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OCEAN GATE DEVELOPMENT, INC.
4730 A1A SOUTH
ST. AUGUSTINE, FL 32084
ATTN: ROBERT J. LAWRENCE

DECLARATION OF CONDOMINIUM

OF

OCEAN GATE PHASE III, A CONDOMINIUM

James M.
This Declaration of Condominium (the "Declaration" or "Declaration of Condominium") is made this 11 day of MARCH, 1999, by Ocean Gate Development Inc., a Florida corporation, whose address is 4730-B Highway A1A South, St. Augustine, FL 32084 (the "Developer").

The Developer makes the following declarations.

1. Submission of Real Property to Condominium Ownership. Developer, being the owner of the fee simple title to the property described in Exhibit A attached hereto, for itself, its successors, grantees and assigns, hereby submits to the condominium form of ownership and use the land described in Exhibit A hereof, the improvements now and hereafter situated thereon, and the easements and rights appurtenant thereto pursuant to Chapter 718, Florida Statutes, 1995, as amended through the date hereof (the "Condominium Act"). The land submitted to condominium is located in St. Johns County, Florida and consists of a parcel of real property (the "Land") upon which will be situated residential improvements (the "Buildings") and common facilities which are submitted hereby to condominium ownership. All restrictions, reservations, covenants, conditions, easements and limitations of record contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, shall run perpetually unless terminated as provided herein, and shall be binding upon all Unit Owners (as hereinafter defined). In consideration of receiving and by acceptance of a grant, devise or mortgage, all grantees, devisees or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions hereof, and the Articles of Incorporation and the Bylaws of Ocean Gate Phase III Condominium Association, Inc. (the "Phase III Association"). Both the benefits provided and the burdens imposed shall run with each Unit and the interests in Common Elements as defined herein.

2. Name. The name by which the condominium is to be identified is OCEAN GATE PHASE III, A CONDOMINIUM. The street address of the condominium is 4730-B Highway A1A South, St. Augustine, FL 32084.

3. Definitions. The terms used in this Declaration of Condominium and its exhibits shall have the meaning stated in the Condominium Act and as follows unless the context otherwise requires:

3.1 "Amendment" means an amendment of this Declaration, in accordance with the provisions hereof.

3.2 "Assessment" means a proportionate share of the funds required for the payment of Common Expenses including, without limitation, Special Assessments, which from time to time is assessed directly against each Unit Owner.

3.3 "Articles" or "Articles of Incorporation" means the Articles of Incorporation of Phase III Association, to be recorded in St. Johns County, Florida, as they now exist and may be amended from time to time hereafter.

3.4 "Board" means the Board of Directors of the Phase III Association, which has been duly elected and qualified in accordance with the Bylaws.

3.5 "Bylaws" means the bylaws for the government of the Phase III Association as they now exist and may be amended from time to time.

3.6 "Charge" means the obligation of a Unit Owner to pay or reimburse the money to the Phase III Association that cannot be secured as an Assessment pursuant to F.S. 718.116, but which will, if the charge is not paid, give rise to a cause of action against the Unit Owner pursuant to this Declaration.

3.7 "Common Elements" shall include: (a) the portions of the Condominium Property not included in the Units, exclusive of the Leased Amenities (as hereinafter defined) and the Recreation and Other Facilities owned by the Developer; (b) tangible personal property owned by the Phase III Association and required or useful for the maintenance and operation of the Common Elements; (c) easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units and the Common Elements; (d) an easement of support in every portion of a Unit which contributes to the support of a building; (e) the property and installation required for the furnishing of utilities and other services to more than one Unit or to the Common Elements; (f) easements for ingress and egress serving the Condominium Property; (g) all other improvements owned or held for the common use, benefit and enjoyment of all Unit Owners; and (h) any other parts of the Condominium Property designated to be Common Elements in this Declaration or any amendment thereto.

3.8 "Common Expenses" means the expenses for which the Unit Owners are liable to the Phase III Association, including the expenses of the operation, maintenance, administration, repair and replacement of the Common Elements, the payment of rent to the Developer for the Leased Amenities, the payment to Hibiscus (as hereinafter defined) for rent for the Hibiscus Facilities (as hereinafter defined), the cost of carrying out the powers and duties of the Phase III Association and all expenses and assessments properly incurred by the Phase III Association for the Condominium Property and any facilities serving the Condominium Property.

3.9 "Common Surplus" means the excess of all receipts of the Phase III Association, collected on behalf of the Condominium including, but not limited to Assessments, rents, profits and revenues on account of the Common Elements, over the amount of Common Expenses.

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3.10 "Condominium" means OCEAN GATE PHASE III, A CONDOMINIUM.

3.11 "Condominium Lease" means that certain Condominium Recreation Lease of the Leased Amenities between the Developer, as Lessor, and Ocean Gate Condominium Master Association Inc., a Florida not-for-profit corporation, as Lessee.

3.12 "Condominium Documents" means this Declaration and the attached exhibits setting forth the nature of the property rights in the Condominium and the covenants running with the land governing these rights. All of the Condominium Documents will be subject to the provisions of this Declaration. The order of priority of the Condominium Documents will be as follows: (1) this Declaration; (2) Articles of Incorporation; (3) Bylaws; and (4) Rules and Regulations.

3.13 "Condominium Property" means the parcel of real property described in Exhibit "A" attached hereto, together with all improvements built or to be built thereon, and the easements and rights appurtenant thereto.

3.14 "Declaration of Condominium" or "Declaration" means this Declaration of Condominium and all Exhibits attached hereto, as the same may be amended from time to time.

3.15 "Developer" means Ocean Gate Development, Inc., a Florida corporation, and the successors and assigns of its development rights.

3.16 "Hibiscus" means the condominium resort development adjacent to this Condominium and commonly known as Hibiscus.

3.17 "Hibiscus Facilities" means those recreational amenities which are a part of Hibiscus and which Unit Owners are entitled to use pursuant to that certain Declaration and Grant of Easement dated as of January 5, 1996, and recorded in Official Records Book 1149, Page 918, of the Public Records of St. Johns County, Florida (the "Hibiscus Agreement").

3.18 "Institutional Mortgagee" means banks, savings and loan associations, insurance companies, FHA and VA approved mortgage lenders and bankers, real estate investment trusts, the Federal Home Loan Mortgage Corporation ("FHLMC"), the Federal National Mortgage Association ("FNMA"), servicing agents of FHLMC and FNMA and other lending institutions or companies, which shall include the Developer, any assignee of a purchase money mortgage held by Developer and the servicing agent of such assignee, or anyone designated by the Developer.

3.19 "Insurance Trustee" means a national bank, having trust powers, which is designated by the Phase III Association under Section 9 hereof to hold policies of insurance, receive the proceeds thereof and disburse the same in accordance with Section 9. Until such time as the Phase III Association designates an Insurance Trustee, the Board shall perform the duties of the Insurance Trustee contained in Section 9.

3.20 "Leased Amenities" means those certain Recreation and Other Facilities described in Paragraph 4.6 hereof which are owned by the Developer, are not subject to condominium, are leased to the Master Association pursuant to the Condominium Lease, and more fully described in the Master Condominium Declaration.

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3.21 "Limited Common Elements" means and includes those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of other Units.

3.22 "Master Association" means OCEAN GATE CONDOMINIUM MASTER ASSOCIATION, INC., a not for profit Florida corporation, and its successors.

3.23 "Phase III Association" means OCEAN GATE PHASE III CONDOMINIUM ASSOCIATION, INC., a not-for-profit Florida corporation, and its successors, the entity which is responsible for the operation and maintenance of this Condominium, including without limitation, the collection of assessments for rent owed the Developer under the Condominium Lease for the Leased Amenities and for other duties and obligations set forth herein and in the Articles and Bylaws.

3.24 "Recreation and Other Facilities" means the facilities described in paragraph 4.7 of the Master Condominium Declaration.

3.25 "Developer" means Ocean Gate Development Inc., its assignees, nominees and successors.

3.26 "Special Assessment" means any assessment levied against any Unit Owners other than those assessments required by a budget adopted annually.

3.27 "Unit" means a part of the Condominium Property which is to be subject to exclusive private ownership as defined in the Condominium Act.

3.28 "Unit Owner or Owner of Unit" means the record owner of a Unit.

4. Development Plan. The Condominium is described and established as follows:

4.1 Survey, Plot Plan and Graphic Description: Units. A survey of the Condominium Property, a graphic description of the improvements in which Units are located, a typical floor plan of each unit, and a plot plan are attached hereto as composite Exhibit "B" and made a part hereof, and together with this Declaration are in sufficient detail to identify the Common Elements, Limited Common Elements and each Unit and their relative locations and approximate dimensions. An identification of each Unit is set forth on Exhibit "D" attached hereto.

4.2 Certificate of Surveyor. A certificate of a surveyor authorized to practice in the State of Florida is set forth in Exhibit "C" attached hereto and made a part hereof stating that the construction of the improvements is substantially complete so that the exhibits described in paragraph 4.1, together with the provisions of this Declaration describing the Condominium Property, are an accurate representation of the location and dimensions of the improvements and that the identification, location and dimensions of the Common Elements and of each Unit can be determined therefrom. As provided in Section 718.104 of the Condominium Act, completed Units within each substantially completed Building in the Condominium may be conveyed to purchasers notwithstanding that other Buildings in the Condominium are not substantially completed. If Buildings to be located in the Condominium are not substantially completed at the time this Declaration is recorded, the Certificate of Surveyor described above (the "Certificate") shall specifically state which Units and which Buildings are completed, including certification that all planned improvements, including but not limited to, landscaping, utility services, and access to the Units and Common Element facilities serving the Building in which the Units to be conveyed are located, have been substantially completed. A site plan attached as Schedule 1 to such Certificate shall

show as completed the Buildings so described in the Certificate. If the Certificate attached to this Declaration as originally recorded states that less than all of the Buildings in the Condominium are completed, then when and as such Buildings are completed, a Certificate in the form described above shall be completed and filed in the public records of St. Johns County, Florida as an Amendment to this Declaration. An Amendment of this Declaration for the purpose of adding a Certificate of Surveyor upon completion of a Building need be signed and acknowledged only by the Developer and need not be approved by the Phase III Association, or the Unit Owners, or lienors or mortgagees of Units or of the Condominium Property, whether or not such signatures are elsewhere required for an Amendment. No Unit of the Condominium shall be conveyed until such time as a Certificate, as described above, including certification that all planned improvements, including but not limited to, landscaping, utility services and access to the Unit, and Common Element facilities serving the Building in which the Units to be conveyed are located, have been substantially completed, and such Certificate is recorded with this Declaration or as an Amendment thereto.

4.3 Share of Common Elements and Common Expenses. There shall be appurtenant to each Unit an undivided share of the Common Elements. The undivided shares, stated as a percentage, in the Common Elements which are appurtenant to each Unit shall be calculated on a pro-rata basis based upon the square footage of each Unit as set forth in Exhibit "D" attached hereto and made a part hereof. The proportion and manner of sharing Common Expenses and owning Common Surplus shall also be as set forth in Exhibit "D".

4.4 Easements.

(a) The Unit Owners in the aggregate shall be entitled to equal and full use and enjoyment of all of the Common Elements except as they may be limited herein or as they may be restricted by the rules and regulations adopted by the Board, which usage shall always be in recognition of the mutual rights and responsibilities of each of the Unit Owners. Without limiting the generality of the foregoing, the rights of the Unit Owners in and to the Common Elements are expressly subordinated to the rights of parties furnishing utility (including without limitation electrical, gas, water, sewer and telephone) services and cable or master antenna television services pursuant to easements, whether exclusive or non-exclusive, granted by the Developer or the Phase III Association over, under, across, in or through the Common Elements or any part thereof. The Developer and the Phase III Association jointly and severally hereby reserve the right to grant such utility easements for the purpose of installing and maintaining such services, lines, cables and facilities which are reasonably necessary for the operation or maintenance of the Condominium Property, and to grant such other permits, licenses and easements over, under and through the Common Elements for utilities, roads or other purposes which are reasonably necessary or useful for the proper maintenance or operation of the Condominium Property.

(b) In the event that any Unit shall encroach upon any of the Common Elements or upon any other Unit as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Condominium Property, or for any reason other than the intentional or negligent act of the Unit Owner, or in the event any Common Element shall encroach upon any Unit, then an easement shall exist in favor of the Phase III Association or in such Unit Owner, as applicable, to the extent of that encroachment for so long as the encroachment shall exist.

(c) Each Unit Owner and their guests, invitees, licensees, lessees, and domestic help, and all delivery, pick-up and fire protection services, police and other authorities of the law, United States mail carriers, representatives of utilities authorized by the Developer to serve the Condominium Property, holders of mortgage liens on the Condominium Property or any Unit, owners of other condominium units

within the Ocean Gate development contiguous to or in the vicinity of the Condominium Property, or any additional condominium or subsequent phase thereof, and such other persons as the Developer may from time to time designate, shall have a non-exclusive and perpetual easement for:

(i) ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks, boardwalks, lobbies, stairways, elevators, hallways, walkways and lanes, and like passageways as the same may from time to time exist upon the Common Elements;

(ii) ingress and egress and for vehicular traffic and parking over, through and across the Roadways described on Exhibit "A-1" or such portions of the Common Elements as may be from time to time graded and/or paved and intended for such purposes (the "Roadway Easement"), which Roadway Easement may be altered or moved by Developer during construction of the Condominium, but the same shall not give or create in any person the right to park upon any portion of the Condominium Property not designated as a parking area;

(iii) ingress and egress and for drainage, utilities and cable television facilities over, under, across and through the roadways, as now or hereafter existing, such portions of the Common Elements as Developer may designate for such purposes from time to time, together with vehicular parking rights on such portions of said roadways as are paved, marked and designated for parking, and which parking spaces have not been assigned for the exclusive use of specific Units in this or any other condominium. Notwithstanding the foregoing, Developer reserves the right to alter and relocate the Roadway Easement or any portion thereof so long as the relocated easement continues to give access to Highway A1A and the Condominium Property;

(iv) ingress and egress and for drainage, utilities, cable television facilities, and ingress and egress for vehicular traffic and vehicular parking on, over, under, across and through the land described on Exhibit A-1 of the Declaration of Condominium for Ocean Gate I, a condominium recorded at Official Records Volume 570, Page 129, Public Records of St. Johns County, Florida (the "Ocean Gate I Land"). Provided that such easements and rights shall be exercised only with respect to such portions of the Ocean Gate I Land as may be set aside, paved or otherwise designated for such purposes, it being understood however that the paved roadway and parking areas on the Ocean Gate I Land are to be used also by Unit Owners in Ocean Gate II to whom parking spaces may be assigned by the Developer or the Master Association.

(v) ingress and egress for pedestrian traffic on, over, through and across a dune walkover and gazebo, and the boardwalk adjacent thereto, for the purpose of giving access to the beach, which facilities are owned by Hibiscus and the right to use is provided under the Hibiscus Agreement.

(d) There shall be appurtenant, and pass with title to each Unit, the right, shares, and interest provided by the Condominium Act which shall be deemed to include, without limitation, an exclusive easement for the use of the air space occupied by the Units as they exist at any particular time (as shown on Exhibit B hereto), and as the Units may lawfully be altered or reconstructed from time to time, and which easements shall be terminated automatically in any air space which is permanently vacated from time to time.

(e) Developer reserves a non-exclusive, perpetual, transferable and indefeasible easement for access, ingress, egress (including without limitation pedestrian paths, walkways and boardwalks), parking and vehicular traffic (but only over such portions paved and/or graded and designated

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for such purposes), drainage, irrigation lines and facilities, utilities (including without limitation electrical, gas, water, sewer, telephone and cable or master antenna television services) over, under, across and through the Common Elements of the Condominium Property and the land described on Exhibit "A-1" as the "Roadway Easement," and for the benefit of the underlying Recreation and Other Facilities and any land owned by Developer adjacent to the foregoing lands, or any other land designated by Developer in the vicinity of the foregoing lands.

(f) Developer, for itself and its successors and assigns, reserves easements over the Condominium Property as necessary to complete future development, if any, including construction access and utilities.

(g) The Unit Owners in the aggregate shall be entitled to equal and full use and enjoyment of the non-exclusive easements in favor of the Developer and in common with the other parties entitled to use such easements for pedestrian and vehicular access, utilities, dune walkover access, parking, and such other rights as are set forth in that certain Declaration and Grant of Easements, recorded in Official Records Book 1149, Page 918, of the public records of St. Johns County, Florida, and in that certain Grant of Recreation Easement dated April 11, 1997 between Hibiscus and the Developer, and to be recorded in the public records of St. Johns County, Florida.

4.5 The Developer reserves the right, but not the obligation, to develop and add additional condominiums to this Condominium as provided in Section 5 hereof, and to develop other condominiums and/or other residential developments upon lands adjacent to the Condominium Property also to be added to and included with this Condominium. In the event of such additional development, the Developer reserves the right to grant further non-exclusive easements over the common roads to property owners adjacent to the Land described on Exhibit "A". Developer shall grant such easements to such adjacent property owners, and such adjacent property owners shall enter into an agreement with the Master Association agreeing to pay a pro rata share of the maintenance and repairs for the common roads and setting forth the method of computation of the respective contributions to the maintenance and repairs thereof.

4.6 Leased Amenities. The Master Association has entered into that certain Condominium Lease attached hereto as Exhibit "E" with the Developer, pursuant to which the Master Association has leased the Leased Amenities for the enjoyment, recreation, use and benefit of the Unit Owners. The Leased Amenities are not part of the Condominium. The Leased Amenities shall be those Recreation and Other Facilities owned by Developer and leased to the Master Association pursuant to the terms of the Condominium Lease. The Condominium Lease imposes obligations on the Master Association for the rent, operation, replacement, maintenance, and covenants and restrictions regarding use of the Leased Amenities. The Master Association reserves the right to amend or modify the terms of the Condominium Lease, including without limitation, adding additional condominiums to this Condominium which shall have the right to use the Leased Amenities, leasing additional Recreation and Other Facilities to be constructed by the Developer in connection with the development of additional condominiums subject to this Declaration, and modifying the terms of the Condominium Lease regarding rent, operation, replacement, maintenance, and such other provisions as the Master Association may deem necessary or desirable from time to time. The Master Association shall separately assess all Unit Owners for the payment of rent owed the Developer under the Condominium Lease. The Phase III Association shall assess, collect and remit the rent owed by the Phase III Unit Owners under the Condominium Lease directly to the Developer.

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4.7 Unit Boundaries. Each Unit shall include that part of the Building containing the Unit that lies within the boundaries of the Unit, as follows:

(a) Upper and Lower Boundaries. The upper boundary of a Unit shall be the horizontal plane of the unfinished ceiling and the lower boundary shall be the horizontal plane of the unfinished floor. The upper and lower boundaries shall be extended to their intersection with the perimetrical boundaries of the Units.

(b) Perimeter Boundaries. The perimeter boundaries of a Unit shall be the vertical planes of the unfinished interior of the walls (excluding the walls bounding the front and rear balcony/deck/patio/porch areas) bounding the Unit extended to the intersection with each other and with the upper and lower boundaries.

(c) Exterior Awnings. Awnings, shades or similar items installed on or about the exterior of windows or doors or in or about the front and/or rear balcony/deck/patio/porch areas shall be deemed part of the Unit notwithstanding that same may be affixed to or a part of a Common Element or Limited Common Element. Unless installed by the Developer, however, no such awnings, shades or similar items shall be installed unless approved by the Master Association.

(d) Mechanical Equipment. All air conditioning and heating equipment and facilities, water heaters, heat pumps, and other mechanical equipment appurtenant to and serving an individual Unit are deemed to be part of the Unit.

(e) Multiple Ownership of Units. Contiguous Units owned by the same person may be altered so as to integrate them into one dwelling for living purposes provided that such alteration shall be at the expense of such person, shall not interfere with the enjoyment of the Common Elements by others and shall otherwise comply with the provisions of paragraph 5.2(b). In no event shall such multiple ownership change the respective undivided share in the Common Elements, or proportion of sharing Common Expenses and owning Common Surplus of such Units.

4.8 Appurtenances and Possession and Enjoyment of Condominium Parcels.

(a) There shall pass with each Unit as appurtenances thereto:

(i) An undivided share in the Common Elements and Common Surplus, as more fully described in Exhibit "D" attached hereto and made a part hereof, together with the non-exclusive right to use the Common Elements and the exclusive right to use those portions of the Common Elements reserved herein and/or granted elsewhere to a certain Unit as Limited Common Elements;

(ii) 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, which easement shall be terminated automatically in any air space which is vacated from time to time;

(iii) Membership of the Unit Owner in the Master Association, and the right to use the common elements and Leased Amenities within the Master Condominium, any rights to use the Hibiscus Facilities subject to the terms of the Hibiscus Agreement, and to access properties

owned by the Master Association, subject to the rules and regulations as adopted from time to time by the Master Association; and

(iv) Membership of the Unit Owner in the Phase III Association and the right to use the Common Elements, subject to the rules and regulations as adopted from time to time by the Phase III Association.

(b) Each Unit Owner is entitled to the exclusive possession of his Unit subject to the provisions of this Declaration. He shall be entitled to the use of the Common Elements, in accordance with the provisions of this Declaration and the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of other Unit Owners. There shall be a joint use of the Common Elements and a mutual easement for that purpose is hereby created.

4.9 Limited Common Elements and Parking Spaces.

(a) All balconies, decks, patios or porches, railings, windows, front doors, together with appurtenant stairways, exterior storage compartments and any structure attached to the exterior main walls of the Building that serve only the particular Unit adjacent to such structure shall be a Limited Common Element for the benefit and use of that particular Unit only. Exterior windows and frames, exterior glass doors and frames and casings are also deemed to be Limited Common Elements. Notwithstanding the foregoing, owners of second or third floor Units shall have the right of ingress and egress over all stairways, elevators and accesses thereto.

(b) The Phase III Association shall assign at least one parking space to each Unit. The Unit Owner shall have the exclusive right to use such space(s) as long as he owns his Unit, but such space(s) shall be a Limited Common Element and it shall not be transferable upon sale or other conveyance of the Unit, without the Phase III Association's prior written approval. The Phase III Association may reassign spaces upon any sale or other transfer of a Unit, but at all times, at least one parking space shall be assigned to each Unit.

(c) Nothing herein contained shall be construed as relieving any Unit Owner from any portion of any assessment for Common Expenses made against the Unit, and the cost of maintenance, repair or replacement of Limited Common Elements shall be included as part of the Common Expense applicable to all Units.

4.10 Amendment of Plans.

(a) Alteration of Unit Plans. Developer may not change the interior design of Units, alter the boundaries between Units, or combine one or more Units into one Unit, without prior consent of any Institutional Mortgagee having a first lien upon the Unit, a majority of all of the record Unit Owners, and the affected Unit Owners.

(b) Amendment of Declaration of Condominium. If Developer shall make any changes in Units or in the Roadway Easement so authorized, such changes shall be reflected by an Amendment to this Declaration of Condominium. An Amendment of this Declaration of Condominium reflecting such alteration by Developer need be signed by a majority of all of the record Unit Owners, the affected Unit Owner, and all Institutional Mortgagees and record owners of liens on the Unit.

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5. Maintenance, Alteration and Improvement. Responsibility for the maintenance, repairs and replacement of the Condominium Property, and property of Owners located or situated within the Condominium, and restrictions upon the alteration and improvement thereof shall be as follows:

5.1 Common Elements.

(a) Maintenance of Common Elements and Limited Common Elements. The Phase III Association shall be responsible for, and shall assess against and collect from all Unit Owners the costs of maintaining, repairing, replacing and keeping in clean and orderly condition, all of the Common Elements and the Limited Common Elements. The Phase III Association shall, at the expense of all Unit Owners, repair any and all incidental damage to Units resulting from maintenance, repairs, and/or replacement of or to Common Elements and Limited Common Elements.

(b) Alteration and Improvement. After the completion of the improvements, including the Common Elements contemplated by this Declaration, there shall be no alteration or further improvement of the real property constituting the Common Elements (including Limited Common Elements) without prior approval in writing by the owners of not less than seventy-five (75%) percent of the Units. Any such alteration or improvement shall not interfere with the rights of any Unit Owners without their consent. The cost of such work shall not be assessed against an Institutional Mortgagee that acquires its title as a result of holding a mortgage upon the Unit owned, unless such owner shall approve the alteration or improvement, and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings. The share of any cost not so assessed shall be assessed to authorizing Owners in the shares that their shares in the Common Elements bear to each other. There shall be no change in the shares and rights of Unit Owners in the Common Elements altered or further improved, whether or not the Unit Owner contributes to the cost of such alteration or improvements.

5.2 Units.

(a) Maintenance by the Phase III Association. The Phase III Association shall maintain, repair and replace as a Common Expense:

(i) All portions of a Unit, except interior surfaces, contributing to the support of the Building, which portions shall include but not be limited to load-bearing columns and load-bearing walls;

(ii) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services contained in the portions of a Unit maintained by the Phase III Association; and all such facilities contained within a Unit that service part or parts of the Condominium Property other than the Unit within which such facilities are contained; and

(iii) All incidental damages caused to a Unit by such work.

(b) Maintenance By the Unit Owner. The responsibility of the Unit Owner shall include:

(i) To maintain, repair, and replace at his sole and personal expense everything within the boundaries of his Unit which is not required to be maintained by the Phase III Association pursuant to paragraph 5.2 (a), and all of the following items: the paint, finish, cover, wall paper and decorations of all walls, floors and ceilings, all built-in shelves, cabinets,

counters, storage areas and closets; all hot water heaters, mechanical, ventilating, heating and all air conditioning equipment serving the individual Unit (whether located within the boundaries of the Unit or not) including fireplaces, if any; any refrigerators, stoves, ovens, disposal, dishwashers and other kitchen equipment; all bathroom fixtures, equipment and apparatus; whirlpool bath, if any, and appurtenant fixtures and equipment; all electrical, plumbing, telephone and television fixtures, apparatus, equipment, outlets, switches, wires, pipes, and conduit located within and/or serving only the particular Unit; all interior and permitted exterior lights, bulbs and lighting fixtures serving the particular Unit; all electrical lines between the particular Unit and its individual service panel or meter, and all water and waste lines between the Unit and the point at which said lines connect with the main lines (whether located within the boundaries of the Unit or not); all interior doors, 1/2 walls, partitions and room dividers; all furniture, furnishings and personal property contained within a Unit; all interior windows, all awnings, shades and similar items, (whether located within the boundaries of the Unit or not).

(ii) To promptly report to the Phase III Association any defect or need for repairs, the responsibility for the remedying of which is that of the Phase III Association.

(c) Alteration and Improvement. Subject to the other provisions of paragraph 5.2, which in all cases shall supersede and have the priority over the provisions of this subsection when in conflict therewith, a Unit Owner may make such alteration or improvement to the Unit at his sole and personal cost as he may be advised, provided all work shall be done without disturbing the rights of other Unit Owners and further provided that a Unit Owner shall not enclose, paint, decorate or make any other changes or alterations that would change the appearance of any portion of the exterior of the building nor make any changes or alterations to any interior boundary wall, exterior wall, balcony, deck, porch or patio, screening, exterior door, windows, structural or load-bearing member, electrical service or plumbing service, without first obtaining approval in writing of the Board. All alterations and improvements must be in compliance with all existing building codes. No alteration may cause an increase in any insurance premium to be paid by the Phase III Association.

(d) Indemnification of Phase III Association and Unit Owners. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Phase III Association and all other Unit Owners harmless from any liability or damage to the Condominium Property and expenses arising therefrom and shall be solely responsible for the maintenance, repair and insurance thereof from and after the date of installation or construction thereof, as may be required by the Phase III Association, including, without limitation, any costs, expenses or liability associated with the repair, replacement, removal or reinstallation of said additions, alterations or improvements regardless of the impetus, cause or reason for the same. The provisions of this paragraph shall not apply to the Developer.

(e) Right of Entry By Phase III Association; Failure of Unit Owner to Repair. The Phase III 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 any portion of a unit to be maintained by the Phase III Association pursuant to this Declaration or as necessary to prevent damage to the common elements or to a Unit or Units. All costs of any repairs or maintenance described in this subsection shall be assessed as a Special Assessment and may be collected in the same manner as any other Assessment herein provided for. The Phase III Association shall not, in exercising its rights hereunder, be liable to a Unit Owner for trespass or otherwise for entry into a Unit in accordance with this subsection. The liability for any damage done by the Phase III Association shall be the responsibility of

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the Unit Owner of the Unit being repaired or maintained unless such damage is created by the gross negligence or willful misconduct of the Phase III Association.

6. Restraint Upon Separation and Partition of Common and Limited Common Elements.

(a) The undivided share in the Common and/or Limited Common Elements which is appurtenant to a Unit shall not be separated therefrom and shall pass with the title to the Unit, whether or not separately described.

(b) A share in the Common and/or Limited Common Elements appurtenant to a Unit cannot be conveyed or encumbered except together with the Unit.

(c) The shares in the Common and/or Limited Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common and/or Limited Common Elements shall lie.

7. Assessments. To provide the funds necessary for proper operation and management of the Condominium, the Phase III Association has been granted the right to make, levy and collect Assessments and Special Assessments against all Unit Owners and Units. The making and collection of Assessments against Unit Owners for Common Expenses shall be pursuant to the Bylaws and subject to the following provisions:

7.1 Authority to Impose. The Phase III Association, through its Board of Directors, shall have the power to determine and fix the sums necessary to provide for the Common Expenses, including the expense allocable to services being rendered by a management company with whom the Phase III Association may contract. The Assessment shall be assessed annually but shall initially be payable monthly in advance; however, the Board of Directors shall have the power to establish other collection procedures. In addition, the Board of Directors shall have the power to levy Special Assessments against Units in their respective percentages if a deficit should develop in the payment of Common Expenses during any period that the level of Assessments has not been guaranteed by the Developer. The Board of Directors of the Phase III Association may include sums to establish reasonable reserves against future contingencies in each annual Assessment which reserves may be waived or reduced upon the approval of a majority of the total voting interests voting at a duly called meeting of the Phase III Association.

7.2 Share of Common Expense. Each Unit Owner shall be liable for a share of the Common Expenses and shall share in the Common Surplus in the same proportion as his ownership of the Common Elements, as provided in paragraph 4.3 hereof, but the same shall not vest or create in any Unit Owner the right to withdraw or receive distribution of his share of the Common Surplus.

7.3 Payments. All Assessments and installments thereon, must be paid on or before ten (10) days after the day when the same shall become due; all sums not so paid shall bear interest until paid at the highest rate then allowed by law. All payments on account shall be first applied to interest, late fees, and then to the Assessment payment first due. If any installment of an Assessment remains unpaid thirty (30) days after the same shall become due, the Board may declare the entire annual Assessment as to that delinquent Unit Owner due and payable in full as if the entire amount were originally assessed and may foreclose the lien for such Assessments granted in Section 8.4 hereof. Assessments and installments thereon shall be payable at such times as prescribed in the Bylaws or by the Board, from time to time.

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7.4 Lien for Assessments. The Phase III Association is hereby granted a lien on each Unit for any unpaid Assessments together with interest in the amount of ten percent (10%) per annum, which lien shall also secure reasonable attorneys' fees and costs incurred by the Phase III Association incident to the collection of such Assessment or enforcement of such lien and a late fee in the amount of five percent (5%) of the unpaid installment or as otherwise determined by the Board. Said lien shall be effective immediately and shall be perfected by recording a claim of lien in the public records of St. Johns County, Florida, stating the description of the Unit, the name of the record Unit Owner thereof, the name and address of the Phase III Association, the amount due and the dates when due, and the lien shall continue in effect until all sums secured by the lien shall have been fully paid. Such claims of lien shall be signed and verified by an officer of the Phase III Association or by a managing agent of the Phase III Association. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien. Liens for Assessments may be foreclosed by suit brought in the name of the Phase III Association in like manner as a foreclosure of a mortgage on real property. The Unit Owner hereby assigns the rents from such Unit as additional security for repayment of any such claim of lien. In the event of foreclosure, the Phase III Association shall be entitled as a matter of law to the appointment of a receiver to rent the Unit and to collect the rent. The Phase III Association may also sue to recover a money judgment for unpaid Assessments without waiving the lien securing the same. Each unpaid Assessment, together with interest, costs and attorneys' fees, shall also be the personal obligation of the person who was the owner of the Unit at the time the Assessment fell due. 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. This liability is without prejudice to any right the Owner may have to recover from the previous Owner, the amounts paid by such Owner. A lien of the Phase III Association for unpaid Assessments on any Unit will be subordinate to the lien of any first mortgage on that Unit recorded prior to the date the claim of lien for said unpaid Assessment is recorded. The lien of the Phase III Association shall also secure all advances for taxes and payments on account of superior mortgages, liens or encumbrances made by the Phase III Association to preserve and protect its lien, together with interest thereon as specified hereinabove.

7.5 No Election of Remedies. Institution of a suit at law to attempt to effect collection of the payment of any delinquent Assessment shall not be deemed to be an election by the Phase III Association which shall prevent it from thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing to it.

7.6 Special Assessments. The Board may impose special or individual Assessments on Unit Owners to meet expenses not anticipated to be incurred on a regular or annual basis or to cover the cost and expense of maintenance, repairs or replacements of a Unit for which the Unit Owner is responsible hereunder.

7.7 Time for Payment. Unless otherwise determined by the Board, the Assessment levied against the Owner of each Unit and his Unit shall be payable monthly on the first day of each month beginning at the time of conveyance of the Unit to a third party.

7.8 Annual Budget. The Board shall establish an annual budget (the "Annual Budget") in advance for each fiscal year which shall estimate all expenses for the forthcoming fiscal year required for the proper operation, management and maintenance of the Condominium, including, when deemed necessary or advisable by the Board, a reasonable allowance for contingencies and reserves. The Board is authorized to adopt a consolidated Annual Budget to budget for the expenses for the proper operation, management and maintenance of any additional lands added to the Condominium.

7.9 Reserve Fund. The Board, in establishing each Annual Budget, shall include therein a sum to be collected and maintained as a reserve fund for the capital expenditures, deferred maintenance and replacement of Common Elements and personal property held for the joint use and benefit of the Unit Owners. The amount to be reserved shall be determined by the Board or as may be required under the provisions of the Condominium Act and may be waived or reduced for the next fiscal year by a majority of votes of the Unit Owners at a duly called meeting of the Unit Owners. A separate vote must be taken for each fiscal year reserves are reduced or waived.

7.10 Use of the Phase III Association Funds. Except as provided herein with regard to reserve accounts, all monies and assessments collected by the Phase III Association shall be treated as the separate property of the Phase III Association, and such monies may be applied by the Phase III Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles, and Bylaws. As the monies for Assessments are paid to the Phase III Association by any Unit Owner (but not any monies collected therein for reserves), the same may be commingled. For purposes of facilitating allocation of funds into their proper accounts, the Phase III Association may require Unit Owners to pay operating expenses and reserve escrows by separate instrument. Although all funds and other assets of the Phase III Association, and any increments thereto or profits derived therefrom, or from the leasing or use of Common Elements, including, without limitation, Common Surplus, shall be held for the benefit of the members of the Phase III Association, no member of the Phase III Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Unit.

7.11 Creation and Enforcement of Charges. The Phase III Association shall have a cause of action against Unit Owners to secure payment to the Phase III Association by Unit Owners of all charges, costs, and expenses to the Phase III Association that cannot be secured as Assessments, regular or special, under F.S. § 718.116. The charge shall bear interest at the highest lawful rate, and shall carry with its costs and attorneys' fees, including appeals, incurred in collection.

8. Phase III Association. The Phase III Association represents all of the Owners in the Condominium. The Condominium shall be operated by OCEAN GATE PHASE III CONDOMINIUM ASSOCIATION, INC., a corporation not for profit, organized and existing under the laws of the State of Florida, which shall fulfill its functions pursuant to the following provisions:

8.1 Articles of Incorporation. A copy of the Articles of Incorporation of the Phase III Association is attached as Exhibit "G".

8.2 Bylaws. A copy of the Bylaws of the Phase III Association is attached as Exhibit "H".

8.3 Limitation Upon Liability. Notwithstanding the duty of the Phase III Association, to maintain and repair parts of the Condominium Property, the Phase III Association shall not be liable for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the Condominium Property to be maintained and repaired by the Phase III Association, or caused by the elements or other owners or persons.

8.4 Membership and Voting Rights. The members of the Phase III Association shall consist of all of the record Owners of Units. Voting rights shall be allocated based upon the Unit

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Member's percentage share interest in the Common Elements so that 100% of the voting rights will be allocated among each of the Unit Owner's based upon each Unit Owner's percentage share interest in the Common Elements set forth on Exhibit "D". A member will be entitled to one vote for each Unit owned by him, but such vote shall be counted as a vote of the percentage of voting rights allocated to such Unit Owner as set forth on Exhibit "D" so that the voting rights for each Unit are the same as the Unit's undivided interest in the Common Elements. The manner of exercising such voting rights shall be determined by the Bylaws. If a Unit is owned by one person his right to vote shall be established by the record title to his Unit. If a Unit is owned by more than one person, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the record owners of the Unit and filed with the Secretary of the Phase III Association. If a Unit is owned by a corporation, the person entitled to cast the vote for the Unit shall be designated by a certificate of appointment signed by the President or Vice President and attested by the Secretary of the corporation. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote of a Unit may be revoked by the owner thereof.

8.5 Transfer of Control. The initial Board of Directors, as set forth in the Articles of Incorporation, shall manage all of the affairs of this Condominium and shall approve all of the decisions of the Phase III Association and shall serve as the directors of the Phase III Association until the Developer voluntarily relinquishes control or until the first annual members' meeting which shall be held not later than one (1) year after the recording of this Declaration. Provided, however, when Unit Owners other than the Developer own fifteen percent (15%) of the Units that will be operated ultimately by the Phase III Association, the Unit Owners shall be entitled to elect not less than one-third (1/3) of the members of the Board. Unit Owners other than the Developer shall be entitled to elect not less than a majority of the members of the Board (a) three (3) years after sales by the Developer have been closed on fifty (50%) percent of the Units that will be operated ultimately by the Phase III Association, or (b) three (3) months after sales by the Developer have been closed on ninety percent (90%) of the Units that will be operated ultimately by the Phase III Association, or (c) when all of the Units that will be operated ultimately by the Phase I Association have been completed and some of them have been sold and none of the other Units are being offered for sale by the Developer in the ordinary course of business, or (d) when some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, or (e) seven (7) years after the recordation of the Declaration, whichever shall first occur. The Developer shall be entitled to elect not less than one (1) member of the Board so long as the Developer holds for sale in the ordinary course of business five percent (5%) or more of the Units.

Upon the election to the Board of the first Unit Owner other than the Developer, the Developer shall forward to the Florida Division of Land Sales and Condominiums the name and mailing address of the said Unit Owner member of the Board.

8.6 Management Agreement. The Phase III Association may, within the discretion of the Board, enter into a contract with any person or may join with other condominium associations and entities in contracting with any person for the services relating to the maintenance and operation of the Condominium Property and to the extent permitted by law, this Declaration and the Bylaws, may authorize such person to perform the powers and duties of the Phase III Association. The contractor or manager may be authorized to determine the budget, make Assessments for Common Expenses and collect Assessments as provided by this Declaration, the Bylaws and Exhibits to this Declaration. Each Unit Owner, his heirs, successors and assigns shall be bound by the Management Agreement for the purposes therein expressed, including without limitation:

(a) Adopting, ratifying, confirming, and consenting to the execution of the Management Agreement by the Phase III Association.

(b) Covenanting and promising to perform each and every covenant, promise and undertaking to be performed by the Unit Owners as provided in the Management Agreement.

(c) Ratifying, confirming and approving each and every provision of the Management Agreement, and acknowledge that all of the terms and provisions thereof are reasonable.

(d) Agreeing that the persons acting as directors and officers of the Phase III Association entering into such an agreement have not breached any of their duties or obligations to the Phase III Association.

9. Insurance. The insurance which shall be carried shall be kept in force at all times and shall be governed by the following provisions:

9.1 Policies. All insurance policies shall be purchased by the Phase III Association, and each Unit Owner shall be deemed to have appointed the Phase III Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Phase III Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance as required hereby and of doing such acts and executing such documents as required by paragraph 8.10 hereof. All policies shall provide for the issuance of certificates of insurance, on an Accord 27 form or its equivalent, to each Unit Owner and Institutional Mortgagee, and mortgagee endorsements to each Institutional Mortgagee holding a mortgage upon a Unit. Such policies and endorsements shall be deposited with the Insurance Trustee, who must first acknowledge, pursuant to an escrow agreement, that the policies and any proceeds thereof will be held in accordance with the terms hereof. All insurance policies and fidelity bonds required to be purchased by the Phase III Association shall provide that the same shall not lapse, be canceled (including cancellation for non-payment of premium) or be materially modified without at least 10 days prior written notice to the Phase III Association, the Insurance Trustee, each holder of a first mortgage which is listed as a scheduled holder of a first mortgage in the insurance policy (or, alternatively, which has requested such notice in writing), and to each service of a first mortgage on behalf of the Federal National Mortgage Association. All insurance policies purchased by the Phase III Association shall be for the benefit of the Phase III Association, and the Unit Owners, and their respective Institutional Mortgagees as their respective interests may appear.

9.2 Coverage. The following coverage shall be obtained by the Phase III Association:

(a) The buildings and all other insurable improvements upon the Condominium Property and all personal property owned by the Phase III Association shall be insured in an amount equal to 100 % of the current replacement cost thereof (exclusive of excavation, foundations, land and other items normally excluded from coverage) as determined annually by the insurance company affording such coverage. The term "building" as used in this subparagraph shall include, without limitation, all fixtures, installations or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual units initially installed or replacements thereof, in accordance with the original plans and specifications. All hazard insurance policies obtained by the Phase III Association shall provide that the term "building" wherever used in the said policies shall include the above defined fixtures, installations and additions and that the Unit Owners shall be additional insurers with respect to such fixtures, installations, and additions. Such coverage shall afford protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsements and such other

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risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including but not limited to vandalism, malicious mischief, windstorm, water damage, and all perils normally covered by the standard "all risk" endorsement where such coverage is available.

(b) General liability insurance covering all Common Elements, Limited Common Elements and public ways on the Condominium Property in amounts generally required by private institutional mortgage investors for projects similar in construction, location or use. However, such coverage shall be for at least \$1,000,000.00 for each bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage shall include, without limitation, legal liability of insurers for property damage, water damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements, Limited Common Elements, hired automobile, non-owned automobile, off-premises employee coverage and legal liability arising from lawsuits related to employment contracts of the Phase III Association.

(c) Workmen's compensation insurance as required by law.

(d) All liability insurance shall contain cross liability endorsements to cover liabilities of the Phase III Association Unit Owners as a group to an individual Unit Owner and of one Unit Owner against another.

(e) If the Condominium Property is located in an area designed by the Federal Emergency Management Agency (or other federal agency legally empowered to so designate property) as having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program, flood insurance on the buildings and all other improvements described in paragraph 8.2(a), in an amount deemed appropriate by the Phase III Association, but not less than the lesser of: (1) the maximum flood insurance coverage available for all buildings and the aforesaid other improvements within any portion of the Condominium Property located within a designated flood hazard area; or (2) one hundred (100%) percent of current replacement costs of all such buildings and other improvements.

(f) Blanket fidelity bonds for all officers, directors, trustees and employees of the Phase III Association and all other persons handling or responsible for funds of or administered by the Phase III Association (including the officers, employees and agents of a management agent to whom the Phase III Association has delegated some or all of the responsibility for handling the Phase III Association funds), in amounts based upon the best business judgment of the Phase III Association but not less than the estimated maximum funds, including reserve funds, in the custody of the Phase III Association or management agent at any given time during the term of each bond. Provided that in no event shall the aggregate amount of such bonds be less than a sum equal to three months aggregate assessments on all units plus reserve funds. All such fidelity bonds shall name the Phase III Association as an obligee and shall contain waivers by the insurers of all defenses based upon the exclusion from the definition of "employees," or similar terms, of persons serving without compensation.

(g) All such additional insurance coverage, special endorsements or bond coverage as shall be required from time to time by the most recent regulations and guidelines of the Federal National Mortgage Association.

9.3 Optional Coverage. The Phase III Association may purchase and carry such other insurance coverage, other than title insurance, as the Board of Directors of the Phase III Association, in

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its sole discretion, may determine from time to time to be in the best interests of the Phase III Association and Unit Owners, including without limitation, Directors' liability insurance coverage.

9.4 Premiums. Premiums upon all insurance policies and fidelity bonds (except for premiums on fidelity bonds maintained by a management agent covering its own officers, employees and agents) purchased by the Phase III Association shall be paid by the Phase III Association and charged as Common Expenses.

9.5 Casualty Losses. All insurance policies purchased by the Phase III Association shall provide that all proceeds payable as a result of casualty losses shall be paid to the Insurance Trustee which shall be designated from time to time by the Board, or, if no Insurance Trustee is designated, to the Phase III Association. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal of the policies, nor for the failure to collect any insurance proceeds. The only duties of the Insurance Trustee shall be to hold policies of insurance which are obtained by the Phase III Association in accordance herewith, to receive the proceeds thereof and to hold the same in trust for the purposes elsewhere stated herein, for the benefit of the Phase III Association, and the Unit Owners, and their respective Institutional Mortgagees, in the following shares (which shares need not be set forth upon the records of the Insurance Trustee):

(a) Common Elements. Proceeds on account of damage to Common Elements in the same proportion as the undivided shares in the Common Elements which are appurtenant to each of the Units.

(b) Units. Proceeds on account of damage to Units shall be held in undivided shares in the following manner:

(i) Partial destruction when the building is restored: for the Unit Owners of the damaged Units in proportion to the costs of repairing the damage suffered by each damaged Unit. Upon the request of the Insurance Trustee, the Phase III Association shall certify to the Insurance Trustee the appropriate portions as aforesaid, and each Unit Owner shall be bound thereby and the Insurance Trustee may rely upon such certification.

(ii) Total destruction when one of the buildings is destroyed, or partially destroyed and is not to be restored: for all Unit Owners in such building the share of each being determined by multiplying such proceeds by a fraction, the numerator of which is the undivided share in the Common Elements appurtenant to the Unit and the denominator of which is the total undivided share of the Common Elements appurtenant to all Units in such building.

(c) Endorsements. Notwithstanding anything to the contrary contained herein, in the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner in insurance proceeds shall be held in trust first for the Institutional Mortgagee and then for the Unit Owner as their interests may appear.

9.6 Distribution of Proceeds of Insurance. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of Institutional Mortgagees and the Unit Owners after first paying or making provision for payment of the expenses of the Insurance Trustee in the following manner:

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(a) Repair. If the damage for which the proceeds were paid is to be repaired or reconstructed, the proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying such costs shall be distributed to the Phase III Association.

(b) No Repair. If it is determined that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed first to any Institutional Mortgagee(s) having a lien on the Unit(s) affected to the extent of its interest in accordance with an estoppel letter from said Institutional Mortgagee. The proceeds shall then be applied to the clearing, grading and dressing up of the area where the unreconstructed Unit(s) was (were) located and any surplus paid to the Unit Owner(s). This is a covenant for the benefit of any Institutional Mortgagee and may be enforced by it.

(c) Certificate. In making distribution to Unit Owners and their Institutional Mortgagees, the Insurance Trustee may rely upon a certificate of the Phase III Association as to the names of the Unit Owners and their respective shares of the distribution. Upon request of the Insurance Trustee, the Phase III Association shall forthwith deliver such certificate.

9.7 Reconstruction. If any part of the Common Elements or any Unit or Units, or part thereof, shall be damaged, such damaged portion shall be promptly reconstructed or repaired unless such destruction renders one-half or more of the Units untenable and the owners of seventy-five (75%) percent or more of the Units vote against such reconstruction or repair at a meeting which shall be called within ninety (90) days after the occurrence of the casualty, or, if by such date, the insurance loss has not been finally adjusted, then within thirty (30) days after final adjustment; provided, however, that the condominium shall not be abandoned or terminated without the prior written consent of each Institutional Mortgagee having a first mortgage upon a Unit of the condominium. Any such reconstruction or repair shall be substantially in accordance with the plans and specifications to be prepared by an architect selected by the Board. Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Unit Owner upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the improvements on the Condominium Property were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the building stands. The Insurance Trustee may rely upon a certificate of the Phase III Association certifying as to whether or not the damaged property is to be reconstructed or repaired. The Phase III Association, upon request of the Insurance Trustee, shall deliver such certificate as soon as practical.

9.8 Unit Owner. If the damage is only to those parts of a Unit for which the responsibility of maintenance and repair is that of the Unit Owner, then the Unit Owner shall be responsible for reconstruction and repair. In all other instances, the responsibility of reconstruction and repair shall be that of the Phase III Association.

9.9 Phase III Association. Immediately after a casualty causing damage for which the Phase III Association has the responsibility of maintenance and repair, the Phase III Association shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bond as the Board may desire. If the proceeds of insurance policies are not sufficient to defray the estimated costs of reconstruction and repair by the Phase III Association (including the aforesaid fees and premiums, if any) assessment shall be made against all Units in sufficient amounts to provide funds for the payment of such costs.

9.10 Disbursement. The funds for payment of costs of reconstruction and repair after casualty which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Phase III Association from assessment against Units (which shall be deposited by the Phase III Association with the Insurance Trustee), shall be disbursed in payment of such costs in the following manner:

(a) Unit Owners. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with the Unit Owner shall be disbursed to such contractors, suppliers and personnel performing such reconstruction or repair work, in such amounts and at such times as the Unit Owner may direct, or if there is a mortgagee endorsement, then to such payees as the Unit Owner and the Institutional Mortgagee direct. Nothing contained herein shall be construed to limit or modify the responsibility of the Unit Owner to make such reconstruction or repair.

(b) Phase III Association. The balance of the construction fund shall be applied by the Insurance Trustee to the payment of the costs of reconstruction and repair and shall be paid to or for the account of the Phase III Association from time to time as the work progresses. The Insurance Trustee shall make such payments upon the written request of the Phase III Association, accompanied by a certificate, dated not more than fifteen (15) days prior to such request, signed by a responsible officer of the Phase III Association, and by an architect in charge of the work, who shall be selected by the Phase III Association, setting forth (i) that the sum then requested either has been paid by the Phase III Association or is justly due to contractors, subcontractors, materialmen, architects, or other persons who have rendered services or furnished materials in connection with the work, and that the sum requested does not exceed the value of the services and materials described in the certificate and (ii) that except for the amount stated in such certificate to be due as aforesaid, there is no outstanding indebtedness known to the person signing such certificate after due inquiry, which might become the basis of a vendor's, mechanic's, material-men's or similar lien upon such work, the Common Elements or any Unit, and (iii) that the cost as estimated by the person signing such certificate of the work remaining to be done subsequent to the date of such certificate does not exceed the amount of insurance proceeds (and assessments, if any) remaining in the hands of the Insurance Trustee after the payment of the sum so requested.

(c) Proceeds. It shall be presumed that the first moneys disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in the construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the Phase III Association.

9.11 Adjustment. Each Unit Owner shall be deemed to have delegated to the Phase III Association his right to adjust with insurance companies all losses under policies purchased by the Phase III Association subject to the rights of Institutional Mortgagees having a mortgage upon the Unit, and to collect and appropriately dispose of the proceeds of such policies, to negotiate losses and to execute releases of liability. Notwithstanding the foregoing, the Phase III Association may, but shall not be obligated to, name as an insured, on behalf of the Phase III Association, the Phase III Association's authorized representative, including any trustee with whom the Phase III Association may enter into an Insurance Trust Agreement, or any successor to such trustee, who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance.

9.12 Institutional Mortgagees. In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner in insurance proceeds shall be held in trust first for the Institutional Mortgagee and then the Unit Owner as their interests may appear; provided, however, that no Institutional Mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt

any insurance proceeds except distributions of such proceeds made to the Unit Owner and Institutional Mortgagee pursuant to the provisions of this Declaration of Condominium.

9.13 Contents. Each Unit Owner shall be responsible for insuring the contents of his Unit which belong to him, any improvements made by him within his Unit and any portion of his Unit for which he has the responsibility of maintenance, repair and replacement as provided in this Declaration of Condominium.

10. Condemnation. Condemnation of the Condominium Property or any portion thereof shall be handled in the following manner:

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

10.2 Determination Whether to Continue Condominium. Whether the condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after a casualty. For this purpose, the taking by condemnation shall be deemed to be a casualty. Provided, however, that the condominium shall not be abandoned or terminated without the prior written consent of each Institutional Mortgagee having a first mortgage upon a Unit of the condominium.

10.3 Disbursement of Funds. If the condominium is terminated after condemnation, the proceeds of the awards and special assessments will be deemed to be Condominium Property and shall be owned and distributed in the manner provided for insurance proceeds if the condominium is terminated after a casualty. If the condominium is not terminated after condemnation, the size of the condominium will be reduced; first the mortgagees of condemned Units and then the Owners of condemned Units as their interest may appear will be made whole and the property damaged by the taking will be made useable in the manner provided below. The proceeds of the awards and special assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Insurance Trustee after a casualty.

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

(a) Restoration of Unit. The Unit shall be made tenantable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against the owner(s) of the Unit.

(b) Distribution to Surplus. The balance of the award, if any, shall be distributed first to each Institutional Mortgagee of the Unit, as its interest may appear, and then to the owner of the Unit.

10.5 Unit Made Untenantable. If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made tenantable, the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the condominium:

(a) Payment of Award. The award for the Unit shall be paid first to each Institutional Mortgagee of the Unit, as its interest may appear, and the balance to the Unit Owner

(b) Addition to Common Elements. The remaining portion of the Unit, if any, shall become a part of the Common Elements and shall be placed in condition for use by all of the remaining Unit Owners in the manner approved by the Board.

(c) Adjustment of Shares in Common Elements. Provided that each Institutional Mortgagee holding a first mortgage upon any Unit or Time Share Estate and at least two-thirds (2/3) of the Unit Owners (other than the Developer) have given their prior written approval, the shares in the Common Elements appurtenant to the Units that continue as part of the condominium shall be adjusted to distribute the ownership of the Common Elements among the reduced number of Units in the manner set forth in Section 4.3 hereof.

(d) Assessments. If the amount of the award for the taking is not sufficient to pay the market value of the condemned Unit to the owner and to condition the remaining portion of the Unit for use as part of the Common Elements, the additional funds required for those purposes shall be raised by Assessments against all of the Unit Owners who will continue as owners of Units after the changes in the condominium effected by the taking. The Assessments shall be made in proportion to the shares of those Owners in the Common Elements after the changes affected by the taking, provided that each Institutional Mortgagee holding a first mortgage upon any Unit and two-thirds (2/3) of the Unit Owners (other than the Developer) shall give their prior written approval of any changes in shares of Unit Owners in the Common Elements, as provided in 9.5(c).

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

10.6 Taking of Common Elements. Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements useable in the manner approved by the Board. The balance of the awards for taking of Common Elements, if any, shall be distributed to the Phase III Association.

10.7 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements that are effected by condemnation shall be evidenced by an amendment of the Declaration of Condominium that need be approved only by a majority of the Board, provided that nothing herein shall be deemed to alter the requirement set forth in Section 12.5(c) that each Institutional Mortgagee holding a first mortgage upon any Unit and two-thirds (2/3) of the Unit Owners

give prior written approval to changes in the pro-rata interest or obligation of Unit Owners or the pro-rata share of ownership in the Common elements.

11. Use Restrictions. The use of the Condominium Property shall be in accordance with the following provisions as long as the Condominium exists and the buildings in useful condition exist upon the land.

11.1 Units. No Unit may be subdivided or partitioned. Each of the Units shall be occupied only by the individual owner, members of a family, their servants, guests, lessees and tenants as a residence and for no other purposes, except as follows. The Developer may use any Unit for model, sales office or display purposes and may lease or rent Units owned by the Developer.

11.2 Common Elements. The Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units.

11.3 Nuisances. Unit Owners, residents and lessees shall use their reasonable efforts under the circumstances to avoid unreasonable disturbances or nuisances which would disturb other Unit Owners.

11.4 Unlawful Use. No Unit or Common Elements may be used for any unlawful, immoral or improper purpose.

11.5 Insurance. No activity shall be done or maintained in any Unit or upon any Common Elements which will increase the rate of insurance on any Unit or the Common Elements or result in the cancellation of insurance thereon, unless such activity is first approved in writing by the Board.

11.6 Regulations. Reasonable regulations concerning the use of the Condominium Property may be made and amended from time to time by the Phase III Association as provided by its Bylaws. Copies of such regulations and amendments thereto shall be furnished by the Phase III Association to all Unit Owners and residents of the Condominium Property.

11.7 Exterior Appearance. The exterior appearance of a Unit or any Common Element (including Limited Common Elements) may not be changed without prior written approval of the Board.

12. Proviso, Pending Completion. Until the Developer has completed all of the contemplated improvements on the Condominium Property and closed the sales of all of the Units or until December 31, 2001 whichever occurs last, neither the Unit Owners nor the Phase III Association nor the use of the Condominium Property shall interfere with the sale of the Units or the completion of any improvements in the Condominium or other condominiums within the "Hibiscus" development. Developer may make such use of the unsold Units and Common Elements as may facilitate such completion and sale, including but not limited to maintenance of sales office, the showing of the property, the display of signs and the leasing of Units.

13. Ownership of Common Elements and the Phase III Association. The ownership of an undivided share in the Common Elements which is appurtenant to a Unit cannot be separated from the Unit or conveyed or encumbered except with the Unit and a conveyance or encumbrance of a Unit shall pass the title to the Common Elements appurtenant to it whether or not separately described. The shares in the Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common

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Elements shall lie. The share of a Unit Owner in the funds and assets of the Phase III Association cannot be assigned, hypothecated or transferred in any manner, except as appurtenant to his Unit.

14. Compliance and Default. Each Unit Owner and the Phase III Association shall be governed by and shall comply with the terms of this Declaration of Condominium, the Articles of Incorporation and the Bylaws of the Phase III Association, and the Rules and Regulations adopted pursuant thereto, as said documents may be amended from time to time. Each Unit Owner shall comply with decisions of the Phase III Association made pursuant to authority granted to said the Phase III Association in the said documents. Failure of the Unit Owner to comply therewith shall entitle the Phase III Association, or other Owners to the following relief in addition to other remedies provided in this Declaration of Condominium and the Condominium Act, including the recovery of damages, injunctive relief, or both, to the extent allowed by law; and Unit Owners shall have similar rights of action against the Phase III Association.

14.1 Enforcement. The Phase III Association is hereby empowered to enforce this Declaration of Condominium, and any applicable Articles of Incorporation, Bylaws, and Rules and Regulations of the Phase III Association by such means as are provided by the laws of the State of Florida.

14.2 Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family, his lessees, or his or their guests, invitees, employees, contractors or agents, but only to the extent that such expense is not met by the proceeds of insurance carried by the Phase III Association.

14.3 Compliance. In the event a Unit Owner or occupant fails to maintain a Unit or the Limited Common Elements appurtenant to the Unit, or fails to cause such Unit or Limited Common Elements to be maintained or fails to observe and perform all applicable provisions of the Declaration, the Bylaws, and the Articles of Incorporation of the Phase III Association and/or the applicable rules and regulations, covenants and restrictions, or any other agreement, document or instrument affecting the Condominium Property or administered by the Phase III Association shall have the right to proceed in a court of equity to require performance and/or compliance, to sue in a court of law for damages to collect from the Unit Owner and the Unit the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance and to enforce collection by judgment lien and/or any other manner permitted by law. The Phase III Association shall have the further irrevocable right of access to each Unit upon reasonable notice and during reasonable hours, when necessary for maintenance, repair or replacement of any Common Elements, or of any portion of a Unit to be maintained by the Phase III Association pursuant to this Declaration or as necessary to prevent damage to the Common Elements, or to a Unit or Units and may exercise this right by allowing such access to Units by the Phase III Association.

In addition to or instead of the above, the Phase III Association shall have the right to levy fines against Unit Owners for any violation of this Declaration, Articles of Incorporation, Bylaws and/or rules or regulations established by the Phase III Association. Any reference to a fine contained in this Declaration shall not be construed as a limitation, and fines may be imposed for the violation of any provision herein.

14.4 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of this Declaration of Condominium, or the Articles and Bylaws of the Phase III Association, or any rules and regulations adopted pursuant thereto, as said documents may be amended from time to time, the prevailing party shall be entitled to recover the cost of the proceeding and such reasonable attorneys' fees as may be awarded by the court, provided no attorneys' fees may be recovered against the Master Association, or the Phase III Association.

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14.5 No Waiver of Rights. The failure of the Developer, the Phase III Association, or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration of Condominium, the Articles, the Bylaws, or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

15. Disclaimers.

15.1 Representations. Except as provided herein, no representation, warranty or commitment has been made by the Developer or any other party in its behalf to any Unit Owner, either prior to or subsequent to the purchase of his Unit with respect to the time of construction, location, nature and extent of any Common Elements of the Condominium Property or any land lying adjacent thereto or in the vicinity thereof.

15.2 Warranty. Except as otherwise specifically provided in Florida Statutes Chapter 718, the Developer specifically disclaims any intent to have made any warranty or representation, express or implied, in connection with the Units, the Condominium Property, or the condominium documents, except as specifically set forth therein, and no person shall rely upon any warranty or representation not so specifically made therein. Guaranties obtained and warranties obtained from the manufacturers of all appliances and equipment, as specified by said manufacturers and subcontractors, may be enforced by the Phase III Association or the Unit Owner. The Developer has constructed or will construct the buildings and improvements substantially in accordance with Exhibit "B" and those plans and specifications on file with the architect responsible for the design of the improvements, and it is hereby agreed that this is the full extent of Developer's liability and responsibility. The foregoing is expressly in lieu of all other warranties, express or implied by law or otherwise, provided however that nothing contained herein shall diminish any warranty imposed by law under Florida Statutes, Chapter 718.

16. Amendment.

16.1 By Developer. An Amendment to this Declaration of Condominium made by the Developer shall be evidenced by a certificate setting forth such Amendment executed by the Developer with the formalities of a deed (including recording data identifying this Declaration of Condominium) and shall become effective when such certificate is recorded according to law. In addition to other provisions contained in this Declaration of Condominium relating to Amendments by the Developer, as long as the Developer owns five percent (5%) or more of the Units the Developer may amend this Declaration of Condominium for any purpose including, but not limited to, any Amendment required by the Division of Land Sales and Condominiums, or by NMA, FHLMC or any Institutional Mortgagee, and such Amendment shall be effective without the joinder of any Unit Owners, mortgagees or the Phase III Association; provided, however, that any Amendment to the Declaration of Condominium pursuant to this paragraph 16.1 which would be material and adverse to interests of Unit Owners shall first be approved in writing by each Unit Owner and each Institutional Mortgagee holding a first mortgage upon any Unit to the extent such Units are affected by such material Amendment; and further provided, that no Amendment pursuant to this paragraph 16.1 shall adversely affect the lien or priority of any previously recorded mortgage to an Institutional Mortgagee. Notwithstanding any provision to the contrary set forth in this Section or elsewhere in this Declaration or in the Articles of Incorporation or Bylaws of the Phase III Association, the Developer may amend this Declaration to add any surveyor's certificate(s), to add additional lands to the Condominium and/or to amend the documents as required by an Institutional Mortgagee, without the joinder or consent of any association or Unit Owner.

16.2 By Unit Owners. An Amendment to this Declaration of Condominium made by Unit Owners shall be evidenced by: (a) a certificate setting forth such Amendment executed by the appropriate officers of the Phase III Association, with the formalities of a deed (including the recording data identifying this Declaration of Condominium); and (b) an affidavit (to be attached to the certificate) executed by the appropriate officers of the Phase III Association certifying that the owners of seventy-five percent (75%) or more of the Units voted in favor of the Amendment. Such Amendment shall become effective when it is recorded according to law. No Amendment shall be adopted or become effective pursuant to this paragraph 16.2 which adversely affects the lien or priority of any previously recorded mortgage to an Institutional Mortgagee. An Amendment made by Unit Owners need not be executed by the Unit Owners. This Declaration of Condominium shall not be amended without the approval of the Developer and without the joinder of the Developer in the certificate referred to in (a) above if any of the following conditions exist: (i) the Developer owns five percent (5%) or more of the units; or (ii) such Amendment purports to modify restrict, limit or otherwise affect any right of the Developer hereunder, including without limitation the rights of Developer to amend this Declaration of Condominium unilaterally as set forth heretofore and any other rights of Developer hereunder. Notwithstanding anything contained herein, any Amendment pursuant to this paragraph 16.2 which would be material and adverse to the interests of Unit Owners, shall first be approved in writing by each Unit Owner and each Institutional Mortgagee holding a first mortgage upon any Unit to the extent such Units are affected by such material Amendment.

16.3 By the Phase III Association. Whenever it shall appear that there is an error or omission in the Declaration of Condominium and the Developer owns less than five percent (5%) of the Units, then the Board may correct such error or omission by resolution adopted by a majority vote of the Board at any duly called meeting thereof. Such Amendment shall become effective when it is recorded according to law; provided, however, that the provisions of paragraph 16.1 requiring approval of Amendments by each Institutional Mortgagee holding a first mortgage upon any Unit affected by the Amendment shall also apply to any Amendment made pursuant to this paragraph.

16.4 Consolidation. Developer presently either owns or has the right to acquire land adjacent to the condominium, including the land lying between Highway A1A and the Atlantic Ocean and extending northward. The declarations, articles of incorporation, bylaws and common elements of any two or more dependent condominiums lying within such property may be merged with this condominium to form a single condominium upon the approval of eighty (80%) percent of all the Unit Owners (which may include Developer) of each condominium and of all record owners of liens upon Units within such condominiums and upon the recording of an Amendment to the declarations, articles of incorporation and bylaws of the condominiums be merged stating that such condominiums will constitute one condominium.

16.5 Prohibited Amendments. Except as otherwise provided in this Declaration, no Amendment shall be passed which shall:

(a) Except as set forth in Section 5 above and subject to the provisions thereof, change the configuration or the size of any Unit in any material fashion, materially alter or modify the appurtenances to such Unit, nor change the proportional percentage by which a Unit Owner shares the Common Expenses and owns the Common Surplus unless the record owner thereof and all record owners of liens thereon shall join in the execution of such Amendment and unless a majority of record owners of all Units approve the Amendment; and

(b) Materially impair or prejudice the rights and priorities of any Institutional Mortgagee or otherwise violate a Federal National Mortgage Association or Federal Home Loan Mortgage

Corporation requirement without prior written consent of such Institutional Mortgagee, which consent shall not be unreasonably withheld.

(c) In any way affect any of the rights, privileges, powers or options of the Developer without the prior written consent of the Developer or the Phase III Association.

(d) Discriminate against any Unit Owner or against any Unit or class or group of Units comprising part of the Condominium Property, unless the record owners of all affected Units and Institutional Mortgagees thereon shall join in the execution and acknowledgment of the Amendment.

(e) Adversely affect the lien or priority of any previously recorded mortgage to an Institutional Mortgagee.

(f) Change the rights and privileges of the Developer without the Developer's written approval.

(g) Change the rights of any Unit or Common Element to commercial use without Developer's written consent.

17. Termination.

17.1 Unit Owner. This Declaration of Condominium may be terminated in the manner provided for Chapter 718, Florida Statutes The "Condominium Act"). Notwithstanding any amendments to the Condominium Act, however, a vote of one hundred percent (100%) of the Unit Owners shall be required to terminate this Declaration of Condominium; provided, however, if an election is made not to reconstruct after damage in accordance with paragraph 11.7, or after condemnation in accordance with paragraph 12.2, then this Declaration of Condominium may be terminated by a vote of persons who own seventy-five percent (75%) or more of the Units; provided, however, that notwithstanding anything to the contrary contained in this Declaration of Condominium or any Amendments hereto, this Declaration of Condominium shall not be abandoned or terminated for any reason without the prior written approval of each Institutional Mortgagee holding a first mortgage upon any Unit.

17.2 General. Upon termination of the Condominium, the mortgagee and any lienor of a Unit shall have a mortgage and/or lien solely and exclusively upon the undivided share of the Owner's tenancy in common in and to the lands and other properties and rights which the Owner may receive by reason of such termination. The termination of the Condominium shall be evidenced by a certificate of the Phase III Association executed by its president and Secretary certifying as to the facts affecting the termination, which certificate shall become effective upon being recorded in public records of St. Johns County, Florida.

17.3 Amendment. This section concerning termination cannot be amended without consent of four-fifths (4/5ths) of the Unit Owners' voting interests and of all record owners of mortgages upon the Units.

17.4 Shares of Owner After Termination. After termination of the Condominium the Unit Owners shall own the Condominium Property and all assets of the Phase III Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Unit Owners. Such undivided shares of the Unit Owners shall

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be the same as the undivided shares in the Common Elements appurtenant to the Owner's Units prior to the termination.

18. Additional Rights of Institutional Mortgagees. In addition to any rights provided elsewhere in this Declaration of Condominium, any Institutional Mortgagee (which term shall, when used in this section, be deemed to include any guarantor or insurer of a mortgage) having a lien upon any Unit who makes a request in writing to the Phase III Association for the items provided in this paragraph shall have the following rights:

18.1 Annual Financial Statements of Association. To be furnished with at least one copy of the annual financial statement and report of the Phase III Association, including a detailed statement of annual carrying charges, or income collected, and operating expenses; such financial statement and report to be furnished within sixty (60) days following the end of each calendar year.

18.2 Notice of Meetings. To be given notice of any proposed action which would require the consent of a specified percentage of mortgage holders; and to be given notice by the Phase III Association of the call of a meeting of the Unit Owners to be held for any purpose, including but not limited to the purpose of considering any proposed Amendment to this Declaration of Condominium or to the Articles of Incorporation or Bylaws of the Phase III Association, which notice shall state the nature of the Amendment being proposed; and to designate a representative to attend all such meetings.

18.3 Notice of Defaults. To be given written notice of any default of any owner of a Unit encumbered by a mortgage held by such Institutional Mortgagee in the performance of such mortgagor's obligations under the Declaration of Condominium, Articles, Bylaws or Regulations which is not cured within sixty (60) days. Such notice will be given in writing and be sent to the principal office of such Institutional Mortgagee, or to the place which it may designate in writing to the Phase III Association from time to time.

18.4 Insurance Endorsements. To be given an endorsement of the policies covering the Common Elements and Limited Common Elements requiring that such Institutional Mortgagee be given any notice of cancellation provided for in such policy.

18.5 Examination of Books and Records. Upon reasonable notice, to examine the books and records of the Phase III Association during normal business hours.

18.6 Notice of Damage. To be given timely written notice of any damage or loss to, or taking of, the Common Elements or any Unit, or of any notice by an authority that the Common Elements or any Unit will be the subject of condemnation proceedings.

19. Remedy for Violations. The remedies for violation of the provisions of this Declaration provided by the Condominium Act shall remain in full force and effect. In addition thereto, should the Phase III Association find it necessary or desirable to institute legal actions, upon a finding by a court in favor of the Association, the defendant Unit Owner shall reimburse the Phase III Association, for its costs of suit, including reasonable attorneys' fees and costs at both trial and appellate level, incurred by it in bringing such action.

20. Gender/Plural Usage. Whenever the context so requires, the use of any gender shall be deemed to include all genders, the use of the plural shall include the singular and the singular shall include the plural.

21. Execution of Documents Required by Government. The Developer's plan for the development of this Condominium may require from time to time the execution of certain documents required by any governmental agency having jurisdiction over this Condominium. To the extent that said documents require the joinder of the Unit Owners, the Phase III Association by its duly authorized officers may, as the agent or the attorney-in-fact for the Unit Owners, execute, acknowledge and deliver such documents, and the Unit Owners, by virtue of their acceptance of deeds to their Units, irrevocably nominate, constitute and appoint the Phase III Association, through its duly authorized officers, as their proper and legal attorneys-in-fact for such purpose. Said appointment is coupled with an interest and is therefore irrevocable.

22. Severability. The invalidity in whole or in part of any covenant or restriction or any paragraph, subparagraph, sentence, clause, phrase or word or other provision of this Declaration of Condominium, the Articles, the Bylaws, the Rules and Regulations of the Master Association, or the Phase III Association, and any exhibits attached hereto, shall not affect the remaining portions thereof.

23. Covenants Running with the Land. All provisions of this Declaration of Condominium and all attachments thereto shall be construed to be covenants running with the land, or equitable servitudes upon the land and with any part thereof, as the case may be, and interest therein, and every Unit Owner and claimant of the Condominium Property or any part thereof or interest therein, and his heirs, executors, administrators, successors and assigns shall be bound thereby.

IN WITNESS WHEREOF, the Developer has executed this Declaration of Condominium this 11th day of March, 1999.

John M. [Signature]

Signed, sealed and delivered in the presence of:

Witnesses:

Matt Campbell
Name: Matt Campbell

Wayne R. Evans
Name: Wayne R. Evans

OCEAN GATE DEVELOPMENT, INC., a
Florida corporation

[Signature]
By: Bob L. [Signature]
Its: President

STATE OF FLORIDA)
)
COUNTY OF ST. JOHNS)

The foregoing instrument was acknowledged before me this 11 day of ^{JUNE RQW} ~~March~~, 1999, by ROBERT J. LAURENCE, the PRESIDENT of OCEANGATE DEVELOPMENT, INC., a Florida corporation on behalf of the Corporation.

Laura A. Waller
Notary Public, State of Florida at Large.

[Notarial Seal]



Laura A Waller
My Commission CC594090
Expires October 18 2000

Exhibits to Declaration of Condominium

- Exhibit A - Legal Description
- Exhibit A-1 - Site Plan showing Roadway Easement
- Exhibit B - Survey, Plot plan, Floor plans
- Exhibit C - Surveyor Certificate
- Exhibit D - Identification of each Unit and Percentage Interest in Common Elements
- Exhibit E - Condominium Recreation Lease
- Exhibit F - Leased Amenities
- Exhibit G - Phase III Association Articles of Incorporation
- Exhibit H - Phase III Association Bylaws

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Exhibit A

Legal Description

Phase Three

A parcel of land lying and being in Government Lot 5 Section 15, Township 8 South, Range 30 East, St. Johns County, Florida said parcel being more particularly described as follows:

For a Point of Commencement begin at the intersection of the Northerly line of the Southerly 300 feet of the Northerly 600 feet of Government Lot 5 and the Easterly right of way line of A1A; thence along the Easterly right of way of A1A North $12^{\circ}13'28''$ West 201.20 feet; North $89^{\circ}34'57''$ East 287.07 feet to the Point of Beginning; thence continue North $89^{\circ}34'57''$ East 356.00 feet; thence South $00^{\circ}25'03''$ East 32.04 feet; thence South $89^{\circ}33'57''$ West 5.00 feet; thence South $23^{\circ}53'19''$ West 144.52 feet; thence North $00^{\circ}26'08''$ West 7.98 feet; thence North $45^{\circ}26'08''$ West 28.28 feet; thence South $89^{\circ}33'52''$ West 65.53 feet; thence South $44^{\circ}33'52''$ West 28.28 feet; thence South $89^{\circ}33'52''$ West 54.00 feet; thence South $00^{\circ}26'08''$ East 52.11 feet; thence South $44^{\circ}33'52''$ West 71.12 feet; thence South $00^{\circ}26'08''$ East 24.17 feet; thence South $44^{\circ}33'52''$ West 10.52 feet; thence South $89^{\circ}33'52''$ West 103.30 feet; thence North $00^{\circ}25'03''$ West 115.02 feet; thence North $89^{\circ}34'57''$ East 23.88 feet; thence North $00^{\circ}25'03''$ West 16.98 feet; thence North $89^{\circ}34'57''$ East 5.12 feet; thence North $00^{\circ}25'03''$ West 157.87 feet to the Point of Beginning. Said parcel containing 1.56 acres more or less.

ATLANTIC OCEAN

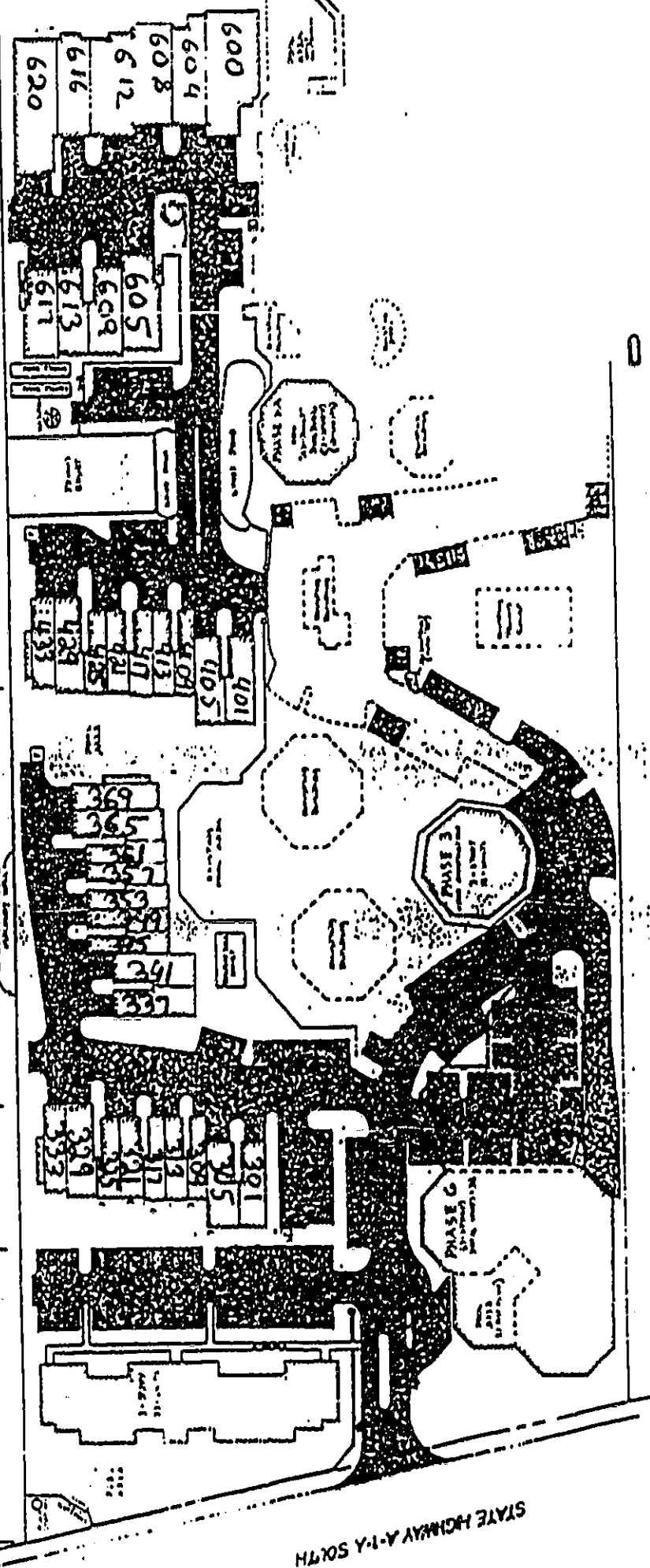
PHASE 1

PHASE 2

PHASE 3

PHASE 4

PHASE 5



MODIFIED
SITE PLAN

OCEAN GATE RESORT
AND HIBISCUS II

FOR: ROBERT J. LAURENCE, PRESIDENT
4780 STATE HWY A-1A SOUTH
ST. AUGUSTINE, FLORIDA

MAY 22, 1981
SCALE: 1" = 40'
SHEET 1 OF 1

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NOTES:

PARKING	RATIO	
	Area	Ratio
Surface	10,000	1.0
Grass	10,000	1.0
Water	10,000	1.0
Other	10,000	1.0
Total	40,000	4.0

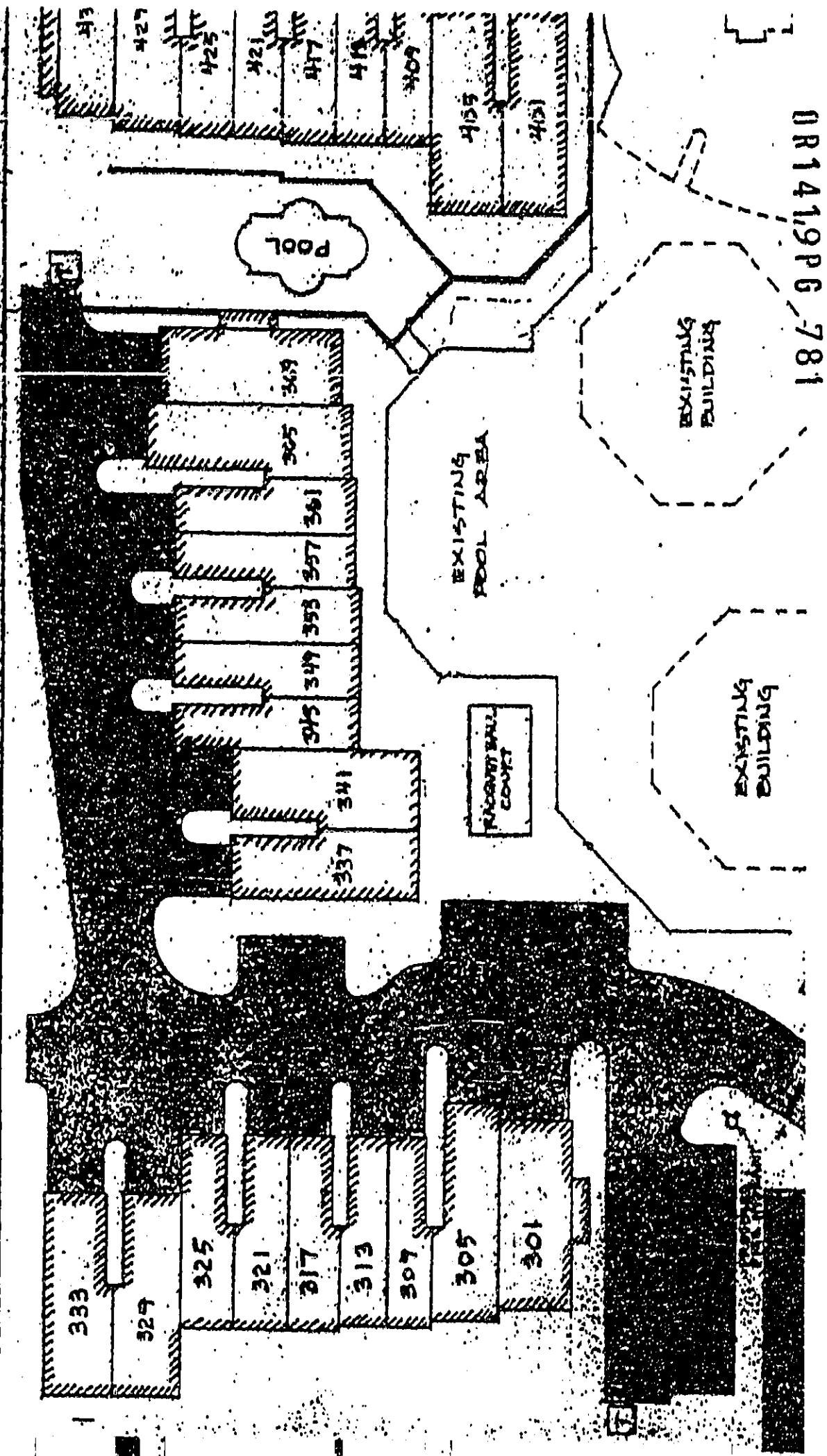
LEGEND:

- Building Footprint
- Landscaping
- Parking Area
- Water
- Other

EXHIBIT A-1

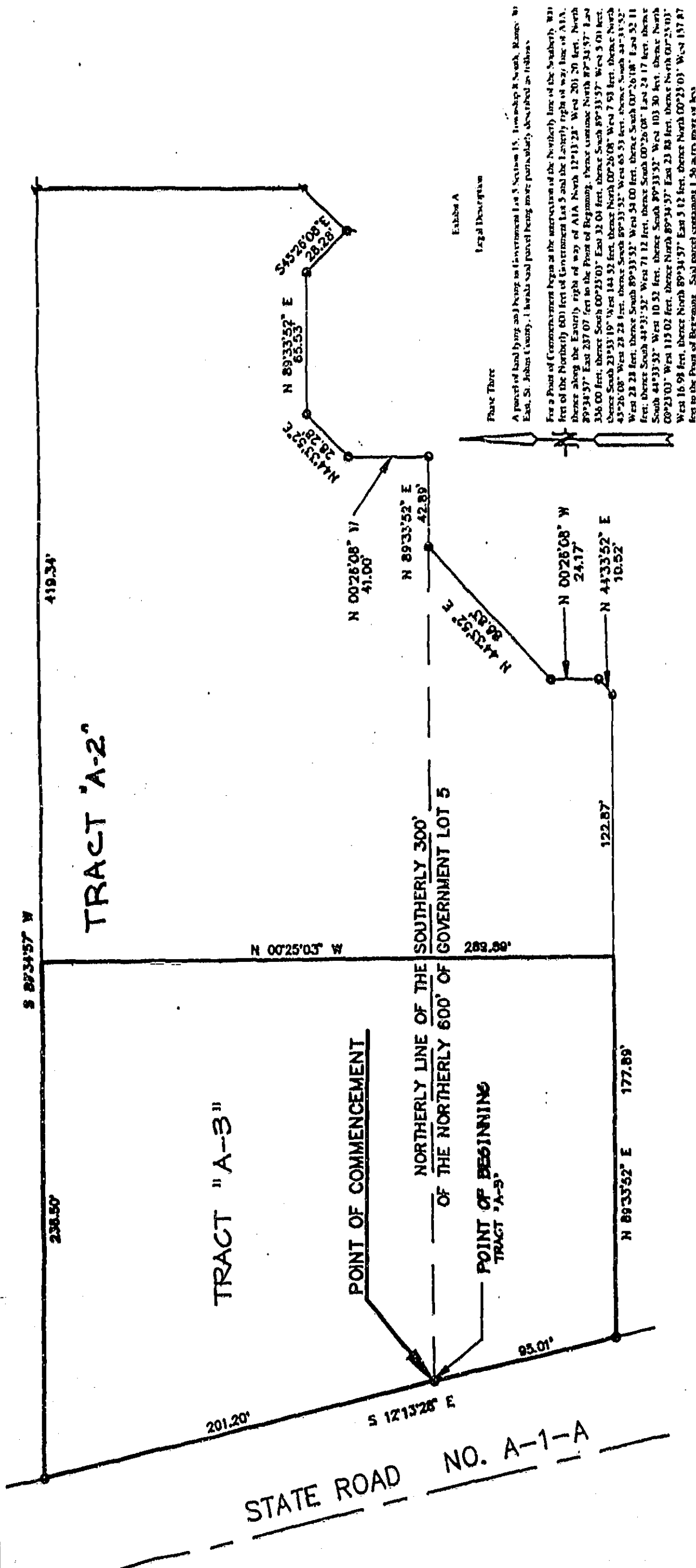
PHASE III

NORTH PROPERTY LINE AND
MASONRY WALL



DR1419PG-781

EXHIBIT B



LEGEND:

- FLIP - FOUND IRON PIPE/POST
- FLR - FOUND IRON ROD
- SLR - SET IRON ROD (L.B. 2072) 3/8"
- FCM - FOUND CONCRETE MONUMENT
- SCM - SET CONCRETE MONUMENT
- LD - SURVEYOR'S IDENTIFICATION MARK

NOTE:

- According to the Federal Emergency Management Agency FEMA Map No. 12514-1-2, effective 2-5-92, the property described herein appears to be in Zone A-1-A.
- Based on bearing structure, the structure is located in Zone A-1-A.
- Easements on shown herein are only those shown ground, stable objects observed by the surveyor.
- No underground structures, utilities or foundations were located or delineated by this survey.

- TE.M - TEMPORARY BENCH MARK
- B.M. - BENCH MARK
- P.O.C. - POINT OF COMMENCEMENT
- P.O.B. - POINT OF BEGINNING
- P.C. - POINT OF CURVE

- P.C.C. - POINT OF CONCAVE CURVATURE
- P.R.C. - POINT OF REVERSE CURVATURE
- P.I. - POINT OF INTERSECTION
- ELEV/EL. - ELEVATION
- NGVD - NATIONAL GEODETIC VERTICAL DATUM

- O.R. - OFFICIAL RECORDS BOOK
- N.T.S. - NOT TO SCALE
- (O) - DEED MEASUREMENT
- (M) - FIELD MEASUREMENT
- (P) - PLAT MEASUREMENT

OCEAN GATE PHASE III, A CONDOMINIUM

- P.T. - POINT OF TANGENCY
- F.F. - FINISHED FLOOR ELEVATION
- P.R.M. - PERMANENT REFERENCE MONUMENT
- P.C.P. - PERMANENT CONTROL POINT
- (TYP) - TYPICAL

- BLK - BLOCK
- CR - CROSS BEARING
- R/W - RIGHT OF WAY

- This survey does not reflect or delineate easements.
- This survey made without benefit of or without all of the right-of-way or easements of record was furnished to this firm except as shown.
- All distances, bearings or angles are as field measured. Deed or plat measurements are noted if different.
- Basis of elevations.
- The certification of this survey is a professional opinion based on the existing field and documentary evidence available at the time this survey was prepared.

TYPE: Boundary

F.B. 44 PG -
DATE: 11-4-97
SIGNED: 11-4-97
JOB NO: 97-1132
SCALE: 1" = 40'

DEVINO

& Associates, Inc.
ENGINEERS & SURVEYORS

3505 U.S. 1 SOUTH, SUITE #3
ST. AUGUSTINE, FLORIDA 32085
904-787-1847 FAX 904-787-2049

Not valid without the signature and the original seal of a Florida Licensed Surveyor and Mapper. Additions or deletions to survey maps or reports by other than the signing party or parties is prohibited without written consent of the signing party or parties.

NICHOLAS H. FRANKLIN
Professional Land Surveyor L.S. #9823
FOR DEVINO AND ASSOCIATES L.S. #6072

EXHIBIT B

OCEAN GATE PHASE III, A CONDOMINIUM

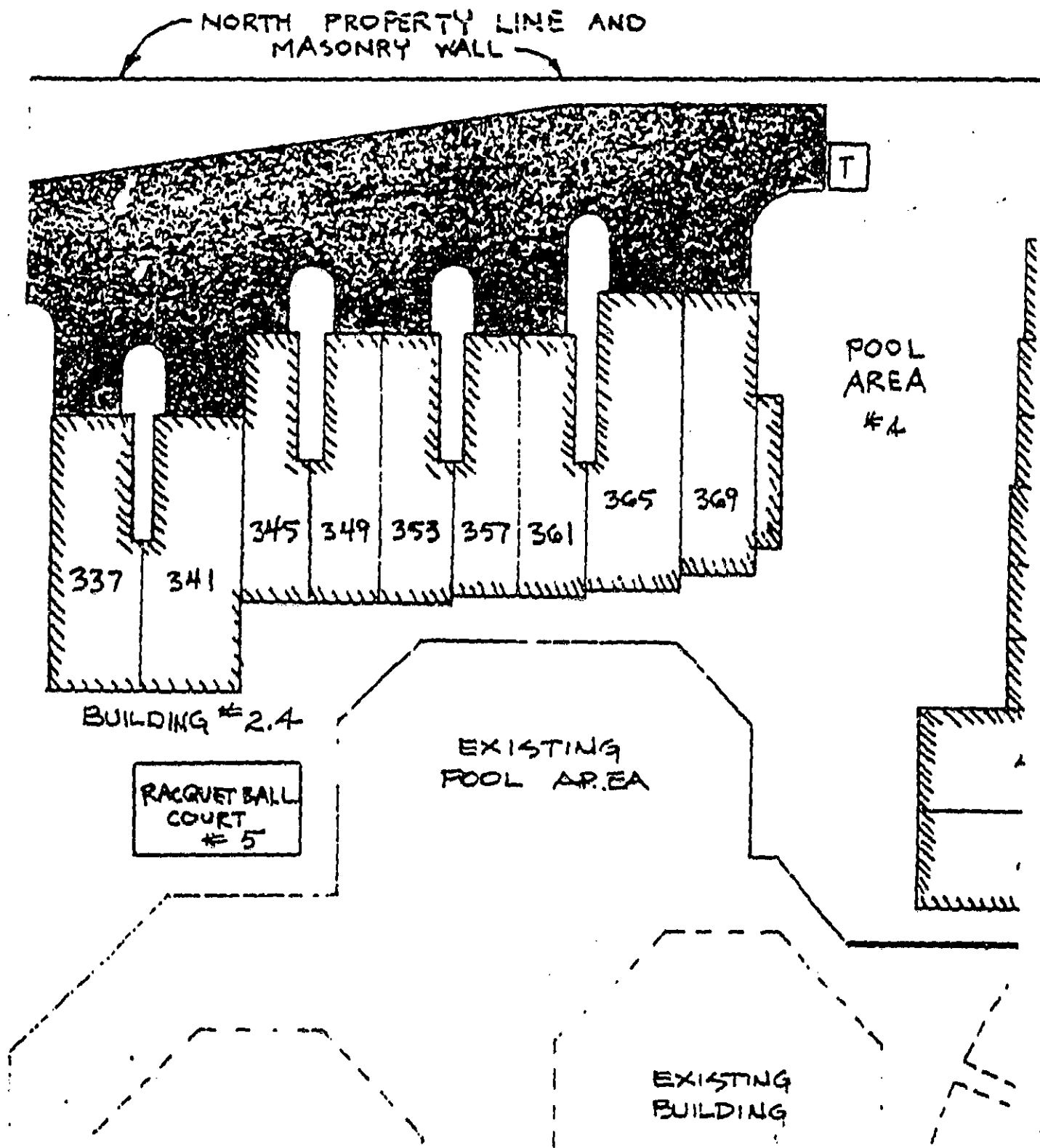
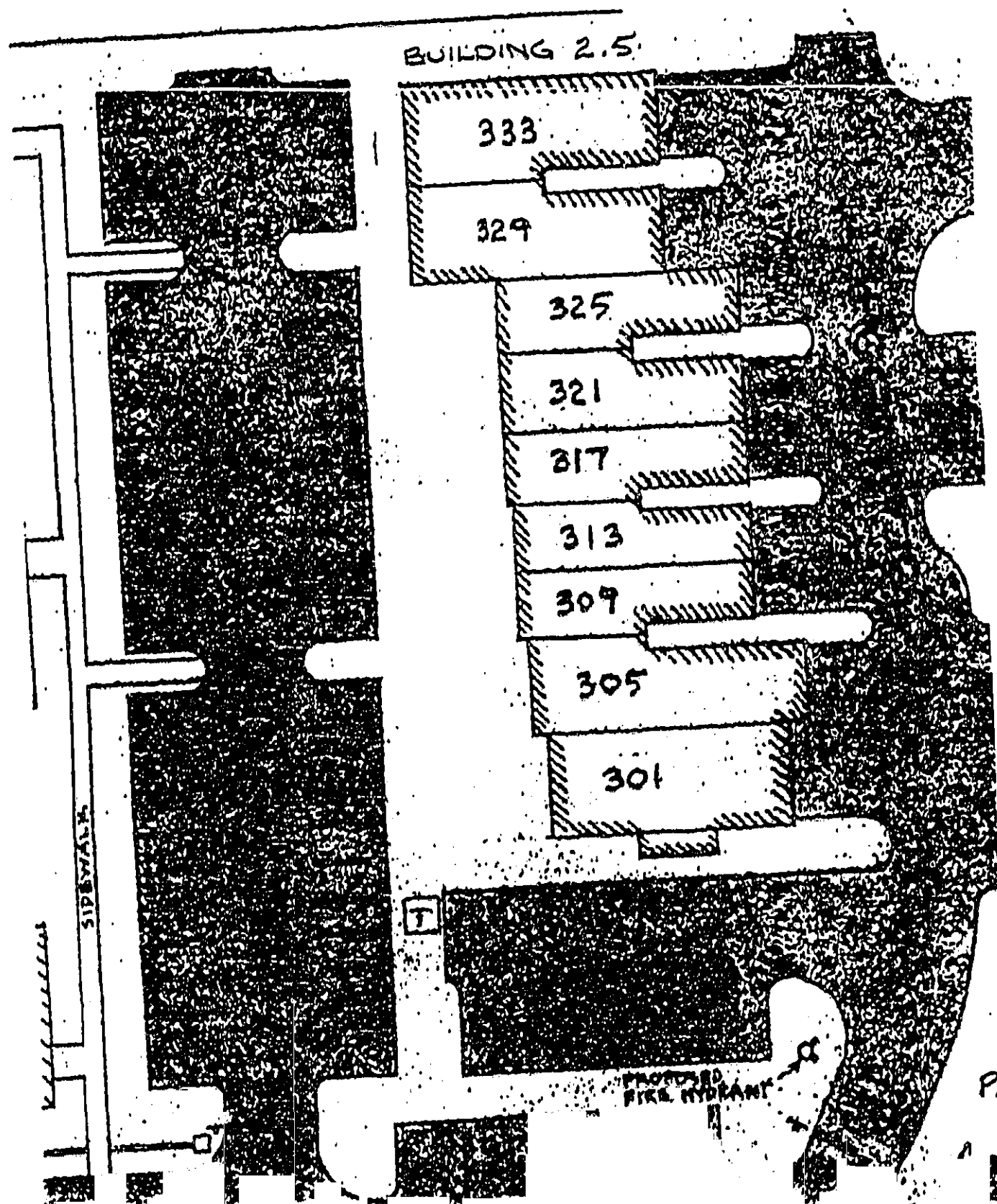


EXHIBIT B

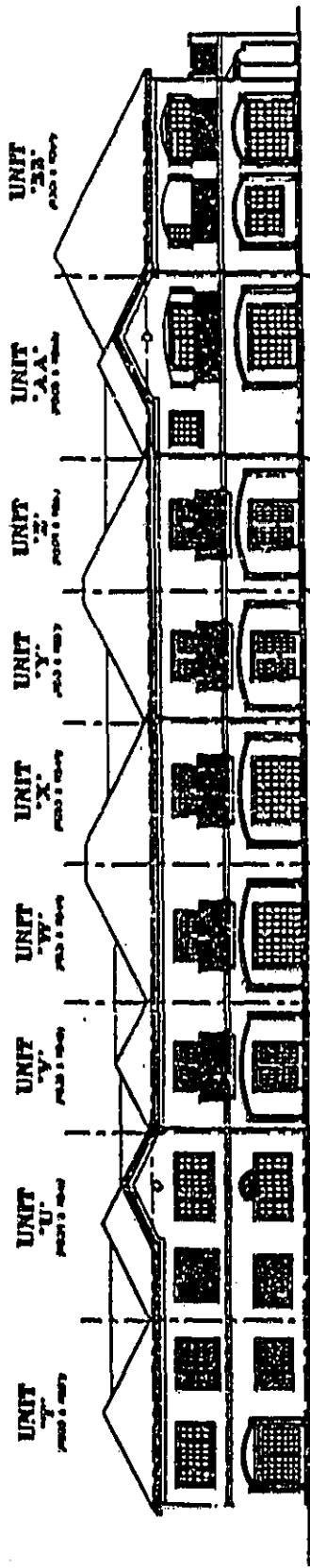
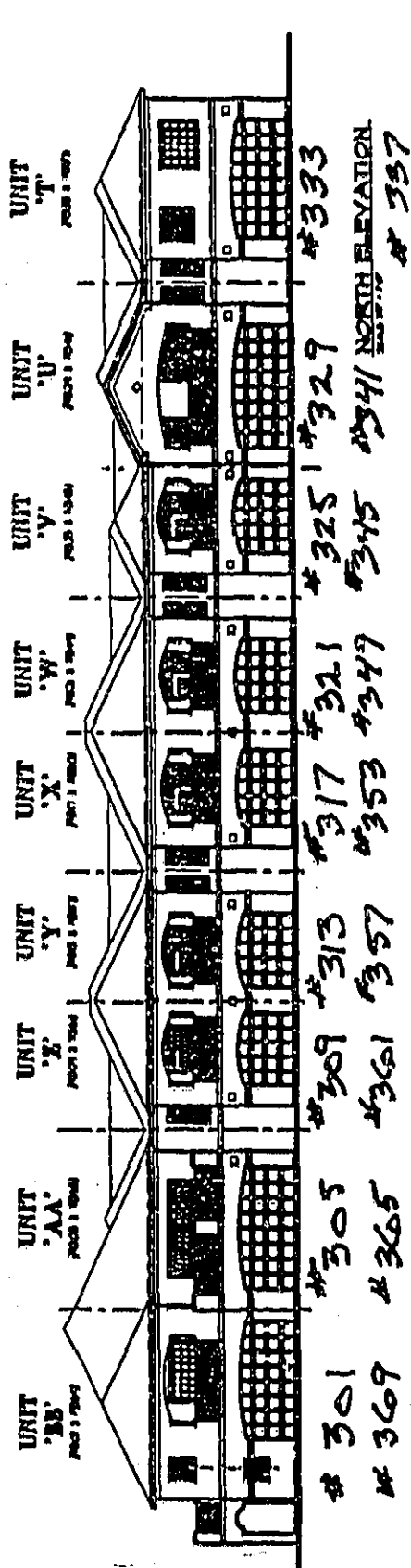
OCEAN GATE PHASE III, A CONDOMINIUM



OR1479P6 785

EXHIBIT B

Unit #



PHASE III
BUILDING 24

RESORT
BUILDING 24

RESORT
BUILDING 24

RESORT
BUILDING 24

RESORT
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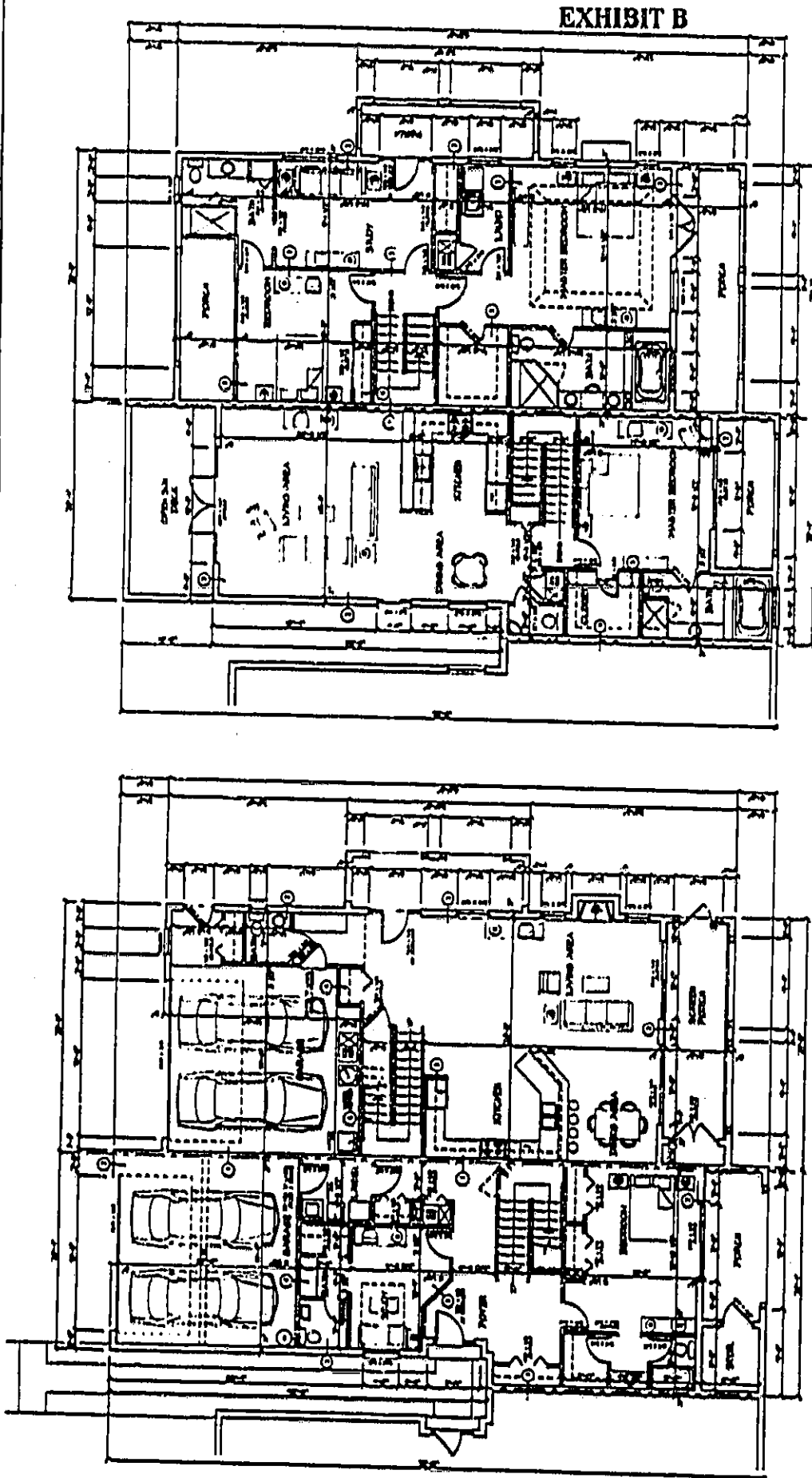


EXHIBIT B

SECOND FLOOR PLAN
SCALE 1/8" = 1'-0"

SECOND FLOOR PLAN
1/2" = 1'-0"

FIRST FLOOR PLAN
100-10-10

FIRST FLOOR PLAN
 100' 0" x 100' 0" 200' 0" x 200' 0" 200' 0" x 200' 0" 200' 0" x 200' 0"

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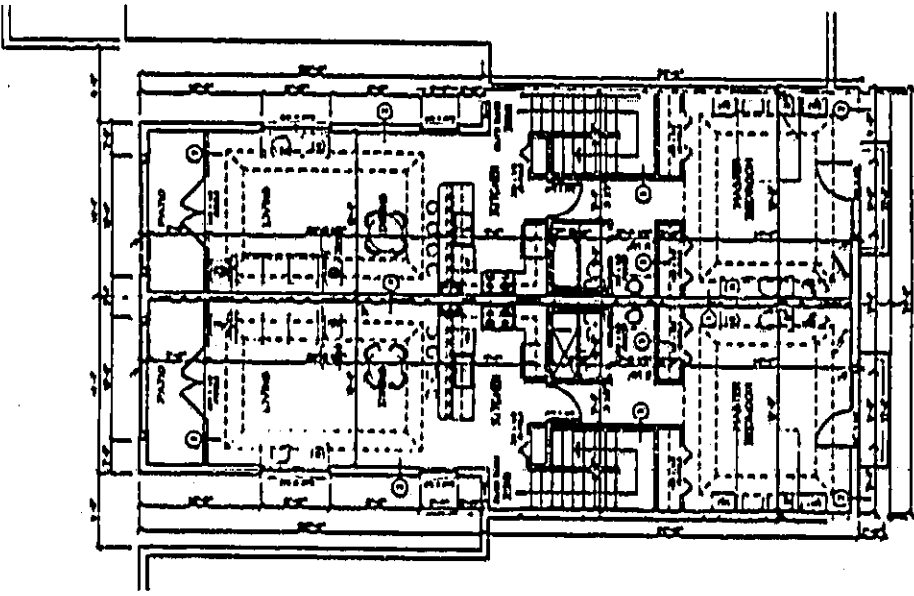
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ADD
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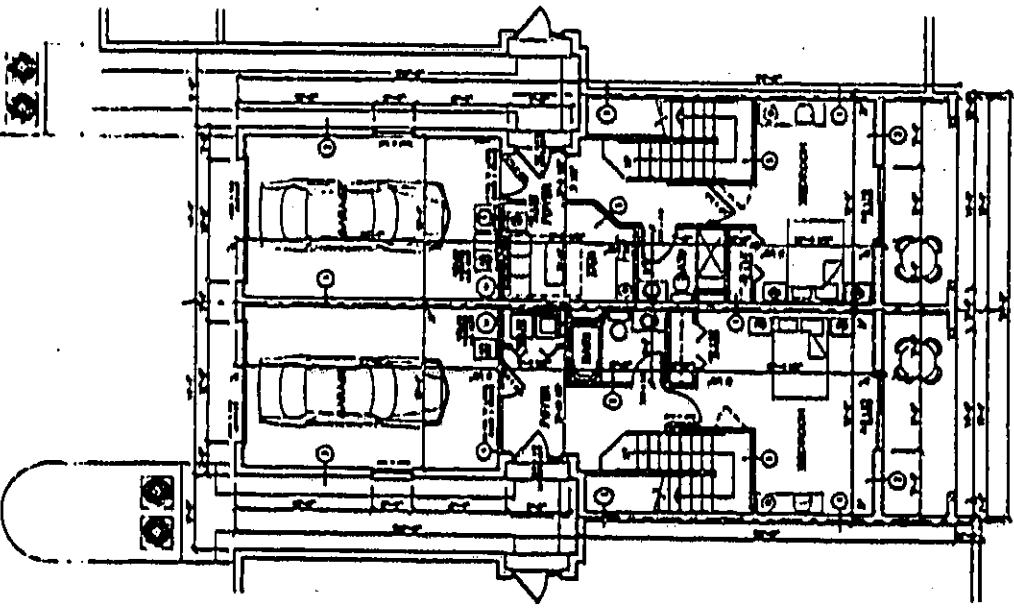
PHASE III
BUILDING 2A
2.5

PHASE III
BUILDING 2A
2.5

EXHIBIT B



SECOND FLOOR PLAN
UNIT 2
SCALE 1/8" = 1'-0"



FIRST FLOOR PLAN
UNIT 2
SCALE 1/8" = 1'-0"

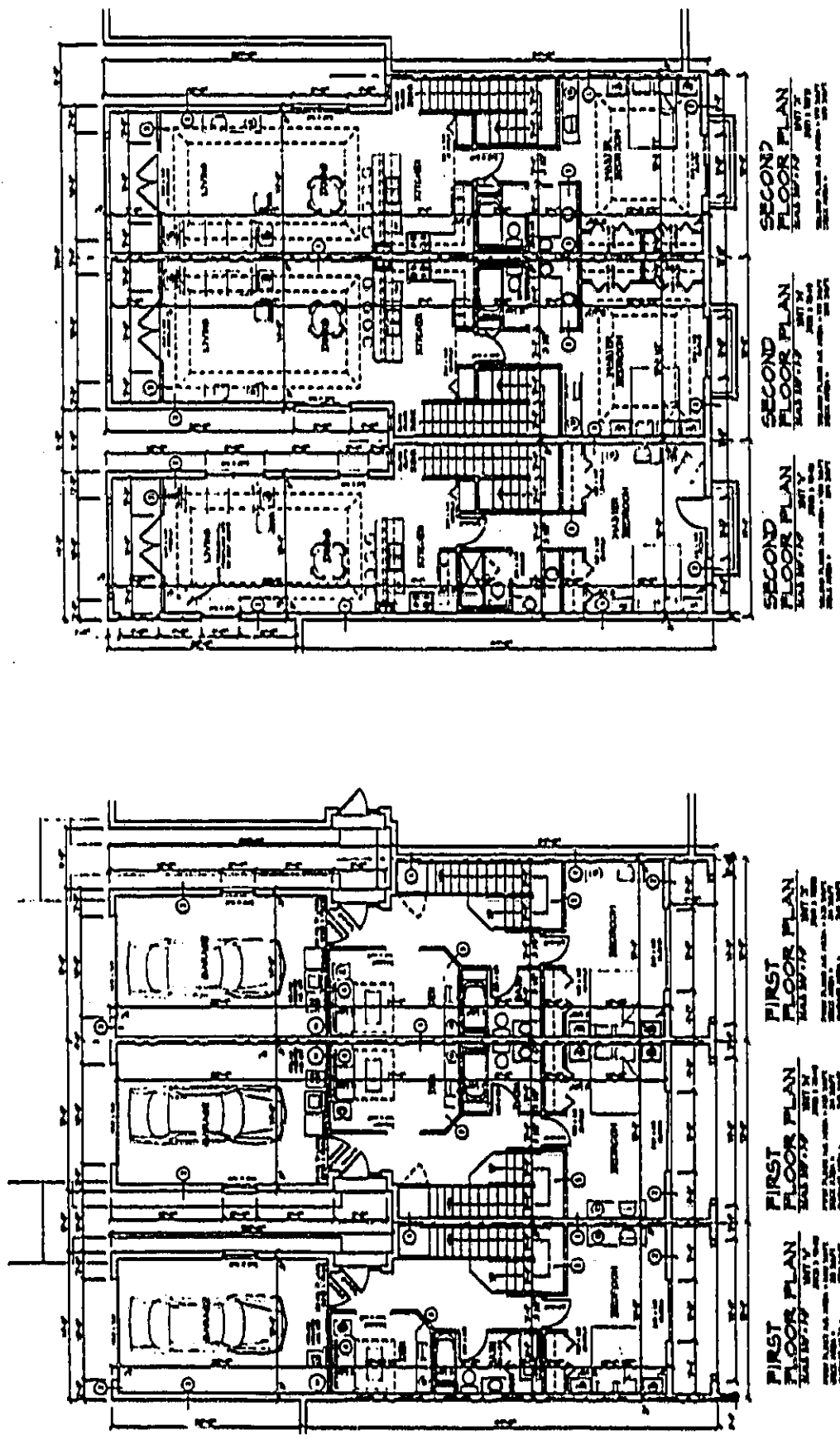
- NOTES:**
1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 2. ALL WALLS ARE 12" THICK UNLESS OTHERWISE NOTED.
 3. ALL DOORS ARE 36" WIDE UNLESS OTHERWISE NOTED.
 4. ALL STAIRS ARE 36" WIDE UNLESS OTHERWISE NOTED.
 5. ALL WINDOWS ARE 36" WIDE UNLESS OTHERWISE NOTED.
 6. ALL ROOFS ARE 12" THICK UNLESS OTHERWISE NOTED.
 7. ALL FLOORS ARE 4" THICK UNLESS OTHERWISE NOTED.
 8. ALL CEILINGS ARE 8" THICK UNLESS OTHERWISE NOTED.
 9. ALL LIGHTS ARE 12" DIA. UNLESS OTHERWISE NOTED.
 10. ALL VENTS ARE 12" DIA. UNLESS OTHERWISE NOTED.
 11. ALL DUCTS ARE 12" DIA. UNLESS OTHERWISE NOTED.
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 99. ALL THERMOCOUPLES ARE 12" DIA. UNLESS OTHERWISE NOTED.
 100. ALL THERMISTORS ARE 12" DIA. UNLESS OTHERWISE NOTED.

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A7

PHASE III
BUILDING 2A
2X
Ocean
Resort
Building 2A
Phase III

EXHIBIT B



NOTES:
1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL WALLS ARE 1/2" THICK UNLESS OTHERWISE NOTED.
3. ALL FLOORS ARE 4" CONCRETE ON 2" GYPSUM BOARD UNLESS OTHERWISE NOTED.
4. ALL ROOFS ARE 4" CONCRETE ON 2" GYPSUM BOARD UNLESS OTHERWISE NOTED.
5. ALL CEILING ARE 2" GYPSUM BOARD UNLESS OTHERWISE NOTED.
6. ALL DOORS ARE 1 3/4" THICK UNLESS OTHERWISE NOTED.
7. ALL WINDOWS ARE 1 3/4" THICK UNLESS OTHERWISE NOTED.
8. ALL STAIRS ARE 1 3/4" THICK UNLESS OTHERWISE NOTED.
9. ALL ELEVATIONS ARE TO FACE UNLESS OTHERWISE NOTED.
10. ALL SECTIONS ARE TO FACE UNLESS OTHERWISE NOTED.

OR1419PG 791

APP

PHASE III
BUILDING 24
DATE 11/1/84
BY [Signature]

PHASE III
BUILDING 24
DATE 11/1/84
BY [Signature]

PHASE III
BUILDING 24
DATE 11/1/84
BY [Signature]

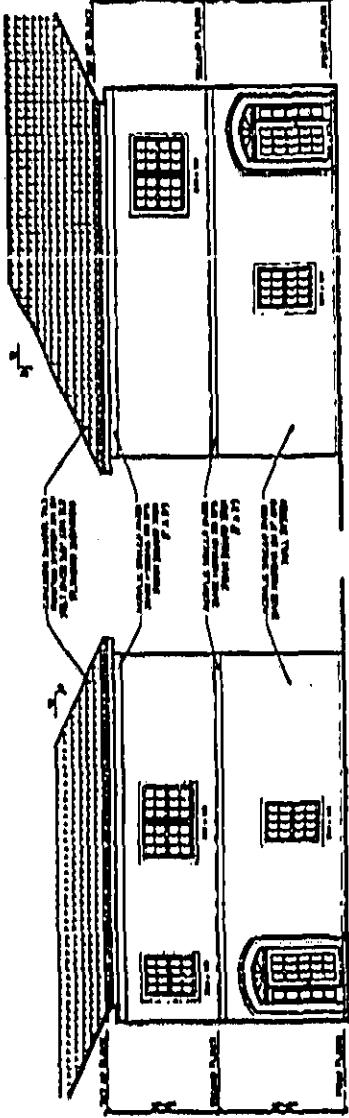
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BUILDING 24
DATE 11/1/84
BY [Signature]

PHASE III
BUILDING 24
DATE 11/1/84
BY [Signature]

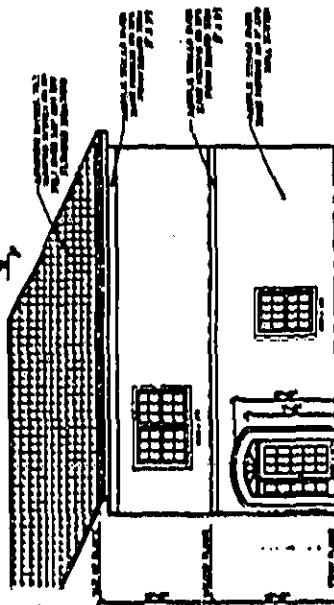
PHASE III
BUILDING 24
DATE 11/1/84
BY [Signature]

EXHIBIT B

WEST ELEVATION
SHEET 24
DATE 11/1/84



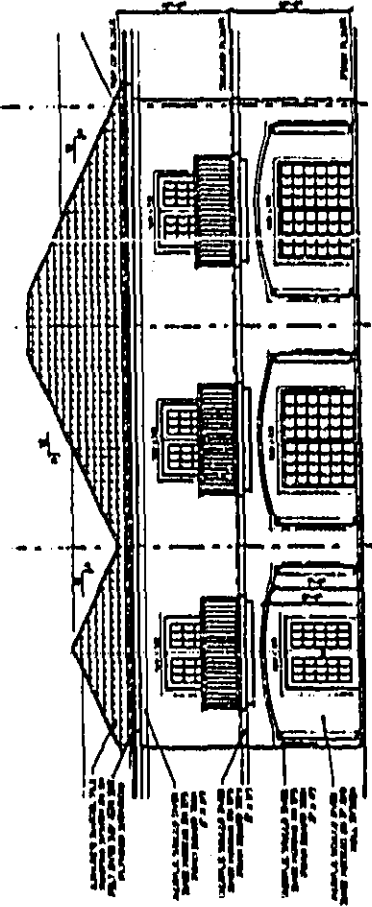
EAST ELEVATION
SHEET 25
DATE 11/1/84



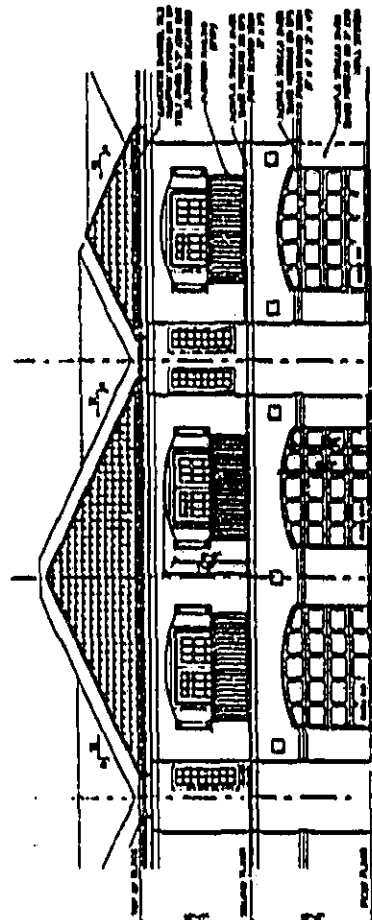
EAST ELEVATION
SHEET 26
DATE 11/1/84

- REVISIONS:
1. THE DRAWING WAS REVISED TO SHOW THE CORRECT LOCATION OF THE ENTRANCE.
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SOUTH ELEVATION
SHEET 27
DATE 11/1/84

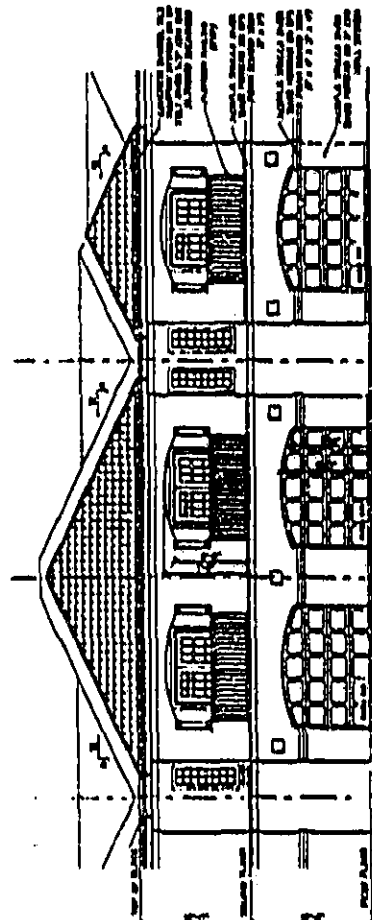


SOUTH ELEVATION
SHEET 28
DATE 11/1/84

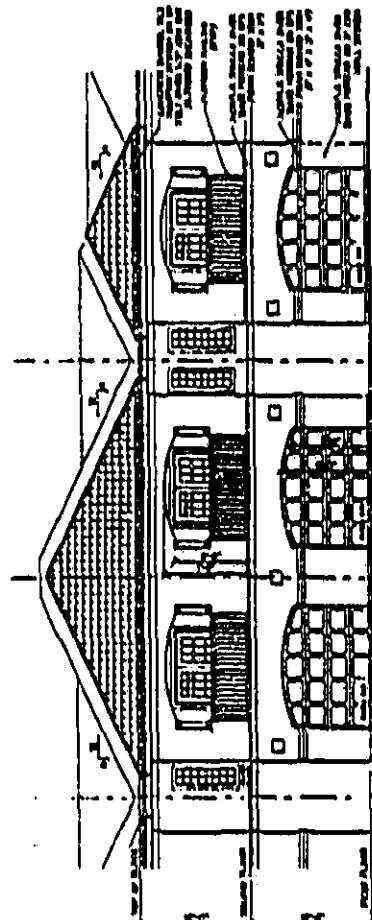


SOUTH ELEVATION
SHEET 29
DATE 11/1/84

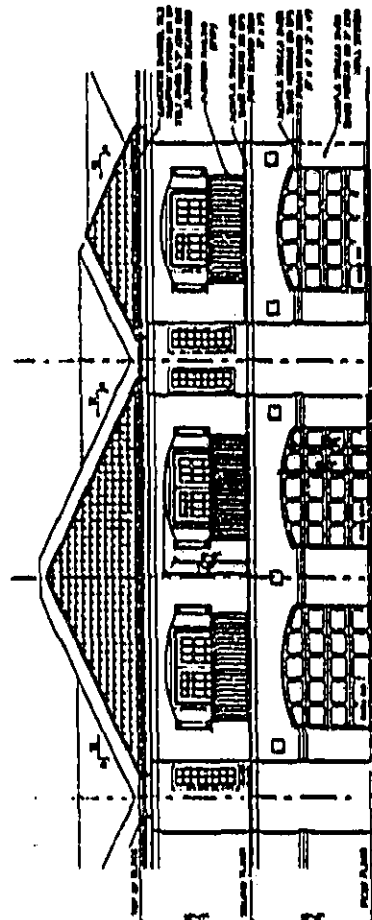
NORTH ELEVATION
SHEET 30
DATE 11/1/84



NORTH ELEVATION
SHEET 31
DATE 11/1/84



NORTH ELEVATION
SHEET 32
DATE 11/1/84



[illegible]

PHASE III
BUILDING 2-4
Z-5
Egman & Egman
1700 Ave. Duane
P.O. Box 2000
San Francisco, Calif. 94115

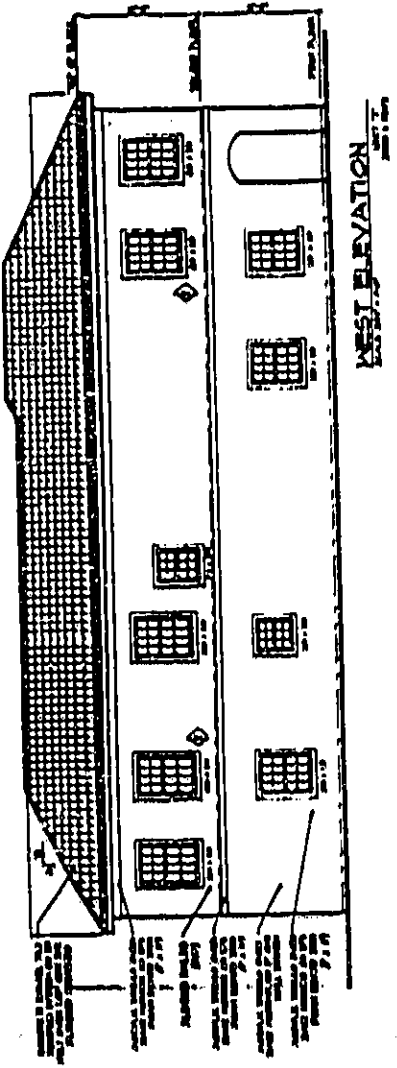
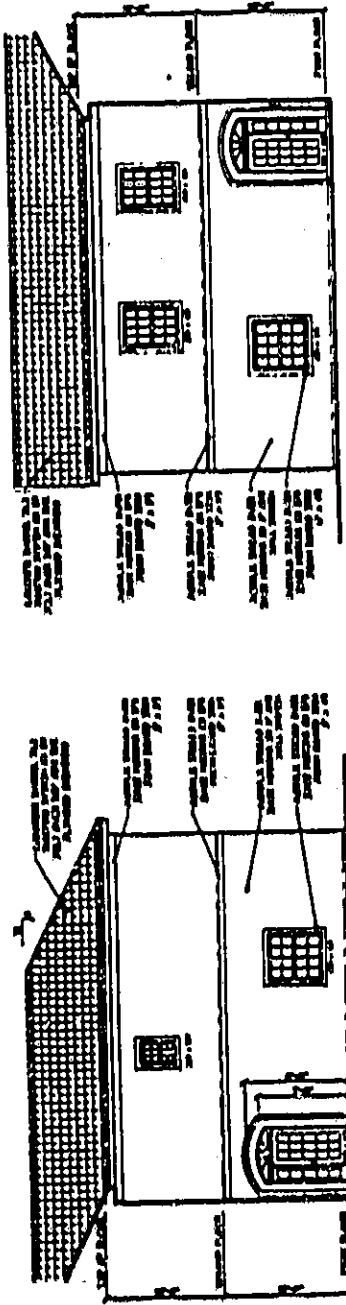
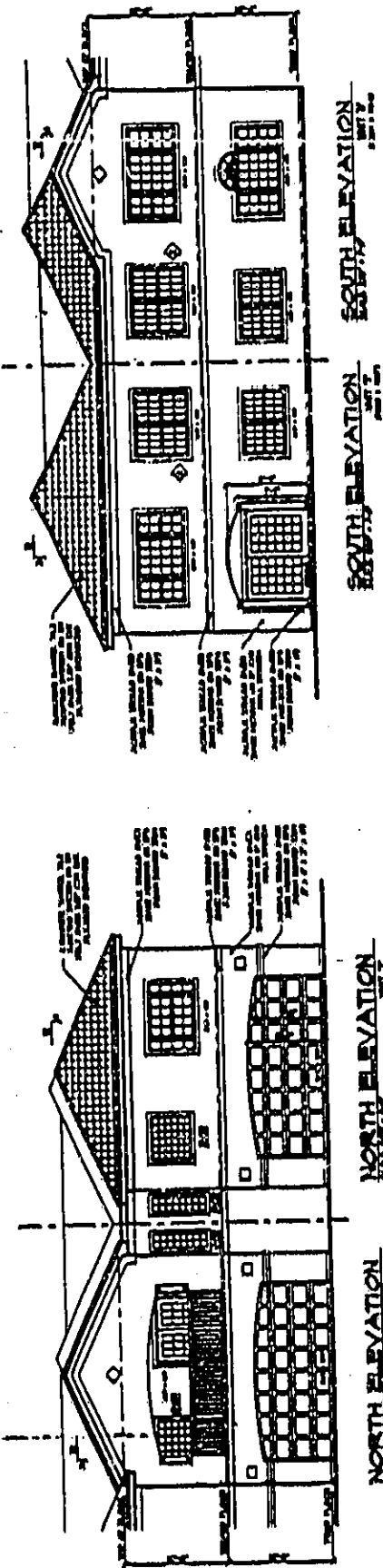
1. 凡在本行開辦之各項業務，均應遵守本行所定之各項規章，並應隨時注意本行所定之各項規章，如有違反者，本行將依法究辦。

○

[illegible][illegible][illegible]

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EXHIBIT B



NOTES: 1. THE BUILDING IS TO BE CONSTRUCTED OF CONCRETE AND BRICK. 2. THE ROOF IS TO BE FLAT. 3. THE FLOORING IS TO BE POLISHED CONCRETE. 4. THE WALLS ARE TO BE 12" THICK. 5. THE CEILING IS TO BE PLASTER. 6. THE DOORS ARE TO BE 36" WIDE. 7. THE WINDOWS ARE TO BE 48" WIDE. 8. THE BUILDING IS TO BE FINISHED WITH WHITE WASH. 9. THE BUILDING IS TO BE PAINTED. 10. THE BUILDING IS TO BE MAINTAINED.

Architectural title block containing project information and a logo. The text includes: 'PHASE III BUILDING 24', 'Ocean State Resort', 'Architect: [Signature]', 'Engineer: [Signature]', 'Scale: 1/4" = 1'-0"', and 'Sheet 1 of 2'. There is also a logo for 'O.S.R.' (Ocean State Resort).

Exhibit C

Condominium Certificate of Surveyor

I, _____, of _____ County, Florida, do hereby certify that I am a Registered Land Surveyor, Certificate # _____, authorized and licensed to practice in the state of florida, and that construction of the improvements of _____ (insert building #) _____ of Ocean Gate Phase III, a condominium is substantially complete so that the attached survey, plot plan, and graphic description of improvements, together with the provisions of the declaration of condominium describing the Ocean Gate Phase III condominium property, present an accurate representation of the location and dimensions of the improvements constituting _____ of _____, and that the identification, location, and dimensions of the common elements and of each unit in _____ of _____ can be determined from these materials.

I further certify that the attached survey meets the minimum technical standards set forth in Florida Statutes Section 427.027 (1997). I further certify that all planned improvements, including, but not limited to, landscaping, utility services, and access to each unit in _____ (insert building #) _____ in _____ (name of condominium) _____ and the common element facilities serving _____ (insert building #) _____ in _____ (name of condominium) _____, have been substantially completed.

Dated: _____

Registered Land Surveyor

Executed certificate of surveyor in this form will be recorded pursuant to an Amendment of Declaration of Condominium of Ocean Gate Phase III, a Condominium, upon substantial completion of the improvements.

Exhibit D

Percentage of Ownership Interest for Phase III

	Unit Number Bedrooms Baths			Sq. Ft Unit	% Owners	% Owners	Assessment
					In Phase	in Master Assn.	Per Unit
Phase 3	337	3	2.5	2516	2516/34190	2.885	452.88
	341	3	3	2394	2394/34190	2.745	430.92
	345	2	2	1538	1538/34190	1.764	276.84
	349	2	2	1602	1602/34190	1.837	288.36
	353	2	2	1602	1602/34190	1.837	288.36
	357	2	2	1446	1446/34190	1.658	260.28
	361	2	2	1446	1446/34190	1.658	260.28
	365	3	2.5	2226	2226/34190	2.553	400.68
	369	3	2.5	2325	2325/34190	2.666	418.50
	301	3	2.5	2325	2325/34190	2.666	418.50
	305	3	2.5	2226	2226/34190	2.553	400.68
	309	2	2	1446	1446/34190	1.658	260.28
	313	2	2	1446	1446/34190	1.658	260.28
	317	2	2	1602	1602/34190	1.837	288.36
	321	2	2	1602	1602/34190	1.837	288.36
	325	2	2	1538	1538/34190	1.764	276.84
	329	3	3	2394	2394/34190	2.745	430.92
	333	3	2.5	2516	2516/34190	2.885	452.88
Totals Phase 3				34190		39.206	6,154.20

CONDOMINIUM RECREATION LEASE

This Condominium Recreation Lease (the "Lease") is made this 24th day of March, 1999, between Ocean Gate Development, Inc., a corporation organized and existing under the laws of the State of Florida, with its principal office located at 4730-B Highway A1A South, St. Augustine, Florida 32084, (the "Lessor" or "Developer"), and Ocean Gate Condominium Master Association, Inc., a nonprofit corporation organized and existing under the laws of the State of Florida, with its principal office located at 4730-B Highway A1A South, St. Augustine, Florida 32084, (the "Lessee" or the "Master Association").

In consideration of the promises and covenants herein made, the payment of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee hereby agree as follows:

SECTION I
DEVELOPER

The Lessor is the promoter and developer of Ocean Gate Resort, a development consisting of Ocean Gate Phase I, a Condominium, Ocean Gate Phase II, a Condominium, and Ocean Gate Phase III, a Condominium (collectively, the "Condominiums") located in St. Johns County, Florida.

SECTION II
LEASE OF PREMISES

Lessor by these presents hereby leases, rents, lets and demises to Lessee, its successors and assigns, the following described property and improvements located within the resort development but which are not subject to condominium and are situated in St. Augustine, St. Johns County, Florida and legally described on Composite Exhibit "A" attached hereto and incorporated herein by reference (the "Leased Amenities").

SECTION III
LESSEE ASSOCIATION

Lessee is a master condominium association formed pursuant to the laws of the State of Florida (the "Declaration") and to manage and maintain the Leased Amenities being demised under this Lease and other appurtenant improvements to be erected on the property described in the Declaration.

SECTION IV
RIGHTS OF DEVELOPER

Until Developer shall have completed the development and sale of all condominium units in the Condominiums, Developer shall have the following rights, notwithstanding any other provisions of this Lease to the contrary:

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a. The right to use, occupy, and demonstrate on a nonexclusive basis, all portions of the Leased Amenities for the purposes of promoting and aiding in the sale or rental of living units on or to be constructed on land constituting the Condominiums. Such rights may not be exercised in an unreasonable manner inconsistent with the rights of Lessee and the Unit Owners within the Condominiums to use, occupy, and enjoy such portions of the Leased Amenities. The exercise of such rights by Developer shall not reduce, abate, or suspend Lessee's obligation to pay rent, to repair and maintain such portions of the Leased Amenities, to pay taxes and insurance premiums thereon and utilities therefor, or to perform in full all of its covenants and promises herein made.

b. Display and erect signs, billboards, and placards; and store, keep, exhibit, and distribute printed, audio, and visual promotional materials in and about the premises.

c. Establish and promulgate rules and regulations not inconsistent with any of the provisions of this Lease concerning the use of the Leased Amenities.

SECTION V DEVELOPER AND LESSOR NOT TO BE CONSIDERED SAME ENTITY

Although Lessor of the Leased Amenities demised hereby may be the same entity as the Developer of the Condominiums, Lessee agrees that Lessor and Developer shall never, for any purpose, be construed or considered as being one and the same. No act of commission or omission by Developer shall ever be construed or considered as:

- (1) a breach by Lessor of any of its promises and covenants in this Lease;
- (2) an actual, implied, or constructive failure by Lessor to deliver possession of the Leased Amenities to Lessee;
- (3) an actual, implied or constructive eviction of Lessee from the Leased Amenities by Lessor or any one acting by, through, under, or for it; or
- (4) an excuse, justification, waiver, or indulgence by Lessor to Lessee with regard to Lessee's prompt, full, complete, and continued performance of its covenants and promises.

SECTION VI TERM OF LEASE

This Lease, in its executed and recorded form, commences on the first day of the month succeeding the month in which some of the Leased Amenities are completed and are available for use and expires ninety-nine (99) years thereafter, unless terminated prior to such date in accordance with the terms and conditions of this Lease.

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SECTION VII RESTRICTIONS ON TITLE

Lessor covenants that it owns the property on Composite Exhibit "A" in fee simple.

Lessee assumes and agrees to take title subject specifically, but not limited to, to the following:

- a. Conditions, restrictions, limitations and easements of record on the date of this Lease.
- b. All zoning and subdivision ordinances, if any, affecting the land described on Composite Exhibit "A."
- c. Questions of locations, measurement, and survey.
- d. Real estate taxes and county special tax district assessments for the year in which this Lease is executed and each year thereafter.
- e. Terms and conditions of the Declaration and exhibits attached to this Lease.

The Leased Amenities are subject to such easements for public utilities as appear of public record as of the date of this Lease, and Lessor shall have, at all times, the exclusive right to create, over or under such of the Leased Amenities, for any and all public utilities, easements from time to time as Lessor, in its discretion, shall deem appropriate, free and clear of the provisions of this Lease, provided only that such future easements shall be for the purpose, in whole or in part, of supplying utilities or for providing access for the construction of additional improvements on the property located within the confines of the Condominiums.

SECTION VIII IMPROVEMENTS TO BE INCLUDED IN LEASE

Lessor agrees that it will cause improvements for use as recreational facilities to be constructed on the demised premises at its own cost and expense, which facilities will be deemed part and parcel of the demised premises and will include a swimming pool of approximately 17,000 gallons located within Ocean Gate Phase II, a Condominium, a swimming pool of approximately 17,000 gallons located within Ocean Gate Phase III, a Condominium, a pool deck, tennis court, racquetball court, and such other Leased Amenities as are itemized in the attached Exhibit "B" incorporated herein by reference.

SECTION IX SHARED USE OF LEASED AMENITIES

THE LEASED AMENITIES MAY ALSO BE USED, SUBJECT TO THE SAME RULES AND REGULATIONS APPLICABLE HEREUNDER, BY UNIT OWNERS WITHIN

THE ADJACENT HIBISCUS DEVELOPMENT AND BY UNIT OWNERS WITH OCEAN GATE I, A CONDOMINIUM. SUCH UNIT OWNERS SHALL SHARE EQUALLY IN THE COST OF MAINTENANCE AND OPERATION OF THE LEASED AMENITIES. THE MINIMUM NUMBER OF UNITS THAT WILL BE REQUIRED TO PAY RENT UNDER THIS LEASE SHALL BE FORTY-ONE (41). THE MAXIMUM NUMBERS OF UNITS WITHIN THIS CONDOMINIUM THAT WILL BE SERVED BY THE LEASED AMENITIES SHALL NOT EXCEED EIGHTY-SIX (86), IN ADDITION TO THE NUMBER OF UNITS WITHIN HIBISCUS AND OCEAN GATE I, A CONDOMINIUM.

SECTION X RENTAL

On the commencement of the term of this Lease, Lessee covenants with Lessor that it will pay to Lessor, or to the designee of Lessor, a sum of money per month payable in advance on the first day of the month this Lease commences and on the first day of each and every succeeding month thereafter during the term of this Lease, for the use of the Leased Amenities. The monthly rental shall be an amount equal to the actual cost to repair or replace any of the Leased Amenities and to reimburse Lessor for any actual costs incurred in maintaining, repairing, protecting, or preserving any of the Leased Amenities. The monthly rental shall be assessed and collected from the Unit Owners by Lessee as a Common Expense and assessed against each Unit in accordance with the schedule set forth in Exhibit "C" attached hereto and incorporated herein by reference. Until all of the Leased Amenities are completed, rent shall be prorated and paid only for the Leased Amenities which are completed and are available for use.

Rent shall be payable at such places as Lessor may specify in writing from time to time, and a place once specified as the place for payment of rent shall be such until it shall have been changed by written notice to Lessee by Lessor.

All rent shall be payable in current legal tender of the United States, as such tender is constituted by law at the time the rent becomes due.

The Developer, as named in the Declaration, shall not be assessed by Lessee or be required to pay to Lessee any money allocated to rent of the Leased Amenities for Units that are owned by Developer in finished buildings. Similarly, Lessor agrees to accept a lesser amount of rental from Lessee for the period of time equal to the rental for the particular condominium units owned by Developer in finished buildings as provided for in this section.

Lessee covenants and agrees with Lessor that no damage or destruction to any building or improvement by fire, windstorm, or other casualty shall be deemed to entitle Lessee to surrender possession of the premises or to terminate this Lease, or to violate any of its provisions, or to cause any abatement or rebate in the rent then due or thereafter becoming due under the terms of this Lease.

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SECTION XI LEASE SECURITY

Lessee is a condominium association formed to conduct and administer the affairs of this Condominium in accordance with Florida Statutes Chapter 718. Pursuant to the general plan of condominium ownership, each individual Unit Owner, in addition to receiving title to the individual Unit and a percentage ownership interest in the Common Elements appurtenant thereto, shall become a member of the Lessee Master Association, and each member shall have the right to use and enjoy the Leased Amenities. Accordingly, for and in consideration of Lessor's agreement to allow each member to use and enjoy the Leased Amenities, Lessee covenants and warrants to Lessor that prior to admitting any Unit Owner in the Master Association, it will acquire from the Unit Owner and deliver to Lessor a pledge of the Unit Owner's interest in the Unit to secure Lessee's obligations under this Lease, and the Unit Owner shall agree to pay a share of the Common Expenses of the condominium to which the Unit is subject, of which the rent, taxes, insurance, maintenance, and administrative fee for the Leased Amenities under this Lease is a part (the "Pledge Agreement"). Notwithstanding the foregoing, the lien on each Unit, to secure payment to Lessor of the rent hereunder, shall be subordinate to the lien of any mortgage of an institutional lender. A copy of the pledge agreement is attached hereto as Exhibit "D". Lessor and Lessee, and each Unit Owner in the Condominiums, agree to the terms, conditions, and form of the Pledge Agreement. Failure of the Master Association to secure the Pledge Agreement and deliver it to Lessor shall not be construed to mean that the title to the subject Unit passes free and clear of the pledge. In the event of such failure, title to the individual's Unit shall be automatically subject to the Pledge Agreement, the same as if it had been executed and delivered to Lessor in accordance with this section.

In the event any Unit Owner is delinquent, this shall not preclude the other Unit Owners of the Condominiums from the use of the Leased Amenities; provided, however, that it shall be the obligation of Lessee to enforce the collection of the Assessment pertaining to the recreational facilities which are a part of the Common Expenses of each Condominium, in accordance with the provisions contained in each Declaration.

SECTION XII CONSENT OF UNIT OWNERS AS AUTOMATIC

Each and every person, whether real or corporate, who shall take any interest whatsoever in or to any Units in the Condominiums after the recording of this Lease, by acceptance, delivery, or recording of the deed, contract, grant, assignment, or other instrument granting, conveying, or providing for such interest, or by the mere first exercise of the rights or uses granted herein, shall be deemed to consent to and ratify, without further act being required, the provisions of this Lease to the same effect and extent as if such person or persons had executed this Lease with the formalities required in a deed for the purpose of subordinating and/or subjecting such person's or persons' interest, in full, to the terms of this Lease.

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SECTION XIII MANAGEMENT OF PREMISES

Lessor has promulgated Rules and Regulations and reserves the right to amend such Rules and Regulations, as to the use of the Leased Amenities. The initial Rules and Regulations, and all amendments and revisions thereto, shall be posted in a conspicuous place in the recreation area. The Rules and Regulations shall be deemed an integral part of this Lease. The Master Association and its members specifically covenant and agree to be bound by all such Rules and Regulations and such parties shall obey them and be responsible for their being obeyed by any member's family, guests, and invitees.

Should a Unit Owner fail to pay an Assessment for Common Expenses as required under the terms of the Declaration, whereby the Assessment becomes delinquent, the Lessee may deny the Unit Owner and/or the authorized user of the Leased Amenities the use and enjoyment of the Leased Amenities until such time as all Assessments are paid. The Lessee shall further have the right, in its sole discretion, to suspend any Unit Owner and/or authorized user of the Leased Amenities from the use of the Leased Amenities of a period not to exceed five (5) days for any infraction of the promulgated rules and regulations pertaining to the Leased Amenities. Should the rights of the Unit Owner or the authorized user of the Leased Amenities to use them be suspended, there shall be no reduction in the Assessments due and payable by the Unit Owner.

SECTION XIV USE OF PREMISES

The Leased Amenities, during the continuance of this Lease, may be used and occupied only for recreational purposes and are for the joint and common use of all of the individual Unit Owners in the Condominiums.

Lessee shall make deposits for and pay all bills and charges for utilities and services used in and about the Leased Amenities, including water, sewage, gas, electricity, and telephone.

Lessor grants to the Lessee the right to grant concessions and licenses to persons on such terms and conditions and for such purposes as the Lessee determines, to provide facilities and services on the Leased Amenities for Lessee. The Lessee also shall have the right to cause coin vending machines and coin-operated equipment and pay telephones to be installed on the demised premises in such location as it determines in its sole discretion.

The Leased Amenities shall be used only for recreational and/or leisure-time purposes and activities subject to the Rules and Regulations promulgated by Lessee from time to time. Lessee and/or individual Unit Owners agree that the Leased Amenities during the term of this Lease shall be used only and exclusively for lawful purposes, and that they will not use or permit or suffer anyone to use the premises or improvements for any purposes in violation of the laws of the United States, the State of Florida, or the

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ordinances and regulations of St. Johns County, Florida, or the rules and regulations of any other governmental body having jurisdiction.

SECTION XV MAINTENANCE OF PREMISES

Lessee has the obligation to maintain the Leased Amenities in good order, condition and repair. Lessor has no obligation whatsoever to maintain the Leased Amenities or any of the improvements. Lessee agrees to prevent waste, damage, or injury to the Leased Amenities. At the expiration of the Lease, Lessee shall surrender the premises in good condition, reasonable wear and tear excepted. Lessor agrees that all buildings, electrical systems, water systems, air conditioning systems, fixtures, pool pumps, equipment, and all other items of personalty within, on and serving the Leased Amenities shall be under the full control of Lessee or its agents, and that all operation, upkeep, repairs, and replacement of such items shall be done by and at Lessee's expense. Lessee further agrees that it shall provide at its expense any and all utility services required or necessary in the operation of the Leased Amenities. Lessee shall not change the design, color, materials, or appearance of the improvements, now or hereafter placed on the Leased Amenities, without Lessor's prior written approval.

SECTION XVI USE OF RECREATIONAL FACILITIES

Each Unit Owner in the Condominiums, together with spouses and other members of the Unit Owner's immediate family who are in residence in the Unit may use the Leased Amenities. Where a corporation is a Unit Owner, the use of the Leased Amenities shall be limited at any one time to such officer, director, or employee of the corporation who is in actual residence, and such individual shall be deemed to be the Unit Owner for the purposes of this section. Guests and invitees of a Unit Owner, whether in temporary residence in the Condominium or not, may only be permitted to use the Leased Amenities, if at all, with the written permission of the Lessee, subject to the terms and conditions as the Lessee may determine in its sole discretion, including the payment of additional compensation, it being understood and agreed that the Leased Amenities are primarily designed for the use and enjoyment of Unit Owner, and the use by others may be required to be limited or not permitted at all during certain times of the day, or certain days, weeks, or months of the year.

The Lessee shall determine the foregoing in its sole discretion, including the manner and method in which the Leased Amenities are to be used and under what circumstances. Where a Unit Owner owns more than one parcel, the family in residence in each Unit shall be entitled to the use of the Leased Amenities, whether the family in residence be a lessee of the Unit or otherwise. When a party owns one Unit and leases it, the lessee of the Unit shall be entitled to the use of the Leased Amenities and such lessee's rights thereto shall be the same as though the lessee were the Unit Owner; and during the term of such lease, the Unit Owner shall not be entitled to the use of the Leased Amenities.

**SECTION XVII
NONPAYMENT OF RENT**

If any rent payable by Lessee to Lessor shall be and remain unpaid for more than thirty (30) days after it is due or payable, or if Lessee shall violate or default in any of the other covenants, agreements, stipulations, or conditions, then Lessor may declare this Lease forfeited and the term ended. Rent shall not be relinquished or extinguished for the balance of the term of this Lease. Lessee will pay, in addition to the fees and other sums agreed to be paid under this Lease, such additional funds as the court may adjudge, including reasonable attorneys' fees in any suit or action instituted by Lessor to enforce the provisions of this Lease or the collection of the rent due Lessor hereunder.

**SECTION XVIII
DUTY OF LESSEE TO ASSESS AND PAY**

It shall be the duty of Lessee to assess its Unit Owners in accordance with its Articles of Incorporation and Bylaws, in such amounts as shall be necessary to pay its obligations regarding the operation and maintenance of the Leased Amenities, to pay the rent due hereunder to Lessor, and to otherwise perform its covenants and promises under this Lease.

**SECTION XIX
HOLDING OVER**

In the event Lessee remains in possession of the Leased Amenities, after the expiration of this Lease without the execution of a new lease, it shall be deemed to be occupying the premises as a Lessee from month to month, subject to all the conditions, provisions, and obligations of this Lease.

**SECTION XX
TAXES**

As part of the consideration of this Lease, Lessee will pay any and all real estate taxes, personal property taxes, local assessments, and assessments of special tax districts levied on the land and improvements constituting the Leased Amenities during the term of this Lease and shall pay such taxes prior to the date on which they become delinquent.

**SECTION XXI
DEMOLITION**

Lessee shall not demolish any of the buildings, structures, or improvements now or hereafter placed or constructed on the demised premises constituting the Leased Amenities, without the consent in writing of Lessor, which consent Lessor may withhold in its absolute discretion or grant on such terms as it shall deem appropriate.

SECTION XXII INSURANCE

The Lessee shall cause the Leased Amenities to be covered by fire and extended coverage insurance, in such amounts and in such form, and with such company as Lessor requires, and with a loss-payable provision in favor of Lessor. Such policies shall be for the interest of Lessor and its mortgagees, as their interests may appear.

Lessee shall obtain a comprehensive public liability policy insuring Lessee for liability arising out of the use and operation of the Leased Amenities, in such amounts, in such form, and with such companies as Lessor shall require.

Lessee, shall also obtain workmens' compensation insurance and such other insurance as deemed advisable and as may be required by Lessor.

Lessee shall also obtain rent insurance wherein Lessor shall be the named insured to insure against loss of all or any part of the rental due under this Lease from Lessee to Lessor by virtue of rental being temporarily and/or permanently discontinued by fire, wind, storm, or other hazards to the demised premises and/or any structures now or thereafter situated on the premises.

SECTION XXIII INSURANCE PREMIUMS

Lessee will pay the premiums for all insurance policies which it is required and obligated to purchase any under the terms of this Lease, and will deliver the policies and the evidence of payment to Lessor within the time herein limited. Nothing herein contained shall ever be construed as rendering Lessor personally liable for the payment of any such insurance premiums, but, if at any time during the continuance of this Lease, Lessee shall fail, refuse, or neglect to procure any of the policies of insurance required in and by this instrument to be procured by Lessee, or to give and maintain the policies in full force and effect or to pay the premiums promptly when due, the amount or amounts of money paid as the premium or premiums, plus interest at the rate of eighteen percent (18%) per year, shall be collectible as though it were then matured, and shall be due and payable forthwith; in lieu thereof, and notwithstanding the procurement and renewal of policies by Lessor, this Lease at the option of Lessor, may be terminated and declared at an end, and all rights, estate, and interest of Lessee, in such event, shall immediately cease and become null and void.

SECTION XXIV INSURANCE PROCEEDS

In the event proceeds of insurance shall be payable under a policy or policies of fire and extended coverage insurance as to the Leased Amenities, and as often as such insurance proceeds shall be payable, they shall be paid to Lessor and the sum so paid shall be deposited by Lessor in an account in a bank in St. Augustine, Florida as Lessor

determines, and such sums shall be available to Lessee for the purposes of reconstruction, repair, and replacement. Such sums shall be made readily available by Lessor for such reconstruction, repair, and replacement and shall be paid out of the account from time to time by Lessor in such amounts as it determines in its sole discretion. The extent of the reconstruction, repair, and replacement shall be subject to Lessor's approval. Should Lessor determine at any time that there are not sufficient sums on hand in the bank account to pay for the reconstruction, repair, and replacement in its entirety, Lessee will immediately and forthwith deposit into the bank account such additional funds as may be reasonably required to pay for the repairs, as determined by Lessor. On completion of the reconstruction, repair, and replacement, and the securing of such receipted bills and full and final waivers of lien, and such other documents as Lessor may require, if any, the remaining balance, if any, shall be retained by Lessor as its property, unless Lessee of the Leased Amenities was required to deposit additional funds, in which event the remaining fund shall be returned to Lessee.

On the occurrence of any damage to any portion of the Leased Amenities and all personal property now or hereafter placed thereon, whether or not the casualty causing such damage is insured against, and whether or not, if insured, any proceeds are paid therefor, the foregoing provisions shall apply.

Lessee at Lessee's cost and expense, shall repair, reconstruct, and replace any and all property and equipment, both real and personal, so damaged, so as to restore the same in first class condition, as required and approved by Lessor. Such work shall commence not later than thirty (30) days after the occurrence of damage, and shall be diligently prosecuted. The foregoing time limitations shall be extended due to any loss of time by reason of any act of nature, war, civil commotion and disorder, material shortages, strikes, or other extenuating circumstances over which Lessee has no control. Failure to comply with any provisions of this section shall be deemed a material breach of this Lease by Lessee.

SECTION XXV COVENANT TO HOLD LESSOR HARMLESS

Lessor shall be held harmless by Lessee from any liability for damages to any person or property in, on, or about the Leased Amenities and the adjoining sidewalks, including the person and property of Lessee, Lessee's agents, employees, and all persons on the Leased Amenities at Lessee's invitation. All property kept, stored, or maintained in, on or serving the Leased Amenities shall be so kept, stored, or maintained at the risk of Lessee.

SECTION XXVI MECHANICS LIENS

All persons are put on notice of the fact that Lessee shall never, under any circumstances, have the power to subject the interest of Lessor in the Leased Amenities to pay any mechanics' or materialmen's liens of any kind, and all persons dealing with Lessee are put on notice that they must look wholly to the interest of Lessee in the Leased

Amenities and not to that of Lessor. Lessee will not permit or suffer to be filed or claimed against the interest of Lessor in the Leased Amenities during the continuance of this Lease any claim or lien of any kind and, if such be claimed or filed, it shall be the duty of Lessee within thirty (30) days after the claim shall have been filed among the published records of St. Johns County, Florida or within thirty (30) days after Lessor shall have been given notice of such claim and shall have transmitted notice of the receipt of such to the Lessee (whichever thirty (30) days expires first), to cause the Leased Amenities to be released from such claim either by payment or posting of bonds or the payment into court of the amount necessary to relieve and release the Leased Amenities from such claim or in any other manner in which, as a matter of law, will result, within the thirty (30) days, in the release of Lessor and its interest in the Leased Amenities from such claim or lien; and Lessee covenants and agrees, within the period of thirty (30) days, to so cause the premises and Lessor's interest therein to be relieved from the legal effect of such claim or the lien.

SECTION XXVII LESSOR'S RIGHT TO PERFORM LESSEE'S COVENANTS

If Lessee shall fail to pay the costs of maintenance and repair, or if it shall fail to take out, maintain, and deliver insurance policies, or if it shall fail to perform any other act on its part covenanted to be performed by it, then Lessor may, but shall not be obligated to do so and without notice of demand on Lessee, perform the act so omitted or not performed by Lessee. If such performance by Lessor shall constitute in whole or in part, the payment of money, such money so paid by Lessor, together with interest thereon at the rate of eighteen (18%) per year and reasonable attorneys' fees incurred by Lessor in and about the collection of the sums, shall be deemed additional rent and shall be payable to Lessor on demand or, at the option of Lessor, may be added to any rent then due or thereafter becoming due under this Lease. Lessee covenants to pay any such sums with interest and reasonable attorneys' fees, and Lessor shall have, in addition to any and all other rights and remedies herein provided, the same rights and remedies in the event of nonpayment as in the case of default by Lessee in the payment of rent.

SECTION XXVIII INDEMNIFICATION OF LESSOR

Lessee agrees to indemnify Lessor from and against any and all claims, debts, demands, or obligations that may be made against Lessor or against Lessor's title in the Leased Amenities arising by reason of or in connection with the making of this Lease, and in and to the Leased Amenities, and Lessee's use, occupancy, and possession of the Leased Amenities. If it becomes necessary for Lessor to defend any action seeking to impose any such liability, Lessee will pay to Lessor all costs and reasonable attorneys' fees incurred by Lessor in effecting such defense in addition to any other sums that Lessor may be called on to pay by reason of the entry of a judgment against Lessor in the litigation in which such sum is asserted.

SECTION XXIX CUMULATIVE REMEDIES

The various rights, remedies, powers, options, elections, preferences, pledges, and liens of Lessor set forth in this Lease shall be construed as cumulative and no one of them shall be construed as being exclusive of the others or exclusive of any rights or priorities allowed by law or by this Lease, and the exercise of one or more shall not be construed as a waiver of the others.

SECTION XXX NONLIABILITY OF LESSOR

Lessor shall not be responsible or liable to Lessee for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying adjoining premises or any part of the premises adjacent to or connected with the premises leased.

SECTION XXXI LESSOR'S COVENANTS

Lessor agrees that, at all times during the term of this Lease, it will keep current any mortgages or encumbrances against the Leased Amenities. In the event Lessor is in default of any of its obligations under this section, Lessee may make payment for Lessor and deduct such payment from the next ensuing rental payment or payments, provided that prior to payment Lessee gives thirty (30) days' written notice to Lessor of its intention to make such payment.

SECTION XXXII ASSIGNMENT OF LEASE

Lessee may not assign or sublease its interest in this Lease. In the event a Unit Owner in the Condominiums sells the Unit and the Unit Owner desires to be relieved of all personal liability and obligations under this Lease and under the terms of the Pledge Agreement, then the Unit Owner shall obtain a Pledge Agreement executed by the third-party purchaser and deliver it to Lessor. By the third-party purchaser's execution of the Pledge Agreement, the third-party purchaser shall be deemed to have assumed responsibility for the performance of obligations under this Lease. On full compliance with the foregoing, the seller of the Unit shall be released of personal liability under this Lease and under the individual Pledge Agreement.

SECTION XXXIII FORECLOSURE OF PLEDGE AGREEMENT

The foreclosure or other action to enforce the pledges obtained by and from the individual Unit Owners as provided for in this Agreement shall not be considered as a termination or cancellation of this Lease or to operate an extinguishment of any other lien not created herein or provided for by law, except such pledges that have been foreclosed

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shall not stand as security for any amounts realized and actually collected by Lessor in foreclosure or such other action.

Foreclosure by Lessor or any other action by Lessor to enforce the liens provided for by law shall not be considered or construed as a termination or cancellation of this Lease, or to operate as an extinguishment of such liens, except such liens shall not stand as security for any amounts realized and actually collected by Lessor in foreclosure or such other action.

SECTION XXXIV TERMINATION OF LESSEE ASSOCIATION

A voluntary or involuntary termination of the Master Association shall not terminate this Lease, but on termination of the Master Association, all of the Unit Owners of the Condominiums, as Unit Owners or as tenants in common, or otherwise, shall automatically and by operation of this Lease, jointly and severally, collectively constitute Lessee and shall jointly and severally be obligated to perform each of Lessee's covenants, promises, and undertakings. On a Unit Owner's acquiring an interest in Lessee's rights under this Lease, the Unit Owner's rights may thereafter be assigned only if there then be no default in any of the provisions of this Lease and only if such assignment be in connection with a sale, transfer, or hypothecation of all rights in the property that was, prior to termination, Condominium property.

In the event any Condominium operated by the Master Association is terminated as provided in the Declaration, then and in such event, this Lease shall terminate and Lessor's lien on the Condominium shall terminate and be discharged.

SECTION XXXV TRANSFER OF CONDOMINIUM PARCEL

The transfer of the fee title to each Unit in the Condominium, whether voluntary or by operation of law, terminating the Condominium Unit Owner's membership in the Master Association, shall terminate the Condominium Unit Owner's rights to the use and enjoyment of the Leased Amenities, it being understood and agreed that the condominium Unit Owner's rights and privileges under this Lease are not assignable.

The owner of a Unit, identified in this Lease as a member of the Master Association, is entitled to the rights and privileges and use of the Leased Amenities, and shall be required to make all payments under the terms of this Lease.

SECTION XXXVI OPTION TO PURCHASE; RIGHT OF FIRST REFUSAL

Lessor hereby grants Lessee an option to purchase the Leased Amenities on any anniversary date of this Lease after the tenth (10th) anniversary, at a price to be determined by agreement between the Lessor and the Lessee.

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If the Lessor wishes to sell its interest and has received a bona fide offer to purchase it, the Lessor shall send the Lessee and each Unit Owner a copy of the executed offer. For 90 days following receipt of the offer by the Lessee or Unit Owners, the Lessee or Unit Owners have the option to purchase the interest on the terms and conditions in the offer. The option shall be exercised, if at all, by notice in writing given to the Lessor within the 90-day period. If the Lessee or Unit Owners do not exercise the option, the Lessor shall have the right, for a period of 60 days after the 90-day period has expired, to complete the transaction described in the offer to purchase. If for any reason such transaction is not concluded within the 60 days, the offer shall have been abandoned, and the provisions of this subsection shall be reimposed.

The option shall be exercised upon approval by owners of two-thirds of the units served by the leased property.

SECTION XXXVII

This Lease is and shall remain subordinate to any mortgage held by an institutional lender.

SECTION XXXVIII CONSTRUCTION

Nothing contained in this Lease shall be deemed or construed by the parties, or by any third party, as creating the relationship of principal and agent, or of partnership, or of joint venture between the parties, it being understood and agreed that neither the method of computation of rent nor any other provisions nor any acts of the parties shall be deemed to create any relationship between the parties other than the relationship of Lessor and Lessee.

IN WITNESS WHEREOF, Lessor and Lessee have executed this agreement as of the day and year first above written.

"LESSOR"

OCEAN GATE DEVELOPMENT, INC., a
Florida corporation

By: 

Robert J. L. Laurence
Its President

"LESSEE"

OCEAN GATE CONDOMINIUM
MASTER ASSOCIATION, INC., a
Florida not-for-profit corporation

By: 

Robert J. L. Laurence
Its President

Exhibit A

DESCRIPTION - LEASE AREA 3, TENNIS & SHUFFLEBOARD COURT

A PARCEL OF LAND IN GOVERNMENT LOT 5, SECTION 15, TOWNSHIP 8 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHERLY LINE OF THE SOUTHERLY 300 FEET OF THE NORTHERLY 600 FEET OF GOVERNMENT LOT 5 AND THE EASTERLY RIGHT OF WAY OF A1A; THENCE, ON THE EASTERLY RIGHT OF WAY LINE OF A1A, NORTH 12 DEGREES 15 MINUTES 40 SECONDS WEST 201.20 FEET; THENCE NORTH 89 DEGREES 34 MINUTES 37 SECONDS EAST, 700.37 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUING NORTH 89 DEGREES 34 MINUTES 57 SECONDS EAST, 117.59 FEET; THENCE SOUTH 00 DEGREES 38 MINUTES 52 SECONDS EAST, 59.54 FEET; THENCE NORTH 89 DEGREES 37 MINUTES 19 SECONDS WEST, 32.14 FEET; THENCE NORTH 00 DEGREES 17 MINUTES 45 SECONDS EAST, 2.32 FEET; THENCE NORTH 89 DEGREES 49 MINUTES 33 SECONDS WEST, 15.14 FEET; THENCE SOUTH 00 DEGREES 54 MINUTES 10 SECONDS WEST, 2.22 FEET; THENCE NORTH 89 DEGREES 35 MINUTES 03 SECONDS WEST, 8.27 FEET; THENCE SOUTH 00 DEGREES 47 MINUTES 34 SECONDS EAST, 60.93 FEET; THENCE SOUTH 89 DEGREES 01 MINUTE 30 SECONDS WEST, 62.17 FEET; THENCE NORTH 00 DEGREES 39 MINUTES 21 SECONDS WEST 120.30 FEET TO THE POINT OF BEGINNING, CONTAINING 10,698.30 SQUARE FEET OR 0.25 ACRES, MORE OR LESS.

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DESCRIPTION - LEASE AREA 4: POOL & WATER FEATURES

A PARCEL OF LAND IN GOVERNMENT LOT 5, SECTION 15, TOWNSHIP 8 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHERLY LINE OF THE SOUTHERLY 300 FEET OF THE NORTHERLY 600 FEET OF GOVERNMENT LOT 5 AND THE EASTERLY RIGHT OF WAY OF A1A; THENCE ON THE EASTERLY RIGHT OF WAY LINE OF A1A, NORTH 12 DEGREES 15 MINUTES 10 SECONDS WEST 201.20 FEET; THENCE NORTH 09 DEGREES 34 MINUTES 57 SECONDS EAST 385.39 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUING NORTH 09 DEGREES 34 MINUTES 57 SECONDS EAST 44.70 FEET; THENCE SOUTH 00 DEGREES 10 MINUTES 32 SECONDS EAST 95.51 FEET; THENCE SOUTH 86 DEGREES 33 MINUTES 28 SECONDS WEST 2.40 FEET; THENCE SOUTH 00 DEGREES 41 MINUTES 22 SECONDS EAST 30.92 FEET; THENCE SOUTH 46 DEGREES 37 MINUTES 47 SECONDS WEST 42.81 FEET; THENCE SOUTH 01 DEGREE 33 MINUTES 07 SECONDS EAST 27.47 FEET; THENCE SOUTH 45 DEGREES 24 MINUTES 10 SECONDS EAST 31.29 FEET; THENCE NORTH 09 DEGREES 59 MINUTES 32 SECONDS EAST 26.55 FEET TO A POINT ON A CURVE CONCAVE SOUTHEASTERLY WITH RADIUS OF 82.00 FEET; THENCE ON SAID CURVE CONCAVE SOUTHEASTERLY THROUGH A CENTRAL ANGLE OF 19 DEGREES 49 MINUTES 51 SECONDS, AN ARC DISTANCE OF 28.38 FEET (CHORD-SOUTH 45 DEGREES 26 MINUTES 12 SECONDS WEST 28.24 FEET); THENCE NORTH 45 DEGREES 26 MINUTES 08 SECONDS WEST 54.34 FEET; THENCE SOUTH 09 DEGREES 33 MINUTES 52 SECONDS WEST 8.25 FEET; THENCE NORTH 00 DEGREES 26 MINUTES 08 SECONDS WEST 31.00 FEET; THENCE NORTH 43 DEGREES 42 MINUTES 07 SECONDS WEST 15.06 FEET; THENCE NORTH 44 DEGREES 56 MINUTES 12 SECONDS EAST 24.28 FEET; THENCE NORTH 00 DEGREES 10 MINUTES 32 SECONDS WEST 128.11 FEET TO THE POINT OF BEGINNING; CONTAINING 7,859 SQUARE FEET OR 0.18 ACRES, MORE OR LESS.

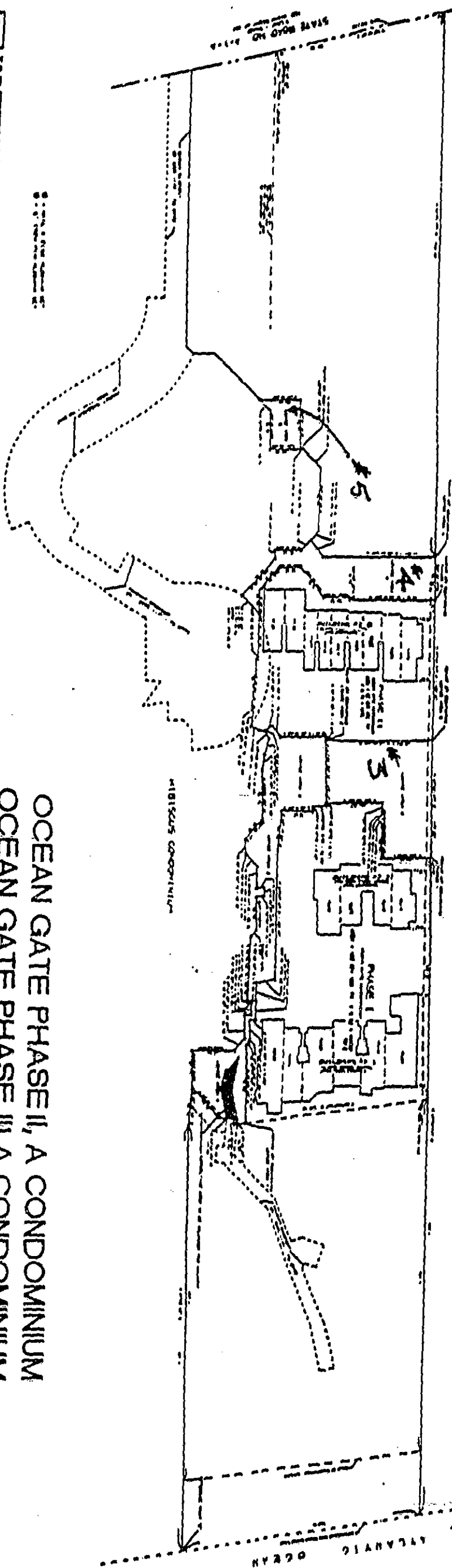
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DESCRIPTION - LEASE AREA 5: RACQUET BALL COURTS

A PARCEL OF LAND IN GOVERNMENT LOT 5, SECTION 15, TOWNSHIP 8 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHERLY LINE OF THE SOUTHERLY 300 FEET OF THE NORTHERLY 600 FEET OF GOVERNMENT LOT 5 AND THE EASTERLY RIGHT OF WAY OF A1A; THENCE, ON THE EASTERLY RIGHT OF WAY LINE OF A1A, NORTH 12 DEGREES 15 MINUTES 40 SECONDS WEST 201.20 FEET; THENCE NORTH 89 DEGREES 34 MINUTES 57 SECONDS EAST 585.39 FEET; THENCE SOUTH 00 DEGREES 18 MINUTES 32 SECONDS EAST 128.11 FEET; THENCE SOUTH 44 DEGREES 56 MINUTES 12 SECONDS WEST, 24.28 FEET; THENCE NORTH 45 DEGREES 26 MINUTES 08 SECONDS WEST, 13.22 FEET; THENCE SOUTH 09 DEGREES 33 MINUTES 52 SECONDS WEST, 65.53 FEET; THENCE SOUTH 44 DEGREES 33 MINUTES 52 SECONDS WEST 28.28 FEET; THENCE SOUTH 00 DEGREES 26 MINUTES 10 SECONDS WEST 4.10 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE SOUTH 00 DEGREES 26 MINUTES 10 SECONDS EAST, 35.83 FEET; THENCE SOUTH 09 DEGREES 33 MINUTES 52 SECONDS WEST, 42.89 FEET; THENCE SOUTH 44 DEGREES 33 MINUTES 52 SECONDS WEST, 15.71 FEET; THENCE NORTH 00 DEGREES 26 MINUTES 07 SECONDS WEST, 47.90 FEET; THENCE NORTH 09 DEGREES 31 MINUTES 46 SECONDS EAST, 55.07 FEET, TO THE POINT OF BEGINNING, CONTAINING 2,049.34 SQUARE FEET OR 0.05 ACRES, MORE OR LESS.

Exhibit B



J&P JONES & P. JONES, INC.
4150-B STATE HWY. AIA SOUTH
ST. JAMES COUNTY, FLORIDA

Project:
OCEAN GATE PHASE II, A CONDOMINIUM
4150-B STATE HWY. AIA SOUTH
ST. JAMES COUNTY, FLORIDA

ONE DIMENSIONAL & LAND SURVEYORS
BOUNDARY SURVEY

Scale: 1" = 20'
Date: 10/1/84
Surveyed by: J. P. Jones
Checked by: J. P. Jones

Exhibit B

Amenities List

Phase 2

Pool - Depth of 3 feet shallow end and depth of 5 feet at the deep end approx. 17,000 gallons with a four foot deck around it.

Tennis Court - 80 feet by 40 feet lighted.

Phase 3

Racquetball Court - 22 feet by 48 feet four walled structure for racquetball.

Exhibit C

Percentage of Ownership Interest for Phase I

	Unit	Bedrooms	Baths	Sq Ft.	% Ownershi	% Ownership	Assessment
	Numbers			Unit	in Phase	in Master Assn.	Per Unit
Phase 1	600	3	3.5	4491	4491/36178	5.150	808.38
	604	3	3.5	3189	3189/36178	3.657	574.02
	608	3	3.5	3511	3511/36178	4.026	631.98
	612	3	3.5	3119	3119/36178	3.577	561.42
	616	3	3.5	2984	2984/36178	3.422	537.12
	620	3	3.5	5785	5785/36178	6.634	1,041.30
	605	3	3.5	4219	4219/36178	4.838	759.42
	609	3	3.5	2880	2880/36178	3.303	518.40
	613	3	3.5	2890	2890/36178	3.314	520.20
	617	3	3.5	3110	3110/36178	3.566	559.80
Totals Phase I				36178		41.487	6,512.04

Percentage of Ownership Interest for Phase II

	Unit Number Bedrooms Baths			Sq. Ft Unit	% Owners In Phase	% Owners in Master Assn.	Assessment per Unit
Phase 2	401	3	2.5	2270	2270/16838	2.603	408.60
	405	3	3	2402	2402/16838	2.754	432.36
	409	2	2	1569	1569/16838	1.799	282.42
	413	2	2	1622	1622/16838	1.86	291.96
	417	2	2	1628	1628/16838	1.867	293.04
	421	2	2	1468	1468/16838	1.683	264.24
	425	2	2	1465	1465/16838	1.68	263.70
	429	3	3.5	2228	2228/16838	2.555	401.04
	433	3	3.5	2186	2186/16838	2.507	393.48
Totals Phase 2				16838		19.308	3,030.84

Percentage of Ownership Interest for Phase III

	Unit Number Bedrooms Baths			Sq. Ft Unit	% Owners	% Owners	Assessment
					In Phase	In Master Assn.	
Phase 3	337	3	2.5	2516	2516/34190	2.885	452.88
	341	3	3	2394	2394/34190	2.745	430.92
	345	2	2	1538	1538/34190	1.764	276.84
	349	2	2	1602	1602/34190	1.837	288.36
	353	2	2	1602	1602/34190	1.837	288.36
	357	2	2	1446	1446/34190	1.658	260.28
	361	2	2	1446	1446/34190	1.658	260.28
	365	3	2.5	2226	2226/34190	2.553	400.68
	369	3	2.5	2325	2325/34190	2.666	418.50
	301	3	2.5	2325	2325/34190	2.666	418.50
	305	3	2.5	2226	2226/34190	2.553	400.68
	309	2	2	1446	1446/34190	1.658	260.28
	313	2	2	1446	1446/34190	1.658	260.28
	317	2	2	1602	1602/34190	1.837	288.36
	321	2	2	1602	1602/34190	1.837	288.36
	325	2	2	1538	1538/34190	1.764	276.84
	329	3	3	2394	2394/34190	2.745	430.92
	333	3	2.5	2516	2516/34190	2.885	452.88
Totals Phase 3				34190		39.206	6,154.20

Exhibit D

PLEDGE AGREEMENT

This PLEDGE AGREEMENT, dated as of _____ 19__, made by _____ ("Pledgor"), to and in favor of **OCEAN GATE CONDOMINIUM MASTER ASSOCIATION, INC.**, a Florida corporation (the "Association").

WHEREAS, the Association is the master condominium association responsible for the operation and maintenance of the recreational amenities pursuant to that certain Condominium Recreation Lease (the "Lease"), dated as of March 8, 1998 for the Leased Amenities (as defined therein); and

WHEREAS, Pledgor is the owner of all right, title and interest in and to that certain Unit No. _____ in Ocean Gate Phase II, a Condominium, together with an undivided interest in all common elements appurtenant thereto (the "Unit"); and

WHEREAS, the Lease requires Pledgor to pay its share of the assessments assessed by the Association for the maintenance, operation, and repair of the Leased Amenities in consideration of Pledgor's right to use the Leased Amenities (the "Obligations"); and

WHEREAS, Section XI the Lease provides that Pledgor shall pledge all of its right, title, and interest in the Unit to the Association to secure repayment of any assessments assessed by the Association against the Unit pursuant to the Lease;

WHEREAS, capitalized terms not otherwise defined herein are used with the meaning given those terms in the Lease;

NOW THEREFORE, in order to secure Pledgor's Obligations to the Association as set forth in the Lease, Pledgor hereby agrees as follows:

SECTION 1 Pledge. For value received and to secure payment and performance of the Pledgor's Obligations and all costs and expenses incurred by the Association to obtain, preserve, perfect and enforce the security interest granted herein and to maintain, preserve and collect the property subject to the security interest, Pledgor hereby grants to the Association a continuing security interest in and lien upon Pledgor's interest in the Unit (the "Pledged Collateral").

SECTION 2 Remedies upon Default. In the event Pledgor shall fail to pay any assessment owed the Association, the Association may exercise in respect of the Pledged Collateral, in addition to other rights and remedies provided for in the Lease or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code (the "Code") in effect in the State of Florida at that time.

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IN WITNESS WHEREOF, Pledgor has executed this Pledge Agreement as of the date first above written.

By: _____
Name: _____
Unit No.: _____

By: _____
Name: _____
Unit No.: _____

EXHIBIT "F"

**DECLARATION OF CONDOMINIUM OF
OCEAN GATE PHASE III, A CONDOMINIUM**

Phase 2

Pool - Depth of 3 feet shallow end and depth of 5 feet at the deep end approx. 17,000 gallons with a four foot deck around it.

Tennis Court - 80 feet by 40 feet lighted.

Phase 3

--- Racquetball Court - 22 feet by 48 feet four walled structure for racquetball

Exhibit G

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ARTICLES OF INCORPORATION
OF
OCEAN GATE PHASE III CONDOMINIUM ASSOCIATION, INC.,
a Florida not-for-profit corporation

The undersigned, acting as incorporator of a corporation under the Florida General Corporation Act, adopts the following Articles of Incorporation:

Article I - Name

The name of this corporation is OCEAN GATE PHASE III CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation.

Article II - Duration

This corporation shall have perpetual existence.

Article III - Purpose

This corporation is organized for the purpose of transacting any or all lawful business. The powers and duties of the corporation include those set forth in Florida Statutes Section 718.111, Florida Statutes Chapter 607 and 617, and those set forth in the Declaration of Condominium of Ocean Gate Phase III, a Condominium and in the bylaws of the corporation.

Article IV - Principal and Registered Office and Registered Agent

The street address of the principal office of the corporation is 4730-B Highway A1A South, St. Augustine, Florida 32084, and the address of the initial registered office of this corporation is 50 N. Laura Street, Suite 2800, Jacksonville, FL 32202, and the name of the initial registered agent at that address is Alan C. Sheppard, Jr., Esq.

Article V - Initial Board of Directors

This corporation shall have three (3) directors initially. Thereafter, the number of directors may be increased from time to time in the manner provided by the Bylaws, but shall never be fewer than three. The name and address of the initial directors of this corporation are:

<u>Name</u>	<u>Address</u>
Roger W. McClain	4730-B Highway A1A South St. Augustine, FL 32084

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Leslie Gallagher

4730-B Highway A1A South
St. Augustine, FL 32084

Robert J.L. Laurence

4730-B Highway A1A South
St. Augustine, FL 32084

Article VI - Incorporator

The name and address of the person signing these articles is:

Name

Address

Robert J.L. Laurence

4730-B Highway A1A South
St. Augustine, Florida 32084

Article VII - Indemnification

The corporation shall have the power to indemnify all officers and directors and former officers and directors to the fullest extent possible under Florida law or as may be more fully set forth in the By-laws.

Article VIII - Amendment

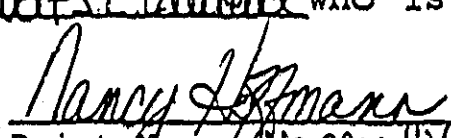
This corporation reserves the right to amend or repeal any provision contained in these Articles of Incorporation or any amendment hereto, and any right conferred upon the shareholders is subject to this reservation.

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation this 8th day of March, 1999

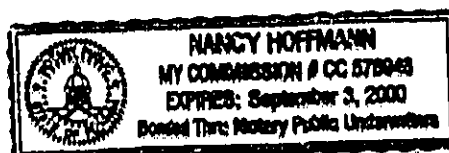

Incorporator

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument, was acknowledged before me this 8th day of March, 1999, by Robert J.L. Laurence who is personally known to me.


Print Name: Nancy Hoffmann
Notary Public, State of Florida
Commission Number _____
My Commission Expires: _____

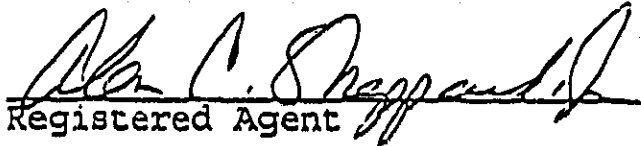
[SEAL]



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ACKNOWLEDGMENT AND ACCEPTANCE

Having been named to accept service of process for the above-stated corporation at the place designated in this certificate, I hereby accept such designation to act as registered agent and agree to comply with the provisions of Florida Statutes relative to keeping open said office.


Registered Agent

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Exhibit H

BY-LAWS
OF
OCEAN GATE
PHASE III CONDOMINIUM ASSOCIATION, INC.

A Corporation Not for Profit
under the Laws of the State of Florida

These are the By-Laws of Ocean Gate Phase III Condominium Association, Inc. (hereinafter called the "Association"), a corporation not for profit, incorporated under the laws of the State of Florida. The Association has been organized for the purpose of administering a condominium created pursuant to Chapter 718, Florida Statutes, as amended (hereinafter called the "Condominium Act").

SECTION 1. ASSOCIATION.

1.1 Office. The office of the Association shall be 4730-B Highway A1A South, St. Augustine, FL 32084, or such other place as shall be selected by a majority of the Board of Directors.

1.2 Fiscal Year. The fiscal year of the Association shall be the calendar year.

1.3 Seal. The seal of the Association shall have inscribed thereon the name of the Association, the year of its organization, and the words "Not for Profit". Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise attached to the instrument or document being sealed.

1.4 Terms. Except as otherwise defined herein, all terms used herein shall have the same definitions as attributed to them in the Declaration of Condominium of OCEAN GATE Phase III, A CONDOMINIUM (the "Condominium").

SECTION 2. INTENTIONALLY OMITTED.

SECTION 3. MEMBERS.

3.1 Qualification. The members of the Association shall consist of all Unit Owners of Units of OCEAN GATE Phase III, A CONDOMINIUM.

3.2 Membership. Membership in the Association shall be established by recording in the public records of St. Johns County, Florida, a deed or other instrument establishing a record title to a Unit, and delivery to the Association of a copy of such instrument. The grantee in such instrument shall immediately become a member of the Association. The membership of any prior Owner of the same Unit shall be terminated upon delivery to the Association of a copy of the deed or other instrument as aforesaid.

3.3 Designation of Voting Representative. If a Unit is owned by more than one Person, the Unit Owner entitled to cast the vote appurtenant to said Unit shall be designated by all of the record owners of the Unit. A Voting Member must be designated by a statement filed with the Secretary of the Association, in writing, signed by all of the record owners of the Unit as the person entitled to cast the vote for all of such Unit. The designation may be revoked and a substitute Voting Member designated at any time at least five (5) days prior to a meeting. If a designation of a Voting Member is not filed with the

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Secretary at least five (5) days prior to any meeting, no vote shall be cast at such meeting by or for said Unit Owner(s).

3.4 Restraint Upon Alienation of Assets. The share of a member in the funds and assets of the Association shall not be assigned, hypothecated or transferred in any manner, except as an appurtenance to his Unit.

SECTION 4. MEMBER'S MEETINGS.

4.1 Place. All meetings of the members of the Association shall be held at the office of the Association or such other place as may be stated in the notice of the meeting.

4.2 Membership List. At least ten (10) days before every election of directors, a complete list of the Voting Members of the Association, arranged numerically by Unit number, shall be prepared by the Secretary. Such list shall be kept at the office of the Association and shall be open to examination by any member. Changes in the list of Voting Members may be made pursuant to Section 2.3 of these By-Laws.

4.3 Regular Meetings. Regular meetings of the members of the Association shall be held on the first business day of the month of March of each year.

4.4 Special Meetings.

4.4.1 Special meetings of the members for any purpose may be called by the President, and shall be called by the President or Secretary at the request, in writing, of either a majority of the Board of Directors or of a majority of the Voting Members. Such request shall state the purpose of the proposed meeting.

4.4.2 If an adopted budget of the Association requires assessments against the Unit Owners in any fiscal or calendar year which exceed one hundred fifteen percent (115%) of the assessments for the preceding year, the Board, upon written application of ten percent (10%) of the Voting Interests to the Board of Directors, shall call a special meeting of the Unit Owners within thirty (30) days upon not less than ten (10) days' written notice to each Unit Owner.

4.4.3 A special meeting of the Unit Owners to recall a member or members of the Board of Directors may be called by ten percent (10%) of the voting interests giving notice of the meeting as required for a meeting of Unit Owners, and the notice shall state the purpose of the meeting.

4.4.4 If any part of the Common Elements of the Condominium Property or any Unit or Units, or part thereof, shall be damaged, such that one-half or more of the Units are rendered untenable, a special meeting of the Unit Owners shall be called by the President of the Association. Such damage shall be reconstructed or repaired pursuant to the Declaration unless a vote of seventy-five (75%) percent or more of the Voting Interests at such special meeting shall vote against such repair or reconstruction.

4.4.5 Business transacted at all special meetings shall be confined to the objects stated in the notice thereof.

4.5 Notice. Written notice of every meeting, special or regular, of the members of the Association, stating the time, place and object thereof, shall be delivered to each Condominium Unit or

mailed to each Voting Member at such member's address as shown in the books of the Association at least fourteen (14) continuous days prior to such meeting. No notice shall be required to be given to a person who becomes a Voting Member during such fourteen day period. A notice of each meeting shall be posted in the office of the Association during the entire fourteen day period.

4.6 Participation. All members shall be entitled to participate in any meeting of the Association but only Voting Members shall have the right to vote on any matter brought before such meeting.

4.7 Transfer of Control of the Association. When Unit Owners other than the Developer own fifteen percent (15%) or more of the Units in the Condominium, the Unit Owners other than the Developer shall be entitled to elect no less than one-third $1/3$, but no more than two-fifths ($2/5$), of the members of the Board of Directors of the Association. Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors of the Association upon the earlier to occur of the following:

- (a) Three (3) years after fifty percent (50%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers;
- (b) Three (3) months after ninety percent (90%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers;
- (c) When all of the Units that will be operated by ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business;
- (d) When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or
- (e) Seven (7) years after recordation of the Declaration of Condominium which ever occurs first. The Developer is entitled to elect at least one member of the Board of Directors of the Association 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 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 the purposes of acquiring control of the Association or selecting the majority members of the Board of Directors.

4.8 Proxies. At any meeting of the members of the Association (except a meeting for the election of members of the Board), the Voting Member shall be entitled to vote in person or by limited proxy substantially conforming to a limited proxy form adopted by the Division. No proxy shall be valid unless it is granted to a person who is a Unit Owner. No person may cast more than five proxy votes. Proxies are effective only for the specific meeting for which originally given, and any adjourned meetings. A proxy is not valid for more than 90 days from the date of the meeting for which it was given and is revocable at the pleasure of the person granting the proxy.

4.9 Voting Interests. Each Member of the Association shall be entitled to one vote, but each Member's vote shall be counted as the Member's percentage share of ownership in the Common Elements of the Condominium. At all times, 100% of the voting interests (the "Voting Interests") shall be allocated among the Members based upon each Member's percentage share of ownership in the Common Elements of the Condominium. Each Member's Voting Interest shall equal the same percentage of all of the Members Voting Interests as such Member's percentage share ownership interest of the Common Elements of the Condominium. Each Member shall vote all of his Voting Interest with each vote, so that each vote of his Voting Interest shall be counted as a vote of the Member's percentage share of the total voting interest of all Members. By way of example only, if a Member owns a 30% interest in the Common Elements of the Condominium, then such Member's vote shall be counted as 30% of the Voting Interest of the Condominium.

4.10 Vote Required to Transact Business. When a quorum is present at any meeting, a vote of the majority of the Voting Interests present and voting shall decide any question brought before the meeting. If the question is one which requires more than a majority vote by express provision of the Condominium Act or the Declaration of Condominium, Articles of Incorporation or these By-Laws (hereinafter collectively referred to herein as the "Condominium Documents"), such express provision shall govern and control the number of votes required.

A majority of the Voting Interests of the Association present in person or represented by proxy, shall constitute a quorum at all meetings of the members for the transaction of business, except as otherwise provided by statute or the Condominium Documents. If a quorum is not present at any meeting, the Voting Members may adjourn the meeting from time to time. Any business may be transacted at any adjourned meeting which could have been transacted at the meeting called.

SECTION 5. DIRECTORS.

5.1 Number. The affairs of the Association shall be managed by a Board of Directors, consisting of three (3) directors.

5.2 Term. Each director shall be elected to serve for a term of one (1) year or until his successor shall be elected and shall qualify, except that directors elected prior to the Unit Owners' Initial Meeting shall serve only until such meeting.

5.3 First Board of Directors. The first Board of Directors shall consist of three (3) persons appointed by Developer, who shall hold office and exercise all powers of the Board at the pleasure of Developer but not later than the Unit Owners' Initial Meeting.

5.4 Vacancy and Replacement. If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining directors at a special meeting of directors duly called for this purpose, shall by closed ballot vote choose a successor or successors who shall hold office for the unexpired term in respect to which such vacancy occurred. If the remaining directors are unable to agree on a successor, then the Association shall hold an election in accordance with the provisions hereof.

5.5 Election of Directors. Election of Directors for the Board of Directors, shall be conducted in the following manner:

5.5.1 Method. The Board of Directors shall be elected by closed ballot or voting machine.

5.5.2 Proxies. Proxies shall in no event be used in electing in general elections or elections to fill vacancies caused by recall, resigna-

5.5.3 Notice.

- (1) Not less than 60 days before a scheduled election, deliver, whether by separate association mailing or in mailing or delivery including regularly published newsletter, a first notice of the date of the election entitled to a vote, a first notice of the date of the election.
- (2) Any Unit Owner or other eligible person desiring to must give written notice to the Association not less than 30 days before a scheduled election.
- (3) Together with an agenda of the meeting, the Association shall send a second notice of the election to all Unit Owners entitled to vote with a ballot which shall list all candidates. Upon mailing of the ballot, the Association shall include an information sheet, no larger than 8 1/2 inches, which must be furnished by the candidate not later than 30 days before the election, to be included with the mailing of the ballot, delivery and copying to be borne by the Association. The Association has no liability for the contents of the information sheet. In order to reduce costs, the Association shall use information sheets on both sides of the paper.

5.5.4 Handling of Ballots. Since the voting rights of each Unit Owner shall be based upon the percentage of ownership of the Common Elements set forth in Exhibit A, the color ballot for each percentage voting interest and the percentage of each Unit Owner shall be stated on the outer envelope next to the Unit number. Accompanying the ballot shall be an outer envelope addressed to the person or entity authorized to receive the ballots and in which the ballot shall be placed. The exterior of the outer envelope shall indicate the Unit or Unit Numbers being voted, and shall contain a signature space. When the ballot is completed the voter shall place the completed ballot in the smaller inner envelope. The inner envelope shall be placed within the outer larger envelope, then be sealed. Each inner envelope shall contain only one ballot, but if a person has more than one ballot, the separate inner envelopes required may be enclosed within a larger envelope. The voter shall sign the exterior of the outer envelope in the space provided for signature. The ballot shall either be mailed or hand delivered to the Association. Upon receipt by the Association, the ballot shall be rescinded or changed.

The written ballot shall indicate in alphabetical order by surname the Unit Owner or other eligible person who desires to be a candidate for the Board. Written notice to the Association not less than forty (40) days before a scheduled election by a person who has prior to the mailing of the ballot, withdrawn his candidacy in writing, shall not be a candidate for the Board. No write-in candidate shall be permitted. The Association shall provide a space for the signature of or any other means of identifying a voter. The Association, both those mailed to voters or cast in a meeting, shall be uniform.

Any envelopes containing ballots shall be collected by the Association and shall be transported to the location of the duly called meeting of the Unit Owners. The Association shall have made available at the meeting additional blank ballots for distribution to eligible voters who have not cast their votes. Each ballot distributed at the meeting shall be placed in an inner and outer envelope in the manner provided above. Each envelope and ballot shall be handled in the following manner, either by the Board or by a person or persons appointed by the Board. At the meeting, as a first order of business, ballots not yet cast shall be collected. Next the signature and Unit identification on the outer envelope shall be checked against a list of qualified voters, unless previously validated as provided below. Any exterior envelope not signed by the eligible voter shall be marked "disregarded" or with words of similar import and any ballots contained therein shall not be counted. The voter shall be checked off the list as having voted. Then, in the presence of any Unit Owners in attendance, and regardless of whether a quorum is present, all inner envelopes shall first be removed from the outer envelopes and shall be placed into a receptacle. Upon the commencement of the opening of the outer envelopes the polls shall be closed and no more ballots shall be accepted. The inner envelope shall then be opened and the ballots shall be removed and counted in the presence of the Unit Owners. Any envelope containing more than one ballot shall be marked "disregarded" or with words of similar import and any ballots contained therein shall not be counted. All envelopes or ballots whether disregarded or not shall be retained with the official records of the Association.

If the Association should desire to verify the outer envelope information in advance of the meeting they may do so at a meeting noticed in the manner required for the noticing of Board Meetings, which shall be open to all Unit Owners and which shall be held on the date of the election. An impartial committee designated by the Board may verify the signature and Unit identification on the outer envelope and check the same against the list of qualified voters. These voters shall be checked off the list as having voted. Any exterior envelope not signed by the eligible voter shall be marked "disregarded" or with words of similar import and any ballots contained therein shall not be counted.

5.5.5 Candidacy. Any Unit Owner or other eligible person desiring to be a candidate for the Board of Directors shall give written notice to the Secretary of the Association not less than forty (40) days before a scheduled election. Written notice shall be effective when received by the Association. Written notice shall be accomplished in accordance with one or more of the following methods: (a) by certified mail, return receipt requested, directed to the Association; or (b) by personal delivery to the Association; or (c) by regular U.S. Mail, facsimile, telegram or other method of delivery to the Association.

- (1) Upon the request of a candidate, the Association shall issue a written receipt acknowledging delivery of the written notice.
- (2) Upon the request of a candidate, the Association shall include an information sheet, no larger than 8 1/2" x 11" furnished by the candidate, to be included with the mailing of the ballot, with the costs of mailing and copying to be born by the Association. Any candidate desiring the Association to mail or personally deliver copies of an information sheet to the eligible voters must furnish the information sheet to the Association not less than thirty-five (35) days before the election. The Association shall not edit, alter or otherwise modify the content of the information sheet provided by a candidate. However, if consented to in writing by the candidates involved, two or more candidate information sheets may be consolidated into a single page. The original copy provided by the candidate shall become a part of the official records of the Association.

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5.5.6 Quorum. There is no quorum requirement or minimum number of votes necessary for election of the members of the Board of Directors, however, at least 20 percent of the Voting Interests must cast a ballot in order to have a valid election of members of the Board of Directors.

5.5.7 Necessity of Elections. Notwithstanding the provisions of this section to the contrary, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the Board.

5.5.8 Improper Voting. No Unit Owner shall permit any other person to vote his ballot, and any such ballots improperly cast shall be deemed invalid. Any Unit Owner violating this provision may be fined by the Association. A Unit Owner who needs assistance in casting the ballot for the reasons stated in section 101.051, Florida Statutes may obtain assistance in casting the ballot.

5.5.9 Date of the Election. The regular election shall occur on the date of the annual meeting of the Association.

5.5.10 Interim Vacancies. Any vacancy occurring on the Board prior to the expiration of a term, except in the case of a vacancy caused by recall, may be filled by the affirmative vote of the majority of the Board of Directors, even if the remaining directors constitute less than a quorum or by the sole remaining director. In the alternative, a Board may, in its discretion, hold an election to fill the vacancy in which case the election procedures must conform to the requirements set forth herein. Balloting is not necessary to fill any vacancy unless there are two or more eligible candidates for that vacancy. A Board member appointed or elected pursuant to a vacancy shall fill that vacancy until the next regularly scheduled election for any position, regardless of whether the Board Seat to which the member was elected or appointed is scheduled to be filled at that election. If, however, upon appointment, the Association has already mailed or delivered the first notice of election pursuant to this section, the Board member appointed or elected as provided herein shall serve until the next election scheduled in the future for any position.

A regular or general election shall be an election to fill a vacancy caused by expiration of a term in office. A regular or general election shall occur at the time and place at which the annual meeting is scheduled to occur, regardless of whether a quorum is present.

5.5.11 Nominating Committees. The Board of Directors shall not create or appoint any committee for the purpose of nominating a candidate or candidates for election to the Board. The Board may create or appoint a search committee which shall not have the authority to nominate any candidate, but may encourage qualified persons to become candidates for the Board.

5.5.12 Tie Votes. If two or more candidates for the same position receive the same number of votes, which would result in one or more candidates not serving or serving a lesser period of time, the Association shall conduct a run-off election in accordance with the procedures set forth herein. Within seven (7) days of the date of the election at which the tie vote occurred, the Association shall mail or personally deliver to the voters a notice of a run-off election. The only candidates eligible for the run-off election to the Board position are the run-off candidates who received the tie vote at the previous election. The notice shall inform the voters of the date scheduled for the run-off election to occur, shall include a ballot conforming to the requirements of this rule, and shall include copies of any candidate information sheets previously submitted by those candidates to the Association. The run-off election must be held not less than twenty-one (21) days nor more than thirty (30) days after the date of election at which the tie vote occurred.

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5.5.13 Voters Needing Special Assistance. Any voter who requires assistance to vote by reason of blindness, disability or inability to read or write, may request the assistance of a member of the Board of Directors or other Unit Owner to assist in casting his vote. If the election is by voting machine, any such voter, before retiring to the voting booth may have a member of the Board of Directors or other Unit Owner or representative without suggestion or interference, identify the specific vacancy or vacancies and the candidates for each. If a voter requests the aide of any such individual, the two shall retire to the voting booth for the purpose of casting the vote according to the voter's choice. All voting machines shall meet the requirements set forth in Rule 61B-23.0021(12) Florida Administrative Code.

5.6 Removal. Directors may be removed with or without cause by an affirmative vote of a majority of the Voting Interests. A special meeting of the Voting Members may be called for this purpose by 10% of the Voting Interests upon giving notice of such meeting to all Voting Members as provided in Section 3.5 hereof, such notice to state the purpose of the special meeting. No director shall continue to serve on the Board, if, during his term of office, his membership in the Association is terminated for any reason. Once removed from office, a director may no longer serve as an officer of the Association, unless such officer is reelected to the Board of Directors at a subsequent meeting for such purpose.

5.7 Powers and Duties of Board of Directors. All of the powers and duties of the Association under the Condominium Act and the Condominium Documents shall be exercised by the Board of Directors, or its delegate, at the meeting at which they were elected or as soon thereafter as may be practicable. The Annual Meeting of the Board shall be held at the same place as the Voting Members meeting. The Board of Directors shall have, without limitation, the following powers and duties:

5.7.1 Assessments. To make and collect Assessments and Special Assessments against members to pay the expenses incurred by the Association and the power to make and assess members for capital improvements and replacements to the Common Elements, Units, or other portions of the Condominium Property pursuant to the Declaration of Condominium. Such expenses include, without limitation, expenses of the operation, maintenance, administration, repair, and replacement of the Condominium Property, the payment of rent to the Developer for the Leased Amenities, and the payment of rent to the appropriate neighboring association for use of the Hibiscus Facilities. The Association shall collect and remit to the Developer from each subassociation the rent payments owed by each of the Unit Owners for the Leased Amenities and the rent owed for use of the Hibiscus Facilities.

5.7.2 Disburse. To use and disburse the proceeds of Assessments and Special Assessments in the exercise of its powers and duties.

5.7.3 Maintain the Condominium Property. To maintain, repair, replace and operate the Condominium Property in the manner provided by the Declaration of Condominium.

5.7.4 Purchase. To purchase the necessary equipment and tools required for the maintenance, care and preservation referred to above.

5.7.5 Insure. To insure and keep insured the Condominium Property in the manner set forth in the Declaration of Condominium and to purchase such other insurance as the Board may deem advisable in its discretion from time to time, including officers' and directors' liability insurance.

5.7.6 Enforce. To enjoin or seek damages from any Unit Owner for violation of these By-Laws and the terms and conditions of the Declaration of Condominium.

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5.7.7 Employ. To employ and contract with a maintenance service contractor or manager, or either of them, for the maintenance, service and management of the Common Elements and to authorize such contractor and manager or either of them to use or exercise any of the powers it possesses; provided, however, the Association shall retain at all times the powers and duties granted to it by the Condominium Act.

5.7.8 Regulate. To make reasonable rules and regulations concerning the use and occupancy of the Condominium Property consistent with the Condominium Documents.

5.7.9 Contracts. To enter into any contracts, management agreements, employment agreements, service agreements, purchase and sale contracts, or any other agreements allowed under Florida law and to which the Board of Directors deems in the best interest of the Association or the Condominium.

5.8 Annual Statement. The Board will present a full and clear statement of the business and condition of the corporation at the annual meeting of the members.

5.9 Compensation. The directors shall not be entitled to any compensation for service as directors.

SECTION 6. DIRECTORS MEETINGS.

6.1 Organizational Meetings. The first meeting of each new Board elected by the members shall be held immediately upon adjournment of the meeting at which they were elected or as soon thereafter as may be practicable. The Annual Meeting of the Board shall be held at the same place as the Voting Members meeting.

6.2 Regular Meetings. Regular Meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Notice of all regular meetings shall be given to each director, personally or by mail, telephone or telegraph, at least 48 hours in advance of the time named for such meeting. Adequate notice of all regular meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the Condominium Property at least 48 continuous hours preceding the meeting for the attention of the Unit Owners except in an emergency.

6.3 Special Meetings. Special meetings of the Board may be called by the President on 48 hours notice to each director. Special meetings shall be called by the President or Secretary in like manner and on like notice upon the written request of two (2) directors.

6.4 Waiver of Notice. No notice of a Board meeting shall be required if the directors meet by unanimous written consent. The directors may, by resolution duly adopted, establish regular monthly, quarter-annual or semi-annual meetings. If such resolution is adopted, no notice of such regular meetings of the Board shall be required.

6.5 Adjourned Meetings. If at any meeting of the Board there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting as originally called.

6.6 Quorum. A quorum at a directors' meeting shall consist of a majority of the entire Board. The acts approved by a majority of those present at a meeting at which a quorum is present, shall constitute

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the act of a Board, except when approval by a greater number of directors is required by the Condominium Documents.

6.7 Joinder in Meeting by Approval of Minutes. The joinder of a director in any action taken at a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such director except for the purpose of determining a quorum.

6.8 Presiding Officer. The presiding officer of a directors' meeting 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 7. OFFICERS.

7.1 Officers. The executive officers of the Association shall be a President, Vice President, and a Treasurer/Secretary, each of whom shall be elected at the annual meeting of the Board of Directors. Any two of said offices may be held by one person except that the President shall not also be the Secretary or an Assistant Secretary of the corporation. The Board may appoint such other officers and agents that it may deem necessary, who shall hold office at the pleasure of the Board and have such authority and perform such duties as from time to time may be prescribed by said Board.

7.2 Qualification. No person shall be entitled to hold office except a member of the Board.

7.3 Term. The officers of the Association shall hold office concurrently with their term as directors of the Association, and until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board may be removed at any time by the affirmative vote of a majority of the Voting Members of the Association in accordance with the special meeting provisions of Section 3.4 hereof.

7.4 The President. (a) The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and directors; shall be an ex-officio member of all standing committees; shall have general management of the business of the corporation, and shall see that all orders and resolutions of the Board are carried into effect.

(b) The President shall also automatically serve as a director of Ocean Gate Master Condominium Association, Inc., whose term as director shall commence and terminate simultaneously with his term as President of this Association.

7.5 The Secretary.

7.5.1 The Secretary shall keep the minutes of the members' meetings and of the Board of Directors' meetings in one or more books provided for that purpose.

7.5.2 The Secretary shall see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law.

7.5.3 The Secretary shall be custodian of the corporate records and of the seal of the corporation.

7.5.4 The Secretary shall keep a register of the name and post office address of each member and each Voting Member.

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7.5.5 In general, the Secretary shall perform all duties incident to the office of the Secretary and such other duties as may be assigned by the President or by the Board of Directors.

7.6 The Vice President. The Vice President shall have all the duties of the President in his absence, and such other duties as may be prescribed by the Board of Directors.

7.7 The Treasurer.

7.7.1 The Treasurer shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation, and shall deposit all monies and other valuable effects in the name of and to the credit of the corporation in such depositories as may be designated by the Board of Directors or these By-Laws.

7.7.2 The Treasurer shall disburse the funds of the corporation as ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and directors at the regular meetings of the Board an account of all transactions completed as Treasurer, and of the financial condition of the corporation.

7.8 Vacancies. If any office becomes vacant by reason of death, resignation, disqualification or otherwise, the remaining directors by a majority vote may choose a successor or successors who shall hold office for the unexpired term. If the remaining directors are unable to agree on a successor, the Association shall hold an election in accordance with the provisions hereof.

7.9 Resignations. Any director or other officer may resign his office at any time. Such resignation shall be in writing, and shall take effect at the time of its receipt by the corporation, unless some time be fixed in the resignation, and then from the date so fixed. The acceptance of a resignation shall not be required to make it effective.

SECTION 8. APPROVAL BY VOTING MEMBERS.

8.1 The Association shall act through its Board of Directors and only the following matters shall require an affirmative vote of the Voting Members of the Association:

<u>Matter to be approved</u>	<u>Approval Required</u>
(1) Adjustment of pro-rata shares in the Common Elements appurtenant to the Units after condemnation.	2/3 of the Voting Interests of Voting Members owning Units in the Condominium.
(2) Adjustment in pro-rata share of Common Expenses, Assessments and Common Surplus after condemnation.	2/3 of the Voting Interests of Voting Members owning Units in the Condominium.
(3) Alterations or further improvements to the Condominium Property after completion of improvements.	3/4 of the Voting Interests of Voting Members in the Condominium.
(4) Waiver or reduction of reserves.	A majority of the Voting Interests of the Voting Members.
(5) Approval of changes in configuration or size of Units.	The affected Unit Owner and a majority of Voting Interests of the other Unit Owners.

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| (6) | Amendment of By-Laws and Articles of Incorporation. | 3/4 of the Voting Interests of the Voting Members. |
| (7) | Amendment of the Declaration | 3/4 of the Voting Interests of the Voting Members owning Units in the Condominium the Declaration of which is to be amended. |
| (8) | Termination of Condominium | 100% of the Voting Interests of the Voting Members owning Units in the Condominium which is to be terminated except as provided in item 11 of this Section 8.1. |
| (9) | Election of Directors and Officers. | a majority of Voting Interests of the Voting Members. |
| (10) | Removal of Directors and Officers. | a majority of Voting Interests of the Voting Members. |
| (11) | Election not to reconstruct or repair Common Elements or any Unit in the event of a casualty rendering 50% or more of the Units untenable, or after a condemnation taking 50% or more of the Units. | 3/4 of the Voting Interests of the Voting Members in the Condominium. |

SECTION 9. CONDUCT OF MEETING.

All meetings of the members and of the Board shall be governed by Robert's Rules of Order.

SECTION 10. FISCAL MANAGEMENT.

The provisions for fiscal management of OCEAN GATE Phase III, A CONDOMINIUM, as set forth in the Declaration of Condominium, are supplemented by the following provisions:

10.1 Accounts. The funds and expenditures of the Association shall be credited and charged to the appropriate account as set forth below.

10.1.1 Current Expenses. All funds to be expended during the year for the maintenance of the Common Elements and for the operation and working capital of the Association shall be held in the Current Expense Account. Any balance in this fund at the end of each year may be used to pay Common Expenses incurred in any successive year or may be placed in the Reserve Fund Account. Each Unit Owner except Developer shall upon becoming a member of the Association contribute to the Current Expense Account a sum equal to 1/12 of the annual Assessment with respect to his Unit.

10.1.2 Reserve Fund Account. All funds to be expended for replacement, acquisition, and repair of capital improvements which are a part of the Common Elements or Limited Common Elements shall be held in the Reserve Fund Account.

10.2 (a) Budget. The Board of Directors shall adopt a detailed budget for each calendar year which budget will include the estimated funds required to pay the Common Expenses and provide and maintain funds for the foregoing accounts according to good accounting practices and as may be required by the Condominium Act. If an adopted budget requires an Assessment against the Unit Owners in any

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year of an amount exceeding 115% of the Assessments for the preceding year, and if Unit Owners of 10% of the Voting Interests file objections to the budget within thirty (30) days after the date of adoption thereof, the Board of Directors shall call a special meeting of the Unit Owners and a majority vote of the Voting Interests shall be required to ratify the budget. If not ratified, the budget shall be revised so as to provide for an Assessment of not more than 115% of the prior year's Assessments.

(1) Notwithstanding the foregoing, the portion of the budget representing Assessments for the Master Association shall not be included in the budget for purposes of calculation of the percentage increase of the budget.

(2) In determining whether the Assessment exceeds 115% of similar Assessments in a prior year, reasonable reserves for repairs or replacements, expenses which cannot be reasonably anticipated to be incurred on a regular or annual basis, and Assessments for betterments shall not be considered in the computation.

(b) (1) The Estimated Operating Budget which is Attachment 3 to the Prospectus is the budget the Developer intends to adopt as the formal budget for the Condominium. The Unit Owners of Units that have been sold by the Developer will be assessed for Common Expenses at the rates as stated in said budget, and the Developer will be assessed for the amounts by which the Common Expenses exceed the amounts assessed against the Owners of Units sold by the Developer.

(2) In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000.00. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement reserve assessments annually to take into account any changes in estimates of or extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to budgets in which the members of an Association have, by a majority vote at a duly called meeting of the Association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection.

(3) Prior to turnover of control of the Association by the Developer to the Unit Owners other than the Developer pursuant to s. 718.301, Florida Statutes, the Developer may vote to waive the reserves or reduce the funding of reserves for the first 2 years of the operation of the Association and the vote to waive or reduce reserves must be taken each fiscal year, after which time reserves may only be waived or reduced upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the Association.

During this period, no provisions will be made for capital improvements or replacements, or for Reserve Funds other than the payment of one month's current assessments as a working capital contribution to the Association paid by each Unit at the time of its respective sale by the Developer and as set forth in the Estimated Operating Budget for the Condominium. It is further understood and agreed that the Developer's liability for current expenses as specified herein shall be limited to that necessary to maintain the Condominium in reasonably good condition, normal wear and tear excepted, expressly recognizing that such normal wear and tear will occur. It is further and specifically understood and agreed that incident to such normal wear and tear the Condominium will not remain in its original new unused condition and Developer expressly and specifically shall be under no duty or obligation to maintain it in such condition and shall have no duty or obligation to replace or refurbish the Condominium, or any portion thereof,

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except as included in the aforesaid duty to maintain the Condominium in reasonably good condition, normal wear and tear excepted.

(4) If a meeting of the 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.

(5) 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 interests, voting in person or by limited proxy at a duly called meeting of the Association. Prior to turnover of control of the Association by the Developer to Unit Owners other than the Developer pursuant to s. 718.301, Florida Statutes, the Developer-controlled Association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the Association.

10.3 Assessments. Assessments shall be made against all Unit Owners and collected in accordance with the provisions of Section 7 of the Declaration of Condominium, relating to assessments by the Master Association. Assessments against all Unit Owners for their shares of the items of the budget shall be made for the calendar year annually in advance on or before December 15 preceding the year for which the Assessments are made. Such Assessments shall be payable in twelve (12) equal monthly installments on the first day of each month of the year for which the Assessments are made. The Board of Directors shall annually adopt a budget for use during that year. If an annual Assessment is not made as required, an Assessment shall be presumed to have been made in the amount of the last prior Assessment and monthly payments thereon shall be due upon the first day of each month until changed by an amended Assessment. The budget and Assessments therefor may be amended at any time by the Board of Directors.

10.4 Depository. The funds of the Association will be deposited in such banks or savings and loan associations as shall be designated from time to time by the Board of Directors. Withdrawals of funds from such accounts shall be only by checks signed by such persons as authorized by the Board.

10.5 Fidelity Bonds. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this section, the term "persons who control or disburse funds of the Association" includes, but is not limited to, those individuals authorized to sign checks, and the President, Secretary/Treasurer of the Association. The Association shall bear the cost of the bonding.

SECTION 11. RULES AND REGULATIONS.

11.1 As to Common Elements. The Board of Directors may from time to time adopt or amend previously adopted rules and regulations governing the operation, use, maintenance, management and control of the Common Elements or the Condominium Property. The Secretary shall from time to time post in a conspicuous place on the Condominium Property, a copy of such rules and regulations. Any rules and regulations adopted pursuant hereto shall be reasonable and non-discriminatory.

11.2 As to Condominium Units. The Board of Directors may from time to time adopt or amend previously adopted rules and regulations governing and restricting the use and maintenance of the Condominium Units, provided, however, that copies of such rules and regulations are furnished to each Unit Owner prior to the time the same shall become effective. Where applicable or desirable, a copy thereof shall be posted in a conspicuous place on the Condominium Property, and shall be delivered to each Unit. Any rules and regulations adopted pursuant hereto shall be reasonable and non-discriminatory.

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11.3 A copy of the initial rules and regulations for the Condominium Property is attached hereto as Annex I.

11.4 Fines. Upon reasonable notice and an opportunity for hearing the Association may levy a fine against the Unit Owner of a Unit or its occupant, licensee, or invitee, for failure to abide by any provision of the Declaration, the Association By-Laws, or Rules of the Association. This section does not apply to unoccupied Units.

11.4.1 No fine shall become a lien against a Unit.

11.4.2 No fine shall exceed \$100.00 per violation. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing (as set forth below), provided that no such fine may exceed an aggregate amount of \$1,000.00.

11.4.3 Prior to the levying of such a fine, the Unit Owner and, if applicable, any licensee or invitee must be given reasonable notice of at least fourteen (14) days and an opportunity for hearing. The notice shall include:

- (1) A statement of the date, time and place of the hearing;
- (2) A statement of the provisions of the Declaration, Association By-Laws, or Association Rules which have allegedly been violated; and
- (3) A short and plain statement of the matters asserted by the Association.

11.4.4 A party against whom the Association seeks to levy a fine is entitled to a hearing held before a committee of other Unit Owners. Said party shall have the opportunity to respond, to present evidence, 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 committee of other Unit Owners does not agree with the fine, it shall not be levied.

SECTION 12. DEFAULT.

12.1 Foreclosure. In the event a Unit Owner does not pay any Assessments required to be paid to the Association within thirty (30) days from the due date, the Association, acting in its own behalf, or through the Manager acting on behalf of the Association, may foreclose the lien encumbering said Unit Owner's Parcel created by non-payment of the required monies in the same manner as mortgage liens are foreclosed pursuant to the provisions of the Declaration.

12.2 Association Expenses. If the Association becomes the owner of a Condominium Unit by reason of foreclosure, it may offer said Unit for sale and, when the sale is consummated, it shall deduct from such proceeds all sums of money due it from monthly Assessments and Charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the resale of the Condominium Unit, which shall include, but not be limited to, advertising expenses, real estate brokerage fees and expenses necessary for the repairing and refurbishing of the Unit in question. All monies remaining after deducting the foregoing items of expenses shall be added to Common Surplus.

12.3 Enforcement. In the event of violation of the provisions of the Condominium Documents as the same are now or may hereafter be constituted, the Association, on its own behalf, may bring appropriate action to enjoin such violation, to enforce the provisions of the Condominium Documents, to

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sue for damages, or take all such courses of action at the same time, or such other legal remedy it may deem appropriate.

12.4 Consent to the Foregoing Provisions. Each Unit Owner for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and injunctive relief, regardless of the harshness of the remedy available to the Association, and regardless of the availability of other equally adequate legal procedures. It is the intent of all Unit Owners to give to the Association a method and procedure which will enable it at all times to operate on a business-like basis, to collect those monies due and owing it from Unit Owners and to preserve each Unit Owner's right to enjoy his Condominium Parcel free from unreasonable restraint and nuisance.

SECTION 13. MORTGAGE OF UNIT.

13.1 The Association shall maintain a suitable register for the recording of the name and address of mortgagees of Condominium Units. Any mortgagee of a Condominium Unit, may, but is not obligated to, notify the Association in writing, of its mortgage, in which case its name and address will be entered in the register. If notice of default is thereafter given any member, under any applicable provision of the Condominium Documents, a copy of such notice shall be mailed to the mortgagee named in the register.

SECTION 14. AMENDMENT OF BY-LAWS.

14.1 By-Laws. The By-Laws of the corporation may be altered, amended or repealed, unless specifically prohibited herein, at any regular or special meeting of the members by a three-fourths (3/4) vote of the Voting Interests of the Association. No modification or amendment to the By-Laws shall be valid unless set forth or annexed to a duly recorded amendment to the Declaration of Condominium.

ANNEX IINITIAL RULES AND REGULATIONS OF THE CONDOMINIUM

- 1) The sidewalks, entrances, stairways, and like portions of the common elements shall not be obstructed or used for any purpose other than for ingress and egress to and from the premises, nor shall any carts, carriages, chairs, tables or any other similar objects be stored therein.
- 2) The personal property of unit residents must be stored in their perspective units or in storage areas provided within the condominium.
- 3) No garbage cans, supplies, recycling bins or bottles, or any other articles shall be placed on the balconies or entrances to units, nor shall any clothing, rugs, mops, laundry or other articles of any kind be hung from railings, balconies, or decks. All garbage and trash must be deposited in areas designated for such purpose.
- 4) Disturbing noises shall not be permitted.
- 5) No signs, advertisement, notice or other lettering shall be exhibited or displayed on, or upon, any part of the premises which may be seen from common areas. Additionally, no structure or building, awning, canopy, screening, shutter or other projection shall be attached to or placed upon the outside walls, doors, balconies or roof of the buildings or on the common elements. The exterior appearance of the balconies and decks may not be altered in any way without permission of the Board.
- 6) No combustible or explosive substances shall be kept in any unit or in any storage area, except such as may be required for normal uses.
- 7) No pets or animals may be kept or maintained in or about the condominium property except small dogs, small cats, small birds, and fish hereinafter referred to as "Pets". A conditional license to maintain 2 pets as defined above in the owners' unit is granted subject to the following conditions and reservations.
 - a) Dogs must be kept on a leash at all times while on the common areas.
 - b) Pets must not be walked near the buildings, walkways, shrubbery, gardens or other public spaces, nor on the ocean side of the condominium property, except to take to beach. Pets may be walked only in pet walk areas designated by the association. Owners are required to clean up after pets.
 - c) An owner is fully responsible for any damage to persons, property or other pets caused by his or her pet. In the event of any damage to the condominium property caused by a pet, the decision of the Association as to the amount of the damage shall be determinative and the unit owner shall be subject to assessment by the Association for the amount of damage.
 - d) No pets may weigh over 45 pounds.
 - e) No pet may be brought into or on the condominium property by guests, renters or visitors.

The above conditional license is subject to revocation and termination at any time by the Association upon their sole determination that such "Pet" is vicious or is annoying other residents or is otherwise a nuisance. Additional pets or larger pets may be allowed subject to written approval of the Association or its' agent.

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- 8) No vehicle shall be parked in such a manner as to impede ready access to another owners unit. All owners and their invites shall obey all parking and traffic regulations promulgated by the Association. No unit owners shall park boats, trailers, trucks or campers or any commercial vehicles on the condominium property, except in areas that may be designated from time to time. No vehicle which cannot operate on its own power shall remain on the premises for more than 24 hours, and no repairs to vehicles shall be made on the premises.
- 9) The rules for all recreational facilities shall be posted and shall be observed by all owners and guests. All children under the age of 14 must be supervised by an adult while on condominium facilities.
- 10) In cases of unit being rented in a rental pool, minimum 1 week rental stay is allowed. In the case of short term rental, an adult must be present at all times with children. Renting to one adult chaperoning a group of young people will not be permitted.
- 11) Each owner, for himself, his family, his guests and tenants and any other resident of the property, agrees to comply with and abide by all Rules and Regulations set forth above and as amended by the Board of Directors from time to time.
- 12) The above Rules and Regulations and procedures shall in no way amend or alter the article of Incorporation, Declaration of Condominium or by-laws of the Condominium, but shall only be supplemental thereto. In the event of conflict, the order of authority shall be the Declaration, Articles of Incorporation, the by-laws and these Rules; Regulations and procedures.
- 13) These rules may be amended or additional rules promulgated, by the Board of Directors of the Association at any time upon due notice to all residents.
- 14) In the event of resolution of these Rules and Regulations, or of any of the provisions of the Declaration, Articles of Incorporation or by-laws, the Association may impose reasonable fines not to exceed \$50.00 in each instance and or suspend certain use privileges in the recreational facilities and voting rights in the Condominium Association, but only after a hearing before the Board of Directors or before a Rules Committee appointed by the Board for this purpose. All alleged violators shall be entitled to cross examine witnesses and may be represented by council of their choice. The Board of Committee shall make written findings of fact.
- 15) There are not restrictions on children.