

**THIS INSTRUMENT PREPARED BY,  
or under the supervision of, AND  
AFTER RECORDING, RETURN TO:**

Oscar R. Rivera, Esq.  
**SIEGFRIED, RIVERA, HYMAN, LERNER,  
DE LA TORRE, MARS & SOBEL, P.A.**  
201 Alhambra Circle - 11th Floor  
Coral Gables, Florida 33134  
(305) 442-3334

## **DECLARATION OF CONDOMINIUM**

The City of Coral Gables, a Florida municipal corporation, being the holder of fee simple title to the real property situate, lying and being in Miami-Dade County, Florida, and more particularly described in Exhibit "A" ("Land") hereby states and declares that the Land and all Improvements (as defined below) situated thereon are submitted to condominium ownership, and declared to be a condominium known as **ANDALUSIA GARAGE CONDOMINIUM**, pursuant to Chapter 718, Florida Statutes, as amended from time to time ("Act"), the provisions of which are hereby incorporated by reference.

All the restrictions, reservations, covenants, conditions and easements contained herein shall constitute covenants running with the Land or equitable servitudes upon the Land, as the case may be, and shall run perpetually unless terminated or amended 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, as well as by the Bylaws and Articles of Incorporation of the Association. Both the burdens imposed and the benefits provided shall run with each Unit and the interests in the Common Elements as defined herein.

The Land, and all Improvements situated thereon, submitted to condominium ownership herewith are subject to conditions, limitations, restrictions, reservations or record, real estate taxes and applicable zoning ordinances.

### **ARTICLE I: DEFINITIONS**

Definitions of terms used in this Declaration and its Exhibits, and as they may hereafter be amended, are as follows:

- A. "AAC Use" means use of a Unit as an adult activity center dedicated to the emotional, social and physical well-being of the City of Coral Gables' older adult population.
- B. "Act" means the Florida Condominium Act (Chapter 718 of the Florida Statutes), as amended from time to time. In the event of any conflict between the terms hereof and the terms of the Act, the terms of the Act shall control.
- C. "Allocated Share" shall have the meaning given in Article XII.
- D. "Articles" or "Articles of Incorporation" mean the articles of incorporation of the Association.
- E. "Assessment" means a share of the funds required for the payment of Common Expenses, which from time to time is assessed against the Unit Owner.
- F. "Association" means the **ANDALUSIA GARAGE CONDOMINIUM ASSOCIATION, INC.**, a Florida corporation not for profit, which shall be the entity responsible for the operation of the Condominium.
- G. "Association Insured Property" shall have the meaning given in Article XIII.
- H. "Association Property" means the real and personal property owned by the Association for use and benefit of its members.
- I. "Board of Directors" or "Board" means the board of administration or other representative body responsible for administration of the Association.
- J. "Building" means the structure situated on the Land in which the Units and Shared Components are located.
- K. "Bylaws" mean the Bylaws of the Association existing from time to time.
- L. "Common Elements" means and includes:
1. The portions of the Condominium Property not included within the individual Units or the Shared Components.
  2. Easements of support in every part of each Unit which contribute to the support of the Improvements constructed on the Land.

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3. The term Common Elements when used throughout this Declaration, shall also include Limited Common Elements, as defined in this Declaration.

The term Common Elements does not include conduits, pipe, ducts, plumbing, wiring, air conditioning equipment or other facilities which service or apply to only one Unit although same may be located in the Common Elements.

The Condominium has been established in such a manner so as to minimize the Common Elements. Most components which are typically "common elements" of a condominium have instead been designated herein as part of the Shared Components of Unit B.

M. "Community Use" means use of a Unit by either the City of Coral Gables or a non-profit organization for the enhancement or betterment of the community.

N. "Common Expenses" means all expenses incurred by the Association for the repair, replacement, maintenance, operation or protection of the Condominium Property, and any other expense, whether or not included in the foregoing, designated as a common expense by the Act, this Declaration, the Articles or the Bylaws.

O. "Common Surplus" means the amount by which all receipts of the Association, including, but not limited to, Assessments, rents, profits and revenues, exceed Common Expenses.

P. "Condominium" or "Condominium Property" means the Land, Improvements and personal property that are subjected to condominium ownership, whether or not contiguous; and all easements and rights appurtenant thereto.

Q. "Condominium Documents" means the Declaration, Articles, Bylaws and Rules and Regulations, collectively.

R. "Condominium Parcel" means a Unit, together with the undivided share in the Common Elements which is appurtenant to the Unit.

S. "Declarant" means CITY OF CORAL GABLES, a municipal corporation of the State of Florida, its successors and assigns. Declarant may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with specific portions of the Condominium. In the event of any partial assignment, the assignee shall not be deemed the Declarant, but may exercise such rights of Declarant as are specifically assigned to it. Any such assignment may be made on a nonexclusive basis. The rights of Declarant under this Declaration are

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independent of the Declarant's rights to control the Board of Directors of the Association, and, accordingly, shall not be deemed waived, transferred or assigned to the Unit Owners, the Board of Directors or the Association upon the transfer of control of the Association.

T. "Declaration" means this Declaration of Condominium, as it may be amended from time to time.

U. "Exhibits" means the following exhibits to this Declaration, each of which is incorporated by reference and made a part of this Declaration:

Exhibit "A": Legal Description of Real Property being Submitted to Condominium Form of Ownership;

Exhibit "B": Survey, Plot Plans and Floor Plans;

Exhibit "C": Unit Owners' Percentage Interest in Common Elements, Common Expenses and Common Surplus;

Exhibit "D": Articles of Incorporation of Association; and

Exhibit "E": Bylaws of Association.

V. "Improvements" means the Building, and all structures, fixtures and furnishings contained in the Building other than the structures, fixtures and furnishings contained within a Unit.

W. "Land" means the real property situate, lying and being in Miami-Dade County, Florida, and more particularly described in Exhibit "A" attached hereto.

X. "Life Safety Systems" mean any and all emergency lighting, emergency generator, audio and visual signals, safety systems, sprinklers and smoke detection systems, which are now or hereafter installed in the Building, whether or not within the Units. All such Life Safety Systems, together with all conduits, wiring, electrical connections and systems related thereto, regardless of where located, shall be deemed Shared Components. Without limiting the generality of the foregoing, when the context allows, the Life Safety Systems shall also be deemed to include all means of emergency ingress and egress, including all stairways and stair landings. Nothing herein shall be deemed to suggest or imply that the Building or the Condominium contains all such Life Safety Systems.

Y. "Limited Common Elements" means the 3 Parking Spaces numbered 1, 2 and 3, which are reserved for the use of Unit C.

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Z. "Master Lease" means the Parking Garage Lease and Development Agreement between the City of Coral Gables and the Palace Management Group, LLC, dated as of July 14, 2008, a memorandum of which was recorded in Official Records Book 27774, at Page 2693, of the Public Records of Miami-Dade County, Florida; as amended by (i) First Amendment to Parking Garage Lease and Development Agreement, dated as of June 12, 2009; (ii) Second Amendment to Parking Garage Lease and Development Agreement, dated as of March 22, 2011; (iii) Third Amendment to Parking Garage Lease and Development Agreement, dated as of June 7, 2011; and (iv) Fourth Amendment to Parking Garage Lease and Development Agreement of even date herewith, a Memorandum of which is to be recorded after the recording of this Declaration.

AA. "Master Tenant" means the Palace Management Group, LLC, a Florida limited liability company, and the successors and assigns permitted under the Master Lease.

BB. "Member" means a member of the Association. Each Unit Owner is a Member of the Association.

CC. "Mortgagee" means a bank, savings and loan association, insurance company or union pension fund authorized to do business in the United States of America, an agency of the United States Government, a real estate investment trust, or a lender generally recognized in the community as an institutional type lender.

DD. "Operation" or "Operation of the Condominium" means the administration and management of the Condominium Property.

EE. "Parking Space" means each parking space shown on Exhibit "B." There are a total of 550 Parking Spaces in the Condominium Property.

FF. "Rules and Regulations" means the rules and regulations which may be adopted by the Association from time to time.

GG. "Shared Components" means any and all structural components of the Improvements, including, without limitation, all exterior block walls and all finishes (paint, stucco, etc.) as well as all facades attached or affixed thereto; the roof; all roof trusses, roof support elements and roofing insulation; all utility, mechanical, electrical, telephonic, telecommunications, plumbing and other systems, including, without limitation, all wires, conduits, pipes, ducts, transformers, cables and other apparatus used in the delivery of the utility, mechanical, telephonic, telecommunications, electrical, plumbing and/or other services; all Life Safety Systems; all heating, ventilating and air conditioning systems, including, without limitation, compressors, air handlers, ducts, chillers, water towers and other apparatus used in the delivery of HVAC services; all elevator shafts, elevator cabs,

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elevator cables and/or systems and/or equipment used in the operation of the elevators transversing the Condominium Property; and all trash rooms, trash chutes and any and all trash collection and/or disposal systems. The Shared Components shall be part of Unit B.

HH. "Shared Components Insured Property" shall have the meaning given in Article XIII.

II. "Shared Costs" shall have the meaning given in Article XII and shall not be deemed part of Common Expenses.

JJ. "Special Assessment" means any assessment levied against a Unit Owner other than the assessment required by a budget adopted annually.

KK. "Sublease" means the Sublease Agreement between the Palace Management Group, LLC and the Palace at Coral Gables Community Development District, dated July 28, 2011, as amended by that certain Amendment to Sublease Agreement of even date herewith.

LL. "Subtenant" means the Palace at Coral Gables Community Development District, a community development district established pursuant to Chapter 190 of the Florida Statutes.

MM. "Unit" or "Condominium Unit" means those parcels of the Condominium Property designated as Units A, B and C on the Exhibits attached to the Declaration. Unit A consists of the 210 Parking Spaces numbered 4-22 and 360-550. Unit B consists of the 337 Parking Spaces numbered 23-359 as well as the Shared Components. Unit C consists of the retail space located on the ground floor of the Building, as shown on Exhibit "B."

NN. "Unit Owner" or "Owner of a Unit" or "Owner" or "Member" means a record owner of legal title to a Condominium Parcel.

OO. "Utility Service" means the public and private utility systems which serve the Condominium Property, including but not limited to electric power, gas, hot and cold water, heating, ventilation, air conditioning, refrigeration, garbage and sewage disposal, telephone, internet, and cable television service.

## **ARTICLE II: SURVEY AND DESCRIPTION OF IMPROVEMENTS**

Attached hereto and made a part hereof as Exhibit "B" is a survey and graphic description of the Land and plot plans of the Improvements constituting the Condominium Property, identifying the Condominium Units, the Common Elements, the Limited Common Elements, and their respective location and approximate

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dimensions. The Improvements on the Land will consist of three (3) Units and the Common Elements depicted on Exhibit "B" to this Declaration.

A. Identification of Units. The Condominium consists of three Units, designated as Units A, B and C. Unit A consists of the Parking Spaces numbered 4-22 and 360-550. Unit B consists of the Parking Spaces numbered 23-359 and the Shared Components. Unit C consists of the retail space located on the ground floor of the Building, as shown on Exhibit "B." Exhibit "B", together with this Declaration, is sufficient in detail to identify the size and location of each Unit, any Limited Common Element appurtenant to a Unit, and the Common Elements.

B. Boundaries of Units A and B. Units A and B shall consist of the Parking Spaces designated in the preceding paragraph, and Unit B shall also contain the Shared Components. Each Parking Space shall consist of a volume of air which is the area to be used and occupied by an automobile, motor vehicle, moped or motorcycle. The Parking Spaces shall not include any Improvements or portions of Improvements contained in or on the Parking Spaces, such as bumpers and columns. The horizontal boundary of each Parking Space shall be delineated by the area within the pavement markings as indicated on Exhibit "B." The Parking Spaces shall consist of an envelope of air commencing above the finished surface of the floor slab within the horizontal boundaries and extending to two feet below the unfinished surface of any surface above the horizontal boundaries or, if there is no surface parking above a Parking Space (e.g., a Parking Space on the roof of the Building), then the envelope of air shall extend 10 feet above the finished surface within the horizontal boundaries.

C. Boundaries of Unit C.

1. Upper and Lower Boundaries. The upper and lower boundaries of Unit C shall be the following boundaries extended to their planar intersections with the perimetrical boundaries.

a. Upper Boundary. The horizontal plane of the lower surface of the unfinished ceiling.

b. Lower Boundary. The horizontal plane of the upper surface of the unfinished floor.

2. Perimetrical Boundaries. The perimetrical boundaries of Unit C shall be the vertical plane of the unfinished interior surfaces of the walls bounding Unit C extended to their planar intersections with each other and with the upper and lower boundaries.

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**ARTICLE III: OWNERSHIP, SHARE OF COMMON ELEMENTS,  
ALLOCATION OF COMMON EXPENSES AND COMMON SURPLUS**

A. Ownership. The fee title to each Condominium Parcel includes both the Unit and an undivided interest in the Common Elements. The undivided interest in the Common Elements will be conveyed or encumbered with its respective Unit. Any attempt to separate the fee title to a Unit from the undivided interest in the Common Elements appurtenant to the Unit shall be null and void.

B. Percentage Ownership. Each of the Unit Owners shall own an undivided interest in the Common Elements. The undivided interest of each Unit in the Common Elements is the percentage set forth on Exhibit "C" to this Declaration, which is based on the total number of Parking Spaces which either comprise a Unit or are a Limited Common Element appurtenant to a Unit in uniform relationship to the total number of Parking Spaces in the Condominium.

C. Percentage Share. The Common Expenses and the Common Surplus shall be shared by the Unit Owners as set forth in Exhibit "C".

D. Maintenance Responsibility. Any expense for the regular maintenance, repair or replacement of the Common Elements, including any Limited Common Element, shall be paid by the Association. A Unit Owner shall be responsible for all damages and costs of repair or replacement of a Common Element necessitated by the negligence or misuse of a Unit Owner, his family, guests, servants and/or invitees.

**ARTICLE IV: EASEMENTS**

A. Perpetual Non-Exclusive Easement in Common Elements/Condominium Property. The Common Elements, the Shared Components and the Condominium Property shall be subject to a perpetual non-exclusive easement in favor of all of the Unit Owners in this Condominium for the use and benefit of the Unit Owners and their immediate families, guests, tenants and invitees. The easement is hereby created for all proper and normal purposes, including, without limitation, (i) for purposes of ingress, egress, repair and maintenance, and (ii) for installation, use and maintenance of utility lines (such as water and sewer collection and distribution lines, electrical power transmission lines, telephone lines, cable television and other utility services contained within the Shared Components). A Unit Owner shall do nothing within or outside their Unit that interferes with or impairs, or may interfere with or impair, the provision of such utility, communication lines, or other utility services or the use of these easements. These easements shall run to the benefit of all Owners, guests, tenants and invitees at **ANDALUSIA GARAGE CONDOMINIUM**. The Association and the Owner of Unit B shall have a right of access to each Unit to maintain, repair or replace any Shared Component pipes, wires, ducts, vents, cables, conduits and other utility, cable television,

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communications and similar systems, hot water heaters, service and drainage facilities, planting areas and Shared Components contained in the Unit or elsewhere in or around the Condominium Property and to remove any improvements interfering with or impairing such facilities or easements herein reserved. The Declarant reserves the exclusive right, for itself and the Owner of Unit B, to delineate easements for utilities and other services in Unit B. The Association shall have the right to establish Rules and Regulations governing the use and enjoyment of the Common Elements. The Association may from time to time impose upon the Common Elements such easements, licenses and cross-easements for any of the foregoing purposes as it deems to be in the best interest of, and necessary for, the uniform and proper operation of the Condominium. The foregoing shall not create use rights with respect to any Limited Common Element in any party other than the Owner of the respective Unit to which such Limited Common Element is appurtenant and such Owner's tenants, guests and invitees.

B. Easement for Encroachments. In the event that (i) any Unit encroaches upon any Common Element and/or Shared Component for any reason not caused by the intentional or negligent act of a Unit Owner or its agent; (ii) any portion of the Common Elements and/or Shared Components encroaches upon any Unit, for any reason not caused by the intentional act of a Unit Owner or its agent; or (iii) any encroachment hereafter occurs as a result of (1) construction of the Improvements; (2) settling or shifting of Improvements; (3) any alteration or repair to the Common Elements and/or Shared Components made by or with the consent of the Association, the Owner of Unit B or the Declarant, as appropriate; or (4) any repair or restoration of any portion of the Improvements or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of any portion of any Unit, the Common Elements and/or Shared Components, then an easement shall exist for the continuance of such encroachment and the maintenance of same so long as the encroachment exists. In like manner, in the event that any Unit encroaches upon any other Unit, an easement appurtenant to the encroaching Unit shall exist for the continuance of such encroachment into the neighboring Unit, for so long as the encroachment exists.

C. Easement for Air Space/Support. The Owner of each Unit shall have an exclusive easement for the use of air space occupied by its Unit as the Unit exists at any particular time, and as the Unit may be lawfully altered or reconstructed from time to time. Further, each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units, the Common Elements, the Shared Components and the Limited Common Elements.

D. Ingress and Egress. A non-exclusive easement in favor of each Unit Owner as well as their guests, tenants, employees and invitees shall exist for (i) pedestrian and vehicular traffic over, through and across such portions of Unit B as

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are designated and intended to provide direct pedestrian and vehicular access to and from Unit A or Unit C, and (ii) use and enjoyment of the Shared Components. The Declarant reserves the exclusive right, for itself and the Owner of Unit B, to delineate easements for ingress, egress, paths, driveways and walkways in Unit B.

E. Easement for the Public. An easement is created for pedestrian traffic over, through and across sidewalks, paths, walkways and lanes as the same may from time to time exist upon the Common Elements and/or Shared Components, and for the vehicular traffic over, through and across such portion of the Common Elements and/or Shared Components as may from time to time be paved and intended for such purposes, but the same shall not include any portion of Units A or C unless the respective Unit Owner has made same available to the general public.

F. Construction; Maintenance. The Declarant and, to the extent applicable to the Shared Components, the Owner of Unit B, each shall at all times have the right to enter the Condominium Property for the purpose of completing the construction of any and all Improvements upon any portion of the Condominium Property, and for repair, replacement, maintenance or warranty purposes, provided same does not unreasonably interfere with the reasonable use of the Condominium Property by the Unit Owners.

G. Exterior Building Maintenance. An easement is hereby reserved on, through and across each Unit and all Common Elements in order to afford access to the Association, the Owner of Unit B (and the contractors of such parties) to repair, replace, maintain, and alter the roof and rooftop mechanical equipment, and to perform window washing and other exterior maintenance, repairs and painting of the Building, Shared Components and Common Elements.

H. Additional Easements; Relocation. The Association, through its Board, and the Owner of Unit B shall have the right to grant additional general and specific easements for Utility Service, or modify or relocate existing easements in any portion of the Condominium Property, as the Board and/or Owner of Unit B, as applicable, deems necessary or desirable for the proper operation and maintenance of the Condominium Property or for the purposes of carrying out any provision of this Declaration, provided that such easements or the relocation of such existing easements will not prevent or unreasonably interfere with the reasonable use of the Condominium Property and provided further that if any such easement shall traverse Unit B, the joinder of the Owner of Unit B shall be required. The Declarant, on its own behalf and on behalf of the Owner of Unit B to the extent applicable, reserves the exclusive right to relocate the position or configuration of any and all easements for ingress, egress, Utility Service, drainage and other services within the Condominium Property.

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## **ARTICLE V: NAME**

The name by which this Condominium is to be identified is: **ANDALUSIA GARAGE CONDOMINIUM.**

## **ARTICLE VI: ADMINISTRATION OF CONDOMINIUM BY ASSOCIATION**

A. Powers and Duties. The Association shall be the entity responsible for the operation of the Condominium. Copies of the Articles and Bylaws of the Association are attached hereto as Exhibits "D" and "E" respectively. The powers and duties of the Association shall include those set forth in this Declaration, the Bylaws, and the Articles of Incorporation of the Association, as amended from time to time. In addition, the Association shall have all the common law and statutory powers of a corporation not-for-profit under the laws of Florida and the powers and duties set forth in the Condominium Act. All of the powers and duties of the Association shall be exercised by the Board of Directors except when specific Owner approval is required by law, this Declaration, the Bylaws, or the Articles of Incorporation; provided, however, that in any instance in which the Association's approval is required, the Board of Directors may delegate to a member of the Declarant's staff the authority to review such request for approval and grant such approval on behalf of the Board of Directors and the Association. The powers and duties of the Association as exercised by the Board of Directors, or as so delegated to a third party, shall include but not be limited to the following:

1. The irrevocable right to have, and to grant to the Owner of Unit B, access to each Unit from time to time during reasonable hours when necessary for pest control purposes or for the maintenance, repair or replacement of any Common Elements or Shared Components or any portion of a Unit to be maintained by the Association or Owner of Unit B pursuant to this Declaration or at any time, and by force, if necessary, to make emergency repairs or to prevent damage to the Common Elements or Shared Components or to a Unit or Units.
2. The power to determine the expenses required for the operation of the Association and to make and collect regular and Special Assessments and other charges against Owners.
3. The power to act as the collection agent on behalf, and at the request, of the Owner of Unit B for charges due to the Owner of Unit B from other Unit Owners.
4. The duty to maintain accounting records according to good accounting practices, which shall be open for inspection by Owners or their authorized representatives at reasonable times upon prior request.

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5. The power to adopt, amend and enforce Rules and Regulations concerning the operation and use of the Units, the Common Elements and Association Property.

6. The power to charge a fee for the exclusive use of Common Elements or Association Property to any Owner being granted, by the Association, a right to such exclusive use.

7. The power to acquire title to property (including purchasing Units at a foreclosure sale); and to otherwise hold, regulate, administer, convey, lease, maintain, repair and replace Association Property and Common Elements for the use and benefit of the Unit Owners, including the right to grant, modify or relocate easements which are a part of or cross Association Property and Common Elements.

8. The power to institute, settle or appeal actions or hearings on behalf of all Owners.

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

10. The power to enter into agreements for bulk rate communications services (as defined in Chapter 202, Florida Statutes), information services or Internet services.

11. The power to contract with individuals or entities to operate various facilities or services upon portions of the Common Elements or Association Property.

12. The power to operate, maintain, repair and replace the Common Elements and the Association Property.

13. The power to employ, dismiss and contract with personnel and independent contractors necessary for the maintenance and operation of the Common Elements and the Association Property.

14. The power to maintain bank accounts on behalf of the Association and to designate the signatories required therefor.

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15. The power to obtain insurance for the Condominium and Association Property, including, if permitted or required by the Act, on behalf of individual Unit Owners in the event such Unit Owners fail to obtain insurance as required by the Act.

16. The power to make repairs, additions, alterations, and improvements to Common Elements and Association Property, in accordance with the provisions of this Declaration.

17. The power to levy fines against Owners and occupants for violations of this Declaration, the Bylaws or the Rules and Regulations.

18. The power to borrow money, execute promissory notes and other evidences of indebtedness, and to give as security for mortgages security interests in property owned by the Association, if any, in connection with the operation, care, upkeep and maintenance of the Common Elements and Association Property or for the acquisition of property. If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this Section A.17 is not repaid by the Association, a Unit Owner who pays to the creditor such portion thereof as his interest in the Common Elements bears to the interest of all the Unit Owners in the Common Elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against, or which will affect such Owner's Unit.

B. Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any injury or damage caused by defects in design or workmanship or for any other reason connected with any additions, alterations or improvements or other activities done by or on behalf of any Unit Owners regardless of whether or not same shall have been approved by the Association pursuant to Article XI hereof. The Association shall not be liable to any Unit Owner or lessee or to any other person or entity for any property damage, personal injury, death or other liability on the grounds that the Association did not obtain or maintain insurance (or carry insurance with any particular deductible amount) for any particular matter where: (i) such insurance is not required by this Declaration; or (ii) the Association could not obtain such insurance at reasonable costs or upon reasonable terms. Nothing herein shall be deemed to relieve the Association of its duty to exercise ordinary care in the carrying out of its responsibilities or to deprive a Unit Owner of its right to sue the Association if it negligently or willfully causes damage to the Unit Owner's property during the performance of the Association's duties.

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## **ARTICLE VII: MEMBERSHIP IN ASSOCIATION AND VOTING**

A. Membership. Each Owner of a Unit shall automatically become a member of the Association upon such Owner's acquisition of an ownership interest in a Unit and its appurtenant undivided interest in the Common Elements. The membership of an Owner in the Association shall terminate automatically upon the Owner being divested of its ownership interest and the title to such Unit, regardless of the means by which such ownership shall be divested. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Unit shall be entitled by virtue of such lien, mortgage or other encumbrance to membership in the Association or to any of the rights or privileges of such membership.

B. Voting. Each Unit shall be entitled to one (1) vote for each percentage of ownership interest in the Common Elements as shown in Exhibit "C" attached hereto (e.g., a Unit with thirty-eight percent (38%) of the ownership interests in the Common Elements shall have thirty-eight (38) votes), to be cast by its Owner in accordance with the provisions set forth in the Bylaws of the Association.

## **ARTICLE VIII: BYLAWS**

The operation of the Association shall be governed by the Bylaws attached as Exhibit "E" to this Declaration. The Bylaws shall be amended as provided therein.

## **ARTICLE IX: METHOD OF AMENDMENT**

A. General Amendments. Except for any alteration in the percentage of ownership in the Common Elements or alteration of the basis for apportionment of Assessments which may be levied by the Association in accordance with the provisions hereof, this Declaration may be amended in the following manner:

1. By the Association. Amendments to this Declaration may be proposed by either the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by not less than one-third (1/3) of the voting interests held by Members of the Association, whether meeting as Members or by instrument in writing signed by them. Upon any amendment to this Declaration being proposed by the Board of Directors or Members, the proposed amendment shall be transmitted to the President of the Association, or to another officer of the Association in the absence of the President, who shall thereupon include the proposed amendment for consideration in the Notice for the Annual Meeting, or call a Special Meeting of the Members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed amendment. The Secretary of the Association shall give to each Member a written or printed notice of the meeting, stating the time and place thereof, and reciting the

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proposed amendment in reasonably detailed form. The notice shall be mailed not less than fourteen (14) days, nor more than sixty (60) days before the date set for the meeting. If mailed, the notice shall be deemed to be properly given when deposited in the United States mail, postage prepaid, addressed to the Member at his Post Office address as it appears on the records of the Association. At the meeting, the proposed amendment must be approved by an affirmative vote of a majority of the Unit Owners present at the meeting in person or by proxy in order for such amendment or amendments to become effective.

2. By the Declarant. The Declarant reserves the right to amend this Declaration, including the Exhibits, without the consent of the Unit Owners, except as required by the Act, in order to correct any omissions or errors, including scrivener's or surveyor's errors, so long as such amendments do not materially affect the rights of Unit Owners or Mortgagees.

B. Mortgagees' Consent. No amendment to this Declaration shall be adopted which would operate to affect the validity or priority of any mortgage held by a Mortgagee or which would alter, amend or modify in any manner whatsoever, the rights, powers, and privileges granted and reserved herein in favor of the Declarant or any Mortgagees without the consent of the Declarant or all Mortgagees, as the case may be; provided, however, that the consent rights of Mortgagees shall be subject to the terms of the Act.

C. Execution and Recording. Any amendment, other than amendments made by the Declarant alone pursuant to the Act or this Declaration, shall be in writing and certified by the President and Secretary of the Association as having been duly adopted. The original, or an executed copy, of the amendment so certified and executed with the same formalities as a deed, shall be recorded in the Public Records of Miami-Dade County, Florida, and the amendment shall specifically refer to the recording data identifying this Declaration. At any meeting held to consider an amendment, the vote of any Unit Owner shall be recognized if such Unit Owner is represented at the meeting by proxy, provided such vote is delivered to the Secretary of the Association at, or prior to, such meeting.

D. Amendments With Respect to Percentage of Ownership in Common Elements. No amendment to this Declaration which purports to alter in any way the basis for apportionment of Assessments shall be adopted or become effective without the written consent, in recordable form, of all of the Unit Owners, and all of their respective Mortgagees. The amendment shall not become effective until an instrument evidencing such written consent is recorded in the Public Records of Miami-Dade County, Florida.

## **ARTICLE X: MAINTENANCE AND REPAIRS**

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A. Unit and Limited Common Elements. All maintenance, repairs and replacements of, in or to any Unit, whether structural or non-structural, ordinary or extraordinary, including, but not limited to, maintenance, repair and replacement of: screens, sliding glass doors, and windows (including the framing, caulking and hardware); the interior and exterior of the entrance door and all other doors within or affording access to a Unit (except for the painting of the exterior of any doors providing access to the Unit, which shall be a Common Expense); the electrical (including fixtures, dimmers, wiring and outlets), plumbing (including fixtures, pitch pans, and connections), heating and air-conditioning equipment (including compressors and condensers); all cabinetry and fixtures, appliances, carpets and other floor coverings owned by the Owner of a Unit; all interior surfaces and wallcoverings and the entire interior of the Unit lying within the boundaries of the Unit or other property belonging to the Owner, shall be performed by the Owner of such Unit at the Owner's sole cost and expense, except as may otherwise be expressly provided to the contrary herein. At the option of the Owner of Unit B, each Owner shall be obligated to repair any equipment, fixtures, wiring, or other items of property which serve only the Owner's Unit without regard to whether such items are included within the boundaries of the Unit notwithstanding that same may be defined as part of the Shared Components. All repairs which affect the Shared Components shall be subject to the approval and supervision of the Owner of Unit B. Any surfaces shall be painted in conformity with the color specifications promulgated by the Board of Directors from time to time. The Owner of Unit B shall have full access throughout the Condominium Property to perform any work to the Shared Components desired or deemed necessary by the Owner of Unit B.

B. Common Elements. All maintenance, repairs and replacements in or to the Common Elements shall be performed by the Association and the cost and expense thereof shall be charged to all Owners as a Common Expense. However, any expense or cost for maintenance, repairs and replacements in or to the Common Elements performed by the Association arising from or necessitated by the negligence, misuse or neglect of a specific Owner shall be paid solely by such Owner.

C. Shared Components. The Owner of Unit B shall be responsible for the repair, replacement, improvement, maintenance, management, operation and insurance of the Shared Components, which shall be performed in a commercially reasonable manner in the determination of the Owner of Unit B (which determination shall be binding). In consideration of the reservation and grant of easement over Unit B as provided in Article IV above, each Unit Owner shall be obligated for payment of the expenses incurred by the Owner of Unit B in connection with such repair, replacement, improvement, maintenance, management, operation and insurance, all as more particularly provided in Article XII below.

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D. Failure to Maintain or Repair. In the event the Owner of a Unit fails to maintain or repair the Unit as required herein or makes any unauthorized additions, alterations or improvements or otherwise violates the provisions hereof, the Association (or the Owner of Unit B, if such failure shall affect the Shared Components), without waiving its right to pursue all rights and remedies provided for in this Declaration or by law, shall have the option to effectuate any necessary maintenance or repairs or to remove any unauthorized additions, alterations or improvements and the right to do the necessary work to enforce compliance with the provisions hereof, at the Unit Owner's sole cost and expense. Additionally, the Association or any other Unit Owner shall have the right to proceed in a court of competent jurisdiction to seek compliance with the provisions of this Declaration.

#### **ARTICLE XI: ADDITIONS, ALTERATIONS OR IMPROVEMENTS**

A. By Unit Owner. No Owner shall cause or allow improvements or changes to any Unit or the Limited Common Elements appurtenant thereto or to the Common Elements, including, but not limited to, painting or other decorating of any nature; installing any electrical wiring, television antenna, machinery or air-conditioning units; installing balcony enclosures or in any other manner changing the appearance of any portion of the Building, without obtaining the prior written consent of the Board of Directors and Owner of Unit B, to the extent Shared Components are affected, in the manner specified herein. Any requests for electrical, mechanical or structural additions, alterations or improvements must be submitted with plans prepared and sealed by the appropriate licensed professional (i.e., architect, engineer, etc.). The Owner shall be responsible for any fees and costs incurred by the Association and Owner of Unit B to hire professionals such as engineers, architects or attorneys as may be necessary to review any request by the Owner to proceed with an addition, alteration or improvement. The Board of Directors and Owner of Unit B shall have the obligation to answer any written request by an Owner for approval of an addition, alteration or improvement within forty-five (45) days after the request and any additional information requested by the Board of Directors and Owner of Unit B is received. Failure by the Board or Owner of Unit B to respond to the written request within the stipulated time shall constitute the consent of Board or Owner of Unit B, as applicable. The Board and Owner of Unit B may condition the approval in any manner, including, without limitation, retaining the right to approve the contractor to perform the work. Depending upon the nature of the alteration, addition or improvement, the Board of Directors or the Owner of Unit B, each in its sole discretion, shall have the authority to require the Owner to enter into an agreement with the Association and/or Owner of Unit B, which may include a covenant running with the land, as a condition to obtaining approval.

1. Compliance with Laws. Any approved additions, alterations and improvements shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and in compliance

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with any conditions approved by the Board of Directors and Owner of Unit B pertaining to design, structural integrity, aesthetic appeal, construction details, lien protection, and similar matters. No alteration, addition or improvement may affect the Shared Components without the prior written consent of the Owner of Unit B, which consent may be withheld in its sole discretion.

2. Indemnification. An Owner making any additions, alterations or improvements to a Unit, and his heirs, personal representatives, successors and assigns, as appropriate, shall hold the Declarant, the Association, its officers, directors, agents, employees and Members, and all other Unit Owners harmless from, and indemnify them for any liability or damage to the Condominium Property arising from the installation or construction of the addition, alteration or improvement and any expenses arising therefrom. The Unit Owner shall be responsible for the maintenance, repair and insurance of any addition, alteration or improvement as may be required by the Association and/or Owner of Unit B. Neither the Declarant, the Association, nor any of its officers, directors, agents, employees, Members or attorneys shall be liable to any Owner or any other person by reason of mistake in judgment, failure to point out or correct deficiencies in any plans or other submissions, negligence, or any other misfeasance, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval of any plans or submissions. Anyone submitting plans hereunder, by the submission of same, agrees not to seek damages from the Declarant, the Owner of Unit B and/or the Association arising out of the review of plans hereunder. Without limiting the generality of the foregoing, the Association and Owner of Unit B shall not be responsible for reviewing any plans, nor shall their review of any plans be deemed approval of any plans from the standpoint of structural safety, soundness, workmanship, materials, usefulness, conformity with building or other codes or industry standards, or compliance with governmental requirements. Further, each Owner, including his successors and assigns, agrees to hold the Declarant, the Owner of Unit B and the Association harmless from and against any and all cost, claims (whether rightfully or wrongfully asserted), damages, expenses or liabilities whatsoever (including, without limitation, reasonable attorneys' fees and court costs at all trial and appellate levels), arising out of any review of plans hereunder. The Board of Directors may appoint an Architectural Control Committee to assume the functions described in this paragraph on its behalf, subject to the rights of the Owner of Unit B. The provisions of this paragraph shall not be amended without an affirmative vote of three-fourths (3/4) of the total voting interests in the Condominium, and if any amendment of this paragraph shall affect the alteration, addition or improvement of the Shared Components, the affirmative vote of the Owner of Unit B shall be required in such three-fourths (3/4) vote.

3. Life Safety Systems. No Unit Owner shall make any additions, alterations or improvements to the Life Safety Systems, or to any other portion of the Condominium Property which may alter or impair the Life Safety Systems or access to the Life Safety Systems, without first receiving the prior written approval

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of the Board and the Owner of Unit B. In that regard, no lock, chain or other device or combination thereof shall be installed or maintained at any time on or in connection with any door on which panic hardware or fire exit hardware is required except by the Owner of Unit B in connection with maintenance of the Shared Components. Stairwell identification and emergency signage shall not be altered or removed by any Unit Owner except by the Owner of Unit B in connection with maintenance of the Shared Components. No barrier shall impede ingress and egress to and from all emergency ingress and egress passageways.

4. Removal of Approved Additions. Any Unit Owner who proceeds with an approved addition, alteration or improvements shall do so at its sole risk and expense. In the event it is necessary for the Association or the Owner of Unit B to remove an addition, alteration or improvement installed by an Owner in the course of performing repairs or maintenance to any portion of the Condominium required to be maintained or repaired by the Association or the Owner of Unit B, the Owner shall be responsible for the cost of removal and replacement of such addition, alteration and improvement. Under no circumstances shall the Association or the Owner of Unit B be responsible for any damages to any such addition, alteration or improvement caused by the Association or the Owner of Unit B or their respective agents or employees in connection with the performance of any maintenance, repairs or replacements of any portion of the Condominium required to be maintained by the Association or the Owner of Unit B.

5. Owner's Liability. Owners shall be held strictly liable for any violations of the restrictions set forth in this Article and for all damages resulting therefrom. The Association or the Owner of Unit B, in addition to all other rights and remedies provided by law and this Declaration, shall have the right to require the immediate removal of any alterations, additions, or improvements in violation of this Article.

B. By Declarant or the Owner of Unit B. The Declarant shall have the additional right, at its sole cost and expense, without the consent or approval of the Board or other Unit Owners, to make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon any Unit owned by it (including, without limitation, the removal of walls, floors, ceilings and other structural portions of the Improvements) so long as the Declarant complies with Section 718.110(2), (4), and (8), Florida Statutes. Similarly, the Owner of Unit B shall have the additional right, but without obligation, and without the consent or approval of the Board of Directors or other Unit Owners, to make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon the Shared Components (including, without limitation, the removal of walls, floors, ceilings and other structural portions of the improvements), and to expand, alter or add to all or any part of the Shared Components. Any amendment to this Declaration or other governing documents of the Condominium required by a change made pursuant to

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this paragraph shall be adopted in accordance with Article IX; provided, however, that the exercise of any right pursuant to this paragraph shall not require amendment of this Declaration so long as (1) Unit Owners' percentage of ownership in the Common Elements and Common Surplus, (2) the basis for apportionment of Assessments and (3) the rights of Mortgagees, are not affected.

C. By Association. Whenever in the judgment of the Board of Directors the Common Elements, Association Property or any part thereof shall require additions, alterations or improvements (as distinguished from repairs and replacements) costing in excess of one hundred thousand dollars (\$100,000) in the aggregate in any calendar year, the Association may proceed with such additions, alterations or improvements upon the approval of three-fourths (3/4) of the voting interests held by Members. Any such additions, alterations or improvements to the Common Elements, Association Property or any part thereof costing in the aggregate one hundred thousand dollars (\$100,000.00) or less in a calendar year may be made by the Board of Directors without approval of the Owners. The cost and expense of any such additions, alterations, or improvements shall constitute a part of the Common Expenses and shall be assessed to the Owners. Notwithstanding anything in this Paragraph to the contrary, changes to the Shared Components shall be made at the sole discretion of the Owner of Unit B and shall not require the approval of the Board or any other Unit Owner. For purposes of this Paragraph, "aggregate in any calendar year" shall include the total debt incurred in that year if such debt is incurred to perform the above stated purposes, regardless of whether the repayment of any part of that debt is made beyond that year.

## **ARTICLE XII: LIENS AND ASSESSMENTS; SHARED COSTS**

A. Determination of Common Expenses and Fixing of Assessments Thereof. The Board of Directors shall, at least annually, prepare a budget for the Condominium ("Budget"), determine the amount of Assessments payable by the Owners to meet the Common Expenses of the Condominium, and allocate and assess such expenses among the Owners in accordance with the provisions of this Declaration and the Bylaws. The Budget shall include reserve accounts to the extent required by law unless waived or reduced by the Owners in accordance with the Act. Notice of the Board of Directors' meeting at which the Budget for the fiscal year will be adopted, along with a copy of the proposed Budget, shall be furnished to all Owners at least fourteen (14) days prior to said meeting. The Board of Directors shall have the authority to amend the Budget from time to time or to impose Special Assessments if the operating Budget is insufficient to meet the actual expenses at any time. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board of Directors shall determine from time to time, and need not be restricted or accumulated.

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B. Items Included in Common Expenses. "Common Expenses" shall include all expenses properly incurred by the Association, including, but not limited to: (1) expenses of administration and management of the Association; (2) expenses of maintenance, operation, protection, repair and replacement of the Common Elements and Association Property, including, but not limited to, the costs for additions, alterations and improvements effectuated in accordance with the provisions of this Declaration; (3) expenses declared Common Expenses by the provisions of this Declaration, the Bylaws and the Condominium Act; (4) any valid charge against the Condominium as a whole; (5) the costs of carrying out the powers and duties of the Association; (6) the costs of operating or subsidizing facilities, amenities and services for the benefit of the Owners. Common Expenses shall also include insurance for directors and officers, maintenance and operation expenses, costs of in-house communications, the cost of communications services (as defined in Chapter 202, Florida Statutes), information services or Internet services obtained pursuant to a bulk contract, if applicable, and any other expenses reasonably related to the general benefit of the Owners.

C. Liability for Assessments. An Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments coming due while that person is the Owner of a Unit. In the case of a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor for the share of the Common Expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit for which the Assessments are made or otherwise.

D. Mortgagee. A Mortgagee who acquires title to a Unit by foreclosure or by deed in lieu of foreclosure is liable for the share of Common Expenses, Assessments and Special Assessments or other charges imposed by the Association pertaining to such Unit that became due prior to the Mortgagee's receipt of the deed. However, if a first Mortgagee acquires title to a Unit, the Mortgagee's liability will be limited to the lesser of: (i) those Assessments which accrued or came due during the twelve (12) months immediately preceding the acquisition of title and for which payment in full has not been received by the Association; or (ii) one percent (1%) of the original mortgage debt. A first Mortgagee's liability for such expenses or Assessments will not commence until thirty (30) days after the date the first Mortgagee takes title to the Unit. The provisions of this paragraph apply only if the first Mortgagee joined the Association as a defendant in the foreclosure action. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the Mortgagee.

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Any Mortgagee acquiring title to a Unit as a result of foreclosure, or a deed in lieu of foreclosure, may not, during the period of its ownership of such Unit, whether or not such Unit is unoccupied, be excused from the payment of some or all of the Common Expenses coming due during the period of such ownership. If any unpaid share of Common Expenses or Assessments or other charges is extinguished by foreclosure of a superior lien or by a deed in lieu of foreclosure thereof, the unpaid share of Assessments are Common Expenses collectible from all of the Owners, including such acquirer, and such acquirer's successors and assigns.

E. Default in Payment of Assessments for Common Expenses. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. In addition to the above stated interest, the Association may charge an administrative late fee on Assessments and installments thereof not paid when due in an amount not to exceed the highest amount provided for in the Act (as it may be amended from time to time). All payments of Assessments shall be first applied to interest, then to any administrative late fee, then to any costs and reasonable attorneys' fees incurred in collection, and then to the Assessment. The foregoing method of applying payments shall be applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment.

F. Association Lien for Nonpayment of Assessment. The Association shall have a lien on each Condominium Parcel for any unpaid Assessment, administrative fee, interest and all attorneys' fees for the collections thereof. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid or until the claim of lien is barred by law. The claim of lien shall secure (whether or not stated therein) all unpaid Assessments, interest thereon, and costs and attorneys' fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure. A claim of lien must be signed and acknowledged by an officer or agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association may bring an action in its name to foreclose a lien for unpaid Assessments in the manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien. The Association is entitled to recover its reasonable attorneys' fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid Assessments. Except as otherwise provided in the Act, no lien may be filed by the Association against a Unit until thirty (30) days after the date on which a notice of intent to file a lien has been delivered (or delivery has been refused) to the Unit Owner by certified mail, return receipt requested, addressed to the Unit Owner at his or her last known address as reflected in the records of the Association. The notice shall be deemed given upon mailing as required by this Paragraph.

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1. Acceleration. As an additional right and remedy of the Association, upon filing a claim of lien, the Association may declare the Assessment installments for the remainder of the Association's fiscal year to be accelerated and such amount shall thereupon be immediately due and payable. In the event the amount of such installments changes during the period for which Assessments were accelerated, the Unit Owner or the Association, as appropriate, shall be obligated to pay or reimburse to the other the amount of increase or decrease within ten (10) days of same taking effect.

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

G. Certificate of Unpaid Assessments. Within fifteen (15) days after request of an Owner or Mortgagee of a Unit, the Association shall provide a certificate stating whether all Assessments and other moneys owed to the Association by the Owner with respect to his Unit have been paid. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

H. Installments. Regular Assessments may be collected monthly or quarterly, in advance, at the option of the Association from time to time.

I. Limits on Rights or Responsibilities of Mortgagees. Nothing in this Declaration shall abridge or limit the rights or responsibilities of Mortgagees of a Condominium Unit as set forth in greater detail in the statutes made and provided for same.

J. Liens. With the exception of liens which may result from the initial construction of this Condominium, no liens of any nature may be created subsequent to the recording of this Declaration against the Condominium Property as a whole (as distinguished from individual Units) except by vote of three-fourths (3/4) of the voting interests held by Members of the Association. Unless a Unit Owner has expressly requested or consented to work being performed or materials being furnished to his Unit or unless work was done on account of the Unit Owner's failure to maintain his individual Unit as provided for in Article X, such labor or materials may not be the basis for the filing of a lien against a Unit. No labor performed or materials furnished to the Common Elements shall be the basis for a lien on the Common Elements unless authorized by the Association, in which event same may be the basis for the filing of a lien against all Units in the proportions for which the Owners thereof are liable for Common Expenses.

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K. Shared Costs.

1. Maintenance. As provided in Articles IV and X above, the Owner of Unit B has granted easements with respect to certain portions of Unit B and agreed to repair, replace, improve, maintain, manage, operate and insure Unit B, all to be done as determined and ordered by the Owner of Unit B, or otherwise as provided in Article X. In consideration of the foregoing, each Unit Owner, by acceptance of a deed or other conveyance of a Unit, and whether or not expressly stated therein, shall be deemed to have agreed that the costs incurred by the Owner of Unit B in or reasonably allocated to the repair, replacement, improvement, maintenance, management (including a commercially reasonable management fee), operation, ad valorem tax obligations, if any, and insurance of the Shared Components (including reasonable reserves if established by the Owner of Unit B, collectively, the "Shared Costs") shall be paid for in part through charges (either general or special) imposed against the Units in accordance with the terms hereof. No Owner may waive or otherwise escape liability for charges for the Shared Costs by non-use (whether voluntary or involuntary) of any part of the Shared Components or abandonment of the right to use same. Notwithstanding anything herein contained to the contrary, the Owner of Unit B shall be excused from and relieved of any and all maintenance, repair and/or replacement obligations with respect to the Shared Components to the extent that the funds necessary to perform same are not available through the charges imposed and actually collected from the other Unit Owners. The Owner of Unit B shall have no obligation to fund and/or advance any deficit or shortfall in funds which were the obligation of the Owners of Unit A and Unit C in order to properly perform the maintenance, repair and/or replacement obligations described herein.

2. Easement. An easement is hereby reserved and created in favor of the Owner of Unit B and its designees over the Condominium Property for the purpose of entering onto the Condominium Property for the performance of the maintenance, repair and replacement obligations herein described.

3. Charge to Unit Owners; Contractual Lien. Declarant, for all Units now or hereafter located within the Condominium Property, hereby covenants and agrees, and each Owner of any Unit by acceptance of a deed thereto or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to have covenanted and agreed, to pay to the Association, for remittance to the Owner of Unit B, annual charges for the operation and insurance of the Shared Components; the establishment of reasonable reserves for the replacement of the Shared Components; capital improvement charges, special charges and all other charges hereinafter referred to or lawfully imposed by the Owner of Unit B in connection with the repair, replacement, improvement, maintenance, management, operation, and insurance of the Shared Components; and for payment of one hundred percent (100%) of the Shared Costs (collectively, the "Allocated Share"). All such charges shall be fixed, established and collected

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from time to time as herein provided. The Allocated Share, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the Units and shall be a continuing contractual lien upon the Units and upon all improvements thereon, from time to time existing. Each such charge, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the Owner of any such Unit at the time when the charge fell due and all subsequent Owners of that Unit until paid, except as provided in Subsection 5 below. Reference herein to charges shall be understood to include reference to any and all of said charges whether or not specifically mentioned. Each Unit shall be assessed the percentage share of the Shared Costs as is set forth on Exhibit "C" attached hereto. In addition to the regular and capital improvement charges which are or may be levied hereunder, the Owner of Unit B shall have the right to collect through the Association reasonable reserves for the replacement of the Shared Components and to levy special charges against an Owner or Owner(s) to the exclusion of other Owners for the repair or replacement of damage to any portion of Unit B caused by the misuse, negligence or other action or inaction of an Owner or his guests, tenants or invitees. Any such special charge shall be subject to all of the applicable provisions of this Section, including, without limitation, lien filing, foreclosure procedures and late charges and interest. Any special charge levied hereunder shall be due within the time specified by the Owner of Unit B in the action imposing such charge. The annual regular charges provided for in this Section shall commence on the first day of the month next following the recordation of this Declaration and shall be applicable through December 31 of such year. Each subsequent annual charge shall be imposed for the year beginning January 1 and ending December 31. The annual charges shall be payable in advance in monthly installments, or in annual, semi- or quarter-annual installments if so determined by the Association and the Owner of Unit B (absent which determination they shall be payable monthly). The charge amount (and applicable installments) may be changed at any time by the Association and Owner of Unit B from that originally stipulated or from any other charge that is in the future adopted by the Owner of Unit B. The original charge for any year shall be levied for the calendar year (to be reconsidered and amended, if necessary, at any appropriate time during the year), but the amount of any revised charge to be levied during any period shorter than a full calendar year shall be in proportion to the number of months (or other appropriate installments) remaining in such calendar year. The Owner of Unit B shall fix the date of commencement and the amount of the charge against the Units for each charge period, to the extent practicable, at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a budget for Shared Costs and deliver same to the Association. Written notice of the charge shall thereupon be sent to every Unit Owner subject thereto by the Association twenty (20) days prior to payment of the first installment thereof, except as to special charges. In the event no such notice of the charges for a new charge period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein.

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4. Effect of Non-Payment of Charge; Personal Obligation; Contractual Lien; Remedies of Owner of Unit B. If the charges (or installments) provided for herein are not paid on the date(s) when due (being the date(s) specified herein or pursuant hereto), then such charges (or installments) shall become delinquent and shall, together with late charges, interest and the cost of collection thereof as hereinafter provided, thereupon become a continuing contractual lien on the respective Unit and all improvements thereon which shall bind such Unit in the hands of the then Owner, his heirs, personal representatives, successors and assigns. Except as provided in Subsection 5 to the contrary, the personal obligation of an Owner to pay such charge shall pass to his successors in title and recourse may be had against either or both. If any installment of a charge is not paid within ten (10) days from the date when it is due, same shall, at the option of the Association and Owner of Unit B, be subject to a late charge not greater than the amount of such unpaid installment (provided that only one late charge may be imposed on any one unpaid installment and if such installment is not paid thereafter, it and the late charge shall accrue interest at fifteen percent (15%) per annum from the date due until paid, but shall not be subject to additional late charges; provided further, however, that each other installment thereafter coming due shall be subject to one late charge each as aforesaid) and the Owner of Unit B may bring an action at law against the Owner(s) personally obligated to pay the same, may record a claim of lien (as evidence of its lien rights as hereinabove provided for) against the Unit on which the charges and late charges are unpaid and all improvements thereon, may foreclose the lien against the applicable Unit and all improvements thereon on which the charges and late charges are unpaid, or may pursue one or more of such remedies at the same time or successively. Attorneys' fees and costs actually incurred in preparing and filing the claim of lien and the complaint, if any, and prosecuting same, in such action shall be added to the amount of such charges, late charges and interest secured by the lien; and in the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys' fees actually incurred together with the costs of the action, through all applicable appellate levels. Failure of the Association or Owner of Unit B (or any collecting entity) to send or deliver bills or notices of charges shall not relieve Owners from their obligations hereunder. The Owner of Unit B shall have such other remedies for collection and enforcement of charges as may be permitted by applicable law. All remedies are intended to be, and shall be, cumulative.

5. Subordination of Contractual Lien of Owner of Unit B. The contractual lien of the charges provided for in this Section K shall be subordinate to real property tax liens and the lien of any first mortgage; provided, however, that any Mortgagee when in possession, and in the event of a foreclosure any purchaser at a foreclosure sale, and any Mortgagee acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or Mortgagee, shall hold title subject to the liability and lien of any charge coming due after such foreclosure (or conveyance in lieu of foreclosure). Any unpaid charge which cannot be collected

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as a contractual lien against any Unit by reason of the provisions of this Section shall be deemed to be a charge divided equally among, payable by and a contractual lien against all Units, including the Units as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

6. Curative Right. In the event (and only in the event) that the Owner of Unit B fails to maintain the Shared Components as required under this Declaration, the Association shall have the right to perform such duties; provided, however, that same may only occur after thirty (30) days' prior written notice to the Owner of Unit B and provided that the Owner of Unit B has not effected curative action within said thirty (30)-day period (or if the curative action cannot reasonably be completed within said thirty (30)-day period, provided only that the Owner of Unit B has not commenced curative actions within said thirty (30)-day period and thereafter diligently pursued same to completion). To the extent that the Association must undertake maintenance responsibilities as a result of the failure of the Owner of Unit B to perform same, then in such event, but only for such remedial actions as may be necessary, the Association shall be deemed vested with the charge rights of the Owner of Unit B hereunder for the limited purpose of obtaining reimbursement from the Owner of Unit B for the costs of performing such remedial work.

7. Financial Records. The Owner of Unit B shall maintain financial books and records showing actual receipts and expenditures with respect to the maintenance, operation, repair, replacement, alteration and insurance of the Shared Components, including the then current budget and any then proposed budget. Such records need not be audited or reviewed by a certified public accountant but shall at all times, during reasonable business hours, be subject to the inspection of any Member.

8. Consent of Owner of Unit B; Conflict. The provisions of this Section K shall not be amended, modified or in any manner impaired and/or diminished, directly or indirectly, without the prior written consent of eighty percent (80%) of the Unit Owners, including the Owner of Unit B. In the event of any conflict between the provisions of this Section K and the provisions of any other Section of this Declaration, the provisions of this Section K shall prevail and govern.

### **ARTICLE XIII: INSURANCE**

The insurance which shall be carried upon the Condominium Property and the property of the Unit Owners shall be governed by the following provisions:

A. Owner of Unit B. Insurance obtained by the Owner of Unit B pursuant to the requirements of this Article XIII shall be as follows:

1. Purchase, Custody and Payment.

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a. Purchase. All insurance policies described herein covering Shared Components shall be obtained by the Owner of Unit B, or the Owner of Unit B shall cause same to be obtained, and shall be issued by an insurance company authorized to do business in Florida or by a surplus lines carrier offering policies for Florida properties reasonably acceptable to the Owner of Unit B.

b. Named or Additional Insured. The named insured shall be the Owner of Unit B, individually and as agent for the Association and Owners of Units covered by the policy, without naming them, and as agent for the holders of any mortgage on a Unit (or any leasehold interest therein), without naming them; provided, however, that if the applicable policy is obtained by a third party for the benefit of the Owner of Unit B, the Owner of Unit B may be an additional insured rather than a named insured. The Unit Owners and the holders of any mortgage on a Unit (or any leasehold interest therein) shall be deemed additional insureds.

c. Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses made by the insurer shall be paid to the Owner of Unit B or an Insurance Trustee (if appointed), and all policies and endorsements thereto shall be deposited with the Owner of Unit B or an Insurance Trustee (if appointed).

d. Copies to Mortgagees. One copy of each insurance policy or a certificate evidencing such policy, and all endorsements thereto shall be furnished by the Owner of Unit B upon request to the holders of any mortgage on a Unit. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy, and not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, as appropriate.

e. Personal Property and Liability. Except as specifically provided herein or by the Act, the Owner of Unit B shall not be responsible to other Unit Owners for obtaining insurance coverage upon the property lying within the boundaries of their Unit, including, but not limited to: (i) the Unit Owner's personal property; (ii) the Unit Owner's personal liability; (iii) moving and relocation expenses; (iv) lost rent expenses or living expenses; (v) any other risks not otherwise insured in accordance herewith. It shall be the sole responsibility of the Unit Owner and/or occupant to obtain coverage of such excluded items as required by the Act.

2. Coverage. The Owner of Unit B shall use its best efforts to maintain insurance covering the following:

a. Property Damage. The Shared Components, including all

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fixtures, installations or additions comprising that part of the Building within the boundaries of the Units but deemed part of the Shared Components, and all Improvements located on the Shared Components from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Shared Components (all of the foregoing herein referred to collectively as the "Shared Components Insured Property"); excluded from such coverage shall be all furniture, furnishings, floor coverings, wall coverings, ceiling coverings, or other personal property owned, supplied or installed by Unit Owners or tenants of Unit Owners (whether located within the Unit or within a Limited Common Element and serving only such Unit), and all replacements of the foregoing, and the following if it is located within a Unit or Limited Common Element and serves only such Unit or if the Unit Owner is required to repair or replace such items: electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, window treatments (including curtains, drapes, blinds, hardware, and similar window treatment components), personal property, as well as fixtures, appliances or equipment to the extent not part of the Shared Components. The Shared Components Insured Property shall be insured in an amount not less than 100% of the replacement cost thereof, excluding land, footings, foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Owner of Unit B. Such coverage shall afford protection against:

- i. Loss or damage by fire and other hazards covered by a standard extended coverage endorsement;
- ii. Windstorm;
- iii. Flood; and
- iv. Such other risks as from time to time are customarily covered with respect to buildings and Improvements similar to the Shared Components Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.

b. Liability. Comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Shared Components Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Shared Components Insured Property, with such coverage as shall be required by the Owner of Unit B, but with combined single limit liability of not less than one million dollars (\$1,000,000) for each accident or occurrence, three hundred thousand dollars (\$300,000) per person and one hundred thousand dollars (\$100,000) property damage, and with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa. The Owner of Unit B may also obtain and maintain liability insurance for its

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directors and officers and for the benefit of the employees of the Owner of Unit B, in such amounts and under such terms and conditions as the Owner of Unit B deems appropriate in its sole and absolute discretion.

c. Worker's Compensation and other mandatory insurance, when applicable.

d. Fidelity Insurance. The Owner of Unit B may obtain and maintain fidelity bonding of all persons who control or disburse funds of the Owner of Unit B. If required by the Act, the Owner of Unit B shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Owner of Unit B in an amount not less than the minimum sum required by the Act.

e. Shared Components. Appropriate additional policy provisions, policies or endorsements extending the applicable portions of the coverage described above to all Shared Components, where such coverage is available.

f. Such other insurance as the Owner of Unit B shall determine from time to time to be desirable.

3. Policy Requirements. When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) subrogation against the Association and against the Unit Owners individually and as a group, (ii) pay only a fraction of any loss in the event of co-insurance or if other insurance carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of the Owner of Unit B or any of its employees, contractors and/or agents, Board of Directors of the Association, a member of the Board of Directors of the Association, one or more Unit Owners or as a result of contractual undertakings. Additionally, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any act or omissions of individual Unit Owners that are not under the control of the Association or the Owner of Unit B, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss. All policies of physical damage insurance shall provide that such policies may not be canceled or substantially modified without at least forty-five (45) days prior written notice to all of the named and additional insureds, including all Mortgagees of Units. Prior to obtaining any policy of property damage insurance or any renewal thereof, the Owner of Unit B shall obtain an appraisal from a fire insurance company, or other competent appraiser, of the replacement cost of the Shared Components Insured Property (exclusive of foundations), without deduction for depreciation, for the purpose of determining the amount of insurance to be obtained pursuant to this

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B. Association. Insurance obtained by the Association pursuant to the requirements of this Article XIII be governed by the following provisions:

1. Purchase, Custody and Payment.

a. Purchase. All insurance policies described herein covering portions of the Condominium and Association Property shall be obtained by the Association, or the Association shall cause same to be obtained, and shall be issued by an insurance company authorized to do business in Florida or by a surplus lines carrier offering policies for Florida properties reasonably acceptable to the Board.

b. Named Insured. The named insured shall be the Association, individually, and as agent for the Owners of Units covered by the policy, without naming them, and as agent for the holders of any mortgage on a Unit (or any leasehold interest therein), without naming them provided, however, that if the applicable policy is obtained by a third party for the benefit of the Association, the Association may be an additional insured rather than a named insured. The Unit Owners and the holders of any mortgage on a Unit (or any leasehold interest therein) shall be deemed additional insureds.

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

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

e. Personal Property and Liability. Except as specifically provided herein or by the Act, the Association shall not be responsible to Unit Owners for obtaining insurance coverage upon the property lying within the boundaries of their Units, including, but not limited to: (i) the Unit Owner's personal property; (ii) the Unit Owner's personal liability; (iii) moving and relocation expenses; (iv) lost rent expenses or living expenses; (v) any other risks not otherwise insured in accordance herewith. It shall be the sole responsibility of the Unit Owner and/or occupant to obtain coverage of such excluded items as required by the Act.

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2. Coverage. Subject to the terms of Section H below, the Association shall use its best efforts to maintain insurance covering the following:

a. Property Damage. Except to the extent included in coverage to be obtained by Owner of Unit B, the Building, including all fixtures, installations or additions comprising that part of the Building within the boundaries of the Units and required by the Condominium Act to be insured under the Association's policy(ies), and all Improvements located on the Common Elements from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Elements or owned by the Association (all of the foregoing herein referred to collectively as the "Association Insured Property"); excluded from such coverage shall be all furniture, furnishings, floor coverings, wall coverings, ceiling coverings, or other personal property owned, supplied or installed by Unit Owners or tenants of Unit Owners (whether located within the Unit or within a Limited Common Element and serving only such Unit), and all replacements of the foregoing, and the following if it is located within a Unit or Limited Common Element and serves only such Unit or if the Unit Owner is required to repair or replace such items: electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, window treatments (including curtains, drapes, blinds, hardware, and similar window treatment components), personal property, as well as fixtures, appliances or equipment permitted to be excluded from the Condominium's insurance policy pursuant to the Act. The Association Insured Property shall be insured in an amount not less than 100% of the replacement cost thereof, excluding land, footings, foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Board of Directors. Such coverage shall afford protection against:

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

ii. Windstorm;

iii. Flood; and

iv. Such other risks as from time to time are customarily covered with respect to buildings and Improvements similar to the Association Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.

b. Liability. Comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Association Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Association Insured Property, with such coverage as shall be required by the Board

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of Directors, but with combined single limit liability of not less than one million dollars (\$1,000,000) for each accident or occurrence, three hundred thousand dollars (\$300,000) per person and one hundred thousand dollars (\$100,000) property damage, and with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa. The Association may also obtain and maintain liability insurance for its directors and officers and for the benefit of the Association's employees, in such amounts and under such terms and conditions as the Association deems appropriate in its sole and absolute discretion.

c. Worker's Compensation and other mandatory insurance, when applicable.

d. Fidelity Insurance. The Association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Association in an amount not less than the minimum sum required by the Act.

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

f. Such Other Insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

3. Policy Requirements. When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) subrogation against the Association and against the Unit Owners individually and as a group, (ii) pay only a fraction of any loss in the event of co-insurance or if other insurance carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, a member of the Board of Directors of the Association, one or more Unit Owners or as a result of contractual undertakings. Additionally, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any act or omissions of individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss. All policies of physical damage insurance shall provide that such policies may not be canceled or substantially modified without at least forty-five (45) days prior written notice to all of the named and additional insureds, including all Mortgagees of Units. Prior to obtaining any policy of property damage insurance or any renewal thereof, the Board of Directors shall obtain an appraisal from a fire insurance company, or other competent appraiser, of the replacement cost of the Association Insured Property (exclusive of foundations), without deduction for depreciation, for the purpose of determining the amount of insurance to be obtained pursuant to this Article.

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C. Premiums. Premiums upon insurance policies purchased by the Owner of Unit B shall be charged to the Association and billed to Unit Owners as a Common Expense. The Owner of Unit B shall determine the appropriate deductible for each policy of insurance in accordance with the requirements of the Act. Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense. The Board of Directors shall determine the appropriate deductible for each policy of insurance in accordance with the requirements of the Act. Each Owner, by acceptance of a deed or other conveyance of a Unit, hereby ratifies and confirms any decisions made by the Owner of Unit B and Association in this regard and recognizes and agrees that funds to cover the deductibles must be provided from the general operating funds of the Association before the Association or the Owner of Unit B will be entitled to insurance proceeds. Each of the Association and the Owner of Unit B may, but shall not be obligated to, establish a reserve to cover any applicable deductible.

D. Insurance Trustee: Share of proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the Unit Owners and their Mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee, which shall be designated by the Board of Directors and which shall be any bank or trust company in Florida with trust powers. All insurance policies purchased by the Owner of Unit B pursuant to this Article XIII shall be for the benefit of the Owner of Unit B, the Association, the Unit Owners generally, and the Mortgagees of such parties, as their respective interests may appear. The duty of the Owner of Unit B shall be to receive such proceeds as are paid and to hold same in trust (or paid to the Insurance Trustee if selected by the Board) for the purposes elsewhere stated herein and for the benefit of such parties. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Unit Owners and their Mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee.

1. Common Elements. Proceeds on account of damage to Common Elements shall be held in an undivided share for each Unit Owner, such share being the same as the undivided share in the Common Elements appurtenant to his Unit.

2. Units. Proceeds on account of damage to Units and covered by the Association's insurance policies shall be held in the following undivided shares:

a. Reconstruction or Repair. When the damaged property is to be reconstructed or repaired, an undivided share shall be held for the Owners of the damaged Units in proportion to the cost of repairing the damage suffered by

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each Unit Owner, which cost shall be determined by the Association.

b. Failure to Reconstruct or Repair. When the Building is not to be reconstructed or repaired, an undivided share shall be held for each Unit Owner, such share being the same as the undivided share in the Common Elements appurtenant to his Unit.

3. Mortgages. In the event a mortgage endorsement has been issued for a Unit, the share of the Unit Owner shall be held in trust for the Mortgagee and the Unit Owner as their interests may appear; provided, however that no Mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no Mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except those proceeds distributed to the Unit Owner and Mortgagee pursuant to the provisions of this Declaration.

E. Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee or Owner of Unit B shall be distributed to or for the benefit of the beneficial owners in the following manner:

1. Expense of the Trust or Owner of Unit B. All expenses of the Insurance Trustee or Owner of Unit B shall be first paid or provisions made therefor.

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

3. Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittance to Unit Owners and their Mortgagees being payable jointly to them. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee.

4. Certificate. In making distribution to Unit Owners and their Mortgagees, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to the names of the Unit Owner and their respective shares of the distribution.

F. Association as Agent. The Association is hereby irrevocably appointed agent for each Unit Owner and for each owner of any other interest in the Declaration

Condominium to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims. The Owner of Unit B is hereby irrevocably appointed agent for each Unit Owner and for each owner of any other interest in the Condominium to adjust all claims arising under insurance policies purchased by the Owner of Unit B and to execute and deliver releases upon the payment of claims.

G. Unit Owners' Personal Coverage. The insurance required to be purchased by the Owner of Unit B pursuant to this Article XIII shall not cover claims against an Owner due to accidents occurring within such Owner's Unit nor property damage nor theft loss to the contents of such Unit. Each Unit Owner shall obtain and maintain at all times individual property damage and general liability policies insuring the property lying within the boundaries of their Unit and for their personal liability arising in the use of their own Unit and other areas of the Common Elements for which they have exclusive use. Coverage provided under such policies, including, but not limited to, property loss assessment coverage, shall be in accordance with the requirements of the Act, as amended from time to time. The Association shall be an additional named insured and loss payee on all property damage insurance policies issued to Unit Owners if required by the Act. All Improvements or additions to the Condominium Property that benefit fewer than all Unit Owners shall be insured by the Unit Owner or Unit Owners having the use thereof, or may be insured by the Association at the cost and expense of the Unit Owners having the use thereof if permitted by the Act. The Association shall require Unit Owners to produce evidence of insurance if required by the Act.

H. Effect on Association. The Association shall only maintain such insurance as is expressly required to be maintained by the Association pursuant to the Act. It is the express intent of the Declarant, as the agent for the Owner of each Unit upon the recordation hereof, for itself and its successors and assigns, that the Association not be required to maintain certain insurance hereunder. Given the minimal Common Elements in the Condominium, it is expected that the Association will carry minimal, if any, property damage insurance. To the extent that the Association is required to maintain insurance pursuant to the express requirements of the Act, then (i) as to any insurance required to be maintained by the Association, the Owner of Unit B shall be relieved and released of its obligation hereunder to maintain same, and (ii) all of the provisions hereof regarding said insurance, any claims thereunder and the distribution and application of proceeds thereunder shall be governed in accordance with the terms of this Declaration governing the insurance required to be maintained by the Owner of Unit B as if the references herein to the Owner of Unit B were references to the Association.

#### **ARTICLE XIV: RECONSTRUCTION OR REPAIR AFTER PROPERTY DAMAGE**

A. Determination to Reconstruct or Repair. If any part of the Condominium shall be damaged by an event of damage, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

1. Shared Components. If the damaged improvement is the Shared Components or is otherwise the responsibility of the Owner of Unit B, the damaged property shall be reconstructed or repaired unless it is determined by the Owner of Unit B, in its sole and absolute discretion, that the Shared Components Insured Property shall not be rebuilt or repaired. If a determination is made to effect restoration, the Owner of Unit B shall disburse the proceeds of all insurance policies required to be maintained by it under Article XIII to the contractors engaged in such repair and restoration in appropriate progress payments. If the Owner of Unit B determines not to effect restoration to the Shared Components, the net proceeds of insurance resulting from such damage or destruction shall be divided among all the Unit Owners in proportion to their allocated interests; provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such funds all mortgages and liens on his Unit in the order of priority of such mortgages and liens.

2. Common Elements/Units. If the damaged Improvement is a Common Element or is otherwise the responsibility of the Association, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the Condominium shall be terminated.

3. Certificate. The Insurance Trustee may rely upon a certification of the Association made by its President and Secretary with respect to Association Insured Property and a certification of the Owner of Unit B with respect to Shared Components Insured Property to determine whether or not the damaged property is to be reconstructed or repaired.

B. Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Building and applicable building and other codes, or if not, then according to plans and specifications approved by the Board of Directors of the Association and the Owner of Unit B; and if the damaged property is a group of Units, by not less than three-fourths (3/4) of the voting interests held by Members of the Association.

C. Responsibility.

1. Unit Owner or Association. If the damage is only to those parts of one Unit for which the responsibility of maintenance and repair is that of the Unit Owner or to that portion of the Condominium Property for which the Unit Owner is required to carry insurance, then the Unit Owner shall be responsible, at its cost and expense, for reconstruction and repair after the event of damage. In all instances of damage to Association Insured Property other than those described in

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Subparagraphs a-d below, and in all instances in which the Association opts out of the provisions of Subparagraphs a-d as provided below, the responsibility of reconstruction and repair after the event of damage shall be that of the Association. In the event that the Unit Owner is responsible for the reconstruction and repair, such work may be conditioned upon the approval by the Board of Directors of the repair methods, the qualifications of the proposed contractor, or the contract that is used for that purpose. Such Unit Owner shall obtain all required governmental permits and approvals prior to commencing reconstruction.

a. A Unit Owner is responsible for the costs of repair or replacement of any portion of the Condominium Property not paid by insurance proceeds if such damage is caused by intentional conduct, negligence, or failure to comply with the terms of this Declaration or the Rules and Regulations by a Unit Owner, the members of his or her family, Unit occupants, tenants, guests, or invitees, without compromise of the subrogation rights of any insurer as set forth herein or in the Act.

b. The provisions of Subparagraph a. regarding the financial responsibility of a Unit Owner for the costs of repairing or replacing other portions of the Condominium Property also apply to the costs of repair or replacement of personal property of other Unit Owners or the Association, as well as other property, whether real or personal, which the Unit Owners are required to insure under this Declaration or the Act.

c. To the extent the cost of repair or reconstruction for which the Unit Owner is responsible under this Paragraph is reimbursed to the Association by insurance proceeds, and the Association has collected the cost of such repair or reconstruction from the Unit Owner, the Association shall reimburse the Unit Owner without the waiver of any rights of subrogation.

d. The Association is not obligated to pay for reconstruction or repairs of property losses as a Common Expense if the property losses were known or should have been known to a Unit Owner and were not reported to the Association until after the insurance claim of the Association for that property was settled or resolved with finality, or denied because it was untimely filed.

2. Opting Out. The Association may, upon the approval of three-fourths (3/4) of the voting interests held by Members of the Association, opt out of the provisions of Subparagraphs a-d for the allocation of repair or reconstruction expenses and allocate repair or reconstruction expenses in the manner provided in Paragraph C above (without regard to the exceptions described in Subparagraphs a-d) or otherwise in accordance with the terms of this Declaration, as same may be amended. Such vote may be approved by the voting interests of the Members of

the Association without regard to any mortgagee consent requirements. If the Association votes to opt out of the guidelines for repair or reconstruction expenses as described in Subparagraphs a-d, the Association must record a notice setting forth the date of the opt-out vote and the page of the official records book on which this Declaration is recorded. The decision to opt out is effective upon the date of recording of the notice in the public records by the Association. If the Association votes to opt out, it may reverse that decision by the same vote required above and notice thereof shall be recorded in the official records.

D. Estimate of costs. Immediately after a determination is made to reconstruct or repair damage to property for which the Association or the Owner of Unit B has the responsibility of reconstruction and repair, the Association or Owner of Unit B, respectively, shall obtain reliable and detailed estimates of the costs to reconstruct or repair such property.

E. Assessments. The amount by which an award of insurance proceeds to the Insurance Trustee or Owner of Unit B is reduced on account of a deductible clause in an insurance policy shall be assessed against all Unit Owners in proportion to their share in the Common Elements. If the proceeds of such Assessments and of the insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association or the Owner of Unit B, or if at any time during reconstruction and repair the funds for the payment of the costs of reconstruction and Unit repair are insufficient, Assessments shall be made against the Unit Owners in the case of damage to Common Elements in sufficient amounts to provide funds for the payment of such Unit costs. Such Assessments against Unit Owners for damage to Units shall be in proportion to the cost of reconstruction or repair of their respective Units, except that any damage to Shared Components shall be assessed based on each Unit Owner's percentage interest in the Common Elements. Such Assessments on account of damage to Common Elements shall be in proportion to each Unit Owner's share in the Common Elements. In the event of any inconsistencies between the terms of Paragraph C above and the terms of this Paragraph E due to Unit Owner responsibility, the terms of Paragraph C above shall control.

F. Construction Funds. The funds for payment of costs of reconstruction and repair after an event of damage, which shall consist of proceeds of insurance held by the Insurance Trustee and Owner of Unit B and funds collected by the Association from Assessments against Unit Owners, shall be disbursed in payment of such costs in the following manner:

1. Association. If the total assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair which is the responsibility of the Association or the Owner of Unit B in connection with repair of Shared Components is more than ten thousand dollars (\$10,000.00), then the sums paid upon such Assessments shall be deposited by the Association or Owner

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of Unit B with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such Assessments and discharge same in payment of the costs of reconstruction and repair or deliver same to the Owner of Unit B for payment of such costs if such repairs are to the Shared Components.

2. Insurance Trustee. The proceeds of insurance collected on account of an event of damage and the sums deposited with the Insurance Trustee by the Association from collection of Assessments against Unit Owners or by the Owner of Unit B on account of such event of damage shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

a. Association: Lesser Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association or Owner of Unit B in connection with the repair of Shared Components is less than five thousand dollars (\$5,000.00), then the construction fund shall be disbursed in payment of such costs upon the order of the Association or Owner of Unit B, as applicable; provided, however, that upon request to the Insurance Trustee by a Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

b. Association: Major Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association or Owner of Unit B in connection with the repair of Shared Components is five thousand dollars (\$5,000.00) or more, then the reconstruction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association or Owner of Unit B, as applicable, and upon approval of an architect qualified to practice in Florida and employed by the Association or Owner of Unit B, as applicable, to supervise the work.

c. Unit Owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with a Unit Owner other than for repairs to Shared Components shall be paid by the Insurance Trustee to the Unit Owner, or if there is a mortgage encumbering such Unit, then to the Unit Owner and the Mortgagee jointly.

d. Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that the part of a distribution to a

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beneficial owner which is not in excess of Assessments paid by such owner into the construction fund shall not be made payable to any Mortgagee.

e. Certificate. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by the Unit Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or Owner of Unit B or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners. Instead, the Insurance Trustee may rely upon a certificate of the Association, made by its President and Secretary, or by the Owner of Unit B with respect to repairs to Shared Components as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the name of the payee and the amount to be paid provided that when a Mortgagee is herein required to be named as payee, the Insurance Trustee shall also name the Mortgagee as a payee of any distribution of insurance proceeds to a Unit Owner; and further provided that when required by the Association or Owner of Unit B or a Mortgagee which is the beneficiary of an insurance policy, the proceeds of which are included in the construction funds, the approval of an architect named by the Association or Owner of Unit B, as applicable, shall first be obtained by the Association or Owner of Unit B, respectively, before disbursements in payment of costs of reconstruction and repair.

#### **ARTICLE XV: TAXATION**

A. Common Elements. For the purpose of ad valorem taxation, the interest of each Owner of a Condominium Parcel in his Unit and in the Common Elements appurtenant to such Unit will be considered as one taxable parcel. The value of each taxable parcel in the Condominium will be equal to the sum of (i) the value of the Unit, and (ii) the value of the Unit's percentage share of the Common Elements of the entire Condominium, including Land and Improvements, assigned to the Unit in Exhibit "C" of this Declaration. The total of all of the percentage shares in the Common Elements equals one hundred percent (100%) of the value of the Land and Improvements.

B. Amendments. The percentage shares assigned to each Unit in Exhibit "C" shall be binding upon all Owners for all purposes, including ad valorem taxation, at all times in the future, and may not be amended or changed except as provided for in this Declaration.

#### **ARTICLE XVI: TERMINATION OF CONDOMINIUM**

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A. Termination of Condominium. Termination of the Condominium shall be governed by Section 718.117, Florida Statutes, or any successor statute. In the event the Florida Statutes no longer provide for termination of a condominium, then the following terms shall govern. If at least three-fourths (3/4) of the voting interests held by Members of the Association and the holders of all liens and mortgages affecting any of the Condominium Parcels execute and duly record an instrument terminating the Condominium, or if "Major Damage" occurs as defined herein, the Condominium shall be deemed to be subject to termination and thereafter owned in common by the Unit Owners. "Major Damage" shall be defined as damage to Units to which more than fifty percent (50%) of the Common Elements are appurtenant where the damage is so extensive that the damaged Units are not tenantable as determined by the Board of Directors. The undivided interest in the property owned in common by each Unit Owner shall be the same percentage of the undivided interest previously owned by such Owner in the Common Elements. No termination of the Condominium shall be deemed to have occurred unless and until the notice and recording requirements of Section 718.117, Florida Statutes, or any other applicable provision within the Act have been met. Declarant shall not vote to terminate the Condominium if such termination would violate the terms of the Master Lease or Sublease. Neither the Master Tenant nor the Subtenant shall take or permit any action or exercise any rights under the Master Lease or Sublease that would cause a termination of the Condominium.

B. Termination as a Result of Major Damage. In the event of termination as a result of Major Damage, the Association shall be deemed to be the trustee of each Unit Owner and shall, for ease in conveyancing, hold title to the Unit and its share of the Common Elements as "Trustee" on behalf of each Unit Owner and in accordance with each Unit Owner's proportionate interest. All costs and expenses associated with the operation of the property shall be borne by each Owner in accordance with their proportionate ownership interest.

#### **ARTICLE XVII: FAILURE TO COMPLY WITH CONDOMINIUM DOCUMENTS**

A. Compliance and Default. The Association, each Unit Owner, occupant of a Unit and other invitee of a Unit Owner shall be governed by and shall comply with the provisions of the Condominium Documents, as any of the same are now constituted or as they may be adopted and/or lawfully amended from time to time. Failure by the Owner of a Unit to comply with such documents shall entitle the Association or the Owners of other Units to the following relief in addition to the remedies provided by the Act:

1. Compliance. Failure to comply with any of the terms of the Condominium Documents shall be grounds for relief which may include, without limiting the same, an action to recover sums due for damages, injunctive relief, foreclosure or lien as provided in Article XII or any combination thereof.

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Additionally, the Association shall have the right to proceed in equity to require performance and/or compliance, to impose any applicable fines, to sue in a court of law for damages, to make a special charge against the Unit Owner and the Unit for sums necessary to do whatever work is required to put the Unit Owner, or Unit, in compliance; provided, however, that nothing contained in this Article shall authorize the Association to enter a Unit to enforce compliance. In any proceeding arising because of an alleged failure to comply by the Owner of a Unit or the Association, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (at all trial, appellate or arbitration proceedings) as may be determined by the court or such tribunal.

The Association may levy reasonable fines for the failure of the Owner of the Unit, or its occupant, licensee, or invitee, to comply with any provision of the Condominium Documents. A fine may not become a lien against a Unit. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing. However, the fine may not exceed \$100 per violation or \$1,000 in the aggregate. A fine or suspension may not be imposed unless the Association first provides at least fourteen (14) days' written notice and an opportunity for a hearing to the Unit Owner and, if applicable, its occupant, licensee or invitee in accordance with the requirements of the Act. The hearing must be held before a committee of other Unit Owners who are neither Board members nor persons residing in a Board member's household. If the committee does not agree, the fine or suspension may not be imposed. The foregoing notice and hearing requirements do not apply to a fine or suspension imposed due to a failure to pay amounts due the Association. If such a fine or suspension is imposed, the Association must levy the fine or impose a reasonable suspension at a properly noticed Board meeting, and after the imposition of such fine or suspension, the Association must notify the Unit Owner and, if applicable, the Unit's occupant, licensee or invitee by mail or hand delivery. The Association may suspend the voting rights of a unit or member due to nonpayment of any monetary obligation due to the Association which is more than ninety (90) days delinquent. The suspension ends upon full payment of all obligations currently due or overdue the Association.

2. Negligence. A Unit Owner and/or tenant of a Unit shall be liable for the expense of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance actually collected by the Association in respect of such negligence.

3. No Waiver of Right by Association. The failure of the Association or of the Owner of a Unit to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a

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waiver of the right of the Association or of the Owner of a Unit to enforce such right, provision, covenant or condition in the future.

4. No Waiver of Right by Declarant. The failure of the Declarant to enforce any right, privilege, provisions, covenant or condition which may be granted to it by the Condominium Documents shall not constitute waiver of the right to thereafter enforce such right, privilege, provisions, covenant or condition in the future.

5. Rights are Cumulative. All rights, remedies and privileges granted to the Association or the Owner of a Unit pursuant to any terms, provisions, covenants or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies or privileges as may be available to such party at law or in equity.

B. Equitable Relief. In the event of substantial damage to, or destruction of, all or a substantial part of the Condominium Property, and in the event the property is not repaired, reconstructed or rebuilt within a reasonable period of time, any Unit Owner shall have the right to petition a court of equity in Miami-Dade County, Florida, for equitable relief, which may, but need not necessarily, include a termination of the Condominium and partition.

#### **ARTICLE XVIII: OCCUPANCY AND USE RESTRICTIONS**

In order to maintain a community of congenial owners who are financially responsible and thus protect the value of the Units and provided this Article shall not be used to permit or sanction unlawful discrimination or other violation of laws; the use of the Condominium Property shall be restricted to and shall be in accordance with the following provisions:

A. Occupancy Restrictions. Unit A and Unit B shall at all times be used and operated as a parking garage and facility, substantially in the manner in which it is constructed, operated and used as of the date of this Declaration. All Units shall be used subject to the following conditions:

1. Occupants. Each Unit may be used for any commercial use or public use permitted by applicable law, which use may be for-profit or not-for-profit, by the Unit Owner, and its customers, invitees, tenants, licensees, concessionaires, subtenants, sublicensees and subconcessionaires, except as otherwise expressly provided herein, and in accordance with all applicable city, county and state codes, ordinances and regulations.

2. Use. If a Unit is owned or leased by a corporation, partnership, trust or other fiduciary, the Unit Owner shall be subject to the lease restrictions in this Declaration.

3. Lessees. Except as provided in the last sentence of this Paragraph or unless otherwise determined by the Board of Directors of the Association, a person(s) occupying a Unit for more than one (1) month without the Owner being present shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of this Declaration (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of this Declaration which apply to lessees. The purpose of this Paragraph is to prohibit the circumvention of the provisions and intent of this Article requiring the Association's approval of all lessees. A party who leases individual Parking Spaces from the Owner of Unit A or Unit B or from a Master Tenant or Subtenant of Unit A or Unit B will not be deemed to be a lessee for the purposes of this Declaration.

4. Animals. No animals of any kind (other than duly licensed service dogs permitted by law) shall be brought into or kept or permitted in or about the Condominium Property.

B. Use Restrictions. Unit A and Unit B may at all times be used and operated as a parking garage and facility, substantially in the manner in which it is constructed, operated and used as of the date of this Declaration, and subject to the terms of this Section B. A Unit Owner shall not permit or suffer anything to be done or kept in his Unit which will increase the rate of insurance on the Condominium Property, or which will obstruct or interfere with the rights of other Unit Owners or annoy them by unreasonable noises or otherwise; nor shall the Unit Owner commit or permit any nuisance, immoral or illegal act in or about the Condominium Property.

1. Nuisances. No nuisances shall be allowed upon the Condominium Property, nor shall any use or practice that is the source of annoyance to other Unit Owners or which interferes with the peaceful possession and proper use of the property by its Unit Owners be permitted. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist. Hazardous or flammable materials shall not be kept in any storage facilities located within the Condominium, if any.

2. Toxic or Noxious Matter. No person shall discharge into the property's sewer system or storm drain any toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, welfare, violate any law, subject any Owner or occupant to liability under state and federal law for any clean-up or cause injury or damage to neighboring property or business elsewhere on property.

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3. No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. Violations of laws, orders, rules, regulations, or requirements of any governmental agency having jurisdiction, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party violating any such provisions. The following uses shall not be permitted on the Condominium Property at any time:

- a. Any use which emits an obnoxious odor, obnoxious noise or obnoxious sound which can be heard or smelled outside of the Unit generating the odor, noise or sound;
- b. Any use of a loud speaker, sound amplifier, radio, television, or other means of broadcasting or sound reproduction, the sound of which can be heard outside of the Unit where such use takes place;
- c. Any operation primarily used as a storage warehouse operation and any assembling, manufacturing, distilling, refining, smelting, agricultural or mining operation;
- d. Any "second hand" store, "surplus" store, or pawn shop;
- e. Any dumping, disposing, incineration or reduction of garbage other than in one or more garbage compactors located near the rear of Unit C;
- f. Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation;
- g. Any central laundry, dry cleaning plant or laundromat; provided, however, that drop-off and pick up of laundry or dry cleaning from the Condominium Property will be permitted;
- h. Any automobile, truck, trailer or recreational vehicle sales, leasing, display or body shop repair operation;
- i. Any movie theater or live theater;
- j. Any hotel, motel, short or long term residential use, including but not limited to: single family dwellings, townhouses, condominiums, other multi-family units, and other forms of sleeping or living quarters, sleeping apartments or lodging rooms;
- k. Any pet shop, veterinary hospital or animal raising or boarding facility;
- l. Any mortuary, crematorium, or funeral home;
- m. Any establishment selling, renting, displaying, or exhibiting "obscene" material. This prohibition shall not preclude a national book store who may carry such products consistent with their national store operations);

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- n. Any establishment selling or exhibiting drug-related paraphernalia or which exhibits either live, nude, or partially clothed dancers or wait staff;
- o. Any liquor store;
- p. Any bar, tavern, night club, cocktail lounge, discotheque, restaurant or other establishment whose reasonably projected annual gross revenues from the sale of alcoholic beverages for on premises consumption exceed 20% of the total gross revenues of such business;
- q. Any health spa, fitness center or workout facility (except for occasional use for classes);
- r. Any massage parlors or similar establishments;
- s. Any flea market, amusement or video arcade (excluding incidental use of video arcade games associated with a restaurant or pizza use), pool or billiard hall, car wash (except with a permitted gas station) or dance hall;
- t. Any training or educational facility, including but not limited to: beauty schools, barber colleges, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers; provided, however, that this restriction will not apply to programming in Unit C for as long as Unit C is used for the AAC Use or a Community Use;
- u. Any gambling facility or operation, including but not limited to: off-track or sports betting parlor; table games such as blackjack or poker; slot machines, video poker/blackjack/keno machines or similar devices; or bingo hall (the foregoing shall not prohibit the occasional offering of bingo or other games in connection with the AAC Use or a Community Use); and
- v. Any use which uses or obstruct the sidewalks adjacent to the Building.

4. Noise. No Owner shall make or permit any disturbing noises in the Condominium that exceed noise levels permitted by applicable law.

5. Common Elements. No person shall use the Common Elements, or any part thereof, or a Unit, or the Condominium Property, or any part thereof, in any manner contrary to or not in accordance with the Rules and Regulations. No Owner shall permit any use of his Unit or make any use of the Common Elements that will increase the cost of insurance upon the Condominium Property.

6. Access and Use. The rights of access and use established with respect to the Condominium Property shall be subject to security checks and restrictions. In the event the Association hires security personnel, such personnel shall have the right to stop and question persons and to require satisfactory evidence of any such person's right to be where such person is stopped. Persons not establishing such rights to the satisfaction of the security personnel may be

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required to leave the Condominium Property.

7. Condominium Property. The entrances, passages, vestibules, elevators, lobbies, halls and like portions of the Common Elements shall not be obstructed nor used for any purpose other than the ingress and egress to and from the Condominium Property; nor shall any carts, carriages, or any other similar objects be stored therein. The personal property of Owners must be stored in their respective Units or in assigned storage lockers or spaces, if any.

8. Storage on Balconies/Terraces. No equipment, materials or other items shall be kept or stored on any balcony or terrace area of the Condominium, if any. The foregoing shall not prevent, however, placing and using patio-type furniture, planters and other items in such areas if same are normally and customarily used for a balcony or terrace area.

9. Signs, Advertisements and Notices. No Unit Owner shall show signs, advertisements, or notices of any type on the Common Elements without the prior written consent of the Association, and no Unit Owner shall show signs, advertisements, or notices of any type in his Unit or within his Unit which are visible from the exterior of the Unit without the prior written consent of the Association.

10. Hurricane Preparation. An Owner who plans to be absent during the hurricane season must prepare his Unit prior to his departure by designating a responsible firm or individual to care for his Unit should the Unit suffer hurricane damage and furnishing the Association with the name(s) of such firm(s) or individual(s).

11. Drainage. There shall be no interference with the established drainage pattern over the property unless an adequate alternative provision is made for proper drainage with the prior written approval of the Association. No Owner shall dispose of any hazardous materials in any drains. If such Owner fails to maintain such drainage and, as a result, imminent danger or damage to person or property may result to the other Owners, then the Association shall have the right of access onto such area for the purpose of clearing debris and other material so as to not impede the flow of water. This right of access shall be exercised only for the purpose of preventing damage to persons and property and the Association shall use reasonable care so as to not cause any damage to such areas. The Owner shall reimburse the Association for any costs and expenses incurred in clearing such debris.

12. Parking. No vehicles of any nature shall be parked on any portion of the Property except on a surfaced parking area or in a Parking Space as shown on Exhibit "B" attached hereto.

13. Association Employees. No Owner shall interfere with or direct any employees of the Association. Employees of the Association are not to be

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utilized for personal errands. The Board of Directors shall be solely responsible for directing and supervising employees of the Association, except to the extent such responsibility may be delegated to the Association's manager.

14. Access by Association. The Association may retain a pass-key to all Units. No Owner shall alter any lock, nor install a new lock, without the prior written consent of the Board of Directors, or, in the event of emergency, without delivering a key to the Association promptly thereafter. Where such consent is given, the Owner shall provide the Association with an additional key.

15. Assessments. Every Unit Owner shall promptly pay the Assessments levied by the Association.

16. Maintenance. Every Unit Owner shall maintain in a clean and sanitary manner and repair his Unit and all interior surfaces within or surrounding his Unit (such as the surfaces of the walls, ceilings, floors, etc.), and maintain and repair the fixtures therein and pay for any utilities which are separately metered to his Unit.

17. Alterations. Without limiting the generality of Article XI hereof, but subject to Article VI hereof, no Owner shall make any additions, alterations or improvements in or to the Common Elements, the Limited Common Elements, or the exterior of a Unit, including, but not limited to, the installation of screens, sliding glass doors, enclosures to balconies, awnings, trellises, window tinting, painting or other decorating of any nature visible from the exterior of the Unit, installation of electrical wiring, antennas, machinery, air conditioning units, or hard floor surfaces, without the prior written consent of the Board of Directors.

18. Exterior Improvements. Without limiting the generality of the preceding Paragraph 17 of this Section B, but subject to Article XI hereof, the Unit Owner shall not cause anything else to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, or windows of the buildings except with the prior written consent of the Board of Directors or except as otherwise provided in the Act, and further, when approved, subject to the Rules and Regulations.

19. Mitigation of Dampness and Humidity. No Unit Owner shall install within their Unit or upon the Common Elements or Association Property non-breathable wall-coverings or low-permeance paints. Additionally, any and all built-in casework, furniture and/or shelving in a Unit must be installed over floor coverings to allow air space and air movement and shall not be installed with back boards flush against any gypsum board wall. Additionally, the Owner of Unit C, whether or not occupying Unit C, shall periodically run the air conditioning system to maintain the Unit temperature, whether or not occupied, at 78°F to minimize humidity in Unit C. Leaks, leaving exterior doors or windows open, wet flooring and moisture will contribute to the growth of mold, mildew, fungus or spores. Each Unit

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Owner, by acceptance of a deed or otherwise acquiring title to a Unit, shall be deemed to have agreed that Declarant is not responsible and hereby disclaims any responsibility for the existence or presence of mold, mildew, fungus or spores and for any illness or allergic reactions which may be experienced by the Unit Owner, its family members and/or its or their guests, tenants and invitees as a result of mold, mildew, fungus or spores. It is the Unit Owner's responsibility to keep the Unit clean, dry, well-ventilated and free of contamination. While the foregoing are intended to minimize the potential development of molds, fungi, mildew and other mycotoxins, each Owner understands and agrees that there is no method for completely eliminating the development of molds or mycotoxins. The Declarant does not make any representations or warranties regarding the existence or development of same. In furtherance of the rights of the Association as set forth in Article VI above, in the event that the Association reasonably believes that the provisions of this paragraph are not being complied with, then the Association shall have the right, but not the obligation, to enter Unit C (without requiring the consent of the Unit Owner or any other party) to turn on the air conditioning in an effort to cause the temperature of Unit C to be maintained as required hereby (with all utility consumption costs to be paid and assumed by the Unit Owner). To the extent that electric service is not then available to Unit C, the Association shall have the further right, but not the obligation (without requiring the consent of the Owner or any other party), to connect electric service to Unit C (with the costs thereof to be borne by the Unit Owner, or if advanced by the Association, to be promptly reimbursed by the Owner to the Association).

20. Relief by Association. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in Paragraphs A and B of this Article.

C. Transfer of Unit. No Unit Owner, other than the Declarant, may transfer its Unit except by complying with the following provisions:

1. Right of First Refusal. Any Owner who receives a bona fide offer to purchase their Unit (such offer to purchase a Unit shall be referred to as an "Outside Offer"), which they intend to accept shall give notice by certified mail to the Board of Directors of the receipt of such Outside Offer. Said notice shall also state the name and address of the proposed purchaser, the terms of the proposed transaction and such other information as the Board of Directors may reasonably require. The giving of such notice to the Board of Directors shall constitute an offer by such Owner to sell the Unit to the Association or its designee upon the same terms and conditions as contained in such Outside Offer. The Owner shall submit in writing such further information with respect thereto as the Board of Directors may reasonably request. Not later than thirty (30) days after receipt of such notice, together with such further information as may have been requested, the Association or its designee may elect, by sending written notice to such Owner, to purchase such Unit upon the same terms and conditions as contained in the Outside

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Offer. If the Board of Directors elects to purchase the Unit on behalf of the Association in accordance with the terms of the Outside Offer, the Board of Directors shall have the authority to proceed with such purchase on behalf of all Owners. If the available funds of the Association are insufficient to effectuate any such purchase, the Board of Directors may levy an Assessment against each Owner in proportion to his share of the Common Expenses, and/or the Board of Directors may, in its discretion, finance the acquisition of such Unit.

In the event the Association or its designee should fail to notify the Owner of its election to purchase such Unit within the time period prescribed above, the Owner shall be free to accept the Outside Offer. In such event, if the Owner accepts such Outside Offer but such sale is not consummated in accordance with the terms of such Outside Offer or within a reasonable time after the date set for closing, then, should such Owner thereafter elect to sell such Unit the Owner shall be required to again comply with all of the terms and provisions of this Article.

2. Certificate. Upon request of the Owner, a duly authorized officer of the Association shall provide the Owner with a certificate of waiver of its right of first refusal if the Association or its designee does not elect to purchase the Unit in accordance with the terms set forth in the Outside Offer.

3. Approval by Association. In order to determine that proposed purchasers are familiar with the Condominium Documents, the Board of Directors, at its option, shall have the right to require a personal interview with the proposed purchaser. Notwithstanding anything in this Article to the contrary, the Association shall have the absolute right to deny approval of any sale without being obligated to purchase the Unit if: (a) the sale would result in a violation of the Condominium Documents; or (b) the Owner or proposed purchaser makes any material misrepresentation on any documents provided to the Association or in the personal interview. A material misrepresentation shall be defined as any false representation or omission which in the sole judgment of the Board of Directors would influence their decision in regard to whether to exercise their right of first refusal.

4. Exceptions. The provisions of this Article shall not apply with respect to any sale or conveyance of any Unit by: (a) the Owner thereof to his spouse, adult children, parents, or a trustee, corporation or other entity where the Owner or the aforementioned related persons are and continue to be the sole beneficiary or equity owner of such trustee, corporation or other entity; (b) the Association; (c) the Declarant; or (d) a first Mortgagee deriving title by virtue of foreclosure of its mortgage or acceptance of a deed in lieu of foreclosure; provided, however, that each succeeding Owner shall be bound by, and his Unit subject to, the provisions of this Article. Any Owner shall be free to convey or transfer his Unit by will, or to have his Unit pass by intestacy, without restriction; provided,

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however, that each succeeding Owner shall be bound by, and his Unit subject to, the provisions of this Article.

5. Transfer Fee. The Association shall have the authority to charge a non-refundable one-hundred dollar (\$100.00) screening fee in connection with the approval required for the sale of a Unit. Said fee may be increased by the Board of Directors from time to time but shall not exceed the highest fee permitted by law as set forth in Chapter 718, Florida Statutes, as same may be amended from time to time.

6. Sale in Violation of this Article. Any purported sale of a Unit in violation of this Article shall be voidable at any time at the election of the Association and if the Board of Directors shall so elect, the Owner shall be deemed to have authorized and empowered the Association to institute legal proceedings to void a conveyance. Said Owner shall reimburse the Association for all expenses (including attorneys' fees and costs incurred in connection with such proceedings).

7. Right of First Opportunity under Master Lease. The right of first opportunity in favor of the Master Tenant under the Master Lease ("Master Tenant ROFO") is acknowledged and approved. Nothing in this Declaration is intended to interfere with or prevent the exercise of the Master Tenant ROFO.

D. Lease of Unit. The following restrictions shall apply in connection with the leasing of Units:

1. Tenant Use Rights. When a Unit is leased, a tenant shall have all use rights in the Association Property and those Common Elements otherwise readily available for use generally by Owners and the Owner shall not have such rights except as a guest, unless such rights are waived in writing by the tenant.

2. Subleases, Assignments and Renewals of Leases. The provisions of this Article shall also apply to subleases, assignments and renewals of leases.

E. Miscellaneous Restrictions and Obligations.

1. Liability for Common Expenses. No Owner of a Unit may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use and enjoyment of any of the Common Elements or by the abandonment of his Unit.

2. Restraint Upon Separation and Partition of Common Elements. No Unit Owner shall attempt to convey his undivided interest in the Common Elements which are appurtenant to each Unit separately from the Unit to which it is appurtenant. The undivided interest in the Common Elements appurtenant to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with

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the Unit to which it is appurtenant, even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering, or otherwise dealing with such Unit. The respective shares in the Common Elements shall remain undivided, and no Unit Owner shall have an action for partition of the Common Elements, the Condominium Property, or any part thereof, except as provided herein with respect to termination of the Condominium. Any conveyance, mortgage or other instrument which purports to effect the transfer, conveyance, devise or encumbrance, or which purports to grant any right, interest, or lien in, to, or upon a Unit, shall be null, void and of no effect insofar as the same purports to affect any interest in the Common Elements, unless the same purports to convey, devise, encumber or otherwise treat or deal with the entire Unit and its appurtenances. Any instrument conveying, devising, encumbering or otherwise dealing with the Unit which describes said Unit by the designation assigned thereto in Exhibit "B," without limitation or exception, shall be deemed and construed to affect the entire Unit and its appurtenant undivided interest in the Common Elements. Nothing herein contained shall be construed as limiting or preventing ownership of any Unit and its appurtenant undivided interest in the Common Elements by more than one person or entity as tenants in common, joint tenants, or tenants by the entirety.

3. Interest in Unit. No Unit Owner shall attempt in any manner to divest himself of his interest in the Unit and its appurtenances except by conveyance of his total interest in the Unit and its appurtenances.

4. Judicial Sale. No judicial sale of a Unit nor any interest therein shall be valid unless:

a. The sale is to a purchaser approved by the Association which approval shall be in recordable form, executed by two officers of the Association and delivered to the purchaser; or

b. The sale is a result of a public sale with open bidding.

5. Declarant's Rights. Nothing set forth in this Declaration shall be construed as limiting the Declarant's rights to freely and without approval of the Association or any other Unit Owner, convey, alter or modify Units in the Condominium subject to the limitations of Chapter 718 of the Florida Statutes.

6. Obligations of Unit Owners. In addition to other obligations and duties heretofore set out in this Declaration, every Unit Owner shall:

a. Promptly pay the Assessments levied by the Association.

b. Maintain in good condition and repair his Unit and all interior surfaces within or surrounding his Unit, and maintain and repair the fixtures therein.

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c. Conform and abide with the Bylaws and uniform rules and regulations promulgated by the Board of Directors of the Association.

F. Mortgages. No Unit Owner may mortgage his Unit or any interest therein without the approval of the Association except to a Mortgagee. The approval of any other mortgage may be granted upon conditions determined by the Association, or may be arbitrarily withheld. This provision shall not be construed so as to prevent the Declarant or Association from accepting a purchase money mortgage as a part of the purchase price of a Unit nor prevent a Unit Owner from accepting a purchase money mortgage from an approved purchaser.

Where an institutional first mortgage by some circumstance fails to be a first mortgage but it is evident that it is intended to be a first mortgage, it shall nevertheless for the purpose of this Declaration be deemed to be an institutional mortgage.

G. Changes in Declarant-Owned Units. Subject to the rights of the Tenant under the Master Lease and the rights of the Subtenant under the Sublease, Declarant shall have the right, without the vote or consent of the Association, to make alterations, or improvements in, to, and upon Units owned by Declarant, whether structural or non-structural, interior or exterior, ordinary or extraordinary, so long as the configuration or size of the Units is not changed, the appurtenances to the Units are not materially altered or modified, and the percentage interest in the Common Elements of any Units shall not be changed by reason thereof. The provisions of this paragraph may not be added to, amended or deleted without the prior written consent of the Declarant.

#### **ARTICLE XIX: ADDITIONAL RIGHTS OF MORTGAGEES AND OTHERS**

A. Availability of Association Documents. The Association shall have current and updated copies of the Condominium Documents and the books, records, and financial statements of the Association available for inspection by Mortgagees during normal business hours or under other reasonable circumstances.

B. Notices. Any holder, insurer or guarantor of a mortgage on a Unit shall have, if first requested in writing, the right to timely written notice of:

1. any condemnation or casualty loss affecting a material portion of the Condominium and/or Association Property or the affected mortgaged Unit;
2. a sixty (60)-day delinquency in the payment of the Assessments on a mortgaged Unit;
3. the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; or

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4. any proposed action which requires the consent of a specified number of mortgage holders.

## **ARTICLE XX: ADDITIONAL PROVISIONS**

A. Titles. Article and Paragraph titles inserted throughout this Declaration are intended only as a matter of convenience and for reference and in no way define, limit, or in any way affect this Declaration, or define, limit or in any way affect the content of the respective Article and/or Paragraph.

B. Conflict.

1. In the event of conflict among the powers and duties of the Association or the terms and provisions of this Declaration, Exhibits attached hereto or otherwise, this Declaration shall take precedence over the Articles of Incorporation, Bylaws and Rules and Regulations; the Articles of Incorporation shall take precedence over the Bylaws and Rules and Regulations; and the Bylaws shall take precedence over Rules and Regulations, all as amended from time to time. Notwithstanding anything in this Declaration or its Exhibits to the contrary, the Association shall at all times be the entity having ultimate control over the Condominium, consistent with the Act.

2. This Declaration is subject to the terms and conditions of the Master Lease and the Sublease. The Master Tenant and Subtenant have joined in and consented to this Declaration for the purpose of consenting to the submission of the Land and Improvements to the condominium form of ownership with the understanding that in the event of any conflict between the terms and provisions of the Master Lease or the Sublease and the terms and provisions of this Declaration, the Articles of Incorporation, or the Bylaws, the terms and provisions of the Master Lease and Sublease shall control; provided, however, that neither the Master Tenant nor the Subtenant shall take or permit any action or exercise any rights under the Master Lease or Sublease that cause a termination of the Condominium. Neither the Declarant nor the Association shall take any action which would be prohibited by the Master Lease or Sublease. Furthermore, while the Master Lease and Sublease are in effect, the responsibility for the maintenance, repair and replacement of the Shared Components and Common Elements shall be governed by the terms of the Master Lease and Sublease.

C. Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, paragraph, subparagraph, sentence, clause, phrase or word, or other provision of this Declaration, the Exhibits annexed hereto, or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

Declaration

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D. Notices. All notices to the Association required or desired hereunder or under the Bylaws of the Association shall be sent by certified mail (return receipt requested) to the Association at its mailing address as shown in the public records as maintained by the Florida Secretary of State or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit Owners. Except as provided specifically in this Declaration or in the Act, all notices to any Unit Owner shall be sent by first class mail to the Condominium address of such Unit Owner, or such other address as may have been designated by the Unit Owner from time to time, in writing, to the Association. All notices to Mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association. All notices shall be deemed to have been given when mailed in a postage prepaid sealed wrapper, except notices of a change of address, which shall be deemed to have been given when received, or five (5) business days after proper mailing, whichever shall first occur.

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

F. Governing Law. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits annexed hereto or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida.

G. Gender; Plurality. Whenever the context and facts permit, the use of the singular shall include the plural and the plural shall include the singular and the use of any gender shall be deemed to include all genders.

H. Exhibits. There is hereby incorporated in this Declaration all materials, notes and legends contained in the Exhibits annexed hereto.

I. Signature of President and Secretary. Wherever the signature of the President of the Association is required hereunder, the signature of a vice-president may be substituted therefor, and wherever the signature of the Secretary of the Association is required hereunder, the signature of an assistant secretary may be substituted therefor, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.

J. Time Shares. The Declarant will not create time-share estates with respect to any Units in this Condominium.

Declaration

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K. Ratification. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Unit, by reason of his occupancy, shall be deemed to have acknowledged and agreed that all of the provisions of the Condominium Documents are fair and reasonable in all material respects.

L. Execution of Documents: Attorney-in-Fact. Without limiting the generality of other articles of this Declaration and without such other articles limiting the generality hereof, each Owner, by reason of acceptance of a deed to such Owner's Unit, hereby agrees to execute, at the request of the Declarant, all documents or consents which may be required by all governmental agencies to allow the Declarant and its affiliates to complete the plan of development of the Condominium to the extent not already completed, as such plan may be hereafter amended, and each such Owner further appoints hereby and thereby the Declarant as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of such Owners, any and all documents or consents. This power of attorney is irrevocable and coupled with an interest. The provisions of this paragraph may not be amended without the consent of the Declarant.

M. Liability of the Association. Notwithstanding anything contained in the Condominium Documents, the Association, except to the extent specifically provided to the contrary herein, shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner, occupant or user of any portion of the Condominium and/or Association Property, including, without limitation, Owners and tenants and their respective guests, invitees, agents, servants, contractors or subcontractors or for any property of such persons. Without limiting the generality of the foregoing:

1. it is the express intent of the Condominium Documents that the various provisions thereof which are enforceable by the Association and which govern or regulate the uses of the properties have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the properties and the value thereof;

2. the Association is not empowered, and has not been created, to act as an entity which enforces or ensures the compliance with the laws of the United States, State of Florida, Miami-Dade County, the City of Coral Gables and/or any other jurisdiction or the prevention of tortious activities; and

3. the provisions of the Condominium Documents setting forth the uses of Assessments which relate to health, safety and/or welfare shall be interpreted and applied only as limitations on the uses of Assessments and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if Assessments are chosen to be used for any such reason.

Declaration

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Version 7 (SRHL)

Each Owner (by virtue of his acceptance of title to his Unit) and each other person having an interest in or lien upon, or making use of, any portion of the Association Property (by virtue of accepting such interest or lien or making such use) shall be bound by this provision and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed hereby. As used herein, "Association" shall include within its meaning all Association directors, officers, committee and board members, employees, agents, contractors (including management companies), subcontractors, successors and assigns. The provisions hereof shall also inure to the benefit of the Declarant, which shall be fully protected hereby.

N. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership. It is the intention of the Declarant that this Declaration and the provisions hereof, as well as the provisions of all Exhibits hereto, shall comply with the Act, and if there be any direct conflict between the provisions of this Declaration or any of the Exhibits hereto and the Act, then the provisions of the Act shall govern. If there shall ever be a question as to the interpretation of any of the provisions of this Declaration or the Exhibits hereto, same shall be interpreted in accordance with the intent of the Declarant in such manner that any such questions would conform to the Act and against any interpretation which would not be in conformance with the said Act.

O. Rules and Regulations. Subject to the terms of this Declaration, which provide for conditions under which this Declaration may be terminated, the Rules and Regulations of the Association, if any, shall remain in effect for a minimum of twenty-five (25) years and shall be automatically renewed thereafter.

#### **ARTICLE XXI: DISCLAIMER OF WARRANTIES**

A. Disclaimer of Warranties. **Declarant hereby disclaims any and all express or implied warranties as to the design; construction; sound and/or odor transmission; existence and/or development of molds, mildew, toxins or fungi; furnishing and equipping of the Condominium Property, except only those set forth in the Act, to the extent applicable to Declarant and to the extent that same have not expired by their terms. As to such warranties which cannot be disclaimed, and to other claims, if any, which can be made as to the aforesaid matters, all incidental and consequential damages arising therefrom are hereby disclaimed. Each Unit Owner, by virtue of acceptance of title to its respective Unit (whether from the Declarant or another party), shall be deemed to have automatically waived all of the aforesaid disclaimed warranties and incidental and consequential damages. The Unit Owner has not received nor relied on any warranties and/or representations from Declarant of**

Declaration

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any kind, other than as expressly provided herein.

Further, given the climate and humid conditions in Florida, molds, toxins and fungi may exist and/or develop within the Unit and/or the Condominium Property. Each Owner is hereby advised that certain molds, mildew, toxins and/or fungi may be, or if allowed to remain for a sufficient period may become, toxic and potentially pose a health risk. By acquiring title to a Unit, each Owner shall be deemed to have released the Declarant from any and all liability resulting from same, including, without limitation, any liability for incidental or consequential damages (which may result from, without limitation, the inability to possess the Unit, inconvenience, moving costs, hotel costs, storage costs, loss of time, lost wages, lost opportunities, and/or personal injury). Without limiting the generality of the foregoing, leaks, wet flooring and moisture will contribute to the growth of mold, mildew, fungus or spores. Each Unit Owner, by acceptance of a deed or otherwise acquiring title to a Unit, shall be deemed to have agreed that Declarant is not responsible and hereby disclaims any responsibility for any illness or allergic reactions which may be experienced by the Unit Owner, its customers, invitees, tenants, licensees, concessionaires, subtenants, sublicensees and subconcessionaires as a result of mold, mildew, fungus or spores. It is the Unit Owner's responsibility to keep the Unit clean, dry, well-ventilated and free of contamination.

Each Owner understands and agrees that for some time in the future, it and its customers, invitees, tenants, licensees, concessionaires, subtenants, sublicensees and subconcessionaires may be disturbed by the noise, commotion and other unpleasant effects of nearby construction activity and as a result Owner and its customers, invitees, tenants, licensees, concessionaires, subtenants, sublicensees and subconcessionaires may be impeded in using portions of the Condominium Property by that activity. Because the Condominium is located in an urban area, demolition or construction of buildings and other structures within the immediate area or within the view lines of any particular Unit or of any part of the Condominium (the "Views") may block, obstruct, shadow or otherwise affect Views, which may currently be visible from the Unit or from the Condominium. Therefore, each Owner, for itself, its successors and assigns, by acceptance of a deed or otherwise acquiring title to a Unit, releases Declarant, its partners and its and their officers, members, directors, and employees and every affiliate and person related or affiliated in any way with any of them ("Declarant's Affiliates") from and against any and all losses, claims, demands, damages, costs and expenses of whatever nature or kind, including attorneys' fees and costs, including those incurred through all arbitration and/or appellate proceedings, related to or arising out of any claim against the Declarant or Declarant's

Declaration

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**Affiliates related to Views or the disruption, noise, commotion, and other unpleasant effects of nearby development or construction. As a result of the foregoing, there is no guarantee of view, security, privacy, location, design, density or any other matter.**

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Signed, Sealed and Delivered  
in the presence of:

CITY OF CORAL GABLES, a municipal  
corporation of the State of Florida

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Catherine B. Swanson,  
City Manager

\_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF FLORIDA            )  
  ) SS:  
COUNTY OF MIAMI-DADE )

Acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Catherine B. Swanson, as City Manager of the City of Coral Gables, a municipal corporation of the State of Florida. She is personally known to me or produced a driver's license issued by the Florida Department of Highway Safety and Motor Vehicles as identification and did not take an oath.

SEAL

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA  
Commission No.:

Approved as to form and legal sufficiency  
for the use and reliance of the City only

\_\_\_\_\_  
Craig E. Leen, City Attorney

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**JOINDER AND CONSENT**

THIS JOINDER AND CONSENT is given and made this \_\_\_\_\_ day of \_\_\_\_\_, 2015, on behalf of **THE PALACE MANAGEMENT GROUP, LLC**, a Florida limited liability company ("Lessee"), being the owner of the lessee's interest under that certain Parking Garage Lease and Development Agreement between Lessee and the City of Coral Gables, a municipal corporation of the state of Florida, as lessor ("Lessor"), dated July 14, 2008, as amended ("Lease"), a memorandum of which was recorded in Official Records Book 27774, at Page 2693, of the Public Records of Miami-Dade County, Florida.

WHEREAS, Lessor has requested that Lessee consent to the submission to the condominium form of ownership of the real property and the improvements situated thereon described in the Declaration of Condominium to which this joinder and consent is attached ("Declaration").

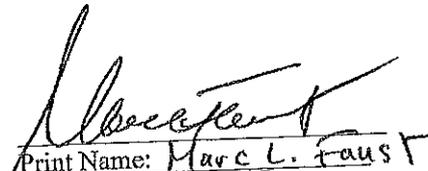
NOW, THEREFORE, Lessee joins in and consents to the submission to the condominium form of ownership of the real property and the improvements situated thereon described in the Declaration, subject to the terms and conditions described therein.

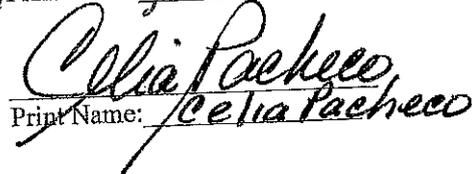
IN WITNESS WHEREOF, Lessee has caused these presents to be duly executed by its duly authorized officer this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

WITNESSES:

**LESSEE:**

**THE PALACE MANAGEMENT GROUP,  
LLC**, a Florida limited liability company

  
Print Name: Marc L. Faust

  
Print Name: Celia Pacheco

By:   
Name: Jacob Shaham  
Title: Manager

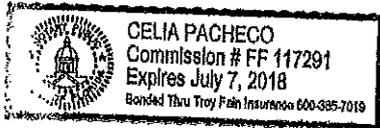
Address: 11355 S.W. 84<sup>th</sup> Street  
Miami, Florida 33173

STATE OF COUNTY )  
 ) SS:  
COUNTY OF MIAMI-DADE )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Jacob Shaham, who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did not take an oath, and who is known to be Manager of The Palace Management Group, LLC, a Florida limited liability company and the party named in the foregoing instrument, and that he/she acknowledged executing the same, in the presence of two subscribing witnesses, freely and voluntarily under authority duly vested in him/her by said entity and that the seal affixed thereto is the true corporate seal of said entity.

WITNESS my hand and official seal in the State and County last aforesaid this 8<sup>th</sup> day of June, 2015.

Celia Pacheco  
Notary Public



Celia Pacheco  
Printed Name of Notary  
My Commission Expires:  
My Commission Number is:

**JOINDER AND CONSENT**

THIS JOINDER AND CONSENT is given and made this \_\_\_\_\_ day of \_\_\_\_\_, 2015, on behalf of **PALACE AT CORAL GABLES COMMUNITY DEVELOPMENT DISTRICT**, a community development district established pursuant to Chapter 190 of the Florida Statutes ("Subtenant"), being the owner of the subtenant's interest under that certain Sublease Agreement between Subtenant and The Palace Management Group, LLC, a Florida limited liability company, as sublandlord ("Sublandlord"), dated July 28, 2011 ("Sublease"), a memorandum of which was recorded in Official Records Book 27774, at Page 2771, of the Public Records of Miami-Dade County, Florida.

WHEREAS, Sublandlord is the lessee under that certain Parking Garage Lease and Development Agreement between Sublandlord and the City of Coral Gables, a municipal corporation of the state of Florida, as lessor ("Lessor"), dated July 14, 2008, as amended ("Lease"), a memorandum of which was recorded in Official Records Book 27774, at Page 2693, of the Public Records of Miami-Dade County, Florida.

WHEREAS, Lessor has requested that Subtenant consent to the submission to the condominium form of ownership of the real property and the improvements situated thereon described in the Declaration of Condominium to which this joinder and consent is attached ("Declaration").

NOW, THEREFORE, Subtenant joins in and consents to the submission to the condominium form of ownership of the real property and the improvements situated thereon described in the Declaration, subject to the terms and conditions described therein; provided, however, that Subtenant's execution of this joinder and consent shall not be interpreted or construed as the agreement by Subtenant to be bound by any terms or provisions of the Declaration in conflict with any terms or provisions of the Sublease. Subtenant shall not be bound by any terms or provisions of the Declaration not contained or included, or otherwise provided for, in the Sublease.

IN WITNESS WHEREOF, Subtenant has caused these presents to be duly executed by its duly authorized officer this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

WITNESSES:

SUBTENANT:

**PALACE AT CORAL GABLES  
COMMUNITY DEVELOPMENT  
DISTRICT**, a community development district  
established pursuant to Chapter 190 of the  
Florida Statutes

By: \_\_\_\_\_

Name: Oscar Ruiz

Title: Chairman

Address: c/o Fishkind and Associates  
12051 Corporate Boulevard  
Orlando, Florida 32817

[Signature]  
Print Name: Flavia Morales

[Signature]  
Print Name: S. Concepcion

STATE OF COUNTY )  
COUNTY OF Miami-Dade ) SS:

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared OSCAR REIZ, who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did not take an oath, and who is known to be \_\_\_\_\_ of Palace at Coral Gables Community Development District, a community development district established pursuant to Chapter 190 of the Florida Statutes and the party named in the foregoing instrument, and that he/she acknowledged executing the same, in the presence of two subscribing witnesses, freely and voluntarily under authority duly vested in him/her by said entity and that the seal affixed thereto is the true corporate seal of said entity.

WITNESS my hand and official seal in the State and County last aforesaid this 5 day of June, 2015.

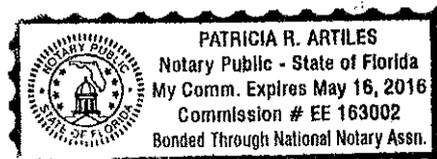
  
\_\_\_\_\_  
Notary Public

Patricia Artiles

Printed Name of Notary

My Commission Expires:

My Commission Number is:



**JOINDER AND CONSENT**

THIS JOINDER AND CONSENT is given and made this 8th day of June, 2015, on behalf of TD BANK, N.A., a national banking association ("Lender"), being the holder of that certain Construction Loan Mortgage and Security Agreement made by The Palace Management Group, LLC, a Florida limited liability company ("Borrower") dated July 28, 2011, and recorded in Official Records Book 27774, at Page 2705, of the Public Records of Miami-Dade County, Florida, as modified ("Mortgage").

WHEREAS, Borrower is the lessee under that certain Parking Garage Lease and Development Agreement between Borrower and the City of Coral Gables, a municipal corporation of the state of Florida, as lessor ("Lessor"), dated July 14, 2008, as amended ("Lease"), a memorandum of which was recorded in Official Records Book 27774, at Page 2693, of the Public Records of Miami-Dade County, Florida.

WHEREAS, Lessor has requested that Lender consent to the submission to the condominium form of ownership of the real property and the improvements situated thereon described in the Declaration of Condominium to which this joinder and consent is attached ("Declaration").

NOW, THEREFORE, Lender joins in and consents to the submission to the condominium form of ownership of the real property and the improvements situated thereon described in the Declaration, subject to the terms and conditions described therein. Lender does not assume and is not responsible for any of the obligations and liabilities of Borrower or any other person under the Declaration, and none of the representations contained in the aforesaid Declaration shall be deemed to have been made by Lender or impose any obligations on Lender.

IN WITNESS WHEREOF, Lender has caused these presents to be duly executed by its duly authorized officer this 8th day of June, 2015.

WITNESSES:

[Signature]  
Print Name: Sydney Willoughby

[Signature]  
Print Name: Todd O'Brien

LENDER:

TD BANK, N.A., a national banking association

By: [Signature]  
Name: Linda L Walker  
Title: Vice President

Address: 2130 Centrepark West Drive  
West Palm Beach, Florida 33409

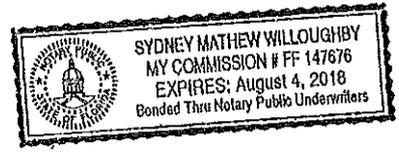
STATE OF COUNTY )  
COUNTY OF Palm Beach SS:

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Linda K Walker, who is personally known to me or who has produced as identification, and who did not take an oath, and who is known to be Vice President of TD Bank, N.A., a national banking association and the party named in the foregoing instrument, and that he/she acknowledged executing the same, in the presence of two subscribing witnesses, freely and voluntarily under authority duly vested in him/her by said entity and that the seal affixed thereto is the true corporate seal of said entity.

WITNESS my hand and official seal in the State and County last aforesaid this 8th day of June, 2015.

[Signature]  
Notary Public

Sydney Willoughby  
Printed Name of Notary  
My Commission Expires: 8/4/18  
My Commission Number is: FF 147676



**Exhibit "A"**

**Legal Description of Real Property Being Submitted to Condominium  
Form of Ownership**

EXHIBIT "A"

**LEGAL DESCRIPTION OF THE LAND**

Lots 10 through 20, in Block 5, of CORAL GABLES CRAFT SECTION, according to the Plat thereof, as recorded in Plat Book 10, Page 40, of the Public Records of Miami-Dade County, Florida.

**Exhibit "B"**  
**Survey, Plot Plans and Floor Plans**

**SURVEYOR'S CERTIFICATION:**

The undersigned, a Professional Land Surveyor duly authorized to practice under the laws of the State of Florida, hereby certifies that this Exhibit "B", all pages inclusive, all of which are annexed and expressly made a part of the Declaration of Condominium of the "ANDALUSIA GARAGE CONDOMINIUM", together with provisions of the Declaration describing the condominium property, in addition to rights and restrictions, as they relate to matters of survey, are an accurate representation of the location and dimensions of the improvements, and that construction of the improvements is substantially complete such that the identification, location and dimensions of the units, common elements and limited common elements can be determined from these materials. This certification relates to matters of survey only, and is not intended to certify that the improvements have been constructed in accordance with any applicable governmental or building code requirement(s).

*Schwabke-Shiskin and Associates, Inc.*



Mark Steven Johnson, Sec'y & Treas.  
Professional Land Surveyor No. 4775  
State of Florida  
Date : 06/02/15

Authentic copies shall bear the raised seal of the attesting Professional

**LEGAL DESCRIPTION:**

Lots 10 through 20, block 5, "Coral Gables Crafts Section", according to the plat thereof, as recorded in Plat Book 10, page 40 of The Public Records of Miami-Dade County, Florida.

**SURVEYOR'S CERTIFICATION  
ANDALUSIA GARAGE CONDOMINIUM**

Prepared By:  
*Schwabke-Shiskin & Associates, Inc.*  
Engineers, Surveyors, Planners  
3240 Corporate Way, Miramar, FL 33025  
Ph. (954) 435-7010

City of Miami, Florida

Page 1  
Exhibit B

Prepared For:  
City Of Coral Gables  
1 Alhambra Plaza  
Coral Gables, FL 33134  
On May 12, 2015

1. All references to C.E. are Common Elements. All references to L.C.E. are Limited Common Elements.
2. Areas within a Unit containing conduits, wiring, ducts, plumbing, bearing walls, structural supports and other such items serving Common Elements and/or other Unit(s), together with the contents therein, regardless of location, constitute parts of Unit B and may be omitted from these Exhibits for the purposes of graphical clarity. Areas of the Condominium below the building (land) and areas above 10.00 feet above the upper surfaces of the building roof, roof elements and upper parking level are Common Elements (CE).
3. Subject to note 2 all those areas which are not designated as Unit A, Unit C, Common Elements (C.E.), or Limited Common Elements (L.C.E.), are part of Unit B.
4. The limits of Units are shown to the interior undecorated finished surfaces of the walls of the Unit at the perimetric limit. The elevations shown are the average elevations of the limiting vertical ranges of the Unit established by the interior undecorated finished surfaces of the floor and ceiling. Both the horizontal limits and elevations are subject to normal construction tolerances. For a complete description of the Unit boundaries shown hereon, refer to the Declaration of Condominium.
5. The lands within these Exhibits and the improvements thereon may be subject to easements, encumbrances and/or restrictions not disclosed herein, as they may appear in an abstract of title.
6. All elevations, as shown, are referenced to N.G.V.D. (National Geodetic Vertical Datum, 1929 Adjustment).

**SURVEYOR'S NOTES**  
**ANDALUSIA GARAGE CONDOMINIUM**

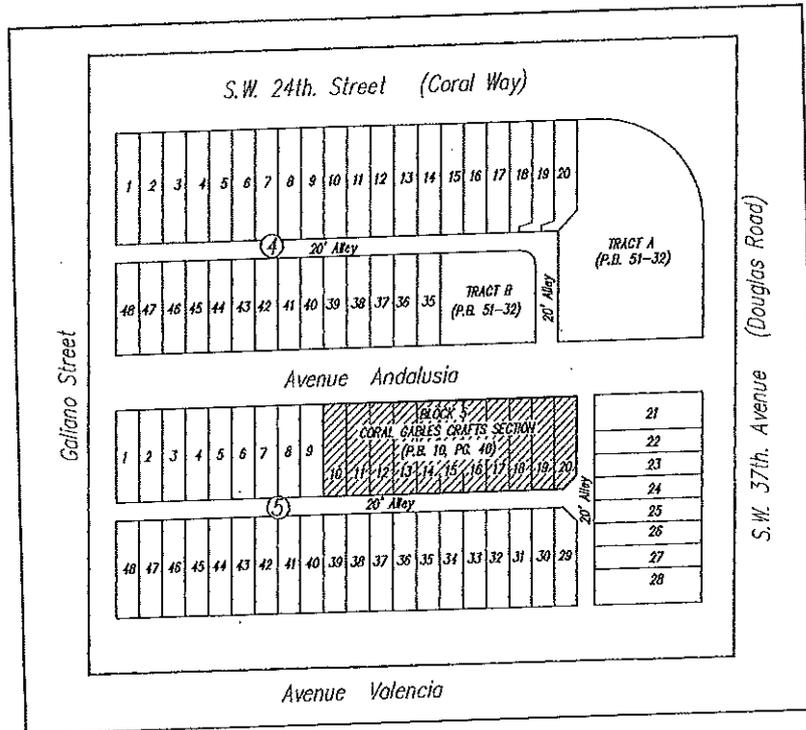
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City of Miami, Florida

Prepared By:  
*Schwabke-Shitskin & Associates, Inc.*  
Engineers, Surveyors, Planners  
3240 Corporate Way, Miramar, FL 33025  
Ph.(954)435-7010

Page 2  
Exhibit B

Prepared For:  
City Of Coral Gables  
1 Alhambra Plaza  
Coral Gables, FL 33134  
On May 12, 2015



**LOCATION MAP**  
 PORTION OF SECTION 17, TOWNSHIP 54 S.,  
 RANGE 41 E.  
 SCALE 1" = 200'

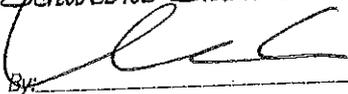
**LEGAL DESCRIPTION:**

LOTS 10 THROUGH 20, BLOCK 5, "CORAL GABLES CRAFTS SECTION", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, PAGE 40 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

**SURVEYOR'S CERTIFICATION:**

I HEREBY CERTIFY: THAT THIS "BOUNDARY SURVEY" OF THE PROPERTY DESCRIBED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS RECENTLY SURVEYED AND DRAWN UNDER MY SUPERVISION AND DIRECTION. THIS SURVEY COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE FLORIDA STATE BOARD OF SURVEYORS AND MAPPERS PURSUANT TO CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE.

*Schwabke-Shishkin & Associates, Inc.*

By:  06/02/15

MARK STEVEN JOHNSON SEC'Y & TREAS.  
 PROFESSIONAL LAND SURVEYOR #4775  
 STATE OF FLORIDA



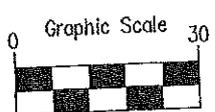
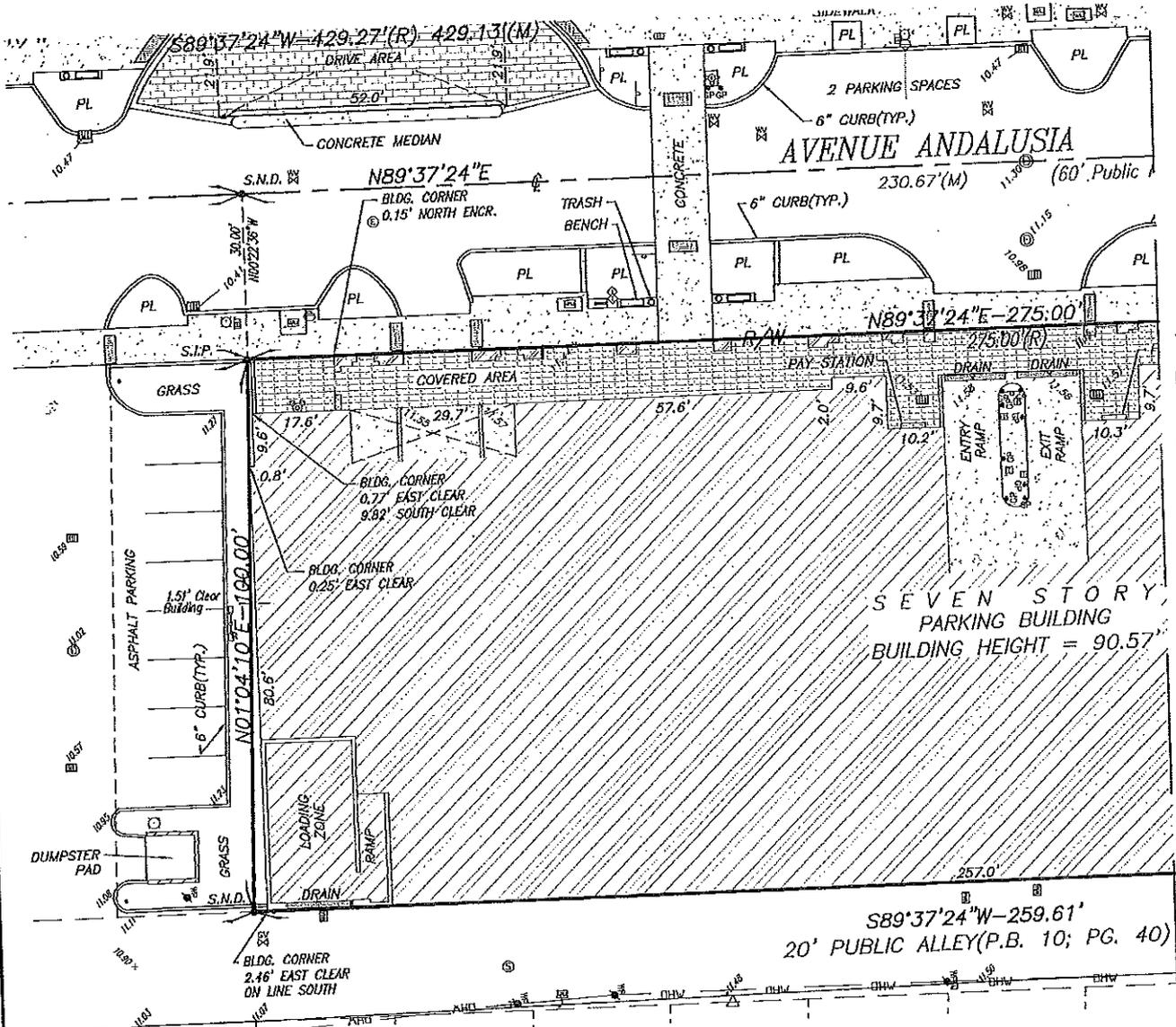
**BOUNDARY SURVEY**  
**ANDALUSIA GARAGE CONDOMINIUM**

Prepared By:  
*Schwabke-Shishkin & Associates, Inc.*  
 Engineers, Surveyors, Planners  
 3240 Corporate Way, Miramar, FL 33025  
 Ph. (954) 435-7010

City of Miami, Florida  
 Page 3  
 Exhibit B

Prepared For:  
 City Of Coral Gables  
 1 Alhambra Plaza  
 Coral Gables, FL 33134  
 On May 12, 2015

MATCH LINE - PAGE 4



1 inch = 30 feet



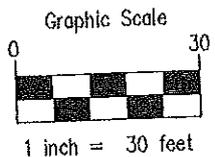
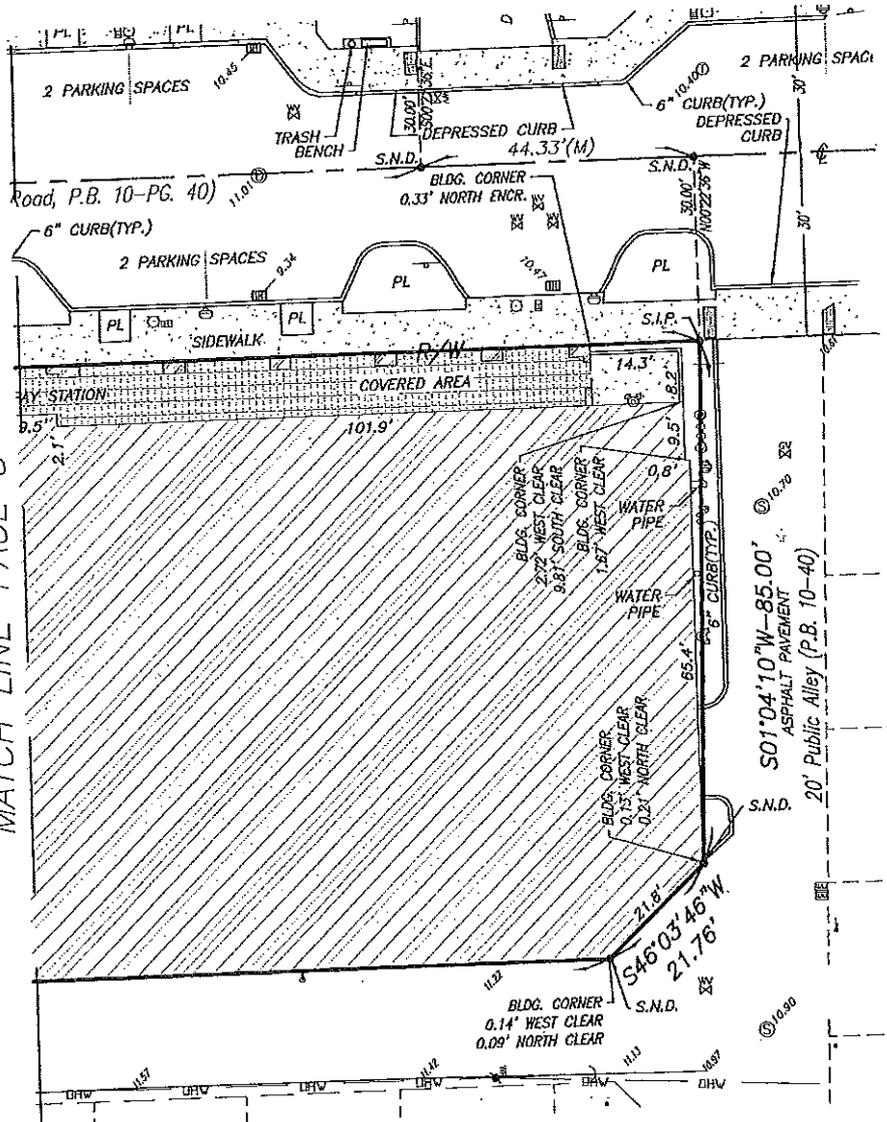
**BOUNDARY SURVEY  
ANDALUSIA GARAGE CONDOMINIUM**

Prepared By:  
Schwebke-Shitskin & Associates, Inc.  
Engineers, Surveyors, Planners  
3240 Corporate Way, Miramar, FL 33025  
Ph.(954)435-7010

City of Miami, Florida  
Page 4  
Exhibit B

Prepared For:  
City Of Coral Gables  
1 Alhambra Plaza  
Coral Gables, FL 33134  
On May 12, 2015

MATCH LINE - PAGE 3



**BOUNDARY SURVEY**  
**ANDALUSIA GARAGE CONDOMINIUM**

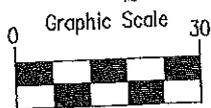
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 Engineers, Surveyors, Planners  
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City of Miami, Florida  
 Page 5  
 Exhibit B

Prepared For:  
 City Of Coral Gables  
 1 Alhambra Plaza  
 Coral Gables, FL 33134  
 On May 12, 2015

## SURVEYOR'S NOTES:

- 1) BEARINGS SHOWN HEREON REFER TO AN ASSUMED BEARING OF N.89°37'24"E. ALONG THE CENTERLINE LINE OF ANDALUSIA AVENUE.
- 2) LEGAL DESCRIPTION SHOWN HEREON WAS PROVIDED BY CLIENT.
- 3) PROPERTY AS SHOWN HEREON CONTAINS 27,376± Sq.ft.(LOTS 10 THRU 20 BLOCK 5).
- 4) UNLESS OTHERWISE NOTED, THIS FIRM HAS NOT ATTEMPTED TO LOCATE FOOTINGS AND/OR FOUNDATIONS.
- 5) ORDERED BY: THE CITY OF CORAL GABLES.
- 6) THIS SURVEY WAS PREPARED FOR THE EXCLUSIVE USE OF THE ENTITIES NAMED HEREON. THE ATTACHED CERTIFICATION DOES NOT EXTEND TO ANY UNNAMED PARTIES.
- 7) PROPERTY SHOWN HEREON FALLS WITHIN FEDERAL FLOOD ZONE X PER FLOOD INSURANCE RATE MAP COMMUNITY PANEL No.120639 0457 L OF MAP DATED SEPTEMBER 11, 2009. WITH AN INDEX DATE OF SEPTEMBER 11, 2009 (MAP No. 12086C0457 L). (N.G.V.D. 29)
- 8) VISIBLE INDICATORS OF UTILITIES ARE SHOWN HEREON, HOWEVER, NO ATTEMPT HAS BEEN MADE TO LOCATE UNDERGROUND ITEMS.
- 9) DISTANCES ALONG BOUNDARY OF SUBJECT PROPERTY ARE RECORD AND MEASURED, UNLESS OTHERWISE STATED.
- 10) THIS "BOUNDARY SURVEY" IS SUBJECT TO EASEMENTS, RIGHTS-OF-WAY AND OTHER MATTERS THAT MIGHT BE REFLECTED ON A SEARCH OF TITLE OF THE SUBJECT PROPERTY.
- 11) ELEVATIONS SHOWN HEREON REFER TO NATIONAL GEODETIC VERTICAL DATUM OF 1929 (N.G.V.D.) AND ARE EXPRESSED IN FEET.
- 12) BENCHMARKS:
  - a) CITY OF CORAL GABLES PK NAIL & DISC (NO.627) AT THE SOUTHEAST CORNER OF CORAL WAY AND GALIANO STREET. ELEVATION = 11.22 N.G.V.D.
  - b) CITY OF CORAL GABLES PK NAIL & DISC (NO.426) ON TOP OF CURB AT WEST ENTRANCE TO PARKING GARAGE ON ANDALUSIA AVENUE. ELEVATION=11.82 N.G.V.D.
- 13) SUBJECT PROPERTY ARE:  
FOLIO No. 03-4117-005-1070(LOTS 10 THRU 14 BLOCK 5)  
FOLIO No. 03-4117-005-1120(LOTS 15 THRU 20 BLOCK 5)
- 14) LOTS 10 THROUGH 20; BLOCK 5 ARE CONTIGUOUS ALONG THEIR COMMON BOUNDARIES AS SHOWN HEREON WITHOUT HIATUS, GORE OR OVERLAP.
- 15) THERE ARE NO VISIBLE ENCROACHMENTS, OTHER THAN THOSE SHOWN HEREON.
- 16) VARIOUS ARCHITECTURAL FACADE ELEMENTS AND LIGHTING ATTACHED TO THE BUILDING LIE(ENCROACH) INTO THE ADJACENT PUBLIC RIGHT-OF-WAY(NOT DEPICTED HEREON).
- 17) BLOCKS 10 THRU 20 ARE SUBJECT TO "MERRICK EASEMENTS", WHICH ARE NOT DEPICTED HEREON, ALONG THE REAR FIVE FEET AND SIDE THREE FEET "WHEN NECESSARY" AT LOT LINES PURSUANT TO DB 839 PG. 106, DB 939 PG. 443, DB 1004 PG. 499, DB 939 PG. 435 AND DB 1004 PG. 496.



1 inch = 30 feet



## BOUNDARY SURVEY ANDALUSIA GARAGE CONDOMINIUM

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3240 Corporate Way, Miramar, FL 33025  
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City of Miami, Florida  
Page 6  
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City Of Coral Gables  
1 Alhambra Plaza  
Coral Gables, FL 33134  
On May 12, 2015

**GENERAL LEGEND:**

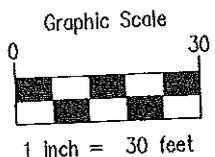
- ALUMINUM LIGHT POST
- ALUMINUM LIGHT POST (SINGLE)
- ALUMINUM LIGHT POST (DOUBLE)
- BACKFLOW PREVENTER ASSEMBLY
- CABLE TELEVISION BOX
- CATCH BASIN
- CENTERLINE
- CHECK VALVE ASSEMBLY
- COLUMN (CIRCULAR)
- COLUMN (SQUARE)
- CPP CONCRETE POWER POLE
- CURB INLET
- ELECTRIC BOX
- ELECTRIC HAND HOLE
- ELEVATIONS (SEE NOTES FOR DATUM)
- FIRE HYDRANT
- FLOW LINE
- FLORIDA POWER & LIGHT MANHOLE
- FORCE MAIN VALVE
- F.P.L. ELECTRIC MANHOLE
- F.P.L. TRANSFORMER PAD
- F.P.L. TRANSMISSION POLE
- GAS MANHOLE
- GAS METER
- GAS PUMP
- GAS VALVE
- GREASE TRAP MANHOLE
- GROUND LIGHTING

- GP GUARD POST
- IRRIGATION HAND HOLE
- IRRIGATION VALVE
- MONITOR WELL
- MONUMENT LINE
- OVERHEAD WIRES (APPROXIMATE)
- P-5 INLET
- P-6 INLET
- PARKING METER
- PEDESTRIAN CROSSING SIGNAL
- PRM PERMANENT REFERENCE MONUMENT
- POST INDICATOR VALVE
- VACUUM BREAKER ASSEMBLY
- PROPERTY LINE
- SANITARY SEWER CLEANOUT
- SANITARY SEWER MANHOLE
- SIAMESE CONNECTION
- SIGN POST
- SPRINKLER PUMP
- STANDPIPE
- STORM SEWER MANHOLE
- STREET LIGHT HAND HOLE
- PULL BOX
- TELEPHONE HAND HOLE
- TELEPHONE MANHOLE (SO. BELL)
- TELEPHONE PAYPHONE
- TRAFFIC HAND HOLE
- TRAFFIC UTILITY BOX
- TRAFFIC SIGNAL POST
- CONCRETE LIGHT POLE

- UNKNOWN UTILITY MANHOLE
- UNKNOWN UTILITY HAND HOLE
- WATER MANHOLE
- WATER METER
- WATER VALVE
- WOOD LIGHT POLE
- WOOD POWER POLE
- HANDICAP PARKING
- STROLLER PARKING
- COMMUNICATION MANHOLE

**ABBREVIATIONS:**

- R denotes RADIUS
- Δ denotes DELTA ANGLE
- L denotes ARC DISTANCE
- T denotes TANGENT DISTANCE
- PCP denotes PERMANENT CONTROL POINT
- PRM denotes PERMANENT REFERENCE MONUMENT
- PB denotes PLAT BOOK
- PG denotes PAGE
- POC denotes POINT OF COMMENCEMENT
- POB denotes POINT OF BEGINNING
- OHW denotes OVERHEAD UTILITY WIRES
- ORB denotes OFFICIAL RECORDS BOOK
- PC denotes POINT OF CURVATURE
- CBS denotes CONCRETE BLOCK STRUCTURE
- CONC denotes CONCRETE
- CLF denotes CHAINLINK FENCE
- WF denotes WOOD FENCE
- F.I.P. denotes FOUND IRON PIPE
- S.I.P. denotes SET IRON PIPE & LB-87 CAP
- F.N.D. denotes FOUND NAIL & BRASS DISC
- S.N.D. denotes SET LB-87 NAIL & BRASS DISC
- CL denotes CLEAR
- ENCR. denotes ENCROACHMENT
- (D) denotes DEED DISTANCE
- (L) denotes DISTANCE BY LEGAL DESCRIPTION
- (M) denotes MEASURED DISTANCE
- (R) denotes RECORD OR PLATTED DISTANCE



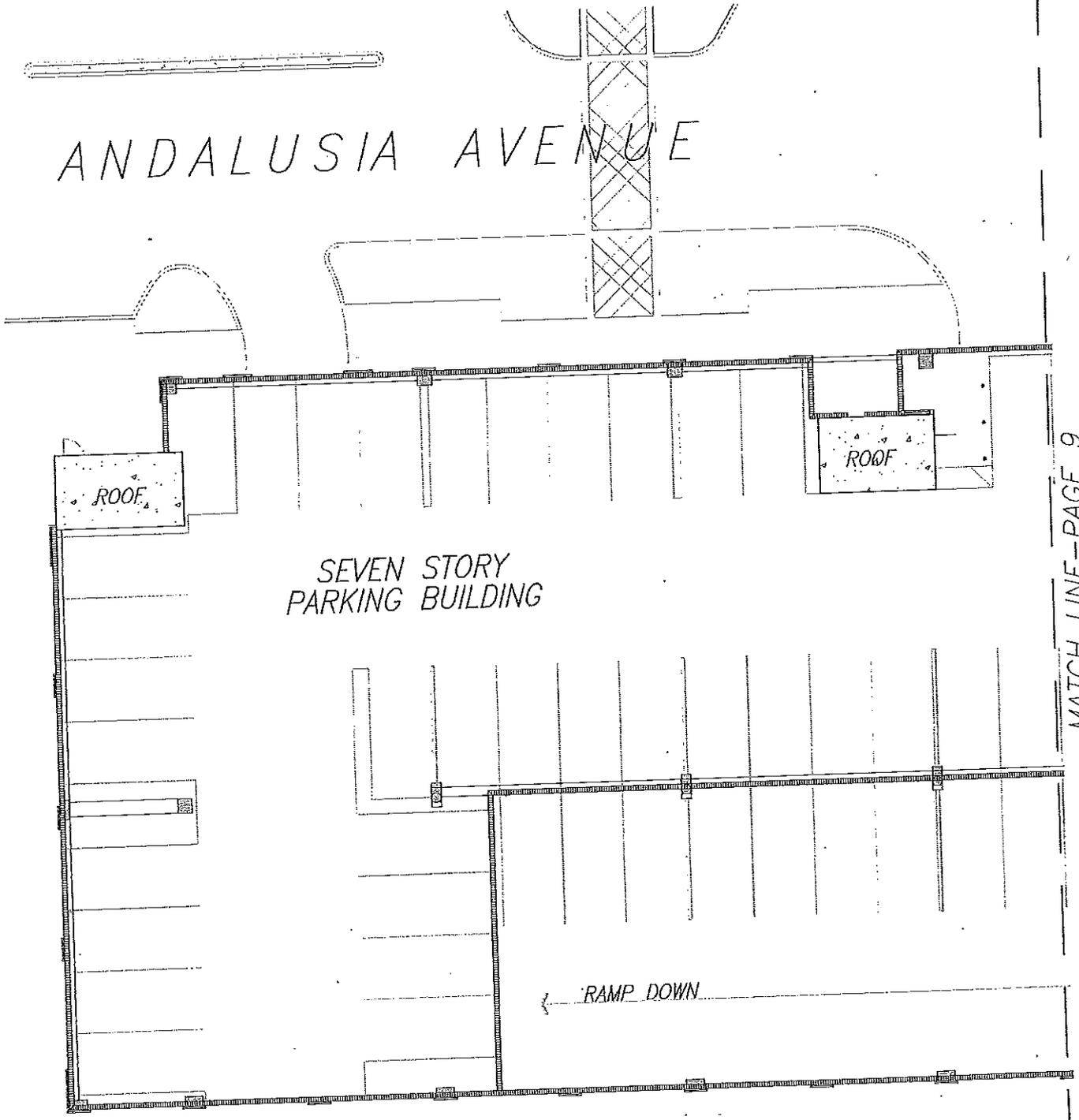
**BOUNDARY SURVEY  
ANDALUSIA GARAGE CONDOMINIUM**

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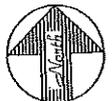
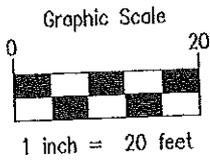
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Page 7  
Exhibit B

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City Of Coral Gables  
1 Alhambra Plaza  
Coral Gables, FL 33134  
On May 12, 2015

ANDALUSIA AVENUE



MATCH LINE - PAGE 9



**SITE PLAN**  
**ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

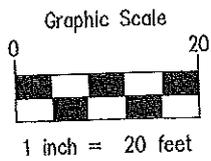
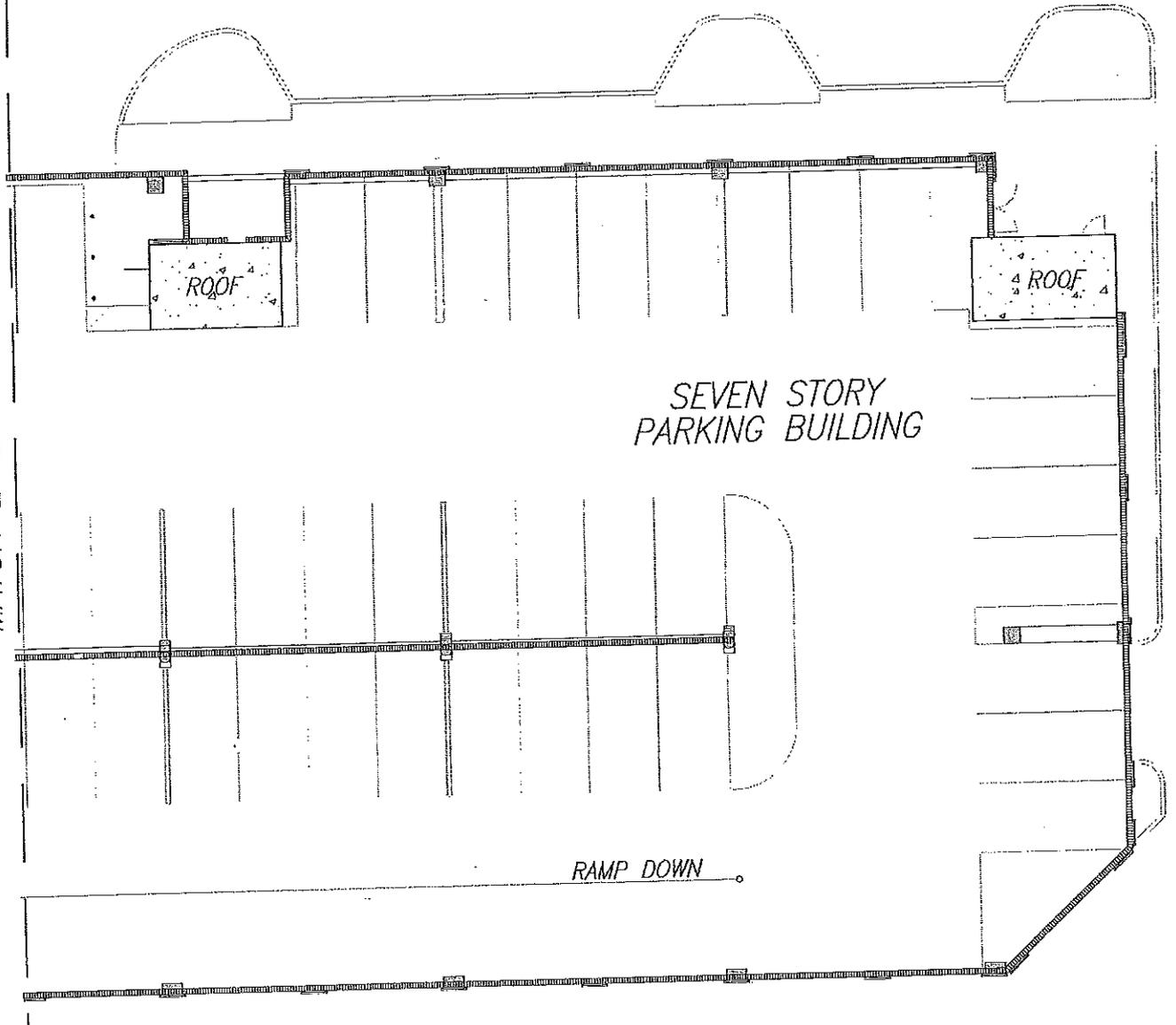
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Exhibit B

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On May 12, 2015

ANDALUSIA AVENUE

MATCH LINE--PAGE 8



**SITE PLAN**  
**ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

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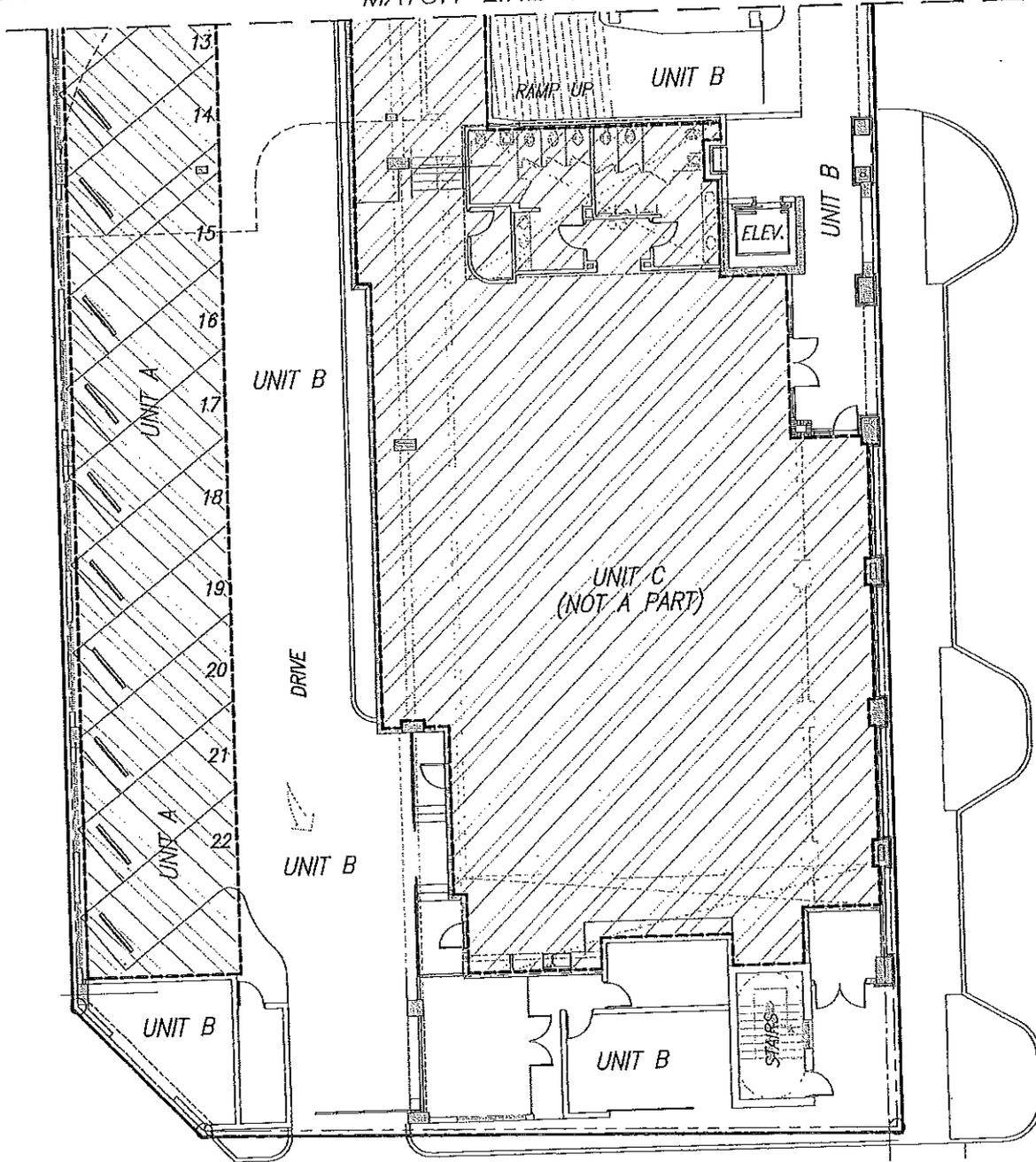
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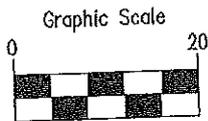
**SURVEYOR'S NOTES :**

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2. ELEV. Denotes Elevator

MATCH LINE—PAGE 11



Lying Generally Between Elevations  
11.58' and 25.91' (NGVD29)



**GROUND FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

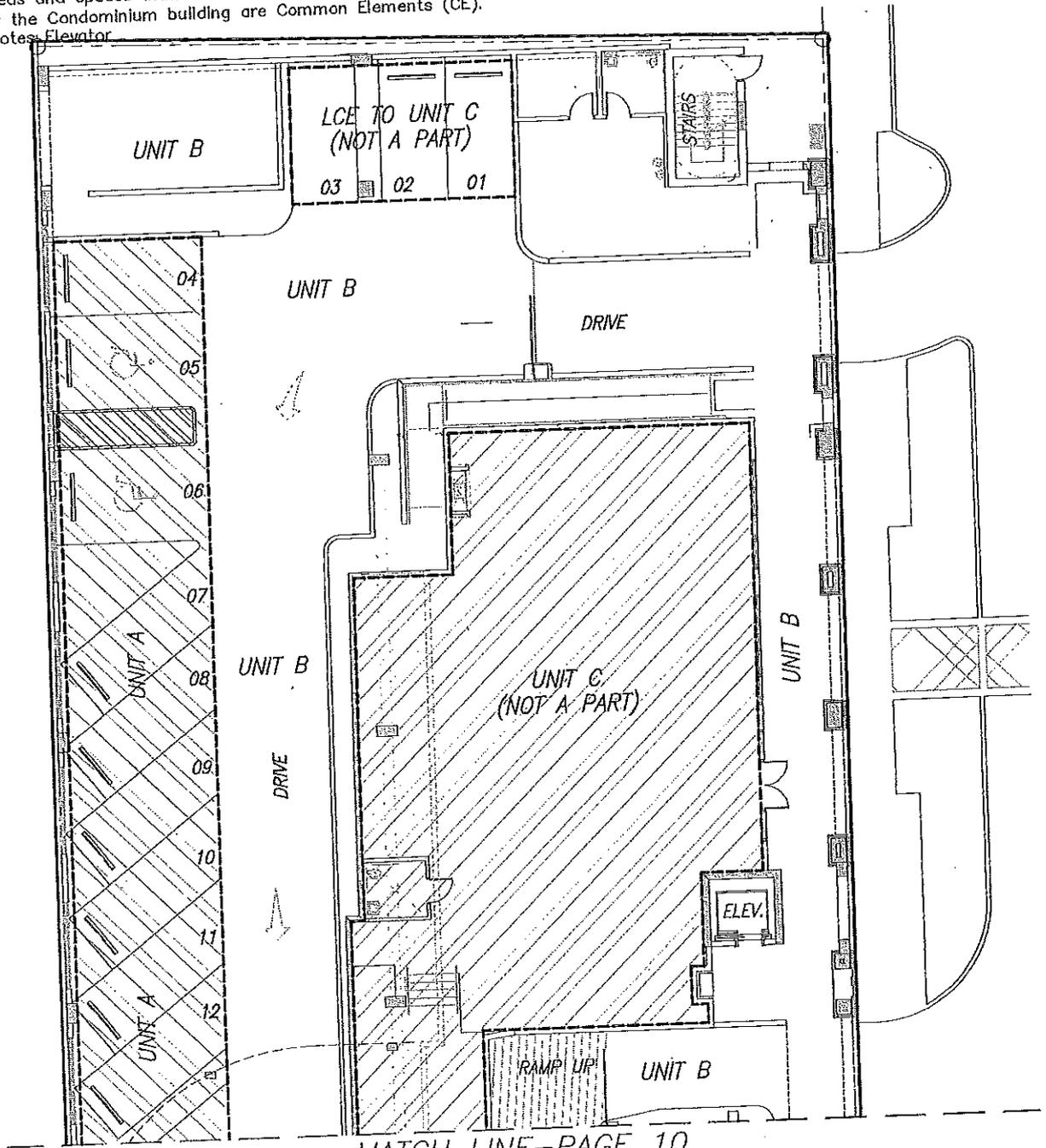
Prepared For:  
City Of Coral Gables  
1 Alhambra Plaza  
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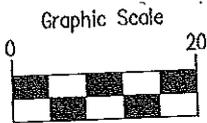
Page 10  
Exhibit B

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2. ELEV. Denotes Elevator



Lying Generally Between Elevations  
11.58' and 25.91' (NGVD29)



**GROUND FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

Prepared By:  
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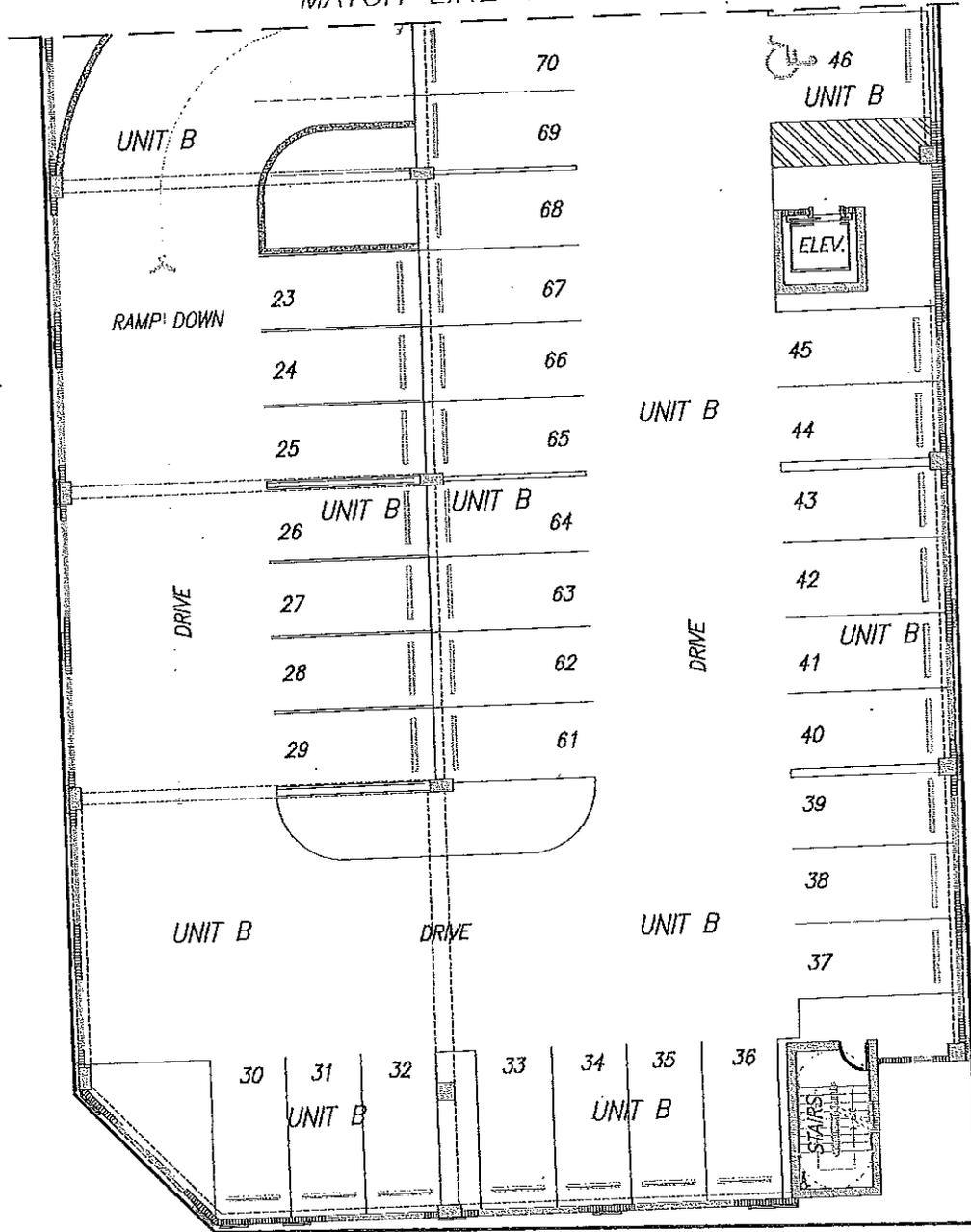
Page 11  
Exhibit B

Prepared For:  
City Of Coral Gables  
1 Alhambra Plaza  
Coral Gables, FL 33134  
On May 12, 2015

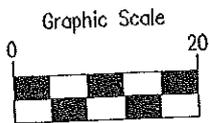
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2. ELEV. Denotes Elevator

MATCH LINE—PAGE 13



Lying Generally Between Elevations  
26.58' and 35.91' (NGVD29)



**SECOND FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida



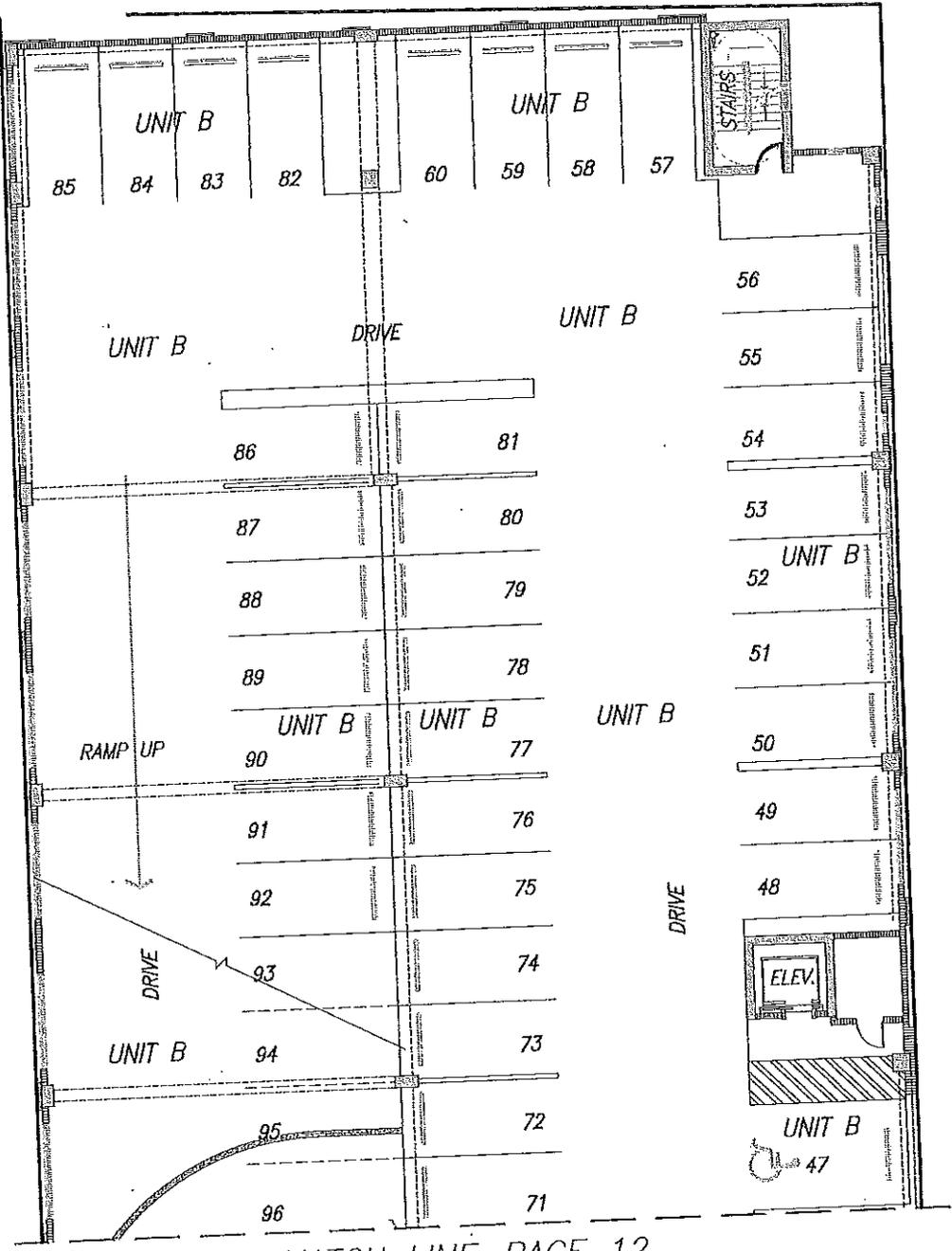
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Exhibit B

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1 Alhambra Plaza  
Coral Gables, FL 33134  
On May 12, 2015

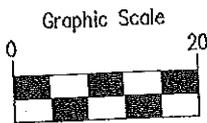
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2. ELEV. Denotes Elevator



MATCH LINE—PAGE 12

Lying Generally Between Elevations  
26.58' and 35.91' (NGVD29)



**SECOND FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

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Engineers, Surveyors, Planners  
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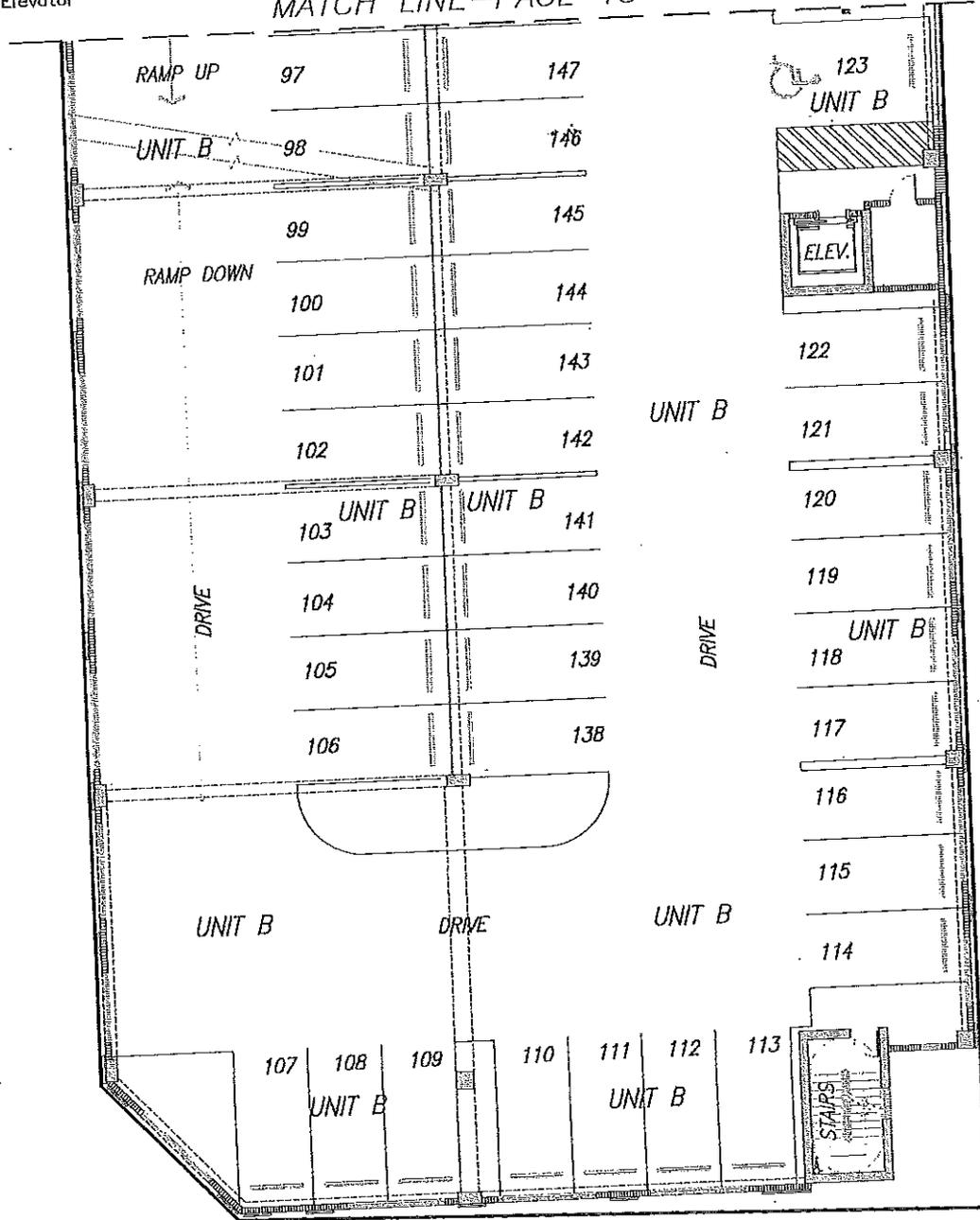
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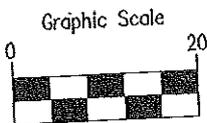
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2. ELEV. Denotes Elevator

MATCH LINE—PAGE 15



Lying Generally Between Elevations  
36.58' and 45.91' (NGVD29)



**THIRD FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

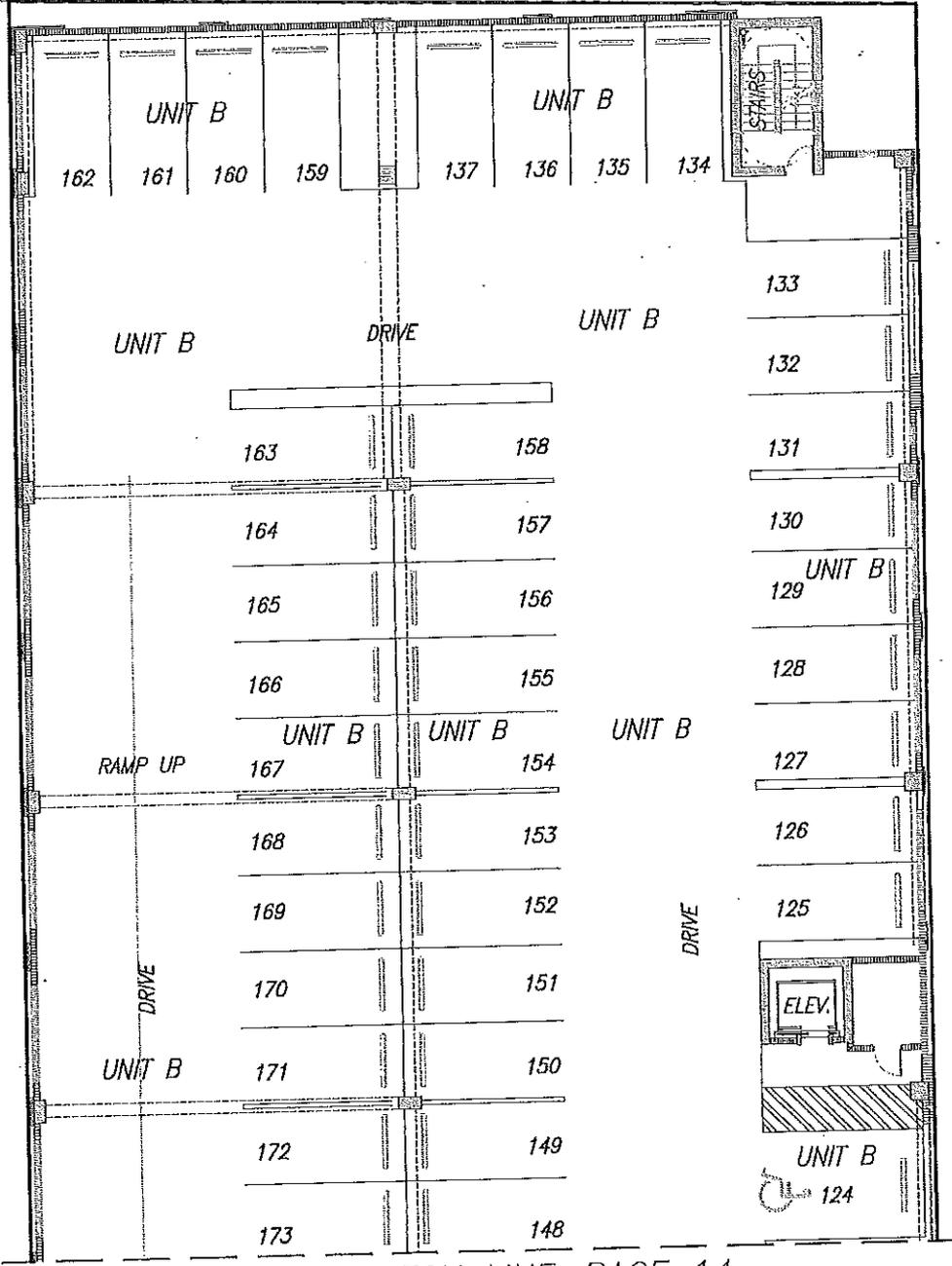
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Exhibit B

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On May 12, 2015

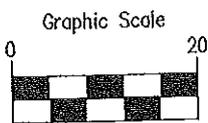
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2. ELEV. Denotes Elevator



MATCH LINE - PAGE 14

Lying Generally Between Elevations  
36.58' and 45.91' (NGVD29)



**THIRD FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

Prepared By:  
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3240 Corporate Way, Miramar, Fl 33025  
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City of Miami, Florida

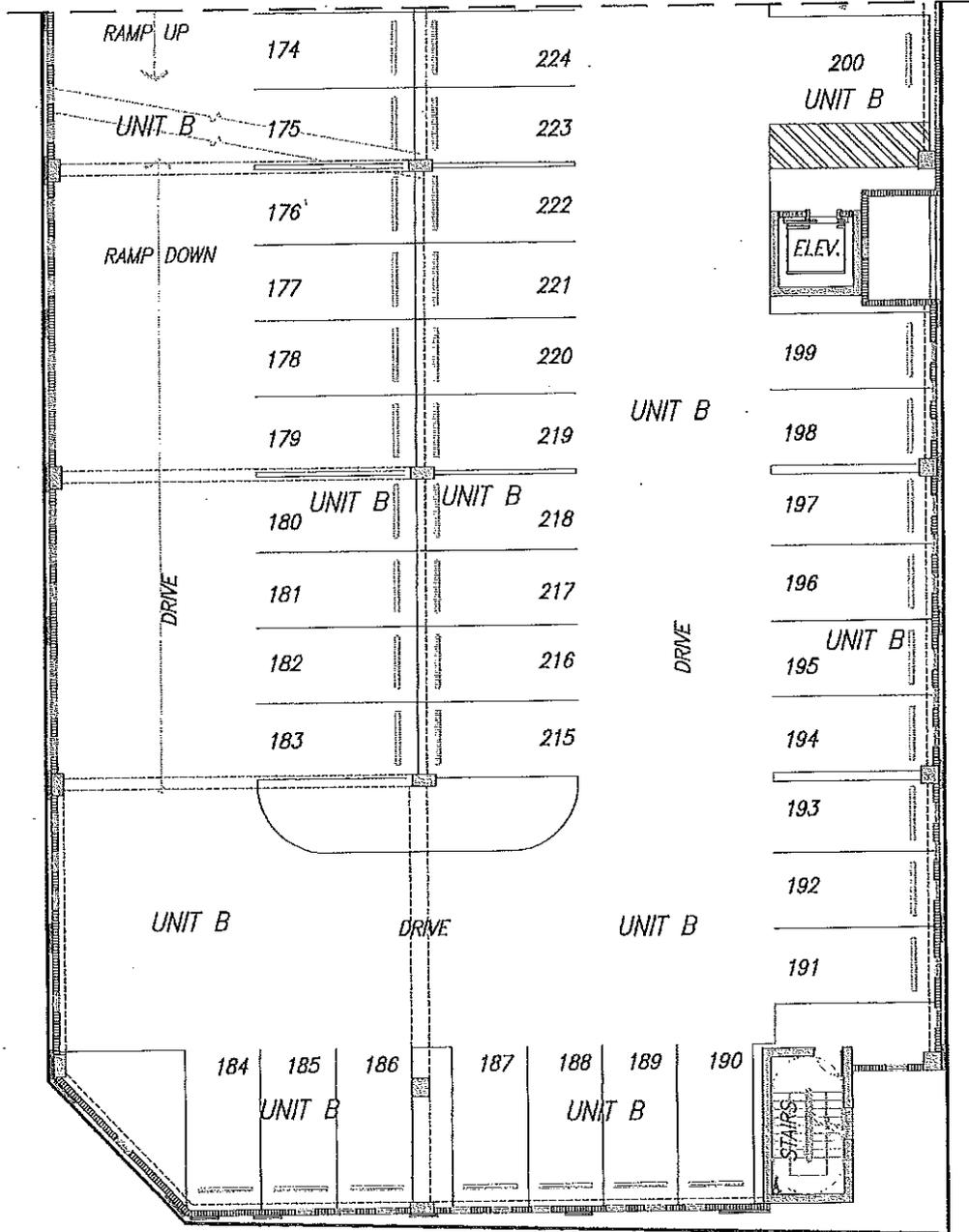
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1 Alhambra Plaza  
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On May 12, 2015

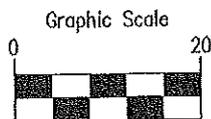
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2. ELEV. Denotes Elevator

MATCH LINE—PAGE 17



Lying Generally Between Elevations  
46.58' and 55.91' (NGVD29)



**FOURTH FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

Prepared By:

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Engineers, Surveyors, Planners  
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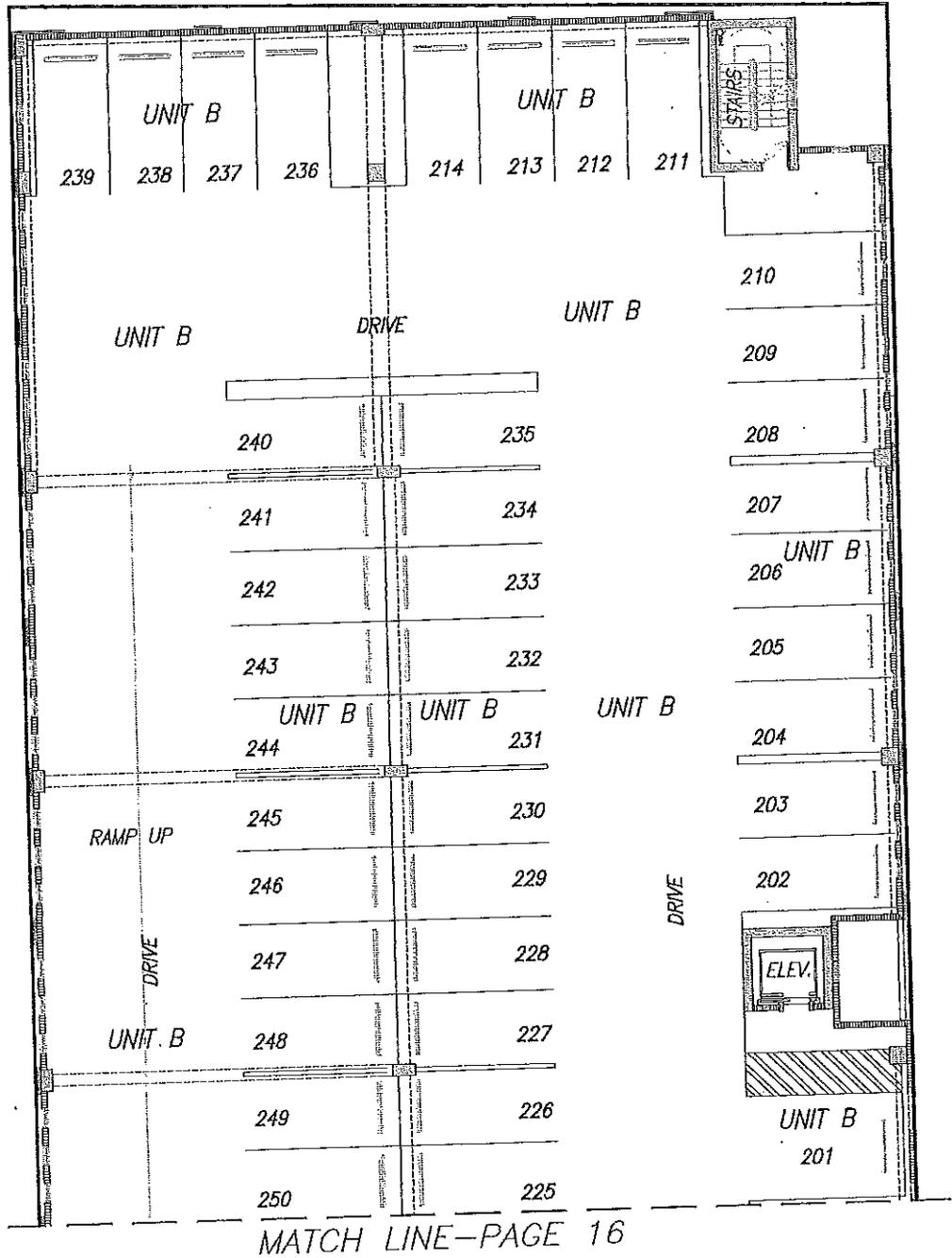
City of Miami, Florida

Page 16  
Exhibit B

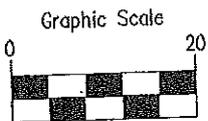
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Coral Gables, FL 33134  
On May 12, 2015

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2. ELEV. Denotes Elevator



Lying Generally Between Elevations  
46.58' and 55.91' (NGVD29)



**FOURTH FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

Prepared For:  
City Of Coral Gables  
1 Alhambra Plaza  
Coral Gables, FL 33134  
On May 12, 2015

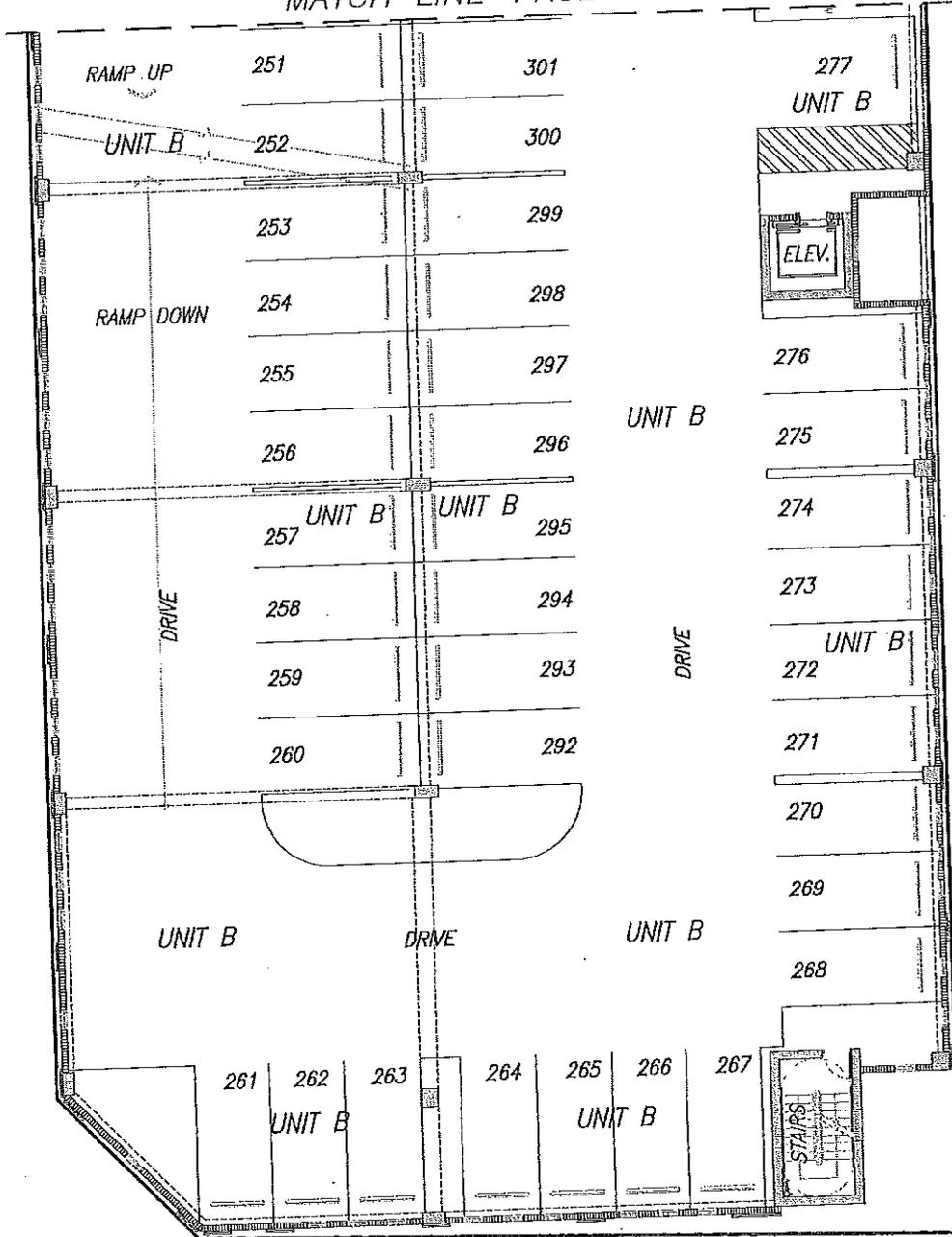
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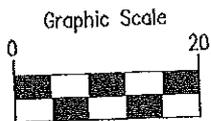
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2. ELEV. Denotes Elevator

MATCH LINE—PAGE 19



Lying Generally Between Elevations  
56.58' and 65.91' (NGVD29)



**FIFTH FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

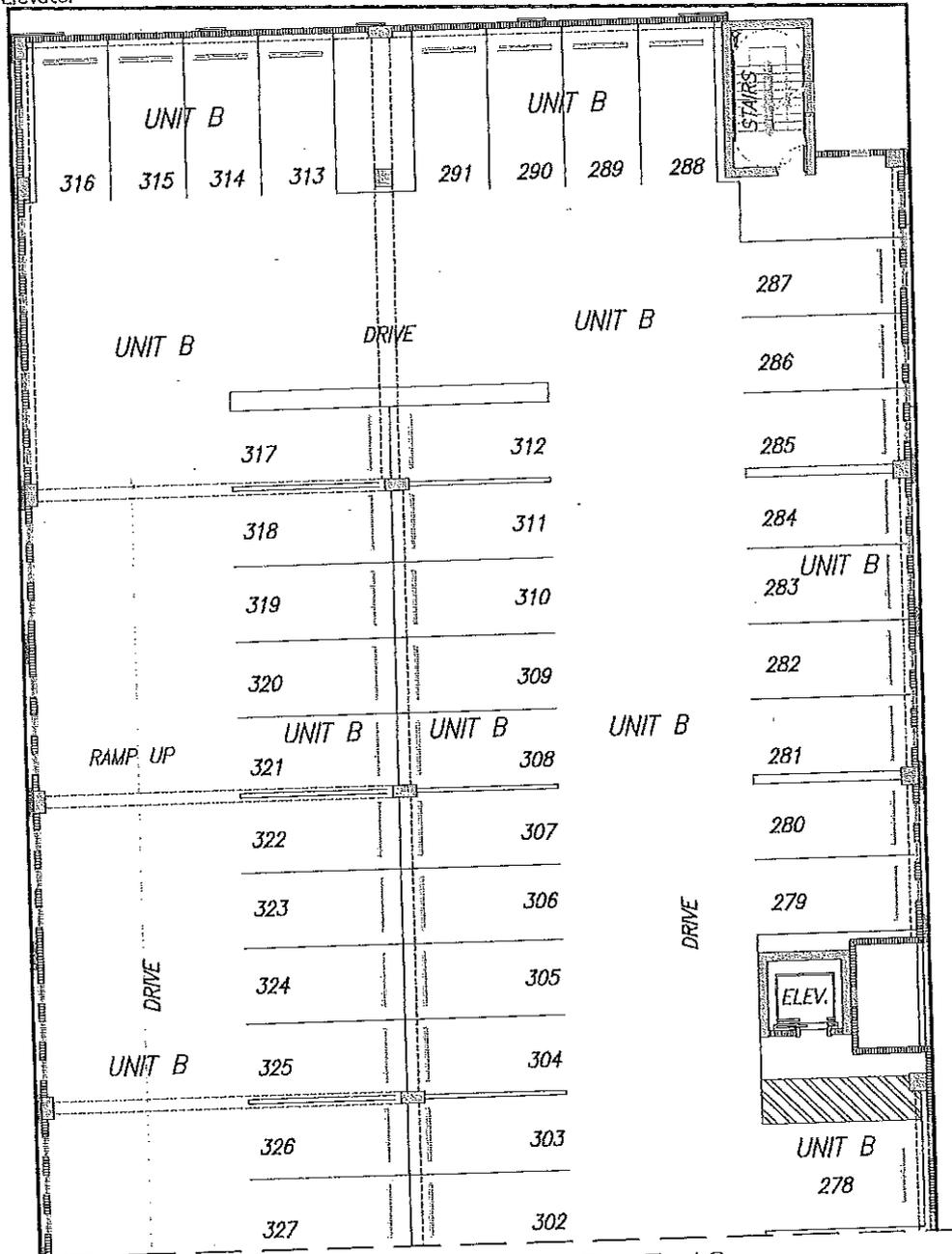
Prepared By:  
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Page 18  
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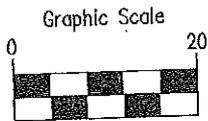
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MATCH LINE—PAGE 18

Lying Generally Between Elevations  
56.58' and 65.91' (NGVD29)



**FIFTH FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

Prepared For:  
City Of Coral Gables  
1 Alhambra Plaza  
Coral Gables, FL 33134  
On May 12, 2015

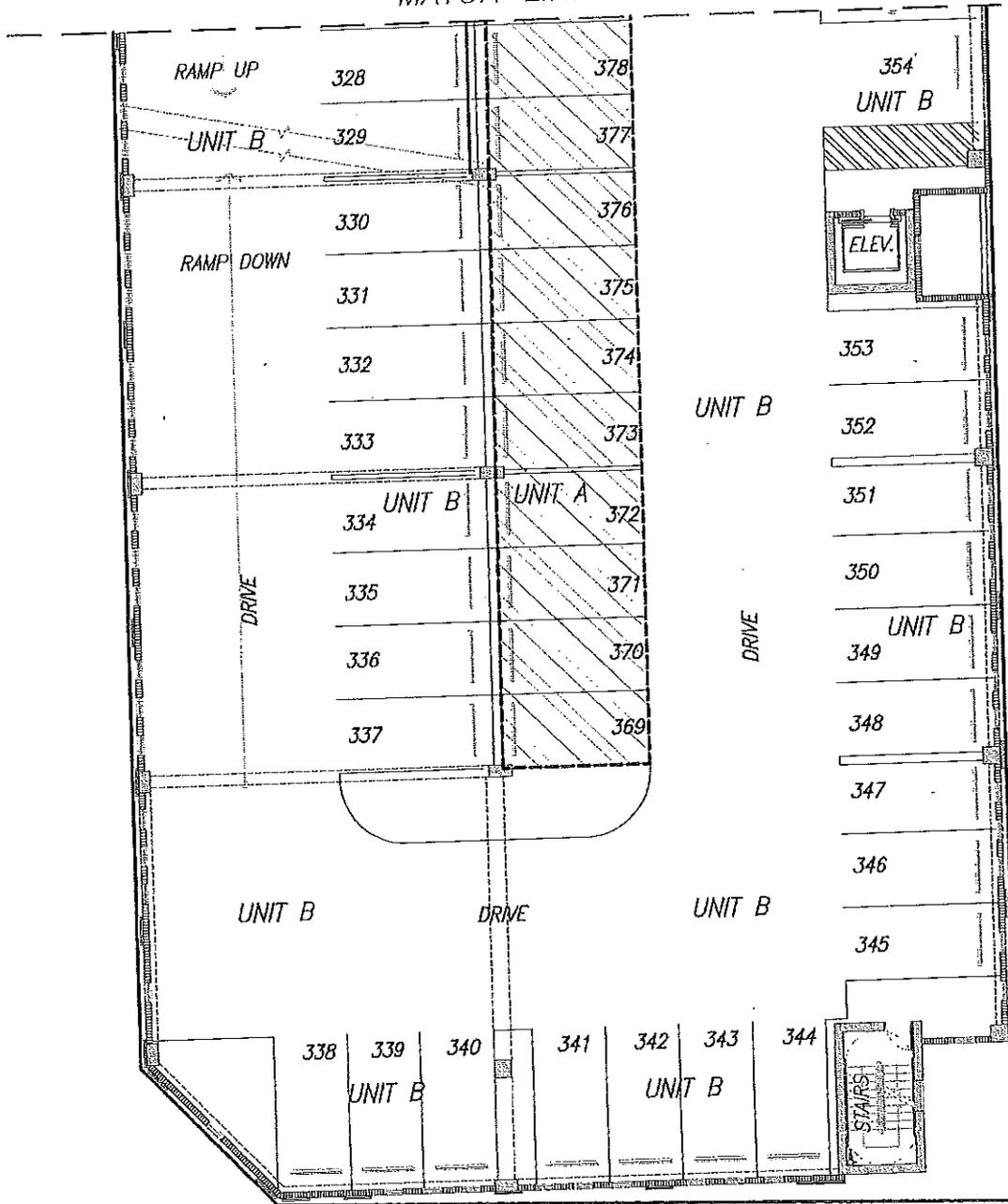
Prepared By:  
*Schwabke-Shiskin & Associates, Inc.*  
Engineers, Surveyors, Planners  
3240 Corporate Way, Miramar, FL 33025  
Ph.(954)435-7010

Page 19  
Exhibit B

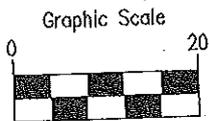
**SURVEYOR'S NOTES :**

1. Unless otherwise designated as "Unit A", "Unit C", Common Element (CE) or Limited Common Element (LCE), all building elements, structures, areas and spaces within the Condominium are a part of Unit B. The air above ten feet over the Condominium building and the dirt below the Condominium building are Common Elements (CE).
2. ELEV. Denotes Elevator

MATCH LINE—PAGE 21



Lying Generally Between Elevations  
66.58' and 75.91' (NGVD29)



**SIXTH FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

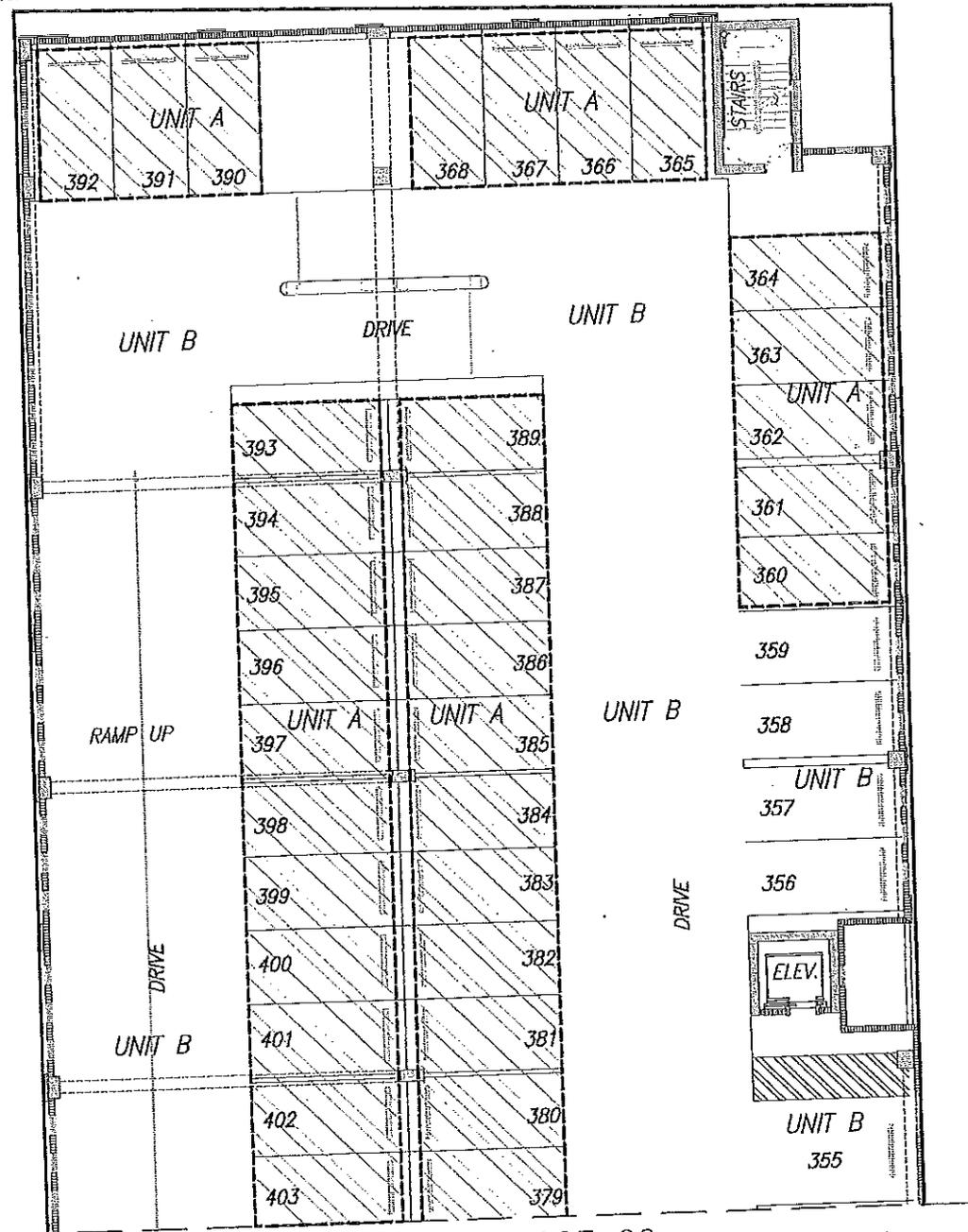
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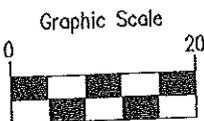
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MATCH LINE - PAGE 20

Lying Generally Between Elevations  
66.58' and 75.91' (NGVD29)



**SIXTH FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

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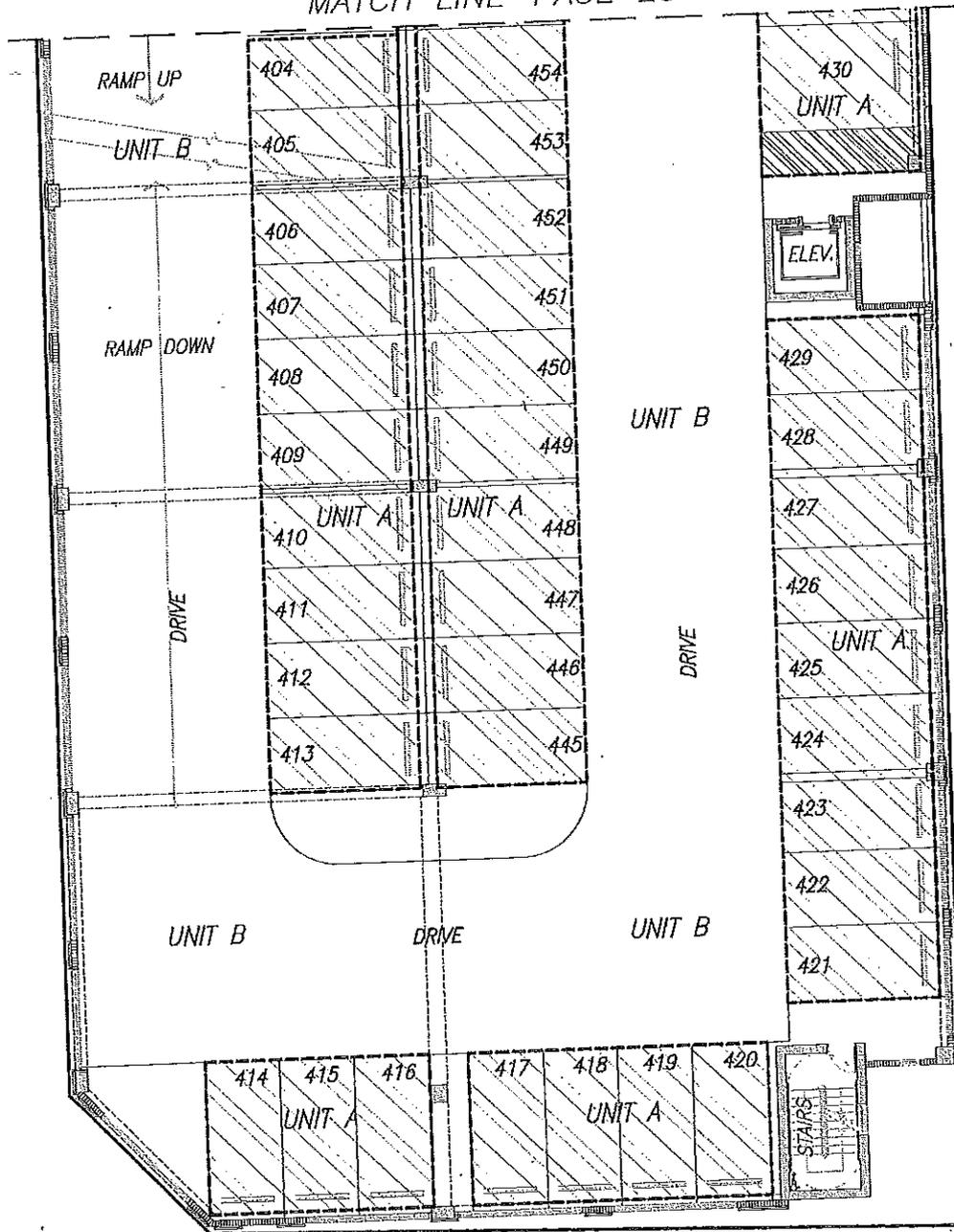
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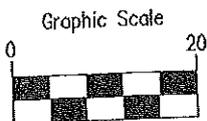
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MATCH LINE—PAGE 23



Lying Generally Between Elevations  
76.58' and 85.91' (NGVD29)



**SEVENTH FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

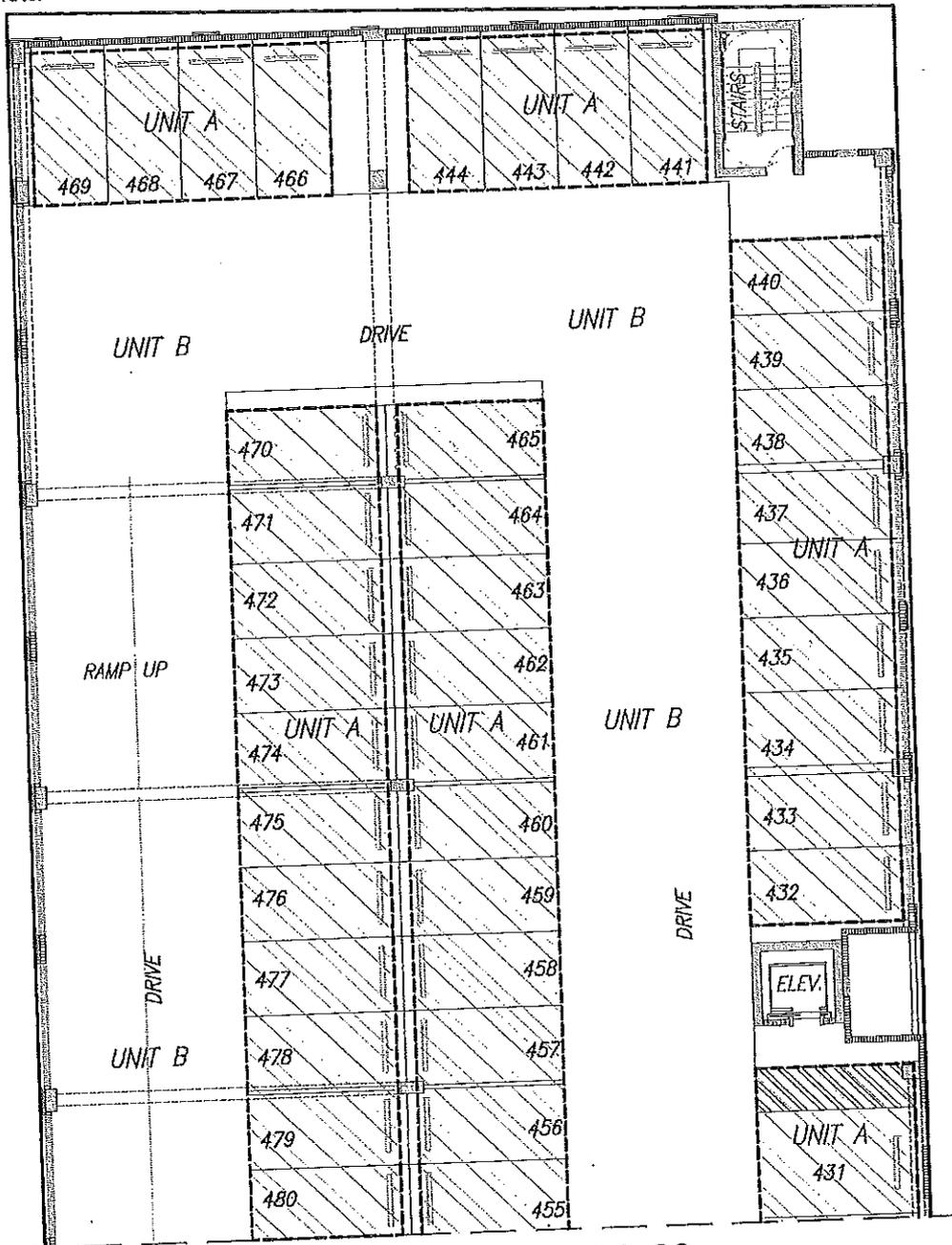
Prepared By:  
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Engineers, Surveyors, Planners  
3240 Corporate Way, Miramar, FL 33025  
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Prepared For:  
City Of Coral Gables  
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Coral Gables, FL 33134  
On May 12, 2015

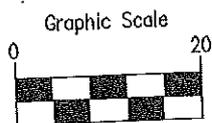
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MATCH LINE—PAGE 22

Lying Generally Between Elevations  
76.58' and 85.91' (NGVD29)



**SEVENTH FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

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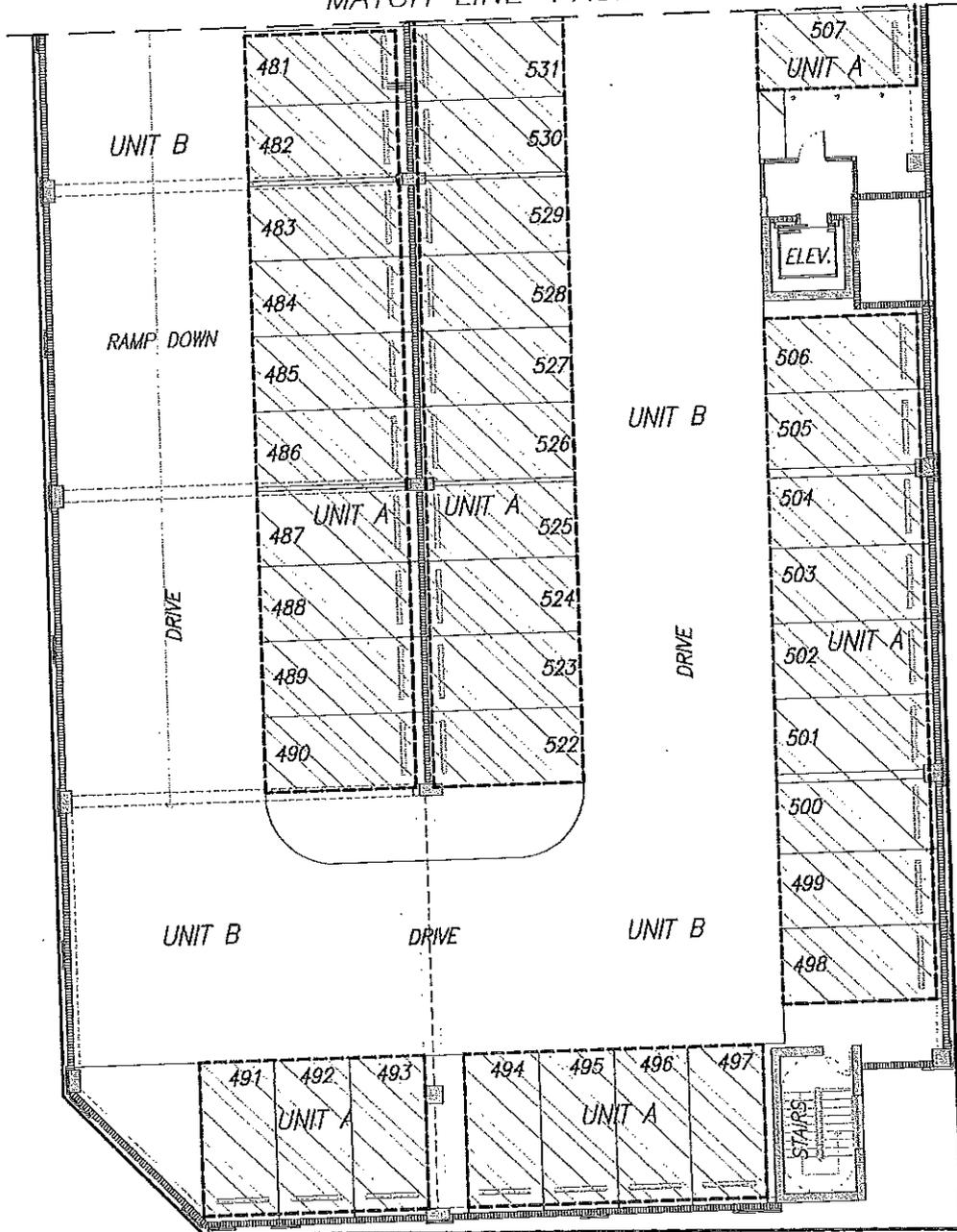
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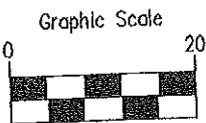
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MATCH LINE—PAGE 25



Lying Generally Above Elevation  
86.58' (NGVD29)



**EIGHTH FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

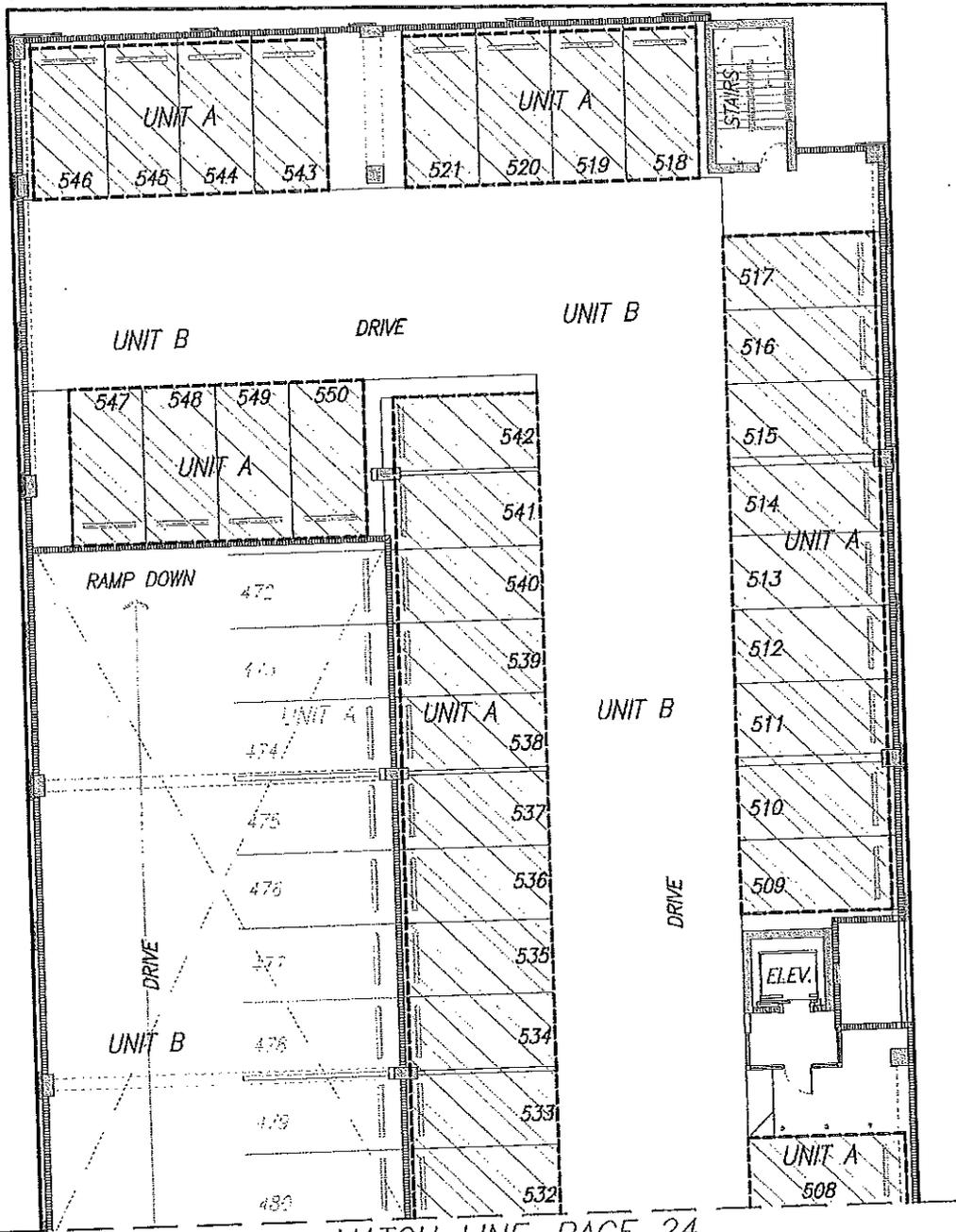
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Page 24  
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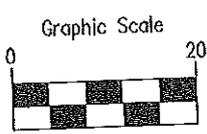
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MATCH LINE - PAGE 24

Lying Generally Above Elevation  
86.58' (NGVD29)



**EIGHTH FLOOR  
UNIT BOUNDARIES  
ANDALUSIA GARAGE CONDOMINIUM**

City of Miami, Florida

Prepared By:  
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Page 25  
Exhibit B

Prepared For:  
City Of Coral Gables  
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On May 12, 2015

**Exhibit "C"**

**Unit Owners' Percentage Interest in Common Elements, Common Expenses and Common Surplus**

Unit A	38%
Unit B	61%
Unit C	1%
TOTAL	100%

**Exhibit "D"**

**Articles of Incorporation of Association**

**ARTICLES OF INCORPORATION**  
**OF**  
**ANDALUSIA GARAGE CONDOMINIUM ASSOCIATION, INC.**

The undersigned, by these Articles, hereby form this not-for-profit corporation under the laws of the State of Florida, pursuant to Chapter 617, Florida Statutes, and certify as follows:

**ARTICLE I - NAME**

The name of the corporation is **ANDALUSIA GARAGE CONDOMINIUM ASSOCIATION, INC.** For convenience, the Corporation shall be referred to in this instrument as "the Association."

**ARTICLE II - PURPOSES AND POWERS**

The Association does not contemplate pecuniary gain or profit to the members thereof. The specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the condominium units and common elements within that certain Condominium more particularly described in the Declaration of Condominium for Andalusia Garage Condominium (hereafter, "the Declaration of Condominium"), and to promote the health, safety and welfare of the unit owners within the Condominium and any additions. In order to effectuate these purposes, the Association shall have the power to exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration of Condominium, which powers and privileges include but are not limited to the following:

1. To fix, levy, collect and enforce payment by any lawful means all appropriate charges or assessments;
2. To pay all expenses incident to the conduct of the business of the Association, including all licenses, taxes and governmental charges levied or imposed against the Common Elements;
3. To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of the Common Elements on behalf of the membership of the Association;

**Prepared by:**  
**OSCAR R. RIVERA, ESQ.**  
**SIEGFRIED, RIVERA, HYMAN, LERNER**  
**DE LA TORRE, MARS & SOBEL, P.A.**  
FL. Bar #329193  
201 Alhambra Circle, 11<sup>th</sup> Floor  
Coral Gables, FL 33134

4. To borrow money in accordance with the terms of the Declaration of Condominium;

5. To participate in mergers and consolidations with other nonprofit corporations organized for the same purposes; and

6. To have and to exercise any and all powers, rights and privileges which a corporation organized under the Florida Not-for-Profit Corporation Law may now or hereafter have or exercise.

### **ARTICLE III - MEMBERSHIP AND VOTING**

A. Membership: Every person or entity who is a record owner of any Unit in the Condominium shall be a member of the Association. The foregoing does not include persons or entities who hold an interest merely as security for the performance of an obligation. Change of membership in the Association shall be established by recording in the Public Records of Miami-Dade County, Florida, a deed or other instrument establishing a record title to any Unit in a transferee and the delivery to the Association of a certified copy of such instrument. Upon such delivery, the transferee designated by such instrument shall become a member of the Association and the membership of the transferor shall be terminated.

B. Appurtenance to Unit: 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.

C. Voting Rights: For each Unit owned each Owner shall be entitled to the proportionate voting interest calculated in accordance with each Unit's percentage share, as shown in the Declaration of Condominium. When more than one person holds an interest or interests in any Unit, the votes for such Unit shall be voted collectively as the Owners among themselves determine such that all votes attributed to such Unit are voted in the same manner. The manner of exercising voting rights shall be determined by the Bylaws of the Association.

D. Meetings: The Bylaws shall provide for meetings of the members.

### **ARTICLE IV - BOARD OF DIRECTORS**

A. Membership of Board: The affairs of this Association shall be managed by a Board consisting of the number of Directors determined by the Bylaws, but not fewer than three (3) Directors.

B. Election and Removal: Directors shall be elected at the annual meeting of the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board shall be filled in the manner provided by the Bylaws.

C. First Board of Directors: The names and addresses of the persons who shall act in the capacity of Directors until their successors shall be elected and qualified are as follows:

<u>Name</u>	<u>Address</u>
JIM CASON	405 Biltmore Way Coral Gables, Florida 33134
JEANNETT SLESNICK	405 Biltmore Way Coral Gables, Florida 33134
PATRICIA KEON	405 Biltmore Way Coral Gables, Florida 33134
VINCE LAGO	405 Biltmore Way Coral Gables, Florida 33134
FRANK C. QUESADA	405 Biltmore Way Coral Gables, Florida 33134

The Directors named above shall serve until the first election of Directors, as determined by the Bylaws and any vacancies in their number occurring before the first election of Directors shall be filled by act of the remaining Directors.

#### **ARTICLE V - OFFICERS**

The affairs of the Association shall be administered by the Officers designated in the Bylaws. After the first election of Directors, the Officers shall be elected by the Board at the first Board meeting following the annual meeting. Officers shall serve at the pleasure of the Board. The names and addresses of the Officers who shall serve until their successors are designated by the Board are as follows:

JIM CASON President	405 Biltmore Way Coral Gables, Florida 33134
JEANNETT SLESNICK Vice President	405 Biltmore Way Coral Gables, Florida 33134
PATRICIA KEON Vice President	405 Biltmore Way Coral Gables, Florida 33134
VINCE LAGO Vice President/Secretary	405 Biltmore Way Coral Gables, Florida 33134
FRANK C. QUESADA Vice President/Treasurer	405 Biltmore Way Coral Gables, Florida 33134

## **ARTICLE VI - INDEMNIFICATION**

Every Director and every Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a Director or Officer of the Association, whether or not he is a Director or Officer of the Association at the time such expenses are incurred, except when the Director or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

## **ARTICLE VII - BYLAWS**

The first Bylaws of the Association shall be adopted by the Board and may thereafter be altered, amended or rescinded in the manner provided in such Bylaws.

## **ARTICLE VIII - AMENDMENTS**

Amendments to the Articles of Incorporation may be considered at any regular or special meeting of the members and may be adopted in the following manner:

1. By notice of the subject matter of a proposed amendment and of the meeting at which a proposed amendment is considered, which notice shall be made as required by the Bylaws.

2. By resolution for the adoption of a proposed amendment which may be proposed either by the Board or by a majority of the voting members. Such amendments must be approved by not less than sixty-seven percent (67%) of the votes of the voting members.

## **ARTICLE IX - TERM**

The term of the Association shall be perpetual.

## **ARTICLE X - DISSOLUTION**

The Association may be dissolved, upon termination of the Condominium as provided in the Declaration of Condominium, with the assent given in writing and signed by not less than seventy-five percent (75%) of the votes which members present at a meeting on such topic or represented by proxy are entitled to cast. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency of the City of Coral Gables to be used for purposes similar to those for which the Association was created.

**ARTICLE XI - INTENTIONALLY OMITTED**

**ARTICLE XII - RESIDENT AGENT**

The name and street address of the Resident Agent of the Corporation is:

SKRLD, INC.  
201 Alhambra Circle, 11<sup>th</sup> Floor  
Coral Gables, Florida 33134

**ARTICLE XIII - MISCELLANEOUS**

A. Developer's Rights. No amendment of these Articles of Incorporation or the Bylaws shall change Developer's rights and privileges as set forth in the Declaration of Condominium without Developer's prior written approval so long as Developer owns any Unit.

B. Stock. The Association shall issue no shares of stock of any kind or nature whatsoever.

C. Severability. Invalidation of any one or more of the provisions hereof shall in no way affect any other provisions, which shall remain in full force and effect.

D. Initial Principal Office. The street address of the initial principal office and street address of the Corporation is:

c/o CITY ATTORNEY  
405 BILTMORE WAY  
CORAL GABLES, FLORIDA 33134

E. Incorporator. The name and street address of the incorporator of these Articles of Incorporation is:

Oscar R. Rivera, Esq.  
Siegfried, Rivera, Hyman, Lerner, De La Torre, Mars and Sobel, P.A.  
201 Alhambra Circle, 11th Floor  
Coral Gables, Florida 33134

IN WITNESS WHEREOF, the undersigned subscriber has executed this instrument this \_\_\_\_ day of \_\_\_\_\_, 2015.

Signed, Sealed and Delivered  
in the presence of:

\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
OSCAR R. RIVERA, Incorporator

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2015, by Oscar R. Rivera, Esq., who is personally known to me and who did take an oath.

\_\_\_\_\_  
NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires:

**ACKNOWLEDGMENT:**

Having been named to accept service of process for the above stated Association, at the place designated in these Articles, the undersigned hereby accepts its obligation to act in this capacity, and agrees to comply with the provisions of Chapter 617, Florida Statutes, relative to keeping open said office.

SKRLD, INC.

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT "A"

**LEGAL DESCRIPTION OF THE LAND**

Lots 10 through 20, in Block 5, of CORAL GABLES CRAFT SECTION, according to the Plat thereof, as recorded in Plat Book 10, Page 40, of the Public Records of Miami-Dade County, Florida.

**Exhibit "E"**  
**Bylaws of Association**

## BYLAWS OF ANDALUSIA GARAGE CONDOMINIUM ASSOCIATION, INC.

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

1. **Identity.** These are the Bylaws of ANDALUSIA GARAGE CONDOMINIUM ASSOCIATION, INC. (the "Association"), a corporation not for profit Incorporated under the laws of the State of Florida, and organized for the purposes set forth in its Articles of Incorporation.
  - 1.1 The principal office of the Association shall be c/o The City Attorney, 405 Biltmore Way, Coral Gables, Florida 33134, or such other place as may be subsequently designated by the Board of Directors.
  - 1.2 The seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation Not for Profit", and the year of incorporation.
2. **Definitions.** For convenience, these Bylaws shall be referred to as the "Bylaws" and the Articles of Incorporation of the Association as the ("Articles"). The other terms used in these Bylaws shall have the same definitions and meanings as those set forth in the Declaration for Andalusia Garage Condominium, unless herein provided to the contrary, or unless the context otherwise requires. Any reference herein to the Condominium Act shall mean the Condominium Act as amended from time to time, and in the event of any conflict between the terms hereof and the terms of the Condominium Act, the terms of the Condominium Act shall control.
3. **Meetings.**
  - 3.1 **Annual Meeting.** The annual members' meeting shall be held on December 1<sup>st</sup> of each year or such other date determined by the Board of Directors, at the place and at the time determined by the Board of Directors from time to time (but in all cases within forty-five (45) miles of the Condominium), provided that there shall be an annual meeting every calendar year and, to the extent possible, no later than twelve (12) months after the last preceding annual meeting. The purpose of the meeting shall be, except as provided herein to the contrary, to elect Directors, and to transact any other business authorized to be transacted by the members, or as stated in the notice of the meeting sent to Unit Owners in advance thereof. Unless changed by the Board of Directors, the first annual meeting shall be held in the month of December following the year in which the Declaration is filed.
  - 3.2 **Special Meetings.** Special members' meetings shall be held at such place as provided herein for annual meetings, and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary upon receipt of a written request from a majority of the members of the Association. The business conducted at a special meeting shall

be limited to that stated in the notice of the meeting. Special meetings may also be called by Unit Owners in the manner provided for in the Condominium Act.

- 3.3 **Participation by Unit Owners.** Subject to reasonable restrictions as may be adopted from time to time by the Board of Directors, Unit Owners shall have the right to speak at the annual and special meetings of the Unit Owners, committee meetings and Board meetings with reference to all designated agenda items.
- 3.4 **Notice of Meeting; Waiver of Notice.** Notice of a meeting of members (annual or special), stating the time and place and the purpose(s) for which the meeting is called, shall be given by the President or Secretary. A copy of the notice shall be posted at a conspicuous place on the condominium Property. Notices of the meetings of members shall be hand delivered or sent by regular mail to each Unit Owner, unless the Unit Owner waives in writing the right to receive notice of such meeting. The delivery or mailing shall be to the address of the member as it appears on the roster of members. The posting and mailing of the notice for either special or annual meetings, which notice shall include an agenda, shall be mailed or delivered not less than fourteen (14) days, nor more than sixty (60) days, prior to the date of the meeting. Further, the notice for the annual meeting shall be posted in a conspicuous place for fourteen (14) continuous days preceding the meeting.

Notice of specific meetings may be waived before or after the meeting and the attendance of any member (or person authorized to vote for such member), either in person or by proxy, shall constitute such member's waiver of notice of such meeting, and waiver of any and all objections to the place of the meeting, the time of the meeting or the manner in which it has been called or convened, except when his (or his authorized representative's) attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

An officer of the Association, or the manager or other person providing notice of the meeting shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the Association, affirming that notices of meetings were posted and mailed or hand delivered in accordance with this Section and the Condominium Act, to each Unit Owner at the appropriate address for such Unit Owner. No other proof of notice of a meeting shall be required.

- 3.5 **Quorum.** A quorum at members' meetings shall be attained by the presence, either in person or by proxy (limited or general), of persons entitled to cast thirty percent (30%) of the membership interests in the Association.
- 3.6 **Voting.**
- (a) **Number of Votes.** For each Unit owned the Owners of Units shall be entitled to cast one (1) vote for each percentage of ownership interest in the Common Elements as shown in Exhibit "C" attached to the Declaration (e.g., a Unit with thirty-eight percent (38%) of the ownership interests in the Common Elements shall have thirty-eight (38) votes). The votes of a Unit shall not be divisible.

- (b) **Majority Vote.** The acts approved by a majority of the voting interests present in person or by proxy at a meeting at which a quorum has been attained shall be binding upon all Unit Owners for all purposes, except where otherwise provided by law, the Declaration, the Articles or these Bylaws.
- (c) **Voting Member.** If a Unit is owned by one person, that person's right to vote shall be established by the roster of members. If a Unit is owned by more than one person, those persons (including husbands and wives) shall decide among themselves as to who shall cast the vote of the Unit. In the event that those persons cannot so decide, no vote shall be cast. A person casting a vote for a Unit shall be presumed to have the authority to do so unless the President or the Board of Directors is otherwise notified in advance. If a Unit is owned by a corporation, partnership, trust or other entity, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by an appropriate officer for a corporation, by the general partner for a partnership or by a trustee for a trust and filed with the Secretary of the Association. Such person need not be a Unit Owner. Those certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote for a Unit may be revoked by any record owner of an undivided interest in the Unit. If a certificate designating the person entitled to cast the vote for a Unit for which such certificate is required is not on file or has been revoked, the vote attributable to such Unit shall not be considered in determining whether a quorum is present nor for any other purpose, and the total number of authorized votes in the Association shall be reduced accordingly until such certificate is filed. The Association shall be entitled to rely on any certificate on file and shall not be required to look outside the document to confirm the validity of any signatures thereon or compliance with any applicable corporate procedures which may or may not have been followed. The Association shall be entitled to assume the authority and enforceability of any certificate on file and the signor of any such certificate shall be deemed to have the authority to bind the respective corporate entity.
- 3.7 **Proxies.** Votes to be cast at meetings of the Association membership may be cast in person or by proxy. Except as may be permitted by the Condominium Act, Unit Owners may not vote by general proxy, but may vote by limited proxies substantially conforming to the limited proxy form approved by the Division. No voting interest or consent right allocated to a Unit owned by the Association shall be exercised or considered for any purpose, whether for a quorum, an election or otherwise. Limited proxies shall be permitted for votes taken to: waive or reduce reserves; waive financial reporting requirements; amend the Declaration, Articles or Bylaws; or for any other matter requiring or permitting a vote of Unit Owners. Proxy questions relating to waiving or reducing the funding of reserves or using existing reserve funds for purposes other than purposes for which the reserves were intended shall contain the following statement in capitalized, bold letters in a font size larger than any other used on the face of the proxy ballot: **WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE**

USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS. No proxy, limited or general, may be used in the election of Board members, unless permitted by the Condominium Act. General proxies may be used for other matters for which limited proxies are not required and may also be used in voting for non-substantive changes to items for which a limited proxy is required and given. A proxy may be made by any person entitled to vote, but shall only be valid for the specific meeting for which originally given and any lawful adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be in writing, signed by the person authorized to cast the vote for the Unit (as above described), name the person(s) voting by proxy and the person authorized to vote for such person(s) and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Each proxy shall contain the date, time and place of the meeting for which it is given and, if a limited proxy, shall set forth the matters on which the proxy holder may vote and the manner in which the vote is to be cast. There shall be no limitation on the number of proxies which may be held by any person including a designee of the Developer. If a proxy expressly provides, any proxy holder may appoint, in writing, a substitute to act in its place.

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

- (i) Reports of committees;
- (j) Unfinished business;
- (k) New business;
- (l) Adjournment.

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

3.10 **Minutes of Meeting.** The minutes of all meetings of Unit Owners shall be kept in a book available for inspection by Unit Owners or their authorized representatives and Board members at any reasonable time. The Association shall retain these minutes for the duration specified in the Condominium Act.

3.11 **Action Without A Meeting.** Anything to the contrary herein notwithstanding, to the extent lawful, any action required or which may be taken at any annual or special meeting of members, may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the members (or persons authorized to cast the vote of any such members as elsewhere herein set forth) having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of members at which all members (or authorized persons) entitled to vote thereon were present and voted. In order to be effective, the action must be evidenced by one or more written consents describing the action taken, dated and signed by approving members having the requisite number of votes and entitled to vote on such action, and delivered to the Secretary of the Association, or other authorized agent of the Association. Written consent shall not be effective to take the corporate action referred to in the consent unless signed by members having the requisite number of votes necessary to authorize the action within sixty (60) days of the date of the earliest dated consent and delivered to the Association as aforesaid. Any written consent may be revoked prior to the date the Association receives the required number of consents to authorize the proposed action. A revocation is not effective unless in writing and until received by the Secretary of the Association, or other authorized agent of the Association. Within ten (10) days after obtaining such authorization by written consent, notice must be given to members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action. A consent signed in accordance with the foregoing has the effect of a meeting vote and may be described as such in any document.

#### 4. **Directors.**

4.1 **Membership.** The affairs of the Association shall be governed by a Board of not less than three (3) nor more than five (5) directors, the exact number to be determined in the first instance in the Articles, and, thereafter, except as provided herein, from time to time upon majority vote of the membership. Directors may not vote at Board meetings by proxy or by secret ballot, except that officers may be elected by secret ballot.

- 4.2 **Election of Directors.** Election of Directors shall be held at the annual members' meeting, except as herein provided to the contrary. Unless otherwise provided in the Condominium Act, not less than sixty (60) days prior to a scheduled election, the Association shall mail or deliver to each Unit Owner entitled to vote, a first notice of the date of election. Any Unit Owner or other eligible person desiring to be a candidate for the Board shall give written notice of his or her intent to be a candidate to the Association not less than forty (40) days prior to the scheduled election. Not less than fourteen (14) days and no more than thirty-four (34) days before the election, the Association shall mail or deliver a second notice of the election meeting to all Unit Owners entitled to vote therein, together with an agenda and a ballot which shall list all candidates. The election of directors shall be by written ballot or voting machine. Elections shall be decided by a plurality of those ballots and votes cast. There shall be no quorum requirement, however at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the Board. There shall be no cumulative voting.

Notwithstanding the provisions of this Section 4.2, an election and balloting are not required unless more candidates file notices of intent to run than vacancies exist on the Board.

All directors elected or appointed to the Board shall comply with any certification requirements contained in the Condominium Act.

4.3 **Vacancies and Removal.**

- (a) Except as to vacancies resulting from removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors at any Board meeting, provided that all vacancies in directorships to which Directors were appointed by the Developer pursuant to the provisions of paragraph 4.13 hereof shall be filled by the Developer without the necessity of any meeting so long as at the time such vacancies are filled no members other than Developer are entitled to elect Directors.
- (b) Any Director elected by the members (other than the Developer) may be removed by concurrence of a majority of the voting interests of the members (other than the Developer) at a special meeting of members called for that purpose or by written agreement signed by a majority of all such members' voting interests. The vacancy in the Board of Directors so created shall be filled in accordance with the procedures specified in the Condominium Act.
- (c) When both the Developer and other members are entitled to representation on the Board of Directors, any Director elected or appointed by the Developer may be removed by concurrence of a majority of the voting interests of the Units owned by the Developer at a special meeting of members called for that purpose. The vacancy in the Board of Directors so created shall be filled in accordance with the procedures specified in the Condominium Act. Anything to the contrary herein notwithstanding, until any Directors are elected by members other

than the Developer of the Condominium, neither the first Directors of the Association, nor any Directors replacing them, nor any Directors named by the Developer, shall be subject to removal by members other than the Developer. The first Directors and Directors replacing them may be removed and replaced by the Developer without the necessity of any meeting until such time as members other than the Developer are entitled to elect any Directors.

- (d) If a vacancy on the Board of Directors results in the inability to obtain a quorum of directors in accordance with these Bylaws, any Owner may apply to the Circuit Court within whose jurisdiction the Condominium lies for the appointment of a receiver to manage the affairs of the Association in accordance with the procedures specified in the Condominium Act.
- (e) A Director or officer more than ninety (90) days delinquent in the payment of any monetary obligation due the Association shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to law.
- (f) A Director or officer charged by information or indictment with a felony theft or embezzlement offense involving the Association's funds or property must be removed from office, creating a vacancy in the office to be filled according to law until the end of the period of the suspension or the end of the Director's term of office, whichever occurs first. While such Director or officer has such criminal charge pending, he or she may not be appointed or elected to a position as a Director or officer. However, if the charges are resolved without a finding of guilt, the Director or officer shall be reinstated for the remainder of his or her term of office, if any.

- 4.4 **Term.** Except as provided herein to the contrary, the term of each Director's service shall extend until the next annual meeting of the members and subsequently until his successor is duly elected and has taken office, or until he is removed in the manner elsewhere provided. Notwithstanding the foregoing, any Director designated by the Developer shall serve at the pleasure of the Developer and may be removed and replaced by the Developer at any time.
- 4.5 **Organizational Meeting.** The organizational meeting of newly-elected or appointed Directors shall be held within ten (10) days of their election or appointment. The directors calling the organizational meeting shall give at least two (2) days advance notice thereof, stating the time and place of the meeting, and shall conspicuously post notice of the meeting for forty-eight (48) continuous hours preceding the meeting.
- 4.6 **Meetings.** Meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone or telegraph, and shall be transmitted at least three (3) days prior to the meeting.

Meetings of the Board of Directors and any Committee thereof at which a quorum of the members of that Committee are present shall be open to all Unit Owners except as otherwise provided in the Condominium Act.

The right to attend such meetings includes the right to speak at such meetings with respect to all designated agenda items. The Association may adopt reasonable rules governing the frequency, duration and manner of Unit Owner statements. Adequate notice of such meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the Condominium Property at least forty-eight (48) continuous hours preceding the meeting, except in the event of an emergency. If twenty percent (20%) of the voting interests petition the Board to address an item of business, the Board shall at its next regular Board meeting or at a special meeting of the Board, but not later than sixty (60) days after the receipt of the petition, place the item on the agenda. Any item not included on the notice of meeting may be taken up on an emergency basis by at least a majority plus one of the members of the Board. Such emergency action shall be noticed and ratified at the next regular meeting of the Board. Notwithstanding the foregoing, written notice of any meeting of the Board at which non-emergency special assessments, or at which amendment to rules regarding unit use will be considered shall be mailed or delivered to all Unit Owners and posted conspicuously on the Condominium property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association. Notice of any meeting in which regular or special assessments against Unit Owners are to be considered for any reason shall specifically state that assessments will be considered and the nature, estimated cost and description of the purposes for such assessments. Special meetings of the Directors may be called by the President, and must be called by the President or Secretary at the written request of one third (1/3) of the Directors or where required by the Condominium Act.

- 4.7 **Waiver of Notice.** Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, and a waiver of any and all objections to the place of the meeting, to the time of the meeting or the manner in which it has been called or convened, except when a Director states at the beginning of the meeting, or promptly upon arrival at the meeting, any objection to the transaction of affairs because the meeting is not lawfully called or convened.
- 4.8 **Quorum.** A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is specifically required by the Declaration, the Articles or these Bylaws.
- 4.9 **Adjourned Meetings.** If, at any proposed meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder.

- 4.10 **Written Approval of Minutes.** The written approval of a Director of the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the approval of that Director of the business conducted at the meeting, but such approval shall not allow the applicable Director to be counted as being present for purposes of quorum and shall not be used as a vote for or against action taken at such meeting.
- 4.11 **Presiding Officer.** The presiding officer at the Directors' meetings shall be the President (who may, however, designate any other Unit Owner to preside).
- 4.12 **Committees.** The Board may by resolution also create Committees and appoint persons to such Committees and vest in such Committees such powers and responsibilities as the Board shall deem advisable.
- 4.13 **Proviso.** Notwithstanding anything to the contrary contained in these Bylaws, the board shall consist of three directors during the period that the Developer is entitled to appoint a majority of the Directors, as hereinafter provided. The Developer shall have the right to appoint all of the members of the Board of Directors until Unit Owners other than the Developer own fifteen (15%) percent or more of the Units that will be operated ultimately by the Association. When Unit Owners other than the Developer own fifteen (15%) percent or more of the Units that will be operated ultimately by the Association, the Unit Owners other than the Developer shall be entitled to elect not less than one-third (1/3) of the members of the Board of Directors. Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors (a) three years after fifty (50%) percent of the Units that will be operated ultimately by the Association have been conveyed to purchasers; (b) three months after ninety (90%) percent of the Units that will be operated ultimately by the Association have been conveyed to purchasers; (c) when all of the Units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business; (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; (e) when the Developer files a petition seeking protection in bankruptcy; (f) when a receiver for the Developer is appointed by a circuit court and is not discharged within thirty (30) days after such appointment, unless the court determines within thirty (30) days after appointment of the receiver that transfer of control would be detrimental to the Association or its members; or (g) seven (7) years after recordation of the Declaration of Condominium in the public records, whichever occurs first. The Developer is entitled (but not obligated) to elect at least one (1) member of the Board of Directors as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the Units that ultimately will be operated by the Association. Following the time the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer-owned Units in the same manner as any other Unit Owners except for purposes of reacquiring control of the Association or selecting the majority members of the Board of Directors.

Within seventy-five (75) days after the Unit Owners other than the Developer are entitled to elect a member or members of the Board of Directors, the Association shall call, and give not less than sixty (60) days' notice of a meeting of the Unit Owners to elect such member or members of the Board of Directors. The meeting may be called and the notice given by the Unit Owners if the Association fails to do so.

At the time Unit Owners other than the Developer elect a majority of the members of the Board of Directors of the Association the Developer shall relinquish control of the Association and shall deliver to the Association all property of the Unit Owners and of the Association held or controlled by the Developer as specified in the Condominium Act. Not more than ninety (90) days after such event, Developer shall also deliver all financial records as required by the Condominium Act.

5. **Authority of the Board.**

- 5.1 **Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these Bylaws may not be delegated to the Board of Directors by the Unit Owners. Such powers and duties of the Board of Directors shall include, without limitation (except as limited elsewhere herein), the following:
- (a) Operating, improving, altering and maintaining all Common Elements and the Association Property.
  - (b) Determining the expenses required for the operation of the Association and the Condominium.
  - (c) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Elements and the Association Property.
  - (d) Adopting and amending rules and regulations concerning the details of the operation and use of the Condominium and Association Property.
  - (e) Maintaining bank accounts on behalf of the Association and designating the signatures required therefor.
  - (f) Purchasing, leasing or otherwise acquiring title to, or an interest in, property in the name of the Association, or its designee, for the use and benefit of its members. The power to acquire personal property shall be exercised by the Board and the power to acquire real property shall be exercised as described herein and in the Declaration.
  - (g) Purchasing, leasing or otherwise acquiring Units or other property, including, without limitation, Units at foreclosure or other judicial sales, all in the name of the Association, or its designee.

- (h) Selling, leasing, mortgaging or otherwise dealing with Units acquired, and subleasing Units leased, by the Association, or its designee.
- (i) Organizing corporations and appointing persons to act as designees of the Association in acquiring title to or leasing Units or other property.
- (j) Obtaining and reviewing insurance for the Condominium and Association Property.
- (k) Making repairs, additions and improvements to, or alterations of, Condominium Property and Association Property, and repairs to and restoration of Condominium and Association Property, in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise.
- (l) Enforcing obligations of the Unit Owners, allocating profits and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of the Condominium.
- (m) Levying fines against appropriate Unit Owners for violations of the rules and regulations established by the Association to govern the conduct of such Unit Owners. No fine shall be levied except after giving reasonable notice and opportunity for a hearing to the affected Unit Owner and, if applicable, his tenant, licensee or invitee. No fine shall exceed the highest amount permitted by the Condominium Act from time to time.
- (n) Borrowing money on behalf of the Association or the Condominium when required in connection with the operation, care, upkeep and maintenance of Common Elements or the acquisition of real property, and granting security interests in assessments or Association owned property, all in accordance with Florida law and the Declaration of Condominium.
- (o) Contracting for the management and maintenance of the Condominium and Association Property and authorizing a management agent (who may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair, and replacement of the Common Elements and Association Property with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Declaration, the Articles, these Bylaws and the Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (p) At its discretion authorizing Unit Owners or other persons to use portions of the Common Elements or Association Property for private parties and gatherings and imposing reasonable charges for such private use.

- (r) Contracting with and creating or joining in the creation of special taxing districts, joint councils and the like.
- (s) Responding to complaints of Unit Owners in accordance with all requirements of applicable law.
- (t) Exercising (i) all powers specifically set forth in the Declaration, the Articles, these Bylaws and in the Condominium Act; (ii) all powers incidental thereto; and (iii) all other powers of a Florida corporation not-for-profit.

6. **Officers.**

- 6.1 **Executive Officers.** The executive officers of the Association shall be a President, one or more Vice Presidents, a Treasurer and a Secretary (none of whom need be Directors), all of whom shall be elected by the Board of Directors and who may be peremptorily removed at any meeting by concurrence of a majority of all of the Directors. A person may hold more than one office, except that the President may not also be the Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association. Officers, other than designees of the Developer, must be Unit Owners (or authorized representatives of corporate/partnership/trust Unit Owners).
- 6.2 **President.** The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of president of an association. The President may also concurrently serve as the Treasurer of the Association.
- 6.3 **Vice President.** The Vice President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice president of an association and may be required by the Directors or the President. The Board of Directors may elect multiple Vice Presidents, and any Vice President also may serve as Secretary and/or Treasurer.
- 6.4 **Secretary.** The Secretary shall keep the minutes of all proceedings of the Directors and the members. The Secretary shall attend to the giving of all notices to the members and Directors and other notices required by law. The Secretary shall have custody of the seal of the Association and shall affix to instruments requiring the seal when duly signed. The Secretary shall keep the records of the Association, except those of the Treasurer, and perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.
- 6.5 **Treasurer.** The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall keep books of account for the Association in accordance with good accounting

practices, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. The Treasurer shall submit a treasurer's report to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer and as may be required by the Directors or the President. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board of Directors. The Treasurer may also serve as the President of the Association.

- 6.6 **Developer Appointees.** Until such time as the Developer relinquishes control of the Association to Unit Owners, no officer appointed by the Developer may be removed except as provided in Section 4.13 hereof and by law.
7. **Compensation.** Neither Directors nor officers shall receive compensation for their services as such, but this provision shall not preclude the Board of Directors from employing a Director or officer as an employee of the Association, nor preclude contracting with a Director or officer for the provision of a service to the Association.
8. **Resignations.** Any Director or officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Units owned by any Director or officer (other than appointees of the Developer or officers who are not required to be Unit Owners) shall constitute a written resignation of such Director or officer.
9. **Fiscal Management.** The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:
- 9.1 **Fiscal Year.** The fiscal year of the Association shall be the calendar year unless otherwise designated in the discretion of the Board of Directors.
- 9.2 **Budget.**
- (a) **Adoption by Board; Items.** The Board of Directors shall from time to time, and at least annually, prepare a budget for the Association (which shall detail all accounts and items of expense and contain at least all items required by the Condominium Act), determine the amount of Assessments payable by the Unit Owners to meet the expenses of the Association and allocate and assess such expenses against the Unit Owners in accordance with the provisions of the Declaration. In addition, if the Association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements, the budget or a schedule attached thereto shall show amounts budgeted therefor. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance (to the extent required by law). Reserves shall not be required if the members of the Association have, by a majority vote at a duly called meeting of members, determined for a specific fiscal year to provide no reserves or reserves less adequate than required hereby.

Prior to transfer of control of the Association to Unit Owners other than the Developer, the Developer may vote to waive reserves or reduce the funding of the reserves for the first two (2) fiscal years of operation of the Association, beginning with the fiscal year in which the initial Declaration is recorded, after which time, reserves may only be waived or reduced upon the vote of a majority of non-Developer voting interests present at a duly called meeting of the Association. Any vote to waive or reduce reserves shall be effective for only one (1) annual budget and a new vote shall be taken each fiscal year that a waiver or reduction shall apply to the current budget. If a meeting of Unit Owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves, as included in the budget, shall go into effect.

The adoption of a budget for the Association shall comply with the requirements hereinafter set forth:

- (i) **Notice of Meeting.** A copy of the proposed budget of Common Expenses shall be mailed or hand delivered to each Unit Owner not less than fourteen (14) days prior to the meeting of the Board of Directors at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meeting.
- (ii) **Special Membership Meeting.** If a budget is adopted by the Board of Directors which requires Assessments against such Unit Owners in any year exceeding one hundred fifteen percent (115%) of such Assessments for the preceding year, as hereinafter defined, upon written application of ten percent (10%) of the Unit Owners received within twenty-one (21) days after adoption of the budget, a special meeting of the Unit Owners shall be held within sixty (60) days after adoption of the budget. Each Unit Owner shall receive, at least fourteen (14) days prior to such special meeting, notice of said meeting hand delivered to each Unit Owner or mailed to each Unit Owner at the address last furnished to the Association. At the special meeting, Unit Owners shall consider and adopt a budget. The adoption of said budget shall require a vote of Owners of not less than 50% of all the Units (including Units owned by the Developer). If a meeting of the Unit Owners has been called as aforesaid and a quorum is not obtained or a substitute budget has not been adopted by the Unit Owners, the budget adopted by the Board of Directors shall go into effect as scheduled.
- (iii) **Determination of Budget Amount.** In determining whether a budget requires Assessments against Unit Owners in any year exceeding one hundred fifteen percent (115%) of Assessments for the preceding year, there shall be excluded in the computations any authorized provisions for reasonable reserves made by the Board of Directors in respect of repair or replacement of the Condominium Property or in respect of anticipated expenses of

the Association which are not anticipated to be incurred on a regular or annual basis, and there shall be excluded further from such computation Assessments for improvements to the Condominium Property.

(b) **Adoption by Membership.** In the event that the Board of Directors shall be unable to adopt a budget for a fiscal year in accordance with the requirements of Section 9.2.(a) above, the Board of Directors may call a special meeting of Unit Owners for the purpose of considering and adopting such budget, which meeting shall be called and held in the manner provided for such special meetings in said subsection, and if such budget is adopted by the members, upon ratification by a majority of the Board of Directors, it shall become the budget for such year.

9.3 **Assessments.** Assessments against Unit Owners for their share of the items of the budget shall be made for the applicable fiscal year annually at least twenty (20) days preceding the year for which the Assessments are made. Such Assessments shall be due in equal installments, payable in advance on the first day of each month (or each quarter at the election of the Board) of the year for which the Assessments are made. If annual Assessments are not made as required, Assessments shall be presumed to have been made in the amount of the last prior Assessments, and monthly (or quarterly) installments on such Assessments shall be due upon each installment payment date until changed by amended Assessments. In the event the annual Assessments prove to be insufficient, the budget and Assessments may be amended at any time by the Board of Directors, subject to the provisions of Section 9.2 hereof, if applicable. Unpaid Assessments for the remaining portion of the fiscal year for which amended Assessments are made shall be payable in as many equal installments as there are full months (or quarters) of the fiscal year left as of the date of such amended Assessments, each such monthly (or quarterly) installment to be paid on the first day of the month (or quarter), commencing the first day of the next ensuing month (or quarter). If only a partial month (or quarter) remains, the amended Assessments shall be paid with the next regular installment in the following year, unless otherwise directed by the Board in its resolution.

9.4 **Special Assessments.** Special Assessments may be levied as provided in the Declaration and shall be paid in such manner as the Board of Directors of the Association may require in the notice of such Assessments. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in the notice of adoption of same. However, upon completion of such specific purpose or purposes, any excess funds will be considered Common Surplus, and may, at the discretion of the Board, either be returned to the Unit Owners or applied as a credit towards future assessments.

9.5 **Depository.** The depository of the Association shall be such bank or banks in the State of Florida as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons as are authorized by the Directors.

- 9.6 **Late Charges and Acceleration of Installments Upon Default.** Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. In addition to the above stated interest, the Association may charge an administrative late fee in an amount not to exceed the highest amount provided for in the Condominium Act (as it may be amended from time to time) on Assessments and installments thereof not paid when due. As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after a claim of lien is filed and forty-five (45) days' prior written notice has been provided to the applicable Owner, the Association may declare the Assessment installments for the remainder of the budget year to be accelerated and such amount shall thereupon be immediately due and payable.
- 9.7 **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 of funds that will be in the custody of the Association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but it is not limited to, those individuals authorized to sign checks and the President, Secretary, and Treasurer of the Association. The Association shall bear the cost of bonding.
- 9.8 **Accounting Records and Reports.** The Association shall maintain accounting records in the State, according to accounting practices normally used by similar associations. The records shall be open to inspection by Unit Owners or their authorized representatives at reasonable times and written summaries of them shall be supplied at least annually. The records shall include, but not be limited to: (a) a record of all receipts and expenditures, and (b) an account for each Unit designating the name and current mailing address of the Unit Owner, the amount of Assessments, the dates and amounts in which the Assessments come due, the amount paid upon the account and the dates so paid, and the balance due. Written summaries of the records described in clause (a) above, in the form and manner specified below, shall be supplied to each Unit Owner annually.

Within ninety (90) days following the end of the fiscal year, the Board shall mail, or furnish by personal delivery, to each Unit Owner either (a) a complete financial report of actual receipts and expenditures for the previous fiscal year; or (b) a complete set of financial statements for the preceding fiscal year prepared in accordance with generally accepted accounting principles, unless the Division adopts alternate standards, in which case such standards shall be followed; or (c) such other financial report as may be required by Section 718.111(13) of the Florida Statutes for the previous fiscal year. The report shall show the amount of receipts by accounts and receipt classifications and shall show the amount of expenses by accounts and expense classifications, including, if applicable, but not limited to, the following:

- (a) Costs for security;
- (b) Professional and management fees and expenses;
- (c) Taxes;

- (d) Costs for recreation facilities;
  - (e) Expenses for refuse collection and utility services;
  - (f) Expenses for lawn care;
  - (g) Costs for building maintenance and repair;
  - (h) Insurance costs;
  - (i) Administrative and salary expenses; and
  - (j) Reserves for capital expenditures, deferred maintenance and any other category for which the Association maintains a reserve account or accounts.
- 9.9 **Application of Payment.** All payments made by a Unit Owner shall be applied as provided in these Bylaws and in the Declaration or as otherwise determined by the Board.
- 9.10 **Notice of Meetings.** Notice of any meeting where Assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that Assessments will be considered and the nature of any such Assessments.
10. **Roster of Unit Owners.** Each Unit Owner shall file with the Association a copy of the deed or other document showing his ownership. The Association shall maintain such information. The Association may rely upon the accuracy of such information for all purposes until notified in writing of changes therein as provided above. Only Unit Owners of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other Unit Owners shall produce adequate evidence, as provided above of their interest and shall waive in writing notice of such meeting.
11. **Parliamentary Rules.** Except when specifically or impliedly waived by the chairman of a meeting (either of members or directors), Robert's Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Condominium Act, the Declaration, the Articles or these Bylaws; provided, however, that a strict or technical reading of said Robert's Rules shall not be made so as to frustrate the will of the persons properly participating in said meeting.
12. **Amendments.** Except as may be provided in the Declaration to the contrary, these Bylaws may be amended in the following manner:
- 12.1 **Notice.** Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.
- 12.2 **Adoption.** A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than one-third (1 /3) of the members of the Association. The approval must be by not less

than a majority of the voting interests of all members of the Association represented at a meeting at which a quorum has been attained.

- 12.3 **Proviso.** No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer or mortgagees of Units without the consent of said Developer and mortgagees in each instance. Any consent required of mortgagees of Units shall not be unreasonably withheld. No amendment shall be made that is in conflict with the Articles or Declaration. No amendment to this Section shall be valid.
- 12.4 **Execution and Recording.** A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of these Bylaws, which certificate shall be executed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed, or by the Developer alone if the amendment has been adopted consistent with the provisions of the Declaration allowing such action by the Developer. The amendment shall be effective when the certificate and a copy of the amendment is recorded in the Public Records of this County with an identification on the first page of the amendment of the Records Book and Page of said Public Records where the Declaration is recorded.
13. **Official Records.** The official records of the Association shall be maintained in the Association's office or such other location within the state as designated by the Board of Directors in accordance with the requirements of the Condominium Act. The official records of the Association shall be open to inspection by any Association member or the authorized representative of such member at all reasonable times in accordance with the requirements of the Condominium Act. The right to inspect the records includes the right to make or obtain copies, at a reasonable expense, if any, of the Association member. The Association may adopt reasonable rules regarding the time, location, notice and manner of record inspections and copying.
14. **Disputes.** Without limiting any other remedies which may be available in law or equity, those disputes which are governed by mandatory non-binding arbitration proceedings as specified in Section 718.1255, Florida Statutes shall be governed by the procedures set forth therein.
15. **Construction.** Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.
16. **Captions.** The captions herein are inserted only as a matter of convenience and for reference and in no way define or limit the scope of these Bylaws or the intent of any provision hereof.
17. **Certificate of Compliance.** A certificate of compliance from a licensed electrical contractor or electrician may be accepted by the Board of Directors as evidence of compliance of the Units to applicable fire and life safety code.
18. **Limited Power to Convey.** The Association shall have a limited power to convey a portion of the Common Elements to a condemning authority for the purpose of providing

utility easements, right-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.

The foregoing was adopted as the Bylaws of Andalusia Garage Condominium Association, Inc., a corporation not for profit under the laws of the State of Florida, as of the \_\_\_\_ day of \_\_\_\_\_ 2015.

Approved:

By: \_\_\_\_\_  
Jim Cason  
President

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