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**Return to:**

Albertelli & Associates, P.L.  
330 A1A North, Suite 324  
Ponte Vedra Beach, Florida 32082  
Attn: James E. Albertelli, Esq.

**DECLARATION OF CONDOMINIUM**  
**FOR**  
**VILLA SAN MARCO CONDOMINIUM**

**WEISSMAN, NOWACK, CURRY, & WILCO, P.C.**  
Attorneys

One Alliance Center, 4th Floor  
3500 Lenox Road  
Atlanta, Georgia 30326  
(404) 926-4500

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**DECLARATION OF CONDOMINIUM****FOR****VILLA SAN MARCO CONDOMINIUM**

THIS DECLARATION is made on the date set forth below by McRae & Stolz St. Augustine, LLC, a Delaware limited liability corporation (hereinafter "Developer"), the owner of fee simple title to certain real property described in Paragraph 3 of this Declaration.

1. SUBMISSION TO CONDOMINIUM OWNERSHIP.

The Developer hereby submits to the condominium form of ownership and use the land described in Paragraph 3 of this Declaration, together with all improvements now and hereafter erected or to be installed thereon and the easements and rights appurtenant thereto pursuant to the Florida Condominium Act as it exists on the date hereof.

2. NAME.

The name by which this condominium is to be identified is VILLA SAN MARCO CONDOMINIUM (hereafter the "Condominium").

3. THE LAND.

The land submitted to the condominium is located in St. Johns County, Florida, being more particularly described in Exhibit "A", which exhibit is attached hereto and incorporated herein by this reference. A survey of the land is attached as part of Exhibit "C", which exhibit is attached hereto and incorporated herein by this reference.

4. PROPERTY SUBJECT TO CERTAIN RESTRICTIONS AND EASEMENTS.

The Condominium Property (as described hereinafter) is subject to the covenants, restrictions, easements and reserved rights of the Developer contained in this Declaration. The Condominium Property is also subject to:

(a) Easement Agreement granted to Florida Power and Light Company dated June 16, 1987 and recorded August 3, 1987 in Official Records Book 753, Page 165, *et seq.*, of the Public Records of St. Johns County, Florida.

(b) Special Warranty Deed dated December 19, 1996 and recorded December 31, 1996 in Official Records Book 1215, Page 366, *et seq.*, of the Public Records of St. Johns County, Florida.

(c) Access, Utilities, and Signage Easement Agreement and Grant of Right of First Refusal dated December 31, 1996 and recorded December 31, 1996 in Official Records Book 1215, Page 370, *et seq.*, of the public records of St. Johns County, Florida.

(d) Easement granted to Bellsouth Telecommunications, Inc. dated April 30, 2003 and recorded May 9, 2003 in Official Records Book 1950, Page 751, *et seq.*, of the public records of St. Johns County, Florida.

(e) Grant of Easement and Memorandum of Agreement in favor of Time Warner Cable Inc. dated October 7, 2003 and recorded November 18, 2003 in Official Records Book 2090, Page 308, *et seq.*, of the public records of St. Johns County, Florida.

(f) Conservation Easement granted to St. Johns River Water Management District dated November 5, 2003 and recorded December 3, 2003 in Official Records Book 2099, Page 582, *et seq.*, of the public records of St. Johns County, Florida.

(g) Grant of Easement and Memorandum of Agreement in favor of Time Warner Cable Inc. dated October 7, 2003 and recorded January 5, 2004 in Official Records Book 2117, Page 396, *et seq.*, of the public records of St. Johns County, Florida.

(h) Easement granted to Florida Power & Light Company dated January 28, 2004 and recorded February 23, 2004 in Official Records Book 2141, Page 1877, *et seq.*, of the public records of St. Johns County, Florida.

(i) St. Johns County Ordinance Number 2001-36 passed and enacted by the Board of County Commissioners of St. Johns County, Florida on May 22, 2001 and recorded June 28, 2001 in Official Records Book 1620, Page 176, *et seq.*, of the public records of St. Johns County, Florida.

(j) such other easements as shown on the Survey, as contained in any future amendments to this Declaration, or as declared by the Developer pursuant to reserved rights contained herein.

## 5. DEFINITIONS.

Generally, terms used in the Declaration, and its exhibits, shall have their normal generally accepted meanings or the meanings given in the Act. Unless the context clearly indicates a different meaning, certain terms used in the Declaration, and its exhibits, including the Bylaws, and the Articles of Incorporation shall be defined as follows:

(a) “Act” or “Condominium Act” or “Florida Condominium Act” means the Florida Condominium Act (Chapter 718, Florida Statutes) as it exists on the date hereof and as amended from time to time.

(b) “Articles” or “Articles of Incorporation” shall mean the Articles of Incorporation of Villa San Marco Condominium Association, Inc., as may be amended from time to time, which have been filed with the Florida Secretary of State and which are attached hereto as Exhibit “E” and incorporated here in this reference.

(c) “Architectural Review Committee” or “ARC” shall mean the committee established to exercise the architectural review powers set forth in Paragraph 16 hereof.

(d) “Area of Common Responsibility” shall mean and refer to the Common Elements, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any other person or entity become the responsibility of the Association.

(e) “Assessment,” as further described and defined in Paragraphs 18 and 19 hereof, shall mean a share of the funds required for the payment of Common Expenses as provided in this Declaration and which from time to time is assessed against the Unit Owner.

(f) "Association" or "Condominium Association" shall mean VILLA SAN MARCO CONDOMINIUM ASSOCIATION, INC., a Florida corporation not-for-profit, the sole entity responsible for the operation of the Condominium. Where utilized herein or in the exhibits attached hereto, the term "Corporation" shall be deemed to be synonymous with the term "Association."

(g) "Association Property" shall mean the property, real and personal, which is owned or leased by, or which is dedicated on a recorded plat or by other recorded instrument in the St. Johns County, Florida land records to the Association for the use and benefit of its members, including but not limited to the Association's non-exclusive easement for ingress and egress to property providing beach access.

(h) "Board of Directors," or "Board" shall mean the Board of Directors of the Association.

(i) "Building(s)" shall mean the structure(s) within which the Units, certain Limited Common Elements, and certain Common Elements are located on the Condominium Property.

(j) "Bylaws" shall mean the Bylaws of the Association, as may be amended from time to time, which are attached to this Declaration as Exhibit "F" and incorporated herein by this reference.

(k) "Common Elements" shall mean and include the portions of the Condominium Property which are not included within a Unit, as more particularly described in this Declaration.

(l) "Common Expenses" shall mean all expenses incurred or anticipated to be incurred by the Association for the general benefit of the Condominium, including but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Elements and Association Property; and the costs of carrying out the powers and duties of the Association. Common Expenses also include reasonable transportation services, insurance for directors and officers, road maintenance and operation expenses, in-house communications, access control services, and pest control services to the Common Elements, which are reasonably related to the general benefit of the Unit Owners even if such expenses do not attach to the Common Elements or property of the Condominium, and the cost of any master antenna television system obtained pursuant to a bulk contract, if any. Common Expenses shall not include any separate obligations of individual Unit Owners. In the event that the Board of Directors elects to install with the approval of a majority of Voting Interests in the Condominium hurricane shutters in accordance with Section 718.113(5) of the Act, and Paragraph 10(a)(viii) of the Declaration and/or to maintain hurricane shutters in accordance with Paragraph 15(b) of this Declaration, then the term "Common Expenses" shall include the expense of such installation, replacement, operation, repairs and/or maintenance in accordance with Section 718.115(1)(e) of the Act; provided that a Unit Owner who has already installed hurricane shutters (or other acceptable hurricane protection) shall receive a credit equal to the prorata portion of the assessed installation cost assigned to each Unit, but shall not be excused from any portion of expenses related to maintenance, repair, replacement, or operation of such shutters. For all purposes of this Declaration, "Common Expenses" shall also include all budgeted reserves required by the Act.

(m) "Common Surplus" shall mean the excess of all receipts of the Association collected on behalf of the Association (including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements), over and above the amount of Common Expenses.

(n) "Condominium Instruments" shall mean this Declaration and all Exhibits to this Declaration, including but not limited to the Bylaws of the Association, the Articles of Incorporation of the Association, the Survey and Floor Plans, all as may be supplemented or amended from time to time.

- (o) “Condominium Parcel” shall mean a Unit together with the undivided share in the Common Elements and the Common Surplus which is appurtenant to the Unit.
- (p) “Condominium Property” shall mean the land described in Exhibit “A” and the improvements constructed thereon which have been submitted to condominium ownership under this Declaration.
- (q) “County” shall mean St. Johns County, State of Florida.
- (r) “Declaration” or “Declaration of Condominium” shall mean this instrument, as it may be amended from time to time.
- (s) “Developer” shall mean McRae and Stolz St. Augustine, LLC, a Georgia limited liability corporation, and its successors and its assigns or any other individual or entity that qualifies as a Developer pursuant to Florida Administration Code, Section 61B – 15.007.
- (t) “Developer’s Easement Area” shall mean that certain area, as shown on the Floor Plans, that Developer has the right to use exclusively for any purpose it deems appropriate as set forth in Paragraph 13 of this Declaration.
- (u) “Domestic Partner” shall mean any adult who cohabitates with an Owner and who has been designated as the Owner’s Domestic Partner in a written statement, signed by the Owner and filed with the Association’s Secretary. A person shall no longer be a Domestic Partner upon the Secretary’s receipt of a written termination notice, signed by either the Owner or the Domestic Partner.
- (v) “Division” shall mean the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation.
- (w) “Electronic Document” shall mean signature created, transmitted, received or stored by electronic means and retrievable in human perceivable form, such as email, web pages, electronic documents, facsimile transmissions, etc.
- (x) “Electronic Signature” shall mean information created, transmitted, received or stored by electronic means and includes, but is not limited to, a Secure Electronic Signature.
- (y) “Eligible Mortgage Holder” shall mean those holders of first mortgages secured by Units in the Condominium who have requested notice of certain items as set forth in this Declaration.
- (z) “Floor Plans” shall mean the floor plans and building plans for Villa San Marco Condominium prepared by The Preston Partnership, LLC, a Georgia limited liability corporation, and required by Section 718.104 of the Act, which Floor Plans are attached hereto as Exhibit “D” and are incorporated herein by this reference.
- (aa) “Improvements” shall mean all structures located or to be constructed on the Condominium Property, including, but not limited to, the Buildings.
- (bb) “Life Safety System” shall mean any and all emergency lighting, audio and visual signals, safety systems, sprinklers and smoke detection systems, which are now or may be hereafter installed in the Buildings, whether or nor within the Units. All such Life Safety Systems, together with all conduits, wiring, electrical connections and systems related thereto, regardless of where located, shall be deemed Common Elements hereunder. Without limiting the generality of the foregoing, when the

context shall so allow, the Life Safety System shall also be deemed to include all means of emergency ingress and egress, which shall include all stairways and stair landings.

(cc) "Limited Common Elements" shall mean a portion of the Common Elements, the exclusive use of which is reserved to a certain Unit or Units to the exclusion of other Units, as same are shown on the Survey or Floor Plans, or as are specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided.

(dd) "Management Firm" means and refers to MAY Management Services, Inc., a Florida corporation, and its successors and assigns, or any person or entity contracted by the Association to perform management functions for and on behalf of the Association.

(ee) "Occupant" means and refers to a person (be it an Owner or a tenant or lessee of an Owner) who resides in a Unit. Where the context dictates, an Occupant shall also be deemed to include the family members, occasional social guests, tenants, licensees and invitees.

(ff) "Person" shall mean any individual, corporation, firm, association, partnership, trust, or other legal entity.

(gg) "Secure Electronic Signature" shall mean an electronic or digital method executed or adopted by a Person with the intent to be bound by or to authenticate a record, which is unique to the Person using it, is capable of verification, is under the sole control of the Person using it, and is linked to data in such a manner that if the data is changed, the electronic signature is invalidated.

(hh) "Survey" shall mean the survey/plot plan for Villa San Marco Condominium, prepared by Charles Bassett & Assoc., Inc., required by Section 718.104 of the Act, which Survey is attached hereto as Exhibit "C" and is incorporated herein by this reference.

(ii) "Unit" shall mean and refers to that portion of the Condominium Property which is subject to exclusive ownership and use as more particularly described in this Declaration.

(jj) "Unit Owner" or "Owner of a Unit" or "Owner" shall mean the record owner of legal title to a Condominium Parcel.

(kk) "Voting Interest" shall mean the voting rights distributed to Association members pursuant to the Declaration.

## 6. DESCRIPTION OF CONDOMINIUM.

(a) Identification of Units. The Condominium shall contain one hundred seventy-eight (178) Units. A graphic description of the buildings in which Units are located, including an identification of each Unit by a separate numerical designation is shown on the Floor Plans attached as Exhibit "D". The Survey (Exhibit "C") and the Floor Plans (Exhibit "D"), together with this Declaration, are sufficient in detail to identify the Common Elements and each Unit and their relative locations and dimensions. Time-share estates or interests will not be created with respect to any of the Units in the Condominium.

## 7. UNITS AND BOUNDARIES.

Each Unit consists of a dwelling and its appurtenant percentage of undivided interest in the Common Elements and Common Surplus. Each Unit shall be subject to the Act and the Condominium Instruments. Each Unit is identified by a separate numerical designation as set forth in Exhibit "B"

attached hereto and incorporated herein by this reference. Each Unit is depicted on the Floor Plans. The Survey and Floor Plans together with this Declaration are sufficient in detail to identify the Common Elements and each Unit and their relative locations and dimensions. Each Unit includes that part of the structure which lies within the following boundaries:

(a) Vertical Boundaries. The perimetrical or vertical boundaries of each Unit shall be the centerline of the wall separating the Unit from the exterior wall or walls of the Building and the centerline of the wall separating the Unit from the hallway of the floor on which the Unit is located in the Building. With respect to common walls between Units, the perimetrical or vertical boundary of the Units served thereby shall be the centerline of such wall. The vertical boundaries include the wallboard or other material comprising the wall of the Unit.

(b) Horizontal Boundaries.

(i) If the Unit is on the top floor of the building, the upper horizontal boundary of such Unit is the centerline of the concrete slab between the ceiling of such Unit and the roof of the building. The lower horizontal boundary of such Unit is the centerline of the concrete slab between the flooring of the Unit and the ceiling of the Unit below it.

(ii) If the Unit is on the bottom floor of the building, the upper horizontal boundary of such Unit is the centerline of the concrete slab between the ceiling of such Unit and the flooring of the Unit above it. The lower horizontal boundary of each such Unit located in the Condominium is the upper surface of the concrete subflooring on which the Unit is constructed, with the flooring, if any, constituting part of the Unit and the concrete subflooring and building foundation not constituting part of the Unit.

(iii) If the Unit is not on the top or bottom floors of the building, the upper horizontal boundary of such Unit is the centerline of the concrete slab between the ceiling of such Unit and the flooring of the Unit above it. The lower horizontal boundary of such Unit is the centerline of the concrete slab between the flooring of the Unit and the ceiling of the Unit below it.

(c) Additional Information to Interpret Unit Boundaries. Entry doors and exterior glass surfaces, including, but not limited to, windows and glass doors, serving the Unit shall be included within the boundaries of the Unit. Heating and air conditioning systems serving a single Unit (including any part of such system located outside the boundaries of the Unit), all duct work for heating and air conditioning systems and appliances and plumbing fixtures within a Unit shall be part of the Unit.

If any chutes, flues, ducts, conduits, wires, pipes or other apparatus lies within and partially outside of the designated boundaries of the Unit, any portion thereof which serves only that Unit shall be deemed to be a part of that Unit, while any portions thereof which serve more than one Unit or any portion of the Common Elements shall be deemed a part of the Common Elements.

In interpreting deeds and Floor Plans, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original Floor Plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any deed or Floor Plan, regardless of settling or lateral movement of the building in which the Unit was located, and regardless of minor variance between the boundaries shown on the Floor Plans or in a deed and those of the Unit.

(d) Appurtenances to Units. The ownership of each Unit shall include and 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 provided in this

Declaration; (c) an exclusive easement for the use of the air space 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 air space which is vacated shall be terminated automatically; (d) membership in the Association with the full voting rights appurtenant thereto; and (e) other appurtenances as may be provided by this Declaration or the Act.

8. COMMON ELEMENTS.

(a) The Common Elements consist of all portions of the Condominium Property not located within the boundaries of the Units. The Common Elements include all Limited Common Elements as described in Paragraph 10 herein and further, includes, but is not limited to, the following:

(i) easements over, under, across, and through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to the Units and the Common Elements;

(ii) an easement of support in every portion of a Unit which contributes to the support of any other Unit or the Buildings;

(iii) the property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements; and

(iv) certain utility infrastructures, fences, limited access gated entry system, covered breezeways, entry feature and lighting for same, paving, walls, the foundations, roofs, exterior walls of the Buildings, a maintenance room, electrical rooms, covered walkways, exterior stairs, steps, mechanical rooms, electrical rooms, Life Safety System, trash dumpster and compactor, exercise room/fitness center, including all equipment and furniture for same, swimming pool, decks, pool bathrooms, mail kiosk, landscape areas, outside parking area and lighting for same, lawn irrigation system, driveways including sidewalks, walking paths, directory signs, club room, business center, conference room, car wash, all other lighting, personal property, equipment and furniture in any Common Element of the Condominium Buildings.

(b) Additions, Alterations or Improvements to the Common Elements by the Association. Whenever, in the judgment of the Board of Directors, the Common Elements, or any part thereof, shall require capital additions, alterations or improvements (as distinguished from maintenance, repairs and replacements) costing in excess of \$50,000.00 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 the Owners of sixty-six two-thirds percent (66.67%) of the Units 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 \$50,000.00 or less in a calendar year may be made by the Board of Directors without approval of the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Elements shall be as a "Capital Improvement Special Assessment" of the Unit Owners as provided in Section 18 of this Declaration. For purposes of this Section, "aggregate in any calendar year" shall include the total debt incurred in that year, if such debt is incurred to perform the above-stated purposes, regardless of whether the repayment of any part of that debt is made beyond that year.

9. RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS.

The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and the exclusive right to use all appropriate appurtenant Limited Common Elements, shall not be separated from such Unit and shall pass with the title to the Unit, whether or not separately described.

The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all Limited Common Elements appurtenant to a Unit, cannot be conveyed or encumbered, except together with such 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 be undertaken, except as provided herein with respect to termination of the Condominium.

10. LIMITED COMMON ELEMENTS.

(a) The Limited Common Elements located on the Condominium and the Unit(s) to which they are assigned are:

(i) the portion of the Common Elements on which there is located any portion of the air conditioning or heating system exclusively serving a particular Unit or Units is assigned as Limited Common Element to the Unit or Units so served;

(ii) any utility meter not owned by the utility company, if any, which serves only one Unit is assigned as a Limited Common Element to the Unit so served;

(iii) any screened or unscreened balcony or patio, attached to and serving only one (1) Unit is assigned as a Limited Common Element to the Unit to which it is attached and which it serves;

(iv) Parking Spaces. The Developer, in its sole discretion, reserves the right to designate and assign, with or without consideration, all parking spaces situated on the Condominium Property, as shown on Exhibit "C" ("Survey") and Exhibit "D" ("Floor Plans") hereof, as Limited Common Elements for the exclusive use by Unit Owners of specified Units as long as it holds any Unit for sale in the ordinary course of business. Thereafter, any remaining parking spaces that have not been delegated or assigned by Developer shall be deemed to be Common Elements under the control of the Association, and may be assigned by the Association, in its sole discretion, to a Unit Owner as a Limited Common Element. After assignment to a Unit, each parking space shall pass as a Limited Common Element of the Unit. No Unit Owner shall have or acquire any fee simple title to the parking space at any time except as part of the Unit Owner's undivided share in the Common Elements. Upon payment by the Unit Owners of such price as Developer deems appropriate, in its absolute discretion, the Developer shall assign a space or spaces to a Unit and once so assigned, said space or spaces shall become a Limited Common Element appurtenant to such Unit. All assignments of parking spaces shall be made by a non-recordable instrument in writing ("Parking Space Assignment"). The Association shall maintain a book (the "Association Book") for purposes of recording the current assignee of each parking space. The Developer will cause the Association to record each such Parking Space Assignment in the Association Book and the Unit Owner to which such use is assigned shall have the exclusive right to the use thereof. All fees collected by Developer for assigning parking spaces, if any, shall be retained by Developer and shall not constitute income or revenue of the Association. Parking Space Assignments shall be executed by Developer alone, the President of the Association alone, or by any two (2) officers of the Association. There shall be no recordation in the County of the transfer of a parking space. A Unit Owner who has acquired Limited Common Element parking spaces appurtenant to its Unit from the Developer or Association shall have the right to transfer or assign any of its Limited Common Element parking spaces to another Unit Owner. The assigning Unit Owner shall have the right to retain all consideration paid by the Unit Owner for the assignment of the parking spaces. Upon a reassignment of a parking space by an Owner, such Owner shall promptly provide written evidence of same to the Association and the Association shall record the reassignment in the Association Book;

(v) Garages. The Developer, in its sole discretion, reserves the right to designate and assign, with or without consideration, any garage situated on the Condominium Property, as shown on Exhibit "D" (Floor Plans) hereof, as Limited Common Elements for the exclusive use by Unit Owners of specified Units as long as it holds any Unit for sale in the ordinary course of business or for a period of three (3) years after the recordation of this Declaration whichever is longer. Thereafter, any remaining garage that has not been delegated or assigned by Developer shall be deemed to be Common Elements under the control of the Association, and may be assigned by the Association, in its sole discretion, to a Unit Owner as a Limited Common Element. After assignment to a Unit, each garage shall pass as a Limited Common Element of the Unit. No Unit Owner shall have or acquire any fee simple title to the garage at any time except as part of the Unit Owner's undivided share in the Common Elements. Upon payment by the Unit Owners of such price as Developer deems appropriate, in its absolute discretion, the Developer shall assign a garage to a Unit and once so assigned, said garage shall become a Limited Common Element appurtenant to such Unit. All such assignments of garages shall be made by a non-recordable instrument in writing ("Garage Assignment"). The Association shall maintain a book (the "Association Book") for purposes of recording current assignee of each garage. The Developer will cause the Association to record each such Garage Assignment in the Association Book and the Unit Owner to which such use is assigned shall have the exclusive right to the use thereof. All fees collected by Developer for assigning garages, if any, shall be retained by Developer and shall not constitute income or revenue of the Association. Garage Assignments shall be executed by Developer alone, the President of the Association alone, or by any two (2) officers of the Association. There shall be no recordation in the County of the transfer of a garage. A Unit Owner who has acquired a garage(s) from the Developer or Association shall have the right to transfer or assign any of its garages to another Unit Owner. The assigning Unit Owner shall have the right to retain all consideration received by the Unit Owner for the assignment of the garage. Upon a reassignment of a garage by an Owner, such Owner shall promptly provide written evidence of same to the Association and the Association shall record the reassignment in the Association Book;

(vi) Storage Spaces. The Developer, in its sole discretion, reserves the right to designate and assign, with or without consideration, the exclusive right to use any storage space within the Condominium Property as shown on Exhibit "D" ("Floor Plans") to a Unit, whereupon the space so assigned shall be deemed as Limited Common Elements for the exclusive use by the Unit Owner of that specifically designated Unit. The Association shall not have any right to receive any or all of the consideration received by Developer and/or rescind any assignment by Developer. Upon payment by the Unit Owner of such price as Developer deems appropriate, in its absolute discretion, the Developer shall assign such storage space to a Unit and once so assigned, said storage space shall become a Limited Common Element appurtenant to such Unit. All such assignments of storage spaces shall be made by a non-recordable instrument in writing ("Storage Space Assignment"). The Developer will cause the Association to record each such Storage Space Assignment in the Association Book and the Unit Owner to which such use is assigned shall have the exclusive right to the use thereof. Storage Space Assignments shall be executed by Developer alone, the President of the Association alone, or by any two (2) officers of the Association. There shall be no recordation in the County of the transfer of a storage space. A Unit Owner who has acquired a storage space from the Developer or Association shall have the right, at any time after Developer has transferred the last storage space to transfer or assign its storage space to another Unit Owner. Any consideration for the assignment of the storage space shall belong solely to the assigning Unit Owner. Upon a reassignment of a storage space by an Owner, such Owner shall promptly provide written evidence of same to the Association and Association shall cause such assignment to be noted in the Association Book. The maintenance of the interior of any space so assigned, as well as the insurance of its contents, shall be the sole responsibility of the Unit Owner to which it is assigned. Any required structural or exterior

repairs required thereto, shall be the responsibility of the Association and the costs thereof shall be deemed a Common Expense;

(vii) each Unit is assigned one (1) mail box in the mail kiosk to be initially assigned by the Developer; and

(viii) In accordance with Section 718.113(5) of the Act, the Board may, with the approval of a majority of Voting Interests in the Condominium, install temporary or permanent hurricane shutters. Any such approved shutters shall be Limited Common Elements assigned to the Unit to which they are attached and serve, or shall be Common Elements if attached to and serving a Common Element. In the event the Board does not install such shutters, Unit Owners may install shutters in accordance with Paragraph 23(f) of this Declaration. Any hurricane shutter affixed to the exterior of a building by a Unit Owner and serving a particular Unit is assigned as a Limited Common Element to the Unit so served.

#### 11. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.

All Unit Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit in the Condominium, excluding Persons holding such interest under a Mortgage, are members of Villa San Marco Condominium Association, Inc., Inc., and, except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Declaration and in accordance with the Bylaws. Subject to the provisions of the Condominium Instruments, the Owner or collective Owners of a Unit shall be entitled to one (1) equally weighted vote for such Unit ("Voting Interest"). The total number of votes shall at all times be equal to the number of Units submitted to the Condominium under this Declaration. Membership in the Association shall automatically terminate upon the termination of ownership of a Condominium Parcel, and the subsequent owner taking title shall automatically become entitled to membership.

#### 12. OWNERSHIP OF COMMON ELEMENTS AND COMMON SURPLUS AND SHARE OF COMMON EXPENSES.

The proportion or percentage of and manner of sharing Common Expenses and owning the Common Surplus shall be the same as the undivided shares in the Common Elements. The undivided share in the Common Elements and Common Surplus appurtenant to each Unit, as well as the undivided share of the Common Expenses to be paid with respect to each Unit, shall be computed on the following basis:

(a) The allocation of percentage shares 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" as attached hereto and incorporated herein by this reference. The allocation of percentage shares has been established by the Developer in the following manner:

(i) the approximate area within the boundary of each Unit has been measured in square feet from the centerline of the wall separating the Unit from adjacent Units and from the centerline of the wall separating the Unit from the exterior wall or walls of the Buildings in which the Unit is located and the centerline of the wall separating the Unit from the hallway of the building in which the Unit is located. Such area for each such Unit is hereafter referred to as its "Unit Area."

(ii) the total of the Unit Area of all Units has been computed and is hereinafter referred to as the "Total Unit Area."

(iii) the Total Unit Area has been divided into the Unit Area of each Unit to determine the allocation of percentage shares for each Unit as set forth on Exhibit "B" to this Declaration.

The foregoing methods of calculation were undertaken in order to establish a fair and equitable method of allocating assessment percentages to Units within the Condominium and every Unit Owner shall be bound by such calculations and hereby irrevocably waives the right to assert that the formula used or the measurements made were unfair, inequitable, or otherwise in error; provided that in the case of a scrivener's error as described in Section 718.110(5) of the Act, such error may be corrected by an amendment to this Declaration approved by the Board of Directors or a majority of Unit Owners.

### 13. EASEMENTS.

The following easements are hereby created (in addition to any easements created under the Act and any other provisions of this Declaration):

(a) Support. Each Unit, Building and Improvement 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. To the extent that the sprinkler system or other part of the Life Safety System or any utility line, pipe, wire, or conduit serving any Unit, Units or the Common Elements shall lie wholly or partially within the boundaries of another Unit or the Common Elements, such other Unit, Units, or the Common Elements shall be burdened with a non-exclusive easement for the use, maintenance, repair and replacement of such sprinkler system, utility line, pipe, wire or conduit, such non-exclusive easement to be in favor of the Unit, Units, or Common Elements served by the same and the Association. It shall be the obligation of the benefited Owner to maintain, replace and repair any pipe, line, conduit, duct or wire owned by such Owner, even if such pipe, line conduit, duct or wire is located within the boundaries of a Unit of another Owner. In such circumstance, the benefited Owner shall repair all incidental damage to any Unit resulting from performance of any such work. All Unit Owners hereby covenant and agree that as finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready". Components that may require repair or replacement, such as tile and trim, will be reinstalled only to the extent of readily available materials or similar materials (trim and such will also be finished to "paint-ready"). Due to the uncontrollability of quality of repair, items such as faux paint treatment, wallpaper, ceiling/wall appliqué, and any other similar types of finishes, will not be the responsibility of the benefited Owner. Furthermore, non-exclusive easements are hereby reserved unto the Developer and also granted to the respective utility providers under, through and over the Condominium Property as may be required from time to time for the construction, use and maintenance of all utilities (whether public or private), cable television, communications and security systems, and other services which may serve the Condominium and each Unit; provided, however, that these easements shall not permanently interfere with the use of the Units. A non-exclusive easement is also reserved unto the Developer and granted to all applicable governmental entities over and across the Common Elements for the purpose of providing drainage and for the installation, operation, use and maintenance of drainage facilities; provided, however, that the Association shall be responsible for the continuous maintenance of the easements and rights-of-way of the drainage system located on any and all portions of the Condominium Property. This obligation shall run with the land as do other provisions of the Declaration. A Unit Owner shall do nothing within or outside his or her 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 service or drainage facilities or the use of these easements.

(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 the Developer, as appropriate, 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.

(d) Use and Enjoyment. Each Unit Owner and Occupant shall have a right and a non-exclusive easement of use and enjoyment in and to the Common Elements (including the right of access, ingress and egress to and from his or her Unit over those portions of the Condominium designated for such purpose), and such non-exclusive easement shall be appurtenant to and shall pass with the title to such Unit, subject to (i) the rights of the Unit Owners to the exclusive use of the Limited Common Elements assigned to their respective Units; (ii) to the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Declaration; and (iii) the right of the Association to have access to the Units and Limited Common Elements assigned to a Unit to discharge its rights and obligations, under the Condominium Instruments, including without limitation, the maintenance responsibility of the Association. None of the easements specified in this subsection shall be encumbered by any leasehold or lien other than those on Condominium Parcels. Any such lien encumbering such easements (other than those on the Condominium Parcels) automatically shall be subordinate to the rights of Unit Owners and the Association with respect to such easements.

(e) Easement For Facilities and Services. The Association and its agents, contractors, designees, employees, successors and assigns shall have (i) a non-exclusive easement for access and use of all the Common Elements, including, but not limited to, those customarily used for pedestrian and vehicular traffic and also including driveways, parking lots (both covered and uncovered), walkways, halls and corridors, balconies (whether screened or unscreened), mechanical/electrical rooms, for the purpose of performing its obligations under the Condominium Instruments, including, but not limited to, cleaning, repairing, maintaining and improving the Buildings and Improvements; and (ii) an irrevocable right of access to each Unit during reasonable hours, when necessary for the maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units. In addition, the Association (and its agents, contractors, designees, successors and assigns) shall have an irrevocable right of access to each Unit for the purpose of installing hurricane shutters in accordance with the provisions of Paragraph 10(a)(viii) hereof.

(f) Additional Easements. The Developer (as long as it offers any Unit for sale in the ordinary course of business) and the Association, on their behalf and on behalf of all Unit Owners (each of whom hereby appoints the Developer and the Association as its attorney-in-fact for this purpose), each shall have the right to grant such additional general ("blanket") and specific electric, gas or other utility, cable television, security systems, communications or service easements (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or modify or relocate any such 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 operation and maintenance of the Improvements, or any portion thereof, or for the general health or welfare of the Unit Owners, or for the purpose of carrying out any provisions of this Declaration, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for dwelling purposes. In addition, the Board of Directors has the authority,

without the joinder of any Unit Owner, to grant, modify, or move any easement if the easement constitutes part of or crosses the Common Elements or Association Property.

(g) Survey. All easements described or shown on the Survey.

(h) Developer Easements. For so long as Developer owns any Unit primarily for the purpose of sale, Developer and its duly authorized contractors, subcontractors, representatives, agents, associates, employees, tenants and successors and assigns shall have: (1) a non-exclusive easement for access and ingress to, egress from and use of the Common Elements for the placement and maintenance of signs, banners, balloons, decorations, marketing materials and tables, a sales office, a leasing office, a business office, promotional facilities and model Units on any portion of the Condominium, together with such other facilities as in the opinion of Developer may be reasonably required, convenient or incidental to the completion, renovation, improvement, development, sale or lease of any Unit; and (2) a non-exclusive easement to use the Common Elements for special events and promotional activities. Additionally, Developer and its duly authorized contractors, subcontractors, representatives, agents, associates, employees, tenants and successors and assigns, shall have an exclusive easement for any and all purposes it deems appropriate over, on and through Developer's Easement Area as depicted on the Floor Plans so long as Developer, or any successor Developer, owns any Unit for the purpose of sale or lease. Said easement will terminate when Developer no longer holds Units for sale in the ordinary course of business and is subject to termination after Unit Owners, other than Developer have assumed control of the Association in accordance with Article IV, Section 3 of the Bylaws. In addition, until such time as the Developer relinquishes control of the Association in accordance with Section 718.301(4) of the Act, the Developer shall have a transferable, non-exclusive easement on, over, through, under and across the Common Elements and Limited Common Elements for the purpose of making improvements on the Condominium or any portion thereof, for the purpose of constructing, installing, replacing, repairing, restoring and maintaining all utilities, buildings, driveways, landscaping and any other improvements on the Condominium Property or other Property serving the Condominium, and for the purpose of doing all things reasonably necessary and proper in connection therewith.

(i) Developer Activities. Until such time as the Developer completes and sells all of the Units in the Condominium, the Developer reserves, for the purpose of developing, renovating and constructing the Condominium Property, the right to prohibit access to any portion of the Common Elements of the Condominium Property or uncompleted Units to any of the Occupants of the Condominium, and to utilize various portions of the Common Elements or the Units in connection with such construction and development; provided that in no event shall the Developer prevent reasonable access by Owners and Occupants to Common Elements for the purpose of ingress and egress to and from the Units. No Unit Owner or Occupant's guests or invitees shall in any way interfere or hamper the Developer, its employees, successors or assigns, in connection with such activities of the Developer. Thereafter, during such time as the Developer, its successors or assigns, own any Units within the Building and is carrying on any business in connection therewith, including the selling, renting or leasing of such Units, the Unit Owners, their guests and invitees shall in no way interfere with such activities or prevent access to such Units by the Developer, its employees, its successors or assigns.

(j) Sales and Management Activities. Until such time as the Developer has conveyed all Units to third parties, other than the Developer or parties affiliated with the Developer, the Developer, its designees, successors and assigns, shall have the right to use any such Units owned by the Developer and parts of the Common Elements (including the Clubhouse) for Unit models, sales, closings, management and construction offices; to show model Units and the Common Elements to prospective purchasers and, if applicable, tenants of Units; and to erect on the Condominium Property signs and other promotional material to advertise Units for sale or lease, and to take any and all actions which, in the Developer's opinion, may be helpful in selling or leasing Units or for promoting the Condominium and its operation generally.

(k) Community Bulletin Board. As part of the Common Elements maintained by the Association, Developer and/or the Board shall have the right, but not the obligation, to erect on the Condominium a bulletin board primarily for the use of Unit Owners in advertising their Units for sale; provided that such bulletin board shall not be used by Unit Owners to advertise the sale of their Unit as long as the Developer owns any Unit for sale in the ordinary course of business. For so long as the Association desires to maintain this bulletin board, each Unit Owner and his licensed real estate broker and agent may use the Condominium for access, ingress and egress to and from this bulletin board; provided, however, the use of the bulletin board shall be subject to such reasonable nondiscriminatory rules and regulations as may be adopted or promulgated by the Board regulating the size and duration of such advertisements. Developer or Board may terminate use of this bulletin board entirely at any time, and no property rights of any kind are created hereby. In addition, the Board has the right, but not the obligation, to adopt reasonable rules and regulations to permit Unit Owners to use the Community Bulletin Board for other purposes such as advertising Units for rent, and/or the sale or rental of items such as equipment or furniture.

Wherever in this Paragraph or elsewhere in this Declaration an easement is granted or reserved to any party, such easement shall also benefit such party's successors, grantees, assigns, agents, employees, licensees, tenants, invitees and guests. All easements referred to herein shall be non-exclusive easements, except for the Developer's exclusive easement over the Developer's Easement Area as defined hereunder and as depicted on the Floor Plans.

#### 14. AMENDMENTS.

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

(a) 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 Directors of the Association or by not less than one-third (1/3) of the Unit Owners of the Association. Directors 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 of the Association at or prior to the meeting. Except as elsewhere provided, approvals must be by an affirmative vote of (a) Unit Owners of not less than 66-2/3% of the Units in the Condominium and by not less than 66-2/3% of the Board of Directors of the Association; or (b) Unit Owners of not less than seventy-five percent (75%) of the Units in the Condominium.

#### (b) Amendment by Developer.

(i) Amendment to Condominium Plans and Declaration. The Developer reserves the right to make whatever changes it may deem necessary in the Condominium Instruments or other documents required by Section 718.104 of the Act and this Declaration in a manner that will not materially and adversely affect the property rights of any Unit Owner other than the Developer until such time as all of the Units held primarily for the purpose of sale have been conveyed to third parties not related to or affiliated with the Developer. The amendment reflecting such changes need only be executed by the Developer; provided, however, that no such amendment unilaterally approved by the Developer shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, or change the proportion or percentage by which a Unit Owner shares the Common Expenses and owns the Common Surplus, unless such amendment is also approved by the record Owner of the affected Unit, all record owners of liens on such affected Unit, and at least a majority of the total Voting

Interests of the Association. Further, no amendment unilaterally approved by the Developer shall permit timeshare estates to be created in any Unit.

(ii) Special Amendment. Developer, its designees, successors, or assigns, reserves the right and power to record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends the Declaration and any provision therein (i) to comply with requirements of the FNMA, FHLMC, the Government National Mortgage Association, the Department of Housing and Urban Development, the Federal Housing Administration, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities; (ii) to induce any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages covering Units; and (iii) to bring this Declaration into compliance with applicable laws, ordinances or governmental regulations. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Developer to make or consent to a Special Amendment on behalf of each Unit Owner and the Association. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of the Developer to make, execute and record Special Amendments. The right and power to make Special Amendments hereunder shall terminate when the Developer no longer owns any Unit for the purpose of sale.

(iii) If there has been an omission or error in this Declaration or any other document required by law to establish the Condominium, the Association may correct such error or omission by an amendment approved by a majority of the Board of Directors, provided that this procedure for amendment shall not be used if such an amendment would materially and adversely affect substantial property rights of Unit Owners, unless the affected Unit Owners consent to such amendment in writing.

(iv) This Declaration and all exhibits hereto, where applicable, may be amended by an amendment approved by a majority of the Board of Directors or a majority of Unit Owners to correct scrivener's errors described in Section 718.110(5) of the Act.

(c) 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 with the same formalities required for the execution of a deed. Amendments by the Developer must be evidenced by a similar certificate executed by the Developer alone. An amendment of the Declaration is effective when the amendment is properly recorded in the public records of the County. All Amendments shall be distributed to Unit Owners and Occupants after approval and recordation of such Amendment.

(d) 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 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, rather, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Section \_\_\_\_\_ of the Declaration. See provision \_\_\_\_\_ for present text." Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

(e) Limitations.

(i) 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 without the written consent of the Developer in each instance. The provisions of this Paragraph may not be amended in any manner.

(ii) Unless otherwise provided specifically to the contrary in this Declaration, no amendment shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, or change the proportion or percentage by which the Owner of a Unit shares the Common Expenses and owns the Common Elements and Common Surplus, unless the record Owner(s) of the Unit(s) so affected, and all record owners of 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 in the Condominium.

15. MAINTENANCE RESPONSIBILITY.

(a) By the Owner. Each Owner shall have the obligation to maintain and keep in good repair all portions of his or her Unit and, including Limited Common Element balconies or patios, storage areas, (including screening of screened balconies or patios but excluding the structure of screened balconies or patios) and the interior of Limited Common Element garages, and all improvements made by the Owner to the Limited Common Elements assigned to the Unit except any portion of a Unit which is expressly made the maintenance obligation of the Association as set forth in subparagraph (b) below. This maintenance responsibility shall include, but not be limited to the following: all glass surfaces, windows (excluding exterior cleaning), window frames (except for periodic painting, staining and/or cleaning of the exterior window frames), casings and locks (including caulking of windows); Limited Common Element hurricane shutters assigned to their Unit, if any, unless the Board elects to maintain such shutters in accordance with Paragraph 15(b) below, all doors, doorways, door frames, and hardware that are part of the entry system of the Unit (except for periodic painting, staining and/or cleaning of the exterior surface of entry doors, door frames and doorways facing the hallway of the Condominium and excluding the exterior surfaces of garage doors); all portions of the heating and air conditioning system, including the air conditioning compressor serving the Unit, the fan coil and drip pan; and all pipes, lines, ducts, conduits, or other apparatus which serve only the Unit, whether located within or without a Unit's boundaries (including all electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, or other apparatus serving only the Unit). Unit Owners shall also be responsible for keeping the interior of his or her Unit free from insects and pests, including the responsibility to hire a professional exterminator when necessary. Additionally, each Unit Owner shall perform maintenance obligations as described in Paragraph 15(e) below ("Mold and/or Mildew") within his/her Unit. All maintenance, repair and/or replacements for which the Owner is responsible and obligated to perform which if not performed, would affect other Units or Common Elements, shall be performed promptly as the need arises.

In addition, each Unit Owner shall have the responsibility:

(i) To keep in a neat, clean and sanitary condition any Limited Common Elements serving his or her Unit.

(ii) To perform his or her responsibility in such manner so as not to unreasonably disturb other persons in other Units.

(iii) To promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible.

(iv) To pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Unit Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing, or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Unit Owner, his or her family, tenants or guests, with the cost thereof to be billed to the Owner, which cost shall bear interest at the highest rate permitted by law from the date expended until paid in full.

(b) By the Association. The Association shall maintain and keep in good repair as a Common Expense the "Area of Common Responsibility," which includes, but is not limited to, the following:

(i) all Common Elements, including any Limited Common Elements but excluding all improvements made to such Limited Common Elements and excluding Limited Common Element balconies or patios and the screening of Limited Common Element screened balconies or patios, (but including the structures of the Limited Common Element screened balconies or patios), and excluding the interior of Limited Common Element storage spaces and the interior of Limited Common Element garages, and including all portions of the roof and the roof support systems, including the roof joists and cross braces, even if such roof joists and cross braces are located within a Unit, and including all parking spaces;

(ii) periodic painting, staining and/or cleaning of exterior surfaces of the Condominium Buildings, exterior of garages and exterior of garage doors, exterior windows and window frames and entry doors and door frames, on a schedule to be determined by the Board of Directors;

(iii) the Board has the right (without approval of the membership) but not the obligation, to maintain hurricane shutters, if any; and

(iv) the Life Safety System (including but not limited to sprinkler systems) and building systems.

Except for the maintenance responsibilities provided in subparagraph (a) above, no maintenance or repair which is the responsibility of the Association shall be performed on or to the Common Elements by an Owner or Occupant (including, but not limited to landscaping of Common Elements). If any such maintenance or repair is performed by an Owner or Occupant in violation of these covenants, the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair and the Owner or Occupant shall be liable to the Association for any resulting damage to the Common Elements.

Neither the Association nor the Developer shall be liable for injury or damage to person or property caused by the elements or by the Owner of any Unit, or any other person, or resulting from any utility, rain which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except for injuries or damages arising after the Owner of a Unit has put the Association on notice of a specific leak or flow from any portion of the Common Elements and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. Neither the Association nor the Developer shall be liable to the Owner of any Unit or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements. Neither the Association nor the Developer shall be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association or Developer to take some action or perform some function required to be

taken or performed by the Association or by the Developer under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements by the Association or Developer, or from any action taken by the Association or Developer to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

The Association shall repair incidental damage to any Unit resulting from performance of work which is the responsibility of the Association. As finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready". Such repair and subsequent cleaning shall be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

(c) Failure to Maintain. If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, the Association shall give the Owner written notice of the Owner's failure or refusal. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors.

Unless the Board of Directors determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days. If the Owner does not complete the required maintenance, repair and/or replacement within the time allotted, and if the repair, replacement and/or maintenance is of an item which, if not performed would affect other Units or the Common Elements but which does not create an emergency, the Board may provide such maintenance, repair or replacement at a time agreed upon with the Owner and such cost shall be billed to the Owner. If the Board determines that an emergency exists by virtue of an Owner's failure to maintain, then the Board may enter the Unit and provide the necessary maintenance, repair and/or replacement and such cost shall be billed to the Unit Owner. Any cost billed to the Owner pursuant to this subsection may include reasonable administrative fees and shall bear interest at the highest rate permitted by law from the date expended until paid in full may include reasonable administrative fees.

If the Board determines that the need for maintenance or repair is in the Area of Common Responsibility and is caused through the willful or negligent act of any Owner, or Occupant or their family, guests, lessees, or invitees, then the Association may bill the Owner for the cost of any such maintenance, repair, or replacement and any such amount billed may include reasonable administrative fees and shall bear interest at the highest rate permitted by law from the date expended until paid in full.

(d) Measures Related to Insurance Coverage.

(i) The Board of Directors, upon resolution, shall have the authority to require all or any Unit Owner(s) to do any act or perform any work involving portions of the Condominium which are the maintenance responsibility of the Unit Owner, which will, in the Board's sole discretion, decrease the possibility of fire or other damage in the Condominium, reduce the insurance premium paid by the Association for any insurance coverage or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring Owners to install and maintain smoke detectors, requiring Owners to certify that they have checked the batteries for their smoke detectors, requiring Owners to allow the Association to inspect the smoke detectors and replace batteries if needed by the Board of Directors, requiring Owners to make improvements to the Owner's Unit, and such other measures as the Board may reasonably require so long as the cost of such work does not exceed Three Hundred Dollars (\$300.00) per Unit in any twelve (12) month period.

(ii) In addition to, and not in limitation of, any other rights the Association may have, if any Unit Owner does not comply with any requirement made by the Board of Directors pursuant to subparagraph (d)(i) above, the Association, upon fifteen (15) days' written notice (during which period the Unit Owner may perform the required act or work without further liability), may perform such required act or work at the Unit at a mutually agreed upon time. The cost of any such work performed by the Association shall be billed to the Owner and shall bear interest at the highest rate permitted by law from the date expended until full payment. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to subparagraph (d)(i) of this Paragraph, including, but not limited to, a right of entry without notice in an emergency situation.

(e) Mold and/or Mildew. Mold and/or mildew can grow in any portion of the Condominium that is exposed to elevated levels of moisture. The Association and each Unit Owner agree to: (i) regularly inspect the parts of the Condominium that they respectively maintain, and which are visible and accessible without having to first conduct invasive testing, for the existence of mold, mildew, and/or water intrusion (except when the water intrusion is part of the normal functioning of improvements and appliances such as showers, sinks, dishwashers, and other similar appliances and improvements) and/or damage; (ii) upon discovery, immediately repair in a good and workmanlike condition the source of any water intrusion in the parts of the Condominium that they respectively maintain; (iii) remediate or replace any building material located in the parts of the Condominium that they respectively maintain that has absorbed water or moisture as a result of water intrusion; and (iv) promptly and regularly remediate all mold and/or mildew discovered in the parts of the Condominium that they respectively maintain in accordance with current industry-accepted methods. In addition, the Association agrees to notify the Units Owners, and each Unit Owner agrees to notify the Association within twenty-four (24) hours of the discovery of mold, mildew, and/or water intrusion and/or damage in the parts of the Condominium that they respectively maintain. (See also Paragraph 23(x) of this Declaration.)

Notwithstanding anything to the contrary herein, Developer shall have no obligation to perform any invasive testing or inspections, maintenance or repairs in accordance with this Paragraph 15(e), and shall not be held liable for any loss or damage caused by the failure of the Association or a Unit Owner to perform their obligations herein.

#### 16. ARCHITECTURAL CONTROLS.

##### (a) By Unit Owners.

(i) During Developer Control. During the time in which the Developer has the right to appoint a majority of the directors and officers of the Association under Article IV of the Bylaws there shall be no Architectural Review Committee ("ARC") and all encroachments onto the Common Elements or Limited Common Elements, exterior change, alteration or construction (including painting and landscaping), and any erection, placement or posting of any object, sign, clothesline, speaker, playground equipment, light, fountain, flag (except that one (1) portable, removable United States flag may be displayed in a respectful way, and in accordance with Section 718.113(4) of the Act as it may be amended from time to time, portable, removable, official flags not larger than four and one-half feet (4-1/2') by six feet (6') in size that represent the United States Army, Navy, Air Force, Marine Corps or Coast Guard, may be displayed in a respectful way on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day), or thing on the exterior or roofs of the Buildings, in any windows (except window treatments as provided herein), or on any Limited Common Elements or any Common Elements, must receive the prior written approval of the Developer; however, religious symbols not larger than two inches (2") in width and five inches (5") in height may be posted on the door frame of the Unit and reasonable seasonal decorative lights may be displayed between Thanksgiving and January 15<sup>th</sup>. Granting or

withholding such approval shall be within the sole discretion of the Developer. All references in the Condominium Instruments to the Architectural Review Committee or ARC shall refer to the Developer during the period the Developer has the right to appoint a majority of the officers and directors of the Association.

(ii) After Developer Control. At the time the Unit Owners other than the Developer have the right to elect a majority of the officers and directors of the Association as provided in Article IV of the Bylaws, an Architectural Review Committee shall be appointed by the Board of Directors and except for the Developer (so long as the Developer shall own a Unit for sale), no Owner, Occupant, or any other person may make any encroachment onto the Common Elements or Limited Common Elements, or make any exterior change, alteration, or construction (including painting and landscaping), nor erect, place or post any object, sign, clothesline, speaker, playground equipment, light, fountain, flag (except that one (1) portable, removable United States flag may be displayed in a respectful way, and in accordance with Section 718.113(4) of the Act as it may be amended from time to time, portable, removable, official flags not larger than four and one-half feet (4-1/2') by six feet (6') in size that represent the United States Army, Navy, Air Force, Marine Corps or Coast Guard, may be displayed in a respectful way on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day), or thing on the exterior or roofs of the Buildings, in any windows (except window treatments as provided herein), on any Limited Common Elements, or on any other Common Elements, without first obtaining the written approval of the ARC. However, religious symbols not larger than two inches (2") in width and five inches (5") in height may be posted on the door frame of the Unit and reasonable seasonal decorative lights may be displayed between Thanksgiving and January 15<sup>th</sup>. The standard for approval of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing buildings, Units and structures, the location in relation to surrounding structures and topography, and the impact of such approval, if any, on the increase or decrease of sounds and vibrations between the Units and between the Units and the Common Elements and the impact of such approval, if any, on the increase or decrease of sounds and vibrations between the Units and between the Units and the Common Elements.

(iii) Alteration of Units. Subject to the other provisions of this Declaration, alterations to the interiors of Units, relocation of the boundaries between adjoining Units, and subdivision of Units are subject to the following restrictions:

(A) Alterations to the Interiors of the Units. Except as provided herein, no Owner or Occupant may make any alteration within a Unit which involves connecting to Common Element pipes, lines, conduits and/or other apparatus for access to common utilities without prior written ARC approval. Except as provided herein, no Owner or Occupant shall make any interior modifications to or place an excessive load on any structural or load bearing portions of a Unit without first obtaining the prior written approval of the ARC. Such approval shall not be granted by the ARC unless the Owner has presented to the ARC a report or drawing prepared by a licensed structural engineer showing that compensating measures will be taken to ensure the structural integrity of the Unit and the Condominium. All building code requirements must be complied with and necessary permits and approvals secured for any modifications. Notwithstanding the above, all Owners desiring to make any interior modifications or alterations to a Unit affecting the Common Elements or structure or load bearing portions of a Unit must make application to the ARC as described below in order for the ARC to make the determination of whether the ARC's approval is required.

Notwithstanding the above, if any Owner acquires an adjoining Unit, such Owner shall have the right (subject to the prior written approval of the mortgagees of the Units

involved) to remove all or any part of any intervening partition or to create doorways or other apertures therein, notwithstanding the fact that such partition may, in whole or part, be part of the Common Elements, so long as no portion of any structural or load bearing portions of the Unit(s) are materially weakened or removed and the ARC has approved the plans described above and no portion of any Common Elements is damaged, destroyed or endangered, other than that partition and any chutes, flues, ducts, conduits, wires or other apparatus contained therein which shall be relocated by such Owner if such facilities serve any other part of the Condominium. The alterations permitted in this section shall not be deemed an alteration or relocation of boundaries between adjoining Units.

(B) Relocation of Boundaries. Boundaries between adjoining Units shall not be relocated.

(C) Subdivision of Units. No Unit shall be subdivided into a smaller Unit or Units.

(iv) Life Safety System. No Unit Owner shall make any alterations or improvements to the Life Safety System and/or to any other portion of the Condominium without first receiving the prior written approval of the Board. In that regard, no lock, chain or other device or combination therefore shall be installed or maintained at any time or on connection with any door on which panic hardware or fire exit hardware is required. Stairwell identification and emergency signage shall not be altered or removed by any Unit Owner whatsoever. No barrier including, but not limited to personalty, shall impede the free movement of ingress and egress to and from all emergency ingress and egress passageways.

(b) By the Developer. The restrictions of this Paragraph 16 shall not apply to Developer-owned Units nor shall the Developer be required to obtain any approvals under this Paragraph 16. The Developer shall have the additional right, without the consent or approval of the Board of Directors or other Unit Owners, (i) to make alterations, additions or improvements, structural and non-structural, 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); (ii) expand, alter or add to all or any part of the recreational facilities; (iii) change the layout or number of rooms in any Developer-owned Units; (iv) add to or modify recreational facilities; and (v) change the size and/or number of Developer-owned Units by combining separate Developer-owned Units into one (1) or more Units, or otherwise (the foregoing combining may be either horizontal or vertical combining of units); provided, however, there shall be no change to the configuration or size of any Unit in any material fashion, material alteration or modification of the appurtenances to any Unit or change to the percentage interest in the Common Elements and share of Common Surplus and Common Expenses of any Unit unless the record owner of the affected Unit(s) and all record owners of mortgages or other liens on the affected Unit(s) shall join in the execution of the amendment and unless a majority of the record owners of all other Units approve the amendment. If the Developer shall make any changes in Units, as provided in this subsection, such changes shall be reflected by an amendment to this Declaration with a survey attached reflecting such authorized alteration of Units, and said amendment need only be executed and acknowledged by the Developer and any Eligible Mortgage Holders holding a mortgage encumbering the said altered Units unless otherwise required by the preceding sentence or by Section 718.110(4) of the Act. The survey shall be certified in the manner required by the Act.

(c) Applications. Applications for approval of any such architectural modification shall be in writing and shall provide such information as the ARC may reasonably require. The ARC shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction which is not in conformance with approved

plans. The ARC may publish written architectural standards for exterior and Common Element alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each such requested change shall be in harmony with the external design of the existing buildings and Units and the location in relation to surrounding structures and topography of the vicinity.

In the event that the ARC fails to approve or to disapprove such application within forty-five (45) days after the application and all information as the ARC may reasonably require have been submitted, its approval will not be required and this subparagraph will be deemed complied with; provided, however, even if the requirements of this subparagraph are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, the Bylaws, or the rules and regulations.

(d) Condition of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of such change, modification, addition, or alteration, unless otherwise agreed to in writing by the ARC. It is the responsibility of every Unit Owner to determine for himself or herself what architectural modifications have been made to his or her Unit by any predecessor-in-interest. In the discretion of the ARC, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

(e) Limitation of Liability. Review and approval of any application pursuant to this Paragraph is made on the basis of aesthetic considerations only, and neither the Developer, the Board of Directors or the ARC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. Neither the Developer, the Association, the Board of Directors, the ARC, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

(f) No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board of Directors and ARC will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Each Owner further acknowledges that the ARC may adopt different architectural standards for different parts of the condominium, based on street visibility and location of the proposed modification in the building. The approval of either the Board of Directors or the ARC of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board of Directors, or the ARC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

(g) Enforcement. Any construction, alteration, or other work done in violation of this Paragraph shall be deemed to be nonconforming. Upon written request from the Board or the ARC, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property at a mutually agreed upon time, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof shall be billed to the Owner, may include reasonable administrative fees and shall bear interest at the highest rate permitted by law from the date expended until paid in full.

In addition to the foregoing, the Board of Directors shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to

enforce the provisions of this Paragraph and its decisions. Furthermore, the Board shall have the authority to record in the St. Johns County land records notices of violation of the provisions of this Paragraph.

If any Owner or Occupant makes any exterior change, alteration, or construction (including landscaping) upon the Common Elements or Limited Common Elements in violation of this Paragraph, he or she does so at his or her sole risk and expense. The Board may require that the change, alteration or construction be removed or that it remain on the Common Elements or Limited Common Elements without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

(h) Commencement of Construction. All changes, modifications and improvements approved by the ARC hereunder must be commenced within six (6) months from the date of approval. If not commenced within six (6) months from the date of such approval, then such approval shall be deemed revoked by the ARC, unless the ARC gives a written extension for commencing the work. All work approved by the ARC hereunder shall be completed in its entirety within ninety (90) days from the date of commencement, unless otherwise agreed in writing by the ARC. All approved changes, modifications, and improvements must be completed in their entirety. An Owner may not construct only a portion or part of an approved change, modification, or improvement.

17. OPERATION OF THE CONDOMINIUM BY THE ASSOCIATION; POWERS AND DUTIES.

(a) Powers and Duties. The Association shall be the entity responsible for the operation of the Condominium and Association Property. The powers and duties of the Association shall include those set forth in the Articles of Incorporation and Bylaws attached hereto as Exhibits "E" and "F" respectively and as amended from time to time. In addition, the Association shall have all the powers and duties set forth in the Act, as well as all powers and duties granted to or imposed upon it by this Declaration, including, without limitation:

(i) The power to manage, operate and maintain the Common Elements and Association Property;

(ii) The irrevocable right to have access to any portion of each Unit and the Limited Common Elements appurtenant thereto from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of the Common Elements or Association Property, or any portion of a Unit required to be maintained by the Association in accordance with this Declaration or the Act, or at any time and by force, if necessary, for making emergency repairs necessary to prevent damage to the Building, the Common Elements or to the Unit or any other Unit or Units;

(iii) The power to make and collect Assessments and other related expenses authorized under the Act against Unit Owners, and to lease, maintain, repair and replace the Common Elements and Association Property, and to grant, modify or move easements, which are part of or cross the Common Elements or Association Property, as long as the easement created in Paragraph 13(e) of this Declaration is not modified;

(iv) 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 upon prior request;

(v) The power to contract for the management and maintenance of the Condominium Property and to authorize a duly licensed 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, preparation of records, enforcement of rules and regulations, and perform the maintenance, repair and replacement required of the Association with such 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 in the Articles, the Bylaws, and this Declaration and the Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association;

(vi) The power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security therefor mortgages and security interests in property owned by the Association, if any, for the purpose of maintenance, repair, restoration, or improvement of the Common Elements and facilities, and for other purposes, provided that any such action of an amount greater than \$50,000.00 must be approved by a majority of the entire Board of Directors and of the Unit Owners represented at a meeting at which a quorum has been attained or by such greater percentage of the Board or Unit Owners as may be specified in the Bylaws with respect to certain borrowing, provided that no such action shall be permitted while the Developer owns any Unit for sale without the prior written consent of the Developer;

(vii) The power to acquire, lease, mortgage and convey real and personal property, and the power to grant, modify and cancel easements regarding such property, provided that such action may be done only (i) upon the approval of a majority of the Board of Directors, and (ii) upon a finding by the Board that such action is for the benefit of the members of the Association. The requirements of Paragraph 8(b) (Additions, Alterations or Improvements to the Common Elements by the Association) pertaining to the Unit Owners' approval of costs in excess of the threshold amount stated therein (including the proviso as to the debt incurred) shall also apply to this acquisition and dealing with Association-owned property; provided, however, that the acquisition of a Unit as a result of a foreclosure of the lien for Assessments shall be exempt from these requirements;

(viii) The power to represent and act on behalf of the Unit Owners in the event of damage or destruction as a result of casualty loss in accordance with the provisions of the Act and Paragraph 20 of this Declaration;

(ix) The power to represent and act on behalf of the Unit Owners in the event of any loss resulting from condemnation or eminent domain in accordance with the provisions of the Act and Paragraph 22 of this Declaration;

(x) The power to acquire or enter into agreements acquiring leaseholds, memberships or other possessory or use interests in lands or facilities for recreational purposes as long as such arrangements are approved by the Owners of a majority of the Units;

(xi) All of the powers which a corporation not-for-profit in the State of Florida may exercise pursuant to this Declaration, the Articles of Incorporation and Bylaws, Chapter 617, Florida Statutes, and the Act, in all cases except as expressly limited or restricted in the Act or the Condominium Instruments;

(xii) To hire, contract with, employ, manage, oversee and coordinate a concierge service that will assist all Owners and Occupants with personal services, including but not limited to obtaining tickets for events in the St. Augustine area, arranging limousine, taxi and airport transportation in the St. Augustine area;

(xiii) The power to execute all documents or consents, on behalf of all Unit Owners (and their mortgagees), required by all governmental and/or quasi-governmental agencies in connection with land use and development matters (including, without limitation, plats, waivers of plat, unities of title, covenants in lieu thereof, etc.), and in that regard, each Owner, by acceptance of the deed to such Owner's Unit, and each mortgagee of a Unit Owner by acceptance of a lien on said Unit, appoints and designates the President of the Association, as such Owner's agent and attorney-in-fact to execute any and all such documents or consents;

(xiv) The power to adopt, amend and enforce reasonable rules and regulations governing the use of the Condominium Property including Units, Common Elements and Limited Common Elements, and governing the use of Association Property.

(b) Conflict. In the event of conflict among the powers and duties of the Association or the terms and provisions of this Declaration or the exhibits attached hereto, this Declaration shall take precedence over the Articles of Incorporation, Bylaws and applicable rules and regulations; the Articles of Incorporation 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. Notwithstanding anything in this Declaration or its exhibits to the contrary, the Association shall at all times be the entity having ultimate authority over the Condominium, consistent with the Act.

(c) Limitation of Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property and Association 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 or Association Property to be maintained and repaired by the Association, or caused by the elements, other Unit Owners or third parties. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by or on behalf of any Unit Owners, regardless if whether or not same shall have been approved by the Association pursuant to the provisions hereof.

**NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BYLAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION, OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION, THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER BE A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE CONDOMINIUM PROPERTY AND ASSOCIATION PROPERTY, INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:**

**(i) IT IS THE EXPRESS INTENT OF THE CONDOMINIUM INSTRUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE CONDOMINIUM PROPERTY HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE CONDOMINIUM PROPERTY, AND THE VALUE THEREOF;**

**(ii) THE ASSOCIATION OR DEVELOPER MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS WHICH DIRECTLY OR INDIRECTLY IMPROVE SECURITY ON THE**

CONDOMINIUM PROPERTY; HOWEVER, EACH OWNER, FOR HIMSELF OR HERSELF AND HIS OR HER TENANTS, GUESTS, LICENSEES, AND INVITEES, ACKNOWLEDGES AND AGREES THAT NEITHER THE ASSOCIATION NOR DEVELOPER IS A PROVIDER OF SECURITY AND NEITHER PARTY SHALL HAVE A DUTY TO PROVIDE SECURITY ON THE CONDOMINIUM PROPERTY. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-UNIT OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE CONDOMINIUM PROPERTY AND COMMIT CRIMINAL ACTS ON THE CONDOMINIUM PROPERTY NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS ON THE CONDOMINIUM PROPERTY WILL NOT BE COMMITTED BY OTHER UNIT OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER TO PROTECT HIS OR HER PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH UNIT OWNER. NEITHER DEVELOPER NOR THE ASSOCIATION SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF MEASURES UNDERTAKEN.

(iii) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, ST. JOHNS COUNTY, THE CITY OF ST. AUGUSTINE AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

(iv) ANY PROVISIONS OF THE CONDOMINIUM INSTRUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH UNIT OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS UNIT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE CONDOMINIUM PROPERTY (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS PROVISION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS PROVISION.

AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS. THE PROVISIONS OF THIS ARTICLE SHALL ALSO INURE TO THE BENEFIT OF THE DEVELOPER AND ITS AFFILIATES, AS WELL AS TO THE ASSOCIATION'S EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES) AND SUBCONTRACTORS, WHICH SHALL BE FULLY PROTECTED HEREBY.

(d) 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 such Owner's Unit.

(e) 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 that Unit if at an Association meeting, unless the joinder of all record Owners of the Unit is specifically required by this Declaration or by law.

(f) Acts of the Association. Unless the approval or action of Unit Owners and/or a certain specific percentage of the Board of Directors is specifically required in this Declaration, the Articles of Incorporation, the Bylaws, applicable rules and regulations of the Association 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 Directors 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.

(g) Amendment of Bylaws. No modification of or amendment to the Bylaws shall be valid unless set forth in or annexed to a duly recorded amendment to this Declaration. The Bylaws may be amended in the manner set forth in the Bylaws, but no amendment to the Bylaws shall be adopted which would affect or impair the validity or priority of any mortgage covering any Condominium Parcel(s), or which would change the provisions of the Bylaws with respect to mortgages without the written approval of all Eligible Mortgage Holders. No amendment shall change the rights and privileges of the Developer, without their respective written consent. Any amendment to the Bylaws, shall be certified by the parties as required in Article VIII of the Bylaws, and said amendment shall be recorded in the public records of the County.

(h) Binding Effect of Condominium Documents. Every Owner, whether having acquired ownership of a Unit by gift, conveyance or transfer by operation of law, or otherwise, shall be bound by the Articles of Incorporation, the Bylaws, the provisions of this Declaration, and the Management Agreement, if any; provided, however, a Management Agreement made by the Association prior to assumption of control of the Association by Unit Owners other than the Developer may be cancelled by Unit Owners other than the Developer in accordance with Section 718.302 of the Act, and a Management Agreement shall only be enforceable against Unit Owners to the extent the terms of any Management Agreement comply with Section 718.3025 of the Act. Membership in the Association shall automatically terminate upon the termination of ownership of a Condominium Parcel, and the subsequent Owner(s) taking title shall automatically become entitled to membership.

#### 18. DETERMINATION OF ASSESSMENTS.

(a) General Assessment. The Board of Directors shall from time to time, and at least annually, prepare and adopt a budget for the Condominium ("Budget for Common Expenses"), determine the amount 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 ("General Assessment"). The Board of Directors shall advise all Unit Owners promptly in writing of the amount of the General Assessment payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of each budget, on which such General Assessment is based, to all Unit Owners and (if requested in writing) to their respective mortgagees. The Budget for Common Expenses shall include the expenses of a reserve (if required by law and not duly waived in accordance with the Act) for the operation, maintenance, repair and replacement of the Common Elements, the cost of a master antenna television system obtained pursuant to a bulk contract, if any, the costs of carrying out the powers and duties of the Association and any other expenses designated as

Common Expenses by the Act, this Declaration, the Articles of Incorporation, the Bylaws or applicable rules and regulations of the Association. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall determine from time to time, and need not be restricted or accumulated. Any adopted Budget for Common Expenses shall be subject to change to cover actual expenses at any time. Any such charge shall be adopted consistent with the provisions of the Bylaws.

(b) Reserve Fund. The Board, in establishing each annual budget for the Condominium, shall include therein a sum to be collected and maintained as a reserve fund for the capital expenditures, deferred maintenance and replacement of the Common Elements and personal property held for the joint use and benefit of all Unit Owners. Such reserve accounts shall include, but not be 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 expired or replacement cost exceeds \$10,000.00 as required by Section 718.112(2)(f)(2) of the Act as it may be amended from time to time. The amount to be reserved shall be computed by means of a formula which is based upon the estimated remaining useful life and the estimated replacement cost of each item. However, prior to turnover of control of the Association by the Developer pursuant to Section 718.301 of the Act, the Developer may vote to waive the reserves or reduce the funding of reserves for the first two years of operation of the Association, after which time reserves may only be waived or reduced upon the vote of a majority of all non-developer voting interests voting in person or by limited proxy at a duly called meeting of the Association. If a meeting of Unit Owners has been called to determine to provide no reserves or reserves less adequate than required, 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 be used only for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the Voting Interest voting in person or by limited proxy at a duly called meeting of the Association.

(c) General Operating Expense Fund. The Board, when establishing each annual budget, may, when deemed necessary or desirable, include therein a sum to be collected and maintained as a general operating expense to provide a measure of financial stability to meet deficiencies from time to time existing as a result of delinquent payment of assessments by Unit Owners, as a result of emergencies or for other reasons placing financial stress upon the Association.

(d) Working Capital Fund. The Developer, on behalf of the Association, shall establish a working capital fund to meet unforeseen expenditures or to purchase any additional equipment or services. A non-refundable contribution to the working capital fund of the Association shall be paid by the purchaser of a Unit at the closing of each sale or resale of a Unit in the amount of two (2) months of the general assessment charged to such Unit. The Developer shall not use the working capital funds to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits during the time that the Developer is excused from paying its share of Common Expenses for Units owned by the Developer pursuant to Paragraph 19(h) and (i) below. Notwithstanding anything to the contrary herein, the contribution to the working capital fund shall not be due from: (i) any grantee who is the Domestic Partner, spouse or former spouse of the grantor; (ii) any grantee that is a wholly-owned entity of the grantor; (iii) any grantee to whom a Unit is conveyed by a will or through the law of intestacy; or (iv) any grantee of a Unit who obtains title pursuant to judicial or nonjudicial foreclosure of any first mortgage of record or secondary purchase money mortgage of record (provided that neither the grantee nor any successor grantee on the mortgage is the seller of the Unit).

(e) Converter Reserve Account. In accordance with Section 718.618 of the Act, the Developer shall establish converter reserve accounts for capital expenditures and deferred maintenance of air conditioning systems that serve more than one unit, plumbing systems and roofs within the Condominium, in lieu of the following:

- (i) providing an implied warranty of fitness and merchantability as to the roof and structural components of the improvements, as to fire proofing and fire protection systems, and as to mechanical, electrical and plumbing elements serving the improvements, except mechanical elements serving only one Unit, pursuant to Section 718.618(6) of the Act; or
  - (ii) posting a surety bond in accordance with Section 718.618(7) of the Act.
- (f) Special Assessments. In addition to General Assessments, the Board of Directors may levy Special Assessments upon the following terms and conditions:
- (i) "General Special Assessments" shall mean or refer to Special Assessment amounts levied against each Owner and such Owner's Unit, representing a portion of the costs incurred by the Association for specific purposes of a nonrecurring nature which are not in the nature of capital improvements that were not included in the adopted annual budget.
  - (ii) "Capital Improvement Special Assessments" shall mean and refer to Special Assessment amounts levied against each Owner and such Owner's Unit, representing a portion of the costs incurred by the Association for the acquisition, installation, construction or replacement (as distinguished from maintenance, repairs and replacement) of any capital improvements located or to be located within the Common Elements.
  - (iii) General Special Assessments and Capital Improvement Special Assessments may be levied by the Board of Directors and shall be payable in lump sums or installments, in the discretion of the Board; provided that, if such General Special Assessments and Capital Improvement Special Assessments, in the aggregate in any fiscal year, exceed \$50,000.00, the Board must obtain approval by the Owners of sixty-six and two-thirds percent (66.67%) of the Units represented at a meeting at which a quorum is obtained.
  - (iv) All written notices requesting the payment of any General Special Assessment and/or Capital Improvement Special Assessment shall state the specific purpose or purposes of said assessment in accordance with Section 718.116 (10) of the Act.

#### 19. COLLECTION OF ASSESSMENTS.

The General Assessments and Special Assessments, (collectively, the "Assessments") shall be collected as follows:

- (a) Liability for Assessments. A Unit Owner, regardless of how title is acquired, including by purchase at a judicial sale or by deed in lieu of foreclosure, shall be liable for all Assessments coming due while such Unit Owner is the Owner of the Unit. Additionally, a Unit Owner shall be jointly and severally liable with the previous owner for all unpaid Assessments that came due up to the time of the conveyance, without prejudice to any right such Unit Owner may have to recover from the previous owner the amounts paid by such Unit Owner. The liability for 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 are made or otherwise. Regular Assessments may be collected monthly or quarterly, in advance, as determined by the Board. Initially, Assessments will be collected monthly.
- (b) Default in Payment of Assessments. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the rate established from time to time by the Board of Directors from the due date until paid (provided, however, that no such rate shall exceed the maximum allowed by law). In the event the Board has not established such rate, the interest

rate shall be fifteen percent (15%). Each delinquent payment shall be subject to an administrative late fee in an amount not to exceed the greater of \$25.00 or five percent (5%) of each delinquent installment. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such Condominium Parcel, with interest thereon and for reasonable attorney's fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien whether suit be brought or not. The lien shall be effective from and shall relate back to the recording of this Declaration. However, as to first mortgagees of record, the lien is effective from and after rerecording of claim of lien in the Public Records of the County. Such lien shall be evidenced by the recording of 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 amounts due and the due dates. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid or until such claim of lien is barred by law. No such claim of lien shall be effective longer than one (1) year after the claim of lien has been recorded unless, within that time, an action to enforce the lien is commenced. The one (1) year period shall automatically be extended by 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 Unit Owner or any other person claiming an interest in the Condominium Parcel. The claim of lien shall secure (whether or not stated therein) all unpaid Assessments, interest thereon, the administrative late fee (if permitted under applicable law), and costs and attorneys' fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure thereof. A claim of lien shall be signed and acknowledged by an officer or authorized agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association or its assignee may bring an action to foreclose a lien for unpaid Assessments in the manner a mortgage of real property is foreclosed in Florida and may also bring an action at law to recover a money judgment for the unpaid Assessments and other amounts due without waiving any claim of lien. The Association is entitled to recover its costs and reasonable attorneys' fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid Assessments.

As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after thirty (30) days' prior written notice to the applicable Unit Owner and the recording of a claim of lien, the Association may declare the balance of General Assessment installments due for the remainder of the fiscal year and payments of other known Assessments to be accelerated (or if accelerated to such extent is prohibited by the Act, then the Association may declare Assessments to the maximum extent permitted under the Act to be accelerated) and shall thereupon be immediately due and payable. In the event that the amount of such accelerated installments or payments changes, the Unit Owner or the Association, as appropriate, shall be obligated to pay or reimburse to the other the amount of increase or decrease within fourteen (14) days after delivery of or mailing of such notice to the Unit Owner.

Any payments received by the Association from a delinquent Unit Owner shall be applied first to any interest accrued as provided above, then to any administrative late fee, then to any costs and reasonable attorneys' fees incurred in collection as aforesaid and then to the delinquent and any accelerated Assessments. The foregoing application of funds received shall be applicable despite any restrictive endorsement, designation or instruction placed on or accompanying a payment.

(c) Notice of Intention to Foreclose Lien. Unless otherwise required by the Act or other applicable law, no foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorneys' 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. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorneys' 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.

(d) Appointment of Receiver to Collect Rental. If the Unit Owner remains in possession of the Unit after a foreclosure judgment has been entered, the court in its discretion may require the Unit Owner to pay a reasonable rental for the Unit. If the Unit is rented or leased during the pendency of the foreclosure action, the Association is entitled to the appointment of a receiver to collect the rent. The expenses of such receiver shall be paid by the party which does not prevail in the foreclosure action.

(e) First Mortgagee. In the event a first mortgagee or other purchaser shall obtain title to a Unit by foreclosure, or by deed in lieu of foreclosure, such first mortgagee or other purchaser, its successors and assigns, shall be liable for Assessments or other related expenses authorized under Section 718.116 (1) (b) of the Act secured by the claim of lien only to the extent provided by the Act. If, due to the applicable provisions of the Act, any unpaid share of the Assessments or other related expenses authorized under the Act are not required to be paid, then such unpaid share or other related expenses authorized under the Act shall be deemed to be a Common Expense collectible from all of the Unit Owners, including such acquirer and such acquirer's successors and assigns.

(f) Certificate of Unpaid Assessments. Within fifteen (15) days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating all Assessments and other monies owed to the Association by the Unit Owner with respect to such Owner's Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby. The Association may charge a reasonable fee for the preparation of the certificate.

(g) Installments. General Assessments shall be collected monthly or quarterly, in advance, as determined from time to time by the Board of Directors. Initially, General Assessments will be collected monthly.

(h) Developer's Guarantee. If in the purchase agreement, prospectus, or by other means, pursuant to the Act, Developer shall guarantee to each purchaser that the monthly Assessment for a specific period of time ("Guarantee Period") will not exceed a certain dollar amount for that particular Unit, then during the Guarantee Period, the Developer shall be excused from the payment of the Developer's share of the Common Expenses for Units owned by the Developer; provided, however, if at any time during the Guarantee Period the funds collected from Unit Owner Assessments at the guaranteed level are not sufficient to provide payment, on a timely basis, of all Common Expenses, including the full funding of the reserves, unless properly waived, the Developer shall pay such amount to the Association at the time such payments are due so that there is no deficit. For purposes of this subsection, income to the Association other than Assessments (as defined herein and in the Act) shall not be taken into account when determining the deficits to be funded by the Developer. The Developer shall have the option of extending the Guarantee Period for one or more stated periods, in Developer's sole discretion, on the same terms, or paying the share of Common Expenses and Assessments attributable to Units it is then offering for sale. No funds receivable from Unit purchasers or Unit Owners payable to the Association or collected by the Developer on behalf of the Association, other than regular periodic Assessments for Common Expenses as provided in this Declaration and disclosed in the Estimated Operating Budget of the Association shall be used for the payment of Common Expenses during any Guarantee Period. This restriction shall apply to funds including, but not limited to, capital contributions or start-up funds collected from Unit purchasers at closing. Notwithstanding the above and as provided in Section 718.116(9)(a)2 of the Act, in the event of an Extraordinary Financial Event (hereinafter defined), the cost

necessary to effect restoration shall be assessed against all Unit Owners owning Units on the date of such Extraordinary Financial Event, and their successors and assigns, including the Developer (with respect to Units owned by the Developer). As used in this subsection, an "Extraordinary Financial Event" shall mean a casualty loss affecting the Condominium resulting from a natural disaster or Act of God, which is not covered by insurance proceeds from the insurance maintained by the Association as required by Section 718.111(11)(a) of the Act.

(i) Initial Developer Assessments. The Developer shall not be obligated to pay assessments and its share of the Common Expenses for Units owned by the Developer for a period of four (4) months after the recording of this Declaration; provided, however, that in no event shall the Developer be excused from such payments for a period longer than the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first condominium unit except as provided in subparagraph (h) above; and provided further that during such period in which Developer is excused from payment of assessments and share of Common Expenses, the Developer shall pay any portion of the Common Expenses incurred which exceed the amount assessed against other Unit Owners.

## 20. INSURANCE.

Insurance covering the Condominium Property and the Association Property shall be governed by the following provisions:

(a) "Insurance Trustee". The Board of Directors 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 Insurance Trustee, the Board of Directors will perform directly all obligations imposed upon such Insurance Trustee by this Declaration. Fees and expenses of any Insurance Trustee are Common Expenses.

### (b) Purchase, Custody and Payment.

(i) Purchase. All insurance policies purchased by the Association shall be issued by an insurance company authorized to do business in Florida meeting all criteria established by the Board or the Act and any rules promulgated thereunder.

(ii) Named Insured. Under all insurance policies purchased by the Association, 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 deemed additional insureds.

(iii) Custody of Policies and Payment of Proceeds. All insurance policies purchased by the Association shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and such policies and endorsements thereto shall be deposited with the Insurance Trustee (if appointed).

(iv) Copies to Mortgagees. One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by the Association upon request to each Eligible Mortgage Holder who holds a mortgage upon a Unit covered by the policy. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy, or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, as appropriate.

(v) Exceptions from Association Responsibility; Unit Owner's Personal Coverage. Except as specifically provided herein or by the Act, the Association shall not be responsible to

Unit Owners to obtain insurance coverage upon any and all property lying within the boundaries of their Unit (or within any Limited Common Element appurtenant thereto), including, but not limited to, their personal property, and for their personal liability and living expense and for any other risks not otherwise insured in accordance herewith. Unit Owners may be required to purchase flood insurance for their respective Unit(s) if such insurance is required by their mortgagee(s). The Association shall have no obligation to purchase flood insurance on the Units.

(c) Coverage Responsibilities of Association. The Association shall use its best efforts to obtain and maintain adequate insurance (which may include reasonable deductibles as determined by the Board) covering the following:

(i) Casualty. Every hazard policy issued to protect the Condominium shall provide primary coverage for:

(A) All portions of the Condominium Property located outside the Units; and

(B) The Condominium Property located inside the Units as such property was initially installed or replacements thereof of like kind and quality, and in accordance with the original plans and specifications or if the originals plans and specifications are not available, as they existed at the time the Unit was conveyed. Hereinafter subparagraph (A) and (B) above are referred to collectively as the "Insured Property".

Any such policy shall exclude floor, wall, and ceiling coverings, electrical fixtures, appliances, air conditioner or heating equipment, water heaters, water filters, built in cabinets and counter-tops, and window treatments, including curtains, drapes, blinds, hardware and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a Unit and which serve only one Unit and all air conditioning compressors that service only an individual Unit, whether or not located within Unit boundaries.

Such coverage shall afford protection against:

(A) Loss or Damage by Fire and Other Hazards covered by a standard extended coverage endorsement; and

(B) Such Other Risk as from time to time are customarily covered with respect to building and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.

(ii) 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 Directors, but with combined single limit liability of not less than \$1,000,000.00 per occurrence \$300,000.00 per person and \$100,000.00 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.

(iii) Worker's Compensation and other mandatory insurance, when applicable.

(iv) Fidelity Insurance, if required by the Act or FNMA/FHLMC, covering all persons who control or disburse Association funds, such insurance to be in the amount required by the Act.

(v) Association Property. Appropriate additional policy provisions, policies or endorsements extending the applicable portions of the coverage described above to all Association Property, where such coverage is available.

(vi) Officers and Directors liability insurance in such amounts as the Board may determine.

(vii) Flood Insurance for the Common Elements, Association Property and/or Units, if the Board so elects.

(viii) Such Other Insurance as the Board of Directors 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, its officers, members of the Board, the Developer, the Management Firm, if any, and its respective employees and agents, and against the Unit Owners individually and as a group; (ii) to pay only a fraction of any loss in the event of coinsurance 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 Directors, a member of the Board of Directors, the Management Firm, if any, and its respective employees and agents, the Developer, one or more Unit Owners or as a result of contractual undertakings. Additionally, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any act or omissions of the Management Firm, if any, or the individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss.

Every casualty insurance policy obtained by the Association shall have the agreed amount and inflation guard endorsement unless the Board finds such endorsement is unobtainable or economically infeasible.

(d) Additional Provisions. All policies of insurance shall provide that such policies may not be canceled or substantially modified without at least thirty (30) 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 Directors may wish to 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.

(e) Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the costs of fidelity bonding for the Management Firm employees, if any, may be paid by the Management Firm pursuant to the Management Agreement. Premiums may be financed in such manner as the Board of Directors deems appropriate.

(f) Unit Owner Coverage. All real and personal property located within the boundaries of each Unit which is excluded from coverage provided by the Association as described in Paragraph 20(c)(i) above shall be insured by the individual Unit Owner. Every hazard insurance policy issued to a Unit Owner shall provide that the coverage afforded by such policy is in excess over the amount recoverable under any other policy covering the same property. Each insurance policy issued to an individual Unit Owner providing such coverage shall be without rights of subrogation against the Association. Each Unit Owner shall, upon the written request of the Association, provide the Association with a copy of a binder, a policy or other proof satisfactory to the Association of said insurance coverage.

(g) Insurance Trustee; Share of Proceeds. All insurance policies obtained by or on behalf of the Association shall be for the benefit of the Association, the Management Firm, if any, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering losses to the Insured Property shall be paid to the Insurance Trustee, which may be designated by the Board of Directors 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 State of Florida. The Insurance Trustee 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 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 shares need not be set forth on the records of the Insurance Trustee:

(i) Insured Property. Proceeds on account of damage to the Insured Property shall be held by the Association for each Unit Owner as tenants in common such shares being the same as the undivided shares in the Common Elements appurtenant to each Unit; provided, however, that prior to any distributions to the Unit Owners, such proceeds shall first be distributed in accordance with the provisions of Paragraph 20(h) of this Declaration herein.

(ii) 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.

(h) Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners thereof in the following manner:

(i) Expenses of the Trust. All expenses of the Insurance Trustee shall be first paid or provision shall be made therefore.

(ii) 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 each Unit Owner, by check made payable jointly to such Unit Owner and their respective mortgagee(s).

(iii) 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 Paragraph 20(g)(i) herein, and distributed to each Unit Owner by check made payable jointly to such Unit Owner and their respective mortgagee(s). If there is no mortgage on the Unit, all distributions shall be made directly to the Unit Owner.

(iv) Certificate. In making distributions 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.

(i) 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.

(j) Presumption as to Damaged Property. In the event of a dispute or lack of certainty as to whether damaged property constitutes a Unit(s) or Common Elements, such property shall be presumed to be Common Elements.

21. RECONSTRUCTION OR REPAIR AFTER FIRE OR OTHER CASUALTY.

(a) Determination to Reconstruct or Repair. Subject to the immediately following subsection, in the event of damage to or destruction of the Insured Property as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the Insured Property, 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.

In the event of damage or destruction to seventy-five percent (75%) or more of the Common Elements as a result of fire or other casualty, unless eighty percent (80%) of the Unit Owners, including the Owner or Owners of any damaged Unit or Units, vote not to proceed with the repair or restoration thereof and mortgagees holding first mortgages on not less than fifty-one percent (51%) of the Units agree in writing, the Condominium Property shall not be repaired and the net proceeds of insurance resulting from such damage or destruction shall be distributed to each Unit Owner, by check made payable to such Unit Owner and its respective mortgagee(s), in accordance with the provisions of Paragraph 20(g)(1) of this Declaration. Following such distribution of proceeds, the Condominium shall be terminated and the ownership of the Condominium Property shall be held by the formerly-titled Unit Owners in undivided interest as tenants-in-common, subject to and in accordance with the provisions of Paragraph 27 hereof.

Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than sixty (60) days from the date the Insurance Trustee (if appointed) notifies the Board of Directors 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, or not more than ninety (90) days after the Insurance Trustee (if appointed) notifies the Board of Directors and the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work (subject to the issuance of necessary permits for 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.

(b) Plans and Specifications. Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements and the then applicable building and other codes; or if not, then in accordance with the plans and specifications approved by the Board of Directors and the then-applicable building and other codes, and if the damaged property which is to be altered are the Building, then by the Owners of not less than eighty percent (80%) of the applicable interests in the Common Elements, as well as the Owners of all Units (and their respective mortgagees) the plans for which are to be altered.

(c) 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 \$50,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors; provided, however, that upon request to the Insurance Trustee (if appointed), by a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included

in the construction fund, such fund shall be disbursed in the manner 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 \$50,000.00, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by subsection (a) above, but then only upon the further approval of an architect or engineer 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 shall be distributed to each Unit Owner, by check made payable jointly to such Unit Owner and its respective mortgagee(s), in accordance with the provisions of Paragraph 20(g)(1) of this Declaration.

(iv) 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 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, engineer 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 Assessments paid by Unit 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.

(d) Assessments. 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 and repair are insufficient, Assessments may be levied against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Assessments on account of damage to the Insured Property shall be in proportion to all of the Owners' respective shares in the Common Elements, as determined by the Association.

(e) Responsibilities of Unit Owners. If damage occurs to the Units, the maintenance and responsibility of which lies solely upon the respective Unit Owners, then each Unit Owner shall be solely responsible for all necessary reconstruction and repair to its respective Unit which reconstruction and repair shall be effected promptly and in accordance with guidelines established by the Board of Directors. Each Unit Owner shall have the absolute responsibility of applying insurance proceeds, arising as a result of flood, fire or other casualty damage to the Unit to the repair and/or reconstruction of such Unit; provided, however, that no Unit Owner shall have the responsibility of applying insurance proceeds to the repair and/or reconstruction of their respective Units if the Condominium is terminated in accordance with the provisions of Paragraph 27 of this Declaration.

(f) Benefit of Mortgagees. Certain provisions in this Paragraph are for the benefit of mortgagees of Units and may be enforced by any of them.

## 22. CONDEMNATION.

Any condemnation of any portion(s) of the Condominium Property and/or Association Property shall be governed by the following provisions:

(a) 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 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 Directors, a special 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, or the Board shall have the right to proceed in a court of equity to require performance and/or sue at law for damages.

(b) Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the manner provided in Paragraph 21 of this Declaration (Reconstruction and Repair After Fire or Other Casualty) for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty.

(c) Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the awards pertaining to the condemnation 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 any such awards 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 Paragraph specifically provided.

(d) 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 and discretion 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:

(i) 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. The Association shall have the right to collect and enforce such costs and charges as elsewhere provided in accordance with this Declaration and applicable law.

(ii) 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.

(iii) Adjustment of Shares in Common Elements. If the floor area of one or more Units is reduced by the taking, the percentage of all Units in the Condominium representing each Unit's share in the Common Elements and of the Common Expenses and Common Surplus appurtenant to the Unit shall be recalculated in accordance with Paragraph 12 of this Declaration ("Ownership, Common Elements and Common Surplus and Share of Common Expenses") using the reduced "Unit Area" (as defined in Paragraph 12) for any and all Units that have been reduced in size due to the taking.

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

(e) 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 and discretion 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:

- (i) Payment of Award. The awards shall be paid first to the applicable first mortgagees 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; 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.
- (ii) 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 Directors of the Association; provided that 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 required for capital improvements to the Common Elements pursuant to Paragraph 8(b) to this Declaration.
- (iii) 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 recalculating the percentage share of all the remaining Units in the Condominium in accordance with Paragraph 12 of this Declaration ("Ownership, Common Elements and Common Surplus and Share of Common Expenses") using the "Unit Area" and the "Total Unit Area" (as defined in Paragraph 12) as reduced by the taking.
- (iv) Assessments. If the balance of the award (after payments to the Unit Owners 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 Assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the applicable percentage shares of those Owners after all adjustments to such shares effected pursuant hereto by reason of the taking.
- (v) Arbitration. If the market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and mortgagees of the Unit and the Association within thirty (30) days after notice of a dispute by any affected party, such value shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association. 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 to be Owners after the taking, in proportion to the applicable percentage shares of such Owners as they exist prior to the adjustments to such shares effected pursuant hereto by reason of the taking.
- (f) 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 Directors 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 required for capital improvements to the Common Elements pursuant to Paragraph 8(b) of this Declaration. 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 are 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.

(g) 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 effected by the taking shall be evidenced by an amendment to this Declaration of Condominium that is only required to be approved by, and executed upon the direction of, a majority of all Directors of the Association.

## 23. USE RESTRICTIONS.

Each Owner of a Unit shall be responsible for ensuring that the Owner's family, guests, invitees, tenants and Occupants comply with all provisions of the Condominium Instruments and the rules and regulations of the Association. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, tenants or Occupants, as a result of such person's violation of the Condominium Instruments, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or Occupants.

In addition to the following use restrictions, the Board of Directors may adopt reasonable rules and regulations in accordance with the terms hereof and as specified in the Bylaws. To the extent permitted by law, neither Units owned by the Developer nor the Developer, its agents, employees, or contractors, shall be subject to the provisions of this Paragraph.

(a) Use of Units. Each Unit shall be used for residential purposes only and children are permitted to be Occupants of Units. No trade or business of any kind may be conducted in or from a Unit or any part of the Condominium, except that the Owner or Occupant residing in a Unit may conduct ancillary business activities within the Unit so long as:

(i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the Unit;

(ii) the business activity does not involve visitation of the Unit by employees, clients, customers, patients, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a Unit without business activity;

(iii) the business activity is legal and conforms to all zoning requirements for the Condominium;

(iv) the business activity does not increase traffic in the Condominium in excess of what would normally be expected for Units in the Condominium without business activity (other than by a reasonable number of deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services which deliveries shall be allowed only between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday);

(v) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;

(vi) the business activity is consistent with the residential character of the Condominium and does not constitute a nuisance or a hazardous or offensive use, or threaten the

security or safety of other residents of the Condominium, as determined in the Board's discretion; and

(vii) the business activity does not result in a materially greater use of Common Element facilities or Association services.

The terms "business" and "trade," as used herein, shall have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, neither the use of a Unit by an on-site management agent operating on behalf of the Association nor the use by the Developer of a Unit or Units owned by the Developer for Unit models, sales/leasing office and/or management/business office shall be considered a trade or business within the meaning of this subparagraph. The Board of Directors shall have the sole discretion to determine what, if anything, is unreasonable about a particular business activity.

(b) Number of Occupants, Guests in Owner's Absence. The maximum number of occupants in a Unit shall be limited to two (2) people per bedroom in the Unit, (as such bedrooms are depicted on the original Survey and Floor Plans filed in the St. Johns County, Florida records). "Occupancy," for purposes hereof, shall be defined as staying overnight in a Unit for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year. This occupancy restriction shall not apply to require the removal of any person lawfully occupying a Unit on the date of the recording of this Declaration. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

If an Owner of a Unit is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing to the Board the name(s) of the person(s) who will occupy the Unit. The designated person(s) to occupy the Unit may not be changed more frequently than once every six (6) months without the express written consent of the Board as determined in the Board's discretion.

(c) Outbuildings. No structure of a temporary character, trailer, tent, shack, carport, garage, barn or other outbuilding shall be erected by any Owner or Occupant, other than the Developer, on any portion of the Condominium Property, at any time, either temporarily or permanently, without the prior written approval of the Board.

(d) Use of Common Elements Including Amenities. There shall be no obstruction of the Common Elements, nor shall anything be kept on, parked on, stored on or removed from any part of the Common Elements without the prior written consent of the Board, except as specifically provided herein. With prior written Board approval, and subject to any restrictions imposed by the Board, an Owner may reserve portions of the Common Elements, for use for a period of time as set by the Board; provided that the Board may charge a reasonable fee for such reserved use of the Common Elements. Any such Owner who reserves a portion of the Common Elements as provided herein shall assume, on behalf of himself or herself and his or her guests, Occupants and family, all risks associated with the use of the Common Elements and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees. There shall be no use of the roofs of the Condominium Buildings by the Owners, their family members, guests, tenants, invitees, agents or contractors; provided that the Association and its agents and contractors shall have access to the roofs for performing its maintenance and repair responsibility. There shall be no gardening or landscaping on the Common Elements by Owners or Occupants without the prior written consent of the Board. This subparagraph shall not apply to the Developer, so long as the Developer shall own a Unit for sale.

(e) Use of Limited Common Elements, Storage Spaces, Balconies and Patios. Except as otherwise provided herein, the use of the Limited Common Elements assigned to the Units is restricted exclusively to the Owners of the Unit to which such Limited Common Elements are assigned, and said Owner's family members, guests, tenants and invitees. The Limited Common Elements are reserved for exclusive use, but shall not be construed or interpreted to be separate and apart from the Common Elements in general, and the restrictions applicable to the Common Elements shall also apply to the Limited Common Elements.

(i) Balconies and Patios. Objects over forty-two (42) inches in height, grills, bicycles, laundry garments, towels and objects other than potted plants and patio furniture, except as may be authorized by the Board, shall not be placed on a balcony or patio. Objects shall not be permitted to hang over or be attached to any exterior balcony or patio wall or to otherwise protrude outside of the vertical plane formed by the exterior surface of the balcony or patio wall. Penetration of the surfaces of a balcony or patio wall or floor is prohibited. Enclosure of a balcony or patio is also prohibited. As used herein, "enclosure" shall mean the permanent enclosure of a balcony or patio into the heated and cooled space within the boundaries of a Unit.

(ii) Storage Spaces. Storage spaces shall be used solely for the purpose of storing any personal property belonging to the Owner or Occupant of the Unit to which such storage space is assigned as a Limited Common Element. No Owner or Occupant shall store any explosives, or any flammable, odorous, noxious, corrosive, hazardous or pollutant materials or any other goods in the space which would cause danger or nuisance to the storage space or the Condominium. The storage space shall not be used for any purposes unlawful or contrary to any ordinance, regulation, fire code, or health code. If hazardous substances are stored, used, generated or disposed of on or in the storage space or if the storage space becomes contaminated in any manner for which the Owner or Occupant thereof is legally liable, Owner or Occupant shall indemnify and hold harmless the Developer, Association and Board of Directors from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses and any and all sums paid from settlement of claims, attorneys' fees, consultant and expert fees, arising as a result of that contamination by Owner or Occupant.

(f) Hurricane Shutters and Hurricane Preparations.

(i) In the event the Board does not elect to install hurricane shutters in accordance with Paragraph 10(a)(vii) of this Declaration, Owners may do so; provided that Owners shall not install hurricane or storm shutters without the prior approval of the ARC. In accordance with Section 718.115 of the Act, the Board shall adopt hurricane shutter specifications, including color, style and other factors deemed relevant by the Board. All such specifications shall comply with the local building code. All shutters installed by Unit Owners or the Board, must comply with the shutter specifications adopted by the Board. Approved hurricane or storm shutters shall only be closed during a hurricane warning or severe storm warning and during hurricanes or severe storms; such shutters may remain closed until the hurricane or severe storm warnings are discontinued. Shutters must be open at all other times. The installation, replacement and maintenance of such hurricane shutters in accordance with this Paragraph and with the rules and regulations shall not be deemed a material alteration to the Common Elements.

(ii) Hurricane Preparations. Each Unit Owner or Occupant who is absent from such Owner's Unit during hurricane season, shall prepare his/her Unit prior to departure by:

(A) removing all furniture and plants and any other item not permanently affixed from the Unit's balcony; and

(B) designating a responsible firm or individual to care for the Unit during his/her absence (including the removal of furniture and plants and other items not affixed to balcony) in the event of a hurricane or severe storm, and in the event that the Unit suffers hurricane or storm damage. Each Unit Owner or Occupant shall furnish the Board, or manager, if any, with the name of such firm or individual.

(g) Prohibition of Damage, Nuisance and Noise. Without the prior written consent of the Board of Directors, nothing shall be done or kept on the Condominium, or any part thereof, which would increase the rate of insurance on the Condominium or any Unit or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

The dwelling Units in the Condominium are built in close proximity to one another, resulting in the sharing of common walls, floors and ceilings. As a result, noise and vibration may be detectable between Units or between Units and the Common Elements. Therefore, an Owner or Occupant shall not conduct activities within a Unit or use a Unit in a manner that interferes with or causes disruption to the use and quiet enjoyment of another Unit by its respective Owner and Occupant.

Furthermore, destructive or offensive activity shall not be carried on within the Condominium. No Owner or Occupant of a Unit may use or allow the use of the Unit or any portion of the Condominium at any time, in any way or for any purpose which may endanger the health, unreasonably annoy or disturb or cause embarrassment, or discomfort to other Owners or Occupants, or in such a way as to constitute, in the sole opinion of the Board of Directors, a nuisance. In addition, no Owner or Occupant of a Unit may use or allow the use of a Unit or the Common Elements in any manner which creates disturbing noises, including, without limitation, use of stereo speakers or equipment that will in the sole discretion of the Board of Directors interfere with the rights, comfort or convenience of the other Owners or Occupants. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his or her property or personal rights.

No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the reasonable opinion of the Association's Board of Directors or its designee, would jeopardize the soundness or safety of the Condominium or any structure created thereon, would reduce the value thereof, or would impair any easement or other interest in real property thereto, without in every such case the unanimous, prior written consent of all members of the Association and their mortgagees.

No damage to or waste of the Common Elements, or any part thereof, shall be permitted by any Owner or member of his or her family or any invitee of any Owner. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or destruction caused by such Owner, members of his or her family, guests, invitees, or Occupants of his or her Unit.

(h) Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Elements or Limited Common Elements is prohibited; provided, however, that the display of lawful firearms on the Common Elements or Limited Common Elements is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Elements or Limited Common Elements to or from the Owner's Unit. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

(i) Pets. No Owner or Occupant may keep any pets other than generally recognized household pets on any portion of the Condominium, and no Owner or Occupant may keep more than two (2) generally recognized household pets per Unit.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose, and no structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Elements, including Limited Common Elements, without prior written ACC approval. No pets are allowed on any portion of the Common Elements except for the designated dog walk area, if any; provided, however, an Owner or Occupant may walk a pet across the Common Elements to each such dog walk area, if any, or to enter or exit the Condominium property. Notwithstanding the foregoing, pets must be kept on a leash and be under the physical control of a responsible person at all times while on the Common Elements; provided, however, pets need not be leashed within enclosed balcony areas when attended by a person. Feces left upon the Common Elements by pets must be immediately removed by the owner of the pet or the person responsible for the pet.

No potbellied pigs, snakes, pit bulldogs, Rotweillers, Doberman Pinschers, may be brought onto or kept on the Condominium at any time. In addition, other animals determined in the Board's sole discretion to be dangerous shall not be brought onto or kept on the Condominium at any time. The Board may require that any pet that, in the Board's opinion, endangers the health of any Owner or Occupant or creates a nuisance or unreasonable disturbance, be permanently removed from the Condominium upon seven (7) days written notice. If the Owner or Occupant fails to do so, the Board may remove the pet. The Board may remove any pet, which, in the Board's sole discretion, presents an immediate danger to the health, safety or property of any community member, without prior notice to the pet's owner.

Any Owner or Occupant who keeps or maintains any pet upon the Condominium shall be deemed to have agreed to indemnify and hold the Association, its directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Condominium.

(j) Parking. Except for parking spaces assigned as Limited Common Elements, if any, the Occupants of each Unit shall be permitted to park in the unassigned parking spaces on the Common Elements on a "first come, first serve" basis. If required by the Board, each such vehicle must display the proper parking permit issued by the Board of Directors and must be a permitted vehicle pursuant to the requirements set forth below.

Vehicles permitted under this subparagraph may be parked only in designated, lined parking spaces, or other areas authorized in writing by the Board.

Disabled and stored vehicles are prohibited from being parked on the Condominium Property. For purposes hereof, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains on the Condominium without being driven for fourteen (14) consecutive days or longer without prior written Board permission.

Boats, trailers, jet-skis and trailers for same, panel trucks, buses, trucks with a load capacity of one (1) ton or more, vans (excluding vans used by handicapped persons, mini-vans or sport utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Florida Department of Highway Safety and Motor Vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors other than Sheriff's, Marshall's, or police officer's vehicles marked as such, are also prohibited from being parked on the Condominium, except in areas, if any, that may be designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the Common Elements during normal business hours for the purpose of serving any Unit or the Common Elements and after normal business hours in case of an emergency; provided, however, no such vehicle shall remain on the Common Elements overnight or for any purpose unless prior written consent of the Board is first obtained.

If any vehicle is parked on any portion of the Condominium Property in violation of this Section or in violation of the Association's rules and regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of the person or entity that will do the towing and the name and telephone number of a person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the Board or the agent of the Association may have the vehicle towed in accordance with the notice, without further notice to the Owner or user of the vehicle.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's Unit, is obstructing the flow of traffic, is parked on any grassy area, is parked in a parking space which has been assigned as exclusively serving another Unit, or otherwise creates a hazardous condition, no notice shall be required and the Board or the agent of the Association may have the vehicle towed immediately. If a vehicle is towed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

(k) Heating of Units in Colder Months. In order to prevent breakage of water pipes during colder months of the year resulting in damage to any portion of the Condominium, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Units shall be maintained with the heat in an "on" position and at a minimum temperature setting of fifty-five degrees (55°) Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does reach thirty-two degrees (32°) Fahrenheit or below. Owners and Occupants of Units shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. The Board of Directors may fine any Owner or Occupant and/or may cause the water service to the violator's Unit to be discontinued for violation of this subparagraph, in addition to any other remedies of the Association.

(l) Signs. Except as may be provided for herein or as may be required by legal proceedings, and except for signs which may be erected by Developer related to the development and sale of Units, no signs, advertising posters, political placards or billboards of any kind shall be erected, placed, or permitted to remain on the Condominium Property without the prior written consent of the Board or its designee, except that one (1) portable, removable United States flag may be displayed in a respectful way and in accordance with Section 718.113(4) of the Act as it may be amended from time to time, portable, removable, official flags not larger than four and one-half feet (4-1/2') by six feet (6') in size that represent the United States Army, Navy, Air Force, Marine Corps or Coast Guard, may be displaced in a respectful way on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association. In accordance with Paragraph 13(k), the Developer shall have the right to but not the obligation to erect a community bulletin on the Common Elements for use by Owners in advertising their units for sale.

(m) Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from the Unit and shall not be allowed to accumulate therein. No garbage, trash or boxes shall be placed on the Common Elements or Limited Common Elements outside the Unit, temporarily or otherwise, except in the trash dumpster. Rubbish, trash, and garbage shall be disposed of in sealed bags and either placed in the trash dumpster, or proper receptacles designated by the Board for collection, or removed from the Condominium Property.

(n) Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including, but not limited to the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Condominium Property. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the Unit.

(o) Garage Sales. Garage sales, yard sales, flea markets, or similar activities are prohibited unless approved in writing by the Board of Directors.

(p) Grilling. The use of outdoor grills, including electric grills, on any portion of the Condominium Property, including without limitation, balconies is prohibited; provided, however, Owners and Occupants are permitted to use grills located on the Common Elements that are provided by the Developer or the Association, if any.

(q) Window Treatments. Window treatments are not required; however, if window treatments are used, the color of all window treatments visible from outside the Unit must be white or off-white. Bed sheets and/or bedspreads shall not be used as window treatments.

(r) Antennas and Satellite Dishes. Except as provided below, no satellite dish, antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on any portion of the Condominium Property, including the Unit or Limited Common Elements; provided, however, that the Association shall have the right to erect, construct and maintain such devices. The following shall apply to all Unit Owners:

(i) No transmission antenna, of any kind, may be erected anywhere on the Condominium Property, including the Units, without written approval of the Board of Directors or the Architectural Review Committee.

(ii) No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than one meter in diameter shall be placed, allowed or maintained upon the Condominium Property, including the Units and the Limited Common Elements.

(iii) DBS and MMDS satellite dishes or antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association, both as may be amended from time to time.

In the event of a transfer of the Unit which includes a satellite dish or antenna, the Grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the Bylaws and the rules and regulations regarding satellite dishes and antennas, including, but not limited to, those requirements relating to maintenance and removal of satellite dish or antenna.

(s) Abandoned Personal Property. Personal property, other than vehicles as provided for in subparagraph (j) shall not be kept, or allowed to remain for more than twenty-four (24) hours upon any portion of the Common Elements, other than on a Limited Common Element, without prior written Board permission. If the Board determines that a violation exists, then, not less than two (2) days after written notice is placed on the personal property and/or on the front door of the property owner's Unit, if known, the Board may remove and either discard or store the personal property in a location which the Board may determine and shall have no obligation to return, replace or reimburse the owner of the property. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

The Board, in its discretion, may determine that an emergency situation exists and may exercise its removal rights hereunder without prior notice to the property owner; provided, however, in such case, the Board shall give the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed.

Neither the Association nor any officer or agent thereof shall be liable to any person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

(t) Replacing Carpet with Tile or Hardwood Floors. Other than the Developer, no Owner, Occupant, or any other person may replace carpeting with a tile, marble, vinyl, hardwood floor or other hard surfaced flooring material, on the interior of a Unit which is located above another Unit without first obtaining written approval of the Developer or the ARC, as applicable, as set forth in Paragraph 16. Among other factors, the Developer or the ARC, as applicable, may consider whether the change will cause noise to any Unit below which will exceed the average noise level in Units below Units with carpeted floors and that the weight of such proposed flooring is appropriate and will not cause problems to the structure or subflooring.

The Owner applying for such approval shall provide the Developer or the ARC, as applicable, with information regarding these factors, as well as other information requested by the Developer or the ARC regarding the proposed flooring and its effect; provided, however, the noise level requirements shall be considered to be met if the Owner provides a sound transmission test that the proposed flooring will create a noise level less than a standard level set by reasonable regulation of the Developer or the ARC, as applicable. Notwithstanding the above, at least fifty percent (50%) of the Unit (excluding the kitchen and bathrooms) shall be carpeted unless the flooring is sound proofed so as not to exceed the noise level in Units with carpeted floors.

(u) Move In/Move Out. A Unit Owner or Occupant shall not move furniture, construction materials, and other over-sized items in or out of the Condominium except during such hours and according to requirements to be determined by the Board of Directors.

(v) Sale Period. Notwithstanding any provisions contained in this Declaration to the contrary, during the period of the sale of the Condominium Units it shall be expressly permissible for Developer, its contractors, agents, employees, assigns and representatives, to maintain and carry on, upon such portion of the Condominium Property as Developer may deem necessary, such facilities and activities as in the sole opinion of Developer may be reasonably required, convenient or incidental to the completion and sale of the Condominium Units, including, but without limitation, business and/or management offices, signs, model Units and sales and/or leasing offices. The right to maintain and carry on such facilities and activities shall include specifically the right to use the parking facilities on the Condominium Property for such purposes and to use the Units owned by Developer as model Units and as offices for the sale of the Condominium Units and related activities.

(w) Life-Safety System. Owners and Occupants shall not tamper with or disengage any portion of the Life-Safety System that serves the Condominium including, without limitation, the sprinkler heads and all branch and feed lines that support such sprinkler heads, and all fire control devices (such as smoke detectors and call boxes), regardless of whether such items are located within the boundaries of a Unit.

(x) Mitigation of Dampness and Humidity. No Unit Owner shall install, within his or her Unit, or upon the Common Elements or Association Property, non-breathable wall coverings or low-permeance paints. Additionally, any and all built-in casework, furniture, and or shelving in a Unit must be installed over the floor coverings to allow air space and air movement and shall not be installed with backboards

flush against any gypsum board wall. Additionally, all Unit Owners, whether or not occupying the Unit, shall periodically run the air conditioning system to maintain the Unit temperature, whether or not occupied, at not greater than 78°F, to minimize humidity in the Unit. While the foregoing are intended to minimize the potential development of molds, fungi, mildew and other mycotoxins, each Owner understands and agrees that there is no method for completely eliminating the development of molds or mycotoxins. Neither the Developer nor the Association make any representations or warranties regarding the existence or development of molds or mycotoxins and each Owner shall be deemed to waive and expressly release any such warranty and claim for loss or damages resulting from the existence and/or development of same.

(y) Effects on Developer. Notwithstanding the above, the restrictions and limitations set forth in this Paragraph 23 shall not apply to the Developer, its designees, successors and assigns, or to Units owned by or leased to the Developer, except as required by the Act, or the regulations implementing the Act, specifically Rule 61B-18.007 Florida Administrative Code ("FAC") as the Act or regulations may be amended from time to time. In accordance with 61B-18.007(4), the Developer and its designees shall be exempt from parking restrictions on the type of vehicle permitted to be parked on Condominium Property if the vehicle is engaged in any activity relating to construction, maintenance, or marketing of Units.

#### 24. SELLING, LEASING AND MORTGAGING OF UNITS.

Units may be made subject to mortgages without restrictions, but sales and leases thereof shall be subject to the provisions of this Paragraph:

(a) Sales. Each new Owner shall notify the Association and the Management Firm, if any, of the conveyance within seven (7) days after receiving title to the Unit by informing the Association, and the Management Firm, if any, in writing of the new Owner's or Owners' name(s) and the date the new Owner received the title to the Unit. Any Person having executed a contract for the purchase of a Unit, or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a certificate of unpaid assessments from the Association setting forth the amount of assessments and other monies owed to the Association as set forth in Paragraph 19(f) of this Declaration. Any deed or conveyance to a new Unit Owner shall automatically be deemed to provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the Declaration, the Bylaws, the Articles of Incorporation, the Rules and Regulations, and all other agreements, documents or instruments affecting the Condominium Property, as the same may be amended from time to time.

(b) Leasing. The Board shall have the power to make and enforce reasonable rules and regulations regarding leasing of Units (provided that, any changes to the leasing provisions of subsections (b)(ii) and (iii) of this Paragraph 24 shall require an amendment to the Declaration in accordance with Paragraph 14 of this Declaration) and to levy fines in accordance with the Declaration and Bylaws in order to enforce the provisions of this paragraph and of the rules and/or regulations issued pursuant to this paragraph. "Leasing," for the purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any Person other than the Owner; provided, however, for the purposes of this Declaration, Leasing shall not include exclusive occupancy by the child or parent of an Owner. For purposes hereof, occupancy by a roommate of an Owner who occupies the Unit as such Owner's primary residence shall not constitute Leasing hereunder. Leasing of Units shall be governed by the following provisions:

(i) Notice. At least three (3) days prior to entering into the lease of a Unit, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto.

(ii) General. Units may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may maintain and, upon request, provide a form which is deemed acceptable. There shall be no subleasing of Units or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than six (6) months, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship provided that no Unit shall be leased more than twice in a calendar year. Within ten (10) days after executing a lease agreement for the lease of a Unit, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Unit. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease; provided that, such approval or disapproval by the Board shall be given within three (3) days after the Board's receipt of the proposed lease and; provided further, that in the event that the Board does not give its approval or disapproval in a timely fashion, such lease shall be deemed approved. Notwithstanding the above, this subparagraph shall not apply to the leasing of Units owned by the Association.

(iii) Liability for Assessments, Use of Common Elements, and Compliance with Declaration, Bylaws, and Rules and Regulations. Each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(A) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Unit in order to ensure such compliance. The Owner shall cause all Occupants of his or her Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants. If the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation, notice of the violation shall be given to the Owner and the lessee, and a fine may be charged against the Unit in accordance with the Bylaws and Paragraph 25 of this Declaration. Any such fine imposed against a Unit shall not become a lien against the Unit.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Florida law. The Owner hereby delegates and assigns to the Association, after the Board gives notice to the Unit Owner at the last address provided by Unit Owner to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. Prior to eviction of a tenant, the Association shall give the Unit Owner five (5) days notice to allow the Owner to secure compliance from the lessee. If the lessee does not cure the violation within such time period, the Board may commence eviction proceedings. If the Association proceeds to evict the lessee, any costs, including reasonable attorney's fees actually incurred and court

costs, associated with the eviction shall be billed to the Owner and shall bear interest at the highest rate permitted by law from the date expended until paid in full.

(B) Use of Common Elements. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements, including but not limited to, the use of any and all recreational facilities and other amenities.

(iv) Continuing Liability. The liability of the Unit Owner under this Declaration shall continue, notwithstanding the fact that the Unit Owner may have leased, rented or sub-let said interest as provided herein. Every purchaser, tenant or lessee shall take subject to this Declaration, the Articles of Incorporation, the Bylaws, and the Management Agreement, if any, as well as the provisions of the Act.

(c) No Severance of Ownership. Subject to the right of transfer of Limited Common Element parking spaces, and storage spaces, in accordance with Paragraph 10 of this Declaration, 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.

(d) Gifts and Devises, etc. Any Unit Owner shall be free to convey or transfer such Owner's Unit by gift, to devise such Owner's Unit by will, or to have such Owner's Unit pass by intestacy, without restriction; provided, however, that each succeeding Unit Owner shall be bound by, and such Owner's Unit subject to, the provisions of this Paragraph.

(e) Applicability of this Paragraph. Notwithstanding the above, except as required by the Act, or the regulations implementing the Act, specifically Rule 61B-18.007, Florida Administrative Code ("F.A.C."), as the Act or such regulations may be amended from time to time, this Paragraph shall not apply to any leasing transaction entered into by the Developer (regardless of whether said lease is entered into prior to or after the Developer has relinquished control of the Association in accordance with Section 718.301(4) of the Act), the Association, or the holder of any first mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such mortgage.

## 25. COMPLIANCE AND DEFAULT

Each Unit Owner, Occupant, and the Association shall be governed by and shall comply with the terms of this Declaration of Condominium and all exhibits annexed hereto, and the rules and regulations adopted pursuant to the Condominium Instruments, as the same may be amended from time to time and provisions of all such documents shall be deemed to be incorporated into any lease whether stated in the lease or not. The Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:

(a) Negligence. A Unit Owner and/or Occupant 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.

(b) 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 the Declaration, the By-Laws, the Articles of Incorporation of the Association, the rules and regulations adopted by the

Board, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to proceed in court to require performance and/or compliance, to impose any applicable fines, to sue in a court of law for damages, to make a special charge against the Unit Owner and the Unit for the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance, and to hire an attorney to make a charge against the Unit Owner and Unit for the costs of such reasonable attorneys' fees incurred in requiring performance and/or compliance of the Unit Owner. In addition, the Association has the irrevocable right of access to each Unit during reasonable hours, when necessary, for the maintenance, repair, or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

(c) Fines. In the event a Unit Owner or Occupant fails to observe and perform all of the provisions of the Declaration, the By-Laws, the Articles of Incorporation of the Association, the rules and regulations adopted by the Board, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to impose a fine against the Unit Owner or Occupant and the Unit; provided that no fine shall become a lien against a Unit. The amount of any fine shall be determined by the Board of Directors, but in any event shall not exceed any maximum amount permitted by the Act, as such Act may be amended from time to time. Any fine shall be imposed by written notice to the Unit Owner and Occupant, if applicable, signed by an officer of the Association, or by the Management Firm, if any, which notice shall state the amount of the fine, the violation for which the fine is imposed, and shall specifically state that the Unit Owner and Occupant, if applicable, has the right to contest the fine by delivering written notice to the Association within fourteen (14) days after receipt of the notice imposing the fine. If the Unit Owner or Occupant timely and properly objects to the fine, a committee of other Unit Owners ("Unit Owner Committee") appointed by the Board of Directors for the purpose of conducting these types of hearings shall conduct a hearing within thirty (30) days after receipt of the Unit Owner's or Occupant's objection, and shall give the Unit Owner or Occupant not less than fourteen (14) days written notice of the hearing date. Such notice shall include:

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

At the hearing, the Unit Owner Committee shall conduct a reasonable inquiry to determine whether the alleged violation in fact occurred and that the fine imposed is appropriate. The Unit Owner or Occupant shall have the right to attend the hearing and to respond to any material considered by the Association and to produce evidence on his behalf and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge and respond to any material considered by the Association. If the Unit Owner or Occupant fails to attend the hearing, then the hearing will be deemed waived and the Unit Owner Committee may ratify the fine without further proceedings. At the hearing, the Unit Owner Committee shall ratify the fine or if the Unit Owner Committee does not agree with the fine, it may reduce or eliminate the fine and shall give the Unit Owner or Occupant written notice of its decision. Any fine shall be due and payable within fourteen (14) days after written notice of the imposition of the fine, or if a hearing is timely requested within fourteen (14) days after written notice of the Unit Owner Committee's decision at the hearing. If any fine is levied against a tenant and is not paid within fourteen (14) days after same is due, the Association shall have the right to evict the tenant in accordance with Florida law.

(d) 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 Articles

of Incorporation, the Bylaws 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).

(e) No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, this Declaration, the Articles of Incorporation, the Bylaws 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.

(f) Election of Remedies. All rights, remedies and privileges granted to the Association or Unit Owner pursuant to any terms, provisions, covenants or conditions of the Condominium Instruments shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such other party by Condominium Instruments, or at law or in equity.

## 26. 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 the agreement in writing of Owners owning all of the applicable interests in the Common Elements and by all of the holders of recorded mortgage liens affecting the Condominium Parcels. 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 interests in the Common Elements; 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 net proceeds all mortgages and liens on 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 the Developer as long as it owns at least one (1) Unit.

## 27. ADDITIONAL RIGHTS OF MORTGAGEES AND OTHERS.

The following provisions are intended for the benefit of each holder of a first mortgage upon a Unit, and, to the extent that any other provisions of this Declaration conflicts with the following provisions, if at all, the following provisions shall control:

(a) Upon request in writing, each Eligible Mortgage Holder of a Unit and any holder, insurer or guarantor of a first mortgage on a Unit shall have the right:

(i) to examine current copies of this Declaration, the Bylaws, rules and regulations and the books, records and financial statements of the Association during normal business hours; and

(ii) to receive, without any charge and within a reasonable time after such request, the annual audited financial statement which is prepared and distributed by the Association to the Unit Owners at the end of its fiscal year; provided, however, that in the event an audited financial statement is not available, the holders of fifty-one percent (51%) or more of the first mortgages in the Units shall be entitled to have such an audited statement prepared at their expense;

(b) No provision of this Declaration or the Articles of Incorporation or any similar instrument pertaining to the Condominium Property or the Units therein shall be deemed to give a Unit Owner or any other party priority over any rights of holders of a first mortgage of Units pursuant to their mortgages in the case of distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of the Units, and/or the Common Elements, or any portion thereof or interest therein. In such event, the holder of any first mortgage on a Unit shall be entitled, upon specific written request, to timely written notice of any such loss.

(c) If mortgages subject to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation are involved, the consent of Owners holding at least sixty-seven percent (67%) of the total votes in the Association and the approval of the Eligible Mortgage Holders who represent at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders shall be required to add or amend any material provisions of this Declaration, which consent shall not be unreasonably withheld. Notwithstanding the above, the approval of any proposed amendment by an Eligible Mortgage Holder shall be deemed implied and consented to if the Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested. Material amendments include those amendments described in Section 718.110(4) and (8) of the Act as it may be amended from time to time. In addition, material amendments are defined by the Federal National Mortgage Association and/or the Department of Housing and Urban Development to be those amendments that establish, provide for, govern or regulate any of the following:

- (i) Voting;
- (ii) Assessments, assessment liens or subordination of such liens;
- (iii) Reserves for maintenance, repair and replacement of the Common Elements;
- (iv) Insurance or fidelity bonds;
- (v) Rights to use of the Common Elements;
- (vi) The expansion or contraction of the Condominium Property, or the addition, annexation, or withdrawal of property to or from the Condominium;
- (vii) Responsibility for maintenance and repair of the Condominium Property;
- (viii) Boundaries of any Unit;
- (ix) The interests in the Common Elements or Limited Common Elements;
- (x) Convertibility of Units into Common Elements or of Common Elements into Units;
- (xi) Leasing of Units;
- (xii) Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit; and
- (xiii) Establishment of self-management by the Association and termination of the management responsibilities, duties and contractual obligations of the Management Firm, if any,

where professional management has been required by Federal National Mortgage Association ("FannieMae"), the Department of Housing & Urban Development ("HUD") or the Veterans' Administration ("VA"), to the extent not superseded by the provisions of Section 718.302(1), Florida Statutes, in the event of conflict between such statute and this subsection;

(xiv) Restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than as provided in this Declaration; or

(xv) Amendment of any provisions which are for the express benefit of Eligible Mortgage Holders, insurers or guarantors of first mortgages on the Units in the Condominium.

(d) If Mortgages subject to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation are involved, unless at least two-thirds (2/3) of the first Mortgagees or Unit Owners give their consent, which consent shall not be unreasonably withheld, the Association or the membership shall not:

(i) by act or omission seek to abandon or terminate the Condominium;

(ii) change the pro rata interest or obligations of any individual Unit for the purpose of (1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (2) determining the pro rata share of ownership of each Unit in the Common Elements;

(iii) partition or subdivide any Unit in any manner inconsistent with the provisions of this Declaration;

(iv) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements (the granting of easements or licenses, as authorized herein, shall not be deemed a transfer within the meaning of this clause); or

(v) use hazard insurance proceeds for losses to any portion of the Condominium (whether to Units or to Common Elements) for other than the repair, replacement, or reconstruction of such portion of the Condominium.

The provisions of this subparagraph shall not be construed to reduce the percentage vote that must be obtained from Mortgagees or Unit Owners where a larger percentage vote is otherwise required by the Act or the Condominium Instruments for any of the actions contained in this Paragraph.

(e) Upon written request to the Association, identifying the name and address of the holder and the Unit number or address, any Eligible Mortgage Holder will be entitled to timely written notice of:

(i) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a first Mortgage held by such Eligible Mortgage Holder;

(ii) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first Mortgage held by such Eligible Mortgage Holder which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Unit Owner of any other obligation under the Condominium Instruments which is not cured within sixty (60) days;

(iii) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

(iv) any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holder, as specified herein.

(v) any proposed amendment of the Condominium Instruments effecting a change in (a) the boundaries of any Unit or the exclusive easement rights appertaining thereto; (b) the interests in the Common Elements or Limited Common Elements appertaining to any Unit or the liability for Common Expenses appertaining thereto; (c) the number of votes in the Association appertaining to any Unit; or (d) the purposes to which any Unit or the Common Elements are restricted;

(vi) any proposed termination of the Condominium;

(vii) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a first Mortgage held by such Eligible Mortgage Holder;

(viii) any delinquency in the payment of assessments or charges owned by an Owner of a Unit subject to a first Mortgage held by such Eligible Mortgage Holder which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Unit Owner of any other obligation under the Condominium Instruments which is not cured within sixty (60) days;

(ix) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

(x) any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders, as specified herein.

(f) Notwithstanding anything to the contrary herein contained, the provisions of Paragraphs 24 governing sales and leases shall not apply to impair the right of any first Mortgagee to:

(i) foreclose or take title to a Unit pursuant to remedies contained in its Mortgage; or

(ii) take a deed or assignment in lieu of foreclosure; or

(iii) sell, lease, or otherwise dispose of a Unit acquired by the Mortgagee.

(g) Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of any mortgagee encumbering such Owner's Unit.

(h) If any Unit or portion thereof or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the holder, insurer or guarantor of any first mortgage on a Unit will be entitled to timely written notice, upon specific written request, of any such proceeding or proposed acquisition and no provisions of any document will entitle a Unit Owner or other party to priority over such holder with respect to the distribution to such Unit of the proceeds of any award or settlement.

(i) Any holder of a first mortgage on a Unit who receives a written request to approve additions or amendments and fails to deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

(j) As required by Section 718.110, Florida Statutes, any mortgagee consent required under this Section shall not be unreasonably withheld.

28. DISCLAIMER OF WARRANTIES.

**DEVELOPER HEREBY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES AS TO DESIGN, CONSTRUCTION, FURNISHING AND EQUIPPING OF THE CONDOMINIUM PROPERTY, AND IN ACCORDANCE WITH SECTION 718.618(6) OF THE ACT DEVELOPER HEREBY MAKES NO IMPLIED WARRANTIES, HAVING ELECTED INSTEAD TO ESTABLISH CONVERTER RESERVE ACCOUNTS IN ACCORDANCE WITH SECTION 718.618(6) OF THE ACT AS SET FORTH IN THE INITIAL BUDGET FOR THE ASSOCIATION IN LIEU OF IMPLIED WARRANTIES OR POSTING OF A SURETY BOND; PROVIDED THAT IN ACCORDANCE WITH SECTION 718.618(6) OF THE ACT, IN THE EVENT THAT THE DEVELOPER FAILS TO ESTABLISH SUCH CONVERTER RESERVE ACCOUNTS, THE DEVELOPER SHALL BE DEEMED TO HAVE GRANTED TO UNIT OWNERS AN IMPLIED WARRANTY OF FITNESS AND MERCHANTABILITY AS SET FORTH IN SECTION 718.618(6) OF THE ACT. AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED.**

**ALL UNIT OWNERS, BY VIRTUE OF THEIR ACCEPTANCE OF TITLE TO THEIR RESPECTIVE UNITS (WHETHER FROM THE DEVELOPER OR ANOTHER PARTY), SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL AND CONSEQUENTIAL DAMAGES TO THE EXTENT ALLOWED UNDER THE ACT.**

29. MANDATORY NON-BINDING ARBITRATION OF DISPUTES

(a) Prior to the institution of court litigation, the parties to a dispute, as further defined herein, shall petition the Division for non-binding arbitration. Arbitration shall be conducted according to rules promulgated by the Division. The filing of a petition for arbitration shall toll the applicable statute of limitations. For purposes of this subsection, a "dispute" shall be as defined pursuant to Florida Statute Section 718.1255, as amended from time to time.

(b) At the request of any party to the arbitration, such arbitrator shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by the Florida Rules of Civil Procedure. Discovery may, in the discretion of the arbitrator, be permitted in the manner provided by the Florida Rules of Civil Procedure.

(c) The arbitration decision shall be presented to the parties in writing. An arbitration decision shall be final if a complaint for a trial *de novo* is not filed within thirty (30) days in a court of competent jurisdiction in which the Condominium is located following the date of issuance of the arbitration decision. The right to file for a trial *de novo* entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party in an arbitration proceeding may be awarded reasonable attorneys' fees, the costs of the arbitration, or both, in an amount determined in the discretion of the arbitrator.

(d) The party who files a complaint for a trial *de novo* shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorneys' fees, investigation expenses,

and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial *de novo* is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial *de novo* shall be awarded reasonable court costs and attorneys' fees.

(e) The decision of an arbitrator shall be final; however, such a decision shall not be deemed final agency action by the Division. Nothing in this provision shall be construed to foreclose parties from proceeding in a trial *de novo*. If such judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence in the trial *de novo*.

(f) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the Condominium is located. A petition may not be granted unless the time for appeal by filing of a complaint for trial *de novo* has expired. If a complaint for a trial *de novo* has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition is granted, the petitioner may recover reasonable attorneys' fees and costs incurred in enforcing the arbitration award.

### 30. ADDITIONAL PROVISIONS.

#### (a) Disclosures.

(i) The Condominium is located adjacent to thoroughfares which could be improved or widened in the future.

(ii) The views from an Owner's Unit can change over time due to among other things, additional development and the removal or addition of landscaping.

(iii) No representations are made regarding the zoning of adjacent property, or that the category to which adjacent property is zoned may not change in the future.

(iv) No representations are made regarding the use of adjacent property, or that the use of adjacent property may not change in the future.

(v) No representations are being made regarding which schools may now or in the future serve the Unit.

(vi) Since in every neighborhood, there are conditions which different people may find objectionable, it is acknowledged that there may be conditions outside of the Condominium which an Owner and/or Occupant may find objectionable and that it shall be the sole responsibility of the Owners and Occupants to become acquainted with neighborhood conditions which could affect the Unit.

(vii) No representations are made that the Unit is or will be soundproof or that sound may not be transmitted from one Unit to another.

(viii) The condominium floor plans and the dimensions and square footage calculations shown thereon are only approximations. Any Unit Owner who is concerned about any representations regarding the floor plans should do his/her own investigation as to the dimensions, measurements and square footage of his/her Unit.

(ix) A Unit may trap humidity created by everyday living (cooking, bathing, laundering, etc.). As a result, condensation may appear on the interior portion of windows and glass surfaces and fogging of windows and glass surfaces may occur due to temperature disparities between the interior and exterior portions of the windows and glass. If left unattended and not properly maintained by Owners and Occupants, the condensation may increase resulting in staining, damage to surrounding seals, caulk, paint, wood work and sheetrock, and potentially mildew or mold (see Paragraphs 15(e) (Maintenance Responsibility) and 23(x) of this Declaration). Further, given the climate and humid conditions in Florida, molds, mildew, toxins and fungi may exist and/or develop within the Unit and/or the Condominium Property. Each Owner is hereby advised that certain molds, mildew, toxins and/or fungi may be, or if allowed to remain for a sufficient period may become, toxic and potentially pose a health risk. By acquiring title to a Unit, each Owner shall be deemed to have assumed the risks associated with molds, mildew, toxins and/or fungi and to have released the Developer and Association from any and all liability resulting from same.

(x) Exposed concrete surfaces in portions of the Condominium which are not heated and cooled are subject to cracking due to (A) water penetration, (B) expansion and contraction of the concrete with temperature changes, and (C) building settlement.

(xi) Concrete surfaces in heated and cooled portions of the Condominium are subject to cracking due to building settlement.

(b) Parking Spaces and Vehicles. Neither the Developer nor the Association shall be held liable for any loss or damage arising from theft, vandalism, malicious mischief, or any loss or damage resulting from water or acid damage, to any property placed or kept in any parking space at the Condominium. Each Owner or Occupant who places or keeps a vehicle and/or any personal property in the vehicle in a parking space does so at his or her own risk.

(c) Unit Keys. At the request of the Association, each Unit Owner, by acceptance of a deed to a Unit, agrees to provide the Association with a key to the Unit and the security alarm code, if any, to be used by the Association for maintenance, emergency, security or safety purposes as provided in Paragraph 17(a)(ii) of this Declaration. Neither the Developer nor the Association nor any agent of the Association including, but not limited to the Management Firm, if any, shall be liable for any loss or damage due to its holding such key, or use of such key for the purposes described above and each Unit Owner shall indemnify and hold harmless the Developer, the Association and its officers and directors against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon the Developer, the Association or its officers or directors in connection with any action, suit, or other proceeding (including settlement of any such action, suit or proceeding) brought by the Unit Owner or the Unit Owner's family, tenants, guests, employees, invitees, or licensees against the Developer, the Association, its officers or directors arising out of or relating to its holding or use of such key for the purposes described above.

(d) Right of Developer to Add Recreational Facilities and Common Elements. If the Developer elects to add or expand any recreational facilities or any other portion of the Common Elements, the Developer shall pay all the expenses relating to the construction or the providing of such addition or expansion and shall record an amendment to this Declaration describing such property. The amendment shall be executed with the formalities of a deed and recorded in the public records of the County. No approval or action of the Association, Unit Owners or mortgagees shall be necessary for adding such additional Common Elements to condominium ownership. All costs of maintenance, repair and replacement relating to the addition or expansion of the recreational facilities or any other portion of the Common Elements shall be a Common Expense.

(e) Notices. All notices to the Association required or desired hereunder or under the Bylaws shall be sent by certified mail, return receipt requested, or by overnight courier service that produces evidence of delivery to the Association in 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 address of such Unit Owner or by overnight courier service that produces evidence of delivery, at the address appearing in the Association's records at the time notice is transmitted. Where a Unit is owned by more than one person, the Association shall provide notice, for meetings and all other purposes, to that one address which the Developer initially identifies for that purpose and thereafter as one or more of the Owners of the Unit shall so advise the Association in writing, or if no address is given or the Owners of the Unit do not agree, to the address provided in the deed of record.

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 notices of a change of address, which shall be deemed to have been given when received, or five (5) business days after proper mailing, whichever shall first occur.

(f) Interpretation. The Board of Directors 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 legal counsel to the Association that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.

(g) Binding Effect of Section 718.303, Florida Statutes. The provisions of Section 718.303(1) of the Act shall be in full force and effect and are incorporated herein. The Management Firm, if any, for as long as the Management Agreement remains in effect, shall assist the Association in the prosecution of any action pursuant to the Act.

(h) Exhibits. There are hereby incorporated into this Declaration all materials contained in the exhibits annexed hereto.

(i) Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration, the 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.

(j) 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.

(k) Ratification. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each Occupant who is not a Unit Owner (by reason of such occupancy), shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles of Incorporation, the Bylaws and applicable rules and regulations, are fair and reasonable in all material respects.

(l) Gender; Plurality. For convenience and ease of reference, the third person singular impersonal form of pronoun "it" has been used herein without regard to the proper grammatical person or

gender of the party being referred to. All such references shall be deemed to include the singular or plural person and the masculine, feminine or neuter gender, as required by the context.

(m) 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.

(n) Mortgagees. Anything herein to the contrary notwithstanding, 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.

(o) 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 therefore, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.

(p) 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 the 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.

(q) Priorities in Case of Conflict. In the event of conflict between or among the provisions of any of the following, the order of priority shall be, from highest priority to lowest:

- (i) The Act;
- (ii) The Declaration;
- (iii) The Articles;
- (iv) The Bylaws; and
- (v) The Rules and Regulations of the Association, if any.

(r) Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of the Unit Owners as hereinafter provided. The Association shall prepare a budget of the total estimated cost of the litigation which shall be submitted to the Unit Owners for a vote along with the estimate of the total cost of the litigation made by the attorney being retained by the Association for the litigation. The Association shall assess all Unit Owners by Special Assessment for the total estimated costs and fees of the proposed litigation and no funds from regular periodic Assessments or capital contributions may be used for such purpose. The proposed litigation, the budget, and the Assessment for litigation, must all be approved by a vote of the Unit Owners representing at least seventy-five percent (75%) of the total votes of the Association. This subsection shall not apply, however, to (a) actions involving imposition and collection of Assessments as provided herein, (b) proceedings involving challenges to ad valorem taxation, or (c) counterclaims brought by the Association in proceedings instituted against it. This subsection shall not be amended unless such amendment is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed and its corporate seal to be hereunto affixed this 30th day of MARCH, 2005.

**DEVELOPER:**

**MCRAE & STOLZ ST. AUGUSTINE, LLC,**  
a Delaware limited liability company

By: McRae & Stolz St. Augustine Manager, Inc.,  
a Florida corporation  
Its Managing Member

By: [Signature] [SEAL]  
Name: Will Stolz  
Title: President

**WITNESSES:**

Name: Penny Snyder  
Print Name: Penny Snyder

Name: Jennie Brown  
Print Name: Jennie Brown

STATE OF Georgia

COUNTY OF Gwinnett

The foregoing instrument was acknowledged before me this 30th day of March, 2005 by Will Stolz, as President of McRae & Stolz St. Augustine Manager, Inc., a Florida corporation, which is the Managing Member of McRae & Stolz St. Augustine, LLC, a Delaware limited liability company. (He/She is personally known to me) or he/she has produced \_\_\_\_\_ as identification.

My Commission Expires:

(AFFIX NOTARY SEAL)

Amy Etteicher  
(Signature)

Name: Amy E Etteicher  
(Legibly Printed)

Notary Public, State of Georgia  
(Commission Number, if any)

Notary Public, Gwinnett County, Georgia  
My Commission Expires Feb. 25, 2007

**EXHIBIT "A"****Description of Submitted Property**

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 7 SOUTH, RANGE 29 EAST AND IN SECTIONS 30 AND 31, TOWNSHIP 7 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SAID SECTION 36 WITH THE EAST RIGHT-OF-WAY LINE FOR THE FLORIDA EAST COAST RAILWAY, SAID RIGHT-OF-WAY LINE BEING 75 FEET EASTERLY FROM AND PARALLEL WITH THE CENTERLINE OF SAID RIGHT-OF-WAY; THENCE NORTH 87 DEGREES 46 MINUTES 30 SECONDS EAST, ON THE NORTH LINE OF SAID SECTION 36 AND THE EASTERLY EXTENSION THEREOF, 1821.14 FEET TO THE WEST RIGHT-OF-WAY LINE FOR STATE ROAD NO. S-5A (OLD MOULTRIE ROAD), SAID RIGHT-OF-WAY BEING 66 FEET IN WIDTH; THENCE SOUTH 1 DEGREE 08 MINUTES 26 SECONDS EAST, ON SAID WEST LINE OF RIGHT-OF-WAY, 660.00 FEET; THENCE SOUTH 87 DEGREES 46 MINUTES 30 SECONDS WEST 1200 FEET; THENCE NORTH 1 DEGREE 08 MINUTES 26 SECONDS WEST 389.43 FEET; THENCE SOUTH 87 DEGREES 46 MINUTES 30 SECONDS WEST 609.52 FEET; THENCE NORTH 3 DEGREES 36 MINUTES 00 SECONDS WEST, ON SAID EAST RIGHT-OF-WAY LINE FOR RAILWAY, 270.60 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING PROPERTY:

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 7 SOUTH, RANGE 29 EAST AND IN SECTIONS 30 AND 31, TOWNSHIP 7 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SAID SECTION 36 WITH THE EAST RIGHT-OF-WAY LINE FOR THE FLORIDA EAST COAST RAILWAY, SAID RIGHT-OF-WAY LINE BEING 75 FEET EASTERLY FROM AND PARALLEL WITH THE CENTERLINE OF SAID RIGHT-OF-WAY; THENCE NORTH 87 DEGREES 46 MINUTES 30 SECONDS EAST, ON THE NORTH LINE OF SAID SECTION 36 AND THE EASTERLY EXTENSION THEREOF, 1521.14 FEET TO THE POINT OF BEGINNING; THENCE (1) NORTH 87 DEGREES 46 MINUTES 30 SECONDS EAST, 300.00 FEET TO THE WEST RIGHT-OF-WAY LINE FOR COUNTY ROAD 5-A (OLD MOULTRIE ROAD), SAID RIGHT-OF-WAY BEING 66 FEET IN WIDTH; THENCE (2) SOUTH 1 DEGREE 08 MINUTES 26 SECONDS EAST, ON SAID WEST LINE OF RIGHT-OF-WAY, 660.00 FEET; THENCE (3) SOUTH 87 DEGREES 46 MINUTES 30 SECONDS WEST 140.00 FEET; THENCE (4) NORTH 19 DEGREES 20 MINUTES 25 SECONDS WEST, 215.15 FEET; THENCE (5) NORTH 12 DEGREES 43 MINUTES 30 SECONDS WEST, 462.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 18.5 ACRES MORE OR LESS.

TOGETHER WITH ACCESS, UTILITIES AND SIGNAGE EASEMENT AS SET FORTH IN INSTRUMENT RECORDED IN OFFICIAL RECORDS BOOK 1215, PAGE 370, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

**EXHIBIT "B"****PERCENTAGE OF UNDIVIDED INTEREST IN THE COMMON ELEMENTS  
AND COMMON SURPLUS AND UNDIVIDED SHARE OF COMMON EXPENSES**

178 Units

<b>Building No.</b>	<b>Unit Number</b>	<b>Approximate Square Footage</b>	<b>Percentage Interest</b>
<b>1</b>	1-102	1,260	0.67%
	1-103	760	0.41%
	1-104	1,085	0.58%
	1-105	760	0.41%
	1-106	1,085	0.58%
	1-108	1,260	0.67%
	1-201	1,260	0.67%
	1-202	1,260	0.67%
	1-203	1,085	0.58%
	1-204	1,085	0.58%
	1-205	1,085	0.58%
	1-206	1,085	0.58%
	1-207	1,260	0.67%
	1-208	1,260	0.67%
	1-301	1,085	0.58%
	1-302	1,085	0.58%
	1-303	1,085	0.58%
	1-304	1,085	0.58%
	1-305	1,085	0.58%
	1-306	1,085	0.58%
	1-307	1,085	0.58%
	1-308	1,085	0.58%
<b>2</b>	2-102	1,260	0.67%
	2-103	760	0.41%
	2-104	1,085	0.58%
	2-105	760	0.41%
	2-106	1,085	0.58%
	2-108	1,260	0.67%
	2-201	1,260	0.67%
	2-202	1,260	0.67%
	2-203	1,085	0.58%
	2-204	1,085	0.58%
	2-205	1,085	0.58%
	2-206	1,085	0.58%
	2-207	1,260	0.67%
	2-208	1,260	0.67%
	2-301	1,085	0.58%
	2-302	1,085	0.58%
	2-303	1,085	0.58%
	2-304	1,085	0.58%
	2-305	1,085	0.58%

Building No.	Unit Number	Approximate Square Footage	Percentage Interest
2 (Continued)	2-306	1,085	0.58%
	2-307	1,085	0.58%
	2-308	1,085	0.58%
3	3-102	1,260	0.67%
	3-103	760	0.41%
	3-104	1,085	0.58%
	3-105	760	0.41%
	3-106	1,085	0.58%
	3-108	1,260	0.67%
	3-201	1,260	0.67%
	3-202	1,260	0.67%
	3-203	1,085	0.58%
	3-204	1,085	0.58%
	3-205	1,085	0.58%
	3-206	1,085	0.58%
	3-207	1,260	0.67%
	3-208	1,260	0.67%
	3-301	1,085	0.58%
	3-302	1,085	0.58%
	3-303	1,085	0.58%
	3-304	1,085	0.58%
	3-305	1,085	0.58%
	3-306	1,085	0.58%
	3-307	1,085	0.58%
	3-308	1,085	0.58%
4	4-102	1,260	0.67%
	4-103	760	0.41%
	4-104	1,085	0.58%
	4-105	760	0.41%
	4-106	1,085	0.58%
	4-108	1,260	0.67%
	4-201	1,260	0.67%
	4-202	1,260	0.67%
	4-203	1,085	0.58%
	4-204	1,085	0.58%
	4-205	1,085	0.58%
	4-206	1,085	0.58%
	4-207	1,260	0.67%
	4-208	1,260	0.67%
	4-301	1,085	0.58%
	4-302	1,085	0.58%
	4-303	1,085	0.58%
	4-304	1,085	0.58%
	4-305	1,085	0.58%
	4-306	1,085	0.58%
	4-307	1,085	0.58%
	4-308	1,085	0.58%

Building No.	Unit Number	Approximate Square Footage	Percentage Interest
5	5-102	760	0.41%
	5-103	760	0.41%
	5-104	1,085	0.58%
	5-105	760	0.41%
	5-106	1,085	0.58%
	5-108	760	0.41%
	5-201	760	0.41%
	5-202	760	0.41%
	5-203	1,085	0.58%
	5-204	1,085	0.58%
	5-205	1,085	0.58%
	5-206	1,085	0.58%
	5-207	760	0.41%
	5-208	760	0.41%
	5-301	760	0.41%
	5-302	760	0.41%
	5-303	1,085	0.58%
	5-304	1,085	0.58%
	5-305	1,085	0.58%
	5-306	1,085	0.58%
	5-307	760	0.41%
	5-308	760	0.41%
6	6-102	1,260	0.67%
	6-103	760	0.41%
	6-104	1,085	0.58%
	6-105	760	0.41%
	6-106	1,085	0.58%
	6-108	1,260	0.67%
	6-201	1,260	0.67%
	6-202	1,260	0.67%
	6-203	1,085	0.58%
	6-204	1,085	0.58%
	6-205	1,085	0.58%
	6-206	1,085	0.58%
	6-207	1,260	0.67%
	6-208	1,260	0.67%
	6-301	1,085	0.58%
	6-302	1,085	0.58%
	6-303	1,085	0.58%
	6-304	1,085	0.58%
	6-305	1,085	0.58%
	6-306	1,085	0.58%
7	7-101	760	0.41%
	7-102	760	0.41%
	7-103	760	0.41%

Building No.	Unit Number	Approximate Square Footage	Percentage Interest
<b>7</b> <b>(Continued)</b>	7-104	1,085	0.58%
	7-105	760	0.41%
	7-106	1,085	0.58%
	7-107	760	0.41%
	7-108	760	0.41%
	7-201	760	0.41%
	7-202	760	0.41%
	7-203	1,085	0.58%
	7-204	1,085	0.58%
	7-205	1,085	0.58%
	7-206	1,085	0.58%
	7-207	760	0.41%
	7-208	760	0.41%
	7-301	760	0.41%
	7-302	760	0.41%
	7-303	1,085	0.58%
	7-304	1,085	0.58%
	7-305	1,085	0.58%
	7-306	1,085	0.58%
	7-307	760	0.41%
	7-308	760	0.41%
<b>8</b>	8-102	1,260	0.67%
	8-103	760	0.41%
	8-104	1,085	0.58%
	8-105	760	0.41%
	8-106	1,085	0.58%
	8-108	1,260	0.67%
	8-201	1,260	0.67%
	8-202	1,260	0.67%
	8-203	1,085	0.58%
	8-204	1,085	0.58%
	8-205	1,085	0.58%
	8-206	1,085	0.58%
	8-207	1,260	0.67%
	8-208	1,260	0.67%
	8-301	1,085	0.58%
	8-302	1,085	0.58%
	8-303	1,085	0.58%
	8-304	1,085	0.58%
	8-305	1,085	0.58%
	8-306	1,085	0.58%
	8-307	1,085	0.58%
	8-308	1,085	0.58%
	<b>TOTALS</b> <b>178 Units</b>	<b>187,080</b> <b>square feet</b>	<b>100.000%</b>

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**EXHIBIT "C"**

**Survey/Plot Plan**

GOVERNMENT

ERIMENT LOT 2

S COUNTY, FLORIDA, AND BEING MORE

OF SECTION 36 WITH THE EAST  
NE BEING 75 FEET EASTERLY FROM  
EGREES 46 MINUTES 30 SECONDS  
ON THEREOF, 1821.14 FEET TO THE  
E RIGHT-OF-WAY LINE AS NOW  
D WEST LINE OF RIGHT-OF-WAY,  
ALONG SAID RIGHT-OF-WAY LINE, A  
RIBED IN OFFICIAL RECORDS VOLUME  
SOUTH 87°41'42" WEST DEPARTING  
FEET; THENCE NORTH 35°18'31" EAST  
D HIGH-OF-WAY LINE AND THE POINT

ESS.

**EXHIBIT C-2**

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 7 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:  
FOR A POINT OF REFERENCE, COMMENCE AT THE INTERSECTION OF THE NORTH LINE OF SAID SECTION 36 WITH THE EAST RIGHT-OF-WAY LINE FOR THE FLORIDA EAST COAST RAILWAY, SAID RIGHT-OF-WAY LINE BEING 75 FEET EASTERLY FROM AND PARALLEL WITH THE CENTERLINE OF SAID SECTION 36 AND THE EASTERLY PROLONGATION THEREOF, 1821.14 FEET TO THE WEST HIGH-OF-WAY LINE OF STATE ROAD NO. 5A (OLD MOULDER ROAD, A 66 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED); THENCE SOUTH 1 DEGREE 08 MINUTES 26 SECONDS EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 177.24 FEET TO A POINT LYING ON THE SOUTHERLY LINE OF AN ACCESS AND UTILITIES EASEMENT AS DESCRIBED IN OFFICIAL RECORDS VOLUME 1215, PAGE 3/9 AS RECORDED IN THE PUBLIC RECORDS OF SAID COUNTY; THENCE SOUTH 87°41'46" WEST ALONG SAID SOUTHERLY LINE, A DISTANCE OF 147.78 FEET TO THE POINT OF A CURVE; SAID POINT LYING ON A SOUTHERLY LINE, AND ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 48.87 FEET; SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 67°41'46" WEST, AND 47.88 TO A POINT ON A CURVE AND ON SAID SOUTHERLY LINE; CONTINUE THENCE ALONG SAID SOUTHERLY LINE SOUTH 47°41'46" WEST, A DISTANCE OF 66.22 FEET; THENCE NORTH 42°18'14" WEST, A DISTANCE OF 18.98 FEET TO THE POINT OF BEGINNING; THENCE NORTH 38°25'07" WEST, A DISTANCE OF 26.99 FEET; THENCE NORTH 49°40'35" EAST, A DISTANCE OF 5.00 FEET; THENCE SOUTH 38°25'07" EAST, A DISTANCE OF 27.00 FEET; THENCE SOUTH 49°47'07" WEST, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING.

LANDS THUS DESCRIBED CONTAINING 135 SQUARE FEET MORE OR LESS.

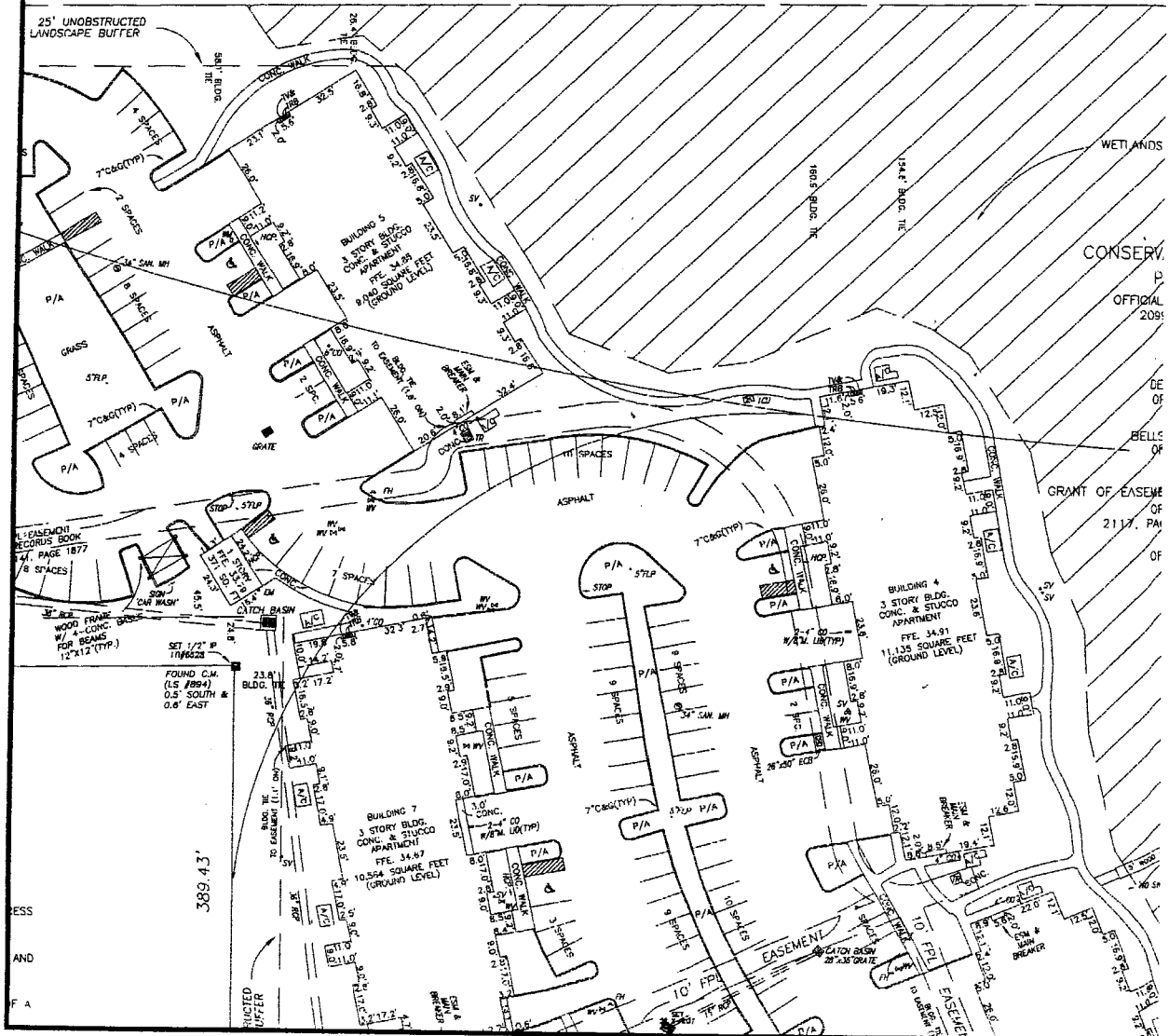
**SOUTHGLENN, INC.**  
OFFICIAL RECORDS BOOK  
661, PAGE 113

N 87°46'30" E

1521.14'

1821.14'

NORTH LINE OF SECTION



**EXHIBIT C-3**

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 7 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:  
FOR A POINT OF REFERENCE, COMMENCE AT THE INTERSECTION OF THE NORTH LINE OF SAID SECTION 36 WITH THE EAST RIGHT-OF-WAY LINE FOR THE FLORIDA EAST COAST RAILWAY, SAID RIGHT-OF-WAY LINE BEING 75 FEET EASTERLY FROM AND PARALLEL WITH THE CENTERLINE OF SAID SECTION 36 AND THE EASTERLY PROLONGATION THEREOF, 1821.14 FEET TO THE WEST HIGH-OF-WAY LINE OF STATE ROAD NO. 5A (OLD MOULDER ROAD, A 66 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED); THENCE SOUTH 1 DEGREE 08 MINUTES 26 SECONDS EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 177.24 FEET TO A POINT LYING ON THE SOUTHERLY LINE OF AN ACCESS AND UTILITIES EASEMENT AS DESCRIBED IN OFFICIAL RECORDS VOLUME 1215, PAGE 3/9 AS RECORDED IN THE PUBLIC RECORDS OF SAID COUNTY; THENCE SOUTH 87°41'46" WEST ALONG SAID SOUTHERLY LINE, A DISTANCE OF 147.78 FEET TO THE POINT OF A CURVE; SAID POINT LYING ON A SOUTHERLY LINE, AND ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 48.87 FEET; SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 67°41'46" WEST, AND 47.88 TO A POINT ON A CURVE AND ON SAID SOUTHERLY LINE; CONTINUE THENCE ALONG SAID SOUTHERLY LINE SOUTH 47°41'46" WEST, A DISTANCE OF 66.22 FEET; THENCE NORTH 42°18'14" WEST, A DISTANCE OF 18.98 FEET TO THE POINT OF BEGINNING; THENCE NORTH 38°25'07" WEST, A DISTANCE OF 26.99 FEET; THENCE NORTH 49°40'35" EAST, A DISTANCE OF 5.00 FEET; THENCE SOUTH 38°25'07" EAST, A DISTANCE OF 27.00 FEET; THENCE SOUTH 49°47'07" WEST, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING.

LANDS THUS DESCRIBED CONTAINING 135 SQUARE FEET MORE OR LESS.

**SOUTHGLENN, INC.**  
OFFICIAL RECORDS BOOK  
661, PAGE 113

N 87°46'30" E

1521.14'

1821.14'

NORTH LINE OF SECTION

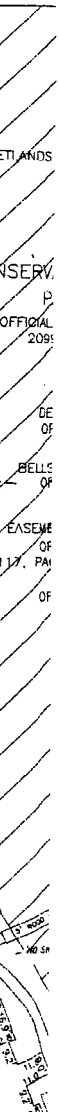


EXHIBIT C-3

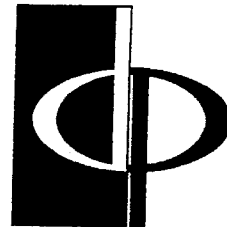
A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 7 SOUTH, RANGE 28 EAST, ST. JOHNS COUNTY, FLORIDA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:  
 -ON A POINT OF REFERENCE, COMMENCE AT THE INTERSECTION OF THE NORTH LINE OF SAID SECTION 36 WITH THE EAST RIGHT-OF-WAY LINE FOR THE FLORIDA EAST COAST RAILWAY, SAID RIGHT-OF-WAY LINE BEING 75 FEET EASTERLY FROM AND PARALLEL WITH THE CENTERLINE OF SAID RIGHT-OF-WAY; THENCE NORTH 87 DEGREES 46 MINUTES 30 SECONDS EAST, ALONG THE NORTH LINE OF SAID SECTION 36 AND THE EASTERLY PROLONGATION THEREOF, 1821.14 FEET TO THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 5A (OLD MOUNTAIN ROAD, A 66 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED); THENCE SOUTH 1 DEGREE 08 MINUTES 26 SECONDS EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 112.22 FEET TO A POINT ON THE NORTHERLY LINE OF AN ACCESS AND UTILITIES EASEMENT AS DESCRIBED IN OFFICIAL RECORDS VOLUME 1215, PAGE 379 AS RECORDED IN THE PUBLIC RECORDS OF SAID COUNTY; RUN THENCE SOUTH 87°41'42" WEST ALONG SAID NORTHERLY LINE, A DISTANCE OF 135.03 FEET TO THE POINT OF BEGINNING, CONTINUE THENCE ALONG SAID NORTHERLY LINE A DISTANCE OF 14.07 FEET TO THE POINT OF A CURVE; SAID POINT Lying ON A CURVE BEING CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 135.03 FEET; RUN THENCE SOUTHWESTERLY ALONG AND AROUND THE ARC OF SAID CURVE AN ARC DISTANCE OF 59.80 FEET; SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 75°00'19" WEST, AND 59.32 FEET; THENCE NORTH 31°49'43" EAST DEPARTING FROM SAID NORTHERLY LINE, A DISTANCE OF 33.97 FEET; THENCE NORTH 86°53'44" EAST, A DISTANCE OF 26.00 FEET; THENCE SOUTH 62°24'38" EAST, A DISTANCE OF 31.00 FEET TO A POINT LYING ON SAID NORTHERLY LINE AND THE POINT OF BEGINNING.

LANDS THUS DESCRIBED CONTAINING 870 SQUARE FEET OR 0.02 ACRES MORE OR LESS.

EXHIBIT C-4

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 7 SOUTH, RANGE 28 EAST, ST. JOHNS COUNTY, FLORIDA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:  
 -ON A POINT OF REFERENCE, COMMENCE AT THE INTERSECTION OF THE NORTH LINE OF SAID SECTION 36 WITH THE EAST RIGHT-OF-WAY LINE FOR THE FLORIDA EAST COAST RAILWAY, SAID RIGHT-OF-WAY LINE BEING 75 FEET EASTERLY FROM AND PARALLEL WITH THE CENTERLINE OF SAID RIGHT-OF-WAY; THENCE NORTH 87 DEGREES 46 MINUTES 30 SECONDS EAST, ALONG THE NORTH LINE OF SAID SECTION 36 AND THE EASTERLY PROLONGATION THEREOF, 1821.14 FEET TO THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 5A (OLD MOUNTAIN ROAD, A 66 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED); THENCE SOUTH 1 DEGREE 08 MINUTES 26 SECONDS EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 112.22 FEET TO A POINT ON THE NORTHERLY LINE OF AN ACCESS AND UTILITIES EASEMENT AS DESCRIBED IN OFFICIAL RECORDS VOLUME 1215, PAGE 379 AS RECORDED IN THE PUBLIC RECORDS OF SAID COUNTY; RUN THENCE SOUTH 87°41'42" WEST ALONG SAID NORTHERLY LINE, A DISTANCE OF 135.03 FEET TO THE POINT OF BEGINNING, CONTINUE THENCE ALONG SAID NORTHERLY LINE A DISTANCE OF 14.07 FEET TO THE POINT OF A CURVE; SAID POINT Lying ON A CURVE BEING CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 135.03 FEET; RUN THENCE SOUTHWESTERLY ALONG AND AROUND THE ARC OF SAID CURVE AN ARC DISTANCE OF 59.80 FEET; SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 75°00'19" WEST, AND 59.32 FEET; THENCE NORTH 31°49'43" EAST DEPARTING FROM SAID NORTHERLY LINE, A DISTANCE OF 33.97 FEET; THENCE NORTH 86°53'44" EAST, A DISTANCE OF 26.00 FEET; THENCE SOUTH 62°24'38" EAST, A DISTANCE OF 31.00 FEET TO A POINT LYING ON SAID NORTHERLY LINE AND THE POINT OF BEGINNING.

LANDS THUS DESCRIBED CONTAINING 870 SQUARE FEET OR 0.02 ACRES MORE OR LESS.



THE PRESTON PARTNERSHIP, LLC  
 A MULTI-DISCIPLINARY DESIGN FIRM

5000 ABERNATHY ROAD NE, SUITE 600  
 ATLANTA, GEORGIA 30328  
 TELEPHONE: 770 398 7248  
 FAX: 770 398 2945

WWW.THEPRESTONPARTNERSHIP.COM

PROJECT  
 VILLA SAN MARCO  
 CONDOMINIUM

ST. AUGUSTINE,  
 FLORIDA

FOR \_\_\_\_\_

McRae and Stolz,  
 St. Augustine, LLC

DATE \_\_\_\_\_

DECEMBER 29, 2004

JOB NUMBER \_\_\_\_\_

0401901

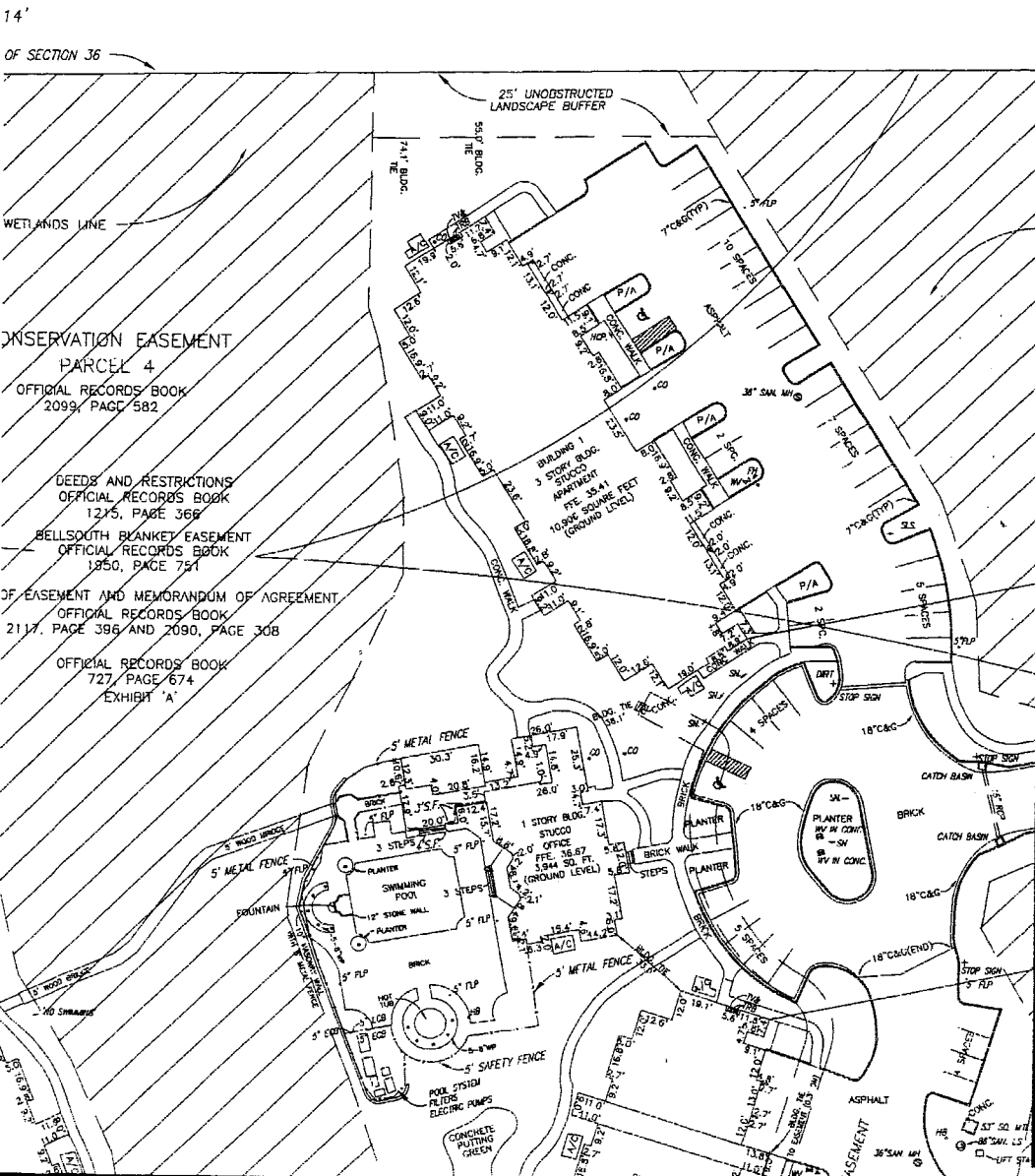
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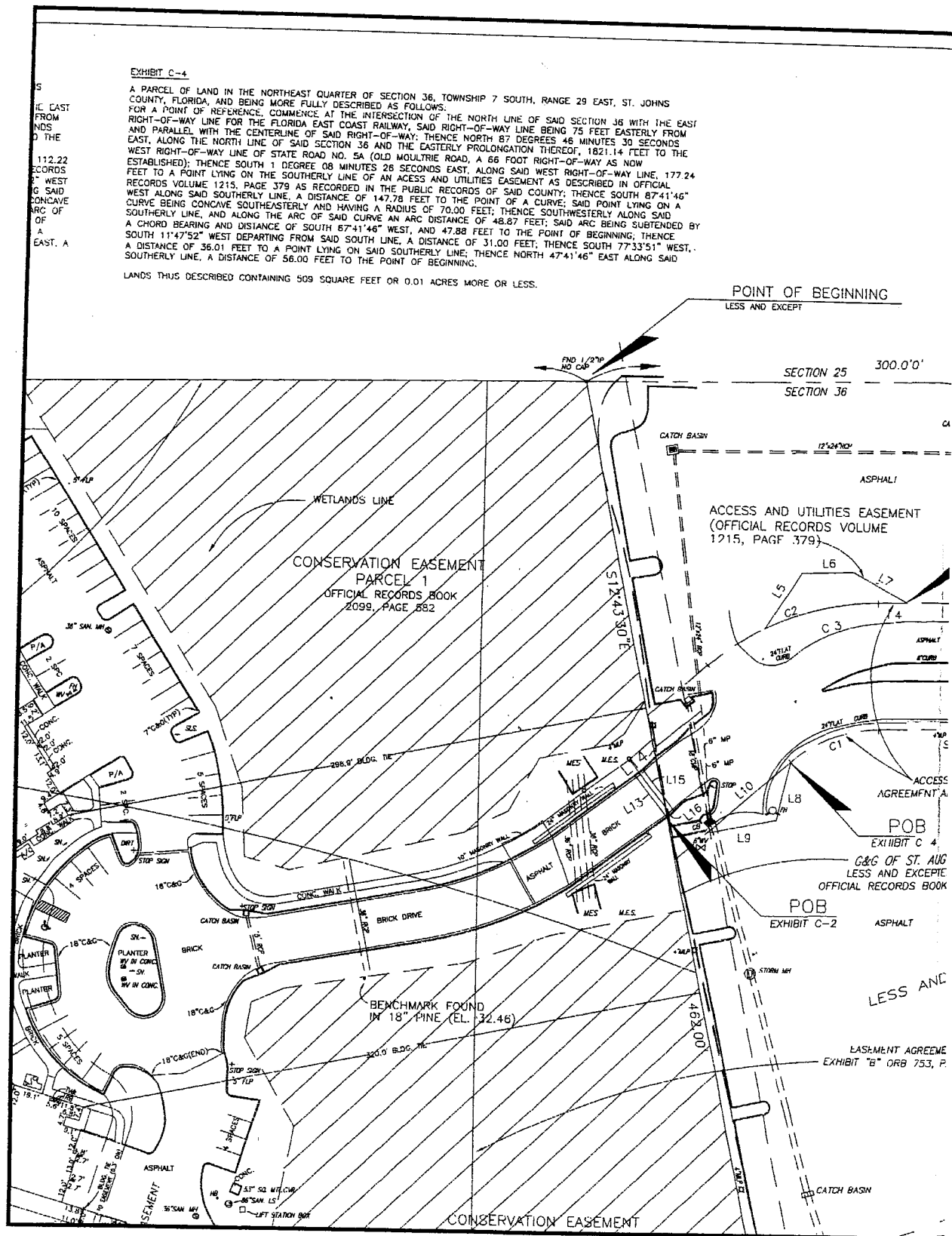
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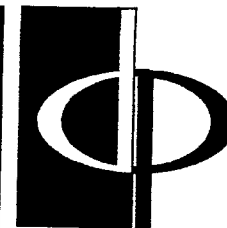
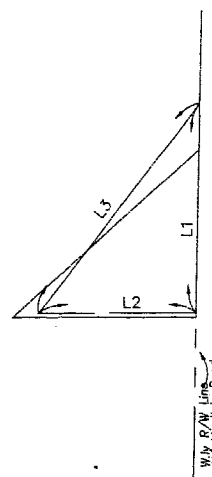
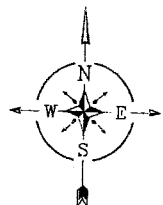
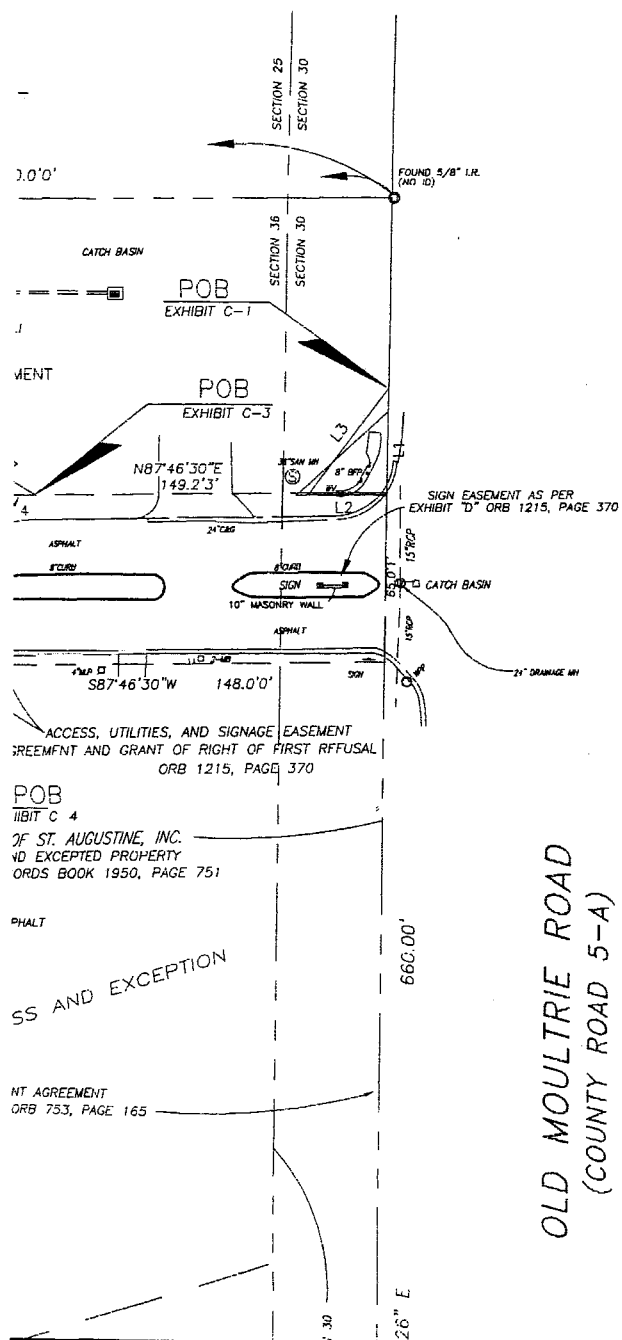
CIVIL SITE PLAN  
 2 of 6

COMMENTS \_\_\_\_\_

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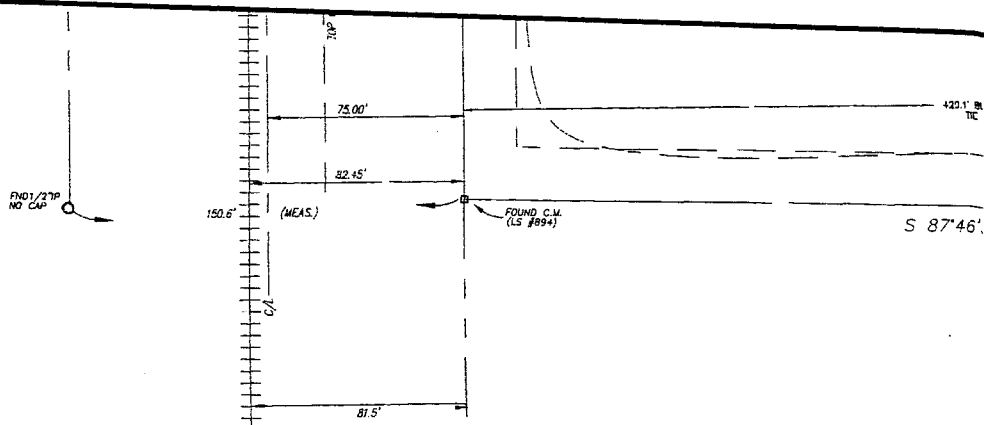
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DRAWING TITLE \_\_\_\_\_

DRAWING NUMBER \_\_\_\_\_

CIVIL SITE PLAN  
3 of 6

COMMENTS \_\_\_\_\_



AS PER RIGHT OF WAY AND TRACK MAP BY FLORIDA EAST COAST RAILWAY  
CO. OF MOULTRIE CUT-OFF (STATION 95+88 TO STATION 201+58)  
DATED: NOVEMBER 1, 1926

COVER

### SCHEDULE 'B' SECTION 2 EXCEPTIONS

6. PROPERTY SHOWN HEREON SUBJECT TO EASEMENT AGREEMENT RECORDED AUGUST 3, 1987 IN ORB 753, PAGE 165 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA AS PLOTTED HEREON.
7. PROPERTY SHOWN HEREON SUBJECT TO BLANKET EASEMENT WITH RESTRICTIONS SET FORTH IN SPECIAL WARRANTY DEED RECORDED DECEMBER 31, 1996 IN OFFICIAL RECORDS BOOK 1215, PAGE 366 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA PLOTTED HEREON.
8. PROPERTY SHOWN HEREON SUBJECT TO ACCESS, UTILITIES, AND SIGNAGE EASEMENT AGREEMENT AND GRANT OF RIGHT OF FIRST REFUSAL RECORDED DECEMBER 31, 1996 AS SHOWN ON EXHIBIT "D" OF ORV 1215, PAGE 370, PLOTTED HEREON.
- SAID EASEMENT AMENDED BY THAT CERTAIN AMENDMENT TO ACCESS, UTILITIES AND SIGNAGE EASEMENT AGREEMENT DATED \_\_\_\_\_, RECORDED IN OFFICIAL RECORDS BOOK \_\_\_\_\_, PAGE \_\_\_\_\_.
9. PROPERTY SUBJECT TO BLANKET BELL SOUTH EASEMENT RECORDED IN OFFICIAL RECORDS BOOK 1950, PAGE 751, PLOTTED HEREON.
10. PROPERTY SHOWN HEREON SUBJECT TO A GRANT OF EASEMENT AND MEMORANDUM OF AGREEMENT PER OFFICIAL RECORDS BOOK, 2090, PAGE 308, AND OFFICIAL RECORDS BOOK 2117, PAGE 396 PLOTTED HEREON.
11. PROPERTY SUBJECT TO CONSERVATION EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 2099, PAGE 582 PLOTTED HEREON.
12. PROPERTY SUBJECT TO EASEMENT IN FAVOR OF THE FLORIDA POWER & LIGHT COMPANY RECORDED IN OFFICIAL RECORDS BOOK 2141, PAGE 1877 AS PLOTTED HEREON.
15. RESTRICTIONS AND LIMITATIONS AS CONTAINED IN THE INSTRUMENT RECORDED IN OFFICIAL RECORDS BOOK 727, PAGE 674 AS TO PARCEL 2 PLOTTED HEREON.

PONCE HARRIS  
OFFICIAL 1  
130

EXHIBIT 'A'

#### SURVEYOR'S CERTIFICATE:

THE UNDERSIGNED, BEING A SURVEYOR AND MAPPER AUTHORIZED TO PRACTICE IN THE STATE OF FLORIDA, HEREBY CERTIFIES THAT, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 718.104(4), FLORIDA STATUTES, THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTE, THAT CONSTRUCTION OF THE IMPROVEMENTS DESCRIBED IS SUBSTANTIALLY COMPLETE, SO THAT THE MATERIAL TOGETHER WITH THE PROVISIONS OF THE DECLARATION OF CONDOMINIUM FOR VILLA SAN MARCO CONDOMINIUM, DESCRIBING THE CONDOMINIUM PROPERTY IS AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS, AND FURTHER THAT THE IDENTIFICATION, LOCATION AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CAN BE DETERMINED FROM THESE MATERIALS.

DAY OF 1st April 2005.

CERTIFIED THIS

REGISTERED LAND SURVEYOR,

32216

Gil D. Howatt  
GIL D. HOWATT, PLS#4718

200 CENTURY 21 DRIVE  
JACKSONVILLE, FLORIDA.

EXHIBIT 'B'

#### SURVEYOR'S CERTIFICATE:

TO MCRAE & STOLZ, ST. AUGUSTINE, LLC, A DELAWARE LIMITED LIABILITY CORPORATION, REGIONS BANK AND MONY/TRANSWESTERN MEZZANINE L.L.C., AND ANY OF THEIR RESPECTIVE AFFILIATES, SUCCESSORS AND/STONEBURNER, BERRY & SIMMONS, P.A. AND COMMONWEALTH LAND TITLE COMPANY, AND THEIR SUCCESSORS AND ASSIGNS:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH WERE MADE IN ACCORDANCE WITH 'MINIMUM STANDARD DETAIL REQUIREMENTS FOR ACSC LAND TITLE SURVEYS,' JOINTLY ESTABLISHED AND ADOPTED BY NSPS IN 1999, AND INCLUDES ITEMS 1, 2, 3, 4, 6, 7(a), 7(b)(1), 8, 14, 15, & 16 OF TABLE THEREOF, PURSUANT TO THE ACCURACY STANDARD ADOPTED BY ALTA, NSPS, AND ACSC AND IN EFFECT ON THE DATE OF CERTIFICATION, THE UNDERSIGNED FURTHER CERTIFIES THAT THE POSITIVE UNCERTAINTIES RESULTING FROM THE SURVEY MEASUREMENTS MADE DO NOT EXCEED THE ALLOWABLE POSITIONAL TOLERANCE.

DAY OF 1st April 2005.

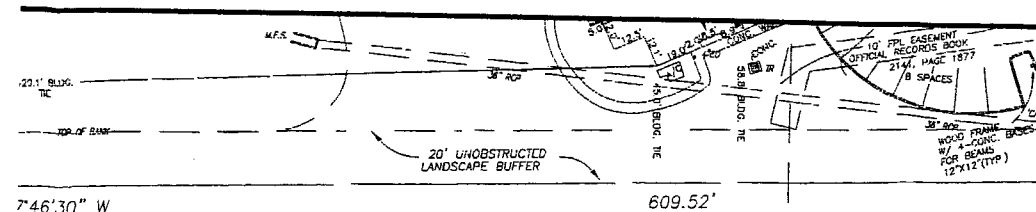
REGISTERED LAND SURVEYOR,

32216

Gil D. Howatt  
GIL D. HOWATT, PLS#4718

REGISTERED LAND SURVEYOR,

32216



### SURVEYOR'S NOTES

1. TITLE COMMITMENT FOR SUBJECT PROPERTY AND LEGAL DESCRIPTION FURNISHED BY COMMONWEALTH LAND TITLE INSURANCE COMPANY, ALL EASEMENTS HAVE BEEN SHOWN HEREON IF THEY AFFECT SUBJECT PROPERTY, TITLE COMMITMENT NUMBER 10204562CA
2. NOTICE OF LIABILITY: THIS SURVEY IS CERTIFIED TO THOSE INDIVIDUALS SHOWN ON THE FACE THEREOF. ANY OTHER USE, BENEFIT OR RELIANCE BY ANY OTHER PARTY IS STRICTLY PROHIBITED AND RESTRICTED. SURVEYOR IS RESPONSIBLE ONLY TO THOSE CERTIFIED AND HEREBY DISCLAIMS ANY OTHER LIABILITY AND HEREBY RESTRICTS THE RIGHTS OF ANY OTHER INDIVIDUAL OR FIRM TO USE THIS SURVEY, WITHOUT EXPRESS WRITTEN CONSENT OF SURVEYOR.
3. THE RELATIVE LINEAR DISTANCE ACCURACY FOR THIS SURVEY EXCEEDS 1:10,000.
4. ALL MEASUREMENTS ARE IN U.S. STANDARD FEET AND WERE MADE WITH A THEODOLITE AND ELECTRONIC DISTANCE MEASURING DEVICE AND/OR STEEL TAPE.
5. UNLESS OTHERWISE NOTED, RECORD AND MEASURED DIMENSIONS AGREE.
6. THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
7. THE DIMENSIONS OF THE BUILDING SHOWN HEREON DO NOT REFLECT LEAVE OVERHANG, IF ANY.
8. UNDERGROUND PORTION OF FOUNDATION/FOOTER NOT LOCATED.
9. ALL BUILDING TIES ARE PERPENDICULAR TO THE PROPERTY LINES, UNLESS INDICATED OTHERWISE.
10. PROPERTY SHOWN HEREON IS ZONED "PUD" AS PER P.U.D. ORDINANCE NUMBER 2001-36 SETBACKS ARE AS FOLLOWS:  
NORTH UNOBSTRUCTED LANDSCAPE BUFFER TO PROPERTY LINE --- 25 FEET  
INTERIOR UNOBSTRUCTED LANDSCAPE BUFFER TO PROPERTY LINES --- 20 FEET
11. PARKING SPACE TOTALS ARE AS FOLLOWS: 226 REGULAR SPACES ON PROPERTY  
11 HANDICAP SPACES ON PROPERTY
12. THIS SURVEY DOES NOT REFLECT OWNERSHIP.
13. THERE ARE NO GAPS OR GORES BETWEEN ACCESS EASEMENT RECORDED IN OR BOOK 1215, PAGE 370 AND THIS SURVEY PARCEL.
14. THERE ARE A TOTAL OF 178 MULTI-FAMILY UNITS ON SUBJECT PROPERTY.
15. THE GROSS FLOOR AREA FOR ALL BUILDINGS IS 227,181 SQUARE FEET.
16. BUILDING RESTRICTIONS FOR SUBJECT PROPERTY ARE LIMITED TO A HEIGHT OF 45 FEET AS PER PUD ORDINANCE 2001-36. NO VIOLATIONS EXIST.
17. THE LEGAL DESCRIPTION FOR THIS SURVEY MATCHES THE DESCRIPTION PROVIDED AS PER TITLE COMMITMENT NUMBER 10204562CA PROVIDED BY COMMONWEALTH LAND TITLE INSURANCE COMPANY.
18. UNDERGROUND UTILITY LOCATIONS AS SHOWN HEREON ARE APPROXIMATE ONLY AND WERE DRAWN BY SCALE USING APPLICABLE AS-BUILT SURVEYS BY AJ JOINING SURVEYORS. UTILITIES WERE FIELD VERIFIED WHERE FEASIBLE AND ACCESSIBLE BY ABOVE-GROUND STRUCTURES.

### LEGEND

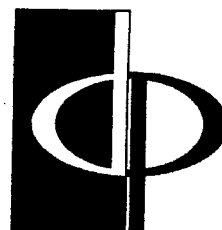
C.L. DRAINAGE MH  
FH FIRE HYDRANT  
FND FOUND  
M.E.S. MITERED END SECTION  
MLP METAL LIGHT POLE  
SQ. SQUARE  
WV WATER VALVE  
WM WATER METER  
RCP REINFORCED CONCRETE PIPE  
CMP CORRUGATED METAL PIPE  
C.M. CONCRETE MONUMENT  
I.R. IRON ROD  
ORB OFFICIAL RECORDS BOOK  
BLDG. BUILDING  
CO SANITARY CLEAN OUT  
W/8" M. LD(TYP) WITH 8" METAL LD(TYPICAL)  
CONC. CONCRETE  
DIA. DIAMETER  
EM ELECTRIC METER  
FH FIRE HYDRANT  
FLP FIBERGLASS LIGHT POLE  
HCP HANDICAP PARKING SIGN  
SANITARY MH SANITARY MANHOLE  
SQ. SQUARE  
SV SPRINKLER VALVE  
WM WATER METER  
WV WATER VALVE  
(R) RECORDED  
AC.L ACRES MORE OR LESS  
CH CHORD DISTANCE  
FND FOUND  
IP IRON PIPE  
I ARC LENGTH  
LB# LICENSED BUSINESS NUMBER  
PK N&D PK NAIL & DISK  
ESM ELECTRICAL SERVICE METER(S)  
TV TELEVISION  
TRB TELEPHONE RISER BOX

### LEGEND

BFP BACK FLOW PREVENTER  
DR. MH DRAINAGE MANHOLE  
ECB ELECTRIC CONTROL BOX  
EM ELECTRIC METER  
FH FIRE HYDRANT  
FLP FIBERGLASS LIGHT POLE  
FLV 5" FIBERGLASS LIGHT POLE  
FMV FORCE MAIN VALVE  
HSCD HOSE CLOD  
INV. INVERT  
M.E.S. MITERED END SECTION  
MP METAL POST  
MTL.CVR. METAL COVER  
MW MONITORING WELL  
PVC POLYVINYL CHLORIDE PIPE  
SANITARY LS SANITARY LIFT STATION  
SLS. SPEED LIMIT SIGN  
SV SPRINKLER VALVE  
TCB TELEPHONE CONTROL BOX  
TR TRANSFORMER  
WL BEND WATER LINE BEND  
WP WOOD POST  
C/L CENTERLINE  
SPC. SPACE(S)  
W/ WITH  
A/C CONCRETE AIR CONDITIONING PAD  
S.F. SAFETY FENCE  
P/A PLANTED AREA  
LS# PROFESSIONAL LAND SURVEYOR  
PLS# PROFESSIONAL LAND SURVEYOR  
FOR POINT OF BEGINNING  
ORB OFFICIAL RECORDS BOOK

### SYMBOLS

○ DENOTES 1/2" IRON PIPE, N  
— DENOTES SIGNAGE



THE PRESTON PARTNERSHIP, LLC  
A MULTI-DISCIPLINARY DESIGN FIRM

600 ABERNATHY ROAD NE, SUITE 600  
ATLANTA, GEORGIA 30328  
TELEPHONE: 770 396 7248  
FAX: 770 396 2945

WWW.THEPRESTONPARTNERSHIP.COM

### PROJECT

VILLA SAN MARCO  
CONDOMINIUM

ST. AUGUSTINE,  
FLORIDA

FOR

McRae and Stolz,  
St. Augustine, LLC

DATE

DECEMBER 29, 2004

JOB NUMBER

0401301

DRAWING TITLE

DRAWING NUMBER

CIVIL SITE PLAN  
4 of 6

COMMENTS

VERNMENT LOT 2

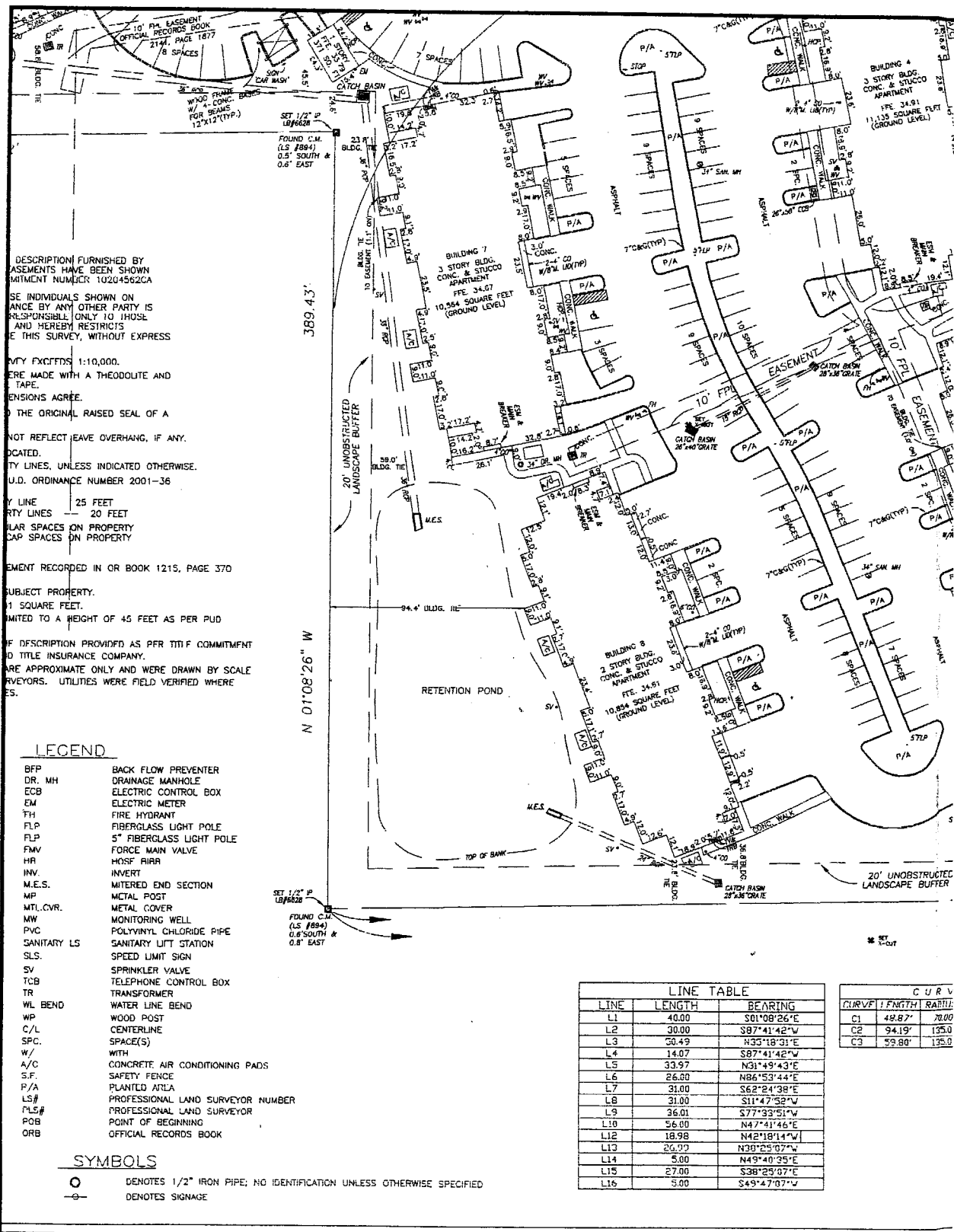
HARBOR PARTNERS, LTD.  
OFFICIAL RECORDS BOOK  
1300, PAGE 1436

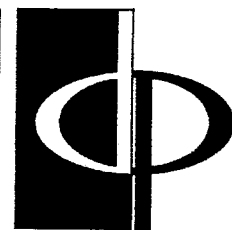
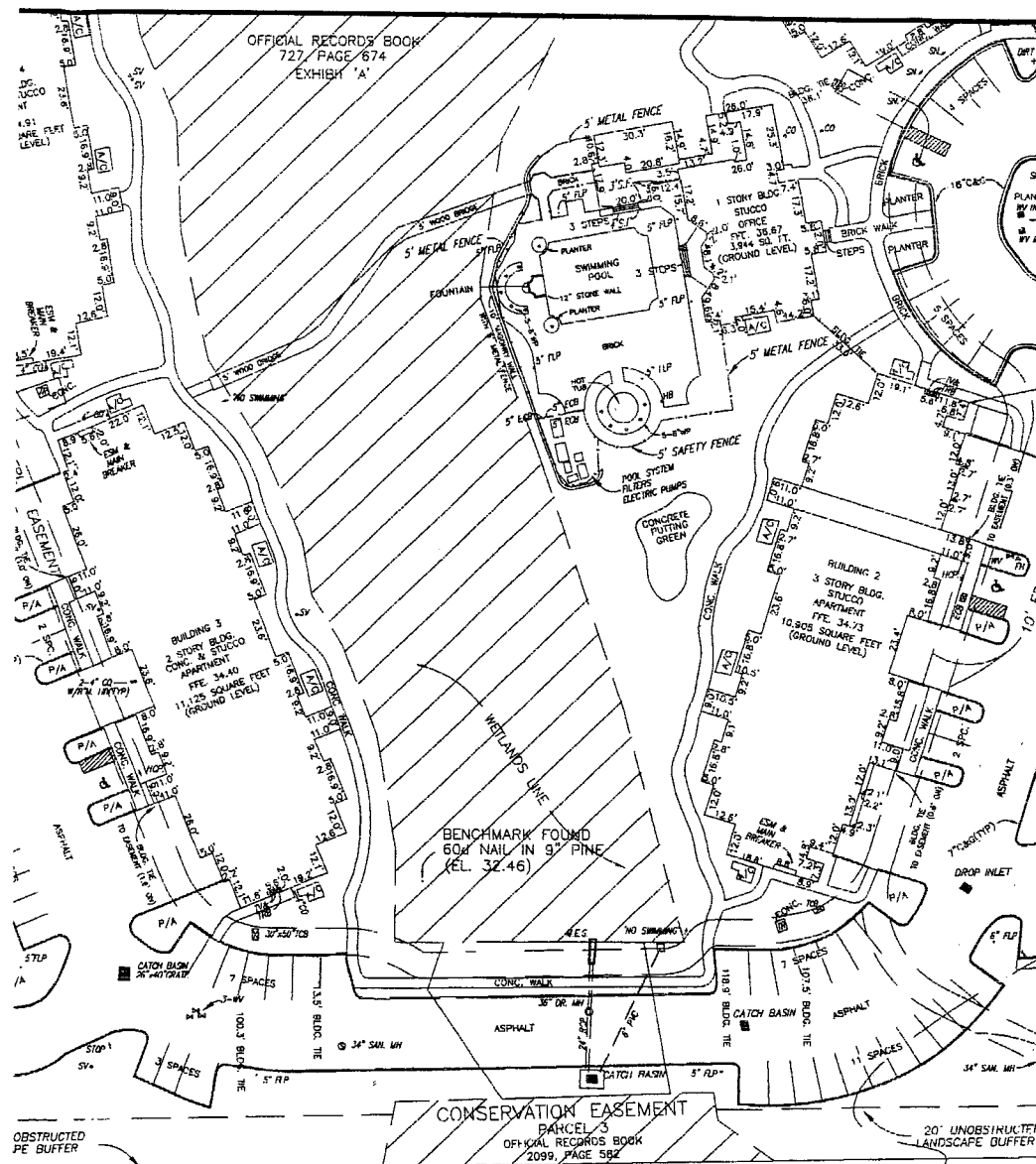
BY LIABILITY COMPANY,  
LIMITED LIABILITY  
ZANINE REALTY PARTNERS II,  
AS AND/OR ASSIGNS,  
LAND TITLE INSURANCE

BY ON WHICH IT IS BASED  
REQUIREMENTS FOR ALTA/  
TIED BY ALTA/ACSM AND  
b)(1), 8, 9, 10, 11(b), 13,  
AC. STANDARDS/AS  
DATE OF THIS  
IF POSITIONAL  
MADE ON THE SURVEY DO

CERTIFIED THIS  
*Gil D. Howatt*  
PLS#4718  
GIL D. HOWATT,

200 CENTURY 21 DRIVE  
JACKSONVILLE, FLORIDA,





THE PRESTON PARTNERSHIP, LLC  
A MULTI-DISCIPLINARY DESIGN FIRM

600 ABERNATHY ROAD NE, SUITE 800  
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CIVIL SITE PLAN  
5 of 6

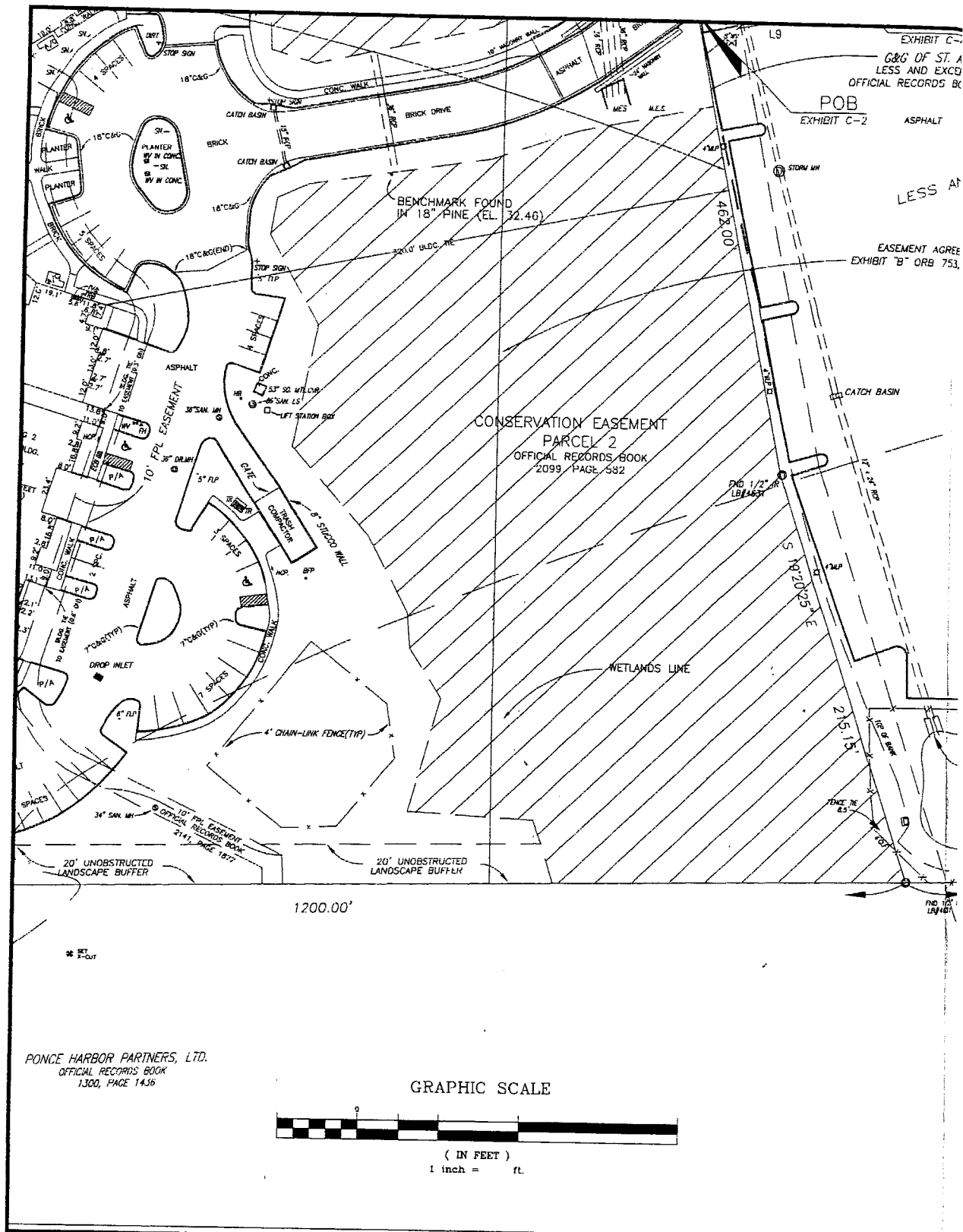
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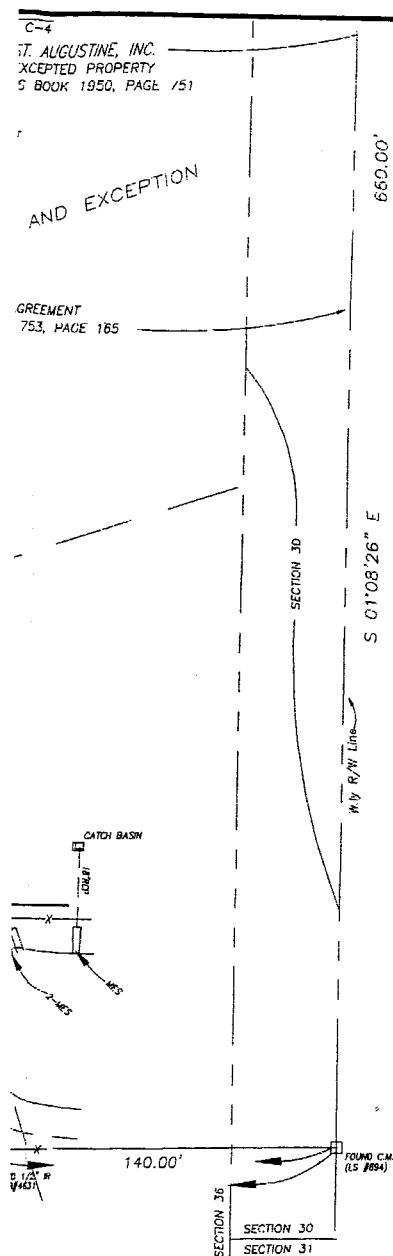
© 2001

STATION	RADIUS	BEARING	CHORD	DELTA
37'	70.00'	S68°52'22"W	47.88'	40°00'00"
19'	135.00'	S68°53'07"W	92.29'	39°58'53"
30'	135.00'	S76°18'56"W	59.32'	25°22'53"

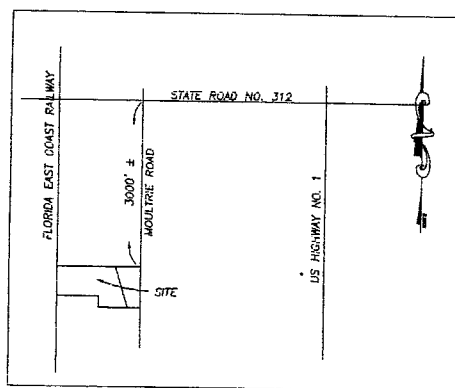
GOVERNMENT LOT 1

PONCE HARBOR PARTNERSHIP  
OFFICIAL RECORDS BOOK  
1300, PAGE 1433





OLD MOULTRIE ROAD  
(COUNTY ROAD 5-A)  
(66' RIGHT OF WAY)



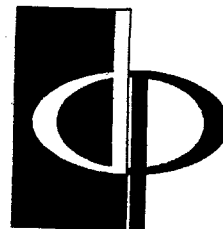
VICINITY MAP  
NOT TO SCALE

AMENDED CERTIFICATIONS FOR EXHIBIT 'B', 2/4/05  
AMENDED TO SHOW ADDITIONAL IMPROVEMENTS, 2/1/05  
AMENDED TO ADDRESS CLIENT COMMENTS, 1/19/05  
UPDATED TO SHOW CHANGE IN IMPROVEMENTS, 1/13/05

**CHARLES BASSETT & ASSOC. INC.**  
SURVEYORS - LB#6628  
200 CENTURY 21 DRIVE - JACKSONVILLE, FLORIDA 32218 PHONE (904) 724-9433

I HEREBY CERTIFY THAT THIS ALIA/ACSM LAND-MILE SURVEY SURVEY, PERFORMED UNDER MY RESPONSIBLE DIRECTION, MEETS THE MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYORS IN ACCORDANCE WITH CHAPTER 61C17-6, FLA. ADMINISTRATIVE CODE (PURSUANT TO SECTION 472.027, FLORIDA STATUTES).

SURVEYED DECEMBER 8 20 04 CIL HONARD REGISTERED LAND SURVEYOR FLA. NO. 47187  
BEARING DATUM BASED ON THE NORTH LINE OF SECTION 36, TOWNSHIP 7 SOUTH, RANGE 29 EAST, AS IN 87°46'30" E.  
FLOOD ZONE 'X' AS BEST ASCERTAINED FROM THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 18090C DATED 9-03-03  
FIELD BOOK NO.: 755A PAGE: 39-44 LEGAL: N/A ORDER NO.: 02-01-27C  
COMPUTER FILE: 020121 SCALE: 1" = 100' FILE NO.: T-5698



THE PRESTON PARTNERSHIP, LLC  
A MULTI-DISCIPLINARY DESIGN FIRM

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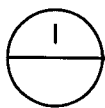
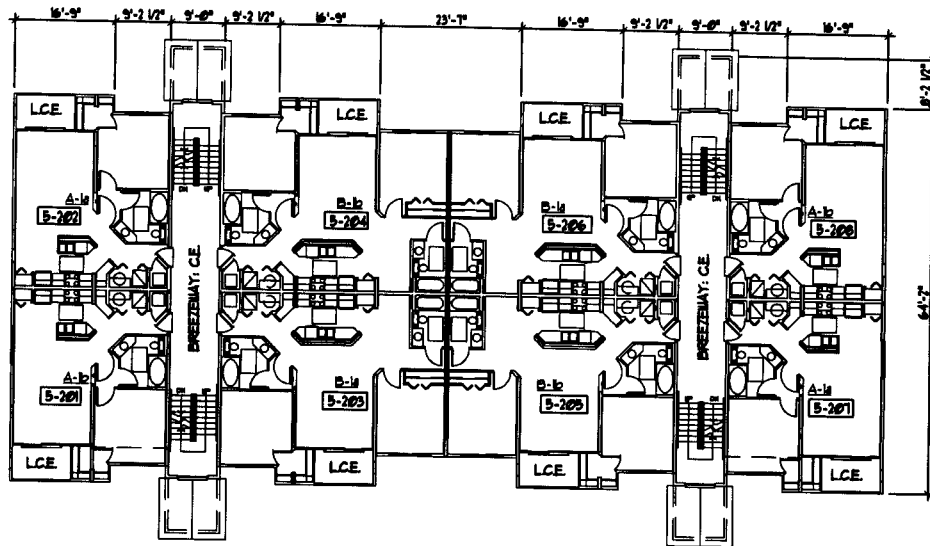
CIVIL SITE PLAN  
6 of 6

COMMENTS \_\_\_\_\_

**EXHIBIT "D"**

**Building Plans and Unit Floor Plans**

© 2004



# BUILDING TYPE 100 - SECOND FLOOR PLAN

SCALE: 1/16" = 1'-0"

BUILDING #5

## LEGEND:

CE. COMMON ELEMENT  
LCE. LIMITED COMMON ELEMENT

0 16' 32' 64'



SCALE: 1/32" = 1'-0"

## UNIT DIMENSIONS AND/OR SQUARE FOOTAGE DISCLAIMER:

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SEAL:

NAME: ROBERT PRESTON

DATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER:

FOR

McRae and Stolz,  
St. Augustine, LLC

PROJECT

VILLA SAN MARCO  
CONDOMINIUM

LOCATION

ST. AUGUSTINE  
FLORIDA

JOB NUMBER

0401301

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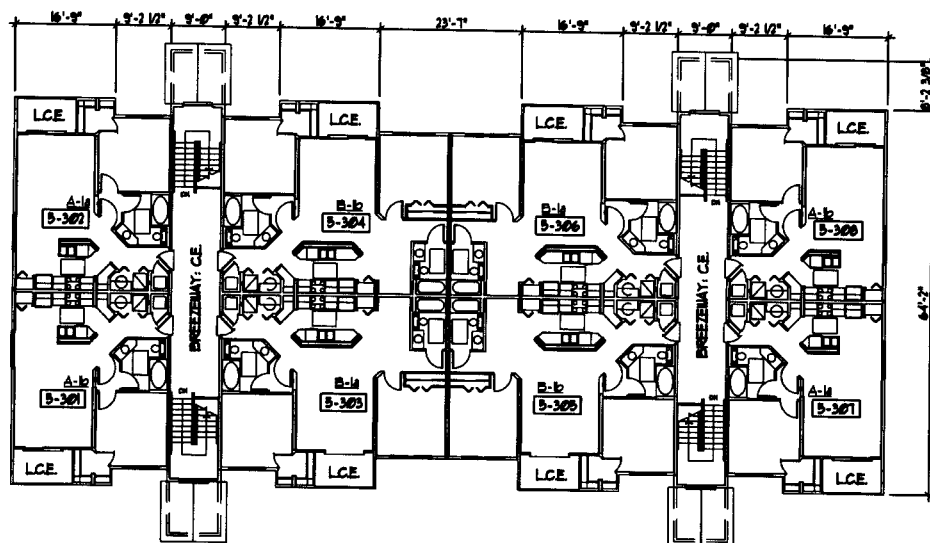
DATE

1/14/05

DRAWING



THE PRESTON PARTNERSHIP, LLC  
A MULTI-DISCIPLINARY DESIGN FIRM



**BUILDING TYPE 100 - THIRD FLOOR PLAN**  
 SCALE: 1/16" = 1'-0"  
 BUILDING #5

**LEGEND:**

CE. COMMON ELEMENT  
 LCE. LIMITED COMMON ELEMENT

0 16' 32' 64'



SCALE: 1/32" = 1'-0"

**UNIT DIMENSIONS AND/OR SQUARE FOOTAGE DISCLAIMER:**

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SEAL:

NAME: ROBERT PRESTON

DATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER:

**FOR**  
 McRae and Stolz,  
 St. Augustine, LLC

**PROJECT**  
 VILLA SAN MARCO  
 CONDOMINIUM

**LOCATION**  
 ST. AUGUSTINE  
 FLORIDA

**JOB NUMBER**

0401901

**DRAWN BY**

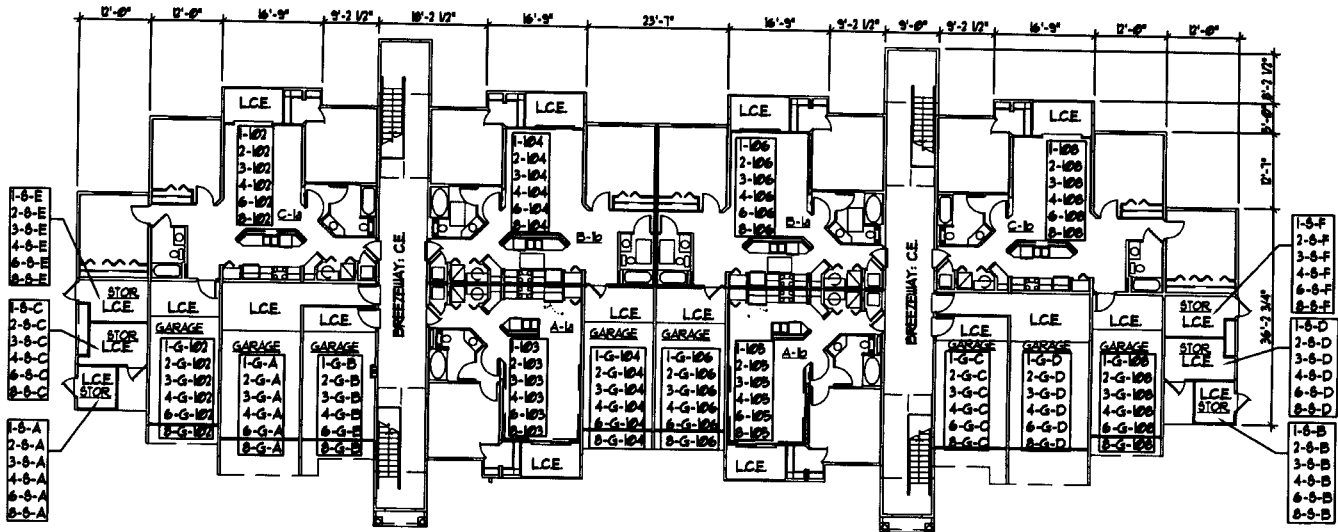
**DATE**

1/14/05

**DRAWING**



THE PRESTON PARTNERSHIP, LLC  
 A MULTI-DISCIPLINARY DESIGN FIRM



**BUILDING TYPE 200 - FIRST FLOOR PLAN**  
 SCALE: 1/16" = 1'-0"  
 BUILDING #S 1, 2, 3, 4, 6, 8

**LEGEND:**

CE. COMMON ELEMENT  
 LCE. LIMITED COMMON ELEMENT

0 16' 32' 64'



SCALE: 1/32" = 1'-0"

**UNIT DIMENSIONS AND/OR SQUARE FOOTAGE DISCLAIMER:**

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SEAL:

NAME: ROBERT PRESTON

DATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER:

*Robert Preston*

**FOR**  
 McRae and Stolz,  
 St. Augustine, LLC

**PROJECT**  
 VILLA SAN MARCO  
 CONDOMINIUM

**LOCATION**  
 ST. AUGUSTINE  
 FLORIDA

**JOB NUMBER**

0401301

**DRAWN BY**

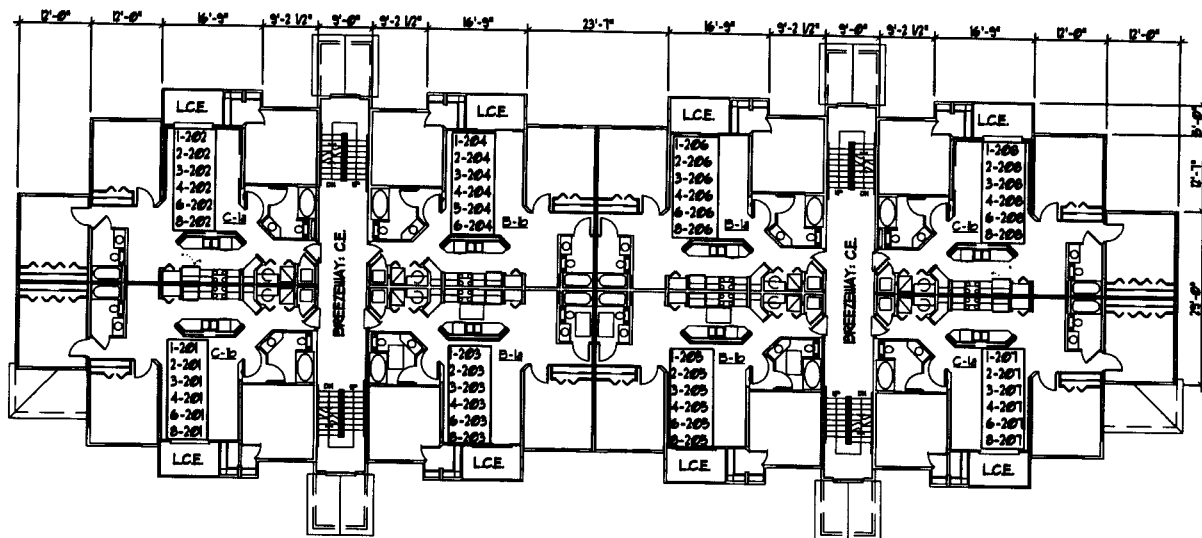
**DATE**

1/14/05

**DRAWING**



THE PRESTON PARTNERSHIP, LLC  
 A LIMITED-LIABILITY COMPANY



**BUILDING TYPE 200 - SECOND FLOOR PLAN**  
 SCALE: 1/16" = 1'-0"  
 BUILDING #S 1, 2, 3, 4, 6, 8

**LEGEND:**

CE. COMMON ELEMENT  
 LCE. LIMITED COMMON ELEMENT

0 16' 32' 64'



SCALE: 1/32" = 1'-0"

**UNIT DIMENSIONS AND/OR SQUARE FOOTAGE DISCLAIMER:**

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SEAL:

NAME: ROBERT PRESTON

DATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER:

**FOR**  
 McRae and Stolz,  
 St. Augustine, LLC

**PROJECT**  
 VILLA SAN MARCO  
 CONDOMINIUM

**LOCATION**  
 ST. AUGUSTINE  
 FLORIDA

**JOB NUMBER**

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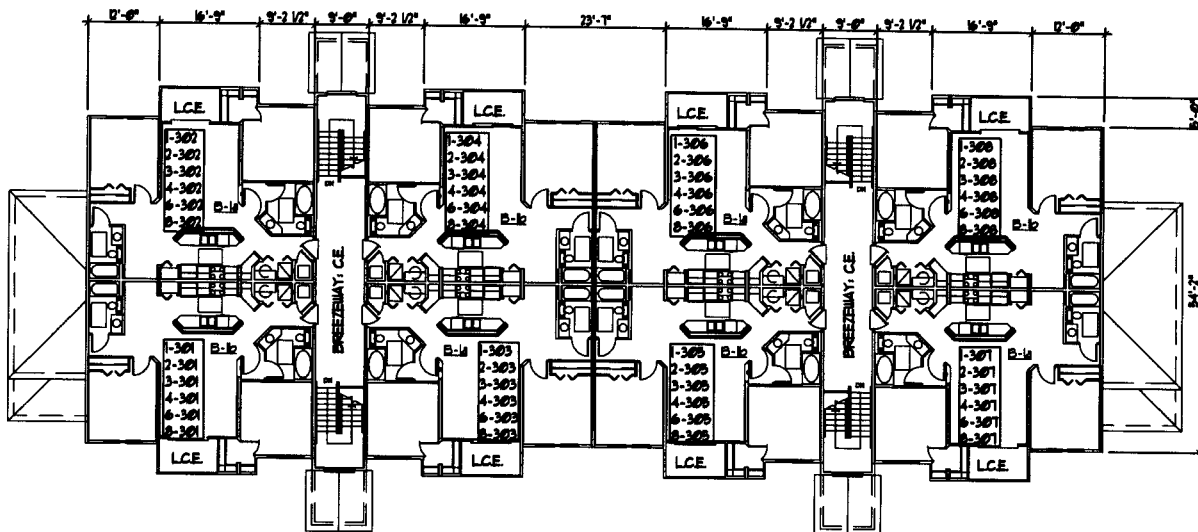
**DATE**

1/14/05

**DRAWING**



THE PRESTON PARTNERSHIP, LLC  
 A LIMITED-LIABILITY COMPANY



**BUILDING TYPE 200 - THIRD FLOOR PLAN**  
 SCALE: 1/16" = 1'-0"  
 BUILDING #S 1, 2, 3, 4, 6, 8

### LEGEND:

CE. COMMON ELEMENT  
 LCE. LIMITED COMMON ELEMENT

0 16' 32' 64'



SCALE: 1/32" = 1'-0"

### UNIT DIMENSIONS AND/OR SQUARE FOOTAGE DISCLAIMER:

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SEAL:

NAME: ROBERT PRESTON

DATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER: \_\_\_\_\_

**FOR**  
 McRae and Stolz,  
 St. Augustine, LLC

**PROJECT**  
 VILLA SAN MARCO  
 CONDOMINIUM

**LOCATION**  
 ST. AUGUSTINE  
 FLORIDA

**JOB NUMBER**

0401901

**DRAWN BY**

**DATE**

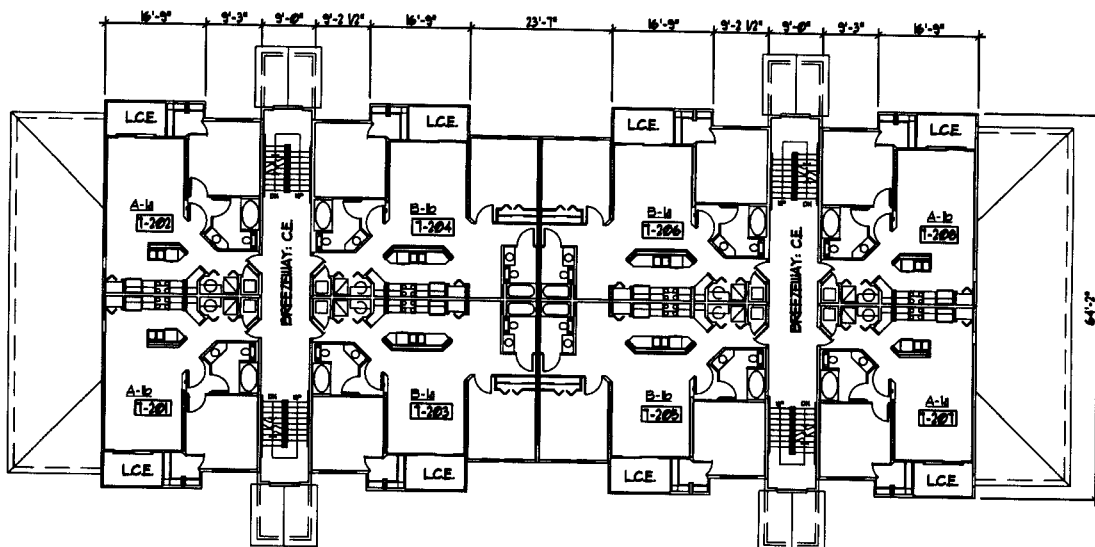
1/14/05

**DRAWING**



THE PRESTON PARTNERSHIP, LLC  
 A LIMITED-LIABILITY COMPANY





**BUILDING TYPE 300 - SECOND FLOOR PLAN**  
 SCALE: 1/16" = 1'-0" BUILDING #7

**LEGEND:**

CE. COMMON ELEMENT  
 LCE. LIMITED COMMON ELEMENT

0 16' 32' 64'



SCALE: 1/32" = 1'-0"

**UNIT DIMENSIONS AND/OR SQUARE FOOTAGE DISCLAIMER:**

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SEAL:

NAME: ROBERT PRESTON

DATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER: \_\_\_\_\_

**FOR**  
 McRae and Stolz,  
 St. Augustine, LLC

**PROJECT**  
 VILLA SAN MARCO  
 CONDOMINIUM

**LOCATION**  
 ST. AUGUSTINE  
 FLORIDA

**JOB NUMBER**

0401901

**DRAWN BY**

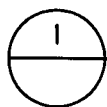
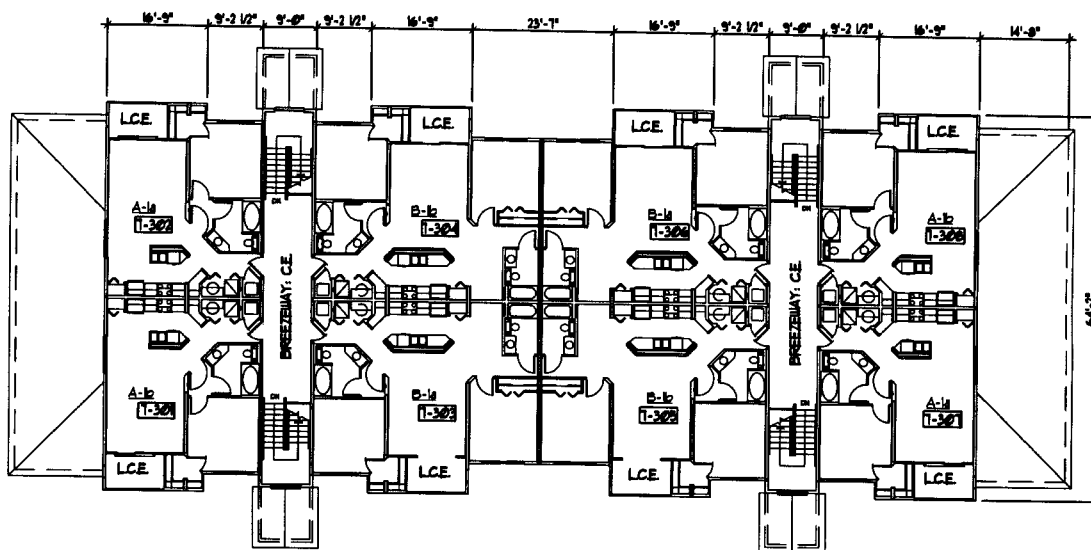
**DATE**

1/14/05

**DRAWING**



THE PRESTON PARTNERSHIP, LLC  
 A MULTI-MEMBERSHIP LIMITED FIRM



# BUILDING TYPE 300 - THIRD FLOOR PLAN

SCALE: 1/16" = 1'-0"

BUILDING #7

## LEGEND:

C.E. COMMON ELEMENT

L.C.E. LIMITED COMMON ELEMENT

0 16' 32' 64'



SCALE: 1/32" = 1'-0"

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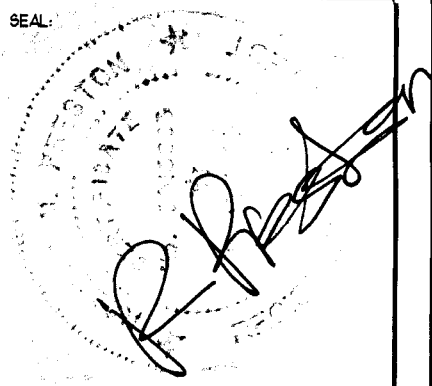
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SEAL:

NAME: ROBERT PRESTON

DATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER: \_\_\_\_\_



FOR

McRae and Stolz,  
St. Augustine, LLC

PROJECT

VILLA SAN MARCO  
CONDOMINIUM

LOCATION

ST. AUGUSTINE  
FLORIDA

JOB NUMBER

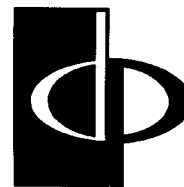
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DATE

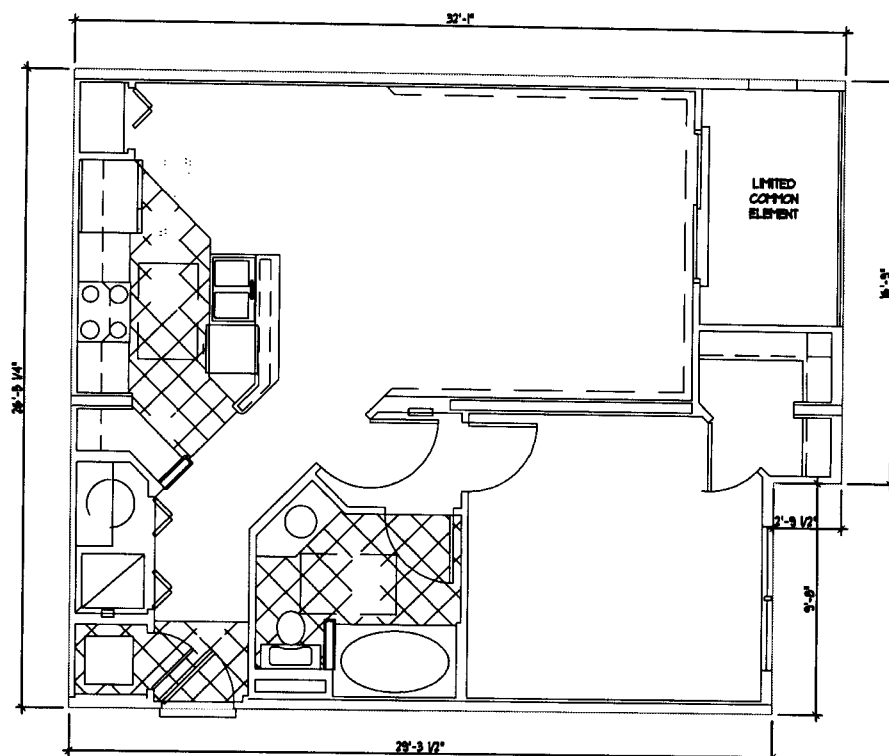
1/14/05

DRAWN BY

DRAWING



THE PRESTON PARTNERSHIP, LLC  
A MULTI-DISCIPLINARY DESIGN FIRM



UNIT TYPE A-1a

PROPOSED UNIT PLAN  
UNIT AREA: 160 SF.

**LEGEND:**

C.E. COMMON ELEMENT  
L.C.E. LIMITED COMMON ELEMENT

0 4' 8' 16'



SCALE: 1/8" = 1'-0"

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SEAL:

NAME: ROBERT PRESTONDATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER: \_\_\_\_\_

**FOR**

McRae and Stolz,  
St. Augustine, LLC

**PROJECT**

VILLA SAN MARCO  
CONDOMINIUM

**JOB NUMBER**

0401901

**DRAWN BY**

MEL

**LOCATION**

ST. AUGUSTINE  
FLORIDA

**DATE**

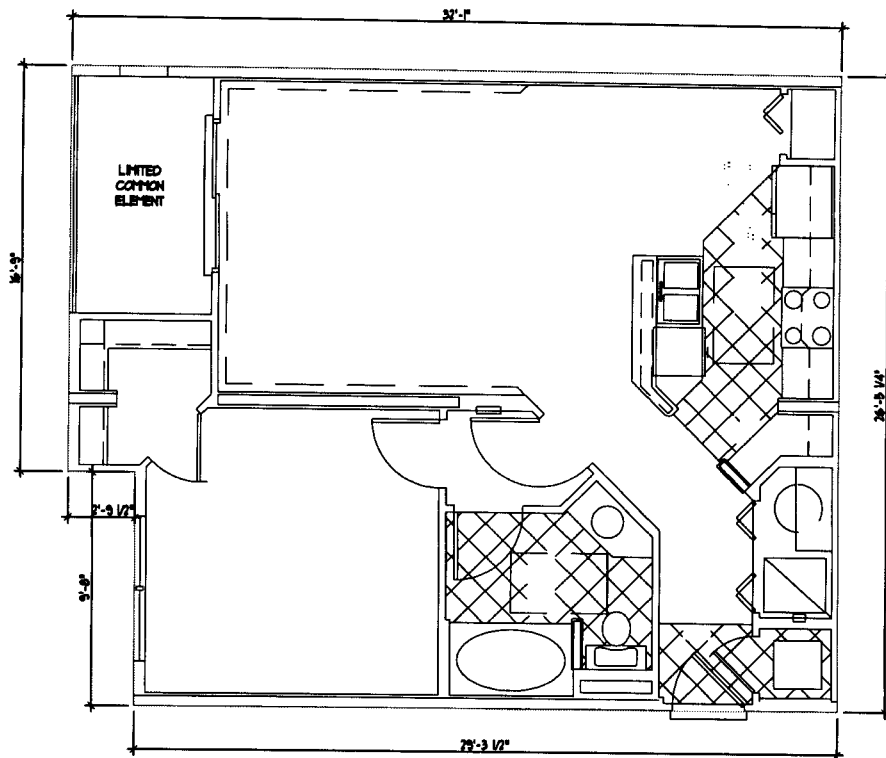
1/14/05

**DRAWING**

UNIT A-1a



THE PRESTON PARTNERSHIP, LLC  
A MULTI-DISCIPLINARY DESIGN FIRM



UNIT TYPE A-1b

PROPOSED UNIT PLAN  
UNIT AREA: 760 SF.

**LEGEND:**

C.E. COMMON ELEMENT  
L.C.E. LIMITED COMMON ELEMENT

0 4' 8' 16'



SCALE: 1/8" = 1'-0"

**UNIT DIMENSIONS AND/OR SQUARE FOOTAGE DISCLAIMER:**

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SEAL:

NAME: ROBERT PRESTON

DATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER: \_\_\_\_\_

**FOR**

McRae and Stolz,  
St. Augustine, LLC

**PROJECT**

VILLA SAN MARCO  
CONDOMINIUM

**LOCATION**

ST. AUGUSTINE  
FLORIDA

**JOB NUMBER**

0401901

**DATE**

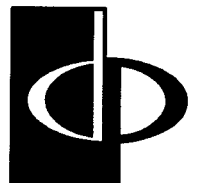
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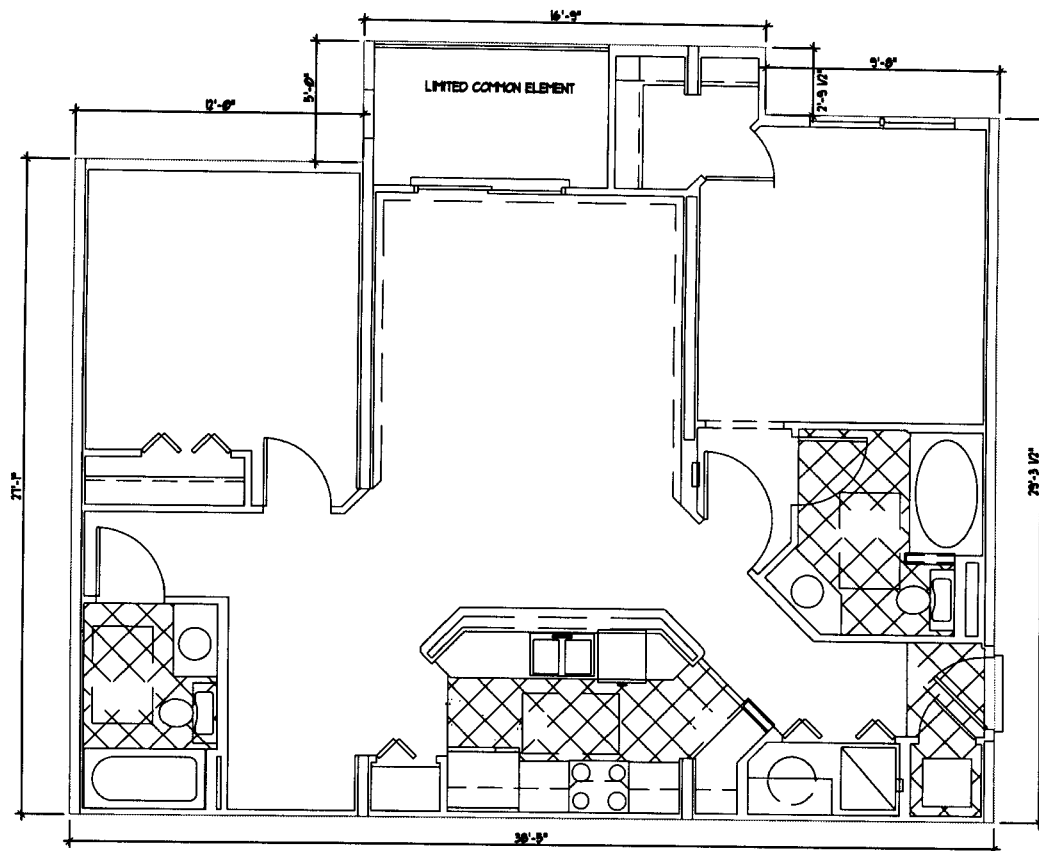
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**DRAWING**

UNIT A-1b



THE PRESTON PARTNERSHIP, LLC  
A MULTI-DISCIPLINARY DESIGN FIRM

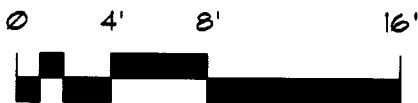


UNIT TYPE B-1a

PROPOSED UNIT PLAN  
NET UNIT AREA: 1005 SF.

## LEGEND:

C.E. COMMON ELEMENT  
L.C.E. LIMITED COMMON ELEMENT



SCALE: 1/8" = 1'-0"

## UNIT DIMENSIONS AND/OR SQUARE FOOTAGE DISCLAIMER:

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SEAL:

NAME: ROBERT PRESTON

DATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER:

## FOR

McRae and Stolz,  
St. Augustine, LLC

## PROJECT

VILLA SAN MARCO  
CONDOMINIUM

## LOCATION

ST. AUGUSTINE  
FLORIDA

## JOB NUMBER

0401301

## DATE

1/14/05

## DRAWN BY

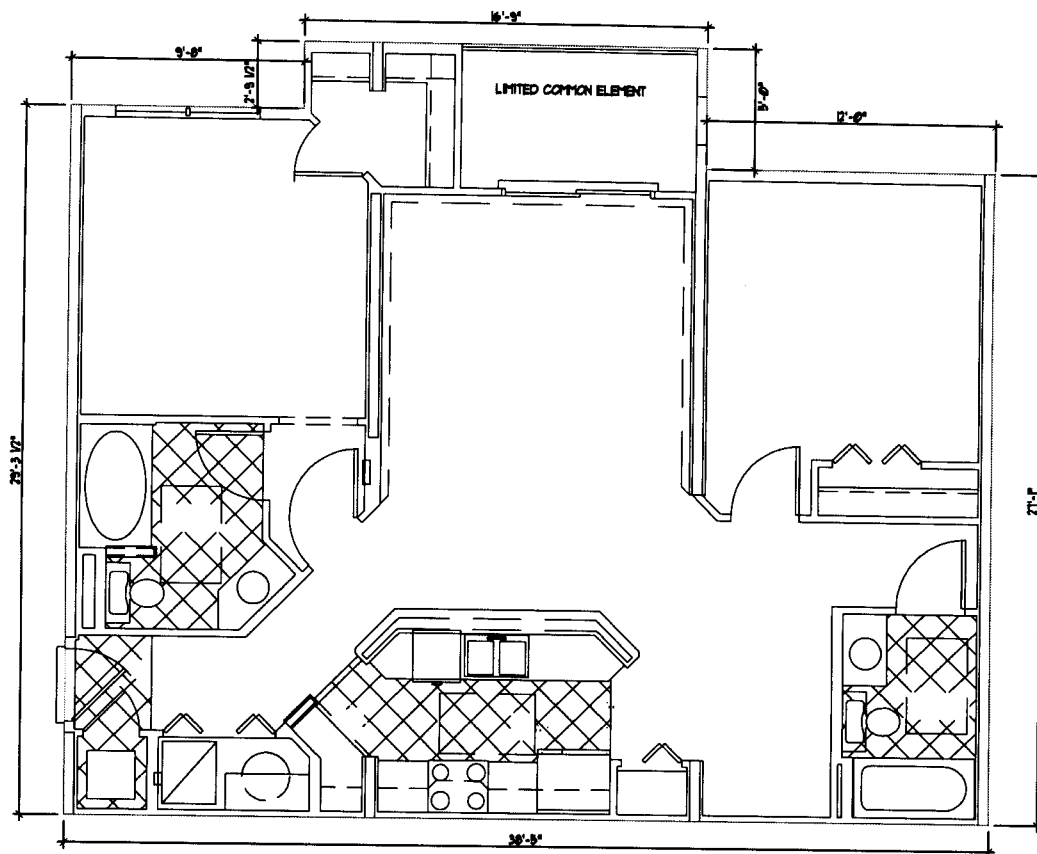
MEL

## DRAWING

UNIT B-1a



THE PRESTON PARTNERSHIP, LLC  
A LICENSED PROFESSIONAL ENGINEERING FIRM

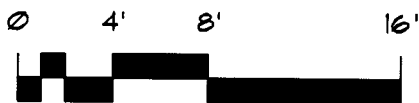


UNIT TYPE B-1b

PROPOSED UNIT PLAN  
NET UNIT AREA: 1808 SF.

## LEGEND:

C.E. COMMON ELEMENT  
L.C.E. LIMITED COMMON ELEMENT



SCALE: 1/8" = 1'-0"

## UNIT DIMENSIONS AND/OR SQUARE FOOTAGE DISCLAIMER:

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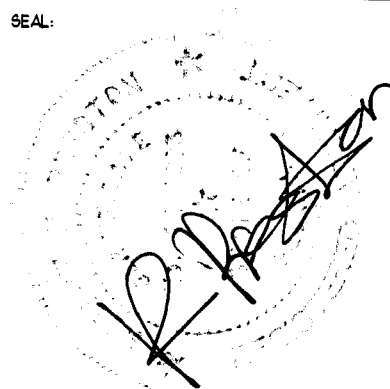
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SEAL:

NAME: ROBERT PRESTON

DATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER: \_\_\_\_\_



FOR

McRae and Stolz,  
St. Augustine, LLC

PROJECT

VILLA SAN MARCO  
CONDOMINIUM

JOB NUMBER

0401301

DRAWN BY

MEL

LOCATION

ST. AUGUSTINE  
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DATE

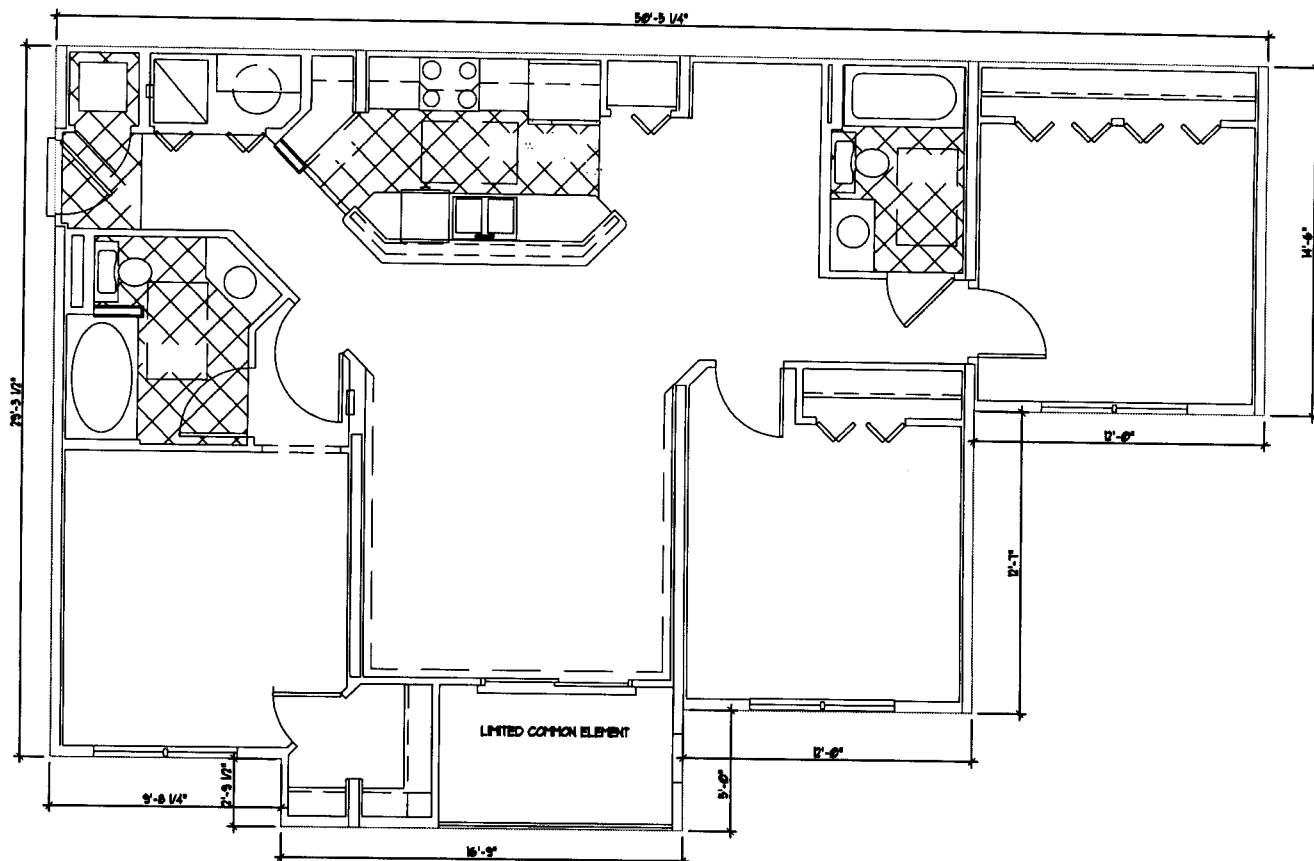
1/14/05

DRAWING

UNIT B-1b



THE PRESTON PARTNERSHIP, LLC  
A PROFESSIONAL SERVICE FIRM



UNIT TYPE C-1a

PROPOSED UNIT PLAN  
NET UNIT AREA: 1560 SF.

## LEGEND:

C.E. COMMON ELEMENT  
L.C.E. LIMITED COMMON ELEMENT

0 4' 8' 16'



SCALE: 1/8" = 1'-0"

## UNIT DIMENSIONS AND/OR SQUARE FOOTAGE DISCLAIMER:

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SEAL:

NAME: ROBERT PRESTON

DATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER:

## FOR

McRae and Stolz,  
St. Augustine, LLC

## PROJECT

VILLA SAN MARCO  
CONDOMINIUM

## LOCATION

ST. AUGUSTINE  
FLORIDA

## JOB NUMBER

0401301

## DATE

1/14/05

## DRAWN BY

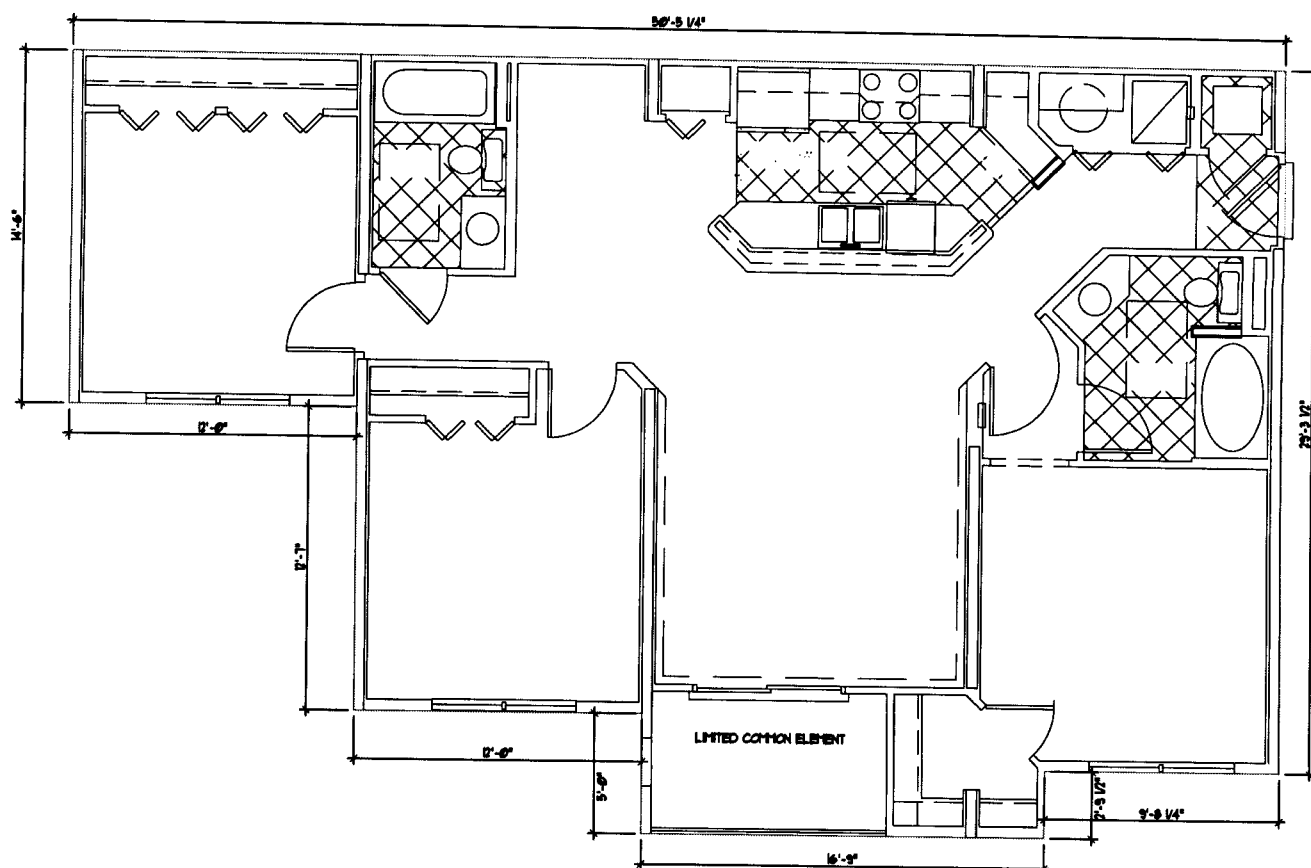
MEL

## DRAWING

UNIT C-1a



THE PRESTON PARTNERSHIP, LLC  
A REGISTERED-PROFESSIONAL ENGINEERING FIRM

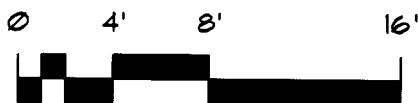


UNIT TYPE C-1b

PROPOSED UNIT PLAN  
NET UNIT AREA: 1560 SF.

## LEGEND:

CE. COMMON ELEMENT  
LCE. LIMITED COMMON ELEMENT



SCALE: 1/8" = 1'-0"

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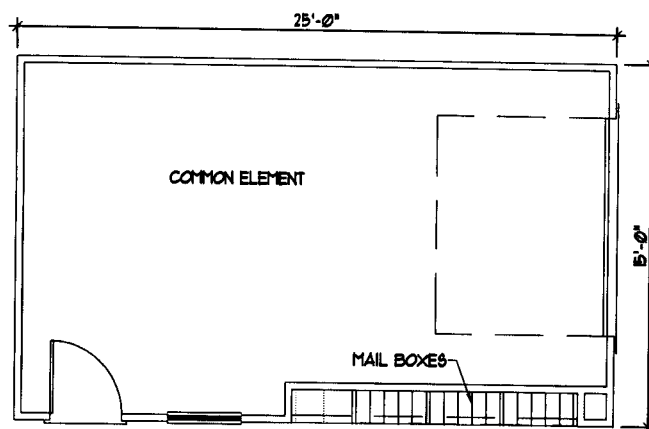
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## DRAWING

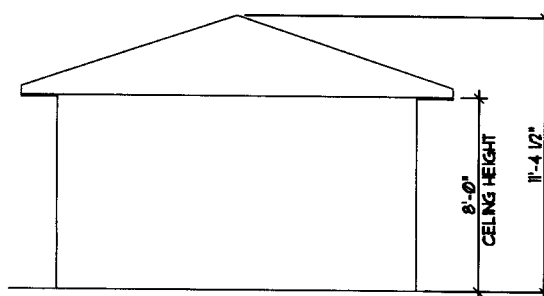
UNIT C-1b



THE PRESTON PARTNERSHIP, LLC  
A MULTI-DISCIPLINARY DESIGN FIRM



1 MAINTENANCE BUILDING - FLOOR PLAN  
SCALE: 1/8" = 1'-0"  
375 SF.



2 MAINTENANCE BLDG. - SECTION  
SCALE: 1/8" = 1'-0"

**NOTE:**

DEVELOPERS EASEMENT AREA

0 4' 8' 16'



SCALE: 1/8" = 1'-0"

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SEAL:

NAME: ROBERT PRESTON

DATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER: \_\_\_\_\_

**FOR**  
McRae and Stolz,  
St. Augustine, LLC

**PROJECT**  
VILLA SAN MARCO  
CONDOMINIUM

**LOCATION**  
ST. AUGUSTINE  
FLORIDA

**JOB NUMBER**

0401901

**DRAWN BY**

MEL

**DATE**

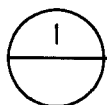
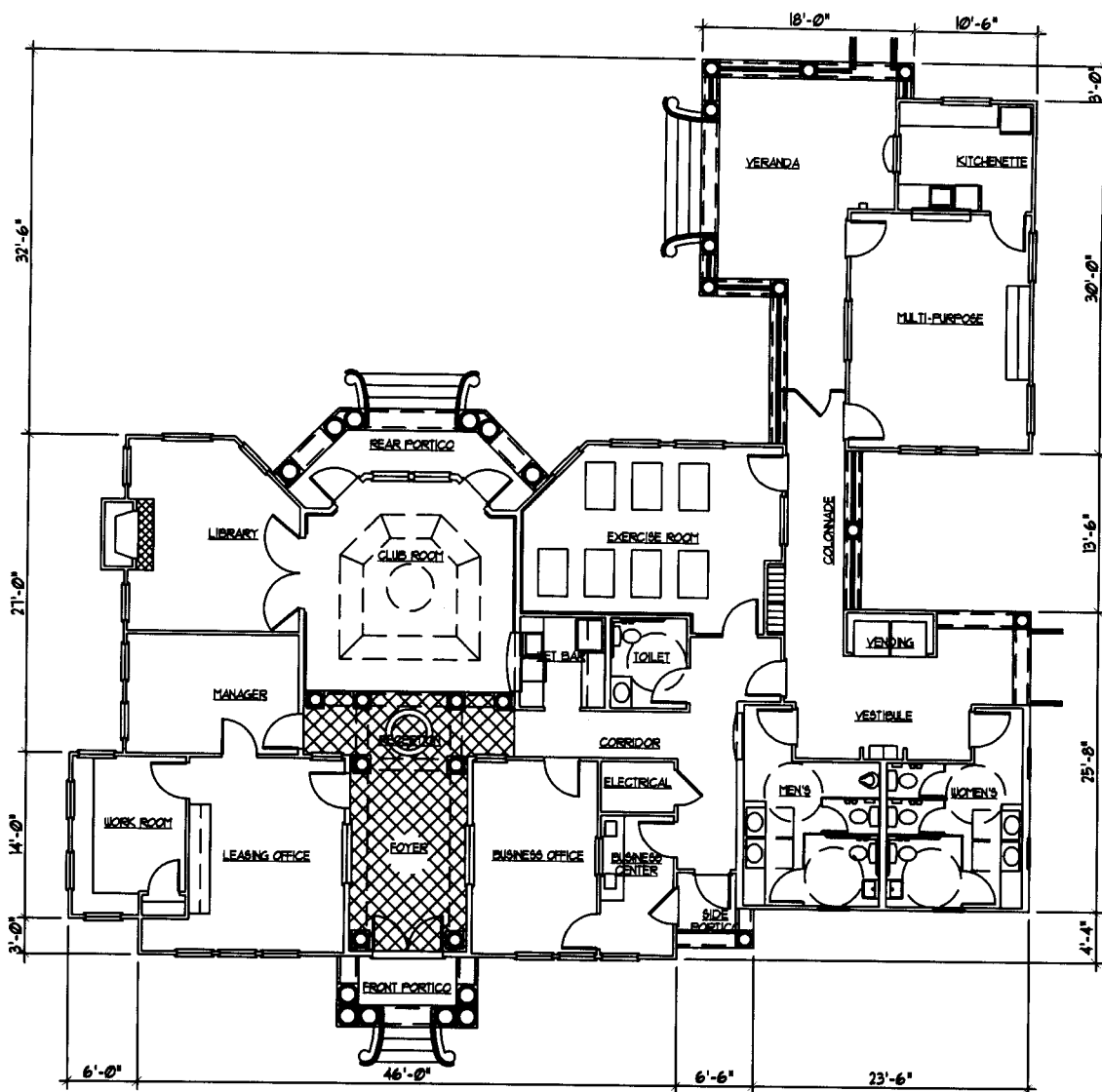
1/14/05

**DRAWING**

MAINT. BLDG.



THE PRESTON PARTNERSHIP, LLC  
A MULTI-DISCIPLINARY DESIGN FIRM



## CLUBHOUSE - COMMON AREA BUILDING

SCALE: 1/16" = 1'-0"

### NOTE:

DEVELOPER'S EASEMENT AREA

0 8' 16' 32'



SCALE: 1/16" = 1'-0"

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NAME: ROBERT PRESTON

DATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER:

FOR  
McRae and Stolz,  
St. Augustine, LLC

PROJECT  
VILLA SAN MARCO  
CONDOMINIUM

LOCATION  
ST. AUGUSTINE  
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JOB NUMBER

0401901

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MEL

DATE

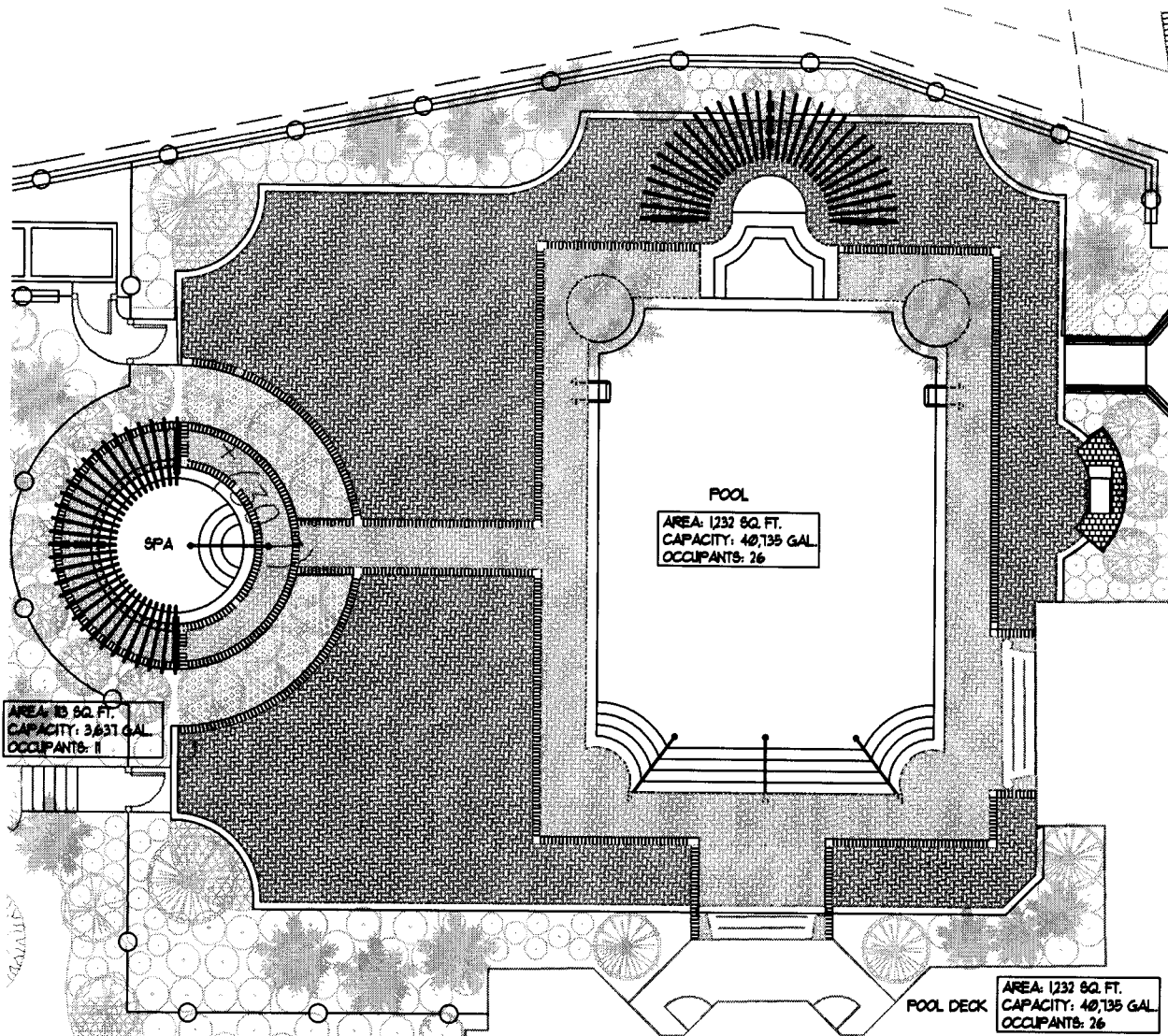
1/14/05

DRAWING

CLUBHOUSE



THE PRESTON PARTNERSHIP, LLC  
A MULTI-DISCIPLINARY DESIGN FIRM

**NOTE:**

DEVELOPER'S EASEMENT AREA

0 4' 8' 16'



SCALE: 1/8" = 1'-0"

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SEAL:

NAME: ROBERT PRESTONDATE: JANUARY 14, 2005

FLORIDA REGISTRATION NUMBER: \_\_\_\_\_

**FOR**McRae and Stolz,  
St. Augustine, LLC**PROJECT**VILLA SAN MARCO  
CONDOMINIUM**LOCATION**ST. AUGUSTINE  
FLORIDA**JOB NUMBER**

0401901

**DRAWN BY**

MEL

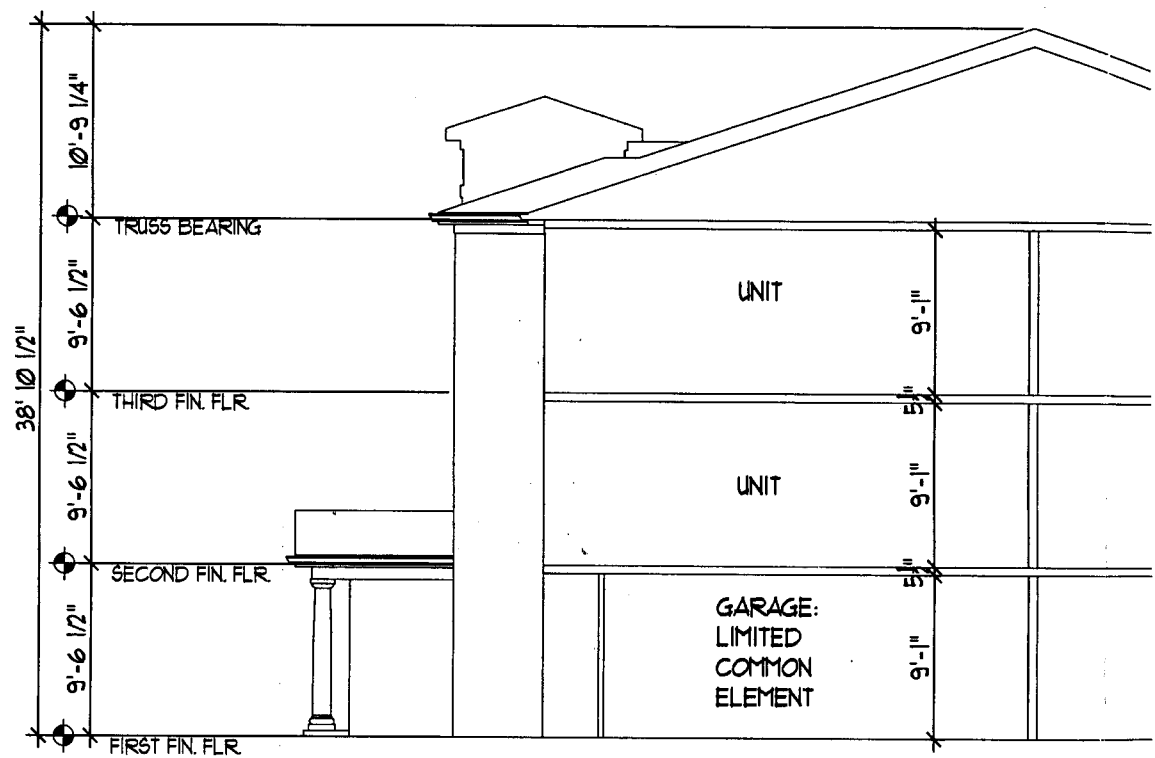
**DATE**

1/14/05

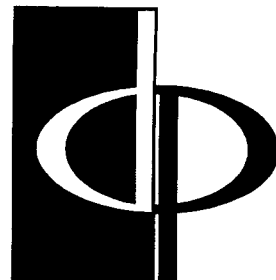
**DRAWING**

POOL &amp; SPA

THE PRESTON PARTNERSHIP, LLC  
A MULTI-DISCIPLINARY DESIGN FIRM



1 BUILDING SECTION  
SCALE: 3/32" = 1'-0"



THE PRESTON PARTNERSHIP, LLC  
A MULTI-DISCIPLINARY DESIGN FIRM

600 ABERNATHY ROAD NE, SUITE 600  
ATLANTA, GEORGIA 30328  
TELEPHONE: 770 396 7248  
FAX: 770 396 2945

WWW.THEPRESTONPARTNERSHIP.COM

PROJECT  
VILLA SAN MARCO  
CONDOMINIUM

ST. AUGUSTINE,  
FLORIDA

FOR \_\_\_\_\_

McRae and Stolz,  
St. Augustine, LLC

DATE \_\_\_\_\_

DECEMBER 29, 2004

JOB NUMBER \_\_\_\_\_

0401301

DRAWING TITLE \_\_\_\_\_

BUILDING  
SECTION

DRAWING NUMBER \_\_\_\_\_

COMMENTS \_\_\_\_\_

UNIT

UNIT

UNIT

UNIT DIMENSIONS AND/OR SQUARE FOOTAGE DISCLAIMER:  
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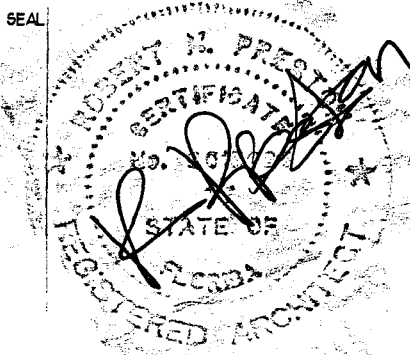
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IDENTIFICATION, LOCATION AND DIMENSIONS OF THE  
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DETERMINED FROM THESE MATERIALS.

NAME: ROBERT PRESTON

DATE: DECEMBER 29, 2004

FLORIDA REGISTRATION NUMBER: \_\_\_\_\_

SEAL



**EXHIBIT "E"**

**Articles of Incorporation**

FILED  
 SECRETARY OF STATE  
 TALLAHASSEE, FLORIDA

05 MAR 25 PM 2:57

**ARTICLES OF INCORPORATION  
 OF  
 VILLA SAN MARCO CONDOMINIUM ASSOCIATION, INC.**

THE UNDERSIGNED INCORPORATOR, being a natural person competent to contract, for the purpose of forming a corporation not-for-profit under the laws of the State of Florida, does hereby adopt, subscribe and acknowledge the following Articles of Incorporation.

**ARTICLE I. NAME**

The name of the corporation shall be VILLA SAN MARCO CONDOMINIUM ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Corporation".

**ARTICLE II. DEFINITIONS**

The terms used in these Articles shall have the same definitions and meaning as those set forth in the Declaration for the Condominium for Villa San Marco Condominium ("Declaration"), to be recorded in the Public Records of St. Johns County, Florida, unless herein provided to the contrary, or unless the context otherwise requires.

**ARTICLE III. PURPOSE AND POWERS**

Section 1. Purpose. The purpose for which the Corporation is organized is to provide an entity for the operation and governance of Villa San Marco Condominium (the "Condominium"), located upon lands in St. Johns County, Florida, said property being described in the duly recorded Declaration of Condominium applicable thereto in accordance with the Florida Condominium Act, Chapter 718, Florida Statutes (the "Act").

The Corporation shall not be operated for profit and shall make no distribution of income to its members, directors or officers and upon dissolution, all assets of the Association shall be transferred only to another non-profit corporation or a public agency or as otherwise authorized by the Florida Not For Profit Act, Chapter 617, Florida Statutes.

Section 2. Powers. The Corporation shall have all of the common-law and statutory powers of a corporation not-for-profit which are not in conflict with the terms of these Articles, the Bylaws, the Declaration, or the Act.

The Corporation shall have all of the powers and duties contemplated in these Articles, the Declaration, the Bylaws and the Act together with all of the powers and the duties reasonably necessary to operate the Condominium pursuant to the Declaration as it may be amended from time to time, and such other documents or agreements that may exist from time to time pertaining to the Condominium. The powers and duties, which the Bylaws and Declaration may set forth in more detail, shall include, but shall not be limited to, the following specific powers and duties:

(a) To make and collect Assessments against members as Unit Owners to defray the costs, expenses and losses of the Condominium, and to make such other Special Assessments against Unit Owners as the Declaration shall provide, and to enforce such levy of Assessments through a lien and the foreclosure thereof or by other action pursuant to the Declaration.

- (b) To use the proceeds of the Assessments in the exercise of its powers and duties, and as provided in the Declaration.
- (c) To maintain, repair, replace and operate the Condominium Property.
- (d) To purchase insurance and enter into contracts for services, utilities and other purposes as may be deemed appropriate.
- (e) To reconstruct improvements after casualty and further improve the Condominium Property.
- (f) To adopt, amend and enforce reasonable rules and regulations governing the use of the Units, Common Elements, Limited Common Elements and Association Property as that term is defined in the Declaration.
- (g) To perform such functions as may be specified in the Declaration and the Bylaws.
- (h) To enforce by legal means the provisions of the Act, the Declaration, these Articles, the Bylaws of the Corporation and such rules and regulations as may be promulgated.
- (i) To employ personnel to perform the services required for proper operation of the Condominium.
- (j) To lease, maintain, repair and replace the Common Elements as same are defined in the Declaration.
- (k) To acquire or enter into agreements acquiring leaseholds, memberships or other possessory or use interests in lands or facilities and to pay the rental, membership fees, operational, replacement and other expenses as Common Expenses.
- (l) To purchase a Unit or Units of the Condominium for any purpose and to hold, lease, mortgage or convey such Units on terms and conditions approved by the Board of Directors.
- (m) To exercise such other power and authority to do and perform every act and thing necessary and proper in the conduct of its business for the accomplishment of its purposes as set forth herein and as permitted by the applicable laws of the State of Florida.
- (n) To contract for the management and maintenance of the Condominium Property and to authorize a management agent to assist the Corporation in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, and other sums due from Unit Owners, preparation of records, enforcement of rules and maintenance, repair and the replacement of the Common Elements with funds as shall be made available by the Corporation for such purposes. The Corporation and its officers shall, however, retain at all times the powers and duties granted by the Condominium documents and the Florida Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Corporation.
- (o) To bring suit as may be necessary to protect the Corporation's interests, the interests of the Corporation's Members, or the Condominium Property.

**Section 3. Association Property.** All funds and the title to 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.

**Section 4. Limitation.** The powers of the Association shall be subject to and shall be exercised in accordance with the provisions hereof and of the Declaration, the Bylaws, and the Act, provided that in the event of conflict, the provisions of the Act shall control over those of the Declaration and Bylaws.

#### **ARTICLE IV. DEVELOPER**

McRae and Stolz St. Augustine, LLC, a Georgia limited liability company ("Developer"), shall make and declare or has made and declared a certain Declaration of Condominium submitting to condominium ownership certain property described therein under the terms, covenants, and conditions expressed more fully therein; the Condominium is to be known as VILLA SAN MARCO CONDOMINIUM.

#### **ARTICLE V. TERM**

The term for which this Corporation shall exist shall be perpetual.

#### **ARTICLE VI. INCORPORATOR**

The name and address of the incorporator of this Corporation is as follows:

Ned Blumenthal, Esq.  
Weissman, Nowack, Curry & Wilco, P.C.  
One Alliance Center, 4th Floor  
3500 Lenox Road  
Atlanta, Georgia 30326

#### **ARTICLE VII. OFFICERS**

The officers of the Corporation shall be a President, Vice President, Secretary and Treasurer and such other officers as the Board of Directors may from time to time determine. The officers of this Corporation shall be elected for a term of one (1) year, and until a successor shall be elected and qualified, by the Board of Directors at their annual meeting and in accordance with the provisions provided therefor in the Bylaws of the Corporation. Officers, other than designees of the Developer, must be Unit Owners. The President and Vice President must be members of the Board of Directors.

The names of the persons who shall serve as the first officers are:

Irwin W. Stolz, III	President
W. Alan McRae	Vice President
Nancy M. Knight	Secretary-Treasurer

#### **ARTICLE VIII. DIRECTORS**

The affairs of the Corporation shall be managed by a Board of Directors composed of not less than three (3) directors. The method of election of directors shall be as stated in the Bylaws. All directors

shall be members of the Association, provided that the Developer shall be entitled to designate non-member directors to the extent permitted by the Florida Condominium Act. Transfer of Control of the Corporation from the Developer to the Unit Owners shall be as stated in the Bylaws.

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

The first Board of Directors shall be comprised of three (3) persons who shall serve until their respective successors are elected (or designated) and qualified. The names and addresses of the members of the Board of Directors who shall serve as the first directors are:

Irwin W. Stolz, III	366 North Main Street, Suite 400 Alpharetta, Georgia 30004
W. Alan McRae	366 North Main Street, Suite 400 Alpharetta, Georgia 30004
Nancy M. Knight	366 North Main Street, Suite 400 Alpharetta, Georgia 30004

#### **ARTICLE IX. BYLAWS**

The initial Bylaws of the Corporation shall be attached as an exhibit to the Declaration of Condominium for the Condominium and shall be adopted by the first Board of Directors.

#### **ARTICLE X. MEMBERS**

Membership in the Corporation shall automatically consist of and be limited to all of the record owners of Units in the Condominium. Transfer of Unit ownership, either voluntary or by operation of law, shall terminate membership in the Corporation and said membership is to become vested in the transferee. If Unit ownership is vested in more than one (1) person then all of the persons so owning said Unit shall be members eligible to hold office, attend meetings, etc., but the Owner(s) of each Unit shall only be entitled to one vote as a member of the Corporation. The manner of designating voting members and exercising voting rights shall be determined by the Bylaws.

#### **ARTICLE XI. AMENDMENTS**

Amendments to these Articles of Incorporation shall be made in the following manner:

(a) The Board of Directors shall adopt a resolution setting forth the proposed amendment and, if there are members of the Corporation, the Board shall direct that it be submitted to a vote at a meeting of the members, which may be either the annual or a special meeting. If there are no members of the Corporation, the amendment shall be adopted by a vote of the majority of directors and the provisions for adoption by members shall not apply.

(b) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member of record entitled to vote thereon within the time and in the manner provided herein for the giving of notice of meetings of members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

(c) At such meeting, a vote of the members entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the votes of all members of the Corporation entitled to vote thereon. Upon adoption, such amendment or amendments of these Articles shall be transcribed and certified in such form as may be necessary to file the same in the office of the Secretary of State of Florida. A certified copy of each such amendment of these Articles shall be recorded in the public records of St. Johns County, Florida, within thirty (30) days from the date on which such amendment is filed in the office of the Secretary of State.

No amendment to these Articles of Incorporation shall be made which affects any of the rights and privileges provided to the Developer in the Condominium documents without the written consent of the Developer.

To the extent lawful, the Developer may amend these Articles consistent with the provisions of the Declaration allowing certain amendments to be effected by the Developer alone.

#### **ARTICLE XII. PRINCIPAL PLACE OF BUSINESS**

The principal place of business of the Corporation shall be 100 Villa Club Drive, St. Augustine, Florida 32086, or at such other place or places as may be designated from time to time.

#### **ARTICLE XIII. REGISTERED OFFICE AND AGENT**

The street address of the initial registered office of the Corporation and the name of the initial registered agent at that address are:

McRae & Stolz St. Augustine Florida Manager, Inc.  
c/o Villa San Marco Condominium  
100 Villa Club Drive  
St. Augustine, Florida 32086

#### **ARTICLE XIV. INDEMNIFICATION**

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 attorney's fees and appellate attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, unless (a) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be not in, or opposed to, the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (b) such court further specifically determines that indemnification should be denied. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith or did act in a manner which he reasonably believed to be not in, or opposed to, the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe that his conduct was

unlawful. 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 this Article, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding 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 Article.

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 by-law, 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.

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 the Association, or is or was serving, at the request of the Association, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprises, 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.


Anything to the contrary herein notwithstanding, the provisions of this Article may not be amended without the prior written consent of all persons whose interest would be adversely affected by such amendment.

#### **ARTICLE XV. DISSOLUTION OF THE ASSOCIATION**

The Association may be dissolved in accordance with the provisions of the Declaration and in accordance with Florida law.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the subscribing Incorporator has hereunto set his hand and seal and caused these Articles of Incorporation to be executed this 21<sup>st</sup> day of March, 2005.

  
Ned Blumenthal, Esq., Incorporator

**ACCEPTANCE OF DESIGNATION OF REGISTERED AGENT**

The undersigned, having been named as registered agent and to accept service of process for VILLA SAN MARCO CONDOMINIUM ASSOCIATION, INC., hereby accepts the appointment as registered agent and agrees to act in such capacity. The undersigned further agrees to comply with the provisions of all statutes relating to the proper and complete performance of his duties and is familiar with and accepts the obligations of his position as registered agent.

Registered Agent: **McRae & Stolz St. Augustine Florida  
Manager, Inc.**

By: 

Signature

Name: Irwin W. Stolz, III  
Title: President


**CERTIFICATE OF DESIGNATING PLACE OF BUSINESS  
OR DOMICILE FOR THE SERVICE OF PROCESS WITHIN  
FLORIDA, NAMING AGENT UPON WHOM PROCESS MAY BE SERVED**

In compliance with Section 48.091, Florida Statutes, the following is submitted:

Villa San Marco Condominium Association, Inc., desiring to organize or qualify under the laws of the State of Florida with its principal place of business at 100 Villa Club Drive, St. Augustine, Florida 32086, State of Florida, has named McRae & Stolz St. Augustine Florida Manager, Inc., as its agent to accept service of process within Florida.

**VILLA SAN MARCO CONDOMINIUM  
ASSOCIATION, INC.,**  
a Florida corporation not-for-profit

By:

  
Ned Blumenthal, Incorporator

Dated:

March 21, 2005

Having been named to accept service of process for the above stated corporation, at the place designated in this Certificate, I hereby agree to act in this capacity, and I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties.

Dated this 21<sup>st</sup> day of March, 2005.

Registered Agent: **McRae & Stolz St. Augustine Florida  
Manager, Inc.**

By:

  
Signature

Name: Irwin W. Stolz, III  
Title: President

**EXHIBIT "F"**

**BYLAWS  
OF  
VILLA SAN MARCO CONDOMINIUM ASSOCIATION, INC.**

**WEISSMAN, NOWACK, CURRY, & WILCO, P.C.**

**Attorneys**

One Alliance Center, 4th Floor  
3500 Lenox Road  
Atlanta, Georgia 30326  
(404) 926-4500

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**BYLAWS**  
**OF**  
**VILLA SAN MARCO CONDOMINIUM ASSOCIATION, INC.**

**ARTICLE I. GENERAL**

Section 1. Applicability. These Bylaws provide for the self government of VILLA SAN MARCO CONDOMINIUM ASSOCIATION, INC., a not-for-profit corporation, organized for the purpose of administering that certain Condominium located in St. Johns County, Florida and known as Villa San Marco Condominium (the "Condominium") and existing pursuant to the laws of the State of Florida, in accordance with the Florida Condominium Act (Chapter 718, Florida Statutes) ("Act"), the Articles of Incorporation filed with the Secretary of State and the Declaration of Condominium for Villa San Marco Condominium, recorded in St. Johns County, Florida land records ("Declaration"). A copy of these Bylaws and the Articles of Incorporation for the Association, as hereinafter defined, shall be attached as exhibits to the Declaration in accordance with the Act and will be recorded in the public records of St. Johns County, Florida.

Section 2. Name. The name of the corporation is Villa San Marco Condominium Association, Inc. ("Association").

Section 3. Definitions. The terms used herein shall have their generally accepted meanings or such meanings as are specified in the Declaration.

**ARTICLE II. MEMBERSHIP AND VOTING PROVISIONS**

Section 1. Membership in the Association An Owner of a Unit shall automatically become a member of the Association upon taking title to the Unit. Membership in the Association shall be limited to Owners of Units in the Condominium. Transfer of Unit ownership, either voluntary or by operation of law, shall terminate membership in the Association, and said membership shall become vested in the transferee. If Unit ownership is vested in more than one person, then all of the persons so owning said Unit shall be members eligible to hold office, attend meetings, etc., provided that, the vote of such Unit shall be cast by the "voting member," to be designated in accordance with Section 5 of this Article. If Unit ownership is vested in a corporation, general partnership, limited partnership, limited liability company or other entity not being a natural person or persons (for purposes herein, the foregoing are collectively defined as an "Entity"), said Entity shall designate an individual as its "voting member" pursuant to Section 5 of this Article.

Section 2. Voting.

(a) Number of Votes. The Owner(s) of each Unit shall be entitled to one vote for each Unit owned. If a Unit Owner owns more than one Unit, such individual shall be entitled to one vote for each Unit owned. Any two (2) Units which have been combined into one combined living area shall be deemed to be two (2) Units (as if they had not been so combined) and shall therefore be entitled to two (2) votes to be cast by its Owner. The vote of a Unit shall not be divisible.

(b) Majority Vote. Except as otherwise required under the provisions of the Declaration, the Articles of Incorporation, these Bylaws, or as required by law, at any meeting of the general membership of the Association which is duly called and at which a quorum is present, the affirmative vote of the

majority of the quorum, as defined in Article II, Section 3 below, shall be binding on the members of the Association.

Section 3. Quorum. A quorum at meetings of members shall consist of twenty-five percent (25%) of the Voting Interests represented at the meeting either in person or by proxy.

Section 4. Proxies. Votes may be cast in person or by proxy. Limited proxies and general proxies may be used to establish a quorum. General proxies may be used except where a limited proxy is required by Section 718.112(2)(b)(2), or other section of the Act as it may be amended from time to time. A proxy may be made by any person entitled to vote, but shall only be valid for the specific meeting for which originally given and any lawfully adjourned meetings thereof. All proxies must be filed with the Secretary before the appointed time of each meeting and such proxy shall be valid only for the particular meeting designated in the proxy and any lawfully adjourned meeting thereof. In no event shall any proxy be valid for a period longer than ninety (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 in writing, signed by the person authorized to cast the vote for the Unit (as described below), name the person(s) voting by proxy and the person authorized to vote for such person(s). Each proxy shall contain the date, time and place of the meeting for which it is given and, shall set forth the matters on which the proxy holder may vote and the manner in which the vote is to be cast. Holders of proxies need not be Unit Owners. No proxy shall be used in the election of Board members, either in general elections or elections to fill vacancies caused by recall, resignation or otherwise except as may be otherwise provided by the Act.

Section 5. Designation of Voting Member. If a Unit is owned by one person, such person's right to vote shall be established by the recorded title to the Unit. If a Unit is owned by more than one person, the person entitled to cast the vote for the Unit shall be designated in a certificate, signed by all of the recorded Owners of the Unit and filed with the Secretary of the Association. If a Unit is owned by an Entity, the individual entitled to cast the vote of the Unit for such Entity shall be designated in a certificate for this purpose, signed by (a) in the case of a corporation, the president or vice president, attested to by the secretary or assistant secretary of the corporation, (b) in the case of a general partnership, the general partners, (c) in the case of a limited partnership, the general partner(s) thereof on behalf of the limited partnership (if the general partner is a corporation, the president or vice president of such corporation shall execute such certificate and the secretary of such corporation shall attest thereto), (d) in the case of a limited liability company, the manager thereof, or (e) in the case of a legal entity other than as described above, the individual authorized to execute the certificate in accordance with such legal entity's governing documents. Such certificate shall be filed with the Secretary of the Association. The person designated in such certificate who is entitled to cast the vote for a Unit shall be known as the "voting member." If such a certificate is required and is not filed with the Secretary of the Association for a Unit owned by more than one person or by an Entity, the vote of the Unit concerned may not be cast and shall not be considered in determining the requirement for a quorum or for any purpose requiring the approval of a person entitled to cast the vote for the Unit. Unless the certificate shall otherwise provide, such certificates shall be valid until revoked or until superseded by a subsequent certificate, or until a change in the ownership of the Unit concerned. Notwithstanding the foregoing, if a Unit is owned jointly by a husband and wife, as tenants by the entirety, the following 3 provisions are applicable thereto:

(a) They may, but they shall not be required to, designate a voting member by certificate.

(b) If they do not designate a voting member, and 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.

(c) Where they do not designate a voting member, and only one is present at a meeting, the person present may cast the Unit vote, just as though he or she owned the Unit individually, and without establishing the concurrence of the absent person.

Section 6. Electronic Documents, Electronic Notice, and Signatures

(a) Documents. Whenever these Bylaws require that a document, record or instrument be “written” or “in writing,” the requirement is deemed satisfied by an Electronic Document. “Electronic Document” means information created, transmitted, received, or stored by electronic means and retrievable in human perceivable form, such as email, web pages, electronic documents, facsimile transmissions, etc. Records, documents and instruments shall not be denied effect or validity solely on the grounds that they are electronic.

(b) Signatures. Whenever these Bylaws require a signature, an electronic signature satisfies that requirement only if: (1) the signature is easily recognizable as a Secure Electronic Signature which is capable of verification, under the sole control of the signatory, and attached to the electronic document in such a way that the document cannot be modified without invalidating the signature; or (2) the Board reasonably believes that the signatory affixed the signature with the intent to sign the Electronic Document, and that the Electronic Document has not been modified since the signature was affixed.

(c) Verification and Liability for Falsification. The Board may require reasonable verification of any electronic signature, document, record or instrument. Pending verification, the Board may refuse to accept any electronic signature, document, record or instrument that, in the Board’s sole discretion, is not clearly authentic. Neither the Board nor the Association shall be liable to any Member or any other Person for accepting or acting in reliance upon an electronic signature or Electronic Document which the Board reasonably believes to be authentic. Any Member or Person who negligently, recklessly or intentionally submits any falsified Electronic Document or unauthorized electronic signature shall fully indemnify the Association for actual damages, reasonable attorneys’ fees and expenses incurred as a result of such acts.

(d) Electronic Notice. Notice of meetings of the Board of Directors, Unit Owner Meetings (except Unit Owner meetings called to recall Board members under Section 718.112(2)(j) of the Act), and committee meetings may be given by electronic transmission to Unit Owners who consent to receive notice by electronic transmission.

### **ARTICLE III. MEETINGS OF MEMBERS**

Section 1. Annual Meeting. The regular annual meeting of the Members shall be held during the fourth (4th) quarter of each year with the date, hour and place to be set by the Board of Directors for the purpose of electing directors and transacting any other business authorized to be transacted by the members as stated in the notice of the meeting sent to Unit Owners in advance of the meeting. No annual meeting shall be set on a legal holiday.

Section 2. Special Meeting. Special meetings of the Members for any purpose or purposes, unless otherwise prescribed by statute, may be called by the concurrence of the President and one (1) other Board member, and shall be called by the President or Secretary at the request in writing of a majority of the Board. Additionally, except for the purpose of removing a director governed by the provisions of Article IV, Part A, Section 6 of these Articles, a special meeting must be called by the President or Secretary upon the written request of a majority of the Voting Interests in the Condominium, which request shall state the purpose or purposes of the proposed meeting. Business transacted at all special meetings shall be confined to the matters stated in the notice thereof, which notice shall be given

in accordance with Article III, Section 3 below.

Section 3. Notice of Meetings. It shall be the duty of the secretary to mail, hand deliver, or electronically transmitted a written notice of each annual or special meeting, stating the time and place thereof and specifically incorporating an identification of agenda items to each Unit Owner of record at least fourteen (14) but not more than thirty (30) days prior to such meeting, and to post at a conspicuous place on the Condominium Property a copy of the notice of said meeting at least 14 continuous days preceding said meeting. Notice of each annual meeting shall be mailed, hand delivered, or electronically transmitted to each Unit Owner unless such Unit Owner waives in writing the right to receive notice of the annual meeting. Upon notice to all Unit Owners, the Board shall, by duly adopted rule, designate a specific location on the Condominium Property, upon which all notices of Unit Owner meetings shall be posted. In lieu of or in addition to the physical posting of notice of any meeting of the Unit Owners, the Association may, in accordance with Section 718.112 of the Act, by reasonable rule adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and agenda on a closed circuit cable television system serving the Condominium Association. Notice of any annual or special meeting shall state the purpose thereof and said meeting shall be confined to the matters stated in said notice. If any Unit Owner wishes notice to be given at an address other than his or her Unit, the Owner shall designate such other address in writing to the Secretary. All notices shall be mailed to or served at the address of the Unit Owner last furnished to the Association and posted as hereinbefore set forth. An officer of the Association, or other authorized person providing notice, shall provide an affidavit or postal service certificate of mailing, to be included in the official records of the Association, affirming that notices of the Association meeting were mailed, hand delivered, or electronically transmitted in accordance with this section and Section 718.112(2)(d) of the Act, to each Unit Owner at the address last furnished to the Association.

Section 4. Waiver of Notice. Notice of specific meetings may be waived before or after the meeting and the attendance of any member (or person authorized to vote for such member), either in person or by proxy, 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.

Section 5. Adjourned Meeting. If any meeting of members cannot be organized because a quorum is not present, either in person or by proxy, the meeting may be adjourned 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. Proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked in accordance with Article II, Section 4 above.

Section 6. 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) Proof of notice of the meeting or waiver of notice;
- (c) The collection of any ballots for election of members of the Board of Directors that have not been cast by Unit Owners prior to the meeting;
- (d) Appointment by the President of a chairman of the meeting (who need not be a member or a Director);
- (e) Appointment of inspectors of election;

- (f) Election of Directors;
- (g) Reading of minutes;
- (h) Reports of Officers;
- (i) Reports of committees;
- (j) Unfinished business;
- (k) New business; and
- (l) Adjournment.

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

Section 7. Minutes of Meetings. The minutes of all meetings of Unit Owners 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 (7) years.

Section 8. Action Without a Meeting. Anything to the contrary herein notwithstanding, to the extent lawful, any action required to be taken at any annual or special meeting of members, or any action which may be taken at any annual or special meeting of such members, may be taken without a meeting, if a consent in writing with proper notice is provided to all members, setting forth the action so taken, shall be signed by the members (or persons authorized to cast the vote of any such members 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 members at which a quorum of members (or authorized persons) entitled to vote thereon were present and voted; provided that nothing in this Article III, Section 8 shall be construed to mean that the annual meeting required pursuant to Section 718.112(2)(d)1. of the Act will not be held. Within ten (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.

#### **ARTICLE IV. BOARD OF DIRECTORS**

##### **A. Composition and Selection.**

Section 1. Composition and Section Qualifications. The affairs of the Association shall be governed by a Board of Directors which Board shall serve without compensation. All directors shall be members of the Association; provided, however, that to the extent permitted by the Act, directors that the Developer are entitled to elect or designate need not be members of the Association. The individual designated as the voting member for a Unit owned by an Entity shall be deemed to be a member of the Association so as to qualify to become a director of the Association. Transfer of control of the Association from the Developer to the Unit Owners shall be in accordance with Article IV, Part A, Section 3 below.

##### **Section 2. Board of Directors.**

- (a) Number of Directors. During the period that the Developer has the authority to appoint

the majority of members of the Board of Directors in accordance with Article IV, Part A, Section 3 below, the Board shall consist of three (3) directors. At the time that the Unit Owners other than the Developer are entitled to elect the majority of members of the Board of Directors in accordance with Article IV, Part A, Section 3 below, such that the Developer relinquishes and the Unit Owners accept control of the Association, there shall be five (5) members of the Board of Directors.

(b) Initial Board of Directors. The first Board of Directors of the Association shall be comprised of those Members of the Board as described in the Articles, who shall serve until their successors are appointed by Developer or elected at the first annual meeting of the Members. Should any member of the First Board be unable to serve for any reason, the Developer shall have the right to select and appoint a successor to act and serve for the unexpired term of the Director who is unable to serve.

Section 3. Transfer of Control from Developer to Association. Control of the Association shall be transferred from the Developer to the Association in the following manner:

(a) When Unit Owners, other than the Developer, own fifteen percent (15%) of the Units of the Condominium that will ultimately be operated by the Association, the Unit Owners, other than the Developer, shall be entitled to elect, in the manner provided in Article IV, Part A, Section 4 of these Bylaws, not less than nor more than one third (1/3) of the Members of the Board of Directors;

(b) The Unit Owners, other than the Developer, shall be entitled to elect, in a manner provided in Article IV, Part A, Section 4 of these Bylaws, not less than a majority of the Members of the Board of Directors, upon the earliest of the following events:

(1) three (3) years after the sales by the Developer have been closed on fifty percent (50%), but less than ninety percent (90%) of the Units that will ultimately be operated by the Association;

(2) three (3) months after sales of ninety percent (90%) of the Units that will ultimately be operated by the Association have been closed by the Developer;

(3) when all of the Units that will ultimately be operated by the Association have been completed and some have been sold and none of the others are being offered for sale by the Developer in the ordinary course of business;

(4) when some of the Units have been sold and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or

(5) seven (7) years after recordation of the Declaration of the Condominium.

(c) At the time Unit Owners other than the Developer elect a majority of the Board of Directors, the Developer shall relinquish control of the Association and the Unit Owners shall accept control of the Association.

(d) The Developer shall have the right to appoint, in the same manner provided in Article IV, Part A, Section 4 of these Bylaws, the Members of the Board of Directors which other Unit Owners are not entitled to elect. The Developer shall be entitled (but not obligated) to appoint not less than one (1) member of the Board of Directors as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the Units in the Condominium ultimately to be operated by the Association. Following the time the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer owned Units in the same manner as any other Unit Owner

except for purposes of reacquiring control of the Association or selecting the majority members of the Board. The right reserved herein to Developer to elect and maintain Directors may be exercised by its successor(s) in interest. Notwithstanding the foregoing, the Developer shall be entitled, at any time to waive its rights hereunder, by execution and delivery to the Association of written waivers, and therefore to vote in elections for Members of the Board of Directors in the same manner as any other Unit Owner.

(e) Upon the election of the first Unit Owner other than the Developer to the Board, the Developer shall forward to the Division of Land Sales, Condominiums and Mobile Homes the name and mailing address of the Director(s) elected.

(f) The Developer can voluntarily turn over control of the Association to Unit Owners other than the Developer prior to the dates specified herein, 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 sixty (60) days' notice of Developer's decision to cause its appointees to resign is given to Unit Owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations even if the Unit Owners other than the Developer refuse or fail to assume control.

(g) At the time that Unit Owners other than the Developer elect a majority of the members of the Board of Directors of the Association, the Developer shall relinquish control of the Association and such Unit Owners shall accept control. At that time, Developer shall deliver to the Association 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 must certify by affidavit that it is a complete copy of the actual recorded Declaration.
- (b) A certified copy of the Articles of Incorporation of 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.
- (e) Any rules and regulations which have been promulgated.
- (f) Resignations of resigning Officers and Board members who were appointed by the Developer.
- (g) Association funds or the control thereof.
- (h) All tangible personal property that is the property of the Association which is or was represented by the Developer to be part of the Common Elements or is ostensibly part of the Common Elements, and an inventory of such property.
- (i) A copy of the plans and specifications utilized in the construction or remodeling of Improvements and the supplying of equipment and for the construction and installation of all mechanical components serving the Improvements and the Condominium Property, with a certificate, in affidavit form, of the Developer or the Developer's agent 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 for the construction and installation of the mechanical components serving the Improvements and the Condominium Property.

- (j) 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.
- (k) Insurance policies.
- (l) Copies of all 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 (1) year prior to the date the Unit Owners take control of the Association.
- (n) All written warranties of contractors, subcontractors, suppliers and manufacturers, if any, that are still effective.
- (n) A roster of Unit Owners and their addresses and telephone numbers, if known, as shown on the Developer's records.
- (o) Leases of the Common Elements and other leases to which the Association is a party, if applicable.
- (p) 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.
- (q) All other contracts to which the Association is a party.
- (r) Simultaneously with delivering the above described items or within ninety (90) days thereafter, the Developer shall deliver 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 Chapter 473 of the Florida Statutes. 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 the billings, cash receipts, and related records to determine that the Developer was charged and paid the proper amounts of Assessments.

Section 4. Election of Board Members. Election of Directors shall be held at the annual meeting of Members except as provided herein to the contrary. Directors shall be elected in the following manner:

(a) Commencing with the election of the first Board to succeed the Board comprised of the persons named in the Articles, Developer may appoint that number and the identity of the members of the Board which it shall be entitled to appoint in accordance with the Articles and these Bylaws, and upon such appointment by Developer, by written instrument presented to the meeting at which such election is held, the persons so appointed by Developer shall be deemed and considered for all purposes a Director of the Association and shall therefore hold the offices and perform the duties of such Directors until their successors shall have been elected or appointed, as the case may be, and qualified in accordance with the provisions of these Bylaws.

(b) For so long as the Developer shall retain the right to appoint at least one (1) member of the Board of Directors, all members of the Board of Directors whom Unit Owners are entitled to elect under these Bylaws shall be elected at large, by a plurality of the votes cast at the annual meeting of the general membership, immediately following appointment of the members of the Board whom Developer shall be entitled to appoint. Commencing after the Developer shall have lost or relinquished the right to appoint at least one (1) Director, the replacement Director shall be elected at large, by a plurality of the votes cast by the general membership at the meeting.

(c) Not less than sixty (60) days before a scheduled election, the Association shall mail, deliver, or electronically transmit whether by separate Association mailing or included in another Association mailing, delivery, or electronic transmission, including regularly published newspaper, to each Unit Owner entitled to a vote, the first notice of the date of the election. Such first notice must contain the name and correct mailing address of the Secretary of the Association or person designated by the Secretary of the Association. 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 forty (40) days before scheduled election. Together with the written notice and agenda required pursuant to Section 718.112(2)(d), subparagraph 2 of the Act, the Association shall mail, deliver, or electronically transmit a second notice of the election to all Unit Owners entitled to vote therein at least fourteen (14) days but not more than thirty (30) days prior to the meeting as set forth in Article III, Section 3 of these Bylaws, together with a ballot which shall list all candidates. Upon request of the candidate, the Association shall include an information sheet, not larger than 8 1/2" x 11", which must be furnished by the candidate not less than thirty-five (35) days before the election, to be included with the mailing, delivery, or electronic transmission of the ballot, with the costs of mailing, hand delivery, or electronic transmission and copying to be borne by the Association. The Association has no liability for the contents of the information sheets prepared by the candidate.

(d) The election of Directors shall be by written ballot or voting machine. Proxies shall not be used in electing Directors. No Unit Owner shall permit any other person to vote his ballot, and any such ballot improperly cast shall be invalid. Notwithstanding the provisions of this Section, an election is not required if the number of vacancies equals or exceeds the number of candidates. The election shall be a plurality of the votes cast, each person being entitled to cast his vote for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting. There shall be no quorum requirement or minimum number of votes necessary for election of the Board of Directors; 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 Directors.

(e) Within seventy-five (75) days after Unit Owners other than the Developer are entitled to elect a member or members of the Board of Directors of the Association, the Association shall, as otherwise provided in accordance with the provisions of these Bylaws, call and give not less than sixty (60) days notice of an election for members of the Board. Such meeting may be called and the notice given by any Unit Owner if the Association fails to do so within the time prescribed herein. Election of such Directors by the Unit Owners shall be conducted in the manner provided in these Bylaws. Upon election of the first Unit Owner other than the Developer to the Board, the Developer shall forward to the Division of Florida Land Sales, Condominiums and Mobile Homes the name and mailing address of such Unit Owner member.

Section 5. Term of Office. If, at the time of the first annual meeting of members, Unit Owners other than the Developer are entitled to elect one of the Directors, the term of office of such Director receiving the highest plurality of votes shall be two (2) years.

At the first annual meeting after Developer has transferred control of the Board of Directors from Developer to the Association, such that the number of members of the Board of Directors increases from three (3) to five (5) members, the three Directors receiving the highest number of votes shall be elected for a two (2) year term and the other two (2) Directors shall be elected for a one (1) year term so as to stagger the terms of Directors. Thereafter, at each annual meeting at which Directors terms expire, a successor shall be elected to hold a term of two (2) years.

Directors shall hold office for the terms to which elected or designated, and thereafter until their successors are duly elected, or designated by the Developer, and qualified, or until removed in the manner elsewhere herein provided or provided by law. Notwithstanding the foregoing, any Director designated by the Developer shall serve at the pleasure of the Developer and may be removed and replaced at any time by the Developer.

Section 6. Recall of Board Members.

(a) Subject to the provisions of Section 718.301 of the Act, any member of the Board may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all Voting Interests. A special meeting of the Members to recall a member or members of the Board may be called by ten percent (10%) of all Voting Interests giving notice of the meeting in the same manner as notice of the call of a special meeting of the Members is required as set forth in Article III, Section 3, and the notice shall state the purpose of the meeting. Electronic transmission may not be used as a method of conveying notice of a meeting called in whole or in part to recall a Board member. Such special meeting to recall a member or members of the Board is subject, however to the right of Developer to elect Directors as provided herein.

(b) If the recall is approved by a majority of all Voting Interests by a vote at a meeting, the recall will be effective as provided herein. The Board shall duly notice and hold a Board meeting within five (5) full business days of the adjournment of the Unit Owner meeting to recall one or more Board members. At the meeting, the Board shall either certify the recall, in which case such member or members shall be recalled effective immediately and shall turn over to the Board, within five (5) full business days, any and all records and property of the Association in their possession or shall proceed as set forth below.

(c) If the proposed recall is by an agreement in writing by a majority of all Voting Interests, the agreement in writing or a copy thereof shall be served on the Association by certified mail or by

personal service in the manner authorized by Chapter 48, Florida Statutes, and the Florida Rules of Civil Procedure. The Board shall duly notice and hold a meeting of the Board within five (5) full business days after receipt of the agreement in writing. At the meeting, the Board shall either certify the written agreement to recall a member or members of the Board, in which case such member or members shall be recalled effective immediately and shall turn over to the Board, within five (5) full business days, any and all records and property of the Association in their possession or proceed as described below.

(d) If the Board determines not to certify the written agreement to recall a member or members of the Board or does not certify the recall by a vote at a meeting, the Board shall, within five (5) full business days after the meeting, file with the Division of Florida Land Sales, Condominiums and Mobile Homes ("Division") a petition for arbitration pursuant to the procedures in Section 718.1255, Florida Statutes. For the purposes of this provision, the Unit Owners who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any member or members of the Board, the recall will be effective upon mailing of the final order of arbitration to the Association. If the Association fails to comply with the order of the arbitrator, the Division may take action pursuant to Section 718.501, Florida Statutes. Any member or members so recalled shall deliver to the Board any and all records of the Association in their possession within five (5) full business days of the effective date of the recall.

(e) If the Board fails to duly notice and hold a Board meeting within five (5) full business days of service of an agreement in writing or within five (5) full business days of the adjournment of the Unit Owner recall meeting, the recall shall be deemed effective and the Board members so recalled shall immediately turn over to the Board any and all records and property of the Association.

(f) If a vacancy occurs on the Board as a result of a recall and less than a majority of the Board members are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining Directors, notwithstanding any provision to the contrary contained in this Section. If vacancies occur on the Board as a result of a recall and a majority or more of the Board members are removed, the vacancies shall be filled in accordance with procedural rules to be adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes, which rules need not be consistent with this Section.

(g) Notwithstanding anything to the contrary herein, until a majority of the Directors are elected by the members other than the Developer of the Condominium, neither the first Directors of the Association, nor any Directors replacing them, nor any Directors named by the Developer, shall be subject to removal by members other than the Developer. The first Directors and Directors replacing them may be removed and replaced by the Developer without the necessity of any meeting.

(h) If the Association's failure to fill vacancies on the Board of Directors results in the inability to obtain a quorum of Directors in accordance with these Bylaws, any 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 thirty (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 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 Directors, and shall serve until the Association fills the vacancy(ies) on the Board sufficient to constitute a quorum in accordance with these Bylaws.

Section 7. Vacancies on Board. If the office of any director or directors becomes vacant by any reason other than recall of a Board member, a majority of the remaining directors, though less than a

quorum, shall elect a successor or successors, who shall hold office for the balance of the unexpired term in respect to which such vacancy occurred; provided, until such time as the Developer relinquishes control of the Association and Unit Owners accept control of the Association, that if such vacancy or vacancies occurs for a director or directors elected by the Owners and leaves only Directors elected by the Developer, such vacancy or vacancies shall be filled by an election in accordance with Article IV, Part A, Section 4 of these Bylaws. The election held for the purpose of filling said vacancy may be held at any regular or special meeting of the Board of Directors. Notwithstanding the above, vacancies in Directorships to which Directors were appointed by the Developer pursuant to the provisions of these Bylaws shall be filled by the Developer without the necessity of any meeting.

Section 8. Disqualification and Resignation of Directors. Any director may resign at any time by sending a written notice of such resignation to the secretary of the Association. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the secretary. Commencing with the directors elected by the Unit Owners other than the Developer, the transfer of title of the Unit owned by a director shall automatically constitute a resignation, effective when such resignation is accepted by the Board of Directors.

B. Board Meetings.

Section 1. Organizational Meetings. The organizational meeting of a newly elected or designated Board shall be held within ten (10) days of their election or designation, and shall be noticed as required by Article IV, Part B, Section 4 below.

Section 2. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least seven (7) days prior to the day named for such meeting, unless such notice is waived.

Section 3. Special Meetings. Special meetings of the Board of Directors may be called by the concurrence of the President and one (1) other Board member, and must be called by the Secretary at the written request of a majority of the Directors. Not less than three (3) days notice of a special meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting.

Section 4. Notice to Members. Adequate notice to the Members of all meetings (regular and special) of the Board, or any committee thereof at which a quorum of the members of that committee are present, shall be posted conspicuously on the Condominium Property at least forty-eight (48) continuous hours in advance of the meeting, except in an emergency. The notice shall specifically incorporate an identification of agenda items. Upon prior notice to all Unit Owners, the Board shall by duly adopted rule designate a specific location on the Condominium Property upon which notices of all Board meetings shall be posted. All meetings of the Board and of any committee of the Board shall be open to all Unit Owners. Such meetings shall be open to all Unit Owners and Unit Owners shall have the right to speak with reference to all designated agenda items. The Board may adopt reasonable rules governing the frequency, duration and manner of Unit Owner statements. Unit Owners may tape record or videotape meetings of the Board in accordance with the rules of the Division. Notice of any meeting of the Board or any committee thereof where the Association's budget or where regular 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. Written notice of any meeting of the Board or any committee thereof at which non-emergency special assessments, or at which amendment to rules regarding Unit use will be proposed, discussed, or approved, shall be mailed, delivered, or electronically transmitted to the Members and posted conspicuously on the Condominium Property not less than

fourteen (14) continuous days prior to the meeting. In lieu of or in addition to the physical posting of notice of any meeting of the Board on the Condominium Property, the Association may, by reasonable rule, in accordance with Section 718.112 of the Act, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Condominium Association. The Secretary of the Association shall provide an affidavit, to be included in the official records of the Association, confirming that notice of such meeting was provided in accordance with this provision, to each Unit Owner.

Section 5. Minutes. Minutes of all meetings of the Board shall be kept in a businesslike manner and available for inspection by Members and Directors during normal business hours at the principal office of the Association. The Association shall retain these minutes for a period of not less than seven (7) years.

Section 6. Directors' 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, 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, shall be deemed equivalent to the due receipt by said Director of notice.

Section 7. Quorum. A quorum at meetings of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as may be specifically otherwise provided in the Articles, these Bylaws or the Declaration. A Director of the Association who is present at a meeting of the Board at which action on any Association matter is taken shall be presumed to have assented to the action taken, unless he votes against such action or abstains from voting in respect thereto because of an asserted conflict of interest.

Section 8. Adjourned Meetings. If any meeting of the Board cannot be held because a quorum is not present, or because the greater percentage of the Directors required to constitute a quorum for particular purposes is not present, wherever the latter percentage of attendance may be required as set forth in the Articles, these Bylaws or the Declaration, the Directors who are present may adjourn the meeting from time to time until a quorum, or the required percentage of attendance is greater than a quorum, is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice to the Directors, however notice of the adjourned meeting must be given in accordance with Article IV, Part B, Sections 2 and 4 hereof.

Section 9. Conduct of Meetings. The presiding officer of meetings of the Board shall be the President of the Association. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

Section 10. Order of Business. If a quorum has been attained, the order of business at Directors' meetings shall be:

- (a) Election of Chairman (at organizational meetings);
- (b) Roll Call;
- (c) Proof of due notice of meeting;
- (d) Reading and disposal of any unapproved minutes;

- (e) Reports of Officers and committees;
- (f) Election of Officers (at organizational meetings);
- (g) Unfinished business;
- (h) New Business; and
- (i) Adjournment.

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

C. Powers and Duties.

Section 1. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by the Declaration, or these Bylaws, directed to be exercised and done by Unit Owners. These powers shall specifically include, but shall not be limited to, the following powers:

(a) To exercise all powers specifically set forth in the Declaration, the Articles of Incorporation, these Bylaws, and in the Florida Condominium Act, and all powers incidental thereto, and all other provisions of the Florida Not For Profit Corporation Act, Chapter 617, Florida Statutes.

(b) To determine the expenses required for the maintenance and operation of the Condominium and Association.

(c) To operate and maintain the Common Elements and Association Property.

(d) To adopt a budget and make and collect Assessments, including Special Assessments, enforce a lien for nonpayment thereof, and use and expend the Assessments to carry out the purposes and powers of the Association, subject to the provisions of the Declaration to which these Bylaws are attached and, where applicable, recognizing obligations of the Association contained in the provisions of the Declaration.

(e) To levy reasonable fines against the appropriate Owner or Occupant of a Unit for the purposes specified in the Declaration.

(f) To borrow money on behalf of the Condominium or the Association when required in connection with the operation, care, upkeep and maintenance of the Common Elements or the acquisition of property, and granting mortgages on and/or security interests in Association owned property in accordance with the Declaration.

(g) To employ, dismiss and control the personnel necessary for the maintenance and operation of the Condominium, including the right and power to employ attorneys, accountants, contractors, and other professionals, as the need arises, subject to any applicable provisions of the Declaration.

(h) To make and amend rules and regulations respecting the operation and use and maintenance of the Units, Common Elements, Limited Common Elements, and Association Property.

(i) To enforce by legal means the provision of the Articles, these Bylaws, the Declaration,

and all regulations governing use of property of and in the Condominium.

(j) To contract for the management and maintenance of the Condominium Property and Association Property and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments and other sums due from Unit Owners, 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, its directors and officers shall, however, retain at all times the powers and duties granted by the Condominium documents and the Florida Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.

(k) To enter into agreements acquiring leaseholds, memberships or other possessory or use interests regarding recreation area(s) and facilities for the use and enjoyment of the members of the Association as provided for in the Declaration.

(l) To further improve the Condominium Property, both real and personal, and the right to purchase realty and items of furniture, furnishings, fixtures and equipment for the foregoing, and the right to acquire and enter into agreements pursuant to the Florida Condominium Act, subject to the provisions of the Declaration and these Bylaws.

(m) To maintain bank accounts on behalf of the Association and designating the signatory or signatories required therefor.

(n) To obtain and review insurance for the Condominium Property and Association Property.

(o) To make repairs, additions and improvements to, or alterations of, Condominium Property and Association Property, and repairs to and restoration of the Condominium Property and Association 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.

(p) To enter into such agreements or arrangements, as deemed appropriate, with such firms or companies as it may deem for and on behalf of the Unit Owners to provide certain services and/or maintenance otherwise the individual responsibility of the Unit Owners and to increase the Assessments due or otherwise charge each Unit Owner a share of the amount charged for said maintenance and service.

(q) At its discretion, but within the parameters of the Act, 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.

(r) Acquiring and conveying Common Elements for the purposes of providing utility easements, right-of-way expansion or other public purpose whether negotiated or as part of the eminent domain procedure which authority can be exercised by the Board of Directors without approval of the Unit Owners.

#### D. Committees.

Section 1. Architectural Review Committee. The Board of Directors shall establish an Architectural Review Committee for this purpose of establishing and maintaining architectural standards in the Condominium as provided in the Declaration.

Section 2. Other Committees. The Board may designate such committees which, to the extent provided in the resolution designating said committee, shall have the powers to make recommendations to the Board of Directors in the management and affairs and business of the Association.

Section 3. Service on Committee. Unless otherwise provided in these Bylaws or in the resolution authorizing service on a particular committee, the members of any committee shall be appointed by the President and shall serve at the pleasure of the Board. Any committee member may be removed with or without cause at any time and with or without a successor being named.

## **ARTICLE V. OFFICERS**

Section 1. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors and shall serve without compensation. The President and Vice President must be members of the Board of Directors. One person may not hold more than one of the aforementioned offices, except one person may be both Secretary and Treasurer. Officers, other than designees of the Developer, must be Unit Owners.

Section 2. Election. The officers of the Association designated in Section 1 above shall be elected annually by the Board of Directors at the organizational meeting of each new Board following the meeting of the members. Officers may be elected by secret ballot pursuant to applicable Florida law.

Section 3. Appointive Officers. The Board may appoint assistant secretaries and assistant treasurers and such other officers as the Board of Directors deems necessary.

Section 4. Term. The officers of the Association shall hold office until their successors are chosen and qualified in their stead. Any officer elected or appointed by the Board of Directors may be removed at any time, with or without cause, by the affirmative vote for removal by a majority of the whole Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors.

Section 5. Compensation. Neither Directors nor Officers shall receive compensation for their services as such, but this provision shall not preclude the Board of Directors from employing a Director or Officer as an employee of the Association, nor preclude contracting with a Director or Officer for the management of the Condominium or for any other service to be supplied by such Director or Officer. Directors and Officers shall be compensated for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

Section 6. 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, in which event the resignation shall be effective from such 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 or Officers who were not Unit Owners) shall constitute a written resignation of such Director or Officer.

Section 7. The President. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of president of a corporation not-for-profit including, but not limited to, the power to appoint committees from time to time as he or she may in his or her discretion deem appropriate to assist in the conduct of the affairs of the Association. He shall preside at all meetings of the Unit Owners and of the Board of Directors. He shall have executive powers and general supervision over the affairs of the Association and other officers. The

President, or other officer as may be designated by resolution of the Board, shall sign all written contracts to perform all of the duties incident to the office and which may be delegated to him or her from time to time by the Board of Directors.

Section 8. The Vice President. The Vice President shall perform all of the duties of the President in his absence and such other duties as may be required of him from time to time by the Board of Directors.

Section 9. The Secretary. The Secretary shall issue notices of all Board of Directors' meetings and all meetings of the Unit Owners. He shall attend and keep the minutes of all proceedings of the Directors and members. He shall have charge of all of the Association's books, records and papers, including roster of members and mortgagees except those kept by the Treasurer. He shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He shall in general perform all duties incident to the office of the secretary of a corporation organized under Florida law. If appointed, an assistant secretary shall perform the duties of the Secretary when the Secretary is absent.

Section 10. The Treasurer.

(a) The Treasurer shall have custody of the Association's funds, evidence of indebtedness, and securities. He shall keep books of accounts for the Association in accordance with good accounting practices. He shall deposit all monies and other valuable effects in the name of and to the credit of the Association in such depositories as may be designated from time to time by the Board of Directors. The books shall reflect an account for each Unit which shall designate the name and current mailing address of the Unit Owner, the amount of each Assessment, the dates and amounts in which the Assessment came due, the amount paid upon the account and the balance due.

(b) The Treasurer shall disburse the funds of the Association as may be ordered by the Board of Directors in accordance with these Bylaws, making proper vouchers for such disbursements, and shall render to the President and Board of Directors at the regular meetings of the Board of Directors, or whenever they may require it, an account of all of his transactions as the Treasurer and of the financial condition of the Association.

(c) The Treasurer shall collect the Assessments and shall promptly report the status of collections and of all delinquencies to the Board of Directors and, when requested, to the Developer or other entity designated by the Board of Directors.

(d) The Treasurer shall give status reports to potential transferees on which reports the transferees may rely.

(e) If appointed, an assistant treasurer shall perform the duties of the Treasurer when the Treasurer is absent.

Section 11. Proviso. Notwithstanding any provisions to the contrary in these Bylaws, the Association shall maintain separate accounting records for this Association, shall keep such records according to good accounting practices, shall open such records for inspection by Unit Owners or their authorized representatives at reasonable times and shall supply written summaries of such records at least annually to the Unit Owners or their authorized representatives. In the event the Board of Directors designates a Management Firm to operate the Condominium on behalf of the Association, said Management Firm shall be required to follow the aforesaid provisions.

## **ARTICLE VI. FINANCES AND ASSESSMENTS**

Section 1. **Depositories.** The funds of the Association shall be deposited in such banks or savings and loan institutions, state or federal, located in Florida, as may be determined by the Board of Directors from time to time upon resolutions approved by the Board of Directors and shall be withdrawn only upon checks and demands for money signed by such officer or officers of the Association as may be designated by the Board of Directors. Obligations of the Association shall be signed by at least two (2) Directors of the Association; provided, however, that the provisions of any Management Agreement, entered into by the Association and a Management Firm designated by the Association to operate the Condominium, relative to the subject matter in this Section 1 shall supersede the provisions hereof. The foregoing is further subject to the applicable provisions under the Declaration.

Section 2. **Fidelity Bonds.** The Association shall obtain fidelity bonds for officers and directors of the Association and other individuals handling or responsible for Association funds only to the extent required by applicable Florida law.

Section 3. **Fiscal Year.** The fiscal year of the Association may be set by the Board and in the absence thereof, shall be the calendar year.

Section 4. **Computation of Budget and Assessments.**

(a) **Budget.** The Board of Directors shall prepare for, and in advance of, each fiscal year, a budget for the Condominium showing the estimated costs of operating the Condominium and level of Assessments for Common Expenses during the coming year and shall determine the amount of Assessments payable by the Unit Owners to meet the expenses of the Condominium and allocate and assess such expenses among the Unit Owners in accordance with the provisions of the Declaration. The budget shall detail all accounts and items of expenses and shall contain at least all items required by Section 718.504(21) (where applicable). In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance (to the extent required by law) and as described in Paragraph 18 of the Declaration.

(b) **Adoption of Budget.** The adoption of the budget shall comply with the provisions of this paragraph. The Board shall mail, hand deliver, or electronically transmit to the location furnished by the Unit Owner for the purpose, notice of the meeting of the Unit Owners or Board of Directors at which the budget will be considered not less than 14 days prior to said meeting. Evidence of compliance with this 14 day notice requirement shall be made by an affidavit executed by an officer of the Association, an authorized employee of the Management Firm, or other person providing notice of the meeting and filed among the official records of the Association. Such notice shall include a copy of the proposed annual budget and Assessment. The budget shall be approved and adopted at said meeting by the Board of Directors. If the Association shall fail for any reason to adopt a budget and authorize an Assessment prior to the beginning of the new fiscal year, the budget and Assessment for the previous year shall remain the same as the previous year and shall continue in effect until changed by the Association. Notwithstanding the foregoing, no waiver of reserve funding shall be allowed and a minimum level of reserve funding shall be established in accordance with Section 112(2)(f)2 of the Act. The meeting shall be open to the Unit Owners, and the Unit Owners shall have a reasonable right to participate with reference to all agenda items. The Board may adopt reasonable rules governing the frequency, duration and manner of Unit Owners' statements.

(c) **Assessments.** The Board of Directors is specifically empowered, on behalf of the Association, to make and collect Assessments against Unit Owners for their share of the items of the budget in the proportions or percentages of sharing Common Expenses as provided in the Declaration and

exhibits attached thereto. Said Assessments shall be payable monthly or quarterly as determined by the Board in advance and shall be due on the first (1st) day of each month in advance unless otherwise ordered by the Board of Directors. Special Assessments, should such be required by the Board of Directors, shall be levied in the same manner as hereinbefore provided for regular Assessments and shall be payable in the manner determined by the Board of Directors. All Assessments shall be payable to the Association.

If the adopted budget requires an assessment against the Unit Owners in any fiscal year exceeding one hundred fifteen percent (115%) of the Assessments for the preceding year, and the Board receives within twenty-one (21) days after adoption of the annual budget, a written request of at least ten percent (10%) of the Unit Owners, the Board shall call a special meeting of the Unit Owners. Such special meeting shall be held within sixty (60) days after adoption of the annual budget. Each Unit Owner shall be given at least fourteen (14) days' written notice of such special meeting. At this special meeting, Unit Owners shall consider and enact a budget upon the vote of the members representing a majority of all Units. If a special meeting of the Unit Owners has been called pursuant to this section and a quorum is not attained or a substitute budget is not adopted by the Unit Owners, the budget adopted by the Board goes into effect as scheduled. In determining whether Assessments exceed one hundred fifteen percent (115%) of similar Assessments in the preceding year, any authorized provisions for reasonable reserves for repair or replacement of the Condominium Property, anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, or Assessments for betterments to the Condominium Property must be excluded from the computation. However, as long as the Developer is in control of the Board of Directors, the Board may not impose an Assessment for any year greater than one hundred fifteen percent (115%) of the prior fiscal year's Assessment without prior approval of the members representing a majority of all Voting Interests.

Section 5. Application of Payments and Commingling of Funds. All monies collected by the Association shall be treated as the separate property of the Association. Reserve and operating funds collected by the Association or by the Management Firm, if any, may not be commingled in a single fund except for purposes of investment, in which event separate accountings must be maintained for each fund and the combined account cannot at any time, be less than the amount identified as reserve funds in the combined account. All funds collected by the Association from Assessments or otherwise shall be maintained in a separate account in the name of the Association. Operating funds collected from the Unit Owners may be applied by the Association to the payment of any expense of operating and managing the Association and the Condominium Property, or to the proper undertaking of all acts and duties imposed upon it by virtue of the Act, the Declaration, the Articles, and/or Bylaws. Although all funds and other assets of the Association, including, without limitation, Common Surplus, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, pledge or hypothecate in any manner transfer his membership interest therein, except as an appurtenance to his Unit. No manager or business entity required to be licensed or registered under Florida Statutes, Section 468.432, and no agent, employee, officers, or director of the Association shall commingle Association funds with his, her or its own funds or another Association or entity's funds.

Section 6. Acceleration of Assessment Installments Upon Default. As an additional right or remedy, if a Unit Owner shall be in default in the payment of an installment of any Assessment, the Management Firm, if any, or the Board of Directors may, after delivering thirty (30) days written notice to the Owner, file a claim of lien in the amount of the default and thereafter may accelerate the monthly or quarterly, as applicable, installments for the remainder of the budget year in which the lien is filed. Thereupon, the unpaid installments of the Assessment together with the Assessments for the remainder of that budget year shall become due upon the date stated in the notice, but not less than fourteen (14) days after delivery of or the mailing of such notice to the Unit Owner. The acceleration of installments may be repeated at the end of the year in which the lien was filed if at the end of such period there remains any

sums due and unpaid.

Section 7. Enforcement of Assessments. In the event an Assessment is not paid within ten (10) days of the date same shall be due and payable, the Association, through the Board of Directors, may proceed to enforce and collect said Assessments from the delinquent Unit Owner in any manner provided for by the Act, the Declaration of Condominium and these Bylaws. Each Unit Owner shall be individually responsible for the payment of assessments against his Unit and for the payment of reasonable attorneys' fees and costs incurred by the Association in the collection of sums due and enforcement of any lien held by the Association.

## **ARTICLE VII. ACQUISITION OF UNITS**

At any foreclosure sale of a Unit, the Board of Directors may, with the authorization and approval by the affirmative vote of a majority of Directors, acquire in the name of the Association or its designee a Condominium Parcel being foreclosed. The term "foreclosure," as used in this section, shall mean and include any foreclosure of any lien, excluding the Association's lien for Assessments. The power of the Board of Directors to acquire a Condominium Parcel at any foreclosure sale shall never be interpreted as any requirement or obligation on the part of the Board of Directors or of the Association to do so at any foreclosure sale. The provisions hereof are permissive in nature and for the purpose of setting forth the power in the Board of Directors to do so should the requisite approval of the voting members be obtained. Once general authority to purchase a Unit at a foreclosure sale is obtained, the Board of Directors shall not be required to obtain the specific approval of Unit Owners regarding the sum the Board of Directors determines to bid at such foreclosure sale unless the limit of such authority has been established in the original authorization.

## **ARTICLE VIII. AMENDMENTS TO THE BYLAWS**

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

Section 1. Proposal of Amendments. Amendments to these Bylaws may be proposed by the Board, action upon vote of a majority of the Directors, or by members owning a majority of the Voting Interests in the Condominium, whether meeting as Members or by instrument in writing signed by them.

Section 2. Meeting to Amend Bylaws. Upon any amendment or amendments to these Bylaws being proposed by the Board or Members, such proposed amendment or amendments shall be transmitted to the President of the Association or acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the Members for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments and it shall be the duty of the Secretary to give each Member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members is required by these Bylaws; provided, that proposed amendments to the Bylaws may be considered and voted upon at annual meetings of the Members.

In order for such amendment or amendments to become effective, the same must be approved by an affirmative vote of two-thirds (2/3) of all Voting Interests of the Condominium. Thereupon, such amendment or amendments to these Bylaws shall be transcribed and shall include on the first page thereof a reference to the book and page of the public records where the Declaration is recorded, and shall be certified by the President and Secretary of the Association as required by the Act. A copy thereof shall be recorded in the public records of St. Johns County, Florida, within fifteen (15) days from the date on which any amendment or amendments have been affirmatively approved by the Members.

At any meeting held to consider such amendment or amendments to these Bylaws, the written vote of any Member shall be recognized if such Member is not present at such meeting in person or by limited proxy, provided such written vote is delivered to the Secretary at or prior to such meeting.

Section 3. Form of Amendment. 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 indicator 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 shall not invalidate an otherwise properly promulgated amendment.

Section 4. Proviso. Notwithstanding the foregoing provisions of this Article, these Bylaws may only be amended with the written approval when required of the parties specified in Paragraph 17(g) of the Declaration. Furthermore, no amendment shall abridge, amend or alter the rights of Developer without the prior written consent of Developer.

#### **ARTICLE IX. INDEMNIFICATION**

Every Officer, Director of the Association and committee member shall be indemnified by the Association against all expenses and liabilities, including reasonable attorneys' fees incurred by or imposed upon him in connection with any proceedings to which he may be a party, or in which he may become involved by reason of being or having been an Officer, Director of the Association, or committee member of the Association whether or not an Officer, Director or committee member at the time the expenses are incurred. The Officer, Director, and/or committee member shall not be indemnified if adjudged guilty of gross negligence or willful misconduct, or if he shall have breached his fiduciary duty to the members of the Association. The Association shall not be liable, however, for payment of a voluntary settlement unless it is first approved in writing by the Board of Directors. The foregoing right of indemnification shall be in addition to, and not exclusive of, all other rights to which the Director, Officer, or committee member may be entitled.

#### **ARTICLE X. LIABILITY SURVIVES TERMINATION OF MEMBERSHIP**

The termination of membership in the Condominium shall not relieve or release any such former Owner or member from any liability or obligations incurred under or in any way connected with the Condominium during the period of such ownership and membership, or impair any rights or remedies which the Association may have against such former Owner and member arising out of or in any way connected with such ownership and membership, and the covenants and obligations incident thereto.

#### **ARTICLE XI. LIMITATION OF LIABILITY**

Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable for injury or damage by a latent condition in the Condominium Property, nor for injury or damage caused by the elements or by other Owners or persons.

#### **ARTICLE XII. PARLIAMENTARY RULES**

Roberts' Rules of Order (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Act, the Declaration, or these Bylaws.

### **ARTICLE XIII. MORTGAGE REGISTER**

The Association, or its agents, may maintain a register of all mortgages and at the request of a mortgagee, the Association shall forward copies of all notices for unpaid Assessments or violations served upon a Unit Owner to said mortgagee. If a register is maintained, the Association or its agent maintaining same may make such charge as it deems appropriate against the applicable Unit for supplying the information provided herein.

### **ARTICLE XIV. ARBITRATION**

Internal disputes arising from the operation of the Condominium among Unit Owners, the Association, their agents and assigns shall be subject to mandatory non-binding arbitration as provided in Paragraph 30 of the Declaration.

### **ARTICLE XV. EMERGENCY POWERS**

The following shall apply to the extent not in conflict with the Act:

Section 1. In anticipation of or during any emergency defined in Section 6 below, the Board of Directors may:

(a) Name as assistant officers persons who are not Board members, which assistant officers shall have the same authority as the executive officers to whom they are assistant, during the period of the emergency, to accommodate the incapacity of any officer of the Association; and

(b) Relocate the principal office or designate alternative principal offices or authorize the officers to do so.

Section 2. During any emergency defined in Section 6 below:

(a) Notice of a meeting of the Board of Directors need be given only to those Directors whom it is practicable to reach and may be given in any practicable manner, including by publication and radio; and

(b) The Director or Directors in attendance at a meeting shall constitute a quorum.

Section 3. Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association:

(a) Binds the Association; and

(b) Shall have the presumption of being reasonable and necessary.

Section 4. An officer, assistant officer, director, or employee of the Association acting in accordance with these emergency provisions is only liable for willful misconduct.

Section 5. These emergency provisions shall supersede any inconsistent or contrary provisions of the Bylaws for the period of the emergency.

Section 6. An emergency exists for purposes of this Article XV if a quorum of the Association's Directors cannot readily be assembled because of an act of God, natural disaster or other like catastrophic event.

## **ARTICLE XVI. OFFICIAL RECORDS**

Section 1. From the inception of the Association, the Association shall maintain a copy of each of the following where applicable, which shall constitute the official records of the Association:

(a) The plans, permits, warranties, and other items provided by the Developer applicable to the Condominium;

(b) A photocopy of the recorded Declaration and all amendments thereto;

(c) A photocopy of these Bylaws as recorded and all amendments thereto;

(d) A certified copy of the Articles and amendments thereto;

(e) A copy of the current Rules and Regulations of the Association;

(f) The Association minute book containing the minutes of all meetings of the Association, of the Board, and of Unit Owners, which minutes shall be retained for a period of not less than seven (7) years;

(g) A current roster of all Unit Owners, their mailing addresses, Unit identifications, Voting Certificates, and if known, telephone numbers, and in accordance with Section 718.111(12) of the Act, as amended from time to time, the electronic mailing addresses and the numbers designated by Unit Owners for receiving notice sent by electronic transmission; provided that such electronic mailing addresses and numbers provided by Unit Owners shall be removed from Association records when the Unit Owner's consent to receive notice by electronic transmission is revoked;

(h) All current insurance policies of the Association and the Condominium;

(i) A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility;

(j) Bills of sale or transfer for all property owned by the Association;

(k) Accounting records for the Association maintained according to good accounting practices. All accounting records shall be maintained for a period of not less than seven (7) years. The accounting records shall include, but are not limited to:

(1) Accurate, itemized, and detailed records of all receipts and expenditures.

(2) A current account and a monthly, bimonthly or quarterly statement of the account for each Unit designating the name of the Unit Owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.

(3) All audits, reviews, accounting statements and financial reports of the Association or Condominium.

(4) All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of one (1) year.

(l) Ballots, sign-in sheets, voting proxies, which shall be maintained for a period of one (1)

year from the date of election, vote or meeting to which the document relates.

(m) All rental records where the Association is acting as agent for the rental of Condominium Units.

(n) A copy of the current question and answer sheet as described in Section 718.504 of the Act.

(o) All other records of the Association not specifically included in the foregoing which are related to the operation of the Association.

Section 2. The official records of the Association shall be maintained in the County or at such other place as may be permitted by the Act (as amended from time to time) and shall be made available for inspection or copying within five (5) working days after receipt of a written request by the Board or its designee.

Section 3. The official records of the Association shall be open to inspection by any Association member or the authorized representative of such member or by holders, insurers, and guarantors of first mortgages that are secured by Units in the Condominium Property at all reasonable times in accordance with reasonable rules regarding the frequency, time, location, notice and manner of records inspections and copying adopted by the Association. Inspection may only take place at the building in which the records are located and said records shall not be removed from said location. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the Association member.

Section 4. The Association shall prepare a question and answer sheet as described in Section 718.504 of the Act and shall update it annually.

## **ARTICLE XVII. RULE MAKING AND ENFORCEMENT**

Section 1. Rules and Regulations. The Board of Directors shall have the authority to adopt, modify, amend, repeal and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Units, the Common Elements (including the Limited Common Elements), provided that Owners of a majority of the Units may overrule the Board with respect to any such rule with consent of the Developer until the date control of the Board is turned over by the Developer to Unit Owners other than the Developer. Copies of such rules and regulations shall be furnished by the Board of Directors to all Unit Owners not less than ten (10) days prior to the effective date thereof. At no time may any rule or regulation be adopted which would prejudice the rights reserved to the Developer.

Section 2. Enforcement. The Condominium shall be used only for those uses and purposes set forth in the Declaration. The Association, each Unit Owner and Occupant shall be governed by and shall comply with the terms of the Declaration and all exhibits attached thereto and the rules and regulations adopted by the Board as those documents may be amended from time to time. The Association (and if appropriate, the Unit Owners) shall be entitled, in addition to remedies provided in the Act, to enforce the Condominium Instruments as described in Paragraph 26 of the Declaration (Compliance and Default).

Section 3. Certificate of Compliance. A certificate of compliance from an electrical contractor or electrician licensed to practice in the State of Florida may be accepted by the Board as evidence that a Condominium Unit complies with the applicable fire and life safety code.

**ARTICLE XVIII. PRIORITIES IN CASE OF CONFLICT**

In the event of conflict between or among the provisions of any of the following, the order of priority shall be, from highest priority to lowest:

- (a) The Act;
- (b) The Declaration;
- (c) The Articles;
- (d) These Bylaws; and
- (e) The Rules and Regulations of the Association.