

In such cases where two (2) or more parking spaces are assigned to a unit, then the parking spaces in excess of the one (1) required parking space may be assigned to another unit. Each unit shall at all times have one (1) parking space. After the Developer has sold, transferred and conveyed all the units in the condominium, the Developer may assign any remaining unassigned parking spaces to the Association to be designated as Guest Parking Spaces (G). No Guest Parking Space may be assigned to a unit or otherwise transferred unless approved by the Board of Administration.

#### 12.2 Guest Parking Spaces

Guest Parking Spaces (designated with a "G") shall be a part of the common elements and shall be under the control and jurisdiction of the CONDOMINIUM ASSOCIATION, except that no Guest Parking Space may be assigned to a unit or otherwise transferred unless approved by the Board of Administration.

### 13. EASEMENTS

Each of the following easements is a covenant running with the land of the condominium and notwithstanding any of the other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with their property and intended use and purpose, and shall survive the termination of the condominium and the exclusion of any lands of the condominium from the condominium.

#### 13.1 Utilities

As may be required for utility services in order to adequately serve the condominium property; provided, however, easements through a unit shall be only according to the plans and specifications for the building or as the building is actually constructed, unless approved, in writing, by the unit owner.

Further, easements are reserved under, through, across and over the condominium property as may be required for utility services and drainage in order to serve the condominium. A unit owner shall do nothing within or outside unit owner's unit that interferes with or impairs the utility services and cable television services using these easements. The Association or its designee shall have a right of access to each unit to maintain, repair or replace the telephone wiring, telephone lines, pipes, wires, ducts, vents, cables, conduits and other utility or other service facilities and common elements contained in the unit or elsewhere in the condominium property, and to remove any improvements interfering with or impairing the utility services or

easements herein reserved; provided that such right of access shall not unreasonably interfere with the unit owner's permitted use of the unit, and entry shall be made on not less than one day's notice, except in the event of an emergency.

### 13.2 Pedestrian and Vehicular Traffic

For pedestrian traffic over, through and across sidewalks, paths, lanes and walks, as the same may from time to time exist, upon the common elements; and for the vehicular traffic over, through and across such portions of the common elements as may be from time to time paved and intended for such purposes.

### 13.3 Support

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

### 13.4 Perpetual NonExclusive Easement in Common Elements

The common elements shall be, and the same is hereby declared to be subject to a perpetual nonexclusive easement in favor of all of the owners of units in the condominium for their use and the use of their immediate families, guests and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said owners.

### 13.5 Right of Entry into Private Dwellings in Emergencies

The Association has the irrevocable right of access to each unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any common elements or of any portion of a unit to be maintained by the Association pursuant to the declaration or as necessary to prevent damage to the common elements or to a unit or units.

### 13.6 Right of Entry for Maintenance of Common Property

The Association has the irrevocable right of access to each unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any common elements or of any portion of a unit to be maintained by the Association pursuant to the declaration or as necessary to prevent damage to the common elements or to a unit or units.



13.7 Easement for Unintentional and Non-Negligent Encroachment

In the event that any unit shall encroach upon any of the common elements for any reason not caused by the purposeful or negligent act of the unit owner or owners, or agents of such owner or owners, then an easement appurtenant to such unit shall exist for the continuance of such encroachment into the common elements for so long as such encroachment shall naturally exist; and, in the event that any portion of the common elements shall encroach upon any apartment unit, then an easement shall exist for the continuance of such encroachment of the common elements into any unit for so long as such encroachment shall naturally exist.

13.8 Air Space

An exclusive easement for the use of the air space occupied by a condominium unit as it exists at any particular time and as the unit may lawfully be altered.

13.9 Easements or Encroachments

Easements or encroachments by the perimeter walls, ceilings and floor surrounding each condominium unit.

13.10 Easement for Overhangs

Easement for overhanging troughs or gutters, downspouts and the discharge therefrom of rainwater and the subsequent flow thereof over condominium units or any of them.

13.11 Easement for Air Space of Common Elements

An exclusive easement for the use of the area and air space occupied by the air conditioning compressor and the equipment and fixtures appurtenant thereof, situated in and/or on common elements of the condominium but exclusively serving and individually owned by the owner of the unit, as the same exist in and on the land, which exclusive easement shall be terminated automatically in any air space which is permanently vacated by such air conditioning compressor, and the equipment and fixtures appurtenant thereto; provided, however, that the removal of same for repair and/or replacement shall not be construed to be a permanent vacation of the air space which it occupies.

13.12 Support

The Developer and the Association hereby grant to each other and to their respective heirs, successors, and assigns, and to all third party beneficiaries, including unit owners, lessees, guests, invitees, servants and employees, the right of support for all structures on any portion of the real property of the condominium.

### 13.13 Additional Easements

The Association has the right to grant to owners and users of property which is contiguous to the condominium property, easements upon, under, over and across the common elements of the condominium for purposes of use, ingress, egress and access; provided, however, that the recipients of such easements shall pay, or cause to be paid, a pro rata portion of the expenses associated with ownership, operation and use of the common elements. In addition, the Association shall have the right to grant such additional electric, telephone, gas or other utility easements, and to relocate any existing easements in any portion of the condominium property, and to grant access easements and relocate any existing access easements in any portion of the condominium property, as the Association shall deem necessary or desirable for the property 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 their intended purposes.

### 13.14 Survival of Easements

All easements, of whatever kind or character, whether heretofore or hereafter created, shall constitute a covenant running with the land, shall survive the termination of condominium, and, notwithstanding any other provisions of this Declaration, may not be substantially amended or revoked in a way which would unreasonably interfere with the proper and intended use and purpose of any such easement. The unit owners do hereby designate the Association as their lawful attorney-in-fact, coupled with an interest, to execute any and all instruments on their behalf for the purpose of creating all such easements as are contemplated by the provisions hereof.

## 14. ASSOCIATION

In order to provide for the proficient and effective administration of this condominium by the owners of units, a non-profit corporation known and designated as INTERNATIONAL BEACH CLUB CONDOMINIUM ASSOCIATION, INC., has been organized under the laws of the State of Florida and said corporation shall administer the operation and management of this condominium, and undertake and perform all acts and duties incident thereto in accordance with the terms, provisions and conditions of this Declaration of Condominium, its By-Laws and the Rules and Regulations promulgated by the Association from time to time.

### 14.1 Articles of Incorporation

A copy of the Articles of Incorporation of the Association is attached hereto as Exhibit "D".



#### 14.2 By-Laws

The By-Laws of the Association shall be the by-laws of the condominium, a copy of which is attached hereto as Exhibit "E".

#### 14.3 Limitation Upon Liability of Association

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

#### 14.4 Restraint Upon Assignment of Shares in Assets

The shares of members in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to a unit.

#### 14.5 Approval or Disapproval of Matters

Whenever the decision of a unit owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed in accordance with the By-Laws of the Association.

#### 14.6 Membership

The record owners of all units in this condominium shall be members of the Association, and no other persons or entities shall be entitled to membership except for subscribers to the Articles of Incorporation. Membership shall be established by acquisition of ownership of fee title to, or fee interest in a condominium parcel in said condominium, whether by conveyance, devise, judicial decree or otherwise, subject to the provisions of this Declaration and by the recordation among the public records of Volusia County, Florida, of the deed or other instrument establishing the acquisition and designating the parcel affected thereby and by the delivery to the Association of a true copy of such recorded deed or other instrument. The new owner designated in such deed or other instrument shall thereupon become a member of the Association, and the membership of the prior owner as to the parcel designated shall be terminated.

#### 14.7 Voting

On all matters as to which the membership shall be entitled to vote, there shall be only one (1) vote for each unit.

#### 14.8 Powers

The powers and duties of the Association shall include those set forth in the By-Laws but, in addition thereto, the Association shall have all of the powers and duties set forth in the Act, as well as all of the powers and duties granted to or imposed upon it by this Declaration, including:

(1) The irrevocable right to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any common elements or of any portion of a unit to be maintained by the Association or as may be necessary to prevent damage to the common elements or to a unit or units. In this regard, the Association may retain a pass-key to all units. In the event the unit owner fails to supply a pass-key to the Association and, pursuant to the terms of this Declaration, entry into the unit by the Association is permitted, the Association shall not be responsible for any damage which may arise as the result of a forced entry into the unit.

(2) The power to make and collect assessments, regular and special, and to lease, maintain, repair and replace the common elements.

(3) The duty to maintain accounting records prepared according to normally accepted accounting practices, which records shall be open to inspection by unit owners at reasonable times during normal business hours.

(4) The power to enter into contracts with others for a valuable consideration, for maintenance and management, including the normal maintenance and repair of the common elements. The duty and responsibility to maintain and preserve the landscaping, gardening, painting, repairing and replacement of the common elements shall not relieve the unit owner of unit owner's personal responsibility to maintain and preserve the interior of his unit and the limited common elements appurtenant thereto, and to paint, clean, decorate, maintain and repair his unit.

(5) The power to adopt reasonable rules and regulations for the maintenance and conservation of the condominium property and for the health, comfort, safety and welfare of the unit owners.

(6) The By-Laws may be amended in the manner provided for therein, but no amendment to the By-Laws shall be adopted which would affect or impair the validity or priority of any Institutional Mortgage encumbering any unit(s), or which would change the provisions of the By-Laws with respect to the rights of Institutional Mortgagees, without the written approval of all Institutional Mortgagees of record.



(7) The Association or its designees shall maintain such records as are required by Section 718.111, Florida Statutes.

(8) In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the unit owners, the Association shall give notice of the exposure within a reasonable time to all unit owners and to all Institutional Mortgagees who may be exposed to the liability, so that such unit owners and/or Institutional Mortgagees shall have the right to intervene and defend.

## 15. INSURANCE

The insurance, other than title insurance, which shall be carried upon the condominium property and the property of the unit owners shall be governed by the following provisions:

### 15.1 Authority to Purchase

All insurance policies upon the condominium property shall be purchased by the Association for the benefit of the Association and the unit owners and their mortgagees, as their interest may appear, and provisions shall be made for the issuance of certificates or mortgagee endorsements to the mortgagees of unit owners. Such policies and endorsements shall be deposited with the Insurance Trustee. Unit owners may obtain insurance coverage at their own expense upon their personal property and for their personal liability and living expense. All policies purchased by the Association must be written by insurance companies authorized to do business in the State of Florida, and with offices or agents in Florida, provided, however, all such insurance policies must be accepted and approved by the institutional mortgagee holding the largest aggregate dollar sum of mortgages encumbering condominium parcels in the condominium, said sum to be ascertained at the time of purchase or renewal of each policy.

### 15.2 Coverage

15.2.1 Casualty. All buildings and improvements upon the land, including units and all personal property of the Association included in the condominium property, are to be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs as determined annually by the Board of Directors of the Association, and all such insurance must be obtained, if possible, from the same company. Such coverage shall provide protection against:

15.2.1.1 Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and flood disaster insurance.

15.2.1.2 Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism and malicious mischief.

15.2.2 Public Liability. In such amounts and with such coverage as shall be required by the Board of Directors of the Association with cross liability endorsements to cover liability of the unit owners as a group to a unit owner.

15.2.3 Workmen's Compensation. As shall be required to meet the requirements of law.

15.2.4 Association of Insurance. Such other insurance as the Board of Directors of the Association, in its discretion, may determine from time to time to be in the best interest of the Association and the unit owners, including Directors' Liability Insurance or other insurance that an institutional mortgagee may reasonably require, so long as it is the owner of a mortgage on any condominium parcel.

### 15.3 Premiums

Premiums for insurance policies purchased by the Association shall be paid by the Association.

### 15.4 Assured

All insurance policies purchased by the Association shall be for the benefit of the Association and the unit owners and their mortgagees as their interest may appear and shall provide that all proceeds covering casualty losses shall be paid to any national bank in Volusia County, with trust powers, as may be approved and designated insurance trustee by the Board of Directors of the Association, which trustee is herein referred to as the "Insurance Trustee". All insurance policies shall require written notification to each institutional mortgagee not less than ten (10) days in advance of cancellation of any insurance policy insuring the condominium property.

The Insurance Trustee shall not be liable for payments of premiums, nor for the renewal or sufficiency of the policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid, and hold same in trust for the purposes elsewhere stated herein and for the benefit of the unit owners and their mortgagees in the following shares, but which share needs not be set forth in the records of the Insurance Trustee.

15.4.1 Common Elements. Proceeds on account of common elements shall be held in as many undivided shares as there



are units in each building, the shares of each unit owner being the same as his share in the common elements, as same are hereinabove stated.

15.4.2 Units. Proceeds on account of units shall be held in the following undivided shares:

15.4.2.1 Partial Destruction. When the building is to be restored, for the owners of damaged units in the proportion to the cost of repairing the damage suffered by each unit owner.

15.4.2.2 Total Destruction. When the building is to be restored, for the owner of all units in the building in proportion to their share of the common elements appurtenant to their unit.

15.4.2.3 Mortgagee. In the event a mortgagee endorsement has been issued to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interest appear. In no event shall any mortgagee have the right to demand the application of insurance proceeds to any mortgage or mortgages which it may hold against units, except to such extent as said insurance proceeds may exceed the actual cost of repair or restoration of the damaged building or buildings, and no mortgagee shall have any right to participate in the determination as to whether or not improvements will be restored after casualty.

#### 15.5 Distribution of Proceeds

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

15.5.1 Expense of the Trust. All expenses of the Insurance Trustee shall be first paid or provisions made therefor.

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

15.5.3 Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damages for which the proceeds are paid shall not be reconstructed or repaired,

the remaining proceeds shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.

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

15.5.5 Association as Agent. The Association is hereby irrevocably appointed agent for each unit owner to adjust all claims arising under insurance policies purchased by the Association.

## 16. RECONSTRUCTION OR REPAIR AFTER CASUALTY

### 16.1 Determination to Reconstruct or Repair

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

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

#### 16.1.2 Apartment Building

16.1.2.1 Lesser Damage. If the damaged improvement is a part of the condominium building, and if units to which fifty percent (50%) of the common elements or appurtenances are found by the Board of Directors of the Association to be tenantable, the damaged property shall be reconstructed or repaired, unless within sixty (60) days after the casualty it is determined in the manner elsewhere provided that the condominium shall be terminated.

16.1.2.2 Major Damage. If the damaged improvement is part of the condominium building and if units to which more than fifty percent (50%) of the common elements are appurtenant are found by the Board of Directors of the Association to be not tenantable, then the damaged property will not be reconstructed or repaired and the condominium will be terminated as elsewhere provided, unless within sixty (60) days after the casualty the owners of seventy-five percent (75%) of the common elements agree in writing to such reconstruction or repair.