted pursuant thereto, as they may be amended from time to time. Failure of the Unit Owner to comply therewith shall entitle the Association or other Unit Owners to the following relief:

A. Remedies. The Association shall be entitled to all rights and remedies provided by this Declaration of Condominium, the Articles of Incorporation, the By-Laws, the Rules and Regulations, the Condominium Act and/or Florida law.

B. Costs and Attorney's Fees. In any proceeding resulting from an alleged failure of a Unit Owner to comply with the terms of the Declaration, the Articles of Incorporation or By-Laws of the Association, or any rule or regulation adopted pursuant thereto, the Association or such other Unit Owner may be entitled to recover the costs of the proceeding and such reasonable attorney's fees (at the trial level and at all levels of appeal) as may be awarded by the court.

C. No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation and By-Laws of the Association, or the Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

XVI. ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT.

To provide the funds necessary for proper operation and management of the Condominium, the Association is granted the right to make, levy and collect assessments against the owners of all Units. The following provisions shall govern the making, levying, and collecting of such assessments and the

payment of the costs and expenses of operating and managing the Condominium by the Association.

A. Determination of Assessments. Assessments by the Association for Common Expenses shall be apportioned against and shared by each Unit in the fractional share of the Unit's share of the Common Elements and Common Surplus of the Condominium; that is, each Unit shall bear one sixty-eighth (1/68) of such assessments. Should the Association become the Owner of any Unit(s), the assessment which would otherwise be due and payable to the Association by the Owner of such Unit(s), reduced by an amount of income which may be derived from the leasing of such Unit(s) by the Association, shall be apportioned and the assessment therefor levied ratably among the Owners of all Units which are not owned by the Association, based upon their proportionate interests in the Common Elements exclusive of the interests therein appurtenant to any Unit or Units owned by the Association.

B. Time for Payment. The assessment levied against each Unit shall be payable in monthly, quarterly, or such other installments and at such time as shall from time to time be lawfully fixed by the Board.

C. Annual Budget. The Board shall, in accordance with the By-Laws of the Association and the Condominium Act, establish an Annual Budget in advance for each fiscal year, which shall correspond to the calendar year, which shall estimate all expenses for the forthcoming year required for the proper operation, management and maintenance of the Condominium, including, when deemed necessary or advisable by the Board, a reasonable allowance for contingencies and reserves and shall estimate all income to be collected during the year. Upon adoption of each annual budget by the Board, copies thereof shall be delivered to each Unit Owner, and the assessment for the year shall be based upon such Budget. Failure to deliver a copy of the Budget to a Unit Owner shall, however, not affect the liability of such Owner for such assessment. Should the Board at any time and from time to time determine, in the sole discretion of the Board, that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board shall have the authority to levy such additional assessment or assessments as it shall deem to be necessary.

D. Reserve Fund. The Board, in establishing each annual budget, shall, if and to the extent required by law, include therein a sum to be collected and maintained as a reserve fund for the replacement of Common Elements and personal property held for the joint use and benefit of the Owners of all Units.

E. General Operating Reserve. The Board, when establishing each annual budget, may, when deemed necessary or desirable, include therein a sum to be collected and maintained as a general operating reserve to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies from time to time existing as a result of delinquent payment of assessments by Owners of Units, as a result of emergencies or for other reasons placing financial stress upon the Association. The annual amount allocated to such operating reserve and collected therefor shall not exceed five percent (5%) of the current annual assessment levied against the Owners of all Units. Upon accrual in the operating reserve of an amount equal to twenty-five percent (25%) of the current annual assessment, no further payments shall be collected from the Owners of Units as a contribution to such operating reserve, unless it shall be reduced below the twenty-five percent (25%) level, in which event, the annual assessment against each Owner and/or Unit shall be increased to restore the operating reserve to an amount which may equal twenty-five percent (25%) of the current annual amount of said assessment.

Page 26 of 66

B3692 P1902

F. Use of Association Funds. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles, and By-Laws. As the monies for annual assessments are paid to the Association by any Unit Owner, the same may be co-mingled with monies paid to the Association by the other Owners of Units. Although all funds and other assets of the Association, and any increments thereto or profits derived therefrom, or from the leasing or use of Common Elements, including, without limitation, Common Surplus, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Unit.

G. Delinquency or Default. The payment of any assessment or installment thereof due to the Association shall be in default if not paid to the Association on or before the due date thereof. When in default, the delinquent assessments or installments thereof shall bear interest at the highest rate allowed by law per annum until the same, and all interest due thereon, has been paid in full.

*And by
12/2/02*

H. Personal Liability of Unit Owner. The Owner(s) of each Unit shall be personally liable, jointly and severally, as the case may be, to the Association for the payment of all assessments, regular or special, interest on such delinquent assessments or installments thereof as above provided, and for all costs of collecting the assessments and interest thereon, including a reasonable attorney's fee (at the trial level and at all levels of appeal), whether suit be brought or not, levied or otherwise coming due while such person(s) or entity own(s) a Unit.

I. Liability not subject to Waiver. No owner of a Unit may exempt himself from liability for any assessment levied against such owner and his Unit by waiver of the use or enjoyment of any of the Common Elements, or by abandonment of the Unit, or in any other manner.

J. Lien for Assessment. The Association is hereby granted a lien upon each Unit and its appurtenant undivided interest in Common Elements and upon any exclusive right to use a parking space constituting Limited Common Elements appurtenant to any such Unit, which Lien shall and does secure the monies due for all: (1) assessments levied against the Unit and the Owner(s) thereof, and (2) interest, if any which may become due on delinquent assessments owing to the Association, and (3) costs and expenses, including a reasonable attorneys fee (at the trial level and through all levels of appeal), which may be incurred by the Association in enforcing its lien upon the Unit and its appurtenances. The lien granted to the Association may be established and foreclosed in the Circuit Court in and for the County, and in any suit for the foreclosure of said lien, and the Association shall be entitled to rental from the Owner of any Unit from the date in which the payment of any assessment or installment thereon became delinquent and shall be entitled to the appointment of a Receiver for said Unit. The rental required to be paid shall be equal to the rental charged on comparable type of Units in the County. The lien of the Association shall also secure all advances for taxes, and payments on account of superior mortgages, liens or encumbrances made by the Association to preserve and protect its lien, together with interest at the highest rate allowed by law per annum on all such advances made for such purpose.

*And by
12/2/02*

K. Recording and Priority of Lien. The Lien of the Association shall be effective from and after recording, in the Public Records

B3692 P1903

of the County, a claim of lien stating the description of the Unit encumbered thereby, the name of the record Owner, the amount and the date when due, and shall continue in effect until all sums secured thereby shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien of the Association shall be subordinate to the lien of any mortgage or any other lien recorded prior to the time of recording the Association's claim of lien, except that the lien of the Association for tax or special assessment advances made by the Association where any taxing authority having jurisdiction levies any tax or special assessment against the Condominium as an entirety instead of levying the same against each Unit and its appurtenant undivided interest in Common Elements, shall be prior in lien, right and dignity to the lien of all mortgages, liens and encumbrances, whether or not recorded prior to the Association's claim of lien therefor, and the Association's claim of lien for collection of such portion of any tax or special assessment shall specifically designate that the same secures an assessment levied pursuant to this Declaration.

L. Effect of Foreclosure or Judicial Sale. In the event that any person, firm or corporation shall acquire title to that Unit and its appurtenant undivided interest in Common Elements by virtue of any foreclosure or judicial sale, such person, firm or corporation so acquiring title shall only be liable and obligated for assessments as shall accrue and become due and payable for the Unit and its appurtenant undivided interest in Common Elements subsequent to the date of acquisition of such title, and shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title, except that such person, firm or corporation shall acquire such title subject to the lien of any assessment by the Association representing an apportionment of taxes or special assessment levied by tax authorities against the Condominium in its entirety. In the event of the acquisition of title to a Unit by foreclosure or judicial sale, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Owners of all Units (including the party so acquiring title) as a part of the Common Expense, although nothing herein contained shall be construed as releasing the party personally liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

M. Effect of Voluntary Transfer. When the Owner of any Unit proposes to lease, sell or mortgage the same in compliance with other provisions of this Declaration, the Association, upon written request of the Owner of such Unit, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by the Owner of such Unit. Such statement shall be executed by any officer of the Association and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Unit is to be leased, sold or mortgaged at the time when payment of any assessment against the Owner of the Unit or Units due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association) then the rent, proceeds of such sale or mortgage proceeds, as the case may be, shall be applied by the lessee, purchaser or mortgagee first to payment of any then delinquent assessment or installment thereof

due to the Association before payment of the balance of such rent, proceeds of sale or mortgage to the Owner of the Unit responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing to it.

N. Developer's Units. Notwithstanding any provision elsewhere herein to the contrary, the Developer shall be excused from the payment of the share of the Common Expenses and assessments related to Units owned and offered for sale by the Developer for a period of time, subsequent to the recording of the Declaration of Condominium, terminating on the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first Condominium Unit occurs; provided, however, that the Developer shall pay the portion of the Common Expenses incurred during that period which exceeds the amount assessed against other Unit Owners.

XVII. TERMINATION.

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

A. Destruction. In the event it is determined in the manner elsewhere herein provided that the improvements shall not be reconstructed because of total destruction or major damage, the Condominium plan of ownership will be thereby terminated without agreement.

B. Agreement. The Condominium may be terminated at any time by the approval in writing of all of the Owners of Units in the Condominium, and by all record Owners of mortgages upon Units therein owned by Institutional Mortgagees and other mortgagees approved by the Association. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting gives notice of the proposed termination, and if the approval of the Owners of Units to which not less than seventy-five percent (75%) of the Common Elements are appurtenant, and of the record Owners of all mortgages upon Units in the Condominium owned by Institutional mortgagees and other mortgagees approved by the Association, are obtained not later than thirty (30) days from the date of such meeting, then the approving Owners shall have an option to buy all of the Units of the other Owners for the period ending on the sixtieth (60th) day from the date of such meeting. Such option shall be upon the following terms:

1. Exercise of Option. The option shall be exercised by delivery or mailing by certified mail to each of the record Owners of the Units to be purchased of an agreement to purchase signed by the record Owners of Units who will participate in the purchase. Such agreement shall indicate which Units will be purchased by each participating Owner and shall agree to purchase all of the

Units owned by Owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

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

3. Payment. The purchase price shall be paid in cash.

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

C. Certificate. The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of the County.

D. Shares of Owners After Termination. After termination of the Condominium the Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Unit Owners. Such undivided shares of the Unit Owners shall be the same as the undivided shares in the Common Elements and Common Surplus appurtenant to the Owners' Units prior to the termination, that is, one sixty-eighth (1/68) to each Unit.

E. Amendment. This Article titled "Termination" shall not be amended without consent of all Unit Owners and of all Owners of mortgages required to approve termination by agreement.

XVIII. MISCELLANEOUS.

A. Severability. The invalidity in whole or in part of any covenant or restriction, or any Article, subarticle, sentence, clause, phrase or word, or other provision of this Declaration of Condominium and the Articles of Incorporation, By-Laws and regulations of the Association shall not affect the validity of the remaining portions thereof.

B. Applicability of Declaration of Condominium. All present or future Owners, tenants, or any other person who might use the facilities of the Condominium in any manner, are subject to the provisions of this Declaration, and the mere acquisition or rental of any Unit, or the mere act of occupancy of any Unit, shall signify that the provisions of this Declaration of Condominium are accepted and ratified in all respects.

C. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of Condominium ownership.

D. Parties Bound. The restrictions and burdens imposed by this Declaration of Condominium are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Unit and its appurtenant undivided interest in Common Elements and this Declaration shall be binding upon Developer, its successors and assigns, and upon all parties who may subsequently become Owners of Units in the Condominium, and their respective heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, Developer has caused the foregoing Declaration of Condominium to be duly executed this 24th day of February, 1982.

BANYAN PARK ASSOCIATES, LTD.,
a Florida limited partnership,

By: BANUR CORPORATION, a Florida corporation, its sole general partner

By: [Signature]
David L. Smith, President, Banur Corporation

Attest: [Signature]
Gilbert B. Dickey, Secretary, Banur Corporation



STATE OF FLORIDA

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 24th day of February, 1982, by David L. Smith, President, and Gilbert B. Dickey, Secretary, of Banur Corporation, a Florida Corporation, on behalf of the Corporation as sole General Partner of Banyan Park Associates, Ltd., a Florida limited partnership on behalf of the limited partnership.



[Signature]
Notary Public, State of Florida

My commission expires: 7/15/85

83692 P1907

CONSENT OF MORTGAGEE

WHEREAS, FIRST OF BOSTON MORTGAGE CORPORATION, a Massachusetts corporation ("Mortgagee"), is the holder of a Mortgage upon lands in Palm Beach County, Florida, set forth on Exhibit "A" hereto (the "Mortgage"). The Mortgage bears the date of April 7, 1981, and is recorded in the Office of the Clerk of the Circuit Court of Palm Beach County, Florida, in Official Record Book 3497, Page 1003.

WHEREAS, BANYAN PARK ASSOCIATES, LTD., a Florida limited partnership ("Mortgagor"), is submitting the mortgaged property to the condominium form of ownership pursuant to the Condominium Act of the State of Florida, Florida Statutes, Chapter 718 (the "Condominium Act"), and in accordance with the terms of the Declaration of Condominium (the "Declaration"), to which this Consent is attached.

NOW THEREFORE, for good and valuable consideration, Mortgagee agrees and declares as follows:

1. Mortgagee hereby subordinates its mortgage interest to the making, execution and recordation of the Declaration. This agreement is given pursuant to, and in order to comply with the terms and provisions of the Condominium Act of the State of Florida as contained in Chapter 718 of the Florida Statutes, and for the purpose of agreeing that the lien of its Mortgage, with respect only to that portion of the mortgaged premises submitted to the condominium, shall be upon the following described property in Palm Beach County, Florida:

All of the condominium units of BANYAN PARK, a Condominium, according to the Declaration of Condominium thereof, together with all interest, rights and appurtenances thereto, including an undivided percentage interest in the common elements of the condominium as provided in such Declaration.

It being specifically understood that the Mortgage shall continue to be a lien upon all of the mortgaged property not submitted to condominium, as well as the residential units of the condominium parcels of the condominium.

83692 P.1908

2. By hereby consenting to the provisions of the Declaration of Condominium, Mortgagee does not undertake or assume any of the obligations or responsibilities of the Mortgagor, or anyone else under the Declaration of Condominium Act, or of any owner of a residential unit.

3. Nothing contained in the Consent is intended to affect, modify or impair the lien of the Mortgage on any portion of the mortgaged property other than the condominium property.

4. All of the terms and conditions of the Mortgage not expressly modified hereby shall remain in full force and effect.

IN WITNESS WHEREOF, Mortgagee has executed this Consent this 23rd day of February, 1982.

Signed, sealed and delivered in the presence of:

FIRST OF BOSTON MORTGAGE CORPORATION

Amy O. Winters
Dennis L. Romps

By: Raymond H. Weaving
Raymond H. Weaving, Vice President
(CORPORATE SEAL)



STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 23rd day of February, 1982, by RAYMOND H. WEAVING, Vice President of FIRST OF BOSTON MORTGAGE CORPORATION, a Massachusetts corporation, on behalf of the corporation.

(MECHANICAL SEAL)

Marguerite E. Baberona
Notary Public, for the State of Florida

My commission expires:

NOTARY PUBLIC STATE OF FLORIDA - AT LARGE
MY COMMISSION EXPIRES DEC 31, 1985
BONDED BY THE GENERAL INS. UNDERWRITERS



83692 P1909