

25.2.4 Agreed that the persons acting as Directors and Officers of the Association entering into any such management agreement have not breached any of their duties or obligations to the Association.

26. PETS

No pets or animals shall be permitted within the units or upon the condominium property.

27. CONDOMINIUM WORKING CAPITAL FUND

At the time the Developer closes upon the sale of a unit to a purchaser (purchaser thereby becoming a unit owner in the condominium), the purchaser shall deposit with the Association an amount equal to two (2) monthly installments of the common expenses assessed to the purchaser's unit. This sum shall be deposited into a working capital account ("Condominium Working Capital Fund") for the purpose of having funds available for initial and non-recurring items, capital expenses, permit fees, licenses, utility deposits and advance premiums for insurance policies and coverages pursuant to this Declaration and the Exhibits attached hereto. The Condominium Working Capital Fund shall not be commingled by the Association with any of its other funds. In no event shall the Developer receive reimbursement, from the Condominium Working Capital Fund for those expenses which it is obligated to pay pursuant to the provisions of Provision No. 19 hereinabove and Section 718.116(9)(a) of the Act.

28. ASSIGNABILITY OF RIGHTS OF DEVELOPER

The rights and privileges reserved in this Declaration of Condominium and in the Exhibits attached hereto in favor of the Developer are freely assignable, in whole or in part and without the necessity for any consideration being paid to the Association or to any of the other unit owners in this Condominium, by the Developer to any party who may be hereafter designated by the Developer to have and exercise such rights, and such rights may be exercised by the nominee, assignee or designee of the Developer and/or may be exercised by the successor or successors-in-interest of the Developer and/or by the successor or successors-in-interest of the nominees, assignees or designees of the Developer and/or by grantees from the Developer (including mortgagees accepting deeds from the Developer in lieu of foreclosure) and/or by successors in title to the Developer through mortgage foreclosure.

29. EXECUTION OF DOCUMENTS REQUIRED BY THE CITY OF DAYTONA BEACH AND/OR THE COUNTY OF VOLUSIA AND/OR THE STATE OF FLORIDA

The Developer's plan for the development of this condominium may require, from time to time, the execution of certain documents required by the City of Daytona Beach and/or the

County of Volusia and/or the State of Florida including, but not limited to, easements and restrictive covenants affecting the condominium property. To the extent that said documents require the joinder of any or all of the unit owners in this Condominium, each of said unit owners does hereby irrevocably give and grant to the Developer, or any of its officers, individually, full power-of-attorney to execute said documents as such unit owner's agent and in his place and stead. The Association and each unit owner in this condominium, by acceptance of the deed of conveyance transferring title to his unit, shall be deemed to have assumed each and every one of the obligations of the Developer affecting the maintenance of the condominium property, if any, arising by virtue of the execution of documents required by the City of Daytona Beach and/or by the County of Volusia and/or by the State of Florida.

### 30. OBLIGATIONS OF UNIT OWNERS

In addition to the other obligations and duties heretofore set out in this Declaration, each unit owner shall:

30.1 Promptly pay all assessments, regular and special, levied by the Association.

30.2 Maintain in good condition and repair unit owners unit and the limited common elements appurtenant thereto and maintain and repair the fixtures therein and pay for any utilities which are separately metered to unit owner's unit.

30.3 Not permit or suffer anything to be done or kept in unit owner's unit which will increase the insurance rates on unit owner's unit, or the common elements, or which will obstruct or interfere with the rights of other unit owners or annoy them by unreasonable noises or otherwise; nor shall a unit owner commit or permit any nuisance or any immoral or illegal act in unit owner's unit or on the common elements.

30.4 Conform to and abide by the By-Laws and such rules and regulations which may be adopted in writing, from time to time, by the Board of Directors of the Association and see that all persons using unit owner's unit by, through or under the unit owner do likewise.

30.5 Make no alteration, decoration, repair, replacement or change to the common elements or to any outside or exterior portion of the condominium, except as set forth herein.

30.6 Exhibit no sign, advertisement or notice of any type on the common elements or on unit owner's unit except as may be approved by the Association. The prohibitions contained in this subparagraph shall not be applicable to the Developer and/or to agents of the Developer.

30.7 Make no repairs to any plumbing or electrical wiring, except within a unit. Plumbing and electrical repairs within a unit shall be the financial obligation of the owner of the unit and shall be paid forthwith. The Association shall pay for and be responsible for plumbing repairs and electrical wiring within the common elements.

30.8 Return the "Unit" for the purpose of ad valorem taxes to the respective taxing authorities having jurisdiction over them for separate assessment against unit owner's unit. For the purposes of ad valorem taxation, the interest of the unit owner in unit owner's unit and in the common elements appurtenant thereto shall be considered as a Unit.

31. TERMINATION OF CONDOMINIUM

The condominium may be terminated in the following manner:

31.1 Destruction. If it is determined in the manner provided in Article XIX that the condominium property shall not be constructed, the condominium will be terminated.

31.2 Agreement. As provided in Section 718.117 of the Act, the condominium may be terminated at any time by the approval in writing of all unit owners and all record owners of mortgages encumbering units.

If the proposed termination is submitted to a special meeting of the members of the Association and if the approval of the members holding not less than 75% of the total votes of the Association and their mortgages is obtained, in writing, then not later than sixty (60) days from the date of such special meeting, the approving unit owners (through the Association) shall have an option to buy all of the units of the disapproving unit owners for the period of 120 days from the date of such special meeting. The vote of those unit owners approving the termination shall be irrevocable until the expiration of the option. Any unit owner voting against the termination, or not voting, may within fifteen (15) days from the date the vote was taken, change or cast his vote in favor of termination by delivering written notification thereof to the Secretary of the Association. The option shall be exercised upon the following terms:

31.3 Exercise of Option. The option shall be exercised by delivery, or the mailing by registered mail, of an agreement to purchase, signed by the President or Vice President of the Association, to each of the unit owners. The agreement shall be conditioned upon the purchase of all units owned by unit owners not approving the termination.

31.4 Price. The sales price for each unit shall be the fair market value as determined between the Seller and the Association. In the absence of agreement on the sales price of any unit, the sales price shall be determined by an appraiser appointed by the Chairman of the Volusia County Board of Realtors (or its equivalent). A judgment of specific performance of the sale, at the sales price determined by the appraiser, may be entered in any court of competent jurisdiction.

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

31.6 Form. The contract shall be in the form of the Standard Deposit Receipt and Contract for Sale and Purchase then in use in Volusia County, Florida.

31.7 Closing. The sale of units shall be closed simultaneously and within thirty (30) days following the determination of the sales price of the last unit to be purchased.

31.8 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 (or Vice-President) and Secretary, certifying the fact of the termination, which shall become effective upon the certificate being recorded in the Public records of Volusia County, Florida.

31.9 Shares of Owners after Termination. After termination of the condominium, the unit owners shall own the condominium property and all assets of the Association applicable to this condominium as tenants in common of undivided shares that shall be equal to the sum of the undivided shares in the common elements appurtenant to the units prior to termination, so that the sum total of the ownership shall equal 100%.

## 32. DEVELOPER'S RIGHT TO AMEND DECLARATION OF CONDOMINIUM

Developer shall have the right to amend the Declaration of Condominium at a duly called meeting of the members of the Association to:

32.1 Make alterations, additions or improvements in, to and upon units owned by the Developer, whether structural or non-structural, interior or exterior, ordinary or extraordinary.

32.2 Change the layout or number of rooms in any Developer-owned units.

32.3 Change the size and/or number of Developer-owned units by combining separate Developer owned units into one or more units, or otherwise.

32.4 Reapportion among Developer-owned units affected by such change in size or number pursuant to the preceding

clause, their appurtenant interests in the common elements, their appurtenant shares of ownership of the common surplus and their appurtenant shares common expenses; provided, however, that the percentage interest in the common elements allocated to each unit (other than the Developer-owned units) shall not be changed by reason thereof unless the owners of such units, and all record owners of mortgages or other liens thereon, shall consent thereto and provided further, that the Developer shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction.

No amendment under this Article 32 may change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus unless the record owner of the unit and all record owners of liens on it shall join in the execution of the amendment and unless all the record owners of all other units approve the amendment.

### 33. AMENDMENT TO DECLARATION

Except as herein or otherwise provided, this Declaration may be amended in the following manner:

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

33.2 An amendment may be proposed by either a majority vote of the Board of Directors of the Association, or by the vote of not less than 51% of the members of the Association present, either in person or by proxy, at a duly called meeting of the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval or disapproval in writing, provided such approval or disapproval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, a resolution adopting the proposed amendment must be approved by either:

33.2.1 The vote of not less than 66 2/3% of the Board of Directors and the vote of not less than 66 2/3% of the members of the Association present, either in person or by proxy, at a duly called meeting of the members of the Association; or

33.2.2 The vote of not less than 80% of the members of the Association present, either in person or by proxy, at a duly called meeting of the members of the Association.

33.3 No amendment may change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus unless the record owner of the unit and all record owners of liens on it shall join in the execution of the amendment and unless all the record owners of all other units approve the amendment.

33.4 Notwithstanding anything to the contrary herein, the Developer reserves the right to amend this Declaration and its Exhibits so as to correct any omissions or errors (including scrivener's or surveyor's errors), so long as such amendments do not materially and adversely affect the rights of unit owners or mortgagees. Such amendment need not be executed and acknowledged by the Developer only and be authorized by the vote of not less than 51% of the members of the Association present, either in person or by proxy, at a duly called meeting of the members of the Association.

In addition, the Developer reserves the right to amend this Declaration pursuant to the provisions of Article XXVII herein, provided said amendment(s) is in accordance with the Act.

33.5 In the event it shall appear that there is an error or omission in this Declaration or in the Exhibits attached hereto, then and in that event, the Association may correct such error and/or omission by amendment to this Declaration in the following manner:

33.5.1 Notice of the subject matter of a proposed amendment to cure a defect, error or omission shall be included in the notice of any meeting at which such amendment is to be considered;

33.5.2 A resolution for the adoption of such a proposed amendment may be proposed by either of the Board of Directors of the Association or by the members of the Association, and members of the Association not present in person or by proxy at the meeting considering the amendment may express their approval or disapproval by writing delivered to the Secretary at or prior to the meeting considering adoption of the amendment. Such approvals to amend this Declaration must be either by:

33.5.2.1 The vote of not less than 33 1/3% of the Board of Directors and the vote of not less than 10% of the members of the Association present, either in person or by proxy, at a duly called meeting of the members of the Association, or

33.5.2.2 The vote of not less than 25% of the members of the Association present, either in person or by proxy, at a duly called meeting of the members of the Association;

33.5.2.3 In the alternative, an amendment may be made by an agreement signed and acknowledged by all unit owners in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Public Records of Volusia County, Florida.

33.6 No provision of this Declaration shall be revised or amended by reference to its title number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the new provision to be amended; new words shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of the Declaration. See Provision (applicable no.) for present text." Non-material errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

33.7 Except as may be otherwise provided in this Declaration, a copy of each amendment shall be attached to a certificate, certifying that the amendment was duly adopted. Each amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Volusia County, Florida.

#### 34. REMEDIES

34.1 Relief. Each unit owner and the Association shall be governed by and shall comply with the provision of this Declaration as they may exist from time to time. A violation thereof shall entitle the appropriate party to institute an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof, or any other action available pursuant to the Act or law. Suit may be brought by the Association or, if appropriate, by one or more unit owners and the prevailing party shall be entitled to recover reasonable attorneys' fees. Each unit owner acknowledges that the failure to comply with any of the provisions of this Declaration shall or may constitute an injury to the Association or to other unit owners and that such injury may be irreparable.

34.2 Costs and Attorneys' Fees. In any proceeding arising because of an alleged default, act, failure to act, or violation by the unit owner or the Association, including the enforcement of any lien granted pursuant to this Declaration or its Exhibits, the prevailing party shall be entitled to recover the costs of the proceedings, including reasonable attorneys' fees. Further, in the event that proceedings are instituted by or against the Developer or against any affiliated entity of the Developer or against any individual connected with the Developer (including, but not limited to, the parent company of the Developer and/or any subsidiary of the Developer and/or any subsidiary of either of the general partners of the Developer and/or the initial directors of the Association) for any reason whatsoever, including but not limited to: (i) actions for declaratory judgment, (ii) any claim

that any of the above have not complied with their obligations under the Prospectus for this condominium, this Declaration and its Exhibits, or (iii) that any provision of the same is unconscionable or violates any State or Federal Law or regulation, then the prevailing party shall be entitled to recover all costs of the proceeding. Said recoverable costs shall include, but are not limited to, reasonable attorneys' fees at all levels of the proceeding, including appeals, together with all costs including those not normally allowed in actions at law such as, but not limited to, copies of depositions and other documentation and exhibits, whether or not used at trial; travel expenses for consultants and/or witnesses for the purpose of testifying at trial or deposition; consultants fees; expert witness fees for testifying at trial or deposition, together with such additional fees as the expert witness may charge in connection with his preparation for giving such testimony at deposition or at trial whether or not the witness shall actually appear or be called to testify.

34.3 No Waiver. The failure of the Association, the Developer or unit owners to enforce any right, provision, covenant or condition created or granted by this Declaration, the Act, the Articles of Incorporation, the By-Laws and/or any rules and regulations adopted with respect to any portion of the condominium property, shall not constitute a waiver of the right of said party to enforce such right, provision, covenant or condition in the future.

34.4 Rights Cumulative. All rights, remedies and privileges granted to the Association, the Developer and unit owners pursuant to the provisions of this Declaration shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity. Each unit owner agrees in any proceeding brought pursuant to the provisions hereof not to plead or defend the same on the theory of "election of remedies".

34.5 Venue. Every unit owner and all persons claiming any interest in a unit do hereby agree that in any suit or proceeding brought pursuant to the provisions of this Declaration, such suit shall be brought in the Seventh Circuit Court of the Judicial Circuit, in and for Volusia County, Florida, or in the United States District Court, Southern District of Florida, as the same is now constituted or in any court in the future that may be the successor to the courts contemplated herein.

34.6 Appointment of Agent. Should suit be instituted, each unit owner does hereby irrevocably appoint the Secretary of State of the State of Florida as unit owner's agent for the acceptance of service of process should, at the time of such service of process, any such person shall not be residing in the

County of Volusia, State of Florida. The provisions hereof shall not be applicable to the Developer.

35. ADDITIONAL PROVISIONS

35.1 Should any dispute or litigation arise between any of the parties whose rights and/or duties are affected or determined by this Declaration or any of the Exhibits attached hereto, said dispute or litigation shall be determined pursuant to the laws of the State of Florida.

35.2 In the event that any of the terms, provisions or covenants of this Declaration or any of the Exhibits attached hereto are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holdings will not affect, alter, modify, or impair in any manner whatsoever any of the other terms, provisions or covenants held to be partially invalid or unenforceable herein.

35.3 Except as may be provided in Article XXVII herein, unless all Institutional Mortgagees have given their prior written approval, the Association shall not be entitled to: (1) change the pro rata interest or obligation of any unit for purposes of levying assessments and charges and determining shares of common elements and common surplus of the condominium; (2) partition or subdivide any unit or the common elements of the condominium; or (3) by act or omission seek to abandon the Condominium regime, except as may be provided by statute in case of substantial loss to the units and to the common elements of the condominium.

35.4 Notwithstanding anything to the contrary herein, nothing shall prevent the combining of units in the condominium, by appropriate amendment to the Declaration, but said combined units shall retain their original appurtenant shares of the common elements, common expenses and common surplus and voting rights in the Association.

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

35.6 Captions used in these documents are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of the documents.

35.7 Upon written request, Institutional Mortgages shall have the right to examine the books and records of the Association. In addition, upon written request, Institutional Mortgagees shall be entitled to receive written notification from the Association of:

35.7.1 Any condemnation loss or any casualty

loss which affects a material portion of the Condominium Property or any unit encumbered by an Institutional Mortgage;

35.7.2 Any delinquency in the payment of assessments or charges owned by an owner of a unit encumbered by an Institutional Mortgage, which remains uncured for a period of 60 days;

35.7.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

35.8 Institutional Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the common elements and Institutional Mortgagees may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the common elements and Institutional Mortgagee(s) making such payment shall be entitled to receive immediate reimbursement therefor from the Association, and to the extent of the monies so advanced, said Institutional Mortgagee(s) shall be subrogated to the assessment and lien rights of the Association against the individual units for the payment of such item of common expense.

35.9 No provision of this Declaration shall be deemed to give any unit owner, or any other party, priority over any rights of any Institutional Mortgagee under its mortgage in the case of a distribution to such unit owner of insurance proceeds or condemnation awards for losses to or taking of any portion of the common elements or common property.

35.10 All taxes, assessments and charges which may become liens prior to the liens of the Institutional Mortgagees under local law shall relate only to the individual units and not to the condominium property as a whole.

35.11 Upon written request from the Department of Housing and Urban Development or from the Federal National Mortgage Administration or from the Federal Home Loan Mortgage Corporation or from the Veterans Administration, the Association shall prepare and furnish within a reasonable period of time, an audited financial statement of the Association for the immediately preceding fiscal year of the Association.

35.12 Neither the Association nor the unit owners shall interfere with the sale of units by the Developer. As long as the Developer owns at least one (1) unit in the condominium, the Developer (or its duly authorized agents or assigns) may make such use of the unsold unit(s) and the common elements (including any portions of the common elements designated as offices on the Plot Plan, Survey and Graphic Description attached hereto as Exhibit "B") as may facilitate the Developer's administrative activities

(which administrative activities may include, but shall not be limited to, administration of the Association, bookkeeping, post closing repair work and Developer sales, leasing and closing functions) and sales (with respect to units within this condominium and/or with respect to the sale and/or lease of units in other developments owned by the Developer and/or by entities affiliated with the Developer) including, but not limited to the maintenance of administrative offices and the maintenance of sales and/or leasing offices, for the showing of the unit(s) and for the display of signs, billboards, placards and visual promotional materials. The Developer may use unsold units as model units. Any administrative offices and/or sales and leasing offices and/or model units and all personal property, furnishings and signs contained therein and/or appurtenant thereto shall not be considered common elements, but shall remain the separate property of the Developer.

35.13. Notwithstanding anything contained in this Declaration of Condominium to the contrary, this Declaration of Condominium may be amended at any time to permit timeshare estates to be created in any unit in this condominium. Such an amendment need be executed by the Developer alone and does not require the consent of any unit owner, lienholder or the Association. The Developers right to create timeshare estates may be assigned. Such an assignment may be either together with, or separately from, any other rights the Developer may have. An amendment creating timeshare estates in this condominium may contain any provisions deemed necessary by the Developer or its assignees to create timeshare estates in compliance with Chapter 721 of the Florida Statutes.

IN WITNESS WHEREOF, the Developer has caused this Declaration of Condominium to be executed this 30th day of October, 1997.

Signed, Sealed and Delivered  
in the Presence of:

Ronald N. Johnson  
Print Name Ronald N. Johnson

INTERNATIONAL INN ON THE  
BOARDWALK CORP., a  
Florida corporation

By: BHAGWAN ASNANI

Address: 313 South Atlantic Ave.  
Daytona Beach, FL 32118

Bridget A. Warwick  
Print Name Bridget A. Warwick

STATE OF FLORIDA  
COUNTY OF VOLUSIA

30th The foregoing instrument was acknowledged before me this day of October, 1997, by BHAGWAN ASNANI, as President of INTERNATIONAL INN ON THE BOARDWALK CORP., a Florida corporation. He is personally known to me and he did not take an oath.

My Commission Expires



Ronald N. Johnson  
Notary Public, State of Florida