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DECLARATION OF CONDOMINIUM
OF
HARBIE CENTER CONDOMINIUM

Harbie Development, Inc., a Florida corporation (the "Developer"), does hereby declare as follows:

1. Introduction and Submission:

- 1.1 The Land. The Developer owns the fee simple title to that certain land located in Dade County, Florida, as more particularly described in Exhibit A hereto (the "Land").
- 1.2 Submission Statement. The Developer hereby submits the land and, except as otherwise provided herein, all improvements erected or to be erected thereon, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, intended for use in connection therewith, less and except all public utility installations, and other personal property or equipment, if any, not owned by the Developer to the condominium form of ownership and use in the manner provided by the Florida Condominium Act as it exists on the date hereof.
- 1.3 Name. The name by which this condominium is to be identified is: Harbie Center Condominium (herein called the "Condominium").

2. Definitions. The following terms which are used in this Declaration and in its Exhibits, and as they may hereafter be amended, shall have the meaning described to them in this Section, except where the context clearly indicates a different meaning:

- 2.1 "Act" means the Condominium Act (Chapter 718 of the Florida Statutes) as it exists on the date hereof and as hereafter renumbered.
- 2.2 "Articles" means the Articles of Incorporation of the Association.
- 2.3 "Assessment" means a share of the funds required for the payment of Common Expenses which, from time to time, is assessed against any Unit Owner.
- 2.4 "Association" means Harbie Center Condominium Association, Inc., a Florida corporation not for profit, the entity responsible for the operation of the Condominium.
- 2.5 "Association Property" means that property, real and personal, which is owned or leased by, or is dedicated by a recorded plat to the Association for the benefit of its members.
- 2.6 "Building" means the structure or structures in which the Units are located on the Condominium Property.

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- 2.7 "Bylaws" means the Bylaws of the Association.
- 2.8 "Committee" means a group of Board members, Unit Owners, or Board members and Unit Owners appointed by the Board or a member of the Board to make recommendations to the Board regarding the Association budget or take action on behalf of the Board.
- 2.9 "Common Elements" shall mean and includes:
- (a) The portions of the Condominium Property which are not included within the Units;
 - (b) Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units and the Common Elements;
 - (c) An easement of support in every portion of the Unit which contributes to the support of the Building;
 - (d) The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements;
 - (e) Any other parts of the Condominium Property designated as Common Elements in this Declaration;
 - (f) Common Elements includes Limited Common Elements unless the context otherwise requires.
- 2.10 "Common Expenses" means the expenses of administration, management, maintenance, operation, repair, replacement, or protection of the Common Elements and Association Property, costs of carrying out the powers and duties of the Association and any other expense, whether or not included in the foregoing designated as common expense by the Condominium Act, or this Declaration, the Articles or the Bylaws.
- 2.11 "Common Surplus" means the excess of all receipts of the Association collected on behalf of the Condominium, (including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements) over the Common Expenses.
- 2.12 "Condominium Parcel" means a Unit together with the undivided share in the Common Elements which is appurtenant to the Unit.
- 2.13 "Condominium Property" means the Land and the personal property that are subjected hereunder to condominium ownership, whether or not contiguous, and all improvements on the Land, and all easements and rights appurtenant thereto intended for use in connection with the Condominium.

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- 2.14 "County" shall mean Dade County, Florida.
- 2.15 "Declaration" or "Declaration of Condominium" means this instrument or instruments by which the Condominium will be created, as they are from time to time amended.
- 2.16 "Developer" means Harbie Development, Inc., a Florida corporation, its successors and such of their assigns as to which the rights of Developer hereunder are specifically assigned. Developer may assign only a portion of his rights hereunder, or all or a portion of such rights in connection with appropriate portions of the Condominium. In the event of such partial assignment, the assignee shall not be deemed the Developer, but may exercise such rights of the Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.
- 2.17 "Improvements" mean all structures and artificial changes to the natural environment (exclusive of landscaping) located on the Condominium Property, including but not limited to, the Building.
- 2.18 "Institutional First Mortgagee" or "Mortgagee" means the Developer or a generally recognized and duly authorized institutional lender such as a bank, savings and loan association, insurance company, mortgage company, real estate or mortgage investment trust, which owns or holds a first mortgage encumbering a Condominium Parcel. "Mortgagee" also includes the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration and Federal Housing Administration or any other lender, or its loan correspondent or agency of the United States Government holding, guaranteeing or insuring a first mortgage on a Condominium Parcel.
- 2.19 "Limited Common Elements" mean those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of other Units, as specified in this Declaration.
- 2.20 "Operation" or "operation of the Condominium" means the administration and management of the Condominium Property.
- 2.21 "Primary Institutional First Mortgagee" means the Institutional First Mortgagee which owns at any time first mortgages securing a greater aggregate indebtedness than is owed to any other Institutional First Mortgagee.
- 2.22 "Special Assessment" means any assessment levied against Unit Owners other than the Assessment required by a budget adopted annually.

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- 2.23 "Unit" means a part of the Condominium Property which is subject to exclusive ownership.
- 2.24 "Unit Owner", or "Owner of a Unit" means a record owner of legal title to a Condominium Parcel as shown by the real estate records in the office of the Clerk of Dade County, Florida, whether such Owner be the Developer, one or more persons, firms, associations, corporations or other legal entities. "Owner" shall not mean or refer to the holder of a mortgage or security deed, its successors or assigns, unless and until such holder has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.
- 2.25 "Utility services" shall include, but not be limited to, electric power, water, air conditioning, MATV and CATV systems and garbage and sewage disposal.
- 2.26 "Voting Certificate" means a document which designates one of the record title owners, or the corporate partnership, or entity representative, who is authorized to vote on behalf of a Unit that is owned by more than one owner or by any entity.
- 2.27 "Voting Interest" means the voting rights distributed to the Association members pursuant to the Act and Section 5 of this Declaration.

3. Description of Condominium.

- 3.1 Alteration of Plans and Changes in Developer Owned Units. Developer reserves the right, without the consent or approval of the Board of Directors or Unit Owners, to change and alter the boundaries between Units, the configuration and size of Units and the boundaries between Units and the Common Elements so long as Developer owns the Units so altered. Developer shall have the specific right, without the vote or consent of the Association or Unit Owners, to (i) 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 (including, without limitation, the removal of walls, floors, ceilings and other structural portions of the improvements); (ii) change the layout or number of rooms in any Developer-owned Units; (iii) change the size and/or number of Developer-owned Units by subdividing one or more Developer-owned Units into two or more separate Units, combining separate Developer-owned Units (including those resulting from such subdivision or otherwise) into one or more Units, or otherwise; and (iv) reapportion among the Developer-owned Units so affected by such change in size or number their appurtenant interests in the Common Elements and shares of the Common Surplus and Common Expenses; provided, however, that the

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percentage interest in the Common Elements and share of the Common Surplus and Common Expenses of any Units (other than Developer-owned Units) shall not be changed by reason thereof unless the Owners of such Units shall consent thereto and, provided further, that Developer shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction in so doing. In making the above alterations, additions and improvements the Developer may relocate and alter Common Elements adjacent to or affected by such Units, provided that such relocation or alteration does not materially adversely affect ordinary use of Units owned by Unit Owners other than the Developer. Any amendments to this Declaration required by actions taken pursuant to this Section 3.1 may be effected the Developer alone. If Developer shall make any changes in Units so authorized, such changes shall be reflected by an amendment of this Declaration. An amendment of this Declaration reflecting such authorized alteration of Unit boundaries by Developer need be signed and acknowledged only by the Developer and need not be approved by the Association, Unit Owners or lienor or mortgagees of Units, whether or not elsewhere required for an amendment.

- 3.2 Identification of Units. The Land has or will have constructed thereon one Building with 13 Units. Each such Unit is identified by a separate numerical or alpha-numerical or alphabetical designation. The designation of each such Unit is set forth on Exhibit C annexed hereto. Exhibit C consists of a survey of the Land, a graphic description of the Improvements located thereon, including, but not limited to, the Building in which the Units are located and a plot plan thereof. Said Exhibit C together with this Declaration, is sufficient in detail to identify the Common Elements and each Unit and their relative locations and approximate dimensions. There shall pass with a Unit, as appurtenances thereto, (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically; (d) membership in the Association designated in this Declaration with the full voting rights appertaining thereto and (e) other appurtenances as may be provided in this Declaration. Time-share estates will not be created with respect to any Unit in the Condominium.
- 3.3 Unit Boundaries. Each Unit shall include that part of the Building containing the Unit that lies within the boundaries of the Unit, which boundaries are as follows:

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- (a) Upper and lower boundaries. The upper and lower boundaries of the Unit shall be the following perimetrical boundaries:
- (i) Upper boundaries. The horizontal plane of the interior undecorated finished lower surface of the structural ceiling (which will be deemed to be the ceiling of the top story if the Unit is a multi-story Unit), provided that in multi-story Units where the lower boundary extends beyond the upper boundary, the upper boundary shall include that portion of the ceiling(s) of the lower or middle floor(s) for which there is no corresponding ceiling(s) on the middle or upper floor(s), as appropriate, directly above such lower or middle floor ceiling(s), as appropriate.
- (ii) Lower boundaries. The horizontal plane of the interior undecorated finished upper surface of the concrete floor of the Unit (which will be deemed to be the concrete floor of the first story if the Unit is a multi-story Unit), provided that in multi-story Units where the upper boundary extends beyond the lower boundary, the lower boundary shall include that portion of the floor(s) of the middle or upper floor(s) for which there is no corresponding floor(s) on the middle or bottom floor(s), as appropriate, directly below the floor(s) of such middle or upper floor(s), as appropriate.
- (iii) Interior divisions. Except as provided in subsections (i) and (ii) above, no part of the floor of the middle or upper floor(s), ceiling of the middle or lower floor(s), stairwell adjoining floors or nonstructural interior walls shall be considered a boundary of the Unit.
- (b) Perimetrical boundaries. The perimetrical boundaries of the Unit shall be the vertical planes of the interior undecorated finished surfaces of the walls bounding the Unit extended to their plan as intersections with each other and with the upper and lower boundaries.
- (c) Apertures. Where there are apertures in any boundary, including, but not limited to, windows, doors, conversation pits and skylights, such boundaries shall be extended to include the interior undecorated finished surfaces of such apertures, including all frameworks thereof. Exterior surfaces made of glass or other transparent material, and all framing and casings therefor, shall be included in the boundaries of the Unit.

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- (d) Subdivision. A Unit may be subdivided into parts or portions less than a Unit, but not less than 1000 square feet, and such portion or part may be conveyed by instrument of conveyance which describes such part or portion by reference to points established by this Declaration and the Exhibits hereto. Any such instrument of conveyance will assign and designate the proportionate share of the Common Elements, Common Expense, and Common Surplus allocated to the part or portion of the Unit conveyed. The proportionate share allocated will be computed by multiplying the proportionate share allocated to the Unit times a fraction the numerator of which is the square footage contained within that part or portion of the Unit conveyed and the denominator of which is the total square footage of the interior floor space created by the construction of common hallway and bathrooms. The instrument of conveyance will also clearly state the allocation of proportionate share to the balance of the Unit and the proportionate share allocated to all parts or portions of a Unit will at all times be equal to the proportionate share allocated to the Unit by this Declaration and its exhibits. Any wall constructed as a common wall on any boundary established by such instrument of conveyance as a boundary between parts or portions of a Unit will be a common wall "serving the owners of the parts or portions of Units and such wall will not be a part of the Common Elements of the Condominium and the responsibility for maintenance thereof will be that of the owners of the parts or portions of the Unit abutting such common wall.
- (e) Interior Improvements. Except as may otherwise be provided between the Developer and a Unit purchaser, a Unit Owner will be responsible for construction of all Improvements within a Unit's boundaries, including, but not limited to: walls; partitions; electrical and plumbing lines, fixtures and systems; lighting; and heating, ventilation and air conditioning, and any and all other Improvements necessary or desirable, or required by any code, law or regulation, to occupy, use and enjoy the Unit; provided however, that any wall constructed on any portion of a Unit's perimetrical boundaries where such boundary is also a perimetrical boundary of another Unit or portion of a Unit, such wall shall be constructed so as to serve as a common or party wall for use by the Owners of the Units or portions of a Unit sharing such perimetrical boundary. The Unit Owner shall be required to furnish the Board with copies of all building permits as a condition precedent to the approval by the Developer and the Board.

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In connection with the foregoing, the Developer and the Board will have the right to approve all plans and specifications for construction, completion, and finishing of the interior of the Units and to approve all contractors and subcontractors engaging in such construction and finishing. Without limiting the foregoing, all plans and specifications must comply with all applicable laws, ordinances, and building codes and include such other additions or improvements necessary or appropriate for the particular purpose for which the Units are to be occupied (such as, but not limited to, additional support for certain types of uses) and all contractors and subcontractors must be duly licensed.

- (f) Exceptions. In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units set forth as Exhibit A, and as said Exhibit A may be amended from time to time, shall control in determining the boundaries of a Unit.

4. Condominium Improvements and Units.

4.1 Limited Common Elements. Each Unit may have, to the extent applicable and subject to the provisions of this Declaration, as Limited Common Elements appurtenant thereto:

- (a) Covered Entry. The covered entry adjacent to each Unit shall be a limited common element.
- (b) Parking Spaces. Parking is restricted to the parking spaces located in the parking areas, or spaces noted on the survey attached as Exhibit A hereto. Each space identified therein, is assigned an alpha-numerical designation. The Developer, for so long as it owns any Unit for sale, reserves the exclusive right (but not the obligation) to assign to any Unit the exclusive use of one or more parking spaces. The Developer shall be entitled to keep any fee it charges a Unit Owner for the exclusive use of a parking space(s) assigned to his Unit pursuant to this subsection. All assignments of parking spaces shall be by separate written assignment which will indicate that it is made under this subsection, but it may not be recorded among the Public Records.
- (c) Mortgage Provision. Anything to the contrary in this Declaration notwithstanding, in the event a Unit Owner mortgages his Unit, together with his Limited Common Elements (whether or not ordinarily fully assignable apart from the Unit), such Limited Common Elements shall not be assignable apart from

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the Unit unless they are released from the lien of such mortgage.

4.2 Easements. The following easements are hereby created (in addition to any easements created under the Act).

- (a) Support. Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.
- (b) Utility and Other Services; Drainage. Easements are reserved under, through and over the Condominium Property as may be required from time to time for utility, cable television, communications, and security systems, and other services and drainage in order to serve the Condominium. A Unit Owner shall do nothing within or outside his Unit that interferes with or impairs, or may interfere with or impair, the provision of such utility, cable television, communications and security systems or other services or drainage facilities or the use of these easements. The Board of Administration or its designee shall have the right of access to each Unit to maintain, repair or replace the pipes, wires, ducts, vents, cables, conduits and other utility, service and drainage facilities and Common Elements contained in the Unit or elsewhere in the Condominium Property, and to remove any Improvements interfering with or impairing such facilities or easements herein reserved; provided such right of access, except in the event of an emergency, shall not unreasonably interfere with the Unit Owner's permitted use of the Unit, and except in the event of an emergency, entry shall be made on not less than one day's notice.
- (c) Encroachments. If (a) any portion of the Common Elements encroaches upon any Unit; (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements; or (c) any encroachment shall hereafter occur as a result of (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements made by or with the consent of the Association, or (iv) any repair or restoration of the Improvements (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Improvements shall stand.

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- (d) Ingress and Egress. A non-exclusive easement in favor of each Unit Owner and resident, their guests and invitees, shall exist for pedestrian traffic over, through and across sidewalks, streets, paths, walks and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as from time to time may be paved and intended for such purposes. Developer hereby grants to delivery, pick-up and fire protection services, police and other authorities of the law, United States carriers, representatives of electrical, telephone and other utilities authorized by Developer to service the Condominium and representatives of cable television, and to such other persons as Developer from time-to-time may designate, the non-exclusive, perpetual right of ingress and egress over, through and across such portions of the Common Elements for the purposes of performing their authorized services and investigation. Such easements shall survive any termination of this Declaration. None of the easements specified in this subparagraph (d) shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements (other than those on Condominium Parcels) shall automatically be subordinate to, the rights of Unit Owners with respect to such easements.
- (e) Construction; Maintenance. The Developer (including its designees, contractors, successors and assigns) shall have the right, in its and their sole discretion, from time to time, to enter the Condominium Property and take all other action necessary or convenient for the purpose of completing the construction thereof, of any Improvements or Unit located or to be located thereon.
- (f) Sales Activity. For as long as there are any unsold Units, the Developer, its designees, successors and assigns, shall have the right to use such Units and parts of the Common Elements for model apartments and sales offices, to show model apartments and the Common Elements to prospective purchasers and tenants of the Units, and to erect on the Condominium Property signs and other promotional material to advertise Units and certain Limited Common Elements for sale or lease. No charge shall be made to Developer for such use. Developer reserves the right to use any units not closed as temporary accommodations for, but not limited to, prospective purchasers. Such temporary

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accommodations shall not be considered a leasing of the Unit and shall not be subject to Section 18 hereof.

- (g) Developer's Warranty. For as long as Developer remains liable to the Association, under any warranty, whether statutory, express or implied, for act or omission of Developer in the development, construction, sale and marketing of the Condominium, then Developer and its agents shall have the right, in Developer's sole discretion, and from time to time, to enter the Condominium Property for the purpose of inspecting, testing and surveying same, to determine the need for repairs, improvements or replacements, so as to permit Developer to fulfill its obligations, under such warranties. Failure of the Association or of a Unit Owner to grant such access may result in the appropriate warranty being nullified and of no further force or effect.
- (h) Divider Walls. The wall separating the Unit of one Owner from the Unit of a vertically or horizontally adjoining Owner shall be referred to as a "divider wall". A divider wall shall not be removed or constructed by an Owner, except as provided in this subsection 4.4(j). In the event a Unit Owner acquires an adjacent Unit and a divider wall is no longer intended to completely separate the adjoining Units, the Owner may remove the divider wall or construct or cause to be constructed a doorway or passageway between the adjoining Unit (and an easement is hereby reserved and granted for such purpose) but only after having obtained all required governmental approvals. The removal of the divider wall or the construction of such doorway or passageway shall be at the sole cost and expense of the Owner performing same and such removal or construction shall not diminish, or in any way impair, the structural integrity or soundness of the Building. When title to adjoining Units (which do not then share a complete divider wall) shall vest in two individuals or entities who thereupon become vertically or horizontally adjoining Unit Owners, then the Owners of such adjoining Units, acting together, must construct, sharing the costs and expenses therefor equally, a divider wall to completely or partially separate said adjoining Units. A divider wall may not be constructed or erected, however, until the review (at the expense of the Unit Owner) and consent of the Association and until all governmental approvals, as aforesaid, have been obtained. Any such construction shall be effected at the expense of the Owner(s) performing same and in accordance

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with the plans and specifications for construction. In no event may a divider wall be constructed if the structural soundness of the Building may in any way be affected thereby. That part of the divider wall located within the boundary of the Unit shall be part of the Unit. Adjoining Units which share a divider wall shall have a cross-easement of support in the portion of the divider wall not located within the boundary of the Unit. Maintenance and repair of the divider wall shall be accomplished by the appropriate Owners. Each Owner shall be responsible for any damage caused to a divider wall by its negligent or intentional acts or the negligent or intentional acts of its employees or agents, and the cost of said repair shall be the specific obligation of that Owner.

- (i) Additional Easements. The Developer and the Board of Administration, on their behalf and on behalf of the Association, and all Unit Owners (each of whom hereby appoints the Developer and the Association as their attorney-in-fact for this purpose), each shall have the right to grant such additional electric, gas, water distribution or waste water collection or other utility or service or other easements, or relocate any existing easements or drainage facilities in any portion of the Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Developer or the Association shall deem necessary or desirable for the proper operations 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 or otherwise, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for dwelling purposes. The Board of Administration has the authority without the joinder of any Unit Owners, to grant, modify or move any easement, subject to the provisions of the easement, if the easement constitutes part of or crosses the Common Elements.

5. Restraint Upon Separation and Partition of Common Elements. The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, membership in the Association designated in this Declaration, with the full voting rights appertaining thereto, and except as provided herein, the exclusive right to use all appropriate appurtenant Limited

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Common Elements, shall not be separated from and shall pass with the title to the Unit, whether or not separately described. All of these aforescribed appurtenances to a Unit cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium.

6. Ownership of Common Elements and Common Surplus and Share of Common Expenses.

6.1 Percentage Ownership and Shares. The undivided percentage interest in the Common Elements and Common Surplus, and the percentage share of the Common Expenses appurtenant to each Unit, is set forth in Exhibit B annexed hereto, which percentage is based upon the total square footage of each Unit in uniform relationship to the total square footage of all Units in the Condominium.

6.2 Voting. Each Unit shall be entitled to vote based upon the total square footage of each Unit in uniform relationship to the total square footage of all Units in the Condominium. Each vote to be cast by its Owner shall be in accordance with the provisions of the Bylaws and Articles. Each Unit Owner shall be a member of the Association.

7. Amendments. Except as elsewhere provided herein, amendments may be effected as follows:

7.1 By the Association. 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. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Administration of the Association or by not less than one-third of the voting interests of the Members of the Association. Directors not present in person and Members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, approvals must be by affirmative vote of:

- (a) Unit Owners owning not less than 66-2/3 percent of the voting interests represented at any meeting at which a quorum has been attained and by not less than 66 2/3 percent of the Board of Administration of the Association; or,

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- (b) Unit Owners owning not less than 80 percent of the voting interests represented at any meeting at which a quorum has been attained; or,
- (c) 100 percent of the Board of Administration; or
- (d) Not less than 50 percent of the entire membership of the Board of Administration in the case of amendments to the section hereof entitled "Insurance" or other sections that are reasonably required by insurers or the Primary Institutional First Mortgagee.

7.2 Execution and Recording. An amendment, other than amendments made by the Developer alone pursuant to the Act or this Declaration, shall be evidenced by a certificate of the Association which shall include recording data identifying the Declaration and shall be executed in the form required for the execution of a deed. Amendments by the Developer must be evidenced in writing, but a certificate of the Association is not required. An amendment of the Declaration is effective when properly recorded in the Public Records of the County.

7.3 Procedure. No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text and underlined; and words to be deleted 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 declaration. See provision for present text". Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

7.4 Proviso. Subject to the provisions of Section 7.2 above, no amendment shall change the configuration or the size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, permit timeshare estates, nor change the proportional percentage by which a Unit Owner shares the Common Expenses and owns the Common Elements and Common Surplus unless the record Owner(s) of the Unit and all record owners of mortgages and other liens thereon, shall join in the execution of the amendment and the amendment is otherwise approved by not less than a majority of the voting interests of Unit Owners. No amendment shall be passed which shall

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materially affect the rights or interests of any Mortgagee without the prior written consent of such Mortgagee. No amendment shall be passed which shall in any way affect any of the rights, privileges, powers or options of the Developer without the prior written consent of the Developer.

The consent or joinder of some or all Mortgagees of Units to or in amendments to this Declaration shall not be required unless the requirement is limited to amendments materially affecting the rights or interests of the Mortgagees, or as otherwise required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and unless the requirement provides that such consent may not be unreasonably withheld. Except as to amendments: (a) described in this Section 7.4 (b) required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and (c) amendments permitting the creation of time-share estates in any Unit of the Condominium, it shall be presumed that all other amendments to this Declaration do not materially affect the rights or interests of any Mortgagee.

Such consent shall be deemed given if either agency or any other governmental agency fails to deliver written notice of its disapproval of any amendment to Developer or to the Association within 30 days after a request for such consent is delivered to the agency by certified mail, return receipt requested, or equivalent delivery, and such consent shall be conclusively evidenced by a certificate of Developer or the Association that the consent was given or deemed given.

The acquisition of property by the Association, and material alterations or substantial additions to such property or the Common Elements by the Association, or in accordance with the provisions of the Act or Sections 9 and 12(g) of this Declaration, and installation, replacement and maintenance of approved hurricane shutters, if in accordance with the provisions of this Declaration, shall not be deemed to constitute a material alteration or modification of the appurtenances to the Units.

7.5 Notwithstanding any provisions contained herein to the contrary, and to the extent permitted by law, the Developer may, without the consent of Unit Owners, record any of the following amendments to this Declaration and any Exhibits thereto:

- (a) Any amendment to correct a scrivener's error, provided that the Developer is in control of the Association;

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(b) Any amendment which may be required by any governmental authority having jurisdiction over the Condominium Property;

(c) Any amendment which may be required by a Mortgagee;

and any such amendment shall supersede any conflicting provisions contained in this Declaration or any Exhibit hereto.

The above described amendments by the Developer shall neither impair or prejudice the rights and interests of any Mortgagee without the prior written consent of such Mortgagee nor impair, prejudice or materially alter or modify the rights of any Unit Owner in a manner that is adverse to such Unit Owner without such Unit Owner's prior written consent. Any of the above described amendments shall be fair and reasonable and consistent with the terms and provisions of the Act and the applicable Rules of the Florida Department of Business and Professional Regulation. Any of such amendments need be executed and acknowledged only by the Developer and need not be approved by the Association, Unit Owners, lienors or Mortgagees, whether or not elsewhere required for amendments.

8. Maintenance and Repairs.

8.1 Units. All maintenance, repairs and replacements of, in or to any Unit and Limited Common Elements appurtenant thereto, whether structural or nonstructural, ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of screens, windows, the interior side of the entrance door and all other doors within or affording access to a Unit, and the electrical, plumbing, heating and air-conditioning equipment, fixtures and outlets, if any, within the Unit or the Limited Common Elements or belonging to the Unit Owner, shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein, and shall be in accordance with the original plans and specifications therefor or as otherwise directed by the Association. Additionally, each Unit Owner shall pay all charges for utility services billed directly to his Unit.

8.2 Common Elements. Except to the extent (i) expressly provided to the contrary herein, or (ii) proceeds of insurance are made available therefor, all maintenance, repairs and replacements in or to the Common Elements (other than Limited Common Elements as provided above) shall be performed by the Association and the cost and

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expense thereof shall be charged to all Unit Owners as a Common Expense, except to the extent arising from or necessitated by the negligence, misuse or neglect of specific Unit Owners, in which case such cost and expense shall be paid solely by such Unit Owners.

- 8.3 Specific Unit Owner Responsibility. Except as otherwise expressly provided in this Section 8.3, the obligation to maintain and repair the following specific items shall be the responsibility of the Unit Owners, individually, and not the Association, without regard to whether such items are included within the boundaries of the Units or are Limited Common Elements:

Where a Limited Common Element consists of a balcony or terrace or covered entry, the Unit Owner who has the right to the exclusive use of said balcony or terrace or covered entry shall be responsible for the maintenance, care and preservation of the paint and surface of the walls and/or fences, including floor and ceiling, within said area, if any, and the fixed and/or sliding glass door(s) in the entrance way(s) or other portions of said area, if any, and the wiring, electrical outlet(s) and fixture(s) thereon, if any, and the replacement of light bulbs, if any. Notwithstanding the foregoing, if applicable, the Association shall maintain and repair the railings affixed to the balconies and the top wall of the balconies, which costs and expenses for said maintenance and repair of the railings and top wall of the balconies shall be a Common Expense to all Unit Owners.

- 8.4 Association's Right of Access to Units. 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 this Declaration, or for making emergency repairs which are necessary to prevent damage to the Common Elements or to another Unit or Units.
- 8.5 Hurricane Shutter Specifications. The Board shall adopt hurricane shutter specifications for the Building, which shall include color, style, and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with the applicable building code. Notwithstanding any provision to the contrary in this Declaration, if approval is required hereunder, the Board shall not refuse to approve the installation or replacement of hurricane shutters conforming to the

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specifications adopted by the Board. The Board may, subject to (a) the provisions of the Act that deal with contracts for the purchase, lease or rental of materials or equipment to be used by, or for contracts for services to be provided to the Association, and (b) the approval of a majority of voting interests of the Condominium, install hurricane shutters and may maintain, repair, or replace such approved hurricane shutters, whether on or within the Common Elements, Limited Common Elements, Units, or Association Property. However, where laminated glass or window film architecturally designed to function as hurricane protection which complies with the applicable building code has been installed, the Board may not install hurricane shutters. The Board may operate shutters installed pursuant to this Section 8.5 without permission of the Unit Owners only where such operation is necessary to preserve and protect the Condominium Property and Association Property. The installation, replacement, operation, repair and maintenance of such shutters in accordance with the procedures set forth herein shall not be deemed a material alteration to the Common Elements or Association Property.

8.6 Miscellaneous. All work performed on the Condominium Property or any portion thereof shall be in compliance with all applicable governmental building and zoning requirements. All plumbing and electrical maintenance, repairs, and replacements shall be made only by plumbers or electricians duly licensed and qualified to perform such services in either Dade, Broward or Palm Beach Counties, Florida.

9. Additions, Alterations or Improvements by Association and Developer.

9.1 Additions, Alterations or Improvements by the Association. Whenever, in the judgment of the Board of Administration, the Common Elements or any part thereof shall require capital additions, alterations or improvements (as distinguished from repairs and replacements) costing in excess of \$10,000 in the aggregate in any calendar year, the Association may proceed with such additions, alterations or improvements only if the making of such additions, alterations or improvements shall have been approved by a majority of the voting interests of the Association represented at a meeting at which a quorum is attained. Any such additions, alterations, or improvements to such Common Elements or any part thereof costing in the aggregate of \$10,000 or less in a calendar year may be made by the Association without approval of the Unit Owners. The cost and expense of any such additions, alterations or

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improvements to such Common Elements shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners as Common Expenses.

9.2 Additions, Alterations or Improvements by Developer. The Developer, provided Developer is the owner of all of the Units in the Condominium, shall have the right, without the vote or consent of the Association or Unit Owners, to change all or any part of the front, rear or side elevations of the Building; and, provided further that in connection with any changes, Developer shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction. Until the Developer turns over control of the Board of Administration to Unit Owners other than the Developer, the Developer shall have the additional right, without the consent or approval of the Board of Administration or other Unit Owners to provide additional and/or expand the recreational facilities.

10. Additions, Alterations or Improvements by Unit Owners and Developer.

10.1 Consent of the Board of Administration. No Unit Owner shall make any addition, alteration or improvement in, or to, the Common Elements, his Unit or any Limited Common Elements without the prior written consent of the Board of Administration. The Board shall have the obligation to answer any written request by a Unit Owner for approval of such an addition, alteration or improvement in such Unit Owner's Unit or Limited Common Elements within 30 days after such request and all additional information requested is received, and the failure to do so within the stipulated time shall constitute the Board's consent. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction and with any conditions imposed by the Board of Administration, with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise.

A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, all other Unit Owners harmless from any liability or damage to the Condominium Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance from and after that date of installation or

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construction thereof as may be required by the Board of Administration.

The Board may appoint an Architectural Control Committee to assume the foregoing functions on behalf of the Board.

- 10.2 Additions, Alterations or Improvements by Developer. The foregoing restrictions of this Section 10 shall not apply to Developer-owned Units. The Developer shall have the additional right, without the consent or approval of the Board of Administration or other Unit Owners, to make alterations, additions or improvements, structural and nonstructural, interior and exterior, ordinary and extraordinary, in, to and upon any Unit owned by it and Limited Common Elements appurtenant thereto (including, without limitation, the removal of walls, floors, ceilings and other structural portions of the Improvements). If the Developer alters the floor plans of a Building, the Developer will cause an amendment to the Declaration to be recorded showing said changes.
11. Changes in Developer-owned Units. The Developer shall have the right, without the consent or approval of the Board of Administration or other Unit Owners, to make such alterations in, to or upon any Developer-owned Units in order to comply with design and construction guidelines adopted under applicable federal, state and local laws, ordinances, rules and regulations with respect to accessibility for handicapped persons. In making the above alterations, additions and improvements to the Units, the Developer may relocate or alter Common Elements adjacent to such Units, provided that such relocation or alteration does not materially adversely affect the market value or ordinary use of Units owned by Unit Owners other than the Developer. Additionally, the Developer, provided the Developer is the owner of all of the Units in the Building, shall have the right to change all or any part of the front, rear or side elevations of the Building. Developer's rights set forth in this Section 11 shall not impair, prejudice or materially alter or modify the rights of Unit Owners in a manner that is adverse to such Unit Owners, or impair or prejudice the rights or interests of any Mortgagee, and such rights shall be exercised by Developer in a fair and reasonable manner as not to destroy the general design and scheme of the Building.
12. Operation of the Condominium by the Association; Powers and Duties. The Association shall be the entity responsible for the operation of the Condominium. The powers and duties of the Association shall include those set forth in the Articles and Bylaws of the Association (respectively, Exhibits D and E annexed hereto), as amended from time to time. In addition, the Association shall have all the powers and duties set forth

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in the Act, as well as all powers and duties granted to or imposed upon it by this Declaration, including, without limitation:

- (a) 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 this Declaration or as necessary to prevent damage to the Common Elements or to any other Unit or Units.
- (b) The power to make and collect Assessments and Special Assessments and other charges and surcharges against Unit Owners and to lease, maintain, repair and replace the Common Elements.
- (c) The power to charge and collect a use fee from a Unit Owner for the exclusive or nonexclusive use of all or a portion of the Common Elements or Association Property.
- (d) The duty to maintain accounting records according to good accounting practices, which shall be open to inspection by Unit Owners or their authorized representatives at reasonable times.
- (e) To contract for the management and maintenance of the Condominium Property and to authorize a management agent (which may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments and Special Assessments, preparation of records, enforcement of rules and maintenance, repairs and replacement of the Common Elements with funds as shall be made available by the Association for such purposes. The Association shall, however, retain at all times the powers and duties granted by the Condominium Documents and the Act, including but not limited to the making of Assessments, Special Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (f) The power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security mortgages and security interests in property the Association, provided that such actions are by a majority of the entire membership of the Directors and a majority of the voting interests of Owners represented at a meeting at

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which a quorum attained, or by such greater percentage of the Board or voting interests of the Unit Owners as may be specified in the Bylaws with respect to certain borrowing.

- (g) Subsequent to the recording of this Declaration, the Association, when authorized by a majority of the voting interests of the Units represented at a meeting at which a quorum has been attained, shall have the power to acquire and enter into agreements for the acquisition of fee interests, leaseholds, memberships and other possessory or use interests in lands or facilities, including, but not limited to, country clubs, golf courses, marinas and other recreational facilities, whether or not contiguous to the lands of the Condominium intended to provide enjoyment, recreation or other use or benefit to the Unit Owners (whether or not on an exclusive basis). The expenses of ownership (including the expense of making and carrying any mortgage related to such ownership), rental, membership fees, operation, replacements and other expenses and undertakings in connection therewith shall be Common Expenses.
- (h) The power to adopt and amend the rules and regulations covering the details of the operation and use of the Condominium Property.
- (i) The power to levy reasonable fines against a Unit for failure of the Owner or its occupant, licensee or invitee to comply with any provision of this Declaration, the Bylaws or the rules and regulations.
- (j) The limited power to convey a portion of the Common Elements to a condemning authority for the purposes of providing utility easements, right-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.
- (k) All of the powers which a corporation not for profit in the State of Florida may exercise.

In the event of conflict between the powers and duties of the Association or otherwise, the Declaration shall take precedence over the Articles, Bylaws and applicable rules and regulations; the Articles shall take precedence over the Bylaws and applicable rules and regulations; and the Bylaws shall take precedence over applicable rules and regulations, all as amended from time to time.

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- 12.1 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair caused by any latent condition of the Condominium Property.
- 12.2 Restraint Upon Assignment of Shares in Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit.
- 12.3 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, that decision shall be expressed by the same person who would cast the vote for the Unit if at an Association meeting, unless the joinder of record owners is specifically required by the Declaration or by law.
- 12.4 Acts of the Association. Unless the approval or action of Unit Owners and/or a certain specific percentage of the Board of Administration of the Association is specifically required in this Declaration, the Articles or Bylaws of the Association, applicable rules and regulations or applicable law, all approvals or actions required or permitted to be given or taken by the Association shall be given or taken by the Board of Administration, without the consent of Unit Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution. When an approval or action of the Association is permitted to be given or taken hereunder or thereunder, such action or approval may be conditioned in any manner the Association deems appropriate or the Association may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal.
13. Determination of the Common Expenses and Fixing of Assessments Therefor. The Board of Administration shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses of the Condominium, and allocate and assess such expenses among the Unit Owners in accordance with the provisions of this Declaration and the Bylaws. The Board of Administration shall advise all Unit Owners promptly in writing of the amount of the Assessment payable by each of them as determined by the Board of Administration, as aforesaid and shall furnish copies of each budget, on which such Assessments are based, to all

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Unit Owners and (if requested in writing) to their respective mortgagees. The Common Expenses shall include the expenses of the administration, operation, maintenance, management, repair, replacement or protection of the Common Elements and Association Property, or other commonly used facilities and services, and any other expenses designated as Common Expenses by the Act, this Declaration, the Articles or Bylaws of the Association. Any budget adopted shall be subject to change to cover actual expenses at any time. Any such change shall be adopted consistent with the provisions of the Bylaws. The expense of installation, replacement, operation, repair and maintenance of hurricane shutters by the Board pursuant to Section 8.5 of this Declaration and the Act shall constitute a Common Expense and shall be collected as provided in this Section 13. A Unit Owner who has previously installed hurricane shutters in accordance with Section 8.5 of this Declaration or laminated glass architecturally designed to function as hurricane protection which complies with the applicable building code shall receive a credit equal to the pro rata portion of the assessed installation cost assigned to each Unit. However, such Unit Owner shall remain responsible for the pro rata share of expenses for hurricane shutters installed on Common Elements and Association Property by the Board pursuant to Section 8.5 of this Declaration and shall remain responsible for a pro rata share of the expense of the replacement, operation, repair and maintenance of such shutters. Additionally, the cost of a master antenna television system or duly franchised cable television service, if any, obtained pursuant to a bulk contract, shall be deemed to be a Common Expense. The Board of Administration in determining the amount of the Assessments payable by the Unit Owners shall be authorized to include such costs in the estimated operating budget for the Condominium. Accordingly, the provisions contained in Section 14 of this Declaration with respect to the collection of Assessments shall be applicable to the costs for cable television services and auxiliary services.

14. Collection of Assessments and Special Assessments.

- 14.1 Liability for Assessments and Special Assessments. A Unit Owner, regardless of how title is acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, shall be liable for all Assessments and Special Assessments coming due while he is the Unit Owner. Except as provided for in Section 14.5, the grantee shall be jointly and severally liable with the previous owner for all unpaid Assessments and Special Assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the Owner may have to recover from the previous owner the amounts paid by the Owner. The liability for Assessments

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and Special Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit for which the Assessments and Special Assessments are made or otherwise.

- 14.2 Default in Payment of Assessments or Special Assessments for Common Expenses. Assessments, Special Assessments and installments thereof not paid within ten days from the date when they are due shall bear interest at the highest rate allowable by law from the due date until paid. The Association may charge an administrative late fee in addition to such interest, in an amount not to exceed the greater of \$25.00 or 5% of each installment of the Assessment (and Special Assessment to the extent allowed by law), for each delinquent installment. Any payment received by the Association shall be applied first to any interest accrued by the Association, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent Assessment, (and/or Special Assessment, to the extent allowed by law). The foregoing shall be applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. A late fee shall neither be subject to the provisions of Florida's interest and usury laws nor the provisions of the Condominium Act dealing with the levy of fines against a Unit. The Association has a lien on each Condominium Parcel to secure the payment of Assessments (and Special Assessments to the extent allowed by law) on such Parcel, with interest and for reasonable attorney's fees and costs incurred by the Association incident to the collection of the Assessments (and Special Assessments to the extent allowed by law) or enforcement of the lien. Except as otherwise provided in Section 14.1 and as set forth below, the lien is effective from and shall relate back to the recording of the original declaration of condominium. However, as to first mortgages of record, the lien is effective from and after recording a claim of lien in the Public Records of the County, stating the description of the Condominium Parcel, the name of the record owner, the name and address of the Association, the amount due and the due dates. A claim of lien shall be executed and acknowledged by an officer or authorized agent of the Association. No such lien shall be effective longer than one year after the claim of lien was recorded unless, within that time, an action to enforce the lien is commenced. The one year period shall automatically be extended for any length of time during which the Association is prevented from filing a foreclosure action by an automatic stay resulting from a bankruptcy petition filed by the Parcel Owner or any other person claiming an

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interest in the Parcel. The claim of lien shall secure all unpaid Assessments, Special Assessments to the extent allowed by law, which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a certificate of title, as well as interest and all reasonable costs and attorneys' fees incurred by the Association incident to the collection process. Upon payment in full, the person making the payment is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose a lien for unpaid Assessments (and Special Assessments to the extent allowed by law) in the manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments (and Special Assessments to the extent allowed by law) without waiving any claim of lien.

- 14.3 Notice of Intention to Foreclose Lien. No foreclosure judgment may be entered until at least 30 days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments (and Special Assessments to the extent allowed by law). If this notice is not given at least 30 days before the foreclosure action is filed, and if the unpaid Assessments (and Special Assessments to the extent allowed by law), including those coming due after the claim of lien is recorded, and other sums permitted hereunder are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at the last known address, and upon such mailing, the notice shall be deemed to have been given and the court shall proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit the Owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act and shall not apply if an action to foreclose a mortgage on the Unit is pending before any court if the Association's rights would be affected by such foreclosure, and if actual, constructive or substitute service of process has been made on the Unit Owner.
- 14.4 Appointment of Receiver to Collect Rental. If the Unit Owner remains in possession of the Unit and the claim of

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lien is foreclosed, the court in its discretion may require the Unit Owner to pay a reasonable rental for the Unit and the Association is entitled to the appointment of a receiver to collect the rent.

- 14.5 Institutional First Mortgages. A Mortgagee or its successor or assignees who acquire title to a Unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid Assessments that became due prior to the Mortgagee's acquisition of title. However, the Mortgagee's liability is limited to the lesser of (a) the Unit's unpaid Common Expenses and Assessments which accrued or came due during the six months immediately preceding the acquisition of title and for which payment in full has not been received by the Association; or (b) one percent of the original mortgage debt. The provisions of this Section 14.5 shall not apply unless the Mortgagee joined the Association as a defendant in the foreclosure action. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the Mortgagee. The person acquiring title shall pay the amount owed to the Association within 30 days after transfer of title. Failure to pay the full amount when due shall entitle the Association to record a claim of lien against the Parcel and proceed in the same manner as provided in this Section 14 for the collection of unpaid Assessments. If any unpaid share of Common Expenses or Assessments is extinguished by foreclosure of a superior lien or by a deed in lieu of foreclosure thereof, the unpaid share of Common Expenses or Assessments are Common Expenses collectible from all the Unit Owners.
- 14.6 Possession of Unit. Subject to the Association's rights under Section 8.4 of this Declaration and under law, any person who acquires an interest in a Unit, except Institutional First Mortgagees through foreclosure of a first mortgage of record (or deed in lieu thereof), including, without limitation, persons acquiring title by operation of law, shall be entitled to occupancy of the Unit or enjoyment of the Common Elements.
- 14.7 Certificate of Unpaid Assessments. Within 15 days after receiving a written request from a Unit Owner, purchaser, or Institutional First Mortgagee, the Association shall provide a certificate signed by an officer or agent of the Association stating all Assessments, Special Assessments and other moneys owed to the Association by a Unit Owner with respect to the Condominium Parcel.

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- 14.8 Installments. Assessments or Special Assessments may be collected monthly or quarterly in advance, at the option of the Association, from time to time.
- 14.9 Special Assessments. The specific purpose or purposes of any Special Assessment approved in accordance with this Declaration, Articles, or Bylaws shall be set forth in a written notice of such Special Assessment sent or delivered to each unit Owner. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in such notice, or returned to the Unit Owners. However, upon completion of such specific purpose or purposes, any excess funds shall be considered Common Surplus.
15. Insurance. Insurance covering portions of the Condominium Property shall be governed by the following provisions:
- 15.1 Purchase, Custody and Payment.
- (a) Purchase. All insurance policies described herein covering portions of the Condominium Property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.
- (b) Approval. Each insurance policy, the agency and company issuing the policy and the Insurance Trustee (if appointed) hereinafter described, shall be subject to the approval of each Institutional First Mortgagee, upon reasonable notice to the Association, which approval shall not be unreasonably withheld. In the event of a conflict, the decision of the Primary Institutional First Mortgagee shall control.
- (c) Named Insured. The named insured shall be the Association, individually, and as agent for Owners of Units covered by the policy, without naming them and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be additional insureds.
- (d) Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and all policies and endorsements thereto shall be deposited with the Insurance Trustee (if appointed).
- (e) Copies to Mortgagees. One copy of each insurance policy, or a certificate evidencing such policy,

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and all endorsements thereto, shall be furnished by the Association upon request to each Institutional First Mortgagee who holds a mortgage upon a Unit covered by the policy. Copies or certificates shall be furnished not less than ten days prior to the beginning of the term of the policy or not less than ten days prior to the expiration of each preceding policy that is being renewed or replaced, as appropriate.

- (f) Personal Property and Liability. Unit Owners may obtain insurance coverage at their own expense and at their own discretion upon the property lying within the boundaries of their Unit, including, but not limited to, their personal property and for their personal liability and living expense and for any other risks.

15.2 Coverage. The Association shall use its best efforts to obtain and maintain insurance covering the following:

- (a) Casualty. The Building (including all fixtures, installations or additions comprising that part of the Building within the boundaries of the Units initially installed, or replacements thereof, of like kind or quality in accordance with the original plans and specifications therefor, or as existed at the time the Unit was initially conveyed if the original plans and specifications are not available, but excluding floor coverings, wall coverings and ceiling coverings, all furniture, furnishings, electrical fixtures, appliances, air-conditioning or heating equipment, water heaters, built-in cabinets or other personal property owned, supplied or installed by Unit Owners or tenants of Unit Owners) and all Improvements located on the Common Elements from time to time, together with all service machinery contained therein (collectively, the "Insured Property"), shall be insured in an amount not less than 100 percent of the full insurable replacement value thereof, excluding foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Board of Administration of the Association. Such coverage shall afford protection against:

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

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- (ii) Such other risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to vandalism and malicious mischief.
- (b) Liability. Comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Insured Property, with such coverage as shall be required by the Board of Administration of the Association, but with combined single limit liability of not less than \$300,000 for each accident or occurrence, \$100,000 per person and \$50,000 property damage, and with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa.
- (c) Workers' Compensation. Workers' compensation and other mandatory insurance, when applicable.
- (d) Flood Insurance. Flood insurance, if required by law or as may reasonably be required by the Primary Institutional First Mortgagee or if the Association so elects.
- (e) Fidelity Insurance. Fidelity insurance, if required under the provisions of the Act, covering all directors, officers and employees of the Association and managing agents who handle Association funds, if any.
- (f) Other Insurance. Such other insurance as the Board of Administration of the Association shall determine from time to time to be desirable.

When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) subrogation against the Association and against the Unit Owner's individually and as a group, (ii) the clause that reserves to the insurer the right to pay only a fraction of any loss in the event of co-insurance or if other insurance carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of the Board of Administration of the Association, or by a member of the Board of Administration of the Association or by one or more Unit Owners.

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- 15.3 Additional Provisions. All policies of physical damage insurance shall provide that such policies may not be cancelled or substantially modified without at least ten days prior written notice to all of the named insureds, including all mortgagees of Units. Prior to obtaining any policy of casualty insurance or any renewal thereof, the Board of Administration shall obtain an appraisal from a fire insurance company or other competent appraiser, of the full insurable replacement value of the Insured Property (exclusive of foundations), without deduction for depreciation, for the purpose of determining the amount of insurance to be effected pursuant to this Section.
- 15.4 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense. Premiums may be financed in such manner as the Board of Administration deems appropriate.
- 15.5 Insurance Trustee; Share of Proceeds. All insurance policies obtained by the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee which may be designated by the Board of Administration and which, if so appointed, shall be a bank or trust company in Florida with trust powers with its principal place of business in the County. The Insurance Trustee (if appointed) shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee (if appointed) shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee:
- (a) Insured Property. Proceeds on account of damage to the Insured Property shall be held in undivided shares for each Unit Owner, such shares being the same as the undivided shares in the Common Elements appurtenant to each Unit, provided that if the Insured Property so damaged includes property lying within the boundaries of specific Units, that portion of the proceeds allocable to such property shall be held as if that portion of the Insured Property were Optional Property as described in subparagraph (b) below.

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- (b) Optional Property. Proceeds on account of damage solely to Units and/or certain portions or all of the contents thereof not included in the Insured Property (all as determined by the Association in its sole discretion) (collectively, the "Optional Property"), if any is collected by reason of optional insurance which the Association elects to carry thereon (as contemplated herein), shall be held for the benefit of Owners of Units or other portions of the Optional Property damaged in proportion to the cost of repairing the damage suffered by each such affected Owner, which cost and allocation shall be determined in the sole discretion of the Association.
- (c) Mortgagees. No Mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no Mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds, except for actual distributions thereof made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.
- 15.6 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee (if appointed) shall be distributed to or for the benefit of the beneficial owners thereof in the following manner:
- (a) Expenses of the Trust. All expenses of the Insurance Trustee (if appointed) shall be first paid or provision shall be made therefor.
- (b) Reconstruction or Repair. If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners thereof, remittances to Unit Owners and their mortgagees being payable jointly to them.
- (c) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the beneficial owners as provided in Section 15.5 above, and distributed first to all Institutional First Mortgagees in an amount sufficient to pay off

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their mortgages, and the balance, if any, to the beneficial owners. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by any of them.

- (d) Certificate. In making distribution to Unit Owners and their mortgagees, the Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary as to the names of the Unit Owners and their mortgagees and their respective shares of the distribution.
- 15.7 Association as Agent. The Association is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner and for each owner of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.
- 15.8 Unit Owners Personal Coverage. Insurance policies issued to individual Unit Owners shall provide that the coverage afforded by such policies is excess over the amount recoverable under any other policy covering the same property without rights of subrogation against the Association. Unless the Association elects otherwise, the insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within his Unit, nor casualty or theft loss to the contents of an Owner's Unit. It shall be the obligation of the individual Unit Owner, if such Owner so desires, to purchase and pay for insurance as to all such other risks not covered by insurance carried by the Association.
- 15.9 Benefit of Mortgagees. Certain provisions in this Section 15 entitled "Insurance", are for the benefit of mortgagees of Units and may be enforced by them.
- 15.10 Insurance Trustee. The Board of Administration of the Association shall have the option in its discretion of appointing an Insurance Trustee hereunder. If the Association fails or elects not to appoint such Trustee, the Association will perform directly all obligations imposed upon such Trustee by this Declaration.
16. Reconstruction or Repair After Fire or Other Casualty.
- 16.1 Determination to Reconstruct or Repair. In the event of damage to or destruction of the Insured Property (and the

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Optional Property, if insurance has been obtained by the Association with respect thereto) as a result of fire or other casualty unless 75 percent or more of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) is destroyed or substantially damaged and Unit Owners owning 80 percent or more of the applicable interests in the Common Elements elect to proceed with repairs or restoration and the Primary Institutional First Mortgagee approves such election, the Board of Administration shall arrange for the prompt repair and restoration of the Insurance Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) and the Insurance Trustee (if appointed) shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. If 75 percent or more of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) is substantially damaged or destroyed and if Unit Owners owning 80 percent of the applicable interests in the Common Elements duly and promptly resolve not to proceed with the repair or restoration thereof and the Primary Institutional First Mortgagee approves such resolution, the Condominium Property will not be repaired and shall be subject to an action for partition instituted by the Association, any Unit Owner, mortgagee or lienor, as if the Condominium Property were owned in common, in which event the net proceeds of insurance resulting from such damage or destruction shall be divided among all the Unit Owners in proportion to their respective interests in the Common Elements with respect to proceeds held for damage to the Insured Property other than that portion of the Insured Property lying within the boundaries of the Unit, and among affected Unit Owners in proportion to the damage suffered by each such affected Unit Owner, as determined in the sole discretion of the Association (with respect to proceeds held for damage to the Optional Property, if any, and/or that portion of the Insured Property lying within the boundaries of the Unit); provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such fund all mortgages and liens on his Unit in the order or priority of such mortgages and liens. Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than 60 days from the date the Insurance Trustee (if appointed) notifies the Board of Administration and Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work, nor not more than 90 days after the Insurance Trustee (if

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appointed) notifies the Board of Administration and the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work. The Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

- 16.2 Plans and Specifications. Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements; or if not, then in accordance with the plans and specifications approved by the Board of Administration of the Association, and if the damaged property which is to be altered is the Building or the Optional Property, by the Owners of not less than 80 percent of the applicable interests in the Common Elements, as well as the Owners of all Units and other portions of the Optional Property (and their respective mortgagees) the plans for which are to be altered.
- 16.3 Special Responsibility. If the damage is only to those parts of the Optional Property for which the responsibility of maintenance and repair is that of the respective Unit Owners, then the Unit Owners shall be responsible for all necessary reconstruction and repair (unless insurance proceeds are held by the Association with respect thereto by reason of the purchase of optional insurance thereon, in which case the Association shall have the responsibility to reconstruct and repair the damaged Optional Property, provided the respective Unit Owners shall be individually responsible for any amount by which the cost of such repair or reconstruction exceeds the insurance proceeds held for such repair or reconstruction on a Unit by Unit basis, as determined in the sole discretion of the Association). In all other instances, the responsibility for all necessary reconstruction and repair shall be that of the Association.
- 16.4 Estimate of Costs. Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.
- 16.5 Special Assessments and Charges. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs of reconstruction

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and repair are insufficient, Special Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Special Assessments on account of damage to the Insured Property shall be in proportion to all of the Owners' respective shares in the Common Elements.

If the proceeds of the insurance (for the Optional Property, if any) are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair the funds for the payment of the costs of reconstruction and repair for the Optional Property are insufficient, charges shall be made against the affected Unit Owner or Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such charges shall be in proportion to the cost of repairing the damage suffered by each Owner, as determined by the Association.

16.6 Construction Funds. The funds for payment of the costs of reconstruction and repair, which shall consist of proceeds of insurance held by the Insurance Trustee (if appointed) and funds collected by the Association from Special Assessments against Unit Owners, shall be disbursed in payment of such costs in the following manner:

- (a) Association. If the total Special Assessments made by the Association in order to provide funds for payment of the costs of reconstruction and repair which are the responsibility of the Association are more than \$10,000, then the sums paid upon such Special Assessments shall be deposited by the Association with the Insurance Trustee (if appointed). In all other cases, the Association shall hold the sums paid upon such Special Assessments and disburse the same in payment of the costs of reconstruction and repair.
- (b) Disbursement. The proceeds of insurance collected on account of a casualty, and the sums collected from Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:
 - (i) Association - Lesser Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is less than \$50,000, then the construction fund shall be disbursed in

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payment of such costs upon the order of the Board of Administration of the Association; provided, however, that upon request to the Insurance Trustee (if appointed) by an Institutional First 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 provided below for the reconstruction and repair of major damage.

- (ii) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than \$50,000, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by subparagraph (i) above, but then only upon the further approval of an architect qualified to practice in Florida and employed by the Association to supervise the work.
- (iii) Unit Owners. If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance may be used by the Association to effect repairs to the Optional Property (if not insured or if under insured), or may be distributed to Owners of the Optional Property who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Optional Property. All proceeds must be used to effect repairs to the Optional Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Optional Property and promptly effect the repairs. Any balance remaining after such repairs have been effected shall be distributed to the affected Unit Owners and their mortgagees jointly as elsewhere herein contemplated.

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(iv) 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 a construction fund after payment of all costs relating to 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 stated; except, however, that part of a distribution to an Owner which is not in excess of Assessments paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee.

(v) Certificate. Notwithstanding the provisions herein, the Insurance Trustee (if appointed) shall not be required to determine whether or not sums paid by Unit Owners upon Special Assessments shall be deposited by the Association with the Insurance Trustee (if appointed), nor to determine whether the disbursements from the construction fund are to be made upon the order of the Association alone or upon the additional approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Special Assessments paid by Owners, nor to determine the payees nor the amounts to be paid. The Insurance Trustee (if appointed) 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 names of the payees and the amounts to be paid.

16.7 Benefit of Mortgagees. Certain provisions in this Section 16 are for the benefit of mortgagees of Units and may be enforced by any of them.

17. Condemnation.

17.1 Deposit of Awards with Insurance Trustee. The taking of portions of the Condominium Property by the exercise of the power of eminent domain 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 (if appointed). Even though the awards may be payable to

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Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee (if appointed); and in the event of failure to do so, in the discretion of the Board of Administration of the Association, a charge 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.

- 17.2 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 this purpose, the taking by eminent domain shall also be deemed to be a casualty.
- 17.3 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the awards and Special Assessments will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of 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 and the property damaged by the taking will be made usable 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 (if appointed) after a casualty, or as elsewhere in this Section 17 specifically provided.
- 17.4 Unit Reduced but Habitable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable (in the sole opinion of the Association), 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 made to the Condominium:
- (a) Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be charged against the Owner of the Unit.
 - (b) Distribution of Surplus. The balance of the award in respect of the Unit, 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 such mortgagees.

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(c) Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the percentage representing the share in the Common Elements and of the Common Expenses and Common Surplus appurtenant to the Unit shall be reduced by multiplying the percentage of the applicable Unit prior to reduction by a fraction, the numerator of which shall be the area in square feet of the Unit after the taking and the denominator of which shall be the area in square feet of the Unit before the taking. The shares of all Unit Owners in the Common Elements, Common Expenses and Common Surplus shall then be restated as follows:

- (i) add the total of all percentages of all Units after reduction as aforesaid (the "Remaining Percentage Balance"); and
- (ii) divide each percentage for each Unit after reduction as aforesaid by the Remaining Percentage Balance.

The result of such division for each Unit shall be the adjusted percentage for such Unit.

17.5 Unit Made Uninhabitable. If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made habitable (in the sole opinion of the Association), 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 made to the Condominium:

- (a) Payment of Award. The awards shall be paid first to the applicable Institutional First Mortgagee in amounts sufficient to pay off their mortgages in connection with each Unit which is not so habitable; second, to the Association for any due and unpaid Assessments and Special Assessments; third, jointly to the affected Unit Owners and other mortgagees of their Units. In no event shall the total of such distributions in respect of a specific Unit exceed the market value of such Unit immediately prior to the taking. The balance, if any, shall be applied to repairing and replacing the Common Elements.
- (b) Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Administration of the Association; provided that

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if the cost of the work therefor shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required for capital improvements to the Common Elements.

(c) Adjustment of Shares. The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Unit Owners (and among reduced Units). This shall be effected by restating the shares of continuing Unit Owners as follows:

(i) add the total of all percentages of all Units of continuing owners prior to this adjustment, but after any adjustments made necessary by Section 17.4(c) hereof (the "Percentage Balance"); and

(ii) divide the percentage of each Unit of a continuing Owner prior to this adjustment, but after any adjustments made necessary by Section 17.4(c) hereof, by the Percentage Balance.

The result of such division for each Unit shall be the adjusted percentage for such Unit.

(d) Special Assessments. If the balance of the award (after payments to the Unit Owner and such Owner's mortgagees as above provided) for the taking is not sufficient to alter the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by Special Assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium affected by the taking. The Special Assessments shall be made in proportion to the applicable percentage shares of those Owners after all adjustments to such shares affected pursuant hereto by reason of the taking.

(e) 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 30 days after notice of a dispute by any affected party, such value shall be determined by arbitration in accordance with the

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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. A judgment upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction in accordance with the Florida Arbitration Code. The cost of arbitration proceedings shall be assessed against all Unit Owners, including Owners who will not continue after the taking, in proportion to the applicable percentage shares of such Owners as they exist prior to the adjustments to such shares affected pursuant hereto by reason of the taking.

- 17.6 Taking of Common Elements. Awards for the taking of Common Elements shall be used to render the remaining portion of the Common Elements usable in the manner approved by the Board of Administration of the Association; provided that if the cost of such 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 capital improvements to 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 adjustments to these shares effected pursuant hereto by reason of the taking. If there is a mortgage on a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit.
- 17.7 Discretion of Board. In circumstances not covered by this Declaration or by law, a two-thirds majority of the Board may, upon an opinion of counsel that its decision is reasonable, deal with the condemnation in such reasonable manner as it determines to be appropriate under the circumstances.
- 17.8 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements and share in the Common Expenses and Common Surplus that are affected by the taking shall be evidenced by an amendment to this Declaration that is approved by not less than a majority of the total voting interests of the Unit Owners in the Condominium, unless required by any governmental entity.
18. Use Restrictions. In order to provide for the use of the Condominium Property and for the protection of the values of the Units, the use of the Condominium Property shall be

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restricted to and shall be in accordance with the following provisions:

- 18.1 Uses. The use of a Unit shall be for any lawful purpose and shall be in accordance with and subject to the provisions of applicable zoning code and ordinances.
- 18.2 Pets. No pets or animals of any kind shall be permitted in any of the Units or on the Common Elements, except for seeing eye dogs. Notwithstanding the preceding sentence, Unit purchasers already owning a prohibited pet at the time of signing an Agreement for Sale of a Unit 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.
- 18.3 Use of Common Elements. The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use of the Units.
- 18.4 Nuisances. No nuisances (as defined by the Association) shall be allowed on the Condominium Property, nor shall any use or practice be allowed which is a source of annoyance to Unit Owners or Occupants of Units or which interferes with the peaceful possession or proper use of the Condominium Property by its Unit Owners or Occupants.
- 18.5 No Improper Uses. No improper, offensive, hazardous 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 thereover relating to any portion of the Condominium Property, shall be corrected by and at the sole expense of the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth.
- 18.6 Leases. The Unit Owner may lease all or portions of the Unit. All leases shall be a standard lease form approved by the Association and shall provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles and Bylaws of the Association, applicable rules and regulations or other applicable provisions of any agreement, document or instrument governing the Condominium or administered by the Association. Leasing of Units shall also be subject to the prior written approval of the Association and the Association may reject the leasing of any Unit on any

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grounds the Association elects. No lease shall be approved for a term of less than 12 months. As a condition to the approval by the Association of a proposed lease of a Unit, the Association, notwithstanding anything contained in Section 18 of this Declaration, has the authority to require a security deposit in an amount not to exceed the equivalent of one month's rent. The security deposit shall protect against damages to the Common Elements or Association Property. Within 15 days after a tenant vacates the Unit the Association shall refund the full security deposit or give written notice to the tenant of any claim made against the security. Disputes under this section 18.6 shall be handled in the same fashion as disputes concerning security deposits under Florida Statutes, Chapter 83. The Unit Owner will be jointly and severally liable with the tenant to the Association for any amount in excess of such sum which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant. All leases shall also comply with and be subject to the provisions of Section 18 hereof.

18.7 Exterior Improvements; Signs; 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, but not limited to, awnings, signs, storm shutters, screens, furniture, fixtures and equipment), nor to plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life outside his Unit, without the prior written consent of the Association.

18.8 Use and Occupancy. The Owner of a Unit and the Owner's guests and invitees shall occupy and use the Unit for commercial purposes only, and for no other purpose whatsoever. However, "paint and body" shops, automobile repair shops, or those of a similar nature are not allowed.

All permitted materials and products shall be stored and all manufacturing, rebuilding, storing, assembling or processing operations shall be carried on entirely within a Unit.

Neither the Owners, Association or Developer shall cause or permit any paint or body work or automobile repair shops to be conducted on or within any Units or the Common Elements or Limited Common Elements. Furthermore, no Owner shall cause, permit or conduct any repairs, mechanical or otherwise, on any motor vehicle that is visible from either a public or platted roadway.

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- 18.9 Unit Owners shall not permit or suffer anything to be done or kept in their Units which will increase the rate of insurance or the insurance premium on the Condominium Property of adjacent Units above that usually charged for warehouse and offices (unless the applicable Unit Owner pays such increase) or which will obstruct or interfere with the rights of other Unit Owners or annoy them by unreasonable noises, odors, or otherwise; nor shall the Unit Owners commit or permit any nuisance, immoral or illegal act or activities, in or about the Condominium Property.
- 18.10 No improvement shall be made within a Unit which involves the construction of interior walls or electrical lines without building permits first being issued by the responsible governmental authority prior to the actual construction of said walls or electrical lines. Each Unit Owner shall submit plans to the Association for obtaining said permits. If the Association fails to reject said plans within 30 days of submittal, then the plans will be deemed approved. Such permits shall be shown to the Association prior to the commencement of any construction.
- 18.11 No structural changes or alterations shall be made in the perimeter boundaries of any Unit except as may otherwise be provided in this Declaration.
- 18.12 No Unit Owner or group of Unit Owners shall, without first obtaining the approval of the Board of Administration of the Association, change, alter or modify the exterior appearance of any Unit, nor alter the exterior appearance of any Unit, Building or any of the Common Elements including the landscaping, except as to such signage as is otherwise permitted under this Declaration.
- 18.13 No Owner or occupant of a Unit shall install wiring for electrical or telephone installations nor install any type of television antenna, machines or air conditioning equipment, exterior of his Unit, except as authorized in writing by a majority of the Board of Administration.
- 18.14 All signs designating the name of the Unit Owner's business shall be in a style, size and color approved in writing by the Association's Board of Administration.
- 18.15 The following uses are prohibited:
- (a) Immoral activities, resident use, obnoxious manufacturing or processing, encouragement of vermin, storage of materials requiring lethal

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fumigation, manufacturing, processing or storage of explosives or sale of dangerous or exotic animals.

- (b) Storage in, on or about any common elements or limited common elements, including no storage of garbage containers thereon, except in specified areas by the Board of Administration.
- (c) No loading nor unloading, no servicing of forklifts, trucks, cars, etc., construction work or the like, in, on or about the common elements or limited common elements except as provided in this Declaration.
- (d) Changes in the exterior of a Unit without the approval of the Board of Administration, except as otherwise permitted under this Declaration.

18.16 Effect on Developer; Association. The restrictions and limitations set forth in this Section 18 shall not apply to the Developer or to Units owned by the Developer. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Section 18 for good cause shown.

19. Selling, Leasing and Mortgaging of Units.

19.1 Right of First Refusal. Any Unit Owner who receives a bona fide offer to purchase or lease his Unit (such offer to purchase or lease a Unit, as the case may be, is called an "Outside Offer", the party making any such Outside Offer is called an "Outside Offeror", and the Unit Owner to whom the Outside Offer is made is called an "Offeree Unit Owner"), which he intends to accept shall give notice by registered mail to the Board of Administration of the receipt of such Outside Offer. Said notice shall also state the name and address of the Outside Offeror, the terms of the proposed transaction and such other information as the Board of Administration may reasonably require. The giving of such notice to the Board of Administration shall constitute an offer by such Unit Owner to sell his Unit or to lease his Unit to the Association or its designee upon the same terms and conditions as contained in such Outside Offer and shall also constitute a warranty and representation by the Unit Owner who has received such Outside Offer to the Association the such Unit Owner believes the Outside Offer to be bona fide in all respects. The Offeree Unit Owner shall submit in writing such further information with respect thereto as the Board of Administration may

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reasonably request. Not later than 20 days after receipt of such notice, together with such further information as may have been requested, the Association or its designee may elect, by sending written notice to such Offeree Unit Owner before the expiration of said 20 day period, by certified mail, to purchase such Unit or to lease such Unit as the case may be, upon the same terms and conditions as contained in the Outside Offer and as stated in the notice from the Offeree Unit Owner.

In the event the Association shall timely elect to purchase such Unit or to lease such Unit, or to cause the same to be purchased or leased by its designee, title shall close or a lease shall be executed at the office of the attorneys for the Association in accordance with the terms of the Outside Offer, within 45 days after the giving of notice by the Association of its election to accept such offer. If, pursuant to such Outside Offer to purchase said Unit, the Outside Offeror was to assume or take title to the Unit subject to the Offeree Unit Owner's existing mortgage or mortgages, the Association may purchase the Unit and assume or take title to the Unit subject to said existing mortgage or mortgages, as the case may be. At the closing, the Offeree Unit Owner, if such Unit is to be sold, shall convey the same to the Association, or to its designee, by statutory warranty deed, with all tax and/or documentary stamps affixed at the expense of such Unit Owner, who shall also pay all other taxes arising out of such sale. Title shall be good and marketable and insurable and the Offeree Unit Owner shall deliver an abstract or provide a title binder (and subsequently, title insurance) at its expense at least 30 days prior to closing. Real estate taxes, mortgage interest, if any, and Common Expenses shall be apportioned between the Offeree Unit Owner and the Association, or its designee, as of the closing date. In the event such Unit is to be leased, the Offeree Unit Owner shall execute and deliver to the Board of Administration or to its designee a lease between the Offeree Unit Owner, as landlord, and the Association, or its designee, as tenant, covering such Unit, for the rental and term contained in such Outside Offer.

In the event the Association or its designee shall fail to accept such offer or, in the case of a lease, shall fail to reject the proposed lease as permitted by Section 18.6 hereof, within 20 days after receipt of notice and all additional information requested, as aforesaid the Offeree Unit Owner shall be free to accept the Outside Offer within 60 days after (i) notice of refusal is given by the Association, or (ii) the expiration of the period in which the Association or its designee might have

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accepted such offer, as the case may be. In the event the Offeree Unit Owner shall not, within such 60 day period accept, in writing, the Outside Offer or if the Offeree Unit Owner shall accept the Outside Offer within such 60 day period but such sale or lease, as the case may be, shall not be consummated in accordance with the terms of such Outside Offer or within a reasonable time after the date set for closing thereunder, then, should such Offeree Unit Owner thereafter elect to sell such Unit or to lease such Unit, as the case may be, the Offeree Unit Owner shall be required to again comply with all of the terms and provisions of this Section.

Any deed or lease to an Outside Offeror shall provide (or shall be deemed to provide) that the acceptance thereof by the grantee or tenant shall constitute an assumption of the provisions of the Declaration, the Bylaws, the Articles, applicable rules and regulations and all other agreements, documents or instruments affecting the Condominium Property or administered by the Association, as the same may be amended from time to time.

Any lease executed in connection with the acceptance of any Outside Offer to lease a Unit shall be consistent herewith and with the Bylaws and rules and regulations and shall provide specifically that (i) it may not be modified, amended extended or assigned without the prior consent in writing of the Board of Administration, (ii) the tenant shall not assign his interest in such lease or sublet the demised premises or any part thereof without the prior consent in writing of the Board of Administration, and (iii) the Board of Administration shall have the power, but shall not be obligated, to terminate such lease and/or to bring summary proceedings to evict the tenant in the name of the landlord thereunder, in the event of (a) a default by the tenant in the performance of its obligations to comply with the documents described in the preceding unnumbered paragraph under such lease, or (b) a foreclosure of the lien granted under the Act. Such lease shall also comply with the provisions of Section 18.6 hereof.

Except as hereinbefore set forth, the form of any such lease executed by the Association or an Outside Offeror shall contain such other modifications as shall be approved in writing by the Board of Administration. Any lease executed by the Association as tenant shall provide that the Association may enter into a sublease of the premises without the consent of the landlord.

Any purported sale or lease of a Unit in violation of this Section shall be voidable at any time at the

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election of the Association and if the Board of Administration shall so elect, the Unit Owner shall be deemed to have authorized and empowered the Association to institute legal proceedings to evict the purported tenant (in case of an unauthorized leasing), in the name of said Unit Owner as the purported landlord. Said Unit Owner shall reimburse the Association for all expenses (including attorneys' fees and disbursements) incurred in connection with such proceedings.

The foregoing restrictions shall not apply to Units owned by the Developer or owned by or leased to any Institutional First Mortgagee acquiring title by foreclosure or by a deed in lieu of foreclosure or in satisfaction of debt. The Developer and such Institutional First Mortgagees shall have the right to sell Units they own without having to first offer the same for sale or to the Association. An Institutional First Mortgagee shall have the right to lease or sublease Units it owns or leases without having to first offer the same for lease or sublease to the Association.

Notwithstanding anything herein contained to the contrary, the Board of Administration, in exercising its rights as provided in this subsection 19.1, shall not make any decision in a discriminatory manner, and no decision shall be made on the basis of race, gender, religion, national origin or physical or mental handicap.

- 19.2 Consent of Unit Owners to Purchase or Lease of Units by the Association. The Association shall not exercise any option hereinabove set forth to purchase or lease any Unit without the prior approval of Owners of a majority of the voting interests present in person or by proxy and voting at a meeting at which a quorum has been obtained.
- 19.3 No Severance of Ownership. Except as elsewhere herein provided, no part of the Common Elements may be sold, conveyed or otherwise disposed of, except as an appurtenance to the Unit in connection with a sale, conveyance or other disposition of the Unit to which such interest is appurtenant, and any sale, conveyance or other disposition of a Unit shall be deemed to include that Unit's appurtenant interest in the Common Elements.
- 19.4 Release by the Association of the Right of First Refusal. The right of first refusal contained in Section 19.1 may be released or waived by the Association only in the manner provided in Section 19.5. In the event the Association shall release or waive its right of first refusal as to any Unit, such Unit may be sold, conveyed

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or leased free and clear of the provisions of said Section 19.1.

- 19.5 Certificate of Termination of Right of First Refusal. A certificate executed and acknowledged by an officer of the Association stating that the provisions of Section 19.1 have been satisfied by a Unit Owner, or stating that the right of first refusal contained therein has been duly released or waived by the Association and that, as a result thereof, the rights of the Association thereunder have terminated. The certificate shall be conclusive with respect to all persons who rely on such certificate in good faith. The Board of Administration shall furnish such certificate upon request to any Unit Owner in respect to whom the provisions of such Section have, in fact, terminated or been waived.
- 19.6 Financing of Purchase of Units by the Association. The purchase of any Unit by the Association shall be made on behalf of all Unit Owners. If the available funds of the Association are insufficient to effectuate any such purchase, the Board of Administration may levy a Special Assessment against each Unit Owner (other than the Offeree Unit Owner), in proportion to his share of the Common Expenses, and/or the Board of Administration may, in its discretion, finance the acquisition of such Unit; provided, however, that no such financing may be secured by an encumbrance or hypothecation of any portion of the Condominium Property other than the Unit to be purchased.
- 19.7 Exceptions. The provisions of Section 19.1 shall not apply with respect to any lease, sale or conveyance of any Unit by (a) the Unit Owner thereof to his spouse, children, parents, parents-in-law, adult siblings or a trustee, corporation or other entity where the Unit Owner or the aforementioned related persons are and continue to be the sole beneficiary or equity owner of such trustee, corporation or other entity, or to any one or more of the above, (b) with the exception of leasing, the Developer, (c) the Association, (d) any proper officer conducting the sale of a Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or delivering a deed in lieu of foreclosure, or (e) an Institutional First Mortgagee (or its designee) deriving title by virtue of foreclosure of its mortgage or acceptance of a deed in lieu of foreclosure or in satisfaction of debt; provided, however, that each succeeding Unit Owner shall be bound by, and his Unit subject to, the provisions of this Section 19.
- 19.8 Gifts and Devises, etc. Any Unit Owner shall be free to convey or transfer his Unit by gift, to devise his Unit

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by will, or to have his Unit pass by intestacy, without restriction, provided, however, that each succeeding Unit Owner shall be bound by and his Unit subject to, the provision of this Section 19.

- 19.9 Mortgage of Units. Each Unit Owner shall have the right to mortgage his Unit without restriction.
- 19.10 Transfer Fees. The Association may, at its option, charge a transfer fee in connection with the furnishing of a certificate for the lease of a Unit in connection with the Association's right of approval provided for in this Section 19; provided, however, if the lease is a renewal (or if a lease is with the same lessee) no charge shall be made. Additionally, the Association may, at its option, charge a transfer fee in connection with the sale of a Unit. The transfer fee may be preset by the Association but in no event shall it exceed the maximum amount allowed under the Act. The transfer fee shall be on a per applicant basis other than husband/wife or parent/dependent child, which are considered one applicant.
20. Compliance and Default. Each Unit Owner and every occupant of a Unit and the Association shall be governed by and shall comply with the terms of this Declaration and all Exhibits annexed hereto, and the rules and regulations adopted pursuant to those documents, as the same may be amended from time to time. The Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:
- 20.1 Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent such expense is not met by the proceeds of insurance actually collected in respect of such negligence by the Association.
- 20.2 Compliance. In the event a Unit Owner or occupant fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions of this Declaration, the Bylaws, the Articles, applicable rules and regulations or any other agreement, document or instrument affecting the Condominium Property or administered by the Association, in the manner required, the Association or Unit Owner, as the case may be, shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines and to sue in a court of law for damages. Unit Owners shall have similar rights of action

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against the Association. In addition, the Association shall have the irrevocable right of access to each Unit during reasonable hours when necessary for the maintenance, repair, or replacement of any Common Elements or for making emergency repairs which are necessary to prevent damage to the Common Elements or to another Unit or Units.

20.3 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Act, this Declaration, the exhibits annexed hereto or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees) as may be awarded by the court.

20.4 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provisions of the Act, this Declaration and the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.

21. Termination of Condominium. The Condominium shall continue until (i) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration, or (ii) such time as withdrawal of the Condominium Property from the provisions of the Act is authorized by a vote of Owners owning at least 80 percent of the applicable interests in the Common Elements (after 20 percent of the Units have been sold to Unit Owners other than the Developer, the Developer will not vote the Units owned by it for such withdrawal unless the Owners of at least 80 percent of all other applicable interests in the Common Elements so elect for such withdrawal, at which time Developer may choose to vote either in favor of or against withdrawal from Condominium ownership, as it sees fit), and by the Primary Institutional First Mortgagee, so long as the Primary Institutional First Mortgagee holds first mortgages on Units which have at least 67 percent of the voting interests in the Association or by Mortgagees which have at least 67 percent of the voting interests in the Association. In the event such withdrawal is authorized as aforesaid, the Condominium Property shall be subject to an action for partition by any Unit Owner, mortgagee or lienor as if owned in common in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective interest in the Common Elements, provided, however, that no payment shall be made to a Unit Owner until there has

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first been paid off out of his share of such net proceeds all mortgages and liens of his Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the basis of the termination and said certificate shall be recorded among the public records of the County. This section may not be amended without the consent of all Institutional First Mortgagees and the Developer so long as it owns any Unit.

22. Additional Rights of Institutional First Mortgagees.

- 22.1 Upon written request to the Association by a Mortgagee, or the insurer or guarantor of any first mortgage encumbering a Unit, such Mortgagee, insurer or guarantor, if its request specifies the name, address and factual basis of entitlement of the requesting party, in addition to the right to examine the Association's books and records and to receive notice of and attend Association meetings, and any other rights provided herein, shall be entitled to prompt written notice of:
- (a) any condemnation or casualty loss that affects either a material portion of the Condominium Property or any Unit encumbered by its Mortgage;
 - (b) any 60 day delinquency in the payment of Assessments, Special Assessments or charges owed by the Unit Owner of any Unit on which it holds the Mortgage;
 - (c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and
 - (d) any proposed action which requires the consent of a specified percentage of Mortgagees.
 - (e) any proposed amendment of this Declaration, the Articles, or the Bylaws, which requires the consent of any Mortgagees, or which affects a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto, (ii) the interests in the Common Elements or Limited Common Elements appertaining to any Unit with a liability for Common Expenses appertaining thereto, (iii) the number of votes in the Association appertaining to any Unit, or (iv) the purposes to which any Unit or the Common Elements are restricted.

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- 22.2 Any Mortgagee, upon written request, shall be entitled to receive from the Association a financial report for the immediately preceding fiscal year.
- 22.3 Any Mortgagee who has registered its name with the Association shall be provided with written notice prior to the effective date of any proposed, material amendment to this Declaration, or the Articles or Bylaws.
- 22.4 In the event that any party which has financed the construction of the Condominium Property (the "Acquiring Party") acquires title to any Unit(s) owned by Developer (or on which Developer held a mortgage which was assigned to the Acquiring Party) as a result of the foreclosure of a mortgage(s) thereon or the giving of a deed in lieu of foreclosure or in satisfaction of debt, such party shall automatically succeed to all rights, benefits and privileges of Developer hereunder (and under the Articles, Bylaws and rules and regulations of the Association), except to the extent the Acquiring Party specifically disclaims any of such rights, benefits or privileges in a written notice to the Association. Notwithstanding the foregoing or anything to the contrary contained in this Declaration (or in the Articles, Bylaws or rules and regulations), the Acquiring Party shall in no manner be obligated or liable for any duties, obligations, warranties, liabilities, acts or omissions of Developer (i) occurring or arising from facts existing (regardless of when same became known or should have become known) prior to the date the Acquiring Party succeeds to the rights, benefits and privileges of Developer or (ii) otherwise not directly attributable to the Acquiring Party solely in its own right. The foregoing shall be in addition to, and not in derogation of, the Acquiring Party's rights, benefits and privileges as same may exist elsewhere in, under or in connection with this Declaration (or the Articles, Bylaws or rules and regulations).
- 22.5 This Declaration, including the Articles, Bylaws and rules and regulations, may be enforced by any Mortgagee and shall be subject to the following:
- (a) Breach of any of the covenants contained in this Declaration or the Bylaws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by any Mortgagee. Any judgment rendered in any action or proceeding to enforce this Declaration or the Bylaws shall include a sum for attorneys' fees, in such amount as the court may deem reasonable, as well as the

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amount of any delinquent payment, interest thereon, costs of collection and court costs.

- (b) The result of every act or omission whereby any of the covenants contained in this Declaration or the Bylaws are violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity with respect to nuisances, either public or private, shall be applicable and may be exercised by any Mortgagee.
- (c) The remedies herein provided for breach of the covenants contained in this Declaration or in the Bylaws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.
- (d) The failure of any Mortgagee to enforce any of the covenants contained in this Declaration or in the Bylaws shall not constitute a waiver of the right to enforce any other covenants or the same covenant(s) thereafter.

22.6 Except as provided by statute in case of condemnation or substantial loss to the Units and/or Common Elements, unless at least two-thirds of the Mortgagees (based upon one vote for each first mortgage owned), or Owners (other than the Developer) have given their prior written approval, the Association shall not be entitled to:

- (a) By act or omission seek to abandon or terminate the Condominium;
- (b) Change the pro-rata interest or obligations of any individual Unit for the purpose of (a) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (b) determining the pro-rata share of ownership of each Unit in the Common Elements;
- (c) Partition or subdivide any Unit;
- (d) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Owners shall not be deemed a transfer within the meaning of this clause.);
- (e) Use hazard insurance proceeds for losses to any portion of the Condominium for other than the

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repair, replacement or reconstruction of such portion.

23. Covenant Running With The Land. All provisions of this Declaration, the Articles, Bylaws and applicable rules and regulations of the Association shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Developer and subsequent owner(s) of the Land or any part thereof, or interest therein, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Unit Owners, tenants and occupants of Units, shall be subject to and shall comply with the provisions of this Declaration and such Articles, Bylaws and applicable rules and regulations, as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease, or the entering into occupancy of any Unit, shall constitute an adoption and ratification of the provisions of this Declaration and the Articles, Bylaws and applicable rules and regulations of the Association, as they may be amended from time to time, by such Unit Owner, tenant or occupant.

24. Additional Provisions.

24.1 Notices. All notices to the Association required or desired hereunder or under the Bylaws of the Association shall be sent by certified mail (return receipt requested) to the Association care of its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit Owners. Except as provided specifically in the Act, all notices to any Unit Owner shall be sent by first class mail to the Condominium address of such Unit Owner, or such other address as may have been designated by him from time to time, in writing, to the Association. All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association. All notices shall be deemed to have been given when mailed in a postage-prepaid, sealed wrapper, except notice of a change of address, which shall be deemed to have been given when received, or five business days after proper mailing, whichever shall first occur.

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- 24.2 Interpretation. The Board of Administration of the Association shall be responsible for interpreting the provisions hereof and of any of the Exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of counsel that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.
- 24.3 Mortgagees. The Association shall not be responsible to any mortgagee or lienor of any Unit hereunder and may assume the Unit is free of any such mortgages or liens, unless written notice of the existence of such mortgage or lien is received by the Association.
- 24.4 Exhibits. There is hereby incorporated in this Declaration any materials contained in the Exhibits annexed hereto which under the Act are required to be part of the Declaration.
- 24.5 Signature of President and Secretary. Wherever the signature of the President of the Association is required hereunder, the signature of a Vice-President may be substituted therefor, and wherever the signature of the Secretary of the Association is required hereunder, the signature of an Assistant Secretary may be substituted therefor, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.
- 24.6 Governing Law. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits annexed hereto or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida.
- 24.7 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association in its own name and/or on behalf of the Unit Owners unless same is approved by a vote of 75 percent of the voting interests of all of the Unit Owners. This Section shall not apply, however, to (i) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (ii) proceedings, or (iii) counterclaims brought by the Association in proceedings instituted against it. Notwithstanding the provisions of Section 7 of this Declaration, this Section shall not be amended unless such amendment is approved by the percentage of votes necessary to institute proceedings as provided above.

REF: 17902-1229

- 24.8 Construction Litigation. All Units and their appurtenant Common Elements have been or will be sold without any Developer's warranties whatsoever except as provided in the Act (to the extent such warranties are not effectively disclaimed and remain in effect, if at all). As to such warranties, if any, and as to any claim arising from or connected with the design or construction of any Unit(s) or the Common Elements including, without limitation, claims alleging negligent construction, failure to build in accordance with any particular plans or specifications or failure to comply with building or other codes, laws, ordinances or regulations (collectively, "Construction Matters"), it shall be a material condition precedent to the institution of any proceeding regarding Construction Matters that (i) the party or parties bringing same shall have first given notice to the Developer or other party against whom which relief or recovery is sought (the "Defendant") of the specific Construction Matters complained of and what actions are necessary to cure or correct same and (ii) the Defendant shall have been given at least 45 days (subject to extension by reason of matters beyond the control of the Defendant or because of the nature of the applicable Construction Matter(s) and the time necessary to cure or correct same) in which to cure or correct the applicable Construction Matter(s) and shall have materially failed to do so. If any Construction Matter is not cured or corrected as aforesaid, all applicable parties shall be bound to submit the disputes or claims regarding the Construction Matters at issue solely to binding arbitration in accordance with the Florida Arbitration Code and the rules of the American Arbitration Association and the parties and their successors and assigns shall be bound by the results of such arbitration. Without limiting the general binding effect of this Declaration, each owner and other person acquiring any right, title or interest in or to any Unit shall be deemed, by virtue of the acceptance of the conveyance, grant, transfer or assignment thereof, to be fully bound by the provisions of this Section 24.8 and of Section 24.7 above, as shall the Association.
- 24.9 Refund of Taxes, Fees and Other Charges. Unless otherwise provided herein, Association agrees that any taxes, fees or other charges paid by the Developer to any governmental authority, utility company or any other entity which at a later date are refunded in whole or in part, shall be returned to the Developer in the event said refund is received by the Association.
- 24.10 Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection,

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sentence, clause, phrase or word, or other provision of this Declaration, the Exhibits annexed hereto, or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

- 24.11 Waiver. No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, without regard to the number of violations or breaches which may occur.
- 24.12 Ratification. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Unit, by reason of his occupancy, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and Bylaws of the Association, and applicable rules and regulations, are fair and reasonable in all material respects.
- 24.13 Execution of Documents; Attorney-in-Fact. Without limiting the generality of other Sections of this Declaration and without such other Sections limiting the generality hereof, each Owner, by reason of the acceptance of a deed to such Owner's Unit, hereby agrees to execute, at the request of the Developer all documents or consents which may be required by all governmental agencies to allow the Developer to complete the plan of development of the Land, as such plan may be hereafter amended; and each such Owner further appoints hereby and thereby the Developer as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of such Owners, any and all of such documents or consents. This power of attorney is irrevocable and coupled with an interest. The provisions of this section may not be amended without the consent of the Developer.
- 24.14 Gender; Plurality. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.
- 24.15 Captions. The captions herein and in the Exhibits annexed hereto are inserted only as a matter of convenience and for ease of reference and in no way define or limit the scope of the particular document or any provision thereof.

OFF. REC. 17902-1231

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed and its corporate seal to be hereunto affixed this 3 day of December, 1997.

Signed, sealed and delivered in the presence of:

H. M. Jansak
Print Name: H. M. Jansak

H. M. Jansak
Print Name: _____


STATE OF FLORIDA : SS.
COUNTY OF DADE :

HARBIE DEVELOPMENT, INC., a Florida corporation

By: Youseff Harbie President

Driver License
HB10-991-48-261-0

The foregoing instrument was acknowledged before me this 3 day of December, 1997, by Youseff Harbie, as President of Harbie Development, Inc., a Florida corporation, on behalf of said corporation, who is personally known to me or who has produced a Driver License as identification and who did take an oath.

Juana C. Gutierrez
Notary Public, State of Florida
At Large
Print Name: Juana C. Gutierrez


My Commission Expires:

OFFICIAL NOTARY SEAL
JUANA CGUTIERREZ
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC63345
MY COMMISSION EXP. JUNE 5, 2001

OFF. 17902-1232

CONSENT

The Harbie Center Condominium Association, Inc., a Florida corporation not for profit, hereby agrees to accept all the benefits and all of the duties, responsibilities, obligations and burdens imposed upon it by the provisions of the Declaration of Condominium and Exhibits attached thereto.

IN WITNESS WHEREOF, it has caused this Consent to be executed this 5 day of December, 1997.

Signed, sealed and delivered in the presence of:

Hans D. Fandrich
Print Name: Hans D. Fandrich

Youseff Harbie
Print Name: _____

STATE OF FLORIDA :
: SS.
COUNTY OF DADE :

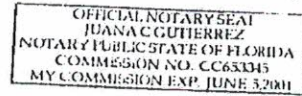
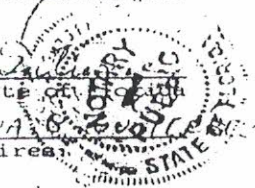
HARBIE CENTER CONDOMINIUM ASSOCIATION, INC. a Florida corporation

By: _____
Its: President

11610-901-98-266-0

The foregoing Consent was acknowledged before me this 5 day of December, 1997, by Youseff Harbie, as President of HARBIE CENTER CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, on behalf of said corporation. He is personally known to me or has produced _____, as identification and did take an oath.

Juana C. Gutierrez
Notary Public, State of Florida
at Large
Print Name: Juana C. Gutierrez
My Commission Expires: _____



P:\DATA\MF\2\CLERK\HARBIE CONDOMINIUM\DECLARATION

OFF: 17902-1233

EXHIBIT A

-to-

DECLARATION OF CONDOMINIUM

LEGAL DESCRIPTION OF CONDOMINIUM PROPERTY

OFF. REC. 17902 PG 1234

EXHIBIT A

-to-

DECLARATION OF CONDOMINIUM

LEGAL DESCRIPTION OF CONDOMINIUM PROPERTY

Lots 1, 2, 16, and 17, in Block 2, of WESTWOOD BUSINESS CENTER, according to the plat thereof, as recorded in Plat Book 140, at Page 51, of the Public Records of Dade County, Florida.

FADATAWP7CLIENTSHARHIE MRC TR CONDOLEAA

OFF. REC. 17902 PG 1235

EXHIBIT B

-to-

DECLARATION OF CONDOMINIUM

SCHEDULE OF PERCENT OF UNDIVIDED INTEREST IN COMMON ELEMENTS
AND COMMON SURPLUS AND SHARE OF COMMON EXPENSES

OFF. REC. 17902-61236

EXHIBIT B

SCHEDULE OF PERCENT OF UNDIVIDED INTEREST IN COMMON ELEMENTS
AND COMMON SURPLUS AND SHARE OF COMMON EXPENSES

<u>Unit</u>	<u>Percent</u>
A	28.451%
101	6.119%
110	5.500%
111	6.736%
112	15.802%
113	15.802%
114	6.736%
M1	2.661%
M2	2.340%
B	2.102%
B-201	1.603%
B-203	1.273%
C	<u>4.875%</u>
	100.000%

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EXHIBIT C

-to-

DECLARATION OF CONDOMINIUM

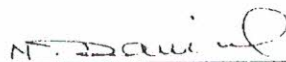
SURVEY, PLOT PLAN,
AND GRAPHIC DESCRIPTION OF IMPROVEMENTS

OFF. REC. 17902 PG 1238

CERTIFICATION:

I, NAGUIB F. DANIAL, A SURVEYOR AND MAPPER AUTHORIZED TO PRACTICE IN THE STATE OF FLORIDA, DO HEREBY CERTIFY THAT ON THIS 1ST DAY OF December, 1997, THIS CERTIFICATION IS MADE PURSUANT TO THE PROVISIONS OF SECTION 718.104(4)(c) FLORIDA STATUTES; THAT THE CONSTRUCTION OF THE IMPROVEMENTS IS SUBSTANTIALLY COMPLETE SO THAT THE MATERIAL, TOGETHER WITH THE PROVISIONS OF THE DECLARATION DESCRIBING THE CONDOMINIUM PROPERTY, IS AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS, SO THAT THE IDENTIFICATION, LOCATION AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CAN BE DETERMINED FROM THESE MATERIALS.

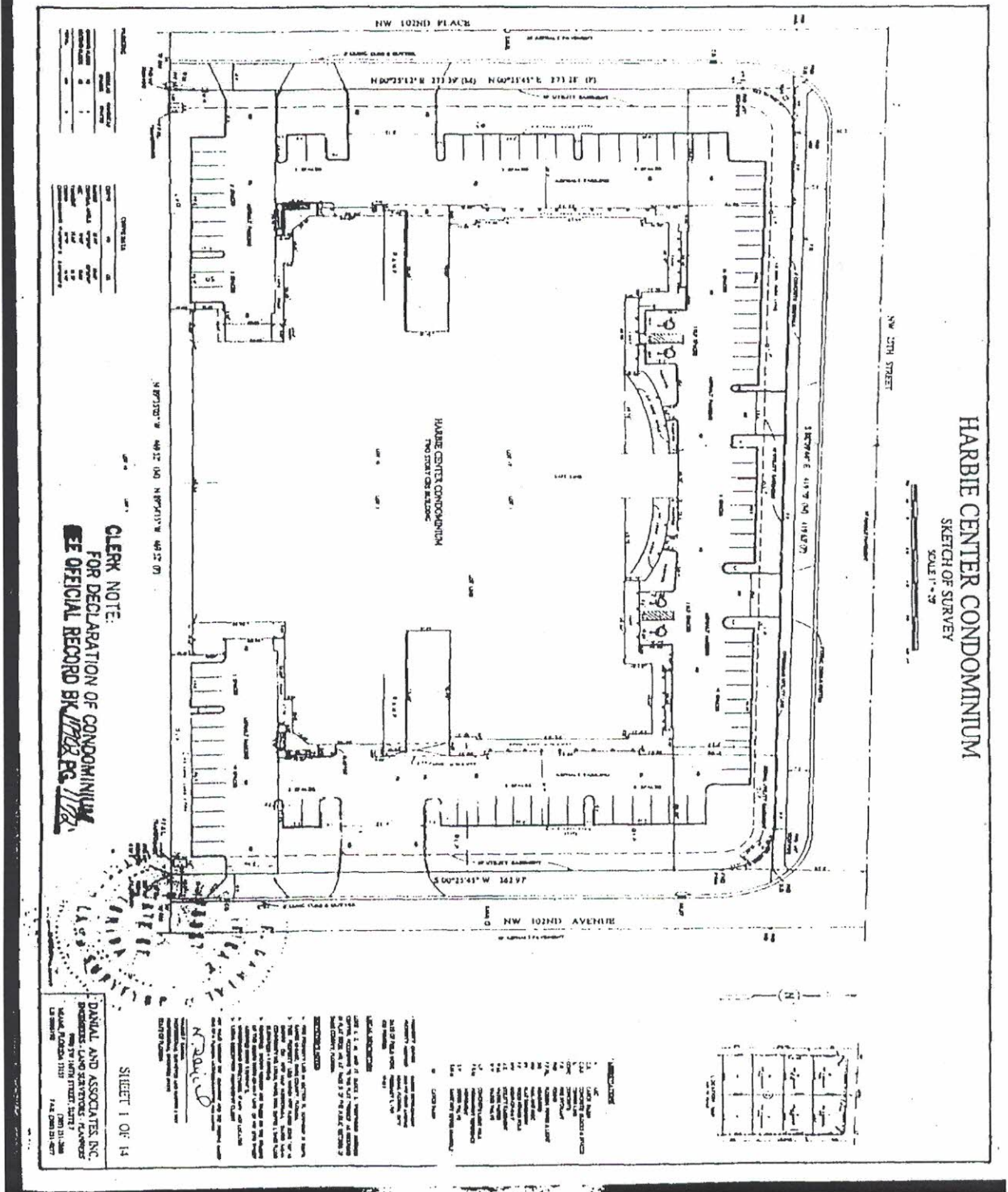
FOR THE FIRM: _____



NAGUIB F. DANIAL
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA REGISTRATION NO. 3937
CERTIFICATE OF AUTHORIZATION # 5192

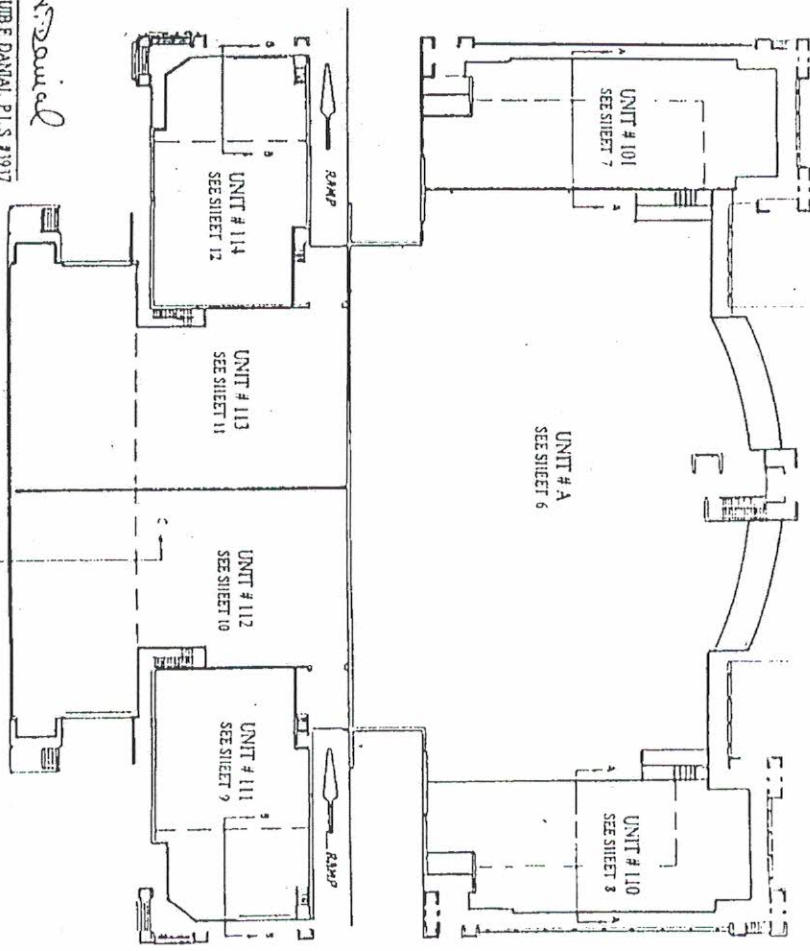
1-DATA\WP\PERSONAL\ITEMS\CSURV\CER

OFF. REC. 17902-1239



OFF REC: 17902-1240

HARBIE CENTER CONDOMINIUM



FIRST FLOOR UNITS
NOT TO SCALE

Noted

DANIAL & ASSOCIATES, INC
 ENGINEERS - LAND SURVEYORS - PLANNERS
 790 SW 187TH STREET, SUITE 7
 MIAMI, FLORIDA 33157 FAX (305) 251-0277
 LB 0001197

MAGUID F. DANIAL, P.L.S. #3937
(For the Firm)

30.12'	27.13' Second Floor Elev
7.29.79'	
19.21' Machine Elev	
9.17' first Floor Elev	
SEC A - A	
7.40.36'	
13.33' Machine Elev	
11.11'	
12.31' first Floor Elev	
SEC B - B	
7.43.36'	
13.27' Machine Elev	
13.40'	
12.22' first Floor Elev	
SEC C - C	

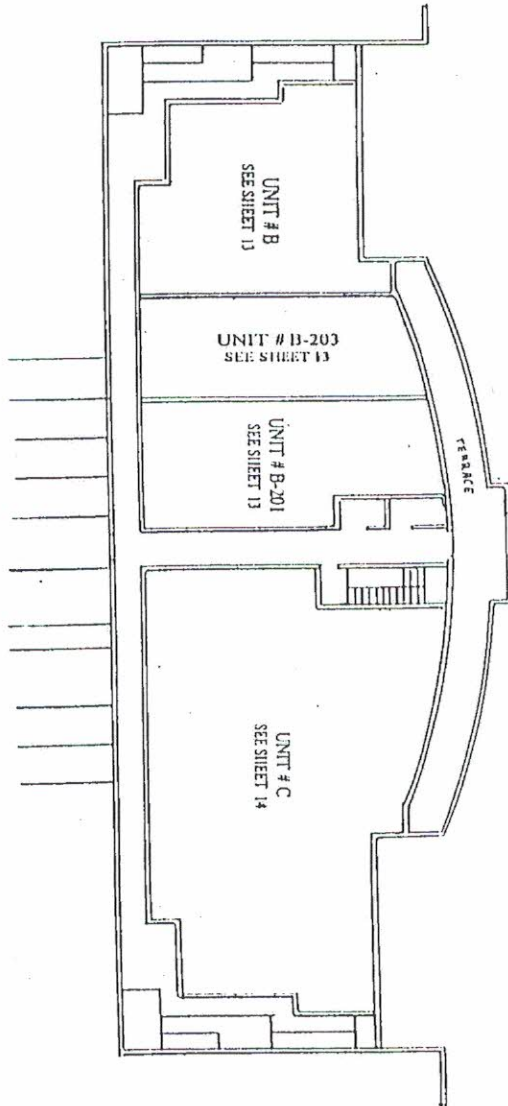
ELEVATIONS

SHEET 7 OF 14



OFF. REC. 17902-1241

HARBIE CENTER CONDOMINIUM



N. S. S. S.

MAGUIB F. DANIAL, P.L.S. #19937
(For the Firm)

DANIAL & ASSOCIATES, INC.
ENGINEERS - LAND SURVEYORS - PLANNERS
1950 SW 146TH STREET, SUITE 7
MIAMI, FLORIDA 33157
PH (305) 251-4600
FAX (305) 251-4777

SECOND FLOOR UNITS

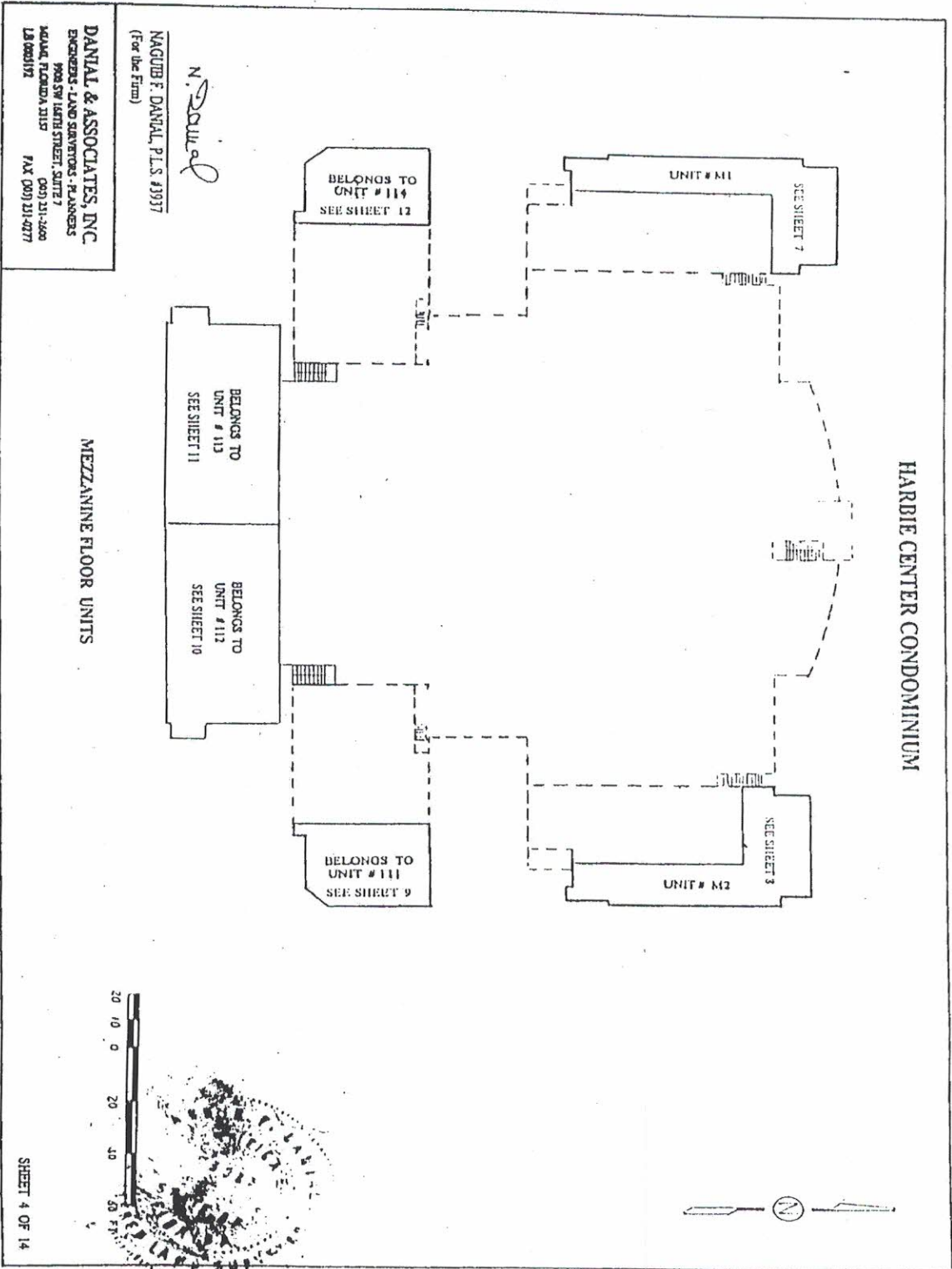
SECOND FLOOR PARKING
SEE SHEET 3



SHEET 3 OF 14



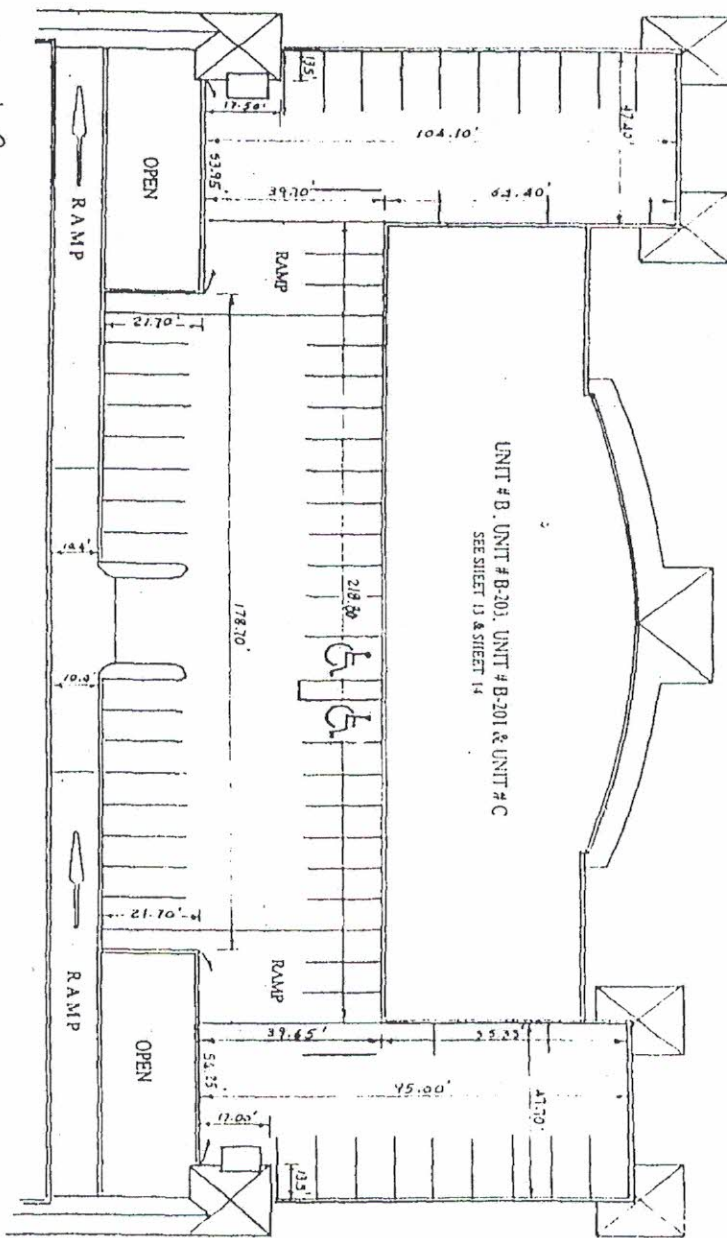
OFF. REC. 17902-1242



OFF. 17902-C-1243
PL. 17

HARBIE CENTER CONDOMINIUM

UNIT # B, UNIT # B-201, UNIT # B-201 & UNIT # C
SEE SHEET 13 & SHEET 14



SECOND FLOOR PARKING
62 SPACES + 2 HANDICAP SPACES

NAQUIB F. DANIAL, P.L.S. #19317
(For the Firm)

DANIAL & ASSOCIATES, INC.
ENGINEERS - LAND SURVEYORS - PLANNERS
7900 SW 14TH STREET, SUITE 1
MIAMI, FLORIDA 33157
PHONE (305) 251-4200
FAX (305) 251-0277
L8 0003 1/12

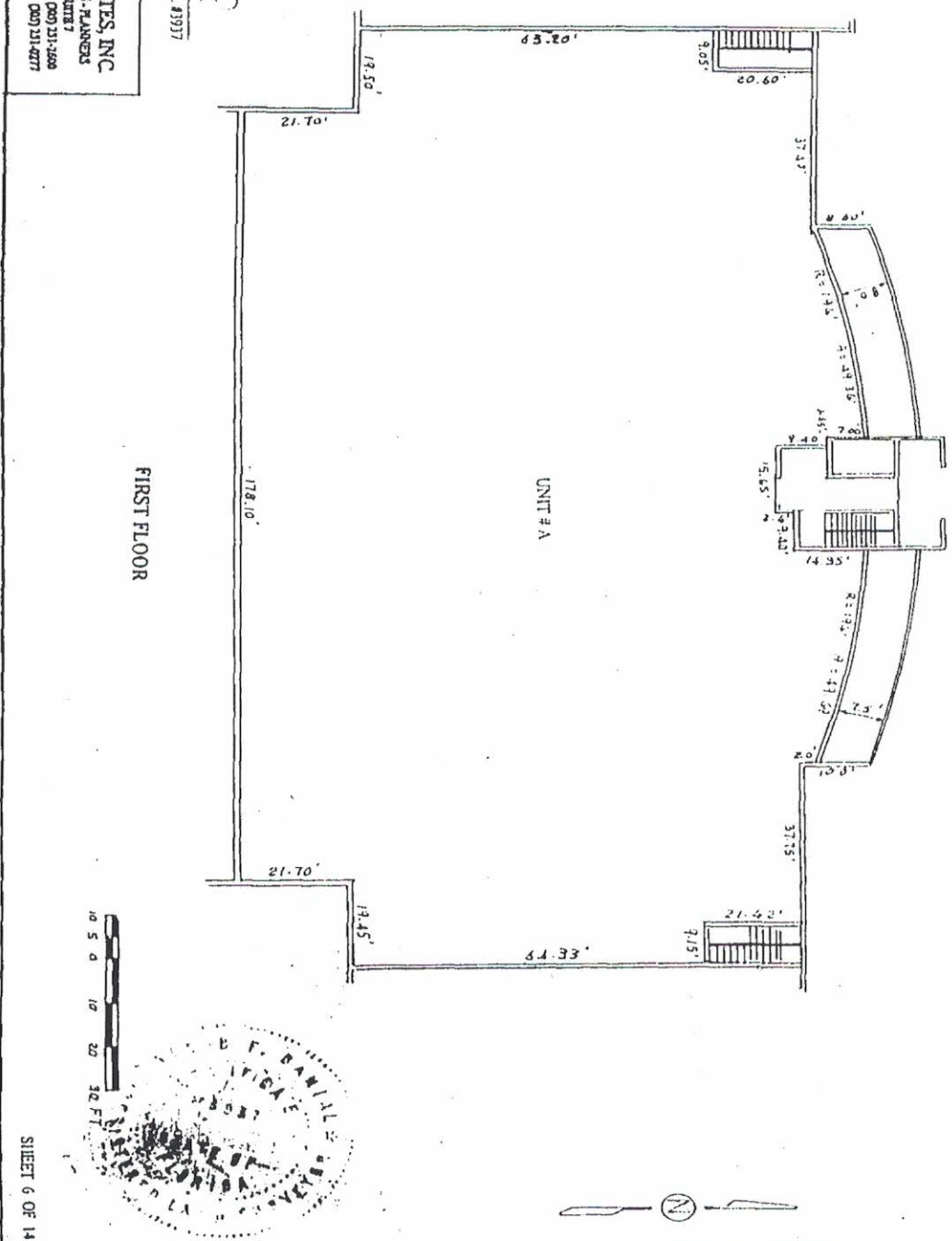


SHEET 5 OF 14



OFF. REC. 17902-1244

N. Daniel
 NANCY F. DANIEL, P.L.S. #3937
 (For the Firm)
DANIEL & ASSOCIATES, INC.
 ENGINEERS - LAND SURVEYORS - PLANNERS
 7902 SW 14TH STREET, SUITE 7
 MIAMI, FLORIDA 33157
 (305) 251-3266
 (305) 251-4777
 FAX (305) 251-4777



HARBIE CENTER CONDOMINIUM

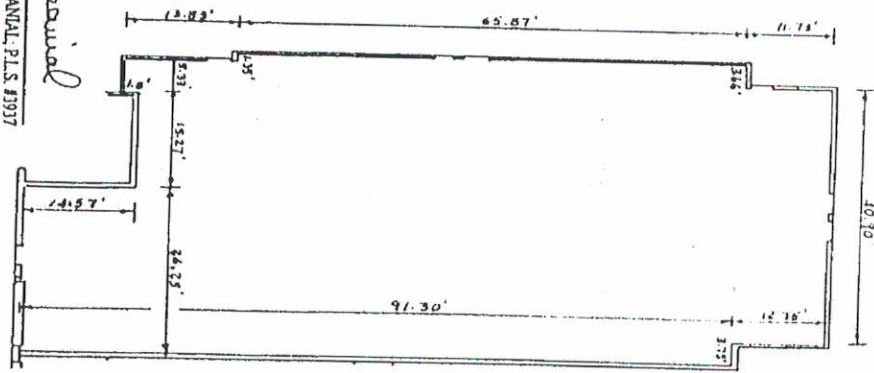
- A. CONDOMINIUM UNIT AND DECLARATION OF CONDO MINUM
- B. LIMITED COMMON ELEMENTS SCHEDULE
- C. SCHEDULED MAINTENANCE PLAN
- D. CONDOMINIUM BY-LAWS AND RULES
- E. CONDOMINIUM FLOORING MATERIALS AND FINISH SCHEDULE



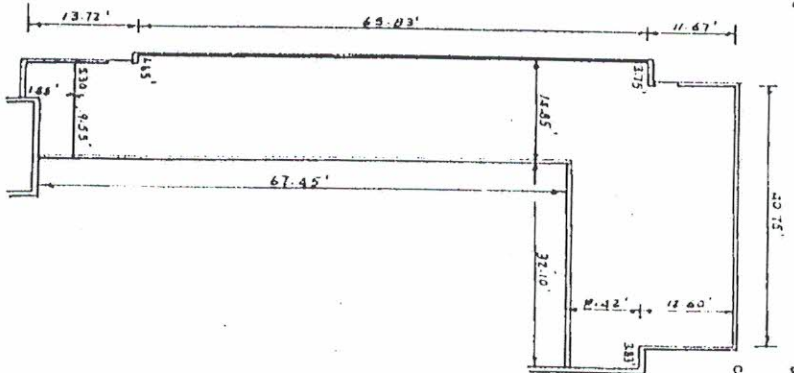
SHEET 6 OF 14

OFF. REC. 17902-1245

HARBIE CENTER CONDOMINIUM

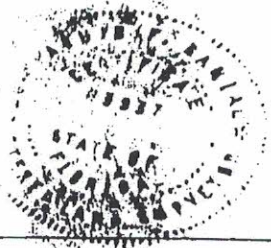


FIRST FLOOR
UNIT # 101



MEZZANINE FLOOR
UNIT # M1

DANIAL & ASSOCIATES, INC.
 ENGINEERS - LAND SURVEYORS - PLANNERS
 5905 SW 14TH STREET, SUITE 7
 MIAMI, FLORIDA 33157
 (305) 251-3600
 (305) 251-4277



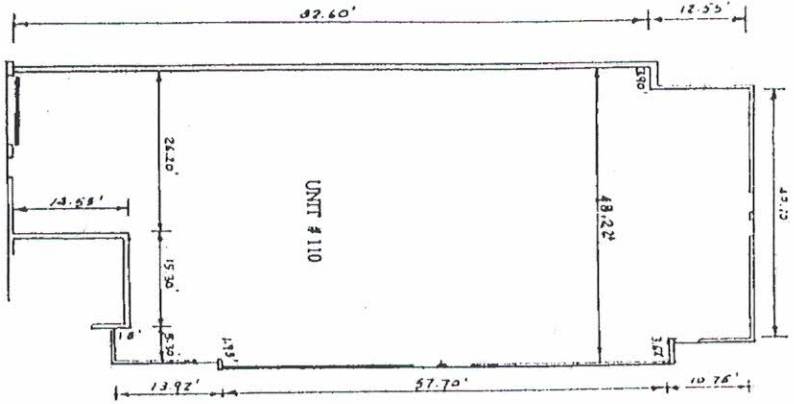
SHEET 7 OF 14

NOTES:
 1. DIMENSIONS ARE TO THE CENTERLINE OF WALLS UNLESS NOTED OTHERWISE.
 2. ALL DIMENSIONS ARE TO THE CENTERLINE OF WALLS UNLESS NOTED OTHERWISE.
 3. COMMON ELEMENTS ARE THE RESPONSIBILITY OF THE CONDOMINIUM ASSOCIATION.

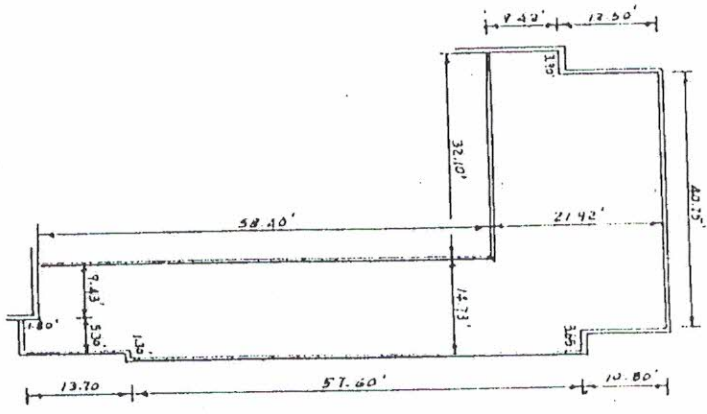


OFF. REC. 17902-1246

HARBIE CENTER CONDOMINIUM



FIRST FLOOR



MEZZANINE FLOOR

UNIT # 112

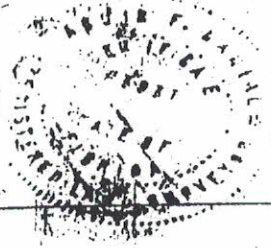
DANIAL & ASSOCIATES, INC.
 ENGINEERS - LAND SURVEYORS - PLANNERS
 7900 SW 168TH STREET, SUITE 7
 MIAMI, FLORIDA 33157
 (305) 251-2600
 (305) 251-4777
 FAX (305) 251-4777

N. Dawel
 NAJIB F. DANIAL, P.L.S. #39377
 (For the Firm)

NOTE:
 1. INFORMATION ON THE OCCUPANCY OF CONDOMINIUMS
 2. LIMITED COMMON ELEMENTS INCLUDE
 3. ASSIGNED PARKING SPACES
 4. ALL CONDOMINIUM UNITS AND STAIRS
 5. COMMON ELEMENTS TO BE DETERMINED BY CONDOMINIUM
 6. COMMON ELEMENTS TO BE DETERMINED BY CONDOMINIUM



SHEET 3 OF 14

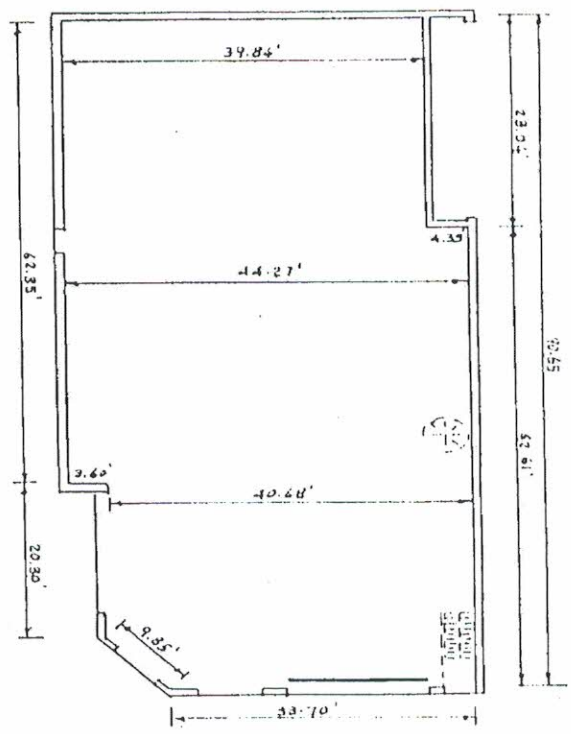


OFF. 17902-1247

DANIAL & ASSOCIATES, INC
 ENGINEERS - LAND SURVEYORS - PLANNERS
 9900 SW 146TH STREET, SUITE 7
 MIAMI, FLORIDA 33157
 (305) 231-2400
 (305) 231-4777
 LB 0003175

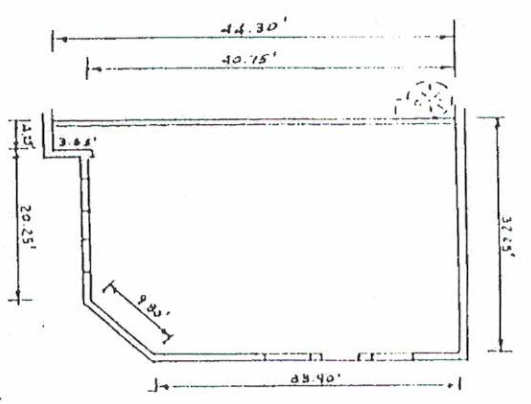
N. Danial
 NAQUB F. DANIAL, P.L.S. #39317
 (For the Firm)

FIRST FLOOR



UNIT # 111

MEZZANINE FLOOR



HARBIE CENTER CONDOMINIUM

NOTES
 1. CONDOMINIUM UNIT #111 SEPARATION OF CONDOMINIUM
 2. CONDOMINIUM UNIT #111 SEPARATION OF CONDOMINIUM
 3. STANDARD PLANNING SERVICES
 4. ALL CONDOMINIUM UNITS AND BLDGS
 5. SUBJECTS
 6. CONDOMINIUM UNIT #111 SEPARATION OF CONDOMINIUM



SHEET 9 OF 14



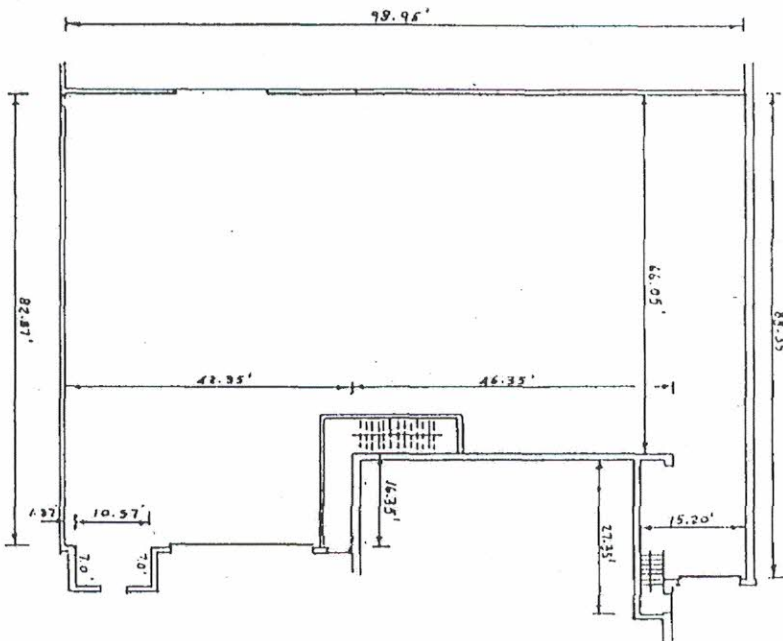
OFF. REC. 17902-1248

DANIAL & ASSOCIATES, INC.
ENGINEERS - LAND SURVEYORS - PLANNERS
7900 SW 148TH STREET, SUITE 7
MIAMI, FLORIDA 33157
TEL (305) 311-4777 FAX (305) 311-4777

N. Danial
NAGUIB F. DANIAL, P.L.S. #1997
(For the Firm)

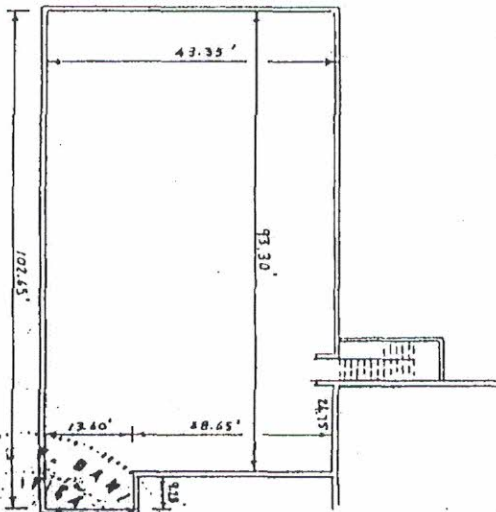
UNIT # 112

FIRST FLOOR



HARBIE CENTER CONDOMINIUM

MEZZANINE FLOOR



NOTES
 A. CONDOMINIUM UNIT THE DECLARATION OF CONDOMINIUM
 B. LIMITED COMMON ELEMENTS SCHEDULE
 C. ASSIGNED PARKING SPACES
 D. COMMON ELEMENTS SCHEDULE
 E. COMMON ELEMENTS SCHEDULE
 F. DECLARATION OF CONDOMINIUM
 G. DECLARATION OF CONDOMINIUM

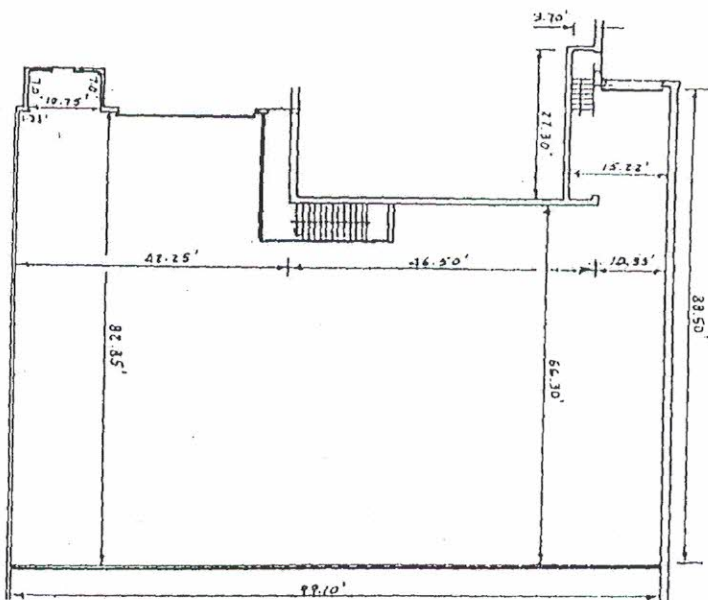


SHEET 10 OF 14

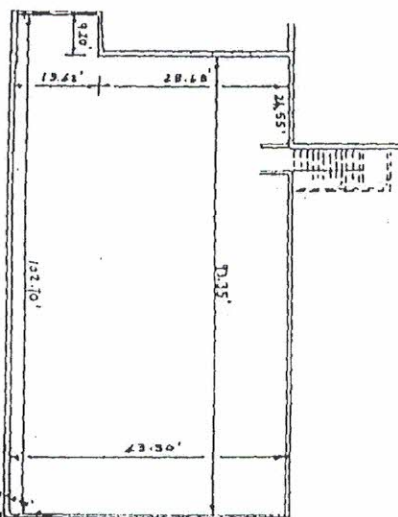


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HARBIE CENTER CONDOMINIUM



FIRST FLOOR



MEZZANINE FLOOR

UNIT # 113

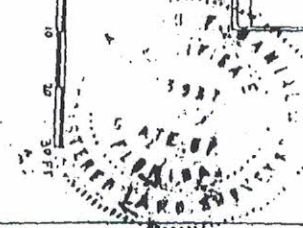
N. David

DANIAL & ASSOCIATES, INC
 ENGINEERS - LAND SURVEYORS - PLANNERS
 1900 SW 140TH STREET, SUITE 7
 MIAMI, FLORIDA 33137 (305) 231-3200
 LA 000117 FAX (305) 231-4277

MAGUIB F. DANIAL, P.L.S. #1037
 (For the Firm)

- NOTES
1. APPROXIMATE UNIT PER DECLARATION OF CONDOMINIUM
 2. LIMITED COMMONS ARE SHOWN WITH DOTTED LINES
 3. ASSUMED FLOORING FINISH
 4. ALL CONDOMINIUM UNITS AND SLABS
 5. BALCONIES
 6. COMMON ELEMENTS ARE INDICATED BY CONTOUR LINES

SHEET 11 OF 14



OFF. REC. 17902-1250

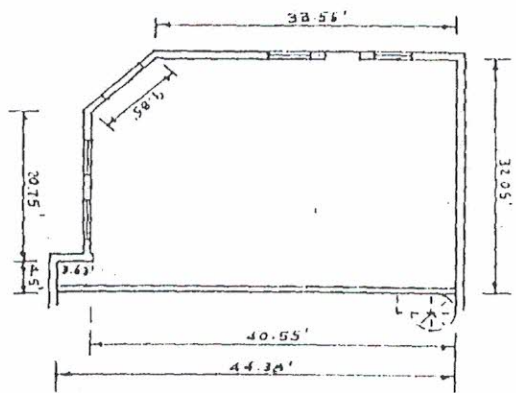
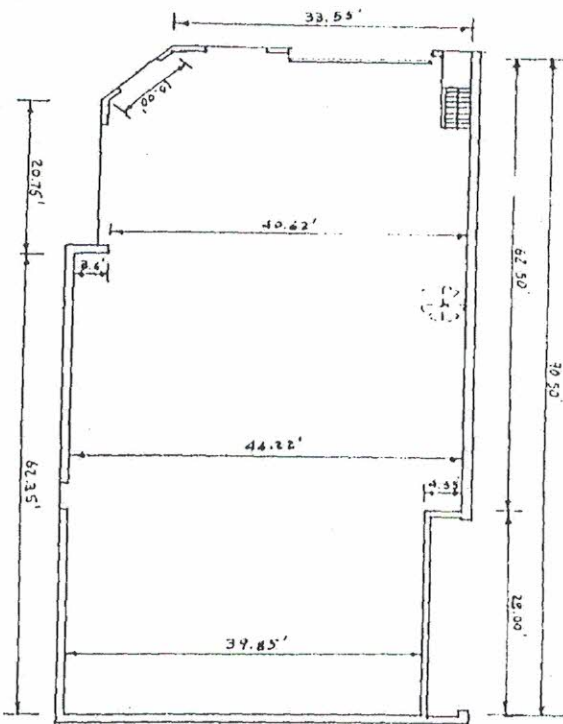
DANAL & ASSOCIATES, INC.
ENGINEERS - LAND SURVEYORS - PLANNERS
7900 SW 148TH STREET, SUITE 2
MIAMI, FLORIDA 33157
PH. (305) 231-4600
FAX (305) 231-4277
LS 00021193

N. Danial
NAGUIB E. DANIAL, P.L.S. #3937
(For the Firm)

FIRST FLOOR

UNIT # 114

MEZZANINE FLOOR



HARBIE CENTER CONDOMINIUM

NOTES
 A. CONDOMINIUM UNIT FOR DECLARATION OF CONDOMINIUM
 B. LIMITED COMMON ELEMENTS (SEE PLAN)
 C. COMMON ELEMENTS (SEE PLAN)
 D. COMMON ELEMENTS FOR DECLARATION OF CONDOMINIUM



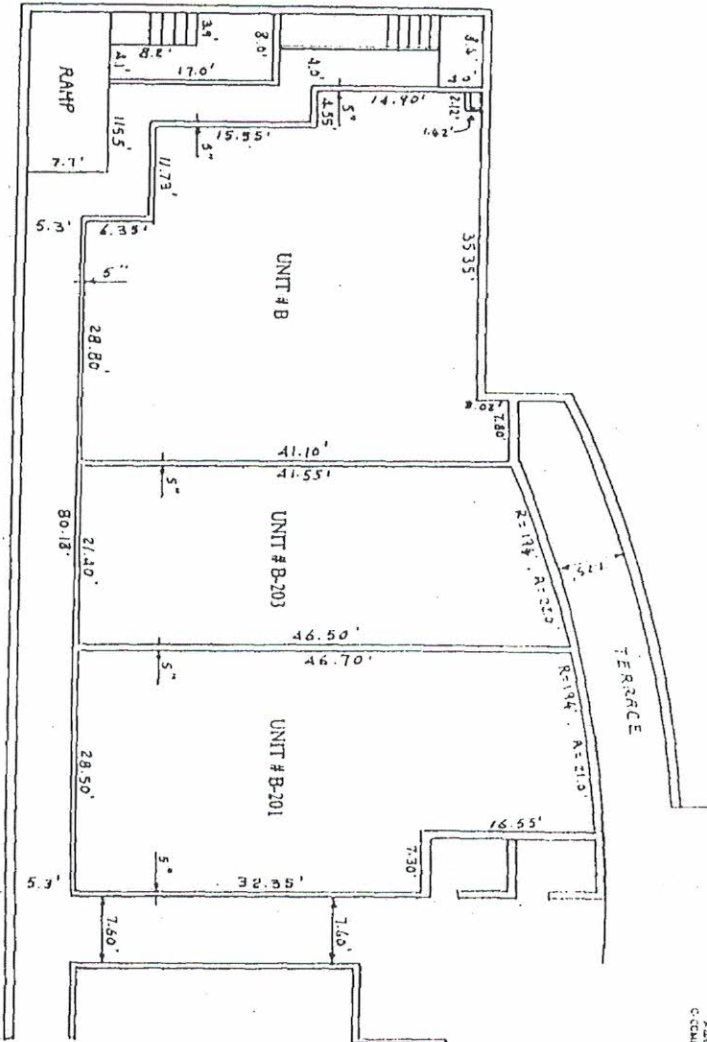
SHEET 12 OF 14



OFF. REF. 17902-1251

HARBIE CENTER CONDOMINIUM

SECOND FLOOR



MAGUIE E. DANIAL, P.L.S. #3937
(For the Firm)

N. 2000

DANIAL & ASSOCIATES, INC.
ENGINEERS - LAND SURVEYORS - PLANNERS
990 SW 14TH STREET, SUITE 7
MIAMI, FLORIDA 33137
PHONE (305) 351-2600
FAX (305) 351-4277

NOTE:
 A. COND. NUMBER NOT THE IDENTIFICATION OF CONDOMINIUM
 B. UNITS OR COMMON ELEMENTS INCLUDE
 C. ALL DIMENSIONAL DATA AND STATUS
 D. COMMON ELEMENTS THE REGULATION OF CONDOMINIUM



SHEET 13 OF 14



OFF. REC. 17902-1253

EXHIBIT D

-to-

DECLARATION OF CONDOMINIUM

ARTICLES OF INCORPORATION

OFF: 17902-1254

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of HARBIE CENTER CONDOMINIUM ASSOCIATION, INC., a Florida corporation, filed on November 14, 1997, as shown by the records of this office.

The document number of this corporation is N97000006418.

Given under my hand and the Great Seal of the State of Florida at Tallahassee, the Capitol, this the Fourteenth day of November, 1997



CR2EO22 (2-05)

Sandra B. Northham
Secretary of State

OFF. 17902-1255

ARTICLES OF INCORPORATION
FOR
HARBIE CENTER CONDOMINIUM ASSOCIATION, INC.

The undersigned, for the purpose of forming a corporation not for profit pursuant to the laws of the State of Florida, does hereby adopt the following articles of incorporation.

ARTICLE I.
NAME

The name of the corporation shall be HARBIE CENTER CONDOMINIUM ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Association", these Articles of Incorporation as the "Articles" and the Bylaws of the Association as the "Bylaws".

ARTICLE II.
DEFINITIONS

The terms used in these Articles shall have the same definitions and meaning as those set forth in the Declaration of the Condominium to be recorded in the Public Records of Dade County, Florida, unless herein provided to the contrary, or unless the context otherwise requires.

ARTICLE III.
PURPOSE

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act (the "Act") as it exists on the date hereof for the operation of the condominium to be known as HARBIE CENTER Condominium, located in Dade County, Florida (the "Condominium").

ARTICLE IV.
POWERS

The powers of the Association shall include and be governed by the following:

4.1 General. The Association shall have all of the common law and statutory powers of a corporation not for profit under the laws of Florida that are not in conflict with the provisions of these Articles, the Declaration, the Bylaws or the Act.

4.2 Enumeration: The Association shall have all of the powers and duties reasonably necessary to operate the Condominium pursuant to the Declaration, and as more particularly described in the Bylaws, as the Declaration and Bylaws may be amended from time to time, including, but not limited to, the following:

(a) To make and collect Assessments, Special Assessments and other charges against members as Unit Owners, and to use the proceeds thereof in the exercise of its powers and duties.

OFF. OF
17902-1256

(b) To buy, own, operate, lease, sell, trade and mortgage both real and personal property as may be necessary or convenient in the administration of the Condominium.

(c) To maintain, repair, replace, reconstruct, add to and operate the Condominium, and other property acquired or leased by the Association for use by Unit Owners.

(d) To purchase insurance upon the Condominium and insurance for the protection of the Association, its officers, directors and members as Unit Owners.

(e) To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Condominium and for the health, comfort, safety and welfare of the Unit Owners.

(f) To approve or disapprove the leasing, transfer, mortgaging, ownership and possession of Units as may be provided by the Declaration.

(g) To enforce by legal means the provisions of the Act, the Declaration, these Articles, the Bylaws, and the rules and regulations for the use of the Condominium.

(h) To contract for the management and maintenance of the Condominium and to authorize a management agent (which may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, Special Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Elements with funds as shall be made available by the Association for such purposes. The Association shall, however, retain at all times the powers and duties granted by the Condominium Documents and the Act, including but not limited to the making of Assessments, Special Assessments, promulgation of rules and the execution of contracts on behalf of the Association.

(i) To employ personnel to perform the services required for the proper operation of the Condominium.

4.3 Assets of the Association. All funds and the titles of all properties acquired by the Association and their proceeds shall be held for the benefit and use of the members in accordance with the provisions of the Declaration, these Articles and the Bylaws.

4.4 Distribution of Income; Dissolution. The Association shall make no distribution of income to its members, directors or officers, and upon dissolution all assets of the Association shall be transferred to a profit corporation or a public agency, except in the event of a termination of all the Condominium or as otherwise authorized under Chapter 617 of Florida Statutes.

4.5 Limitation: The powers of the Association shall be

OFF. 17902-1257

subject to and shall be exercised in accordance with the provisions hereof and of the Declaration, the Bylaws and the Act.

ARTICLE V.
MEMBERS

5.1 Membership: The members of the Association shall consist of all of the record owners of Units in the Condominium from time to time, and after termination of the Condominium shall consist of those who were members at the time of such termination, and their successors and assigns.

5.2 Assignment: The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit for which that share is held.

5.3 Voting: On all matters upon which the membership shall be entitled to vote, the vote for each Unit shall be as set forth herein and shall be exercised or cast in the manner provided by the Declaration and Bylaws. Each Unit Owner shall have one vote and be a member of the Association.

5.4 Meetings: The Bylaws shall provide for an annual meeting of members, and may make provision for regular and special meeting of members other than the annual meeting.

ARTICLE VI.
TERM OF EXISTENCE

The Association shall have perpetual existence.

ARTICLE VII.
INCORPORATOR

The name and address of the incorporator to these Articles is:

NAME	ADDRESS
Robert M. Haber	520 Brickell Key Drive Suite O-305 Miami, Florida 33131

ARTICLE VIII.
OFFICERS

The affairs of the Association shall be administered by the officers holding the offices designated in the Bylaws. The officers shall be elected by the Board of Administration of the Association at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Administration. The Bylaws may provide for the removal from office of officers, for filling vacancies and for the duties of the officers. The names and addresses of the officers

off. 17902-01258

who shall serve until their successors are designated by the Board of Administration are as follows:

PRESIDENT:	Youseff Harbie 2315 NW 107th Avenue Miami, Florida 33172
VICE PRESIDENT:	Mikhael Harbie 2315 NW 107th Avenue Miami, Florida 33172
SECRETARY/TREASURER:	Victor Harbie 2315 NW 107th Avenue Miami, Florida 33172

ARTICLE IX.
DIRECTORS

9.1 Number and Qualification. The property, business and affairs of the Association shall be managed by a Board consisting of the number of directors determined in the manner provided by the Bylaws but which shall consist of not less than three directors. Except for Directors appointed by the Developer, all Directors must be members (Unit Owners) of the Association.

9.2 Duties and Powers. All of the duties and powers of the Association existing under the Act, the Declaration, these Articles and the Bylaws shall be exercised exclusively by the Board of Administration, its agents, contractors or employees, subject only to approval by Unit Owners when such approval is specifically required.

9.3 Election; Removal. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by and subject to the qualifications set forth in the Bylaws. Directors may be removed and vacancies on the Board shall be filled in the manner provided by the Bylaws.

9.4 Term of Developer's Directors: The Developer of the Condominium shall appoint the members of the first Board of Administration and their replacements who shall hold office for the periods described in the Bylaws.

9.5 First Directors. The names and addresses of the members of the first Board of Administration who shall hold office until their successors are elected and have qualified, as provided in the Bylaws, are as follows:

NAME	ADDRESS
Youseff Harbie	2315 NW 107th Avenue Miami, Florida 33172

OFF. REC. 17902-1259

Mikhael Harbie

2315 NW 107th Avenue
Miami, Florida 33172

Victor Harbie

2315 NW 107th Avenue
Miami, Florida 33172ARTICLE X.
INDEMNIFICATION

10.1 **Indemnity.** The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a Director, employee, officer or agent of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceedings, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, has no reasonable cause to believe his conduct was unlawful, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have adjudged to be liable for gross negligence or misfeasance or malfeasance in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

10.2 **Expenses.** To the extent that a Director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 10.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

10.3 **Approval.** Any indemnification under Section 10.1 above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director, officer, employee or agent is proper under the circumstances because he has met the applicable standard of conduct set forth in Section 10.1 above. Such determination shall be made (a) by the Board of Administration by a majority vote of a quorum consisting of Directors who were not

OFF. REC. 17902 PG 1260

parties to such action, suit or proceeding, or (b) if such quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion, or by a majority of the voting interests of the members.

10.4 **Advances.** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Administration in any specific case upon receipt of an undertaking by or on behalf of the affected Director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Section 10.

10.5 **Miscellaneous:** The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of members or otherwise, and shall continue as to a person who has ceased to be a Director, officer, employee or agent and shall inure to the benefit of the heirs and personal representatives of such person.

10.6 **Insurance:** The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

ARTICLE XI.
BYLAWS

The first Bylaws of the Association shall be adopted by the Board of Administration and may be altered, amended or rescinded by the Directors and members in the manner provided in the Bylaws and the Declaration.

ARTICLE XII.
AMENDMENTS

Amendments to these Articles shall be proposed and adopted in the following manner:

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

12.2 **Adoption.** A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Administration or by not less than 50 percent of the voting interests of the members of the Association. Directors who are absent from the Board meeting and members not present in person or

OFF. REC. 17902 PC 1261

by limited proxy at the members' meeting considering the amendments may express their approval in writing, provided the approval is delivered to the Secretary at or prior to the meeting. The approval must be:

- (a) at any time, by not less than 80 percent of the votes of all members of the Association represented at a meeting at which a quorum has been attained and by not less than 100 percent of the entire Board of Administration; or
- (b) after control of the Association is turned over to Unit Owners other than the Developer, by not less than 80 percent of the votes of the members of the Association represented at a meeting at which a quorum has been attained; or
- (c) after control of the Association is turned over to Unit Owners other than the Developer, by not less than 100 percent of the entire Board of Administration.

12.3 Limitation. Provided, however, that no amendment shall make any changes in the qualifications of membership nor in the voting rights or property rights of members, unless otherwise expressly provided in the Declaration, nor any changes in Sections 4.3, 4.4 and 4.5 of Article IV, entitled "Powers", without the approval in writing of all members and the joinder of all record owners of mortgages upon Units. No amendment shall be made that is in conflict with the Act, the Declaration or the Bylaws, nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of or reserved to the Developer, or an affiliate of the Developer, unless the Developer shall join in the execution of the amendment.

12.4 Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the public records of Dade County, Florida.

ARTICLE XIII.
INITIAL REGISTERED OFFICE; ADDRESS AND
NAME OF REGISTERED AGENT

The initial registered office of the Association shall be at 520 Brickell Key Drive, Suite 0-305, Miami, Florida 33131, with the privilege of having its office and branch offices at other places within or without the State of Florida. The initial registered agent at that address shall be Robert M. Haber.

ARTICLE XIV.
PRINCIPAL OFFICE AND MAILING ADDRESS

The principal office of the Association and the mailing

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address shall be 520 Brickell Key Drive, Suite 0-305, Miami, Florida 33131.

IN WITNESS WHEREOF, the incorporator has affixed his signature this 10th day of November, 1997.

[Handwritten Signature]
Robert M. Haber

ACKNOWLEDGMENT

STATE OF FLORIDA :
 : SS.
COUNTY OF DADE :

The foregoing Articles of Incorporation was acknowledged before me this 10th day of November, 1997, by Robert M. Haber. He is personally known to me or produced _____ as identification and did not take an oath.

[Handwritten Signature]
Notary Public, State of Florida
at large
Printed Name of Notary: _____
Commission No. _____
My Commission Expires: _____



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**CERTIFICATE DESIGNATING THE ADDRESS
AND AN AGENT UPON WHOM PROCESS MAY BE SERVED**

In compliance with the laws of Florida, the following is submitted:

That Harbie Center Condominium Association, Inc. desiring to organize under the laws of the State of Florida with its principal office, as indicated in the foregoing Articles of Incorporation, at the City of Miami, County of Dade, State of Florida, the corporation named in the said articles has named Robert M. Haber, as its statutory registered agent.

Having been named the statutory agent of said corporation at the place designated in this Certificate, I hereby accept the same and agree to act in this capacity, and that I am familiar with and accept the obligations of Florida Statutes, Section 607.325.

DATED: November 10, 1997.

By: 
Robert M. Haber

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November 11, 1997

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EXHIBIT E

-to-

DECLARATION OF CONDOMINIUM

BYLAWS

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BYLAWS
OF
HARBIE CENTER CONDOMINIUM ASSOCIATION, INC.

A corporation not for profit organized
under the laws of the State of Florida

1. **Identity.** These are the Bylaws of HARBIE CENTER CONDOMINIUM ASSOCIATION, INC. (the "Association"), a corporation not for profit incorporated under the laws of the State of Florida, and organized for the purpose of administering that certain Condominium located in Dade County, Florida, and known as the Harbie Center Condominium.
 - 1.1 **Principal Office.** The principal office of the Association shall be at 0-305 Brickell Key Drive, Miami, Florida 33131, or at such other place as may be subsequently designated by the Board of Administration. All books and records of the Association shall be kept at its principal office.
 - 1.2 **Fiscal Year.** The fiscal year of the Association shall be the calendar year.
 - 1.3 **Seal.** The seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation Not for Profit", and the year of incorporation.
2. **Definitions.** For convenience, these Bylaws shall be referred to as the "Bylaws" and the Articles of Incorporation of the Association as the "Articles". The other terms used in these Bylaws shall have the same definition and meaning as those set forth in the Articles or Declaration for the Condominium, unless herein provided to the contrary, or unless the context otherwise requires.
3. **Members.** The members of the Association ("Members") shall be as specified in the Articles.
 - 3.1 **Annual Meeting.** The annual Members' meeting shall be held on the date, at the place and at the time determined by the Board of Administration from time to time, provided that there shall be an annual meeting every calendar year. To the extent possible, the annual meeting shall be held during September, October, November or December and no later than 12 months after the last preceding annual meeting. The purpose of the meeting shall be, except as provided herein to the contrary, to elect Directors and to transact any other business authorized to be transacted by the Members, or as stated in the notice of the meeting sent to Unit Owners in advance thereof.

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3.2 Special Meeting. Special Members' meetings shall be held at such places as provided herein for annual meetings, and may be called by the President or by a majority of the Board of Administration of the Association. A special meeting must be called by the President or Secretary upon receipt of a written request from a majority of the Members of the Association. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting. Additionally, special Members' meetings may be called by ten percent of the Members of the Association to recall a member or members of the Board of Administration or as provided for in Section 9.1(a)(ii) hereof.

3.3 Notice of Meeting; Waiver of Notice. Written notice of a meeting of Members stating the time and place and an agenda for which the meeting is called shall be given by the President or Secretary. A copy of the notice shall be mailed or delivered to each Unit Owner at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the Condominium Property or Association Property at least 14 continuous days preceding the annual meeting. Upon notice to the Unit Owners, the Board shall by duly adopted rule designate a specific location on the Condominium Property or the Association Property upon which all notices of Unit Owner meetings shall be posted. The notice of the annual meeting shall be hand delivered or sent by mail to each Unit Owner, unless the Unit Owner waives in writing the right to receive notice of the annual meeting by mail. The delivery or mailing shall be to the address of the Member as it appears on the roster of Members described in Section 10 hereof.

Notice of specific meetings may be waived before or after the meeting. The attendance of any Member (or person authorized to vote for such Member) shall constitute such Member's waiver of notice of such meeting, except when his (or his authorized representative's) attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

3.4 Members' Participation in Meetings. Members shall have the right to participate in meetings of Members with reference to all designated agenda items. However, the Association may adopt reasonable rules governing the frequency, duration and manner of Member participation. Any Member may tape record or video tape a meeting of Members subject to reasonable rules adopted by the Division of Florida Land Sales, Condominium and Mobile Homes (the "Division").

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3.5 Quorum. A quorum at Members' meetings shall be attained by the presence, either in person or by proxy, of persons entitled to cast 100 percent of the votes of Members. There shall be no quorum requirement or minimum number of votes necessary for the election of Directors; however at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the Board of Administration.

3.6 Voting.

(a) Number of Votes. In any meeting of Members, the Owners of Units shall be entitled to cast one vote for each Unit owned. The vote of a Unit shall not be divisible.

(b) Majority Vote. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum shall have been attained shall be binding upon all Unit Owners for all purposes except where otherwise provided by law, the Declaration, the Articles or these Bylaws. As used in these Bylaws, the Articles or the Declaration, the terms "majority of the Unit Owners" and "majority of the Members" shall mean a majority of the votes of Members and not a majority of the Members themselves and shall further mean more than 50 percent of the then total authorized votes present in person or by proxy and voting at any meeting of the Unit Owners at which a quorum shall have been attained. Similarly, if some greater percentage of Members is required herein or in the Declaration or Articles, it shall mean such greater percentage of the votes of Members and not of the Members themselves.

(c) Voting Member. If a Unit is owned by one person, his right to vote shall be established by the roster of Members. If a Unit is owned by more than one person, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the record owners of the Unit according to the roster of Unit Owners and filed with the Secretary of the Association. If a Unit is owned by a corporation, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by an appropriate officer of the corporation and filed with the Secretary of the Association. Those certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned. A certificate designating the person entitled to

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cast the vote for a Unit may be revoked by any record owner of an undivided interest in the Unit. If a certificate designating the person entitled to cast the vote for a Unit is not on file or has been revoked, the vote of the Owner(s) of such Unit shall not be considered in determining whether a quorum is present, nor for any other purpose, and the total number of authorized votes in the Association shall be reduced accordingly until such certificate is filed, except if the Unit is owned jointly by a husband and wife. If a Unit is owned jointly by a husband and wife, they may, without being required to do so, designate a voting Member in the manner provided above. In the event a husband and wife do not designate a voting member, the following provisions shall apply:

- (i) If both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting, and their vote shall not be considered in determining whether a quorum is present on that subject at the meeting (and the total number of authorized votes in the Association shall be reduced accordingly for such subject only).
- (ii) If only one is present at a meeting, the person present shall be counted for purposes of a quorum and may cast the Unit vote just as though he or she owned the Unit individually, and without establishing the concurrence of the absent person.
- (iii) If both are present at a meeting and concur, either one may cast the Unit vote.

3.7 **Proxies.** Members may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the Division. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to (a) waive or reduce reserves (b) waive financial statement requirements (c) amend the Declaration (d) amend the Articles or Bylaws; and for any other matter for which the Condominium Act requires or permits a vote of the Unit Owners. Except as provided in paragraph 4.2, no proxy, limited or general, shall be used in the election of the Board of Administration. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Notwithstanding

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the provisions of this subparagraph, Members may vote in person at Members' meetings. A proxy may be made by any person entitled to vote, but shall only be effective for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be filed in writing, signed by the person authorized to cast the vote for the Unit (as above described) and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Holders of proxies need not be Unit Owners.

- 3.8 Adjourned Meetings. If any proposed meeting, other than for the election of Directors, cannot be organized because a quorum has not been attained, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Except as provided by law, proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked for reasons other than the new date of the meeting.
- 3.9 Order of Business. If a quorum has been attained, the order of business at annual Members' meetings, and, if applicable, at other Members' meetings, shall be:
- (a) Call to order by President;
 - (b) Appointment by the President of a chairman of the meeting (who need not be a Member or a Director);
 - (c) Proof of notice of the meeting or waiver of notice;
 - (d) Reading of minutes;
 - (e) Reports of officers;
 - (f) Reports of committees;
 - (g) Appointment of inspectors of election;
 - (h) Determination of number of Directors;
 - (i) Election of Directors;
 - (j) Unfinished business;

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- (k) New business;
- (l) Adjournment.

Such order may be waived in whole or in part by direction of the chairman.

3.10 Minutes of Meeting. The minutes of all meetings of Unit Owners shall be kept in a book available for inspection by Unit Owners or their authorized representatives or Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.

3.11 Action Without A Meeting. Except for those approvals by Unit Owners required by the Condominium Act, the Declaration, or these Bylaws to be made at a duly noticed meeting of Unit Owners which shall be subject to all requirements of the Condominium Act, or the Declaration, Articles or these Bylaws relating to Unit Owner decision-making, any action which may be taken at any annual or special meeting of such Members, may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken shall be signed by the Members (or persons authorized to cast the vote of any such Member as elsewhere herein set forth) having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of such Members at which a quorum of such Members (or authorized persons) entitled to vote thereon were present and voted.

Within 10 days after obtaining such authorization by written consent, notice must be given to Members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action.

4. Directors.

4.1 Membership and Representation. The affairs of the Association shall be managed and governed by a Board of not less than three, nor more than five Directors, the exact number initially to be as set forth in the Articles, and thereafter, except as provided herein, to be determined from time to time upon majority vote of the membership. All Directors shall be Unit Owners.

4.2 Election of Directors. The Board of Administration shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the Board of Administration, either in general elections or elections to fill vacancies caused by recall,

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resignation, or otherwise, unless Unit Owners by the affirmative vote of a majority of the total voting interests, provide for different voting and election procedures by amending these Bylaws, which vote may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy. Not less than 60 days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing or included in another Association mailing or delivery including regularly published newsletters, to each Unit Owner entitled to vote, a first notice of the date of the election. Any Unit Owner or other eligible person desiring to be a candidate for the Board of Administration must give written notice to the Association not less than 40 days before a scheduled election. Together with the written notice and agenda as set forth in paragraph 3.3, the Association shall mail or deliver a second notice of the election to all Unit Owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of a candidate, the Association shall include an information sheet, no larger than 8-1/2 inches by 11 inches which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing of the ballot, with the costs of mailing or delivery and copying to be borne by the Association. However, the Association has no liability for the contents of the information sheets prepared by the candidates. In order to reduce costs, the Association may print or duplicate the information sheets on both sides of the paper. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20% of the eligible voters must cast a ballot in order to have a valid election of members of the Board of Administration. There shall be no cumulative voting. No Unit Owner shall permit any other person to vote his ballot, and any such ballots improperly cast shall be deemed invalid. A Unit Owner who needs assistance in casting the ballot for reasons of blindness, disability or inability to read or write may obtain assistance in casting the ballot. Any Unit Owner violating this provision may be fined by the Association in accordance with the provisions of the Condominium Act and these Bylaws. The regular election shall occur on the date of the annual meeting. Notwithstanding the provisions in this Section 4.2, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the Board.

4.3 Vacancies and Removal.

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- (a) Except as to vacancies resulting from removal of Directors by Members, vacancies in the Board of Administration occurring between annual meetings of Members shall be filled by the Member who originally elected the Director without the necessity of any meeting.
- (b) Any Director elected by the Members may be removed by concurrence of 100 percent of the votes of the Members present at a special meeting of Members called for that purpose at which a quorum has been attained. The vacancy in the Board of Administration so created shall be filled by the Members at the same meeting. The conveyance of all Units owned by a Director in the Condominium who owned one or more Units at the time he was elected or appointed (other than appointees of the Developer) shall constitute the resignation of such Director.
- (c) If a vacancy on the Board of Administration results in there being no incumbent Directors, any Unit Owner may apply to the Circuit Court within whose jurisdiction the Condominium lies for the appointment of a receiver to manage the affairs of the Association. At least 30 days prior to applying to the Circuit Court, the Unit Owner shall mail to the Association and post in a conspicuous place on the Condominium Property or Association Property a notice describing the intended action and giving the Association an opportunity to fill the vacancy(ies) in accordance with these Bylaws. If, during such time, the Association fails to fill the vacancy(ies), the Unit Owner may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs and attorneys' fees. The receiver shall have all powers and duties of a duly constituted Board of Administration, and shall serve until the Association fills the vacancy(ies) on the Board sufficient to constitute a quorum in accordance with these Bylaws.
- 4.4 Term. Except as provided herein to the contrary, the term of each Director's service shall extend until the next annual meeting of the Members and subsequently until his successor is duly elected and qualified, or until he is removed in the manner elsewhere provided.
- 4.5 Organizational Meeting. The organizational meeting of newly-elected or appointed members of the Board of Administration shall be held within ten days of their election or appointment at such place and time as shall

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be fixed by the Directors at the meeting at which they were elected or appointed.

- 4.6 **Board Meetings.** Meetings of the Board of Administration at which a quorum of the members is present shall be open to all Unit Owners. Any Unit Owner may tape record or videotape meetings of the Board of Administration. The right to attend meetings includes the right to speak at such meetings with reference to all designated agenda items. The Association may adopt reasonable rules governing the frequency, duration, and manner of Unit Owner statements. Adequate notice of all meetings, which notice shall include an agenda, shall be posted conspicuously on the Condominium Property or Association Property at least 48 continuous hours preceding the meeting except in an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the Board. Such emergency action shall be noticed and ratified at the next regular meeting of the Board. However, written notice of any meeting at which non-emergency Special Assessments, or at which new rules, or amendments to existing rules regarding Unit use will be considered, shall be mailed or delivered to the Unit Owners and posted conspicuously on the Condominium Property or Association Property not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice requirement shall be made by an affidavit executed by the person providing the notice of the meeting and filed among the official records of the Association. Upon notice to the Unit Owners, the Board shall by duly adopted rule designate a specific location on the Condominium Property or Association Property upon which all notices of Board meetings shall be posted. If there is no Condominium Property or Association Property upon which notices can be posted, notices of Board meetings shall be mailed or delivered at least 14 days before the meeting to each Unit Owner. Notice of any meeting in which Assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. Meetings of a committee to take final action on behalf of the Board or make recommendations to the Board regarding the Association budget are subject to the provisions of this Section 4.6. However, meetings of a committee that neither take final action on behalf of the Board nor make recommendations to the Board regarding the Association budget, shall be subject to the provisions of this Section 4.6. A Director of the Association who is present at a meeting of its Board at which action on any corporate matter is taken shall be presumed to have assented to the action

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taken unless he votes against such action or abstains from voting in respect thereto because of an asserted conflict of interest. Directors may not vote by proxy or by secret ballot at Board meetings, except that officers may be elected by secret ballot. A vote or abstention for each Director present shall be recorded in the minutes.

- 4.7 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.
- 4.8 Quorum. A quorum at Directors' meetings shall consist of all of the then incumbent Directors. The acts approved by all of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Administration.
- 4.9 Adjourned Meetings. If, at any proposed meeting of the Board of Administration, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted.
- 4.10 Presiding Officer. The presiding officer at the Directors' meetings shall be the President (who may, however, designate any other person to preside).
- 4.11 Order of Business. If a quorum has been attained, the order of business at Directors' meetings shall be:
- (a) Proof of due notice of meeting;
 - (b) Reading and disposal of any unapproved minutes;
 - (c) Reports of officers and committees;
 - (d) Election of officers;
 - (e) Unfinished business;
 - (f) New business;
 - (g) Adjournment.

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Such order may be waived in whole or in part by direction of the presiding officer.

- 4.12 Minutes of Meetings. The minutes of all meetings of the Board of Administration shall be kept in a book available for inspection by Unit Owners, or their authorized representatives, and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.
- 4.13 Executive Committee; Other Committees. The Board of Administration may, by resolution duly adopted, appoint an Executive Committee to consist of three or more members of the Board of Administration. Such Executive Committee shall have and may exercise all of the powers of the Board of Administration in management of the business and affairs of the Condominium or Association during the period between the meetings of the Board of Administration insofar as may be permitted by law, except that the Executive Committee shall not have power (a) to determine the Common Expenses required for the affairs of the Condominium or Association, (b) to determine the Assessments payable by the Unit Owners to meet the Common Expenses of the Condominium or Association, (c) to adopt or amend any rules and regulations covering the details of the operation and use of the Condominium Property, or (d) to exercise any of the powers set forth in paragraph (h) and (q) of Section 5 below.

The Board may by resolution also create other committees and appoint persons to such committees and invest in such committees such powers and responsibilities as the Board shall deem advisable.

- 4.14 Proviso. Notwithstanding anything to the contrary contained in this Section 4 or otherwise, the Board shall consist of three Directors during the period that the Developer is entitled to appoint a majority of the Directors, as hereinafter provided. The Developer shall have the right to appoint all of the members of the Board of Administration until Unit Owners other than the Developer own 15 percent or more of the Units that will be operated ultimately by the Association. When Unit Owners other than the Developer own 15 percent or more of the Units that will be operated ultimately by the Association, the Unit Owners other than the Developer shall be entitled to elect not less than one-third of the members of the Board of Administration. Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Administration (a) three years after 50 percent of the Units that will be operated ultimately by the Association have been conveyed to

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purchasers; (b) three months after 90 percent of the Units that will be operated ultimately by the Association have been conveyed to purchasers; (c) when all of the Units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business; or (d) when some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or (e) seven years after recordation of the Declaration, whichever occurs first. The Developer is entitled (but not obligated) to elect at least one member of the Board of Administration as long as the Developer holds for sale in the ordinary course of business 5 percent of the Units that will be operated ultimately by the Association. Upon election of the first Unit Owner by Members other than the Developer to the Board of Administration, the Developer shall forward to the Division the name and mailing address of the Unit Owner Member so elected.

The Developer can turn over control of the Association to Unit Owners other than the Developer prior to such dates in its sole discretion by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of Unit Owners other than the Developer to elect Directors and assume control of the Association. Provided at least 30 days' notice of Developer's decision to cause its appointees to resign is given to Unit Owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations even if the Unit Owners other than the Developer refuse or fail to assume control.

Within 75 days after the Unit Owners other than the Developer are entitled to elect a member or members of the Board of Administration, or earlier if the Developer has elected to accelerate such event as aforesaid, the Association shall call, and give not less than 60 days' notice of an election for the members of the Board of Administration. The notice may be given by any Unit Owner if the Association fails to do so.

At the time that Unit Owners other than the Developer elect a majority of the members of the Board of Administration of the Association, the Developer shall relinquish control of the Association and the Unit Owners shall accept control. Simultaneously, or for the purposes of subparagraph (g) below, not more than 90 days thereafter, the Developer shall deliver to the

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Association, at the Developer's expense, all property of the Unit Owners and of the Association held or controlled by the Developer, including, but not limited to, the following items, if applicable:

- (a) The original or a photocopy of the recorded Declaration of Condominium, and all amendments thereto. If a photocopy is provided, the Developer, or an officer or agent of the Developer shall certify by affidavit that it is a complete copy of the actual recorded Declaration;
- (b) A certified copy of the Articles of Incorporation for the Association;
- (c) A copy of the Bylaws of the Association;
- (d) The minute books, including all minutes, and other books and records of the Association, if any;
- (e) Any rules and regulations which have been adopted;
- (f) Resignations of resigning officers and Board members who were appointed by the Developer;
- (g) The financial records, including financial statements of the Association, and source documents from the incorporation of the Association through the date of turnover. The records shall be audited for the period from the incorporation of the Association or from the period covered by the last audit, if an audit has been performed for each fiscal year since incorporation, by an independent certified public accountant. All financial statements shall be prepared in accordance with generally accepted accounting principles and shall be audited in accordance with generally accepted auditing standards, as prescribed by the Florida Board of Accountancy, pursuant to Florida Statutes, Chapter 473. The accountant performing the audit shall examine, to the extent necessary, supporting documents and records, including the cash disbursements and related paid invoices, to determine if expenditures were for Association purposes, and billings, cash receipts and related records to determine that the Developer was charged and paid the proper amounts of Assessments and Special Assessments, if any;
- (h) Association funds or the control thereof;
- (i) All tangible personal property that is the property of the Association or is or was

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represented by the Developer in writing to be part of the Common Elements or is ostensibly part of the Common Elements, and an inventory of such property;

- (j) A copy of the plans and specifications utilized in the construction or remodeling of the improvements and the supplying of equipment, and for the construction and installation of all mechanical components servicing the improvements and the Condominium Property, with a certificate, in affidavit form, of an officer of the Developer or an architect or engineer authorized to practice in Florida, that such plans and specifications represent, to the best of his knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the Condominium Property and the construction and installation of the mechanical components serving the improvements and the Condominium Property;
- (k) Insurance policies;
- (l) Copies of any Certificates of Occupancy which may have been issued for the Condominium Property;
- (m) Any other permits issued by governmental bodies applicable to the Condominium Property in force or issued within one year prior to the date the Unit Owners take control of the Association;
- (n) All written warranties of contractors, sub-contractors, suppliers and manufacturers, if any, that are still effective;
- (o) A roster of Unit Owners and their addresses and telephone numbers, if known, as shown on the Developer's records;
- (p) Leases of the Common Elements and other leases to which the Association is a party, if applicable;
- (q) Employment contracts or service contracts in which the Association is one of the contracting parties, or service contracts in which the Association or Unit Owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service;
- (r) All other contracts to which the Association is a party; and

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- (a) A list of the names and addresses, of which the Developer had knowledge at any time in the development of the Condominium, of all contractors, subcontractors, and suppliers utilized in the construction or remodeling of the improvements and in the landscaping of the Condominium or Association Property.
5. Powers and Duties. The Board of Administration shall have the powers and duties necessary for the management and administration of the affairs of the Condominium and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these Bylaws may not be delegated to the Board of Administration by the Unit Owners. Such powers and duties of the Board of Administration shall include, without limitation (except as limited elsewhere herein), the following:
- (a) Operating and maintaining the Common Elements of the Condominium and Association Property.
 - (b) Determining the expenses required for the operation of the Condominium and the Association.
 - (c) Collecting the Assessments for Common Expenses of the Condominium and Association from Unit Owners.
 - (d) Collecting Special Assessments from Unit Owners.
 - (e) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Elements of the Condominium and Association Property.
 - (f) Adopting and amending rules and regulations concerning the details of the operation and use of the Condominium Property and Association Property.
 - (g) Maintaining bank accounts on behalf of the Association and designating the signatories required therefor.
 - (h) Purchasing, leasing or otherwise acquiring Units or other property in the name of the Association, or its designee.
 - (i) Purchasing Units at foreclosure or other judicial sales, in the name of the Association, or its designee.
 - (j) Selling, leasing, mortgaging or otherwise dealing with Units acquired by, and subleasing Units leased by, the Association, or its designee.

DEF. 17902 PC 1280

- (k) Organizing corporations and appointing persons to act as designees of the Association in acquiring title to or leasing Units or other property.
- (l) Obtaining, maintaining and reviewing insurance for the Condominium Property and Association Property.
- (m) Making repairs, additions and improvements to, or alterations of, the Condominium Property, and repairs to and restoration of the Condominium Property, in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise.
- (n) Enforcing obligations of the Unit Owners, allocating profits and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of the Condominium.
- (o) Levying fines against appropriate Unit Owners for violations of the rules and regulations established by the Association to govern the conduct of such Unit Owners.
- (p) Borrowing money on behalf of the Association when required in connection with the acquisition of property, and granting mortgages on and/or security interests in Association Property; provided, however, that the consent of the Owners of all of the Units represented at a meeting at which a quorum has been attained in accordance with the provisions of these Bylaws shall be required for the borrowing of any sum in excess of \$10,000. If any sum borrowed by the Board of Administration on behalf of the Association pursuant to the authority contained in this subparagraph (p) is not repaid by the Association, a Unit Owner who pays to the creditor such portion thereof as his interest in the Common Elements or in the Association Property bears to the interest of all the Unit Owners in the Common Elements or in Association Property shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against, or which will affect, such Unit Owner's Unit.
- (q) Contracting for the management and maintenance of the Condominium or Association Property and authorizing a management agent (who may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, Special Assessments, preparation of records, enforcement of rules and maintenance, repair and

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replacement of the Common Elements or Association Property with funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the condominium documents and the Condominium Act, including, but not limited to, the making of Assessments, Special Assessments, promulgation of rules and execution of contracts on behalf of the Association.

- (r) At its discretion, authorizing Unit Owners or other persons to use portions of the Common Elements or Association Property for private parties and gatherings and imposing reasonable charges for such private use, provided such use is the subject of a lease between the Association and the Unit Owner.
- (s) Exercising (i) all powers specifically set forth in the Declaration, the Articles, these Bylaws, and in the Florida Condominium Act, and (ii) all powers incidental thereto, and all other powers of a Florida corporation not for profit.
- (t) Imposing a lawful fee in connection with the approval of the sale, mortgage, lease, sublease or other transfer of Units, not to exceed the maximum amount permitted by law in any one case.
- (u) Contracting with and creating special taxing districts.
- (v) Bringing, settling or compromising any claims or lawsuits involving matters in which all Unit Owners have a common interest.
- (w) Contracting with a cable operator licensed in Dade County to provide cable television service on a bulk rate basis to Unit Owners.
- (x) Conveying a portion of the Common Elements to a condemning authority for the purposes of providing utility easements, rights-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.

6. Officers.

- 6.1 Executive Officers. The executive officers of the Association shall be a President, Vice-President, a Treasurer and a Secretary (none of whom need be Directors), all of whom shall be elected by the Board of Administration and who may be peremptorily removed at any meeting at which a quorum of Directors is attained by concurrence of all of the present Directors. A person may hold more than one office,

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except that the President may not also be the Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board of Administration from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association. Officers need not be Unit Owners.

- 6.2 President. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of president of an association.
- 6.3 Vice-President. The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice president of an association and as shall otherwise be prescribed by the Directors.
- 6.4 Secretary. The Secretary shall keep the minutes of all proceedings of the Directors and the Members. He shall attend to the giving of all notices to the Members and Directors and other notices required by law. He shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.
- 6.5 Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board of Administration.
7. Compensation. Neither Directors nor officers shall receive compensation for their services as a Director or officer.
8. Resignations. Any Director or officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation.

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in which event the resignation shall be effective from such later date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Units owned by any Director or officer (other than appointees of the Developer) constitute a written resignation of such Director or officer.

9. Fiscal Management. The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:

9.1 Budget.

- (a) Adoption by Board; Items. The Board of Administration shall from time to time, and at least annually, prepare a budget for the Condominium and a budget for the Association itself (which shall detail all accounts and items of expenses as set forth in the Act, if applicable), determine the amount of Assessments payable by the Unit Owners to meet the expenses of the Condominium and the Association and allocate and assess such expenses among the Unit Owners in accordance with the provisions of the Declaration. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting and pavement resurfacing regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000. The amount of reserves shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. Reserves shall not be required for the Association or for the Condominium if the Members have by a majority vote at a duly called meeting of the Association, determined for a specific fiscal year to provide no reserves or reserves less adequate than required hereby. No waiver is effective unless conducted at a meeting at which a majority of the voting interests are present, in person or by proxy, and a majority of those present in person or by proxy vote to waive or reduce reserves. If a meeting of the Unit Owners has been called to determine to provide no reserves or reserves less adequate than required,

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and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect.

Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall not be used for other purposes, except payment of income taxes on the interest earned and other direct expenses of maintaining reserve accounts, unless their use for other purposes is approved in advance by a vote of the majority of the voting interests, voting in person or by limited proxy at a duly called meeting of the Association.

The adoption of a budget for the Condominium and Association by the Board of Administration shall comply with the requirements hereinafter set forth:

- (i) Notice of Meeting. A copy of the proposed budget shall be mailed or hand delivered to each Unit Owner at the address last furnished to the Association not less than 14 days prior to the meeting of the Unit Owners or the Board of Administration at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meeting. Evidence of compliance with this 14-day notice must be made by an affidavit, executed by an officer of the Association or the manager or other person providing notice of the meeting. The affidavit must be filed among the official records of the Association. The meeting must be open to the Unit Owners.
- (ii) Special Membership Meeting. If a budget is adopted by the Board of Administration which requires Assessments against Unit Owners in any year exceeding 115 percent of such Assessments for the preceding year, an hereinafter defined, upon written application of 10 percent of the Unit Owners to the Board, a special meeting of the Unit Owners shall be held within 30 days of delivery of such application to the Board of Administration. Each Unit Owner shall be given at least 10 days' written notice of said meeting. At the special meeting, Unit Owners shall consider and adopt a budget. The adoption of said budget requires a vote of Unit Owners of

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not less than a majority of all the Units (including Units owned by the Developer). If a meeting of the Unit Owners has been called as aforesaid and a quorum is not obtained or a substitute budget has not been adopted by the Unit Owners, the budget adopted by the Board of Administration goes into effect as scheduled.

(iii) Determination of Budget Amount. In determining whether a budget requires Assessments against Unit Owners in any year exceeding 115 percent of Assessments for the preceding year, there must be excluded in the computations any authorized provisions for reasonable reserves made by the Board of Administration in respect of repair or replacement of the Condominium Property or Association Property or in respect of anticipated expenses of the Association which are not anticipated to be incurred on a regular or annual basis, and there must be excluded from such computation Assessments for improvements to the Condominium Property or Association Property and all Special Assessments (including surcharges against specific Unit Owner(s)).

(b) Adoption by Membership. In the event that the Board of Administration shall be unable to adopt a budget for a fiscal year in accordance with the requirements of Subsection 9.1(a) above, the Board of Administration may call a special meeting of Unit Owners for the purpose of considering and adopting such budget, which meeting shall be called and held in the manner provided for such special meetings in said subsection. Alternatively, the Board of Administration may propose a budget in writing to all Members. If either such budget is approved by the Members present at such meeting, or receiving such written budget, upon ratification by all of the members of the Board of Administration, the budget is adopted.

9.2 Assessments. Assessments against the Unit Owners for their share of the items of the budget shall be made for the applicable fiscal year annually, if possible at least 10 days preceding the year for which the Assessments are made. Such Assessments shall be due in equal installments, payable in advance on the first day of each quarter (or each month at the election of the Board) of the year for which the Assessments are made.

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If an annual Assessment is not made as required, an Assessment shall be presumed to have been made in the amount of the last prior Assessment, and quarterly (or monthly) installments on such Assessment shall be due upon each installment payment date until changed by an amended Assessment. In the event the annual Assessment proves to be insufficient, the budget and Assessments may be amended at any time by the Board of Administration, subject to the provisions of Section 9.1 hereof, if applicable. Unpaid Assessments for the remaining portion of the fiscal year for which an amended Assessment is made shall be payable in as many equal installments as there are full quarters (or months) of the fiscal year left as of the date of such amended Assessment. Each such quarterly (or monthly) installment shall be paid on the first day of the quarter (or month), commencing the first day of the next ensuing quarter (or month). If only a partial quarter (or month) remains, the amended Assessment shall be paid with the next regular installment in the following year, unless otherwise directed by the Board in its resolution.

- 9.3 **Charges.** Charges by the Association against Members for other than Common Expenses of the Condominium or the Association shall be payable in advance. These charges shall be collected separately from Assessments for Common Expenses. Charges for other than Common Expenses may be made only after approval of a Member or when expressly provided for in the Declaration or the exhibits annexed thereto, as the same may be amended from time to time, which charges may include, without limitation, charges for the exclusive use of portions of the Condominium Property or other Association Property, maintenance services furnished at the expense of an Owner, other services furnished for the benefit of an Owner and fines and damages and other sums due from such Owner.
- 9.4 **Special Assessments for Emergencies.** Assessments for Common Expenses for emergencies that cannot be paid from the annual Assessments for Common Expenses shall be due immediately upon notice given to the Unit Owners concerned, and shall be paid in such manner as the Board of Administration of the Association may require in the notice of Special Assessment.
- 9.5 **Depository.** The depository of the Association shall be such bank(s) or savings and loan association(s) in the State as may be required by the provisions of the Condominium Act and as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from those accounts shall be made only by checks signed

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by such person or persons as are authorized by the Directors. All funds of the Association shall be maintained separately in accounts in the Association's name. Reserve and operating funds of the Association shall not be commingled. No manager, agent, employee, officer, or Director of the Association shall commingle any Association funds with his funds or with the funds of any other person.

- 9.6 Acceleration of Assessment or Special Assessment Installments upon Default. If a Unit Owner shall be in default in the payment of an installment upon an Assessment or Special Assessment, the Board of Administration or its agent may accelerate the remaining installments of the annual Assessment or Special Assessment, so long as such acceleration is made in connection with foreclosure of the lien for Assessments or Special Assessments or both, as the case may be.
- 9.7. Fidelity Bonds. The Association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Association in the principal sum of not less than \$10,000.00 or such higher amount, if required, under the provisions of the Act or by law, for each such person. The premiums on such bonds shall be paid by the Association as a Common Expense.
- 9.8 Accounting Records and Reports. The Association shall maintain accounting records for the Association and for the Condominium within the State, according to good accounting practices normally used by similar associations or the manager under any applicable management contract. The records shall be open to inspection by Unit Owners or their authorized representatives at reasonable times and written summaries of them shall be supplied at least annually. The records shall include, but not be limited to, (a) a record of all receipts and expenditures, and (b) an account for each Unit designating the name and current mailing address of the Unit Owner, the amount of each Assessment, the dates and amounts in which the Assessments come due, the amount paid upon the account and the dates so paid, and the balance due. Written summaries of the records described in clause (a) above, in the form and manner specified below, shall be supplied to each Unit Owner annually.

Within 60 days following the end of the fiscal year, the Board shall mail, or furnish by personal delivery, to each Unit Owner a complete financial report of actual receipts and expenditures for the previous 12 months or a complete set of financial statements for

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the preceding fiscal year prepared in accordance with generally accepted accounting principles. The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications, including, if applicable, but not limited to, the following:

- (a) Cost for security;
- (b) Professional and management fees and expenses;
- (c) Taxes;
- (d) Cost for recreation facilities;
- (e) Expenses for refuse collection and utility services;
- (f) Expenses for lawn care;
- (g) Cost for building maintenance and repair;
- (h) Insurance costs;
- (i) Administrative and salary expenses; and
- (j) Reserves for capital expenditures, deferred maintenance, and any other category for which the Association maintains a reserve account or accounts.

9.9 Application of Payment. All payments made by a Unit Owner shall be applied as provided in these Bylaws and in the Declaration or as determined by the Board.

9.10 Notice of Meetings. Notice of any meeting where Assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that Assessments will be considered and the nature of any such Assessments.

10. Official Records and Roster of Unit Owners. The official records of the Association as required under the provisions of the Condominium Act, when applicable, shall be maintained within the State. The records of the Association shall be made available to a Unit Owner within five working days after receipt of written request by the Board or its designee. This requirement may be complied with by having a copy of the official records of the Association available for inspection or copying on the Condominium Property or Association Property.

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The official records of the Association are open to inspection by any Association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the Association member. The Association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying. The failure of the Association to provide the records within ten working days after receipt of a written request shall create a rebuttable presumption that the Association willfully failed to comply with this paragraph. A Unit Owner who is denied access to official records is entitled to the actual damages or minimum damages for the Association's willful failure to comply with this paragraph. The minimum damages shall be \$50 per calendar day up to ten days, the calculation to begin on the 11th working day after receipt of the written request. The failure to permit inspection of the Association records as provided herein entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records for inspection. The Association shall maintain an adequate number of copies of the Declaration, Articles, these Bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet, on the Condominium Property to ensure their availability to Unit Owners and prospective purchasers. The Association may charge its actual costs for preparing and furnishing these documents to those requesting same. Notwithstanding the provisions of this paragraph, the following records shall not be accessible to Unit Owners:

- (a) A record which was prepared by an Association attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the Association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings until the conclusion of the litigation or adversarial administrative proceedings.
- (b) Information obtained by the Association in connection with the approval of the lease, sale, or other transfer of a Unit.
- (c) Medical records of Unit Owners.

The Association shall maintain current information regarding the title holders of all Units. Such information shall be obtained by engaging the services of a qualified title

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company, or if the Board so elects, by requiring each Unit Owner to file with the Association a copy of the deed or other document showing his ownership. The Association may rely upon the accuracy of any such information for all purposes until notified in writing of changes therein. Only Unit Owners of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other Owners shall produce adequate evidence, as provided above, of their interest and shall waive in writing notice of such meeting.

11. **Parliamentary Rules.** Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, the Articles or these Bylaws.
12. **Amendments.** Except as in the Declaration provided otherwise, these Bylaws may be amended in the following manner:
 - 12.1 **Notice.** Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered and shall comply with the provisions of Section 718.112(2)(h), Florida Statutes.
 - 12.2 **Adoption.** A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Administration or by not less than 50 percent of the voting interests of the Members of the Association. Directors who are absent from the Board meeting and Members not present in person or by limited proxy at the Members' meeting considering the amendment, may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. The approval must be:
 - (a) at any time, by not less than 100 percent of the votes of all Members of the Association represented at a meeting at which a quorum has been attained and by not less than 100 percent of the Board of Administration; or
 - (b) after control of the Association is turned over to Unit Owners other than the Developer, by not less than 80 percent of the votes of the Members of the Association represented at a meeting at which a quorum has been attained; or
 - (c) after control of the Association is turned over to Unit Owners other than the Developer, by not less than 100 percent of the entire Board of Administration.

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- 12.3 Proviso. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer or mortgagees of Units without the consent of said Developer or mortgagees in each instance. No amendment shall be made that is in conflict with the Articles or Declaration. No amendment to this Section 12.3 shall be valid.
- 12.4 Procedure. No Bylaw shall be revised or amended by reference to its title or number only. Proposals to amend existing Bylaws shall contain the full text of the Bylaws to be amended; new words shall be inserted in the text underlined, and words to be deleted 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 Bylaw ___ for present text." Nonmaterial errors or omissions in the Bylaw process will not invalidate an otherwise properly promulgated amendment.
- 12.5 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of the Declaration and Bylaws, which certificate shall be executed by the President or Vice-President and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed, or by the Developer alone if the amendment has been adopted consistent with the provisions of the Declaration allowing such action by the Developer. The amendment shall be effective when the certificate and a copy of the amendment is recorded in the Public Records of Dade County, Florida.
13. Rules and Regulations. The Board of Administration may, from time to time adopt, modify, amend or add to the rules and regulations concerning the use of portions of the Condominium and other Association Property. Copies of such modified, amended or additional rules and regulations shall be furnished by the Board of Administration to each affected Unit Owner not less than 30 days prior to the effective date thereof.
14. Construction. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders. If any portion hereof shall be found by competent judicial authority to be unenforceable, then

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only that portion shall be deemed deleted and the remainder shall be given its nearest permissible meaning and effect.

15. **Captions.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these Bylaws or the intent of any provision hereof.
16. **Administration.**
- 16.1 **Arbitration.** In the event of any internal dispute arising from the operation of the Condominium between or among the Unit Owners or the Association, the parties to such dispute may submit the dispute to mandatory non-binding arbitration in accordance with Florida Statutes, Section 718.1255.
- 16.2 **Unit Owner Complaint.** When a Unit Owner files a written complaint by certified mail with the Board of Administration, the Board shall respond in writing to the Unit Owner within 30 days of receipt of the complaint. The Board's response shall either give a substantive response to the complainant, notify the complainant that a legal opinion has been requested, or notify the complainant that advice has been requested from the Division. If the Board requests advice from the Division, the Board shall, within 10 days of its receipt of the advice, provide in writing a substantive response to the complainant. If a legal opinion is requested, the Board shall within 60 days after the receipt of the complaint, provide in writing a substantive response to the complainant. The failure to act within 30 days and to notify the Unit Owner within 30 days after the action taken precludes the Board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the complaint.
- 16.3 **Notice and Hearing For Fines.** Prior to imposition of any fine by the Association on any Owner, occupant, licensee or invitee for violating any provision of the Declaration, Articles, Bylaws, or rules and regulations of the Association, such person shall be given reasonable notice and opportunity to be heard. The party sought to be fined shall be given at least 14 days prior notice of a hearing, which notice shall include (i) a statement of the date, time and place of the hearing, (ii) a statement of the provision of the Declaration, Articles, Bylaws, or rules claimed to have been violated, and (iii) a short and plain statement of the matters asserted by the Association. The party sought to be fined shall have an opportunity to respond, present evidence, provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association.

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No fine shall become a lien against a Unit. No fine may exceed \$100 per violation. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed \$1,000. No fine may be levied except after giving reasonable notice and opportunity for a hearing to the Unit Owner and, if applicable, its licensee or invitee. The hearing must be held before a committee of other Unit Owners. If the committee does not agree with the fine, the fine may not be levied. The provisions of this Section 16.3 do not apply to unoccupied Units.

17. **Conflicts.** In the event of any irreconcilable conflict, the provisions of the Declaration shall be superior to the provisions of the Articles, which shall be superior to the provisions of these Bylaws.

The foregoing was adopted as the Bylaws of HARBIE CENTER CONDOMINIUM ASSOCIATION, INC., a corporation not for profit organized under the laws of the State of Florida, at its first meeting of the Board of Administration on the 17th day of November, 1997.

Approved:



Youseff Harbie, President

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OFF. REC. 17902 PG 1294

SCHEDULE A

-to-

BYLAWS

RULES AND REGULATIONS

OFF. REC. 17902 PC 1295

SCHEDULE "A" TO BYLAWS
RULES AND REGULATIONS

(1) The sidewalks, entrances, passages, and courts, shall not be obstructed or encumbered by any Unit Owner or Occupant or used for any purpose other than ingress and egress to and from the Condominium Units.

(2) No awnings or other projections shall be attached to the outside walls of the Building without the prior written consent of the Board of Directors. No curtains, blinds, shades, or screens shall be attached to or hung in, or used in connection with, any window or door of the Unit, without the prior written consent of the Board of Directors. Such awnings, projections, curtains, blinds, shades, screens, or other fixtures must be of a quality, type, design, and color, and attached in the manner approve by the Board of Directors.

(3) No sign, advertisement, notice, or other lettering shall be exhibited, inscribed, painted, or affixed by any Unit Owner or Occupant on any part of the outside or inside of the Unit or Building without the prior written consent of the Board of Directors. In the event of the violation of the foregoing by any Unit Owner or Occupant, the Board of Directors may remove same without any liability, and may charge the expense incurred by such removal to the Unit Owner or Occupant violating this rule. Interior signs on doors and directory tablet shall be inscribed, painted, or affixed at the expense of the Unit Owner or Occupant, and shall be of a size, color and style acceptable to the Board of Directors.

(4) The water and wash closets and other plumbing fixtures shall not be used for any purpose other than those for which they were constructed and no sweepings, rubbish, rags, or other substances shall be thrown therein. All damages resulting from any misuse of the fixtures shall be borne by the Unit Owner or Occupant who, or whose servants, employees, agents, visitors, or licensees shall have caused the same.

(5) No Unit Owner or Occupant shall mark, paint, drill into, or in any way deface any part of the Unit of the Building of which they form a part. No boring, cutting, or stringing of wires shall be permitted, except with the prior written consent of the Board of Directors, and as it may direct.

(6) No bicycles, vehicles, or animals of any kind shall be brought into or kept in or about the Condominium Property, and no cooking shall be done or permitted by any Unit Owner or Occupant on the Condominium Property or Unit. No Unit Owner or Occupant shall cause or permit any unusual or objectionable odors to be produced upon or permeate from the Condominium Property or Unit.

(7) No Unit Owner or Occupant shall make, or permit to be made, any unseemly or disturbing noises or disturb or interfere with occupants of this or neighboring buildings or premises or those having business with them, whether by the use of any musical

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instrument, radio, talking machine, unmusical noise, whistling, singing, or in any other way. No Unit Owner or Occupant shall throw anything out of the doors, windows, or skylights, or down the passageways.

(8) No additional locks or bolts of any kind shall be placed upon any of the doors or windows by any Unit Owner or Occupant, nor shall any changes be made in existing locks, or the mechanism thereof.

(9) All removals, or the carrying in or out of any, freight, furniture, or bulky matters of any description must take place during the hours which the Board of Directors or its agent may determine from time to time. The moving of fixtures or bulky matters of any kind must be made after previous notice to the Board or its agent. Any damage done to the Building or to the Unit Owner or Occupant or to other persons in bringing in or removing furniture or other bulky or heavy articles shall be paid for by Unit Owner or Occupant.

(10) No Unit Owner or Occupant shall occupy or permit any portion of the Unit to be used for manufacturing or for the possessions, storage, manufacturing, or sale of liquor or narcotics, or as an employment bureau. No Unit Owner or Occupant shall engage or pay any employees on the Condominium Property, except those actually working for such Unit Owner or Occupant on said premises, nor advertise for laborers giving an address at said Condominium Property or Unit.

(11) Each Unit Owner or Occupant, before closing and leaving the Unit at any time, shall see that all windows are closed. All Unit Owners or Occupants must observe strict care not to leave their windows open when it rains, and for any default or carelessness in these respects, or any of them, shall make good any injury sustained by other Unit Owners or Occupants, and to the Association for damage to paint, plastering or other parts of the Building, resulting from default or carelessness.

(12) The Unit shall not be used for gambling, lodging or sleeping or for any immoral or illegal purposes.

(13) Canvassing, soliciting, and peddling in the Building is prohibited and each Unit Owner or Occupant shall cooperate to prevent the same.

(14) The parking areas within the condominium property shall be used only for the parking of private automobiles and/or motorcycles and/or allowable trucks and vans. No other vehicles or equipment of any kind, whatsoever, including, but not limited to, boats, boat trailers and campers shall be parked, maintained, stored or otherwise kept within the designated parking areas or on any other portion of the condominium property at any time whatsoever. All parking of allowable vehicles for or on behalf of a Unit Owner shall only be in the assigned parking spaces.

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(15) No vehicle which cannot operate on its own power shall remain on the outside parking areas for more than 24 hours, and no repair of vehicles shall be made thereon, except in emergencies, and except as otherwise provided in the Declaration.

(16) The garbage and trash from a single Unit shall not be excessive as determined by the Board of Administration. If it is excessive, then the Unit Owner shall be responsible and pay the costs of removal of said excessive waste, or removal of same, as directed by the Board of Administration. Waste shall be presumptively deemed excessive if it exceeds the Unit Owner's proportionate share of total trash capacity on a weekly basis using the Unit Owner's percentage ownership in the Common Elements and the waste capacity of the trash containers located on the Common Elements. All garbage and trash shall be deposited in the disposal installations provided for such purpose, if any. Costs of removal shall be treated as an assessment.

(17) No Owner or Occupant of a Unit shall install wiring for electrical or telephone installations nor install any type of television antenna, machine or air conditioning equipment, to the exterior of his Unit, except as authorized in writing by a majority of the Board of Administration. This prohibition shall not be applicable to the installations permitted or contemplated by the Declaration.

(18) Owners and Occupants of Units shall exercise extreme care to minimize noises and odors in the Unit so as not to disturb the other Unit Owners and parties occupying Units; and not to use the Common Elements in any manner or for any purpose which would disturb or in any way inconvenience any Unit Owners or parties occupying the Units in the Condominium.

(19) Each Unit Owner and the Occupants of a Unit shall maintain in good condition and repair his Unit and all interior surfaces within the Unit.

(20) The Board of Directors reserves the right to make such other and further reasonable rules and regulations as in its judgment may from time to time be needful for the safety, care and cleanliness of the Condominium Property, and for the preservation of good order therein, and any such other or further rules and regulations shall be binding upon the Unit Owner or Occupant with the same force and effect as if they had been inserted herein at the time of the adoption.

RECORDED IN THE OFFICE OF THE CLERK OF DADE COUNTY, FLORIDA
HARVEY RUBIN, CLERK

CLERK NOTE:
FOR CONDOMINIUM PLANS SEE OFFICIAL RECORDS CONDOMINIUM RECORDS 277 PAGE 41 -
HARVEY RUBIN, CLERK
CLERK OF DADE COUNTY, FLORIDA
BY: *[Signature]* D. G.

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