



# OFFICE OF THE PROPERTY APPRAISER

## Summary Report

Generated On: 07/19/2024

PROPERTY INFORMATION	
<b>Folio</b>	03-4108-009-3260
<b>Property Address</b>	126 SALAMANCA AVE CORAL GABLES, FL 33134-4188
<b>Owner</b>	126 SALAMANCA AVE LLC
<b>Mailing Address</b>	4301 NW 35 AVE MIAMI, FL 33142
<b>Primary Zone</b>	3801 MULTI-FAMILY MED DENSITY
<b>Primary Land Use</b>	0303 MULTIFAMILY 10 UNITS PLUS : MULTIFAMILY 3 OR MORE UNITS
<b>Beds / Baths /Half</b>	25 / 23 / 0
<b>Floors</b>	3
<b>Living Units</b>	23
<b>Actual Area</b>	
<b>Living Area</b>	
<b>Adjusted Area</b>	11,941 Sq.Ft
<b>Lot Size</b>	19,250 Sq.Ft
<b>Year Built</b>	Multiple (See Building Info.)

ASSESSMENT INFORMATION			
Year	2024	2023	2022
<b>Land Value</b>	\$2,887,500	\$2,887,500	\$2,310,000
<b>Building Value</b>	\$1,707,500	\$1,517,500	\$680,000
<b>Extra Feature Value</b>	\$0	\$0	\$0
<b>Market Value</b>	\$4,595,000	\$4,405,000	\$2,990,000
<b>Assessed Value</b>	\$4,595,000	\$3,289,000	\$2,990,000

BENEFITS INFORMATION				
Benefit	Type	2024	2023	2022
<b>Non-Homestead Cap</b>	Assessment Reduction		\$1,116,000	
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

SHORT LEGAL DESCRIPTION
PB 25-69
CORAL GABLES DOUGLAS SEC
LOTS 3 THRU 5 & W1/2 OF LOT
6 BLK 32
LOT SIZE 19250 SQ FT M/L



TAXABLE VALUE INFORMATION			
Year	2024	2023	2022
<b>COUNTY</b>			
<b>Exemption Value</b>	\$0	\$0	\$0
<b>Taxable Value</b>	\$4,595,000	\$3,289,000	\$2,990,000
<b>SCHOOL BOARD</b>			
<b>Exemption Value</b>	\$0	\$0	\$0
<b>Taxable Value</b>	\$4,595,000	\$4,405,000	\$2,990,000
<b>CITY</b>			
<b>Exemption Value</b>	\$0	\$0	\$0
<b>Taxable Value</b>	\$4,595,000	\$3,289,000	\$2,990,000
<b>REGIONAL</b>			
<b>Exemption Value</b>	\$0	\$0	\$0
<b>Taxable Value</b>	\$4,595,000	\$3,289,000	\$2,990,000

SALES INFORMATION			
Previous Sale	Price	OR Book-Page	Qualification Description
06/22/2023	\$5,500,000	33775-1439	Qual by exam of deed
09/09/2019	\$100	31599-1072	Corrective, tax or QCD; min consideration
02/01/2000	\$1,725,000	19000-4292	Deeds that include more than one parcel
01/01/1996	\$987,500	17073-3833	Deeds that include more than one parcel

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

126 & 134 Salamanca Ave – This building has recorded a declaration of condominium, crteating a 7-unit condo, but it appears that the developer still owns the entire property.

<b><u>Owner (Property Appraiser and all Sunbiz addresses)</u></b> 126 Salamanca Ave LLC c/o Jose A. Garcia Registered Agent 4301 NW 35 Ave Miami, FL 33142-4322	<b><u>First Mortgagee (mortgage and Sunbiz mailing address)</u></b> ADRA Investments, LLC P.O. Box 145396 Coral Gables, FL 33114-5396
<b><u>First Mortgagee (Sunbiz principal and RA address)</u></b> ADRA Investments, LLC c/o Carmen A. Portela Registered Agent 700 Coral Way, Apt. 8 Coral Gables, FL 33134-4869	<b><u>Second Mortgagee (mortgage address)</u></b> Truist Bank P.O. Box 1290 Whiteville, NC 28472-1290
<b><u>Second Mortgagee (FDIC BankFind address)</u></b> Truist Bank 214 N. Tryon St Charlotte, NC 28202-1078	

# City of Coral Gables

## ONLINE SERVICES

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**Permits and Inspections: Search Results**

[Logon](#) [Help](#) [Contact](#)

 [New Permit Search](#)

### Permit Search Results

Permit#:	App. Date	Street Address	Type	Description	Status	Issue Date	Final Date	Fees Due
<a href="#">CE-16-03-6488</a>	03/18/2016	126 SALAMANCA AVE	CODE ENF LIEN SEARCH	LIEN SEARCH	final	03/22/2016	03/22/2016	0.00
<a href="#">RC-15-07-5231</a>	07/16/2015	126 SALAMANCA AVE	BLDG RECERT / CRB	40 YEAR BUILDING RECERTIFICATION OR OLDER BUILT 1965	final	07/16/2015	07/23/2015	0.00
<a href="#">CE-15-02-0991</a>	02/19/2015	126 SALAMANCA AVE	CODE ENF LIEN SEARCH	LIEN SEARCH	final	02/23/2015	02/23/2015	0.00
<a href="#">CE-14-02-3206</a>	02/28/2014	126 SALAMANCA AVE	CODE ENF LIEN SEARCH	LIEN SEARCH	final	03/03/2014	03/03/2014	0.00
<a href="#">CE-13-07-0415</a>	07/08/2013	126 SALAMANCA AVE	CODE ENF LIEN SEARCH	LIEN SEARCH REQUEST	final	07/08/2013	07/08/2013	0.00
<a href="#">CE-13-01-1165</a>	01/24/2013	126 SALAMANCA AVE	CODE ENF LIEN SEARCH	LIEN SEARCH	final	01/29/2013	01/29/2013	0.00

The City's online services are protected with an **SSL encryption certificate**. For technical assistance, please call 305-569-2448 (8am-5pm, M-F).

# City of Coral Gables

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**Permits and Inspections: Search Results**

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 [New Permit Search](#)

### Permit Search Results




Permit#:	App. Date	Street Address	Type	Description	Status	Issue Date	Final Date	Fees Due
<a href="#">CE-16-03-6499</a>	03/18/2016	134 SALAMANCA AVE	CODE ENF LIEN SEARCH	LIEN SEARCH	final	03/22/2016	03/22/2016	0.00
<a href="#">CE-15-02-0994</a>	02/19/2015	134 SALAMANCA AVE	CODE ENF LIEN SEARCH	LIEN SEARCH	final	02/23/2015	02/23/2015	0.00
<a href="#">RC-14-07-2515</a>	07/08/2014	134 SALAMANCA AVE	BLDG RECERT / CRB	40 YEAR OR OLDER BUILDING RECERTIFICATION	final	07/08/2014	07/09/2014	0.00
<a href="#">CE-14-02-3180</a>	02/27/2014	134 SALAMANCA AVE	CODE ENF LIEN SEARCH	LIEN SEARCH	final	03/03/2014	03/03/2014	0.00
<a href="#">ZN-13-08-1445</a>	08/23/2013	134 SALAMANCA AVE	PAINT / RESURFACE FL / CLEAN	PAINT EXT WALLS SW LIGHT YELLOW), ROOF TRIM & WINDOW FRAME - WHITE, BALCONY AND DOORS - SW 6116 (BEIGE) \$21,000	final	08/23/2013	10/30/2013	0.00
<a href="#">AB-13-08-0959</a>	08/15/2013	134 SALAMANCA AVE	BOA COMPLETE (LESS THAN \$75,000)	PAINT EXT WALLS SW LIGHT YELLOW), ROOF TRIM & WINDOW FRAME - WHITE, BALCONY AND DOORS - SW 6116 (BEIGE) \$21,000	final	08/15/2013	10/30/2013	0.00
<a href="#">CE-13-07-0421</a>	07/08/2013	134 SALAMANCA AVE	CODE ENF LIEN SEARCH	LIEN SEARCH REQUEST	final	07/08/2013	07/08/2013	0.00
<a href="#">CE-13-02-1306</a>	02/24/2013	134 SALAMANCA AVE	CODE ENF WARNING PROCESS	WT11937 54-153 CITY CODE (DAY) TRASH OUT PRIOR TO 6PM DAY BEFORE SCHEDULED PICKUP. OUT ON SUNDAY	final	02/24/2013	02/24/2013	0.00
<a href="#">PL-13-02-1262</a>	02/22/2013	134 SALAMANCA AVE	PLUMB COMMERCIAL / RESIDENTIAL WORK	PORTABLE TOILET	final	02/22/2013	03/04/2013	0.00
<a href="#">CE-13-01-1169</a>	01/24/2013	134 SALAMANCA AVE	CODE ENF LIEN SEARCH	LIEN SEARCH	final	01/29/2013	01/29/2013	0.00
<a href="#">BL-13-01-0659</a>	01/15/2013	134 SALAMANCA AVE	ROOF / LIGHT WEIGHT CONC	RE ROOF \$35,882 BORAL SAXONY	final	01/23/2013	08/16/2013	0.00

AB-13-01-0373	01/09/2013	134 SALAMANCA AVE	BOA COMPLETE (LESS THAN \$75,000)	900 SLATE RED TILE REMOVE AND REPLACE ROOF MATERIAL ON SLOPE ROOF DECK RE ROOF BORAL ROOFING LLC SAXONY 900 CONCRETE ROOF TILE \$35882.41	final	01/09/2013	08/16/2013	0.00
CE-12-06-8300	06/05/2012	134 SALAMANCA AVE	CODE ENF TICKET PROCESS - NO RUNNING FINE	T46329 5-108 ZONING CODE (POL) MAINTAINING A POOL WHICH DOES NOT HAVE A PROPER PROTECTIVE ENCLOSURE. GATES MUST SELF CLOSE AND LOCK.	final	06/05/2012	06/22/2012	0.00
CE-12-06-8026	06/01/2012	134 SALAMANCA AVE	CODE ENF LIEN SEARCH	LIEN SEARCH	final	06/04/2012	06/04/2012	0.00
CE-12-05-8493	05/12/2012	134 SALAMANCA AVE	CODE ENF TICKET PROCESS - NO RUNNING FINE	T46326 105-26 CITY CODE (CON) WORKING OUTSIDE OF ALLOWABLE HOURS ON WEEKEND. WARNED & CONTINUED WORKIG. 8:20AM	final	05/12/2012	06/01/2012	0.00
CE-12-05-8492	05/12/2012	134 SALAMANCA AVE	CODE ENF WARNING PROCESS	WT9722 105-26 CITY CODE (CON) PERFORMING WORK OUTSIDE OF ALLOWABLE CONSTRUCTION HOURS, SAT. 9AM- 5PM. CITATION WRITEN AT 7:58AM.	final	05/12/2012	05/16/2012	0.00
CE-12-05-8489	05/12/2012	134 SALAMANCA AVE	CODE ENF WARNING PROCESS	WT9723 5-108 ZONING CODE (POL) MAINTAINING A SWIMMING POOL WHICH DOES NOT HAVE A PROPER PROTECTIVE ENCLOSURE. LOCKS ON GATES IN DISREPAIR.	final	05/12/2012	05/16/2012	0.00
BL-12-03-8840	03/23/2012	134 SALAMANCA AVE	ROOF / LIGHT WEIGHT CONC	RE ROOF \$31,930 MONIER LIFETILE SAXONY SLATE TERRACOTTA TILE	final	04/19/2012	09/14/2012	0.00
AB-12-03-8299	03/15/2012	134 SALAMANCA AVE	BOA COMPLETE (LESS THAN \$75,000)	RE ROOF MONIER LIFETILE VANGUARD ROLL CONCRETE ROOF TILE \$31,390	final	03/15/2012	07/08/2022	0.00
PU-12-01-7342	01/25/2012	134 SALAMANCA AVE	PUBLIC RECORDS SEARCH	REQ COPY OF RECERTIFICATION CRM INV 015319	final	01/26/2012	01/26/2012	0.00
CE-11-08-5393	08/03/2011	134 SALAMANCA AVE	CODE ENF LIEN SEARCH	LIEN SEARCH (134 SALAMANCA AVE.)	final	08/08/2011	08/08/2011	0.00

CE-11-07-6806	07/20/2011	134 SALAMANCA AVE	CODE ENF WARNING PROCESS	TRU NOTICE	final	07/20/2011	07/20/2011	0.00
CE-09-03-2402	03/21/2009	134 SALAMANCA AVE	CODE ENF WARNING PROCESS	WT79367 SEC54- 153 CC (DAY) TRASH OUT PRIOR TO SCHEDULED PICK UP DAY, ie BBQ Grill. (PICK UP DAY FRIDAYS.	final	03/21/2009	08/03/2011	0.00

The City's online services are protected with an **SSL encryption certificate**. For technical assistance, please call 305-569-2448 (8am-5pm, M-F).

Showing 1 - 3 of 3 Records (PERMITS IN A PARCEL)

<input type="checkbox"/>	Parcel Number	Permit Number 	Address	Permit Type 	Permit Description 	Permit Status
<input type="checkbox"/>	0341080093260	<a href="#">FIRE-21-12-0009</a>	134 SALAMANCA AVE Coral Gables, FL 33134-418	Fire	**** PAPER SUBMITTAL DROPPED OFF ON 7/6/2023*****FIRE ALARM ( WIRELESS RADIO )	Denied
<input type="checkbox"/>	0341080093260	<a href="#">ELEC-21-12-0104</a>	134 SALAMANCA AVE Coral Gables, FL 33134-418	Electrical Commercial	FIRE ALARM ( WIRELESS RADIO )	Expired
<input type="checkbox"/>	0341080093260	<a href="#">RECT-24-07-0383</a>	134 SALAMANCA AVE Coral Gables, FL 33134-418	Building Recertification	BUILDING RECERTIFICATION (YEAR BUILT 1964) CRB CASE # 24-7806	Submitted



## The City of Coral Gables

Development Services Department  
CITY HALL 405 BILTMORE WAY  
CORAL GABLES, FLORIDA 33134

July 10, 2015

Madoss Corporation  
3000 SW 78 Ct  
Miami, FL. 33155-2648

### LETTER OF BUILDING RECERTIFICATION IN ACCORDANCE WITH SECTION 8-11(f) OF THE CODE OF MIAMI-DADE COUNTY

**PROPERTY FOLIO: # 03-4108-009-0908**  
ADDRESS: 126 Calabria Ave

Dear Property Owner/Manager:

This Office is in receipt of your structural and electrical report stating that the above referenced building has been examined and found to be structurally and electrically safe for its continued occupancy.

Based on acceptance of this report, we herewith grant this LETTER OF RECERTIFICATION for the above subject premises in accordance with Section 8-11(f) of the Code of Miami-Dade County.

The expiration date of this approval, as stated in said Code, is 10 years from 2015. This recertification letter does not exclude the building from subsequent inspections as deemed necessary by the Building Official, as specified in the Florida Building Code.

As a routine matter, and in order to avoid possible misunderstanding, nothing in this letter should be construed directly, or indirectly as a guarantee of the safety of any portion of this structure. However, based on the term stated in Section 8-11(f) of the Code, continued occupancy of the building will be permitted in accordance with the minimum procedural guidelines for the recertification structural/electrical report on file with this office.

Yours truly,

Manuel Z. Lopez, P.E.  
Building Official

  
Claudio Ramos, P.A. for M. Lopez





CITY OF CORAL GABLES  
Development Services Department

CITY HALL 405 BILTMORE WAY  
CORAL GABLES, FL 33134

1/31/2024

**VIA CERTIFIED MAIL**

7021 2720 0001 4959 1332

126 SALAMANCA AVE LLC  
4301 NW 35 AVE  
MIAMI, FL 33142

**RE:** 126 & 134 SALAMANCA AVE  
**FOLIO #** 03-4108-009-3260

Notice of Required Inspection For Recertification of Building  
Process Number: **TBD**

Dear Property Owner:

Per the Miami-Dade County Property Appraiser's office the above referenced property address is thirty (30) years old, or older, having been built in 1964. In accordance with the Miami-Dade County Code, Chapter 8, Section 8-11(f), a qualified individual must inspect said building and a **completed** Recertification Report ("Report") must be submitted by you to this Department within **ninety (90) calendar days** from the **date of this letter**. A completed Report includes 1) Cover letters stating the structure meets (or does not meet) the electrical and structural requirements for recertification, 2) Building Structural Report, 3) Building Electrical Report, 4) Parking Lot Illumination Standards Form 5) Parking Lot Guardrails Requirements Form, and 6) (For threshold buildings only) Self-qualification letters from the inspecting engineers with accompanying DBPR proof of specialization. Submittal of the Report does not constitute recertification; it must be **approved** and the Letter of Recertification must be issued by this Department.

Threshold buildings (i.e. buildings greater than 3 stories or greater than 50 ft tall, or with an Assembly Occupancy >5000 s.f. & Occupant load > 500 people) shall be recertified by Structural and Electrical Professional Engineers only. Self-qualification letters will be required with proof of DBPR structural and electrical specialization.

Any buildings that are not threshold buildings may be recertified by any Florida Registered Architect or Professional Engineer and self-qualification letters will not be required.

If no deficiencies are identified, the structure will only be recertified once the reports and forms have been submitted and approved.

If deficiencies are identified, they shall be reported to the Building Official within 10 days, or within 24 hours if there is an immediate danger identified. A completed report shall be submitted to this Department. In addition, a structural and/or electrical affidavit from the inspector will be required, with additional affidavits every 180 days, as needed so that the building can continue to be occupied while repairs are carried out. The Building Official is able to grant an extension of one hundred fifty (150) calendar days from the due date or the date the deficiencies were identified (whichever is sooner) to allow time to obtain the necessary permits and perform the repairs. The structure will only be recertified once a *revised* report and all required information is submitted and approved, and all required permits are closed.

Proprietary or modified recertification forms from the inspectors will not be accepted. Only current municipal recertification forms will be accepted. The Architect or Engineer shall obtain the required Forms from the following link:

<https://www.miamidade.gov/global/economy/building/recertification.page>.

If this is your first time using the online system, please register at the following link:

<https://coralgablesfl-energypub.tylerhost.net/Apps/selfservice/CoralGablesFLProd#/register>

You can access your online process using the process number provided above at the following link:

<https://coralgablesfl-energypub.tylerhost.net/Apps/SelfService#/myWork?tab=MyPermits>

**The Recertification Report fee of \$500.00 and additional document and filing fees shall be paid online at the following link:**

<https://coralgablesfl-energypub.tylerhost.net/Apps/SelfService#/payinvoice>

Failure to submit the required Report within the allowed time will result in **declaring the structure unsafe** and referring the matter to the City's Construction Regulation Board ("Board") without further notice and a \$600.00 administrative fee will be imposed at that time. The Board may impose additional fines of \$250.00 for each day the violation continues, may enter an order of demolition, and may assess all costs of the proceedings along with the cost of demolition and any other required action.

Please contact Douglas Ramirez at [dramirez@coralgables.com](mailto:dramirez@coralgables.com) regarding any questions concerning building recertification.  
Thank you for your prompt attention to this matter.



Manuel Z. Lopez, P.E.  
Building Official

Tracking Number:

Remove X

## 70212720000149591332

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

### Latest Update

Your item was delivered to the front desk, reception area, or mail room at 9:21 am on February 3, 2024 in MIAMI, FL 33142.

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### Delivered

**Delivered, Front Desk/Reception/Mail Room**

MIAMI, FL 33142

February 3, 2024, 9:21 am

[See All Tracking History](#)

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Product Information



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Enter tracking or barcode numbers

## **Need More Help?**

Contact USPS Tracking support for further assistance.

[FAQs](#)



CITY OF CORAL GABLES

DEVELOPMENT SERVICES DEPARTMENT  
427 BILTMORE WAY  
CORAL GABLES, FL 33134

5/10/2024

**VIA CERTIFIED MAIL**

7022 2410 0002 9144 6363

126 SALAMANCA AVE LLC  
4301 NW 35 AVE  
MIAMI, FL. 33142

**RE: 134 SALAMANCA AVE**  
**FOLIO # 03-4108-009-3260**

Notice of Required Inspection For Recertification of Building – **OVERDUE NOTICE**  
Process Number **RECT-xx-xxxx**

Dear Property Owner:

In a certified letter dated 1/31/2024, this Department notified you the property referenced above requires Building Recertification pursuant to Miami-Dade County Code, Chapter 8, Section 8-11(f). The letter informed you it was necessary to submit to this Department a completed Report prepared by a qualified individual within ninety (90) calendar days certifying the structure meets the requirements for recertification.

Please be advised the submittal of the Report is overdue and the **structure has been deemed unsafe** due to non-compliance. This may result in the revocation of the Certificate of Occupancy, as well as being subject to other penalties as provided in the Code. A completed Report includes 1) Cover letters stating the structure meets (or does not meet) the electrical and structural requirements for recertification, 2) Building Structural Report, 3) Building Electrical Report, 4) Parking Lot Illumination Standards Form 5) Parking Lot Guardrails Requirements Form, and 6) (For threshold buildings only) Self-qualification letters from the inspecting engineers with accompanying DBPR proof of specialization. Submittal of the Report does not constitute recertification; it must be **approved** and the Letter of Recertification must be issued by this Department.

See original notice for additional information.

**Failure to submit the completed Report within thirty (30) calendar days from the date of this letter will result in forwarding the matter to the City's Construction Regulation Board for further review and determination. A \$600.00 administrative fee will be imposed at that time. The Board may impose additional fines of \$250.00 for each day the violation continues, may enter an order of demolition, and may assess all costs of the proceedings along with the cost of demolition and any other required action.**

If this is your first time using the online system, please register at the following link:

<https://coralgablesfl-energovpub.tylerhost.net/Apps/selfservice/CoralGablesFLProd#/register>

You can access your online process using the process number provided above at the following link:

<https://coralgablesfl-energovpub.tylerhost.net/Apps/SelfService#/myWork?tab=MyPermits>

**The Recertification Report fee of \$500.00 and additional document and filing fees shall be paid online at the following link:**

<https://coralgablesfl-energovpub.tylerhost.net/Apps/SelfService#/payinvoice>

Please govern yourself accordingly.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Manuel Z. Lopez', with a stylized flourish at the end.

Manuel Z. Lopez, P.E.  
Deputy Building Official

Tracking Number:

[Remove X](#)

## 70222410000291446363

[Copy](#)

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### Latest Update

Your item was delivered to an individual at the address at 9:42 am on May 16, 2024 in MIAMI, FL 33142.

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### Delivered

**Delivered, Left with Individual**

MIAMI, FL 33142

May 16, 2024, 9:42 am

[See All Tracking History](#)

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-is-my-package\)](https://faq.usps.com/s/article/Where-is-my-package)

**Text & Email Updates**



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**Product Information**



[See Less ^](#)

Track Another Package

Enter tracking or barcode numbers

## **Need More Help?**

Contact USPS Tracking support for further assistance.

**FAQs**





CITY OF CORAL GABLES

7019 1640 0001 2647 4583

DEVELOPMENT SERVICES DEPARTMENT  
427 BILTMORE WAY

6/17/2024

CORAL GABLES, FL 33134  
126 SALAMANCA AVE LLC  
4301 NW 35 AVE  
MIAMI, FL 33142

**RE: 126 & 134 SALAMANCA AVE**  
**FOLIO # 03-4108-009-1040**  
**Notice of Required Inspection For Recertification of Building – FINAL NOTICE**

Dear Property Owner:

In a certified letter dated 1/31/2024, this Department notified you the property referenced above requires Building Recertification pursuant to Miami-Dade County Code, Chapter 8, Section 8-11(f). A Second Notice dated 5/10/2024, informed you it was necessary to submit to this Department a completed Report prepared by a qualified individual within thirty (30) calendar days certifying the structure meets the requirements for recertification.

See previous correspondence for additional information.

As of this date, the completed Report has not been submitted and the **structure remains unsafe** due to non-compliance. Please be advised the matter will be forwarded to the City's Construction Regulation Board ("Board"); a \$600.00 Administrative Fee will be imposed once the Case is scheduled. The Board may impose additional fines of \$250.00 for each day the violation continues, may also enter an order of revocation of the Certificate of Occupancy and/or demolition and assess all costs of the proceedings along with the cost of demolition and any other required action for which the City shall have a lien against the Property Owner and the Property. The completed Report may be submitted Monday through Friday, 7:30am to 2:30pm to this Department. Contact Virginia Goizueta at [vgoizueta@coralgables.com](mailto:vgoizueta@coralgables.com) if any questions regarding building recertification.

Please govern yourself accordingly.

Sincerely,

Manuel Z. Lopez, P.E.  
Building Official

Tracking Number:

Remove X

## 70191640000126474583

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### Latest Update

Your item was delivered to an individual at the address at 10:40 am on June 20, 2024 in MIAMI, FL 33142.

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### Delivered

**Delivered, Left with Individual**

MIAMI, FL 33142

June 20, 2024, 10:40 am

[See All Tracking History](#)

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Text & Email Updates



Feedback

USPS Tracking Plus®



Product Information



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Track Another Package

Enter tracking or barcode numbers

## **Need More Help?**

Contact USPS Tracking support for further assistance.

**FAQs**

**BEFORE THE CONSTRUCTION REGULATION BOARD**  
**FOR THE CITY OF CORAL GABLES**

CITY OF CORAL GABLES,  
Petitioner,

Case No. 24-7806  
RECT-24-07-0383

vs.

126 Salamanca Ave LLC  
c/o Jose A. Garcia, Registered Agent  
4301 NW 35 Ave  
Miami, FL 33142-4322  
Respondent.

Return receipt number:

7019 1640 0001 2642 6797

**NOTICE OF UNSAFE STRUCTURE VIOLATION FOR FAILURE TO RECERTIFY  
AND NOTICE OF HEARING**

Date: August 1, 2024

Re: 126 & 134 SALAMANCA AVE, CORAL GABLES, FL. 33134-4188, LOTS 3 THRU 5 & W ½ OF LOT 6, BLK 32, CORAL GABLES DOUGLAS SEC., PB 25-69 and 03-4108-009-3260 ("Property").

The City of Coral Gables ("City") Building Official has inspected the records relating to the Structure in accordance with Article III, Chapter 105 of the City Code, pertaining to unsafe structures, and Section 8-11 of the Miami-Dade County Code, as applicable in the City, pertaining to existing buildings. **The Structure is hereby declared unsafe** by the Building Official and is presumed unsafe pursuant to Section 105-89 (10)(m) of the City Code for failure to timely comply with the maintenance and recertification requirements of the Florida Building Code or Section 8-11 of the Miami-Dade County Code; as follows:

To date, the Owner has not submitted an inspection report conforming to the minimum inspection procedural guidelines as issued by the Miami-Dade County Board of Rules and Appeals, pursuant to Section 8-11(f) of the Miami-Dade County Code ("Report"), stating that the Structure now meets the minimum code requirements ("Required Action").

**Therefore, this matter is set for hearing before the City's Construction Regulation Board ("Board") in the Fairchild Tropical Board Room, 427 Biltmore Way, 1st floor, Coral Gables, Florida 33134, on August 12, 2024, at 2:00 p.m.**

You may appeal the decision of the Building Official to the Board by appearing at the hearing. You have the right to be represented by an attorney and may present and question witnesses and evidence; however, formal rules of evidence shall not apply. Failure to appear at the hearing will result in the matter being heard in your absence. Please be advised that if someone other than an attorney will be attending the hearing on your behalf, he or she must provide a power of attorney from you at the time of the hearing. Requests for continuance must be made in writing to, Virginia Goizueta, at City of Coral Gables, Development Services Department, 427 Biltmore Way, Coral Gables, FL 33134, vgoizueta@coralgables.com, tel: (305) 460-5250.

The Development Services Department's hours are Monday through Friday, 7:30 a.m. to 2:30 p.m.

If the Required Action is not completed before the above hearing date, the Building Official may order that the structure be vacated, boarded, secured, and posted (including but not limited to, requesting the electric utility to terminate service to the Structure) to prevent further occupancy until the Required Action is completed. The Building Official may also order demolition of the Structure and the City may recover the costs incurred against the Property and the Owner of record.

If the Property owner or other interested party does not take all Required Action or prevail at the hearing, the Construction Regulation Board may impose fines not to exceed \$250 for each day the violation continues past the date set for compliance and may also enter an order of demolition and assess all costs of the proceedings, in an amount not less than \$600, and the costs of demolition and other required action, for which the City shall have a lien against the Property owner and the Property.

Please govern yourself accordingly.



Virginia Goizurieta  
Secretary to the Board

#### NOTICES

Any person who acts as a lobbyist pursuant to the City of Coral Gables Ordinance No. 2006-11, must register with the City Clerk, prior to engaging in lobbying activities before the city staff, boards, committees and/or the City Commission. A copy of the Ordinance is available in the Office of the City Clerk, City Hall.

Any person who needs assistance in another language in order to speak during the public hearing or public comment portion of the meeting should contact the City's ADA Coordinator, Raquel Elejabarrieta, Esq., Director of Human Resources (E-mail: [relejabarrieta@coralgables.com](mailto:relejabarrieta@coralgables.com), Telephone: 305-722-8686, TTY/TDD: 305-442-1600), at least three (3) business days before the meeting.

Any person with a disability requiring communication assistance (such as a sign language interpreter or other auxiliary aide or service) in order to attend or participate in the meeting should contact the City's ADA Coordinator, Raquel Elejabarrieta, Esq., Director of Labor Relations and Risk Management (E-mail: [relejabarrieta@coralgables.com](mailto:relejabarrieta@coralgables.com), Telephone: 305-722-8686, TTY/TDD: 305-442-1600), at least three (3) business days before the meeting.

**Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the Board, with respect to any matter considered at such hearing or meeting, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made; which record includes the testimony and evidence upon which the appeal is to be based. Although a court reporter usually attends the hearing at the City's cost, the City is not required to provide a transcript of the hearing, which the Respondent may request at the Respondent's cost.**

cc: ADRA Investments, LLC., P.O. Box 145396, Coral Gables, FL 33114-5396

7019 1640 0001 2642 6803

ADRA Investments, LLC., c/o Carmen A. Portela, Registered Agent, 700 Coral Way, Apt. 8,  
Coral Gables, FL 33134-486

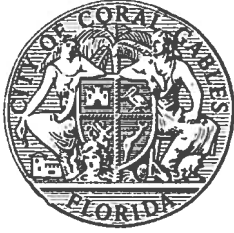
7019 1640 0001 2642 8647

Truist Bank, P.O. Box 1290, Whiteville, NC 28472-1290

7019 1640 0001 2642 8654

Truist Bank, 214 N. Tryon St., Charlotte, NC 28202-1078

7019 1640 0001 2642 8661



CITY OF CORAL GABLES  
DEVELOPMENT SERVICES DEPARTMENT  
Affidavit of Posting

Title of Document Posted: Notice of Pending Building Recertification

I, Sebastian Ramos, DO HEREBY SWEAR/AFFIRM THAT  
THE AFOREMENTIONED NOTICE WAS PERSONALLY POSTED, BY ME, AT THE  
ADDRESS OF 126 & 134 Salamanca Ave. , ON 8/1/24 AT 9:50am.

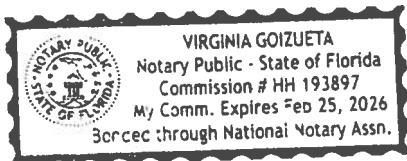
Sebastian Ramos  
Employee's Printed Name

[Signature]  
Employee's Signature

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

Sworn to (or affirmed) and subscribed before me this 1st day of August, in the year 2024, by  
Sebastian Ramos who is personally known to me.

My Commission Expires:



[Signature]  
Notary Public

126 & 134 SALAMANCA AVE







**BEFORE THE CONSTRUCTION REGULATION BOARD  
FOR THE CITY OF CORAL GABLES**

CITY OF CORAL GABLES,  
Petitioner,

Case No. 24-7806  
RECT-24-07-0383

vs.  
126 Salamanca Ave LLC  
c/o Jose A. Garcia, Registered Agent  
4301 NW 35 Ave  
Miami, FL 33142-4322  
Respondent.

Return receipt number:

7019 1640 0001 2642 6797

**NOTICE OF UNSAFE STRUCTURE VIOLATION FOR FAILURE TO RECERTIFY  
AND NOTICE OF HEARING**

Date: August 1, 2024

Re: 126 & 134 SALAMANCA AVE, CORAL GABLES, FL. 33134-4188, LOTS 3 THRU 5 & W 1/2 OF LOT 6, BLK 32, CORAL GABLES DOUGLAS SEC., PB 25-69 and 03-4108-009-3260 ("Property").

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**This instrument prepared by:**  
J. Joseph Givner, Esq.  
Givner Law Group, LLP  
19790 W Dixie Hwy, Suite 706  
Aventura, FL 33180

Record and Return to:  
Tobin & Associates, P.A.  
10800 Biscayne Blvd., #700  
Miami, FL 33161

**Identification (Folio) Number: 03-4108-009-3260**

### **SPECIAL WARRANTY DEED**

THIS INDENTURE, is made as of the 23<sup>rd</sup> day of June, 2023, by SALAMANCA HOMES 2018 LLC, a Florida limited liability company ("Grantor"), having an address of 250 Catalonia Ave, STE 801, Coral Gables, FL 33134, in favor of 126 SALAMANCA AVE LLC, a Florida limited liability company ("Grantee"), whose address is 4301 NW 35<sup>TH</sup> Ave, Miami 33142.

#### **WITNESSETH THAT:**

Grantor, for and in consideration of TEN AND NO/100 U.S. DOLLARS (\$10.00), lawful money of the United States of America, to it in hand paid by Grantee, at or before the unsealing and delivery of these presents, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold, assigned, conveyed and confirmed by these presents does hereby grant, bargain, sell, assign, remise, release, convey and confirm until Grantee and its successors and assigns forever, the following described real property (the "Property") lying and being in Miami-Dade County, Florida:

**Lots 3, 4, 5 and the West 1/2 of Lot 6, Block 32, Revised Plat of Coral Gables Douglas Section, according to the map or plat thereof as recorded in Plat Book 25, Page 69, Public Records of Miami-Dade County, Florida.**

Subject, however, to the matters described on the attached Exhibit "A", which are not reimposed by this instrument.

TOGETHER with all and singular and tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

AND, subject to the matters described on Exhibit "A" attached hereto, Grantor hereby specially warrants the title to the Property and will defend the same against the lawful claims of any persons claiming by, through or under Grantor, but against none other.

IN WITNESS WHEREOF, the Grantor has caused this Special Warranty Deed to be executed the day and year first above written.

Witnesses:

SALAMANCA HOMES 2018 LLC, a Florida limited liability company

By: CRASQUI INVESTMENTS, INC., a Florida profit corporation, its Manager

Anita K. Givner  
Print Name: Anita K. Givner

By: [Signature]  
Maria Jose Nardi, as Authorized Representative

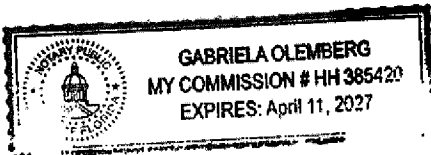
[Signature]  
Print Name: Kevin Salinas

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 22 day of June, 2023, by Maria Jose Nardi, as Authorized Representative of Crasqui Investments, Inc., a Florida corporation, as Manager of SALAMANCA HOMES 2018 LLC, a Florida limited liability company, on behalf of the respective limited liability company and corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.

[NOTARY SEAL]



[Signature]

Notary Public State of Florida

My Commission Expires:

**Exhibit A**

1. All conditions, easements, covenants, restrictions and agreements of record.
2. All zoning and other regulatory laws and ordinances affecting the Property.
3. Any and all code violations affecting the Property.
4. Any and all matters of record that do not render title to the Property unmarketable.
5. All assessments and taxes for the year 2023 and all subsequent years, which are not yet due and payable.
6. Rights or claims of parties in possession not shown by the public records.
7. Easements or claims of easements not recorded in the Public Records.
8. Any lien, or right to a lien, for services, labor, or materials heretofore or hereafter furnished, imposed by law and not shown by the public records.
9. Taxes or assessments which are not shown as existing liens in the public records.
10. Any claim that any portion of the insured land is sovereign lands of the State of Florida, including submerged, filled or artificially exposed lands accreted to such land.
11. Any lien provided by County Ordinance or by Chapter 159, F.S., in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the land described herein; and any lien for waste fees in favor of any county or municipality.
12. Restrictions, conditions, reservations, easements, contained on the Plat of Revised Plat of Coral Gables Douglas Section, as recorded in Plat Book 25, Page 69, Public Records of Miami-Dade County, Florida.
13. Easement in favor of South Atlantic Telephone and Telegraph Company dated February 7, 1924 filed April 3, 1924 in Deed Book 839, Page 106. Easement rights conveyed to Southern Bell Telephone and Telegraph Company in Deed Book dated and recorded December 31, 1924 in Deed Book 506, Page 37, Public Records of Miami-Dade County, Florida.
14. Easement recorded April 2, 1926 in Deed Book 939, Page 443 in favor of Utilities Land Company, assigned to Consumers Water Company, a Florida Corporation, by Deed dated May 29, 1926 recorded in Deed Book 1004, Page 499, Public Records of Miami-Dade County, Florida.
15. Easement in favor of Utilities Land Company, a Florida corporation, dated March 31, 1926, recorded April 2, 1926 in Deed Book 939, Page 435, assigned to Florida Power & Light Company dated May 29, 1926, recorded September 24, 1926 in Deed Book 1004, at Page 496, of the Public Records of Miami-Dade County, Florida.
16. Rights of the lessees under unrecorded leases.



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

## Detail by Entity Name

Florida Limited Liability Company  
126 SALAMANCA AVE LLC

### Filing Information

**Document Number** L23000225135  
**FEI/EIN Number** 93-7367766  
**Date Filed** 05/05/2023  
**State** FL  
**Status** ACTIVE

### Principal Address

4301 NW 35 AVENUE  
MIAMI, FL 33142

### Mailing Address

4301 NW 35 AVENUE  
MIAMI, FL 33142

### Registered Agent Name & Address

GARCIA, JOSE A  
4301 NW 35 AVENUE  
MIAMI, FL 33142

### Authorized Person(s) Detail

#### **Name & Address**

Title MGR

MIJARES, RAMON  
4301 NW 35 AVENUE  
MIAMI, FL 33142

Title MGR

MIJARES, BERNARDO  
4301 NW 35 AVENUE  
MIAMI, FL 33142

Title MGR

GARCIA, JOSE A  
4301 NW 35 AVENUE  
MIAMI, FL 33142

**Annual Reports**

<b>Report Year</b>	<b>Filed Date</b>
2024	01/29/2024

**Document Images**

<a href="#">01/29/2024 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">05/05/2023 -- Florida Limited Liability</a>	<a href="#">View image in PDF format</a>

This Instrument prepared by  
after recording, return to:

Susana R. Grueninger  
Grueninger Law, P.A.  
267 Minorca Avenue, Suite 100  
Coral Gables, FL 33134

**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING**

**THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING** (this "**Security Instrument**") is made as of this 30<sup>th</sup> day of November 2020, by **Properties at Salamanca, LLC**, a Florida limited liability company, having its principal place of business at 60 Edgewater Drive, Unit PH 3-C, Coral Gables, Florida 33133 (hereinafter referred to as "**Mortgagor**" and/or "**Borrower**") to **ADRA INVESTMENTS, LLC**, a Florida limited liability company, with a mailing address of P.O. Box 145396, Coral Gables, Florida 33114, as mortgagee ("**Lender**").

**RECITALS:**

This Security Instrument is given to Lender to secure a certain loan (the "**Loan**") advanced pursuant to a certain promissory note of Borrower and Lender (as the same may have been or may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Note**");

Borrower desires to secure the payment of the outstanding principal amount set forth in, and evidenced by the Note in the amount of Three Million Seven Hundred and Fifty Thousand and 00/100 Dollars (\$ 3,750,000.00), together with all interest accrued and unpaid thereon and all other sums due to Lender in respect of the Loan under the Note, this Security Instrument or any of the other Loan Documents (defined below) (collectively, the "**Debt**") and the performance of all of the obligations due under the Note and all other documents, agreements and certificates executed and/or delivered in connection with the Loan (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, collectively, the "**Loan Documents**"); and

This Security Instrument is given pursuant to the Note, and payment, fulfillment, and performance of the obligations due thereunder and under the other Loan Documents are secured hereby in accordance with the terms hereof.

**ARTICLE 1 - GRANTS OF SECURITY**

**Section 1.1. Property Mortgaged.** Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer, convey and grant a security interest to Lender and its successors and assigns in and to the following property, rights, interests and estates now owned, or hereafter acquired by Borrower (collectively, the "**Property**");

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (collectively, the "**Land**");



(b) **Additional Land.** All additional lands, estates and development rights hereafter acquired by Borrower for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Security Instrument;

(c) **Improvements.** The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the **"Improvements"**);

(d) **Easements.** All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements, and the reversions and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, rights of dower, rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Land and the Improvements, and every part and parcel thereof, with the appurtenances thereto;

(e) **Fixtures and Personal Property.** All machinery, equipment, fixtures (including, but not limited to, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures), furniture, software used in or to operate any of the foregoing and other property of every kind and nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Land and the Improvements and all building equipment, materials and supplies of any nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, or usable in connection with the present or future operation and occupancy of the Land and the Improvements (collectively, the **"Personal Property"**), and the right, title and interest of Borrower in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the **"Uniform Commercial Code"**), and all proceeds and products of the above;

(f) **Leases and Rents.** All leases, subleases, subsubleases, lettings, licenses, concessions or other agreements (whether written or oral) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Land and the Improvements, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into, whether before or after the filing by or against Borrower of any petition for relief under any Creditors Rights Laws (collectively, the **"Leases"**) and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, rent equivalents, moneys

payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Borrower or its agents or employees from any and all sources arising from or attributable to the Property, including, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of property or rendering of services by Borrower or Manager and proceeds, if any, from business interruption or other loss of income insurance whether paid or accruing before or after the filing by or against Borrower of any petition for relief under any Creditors Rights Laws (collectively, the “**Rents**”) and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(g) **Insurance Proceeds.** All insurance proceeds in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property (collectively, the “**Insurance Proceeds**”);

(h) **Condemnation Awards.** All condemnation awards, including interest thereon, which may heretofore and hereafter be made with respect to the Property by reason of any taking or condemnation, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property (collectively, the “**Awards**”);

(i) **Tax Certiorari.** All refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(j) **Rights.** The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(k) **Agreements.** All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or any business or activity conducted on the Land and any part thereof and all right, title and interest of Borrower therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Borrower thereunder;

(l) **Intangibles.** All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

(m) **Accounts.** All reserves, escrows and deposit accounts maintained by Borrower with respect to the Property, including without limitation, the Accounts and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time and all proceeds, products, distributions or dividends or substitutions thereon and thereof;

(n) **Proceeds.** All proceeds of any of the foregoing items set forth in subsections (a) through (m) including, without limitation, Insurance Proceeds and Awards, into cash or liquidation claims; and

(o) **Other Rights.** Any and all other rights of Borrower in and to the items set forth in subsections (a) through (n) above.

**Section 1.2. Assignment of Rents.** Borrower hereby absolutely and unconditionally assigns to Lender all of Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of Section 8.1(h) of this Security Instrument, Lender grants to Borrower a revocable license to (i) collect, receive, use and enjoy the Rents and Borrower shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums, and (ii) enforce the terms of the Leases.

**Section 1.3. Security Agreement.** This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Security Instrument, Borrower hereby grants to Lender, as security for the Obligations (hereinafter defined), a security interest in the Personal Property to the full extent that the Personal Property may be subject to the Uniform Commercial Code.

**Section 1.4. Fixture Filing.** Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, and this Security Instrument, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures.

**Section 1.5. Conditions to Grant.** TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Lender and its successors and assigns, forever; PROVIDED, HOWEVER, these presents are upon the express condition that, if Lender shall be well and truly paid the Debt at the time and in the manner provided in the Note and this Security Instrument, if Borrower shall well and truly perform the Other Obligations as set forth in this Security Instrument and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Note, and the other Loan Documents, these presents and the estate hereby granted shall cease, terminate and be void.

## ARTICLE 2 - DEBT AND OBLIGATIONS SECURED

**Section 2.1. Debt.** This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Debt.

**Section 2.2. Other Obligations.** This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the performance of the following (the “**Other Obligations**”): (a) all other obligations of Borrower contained herein; (b) each obligation of Borrower contained in the Note and any other Loan Document; and (c) each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note or any other Loan Document.

**Section 2.3. Debt and Other Obligations.** Borrower’s obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively herein as the “Obligations.”

**Section 2.4. Payment of Debt.** Borrower will pay the Debt at the time and in the manner provided in the Note and this Security Instrument.

**Section 2.5. Incorporation by Reference.** All the covenants, conditions and agreements contained in (a) the Note and (b) all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

## ARTICLE 3 - PROPERTY COVENANTS

**Section 3.1.** Borrower covenants and agrees Borrower shall obtain and maintain, or cause to be obtained and maintained, insurance for Borrower and the Property providing at least the following coverages:

(a) insurance with respect to the Improvements and the Personal Property insuring against any peril, except for windstorm and hail damage which may be excluded, now or hereafter included within the classification “Special Cause of Loss” or “Special Perils” (which shall not exclude fire, lightning, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles and smoke), in each case (i) in an amount equal to 100% of the “Full Replacement Cost,” which for purposes of this Agreement shall mean actual replacement value exclusive of costs of excavations, foundations, underground utilities and footings, with a waiver of depreciation; (ii) containing an agreed amount endorsement with respect to the Improvements and Personal Property waiving all co-insurance provisions; (iii) providing for no deductible in excess of \$25,000 “Full Replacement Cost”; (iv) at all times insuring against at least those hazards that are commonly insured against under a “special causes of loss” form of policy, as the same shall exist on the date hereof, and together with any increase in the scope of coverage provided under such form after the date hereof; and (v) providing coverage for contingent liability from Operation of Building Laws, Demolition Costs and Increased Cost of Construction Endorsements together with an “Ordinance or Law Coverage” or “Enforcement” endorsement. The Full Replacement Cost shall be redetermined from time to time (but not more frequently than once in any twenty-four (24) calendar month period) at the request of Lender by an appraiser or

contractor designated and paid by Borrower and approved by Lender, or by an engineer or appraiser in the regular employ of the insurer. After the first appraisal, additional appraisals may be based on construction cost indices customarily employed in the trade. No omission on the part of Lender to request any such ascertainment shall relieve Borrower of any of its obligations under this Subsection;

(b) commercial general liability insurance against all claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Property, including "Dram Shop" or other liquor liability coverage if alcoholic beverages are sold from or may be consumed at the Property, such insurance (i) to be on the so-called "occurrence" form with a general aggregate limit of not less than \$2,000,000 and a per occurrence limit of not less than \$1,000,000; and (ii) to cover at least the following hazards: (1) premises and operations; (2) products and completed operations on an "if any" basis; (3) independent contractors; (4) blanket contractual liability for all written and oral contracts; and (5) contractual liability covering the indemnities contained in Articles 12 and 13 hereof to the extent the same is available;

(c) loss of rents and/or business interruption insurance (i) with loss payable to Lender; (ii) covering all risks required to be covered by the insurance provided for in Subsections 3.1 above; (iii) in an amount equal to 100% of the projected gross income from the Property (on an actual loss sustained basis) for a period continuing until the Restoration of the Property is completed; the amount of such business interruption/loss of rents insurance shall be determined prior to the Closing Date and at least once each year thereafter based on the greatest of: (x) Borrower's reasonable estimate of the gross income from the Property and (y) the highest gross income received during the term of the Loan for any full calendar year prior to the date the amount of such insurance is being determined, in each case for the succeeding eighteen (18) month period and (iv) containing an extended period of indemnity endorsement which provides that after the physical loss to the Improvements and the Personal Property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of eighteen (18) months from the date that the Property is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period. All Net Proceeds payable to Lender pursuant to this Subsection (the "**Rent Loss Proceeds**") shall be held by Lender in an Eligible Account (which shall be deemed to be included within the definition of the "Accounts" hereunder) and shall be applied to the obligations secured hereunder from time to time due and payable hereunder and under the Note; provided, however, that (I) nothing herein contained shall be deemed to relieve Borrower of its obligations to pay the obligations secured hereunder on the respective dates of payment provided for in the Note except to the extent such amounts are actually paid out of the Rent Loss Proceeds and (II) in the event the Rent Loss Proceeds are paid in a lump sum in advance and Borrower is entitled to disbursement of such Rent Loss Proceeds in accordance with the terms hereof, Lender shall hold such Rent Loss Proceeds in a segregated interest-bearing Eligible Account and Lender shall estimate the number of months required for Borrower to restore the damage caused by the applicable Casualty, shall divide the applicable aggregate Rent Loss Proceeds by such number of months and shall disburse such monthly installment of Rent Loss Proceeds from such Eligible Account to Borrower

after Lender's deduction therefrom of the amount of Debt Service and deposits into the Reserve Funds then due and payable hereunder;

(d) at all times during which structural construction, repairs or alterations are being made with respect to the Improvements (i) owner's contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above mentioned commercial general liability insurance policy; and (ii) the insurance provided for in Subsection 3.1 above written in a so-called builder's risk completed value form (1) on a non-reporting basis, (2) against all risks insured against pursuant to Subsection 3.1 above including permission to occupy the Property, and (4) with an agreed amount endorsement waiving co-insurance provisions;

(e) workers' compensation, subject to the statutory limits of the state in which the Property is located, and employer's liability insurance with a limit of at least \$1,000,000 per accident and per disease per employee, and \$1,000,000 for disease aggregate in respect of any work or operations on or about the Property, or in connection with the Property or its operation (if applicable);

(f) comprehensive boiler and machinery insurance covering all mechanical and electrical equipment, if any, in such amounts as shall be reasonably be required by Lender, and, if pressure vessels and boilers are in operation, amounts of insurance must be on terms consistent with the commercial property insurance policy required under Subsection 7.1(a)(i) above or in such other amount as shall be reasonably required by Lender;

(g) motor vehicle liability coverage for all owned and non-owned vehicles, including rented and leased vehicles containing minimum limits per occurrence, including umbrella coverage, of One Million and No/100 Dollars (\$1,000,000);

**Section 3.2. Taxes and Other Charges.** Borrower shall pay all real estate and personal property taxes, assessments, water rates or sewer rents (collectively "**Taxes**"), ground rents, maintenance charges, impositions (other than Taxes), and any other charges, including, without limitation, vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Property (collectively, "**Other Charges**"), now or hereafter levied or assessed or imposed against the Property or any part thereof in accordance with this Security Agreement.

**Section 3.3. Leases.** Borrower shall not (and shall not permit any other applicable Person to) enter in any Leases for all or any portion of the Property unless in accordance with the provisions of this Security Agreement.

**Section 3.4. Warranty of Title.** Borrower has good, indefeasible, marketable and insurable title to the Property and has the right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the same. Borrower possesses an unencumbered fee simple absolute estate in the Land and the Improvements except for the Permitted Encumbrances, such other liens as are permitted pursuant to the Loan Documents and the liens created by the Loan Documents. This Security Instrument, when properly recorded in the appropriate records, together with any Uniform Commercial Code financing statements required to be filed in connection therewith, will create (a) a valid, perfected first priority lien on the Property, subject only to Permitted

Encumbrances and the liens created by the Loan Documents and (b) perfected security interests in and to, and perfected collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances, such other liens as are permitted pursuant to the Loan Documents and the liens created by the Loan Documents. Borrower shall forever warrant, defend and preserve the title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to Lender against the claims of all Persons whomsoever.

**Section 3.5. Payment for Labor and Materials.** (a) Subject to Section 3.5(b) below, Borrower will promptly pay (or cause to be paid) when due all bills and costs for labor, materials, and specifically fabricated materials incurred in connection with the Property (each, a “**Work Charge**”) and never permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof except for the Permitted Encumbrances. Borrower represents there are no claims for payment for work, labor or materials affecting the Property which are or may become a lien prior to, or of equal priority with, the liens created by the Loan Documents.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the validity of any Work Charge, the applicability of any Work Charge to Borrower or to the Property or any alleged non-payment of any Work Charge, provided that (i) no Event of Default has occurred and is continuing; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be conducted in accordance with all applicable Legal Requirements; (iii) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, cancelled or lost; (iv) Borrower shall promptly upon final determination thereof pay (or cause to be paid) any such Work Charge determined to be valid, applicable or unpaid; (v) such proceeding shall suspend the collection of such contested Work Charge from the Property or Borrower shall have paid the same (or shall have caused the same to be paid) under protest; and (vi) Borrower shall furnish (or cause to be furnished) such security as may be required in the proceeding, or as may be reasonably requested by Lender, to insure payment of such Work Charge, together with all interest and penalties payable in connection therewith. Lender may apply any such security or part thereof, as necessary to pay for such Work Charge at any time when, in the judgment of Lender, the validity, applicability or non-payment of such Work Charge is finally established or the Property (or any part thereof or interest therein) shall be in danger of being sold, forfeited, terminated, cancelled or lost.

#### ARTICLE 4 - FURTHER ASSURANCES

**Section 4.1. Compliance with Loan Agreement.** Borrower shall comply with all covenants set forth in the Note and Loan Agreement relating to acts or other further assurances to be made on the part of Borrower in order to protect and perfect the lien or security interest hereof upon, and in the interest of Lender in, the Property.

**Section 4.2. Authorization to File Financing Statements; Power of Attorney.** Borrower hereby authorizes Lender at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements as authorized by applicable law, as applicable to all or part of the Personal Property and as necessary or required in connection herewith. For purposes of such filings, Borrower agrees to furnish any information requested by Lender promptly upon request by Lender. Borrower also ratifies its authorization for Lender to have filed any like initial financing statements, amendments thereto or continuation statements, if filed prior to the date of this Security Instrument. Borrower hereby irrevocably constitutes and appoints Lender and any officer or agent of Lender, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of Borrower or in Borrower's own name to execute in Borrower's name any such documents and otherwise to carry out the purposes of this Section 4.2, to the extent that Borrower's authorization above is not sufficient and Borrower fails or refuses to promptly execute such documents. To the extent permitted by law, Borrower hereby ratifies all acts said attorneys-in-fact have lawfully done in the past or shall lawfully do or cause to be done in the future by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

#### **ARTICLE 5 - DUE ON SALE/ENCUMBRANCE**

**Section 5.1. No Sale/Encumbrance.** Without first paying in full the Note, together with all principal, accrued interest due thereon, Borrower shall not sell, convey, or transfer, or permit to be sold, conveyed or transferred any interest in the Property or any part. A contract to deed or agreement for deed, or an assignment, pledge, or encumbrance of a beneficial interest in any land trust, or a lease for all or substantially all of the land or improvements shall constitute a transfer prohibited by the provisions of this Section and shall be null and void. Further, there shall be no change in the ownership or control of Borrower unless the Lender, in its sole and absolute discretion, has given its prior written approval. Borrower shall not, without the prior written consent of Lender, create or permit to be created or to remain, any mortgage, pledge, construction lien or other lien not transferred to bond, conditional sale or other title retention agreement, encumbrance, claim, or charge on (whether prior or subordinate to the lien of this Mortgage) the Property or income therefrom, other than this Mortgage. Any transaction prohibited by this Section shall be null and void.

#### **ARTICLE 6 - PREPAYMENT**

**Section 6.1. Prepayment.** The Debt may be prepaid in whole or in part in accordance with the express terms and conditions of the Note.

#### **ARTICLE 7 - EVENTS OF DEFAULT**

**Section 7.1 Event of Default.** The occurrence of any one or more of the following events shall constitute an "Event of Default":

(a) if Borrower shall fail to (i) pay when due (A) any sums which by the express terms of this Agreement and the other Loan Documents require immediate or prompt payment without any grace period or (B) sums which are payable on the Maturity Date, or (ii) pay within five (5) days when due any other sums payable under the Note, this Agreement or any of the other Loan Documents;



(b) if any of the Taxes or Other Charges is not paid when the same is due and payable except to the extent sums sufficient to pay such Taxes and Other Charges have been deposited with Lender in accordance with the terms of this Agreement and Lender's access to such sums is not restricted or constrained in any manner;

(c) if the Policies are not kept in full force and effect or if evidence of the same is not delivered to Lender as provided in this Agreement;

(d) if Borrower violates Article 5 of this Mortgage;

(e) if Borrower shall be in default beyond applicable notice and grace periods under any other mortgage, deed of trust, deed to secure debt or other security agreement covering any part of the Property whether it be superior or junior in lien to the Security Instrument;

(f) if the Property becomes subject to any mechanic's, materialman's or other lien other than a lien for any Taxes not then due and payable and the lien shall remain undischarged of record (by payment, bonding or otherwise) for a period of thirty (30) days after Borrower's knowledge (including constructive knowledge) of such lien;

(g) if any federal tax lien is filed against Borrower, any Guarantor, or the Property and same is not discharged of record (by payment, bonding or otherwise) within thirty (30) days after Borrower's knowledge (including constructive knowledge) of the filing of such lien; and/or

(h) if there shall be default under any of the other Loan Documents beyond any applicable cure periods contained in such Loan Documents, whether as to Borrower or the Property, or if any other such event shall occur or condition shall exist, if the effect of such event or condition is to accelerate the maturity of any portion of the Debt or to permit Lender to accelerate the maturity of all or any portion of the Debt.

## ARTICLE 8 - RIGHTS AND REMEDIES UPON DEFAULT

**Section 8.1. Remedies.** Upon the occurrence and during the continuance of any Event of Default, Borrower agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

(a) declare the entire unpaid Debt to be immediately due and payable;

(b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;

(c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;

(d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;

(e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note or in the other Loan Documents;

(f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the other Loan Documents;

(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice to Borrower, which notice Borrower expressly waives, and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower, any guarantor or indemnitor under the Loan or any other Person liable for the payment of the Debt and whose appointment Borrower expressly consents to take possession of and to operate the Property and to collect the Rents and to otherwise protect and preserve the Property;

(h) the license granted to Borrower under Section 1.2 hereof shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower; (vi) require Borrower to

vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(i) apply any sums then deposited or held in escrow or otherwise by or on behalf of Lender in accordance with the terms of this Security Instrument or any other Loan Document to the payment of the following items in any order in its sole discretion: (i) Taxes and Other Charges; (ii) insurance premiums; (iii) interest on the unpaid principal balance of the Note; (iv) amortization of the unpaid principal balance of the Note; (v) all other sums payable pursuant to the Note, this Security Instrument and the other Loan Documents, including without limitation advances made by Lender pursuant to the terms of this Security Instrument;

(j) surrender the insurance policies maintained pursuant to the Loan Agreement, collect the unearned insurance premiums for such insurance policies and apply such sums as a credit on the Debt in such priority and proportion as Lender in its discretion shall deem proper, and in connection therewith, Borrower hereby appoints Lender as agent and attorney-in-fact (which is coupled with an interest and is therefore irrevocable) for Borrower to collect such insurance premiums;

(k) pursue such other remedies as Lender may have under Applicable Law.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority. Notwithstanding the provisions of this Section to the contrary, if any Event of Default shall occur, the entire unpaid Debt shall be automatically due and payable, without any further notice, demand or other action by Lender.

**Section 8.2.** Application of Proceeds. The purchase money, proceeds and avails of any disposition of the Property, and or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument or the other Loan Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

**Section 8.3.** Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, make any payment or do any act required of Borrower hereunder in such manner and to such extent as Lender

may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 8.3, shall constitute a portion of the Debt and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at any default rate specified in the Loan Agreement, if any (the "**Default Rate**"), for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Lender therefor.

**Section 8.4. Actions and Proceedings.** Lender has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Borrower, which Lender, in its discretion, decides should be brought to protect its interest in the Property.

**Section 8.5. Recovery of Sums Required To Be Paid.** Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Borrower existing at the time such earlier action was commenced.

**Section 8.6. Other Rights, etc.** (a) The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Borrower or any guarantor or indemnitor with respect to the Loan to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any Person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Security Instrument or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Borrower, and Lender shall have no liability whatsoever for decline in the value of the Property, for failure to maintain the insurance policies required to be maintained pursuant to the Loan Agreement, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief if any such possession is requested or obtained with respect to any Property or collateral not in Lender's possession.

(c) Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to

the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

**Section 8.7. Right to Release Any Portion of the Property.** Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

**Section 8.8. Right of Entry.** Upon reasonable notice to Borrower, Lender and its agents shall have the right to enter and inspect the Property at all reasonable times.

**Section 8.9. Bankruptcy.** (a) Upon the occurrence and during the continuance of an Event of Default, Lender shall have the right to proceed in its own name or in the name of Borrower in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Borrower, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such Lease under the Bankruptcy Code (defined below).

(b) If there shall be filed by or against Borrower a petition under the Bankruptcy Code and Borrower, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Borrower shall give Lender not less than ten (10) days' prior notice of the date on which Borrower shall apply to the bankruptcy court for authority to reject the Lease. Lender shall have the right, but not the obligation, to serve upon Borrower within such ten-day period a notice stating that (i) Lender demands that Borrower assume and assign the Lease to Lender pursuant to Section 365 of the Bankruptcy Code and (ii) Lender covenants to cure or provide adequate assurance of future performance under the Lease. If Lender serves upon Borrower the notice described in the preceding sentence, Borrower shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Lender of the covenant provided for in clause (ii) of the preceding sentence.

**Section 8.10. Subrogation.** If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and

security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of the Other Obligations.

## **ARTICLE 9 - ENVIRONMENTAL HAZARDS**

**Section 9.1. Environmental Covenants.** Borrower covenants and agrees that: (a) all uses and operations on or of the Property, whether by Borrower or any other Person, shall be in compliance with all Environmental Laws and permits issued pursuant thereto; (b) there shall be no Releases of Hazardous Substances in, on, under or from the Property; (c) there shall be no Hazardous Substances in, on, or under the Property, except those that are both (i) in compliance with all Environmental Laws and with permits issued pursuant thereto and (ii) fully disclosed to Lender in writing; (d) Borrower shall keep the Property free and clear of all liens and other encumbrances imposed pursuant to any Environmental Law, whether due to any act or omission of Borrower or any other Person (the “**Environmental Liens**”); (e) Borrower shall, at its sole cost and expense, fully and expeditiously cooperate in all activities pursuant to Paragraph 3 of this Agreement, including but not limited to providing all relevant information and making knowledgeable Persons available for interviews; (f) Borrower shall, at its sole cost and expense, comply with all reasonable written requests of Lender to (i) effectuate Remediation of any condition (including but not limited to a Release of a Hazardous Substance) in, on, under or from the Property; (ii) comply with any Environmental Law; (iii) comply with any directive from any governmental authority; and (iv) take any other reasonable action necessary or appropriate for protection of human health or the environment; (g) Borrower shall not do or allow any tenant or other user of the Property to do any act that materially increases the dangers to human health or the environment, poses an unreasonable risk of harm to any Person (whether on or off the Property), impairs or may impair the value of the Property, is contrary to any requirement of any insurer, constitutes a public or private nuisance, constitutes waste, or violates any covenant, condition, agreement or easement applicable to the Property; (h) Borrower shall immediately notify Lender in writing of (A) any presence or Releases or threatened Releases of Hazardous Substances in, on, under, from or migrating towards the Property; (B) any non-compliance with any Environmental Laws related in any way to the Property; (C) any actual or potential Environmental Lien; (D) any required or proposed Remediation of environmental conditions relating to the Property; and (E) any written or oral notice or other communication of which any Borrower becomes aware from any source whatsoever (including but not limited to a governmental entity) relating in any way to Hazardous Substances or Remediation thereof, possible liability of any Person pursuant to any Environmental Law, other environmental conditions in connection with the Property, or any actual or potential administrative or judicial proceedings in connection with anything referred to in this Agreement; and (i) Borrower shall comply with any and all local, state or federal laws, legislation, guidelines or statutes at any time in effect with respect to Microbial Matter.

## **ARTICLE 10 - WAIVERS**

**Section 10.1. Marshalling and Other Matters.** Borrower hereby waives, to the extent permitted by law, the benefit of all Legal Requirements now or hereafter in force regarding appraisalment, valuation, stay, extension, reinstatement and redemption and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale

under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each and every Person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all Persons to the extent permitted by Legal Requirements.

**Section 10.2. Waiver of Notice.** Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Security Instrument or the Note specifically and expressly provides for the giving of notice by Lender to Borrower and except with respect to matters for which Borrower is not permitted by Legal Requirements to waive its right to receive notice, and Borrower hereby expressly waives the right to receive any notice from Lender [or Trustee] with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Borrower.

**Section 10.3. Sole Discretion of Lender.** Whenever pursuant to this Security Instrument, Lender exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Lender, the decision of Lender to approve or disapprove or to decide whether arrangements or terms are satisfactory or not satisfactory shall (except as is otherwise specifically herein provided) be in the sole (but reasonable) discretion of Lender and shall be final and conclusive.

**Section 10.4. WAIVER OF TRIAL BY JURY. BORROWER AND LENDER EACH HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER AND LENDER, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH OF LENDER AND BORROWER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER AND LENDER.**

**Section 10.5. Waiver of Foreclosure Defense.** Borrower hereby waives any defense Borrower might assert or have by reason of Lender's failure to make any tenant or lessee of the Property a party defendant in any foreclosure proceeding or action instituted by Lender.

## **ARTICLE 11 - NOTICES**

**Section 11.1. Notices.** All notices or other written communications hereunder shall be delivered by personal delivery, express courier delivery or certified mail to the addresses set out in the introductory paragraph of this mortgage.

## ARTICLE 12 - APPLICABLE LAW

**Section 12.1. Governing Law.** This Security Instrument shall be governed, construed, applied and enforced in accordance with the laws of the state in which the Property is located and Applicable Laws of the United States of America.

**Section 12.2. Provisions Subject to Applicable Law.** All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Security Instrument or any application thereof shall be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

## ARTICLE 13 - DEFINITIONS

**Section 13.1. General Definitions.** Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "Borrower" shall mean "each Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Lender" shall mean "Lender and any of Lender's successors and assigns," the word "Note" shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument," the word "Property" shall include any portion of the Property and any interest therein, and the phrases "attorneys' fees", "legal fees" and "counsel fees" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

## ARTICLE 14 - MISCELLANEOUS PROVISIONS

**Section 14.1. No Oral Change.** This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

**Section 14.2. Successors and Assigns.** This Security Instrument shall be binding upon and inure to the benefit of Borrower, Lender and their respective successors and assigns forever.

**Section 14.3. Inapplicable Provisions.** If any term, covenant or condition of the Loan Agreement, the Note or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the Loan Agreement, the Note and this Security Instrument shall be construed without such provision.

**Section 14.4. Headings, etc.** The headings and captions of various Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.



**Section 14.5. Number and Gender.** Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

**Section 14.6. Entire Agreement.** This Security Instrument and the other Loan Documents contain the entire agreement of the parties hereto and thereto in respect of the transactions contemplated hereby and thereby, and all prior agreements among or between such parties, whether oral or written, are superseded by the terms of this Security Instrument and the other Loan Documents.

**Section 14.7. Limitation on Lender's Responsibility.** No provision of this Security Instrument shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Lender a "mortgagee in possession."

**Section 14.8.** Lender agrees to join in any request for permits, platting, easements, covenants, restrictions or dedications as may be requested by Borrower from time to time.

**IN WITNESS WHEREOF,** this Security Instrument has been executed by the undersigned as of the day and year first above written.

Properties at Salamanca, LLC, a Florida limited liability company

Margarita Paez  
Witness: MARGARITA PAEZ

Witness: Ryan M. Pedraza

[Signature]

By: Horacio S. Garcia, Sr.  
Title: Manager

Margarita Paez  
Witness: MARGARITA PAEZ

Witness: Ryan M. Pedraza


[Signature]

By: Horacio S. Garcia, Jr.  
Title: Manager

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of November, 2020, by means of physical presence, Horacio S. Garcia, Sr., as Manager of Properties at Salamanca, LLC, a Florida limited liability company. He  is personally known to me or  produced as identification.

*FL Driver's license*

  
\_\_\_\_\_  
NOTARY PUBLIC, State of Florida




**RYAN M. PEDRAZA**  
Commission # GG 946827  
Expires January 13, 2024  
Bonded Thru Budget Notary Services

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of November, 2020, by means of physical presence, Horacio S. Garcia, Jr., as Manager of Properties at Salamanca, LLC, a Florida limited liability company. He  is personally known to me or  produced as identification.

*his FL Driver's license.*

  
\_\_\_\_\_  
NOTARY PUBLIC, State of Florida



**RYAN M. PEDRAZA**  
Commission # GG 946827  
Expires January 13, 2024  
Bonded Thru Budget Notary Services

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**Lot 7 and the East ½ of Lot 6, Block 32, REVISED PLAT OF CORAL GABLES DOUGLAS SECTION, according to the plat thereof, as recorded in Plat Book 25 Page 69 of the Public Records of Miami-Dade County, Florida.**



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

## Detail by Entity Name

Florida Limited Liability Company  
ADRA INVESTMENTS LLC

### Filing Information

**Document Number** L11000102991  
**FEI/EIN Number** 45-3200024  
**Date Filed** 09/08/2011  
**State** FL  
**Status** ACTIVE

### Principal Address

700 Coral Way  
Apt. 8  
CORAL GABLES, FL 33134

Changed: 01/28/2024

### Mailing Address

PO BOX 145396  
CORAL GABLES, FL 33114

### Registered Agent Name & Address

PORTELA, CARMEN A  
700 Coral Way  
Apt. 8  
CORAL GABLES, FL 33134

Name Changed: 01/18/2012

Address Changed: 01/28/2024

### Authorized Person(s) Detail

#### **Name & Address**

Title OMGR

PORTELA, CARMEN A

700 Coral Way  
 Apt. 8  
 CORAL GABLES, FL 33134

Title VMGR

PORTELA, RAMON E  
 700 Coral Way  
 Apt. 8  
 CORAL GABLES, FL 33134

Title S

PORTELA, CARMEN A  
 700 Coral Way  
 Apt. 8  
 CORAL GABLES, FL 33134

Title T

PORTELA, RAMON E  
 700 Coral Way  
 Apt. 8  
 CORAL GABLES, FL 33134

**Annual Reports**

Report Year	Filed Date
2022	01/24/2022
2023	01/21/2023
2024	01/28/2024

**Document Images**

<a href="#">01/28/2024 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/21/2023 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/24/2022 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/19/2021 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/15/2020 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/23/2019 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">02/20/2018 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">02/28/2017 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">02/26/2016 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/07/2015 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/25/2014 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">02/20/2013 -- ANNUAL REPORT</a>	View image in PDF format

<a href="#">01/18/2012 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">09/08/2011 -- Florida Limited Liability</a>	<a href="#">View image in PDF format</a>

Florida Department of State, Division of Corporations

**MODIFICATION OF MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING**

THIS MODIFICATION OF MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (hereinafter referred to as "Modification of Mortgage") is dated this 10 day of AUGUST, 2023 (the "Amendment") by and between PROPERTIES AT SALAMANCA, LLC, a Florida limited liability company (the "Borrower"), and ADRA INVESTMENTS, LLC, a Florida limited liability company (the "Lender").

WHEREAS, the Borrower is the owner of the property located at 120 Salamanca Ave, Coral Gables, Florida 33134 (the "Property") and more fully described as follows:

Lot 7 and the East ½ of Lot 6, Block 32, REVISED PLAT OF CORAL GABLES DOUGLAS SECTION, according to the Plat thereof, as recorded in Plat Book 25, Page 69, of the Public Records of Miami-Dade County, Florida

WHEREAS, the Borrower delivered that certain Promissory Note dated November 30, 2020 (the "Note") to Lender as evidence of that certain indebtedness owed by Borrower to Lender in the amount of Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000.00) (the "Loan") and secured by that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated November 30, 2020 and recorded against the Property on December 16, 2020 at O.R. Book 32243, Page 2629 of the Public Records of Miami-Dade County, Florida (the "Mortgage").

WHEREAS, the Borrower intends to convert the Property into condominiums in accordance with Florida Statutes;

WHEREAS, the Note and Mortgage require the Lender's consent to authorize the Borrower to convert the Property into condominiums;

WHEREAS, such conversion to condominiums shall also require the joinder of the Lender in such conversion as an interested party due to its secured interest in the Property;

WHEREAS, the Lender has agreed to consent to such conversion of the Property by the Borrower subject to the terms and conditions set forth in this Amendment.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and to induce Lender to agree to the requested conversion to condominiums, it is agreed by and between Borrower and Lender as follows:

1. That the above recitations are true and correct and are incorporated herein as though set forth in detail.
2. Consent to Conversion. Lender hereby agrees and consents to the Borrower's conversion of the Property to condominiums and shall reasonably cooperate with the Borrower in furtherance of such effort to convert the Property to condominiums at the sole cost and

expense of the Borrower, including, but not limited to, executing any and all documents required by the governing bodies with jurisdiction over the Property as required to effectuate such conversion. Lender shall return any and all such documentation to Borrower within no less than thirty (30) days from receipt of such proposed documentation.

3. Partial Release of Mortgage. Section 5.1 of the Mortgage prohibits the sale or encumbrance of the Property by the Borrower without the Lender's prior written consent. Section 8.7 of the Mortgage authorizes the Lender to partially release portions of the Property in its discretion. This Modification of Mortgage seeks to memorialize the Lender's consent to the Borrower's conversion of the Property to condominiums in compliance with the foregoing terms and conditions of the Mortgage subject to the following conditions required by the Lender for such consent.
  - a. Borrower agrees to comply with all of the requirements of Florida Law with respect to the conversion of the property to Condominium.
  - b. The Mortgage shall continue to be a first lien on the property and shall continue to encumber the Property as converted and the Lender's secured interest in the Property shall continue over each condominium until released. The Borrower may offer each condominium for sale thereafter in accordance with Florida law subject to the partial release of the Mortgage over each condominium by the Lender.
  - c. The Borrower shall provide a copy of the contract for purchase and sale of the individual condominium units to Lender along with the final approved closing statement. Lender shall provide a payoff statement for each condominium to be partially released from the encumbrance of the Mortgage arising from and in connection with each sale. The payoff statement shall reflect the release price plus Lender's attorney's fee; wire fee and courier fee for delivery of the satisfaction of Mortgage. One hundred percent (100%) of any and all Net Sale Proceeds (hereinafter defined) after closing costs from the sale of each condominium to the Lender until the principal amount of the Loan is paid in full, the Note canceled and the Mortgage fully released and satisfied. The "Net Sale Proceeds" shall consist of the remaining proceeds from the sale of each condominium after closing costs such as transfer taxes payable to the governing bodies with jurisdiction over the Property, marketing and brokerage commissions payable to any and all brokers serving as the procuring cause of such sale, any payments reasonably required of the Borrower to be made to the condominium association, and actual, reasonable title fees and costs. The Lender shall deliver such payoff letter to Borrower no later than two (2) days from receipt of such request provided the payoff is consistent with Net Sales Proceeds as defined in this Amendment. The Lender shall provide to Borrower the partial release of the Mortgage for each condominium released in accordance with Florida law.
4. Borrower acknowledges and confirms that the Mortgage constitutes a valid and binding first lien encumbrance on the Property, and that Borrower is presently indebted to Lender under the Note in the principal amount outstanding thereunder as of the date hereof, together with accrued interest thereon from the date last paid, as of the date hereof, without any defenses, set-offs or counterclaims.



- 5. Except as modified herein, all of the terms, covenants and conditions of the Note and the Mortgage, and all other loan documentation, are hereby ratified, confirmed and approved in all respects.
- 6. This Amendment shall be binding upon and inure to the benefit of the Borrower, Lender, and their respective heirs, personal representatives, successors and assigns, and the terms and provisions hereof, as well as the representations and warranties contained herein, shall survive the execution and delivery hereof.

IN WITNESS WHEREOF, Borrower and Lender have caused these presents to be duly signed and delivered as of the date and year first above written.

**WITNESSES:**

**BORROWER:**

**PROPERTIES AT SALAMANCA, LLC,**  
a Florida limited liability company



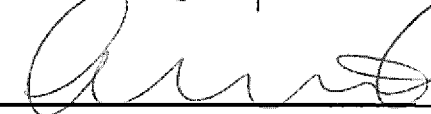
Print Name: Ana Garcia



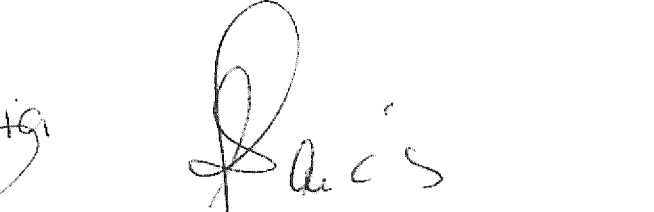
By: Horacio S. Garcia  
Its: Manager



Print Name: Dayleen Anchica



Print Name: Ana Garcia



By: Horacio S. Garcia, Jr.  
Its: Manager





Print Name: Dayleen Anchica


**WITNESSES:**

**LENDER:**

**ADRA INVESTMENTS, LLC,**  
a Florida limited liability company

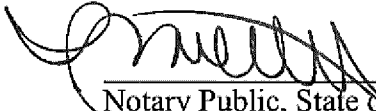
  
\_\_\_\_\_  
Print Name: SUSANA GERVINO

  
\_\_\_\_\_  
By: Ramon E. Portela  
Its: Manager

  
\_\_\_\_\_  
Print Name: Ivonne Montero

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 10 day of August 2023, by means of [ ] physical presence [ ] online notarization by Horacio S. Garcia as Manager of PROPERTIES AT SALAMANCA, LLC, a Florida limited liability company,  who is personally known to me, or, [ ] who has produced \_\_\_\_\_ as identification; who did not take an oath and who executed the foregoing instrument and he acknowledged before me that he executed the same.

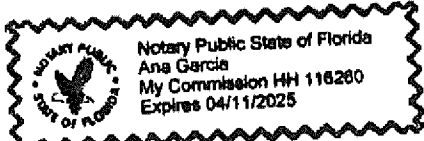
  
\_\_\_\_\_  
Notary Public, State of Florida

My Commission Expires: \_\_\_\_\_  
Print Name



STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 10 day of August 2023, by means of [] physical presence [ ] online notarization by Horacio S. Garcia, Jr., as Manager of PROPERTIES AT SALAMANCA, LLC, a Florida limited liability company, [ ] who is personally known to me, or, [] who has produced FLDL as identification; who did not take an oath and who executed the foregoing instrument and he acknowledged before me that he executed the same.



My Commission Expires:

[Signature]  
Notary Public, State of Florida

Ana Garcia  
Print Name

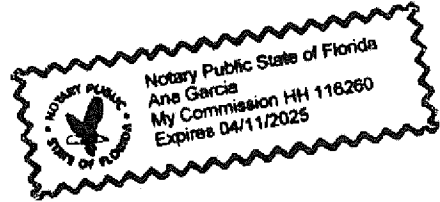
STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 10 day of August 2023, by means of [] physical presence [ ] online notarization by Ramon Portela as Manager of Adra Investments, LLC, a Florida limited liability company, [ ] who is personally known to me, or, [] who has produced FLDL as identification; who did not take an oath and who executed the foregoing instrument and he acknowledged before me that he executed the same.

My Commission Expires:

[Signature]  
Notary Public, State of Florida

Ana Garcia  
Print Name



Prepared By:  
Greeninger Law P.A.  
Susana R. Greeninger  
267 Minorca Ave #100  
Coral Gables, FL 33134

7Prepared by and Return to:  
Aileen S. Davis  
Akerman LLP  
401 E. Jackson Street, Suite 1700  
Tampa, FL 33602

## FLORIDA MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING

This FLORIDA MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING (including any exhibits and/or riders attached hereto, and any modifications and amendments hereof, the "Mortgage"), is made this 10<sup>th</sup> day of July, 2023 by **126 SALAMANCA AVE LLC**, a Florida limited liability company, whose address is 4301 NW 35<sup>th</sup> Avenue, Miami, Florida 33142 ("Mortgagor"), and is hereby granted and conveyed to **TRUIST BANK** ("Mortgagee"), a North Carolina banking corporation, whose mailing address is P.O. Box 1290, Whiteville, North Carolina 28472-1290.

Mortgagor is indebted to Mortgagee, as evidenced by a certain Promissory Note of even date executed in favor of Mortgagee in the principal sum of Two Million, Seven Hundred Fifty Thousand and No/100 Dollars (\$2,750,000.00), plus interest thereon at the rate specified therein (together with any renewals, extensions, modifications, restatements, amendments, consolidations, substitutions or refinancings thereof collectively, the "Note"). In addition to and in connection with the Note and this Mortgage, the parties have entered, and from time to time may enter certain other promissory notes, advance agreements, other evidences of indebtedness, loan agreements, credit agreements, security agreements, financing statements, guaranty agreements, applications and agreements for commercial or standby letters of credit, certificates, instruments and other documents executed in connection therewith or related thereto, whether executed contemporaneously with the Note or any time thereafter, and all renewals, extensions, modifications, restatements, amendments, substitutions, consolidations, and refinancings thereof and therefor (collectively with the Note and this Mortgage, the "Loan Documents").

For the purposes and under the conditions described in this Mortgage, and in consideration of the Indebtedness (as hereinafter defined) and mutual promises, Mortgagor does by these presents grant, bargain, sell, assign and convey unto Mortgagee, its successors and assigns, all of Mortgagor's right, title and interest in, to and under the real property, having an address of 126-134 Salamanca, Coral Gables, Florida 33134, and more particularly described on **Exhibit A**, attached hereto and incorporated herein by reference, situated in Miami-Dade County, Florida (the "Real Property"), together with (i) all buildings, structures, roads, walkways, parking areas, recreation facilities and other improvements now or hereafter located on the Real Property or on any part or parcel of the Real Property (the "Improvements"); (ii) all tenements, hereditaments, easements and appurtenances belonging to the Real Property or in any way appertaining to the Real Property, now or hereafter belonging to or to be used in connection with the Real Property or on any part or parcel of the Real Property; (iii) the Collateral (as hereinafter defined); (iv) all equipment, machinery, apparatus, fittings, fixtures, furniture, furnishings and personal property of every kind or description whatsoever now or hereafter located on the Real Property or on any part or parcel of the Real Property or in or on any of the Improvements, and used in connection with the operation or maintenance of the Real Property or any of the Improvements, including, without limitation, all plumbing, lighting, ventilating, refrigerating, water-heating, incinerating, air-conditioning and heating, and sprinkling equipment and systems, all screens, awnings and signs, and all accessions and additions to and replacements of the foregoing and all proceeds (direct and remote) of the foregoing; (v) all rights in now existing and hereafter arising easements, rights of way, rights of access, water rights and courses, sewer rights, air rights, development rights and

Obligor/Obligation #9701029561-00001

**Obligor/Obligation #9701029561-00001**

other rights relating to the Real Property or on any part or parcel of the Real Property or any of the Improvements; (vi) all as-extracted property of any type and form including without limitation all gas, oil and mineral rights of every nature and kind, all timber-to-be-cut and all other rights now or hereafter located on the Real Property or under the Real Property or on or under any part or parcel of the Real Property, and all of Mortgagor's rights to or arising directly or indirectly out of all as-extracted collateral; (vii) all of Mortgagor's rights as a declarant or developer under any declaration of condominium, homeowners' association declaration, bill of assurances, restrictive covenants, protective covenants, commercial property owner's association or similar organization or association or development documentation now or hereafter in effect with respect to the Real Property; (viii) all authorizations, licenses, permits, contracts, management agreements, franchise agreements, and occupancy and other certificates concerning the ownership, use and operation of the Real Property; (ix) all plans and specifications prepared for construction of the Improvements on the Real Property and all studies, data and drawings related thereto, together with all contracts and agreements of Mortgagor relating to the aforesaid plans and specifications or to the aforesaid studies, data and drawings, or to the construction of the Improvements on the Real Property; (x) all leases, undertakings to lease, contracts to rent, and other agreements for use, occupancy or possession now or hereafter in force with respect to the Real Property or any part or parcel of the Real Property or any of the Improvements, any and all guaranties of the foregoing, and any and all other leases, occupancy agreements, contracts, licenses, permits and arrangements now or hereafter affecting the Real Property or any part or parcel of the Real Property or any of the Improvements, whether written or oral and whether now or hereafter existing; (xi) all rents, issues, income, revenues and profits now or hereafter accruing from, and all accounts and contract rights now or hereafter arising in connection with, the Real Property or any part or parcel of the Real Property or any of the Improvements, including, without limitation, all rents, issues, income, revenues and profits accruing from, and all accounts and contract rights arising in connection with, the leases, together with all monies and proceeds now or hereafter due or payable with respect thereto or on account thereof, and all security deposits, damage deposits and other funds paid by any lessee, sublessee, tenant, subtenant, licensee, permittee or other obligee under any leases, subleases, licenses or permits, whether paid in a lump sum or installments; (xii) all building materials, supplies, goods, machinery and equipment delivered to the Real Property and placed on the Real Property for the purpose of being affixed to or installed or incorporated or otherwise used in or on the Real Property or any part or parcel of the Real Property or any of the Improvements, and all accessions and additions to and replacements of the foregoing and all proceeds (direct or remote) of the foregoing; (xiii) all payments, awards, judgments and settlements (including interest thereon) to which Mortgagor may be or become entitled as a result of the exercise of the right of eminent domain with respect to the Real Property or any part or parcel of the Real Property or any of the Improvements; (xiv) all policies of insurance whether currently in existence or hereafter coming into existence which insure against loss or damage to any property described above, including, without limitation, the Real Property and the Improvements and all proceeds from and payments under such policies; (xv) all franchises, names, tradenames, signs, marks and trademarks under which any business located on the Real Property is operated or known; and (xvi) all substitutions, accessions, additions and replacements to any of the foregoing and all products and proceeds of any of the foregoing, or with respect to the Real Property (collectively the "Property").

TO HAVE AND TO HOLD, all of such Property and all parts, rights, members and appurtenances thereof, unto and to the use and benefit of Mortgagee, its successors and assigns in fee simple forever.

This Mortgage secures payment and performance of the following indebtedness and obligations to Mortgagee (collectively the "Indebtedness"):

A. All principal, interest, and other amounts, costs, fees, charges, and expenses payable to Mortgagee under the Note or any Loan Document, and any obligations of Mortgagor or Borrower under interest rate swap transactions, interest rate cap and/or floor transactions, interest rate collar transactions, swap agreements or other similar transaction or agreement;

B. All future advances, future obligations and readvances made by Mortgagee to Mortgagor or Borrower, or any one or more of them, to the same extent as if such future advances were made on the date of the execution hereof, even if no advance is made at the time of such execution or if no amount is owed or outstanding at the time any such advance is made, including without limitation any advances to pay any draft or drawing on any commercial or standby letter of credit issued on the account of Mortgagor

**Obligor/Obligation #9701029561-00001**

or Borrower, whether or not the advances are related or unrelated to the purpose of the loan evidenced by the Note, are of the same class as the loan evidenced by Note, made pursuant to a commitment, are obligatory or made at the option of Mortgagee or otherwise, and whether such advances are made before or after default, maturity or other similar events;

C. All other obligations, debts and other liabilities, plus interest thereon, of Mortgagor or Borrower to Mortgagee, and any affiliate of Mortgagee, whether now or hereafter existing, direct or indirect, absolute or contingent, liquidated or unliquidated, related or unrelated to the purposes of the Note, voluntary or otherwise, determined or undetermined, due or not due, made individually or jointly, and whether incurred or given as maker, endorser, guarantor, surety, accommodation party or otherwise, and whether the same be evidenced by a note, open account, assignment, endorsement, guaranty, pledge or otherwise and all interest thereon, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable; and all obligations of Mortgagor or Borrower to Mortgagee or any affiliate of Mortgagee for any services, including but not limited to treasury or other cash management services, merchant services processing, payroll services, and business or commercial credit card; and

D. The payment and performance of all other obligations set forth in the Loan Documents, all sums expended or advanced by Mortgagee to protect, insure and preserve the Property, including without limitation all taxes, insurance premiums, environmental reports, appraisals, and all costs and expenses of collection of the Indebtedness and enforcement of this Mortgage and the Loan Documents, and all charges and expenses of assembly, collection, preservation and disposition of the Property and the Collateral.

[This Mortgage is given to secure that certain contingent liability under the Application and Agreement for Irrevocable Standby Letter of Credit. No promissory note was given to Mortgagee, the issuer of the Standby Letter of Credit, and therefor, neither Documentary Stamp Taxes nor Intangible Taxes are due hereunder.]

Mortgagor (and where more than one, each jointly and severally) covenants, agrees and consents to the following terms, covenants, and conditions:

1. **PAYMENT AND PERFORMANCE.** The Note and other Indebtedness shall be promptly paid at the time and in the manner therein provided. The lien of this Mortgage shall remain in full force and effect during any postponement or extension of the time of payment of or any other modification relating to the Indebtedness or any part thereof secured hereby. Notwithstanding the reduction to a zero (\$0) balance of the outstanding principal amount of the Note or any Indebtedness, the lien and interest under this Mortgage shall not be released or extinguished by operation of law or the implied intent of the parties, and this Mortgage and the Note shall remain in full force and effect as to any subsequent advances made after any such zero balance until all Indebtedness secured by this Mortgage is paid in full and satisfied, all agreements of Mortgagee to make additional advances have been terminated, and this Mortgage has been canceled of record. Mortgagor shall timely pay and perform any obligation, covenant or warranty contained not only in this Mortgage or the Loan Documents but also in any other mortgage, deed of trust or writing which gives rise to, or which may constitute a lien upon any of the Property, provided, however, that this covenant shall not be construed as Mortgagee's authorization or consent to the creation or existence of any other Mortgage, mortgage or any other writing constituting a lien on any of the Property. Upon request of Mortgagee, Mortgagor promptly shall furnish satisfactory evidence of such payment or performance.

2. **TITLE TO PROPERTY.** Mortgagor represents and covenants that Mortgagor is lawfully seized of the Property in fee simple absolute (or such other estate; if any, as is stated above), that Mortgagor has good, right, and lawful authority to sell, convey or encumber the same, and that the Property is free and clear of all liens and encumbrances whatsoever except as otherwise approved in writing by the Mortgagee or listed in the title opinion or title insurance policy obtained by Mortgagee in the transaction in which this Mortgage was granted. Mortgagor represents and warrants that the provisions of this Mortgage do not conflict with or result in a default under any agreement or other instrument binding on Mortgagor and do not result in any violation of law, regulation, court order or decree applicable to Mortgagor, and that Mortgagee has not made any representation to Mortgagor about the creditworthiness or financial condition

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of Borrower. Mortgagor further covenants to warrant and forever defend title to the Property, at Mortgagor's expense, from and against all persons whomsoever claiming the same or any part thereof. In the event any action or proceeding is commenced that questions Mortgagor's title or the interest of Mortgagee under this Mortgage, Mortgagor may be the nominal party in such proceeding, but Mortgagee shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Mortgagee's own choice at Mortgagor's expense, and Mortgagor shall promptly execute and deliver, or cause to be promptly executed and delivered, to Mortgagee such instruments as Mortgagee may request from time to time to permit such participation. The representations and covenants set forth above shall survive the payment of the Indebtedness and shall not be affected by Mortgagee's acquisition of any title to or interest in the Property.

**3. COMPLIANCE WITH APPLICABLE LAWS.** Mortgagor shall promptly comply with all laws, regulations and ordinances, now and hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property. Mortgagor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Mortgagor has notified Mortgagee in writing prior to doing so and so long as, in Mortgagee's sole opinion, Mortgagee's interests in the Property are not jeopardized. Mortgagee may require Mortgagor to post adequate security or a surety bond, reasonably satisfactory to Mortgagee, to protect Mortgagee's interest.

**4. DUTY TO PAY TAXES, PREMIUMS.** Mortgagor shall pay as they become due all insurance premiums, taxes, assessments, water rates, and other governmental or municipal charges, fines or imposition, assessed against the Property. Upon the request of Mortgagee, Mortgagor shall promptly furnish satisfactory evidence of such payment or performance. Mortgagor shall authorize the appropriate governmental officer to deliver to Mortgagee a written statement of taxes and assessments against the Property. If Mortgagor fails to make any payments provided for in this section, or any other payments for taxes, assessments or the like, Mortgagee may pay the same and all sums so paid shall bear interest at the same rate as from time to time in effect under the Note (from the date of such advance) and shall be secured by this Mortgage. Upon demand, Mortgagor shall immediately reimburse Mortgagee for any such funds so advanced. The failure, refusal or neglect of Mortgagor to pay any of the taxes assessed against the Property before any interest or penalty attaches thereto and to provide adequate security therefor or to keep the Property adequately insured as hereinafter provided, or to pay the premiums therefor shall constitute waste. Upon the happening of any act of waste and on proper application made therefor by Mortgagee to a court of competent jurisdiction, Mortgagee shall forthwith be entitled to the appointment of a receiver of the Property and any and all earnings, rents, income, issue and profits thereof, with such powers as the court making such appointment shall confer. Mortgagor hereby irrevocably consents to such appointment and waives notice of any application therefor. Upon demand of Mortgagee, Mortgagor shall deposit with Mortgagee or, at Mortgagee's option, add to each payment required under the Note the amount estimated by Mortgagee to be sufficient to enable Mortgagee to pay as they become due all taxes, charges, assessments, and insurance premiums which Mortgagor is required to pay. Further, any deficiency occasioned by an insufficiency of such additional payments shall be deposited by Mortgagor with Mortgagee upon demand.

**5. MECHANICS' AND OTHER LIENS.** Mortgagor shall pay, from time to time when the same shall become due, all claims and demands of any agents, brokers, mechanics, materialmen, laborers or others, and for work performed or materials furnished, or the like which if unpaid might result in, or permit the creation of, a lien on the Property or any part thereof, or on the revenues, rents, issues, income or profits arising therefrom. In general, Mortgagor shall do, or cause to be done, at the cost of Mortgagor and without expense to Mortgagee, everything necessary to fully preserve the first priority lien of this Mortgage. In the event Mortgagor fails to make payment of such claims and demands, Mortgagee may make payment thereof, and all sums so paid shall bear interest at the same rate as from time to time in effect under the Note (from the date of such advance) and shall be secured by this Mortgage. Mortgagor shall, on demand, reimburse Mortgagee for all sums so expended. Notwithstanding the foregoing, Mortgagor may bond or otherwise discharge any such claim or demand which is contested, in form and substance satisfactory to Mortgagee.

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**6. DUTY TO MAINTAIN.** Mortgagor shall keep the Property, and the Improvements of any kind now or hereafter erected, in as good order and condition on the date hereof, reasonable wear and tear excepted, and shall not commit or permit any waste thereof. Mortgagor shall promptly perform all repairs, replacements, and maintenance necessary to preserve the value of the Property. Mortgagor shall not demolish or remove any Improvements from the Real Property without Mortgagee's prior written consent. As a condition to the removal of any Improvements, Mortgagee may require that Mortgagor make arrangements satisfactory to Mortgagee to replace such Improvements with Improvements of at least equal value. Mortgagor shall not cause, conduct or permit any nuisance or allow the removal of any timber, minerals (including oil and gas), coal, soil, rock, or gravel products without Mortgagee's prior written consent. Mortgagor shall not initiate or acquiesce in a change in the zoning classification of the Real Property or the Improvements or make or permit any structural alteration thereof without Mortgagee's prior written consent.

**7. INSPECTIONS; APPRAISALS.** Mortgagee may, at the expense of Mortgagor, at any reasonable time and from time to time make or cause to be made reasonable entries upon, investigations, and inspections of the Property, including without limitation any inspections or investigations such as sampling and testing which may be necessary or desirable to review compliance with Environmental Laws, as hereinafter defined. Should (a) Mortgagee at any time in good faith believe that the fair market value of the Property has declined below the appraised value utilized by Mortgagee in extending credit or any renewal thereof; (b) there be an Event of Default under the Note, any Loan Documents or this Mortgage; (c) there be a forbearance or restructure of any indebtedness secured under this Mortgage; (d) any applicable law or regulation require Mortgagee to obtain a current appraisal or valuation; (e) there be any condemnation or material damage to the Property; (f) Mortgagee determines in its sole discretion that there has been a material adverse change in the financial condition, business operations or business prospects of Mortgagor, Borrower, any guarantor, or other obligor; (g) Borrower or Mortgagor request additional extensions of credit secured by this Mortgage; or (h) Mortgagor's use of the Property becomes restricted, impaired or materially changed from its intended use on the date hereof; Mortgagee may, without notice to or consent from Mortgagor and at the expense of Mortgagor, obtain an appraisal or valuation of the Property from an appraiser retained by Mortgagee and thereafter, may obtain such updated appraisals or valuation as Mortgagee shall deem appropriate. Mortgagor shall cooperate fully with any such appraiser in connection with the preparation of any appraisal or valuation. Upon demand, Mortgagor shall reimburse Mortgagee for any costs incurred pursuant to this section. All costs so paid shall bear interest at the same rate as from time to time in effect under the Note (from the date of such advance), and shall be secured by this Mortgage.

**8. PROPERTY INSURANCE.**

**8.1 Maintenance of Insurance.** Mortgagor shall procure and maintain, and cause each tenant and subtenant of the Property to procure and maintain, policies of fire insurance with standard extended coverage endorsements on a fair value basis for the full insurable value covering all Improvements on the Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard Mortgagee clause in favor of Mortgagee. Mortgagor shall also procure and maintain, and cause each tenant and subtenant of the Property to procure and maintain, comprehensive general liability insurance in such coverage amounts as Mortgagee may request, with Mortgagee being named as additional insured in such liability insurance policies. Additionally, Mortgagor shall maintain such other insurance, including but not limited to hazard, business interruption, and boiler insurance, as Mortgagee may reasonably require. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to Mortgagee and issued by a company or companies reasonably acceptable to Mortgagee. In all cases and at all times, such insurance policies shall be compliant with applicable law. All policies shall provide that the policies shall not be invalidated by any waiver of the right of subrogation by any insured and shall provide that the carrier shall have no right to be subrogated to Mortgagee. Mortgagor, upon request of Mortgagee, shall deliver to Mortgagee from time to time the policies or certificates of insurance in form satisfactory to Mortgagee, including stipulations that coverages shall not be cancelled or diminished without at least thirty (30) days prior written notice to Mortgagee. Each insurance policy also shall include an endorsement providing that coverage in favor of Mortgagee shall not be impaired in any way by any act, omission or default of Mortgagor or any other person. If the Property is located in an area now or in the future designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area,



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Mortgagor shall obtain and maintain Federal Flood Insurance, if available, or private flood insurance acceptable to Mortgagee in its sole discretion for the full unpaid principal balance of the Indebtedness and any prior liens on the Property securing the Indebtedness, or as otherwise required by Mortgagee. Mortgagor may furnish the required insurance whether through existing policies owned or controlled by Mortgagor or through equivalent insurance from any insurance company authorized to transact business in the State of Florida. If Mortgagor fails to provide any required insurance or fails to keep such insurance in force, Mortgagee may procure such insurance at Mortgagor's expense, and all sums so paid shall bear interest at the same rate as from time to time in effect under the Note (from the date of such advance) and shall be secured by this Mortgage.

**8.2 Authority to settle claims.** Mortgagor shall promptly notify Mortgagee of any loss or damage to the Property. Mortgagee may make proof of loss if Mortgagor fails to do so within fifteen (15) days of the casualty. Mortgagee is hereby authorized and empowered to, and its option may, adjust or compromise any loss under any insurance policies and to collect and receive the proceeds from any policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Mortgagee, instead of to Mortgagor and Mortgagee jointly. In the event any insurance company fails to disburse directly and solely to Mortgagee but disburses instead either solely to Mortgagor or to Mortgagor and Mortgagee jointly, Mortgagor agrees immediately to endorse and transfer such proceeds to Mortgagee. Upon the failure of Mortgagor to endorse and transfer such proceeds as aforesaid, Mortgagee may execute such endorsements or transfer for and in the name of Mortgagor and Mortgagee hereby irrevocably appoints Mortgagee as Mortgagor's agent and attorney-in-fact so to do, which shall constitute a power coupled with an interest by virtue of this Mortgage. Mortgagee shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure. Any proceeds which have not been disbursed within 180 days after their receipt and for which Mortgagee has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Mortgagee under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Mortgagee holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Mortgagor as Mortgagor's interests may appear.

**8.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property at any sale held under the provisions of this Mortgage, or at any foreclosure sale of such Property.

**8.4 Mortgagor's Report on Insurance.** Upon request of Mortgagee, Mortgagor shall furnish to Mortgagee a report on each existing policy of insurance showing: (a) the name of the insurer; (b) the risks insured; (c) the amount of the policy and any applicable deductibles and co-insurance amounts; (d) the Property insured, (e) the then current replacement value of such Property, and the manner of determining that value; and (f) the expiration date of the policy. Mortgagor shall, upon request of Mortgagee, have an independent appraiser satisfactory to Mortgagee determine the cash value replacement cost of the Property.

**9. ASSIGNMENT OF LEASES, RENTS AND PROFITS.** Mortgagor hereby presently, absolutely, and unconditionally assigns to Mortgagee all of the leases, rents, issues and profits of the Property and the absolute, unconditional, and continuing right to receive and collect all of the leases, rents, issues and profits of the Property, it being intended that this assignment constitutes a present, outright, continuing and absolute assignment and not an assignment for additional security only. Mortgagee may elect to collect any and all rents, issues and profits at any time whether or not any Event of Default or default has occurred or is continuing under this Mortgage or any Loan Document. Mortgagor hereby irrevocably appoints Mortgagee as Mortgagor's attorney-in-fact to collect any leases, rents, issues and profits, and endorse checks therefor, with or without suit, and to apply the same, less expenses of collection, to any Indebtedness secured by this Mortgage, in any manner as Mortgagee may determine. Such appointment shall be a power coupled with an interest and shall remain in full force and effect as long as any portion of the Indebtedness remains outstanding. Notwithstanding the foregoing, Mortgagee hereby grants to Mortgagor a revocable license to collect and receive all leases, rents, issues and profits of the Property until the occurrence and during the continuance of an Event of Default at which time such license shall

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automatically cease and terminate and shall be void and of no further effect. Upon the occurrence and during the continuance of an Event of Default, any portion of the leases, rents, issues and profits received and held by Mortgagor shall be held in trust for the benefit of Mortgagee for use in the payment of the Indebtedness. Mortgagee's election to pursue the collection of the leases, rents, issues or profits shall be in addition to all other remedies which Mortgagee might have and may be put into effect independently of or concurrently with any other remedy. The assignment of rents contained in this Section 9 is intended to, and does, constitute an assignment of rents as contemplated in Florida Statutes, § 697.07. If an Event of Default then exists, Mortgagee shall be entitled to the remedies provided in said Section 697.07, in addition to all rights and remedies, whether procedural or substantive, in effect at the time of execution or enforcement of this Mortgage. Nothing contained in this section shall diminish, alter, impair, or affect any other rights and remedies of Mortgagee, including but not limited to, appointment of a receiver, nor shall any provision herein, diminish, alter, impair or affect any rights or powers of the receiver in law or equity or as set forth elsewhere in this Mortgage. In addition, this assignment of rents shall be fully operative without regard to value of the Property or without regard to the adequacy of the Property to serve as security for the obligations owed by Mortgagor or Borrower to Mortgagee, and shall be in addition to any rights arising under Florida Statutes, § 697.07.

**10. PAYMENT OF OTHER OBLIGATIONS.** Mortgagor shall pay as it becomes due all principal and interest on all notes, obligations, contracts or agreements, secured by any mortgage, lien or security interest having priority over this Mortgage as to the Property. If Mortgagor fails to make any such payments when due, Mortgagee may pay the same and add any amounts so paid to the principal of the Note. Any and all sums so paid shall bear interest at the rate from time to time in effect under the Note from the date of such advance and shall be secured by this Mortgage.

**11. SECURITY AGREEMENT; FIXTURE FILING.** All fixtures, appliances and equipment which comprise a part of the Property shall, as far as permitted by law, be deemed to be affixed to the Real Property and conveyed therewith. This Mortgage shall be an authenticated security agreement which creates a security interest in all furniture, fixtures, appliances, machinery, equipment and all personal property and any replacements and proceeds and substitutions thereof, owned by Mortgagor and now located thereon, attached to, or hereafter acquired or located thereon or attached thereto, and all lighting, heating, cooking, ventilating, air conditioning, incinerating, sprinkling and plumbing systems, and all cooking appliances, cabinets, windows, doors and all wall to wall carpeting located thereon; all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Property or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Property or the Improvements thereon or any part thereof, or to any rights appurtenant thereto, including any award for change of grade or streets; and all inventory, contract rights, cash, proceeds, profits, income, rent, accounts receivable, lease agreements, lease payments, insurance proceeds, deposit and other accounts, logos, trademarks, and all trade name agreements, and all replacements and proceeds relating thereto now owned or hereafter acquired by Mortgagor, in connection with the Property (the "Collateral"). This Mortgage is intended to be a financing statement within the purview of § 679.5021, Florida Statutes and shall be recorded as a "fixture filing" in accordance with the Uniform Commercial Code of the State of Florida, Chapter 679 Florida Statutes, as the same may be amended from time to time (the "UCC"). In that regard Mortgagor grants a security interest in such Collateral and Mortgagee shall have all rights and remedies of a secured party under the UCC, as the same may be amended from time to time, or other applicable statutes. Without limiting those rights and remedies, Mortgagee may, at its option, either (a) enforce its security interest in such Collateral under the UCC or other applicable law or (b) include such Collateral in any judicial or non-judicial foreclosure of this Mortgage. For purposes of this section, the mailing addresses of Mortgagor (debtor) and Mortgagee (secured party) from which information concerning the security interest granted by the Mortgage may be obtained (each as required by the UCC) are as stated on the first page of this Mortgage. Mortgagor hereby authorizes Mortgagee to file, at Mortgagor's expense, any UCC financing statements describing any and all assets and personal property in which Mortgagee has been granted a security interest. Upon request by Mortgagee, Mortgagor shall take whatever action is requested by Mortgagee to perfect and continue the security interest in such Collateral. Mortgagor hereby irrevocably (as long as the Indebtedness secured hereby remains unpaid) makes, constitutes and appoints Mortgagee as the true and lawful attorney-in-fact of Mortgagor to sign the name of Mortgagor on any similar document or amendment thereto deemed

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necessary to perfect or continue such security interests, which shall constitute a power coupled with an interest by virtue of this Mortgage. However, this Mortgage shall be a financing statement filed as a fixture filing and sufficient to perfect and maintain any security interest created hereby in the Collateral and the Property and its proceeds. Upon the occurrence of an Event of Default, Mortgagor shall not remove, sever, or detach any of the aforementioned Collateral from the Property. Upon the occurrence of an Event of Default, Mortgagee, in addition to any and all remedies it may have or exercise under this Mortgage, the Note, any Loan Document, or under applicable law, may immediately and without demand exercise any and all of the rights of a secured party upon default under the UCC, all of which shall be cumulative.

Notwithstanding any other provision in this Mortgage, should flood insurance be required for the Real Property pursuant to any existing or future federal statute, regulation, policy or guideline related to flood insurance (collectively, the "Flood Laws"), and the personal property located thereon (i) would be required to be insured under the Floods Laws by virtue of the security interest granted under this Mortgage, and (ii) such Personal Property is not covered by flood insurance to the extent required by the Flood Laws, then Mortgagee disclaims any security interest created hereunder in such personal property. The foregoing shall not relieve Mortgagor of its obligation to obtain flood insurance for such personal property should Mortgagee so require.

**12. CONDEMNATION AWARD.** Mortgagor shall immediately notify Mortgagee in writing should all or any part of the Property become subject to any condemnation or expropriation proceedings or other similar proceedings, including without limitation, any condemnation, confiscation, eminent domain, inverse condemnation or temporary requisition or taking. Mortgagor further agrees to take promptly such steps as Mortgagee in its sole judgment deems necessary and proper and at Mortgagor's expense, to defend any such condemnation or expropriation proceedings and obtain the proceeds derived from such proceedings and remit to Mortgagee as provided herein. Mortgagor shall not agree to any settlement or compromise of any condemnation or expropriation claim without Mortgagee's prior written consent. Mortgagee may, at Mortgagee's sole option, elect to participate in any such condemnation or expropriation proceedings and be represented by counsel of Mortgagee's choice. Mortgagor agrees to provide Mortgagee with such documentation as Mortgagee may request to permit Mortgagee to so participate and to reimburse Mortgagee for Mortgagee's costs associated with Mortgagee's participation, including Mortgagee's reasonable attorneys' fees. If Mortgagor fails to defend any such condemnation or expropriation proceedings to Mortgagee's satisfaction, Mortgagee may undertake the defense of such a proceeding for and on behalf of Mortgagor. To this end, Mortgagor irrevocably appoints Mortgagee as Mortgagor's agent and attorney-in-fact, such power shall be a power being coupled with an interest, to bring, defend, adjudicate, settle, or otherwise compromise such condemnation or expropriation claims. Unless an Event of Default then exists, Mortgagee shall not agree to any final settlement or compromise of any such condemnation or expropriation claim without Mortgagor's prior approval, which approval shall not be unreasonably withheld.

Mortgagee shall have the right to receive all proceeds derived or to be derived from the condemnation, expropriation, confiscation, eminent domain, inverse condemnation, or any permanent or temporary requisition or taking of the Property, or any part thereof ("Condemnation Proceeds"). In the event that Mortgagor should receive any such Condemnation Proceeds, Mortgagor agrees to immediately turn over and to pay such proceeds to Mortgagee. All Condemnation Proceeds, which are received by and payable to either Mortgagor or Mortgagee shall be applied, at Mortgagee's sole option and discretion, and in such manner as Mortgagee may determine (after payment of all reasonable costs, expenses and attorneys' fees necessarily paid or incurred by Mortgagor and/or Mortgagee), for the purpose of: (a) replacing or restoring the condemned, expropriated, confiscated, or taken Property; or (b) reducing the outstanding balance of the Indebtedness. Mortgagee's receipt of such Condemnation Proceeds and the application of such proceeds as provided in this Mortgage shall not affect the lien of this Mortgage.

**13. ENVIRONMENTAL WARRANTIES, INDEMNITIES AND AGREEMENTS.** Mortgagor represents, warrants and agrees that: (a) neither Mortgagor nor any other person has generated, manufactured, stored, treated, processed, released, discharged or disposed of any Hazardous Substances (hereinafter defined) on, in, around and under the Property or received any notice from any Governmental Authority (hereinafter defined) or other person regarding a release of Hazardous Substances on, from or otherwise affecting the

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Property; (b) neither Mortgagor nor any other person has violated any applicable Environmental Laws (hereinafter defined) relating to or affecting the Property; (c) the Property is presently being operated in compliance with all applicable Environmental Laws; (d) there are no circumstances presently existing upon or under the Property, or relating to the Property which may violate any applicable Environmental Laws; (e) there is not now pending or threatened any action, suit, investigation or proceeding against Mortgagor or any other party relating to the Property seeking to enforce any right or remedy under any of the Environmental Laws; (f) except in strict compliance with Environmental Laws, the Property shall be kept free of Hazardous Substances and shall not be used to generate, manufacture, transport, treat, store, handle, dispose, process or release any Hazardous Substances; (g) Mortgagor shall at all times comply with and ensure compliance by all other parties with all applicable Environmental Laws and shall keep the Property free and clear of any liens imposed pursuant to any applicable Environmental Laws; (h) Mortgagor has obtained and shall at all times continue to obtain and/or maintain all licenses, permits and other directives from any Governmental Authority necessary to comply with Environmental Laws; (i) Mortgagor is in full compliance with the terms and provisions of the Environmental Requirements (hereinafter defined) and shall continue to comply with the terms and provisions of the Environmental Requirements; and (j) Mortgagor shall immediately give Mortgagee oral and written notice in the event that Mortgagor receives any notice from any Governmental Authority or any other party with regard to any release, generation, manufacture, storage, treatment, processing, release, discharge or disposal of Hazardous Substances on, from or affecting the Property and Mortgagor shall conduct and complete, at Mortgagor's expense, all investigations, sampling, and testing, and all remedial, removal, and other actions necessary or required to clean up and remove all Hazardous Substances on, from or affecting the Property in accordance with all applicable Environmental Laws.

In the event that any of Mortgagor's representations or warranties shall prove to be materially false or Mortgagor fails to satisfy any Environmental Requirement, Mortgagee, in its sole discretion, may (i) choose to assume compliance with governmental directives and Mortgagor agrees to reimburse Mortgagee for all costs, expenses (including all reasonable attorneys' fees), fines, penalties, judgments, suits, or liabilities whatsoever associated with such compliance; or (ii) seek all legal and equitable remedies available to Mortgagee including, but not limited to, injunctive relief compelling Mortgagor to comply with all Environmental Requirements relating to the Property. Mortgagee's rights in this section shall be in addition to all rights granted under the Note or Loan Documents and payments by Mortgagor under this provision shall not reduce Mortgagor's obligations and liabilities thereunder. In the event Mortgagee undertakes compliance with any Environmental Requirements which Mortgagor failed to perform or which Mortgagee determines are necessary to sell all or any part of the Property, Mortgagor authorizes Mortgagee and/or Mortgagee's agents to prepare and execute on Mortgagor's behalf, any manifest or other documentation relating to the removal and/or disposal of any Hazardous Substances, from, at, or on the Property. Mortgagor acknowledges that Mortgagee does not own, or have a security interest in, any Hazardous Substances which exist on, originate from or affect the Property. All amounts expended by Mortgagee in connection with the exercise of its rights under this section (including reasonable attorneys' fees and the fees of any environmental consultants) shall become part of the Indebtedness secured by this Mortgage.

For purposes of this Mortgage: "Environmental Laws" means (a) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §9601 *et seq.*; (b) the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §6901 *et seq.*; (c) the Clean Air Act, 42 U.S.C. §7401 *et seq.*; (d) the Clean Water Act of 1977, 33 U.S.C. §1251 *et seq.*; (e) the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.*; (f) the Safe Drinking Water Act, 42 U.S.C. §300f *et seq.*; (g) the Refuse Act, 33 U.S.C. §407; (h) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499; (i) the Hazardous Materials Transportation Act, 49 U.S.C. §5101 *et seq.*; (j) the regulations promulgated pursuant to any of the aforesaid laws; and (k) all other federal, state or local laws, ordinances, orders, rules or regulations, now or hereafter existing, that directly and/or indirectly relate to the protection of human health, the environment, air pollution, water pollution, noise control and/or the presence, storage, escape, seepage, leakage, emission, release, use, spillage, generation, transportation, handling, discharge, disposal or recovery of on-site or off-site hazardous or toxic substances, wastes or materials and/or underground storage tanks. "Environmental Requirement" means any Environmental Law, together with any administrative orders, directives, judgments, consent orders, permits, licenses,

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authorizations, consents, settlements, agreements or other formal or informal directions or guidance issued by or entered into with any Governmental Authority or private party, which obligate or commit Mortgagor to investigate, remediate, treat, monitor, dispose of or remove Hazardous Substances. "Governmental Authority" means any federal, state or local agency, department, court or other administrative, legislative or regulatory governmental body, or any private individual or entity acting in place of such entities. "Hazardous Substances" means one or more of the following substances: (a) those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances" or "solid waste" in any one or more of the Environmental Laws; (b) those substances listed in the United States Department of Transportation's Hazardous Materials Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto); (c) such other substances, materials and wastes which are or become regulated under applicable local, state or federal law, or the United States government, or which are classified as hazardous or toxic under federal, state or local laws, orders, ordinances, rules or regulations; and (d) any material, waste or substances which are or contain asbestos, polychlorinated biphenyls, explosives, radioactive materials, gasoline, petroleum, petroleum products, lead paint, or related or similar materials or substances.

Mortgagor hereby agrees to indemnify Mortgagee and hold Mortgagee harmless from and against any and all losses, liabilities, damages, injuries (including, without limitation, reasonable attorneys' fees) and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Mortgagee for, with respect to, or as a direct or indirect result of (i) the presence on, or under the Property, or from the escape, spillage, emission or release on or removal from the Property of any Hazardous Substance regardless of whether or not caused by or within the control of Mortgagor, (ii) the violation of any Environmental Laws or Environmental Requirements relating to or affecting the Property, whether or not caused by or within the control of Mortgagor, (iii) the failure by Mortgagor to comply fully with the terms and provisions of this section, or (iv) any warranty or representation made by Mortgagor in this section being false or untrue in any material respect. The obligations and liabilities of Mortgagor under this section shall survive the foreclosure of this Mortgage, the delivery of a deed in lieu of foreclosure, Mortgagee's acquisition of any interest in the Property, the cancellation or payment of any Indebtedness; or the sale or alienation of all or any part of the Property.

**14. RELEASES.** Mortgagee may grant releases at any time and from time to time of all or any portion of the Property (whether or not such releases are required by agreement among the parties) agreeable to Mortgagee without notice to or the consent, approval or agreement of other parties and interests, including, without limitation, junior lienors and purchasers subject to the lien of this Mortgage or any of the Loan Documents, and such releases shall not impair in any manner the validity of or priority of this Mortgage on that portion of the Property remaining subject to this Mortgage, nor release Mortgagor from any personal liability for the Indebtedness. In addition, Mortgagee may, without notice to or the consent of Mortgagor, release any obligor of the Indebtedness or any other Collateral securing the Indebtedness and such release shall not impair in any manner the validity of or priority of this Mortgage, nor release Mortgagor or Borrower from personal liability for the Indebtedness.

**15. INDEMNIFICATION IN EVENT OF ADVERSE CLAIMS.** In the event that Mortgagee becomes a party, whether voluntarily or otherwise, to any action, suit or legal proceeding arising out of or related to: (a) the taking of the Property as security for the Indebtedness, (b) the ownership, use, operation or maintenance of the Property or (c) any other matter involving the Property, Mortgagor shall indemnify and hold harmless Mortgagee and reimburse Mortgagee for any amounts paid, including all costs, charges and attorneys' fees incurred in connection with any such action, suit or proceeding, and the same shall be secured by this Mortgage and payable upon demand.

**16. EVENTS OF DEFAULT.** Mortgagor shall be in default under this Mortgage upon the occurrence of any of the following ("Event of Default"):

(a) The failure of Borrower or Mortgagor to pay, whether by acceleration or otherwise, any of the Indebtedness on the date due or to perform any covenant, warranty or obligation in the Note, this Mortgage, or any Loan Document.

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- (b) A default or event of default occurs under any Loan Document, or in any instrument or contract between Mortgagor and Mortgagee, or in any instrument, agreement or contract between any third party and Mortgagor made for the benefit of Mortgagee.
- (c) Any warranty, representation, report or statement made or furnished to Mortgagee by or on behalf of Mortgagor in connection with the Indebtedness is incorrect, incomplete, false or misleading.
- (d) The occurrence of any material loss, theft, damage or destruction to the Property which is not covered by insurance.
- (e) (i) The application for, consent to, or appointment of a custodian, receiver, trustee, liquidator or other similar official for or to take possession of any or all of the assets of any Mortgagor; (ii) any Mortgagor shall voluntarily commence, consent to, fail to timely contest, or file (A) any proceeding or petition seeking liquidation, reorganization or other relief under any federal, state or foreign bankruptcy, insolvency or other similar law now or hereafter in effect, or (B) any proceeding to dissolve any Mortgagor; (iii) any Borrower or any Mortgagor makes an assignment for the benefit of creditors.
- (f) An involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of any Mortgagor or its debts, or any substantial part of its assets, under any federal, state or foreign bankruptcy, insolvency or other similar law now or hereafter in effect or (ii) the appointment of a custodian, trustee, receiver, liquidator or other similar official for any Mortgagor or for a substantial part of such its assets, and in any such case, such proceeding or petition shall remain undismissed for a period of sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered.
- (g) The death or permanent disability of Mortgagor or the dissolution, termination of existence, merger, Change In Control (as hereinafter defined), insolvency, or business failure of Mortgagor, as applicable.
- (h) The assignment, sale, transfer or distribution by Mortgagor of any of its assets other than in the ordinary course of business.
- (i) The entry of any judgment, award or order which is not covered by insurance, or remains unstayed, unsatisfied or unbonded for thirty (30) days following the issuance of such judgment, award or order, or upon the issuance or service of any of any writ of garnishment against Mortgagor or its property, or the repossession or seizure of property of Mortgagor.
- (j) The filing of any tax, mechanic's or materialman's lien against the Property, or attachment is levied against the Property.
- (k) Mortgagee determines that its liens and security interests in the Property are invalid, unperfected, unenforceable, or fail to have the priority required by Mortgagee; or the Property declines in fair market or appraised value below the amount required at the execution hereof.
- (l) Mortgagor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect Mortgagor's ability to perform its obligations under this Mortgage or any Loan Document.
- (m) Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented, that limits or defines the uses which may be made of the Property such that the present or intended or current use of the Property would be in violation of such zoning ordinance or regulation or public restriction, as changed.
- (n) Commencement of a foreclosure or forfeiture proceeding, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Mortgagor or by any governmental agency

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against any of the Property, including any garnishment of any of Mortgagor's accounts, including deposit accounts, with Mortgagee.

(o) Mortgagee in good faith determines that there has been a material adverse change in the financial condition, business operations or business prospects of Mortgagor.

**17. RIGHTS AND REMEDIES.**

(a) Acceleration. Upon the occurrence of any Event of Default, Mortgagee may, at Mortgagee's option, declare all of the sums secured by this Mortgage to be immediately due and payable in full, including any prepayment penalty that would become due, without further demand. Upon the occurrence of an event of default under Paragraph 16(e) or 16(f) above, the entire outstanding principal balance, together with all interest thereon and any other amounts due under the Indebtedness, shall automatically become due and payable without presentment, demand, protest, or notice of any kind except notice required by law.

(b) Mortgagee's Right to Enter and Take Possession, Operate and Apply Revenues. If an Event of Default shall have occurred, Mortgagor, upon demand of Mortgagee, shall forthwith surrender to Mortgagee the actual possession of the Property, and if, and to the extent, permitted by law, Mortgagee itself, or by such officers or agents as it may appoint, may enter and take possession of all the Property without the appointment of a receiver, or an application therefor, and may exclude Mortgagor and its agents and employees wholly therefrom, and may have joint access with Mortgagor to the books, records and accounts of Mortgagor. Upon every such entering upon or taking possession, Mortgagee may (but in no event shall have any obligation to) hold, store, use, operate, manage and control the Property and conduct the business thereof or complete the improvement thereof with any costs relating to any of the foregoing secured hereby, and, from time to time, make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property; insure or keep the Property insured; manage and operate the Property and exercise all the rights and powers of Mortgagor to the same extent as Mortgagor could in its own name or otherwise with respect to the same; enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Mortgagee, all as Mortgagee from time to time may determine to be in its best interest; and perform all acts required of Mortgagor as lessor under any lease of all or any part of the Property, all as Mortgagee may from time to time determine in its sole discretion to be in Mortgagee's best advantage. Mortgagee may collect and receive all rents, issues, profits and revenues from the Property, including those past due as well as those accruing thereafter, and, after deducting all expenses of taking, holding, managing and operating the Property (including compensation for the services of all persons employed for such purposes) apply such amounts to the cost of all maintenance, repairs, renewals, replacements, additions betterments, improvements, purchases and acquisitions; the cost of insurance; taxes, assessments and other similar charges as Mortgagee may at its option pay; other proper charges upon the Property or any part thereof; and the reasonable compensation, expenses and disbursements of the attorneys and agents of Mortgagee. Mortgagee shall apply the remainder of the monies and proceeds so received by Mortgagee, to the payment of accrued interest, fees due and owing, and to the payment of any outstanding principal of the Indebtedness in whatever order Mortgagee may elect.

(c) Foreclosure. If an Event of Default shall have occurred, in addition to all other remedies available to Mortgagor, Mortgagee may proceed to protect and enforce the rights of Mortgagee hereunder (i) by any action at law, suit in equity or other appropriate proceedings, whether for the specific performance of any agreement contained herein, or for an injunction against the violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or by law, or (ii) by commencing proceedings for the partial or complete foreclosure of this Mortgage and Mortgagee may, pursuant to any final judgment of foreclosure, sell the Property as an entirety or in separate lots, units, or parcels. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the decree of sale, all expenditures and expenses authorized by the foreclosure laws of the State of Florida, as from time to time amended and all other expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraiser's fees, outlays for documentary and expert evidence,

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stenographer's charges, publication costs, and costs (which may be reasonably estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Property. All expenditures and expenses of the nature mentioned in this section, and such other expenses and fees as may be incurred in the protection of the Property and rents and income therefrom and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceedings affecting this Mortgage, the Note, any of the other Loan Documents or the Property, including bankruptcy proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be additional Indebtedness and shall be immediately due and payable by Borrower, with interest thereon at the default rate of interest specified in the Loan Documents until paid to Mortgagee.

The proceeds of any foreclosure sale pursuant to this section, shall be applied as follows: (a) First, to the costs and expenses of advertising, selling and conveying the Collateral or the Property (as the case may be) including a reasonable attorneys' fee for such service as may be necessary in the collection of the Indebtedness secured by this Mortgage or the foreclosure of this Mortgage. (b) Second, to the repayment of any money, with interest thereon to the date of sale, which Mortgagee may have paid, or become liable to pay, or which it may then be necessary to pay for taxes, insurance, assessments or other charges, liens, or debts as hereinabove provided, and as may be provided in the Loan Documents, such repayment to be applied in the manner determined by Mortgagee; (c) Third, to the payment of the Indebtedness secured hereby, with interest to date of sale at the applicable rate or rates, whether or not all of such Indebtedness is then due; and (d) Fourth, the balance, if any, shall be paid as provided by law.

If an Event of Default exists, Mortgagee shall have with respect to the fixtures all rights and remedies of a secured party under the Florida UCC, including the right to sell them at public or private sale or otherwise dispose of, lease or use them, without regard to preservation of the Collateral or its value and without the necessity of a court order. At Mortgagee's request, Mortgagor shall assemble the Collateral and make it available to Mortgagee at any place designated by Mortgagee. To the extent permitted by law, Mortgagor expressly waives notice and any other formalities prescribed by law with respect to any sale or other disposition of the Collateral or exercise of any other right or remedy upon default. Mortgagor agrees that Mortgagee may sell or dispose of both the Property and the Collateral in accordance with the rights and remedies granted under this Mortgage with respect to the Property.

(d) Pursue Remedies. If an Event of Default shall have occurred and be continuing, Mortgagee may, in addition to the other rights and remedies provided in this Mortgage, either with or without entry or taking possession as provided herein or otherwise, proceed by a suit or suits in law or in equity or by any other appropriate proceeding or remedy (i) to enforce payment of the Indebtedness or the performance of any term, covenant, condition or agreement of this Mortgage or any other Loan Document, or any other rights and (ii) to pursue any other remedies available to it, all as Mortgagee shall determine most effectual for such purposes, including, but not limited to, the exercise of all rights and remedies available to Mortgagee as a secured party under the UCC and to exercise all rights and remedies provided to Mortgagee under this Mortgage and any Assignment of Leases and Rents conveyed to Mortgagee in connection with this Mortgage. Should Mortgagee have proceeded to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceeding shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Mortgagee, then and in every such case, Mortgagor and Mortgagee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Mortgagee shall continue as if no such proceeding had taken place. Mortgagee shall have the power to: (i) institute and maintain any suits and proceedings as Mortgagee may deem expedient to prevent any impairment of the Property by acts which may be unlawful or in violation of the Mortgage; (ii) preserve, insure or protect its interest in the Property and in the rents, issues, profits and revenues arising therefrom; and (iii) restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the Property or be prejudicial to the interests of Mortgagee. Mortgagor expressly waives, to the maximum extent permitted by law, any law that



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may operate to rescind the acceleration of the indebtedness secured hereby and reinstate such Indebtedness in accordance with its terms following the withdrawal of any foreclosure proceedings by Mortgagee, and Mortgagor acknowledges and agrees that such rescission and reinstatement shall occur only upon written agreement of Mortgagee. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Mortgagor or the creditors or property of Mortgagor, Mortgagee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Mortgagee allowed in such proceedings for the entire amount of the Indebtedness at the date of the institution of such proceedings and for any additional portion of the Indebtedness accruing after such date.

(e) Appointment of Receiver. If an Event of Default shall have occurred and be continuing, Mortgagee, upon application to a court of competent jurisdiction, shall be entitled as a matter of right without notice and without regard to the occupancy or value of any security for the Indebtedness or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and operate the Property and collect and apply the revenues, and Mortgagor hereby consents thereto. The receiver shall have all of the rights and powers permitted under the laws of the State of Florida. Mortgagor shall pay to Mortgagee upon demand, all expenses, including, without limitation, receivers' fees, reasonable attorneys' fees, costs and agent's compensation, all incurred pursuant to such appointment, all of which shall be considered a part of the Indebtedness secured hereby.

(f) Personal Property. Mortgagee shall give Mortgagor reasonable notice of the time and place of any public sale of the personal property or of the time after which any private sale or other intended disposition of the personal property is to be made. Unless otherwise required by applicable law, reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the personal property may be made in conjunction with any sale of the Property.

(g) Election of Remedies. Election of Mortgagee to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Mortgagor under this Mortgage, after Mortgagor's failure to perform, shall not affect Mortgagee's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to Mortgagee following an Event of Default, or in any way to limit or restrict the rights and ability of Mortgagee to proceed directly against Mortgagor and/or Borrower and/or against any other co-maker, guarantor, or surety and/or to proceed against any other collateral directly or indirectly securing the Indebtedness.

(h) Remedies Cumulative. Each right, power and remedy conferred upon or reserved to Mortgagee are distinct and exclusive of any other right, power, or remedy and shall be cumulative and in addition to any other right or remedy under this Mortgage, the Loan Documents or afforded by law or equity, and may be exercised concurrently, independently or successively. The liability of Mortgagor hereunder shall, if more than one, be joint and several.

**18. ATTORNEYS' FEES; EXPENSES.** Mortgagor shall upon demand pay reasonable attorneys' fees and all expenses incurred by Mortgagee in connection with the collection of the Indebtedness; the enforcement of the provisions of this Mortgage or the Loan Documents; or any suit or legal proceeding (including any proceeding conducted before any United States Bankruptcy Court) concerning the Property, the lien of this Mortgage, the Indebtedness or compliance by Mortgagor with any of the provisions of this Mortgage or the Loan Documents. Mortgagor shall be liable for such attorneys' fees and expenses whether or not any suit or proceeding is commenced. Such fees and expenses shall become a part of the Indebtedness and shall bear interest at the rate from time to time in effect under the Note from the date of expenditure until repaid. Expenses covered by this section, subject to any limits under applicable law, shall include, without limitation, legal expenses, court cost, cost of appeals, post-judgment collection services and the cost of searching records, title reports (including foreclosure reports), surveyors' reports, environmental reports, appraisal fees, and title insurance.

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- 19. ANTI-MARSHALLING PROVISIONS.** Notwithstanding the existence of any other liens and security interests in the Property securing the Indebtedness or held by Mortgagee or by any other party, Mortgagee shall have the right to determine the order in which any or all of the Property, including the Collateral, shall be subjected to the remedies available to Mortgagee, and Mortgagee shall further have the right to determine the order in which any or all portions of the Indebtedness are satisfied from the proceeds realized upon the exercise of any remedy it has. Mortgagor hereby irrevocably waives any and all rights to require the marshalling of assets in connection with the exercise of any of Mortgagee's remedies permitted by applicable law or provided herein or to require that Mortgagee resort to any particular Property or any part thereof.
- 20. DEFICIENCY; WAIVER OF APPRAISAL RIGHTS.** Mortgagor understands and agrees that upon default hereunder, along with other remedies set out herein and in the Loan Documents; Mortgagee may foreclose upon the Property and seek a deficiency judgment pursuant to Florida law. Mortgagor hereby expressly waives and relinquishes any appraisal rights which Mortgagor may have under Florida law and understands and agrees that a deficiency judgment, if pursued by Mortgagee shall be determined by the fair market value of the Property on the date of sale.
- 21. TENANCY AT SUFFERANCE.** If Mortgagor remains in possession of the Property after the Property is sold as provided above or Mortgagee otherwise becomes entitled to possession of the Property, Mortgagor shall become a tenant at sufferance of Mortgagee or the purchaser of the Property and shall, at Mortgagee's option, either pay a reasonable rental for the use of the Property, or vacate the Property immediately upon the demand of Mortgagee.
- 22. DUE ON SALE OR TRANSFER.** Mortgagee may, at Mortgagee's option, declare immediately due and payable all sums secured by this Mortgage upon the sale, transfer, pledge of all or any part of the Property or upon granting a security interest in, or otherwise pledging, hypothecating or otherwise encumbering all or any part of the Property without Mortgagee's prior written consent. A "sale or transfer" means the conveyance of Property or any right, title or interest in the Property or any part thereof, whether legal, beneficial or equitable, whether voluntary or involuntary, whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, granting of a lien, or transfer of any beneficial interest in or to any land trust or other trust or entity holding title to the Property, or by any other method of conveyance of an interest in the Property. If any Mortgagor is a not a natural person, transfer also includes any restructure, merger, acquisition or a change in ownership, whether individually or cumulatively, of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Mortgagor ("Change in Control"). However, this option shall not be exercised by Mortgagee if such exercise is prohibited by federal law or by other applicable law. Mortgagor has not agreed with any third party not to assign, pledge, hypothecate, transfer or grant a security interest in the Property.
- 23. MORTGAGOR'S CONTINUING OBLIGATION.** This Mortgage shall remain as security for full payment of the Indebtedness under this Mortgage and for performance of any obligation evidenced by the Loan Documents, notwithstanding any of the following: (a) the sale or release of all or any part of the Property; (b) the assumption by another party of Mortgagor's or Borrower's obligations under this Mortgage, the Note or the Loan Documents; (c) the incurrence of additional Indebtedness; (d) the forbearance or extension of time for payment of the Indebtedness or for performance of any obligations by Mortgagor under this Mortgage or the Loan Documents, whether granted to Mortgagor, Borrower, or to a subsequent owner of the Property; (e) the release of any party that is primarily or secondarily obligated for the payment any Indebtedness secured by this Mortgage or the performance of any other obligations under this Mortgage or the Loan Documents; (f) the release or substitution of collateral as security for the Indebtedness; and (g) the exercise by Mortgagee of any rights or remedies related to the Property without having first resorted to any other property securing the Indebtedness or demanding payment from person or entity primarily or secondarily obligated to pay the Indebtedness. None of the foregoing shall, in any way, affect the full force and effect of the lien of this Mortgage or impair Mortgagee's right to a deficiency judgment in the event of foreclosure against Mortgagor, Borrower, or any party who had assumed payment of the Indebtedness or who assumed any other obligations, the performance of which is secured by this Mortgage.

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- 24. RELEASE AND CANCELLATION.** Upon (a) the full and final payment and performance of all obligations and liabilities of Mortgagor under this Mortgage, (b) full and final payment of the Indebtedness secured hereby, and (c) the termination of any commitment or agreement by Mortgagee to make advances, incur obligations or give value to Borrower or Mortgagor under the Note, any Loan Document, or any other document (including without limitation advances, obligations or value relating to future advances, open-end, revolving or other lines of credit or letters of credit), then a suitable satisfaction of this Mortgage shall be executed and delivered to Mortgagor and this conveyance shall be null and void and may be cancelled of record at the request and cost (except as prohibited by applicable law) of Mortgagor.
- 25. FURTHER ASSURANCES.** At any time, and from time to time, upon request of Mortgagee, Mortgagor shall make, execute and deliver, or shall cause to be made, executed or delivered, to Mortgagee or to Mortgagee's designee, and when requested by Mortgagee, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Mortgagee may deem appropriate, any and all such mortgages, deeds of trust, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Mortgagee, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve Mortgagor's obligations under this Mortgage and any Loan Document, and the liens and security interests granted in this Mortgage as first and prior lien on the Property. Upon any failure by Mortgagor to perform any of its obligations under this section, Mortgagee may make, execute, record, file, re-record and/or refile any and all such deeds to secure debt, security agreements, financing statements, fixture filings, continuation statements, instruments, certificates, and documents for and in the name of Mortgagor and Mortgagor hereby irrevocably appoints Mortgagee the agent and attorney-in-fact of Mortgagor so to do, which shall constitute a power coupled with an interest by virtue of this Mortgage. The lien hereof shall automatically attach, without further act, to all after acquired property attached to and/or used in the operation of the Property or any part thereof. Mortgagor shall reimburse Mortgagee for all costs and expenses incurred in connection with the matters referred to in this section.
- 26. NOTICES.** Except for any notice required under applicable law to be given in another manner, any notice required to be given under this Mortgage, including without limitation any notice of an Event of Default and any notice of sale shall be given in writing, and shall be effective when actually delivered (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, three (3) days after being deposited in the United States mail as first class or certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Mortgagee's address, as shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Mortgagor agrees to keep Mortgagee informed at all times of Mortgagor's current address. Unless otherwise provided or required by law, if there is more than one Mortgagor, any notice given by Mortgagee to any Mortgagor is deemed to be notice given to all Mortgagors.
- 27. GOVERNING LAW.** This Mortgage shall be governed by the laws of the State of Florida without regard to its conflicts of law principles.
- 28. CHOICE OF VENUE.** Any legal action with respect to this Mortgage may be brought in the courts of the State of Florida or in the appropriate United States District Court situated in Florida, and Mortgagor hereby accepts and unconditionally submits to the jurisdiction of such courts. Mortgagor hereby waives any objection to the laying of venue based on the grounds of forum non conveniens with respect thereto.
- 29. NO WAIVER BY MORTGAGEE.** Mortgagee shall not be deemed to have waived any rights under the Note, this Mortgage, or any of the Loan Documents unless such waiver is given in writing and signed by Mortgagee. No delay or omission on the part of Mortgagee in exercising any right, power or remedy shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default, or acquiescence therein; and every right, power and remedy given by this Mortgage to Mortgagee may be exercised from time to time and as often as may be deemed expedient by Mortgagee.

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No consent or waiver, express or implied, by Mortgagee to or of any breach, default or Event of Default by Mortgagor in the performance of the obligations thereof hereunder shall be deemed or construed to be a consent or waiver to or of any other breach, default or Event of Default in the performance of the same or any other obligations of Mortgagor hereunder. Failure on the part of Mortgagee to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Mortgagee of its rights hereunder or impair any rights, powers or remedies consequent on any breach, or Event of Default by Mortgagor. A waiver by Mortgagee of a provision of this Mortgage or any of the Loan Documents shall not prejudice or constitute a waiver of Mortgagee's right otherwise to demand strict compliance with that provision or any other provision of this Mortgage or any of the Loan Documents. No prior waiver with regard to any transaction or matter by Mortgagee, nor any course of dealing between Mortgagee and Mortgagor or Mortgagee and Borrower, shall constitute a waiver of any of Mortgagee's rights or of any of Mortgagor's obligations as to any future matter or transaction. Whenever the consent of Mortgagee is required under this Mortgage or any of the Loan Documents, the granting of such consent by Mortgagee in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Mortgagee.

- 30. NON-LIABILITY OF MORTGAGEE.** The relationship between Mortgagor and Mortgagee created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Mortgagee and Mortgagor. Mortgagor is exercising Mortgagor's own judgment with respect to Mortgagor's business. All information supplied to Mortgagee is for Mortgagee's benefit only and no other party is entitled to rely on such information. There is no duty for Mortgagee to review, inspect, supervise or inform Mortgagor of any matter with respect to Mortgagor's or Borrower's business. Mortgagee and Mortgagor intend that Mortgagee may reasonably rely on all information supplied by Mortgagor to Mortgagee, together with all representations and warranties given by Mortgagor to Mortgagee, without investigation or confirmation by Mortgagee and that any investigation or failure to investigate shall not diminish Mortgagee's right to so rely. Mortgagee may act or refrain from acting pursuant to any right or option given to it under this Mortgage and Mortgagor shall have no right or expectation of any action or inaction by Mortgagee.
- 31. AMENDMENTS.** No alteration of or amendment to this Mortgage shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- 32. SEVERABILITY.** If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of this Mortgage.
- 33. ENTIRE AGREEMENT.** This Mortgage, together with the Loan Documents, is the final expression of the agreement between the parties hereto and this Mortgage may not be contradicted by evidence of any prior oral agreement between such parties. All previous oral agreements between the parties hereto have been incorporated into this Mortgage and the Loan Documents, and there is no unwritten oral agreement between the parties hereto in existence.
- 34. SOLE DISCRETION OF MORTGAGEE.** Whenever Mortgagee's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Mortgagee and Mortgagee's decision shall be final and conclusive.
- 35. SUCCESSOR INTERESTS.** The terms of this Mortgage shall be binding upon Mortgagor, and upon Mortgagor's heirs, personal representatives, successors and assigns, and shall be enforceable by Mortgagee and its successors and assigns.

**Obligor/Obligation #9701029561-00001**

- 36. NO MERGER.** Mortgagor agrees that this Mortgage and the lien granted hereby shall not merge in fee simple title to the Property, and if Mortgagee acquires any additional or other interest in or to the Property or the ownership thereof, then, unless a contrary intent is manifested by Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title and this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.
- 37. WAIVER OF CONSEQUENTIAL AND PUNITIVE DAMAGES.** Mortgagor further waives any right Mortgagor may have to claim or recover, in any suit, action or proceeding, whether by claim or counterclaim, any exemplary, punitive, consequential, special or other similar damages against Mortgagee in connection with the loan with respect to this Mortgage, the Note, or any other loan documents or which in any way relates, directly or indirectly, to the Indebtedness hereby secured or any event, transaction, or occurrence arising out of or in any way connected with the Indebtedness hereby secured, or the dealings of the parties with respect thereto, including any claim in the nature of a failure by Mortgagee to perform its obligations, if any, under this Mortgage, the Note, or the other Loan Documents. Mortgagor acknowledges and agrees that this section is a specific and material aspect of this Mortgage and that Mortgagee would not extend credit to Mortgagor if the waivers set forth in this section were not a part of this Mortgage.
- 38. TIME IS OF THE ESSENCE.** Time is of the essence in all matters set forth in this Mortgage.
- 39. MAXIMUM DEBT SECURED; FUTURE ADVANCES.** In addition to all other Indebtedness secured by the lien of this Mortgage, this Mortgage shall secure and constitute a first lien on the Property for all future advances made by Mortgagee pursuant to the Note and other Loan Documents for any purpose prior to the twentieth (20th) anniversary of the date hereof to the same extent as if such future advances were made on the date of the execution of this Mortgage. Any such advances may be made (i) at the option of Mortgagee, or (ii) in accordance with the Note and other Loan Documents, as applicable. The total amount of the principal Indebtedness that may be secured by this Mortgage may increase or decrease from time to time, but the total unpaid principal balance of such Indebtedness secured at any one time by this Mortgage shall not exceed a maximum principal amount equal to twice the original principal amount of the Note, plus interest thereon, and any disbursements made by Mortgagee pursuant to the terms of this Mortgage for the payment of impositions, taxes, assessments, levies, insurance, or otherwise with interest on such disbursements at the rate set forth in the Note, plus any increases in the principal balance as the result of negative amortization or deferred interest, if any. It is agreed that any additional sum or sums advanced by Mortgagee pursuant to the terms hereof shall be equally secured with and have the same priority as the original Indebtedness and shall be subject to all of the terms, provisions and conditions of this Mortgage, whether or not such additional loans or advances are evidenced by other promissory notes or other guaranties of Mortgagor and whether or not identified by a recital that it or they are secured by this Mortgage. It is further agreed that any additional promissory note or guaranty or promissory notes or guaranties executed and delivered pursuant to this section shall automatically be deemed to be included in the term "Note" wherever it appears in the context of this Mortgage. It is understood and agreed that this future advance provision shall not be construed to obligate Mortgagee to make any such additional loans or advances. It is the intent of Mortgagor and Mortgagee that this provision comply and be in conformity with Section 697.04, Florida Statutes. Mortgagor hereby expressly waives and relinquishes any rights granted under Section 697.04, Florida Statutes, or otherwise, to limit the amount of indebtedness that may be secured by this Mortgage at any time during the term of this Mortgage. Mortgagor further covenants not file a notice limiting the maximum amount which may be secured by this Mortgage pursuant to Section 697.04(1)(b), Florida Statutes, and agrees that any such notice, if filed, shall be null and void and shall be deemed an Event of Default hereunder.
- 40. MISCELLANEOUS.** The captions and headings of the sections of this Mortgage are for convenience only and shall not be used to interpret or define any provisions. Whenever used, the singular shall include the plural, and the plural the singular, and the use of any gender shall be applicable to all genders.

Obligor/Obligation #9701029561-00001

41. **WAIVER OF JURY TRIAL.** MORTGAGOR KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVES THE RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS MORTGAGE OR ANY LOAN DOCUMENT EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN MORTGAGOR AND MORTGAGEE, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. MORTGAGOR AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT MORTGAGEE MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PROVISION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF MORTGAGOR TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. MORTGAGOR ACKNOWLEDGES THAT MORTGAGOR HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THIS PROVISION, FULLY UNDERSTANDS ITS TERMS, CONTENT AND EFFECT, AND VOLUNTARILY AND KNOWINGLY AGREES TO THE TERMS OF THIS PROVISION. THIS PROVISION IS A MATERIAL INDUCEMENT FOR MORTGAGEE TO MAKE THE LOAN EVIDENCED BY THE NOTE OR OTHER FINANCIAL ACCOMMODATIONS SECURED BY THIS MORTGAGE. FURTHER, MORTGAGOR HEREBY CERTIFIES THAT NEITHER ANY REPRESENTATIVE OR AGENT OF MORTGAGEE, NOR MORTGAGEE'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT MORTGAGEE WOULD NOT SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION IN THE EVENT OF LITIGATION. FURTHER, NO REPRESENTATIVE OR AGENT OF MORTGAGEE, NOR MORTGAGEE'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.

SIGNATURE ON THE FOLLOWING PAGE

Obligor/Obligation #9701029561-00001

In Witness Whereof, Mortgagor has executed and given under the seal of all parties hereto this Mortgage on the date of its acknowledgment below and effective as of the date first written above, and it is intended that this Mortgage is and shall constitute and have the effect of a sealed instrument according to law.

126 SALAMANCA AVE LLC,  
a Florida limited liability company

By: [Signature]  
Ramon Mijares,  
Manager

STATE OF FLORIDA  
COUNTY OF Midmi-Dade

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 10 day of July, 2023, by Ramon Mijares, as Manager of **126 SALAMANCA AVE LLC** a Florida limited liability company, on behalf of the company, who is personally known to me or has produced \_\_\_\_\_ as identification.

[Notary Seal]

[Signature]  
Notary Public

Name typed, printed or stamped  
My Commission Expires: \_\_\_\_\_



ORLANDO RENE CICILIA  
Commission # MH 358317  
Expires May 9, 2027

**Obligor/Obligation #9701029561-00001**

Exhibit A

Legal Description

Lots 3, 4, 5 and the West ½ of Lot 6, Block 32, REVISED PLAT OF CORAL GABLES DOUGLAS SECTION, according to the Plat thereof, as recorded in Plat Book 25, Page 69, of the Public Records of Miami-Dade County, Florida.



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# Truist Bank



## Institution Details

Data as of 07/19/2024



**FDIC Insured**  
Since 01/01/1934

### FDIC Cert #

9846

### Established

01/01/1872

### Bank Charter Class

State Chartered Banks, not member of the Federal Reserve System (FRS)

### Primary Federal Regulator

Federal Deposit Insurance Corporation

### Secondary Federal Regulator

CFPB

### Main Office Address

214 N Tryon St  
Charlotte, NC 28202

### Primary Website

[www.truist.com](http://www.truist.com)

### Locations

1,934 domestic locations: 18 states and 0 territories.  
0 in foreign locations.

### Financial Information

[Create financial reports for this institution](#)

### Consumer Assistance

[Complaints & Questions with Personal Information](#)

### Contact the FDIC

[Questions about Bank Information](#)

Get additional detailed information by selecting from the following:

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[Other Names](#)

## 1,934 Branch Offices

Hide 

Results  
25 

 **1** 2 3 4 5 ... 78

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### Address

<b>6300</b>	<b>Main Office</b>	<b>Truist Bank</b>	<b>214 N Tryon St Charlotte, NC 28202</b>	<b>Charlotte</b>	<b>Mecklenburg</b>	<b>NC</b>	
221270	19	Pikeville Branch	102 E Main St Pikeville, NC 27863	Pikeville	Wayne	NC	E
221272	21	Princeton Main Branch	102 N Pine St Princeton, NC 27569	Princeton	Johnston	NC	E
221276	25	Raleigh Main Branch	434 Fayetteville St Raleigh, NC 27601	Raleigh	Wake	NC	E
221280	29	Stantonsburg Branch	111 S Main St Stantonsburg, NC 27883	Stantonsburg	Wilson	NC	E
221282	31	Wallace Main Branch	415 N Norwood St Wallace, NC 28466	Wallace	Duplin	NC	E
221287	36	West Nash Street Branch	2214 Nash St N Wilson, NC 27896	Wilson	Wilson	NC	E
221288	37	Williamston Main Branch	902 Washington St Williamston, NC 27892	Williamston	Martin	NC	E
		Beaufort	617 Front St				

221290	39	Beaufort Branch	Beaufort, NC 28516	Beaufort	Carteret	NC	E
			205 Whitfield St				
221294	43	Enfield Branch	Enfield, NC 27823	Enfield	Halifax	NC	E
			1001 Main St				
221295	44	Scotland Neck Branch	Scotland Neck, NC 27874	Scotland Neck	Halifax	NC	E
			131 E South Main St				
221296	45	Littleton Branch	Littleton, NC 27850	Littleton	Halifax	NC	E
			2009 W Vernon Ave				
221299	48	Kinston Main Branch	Kinston, NC 28504	Kinston	Lenoir	NC	E
			435 N Berkeley Blvd				
221300	49	Eastgate Branch	Goldsboro, NC 27534	Goldsboro	Wayne	NC	E
			1583 E 10th St				
221301	50	Roanoke Rapids Main Branch	Roanoke Rapids, NC 27870	Roanoke Rapids	Halifax	NC	E
			4460 Six Forks Rd				
221306	57	North Hills Branch	Raleigh, NC 27609	Raleigh	Wake	NC	E
			4424 Capital Blvd				
221308	59	Capital Boulevard		Raleigh	Wake	NC	-

		Branch	Raleigh, NC 27604					
221314	65	New Bern Highway 17 South Branch	3509 Dr M L King Jr Blvd New Bern, NC 28562	New Bern	Craven	NC		E
221318	69	Fayetteville Nc Main Branch	3817 Morganton Rd Fayetteville, NC 28314	Fayetteville	Cumberland	NC		E
221320	71	Methodist University Branch	5137 College Center Dr Fayetteville, NC 28311	Fayetteville	Cumberland	NC		E
221321	72	Morehead City Main Branch	2806 Arendell St Morehead City, NC 28557	Morehead City	Carteret	NC		E
221322	73	Goldsboro Main Branch	207 E Ash St Goldsboro, NC 27530	Goldsboro	Wayne	NC		E
221324	75	Kinston Plaza Branch	611 Plaza Blvd Kinston, NC 28501	Kinston	Lenoir	NC		E
5505	78	Warrenton Nc Main Branch	122 S Main St Warrenton, NC 27589	Warrenton	Warren	NC		E
221326	80	Mayfair Plaza Branch	924 Kildaire Farm Rd Fl 2 Cary, NC	Cary	Wake	NC		E

Cary, NC

27511



CFN 2023R0674434  
 OR BK 33894 Pgs 3323-3422 (100Pgs)  
 RECORDED 09/21/2023 15:59:16  
 JUAN FERNANDEZ-BARQUIN  
 CLERK OF THE COURT & COMPTROLLER  
 MIAMI-DADE COUNTY, FL

This instrument prepared by,  
 and after recording return to:  
 Sandra M. Ferrera, Esq.  
 DAY PITNEY LLP  
 396 Alhambra Circle, 14<sup>th</sup> FL  
 Coral Gables, FL 33134

DECLARATION OF CONDOMINIUM

OF

VILLAS AT SALAMANCA, A CONDOMINIUM

PROPERTIES AT SALAMANCA, L.L.C., a Florida limited liability company (the "Developer"), hereby declares:

1. Introduction and Submission.

1.1 The Land. The Developer owns the fee simple title to certain land located in Miami-Dade County, Florida, as more particularly drawn on Exhibit "A" attached hereto and made a part hereof, legally described as (the "Land"):

The East half of Lot 6 and all of Lot 7, in Block 32, of REVISED PLAT OF CORAL GABLES DOUGLAS SECTION, according to the Plat thereof, as recorded in Plat Book 25, at Page 69 of the Public Records of Miami-Dade County, Florida.

1.2 Submission Statement. The Developer hereby submits the Land, including all improvements erected or to be erected thereon and therein (but excluding all public or private utility installations, e.g., cable television and/or other receiving or transmitting lines, antennae or equipment therein or thereon) to the condominium form of ownership and use in the manner provided for in the Act, as hereafter defined. In no event shall any property located outside of the boundaries of the Condominium as described in Exhibit "A" annexed hereto, for any purposes be deemed part of the Condominium or be subject to the jurisdiction of the Association, the operation and effect of the Act or any rules or regulations promulgated pursuant thereto, unless such property is conveyed to the Association. Notwithstanding anything to the contrary in this Declaration, the Developer hereby reserves and retains unto itself, and its successors and assigns, all right, title and ownership of the roof, air, development and other reserved rights set forth in Section 26 of this Declaration, without the consent or joinder of any other party; provided, however, that the Association and each Unit Owner shall execute and deliver any documents necessary or desirable to effectuate the purpose and intent of the foregoing provision. The foregoing reserved rights and interests shall not for any purposes be deemed part of the Condominium and shall not be subject to the ownership or jurisdiction of the Association. Neither the Land nor any of the Units shall be within a Multi-condominium, as hereinafter defined.

1.3 Name. The name by which this condominium is to be identified is VILLAS AT SALAMANCA, A CONDOMINIUM (hereinafter called the "Condominium").

2. Definitions.

The following terms when used in this Declaration and in its exhibits, and as it and they may hereafter be amended, shall have the respective meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

2.1 "Act" means the Florida Condominium Act (Chapter 718 of the Florida Statutes) as it exists on the date hereof and as it may be hereafter renumbered.

2.2 "Applicable Law" means all laws, rules, regulations, codes and ordinances of the United States, the State of Florida, the County and the City, applicable to the ownership, operation and use of the Condominium Property, as renumbered from time to time and, except as to the Act, as amended from time to time.

2.3 "Articles" or "Articles of Incorporation" mean the Articles of Incorporation of the Association, as amended from time to time. A copy of the initial Articles of the Association is attached as Exhibit "C" to this Declaration.

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- 2.4 "Assessment" means a share of the funds required for the payment of Common Expenses which from time to time are assessed against a Unit Owner.
- 2.5 "Association" or "Condominium Association" means VILLAS AT SALAMANCA CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, the entity responsible for the operation of the Condominium.
- 2.6 "Association Property" means that property, real and personal, which is owned or leased by, or is dedicated by a recorded plat to, the Association for the use and benefit of its members.
- 2.7 "Board" or "Board of Directors" means the board of directors and the members of the board of directors, from time to time, of the Association.
- 2.8 "Building" means the structure in which the Units and the Common Elements are located.
- 2.9 "By-Laws" mean the By-Laws of the Association, as amended from time to time. A copy of the initial By-Laws of the Association is attached as Exhibit "D" to this Declaration.
- 2.10 "Charges" mean the funds required for the payment of expenses, interest, costs, and/or attorney's fees, other than Common Expenses, which from time to time are charged to a Unit Owner (but not necessarily against all Unit Owners).
- 2.11 "City" means the City of Coral Gables, State of Florida.
- 2.12 "Committee" means a group of members of the Board or Unit Owners, or members of the Board and Unit Owners, appointed by the Board, or by a member of the Board, to make recommendations to the Board or to take action on behalf of the Board.
- 2.13 "Common Elements" mean and include:
- (a) The portions of the Condominium Property which are not a part of or included within the Units;
  - (b) Non-exclusive easements through the Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to the Units and to the Common Elements;
  - (c) An easement of support in every portion of a Unit which contributes to the support of the Building;
  - (d) The property and installations including, without limitation, the conduits, ducts, plumbing, wiring and other facilities located within the Units, required for the furnishing of utilities and other services to more than one Unit or to the Common Elements; and
  - (e) Any other parts of the Condominium Property designated as Common Elements in this Declaration.
- 2.14 "Common Expenses" mean all expenses incurred by the Association for the operation, maintenance, repair, replacement or protection of the Condominium Property, the costs of carrying out the powers and duties of the Association, and any other expense, whether or not included in the foregoing, designated as a Common Expense by the Act, the Declaration, the Articles or the Bylaws. For all purposes of this Declaration, "Common Expenses" shall also include: (i) all expenses incurred by the Association for the maintenance, repair or replacement of those portions of the Units for which it is responsible pursuant to Section 7.1 of this Declaration; (ii) all reserves required by the Act or otherwise established by the Association, regardless of when reserve funds are expended; (iii) if applicable, the cost of a master satellite or cable television system or duly franchised video, data, and/or phone service obtained pursuant to a bulk contract; (iv) if applicable, costs relating to reasonable transportation services, insurance for directors and officers, road maintenance and operation expenses, in-house communications and surveillance and restricted access systems which are reasonably related to the general benefit of the Unit Owners; (v) the real property taxes, Assessments and other maintenance expenses attributable to any Units acquired by the Association or any Association Property; (vi) to the extent that the Association determines to install exterior storm shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection, all expenses of installation, repair, and maintenance

of same by the Board, including, without limitation, any and all costs associated with putting the shutters on in the event of an impending storm and the costs of taking the shutters off once the storm threat passes; (vii) any lease payments required under leases for mechanical equipment and/or supplies, including, without limitation, leases for recycling and/or trash compacting equipment, and/or for off-site parking facilities, etc., if same is leased by the Association rather than being owned by it; (viii) all expenses related to the installation, repair, maintenance, operation, alteration and/or replacement of Life Safety Systems; (ix) any unpaid share of Common Expenses or Assessments extinguished by foreclosure of a superior lien or by deed in lieu of foreclosure; (x) costs of fire, windstorm, flood, liability and all other types of insurance, including, without limitation, and specifically, insurance for officers and directors of the Association; (xi) costs of sewer, electricity, gas and other utilities which are not consumed by and metered or submetered to individual Units; (xii) all costs resulting from damage to the Condominium Property which are necessary to satisfy any deductible and/or to effect necessary repairs which are in excess of insurance proceeds received as a result of such damage; (xiii) all costs for maintaining, repairing and replacing submetering equipment, if any; (xiv) all costs incurred by the Association in maintaining the Common Elements of the Condominium; and (xv) any cost in any way associated with maintaining or renewing any LEED or similar certifications applicable to the Condominium

- 2.15 "Common Surplus" means the excess of all receipts of the Association collected on behalf of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, but excluding funds collected for reserves, over the amount of Common Expenses.
- 2.16 "Condominium Parcel" means a Unit together with the Limited Common Elements appurtenant to said Unit and the undivided share in the Common Elements which is appurtenant to said Unit; and when the context permits, the term includes all other appurtenances to the Unit.
- 2.17 "Condominium Property" means the Land, Improvements and other property described in Section 1 hereof, subject to the limitations thereof and exclusions therefrom.
- 2.18 "County" means the County of Miami-Dade, State of Florida.
- 2.19 "Declaration" or "Declaration of Condominium" means this instrument and all exhibits attached hereto, as the same may be amended from time to time.
- 2.20 "Developer" means PROPERTIES AT SALAMANCA, L.L.C., a Florida limited liability company, its successors and such of their assigns as to which the rights of Developer hereunder may be specifically assigned. Developer may assign all or any portion of its rights hereunder, or all or any 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 Developer, but may exercise such rights of the Developer as are specifically assigned to it. Any such assignment may be made on a nonexclusive basis. In the event the holder of any mortgage executed by the Developer, or any subsidiary or affiliate of the holder, obtains title to all or any portion of the Condominium Property by foreclosure, or deed in lieu thereof, or other conveyance, such holder, or subsidiary or affiliate of the holder, shall become the Developer only if it so elects by written notice to the Board, except as otherwise provided by the Act or the rules promulgated thereunder, but regardless of such election the holder, or subsidiary or affiliate of the holder, shall have the right to assign any of the rights of the Developer as provided herein to any third party who acquires title to all or a portion of the Condominium Property from the holder, or subsidiary or affiliate of the holder. In any event, any subsequent Developer shall not be liable for any defaults or obligations incurred by any prior Developer, except as same are expressly assumed by the subsequent Developer. The rights of Developer under this Declaration are independent of the Developer'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 or the Association upon the control of the Association.
- 2.21 "Dispute", for purposes of Section 19.1, means any disagreement between two or more parties that involves: (a) the authority of the Board under any law, rule or regulation or under this Declaration, the Articles or the By-Laws to: (i) require any Owner to take any action, or not to take any action, involving that Owner's Unit; or (ii) alter or add to a common area or Common Element; or (b) the failure of the Association, when required by law, rule or regulation or this Declaration, the Articles or By-Laws to: (i) properly conduct elections; (ii) give adequate notice of meetings or other actions; (iii) properly conduct meetings; or (iv) allow inspection of books and records. "Dispute" shall not



include any disagreement that primarily involves: title to any Unit, Limited Common Elements or Common Elements; the interpretation or enforcement of any warranty; the levy of a fee or Assessment, or the collection of an Assessment levied against a party; the eviction or other removal of a tenant from a Unit; alleged breaches of fiduciary duty by one or more directors of the Association; or claims for damages to a Unit based upon an alleged failure of the Association to maintain the Common Elements or Condominium Property.

- 2.22 "Division" means the Division of Florida Condominiums, Timeshares and Mobile Homes of the Department of Business and Professional Regulation, or its successor.
- 2.23 "Electronic Transmission" means any form of communication, not directly involving the physical transmission or transfer of paper, which creates a record that may be retained, retrieved, and reviewed by a recipient thereof and which may be directly reproduced in a comprehensible and legible paper form by such recipient through an automated process. Examples of electronic transmission include, but are not limited to, telegrams, facsimile transmissions of images, and text that is sent via electronic mail between computers.
- 2.24 "Improvements" shall mean all structures and artificial changes to the natural environment (exclusive of landscaping) located on and in the Condominium Property, including, but not limited to, the Building.
- 2.25 "Institutional First Mortgagee" means a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") or any other lender generally recognized as an institutional lender, or the Developer, holding a first mortgage on a Unit or Units. Fuse Funding Fund I, LLC, a Florida limited liability company ("Fuse Funding") shall be deemed an Institutional First Mortgagee. A "Majority of Institutional First Mortgagees" shall mean and refer to Institutional First Mortgagees of Units to which at least fifty-one percent (51%) of the voting interests of Units subject to mortgages held by Institutional First Mortgagees are appurtenant.
- 2.26 "Life Safety Systems" mean those emergency lighting, audio and visual signals, security systems and sprinkler and smoke detection systems which have been installed in the Building, both within and without the Units, pursuant to the requirements of the applicable governmental authority having jurisdiction over same. All such Life Safety Systems, together with all conduits, wiring, electrical connections and systems related thereto, shall be Common Elements.
- 2.27 "Limited Common Elements" mean those Common Elements, the exclusive use and enjoyment of which is reserved to the Owners and occupants of a certain Unit or Units to the exclusion of the Owners and occupants of other Units, as specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit or unless otherwise expressly provided.
- 2.28 "Multi-condominium" means a real estate development containing two or more condominiums, all of which are operated by the same association.
- 2.29 "Primary Institutional First Mortgagee" means the Institutional First Mortgagee which owns, at the relevant time, first mortgages on Units securing a greater aggregate indebtedness than is owed to any other Institutional First Mortgagee. Fuse Funding shall be deemed the Primary Institutional First Mortgagee until its loan is paid off in full.
- 2.30 "Residential Unit" means each of the Units. References herein to "Units" or "Parcels" shall include the Residential Units unless the context prohibits or it is otherwise expressly provided.
- 2.31 "Residential Unit Owner(s)" means and refers to the Owner(s) of the Residential Units.
- 2.32 "SFWMD" shall mean the South Florida Water Management District
- 2.33 "SFWMD Permit" shall mean SFWMD Permit issued in connection with the development of the Condominium.

- 2.34 "Turnover" means the date the Developer no longer has the right to elect or appoint a majority of the Board of Directors at which time the Unit Owners shall assume control of the Association.
- 2.35 "Unit" or "Units" mean those portions of the Condominium Property which are subject to exclusive ownership.
- 2.36 "Unit Owner" or "Owner of a Unit" or "Owner" means a record owner of legal title to a Condominium Parcel.

Unless the context otherwise requires, any capitalized term not defined but used herein which is defined in the Articles and By-Laws shall have the meaning given to such word or words therein.

3. Description of Condominium

3.1 Identification of Units. The Land consists of one (1) multi-story Building containing seven (7) residential Units. Each Unit is identified by a separate numerical or alpha-numerical designation. The designation of each of such Units is set forth on Exhibit "A" attached hereto. Exhibit "A" consists of a survey of the Land, a graphic description of the Improvements located thereon, including, but not limited to, the Building in which the Units are located, and a plot plan thereof. Said Exhibit "A", together with this Declaration, is sufficient in detail to identify the Common Elements and each Unit and their relative locations and dimensions. There shall pass with a Unit as appurtenances thereto: (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically; (d) membership in the Association with the full voting rights appurtenant thereto; and (e) other appurtenances as may be provided by this Declaration. The Condominium and the Units located therein are to be as graphically depicted on Exhibit "A" attached hereto and any further improvements to the Condominium shall be consistent with the building types, architectural styles and size of the Units set forth therein.

3.2 Unit Boundaries. Each Unit shall include that part of the Building that lies within the following boundaries:

- (a) Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the parametrical boundaries:
- (i) Upper Boundaries. The horizontal plane of the unfinished lower surface of the structural ceiling (which will be deemed to be the ceiling of the top story of the Unit if the Unit contains more than one story, provided that in multi-story Units, if any, where the lower boundary extends beyond the upper boundary, the upper boundary shall include that portion of the ceiling of the lower floor for which there is no corresponding ceiling on the upper floor directly above such bottom floor ceiling).
  - (ii) Lower Boundaries. The horizontal plane of the unfinished upper surface of the floor of the Unit (which will be deemed to be the floor of the first story if the Unit is a multi-story Unit, provided that in multi-story Units where the upper boundary extends beyond the lower boundary, the lower boundary shall include that portion of the floor of the upper floor for which there is no corresponding floor on the bottom floor directly below the floor of such top floor).
  - (iii) Interior Divisions. Except as provided in subsections (i) and (ii) above, no part of the floor of the top floor, ceiling of the bottom floor, stairwell adjoining the multi-floors, in all cases of a multi-story Unit, if any, or nonstructural interior walls shall be considered a boundary of the Unit.
  - (iv) Boundaries Further Defined. The boundaries of the Unit shall not include all of those spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of the perimeter walls and floors, and those surfaces above the undecorated and/or inner surfaces of the ceilings

of each Unit and, further, shall not include those spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of all interior bearing walls and/or bearing partitions and, further, shall exclude all pipes, ducts, wires, conduit, community systems and other facilities running through any interior wall or partition for utility services to other Units and/or for Common Elements. No part of the interior non-boundary walls within a Unit shall be considered a boundary of the Unit.

- (b) **Perimetrical Boundaries.** The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished interior surfaces of the walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries.
- (c) **Apertures.** Where there are apertures in any boundary, including, but not limited to, windows, doors, bay windows and skylights, such boundaries shall be extended to include the windows, doors and other fixtures located in such apertures, including all frameworks, window casings and weather stripping thereof, together with exterior surfaces made of glass or other transparent materials; provided, however, that the exteriors of doors facing interior Common Element hallways shall not be included in the boundaries of the Unit and shall therefore be Common Elements. Further, notwithstanding anything to the contrary, the structural components of the Building regardless where located, are expressly excluded from the Units and instead deemed Common Elements.
- (d) **Exceptions and Conflicts.** In the case of any conflict between the boundaries of the Unit as above described and the dimensions of the Unit shown on Exhibit "A," the above provisions describing the boundary of a Unit shall control, it being the intention of this Declaration that the actual as-built boundaries of the Unit as above described shall control over any erroneous dimensions contained in Exhibit "A" attached hereto, and in the event it shall appear that any dimension shown on Exhibit "A" attached hereto is erroneous the Developer (so long as it owns any Units) or the President of the Association (after the Developer no longer owns any Units) shall have the right to unilaterally amend the Declaration to correct such survey, and any such amendment shall not require the joinder of any Unit Owner or mortgagee so long as the purpose of the amendment is merely to correct an error and correctly describe the boundaries of a Unit. In the case of Unit boundaries not adequately described as provided above, the survey of the Units contained in Exhibit "A" shall control in determining the boundaries of a Unit. In the case of any conflict between the language of this Declaration describing the boundaries of any Unit, and in the language contained on Exhibit "A" describing the boundaries of a Unit, the language of this Declaration shall control.
- (e) **Support Elements.** All columns and other structural elements supporting any portion of the Improvements, whether or not located Within a Unit, shall be and are hereby declared Common Elements whether or not included in Exhibit "A" attached hereto. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, NO POST TENSION CABLES AND/OR RODS CONTAINED IN THE BUILDING SHALL BE CONSIDERED A PART OF A UNIT. AS SUCH POST TENSIONED CABLES AND/OR RODS ARE ESSENTIAL TO THE STRUCTURE AND SUPPORT OF THE BUILDING, ALL POST TENSION TENSIONED CABLES AND/OR RODS SHALL BE DEEMED COMMON ELEMENTS AND MAY NOT BE DISTURBED OR ALTERED WITHOUT THE PRIOR WRITTEN CONSENT OF THE ASSOCIATION.

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

- (a) **Balcony, Patio, Roof Decks and Terraces.** Any balcony, roof deck and terrace (and all improvements thereto) as to which direct and exclusive access shall be afforded to any particular Unit or Units to the exclusion of others shall be a Limited Common Element of such Residential Unit(s). Except as set forth below, the Association shall be responsible for the maintenance of the structural and mechanical elements of all such Limited Common Elements, with the costs thereof being part of the Common Expenses. The Owner of the Unit(s) to which such Limited Common Elements are appurtenant shall be responsible for the

general maintenance and appearance of such areas, the repair, replacement and insurance of any floor coverings placed or installed on any balcony, roof deck, and/or terrace, as well as all contents located thereon. Each Owner, and its successors and assigns, that makes or causes to be made any additions, alterations or improvements to a balcony, roof deck and/or terrace (and all improvements thereto), or uses or allows the use thereof, shall indemnify, defend and hold harmless the Developer, the Association and the other Unit Owners from any claims, liability, damages or expenses arising therefrom. The approval requirements set forth in Section 9.1 of this Declaration shall be applicable to any proposed improvements to such Limited Common Elements.

- (b) Parking Spaces. The Common Elements include parking areas for vehicles. The Developer, for so long as it owns any Unit, and thereafter the Association may assign any parking space for the exclusive use of a Unit, which assignment shall be part of the official records of the Association but shall not be recorded. For so long as the Developer owns any Unit, the Developer shall be entitled to receive compensation in exchange for assignments of parking spaces and thereafter the Association shall be entitled to receive compensation therefor. Any parking space so assigned will be a Limited Common Element of the Unit it is assigned to. No Unit Owner or resident of any Unit, and none of their guests and invitees, shall park in a parking space assigned to another Unit without the permission of the applicable Unit Owner. A Unit may be assigned one or more Limited Common Element parking spaces appurtenant to the Unit, provided, however, that each Unit shall at all times have at least one Limited Common Element parking space. It is estimated that each Unit will be assigned one (1) parking space and the penthouse unit shall be assigned two (2) parking spaces, subject to the Developer's assignment thereof. A Unit Owner may assign the Limited Common Element parking space appurtenant to his Unit to another Unit by written instrument delivered to (and held by) the Association; provided, however, that no Unit may be left without at least one Limited Common Element parking space. While the maintenance of each space so assigned shall be the responsibility of the Association, the insurance of all contents therein shall be the sole responsibility of the Owner of the Unit to which it is assigned. No Owner or occupant of a Unit shall park more than an aggregate total of two vehicles on the Condominium Property.

EACH UNIT OWNER ACKNOWLEDGES AND AGREES THAT A PORTION OF THE PARKING AREAS IS OR MAY BE LOCATED BELOW THE FEDERAL FLOOD PLAIN, AND, ACCORDINGLY, IN THE EVENT OF FLOODING, ANY AUTOMOBILES AND/OR PERSONAL PROPERTY STORED THEREIN IS SUSCEPTIBLE TO WATER DAMAGE. ADDITIONALLY, INSURANCE RATES, BOTH FOR THE ASSOCIATION IN INSURING THE PARKING AREAS, AND FOR OWNERS, MAY BE HIGHER THAN IF THE GARAGE WERE ABOVE THE FEDERAL FLOOD PLAIN. BY ACCEPTING THE ASSIGNMENT OF A PARKING SPACE, EACH OWNER, FOR HIMSELF AND HIS TENANTS, GUESTS AND INVITEES, HEREBY EXPRESSLY ASSUMES ANY RESPONSIBILITY FOR LOSS, DAMAGE OR LIABILITY RESULTING THEREFROM.

- (c) Intentionally Deleted.
- (f) Miscellaneous Areas, Equipment. Any fixtures or equipment (e.g., an air conditioning compressor or hot water heater) serving a Unit or Units exclusively, and any area (e.g., a closet or ground slab) upon/within which such fixtures or equipment are located, which are outside the Unit(s), shall be Limited Common Elements of such Unit(s). The maintenance (and cost) of any such equipment and/or areas so assigned shall be the sole responsibility of the Owner of the Unit(s) to which it is assigned.
- (g) Other. Any other portion of the Common Elements which, by its nature, cannot serve all Units but serves one Unit or more than one Unit (i.e., any hallway and/or elevator landing serving a single Unit or more than one (1) Unit owned by the same Owner) shall be deemed a limited Common Element of the Unit(s) served and shall be maintained by said Owner. In the event of any doubt or dispute as to whether any portion of the Common Elements constitutes a Limited Common Element or in the event of any question as to which Units are served thereby, a decision shall be made by a majority vote of the Board of Directors of the Association and shall be binding and conclusive when so made. To the extent

of any area deemed a Limited Common Element hereunder, the Owner of the Unit (s) to which the Limited Common Element is appurtenant shall have the right to alter same as if the Limited Common Element were part of the Owner's Unit, rather than as required for alteration of Common Elements. Notwithstanding the foregoing, the designation of same as a Limited Common Element hereunder shall not allow the Owner of the Unit to which the Limited Common Element is appurtenant to preclude passage through such areas as may be needed from time to time for emergency ingress and egress, and for the maintenance, repair, replacement, alteration and/or operation of the elevators, stairways, mechanical equipment and/or other Common Elements which are most conveniently serviced (in the sole determination of the Board) by accessing such areas (and an easement is hereby reserved for such purposes).

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

- (f) Support. Each Unit, the Building and the Improvements 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, and any other structure or Improvement which abuts any Unit, Building or Improvements.
- (g) Utility and Other Services; Drainage. Non-exclusive easements are reserved under, through and over the Condominium Property as may be required from time to time for utility, cable or satellite television, communications and security systems, and other services and drainage in order to serve the Condominium. A Unit Owner shall do nothing within or outside his Unit that interferes with or impairs, or may interfere with or impair, the provision of such utility, cable or satellite television, communications and security systems, or other service or drainage facilities or the use of these easements. The Association or its agents shall have an irrevocable right of access to each Unit and to the Limited Common Elements to maintain, repair or replace the pipes, wires, ducts, vents, cables, conduits and other utility, cable television, communications and similar systems, private elevators, air conditioner equipment, hot water heaters, service and drainage facilities, and to Common Elements contained in the Unit or elsewhere in the Condominium Property, and to remove any improvements interfering with or impairing such facilities or easements herein reserved; provided, such right of access, except in the event of an emergency, shall not unreasonably interfere with the Unit Owner's permitted use of the Unit and Limited Common Elements, and except in the event of an emergency, entry shall be made on not less than one (1) day's notice (which notice shall not, however, be required if the Unit Owner is absent when the giving of notice is attempted).
- (h) Encroachments. If (a) any portion of the Common Elements encroaches upon any Unit (or Limited Common Element appurtenant thereto); (b) any Unit (or Limited Common Element appurtenant thereto) encroaches upon any other Unit or upon any portion of the Common Elements; (c) any Improvements encroach upon the common elements or condominium property of any other condominium; (d) any encroachment shall hereafter occur as a result of (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements made by or with the consent of the Association or the Developer, as appropriate; (iv) any repair or restoration of the Improvements (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements; or (v) any non-purposeful or non-negligent act of a Unit Owner, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of same so long as any such Improvements, shall stand.
- (i) Ingress and Egress. A non-exclusive easement in favor of each Owner and occupant of a Unit, and their respective guests and invitees, and each member of the Association shall exist: (i) for pedestrian traffic over, through and across sidewalks, streets, paths, walks, and other portions of the Common Elements and Association Property as from time to time may be intended and designated for such purpose and use and to afford pedestrian access to and from any portion of the Condominium Property located within or surrounded by the Improvements; and (ii) for vehicular and pedestrian traffic over, through and across such portions of the Common Elements and Association Property as from time to time may be paved and intended for such purposes, if any. Without limiting the

generality of the foregoing, easements are hereby reserved over, under and upon the stairways, as may be reasonably necessary to afford access to and from (i) any parking areas located within the Condominium Property, (ii) any portions of the Condominium Property as may be reasonably necessary in the event of an emergency, and (iii) any portions of the Condominium Property as may be reasonably necessary for the operation, maintenance, repair, replacement and/or alteration of any portion of the Condominium Property. None of the easements specified in this section shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements (other than those on Condominium Parcels) automatically shall be subordinate to the rights of Unit Owners and the Association with respect to such easements.

- (j) Construction and Maintenance. The Developer (including its designees, contractors, successors and assigns) shall have the right, in its (and their) sole discretion from time to time, to enter the Condominium Property and take all other action necessary or convenient for the purpose of completing construction thereof, or any part thereof, or any Improvements or Units located or to be located thereon, and for repair, replacement and maintenance or warranty purposes where the Association fails to do so or where the Developer, in its sole discretion, determines that it is necessary or desirable to do so.
- (k) Exterior Building Maintenance. An easement is hereby reserved on, through and across each Unit and all Limited Common Elements appurtenant thereto In order to afford access to the Association (and its contractors) to perform roof repairs and/or replacements, repair, replace, maintain and/or alter rooftop mechanical equipment, to stage window washing equipment and to perform window washing and/or any other exterior maintenance and/or painting of the Building.
- (l) Sales, Marketing and Development Activities. As long as Developer owns any portion of the property subject to this Declaration, the Developer, its designees, successors and assigns, shall have (i) the right to use any Units owned or leased by Developer, and any other part of the Common Elements or Association Property, for guest accommodations, models and sales and construction offices, to show model Units and the Common Elements to prospective purchasers and lessees of Units, and to use Units as guest suites, in the Condominium, and to erect on the Condominium Property and Association Property signs and other promotional materials to advertise Units for sale or lease; (ii) such easements over, upon, across and under the Condominium Property as may be reasonably required in connection with the development, construction, decoration, marketing, sale or leasing of any Unit within the Condominium Property, or within any other property owned by the Developer or any of its affiliates within the surrounding vicinity.
- (m) Association Easements. The Association (and its designees, contractors, subcontractors and employees) shall have the right to have access to each Unit from time to time during reasonable hours as may be necessary for pest control purposes and for the maintenance, repair or replacement of any Common Elements or any portion of a Unit, if any to be maintained by the Association, or at any time and by force, if necessary, to prevent damage to the Common Elements, the Association Property or to a Unit or Units, including, without limitation (but without obligation or duty), to close exterior storm shutters in the event of the issuance of a storm watch or storm warning. An easement is hereby reserved over, through and across each Unit and all Limited Common Elements appurtenant thereto in order afford access to the Association (and its designees, contractors, subcontractors and employees) to perform roof repairs and/or replacements, and to repair, replace, maintain and/or alter rooftop mechanical equipment, to stage window washing equipment and to perform window washing and/or exterior maintenance and/or painting the Building.
- (n) Support of Adjacent Structures. In the event that any structure(s) is constructed so as to be connected in any manner to the Building, then there shall be (and there is hereby declared) an easement of support for such structure(s) as well as for the installation, maintenance, repair and replacement of all utility lines, pipes, and equipment serving the adjacent structure which are necessarily or conveniently located within the Condominium Property (provided that the use of this easement shall not unreasonably interfere with the structure, operation or use of the Condominium Property or the Building).

- (o) Warranty. The Developer and its designees, contractors, subcontractors, employees and assigns shall have the right to, in its (and their) sole discretion from time to time, enter the Condominium Property and take all other action necessary or convenient for the purpose of completing construction thereof, or any part thereof, or any Improvements or Units located or to be located thereon, and for repair, replacement and maintenance or warranty purposes where the Association fails to do so, or where the Developer, in its sole discretion, determines that it is necessary or desirable to do so. For as long as Developer remains liable under any warranty, whether statutory, express or implied, for acts or omissions of Developer in the development, construction, sale and marketing of the Condominium, then Developer and its designees, contractors, subcontractors, employees and assigns shall have the right, in Developer's sole discretion and from time to time and without requiring prior approval of the Association and/or any Unit Owner (provided, however, that absent an emergency situation, Developer shall provide reasonable advance notice) and without requiring any consideration to be paid by the Developer to the Unit Owners and/or to the Association, to enter the Condominium Property, including the Units, Common Elements and Limited Common Elements, for the purpose of inspecting, testing and surveying same to determine the need for repairs, replacements, improvements and/or maintenance, and effecting same, so that Developer can fulfill any of its warranty obligations. The failure of the Association or any Unit Owner to grant, or to interfere with, such access, shall alleviate the Developer from having to fulfill its warranty obligations and the costs, expenses, liabilities or damages arising out of any unfulfilled Developer warranty will be the sole obligation and liability of the person or entity who or which impedes the Developer in any way in Developer's activities described in this section. **The easements reserved in this section shall expressly survive the transfer of control of the Association to Unit Owners other than the Developer and the issuance of any certificates of occupancy for the Condominium Property (or portions thereof). Nothing herein shall be deemed or construed as the Developer making or offering any warranty, all of which are disclaimed (except to the extent same may not be) as set forth in Section 29 below.**
- (p) Air Rights. Without limiting the reserved rights and easements in Section 26 of this Declaration, the Developer hereby exclusively reserves for itself the air rights over and around the structures located on the Condominium Property, along with an easement for support, access, encroachment, and ingress and egress for the purpose of construction of facilities located above the existing structures located on the Condominium Property; provided that the Developer shall be responsible for all costs of construction of such facilities. Any facilities constructed by the Developer in the air space above the existing structures located on the Condominium Property shall be the sole property of the Developer and shall not be part of the Condominium declared herein unless specifically declared to be so by the Developer in an amendment to this Declaration.
- (q) Public Easements. Fire, police, health and sanitation and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Elements in the performance of their respective duties. Additionally, easements are hereby reserved in favor of all Owners and members of the Association (and their guests, tenants and invitees) for emergency ingress and egress over, through and across all Stairways.
- (r) Additional Easements. The Developer, so long as it owns any Units in the Condominium, and the Association, through the Board, acting on the Association's behalf and on behalf of all Unit Owners (each of whom hereby appoints the Developer and/or the Association, as applicable, as its attorney-in-fact for this purpose), each shall have the right to grant such additional general ("blanket") and specific electric, gas or other utility, security systems, service or drainage easements, or hurricane shutters (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or to relocate any such existing easements or drainage facilities, in any portion of the Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Developer, while in control of the Association, and, thereafter, the Association shall deem necessary or desirable for the proper operation and maintenance of the Units, or any portions thereof, or for the general health or welfare of the Unit Owners, or for the purpose of carrying out any provisions of this Declaration,

provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for dwelling purposes.

4. Restraint Upon Separation and Partition of Common Elements. The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and the exclusive right to use all appurtenant Limited Common Elements, shall not be separated there from and shall pass with the title to the Unit, whether or not separately described. The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all Limited Common Elements appurtenant to a Unit, except as elsewhere herein provided to the contrary, cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to the Units shall remain undivided, and no action may be brought for partition of the Common Elements, the Condominium Property, or any part thereof, except as provided herein with respect to termination of the Condominium.
5. Ownership of Common Elements and Common Surplus and Share of Common Expenses; Voting Rights.
  - 5.1 Percentage Ownership and Shares in Common Elements. Each Unit shall own an undivided share of the Common Elements and Common Surplus, and share of the Common Expenses, which shall be based on an equal fractional basis based upon the approximate total square footage of such Unit in uniform relationship to the total square footage of each other Unit in the Condominium. In particular, each Unit's Percentage Share in the Common Elements and Common Surplus of the Condominium is set forth on Exhibit "B" attached hereto.
  - 5.2 Voting. Each Unit shall be entitled to one (1) vote to be cast by its Owner in accordance with the provisions of the By-Laws and the Articles of Incorporation. Each Unit Owner shall be a member of the Association.
6. Amendments. Except as elsewhere provided herein, amendments to this Declaration may be effected as follows:
  - 6.1 By the Association. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than one-third (1/3) of the members of the Association. Except as may be elsewhere provided, approvals must be by an affirmative vote representing in excess of 66 2/3% of the voting interests of Unit Owners. Directors not present in person at the meeting considering the amendment may vote by telephone conference, while Unit Owners not present at such a meeting may vote by proxy, provided that such proxy is delivered to the Secretary of the Association at or prior to the meeting.
  - 6.2 By the Board. Except as elsewhere provided herein or by the Act, the Board of Directors, upon the unanimous vote of all the directors, shall have the right, without the consent of the Unit Owners, to make the following amendments to this Declaration: (i) amendments made to conform to the requirements of any Institutional First Mortgagee so that such mortgagee will make, insure, or guarantee first mortgage loans on the Units, (ii) amendments required by any governmental authority, or (iii) amendments made to conform with the provisions of this Declaration to any provisions of the Act or any rule promulgated there under, or any other applicable statute or regulation now or hereafter adopted or amended, provided however that no such amendment shall be effective to impose any additional liability or obligation on the Developer.
  - 6.3 Material Amendments. No amendment shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, or change the proportion or percentage by which the Owner of a Unit shares the Common Expenses and owns the Common Elements and Common Surplus (any such change or alteration being a "Material Amendment"), unless the record Owner(s) thereof, and all record owners of mortgages or other liens thereof, join in the execution of the amendment, and a majority of the voting interests of the Unit Owners approve such amendment.
  - 6.4 Material Alterations or Substantial Additions. The Association shall not make any material alterations or substantial additions to the Common Elements or to real property which is Association Property, without the approval of a majority of the voting interests of the Unit Owners. The installation, replacement and maintenance of approved hurricane



shutters, if in accordance with the provisions of this Declaration, shall not be deemed to constitute a material alteration or substantial addition to the appurtenances of the Units, and accordingly, shall not constitute a Material Amendment. Similarly, the acquisition of property by the Association and material alterations or substantial additions to such property or the Common Elements by the Association in accordance with s. 718.111(7) or s. 718.113, and amendments providing for the transfer of use rights in Limited Common Elements pursuant to s. 718.106(2)(b) shall not be deemed to constitute a material alteration or modification of the appurtenances to the Units.

- 6.5 Mortgagee's Consent. 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 mortgagees of Units without the consent of 66 2/3% of such mortgagees in each instance. Except as specifically provided herein or if required by FNMA or FHLMC, the consent and/or joinder of any lien or mortgage holder on a Unit shall not be required for the adoption of an amendment to this Declaration and, whenever the consent or joinder of a lien or mortgage holder is required, such consent or joinder shall not be unreasonably withheld.
- 6.6 By the Developer. Notwithstanding anything herein contained to the contrary, as long as the Developer owns any portion of the Condominium Property, this Declaration, the Articles of Incorporation or the By-Laws may be amended by the Developer alone, without requiring the consent of any other party, to effect any change whatsoever, including (without limitation), those changes to Developer-owned Units permitted in Section 10 of this Declaration, but expressly excluding an amendment: (i) to permit time-share estates (which must be approved, if at all, by all Unit Owners and mortgagees on Units); or (ii) to effect a "Material Amendment" (as defined in Section 6.3 above) or (iii) to effect changes or amendments prohibited to be made by the Developer or by the Association pursuant to the Act. No amendment to this Declaration, the Articles or the By-Laws may be adopted by the Association, the Board or any other party which would eliminate, modify, alter, prejudice, abridge or otherwise adversely affect, in any manner, any rights, benefits, privileges or priorities granted or reserved to the Developer, without the consent of the Developer in each instance which may be withheld in its sole and unfettered discretion. Additionally, pursuant to Section 718.106(2)(e) of the Act, all rights in this Declaration which are granted or reserved to the Developer shall be deemed to be an appurtenance to the Units owned by the Developer, and shall not be eliminated, modified, prejudiced, abridged or impaired by any amendment, rule or regulation without the consent of the Developer in each instance.
- 6.7 SFWMD Approval. Notwithstanding the foregoing, any amendment proposed to this Declaration, the Articles of Incorporation and/or By-Laws which would affect the Surface Water Management System, including environmental conservation areas, if any, shall be submitted to the SFWMD for review prior to finalization of the amendment. The SFWMD shall determine if the proposed amendment will require a modification of the environmental resource or surface water management permit and if a modification is necessary, the District shall advise the Association. If a permit modification is necessary, the modification must be approved by the SFWMD prior to the amendment of this Declaration, the Articles of Incorporation and/or the By-Laws.
- 6.8 Execution and Recording. An amendment, other than amendments made by the Developer alone pursuant to the Act or this Declaration, shall be evidenced by a certificate of the Association, executed either by the President of the Association or a majority of the members of the Board of Directors, which shall include recording information identifying this Declaration and shall be executed with the same formalities required for the execution of a deed. An amendment of this Declaration is effective when the applicable certificate is properly recorded in the public records of the County. No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words inserted in the text shall be underlined; and deleted words shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration. See provision \_\_\_\_ for present text." Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly adopted amendment.

7. Maintenance and Repairs.

- 7.1 Units and Limited Common Elements. All maintenance, repairs and replacements of, in or to any Unit and Limited Common Elements appurtenant thereto, whether structural or nonstructural, ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of screens, windows, the interior side of the entrance door and all other doors within or affording access to a Unit, and the electrical (including wiring), plumbing (including fixtures and connections), heating and air-conditioning equipment, fixtures and outlets, appliances, carpets and other floor coverings, all interior surfaces and the entire interior of the Unit lying within the boundaries of the Unit or the Limited Common Elements or other property belonging to the Unit Owner, shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein. The Unit Owner shall also maintain, repair and replace, at its sole cost and expense, all portions of any hurricane shutter(s), including such portion of the Common Elements, if any, to which the hurricane shutter(s) is attached (in the event the hurricane shutter(s) is attached to any Common Element, the Common Element to which the hurricane shutter(s) is attached shall become a Limited Common Element upon the attachment of said hurricane shutter(s), the maintenance, repair and replacement of which shall be the responsibility of the Unit Owner). The Association shall be responsible for the maintenance of the structural and mechanical elements of all such Limited Common Elements, with the owner of the Unit to which they are appurtenant responsible for the general maintenance and appearance of such areas, as well as the insurance of all contents thereon. The approval requirements set forth in Section 9.1 of this Declaration shall be applicable to any proposed improvements to such Limited Common Elements.
- 7.2 Common Elements and Association Property. Except to the extent (i) expressly provided to the contrary herein, (i.e., as to Limited Common Elements above) or (ii) proceeds of insurance are made available therefore, all maintenance, repairs and replacements in or to the Common Elements (excluding Limited Common Elements as provided above) shall be performed by the Association and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense, except (i) to the extent arising from or necessitated by the negligence, misuse or neglect of specific Unit Owners, in which case such cost and expense shall be paid solely by such Unit Owners or (ii) to the extent proceeds of insurance are made available therefor. No Unit Owner shall operate, maintain, repair or replace any portion of the Condominium Property to be operated, maintained, repaired and/or replaced by the Association, or the Association Property, without first obtaining written approval from the Association.
- 7.3 Specific Unit Owner Responsibility. The obligation to maintain and repair any air conditioning equipment, plumbing or electrical fixtures or other items of property which service a particular Unit or Units shall, to the extent not part of the Condominium, be the responsibility of the applicable Unit Owners, individually, and not the Association, without regard to whether such items are included within the boundaries of the Units. Additionally, the obligation to maintain and repair the following specific items shall be the responsibility of the Unit Owners, individually, and not the Association:
- (a) where a Limited Common Element consists of a balcony, patio, roof deck or terrace, the Unit Owner who has the right to the exclusive use of said balcony, patio, roof deck or terrace shall be responsible for the maintenance, care and preservation of the finished surfaces of floors within said areas, if any, the fixed and/or sliding glass door(s) in the entrance way(s) or other portions of said area, if any, the wiring, electrical outlet(s) and fixture(s) thereon, if any, the replacement of light bulbs, if any, as well as for the general maintenance and appearance of such areas, and the insurance of all contents thereon. Notwithstanding the foregoing, the Association shall be responsible for the structural maintenance, repairs and replacement of all such balconies, patios, roof deck and/or terraces with the Owner of the Unit to which they are appurtenant responsible for the general maintenance and appearance of such areas, as well as the insurance of all contents thereon.
  - (b) Storage space, if applicable.
  - (c) except as expressly provided in Section 3.3 of this Declaration, any additions, alterations or improvements to Units or Limited Common Elements shall be subject to the consents and approvals required in Section 9 of this Declaration, and the applicable Owner shall be fully responsible for the maintenance, repair and replacement of any such additions, alterations or improvements.

- 7.4 Reporting to the Association. No Unit Owner shall operate, maintain, repair or replace any portion of the Condominium Property to be operated, maintained, repaired and/or replaced by the Association, or the Association Property, without first obtaining written approval from the Association. Each Unit Owner shall promptly report to the Association or any applicable management company any defects or need for repairs, maintenance, or replacements, the responsibility for which is that of the Association.
- 7.5 Authorization to Enter. Whenever it is necessary to enter any Unit for the purpose of performing any maintenance, repair or replacement of any Common Elements or any other Unit, or for making emergency repairs necessary to prevent damage to any Common Elements or to any other Unit, the Owner of the Unit shall permit the Association or persons authorized by it to enter the Unit for such purposes, provided that such entry may be made only at reasonable times and with reasonable advance notice, except that in the case of an emergency no advance notice will be required. Any damage resulting from any such entry shall be a Common Expense, except where such entry is required in order to repair a Unit, in which event the Unit Owner will be responsible for such damage. To facilitate entry in the event of any emergency, the Owner of each Unit shall deposit a key to the entry door of such Unit with the Association.
- 7.6 Damage Responsibility. Each Unit Owner and resident shall be liable for any damage to the Common Elements, or any Limited Common Elements, or any other Unit, caused by the Unit Owner or by any occupant of his Unit, or by any guest or invitee thereof, or caused by fire, leaking water, or other cause emanating from the Owner's Unit, to the extent the cost of repairing any such damage is not paid by insurance obtained by the Association. Any maintenance, repair or replacement which was necessitated by the failure of a Unit Owner or by any of its family, tenants, guests or invitees, to abide by their obligations hereunder, or was caused by the willful or negligent act of a Unit Owner, its family, tenants, guests or invitees, shall be effected by the Association at said Unit Owner's sole expense and a Charge therefor shall be made against its Unit; and (b) if the Association determines the Unit Owner has failed to abide by its obligations hereunder, and, to the extent necessary to prevent damage to the Common Elements or to any Unit, the Association may, but shall not be obligated to, perform any maintenance, repair or replacement to any portions of a Unit or the Improvements thereon for which the Unit Owner is responsible, at said Unit Owner's sole expense, and a Charge therefor shall be made against such Unit.
- 7.7 Exception for Casualty Damage. Notwithstanding anything in this Section 7 to the contrary, in the event any portion of a Unit, Limited Common Element or Common Element required to be maintained by the Association is damaged or destroyed by fire, hurricane or other casualty covered by property insurance which the applicable Unit Owner maintains and which actually covers such damage or destruction, the Association may require the Unit Owner to be responsible for payment of the costs incurred by the Association in repairing and restoring any such damage that exceed the amount of the insurance proceeds received by the Association. Notwithstanding the foregoing, the provisions of this Section are not intended to impose an obligation to insure any such property which exceeds a Unit Owner's obligations under Section 718.111(11) of the Act.
8. Additions, Improvements or Alterations by the Association. Whenever in the judgment of the Board of Directors, the Common Elements, the Association Property, or any part of either, shall require capital additions, alterations or improvements (as distinguished from repairs and replacements) costing in excess of Three (3%) Percent of the then applicable budget of the Association in any calendar year, the Association may proceed with such additions, alterations or improvements only if the making of such additions, alterations or improvements shall have been approved by a majority of the Unit Owners represented at a meeting at which a quorum is attained. Any such additions, alterations or improvements to such Common Elements, the Association Property, or any part of either, costing in the aggregate Three (3%) Percent of the then applicable budget of the Association or less in a calendar year may be made by the Board of Directors of the Association without approval of the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Elements or Association Property shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners as Common Expenses. For purposes of this Section, "aggregate in any calendar year" shall include the total debt incurred in that year, if such debt is incurred to perform the above-stated purposes, regardless of whether the repayment of any part of that debt is required to be made beyond that year

9. Additions, Alterations or Improvements.

- 9.1 By Unit Owners/Consent of the Board of Directors. No Unit Owner shall make any addition, alteration or improvement in or to his Unit or to any Limited Common Element, the Common Elements or the Association Property, which alters the exterior appearance thereof, which could in any way affect the structural, electrical, plumbing or mechanical systems of the Building, or which otherwise requires the approval of the Association pursuant to this Declaration, without the prior written consent of the Board of Directors. The Board shall have the obligation to answer any written request by a Unit Owner for approval of any such addition, alteration or improvement within thirty (30) days after such request and all additional information requested is received, and the failure to do so within the stipulated time shall constitute the Board's consent. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. Once approved by the Board of Directors, such approval may not be revoked, unless the work is not completed within one (1) year from the date of such approval. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, the Board of Directors, or any officer, agent or Committee thereof, the Developer and all other Unit Owners, harmless from and to indemnify them for, any liability or damage to the Condominium Property and expenses arising therefrom.

Without limiting the generality of the foregoing, any Unit Owner proposing to install any such additions, alterations or improvements within his Unit or the Limited Common Elements shall, if required by the Board of Directors, submit to it a summary of the liability insurance coverage to be obtained for such improvement. From and after the time the installation of the improvement is commenced, and if required by the Board of Directors, the Unit Owner and his heirs, successors and assigns shall at all times maintain such insurance coverage under the same terms and in the same amounts as those originally approved by the Board of Directors. Without limiting the generality of Section 11.2 hereof, neither the Association, the Board of Directors, any Committee, member, director, officer, agent or employee thereof, the Developer or manager nor any of their respective directors, officers, Committees, employees, contractors, agents or affiliates, shall be liable for any injury or damage caused by any defects, unsafe conditions or other matters arising from the use (be it authorized or unauthorized) of the afore-described improvements, notwithstanding any approvals given by any of the aforesaid parties as to the installation of such improvements. In the event that the foregoing sentence is ultimately held to be unenforceable or otherwise not effective, the Unit Owner, his lessees and/or successors in title shall indemnify and hold harmless the Association, its Board of Directors, and the Developer, and all of their respective directors, committee members, officers, employees, contractors, agents and affiliates, for and from all manners of action, claims, judgments, and other liabilities in any way whatsoever connected with any such improvements contemplated herein. The foregoing insurance and indemnity provisions shall also apply to each Owner and occupant of the applicable Unit other than the Developer even if any such improvement is installed by the Developer.

**Without limiting the generality of the foregoing, inasmuch as the Condominium has been constructed with post tensioned cables and/or rolls, absolutely no penetration shall be made to any floor slabs, roof slabs or ceiling slabs without the prior written consent of the Board of Directors and review of the as-built plans and specifications for the Building to confirm the approximate location of the post tensioned cables and/or rods. The plans and specifications for the Building shall be maintained by the Association as part of its official records. Each Unit Owner, by accepting a deed or otherwise acquiring title to a Unit, shall be deemed to: (i) have assumed the risks associated with post tension construction, (ii) have agreed that the penetration of any post tensioned cables and/or rods may threaten the structural integrity of the Building, and (iii) have agreed to make absolutely no penetration to any floor slabs, roof slabs, or ceiling slabs without the prior written consent of the Board of Directors and review of the as-built plans and specifications for the Building to confirm the approximate location of the post tensioned cables and/or rods. Each Unit Owner hereby releases Developer, its members, managers, contractors, architects, engineers, and its and their officers, directors, shareholders, members, managers, partners, employees and agents from and against any and all liability that may result from penetration of any of the post tensioned cables and/or rods.**

The Board of Directors shall, from time to time, establish specifications for hurricane shutters and other hurricane protection which comply with the applicable building codes, and shall establish permitted color(s), type(s), style(s), dimension(s), material(s) and installation requirements for hurricane shutters and other hurricane protection. Subject to the provisions hereof, the Association shall approve the installation or replacement of hurricane shutters and other hurricane protection conforming to the Board's specifications.

The Association may condition any such proposed improvement upon, among other things: (i) a reasonable damage deposit being posted with the Association, by the party authorizing work to be done, for protection against damage which may result to the Common Elements or other Units; and/or (ii) a certificate of liability and worker's compensation insurance being provided to the Association, naming the Association as an insured thereunder, as to each party to perform such work.

9.2 Improvements, Additions or Alterations by Developer. Anything to the contrary notwithstanding, the foregoing restrictions of this Section 9 shall not apply to Developer-owned Units. The Developer shall have the additional right, without the consent or approval of the Board of Directors or other Unit Owners, to (a) make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon the roof top or any Unit owned by it and any Limited Common Elements appurtenant thereto (including, without limitation, the removal of walls, floors, ceilings and other structural portions of the Improvements), or both of them; and (b) expand, alter or add to all or any part of the recreational facilities. Any amendment to this Declaration required by a change made by the Developer pursuant to this Section 9.2 shall be adopted in accordance with Section 6.6 and Section 10 of this Declaration. To the extent that an amendment hereunder changes the configuration or size of any Unit in any material fashion, materially alters or modifies the appurtenances to the Unit or changes the proportion or percentage by which the Owner of the Unit shares the Common Expenses or owns the Common Surplus, such an amendment shall be deemed a "Material Amendment" requiring the consent of the record Owner(s) of the Unit and all record owners of mortgages or other liens on the affected Unit and a majority of the voting interests of the Unit Owners, unless otherwise required by any governmental entity.

9.3 Life Safety Systems. Neither any Unit Owner nor the Association shall make any additions, alterations or improvements to the Life Safety Systems without the prior consent of the appropriate governmental authority. No lock, padlock, bar, 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. Stairwell identification and emergency signage shall not be altered or removed by any Unit Owner or by the Association without the Association obtaining the consent of the applicable governmental authority having jurisdiction over same. All means of egress must permit unobstructed travel at all times. No barrier including, but not limited to personal property, shall impede the free movement ingress and egress.

10. Changes in Developer-Owned Units. Without limiting the generality of the provisions of paragraph 9.2 above, and anything to the contrary in the Declaration notwithstanding, the Developer shall have the right, without the vote or consent of the Association or Unit Owners, to (i) make alterations, additions or improvements in, to and upon Units owned by the Developer, whether structural or no-structural, interior or exterior, ordinary or extraordinary; (ii) change the layout or number of rooms in any Developer-owned Units; (iii) change the size of Developer-owned Units, by combining separate Developer-owned Units into a single apartment (although being kept as two separate legal Units), or otherwise; and (iv) reapportion among the Developer-owned Units affected by such change in size pursuant to the preceding clause, their appurtenant interests in the Common Elements and share of the Common Surplus and Common Expenses; provided, however that the percentage interest in the Common Elements and share of the Common Surplus and Common Expenses of any Units (other than the affected Developer-owned Units) shall not be changed by reason thereof unless the Owners of such Units shall consent thereto and, provided further, that Developer shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction in so doing. In making the above alterations, additions and improvements, the Developer may relocate and alter Common Elements adjacent to or near such Units, incorporate portions of the Common Elements into adjacent Units and incorporate Units into adjacent Common Elements, provided that the Owners of such Units consent thereto and that any such relocation and alteration does not materially adversely affect the market value or ordinary use of Units owned by Unit Owners other than the Developer. Any amendments to this Declaration required by changes of the Developer made pursuant to this Section 10, shall be effected by the Developer alone pursuant to Section 6.6, without the vote or

consent of the Association or Unit Owners (or their mortgagees) required, except to the extent that any of the same constitutes a Material Amendment, in which event, the amendment must be approved as set forth in Section 6.3 above. Without limiting the generality of Section 6.6 hereof, the provisions of this Section may not be added to, amended or deleted without the prior written consent of the Developer.

11. Operation of the Condominium by the Association.

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

- (a) The irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any Common Elements, Limited Common Elements or any portions of a Unit to be maintained by the Association, or at any time and by force, if necessary, to prevent damage or to make emergency repairs to the Common Elements, the Association Property or to a Unit or Units, including, without limitation (but without obligation or duty), to install and/or close exterior storm shutters in the event of the issuance of a storm watch or storm warning and/or to maintain, repair, replace and/or operate Life Safety Systems.
- (b) The power to make and collect Assessments, Charges and other levies against Unit Owners and to require, administer, lease, maintain, repair and replace the Common Elements and Association Property.
- (c) The Association shall assume all of Developer's and/or its affiliates' responsibilities to the City, the County, and their governmental and quasi-governmental subdivisions and similar entities of any kind with respect to the Condominium Property (including, without limitation, any and all obligations imposed by any permits or approvals issued by the City and/or County, as same may be amended, modified or interpreted from time to time) and, in either such instance, the Association shall indemnify and hold Developer and its affiliates harmless with respect thereto in the event of the Association's failure to fulfill those responsibilities.
- (d) The duty to maintain accounting records pursuant to accepted accounting practices, which shall be open to inspection by Unit Owners or their authorized representatives at reasonable times upon prior request.
- (e) The power to contract for the management and maintenance of the Condominium Property (which shall at all times comply with applicable Section 718.3025, F.S.) and to authorize a management agent (who may or may not be an affiliate of the Developer to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments and Charges, preparation of records, enforcement of rules and maintenance, repair and replacement of Common Elements with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted in this Declaration, the Articles, By-Laws, the rules and regulations and the Act including, but not limited to, the making of Assessments, promulgation of rules and regulations and execution of contracts on behalf of the Association. The Association, and its Board, shall at all times comply with the disclosure requirements set forth in Section 718.3026(3), F.S., to the extent applicable
- (f) Subject to the provisions of Section 8, the power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security therefor mortgages and security interests in property owned by the Association, if any, provided that such actions are approved by a majority of the entire membership of the Board of Directors and a majority of the Units represented at a meeting at which a quorum has been attained, or by such greater percentage of the Board or Unit Owners as may be specified in the By-Laws with respect to certain borrowing. The foregoing restriction shall not apply if such indebtedness is entered into for the purpose of financing insurance premiums, which action

may be undertaken solely by the Board of Directors, without requiring a vote of the Unit Owners, provided that no such action shall be permitted while the Developer owns any Unit without the prior written consent of the Developer.

- (g) The power to adopt and amend rules and regulations concerning the details of the operation and use of the Condominium Property and establish requirements for Unit maintenance.
- (h) The power to charge a fee for the exclusive use of any Common Elements (other than Limited Common Elements) or Association Property to any Unit Owner being granted, by the Association, a right to such exclusive use.
- (i) The powers to acquire, convey, lease and encumber real and personal property. Personal property shall be acquired, conveyed, leased or encumbered upon a majority vote of the Board of Directors, subject to Section 8 hereof. Real property (including, without limitation, any of the Units) shall be acquired, conveyed, leased or encumbered upon a majority vote of the Board of Directors; provided, that the requirements of Section 8 pertaining to the Unit Owners' approval of costs in excess of the threshold amount stated therein (including the proviso regarding the debt incurred) shall also apply to the acquisition of real property; provided, further, however, that the acquisition of a Unit as a result of a foreclosure of the lien for Assessments or Charges (or by deed in lieu of foreclosure) shall be made upon the majority vote of the Board, regardless of the price for same and the Association, through its Board, has the power to hold, lease, mortgage or convey the acquired Unit without requiring the consent of the Unit Owners. The expenses of ownership (including the expense of making and carrying any mortgage related to such ownership), rental, membership fees, taxes, Assessments, operation, replacements and other expenses and undertakings in connection therewith shall be Common Expenses.
- (j) To comply with the obligation to: (i) operate and maintain the surface water management system in accordance with the SFWMD Permit, if any, (ii) carry out, maintain, and monitor any required wetland mitigation tasks, if any, and (iii) maintain records of all permitting actions with regard to the District.
- (k) The power to execute all documents or consents, on behalf of all Unit Owners (and their mortgagees), required by all governmental and/or quasi-governmental agencies in connection with land use and development matters (including, without limitation, plats, waivers of plat, unities of title, covenants in lieu thereof, etc.), and in that regard, each Owner, by acceptance of the deed to such Owner's Unit, and each mortgagee of a Unit Owner by acceptance of a lien on said Unit, appoints and designates the President of the Association, as such Owner's agent and attorney-in-fact to execute any and all such documents or consents.
- (l) All of the powers which a corporation not for profit in the State of Florida may exercise pursuant to this Declaration, the Articles of Incorporation, the By-Laws, Chapters 607 and 617, Florida Statutes and the Act, in all cases except as may be expressly limited or restricted therein.

In the event of conflict among the powers and duties of the Association or the terms and provisions of this Declaration or otherwise, this Declaration shall take precedence over the Articles, By-Laws and applicable rules and regulations; the Articles of Incorporation shall take precedence over the By-Laws and applicable rules and regulations; and the By-Laws shall take precedence over applicable rules and regulations, all as amended from time to time; provided, however, that nothing set forth in this Declaration shall conflict with the powers and duties of the Association or the rights of the Unit Owners as provided in the Act. Notwithstanding anything in this Declaration and its exhibits to the contrary, the Association shall at all times be the entity having ultimate control over the Condominium, consistent with the Act.

- 11.2 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 required hereunder, caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements 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 Section 9.1 hereof. The Association's rights of review and approval of plans and other submissions under this Declaration are intended solely for the benefit of the Association. Neither the Association nor any of its officers, directors, committees, employees, agents, contractors, consultants 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 non-feasance 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, and any Owner, by acquiring title to his Unit, agrees not to seek damages from the Association arising out of the Association's review of any plans hereunder. Without limiting the generality of the foregoing, the Association shall not be responsible for reviewing (nor shall its 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 the successors and assigns) agrees to indemnify and hold the Association harmless from and against any and all costs, claims (whether rightfully or wrongfully asserted), damages, expenses and liabilities whatsoever (including, without limitation, reasonable attorneys' fees and court costs at all trial and appellate levels), arising out of any review of plans by the Association hereunder. The Association also shall not be liable to any Unit Owner or lessee or to any other person or entity for any property damage, theft, personal injury, death or other liability, including (without limitation) any liability for any damaged or stolen vehicles or other personal property left therein or elsewhere within the Common Elements, or on the grounds that the Association did not obtain or maintain insurance (or carried insurance with any particular deductible amount) for any particular matter where: (i) such insurance is not required hereby; or (ii) the Association could not obtain such insurance at reasonable costs or upon reasonable terms.

- 11.3 Restraint Upon Assignment of Shares in Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit.
- 11.4 Approval or Disapproval of Matters. Whenever the decision of a Unit Owner is required as to any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of all record Owners of the Unit is specifically required by this Declaration, the Articles, the By-Laws or under applicable law.
- 11.5 Acts of the Association. Unless the approval or action of Unit Owners, and/or a certain specific percentage of the Board of Directors, is specifically required in this Declaration, the Articles or By-Laws, applicable rules and regulations or applicable law, all approvals or actions permitted to be given or taken by the Association shall be given or taken by the Board of Directors, without the consent of Unit Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution. When an approval or action of the Association is permitted to be given or taken hereunder or thereunder, such action or approval may be conditioned in any manner the Association deems appropriate or the Association may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal.
- 11.6 Effect on Developer. Notwithstanding anything herein to the contrary, if the Developer holds one or more Units for sale in the ordinary course of business, none of the following actions may be taken without the prior written approval of Developer.
- (a) Assessment of the Developer as a Unit Owner for capital improvements, or for transitional engineers or attorneys or for legal expenses incurred in any other action that would be detrimental to the sales of Units by the Developer, provided however, that an increase in assessments for Common Expenses, without discrimination against the Developer, shall not be deemed to be detrimental to its sales of Units;
  - (b) Any action by the Association that would, in the Developer's sole and exclusive opinion, be detrimental to the construction, decorating, design, marketing, promotion or sale of Units by the Developer; provided, however, that an increase in Assessments for Common Expenses without discrimination against the Developer shall not be deemed to be detrimental to the sale of Units.
- 11.7 Registry of Owners and Mortgagees. The Association shall at all times maintain a register of the names and addresses of the Unit Owners and known mortgagees of all Units.



Upon the transfer of title to any Unit, the transferee shall notify the Association in writing of its interest in such Unit, together with recording information identifying the instrument by which such transferee acquired interest in the Unit. Each Owner of a Unit encumbered by a mortgage(s) may, but is not obligated to, notify the Association of the name and address of such mortgagee(s) and the recording information identifying same. The holder of any mortgage(s) encumbering a Unit may notify the Association of any such mortgage(s) and, upon receipt of such notice, the Association shall register in its records all pertinent information pertaining to the same

12. Determination of Common Expenses and Fixing of Assessments Therefor.

The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses and allocate and assess such expenses among the Unit Owners in accordance with the provisions of this Declaration and the By-laws. The Board of Directors shall advise all Unit Owners promptly in writing of the amount of the Assessments payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of the budget, adopted from time to time, on which such Assessments are based, to all Unit Owners and (if requested in writing) to their respective mortgagees. The Common Expenses shall include the expenses of and reserves for (if and to the extent required by, and not waived in accordance with, Applicable Law or established by the Association), the operation, maintenance, repair and replacement of the Condominium Property and/or Association Property, costs of carrying out the powers and duties of the Association and any other expenses designated as Common Expenses by the Act, this Declaration, the Articles or By-Laws, applicable rules and regulations or by the Association. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall designate, subject to change, to cover actual expenses at any time. Any such change shall be adopted consistent with the provisions of this Declaration and the By-Laws.

13. Collection of Assessments.

13.1 Liability for Assessments and Charges. A Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments coming due while he is the Unit Owner. The grantee shall be jointly and severally liable with the grantor for all unpaid Assessments and Charges against the grantor for his 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 any 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.

13.2 Special and Capital Improvement Assessments and Charges. In addition to Assessments levied by the Association to meet the Common Expenses of the Condominium and the Association, the Board of Directors may levy "Special Assessments" and "Capital Improvement Assessments" upon the following terms and conditions:

- (a) "Special Assessments" shall mean and refer to a charge against each Owner and his Unit, representing a portion of the costs incurred by the Association for specific purposes of a nonrecurring nature which are not in the nature of capital improvements or representing funds otherwise required by the Association and not produced by the regular Assessments received by the Owners.
- (b) "Capital Improvement Assessments" shall mean and refer to a charge against each Owner and his Unit, representing a portion of the costs incurred by the Association for the acquisition, installation, construction or replacement (as distinguished from repairs and maintenance) of any capital Improvements located or to be located within the Limited Common Elements or Association Property.
- (c) Special Assessments and Capital Improvement Assessments may be levied by the Board and shall be payable in lump sums or installments, in the discretion of the Board; provided that, if such Special Assessment or Capital Improvements Assessments, in the aggregate in any year, exceed \$125,000.00 or cause the total Assessments levied to exceed 115% of the Assessments for the preceding calendar year, the Board must obtain approval of a majority of the Units represented at a meeting at which a quorum is attained.

13.3 Default in Payment of Assessments for Common Expenses and Charges. Assessments and Charges, and installments thereof, not paid within ten (10) days from the first day of the period in which they become due shall bear interest at the rate of eighteen percent

(18%) per annum, or the highest rate permitted by law, whichever is less. The Association may also charge an administrative late fee, in addition to such interest, in an amount not to exceed the highest amount provided for in the Act (as it may be amended from time to time). The Association has a lien on each Condominium Parcel as hereinafter provided. Except as otherwise provided in the Act, and as set forth below, the lien is effective from, and shall relate back to the recording of this Declaration. However, as to first mortgages of record, the lien for Assessments is effective from and after recording of a claim of lien in the Public Records of Miami-Dade County, Florida. The lien shall be evidenced by the recording of a claim of lien in the Public Records of the County, stating the description of the condominium parcel, the name of the record owner, the name and address of the association, the amount due and the due dates. The claim of lien must be executed and acknowledged by an officer or authorized agent of the association. The claim of lien shall not be released until all sums secured by it (or such other amounts as to which the Association shall agree by way of settlement) have been fully paid or until it is barred by law. No such lien shall be effective longer than one (1) year after the claim of lien was recorded unless, within that time, an action to enforce the lien is commenced. The one-year period shall automatically be extended for any length of time during which the Association is prevented from filing a foreclosure action by an automatic stay resulting from a bankruptcy petition filed by the parcel owner or any other person claiming an interest in the parcel. The claim of lien shall secure (whether or not stated therein) all unpaid Assessments which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a certificate of title, as well as interest and all reasonable costs and attorneys' fees incurred by the Association incident to the collection process. Upon payment, 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 or Charges in the manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments and Charges without waiving any claim of lien.

As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after thirty (30) days' prior written notice to the applicable Unit Owner and the recording of a claim of lien, the Association may declare the balance of the Assessment installments for the current budget year to be accelerated and immediately due and payable. In the event that 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.

- 13.4 Notice of Intention to Foreclose Lien. No foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments or Charges. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments or Charges, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at the last known address, and upon such mailing, the notice shall be deemed to have been given. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.
- 13.5 First Mortgagees. Any first mortgagee or its successors or assignees who acquire title to a Unit by foreclosure or by deed in lieu of foreclosure or otherwise, is liable for all Assessments which come due while it is the Unit Owner and is jointly and severally liable with the previous Unit Owner for all unpaid Assessments which came due up to the time of the transfer of title. This liability is without prejudice to any rights the first mortgagee or any such other party may have to recover any such sums it may have paid to the Association from the previous Unit Owner. Notwithstanding the foregoing, in no event shall any such first mortgagee or its successors or assigns be liable for more than the Unit's unpaid Assessments which accrued or come due during the six (6) months immediately preceding its acquisition of title to the Unit, and for which payment in full has not been received by the Association, or by one percent (1%) of the original mortgage debt, whichever amount is less. The provisions of this paragraph shall not apply unless the first mortgagee or its successors or assigns joins the Association as a defendant in the foreclosure action. Joinder of the Association is not required if, on the date the complaint

is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the mortgagee. The person acquiring title shall pay the amount owed to the Association within thirty (30) days after the transfer of title. Failure to pay the amount owed to the Association when due shall entitle the Association to record a claim of lien against the Unit and proceed in the same manner as provided in this Section for unpaid assessments. The foregoing limitation of liability shall apply to any purchase at a foreclosure sale of a first mortgage regardless of whether the purchaser is the holder of the foreclosed mortgage. A first mortgagee acquiring title to a Unit as a result of foreclosure or deed in lieu thereof may not, during the period of ownership of such Unit, whether or not such Unit is unoccupied, be excused from the payment of some or all of the Assessments coming due during the period of such ownership.

- 13.6 Certificate of Unpaid Assessments. Within fifteen (15) days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating whether all Assessments, Charges and other monies owed to the Association by the Unit 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.
- 13.7 Installments. Regular Assessments shall be collected monthly or quarterly, in advance, at the option of the Association. Initially, Assessments will be collected monthly.
- 13.8 Application of Payments. Any payments received by the Association from a delinquent Unit Owner for Assessments shall be applied first to any interest accrued by the Association, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent Assessment. Any payments received by the Association from a delinquent Unit Owner for Charges shall be applied first to any interest accrued by the Association, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent Charge. The foregoing shall be applicable notwithstanding any restrictive endorsement, designation or instruction placed on or accompanying a payment.
- 13.9 Developer's Liability for Assessments. During the period from the date of the recording of this Declaration until the earlier of the following dates (the "Guarantee Expiration Date"): (a) the last day of the twelfth (12th) full calendar month following the recording of this Declaration, or (b) the date that control of the Association is transferred to Unit Owners other than the Developer as provided in the By-Laws and the Act, the Developer may decide not to pay the share of Common Expenses and Assessments attributable to the Units owned by the Developer, provided: (i) that the regular Assessments for Common Expenses imposed on each Unit Owner other than the Developer prior to the Guarantee Expiration Date shall not increase during such period over the amounts set forth on the Estimated Operating Budget for the Condominium, subject only to the occurrence of an Extraordinary Financial Event, as set forth below; (ii) that the Developer shall be obligated to pay any amount of Common Expenses actually incurred during such period and not produced by the Assessments at the guaranteed levels receivable from other Unit Owners. After the Guarantee Expiration Date, the Developer shall have the option of extending the guarantee for two additional six month periods, or paying the share of Common Expenses and Assessments attributable to Units it then owns. Notwithstanding the above and as provided in Section 718.116(9)(a)(2) of the Act, in the event of an Extraordinary Financial Event (as hereinafter defined), the costs necessary to effect restoration shall be assessed against all Unit Owners owning units on the date of such natural disaster or Act of God, and their successors and assigns, including the Developer (with respect to Units owned by the Developer). As used in this subsection, an "Extraordinary Financial Event" shall mean a casualty loss affecting the Condominium resulting from a natural disaster or Act of God, which is not covered by insurance proceeds from the insurance maintained by the Association as required by Section 718.111(11)(a) of the Act.
- 13.10 Developer Credits. If and to the extent that the Developer elects not to guarantee assessments as set forth in Section 13.9 above, the Developer shall be responsible for the payment of its pro-rata share of the Assessments for all Units it owns. Notwithstanding the foregoing, to the fullest extent permitted under Applicable Law, Developer may, at its option and from time to time, take credits against any unpaid Assessments for monies Developer previously advanced on behalf of the Association, or may seek reimbursement from the Association. These items shall specifically include, but not be limited to, insurance premiums and Common Element utility charges and deposits, permit and license fees, charges for elevator and other service contracts, salaries of Association

employees and other similar expenses, as well as those items disclosed in the operating budget.

14. Insurance. Insurance covering the Condominium Property shall be governed by the following provisions:

14.1 Purchase Custody and Payment.

- (a) Purchase. All insurance policies described herein covering portions of the Condominium Property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.
- (b) Approval. Each insurance policy, the agency and company issuing the policy and the Insurance Trustee (if appointed) hereinafter described shall be subject to any modifications which may be reasonably required by the Primary Institutional First Mortgagee.
- (c) Named Insured. The named insured shall be the Association, individually, and as agent for the Unit Owners covered by the policy, without naming them, and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be deemed additional insureds.
- (d) Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and all policies and endorsements thereto shall be deposited with the Insurance Trustee (if appointed).
- (e) Copies to Mortgagees. One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by the Association upon request to each Institutional First Mortgagee who holds a mortgage upon a Unit covered by the policy. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy, or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, as appropriate.
- (f) Personal Property and Liability. Except as specifically provided herein or by the Act, the Association shall not be responsible to Unit Owners to obtain insurance coverage upon the property lying within the boundaries of their Unit, including, but not limited to, their personal property, or for their personal liability and living expenses and for any other risks not otherwise insured in accordance herewith.

14.2 Coverage. The Association shall use commercially reasonable efforts to maintain insurance covering the following:

- (a) Casualty. The Condominium Property and all Association Property shall be insured in an amount not less than 100% of the full insurable replacement cost thereof, excluding foundation and excavation costs, or any lesser amount permitted under the Act. Such policy shall provide primary coverage for (i) all portions of the Condominium Property as originally installed or replacement of like kind and quality, in accordance with the original plans and specifications, and (ii) all alterations or additions made to the Condominium Property or Association Property pursuant to Section 718.113(2), F.S. Such policy shall not include hurricane shutters, floor, wall and ceiling coverings, HVAC equipment serving or located within a Unit, electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing. Such policy may also exclude any other property permitted to be excluded from the Condominium's insurance policy pursuant to the Act and may contain reasonable deductible provisions, which shall be consistent with industry standards and prevailing practice for similar condominiums and based upon the level of available funds and predetermined assessment authority, as determined by the Board of Directors at a meeting open to all Unit Owners in the manner set forth in the Act. Such coverage shall afford protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as from time to time are customarily covered with respect to buildings and improvements similar to the Condominium in construction, location and use, including, but not limited to, vandalism and malicious mischief.

- (b) Liability. Comprehensive general public liability and automobile liability insurance, if applicable, covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Insured Property, with such coverage as shall be required by the Board of Directors of the Association, but with combined single limit liability of not less than \$1,000,000 for each accident or occurrence, \$100,000 per person and \$50,000 property damage, and with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa. The Association may also obtain and maintain liability insurance for its directors and officers and for the benefit of the Association's employees.
- (c) Workers' Compensation and other mandatory insurance, when applicable.
- (d) Flood Insurance covering the Common Elements, Association Property and Units if required by the Primary Institutional First Mortgagee or FNMA/FHLMC, or if the Association so elects.
- (e) Fidelity Bonding covering all persons who control or disburse funds of the Association. The fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this paragraph, the term persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks on behalf of the Association, and the president, secretary, and treasurer of the Association. The Association shall bear the cost of any such bonding.
- (f) 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.
- (g) Such Other Insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

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

Every casualty insurance policy obtained by the Association, if required by FNMA/FHLMC, shall have the following endorsements: (i) agreed amount and inflation guard; and (ii) steam boiler coverage (providing at least \$50,000 coverage for each accident at each location), if applicable.

14.3 Additional Provisions. All policies of insurance shall provide that such policies may not be canceled or substantially modified without endeavoring to provide at least thirty (30) days' prior written notice to all of the named insureds, including all mortgagees of Units. Prior to obtaining any policy of casualty insurance or any renewal thereof, but in no event later than every thirty-six (36) months, the Board of Directors shall obtain an independent insurance appraisal from a fire insurance company, or other competent appraiser, of the full insurable replacement value of the Insured Property (exclusive of foundations), without deduction for depreciation, for the purpose of determining the amount of insurance to be effected pursuant to this Section. The Board shall determine the appropriate deductible for each policy of insurance. Each Owner, by acceptance of a deed or other conveyance of a Unit, hereby ratifies and confirms any decisions made by the Association in this regard and recognizes and agrees that funds to cover the deductible must be provided from the general operating funds of Association before the Association will be entitled to insurance proceeds. The Association may but shall not be required to establish a reserve to cover any applicable deductible.

14.4 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the costs of fidelity bonding for

any management company employee may be paid by such company pursuant to its contract with the Association. Premiums may be financed in such a manner as the Board of Directors deems appropriate.

14.5 Insurance Trustee; Share of Proceeds. All insurance policies obtained by or on behalf of the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee which may, but need not, be designated by the Board of Directors and which, if so appointed, shall be a bank or trust company in Florida with trust powers, with its principal place of business in the State of Florida. References herein to the Insurance Trustee shall be deemed to apply to the Board of Directors if it fails, or determines not to appoint an Insurance Trustee as provided in below. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees in the following shares, but shares need not be set forth on the records of the Insurance Trustee:

- (a) Insured Property. Proceeds on account of damage to the Insured Property shall be held in undivided shares for each Unit Owner, such shares being the same as the undivided shares in the Common Elements appurtenant to each Unit, provided that if the Insured Property so damaged includes property lying within the boundaries of specific Units, that portion of the proceeds allocable to such property shall be held as if that portion of the Insured Property were Optional Property as described in paragraph (b) below.
- (b) Optional Property. Proceeds on account of damage solely to Units and/or certain portions or all of the contents thereof not included in the Insured Property (all as determined by the Association in its sole discretion) (collectively the "Optional Property"), if any, is collected by reason of optional insurance which the Association elects to carry thereon (as contemplated herein), shall be held for the benefit of Owners of Units or other portions of the Optional Property damaged in proportion to the cost of repairing the damage suffered by each such affected Owner, which cost and allocation shall be determined in the sole discretion of the Association.
- (c) Mortgagees. No mortgagee shall have any right to determine or to participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds, except for actual distributions thereof made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.

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

- (a) Expenses of the Trust. All expenses of the Insurance Trustee shall be first paid or provision shall be made therefor.
- (b) Reconstruction or Repair. If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners thereof, remittances to Unit Owners and their mortgagees being payable jointly to them.
- (c) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the beneficial owners as provided in Section 14.5 above, and distributed first, to all Institutional First Mortgagees in an amount sufficient to pay off their mortgages; second, to the Association for any due and unpaid Assessments or Charges; and third, the balance, if any, to the beneficial owners.
- (d) Certificate. In making distributions to Unit Owners and their mortgagees, the Insurance Trustee (if appointed) may rely upon a certificate of the Association

made by its President and Secretary as to the names of the Unit Owners and their mortgagees and their respective shares of the distribution.

- 14.7 Association as Agent. The Association is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner and for each owner of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claim.
- 14.8 Unit Owners' Personal Coverage. Unless the Association elects otherwise, the insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within his Unit, or casualty or theft loss to the contents of an Owner's Unit. It shall be the obligation of the individual Unit Owner, to the extent required under the Act, to purchase and pay for all insurance as to all such risks and as to any other risks not covered by insurance carried by the Association, including insurance for personal belongings located on Limited Common Elements. The Association shall require each Owner to provide evidence of a currently effective policy of hazard and liability insurance upon request, but not more than once per year. Upon the failure of an Owner to provide a certificate of insurance issued by an insurer approved to write such insurance in this state within thirty (30) days after the date on which a written request is delivered, the Association may purchase a policy of insurance on behalf of an Owner. The cost of such a policy, together with reconstruction costs undertaken by the Association but which are the responsibility of the Owner, may be collected in the manner provided for the collection of Assessments.
- 14.9 Benefit of Mortgagees. Certain provisions in this Section 14 entitled "Insurance" are for the benefit of mortgagees of Units and may be enforced by such mortgagees.
- 14.10 Appointment of Insurance Trustee. The Board of Directors shall have the option in its discretion of appointing an Insurance Trustee hereunder. If the Association fails or elects not to appoint an Insurance Trustee, the Association will perform directly all obligations imposed upon the Insurance Trustee by this Declaration. Fees and expenses of any Insurance Trustee are Common Expenses.
- 14.11 Presumption as to Damaged Property. In the event of a dispute or lack of certainty as to whether damaged property constitutes a Unit(s), Limited Common Elements or Common Elements, such property shall be presumed to be Common Elements.
- 14.12 Self Insurance. Pursuant to 718.111(11)(a)1, an association or group of associations may self insure if the insurance fund meets the requirements of Section 624.460-624.1488 of the Florida Statutes.
- 14.13 Unit Owner Controlled Association. A Unit Owner controlled Association must use best efforts to obtain adequate insurance to protect the Association, the Association Property, the Common Elements, and the Condominium Property that is required to be insured by the Association.
15. Reconstruction or Repair After Fire or Other Casualty.
- 15.1 Determination to Reconstruct or Repair. Subject to the immediately following paragraph, in the event of damage to or destruction of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) and the Insurance Trustee (if appointed) shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

If 75% or more of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) is substantially damaged and if Unit Owners owning 80% of the applicable interests in the Common Elements duly and promptly resolve not to proceed with the repair or restoration thereof, and a Majority of Institutional First Mortgagees approve such resolution, the Condominium Property will not be repaired and shall be subject to an action for partition instituted by the Association, any Unit Owner, mortgagee or lienor, as if the Condominium Property were owned in common, in which event the net proceeds of insurance resulting from such damage or destruction shall be first applied to demolish any remaining improvements, and shall thereafter be divided among all the Unit Owners in proportion to their respective interests

in the Common Elements (with respect to proceeds held for damage to the Insured Property other than that portion of the Insured Property lying within the boundaries of the Unit), and among affected Unit Owners in proportion to the damage suffered by each such affected Unit Owner, as determined in the sole discretion of the Association (with respect to proceeds held for damage to the Optional Property, if any, and/or that portion of the Insured Property lying within the boundaries of the Unit); provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such fund all mortgages, liens and Assessments and Charges on his Unit in the order of priority of such mortgages, liens, Assessments and Charges.

Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than sixty (60) days from the date the Insurance Trustee (if appointed) or the Association notifies the Board of Directors and Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work, or not more than ninety (90) days after the Insurance Trustee (if appointed) or the Association notifies the Board of Directors and the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work, provided however, that the Board may, in its sole discretion, grant written extensions for such periods as the Board determines. The Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

- 15.2 **Plans and Specifications.** Any reconstruction or repair must be made, substantially in accordance with the plans and specifications for the original Improvements and then applicable building and other codes; or if not, then in accordance with the plans and specifications approved by the Board of Directors or the Association and then applicable building and other codes, and, if the damaged property which is to be altered is the Optional Property, by the Owners of not less than eighty (80%) of the applicable interests in the Common Elements, as well as the Owners of all Units and other portions of the Optional Property (and their respective mortgagees) the plans for which are to be altered.
- 15.3 **Special Responsibility.** If the damage is only to those parts of the Optional Property for which the responsibility of maintenance and repair is that of the respective Unit Owners, then the Unit Owners shall be responsible for all necessary reconstruction and repair, which shall be effected promptly and in accordance with guidelines established by the Board of Directors (unless insurance proceeds are held by the Association with respect thereto by reason of the purchase of optional insurance thereon, in which case the Association shall have the responsibility to reconstruct and repair the damaged Optional Property, provided the respective Unit Owners shall be individually responsible for any amount by which the cost of such repair or reconstruction exceeds the insurance proceeds held for such repair or reconstruction on a Unit by Unit basis, as determined in the sole discretion of the Association). In all other instances, the responsibility for all necessary reconstruction and repair shall be that of the Association.
- (a) **Disbursement.** The proceeds of insurance collected on account of a casualty, and the sums collected from Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:
- (i) **Association - Lesser Damage.** If the amount of the estimated cost of reconstruction and repair which are the responsibility of the Association is less than \$100,000, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors; provided, however, that upon request to the Insurance Trustee (if appointed) by an Institutional First Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage.
- (ii) **Association - Major Damage.** If the amount of the estimated cost of reconstruction and repair which are the responsibility of the Association is more than \$100,000, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by subparagraph (i) above, but then only upon the further approval of an architect or engineer qualified to practice in Florida and employed by the Association to supervise the work.



- (iii) Unit Owners. If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance may be used by the Association to effect repairs to the Optional Property (if not insured or if under-insured), or may be distributed to Owners of the Optional Property who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each affected Unit bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Optional Property. All proceeds must be used to effect repairs to the Optional Property, and if insufficient to complete such repairs, the Unit Owners shall pay the deficit with respect to their portion of the Optional Property and promptly effect the repairs. Any balance remaining after such repairs have been effected shall be distributed to the affected Unit Owners and their mortgagees jointly as elsewhere herein contemplated.
- (iv) Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that part of the distribution to an Owner which is not in excess of Assessments and Charges paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee.
- (v) Certificate. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit Owners upon Assessments and Charges shall be deposited by the Association with the Insurance Trustee, or to determine whether the disbursements from the construction fund are to be made upon the order of the Association alone or upon the additional approval of an architect, engineer or otherwise, or whether a disbursement is to be made from the construction fund, or to determine whether surplus funds to be distributed are less than the Assessments and Charges paid by Owners, or to determine the payees or the amounts to be paid. The Insurance Trustee may rely upon a certificate of the Association, made by its President and Secretary, as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the names of the payees and the amounts to be paid.

15.4 Assessments and Charges. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Assessments or Charges shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Assessments on account of damage to the Insured Property shall be in proportion to all of the Owners' respective shares in the Common Elements, and Charges on account of damage to the Optional Property, shall be in proportion to the cost of repairing the damage suffered by each Owner thereof, as determined by the Association.

15.5 Benefit of Mortgagees. Certain provisions in this Section 15 are for the benefit of mortgagees of Units and may be enforced by any of them.

16. Condemnation.

16.1 Deposit of Awards with Insurance Trustee. The taking of portions of the Condominium Property or Association Property by the exercise of the power of eminent domain shall be deemed to be a casualty, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee (if appointed). Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee; and in the event of a failure to do so, in the discretion of the Board of Directors, a Charge shall be made against a defaulting Unit Owner in the amount of his award, or the amount of such award shall be set off against any sums hereafter made payable to that Owner.

- 16.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, a taking by eminent domain also shall be a casualty.
- 16.3 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the awards and Special Assessments will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and Special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Insurance Trustee (if appointed) after a casualty, or as elsewhere in this Section 16 specifically provided.
- 16.4 Unit Reduced but Habitable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable (in the sole opinion of the Association), the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:
- (a) Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be charged against the Owner of the Unit.
  - (b) Distribution of Surplus. The balance of the award with respect to the Unit, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Unit Owner and such mortgagees.
  - (c) Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the percentage representing the share in the Common Elements and of the Common Expenses and Common Surplus appurtenant to the Unit shall be reduced by multiplying the percentage of the applicable Unit prior to reduction by a fraction, the numerator of which shall be the area in square feet of the Unit after the taking and the denominator of which shall be the area in square feet of the Unit before the taking. The shares of all Unit Owners in the Common Elements, Common Expenses and Common Surplus shall then be restated as follows:
    - (i) add the total of all percentages of all Units after reduction as aforesaid (the "Remaining Percentage Balance"); and
    - (ii) divide each percentage for each Unit after reduction as aforesaid by the Remaining Percentage Balance.The result of such division for each Unit shall be the adjusted percentage for such Unit.
- 16.5 Unit Made Uninhabitable. If the taking is of the entire Unit or reduces the size of a Unit so that it cannot be made habitable (in the sole opinion of the Association), the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:
- (a) Payment of Award. The awards shall be paid first to the applicable Institutional First Mortgagees in amounts sufficient to pay off their mortgages in connection with each Unit which is not so habitable; second, to the Association for any due and unpaid Charges and Assessments; third, jointly to the affected Unit Owners and other mortgagees of their Units. In no event shall the total of such distributions with respect to a specific Unit exceed the market value of such Unit immediately prior to the taking. The balance, if any, shall be applied to repairing and replacing the Common Elements. Any awards attributable to more than one Unit shall be divided among the affected Unit Owners in proportion to the damage or impairment suffered by each such Unit Owner, as determined by the Association in its sole discretion.
  - (b) Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition

allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors; provided that if the cost of the work therefor shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required for capital improvements to the Common Elements.

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

- (i) add the total of all percentages of all Units of continuing Unit Owners prior to this adjustment, but after any adjustments made necessary by subsection 16.4(c) hereof (the "Percentage Balance"); and
- (ii) divide the percentage of each Unit of a continuing Unit Owner prior to this adjustment, but after any adjustments made necessary by subsection 16.4(c) hereof, by the Percentage Balance.

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

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

- (e) Arbitration. If the market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and mortgagees of the Unit and the Association within 30 days after notice of a dispute by any affected party, such value shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit. A judgment upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction in accordance with the Florida Arbitration Code. The cost of arbitration proceedings shall be assessed against all Units Owners, including Owners who will not continue after the taking, in proportion to the applicable percentage shares of such Owners as they exist prior to the adjustments to such shares effected pursuant hereto by reason of taking.

- 16.6 Taking of Common Elements. Awards for the taking of Common Elements shall be used to render the remaining portion of the Common Elements usable in the manner approved by the Board of Directors; provided, that if the cost of such work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner elsewhere required for capital improvements to the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustments to these shares effected pursuant hereto by reason of the taking. If there is a mortgage on a Unit, the distribution shall be paid jointly to the Unit Owner and the mortgagees of the Unit.

- 16.7 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements and shares in the Common Expenses and Common Surplus that are effected by the taking shall be evidenced by an amendment to this Declaration of Condominium that is only required to be approved by, and executed upon the direction of, a majority of the Board of Directors.

17. Occupancy and Use Restrictions. In order to provide for congenial occupancy of the Condominium Property and for the protection of the values of the Units, the use of the Condominium Property shall be restricted to and shall be in accordance with the following provisions:

- 17.1 Occupancy. Except as otherwise herein expressly provided, each Residential Unit shall be used for residential purposes only (other than in the case of rights reserved to the Developer). No business, profession or trade of any type shall be conducted on any portion of the Residential Units. This prohibition shall not be applicable to (a) home office use of a Unit, to the extent permitted by law and to the extent that the office is not staffed by employees, is not used to receive clients and/or customers and does not generate additional visitors or traffic into the Unit or on any part of the Condominium Property; and (b) the Developer with respect to its development of the Condominium Property, its construction, repair, decorating, administration, sale rental or lease of Units, or its use of Units as models, V.I.P. or guest suites, or for sales offices or management services for the Condominium Property. Nothing herein shall be construed to prohibit ownership of a Unit by a corporation; domestic or foreign, provided that the residential nature of the Units is not disturbed.

The number of people occupying a Unit shall not exceed the amount permitted by the Declaration of Condominium, applicable zoning regulations promulgated from time to time by applicable local, County, state and federal codes, ordinances and regulations.

Unless otherwise determined by the Board of Directors, and except as otherwise provided in Section 17.2, a person(s) occupying a Residential Unit for more than one (1) month without the Unit Owner or a member of his family being present shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of this Section (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 Declaration pertaining to the approval of leases and the Board of Directors shall enforce, and the Unit Owners comply with, same with due regard for such purpose.

- 17.2 Leases. Leasing of Units shall be subject to the prior written approval of the Association. No portion of a Unit (other than an entire Unit) may be rented. No lease shall be for a period of less than six (6) months. Renewal of leases with the same prior tenants shall not be considered new leases. The Condominium Association may, from time to time, promulgate rules requiring a deposit from the prospective tenant in an amount not to exceed one (1) month's rent ("Deposit"), to be held in an escrow account maintained by the Association, provided, however, that the Deposit shall not be required for any Residential Unit which is rented or leased directly by or to the Developer. When a Residential Unit is leased, a tenant shall have all use rights in Association Property and those Common Elements otherwise readily available for use generally by the Unit Owners, and the Owner(s) of the leased Residential Unit shall not have such rights, except as a guest, unless such rights are waived in writing by the tenant. Nothing herein shall interfere with the access rights of the Unit Owner as a landlord pursuant to Chapter 83, Florida Statutes. The Association shall have the right to adopt rules to prohibit dual usage by a Residential Unit Owner and a tenant of Association Property and Common Elements otherwise readily available for use generally by Unit Owners. Additionally, copies of all leases of Units shall be submitted to the Condominium Association and the tenants thereunder must register with the Condominium Association prior to any occupancy.

There are no leasing restrictions imposed upon Residential Unit rented or leased directly by or to the Developer and all such Units may be leased on any terms that may be desired by the Developer.

Every lease of a Residential Unit shall provide (or, if it does not, shall be automatically deemed to provide) that: (i) a material condition of the lease shall be the tenant's full compliance with the covenants, terms, conditions and restrictions of this Declaration (and all exhibits hereto) and with any and all rules and regulations adopted by the Association from time to time (before or after the execution of the lease); (ii) and that a tenant may not, under any circumstances, sublet the Unit (or any portion thereof) to any other person or permit occupancy by any other person. Additionally, copies of all written leases of a Residential Unit shall be submitted to the Association and tenants must register with the Association prior to moving in. The Unit Owner will be jointly and severally liable with the tenant to the Association for any amount which is required by the Association to repair any damage to the Common Elements from the acts or omissions of tenants (as determined in the sole discretion of the Association) and to pay any claim for injury or damage to property caused by the negligence of the tenant and a Charge may be levied against the Unit therefore. This provision may not be amended or modified in whole or in part, by any amendment to this Declaration or by any Rules and Regulations, without a vote of at least eighty percent (80%) of the vote interests in the Condominium.

The lease of a Unit for a term of six (6) months or less is prohibited. Notwithstanding the foregoing, each Unit Owner understands and acknowledges that any lease for a term of six months or less is subject to a tourist development tax assessed pursuant to Section 125.0104, Florida Statutes. A Unit Owner leasing his or her Unit for a term of six (6) months or less agrees, and shall be deemed to have agreed, for such Owner, and his or her heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, the Developer and all other Unit Owners harmless from and to indemnify them for any and all costs, claims, damages, expenses or liabilities whatsoever, arising out of the failure of such Unit Owner to pay the tourist development tax and/or any other tax or surcharge imposed by the State of Florida with respect to rental payments or other charges under the lease, and such Unit Owner shall be solely responsible for and shall pay to the applicable taxing authority, prior to delinquency, the tourist development tax and/or any other tax or surcharge due with respect to rental payments or other charges under the lease.

All leases are hereby made subordinate to any lien filed by the Condominium Association whether prior to or subsequent to such lease. Any purported lease of a Residential Unit in violation of this Section shall be voidable at any time at the election of the Association.

- 17.3 Children. Children shall be permitted to reside in the Units, subject to the provisions of Section 17.1 above, and applicable rules and regulations which may be adopted by the Association from time to time.
- 17.4 Pet Restrictions. Unit Owners shall be permitted to keep up to one (1) domesticated dog or cat, provided such pet does not exceed twenty-five (25) pounds in weight. Household pets shall not be kept, bred or maintained for any commercial purpose and shall not become a nuisance or annoyance to neighbors. Those pets which, in the sole discretion of the Condominium Association, endanger health, safety, have the propensity for dangerous or vicious behavior (such as pit bulldogs or other similar breeds or mixed breeds), make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or to the owner of any other portion of the Condominium shall be removed upon request of the Condominium Association. Residential Unit Owners must pick up all solid wastes of their pets and dispose of such wastes appropriately. All pets (including cats) must be kept on a leash of a length that affords reasonable control over the pet at all times, or must be carried, when outside the Unit. No pet may be kept on a balcony or terrace when its owner is not in the Unit. No guest, lessee or invitee shall bring any animal whatsoever upon the Condominium Property. Without limiting the generality of Section 19 of this Declaration of Condominium, any violation of the provisions of this restriction shall entitle the Condominium Association to all of its rights and remedies, including, but not limited to, the right to fine Residential Unit Owners (as provided in any applicable rules and regulations) and/or to require any pet to be permanently removed from the Condominium.
- 17.5 Use of Common Elements and Association Property. No portion of the Units, the Limited Common Elements, the other Common Elements, or the Condominium shall be used for any purpose other than those reasonably suited for furnishing the services and facilities incident to the use of the Units. The Common Elements shall not be obstructed, littered, defaced, or misused in any manner. In no event shall any Unit Owner or occupant place, or permit the placement of, any item that obstructs, or otherwise impedes access to, any portions of the Condominium that are either designated or used as delivery and receiving areas.
- 17.6 Nuisances. No nuisances (as defined by the Condominium Association from time to time) shall be allowed on the Condominium or Association Property, nor shall any use, custom or practice be allowed which is a source of annoyance to occupants of Units or which interferes with the peaceful possession or proper use of the Condominium and/or Association Property by its residents, occupants or members. The Board of Directors shall have the right to determine if any equipment, fixture, improvement, materials or activity producing such noise or odor constitutes a nuisance.
- 17.7 Outside Items. No rubbish, garbage, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Condominium, except within designated trash receptacles. No linens, clothing, household fabrics, curtains, rugs, or laundry of any kind shall be hung, dried or aired from any windows, doors, balconies, terraces, or other portions of the Condominium. No articles shall be placed on balconies, patios or similar areas. The foregoing shall not prevent placing and using patio-type furniture, planters and other items in such areas if the same are normally and customarily used for a residential balcony, patio or terrace area. A Unit Owner may respectfully display one (1) portable,

removable American flag, and, on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day, any Unit Owner may respectfully display portable, removable official flags, not larger than four and one-half feet by six feet (4'6" x 6') that represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard. No painting or changes in the exterior colors of any Units or the Limited Common Elements appurtenant thereto shall be permitted. In the event of any doubt or dispute as to whether a particular item is permitted hereunder, the decision of the Board of Directors shall be final and dispositive.

- 17.8 Firearms. The discharge of firearms and fireworks within the Condominium is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size.
- 17.9 No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or the By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Section 17.9. No activity specifically permitted by this Declaration shall be deemed to be a violation of this Section.
- 17.10 Alterations or Additions. Without limiting the generality of Section 9.1 hereof, but subject to the provisions of Section 11 hereof, no Residential Unit Owner shall cause or allow improvements or changes to his Residential Unit, or to any Limited Common Elements, Common Elements, or Association Property, which alters the exterior appearance thereof, or which could in any way affect the structural, electrical, plumbing or mechanical systems of the Building or elsewhere within the Condominium Property; without obtaining the prior written consent of the Association (in the manner specified in Section 9.1 hereof). Inasmuch as the Condominium has been constructed with post tension cables, absolutely no penetration shall be made to any floor slabs, roof slabs, or ceiling slabs without the prior written consent of the Board of Directors. Notwithstanding anything to the contrary contained herein, the post tension cables contained in the Building shall not be considered a part of a Unit since such cables are essential to the structure and support of the Building, all post tension cables within the Condominium shall be deemed Common Elements of the Condominium and may not be disturbed or altered without the written consent of the Board.
- 17.11 Sound, Weight and Flooring Restrictions. Other than as originally installed by the Developer, hard and/or heavy surface floor coverings, including, without limitation, tile, marble or wood, may not be installed in any part of a Residential Unit, without the prior written consent of the Association. The installation of such hard and/or heavy surface floor coverings shall be subject to (a) approval in writing by the Board of Directors, (b) meet applicable structural and sound insulation requirements, (c) conform with the requirements of the Florida Building Code and any other applicable building code, and (d) be compatible with the overall structural design of the Building. Additionally, the installation in any Residential Unit of any improvement or heavy object must be approved by the Board of Directors and must be compatible with the overall structural design of the Building. In no event shall any heavy object, which would exceed a life load limit of 50 pounds per square foot, be placed in any Residential Unit. The Board of Directors may require a structural engineer to review certain of the proposed improvements, with such review to be at the Owner's sole expense. Additionally, the Board may require Unit Owners to furnish it with certifications of the floor assembly Impact Isolation Class rating from the installers of such surfaces. The color and exact materials to be used on balcony floor coverings must also be approved in writing by the Board of Directors. Any use guidelines set forth by the Condominium Association shall be consistent with good design practices for the waterproofing and overall structural design of the Building. Owners will be held strictly liable for violations of these restrictions and for all damages resulting therefrom and the Condominium Association has the right to require immediate removal of violations. Applicable warranties of the Developer, if any, shall be voided by violations of these restrictions and requirements. A waterproofing system is to be placed on the concrete surface of the balcony prior to the installation of the setting bed and tile. This waterproofing system must be as recommended by the manufacturer of the tile setting material and the installation must follow the waterproofing manufacturer's written recommendations. Each Owner agrees

that sound transmission in a building such as the Condominium is very difficult to control, and that noises from adjoining or nearby Units and/or mechanical equipment can often be heard in another Unit. The Developer does not make any representation or warranty as to the level of sound transmission between and among Units and the other portions of the Condominium, and each Owner shall be deemed to waive and expressly release any such warranty and claim for loss or damages resulting from sound transmission.

- 17.12 Exterior Improvements. Without limiting the generality of Section 9.1 or 17.10 hereof, but subject to the provisions of this Declaration specifically permitting same, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, balconies or windows of the Residential Units or the Limited Common Elements appurtenant thereto (including, but not limited to, awnings, canopies, shutters, window coverings, signs, screens, window tinting, fixtures and equipment) nor plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life or landscaping' on its patio or balcony, without the prior written consent of the Association. No painting or changes in the exterior colors of any Residential Units or the Limited Common Elements or any Limited Common Areas appurtenant thereto shall be permitted without the prior written consent of the Condominium Association. Notwithstanding the foregoing, to the extent otherwise permitted under the Act, the Association shall not refuse the request of a Unit Owner for a reasonable accommodation for the attachment on the mantel or frame of the door of the Unit Owner of a religious object not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep.
- 17.13 Signs. No sign, poster, display, billboard or other advertising devices of any kind including, without limitation, "FOR SALE", "FOR RENT", security services or construction signs shall be displayed to the public view on any portion of the Residential Units, and the Limited Common Elements appurtenant thereto or Common Elements, without the prior written consent of the Condominium Association, except, (a) signs, regardless of size, used by the Developer, its successors or assigns, including signs for construction or repairs, advertising, marketing, promotion, sale, leasing, and rental activities, (b) signs installed as part of the initial construction of the Condominium and replacements of such signs (similar or otherwise), (c) and bulletin boards, entrance, directional, informational and similar signs used by the Condominium Association.
- 17.14 Lighting. All exterior lights and exterior electrical outlets in the Residential Units and the Limited Common Elements appurtenant thereto must be approved in accordance with Section 9 of this Declaration of Condominium.
- 17.15 Exterior Sculpture and Similar Items. Exterior sculpture and similar items in the Residential Units and the Limited Common Elements appurtenant thereto must be approved in accordance with Section 9 of the Declaration of Condominium.
- 17.16 Air Conditioning Units. No window or wall mounted air conditioning units may be installed in any Unit.
- 17.17 Outside Installations. No radio station or short-wave operations of any kind shall operate from any Residential Unit, Limited Common Element or Common Element. Except to the extent, if any, permitted under applicable law, no exterior satellite dish, or other transmitting or receiving apparatus, radio antenna, television antenna or other antenna of any type (collectively, "Receiving Devices") shall be erected or maintained on the Common Elements, Limited Common Elements, or in the Residential Units. If the installation of any such Receiving Device is permitted under applicable law, any proposed installation thereof shall be approved by the Condominium Association prior to installation and shall be installed or affixed on the floor of such Residential Unit Owner's balcony or patio so that the top of the Receiving Device does not extend beyond the top of the railing of such balcony or patio and is not visible from outside of the Residential Unit or any Limited Common Element appurtenant to such Residential Unit; provided, however, that under no circumstances shall a Residential Unit Owner drill into or otherwise alter any balcony or other Limited Common Element appurtenant to its Residential Unit. To the fullest extent permitted under applicable law, the Association may enact Rules and Regulations which prohibit or otherwise restrict individual antennas, including (without limitation): (a) prohibitions or restrictions based on the availability of a central antenna system or other central reception facilities; and (b) requirements that any devices which may be permitted under applicable law be of comparable size, weight and appearance, that any such devices be installed and maintained in a manner designed to protect the safety of the Building and its occupants and that any such devices satisfy

reasonable and uniform standards established by the Association for architectural appearance purposes.

- 17.18 Window and Door Treatments. No reflective film, tinting or window coverings shall be installed on any windows or glass doors in any Residential Unit, except as necessary to replace or restore tinting of glass surfaces as originally installed, unless approved by the Condominium Association in accordance with Section 9 of this Declaration of Condominium. Curtains, drapes and other window coverings (including their linings) in Residential Units, which face on exterior windows or glass doors, or are visible from the exterior of the Building, shall be white or off-white in color, unless otherwise specifically approved by the Board of Directors. No aluminum foil may be placed in any window or glass door of a Residential Unit, and no reflective substance may be placed on any glass in a Residential Unit, except for any substance previously approved by the Board of Directors for energy conservation or hurricane protection purposes. No unsightly materials may be placed on any window or glass door or shall be visible through such window or glass door. Any screen door must be of a uniform type approved by the Condominium Association.
- 17.19 Hurricane Protection. The exterior glass in the Condominium is intended (without imposing any obligation) to be composed of Miami-Dade County Product Approved material and is intended to be Impact Resistant, as defined in the South Florida Building Code. Accordingly, no type of hurricane protection may be installed in or around the Residential Units and the Limited Common Elements appurtenant thereto, except to the extent, if any, expressly required to be permitted under the Act. If and to the extent the Act gives Unit Owners the right to install hurricane shutters, any proposed hurricane shutters or other hurricane protection must be approved by the Association prior to installation and shall be installed or affixed in the manner approved by the Association. All hurricane shutters and similar equipment shall be kept in an open position except during periods of hurricane warnings or watches, or tropical storm watches or warnings. Upon issuance of an official hurricane or tropical storm warning or watch, each Residential Unit Owner shall take all actions necessary to prepare his or her Residential Unit for any such hurricane or tropical storm, which shall include (i) removing all objects from balconies and terraces which will not be secured or otherwise protected, and (ii) complying with all rules and regulations which may be adopted, amended, or supplemented by the Association from time to time. No hurricane or storm shutters or other hurricane protection shall be permanently installed on any structure in a Residential Unit or in the Limited Common Elements or Common Elements, unless first approved in accordance with Section 9 hereof.
- 17.20 Parking and Vehicle Restrictions. No person shall park any vehicle so as to obstruct or otherwise impede ingress or egress to any parking spaces, including, without limitation, to a parking space assigned to any other Unit. Parking in the Condominium shall be restricted to private automobiles and passenger-type vans, jeeps and pick-up trucks and sport utility vehicles, motorcycles, motor scooters, small trailer and jet ski trailers and vans (all of which are collectively referred to herein as "vehicles"). Except as otherwise permitted in this Section no person shall park, store or keep on any portion of the Condominium any large type commercial type vehicle (for example, dump truck, motor home, trailer, cement mixer truck, oil or gas truck, delivery truck), except temporarily in designated guest parking locations or delivery locations, nor may any person keep any other vehicle in the Condominium which is deemed to be a nuisance by the Board. No trailer, camper, motor home or recreational vehicle shall be used as a residence, either temporarily or permanently, or parked in the Condominium. The Condominium Association shall have the authority to prohibit any vehicle, including any motorcycle or motor scooter, which it determines constitutes a nuisance due to its noise level, particularly where such vehicle is operated in the early morning or late evening hours. No vehicle is permitted within the Condominium which leaks oil, brake fluid, transmission fluid or other fluids. No Unit Owner, occupant or other person shall conduct repairs or restorations on any motor vehicle, or other vehicle, or race the engine of any vehicle, upon any portion of the Condominium. No more than one (1) motorcycle or motor scooter may be parked in a single space, and in no event may a motorcycle or a motor scooter be parked in the same parking space as another vehicle or between any parking spaces. For so long as the Developer conducts any sales or leasing activities within the Condominium, its use of parking spaces shall not be impeded or restricted. The prohibitions on parking contained in this Section shall not apply to temporary parking of: (a) commercial vehicles, such as for construction use or providing pick-up and delivery and other commercial services; (b) any vehicles of the Developer, or its affiliates or designees, used for construction, maintenance, repair, decorating, sales or marketing purposes; or (c) service vehicles operated in connection with the Condominium



Association, or its management companies. Subject to applicable laws and ordinances, any vehicle, boat, motorcycle or trailer parked in violation of these or other restrictions contained herein or in the rules and regulations may be towed by the Condominium Association at the sole expense of the owner of such vehicle. The Condominium Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor shall it be guilty of any criminal act, by reason of such towing.

- 17.21 Unit Maintenance. Each Residential Unit Owner must undertake or must designate a responsible firm or individual to undertake his general maintenance responsibilities, which responsibilities shall include, at a minimum, maintaining the exterior appearance of the Residential Unit and the Limited Common Elements, safeguarding the Residential Unit and the Limited Common Elements to prepare for hurricane or tropical storm watches and warnings by, among other things, removing any unfixed items on balconies and terraces, and repairing the Residential Unit and the Limited Common Elements in the event of any damage therefrom. An Owner of a Residential Unit may designate a firm or individual to perform such functions for the Owner, but such designation shall not relieve the Owner of any responsibility hereunder. The name(s) and addresses of such firm or individual must be furnished to the Association. The designation of such firm or individual shall be subject to the approval of the Association. In the event a Residential Unit Owner does not, in the Condominium Association's opinion, comply with the general maintenance responsibilities set forth herein or in the Declaration of Condominium, such maintenance and/or repair may (without imposing any obligation on the Condominium Association to do so) be effected by the Condominium Association at said Unit Owner's sole expenses and a Charge therefor may be made against such owner's Residential Unit. Notwithstanding the foregoing, the Condominium Association is not obligated to undertake any such maintenance and/or repair obligation on behalf of any Unit Owner and, if any action is so taken, the Condominium Association shall not be liable for any damage to the Residential Unit, the Limited Common Elements, or any personal property contained therein in connection with any actions taken pursuant to this Section.
- 17.22 Hazardous Substances. No flammable, combustible or explosive fluids, chemicals or other substances may be kept in any Residential Unit, Limited Common Elements appurtenant thereto or Common Elements, except such as are generally used for normal household purposes.
- 17.23 Grilling. Outdoor grilling and barbecuing on the roof deck and terrace shall be permissible as may be authorized by applicable law. Certain listed electric portable, tabletop grills, not to exceed 200 square inches of cooking surface, or other similar apparatus shall be permitted as authorized by applicable law, see particularly the Sixth Edition of the Florida Fire Prevention Code (effective December 31, 2017) and Section 633.202, Florida Statutes. No hibachi, grill or other similar devices used for cooking, heating, or any other purpose shall be used or kindled on any balcony, under any overhanging portion, or within 10 feet of any structure. Furthermore, the storage of any grill on the roof deck and terrace is prohibited.
- 17.24 Mold Prevention. No Unit Owner shall install within his or her Unit, or upon the Common Elements and/or the Association Property, non-breathable wall-coverings or lowerpermeance paints. Additionally, any and all built-in casework, furniture and/or shelving within a Unit must be installed over floor coverings to allow air space and air movement and shall not be installed with backboards flush against any gypsum board wall. Furthermore, all Unit Owners, whether or not occupying the Unit, shall continually run the air conditioning system to minimize humidity in the Unit and the Condominium Association shall have the right, but not the obligation, to access the Unit, if it deems necessary or desirable, to monitor or to cause compliance with the provisions of this Section, including (without limitation) the requirement to continually run the air conditioning system. While the foregoing is intended to minimize the potential development of mold and other microtoxins, the Developer does not make any representations or warranties regarding the existence or development of molds, mildew, spores, fungi and/or other microtoxins and each Unit Owner shall be deemed to waive and expressly release any such warranty and claim for loss or damages resulting from the existence and/or development of molds, mildew, spores, fungi and/or other microtoxins, including without limitation, any claims or responsibility for any illness or allergic reactions which may be experienced by such Unit Owner. Unit Owners and occupants should immediately file a written report with the Condominium Association if any molds are found or if it appears that abnormal amounts of moisture have accumulated in their Unit or elsewhere within the Condominium.

- 17.25 Play Equipment, Strollers, Etc. Bicycles, tricycles, scooters, skateboards, and other play equipment, baby strollers and similar items shall not at any time be left in the hallways or other Common Elements or in the Limited Common Elements (including balconies, terraces and patios).
- 17.26 Insurance Rates. Nothing shall be done or kept in the Common Elements or within the Residential Units or the Limited Common Elements appurtenant thereto which will increase the rate of insurance on any property insured by the Condominium Association without the approval of the Board, nor shall anything be done or kept in the Units, or on the Limited Common Elements or Common Elements, which would result in the cancellation of insurance on any property insured by the Condominium Association or which would be in violation of any law.
- 17.27 Association Access to Residential Units. In order to facilitate access to the Residential Units by the Condominium Association for the purposes enumerated in Section 11.1 of this Declaration of Condominium, it shall be the responsibility of all Residential Unit Owners to deliver a set of keys to their Residential Unit to the Condominium Association to use in the performance of its functions. No Owner shall change the locks to its Residential Unit without so notifying the Condominium Association and delivering to the Condominium Association a new set of keys to such Residential Unit.
- 17.28 Energy Efficient Devices. The Board of Directors may, without any obligation to do so or without requirement for approval of the Unit Owners, install upon or within the Common Elements or Association Property solar collectors, clotheslines, or other energy-efficient devices based on renewable resources for the benefit of the Unit Owners.
- 17.29 Documents. Each Owner shall be obligated to deliver the documents received from the Developer, or from any prior Owner, containing the Declaration of Condominium and any other declarations and documents, and any modifications thereto, to any subsequent purchaser or grantee of their Unit. Notwithstanding the foregoing, in the event of loss or damage to the documents they may be obtained from the Condominium Association upon payment of the actual cost for preparing and furnishing the documents to any Owner requesting them.
- 17.30 Rules and Regulations. As provided in the By-Laws, the Board of Directors may adopt rules and regulations applicable to all portions of the Condominium Property other than the property owned by the Developer. In the event that such rules or regulations are adopted, they may be enforced in the same manner as the restrictions set forth in this Section and may be modified, added to or revoked, in whole or in part, by the Board of Directors, and as provided in the By-Laws.
- 17.31 Effect on Developer. The restrictions and limitations set forth in this Section 17 shall not apply to the Developer or to Units owned by the Developer, except that the Developer shall be subject to the requirement that prior written approval of the Condominium Association be obtained for leases of Residential Units set forth in Section 17.2, and to the pet restrictions set forth in Section 17.4. The Developer shall also be subject to any restrictions on the type of vehicles allowed to park on the Condominium set forth in Section 17.19; however, the Developer and its designees shall be exempt from any such restrictions if the vehicle is engaged in any activity relating to construction, maintenance or marketing of Units. In enforcing its rights hereunder, the Developer shall also be entitled to bring an action and recover sums due for damages, injunctive relief, or any combination thereof, and the Developer shall be entitled to recover all legal fees and expenses incurred in connection with any such action.
- 17.32 Variances and Exceptions. The Board of Directors of the Association shall have the right and power to grant variances from time to time for the provisions of this Section for good cause shown, as determined by the Board of Directors of the Association, in their reasonable discretion. No variance granted as aforesaid shall alter, waive or impair the operation or effect of the provisions of this Section in any instance in which such variance is not granted
18. Selling and Mortgaging of Units. No Unit Owner other than the Developer may sell their Unit, except by complying with the following provisions:
- 18.1 Right of First Refusal. Any Unit Owner who receives a bona fide offer to purchase a Unit (such offer to purchase a Unit is called an "Outside Offer", the party making any such Outside Offer is called an "Outside Offeror", and the Unit Owner to whom the Outside Offer is made is called an "Offeree Unit Owner"), which he intends to accept

shall give notice by certified and/or registered mail to the Board of Directors of the receipt of such Outside Offer. Said notice shall also state the name and address of the Outside Offeror, the terms of the proposed transaction and such other information as the Board of Directors may reasonably require and shall be accompanied by a check in the amount of \$100.00 (or such greater amount as may be required by the Association and permitted by the Act) representing a screening fee. The giving of such notice to the Board of Directors shall constitute an offer by such Unit Owner to sell his Unit to the Association or to its designee upon the same terms and conditions as contained in such Outside Offer and shall also constitute a warranty and representation to the Association by the Unit Owner who has received such Outside Offer that such Unit Owner believes the Outside Offer to be bona fide in all respects. The Offeree Unit Owner shall submit in writing such further information with respect thereto as the Board of Directors may reasonably request. Not later than ten (10) days after receipt of such notice, together with such further information as may have been requested, the Association or its designee may elect, by sending written notice to such Offeree Unit Owner before the expiration of said ten (10) day period, by certified and/or registered mail, to purchase such Unit upon the same terms and conditions as contained in the Outside Offer and as stated in the notice from the Offeree Unit Owner.

In the event the Association shall timely elect to purchase such Unit or to cause the same to be purchased by its designee, title shall close at the office of the attorneys for the Association, in accordance with the terms of the Outside Offer, within twenty (20) days after the giving of notice by the Association of its election to accept such offer. If, pursuant to such Outside Offer, the Outside Offeror was to assume or take title to the Unit subject to the Offeree Unit Owner's existing mortgage or mortgages, the Association may purchase the Unit and assume or take title to the Unit subject to said existing mortgage or mortgages, as the case may be. At the closing, the Offeree Unit Owner shall convey the same to the Association, or to its designee, by statutory warranty deed, with all tax and/or documentary stamps affixed at the expense of such Unit Owner, who shall also pay all other taxes arising out of such sale. Title shall be good and marketable and insurable and the Offeree Unit Owner shall deliver an abstract or provide a title binder (and subsequently, title insurance) at its expense at least thirty (30) days prior to such closing. Real estate taxes, mortgage interest, if any, and Assessments shall be apportioned between the Offeree Unit Owner and the Association, or its designee, as of the closing date.

In the event the Association or its designee shall fail to accept such offer in the manner required under this Section, within ten (10) days after receipt of notice and all additional information requested, as aforesaid, the Offeree Unit Owner shall be free to accept the Outside Offer within thirty (30) days after (i) notice of refusal is given by the Association, or (ii) the expiration of the period in which the Association or its designee might have accepted such offer, as the case may be. In the event the Offeree Unit Owner shall not, within such thirty (30) day period, accept, in writing, the Outside Offer or if the Offeree Unit Owner shall accept the Outside Offer within such thirty (30) day period, but such sale shall not be consummated in accordance with the terms of such Outside Offer or within a reasonable time after the date set for closing thereunder, then, should such Offeree Unit Owner thereafter elect to sell such Unit, as the case may be, the Offeree Unit Owner shall be required to again comply with all of the terms and provisions of this Section.

Any deed to an Outside Offeror shall automatically be deemed to provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the Declaration, the By-Laws, the Articles of Incorporation, applicable rules and regulations, and all other agreements, documents or instruments affecting the Condominium Property, as the same may be amended from time to time.

Any purported sale of a Unit in violation of this Section shall be voidable at any time at the election of the Association and if the Board of Directors shall so elect, the Unit Owner shall be deemed to have authorized and empowered the Association to institute legal proceedings to evict the purported tenant (in case of an unauthorized leasing), or to void the conveyance (in case of an unauthorized sale). Said Unit Owner shall reimburse the Association for all expenses (including attorneys' fees and disbursements) incurred in connection with such proceedings.

The foregoing restrictions regarding sales of Units shall not apply to Units sold by or to the Developer or by or to any Institutional First Mortgagee acquiring title by foreclosure or by a deed in lieu of foreclosure or in satisfaction of debt. The Developer and such Institutional First Mortgagees shall have the right to sell Units they own, without having

to first offer the same for sale (as to Institutional First Mortgagees only) to the Association.

Notwithstanding anything herein contained to the contrary, the Board of Directors, in exercising its rights as provided in this Section 18.1, shall not make any decision in a discriminatory manner, and no decision shall be made on the basis of race, gender, religion, national origin or physical or mental handicap.

- 18.2 Consent of Unit Owners to the Purchase of Units by the Association. The Association shall not exercise any option hereinabove set forth to purchase any Unit without the prior approval of Owners of a majority of the Units present in person or by proxy and voting at a meeting at which a quorum has been obtained.
- 18.3 No Severance of Ownership. No part of the Limited Common Elements or Common Elements may be sold, conveyed or otherwise disposed of, except as an appurtenance to the Unit in connection with a sale, conveyance or other disposition of the Unit to which such interest is appurtenant, and any sale, conveyance or other disposition of a Unit shall be deemed to include that Unit's appurtenant interest in the Limited Common Elements and Common Elements whether or not explicitly stated.
- 18.4 Release by the Association of the Right of First Refusal. The right of first refusal contained in Section 18.1 may be released or waived by the Association only in the manner provided in Section 18.5. In the event the Association shall release or waive its right of first refusal as to any Unit, such Unit may be sold and conveyed free and clear of the provisions of Section 18.1.
- 18.5 Certificate of Termination of Right of First Refusal. A certificate executed and acknowledged by an officer of the Association stating that the provisions of Section 18.1 have been satisfied by a Unit Owner, or stating that the right of first refusal contained therein has been duly released or waived by the Association, and that, as a result thereof, the rights of the Association thereunder have terminated, shall be conclusive with respect to all persons who rely on such certificate in good faith. The Board of Directors shall promptly furnish such certificate upon request to any Unit Owner with respect to whom the provisions of such Section have, in fact, terminated or been waived. No fee shall be charged by the Association in connection with the furnishing of such certificate in excess of the charges reasonably required for same, and such charges shall not exceed the maximum amount allowed under the Act.
- 18.6 Financing of Purchase of Units by the Association. The purchase of any Unit by the Association shall be made on behalf of all Unit Owners. If the available funds of the Association are insufficient to effectuate any such purchase, the Board of Directors may levy an Assessment against each Unit Owner (other than the Offeree Unit Owner), in proportion to his share of the Common Expenses, and/or the Board of Directors may, in its discretion, finance the acquisition of such Unit; provided, however, that no such financing may be secured by an encumbrance or hypothecation of any portion of the Condominium Property other than the Unit to be purchased.
- 18.7 Exceptions. The provisions of Section 18.1 shall not apply with respect to any sale or conveyance of any Unit by: (a) the Unit Owner thereof to his spouse, adult children, parents, parents-in-law, adult siblings or a trust, corporation or other entity where the Unit Owner or the aforementioned related persons are and continue to be the sole beneficiary or equity owner of such trust, corporation or other entity, or to any one or more of the above; (b) the Developer; (c) the Association; (d) any proper officer conducting the sale of a Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or the delivery of a deed in lieu of foreclosure; or (e) to an Institutional First Mortgagee (or its designee) deriving title by virtue of foreclosure of its mortgage or acceptance of a deed in lieu of foreclosure or in satisfaction of debt; provided, however, that each succeeding Unit Owner shall be bound by, and his Unit subject to, the provisions of this Section 18. The Association shall be given prior written notice of any such conveyance or transfer, including the name and address of the intended grantee.
- 18.8 Gifts and Devises, etc. Any Unit Owner shall be free to convey or transfer his Unit by gift, to devise his Unit by will, or to have his Unit pass by intestacy, without restriction; provided, however, that each succeeding Unit Owner shall be bound by, and his Unit subject to, the provisions of this Section 18. The Association shall be given prompt written notice of any such conveyance or transfer, including the name and address of the intended grantee.

18.9 Mortgage of Units. Each Unit Owner shall have the right to mortgage his Unit without restriction.

19. Compliance and Default. The Association, each Unit Owner, occupant of a Unit, tenant, guest and other invitee of a Unit Owner, shall be governed by and shall comply with the terms of this Declaration and all exhibits annexed hereto, and the rules and regulations adopted pursuant to those documents, as the same may be amended from time to time, and the provisions of all of such documents shall be deemed incorporated into any lease of a Unit whether or not expressly stated in such lease. The Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:

19.1 Mandatory Nonbinding Arbitration and Mediation of Disputes. Prior to the institution of court litigation, a party to a Dispute shall petition the Division for nonbinding arbitration. The petition must be accompanied by a filing fee in the amount of \$50. Filing fees collected under this Section must be used to defray the expenses of the alternative dispute resolution program. The petition must recite, and have attached thereto, supporting proof that the petitioner gave the respondents:

- (1) Advance written notice of the specific nature of the Dispute;
- (2) A demand for relief, and a reasonable opportunity to comply or to provide the relief; and
- (3) Notice of the intention to file an arbitration petition or other legal action in the absence of a resolution of the Dispute.

Failure to include the allegations or proof of compliance with these prerequisites requires dismissal of the petition without prejudice.

Upon receipt, the petition shall be promptly reviewed by the Division to determine the existence of a dispute and compliance with the above requirements. If emergency relief is required and is not available through arbitration, a motion to stay the arbitration may be filed. The motion must be accompanied by a verified petition alleging facts that, if proven, would support entry of a temporary injunction, and if an appropriate motion and supporting papers are filed, the Division may abate the arbitration pending a court hearing and disposition of a motion for temporary injunction.

Upon determination from the Division that a Dispute exists and that the petition substantially meets the requirements set forth above and any other applicable rules, a copy of the petition shall forthwith be served by the Division upon all respondents.

Either before or after the filing of the respondents' answer to the petition, any party may request that the arbitrator refer the case to mediation under this Section and any rules adopted by the Division. Upon receipt of a request for mediation, the Division shall promptly contact the parties to determine if there is agreement that mediation would be appropriate. If all parties agree, the Dispute must be referred to mediation. Notwithstanding a lack of an agreement by all parties, the arbitrator may refer a Dispute to mediation at any time.

Upon referral of a case to mediation, the parties must select a mutually acceptable mediator. To assist in the selection, the arbitrator shall provide the parties with a list of both volunteer and paid mediators that have been certified by the Division under Section 718.501. If the parties are unable to agree on a mediator within the time allowed by the arbitrator, the arbitrator shall appoint a mediator from a list of certified mediators. If a case is referred to mediation, the parties shall attend a mediation conference, as scheduled by the parties and the mediator. If any party fails to attend a duly noted mediation conference, without permission or approval of the arbitrator or mediator, the arbitrator must impose sanctions against the party, including the striking of any pleading filed, the entry of an order of dismissal or default if appropriate, and the award of costs and attorney's fees incurred by the other parties. Unless otherwise agreed to by the parties or as provided by order of the arbitrator, a party is deemed to have appeared at a mediation conference by the physical presence of the party or its representative having full authority to settle without further consultation, provided that the Association may comply by having one or more representatives present with full authority to negotiate a settlement and recommend that the board ratify and approve such a settlement within five (5) days from the date of the mediation conference. The parties shall share equally the expense of mediation, unless otherwise agreed.

The purpose of mediation as provided for by this Section is to present the parties with an opportunity to resolve the underlying dispute in good faith, and with a minimum expenditure of time and resources.

Mediation proceedings must generally be conducted in accordance with Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Persons who are not parties to the dispute are not allowed to attend the mediation conference without the consent of all parties, with the exception of counsel for the parties and corporate representatives designated to appear for a party. If the mediator declares an impasse after a mediation conference has been held, the arbitration proceeding terminates, unless all parties agree in writing to continue the arbitration proceeding, in which case the arbitrator's decision shall be either binding or nonbinding, as agreed upon by the parties; in the arbitration proceeding, the arbitrator shall not consider any evidence relating to the unsuccessful mediation except in a proceeding to impose sanctions for failure to appear at a mediation conference. If the parties do not agree to continue arbitration, the arbitrator shall enter an order of dismissal, and either party may institute a suit in a court of competent jurisdiction. The parties may seek to recover any costs and attorney's fees that may be recovered by the prevailing party in any subsequent litigation.

The arbitration shall be conducted according to rules promulgated by the Division. The filing of a petition for arbitration shall toll the applicable statute of limitations. At the request of any party to the arbitration, such arbitrator shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by the Florida Rules of Civil Procedure. Discovery may, in the discretion of the arbitrator, be permitted in the manner provided by the Florida Rules of Civil Procedure. Rules adopted by the Division may authorize any reasonable sanctions except contempt for a violation of the arbitration procedural rules of the Division or for failure of a party to comply with a reasonable non-final order issued by an arbitrator which is not under judicial review.

The arbitration decision shall be presented to the parties in writing. An arbitration decision is final in those Disputes in which the parties have agreed to be bound. An arbitration decision is also final if a complaint for trial de novo is not filed in a court of competent jurisdiction in the County within thirty (30) days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of dispute. The prevailing party in the arbitration proceeding shall be awarded the costs of the arbitration and reasonable attorneys' fees in an amount determined by the arbitrator. Such an award shall include the costs and reasonable attorney's fees incurred in the arbitration proceeding as well as the costs and reasonable attorney's fees incurred in preparing for and attending any scheduled mediation. The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs and other reasonable costs, including, attorney's fees, investigation expenses and expenses for expert or other testimony or evidence incurred after the arbitration decision if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorney's fees.

Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in the County. A petition may not be granted unless the time for appeal by the filing of a complaint for a trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition for enforcement is granted, the petitioner shall recover reasonable attorney's fees and costs incurred in enforcing the arbitration award. A mediation settlement may also be enforced through the county or circuit court, as applicable, and any costs and fees incurred in the enforcement of a settlement agreement reached at mediation must be awarded to the prevailing party in any enforcement action.

19.2 **Negligence and Compliance.** A Unit Owner and/or lessee 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 such expense is not met by the proceeds of insurance actually collected by the Association with respect to such negligence. In the event a Unit Owner, tenant or occupant fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions of the Declaration, the By-Laws, the Articles of Incorporation, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property or administered by the Association, in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines, to sue in a court of law for damages, and to impose a Charge on the Unit Owner for the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance. In any proceeding arising because of an alleged failure of a Unit Owner, a tenant 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). A Unit Owner prevailing in an action with the Association, in addition to recovering his reasonable attorneys' fees, may recover additional amounts as determined by the court to be necessary to reimburse the Unit Owner for his share of Assessments levied by the Association to fund its expenses of the litigation. Pursuant to Section 718.303(3), Florida Statutes, no fine will become a lien against a unit. No fine may exceed \$100 per violation. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed \$1,000. No fine may be levied except after giving reasonable notice and opportunity for a hearing to the unit owner and, if applicable, its licensee or invitee. The hearing must be held before a committee of other unit owners. If the committee does not agree with the fine, the fine may not be levied. The provisions of this subsection do not apply to unoccupied units.

20. Termination of Condominium. The Condominium shall continue until (a) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration, or (b) terminated pursuant to a Plan of Termination (as defined in the Act) in accordance with Section 718.117, Florida Statutes. In the event such withdrawal is authorized as aforesaid, and provided that the Board first notifies the Division of an intended withdrawal, the Condominium regime shall be terminated in accordance with the terms of a Plan of Termination complying with the provisions of Section 718.117, Florida Statutes. This Section may not be amended without the consent of the Developer as long as it owns any Unit and is offering same for sale in the ordinary course of business. In the event of a termination of the Condominium, the owner(s) of the land shall be jointly and severally responsible for the operation and maintenance of the surface water management system serving the Condominium Property.
21. Additional Rights of Mortgagees and Others.
  - 21.1 Availability of Association Documents. The Association shall have current and updated copies of the following available for inspection by Unit Owners, lenders and the holders and insurers of first mortgages on any Unit, and Institutional First Mortgagees, during normal business hours or under other reasonable circumstances: (a) this Declaration, and any amendments hereto; (b) the Articles; (c) the By-Laws; (d) the rules and regulations of the Association; and (e) the books, records and financial statements of the Association.
  - 21.2 Amendments. No amendment may change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to the Unit, change the proportion or percentages by which the Unit Owner shares the common expenses and owns the common surplus, or permit timeshare estates to be created in any Unit, without the consent of the record owner of the Unit, all record owners of liens on the affected Unit, and all the record owners of all other Units, unless it is required by any governmental entity.
  - 21.3 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:
    - (a) any condemnation or casualty loss affecting a material portion of the Condominium Property or the affected mortgaged Unit;
    - (b) a sixty (60) day delinquency in the payment of the Assessments or any Charges on a mortgaged Unit;
    - (c) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
    - (d) any proposed action which requires the consent of a specified number of mortgage holders.
  - 21.4 Additional Rights. Institutional First Mortgagees shall have the right, upon written request to the Association, to: (a) receive a copy of the financial statement of the Association for the immediately preceding fiscal year; and (b) receive notices of and attend Association meetings.
22. The Condominium Association. The Common Elements of the Condominium are governed by the Condominium Association pursuant to this Declaration. Each Unit Owner, either directly or indirectly through the Association's membership, will be a member of the Condominium

Association and will be subject to all of the terms and conditions of this Declaration, as amended and supplemented from time to time. Among the powers of the Condominium Association are the power to assess Unit Owners for a share of the expenses of the operation, maintenance and replacement of (including the management fees relating thereto) the Common Elements and to impose and foreclose liens in the event such assessments are not paid when due. The Unit Owners shall be entitled to use said Common Elements in accordance with and subject to the terms of this Declaration and the Rules and Regulations.

23. Covenant Running With the Land. All provisions of this Declaration, the Articles, By-Laws and applicable rules and regulations of the Association, shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and shall inure to the benefit of the Developer and subsequent owner(s) of the Land or any part thereof, or interest therein, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Unit Owners, tenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration and such Articles, By-Laws and applicable rules and regulations, as they may be amended from time to time. The acceptance of a deed or conveyance, or the entering into of a lease, or the entering into occupancy of any Unit, shall constitute an adoption and ratification of the provisions of this Declaration, and the Articles, By-Laws and applicable rules and regulations of the Association, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained herein.
24. Access of Developer to Building and Units and to Reports. For as long as Developer remains liable to the Condominium Association, under any warranty, whether statutory, express or implied, for any act or omission of Developer in the development, construction, sale and marketing of the Condominium, then Developer and its agents shall have the right, in Developer's sole discretion, and from time to time upon the granting of access thereto by the Condominium Association or a Unit Owner, as the case may be, to enter the Condominium Property for the purpose of inspecting, testing and surveying same, to determine the need for repairs, improvements or replacements, so as to permit Developer to fulfill its obligations under such warranties. Failure of the Condominium Association or of a Unit Owner to grant such access may result in the appropriate warranty being nullified and of no further force or effect. For as long as the Developer remains liable to the Association under any warranty, whether statutory, express or implied, or for any act or omission of the Developer relative to the development, construction, sale and marketing of the Condominium, the Association shall furnish to the Developer all documentation prepared on behalf of the Association concerning the inspection, testing and surveying of the Common Elements or Units relative to analyzing such areas for compliance with all such warranties. Failure of the Association or of a Unit Owner to provide such access to reports and/or documentation shall result in the appropriate warranty being nullified and being of no further force or effect.
25. Notices. All notices to the Association required or desired hereunder or under the Articles or By-Laws, shall be sent by certified mail (return receipt requested) to the Association in care of its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit Owners. Except as provided specifically in the Act, all notices to any Unit Owner shall be sent by first class mail to the address of such Owner's Unit, or such other address as may have been designated by him from time to time, in writing, to the Association. All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or to 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.
26. Reservation of Roof, Air and Development Rights. In connection with the creation of this Condominium, the Developer shall and does hereby reserve unto itself, and its successors and assigns, and excludes from condominium ownership, the perpetual ownership of the air space arising above and around the Building, including above the level of the roof of the structures constructed upon the Condominium Property, having the exterior dimensions of the perimeter walls of the Building and extending vertically and horizontally into infinity, as well as all remaining development and density rights relating to the Condominium Property and the accompanying air rights. The Association and each Unit Owner do hereby further give and grant to the Developer, and the Developer does hereby reserve unto itself, and its successors and assigns, such easements on, over, under, through and across the Condominium Property as may be necessary for the installation, repair, replacement and maintenance of all improvements and installations placed and constructed by the Developer above the roof of the Condominium (except



those portions of the roof assigned as Limited Common Element to a Unit) and all areas appurtenant thereto. The Developer and its successors and assigns, are further granted an easement of subjacent lateral support and all other support in every portion of the Condominium Property which contributes to the support of any improvements constructed on or above the roof of the Condominium Property. The rights and privileges reserved by the Developer, in this Section, may be assigned (in whole or in part), leased, transferred and/or conveyed by the Developer. The provisions contained in this Section may not be amended, modified or deleted, in whole or in part, without the written consent of the Developer, unless approved by an affirmative vote representing at least 80% of the voting interests in the Condominium.

27. Reservation of Sign Rights. In connection with the creation of this Condominium, the Developer shall and does hereby reserve unto itself, the right to install a 24" x 24" monument/sign on the common elements of the Condominium building located on the exterior of the building, in its sole and absolute discretion. The rights and privileges reserved by the Developer, in this Article 267, may be assigned (in whole or in part), leased, transferred and/or conveyed by the Developer. The provisions contained in this Article 267 may not be amended, modified or deleted, in whole or in part, without the written consent of the Developer, unless approved by an affirmative vote representing at least 80% of the voting interests in the Condominium.
28. Additional Provisions.
- 28.1 Interpretation. The Board of Directors shall be responsible for interpreting the provisions hereof and of any of the Exhibits attached hereto. Such interpretations shall be binding upon all parties unless wholly unreasonable and an opinion of legal counsel engaged by the Association for such purpose that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.
- 28.2 Mortgagees. Anything herein to the contrary notwithstanding, the Association shall not be responsible to any mortgagee or lienor of any Unit, and may assume the Unit is free of any such mortgages or liens, unless written notice of the existence of such mortgage or lien is received by the Association.
- 28.3 Exhibits. There is hereby incorporated in this Declaration all materials contained in the Exhibits annexed hereto, except that as to such Exhibits, any conflicting provisions set forth therein as to their amendment, modification, enforcement and other matters shall control over the provisions hereof.
- 28.4 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.
- 28.5 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 Articles, the By-Laws 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.

TO THE MAXIMUM EXTENT LAWFUL, THE ASSOCIATION AND EACH UNIT OWNER AGREE THAT NEITHER A UNIT OWNER, THE ASSOCIATION NOR ANY ASSIGNEE, SUCCESSOR, HEIR, OR LEGAL REPRESENTATIVE OF A UNIT OWNER OR THE ASSOCIATION (ALL OF WHOM ARE HEREINAFTER REFERRED TO AS THE "PARTIES") SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDINGS, COUNTERCLAIM, OR ANY OTHER LITIGATION PROCEDURE BASED UPON OR ARISING OUT OF THE DECLARATION, ANY EXHIBITS ATTACHED HERETO, THE ACT OR ANY ACTIONS, DEALINGS OR RELATIONSHIP BETWEEN OR AMONG THE PARTIES, OR ANY OF THEM. NONE OF THE PARTIES WILL SEEK TO CONSOLIDATE ANY SUCH ACTION, IN WHICH A JURY TRIAL HAS BEEN WAIVED, WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN WAIVED.

- 28.6 Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration, the Articles and By-Laws, 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.

- 28.7 Waiver; Modifications. No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, without regard to the number of violations or breaches which may occur.
- 28.8 Execution of Documents; Attorney-in-Fact. Without limiting the generality of other Sections of this Declaration and without such other Sections limiting the generality hereof, each Owner, by reason of the acceptance of a deed to such Owner's Unit, shall be deemed to have acknowledged and agreed (i) that all of the provisions of this Declaration, and the Articles and By-Laws, and applicable rules and regulations, are fair and reasonable in all material respects, and (ii) to automatically consent to any rezoning, replatting, covenant in lieu of unity of title, revised site plan, change, addition or deletion made in, on or to the Condominium, or transfer of density, use or other development rights, by the Developer, or by any affiliate thereof, and in such regard, each Owner, or occupant of a Unit, hereby designates the Association to act on behalf of the Unit Owner, as agent and attorney-in-fact to consent to any such rezoning, replatting, covenant, revision, change, addition or deletion or transfer. If requested by the Developer or the Developer, each Owner shall evidence their consent to a rezoning, replatting, covenant, revision, change, addition or deletion or transfer in writing (provided, however, that the refusal to give such written consent shall not obviate the automatic effect of this provision). The foregoing Power of Attorney is irrevocable and is coupled with an interest. The provisions of this sub-section may not be amended without the consent of the Developer.
- 28.9 Litigation/Waiver of Jury Trial. As to any claim arising from or connected with the Developer's construction, development, repair, replacement or maintenance of the Condominium Property, or the Developer's operation of the Association (the "Development Matters"), it shall be a material condition precedent to the institution of any proceeding regarding Development Matters that (i) the party or parties bringing same shall have first given notice to the Developer or other party against whom/ which relief or recovery is sought (the "Defendant") of the specific Development Matters complained of and what actions are necessary to cure or correct same and (ii) the Defendant shall have been given at least forty-five (45) days (subject to extension by reason of matters beyond the control of the Defendant or because of the nature of the applicable Development Matter(s) and the time necessary to cure or correct same) in which to cure or correct the applicable Development Matter(s) and shall have materially failed to do so. THE DEVELOPER, THE ASSOCIATION, AND ALL OWNERS AND OTHER PERSONS ACQUIRING ANY RIGHT, TITLE OR INTEREST IN OR TO ANY UNIT, EACH HEREBY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM PERTAINING TO ANY DEVELOPMENT MATTERS. Without limiting the general binding effect of this Declaration, each Owner and other person acquiring any right, title or interest in or to any Unit shall be deemed, by virtue of the acceptance of the conveyance, grant, transfer or assignment thereof, to be fully bound by the provisions of this Section 28.9, as shall the Developer and the Association.
- 28.10 Gender; Plurality. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.
- 28.11 Captions. The captions herein and in the Exhibits annexed hereto are inserted only as a matter of convenience and for ease of reference and in no way define or limit the scope of the particular document or any provision thereof.
- 28.12 Liability. Notwithstanding anything contained herein or in the Articles of Incorporation, Bylaws, any rules or regulations of the Association or any other document governing or binding the association (collectively, the "Association 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 Property and/or Association Property including, without limitation, Owners and their guests, invitees, agents, servants, contractors or subcontractors or for any property of any such persons.

Without limiting the generality of the foregoing:

- (a) it is the express intent of the Association 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;

(b) 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, County and/or any other jurisdiction or the prevention of tortuous activities; and

(c) the provisions of the Association 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 assessment funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if assessment funds are chosen to be used for any such reason.

Each Unit Owner (by virtue of his acceptance of title to his Unit) and each other person having an interest in or lien upon, or making use of, any portion of the properties (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. Notwithstanding anything contained herein to the contrary, the rights and remedies of each Unit Owner pursuant to Sections 718.111(3), 718.303 and 718.506 of the Act, are not limited or abridged. As used herein, "Association" shall include within its meaning all of the Association's directors, officers, committee and board members, employees, agents, contractors (including management companies), subcontractors, successors and assigns, and any persons designated, from time to time, by the Association or by the Unit Owners to act on their behalf as directors, voting members or otherwise, with respect to the Association. The provisions hereof shall also inure to the benefit of the Developer, which shall be fully protected.

Pursuant to 718.111(1)(d), officers, directors and agents of the Board of Directors of the Condominium Association shall discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the interests of the Association. This section provides for monetary damages and criminal penalties for breach of this standard.

29. DISCLAIMER OF WARRANTIES.

29.1 GENERAL DISCLAIMER. DEVELOPER HEREBY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES AS TO DESIGN, CONSTRUCTION, FURNISHING AND EQUIPPING OF THE CONDOMINIUM PROPERTY, EXCEPT AS MAY BE REQUIRED IN SECTION 718.203 OF THE ACT, TO THE EXTENT APPLICABLE. AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND AS TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL, SPECIAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED.

29.2 SPECIFIC ADDITIONAL DISCLAIMERS OF REPRESENTATIONS, WARRANTIES AND LIABILITY. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY DEVELOPER OR ITS AGENTS OR EMPLOYEES, UNLESS EXPRESSLY SET FORTH IN THIS DECLARATION, AND THE DEVELOPER HEREBY SPECIFICALLY DISCLAIMS ANY LIABILITY OR RESPONSIBILITY FOR THE FOLLOWING:

(a) ANY MATTERS RELATING TO THE VIEWS, DESIGNS, SECURITY, SIZE (INCLUDING DIMENSIONS THEREOF) AND PRIVACY OF THE: UNITS AND OTHER PORTIONS OF THE CONDOMINIUM, AND THE DESIGN, HEIGHT AND DENSITY OF THE SURROUNDING AREAS, INCLUDING, WITHOUT LIMITATION, THE SUITABILITY FOR INTENDED USE OF THE UNIT OR ALL OR ANY PORTION OF THE COMMON ELEMENTS.

(b) ANY MATTERS RELATING TO THE EXTERIOR LIGHTING SCHEME FOR THE IMPROVEMENTS WITHIN THE CONDOMINIUM, INCLUDING, WITHOUT LIMITATION, ANY PORTION OF THE CONDOMINIUM WHICH MAY CAUSE EXCESSIVE ILLUMINATION AND MAY REQUIRE THE INSTALLATION OF WINDOW TREATMENTS.

(c) THE PREVENTION OF TORTIOUS ACTIVITIES, THE SECURITY, HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE CONDOMINIUM, INCLUDING, WITHOUT LIMITATION, UNIT OWNERS AND THEIR TENANTS, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS. ANY PROVISIONS OF THIS DECLARATION, OR OF THE ARTICLES OR BY-LAWS, SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO DECLARATION OF CONDOMINIUM HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE RECIPIENT OF SUCH ASSESSMENT FUNDS 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.

(d) THE PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAW, INCLUDING, WITHOUT LIMITATION, THE FLORIDA ACCESSIBILITY CODE; MERCHANTABILITY, USABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OF ANY PORTION OF THE COMMON ELEMENTS OR OTHER PORTIONS OF THE CONDOMINIUM, INCLUDING, WITHOUT LIMITATION, THE SALE, OPERATION, LEVEL OR COST OF MAINTENANCE, TAXES OR REGULATION THEREOF. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL LIMIT OR IMPAIR THE RIGHTS OF UNIT OWNERS SET FORTH IN SECTION 718.303(1) OF THE ACT.

(e) BOWING AND/OR DEFLECTION OF MATERIALS, AND CRACKING AND SETTLEMENT OF IMPROVEMENTS, WHICH EACH OWNER RECOGNIZES AND AGREES IS TYPICAL IN THE TYPE OF IMPROVEMENTS IN THE CONDOMINIUM.

(f) MOLDS, MILDEW, TOXINS AND FUNGI WHICH, GIVEN THE CLIMATE AND HUMID CONDITIONS IN SOUTH FLORIDA, MAY EXIST AND/OR DEVELOP WITHIN THE UNITS, AND/OR OTHER PORTIONS OF THE CONDOMINIUM. EACH UNIT OWNER AGREES TO REGULARLY INSPECT THEIR UNITS FOR PLUMBING LEAKS, WATER ACCUMULATION, AND WATER INTRUSION THROUGH WINDOWS, DOORS AND ROOFS FOR ANY SIGNS OF MOLD AND REGULARLY MAINTAIN ADEQUATE AIR CIRCULATION AND VENTILATION BY CONTINUOUSLY OPERATING ITS HVAC SYSTEM.

(g) NOISE, MUSIC, LIGHTING, VIBRATIONS, ODORS, TRAFFIC, COMMOTION AND OTHER UNPLEASANT EFFECTS OF NEARBY CONSTRUCTION ACTIVITY, AND EMANATING FROM LIMITED COMMON ELEMENTS OR THE SURROUNDING AREAS WHICH MAY CREATE DISTURBANCES AND IMPEDE THE USE OF PORTIONS OF THE CONDOMINIUM.

(h) ACTS OF GOD AND UNCONTROLLABLE EVENTS AND, GIVEN THE LOCATION OF THE CONDOMINIUM, THE EXPOSURE TO THE POTENTIAL DAMAGES FROM FLOODING, TROPICAL STORMS, AND FROM HURRICANES, INCLUDING, WITHOUT LIMITATION, DAMAGES FROM STORM SURGES AND WIND-DRIVEN RAIN AND IN ANY PORTIONS OF THE IMPROVEMENTS LOCATED BELOW THE FEDERAL FLOOD PLAIN.

(i) THE LEVEL OF SOUND TRANSMISSION BETWEEN AND AMONG UNITS AND THE OTHER PORTIONS OF THE CONDOMINIUM, THE PROPERTIES AND THE SURROUNDING AREAS, WHICH, BECAUSE SOUND TRANSMISSION IN A BUILDING SUCH AS THE CONDOMINIUM IS VERY DIFFICULT TO CONTROL, MAY CREATE DISTURBANCES IMPEDE THE USE OF THE UNITS AND OTHER PORTIONS OF THE CONDOMINIUM.

(j) THE LARGE TEMPERATURE FLUCTUATIONS IN THE UNITS, WHICH ARE LIKELY TO OCCUR DESPITE THE NORMAL OPERATIONS OF THE AIR CONDITIONING SYSTEMS, DUE TO THE LARGE AMOUNTS OF OUTDOOR GLASS WINDOWS AND DOORS AND THE LOCATION OF THE VARIOUS ROOMS WITHIN THE UNIT, AS WELL AS THE DIFFERING WEATHER CONDITIONS THROUGHOUT THE YEAR, AND WHICH WILL REQUIRE THE INSTALLATION OF INDOOR WINDOW TREATMENTS SUCH AS CURTAINS AND BLINDS.

(k) RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY

PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY HEALTH DEPARTMENT. THE FOREGOING NOTICE IS PROVIDED IN ORDER TO COMPLY WITH STATE LAW AND IS FOR INFORMATIONAL PURPOSES ONLY. DEVELOPER DOES NOT CONDUCT RADON TESTING WITH RESPECT TO THE UNITS OR THE CONDOMINIUM AND SPECIFICALLY DISCLAIMS ANY AND ALL REPRESENTATIONS OR WARRANTIES AS TO THE ABSENCE OF RADON GAS OR RADON PRODUCING CONDITIONS IN CONNECTION WITH THE CONDOMINIUM.

(I) EACH OWNER, BY ACCEPTING AND ACQUIRING TITLE TO A UNIT, AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE CONDOMINIUM (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES), SHALL BE BOUND BY THIS ARTICLE, SHALL BE DEEMED TO HAVE ASSUMED THE RISKS ASSOCIATED WITH EACH OF THE ABOVE MATTERS AND OCCURRENCES AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE DEVELOPER AND THE CONDOMINIUM ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE UABILITY OF THE AFOREMENTIONED PARTIES HAS BEEN DISCLAIMED IN THIS ARTICLE.

29.3 LIMITATION OF DAMAGES. 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, SECONDARY, SPECIAL, PUNITIVE AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED. ALL OWNERS, BY VIRTUE OF ACCEPTANCE OF TITLE TO THEIR RESPECTIVE UNITS (WHETHER FROM THE DEVELOPER OR ANOTHER PARTY) SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL, SECONDARY, SPECIAL, PUNITIVE AND CONSEQUENTIAL DAMAGES.

29.4 REFERENCES TO DEVELOPER AND ASSOCIATION. AS USED IN THIS SECTION, REFERENCES TO DEVELOPER SHALL INCLUDE WITHIN THEIR MEANING THE DEVELOPER AND ITS SUCCESSORS AND ASSIGNS, AND THEIR RESPECTIVE MEMBERS, MANAGERS, PARTNERS, AND ITS SHAREHOLDERS, DIRECTORS, OFFICERS, BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, AND ITS SUCCESSORS AND ASSIGNS AND REFERENCES TO THE "ASSOCIATION," OR "CONDOMINIUM ASSOCIATION," SHALL MEAN ALL OF ITS DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed this 8<sup>th</sup> day of August, 2023.

Signed, sealed and delivered in the presence of:

PROPERTIES AT SALAMANCA, L.L.C.,  
a Florida limited liability company

By: [Signature]  
Horacio Garcia, Sr., as Manager

[Signature]  
Printed Name: Sandra M. Ferrera

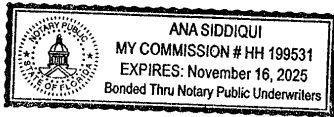
[Signature]  
Printed Name: Ara Siddiqui

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

The foregoing Declaration was acknowledged before me by (  ) physical presence or (  ) remote online notarization on this, this 8 day of August, 2023, by Horacio Garcia, Sr., as Manager of PROPERTIES AT SALAMANCA, L.L.C., a Florida limited liability company, on behalf of said company. Such person is personally known to me.

[Signature]  
Name: Ara Siddiqui  
Notary Public, State of Florida

My Commission Expires:





CONSENT OF MORTGAGEE

THIS CONSENT is given as of the 15 day of August, 2023, by ADRA INVESTMENTS, LLC, a Florida limited liability company ("Mortgagee"), being the owner and holder of that certain Mortgage dated November 30, 2020 from PROPERTIES AT SALAMANCA, L.L.C., a Florida limited liability company to Mortgagee in the original principal amount of \$3,750,000.00, recorded December 16, 2020, in Official Records Book 32243, at Page 2629, of the Public Records of Miami-Dade County, Florida.

WHEREAS, Mortgagor has requested Mortgagee to consent to the recording of the Declaration of Condominium of VILLAS AT SALAMANCA, A CONDOMINIUM (the "Declaration").

NOW, THEREFORE, Mortgagee consents to the recordation of the Declaration. Mortgagee makes no warranty or any representation of any kind or nature concerning the Declaration, any of its terms or provisions, or the legal sufficiency thereof, and disavows any such warranty or representation as well as any participation in the development of VILLAS AT SALAMANCA, A CONDOMINIUM (the "Condominium"), and does not assume and shall not be responsible for any of the obligations or liabilities of the Developer contained in the Declaration or the prospectus, (if any) or other documents issued in connection with the promotion of the Condominium. None of the representations contained in the prospectus, (if any) or other documents shall be deemed to have been made by Mortgagee, nor shall they be construed to create any obligation on Mortgagee to any person relying thereon. This consent is limited to the purposes and requirements of Section 718.104, Florida Statutes, and does not affect or impair the rights and remedies of Mortgagee as set forth in the Mortgage or in the Declaration.

IN WITNESS WHEREOF, the Mortgagee has caused these presents to be signed in its name by its proper officer this 15 day of August, 2023.

MORTGAGEE:

Witnessed by:

*[Signature]*  
Name: Susana Grueningev  
*[Signature]*  
Name: Merrill Quintero

ADRA INVESTMENTS, LLC,  
a Florida limited liability company

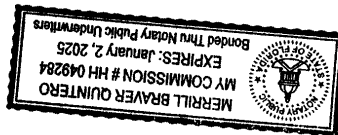
By: *[Signature]*  
Ramon Portela,  
as Authorized Representative

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

The foregoing joinder was acknowledged before me by ( ) physical presence or ( ) remote online notarization on this 15 day of August, 2023, by Ramon Portela, as Authorized Representative of ADRA INVESTMENTS, LLC, a Florida limited liability company, on behalf of said entity. Such person is personally known to me or produced a driver's license as identification.

*[Signature]*  
Name: \_\_\_\_\_  
Notary Public, State of Florida

My Commission Expires:



DECLARATION OF CONDOMINIUM FOR  
VILLAS AT SALAMANCA, A CONDOMINIUM  
-51-



# VILLAS AT SALAMANCA, A CONDOMINIUM

PROPERTY ADDRESS:  
120 Salamanca Avenue  
Coral Gables, Florida 33134.

FOR:  
PROPERTIES AT SALAMANCA LLC.

## LEGAL DESCRIPTION:

The East 1/2 of Lot 6 and all of Lot 7, in Block 32, of REVISED PLAT OF CORAL GABLES DOUGLAS SECTION; according to the Plat thereof, as recorded in Plat Book 25, at Page 69, of the Public Records of Miami-Dade County, Florida.

## SURVEYORS' NOTES:

1. Dimensions and elevations as shown herein are subject to normal construction tolerances.
2. Elevations shown herein referred to National Geodetic Datum and are expressed in feet.

## SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY: THAT THE CONSTRUCTION OF THE IMPROVEMENTS WITHIN VILLAS AT SALAMANCA, A CONDOMINIUM, AS SHOWN ON THIS EXHIBIT "B" OF THE DECLARATION OF CONDOMINIUM, IS SUBSTANTIALLY COMPLETE SO THAT THE MATERIALS COMPRISING THIS EXHIBIT "B", TOGETHER WITH THE PROVISIONS OF THE DECLARATION OF CONDOMINIUM DESCRIBING THE CONDOMINIUM PROPERTY, IS AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS ACCORDING TO THE DIMENSIONS OBTAIN AND THAT THE IDENTIFICATION, LOCATION AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CAN BE DETERMINED FROM THESE MATERIALS.

PREPARED BY:

GUNTER GROUP, INC. LB 4507  
LAND SURVEYING-LAND PLANNING  
9350 S.W. 22ND TERRACE  
MIAMI, FLORIDA 33165.  
(305) 220-0073

### NOTES:

The Digital Signature and Date, pursuant to Chapter 5J-17, Florida Administrative Code, under Section 5J-17.062. The "Digital Date" may not reflect the date of Survey or the latest revision date. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

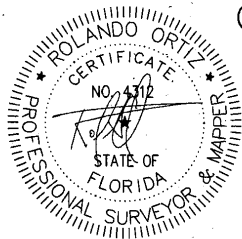
Date: 04-11-2023  
Revision: 07-31-2023

Digitally signed by Rolando

Ortiz

Date: 2023.07.31 21:55:11

-04'00'



BY: ROLANDO ORTIZ  
Professional Land Surveyor and  
Mapper State of Florida LS 4312

Job No.: 23-32987 Sketch No.: 30847

Rolando Ortiz

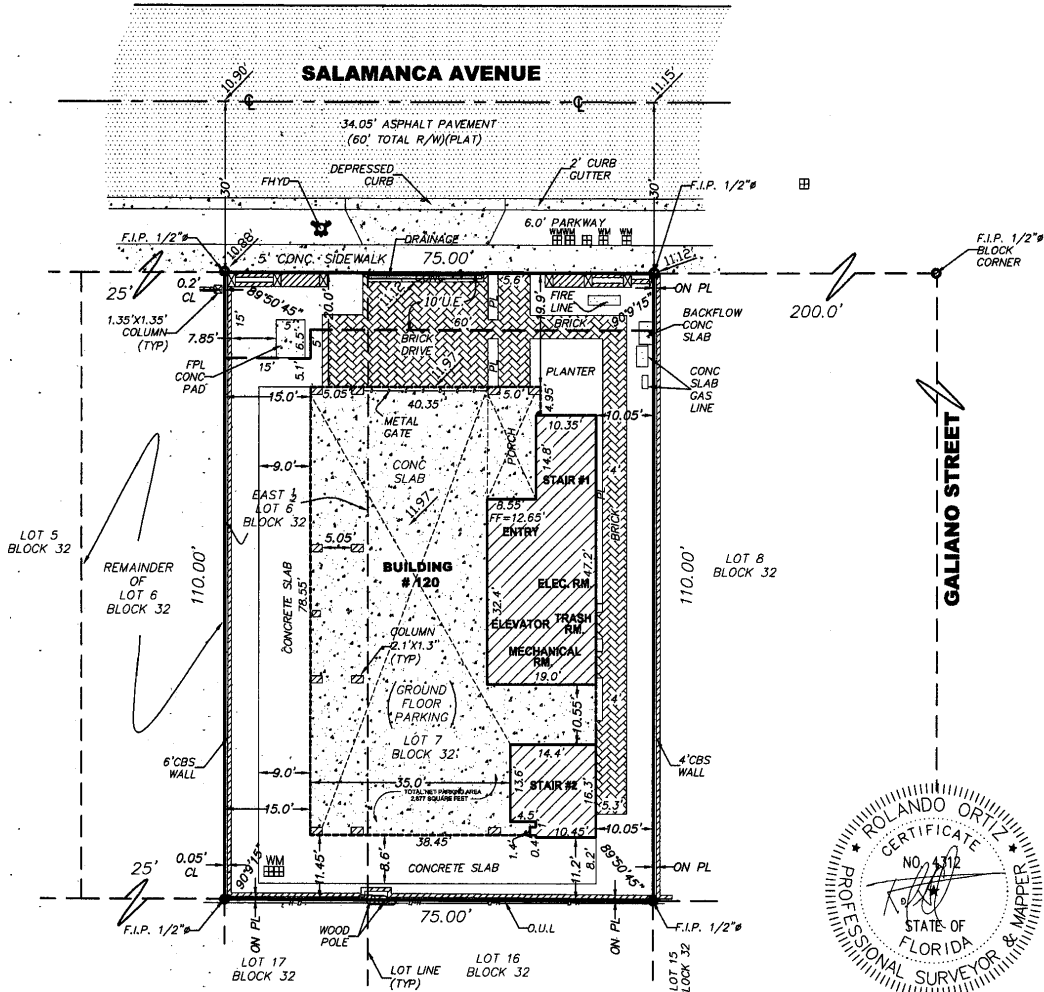
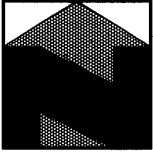
SHEET 1 OF 8

# PLOT PLAN

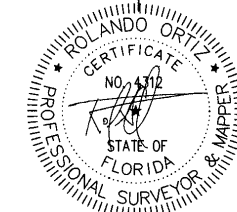
GRAPHIC SCALE



( IN FEET )  
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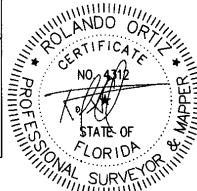
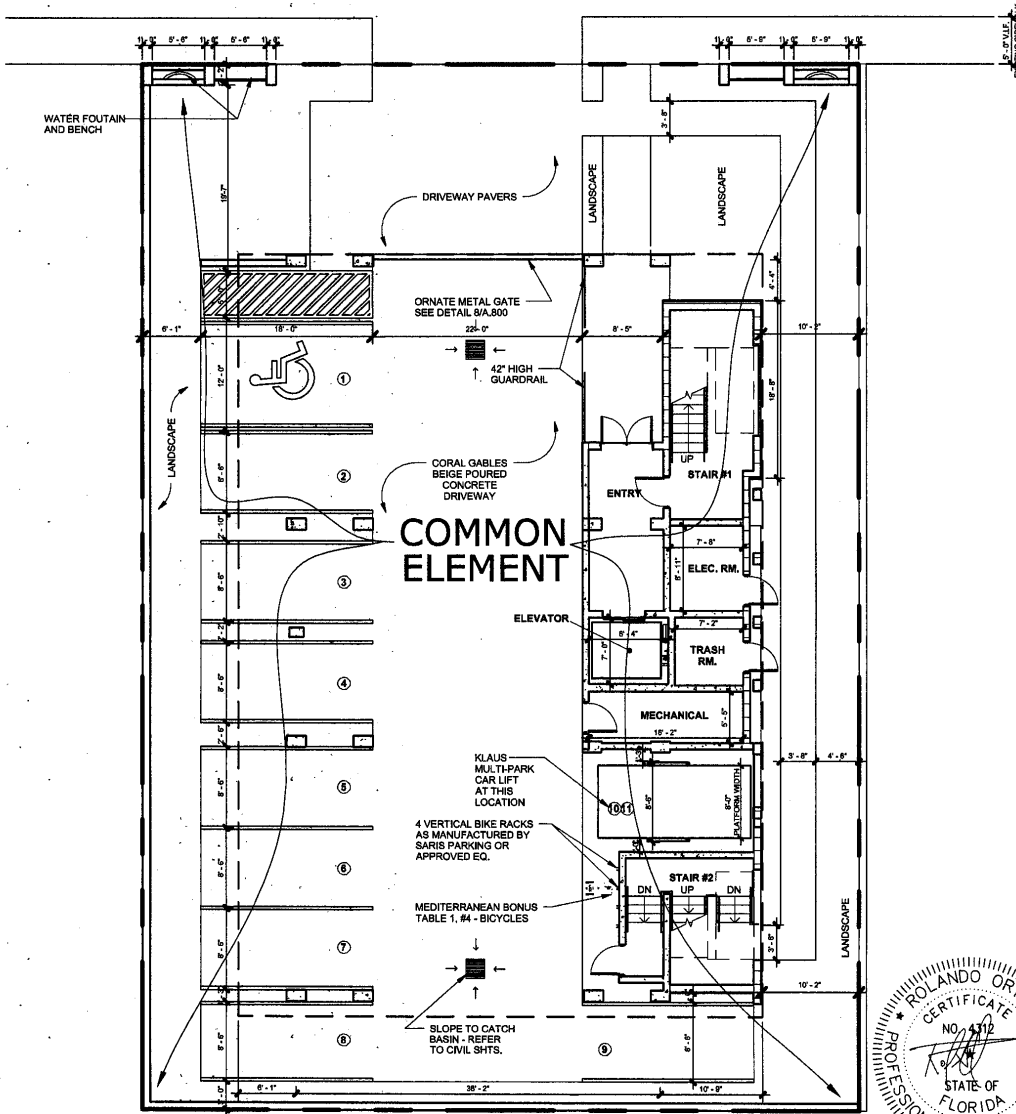
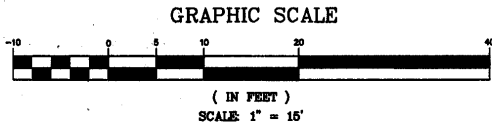


Rolando Ortiz Digitally signed by Rolando Ortiz  
Date: 2023.08.01 17:43:22 -04'00'



SHEET 2 OF 8

# GROUND FLOOR PLAN



Rolando Ortiz Digitally signed by Rolando Ortiz  
Date: 2023.07.31 21:58:54 -04'00'

SHEET 3 OF 8

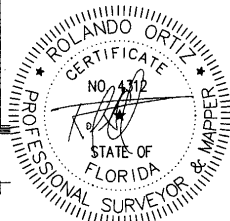
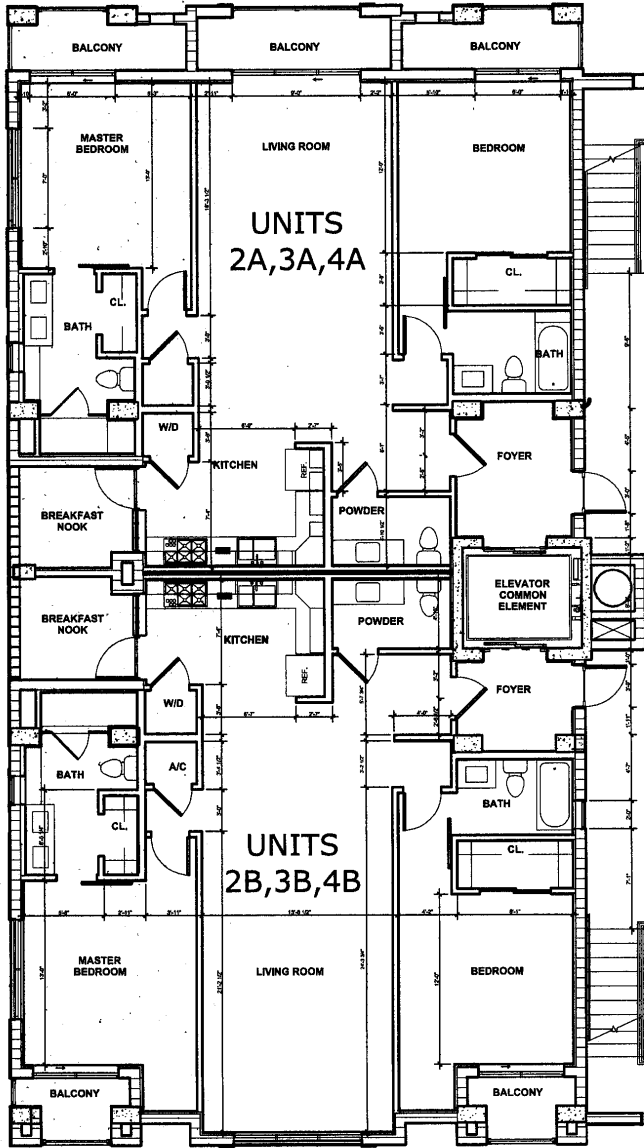
# TYPICAL FLOORS (2-4)



GRAPHIC SCALE



( IN FEET )  
SCALE: 1" = 10'

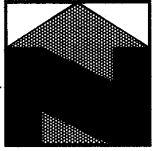


Rolando Ortiz

Digitally signed by Rolando Ortiz  
Date: 2023.07.31 22:00:28 -04'00'

SHEET 4 OF 8

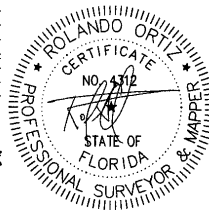
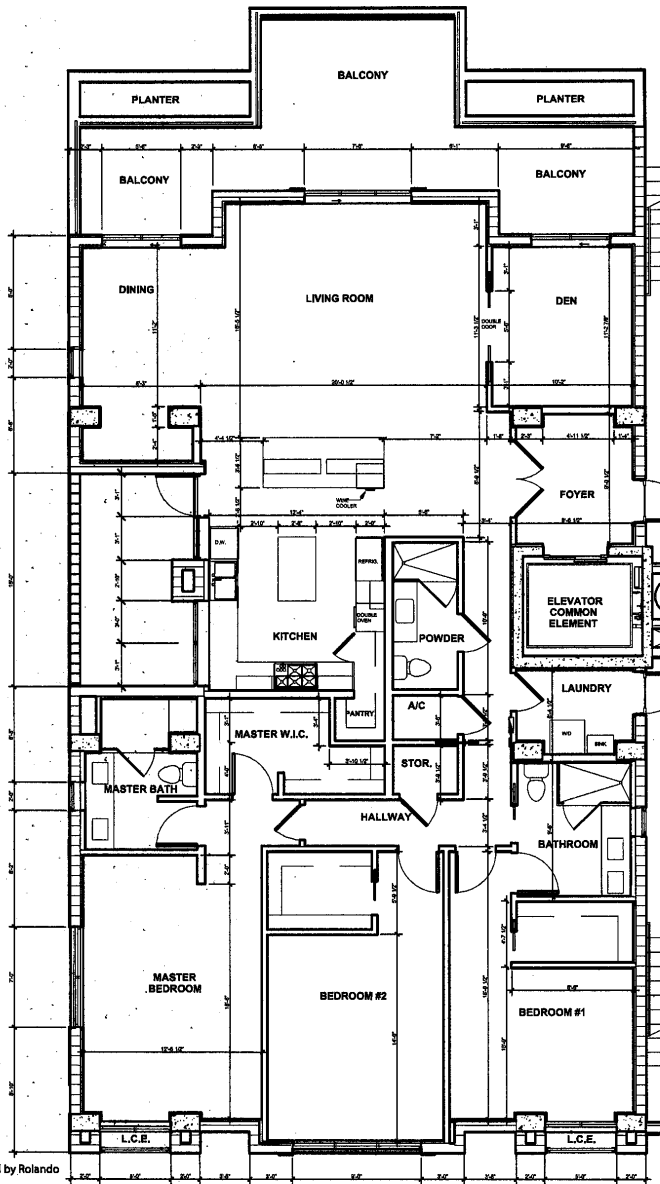
# PENTHOUSE FLOORS



GRAPHIC SCALE



( IN FEET )  
SCALE: 1" = 10'

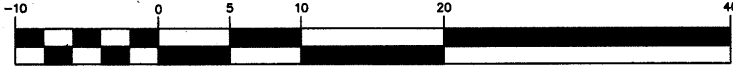
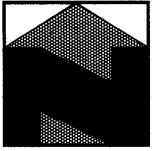


Rolando Ortiz  
Digitally signed by Rolando Ortiz  
Date: 2023.07.31 22:02:05  
-04'00'

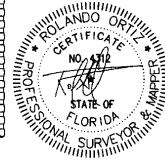
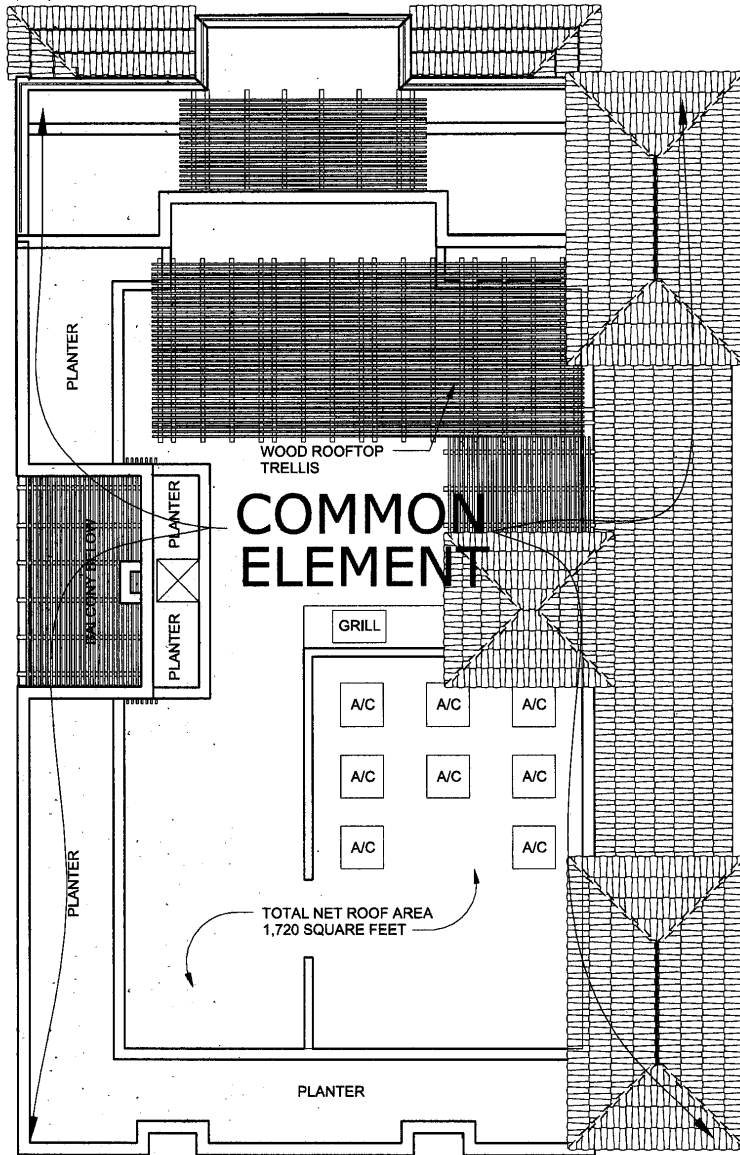
SHEET 5 OF 8

# ROOF TOP

GRAPHIC SCALE



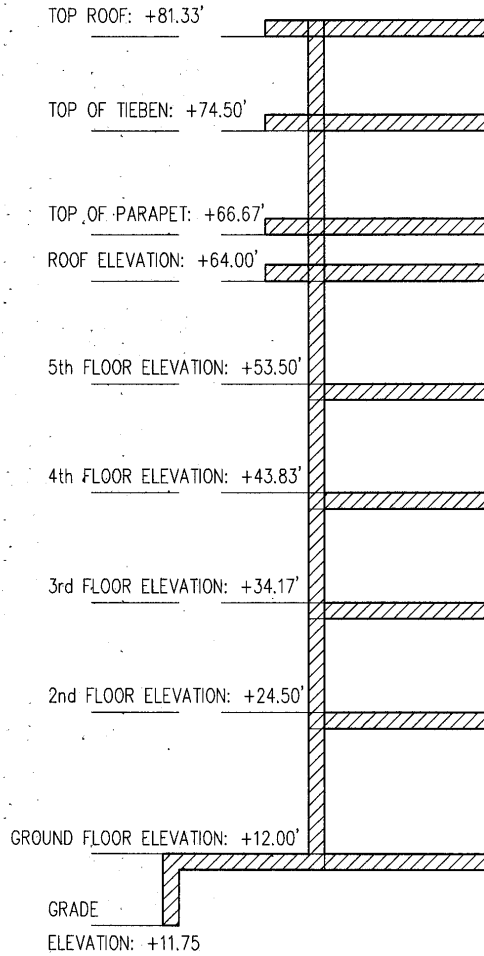
( IN FEET )  
SCALE: 1" = 10'



Rolando Ortiz Digitally signed by Rolando Ortiz  
Date: 2023.07.31 22:03:33 -04'00'

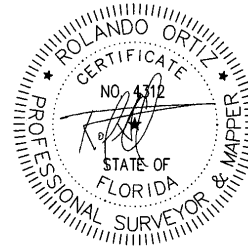
SHEET 6 OF 8

# ELEVATIONS



## NOTE:

ELEVATIONS REFERRED TO  
N.G.V.DATUM 1929,  
CORAL GABLES B.M. 709  
ELEVATION = 8.78 FEET (NGVD.)



Digitally signed by Rolando Ortiz  
Date: 2023.07.31 22:05:27 -04'00'

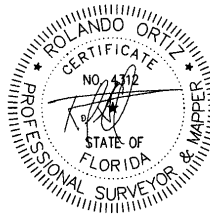
SHEET 7 OF 8

# PERCENTAGE OF THE ASSIGNED SHARES OF THE COMMON ELEMENTS

UNIT NO.	SQUARE FOOTAGE	% PER UNIT
2A	1,577	12.98
2B	1,496	12.31
3A	1,577	12.98
3B	1,496	12.31
4A	1,577	12.98
4B	1,496	12.31
PH	2,930	24.13

THE DETERMINATION OF RELATIVE SQUARE FOOTAGE WAS COMPUTED BY THE ARCHITECTURAL METHOD OF MEASURING, THAT IS, FROM THE EXTERIOR OF PERIMETER WALLS, INCLUDING APERTURES, BALCONIES AND TERRACES, OF THE UNIT THAT CONSTITUTE EXTERIOR WALLS OF THE BUILDING, TO THE MIDPOINT OF PERIMETER WALLS OF THE UNIT THAT CONSTITUTE PARTITION WALLS BETWEEN TWO UNITS.

PREPARED BY:  
**GUNTER GROUP, INC.** LB 4507  
 LAND SURVEYING—LAND PLANNING  
 9350 S.W. 22ND TERRACE  
 MIAMI, FLORIDA 33165.  
 (305) 220-0073



**Rolando Ortiz**

Digitally signed by Rolando Ortiz  
 Date: 2023.07.31 22:08:50  
 -04'00'

**SHEET 8 OF 8**



PERCENTAGE OF COMMON ELEMENTS PER UNIT

Unit	Percentage per Unit
2A	12.98%
2B	12.31%
3A	12.98%
3B	12.31%
4A	12.98%
4B	12.31%
PH	24.12%

ARTICLES OF INCORPORATION  
FOR  
VILLAS AT SALAMANCA CONDOMINIUM ASSOCIATION, INC.

The undersigned incorporator, for the purpose of forming a corporation not for profit pursuant to the laws of the State of Florida, hereby adopts the following Articles of Incorporation:

ARTICLE 1.  
NAME

The name of the corporation shall be VILLAS AT SALAMANCA CONDOMINIUM ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Association," these Articles of Incorporation as the "Articles," and the Bylaws of the Association as the "By-Laws."

ARTICLE 2.  
OFFICE

The principal office and mailing address of the Association shall be at: 90 Edgewater Drive, #807, Coral Gables, FL 33133, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at its principal office or at such other place as may be permitted by the Act.

ARTICLE 3.  
PURPOSE

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act as it exists on the date hereof (the "Act") for the operation of that certain condominium located in Miami-Dade County, Florida, and known as VILLAS AT SALAMANCA, A CONDOMINIUM (the "Condominium").

ARTICLE 4.  
DEFINITIONS

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

ARTICLE 5.  
POWERS

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

5.1 General. The Association shall have all of the common-law and statutory powers of a corporation not for profit under the Laws of Florida, except as expressly limited or restricted by the terms of these Articles, the Declaration, the By-Laws or the Act.

5.2 Enumeration. The Association shall have all of the powers and duties set forth in the Act, except as limited by these Articles, the By-Laws and the Declaration (to the extent that they are not in conflict with the Act), and all of the powers and duties reasonably necessary to operate the Condominium

pursuant to the Declaration and as more particularly described in the By-Laws, as they may be amended from time to time, including, but not limited to, the following:

(a) To make and collect Assessments (including Special Assessments), Charges and other levies against members as Unit Owners (whether or not such sums are due and payable to the Association), and to use the proceeds thereof in the exercise of its powers and duties.

(b) To assume all of Developers and/or its affiliates' responsibilities to the City, the County, and their governmental and quasi-governmental subdivisions and similar entities of any kind with respect to the Condominium Property (including, without limitation, any and all obligations imposed by any permits or approvals Issued by the City and/or County, as same may be amended, modified or interpreted from time to time) and, in either such instance, to indemnify and hold Developer and its affiliates harmless with respect thereto in the event of the Association's failure to fulfill those responsibilities.

(c) To buy, accept, own, operate, lease, sell, trade and mortgage both real and personal property in accordance with the provisions of the Declaration.

(d) To maintain, repair, replace, reconstruct, add to and operate the Condominium Property and/or Association Property, and other property acquired or leased by the Association.

(e) To purchase insurance covering the Condominium Property and Association Property and insurance for the protection of the Association, its officers, directors and Unit Owners.

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

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

(h) To approve or disapprove the merger, consolidation or other combination with other condominiums.

(i) To enforce by legal means the provisions of the Act, the Declaration, these Articles, the By-Laws, and the rules and regulations for the use of the Condominium Property and the Association Property.

(j) To contract for the management and maintenance of the Condominium Property and/or Association Property and to authorize a management agent (which may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments (including Special 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 Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.

(k) To employ personnel to perform the services required for the proper operation of the Condominium and the Association Property.

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

5.3 Association Property. All funds and the title to all properties acquired by the Association and their proceeds shall be held for the benefit and use of the members in accordance with the provisions of the Declaration, these Articles and the By-Laws.

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

5.5 Limitation. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions hereof and of the Declaration, the By-Laws and the Act, provided that in the event of conflict, the provisions of the Act shall control over those of the Declaration and By-Laws.

ARTICLE 6.  
MEMBERS

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

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

6.3 Voting. On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each Unit. All votes shall be exercised or cast in the manner provided by the Declaration and By-Laws. Any person or entity owning more than one Unit shall be entitled to cast the aggregate number of votes attributable to all Units owned.

6.4 Meetings. The By-Laws shall provide for an annual meeting of members and may make provision for regular and special meetings of members other than the annual meeting.

ARTICLE 7.  
TERM OF EXISTENCE

The Association shall have perpetual existence.

ARTICLE 8.  
INCORPORATOR

The name and address of the Incorporator of this Corporation is:

NAME	ADDRESS
Horacio S. Garcia, Sr.	90 Edgewater Drive #807 Coral Gables, FL 33133

ARTICLE 9.  
OFFICERS

The affairs of the Association shall be administered by the officers holding the offices designated in the By-laws. The officers shall be elected by the Board of Directors of the Association at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. The By-Laws may provide for the removal from office of officers, for filling vacancies and for the duties and qualifications of the officers. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

<u>President:</u> Horacio S. Garcia, Sr.	90 Edgewater Drive, #807 Coral Gables, FL 33133
<u>Vice President/Treasurer:</u> Horacio Garcia, Jr.	90 Edgewater Drive, #807 Coral Gables, FL 33133
<u>Secretary:</u> Lidia Garcia	90 Edgewater Drive, #807 Coral Gables, FL 33133

ARTICLE 10.  
DIRECTORS

10.1 Number and Qualification. The property, business and affairs of the Association shall be managed by a board consisting of the number of directors determined in the manner provided by the By-Laws, but which shall consist of not less than three (3) directors. Directors, except those appointed by the Developer, must be members of the Association.

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

10.3 Election: Removal. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by and subject to the qualifications set forth in the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

10.4 Term of Developer's Directors. The Developer of the Condominium shall appoint the members of the first Board of Directors and their replacements who shall hold office for the periods described in the By-Laws.

10.5 First Directors. The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and have taken office, as provided in the By-Laws, are as follows:

Horacio Garcia, Jr.	90 Edgewater Drive, #807 Coral Gables, FL 33133
Horacio S. Garcia, Sr.	90 Edgewater Drive, #807 Coral Gables, FL 33133
Lidia Garcia	90 Edgewater Drive, #807 Coral Gables, FL 33133

10.6 Standards. A Director shall discharge his duties as a director, including any duties as a member of a Committee: in good faith; with the care an ordinary prudent person in a like position would exercise under similar circumstances; and in a manner reasonably believed to be in the best interests of the Association. Unless a Director has knowledge concerning a matter in question that makes reliance unwarranted, a Director, in discharging his duties, may rely on information, opinions, reports or statements, including financial statements and other data, if prepared or presented by: one or more officers or employees of the Association whom the Director reasonably believes to be reasonable and competent in the manners presented; legal counsel, public accountants or other persons as to matters the Director reasonably believes are within the persons' professional or expert competence; or a Committee of which the Director is not a member if the Director reasonably believes the Committee merits confidence. A Director is not liable for any action taken as a director, or any failure to take an action, if he performed the duties of his office in compliance with the foregoing standards.

ARTICLE 11.  
INDEMNIFICATION

11.1 Indemnitees. The Association shall indemnify any person who was or is a party to any proceeding (other than an action by, or in the right of, the Association) by reason of the fact that he is or was a director, officer, employee or agent (each, an "Indemnatee") of the Association, against liability incurred in connection with such proceeding, including any appeal thereof, if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

11.2 Indemnification. The Association shall indemnify any person, who was or is a party to any proceeding by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee, or agent of the Association against expenses and amounts paid in settlement not exceeding, in the judgment of the Board of Directors, the estimated expense of litigating the proceeding to conclusion, actually and reasonably incurred in connection with the defense or settlement

of such proceeding, including any appeal thereof. Such indemnification shall be authorized if such person acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, except that no indemnification shall be made under this Section in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable unless, and only to the extent that, the court in which such proceeding was brought, or any other court of competent jurisdiction, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

11.3 Indemnification for Expenses. To the extent that a director, officer, employee, or agent of the Association has been successful on the merits or otherwise in defense of any proceeding referred to in Section 11.1 or Section 11.2, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses actually and reasonably incurred by him in connection therewith.

11.4 Determination of Applicability. Any indemnification under Section 11.1 or Section 11.2, unless pursuant to a determination by a court, shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper under the circumstances because he has met the applicable standard of conduct set forth in Section 11.1 or Section 11.2. Such determination shall be made:

(a) By the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such proceeding;

(b) If such a quorum is not obtainable or, even if obtainable, by majority vote of a Committee duly designated by the Board of Directors (in which directors who are parties may participate) consisting solely of two or more Directors not at the time parties to the proceeding;

(c) By independent legal counsel:

1. selected by the Board of Directors prescribed in paragraph (a) or the committee prescribed in paragraph (b); or

2. if a quorum of the Directors cannot be obtained for paragraph (a) and the Committee cannot be designated under paragraph (b), selected by majority vote of the full Board of Directors (in which Directors who are parties may participate); or

(d) By a majority of the voting interests of the members of the Association who were not parties to such proceeding.

11.5 Determination Regarding Expenses. Evaluation of the reasonableness of expenses and authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible. However, if the determination of permissibility is made by independent legal counsel, the persons specified by Section 11.4(c) shall evaluate the reasonableness of expenses and may authorize indemnification.

11.6 Advancing Expenses. Expenses incurred by an officer or director in defending a civil or criminal proceeding may be paid by the Association in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if he is ultimately found not to be entitled to indemnification by the Association pursuant to this Section. Expenses incurred by other employees and agents may be paid in advance upon such terms or conditions that the Board of Directors deems appropriate.

11.7 Exclusivity; Exclusions. The indemnification and advancement of expenses provided pursuant to this Section are not exclusive, and the Association may make any other or further indemnification or advancement of expenses of any of its directors, officers, employees, or agents, under any bylaw, agreement, vote of shareholders or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. However, indemnification or advancement of expenses shall not be made to or on behalf of any director, officer, employee, or agent if a judgment or other final adjudication establishes that his actions, or omissions to act, were material to the cause of action so adjudicated and constitute:

(a) A violation of the criminal law, unless the director, officer, employee, or agent had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful;

(b) A transaction from which the director, officer, employee, or agent derived an improper personal benefit; or

(c) Willful misconduct or a conscious disregard for the best interests of the Association in a proceeding by or in the right of the Association to procure a judgment in its favor or in a proceeding by or in the right of the members of the Association.

11.8 Continuing Effect. Indemnification and advancement of expenses as provided in this Section shall continue as, unless otherwise provided when authorized or ratified, to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs; executors, and administrators of such a person, unless otherwise provided when authorized or ratified.

11.9 Application to Court. Notwithstanding the failure of the Association to provide indemnification, and despite any contrary determination of the Board or of the members in the specific case, a director, officer, committee member, employee, or agent of the Association who is or was a party to a proceeding may apply for indemnification or advancement of expenses, or both, to the court conducting the proceeding, to the circuit court, or to another court of competent jurisdiction. On receipt of an application, the court, after giving any notice that it considers necessary, may order indemnification and advancement of expenses, including expenses incurred in seeking court-ordered indemnification or advancement of expenses, if it determines that:

(a) The director, officer, committee member, employee, or agent is entitled to mandatory indemnification under Section 11.3, in which case the court shall also order the Association to pay the director reasonable expenses incurred in obtaining court-ordered indemnification or advancement of expenses;

(b) The director, officer, committee member, employee, or agent is entitled to indemnification or advancement of expenses, or both, by virtue of the exercise by the Association of its power pursuant to Section 11.7; or

(c) The director, officer, committee member, employee or agent is fairly and reasonably entitled to indemnification or advancement of expenses, or both, in view of all the relevant circumstances, regardless of whether such person met the standard of conduct set forth in Section 11.1, Section 11.2 or Section 11.7, unless (i) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or acted in a manner he reasonably believed to be not in, or opposed to, the best interest of the Association, and, with respect to any criminal action or proceeding, that he



had reasonable cause to believe his conduct was unlawful, and (ii) such court further specifically determines that indemnification should be denied. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith or did act in a manner which he reasonably believed to be not in, or opposed to, the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe that his conduct was unlawful.

11.10 Definitions. For purposes of this Article, the term "expenses" shall be deemed to include attorneys' fees, including those for any appeals; the term "liability" shall be deemed to include obligations to pay a judgment, settlement, penalty, fine, and expenses actually and reasonably incurred with respect to a proceeding; the term "proceeding" shall be deemed to include any threatened, pending, or completed action, suit, or other type of proceeding, whether civil, criminal, administrative or investigative, and whether formal or informal; and the term "agent" shall be deemed to include a volunteer; the term "serving at the request of the Association" shall be deemed to include any service as a director, officer, employee or agent of the Association that imposes duties on such persons.

11.11 Amendment. Anything to the contrary herein notwithstanding, no amendment to the provisions of this Article shall be applicable as to any party eligible for indemnification hereunder who has not given his prior written consent to such amendment.

#### ARTICLE 12. BY-LAWS

The first By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided in the By-Laws and the Declaration.

#### ARTICLE 13. AMENDMENTS

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

13.1 Notice. Notice of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered and shall be otherwise given in the time and manner provided in the Act. Such notice shall contain the proposed amendment or a summary of the changes to be affected thereby.

13.2 Adoption. Amendments shall be proposed and adopted in the manner provided in Chapter 617, Florida Statutes and in the Act (the latter to control over the former to the extent provided for in the Act).

13.3 Limitation. No amendment shall make any changes in the qualifications for membership, nor in the voting rights or property rights of members, nor any changes in Sections 5.3, 5.4 or 5.5 or the Article entitled "Powers," without the approval in writing of all members and the joinder of all record owners of mortgages upon Units. No amendment shall be made that is in conflict with the Act, the Declaration or the By-Laws, nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of or reserved to the Developer and/or Institutional First Mortgagees, unless the Developer and/or the Institutional First Mortgagees, as applicable, shall join in the execution of the amendment. No amendment to this Section 13.3 shall be effective.

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

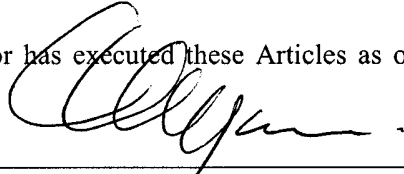
13.5 Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the public records of Miami-Dade County, Florida with an identification on the first page thereof of the book and page of said public records where the Declaration was recorded which contains, as an exhibit, the initial recording of these Articles.

ARTICLE 14.  
INITIAL REGISTERED OFFICE;  
ADDRESS AND NAME OF REGISTERED AGENT

The street address of the initial registered office of this corporation is: 396 Alhambra Circle, 14<sup>th</sup> Floor, Coral Gables, Florida 33134 and the name of the initial registered agent of this corporation at that address is: DAY PITNEY LLP; Attn: Daniel Diaz-Leyva, Esq.

[SIGNATURES CONTINUED]

IN WITNESS WHEREOF, the Incorporator has executed these Articles as of the 8 day of August, 2023.



\_\_\_\_\_  
Horacio S. Garcia, Sr.  
Incorporator

STATE OF FLORIDA            )  
  )  
COUNTY OF MIAMI-DADE    )

The foregoing instrument was acknowledged before me this 8 day of August, 2023 by () physical presence or () remote online notarization on this 8 day of August, 2023, by Horacio S. Garcia, Sr., being known to me to be the person who executed the foregoing Articles of Incorporation of VILLAS AT SALAMANCA CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation, who  is personally known to me or  has produced FL Drivers License as identification.



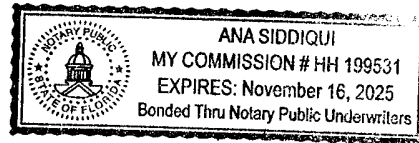
\_\_\_\_\_  
(Signature)

My Commission Expires:

Name: Ana Siddiqui

(Legibly Printed)  
Notary Public, State of Florida  
(Commission Number, if any)

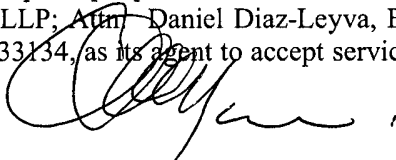
(AFFIX NOTARY SEAL)



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

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

VILLAS AT SALAMANCA CONDOMINIUM ASSOCIATION, INC. desiring to organize or qualify under the laws of the State of Florida, with its principal place of business at the County of Miami-Dade, State of Florida, has named DAY PITNEY, LLP; Attn: Daniel Diaz-Leyva, Esq., located at 396 Alhambra Circle, 14<sup>th</sup> Floor, Coral Gables, Florida 33134, as its agent to accept service of process within Florida.

  
\_\_\_\_\_  
Horacio S. Garcia, Sr.  
Incorporator

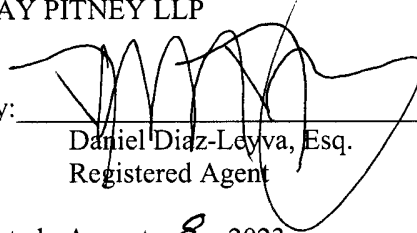
Dated: August 8, 2023

ACCEPTANCE OF DESIGNATION OF REGISTERED AGENT

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

DAY PITNEY LLP

By:

  
\_\_\_\_\_  
Daniel Diaz-Leyva, Esq.  
Registered Agent

Dated: August 8, 2023

BY-LAWS  
OF  
VILLAS AT SALAMANCA CONDOMINIUM ASSOCIATION, INC.

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

1. **Identity.** These are the By-Laws of VILLAS AT SALAMANCA 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 **Fiscal Year.** The fiscal year of the Association shall be the twelve (12) month period commencing January 1st and terminating December 31st of each year.
  - 1.2 **Seal.** The seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation Not for Profit", and the year of incorporation.
2. **Definitions.** For convenience, these By-Laws shall be referred to as the "By-Laws" and the Articles of Incorporation of the Association as the "Articles". The other terms used in these By-Laws shall have the same definitions and meanings as those set forth in the Declaration for VILLAS AT SALAMANCA, A CONDOMINIUM, unless herein provided to the contrary, or unless the context otherwise requires.
3. **Members.**
  - 3.1 **Annual Meeting.** The annual members' meeting shall be held on the date, at the place and at the time determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and, to the extent possible, no later than thirteen (13) 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 March following the year in which the Declaration is filed.
  - 3.2 **Special Meetings.** Special members' meetings shall be held at such places as provided herein for annual meetings and may be called by the President or by a majority of the Board of 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 of 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 Act. Notwithstanding the foregoing: (i) as to special meetings regarding the adoption of the Condominium's estimated operating budget, reference should be made to Section 12.1 of these By-Laws; and (ii) as to special meetings regarding recall of Board members, reference should be made to Section 4.3 of these By-Laws.
  - 3.3 **Participation by Unit Owners.** Subject to the following and such further reasonable restrictions as may be adopted from time to time by the Board, 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. A Unit Owner does not have the right to speak with respect to items not specifically designated on the agenda, provided, however, that the Board may permit a Unit Owner to speak on such items in its discretion. Every Unit Owner who desires to speak at a meeting, may do so, provided that the Unit Owner has filed a written request with the Secretary of the Association not less than 24 hours prior to the scheduled time for commencement of the meeting. Unless waived by the chairman of the meeting (which may be done in the chairman's sole and absolute discretion and without being deemed to constitute a waiver as to any other subsequent speakers), all Unit Owners speaking at a meeting shall be limited to a maximum of three (3) minutes per speaker. Any Unit Owner may tape record or videotape a meeting, subject to the following and such further reasonable restrictions as may be adopted from time to time by the Board:
    - (a) The only audio and video equipment and devices which Unit Owners are authorized to utilize at any such meeting is equipment which does not produce distracting sound or light emissions;

- (b) Audio and video equipment shall be assembled and placed in position in advance of the commencement of the meeting.
- (c) Anyone videotaping or recording a meeting shall not be permitted to move about the meeting room in order to facilitate the recording; and
- (d) At least forty-eight (48) hours (or twenty-four (24) hours with respect to a Board meeting) prior written notice shall be given to the Secretary of the Association by any Unit Owner desiring to make an audio or video taping of the meeting.

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. The notice of the annual meeting 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 the annual meeting by mail. The delivery or mailing shall be to the address of the member as it appears on the roster of members. Where a Unit is owned by more than one person, the Association shall provide notice, for meetings and all other purposes, to that one address initially identified for that purpose by the Developer and thereafter as one or more of the Owners of the Unit shall so advise the Association in writing, or if no address is given or if the Owners disagree, notice shall be sent to the address for the Owner as set forth on the deed of the Unit. The posting and mailing of the notice for either special or annual meetings (other than election meetings), which notice shall incorporate an identification of agenda items, shall be affected not less than fourteen (14) continuous days before the date of the meeting. The Board shall adopt by rule, and give notice to Unit Owners of, a specific location on the Condominium or Association Property where all notices of members' meetings shall be posted. In lieu of, or in addition to, the physical posting of notice of any meeting of the Unit Owners on the Condominium Property, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Association, if any. However, if broadcast notice is used, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and to read and comprehend the entire content of the notice and the agenda.

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 Section 718.112(2)(d) of the 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 in excess of 33 1/3% of the votes of members entitled to vote at the subject meeting.

3.6 Voting.

- (a) Number of Votes. In any meeting of members, the Owners of each Unit shall be entitled to cast the number of votes designated for their Unit as set forth in the Articles. The vote of a Unit shall not be divisible.
- (b) Majority Vote. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum shall have been attained shall be binding upon all Unit Owners for all purposes, except where otherwise provided by law, the Declaration, the Articles or these By-Laws. As used in these By-Laws, the Articles or the Declaration, the terms "majority of the Unit Owners" and "majority

of the members" shall mean a majority of the votes entitled to be cast by the members and not a majority of the members themselves and shall further mean more than 50% of the then total authorized votes present in person or by proxy and voting at any meeting of the Unit Owners at which a quorum shall have been attained. Similarly, if some greater percentage of members is required herein or in the Declaration or Articles, it shall mean such greater percentage of the votes of members and not of the members themselves.

- (c) Voting Member. If a Unit is owned by one person, 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. If a Unit is owned by a corporation, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by an appropriate officer of the corporation and filed with the Secretary of the Association. 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.

- 3.7 Proxies. Votes to be cast at meetings of the Association membership may be cast in person or by proxy. Except as specifically provided herein, 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; amend the Declaration, Articles or By-Laws; or for any other matter requiring or permitting a vote of Unit Owners. No proxy, limited or general, shall be used in the election of Board members. General proxies may be used for other matters for which limited proxies are not required and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. 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. If such provision is not made, substitution is not permitted.
- 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;

- (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), unless appointed by the President or Vice President prior to the meeting;
- (d) Appointment of inspectors of election;
- (e) Counting of Ballots for Election of Directors;
- (f) Proof of notice of the meeting or waiver of notice;
- (g) 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 a period of not less than seven (7) years.

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 Directors, initially consisting of three (3) Directors, all of whom shall be designated by the Developer. The size of the Board may, however, be expanded from time to time as determined by the Board. Directors must be natural persons who are eighteen (18) years of age or older. A person who has been suspended or removed by the Division under Chapter 718, or who is more than ninety (90) days delinquent in the payment of any monetary obligation to the Association is not eligible for board membership. A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for Board membership unless such felon's civil rights have been restored for a period of at least five (5) years as of the



date such person seeks election to the Board (provided, however, that the validity of any Board action is not affected if it is later determined that a Board member is ineligible for Board membership due to having been convicted of a felony). In a condominium association of more than ten (10) units or in a condominium association that does not include timeshare units or timeshare interests, co-Owners of a Unit may not serve as members of the Board of Directors at the same time unless they own more than one Unit or unless there are not enough eligible candidates to fill the vacancies on the Board at the time of the vacancy. Directors may not vote at Board meetings by proxy or 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. At least sixty (60) days prior to a scheduled election, the Association shall mail, deliver or electronically transmit 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 must give written notice of his or her intent to be a candidate to the Secretary of the Association at least forty (40) days prior to the scheduled election. Any eligible candidate may furnish the Association with an information sheet which shall be no larger than 8 ½ inches by 11 inches. The candidate's information sheet, if any, must be received by the Secretary by no later than thirty-five (35) days prior to the election. The Association shall have no liability for the contents of this information sheet prepared by the candidate. Together with the written notice and agenda as set forth in Section 3.4 above, the Association shall then mail, deliver or electronically transmit a second notice of the election to all Unit Owners entitled to vote therein, together with an agenda and a ballot which lists all eligible candidates. Upon request of a candidate, the Association shall include the information sheet, with the mailing, delivery or transmission of the agenda and ballot, with the costs of mailing, delivery or Electronic Transmission and copying to be borne by the Association. The Association shall have no liability for the information sheets provided by the candidates. In order to reduce costs, the Association may print or duplicate the information sheets on both sides of the paper.

The election of directors shall be by written ballot or voting machine. Proxies may not be used in electing the Board at general elections or to fill vacancies caused by resignation or otherwise, provided, however, that limited proxies may be used to fill a vacancy resulting from the recall of a director, in the manner provided by the rules of the Division. Elections shall be decided by a plurality of ballots and votes cast. There is no quorum requirement, however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. There shall be no cumulative voting. A unit owner shall not permit any other person to vote his or her ballot, and any ballots improperly cast are deemed invalid. A Unit Owner who violates this provision may be fined by the Association in accordance with Section 718.303, F.S. A Unit Owner who needs assistance in casting the ballot for the reasons stated in Section 101.051, F.S. may obtain such assistance. The regular election must occur on the date of the annual meeting.

The election of directors shall be by written ballot or voting machine. Proxies may not be used in electing the Board at general elections or to fill vacancies caused by resignation or otherwise, provided, however, that limited proxies may be used to fill a vacancy resulting from the recall of a director, in the manner provided by the rules of the Division. Elections shall be decided by a plurality of ballots and votes cast. There is no quorum requirement, however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. There shall be no cumulative voting. A unit owner shall not permit any other person to vote his or her ballot, and any ballots improperly cast are deemed invalid. A Unit Owner who violates this provision may be fined by the Association in accordance with Section 718.303, F.S. A Unit Owner who needs assistance in casting the ballot for the reasons stated in Section 101.051, F.S. may obtain such assistance. The regular election must occur on the date of the annual meeting. Notwithstanding anything contained herein to the contrary, if and to the extent a vacancy occurs on the Board and/or additional Directors are to be elected in accordance herewith, the Board may, in its sole and absolute discretion, hold a meeting to elect the Directors prior to the annual meeting.

Within 90 days after being elected or appointed to the Board, each newly elected or appointed director shall certify in writing to the secretary of the Association that he or she has read the Association's Declaration of Condominium, Articles of Incorporation, these By-Laws, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the Association's members. In lieu of this written certification, within 90 days after being elected or appointed to the Board, the newly elected or appointed director may submit a certificate of having satisfactorily completed the educational curriculum administered by a Division approved condominium education

provider within 1 year before or 90 days after the date of election or appointment. The written certification or educational certificate is valid and does not have to be resubmitted as long as the director serves on the Board without interruption. A director who fails to timely file the written certification or educational certificate is suspended from service on the board until he or she complies with this paragraph. The board may temporarily fill the vacancy during the period of suspension. The secretary shall cause the association to retain a director's written certification or educational certificate for inspection by the members for 5 years after a director's election. Failure to have such written certification or educational certificate on file does not affect the validity of any Board action.

Notwithstanding the provisions of this Section 4.2, an election and balloting are not required is not required if the number of vacancies equals or exceeds the number of candidates. For purposes of this paragraph, the term "candidate" means an eligible person who has timely submitted the written notice of his or her intention to become a candidate

#### 4.3 Vacancies and Removal.

- (a) Except as to vacancies resulting from removal of Directors by members (as addressed in subsection (b) below), vacancies in the Board of Directors occurring between annual meetings of members shall be filled by a majority vote of the remaining Directors at any Board meeting (even if the remaining Directors constitute less than a quorum), provided that all vacancies in directorships to which Directors were appointed by the Developer pursuant to the provisions of paragraph 4.15 hereof shall be filled by the Developer without the necessity of any meeting.
- (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 at a special meeting of members called for that purpose or by written agreement signed by a majority of all voting interests. The vacancy in the Board of Directors so created shall be filled by the members at a special meeting of the members called for such purpose, or by the Board of Directors, in the case of removal by a written agreement unless said agreement also designates a new Director to take the place of the one removed. If the written agreement calls for the removal of a majority of the Directors, such agreement shall also provide the names of eligible persons who are willing to be candidates for replacement Directors in sufficient numbers to replace all of the removed Directors. The conveyance of all Units owned by a Director in the Condominium (other than appointees of the Developer or Directors who were not Unit Owners) shall constitute the resignation of such Director.
- (c) Anything to the contrary herein notwithstanding, until a majority of the 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.
- (d) If a vacancy on the Board of Directors results in the inability to obtain a quorum of directors in accordance with these By-Laws, any Owner may give notice, in accordance with 718.1124 of the Act, of his or her intent to apply to the Circuit Court within whose jurisdiction the Condominium lies for the appointment of a receiver to manage the affairs of the Association and shall proceed in accordance with the procedures set forth in 718.1124 of the Act. At least thirty (30) days prior to the petition seeking receivership, the form of notice set forth in Section 718.1124, F.S. must be provided by the Unit Owner to the Association by certified mail or personal delivery, must be posted in a conspicuous place on the Condominium Property and must be provided by the Unit Owner to every other Unit Owner of the Association by certified mail or personal delivery. Notice by mail to a Unit Owner shall be sent to the address used by the county property appraiser for notice to the Unit Owner, except that where a Unit Owner's address is not publicly available the notice shall be mailed to the Unit. If, during such time, the Association fails to fill the vacancy(ies), the Unit Owner may proceed with the petition. If a receiver is appointed, all Unit Owners shall be given written notice of such appointment as provided in Section 718.127, F.S. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs and attorneys' fees. The receiver shall have all powers and duties of a duly constituted Board of Directors and shall serve until the Association fills the vacancy(ies) on

the Board sufficient to constitute a quorum in accordance with these By-Laws and the court relieves the receiver of the appointment.

- 4.4 Term. Except as provided herein to the contrary, the term of each Director's service shall expire at the annual meeting and such Board members may stand for reelection. If the number of members of the Board of Directors whose terms expire at the annual meeting equals or exceeds the number of candidates, the candidates become members of the Board effective upon the adjournment of the annual meeting. Any remaining vacancies shall be filled by the affirmative vote of the majority of the Directors making up the newly constituted Board even if the Directors constitute less than a quorum or there is only one Director. 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 three (3) days advance notice thereof, stating the time and place of 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 are open to all Unit Owners. A Unit Owner may tape record or videotape meetings of the Board, in accordance with the rules of the Division, subject to the restrictions in Section 3.3 of these By-Laws and any modifications thereof adopted from time to time by the Board. 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 all Board meetings, which must specifically identify all agenda items, must be posted conspicuously on the Condominium Property at least forty-eight (48) continuous hours before the meeting, except in the event of an emergency. If 20 percent of the voting interests petition the Board to address an item of business, the Board at its next regular board meeting or at a special meeting of the Board, but not later than 60 days after the receipt of the petition, shall place the item on the agenda. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the Board members. Such emergency action must be noticed and ratified at the next regular board meeting. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use, will be considered must be mailed, delivered, or electronically transmitted to the Unit Owners and posted conspicuously on the Condominium Property at least 14 days before the meeting. Evidence of compliance with this 14-day notice requirement must be made by an affidavit executed by the person providing the notice and filed with the official records of the Association. Upon notice to the Unit Owners, the Board shall, by duly adopted rule, designate a specific location on the Condominium or Association Property where all notices of board meetings are to be posted. If there is no Condominium Property or Association Property where notices can be posted, notices shall be mailed, delivered, or electronically transmitted at least 14 days before the meeting to the Owner of each Unit. In lieu of or in addition to the physical posting of the notice on the Condominium Property, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice physically posted on condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under the Act. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Notice of any meeting in which regular or special Assessments against Unit Owners are to be considered for any reason must specifically state that Assessments will be considered and provide 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 Act. A Director or member of a Committee of the Board of Directors may submit in writing his or her agreement or disagreement with any action taken at a meeting that such individual did not attend. This agreement or disagreement may not be used as a

vote for or against the action taken or to create a quorum. A Director of the Association who abstains from voting on any action taken on any corporate matter shall be presumed to have taken no position with regard to such action. A vote or abstention for each member present shall be recorded in the minutes. Directors may not vote by proxy or by secret ballot at board meetings, except that officers may be elected by secret ballot.

- 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 By-Laws.
- 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. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted as long as notice of such business to be conducted at the rescheduled meeting is given, if required (e.g., with respect to budget adoption).
- 4.10 Joinder in Meeting by Approval of Minutes. The joinder of a Director in 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 joinder shall not allow the applicable Director to be counted as being present for purposes of quorum.
- 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 Order of Business. If a quorum has been attained, the order of business at Directors' meetings shall be:
- (a) Proof of due notice of meeting;
  - (b) Reading and disposal of any unapproved minutes;
  - (c) Reports of officers and committees;
  - (d) Election of officers;
  - (e) Unfinished business;
  - (f) New business;
  - (g) Adjournment.

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

- 4.13 Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Unit Owners, or their authorized representatives, and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.
- 4.14 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.
- 4.15 Proviso. Notwithstanding anything to the contrary contained in this Section 4 or otherwise, the Board shall consist of three directors during the period that the Developer is

entitled to appoint a majority of the Directors, as hereinafter provided, and the Developer shall have the right to appoint all of the members of the Board of Directors until transfer of control of the Association, which shall occur as provided under Section 718.301(1), which provides (in pertinent parts) the following:

*If unit owners other than the developer own 15 percent or more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the developer are entitled to elect at least one-third of the members of the board of administration of the association. Unit owners other than the developer are entitled to elect at least a majority of the members of the board of administration of an association, upon the first to occur of any of the following events:*

(a) *Three years after 50 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;*

(b) *Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;*

(c) *When all 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 30 days after such appointment, unless the court determines within 30 days after appointment of the receiver that transfer of control would be detrimental to the association or its members; or*

(g) *Seven years after the date of the recording of the certificate of a surveyor and mapper pursuant to s. 718.104(4)(e) or the recording of an instrument that transfers title to a unit in the condominium which is not accompanied by a recorded assignment of developer rights in favor of the grantee of such unit, whichever occurs first. The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, and 2 percent, in condominiums with more than 500 units, of the units in a condominium operated by the association. After the developer relinquishes control of the association, the developer may exercise the right to vote any developer-owned units in the same manner as any other unit owner except for purposes of reacquiring control of the association or selecting the majority members of the board of administration.*

Upon the election of such director(s), the Developer shall forward to the Division of Florida Condominiums, Timeshares and Mobile Homes the name and mailing address of the director(s) elected. The Developer may transfer control of the Association to Unit Owners other than the Developer prior to such dates in its sole discretion by causing enough of its appointed Directors to resign, whereupon it shall be the affirmative obligation of Unit Owners other than the Developer to elect Directors and assume control of the Association. Provided at least sixty (60) days' notice of Developer's decision to cause its appointees to resign is given to Unit Owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations even if the Unit Owners other than the Developer refuse or fail to assume control.

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, or sooner if the Developer has elected to accelerate such event as aforesaid, the Association shall call, and give at least sixty (60) days' notice of an election for the member or members of the Board of Directors. The notice may be given by any Unit Owner if the Association fails to do so.

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

At that time (except as to subparagraph (g), which may be ninety (90) days thereafter) Developer shall deliver to the Association, at Developer's expense, all property of the Unit Owners and of the Association held or controlled by the Developer, including, but not limited to, the following items, if applicable to the Condominium:

- (a) The original or a photocopy of the recorded Declaration of Condominium, and all amendments thereto. If a photocopy is provided, the Developer must certify by affidavit that it is a complete copy of the actual recorded Declaration.
- (b) A certified copy of the Articles of Incorporation of the Association.
- (c) A copy of the By-Laws of the Association.
- (d) The minute book, including all minutes, and other books and records of the Association.
- (e) Any rules and regulations which have been adopted.
- (f) Resignations of resigning officers and Board members who were appointed by the Developer.
- (g) The financial records, including financial statements of the association, and source documents from the incorporation of the Association through the date of the turnover. The records shall be audited for the period from the incorporation of the Association or from the period covered by the last audit, if applicable, by an independent certified public accountant. All financial statements shall be prepared in accordance with generally accepted accounting principles and shall be audited in accordance with generally accepted auditing standards as prescribed by the Florida Board of Accountancy. The accountant performing the audit shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for Association purposes, and billings, cash receipts and related records to determine that the Developer was charged and paid the proper amounts of Assessments. Any audit or review prepared under this section shall be paid for by the developer if done prior to turnover of control of the association. An association may not waive the financial reporting requirements of this section for more than 3 consecutive years.
- (h) Association funds or the control thereof.
- (i) All tangible personal property that is the property of the Association or is or was represented by the Developer to be part of the Common Elements or is ostensibly part of the Common Elements, and an inventory of such property.
- (j) A copy of the plans and specifications utilized in the construction or remodeling of Improvements and the supplying of equipment, and for the construction and installation of all mechanical components serving the Improvements and the Condominium Property, with a certificate, in affidavit form, of an officer of the Developer or an architect or engineer authorized to practice in Florida, that such plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the Condominium Property and the construction and installation of the mechanical components serving the Improvements and the Condominium Property.
- (k) A list of the names and addresses of all contractors, subcontractors and suppliers, of which Developer had knowledge at any time in the development of the Condominium, utilized in the construction or remodeling of the improvements and the landscaping of the Condominium and/or Association Property.
- (l) Insurance policies.
- (m) Copies of any Certificates of Occupancy which may have been issued for the Condominium Property.

- (n) Any other permits issued by governmental bodies applicable to the Condominium Property in force or issued within one (1) year prior to the date the Unit Owners take control of the Association.
- (o) All written warranties of contractors, subcontractors, suppliers and manufacturers, if any, that are still effective.
- (p) A roster of Unit Owners and their addresses and telephone numbers, if known, as shown on the Developer's records.
- (q) Leases of the Common Elements and other leases to which the Association is a party, if applicable.
- (r) Employment contracts or service contracts in which the Association is one of the contracting parties, or service contracts in which the Association or Unit Owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service.
- (s) All other contracts to which the Association is a party.
- (t) A report included in the official records, under seal of an architect or engineer authorized to practice in Florida, attesting to required maintenance, useful life, and replacement costs of the following applicable common elements comprising a turnover inspection report:
  - (i) Roof
  - (ii) Structure
  - (iii) Fireproofing and fire protection systems.
  - (iv) Elevators
  - (v) Heating and cooling systems
  - (vi) Plumbing
  - (vii) Electrical systems
  - (viii) Swimming pool or spa and equipment
  - (ix) Seawalls
  - (x) Pavement and parking areas
  - (xi) Drainage Systems
  - (xii) Painting
  - (xiii) Irrigation systems
- (u) A copy of the certificate of a surveyor and mapper recorded pursuant to S.718.104(e) or the recorded instrument that transfers title to a unit in the condominium which is not accompanied by a recorded assignment of developer rights in favor of the grantee of such unit, whichever occurred first.

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 Condominium and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these By-Laws 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 and maintaining all Common Elements and the Association Property.
- (b) Determining the expenses required for the operation of the Association and the Common Elements of 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, subject to a right of the Unit Owners to overrule the Board as provided in Section 16 hereof.
- (e) Maintaining bank accounts on behalf of the Association and designating the signatories 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) The duties and obligations imposed upon Developer and/or binding upon the Condominium Property pursuant to any development agreement, covenant or other instrument entered into by the Developer (all of which are expressly assumed by the Association).
- (m) 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.
- (n) 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 may exceed \$100.00 per violation, however, a fine may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing, provided however, that no such fine shall in the aggregate exceed \$1,000.00. No fine shall become a lien upon a Unit.
- (o) Purchasing or leasing Units for use by resident superintendents and other similar persons or for the general use and enjoyment of the Unit Owners.
- (p) Borrowing money on behalf of the Association or the Condominium when required in connection with the operation, care, upkeep and maintenance of Common Elements (if the need for the funds is unanticipated) or the acquisition of real property, and granting mortgages on and/or security interests in Association owned property: provided, however, that the consent of the Owners of at least two-thirds (2/3rds) of the Units represented at a meeting at which a quorum has been attained in accordance with the provisions of these By-Laws shall be required for the borrowing of any sum which would cause the total outstanding indebtedness of the Association to exceed \$50,000.00. If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this subparagraph (o) is not repaid by the Association, a Unit Owner who pays to the creditor such portion thereof as his interest in his 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.
- (q) Subject to the provisions of Section 5.2 below, 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 By-Laws and the Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association. Notwithstanding anything herein to the contrary, any written maintenance or management service contract with an association must disclose any financial or ownership interest a board member or any party providing maintenance or management services to the association holds with the contracting party.

- (r) At its discretion, but within the parameters of the Act, authorizing Unit Owners or other persons to use portions of the Common Elements or Association Property for private parties and gatherings and imposing reasonable charges for such private use.
- (s) Executing all documents or consents, on behalf of all Unit Owners (and their mortgagees), required by all governmental and/or quasi-governmental agencies in connection with land use and development matters (including, without limitation, plats, waivers of plat, unities of title, covenants in lieu thereof, etc.), and in that regard, each Owner, by acceptance of the deed to such Owner's Unit, and each mortgagee of a Unit Owner by acceptance of a lien on said Unit, appoints and designates the President of the Association as such Owner's agent and attorney-in-fact to execute any and all such documents or consents.
- (t) Responding to Unit Owner inquiries in accordance with Section 718.112(2)(a)(2), Florida Statutes.
- (u) Exercising (i) all powers specifically set forth in the Declaration, the Articles, these By-Laws and in the Act, (ii) all powers incidental thereto, and (iii) all other powers of a Florida corporation not for profit.
- (v) Those certain emergency powers granted pursuant to Section 718.1265, Florida Statutes.

5.2 Contracts. Any contract which is not to be fully performed within one (1) year from the making thereof, for the purchase, lease or renting of materials or equipment to be used by the Association in accomplishing its purposes, and all contracts for the provision of services, shall be in writing. Where a contract for purchase, lease or renting materials or equipment, or for the provision of services, requires payment by the Association on behalf of the Condominium in the aggregate exceeding five (5%) percent of the total annual budget of the Association (including reserves), the Association shall obtain competitive bids for the materials, equipment or services. Nothing contained herein shall be construed to require the Association to accept the lowest bid. Notwithstanding the foregoing, contracts with employees of the Association and contracts for attorney, accountant, architect, community association manager, engineering and landscape architect services shall not be subject to the provisions hereof. Further, nothing contained herein is intended to limit the ability of the Association to obtain needed products and services in an emergency; nor shall the provisions hereof apply if the business entity with which the Association desires to contract is the only source of supply within the County.

Notwithstanding anything herein to the contrary, as to any contract or any transaction between the Association and any one or more of its directors or any corporation, firm, association, or entity in which one or more of its directors are directors or officers or are financially interested, the Association shall comply with the requirements of Section 617.0832, Florida Statutes and Section 718.3026, Florida Statutes.

## 6. Officers.

6.1 Executive Officers. The executive officers of the Association shall be a President, a Vice-President, 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 the powers and duties that are usually vested in the office of president of an association.
- 6.3 Vice-President. The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice president of an association and as may be required by the Directors or the President.
- 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 it to instruments requiring the seal when duly signed. The Secretary shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.
- 6.5 Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. 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.

7. Fiduciary Duty. The officers and directors of the Association, as well as any manager employed by the Association, have a fiduciary relationship to the Unit Owners. No officer, director or manager shall solicit, offer to accept, or accept any thing or service of value for which consideration has not been provided for his own benefit or that of his immediate family, from any person providing or proposing to provide goods or services to the Association. Any such officer, director or manager who knowingly so solicits, offers to accept or accepts any thing or service of a value, in addition to all other rights and remedies of the Association and Unit Owners, be subject to a civil penalty in accordance with the Act. Notwithstanding the foregoing, this paragraph shall not prohibit an officer, director or manager from accepting services or items received in connection with trade fairs or education programs.

An officer, director, or agent shall discharge his or her duties in good faith, with the care of an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the interests of the Association. An officer, director, or agent shall be liable for monetary damages as provided in Section 617.0834, F.S. if such officer, director, or agent breached or failed to perform his or her duties and the breach of, or failure to perform, his or her duties constitutes a violation of criminal law as provided in Section 617.0834, F.S; constitutes a transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or constitutes recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

8. Director or Officer Delinquencies. Any Director or officer more than ninety (90) days delinquent in the payment of any monetary obligation due to the association shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to law.
9. Director or Officer Offenses. Any Director or Officer charged by information or indictment with a felony theft or embezzlement offense involving the Association's funds or property shall be removed from office, creating a vacancy in the office to be filled according to law until the end of the period of 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 an Officer. However, should the charges be resolved without a finding of guilt, the Director or officer shall be reinstated for the remainder of his or her term.

10. Compensation. Neither Directors nor officers shall receive compensation for their services as such, but this provision shall not preclude the Board of Directors from employing a Director or officer as an employee of the Association, nor preclude contracting with a Director or officer for the management of the Condominium or for any other service to be supplied by such Director or officer. Directors and officers shall be compensated for all actual and proper out of pocket expenses relating to the proper discharge of their respective duties.
11. Resignations. Any Director or officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Units owned by any Director or officer (other than appointees of the Developer or officers who were not Unit Owners) shall constitute a written resignation of such Director or officer.
12. Fiscal Management. The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:

12.1 Budget.

- (a) Adoption by Board; Items. The Board of Directors shall from time to time, and at least annually, prepare a budget for all Condominiums governed and operated by the Association (which shall detail all accounts and items of expense and contain at least all items set forth in Section 718.504(21) of the Act, if applicable), determine the amount of Assessments payable by the Unit Owners to meet the expenses of such Condominium(s) and allocate and assess such expenses among 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). These accounts shall include, but not be limited to, roof replacement, building painting and pavement resurfacing regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000.00. The amount of reserves shall be computed by means of a formula which is based upon the estimated remaining useful life and the estimated replacement cost of each reserve item. The Association may adjust replacement and reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. Reserves shall not be required 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 reserves for the first two (2) fiscal years of operation of the Association, after which time, reserves may only be waived or reduced upon the vote of a majority of all non-Developer voting interests voting in person or by limited proxy at a duly called meeting of the Association. If a meeting of Unit Owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves, as included in the budget, shall go into effect. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures, unless their use for any other purposes is approved in advance by a majority vote at a duly called meeting of the Association. Prior to transfer of control of the Association to Unit Owners other than the Developer, the Association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all non-Developer voting interests, voting in person or by limited proxy at a duly called meeting of the Association.

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

- (i) Notice of Meeting. A copy of the proposed budget of Common Expenses shall be mailed 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 board adopts in any fiscal year an annual budget which requires assessments against Unit Owners which exceed one hundred fifteen percent (115%) of Assessments for the preceding fiscal year, the board shall conduct a special meeting of the Unit Owners to consider a substitute budget if the Board receives, within 21 days after adoption of the annual budget, a written request for a special meeting from at least ten percent (10%) of all voting interests. The special meeting shall be conducted within 60 days after adoption of the annual budget. At least 14 days prior to such special meeting, the Board shall hand deliver to each Unit Owner, or mail to each Unit Owner at the address last furnished to the association, a notice of the meeting. An officer or manager of the association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement, and such affidavit shall be filed among the official records of the association. At the special meeting, Unit Owners shall consider and adopt a substitute budget. The adoption of said budget shall require a vote of Owners of not less than a majority of all the Units (including Units owned by the Developer). If a meeting of the Unit Owners has been called as aforesaid and a quorum is not obtained or a substitute budget has not been adopted by the Unit Owners, the budget adopted by the Board shall take 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.
  - (iv) Proviso. As long as the Developer is in control of the Board of Directors of the Association, the Board shall not impose Assessments for a year greater than one hundred fifteen percent (115%) of the prior year's Assessments, as herein defined, without the approval of a majority of Unit Owners other than the Developer.
- (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 Subsection 10.1(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, or propose a budget in writing to the members, 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.
- 12.2 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 10.1 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.

- 12.3 Special Assessments and Assessments for Capital Improvements. Special Assessments and Capital Improvement Assessments (as defined in the Declaration) shall 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. The specific purpose or purposes of any Special Assessment, including any contingent Special Assessment levied in conjunction with the purchase of an insurance policy authorized by Section 718.111(11), F.S., approved in accordance with the condominium documents, shall be set forth in a written notice of such Assessment sent or delivered to each Unit Owner. 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 of Directors, either be returned to the Unit Owners or applied as a credit towards future Assessments.
- 12.4 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. All sums collected by the Association from Assessments or otherwise may be commingled in a single fund or divided into more than one fund, as determined by a majority of the Board of Directors. In addition, a separate reserve account should be established for the Association in such a depository for monies specifically designated as reserves for capital expenditures and/or deferred maintenance, Reserve and operating funds of the Association shall not be commingled unless combined for investment purposes, provided that the funds so commingled shall be accounted for separately and the combined account balance of such commingled funds may not, at any time, be less than the amount identified as reserve funds in the combined account.
- 12.5 Acceleration of Installments Upon Default. If a Unit Owner shall be in default in the payment of an installment upon his Assessments, the Board of Directors or its agent may accelerate the balance of the current budget years' Assessments upon thirty (30) days' prior written notice to the Unit Owner and the filing of a claim of lien, and the then unpaid balance of the current budget years' Assessments shall be due upon the date stated in the notice, but not less than five (5) days after delivery of the notice to the Unit Owner, or not less than ten (10) days after the mailing of such notice to him by certified mail, whichever shall first occur.
- 12.6 Fidelity Insurance or Fidelity Bonds. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse Association funds, which shall include, without limitation, those individuals authorized to sign Association checks and the president, secretary and treasurer of the Association. The insurance policy or fidelity bond shall be in such amount as shall be determined by a majority of the Board, but must be sufficient to cover the maximum funds that will be in the custody of the Association or its management agent at any one time. The premiums on such bonds and/or insurance shall be paid by the Association as a Common Expense.
- 12.7 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 Association shall prepare, complete, or contract for the preparation and completion of a financial report for the preceding fiscal year (the "Financial Report"). Within twenty-one (21) days after the final Financial Report is completed by the Association, or received from a third party, but no later than one hundred twenty (120) days following the end of the fiscal year, the

Board shall mail, or furnish by personal delivery, a copy of the Financial Report to each Unit Owner, or a notice that a copy of the Financial Report will be mailed or hand delivered to the Unit Owner, without charge, upon receipt of a written request from the Unit Owner. The Financial Report shall be prepared in accordance with the rules adopted by the Division. The type of Financial Report to be prepared shall, unless modified in the manner set forth below, be based upon the Association's total annual revenues, as follows:

- (a) **REPORT OF CASH RECEIPTS AND EXPENDITURES** - if the Association's revenues are less than \$100,000.00 or if the Association operates less than seventy-five (75) Units (regardless of revenue) [or, if determined by the Board, the Association may prepare any of the reports described in subsections (b), (c) or (d) below in lieu of the report this section (a)].
- (b) **COMPILED FINANCIAL STATEMENTS** - if the Association's revenues are equal to or greater than \$100,000.00, but less than \$200,000.00 [or, if determined by the Board, the Association may prepare any of the reports described in subsections (c) or (d) below in lieu of the report described in this section (b)].
- (c) **REVIEWED FINANCIAL STATEMENTS** - if the Association's revenues are equal to or greater than \$200,000.00, but less than \$400,000.00 [or, if determined by the Board, the Association may prepare the report described in subsection (d) below in lieu of the report described in this section (c)].
- (d) **AUDITED FINANCIAL STATEMENTS** - if the Association's revenues are equal to or greater than \$400,000.00.

A report of cash receipts and expenditures must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional and management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance costs, administration and salary expenses, and reserves accumulated and expended for capital expenditures, deferred maintenance, and any other category for which the association maintains reserves.

If approved by a majority of the voting interests present at a properly called meeting of the Association, the Association may prepare or cause to be prepared: (i) a report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement; (ii) a report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or (iii) a report of cash receipts and expenditures, a compiled financial statement or a reviewed financial statement in lieu of an audited financial statement. Such meeting and approval must occur prior to the end of the fiscal year and is effective only for the fiscal year in which the vote is taken, except that approval also may be effective for the following year. Prior to the time that control of the Association has been turned over to Unit Owners other than the Developer, all Unit Owners, including the Developer, may vote on issues related to the preparation of financial reports for the first two (2) fiscal years of the Association's operation, beginning with the fiscal year in which the Declaration is recorded. Thereafter all Unit Owners except the Developer may vote on such issues until control is turned over to the Association by the Developer. Any audit or review prepared under this Section if done prior to turnover of control for the Association shall be paid for by the Developer. An Association may not waive the financial reporting requirements for more than three (3) consecutive years.

- 12.8 **Application of Payment.** All payments made by a Unit Owner shall be applied as provided in these By-Laws and in the Declaration or as otherwise determined by the Board.
- 12.9 **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, estimated costs, and description of the purposes for any such Assessments.
- 13. **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 Owners shall produce adequate evidence, as provided above, of their interest and shall waive in writing notice of such meeting.

14. **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 Act, the Declaration, the Articles or these By-Laws; 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.
15. **Amendments.** Except as may be provided in the Declaration to the contrary, these By-Laws may be amended in the following manner:
  - 15.1 **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.
  - 15.2 **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. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. The approval must be:
    - (a) by not less than a majority of the votes of all members of the Association represented at a meeting at which a quorum has been attained and by not less than 66-2/3% of the entire Board of Directors; or
    - (b) after control of the Association has been turned over to Unit Owners other than the Developer, by not less than 80% of the votes of the members of the Association represented at a meeting at which a quorum has been attained.
  - 15.3 **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. No amendment shall be made that is in conflict with the Articles or Declaration. No amendment to this Section shall be valid.
  - 15.4 **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 By-Laws, 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 the County with an identification on the first page of the amendment of the Official Records Book and Page of said Public Records where the Declaration is recorded.
16. **Rules and Regulations.** The Board of Directors may, from time to time, adopt and thereafter modify, amend or add to any adopted rules and regulations, except that subsequent to the date control of the Board is turned over by the Developer to Unit Owners other than the Developer, Owners of a majority of the Units may overrule the Board with respect to any such modifications, amendments or additions. Copies of such adopted, modified, amended or additional rules and regulations shall be furnished by the Board of Directors to each affected Unit Owner not less than thirty (30) days prior to the effective date thereof. At no time may any rule or regulation be adopted which would prejudice the rights reserved to the Developer.
17. **Nonbinding Arbitration of Disputes.** Prior to the institution of court litigation, the parties to a Dispute shall petition the Division for nonbinding arbitration. The arbitration shall be conducted according to rules promulgated by the Division and before arbitrators employed by the Division. The filing of a petition for arbitration shall toll the applicable statute of limitation for the applicable Dispute, until the arbitration proceedings are completed. Any arbitration decision shall be presented to the parties in writing, and shall be deemed final if a complaint for trial de novo is not filed in a court of competent jurisdiction in which the Condominium is located within thirty (30) days following the issuance of the arbitration decision. The prevailing party in the arbitration proceeding shall be awarded the costs of the arbitration, and attorneys' fees and costs incurred in connection with the proceedings. The party who files a complaint for a trial de novo shall be charged the other party's arbitration costs, courts costs and other reasonable costs, including,

without limitation, attorneys' fees, investigation expenses and expenses for expert or other testimony or evidence incurred after the arbitration decision, if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorneys' fees. Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the Condominium is located. A petition may not be granted unless the time for appeal by the filing of a complaint for a trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition is granted, the petitioner may recover reasonable attorneys' fees and costs incurred in enforcing the arbitration award.

18. Written Inquiries. When a Unit Owner files a written inquiry by certified mail with the Board, the Board shall respond in writing to the Unit Owner within 30 days of receipt of such inquiry and more particularly in the manner set forth in Section 718.112(2)(a)(2), F.S. The Association may, through its Board, adopt reasonable rules and regulations regarding the frequency and manner of responding to Unit Owner.
19. Official Records. From the inception of the Association, the Association shall maintain for the condominium, a copy of each of the following, where applicable, which shall constitute the official records of the Association:
  - (a) The plans, permits, warranties, and other items provided by the Developer pursuant to Section 718.301(4) of the Act;
  - (b) A photocopy of the recorded Declaration of Condominium and all amendments thereto;
  - (c) A photocopy of the recorded By-Laws of the Association and all amendments thereto;
  - (d) A certified copy of the Articles of Incorporation of the Association or other documents creating the Association and all amendments thereto;
  - (e) A copy of the current Rules and Regulations of the Association;
  - (f) A book or books containing the minutes of all meetings of the Association, of the Board of Directors, and of Unit Owners, which minutes shall be retained for a period of not less than 7 years;
  - (g) A current roster of all Unit Owners, their mailing addresses, Unit identifications, voting certifications, and if known, telephone numbers;
  - (h) All current insurance policies of the Association and of all Condominiums operated by the Association;
  - (i) A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility;
  - (j) Bills of Sale or transfer for all property owned by the Association;
  - (k) Accounting records for the Association and the accounting records for the Condominium, according to good accounting practices. All accounting records shall be maintained for a period of not less than 7 years. The accounting records shall include, but not be limited to:
    - (i) Accurate, itemized, and detailed records for all receipts and expenditures.
    - (ii) A current account and a monthly, bimonthly, or quarterly statement of the account for each Unit designating the name of the Unit Owner, the due date and amount of each Assessment, the amount paid upon the account, and the balance due.
    - (iii) All audits, reviews, accounting statements, and financial reports of the Association or Condominium.
    - (iv) All contracts for work to be performed. Bids for work to be performed



shall also be considered official records and shall be maintained for a period of 1 year;

- (l) Ballots, sign-in sheets, voting proxies and all other papers relating to elections which shall be maintained for a period of one (1) year from the date of the meeting to which the document relates.
- (m) All rental records where the Association is acting as agent for the rental of Units.
- (n) A copy of the current Question and Answer Sheet, in the form promulgated by the Division, which shall be updated annually.
- (o) Inspection report as required under Section 718.301(4)(p), stating required maintenance, useful life & replacement costs of various Common Elements.
- (p) All other records of the Association not specifically listed above which are related to the operation of the Association, as specifically set forth in Section 718.111(12).

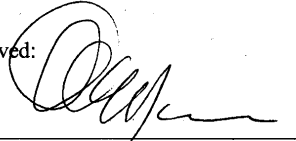
The official records of the Association must be maintained within the State of Florida for at least seven (7) years. The records of the Association shall be made available to a Unit Owner within forty-five (45) miles of the Condominium Property or within the County in which the Condominium is located. The official records of the Association shall be open to inspection by any Association member or the authorized representative of such member and shall be made available to a Unit Owner within five (5) business days after receipt of a written request by the Board or its designee. The right to inspect the records includes the right to make or obtain copies, at a reasonable expense, if any, of the member. The Association shall allow a member, or his or her authorized representative, to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the Association's providing the member, or his or her authorized representative, with a copy of such records. There is no charge for the use of a portable device. The Association may adopt reasonable rules regarding the time, location, notice and of record inspections and copying. The failure of an Association to provide records to a Unit Owner or his authorized representative within ten (10) business days after receipt of a written request therefor creates a rebuttable presumption that the Association willfully failed to comply with this paragraph. Failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorneys' fees from the person in control of the records who, directly or indirectly, knowingly denies access to the records for inspection. Any person who knowingly or intentionally defaces or destroys accounting records required by the Act to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the Association or one of its members, may be personally subject to civil penalty pursuant to the Act. The Association shall maintain on the Condominium Property an adequate number of copies of the Declaration, Articles, By-Laws and rules, and all amendments to the foregoing, as well as the Frequently Asked Question and Answer Sheet and year-end financial information required by the Act, to ensure their availability to Unit Owners and prospective purchasers. The Association may charge its actual costs for preparing and furnishing these documents to those persons requesting same. The Association is not responsible for the use or misuse of the information provided to an Association member or his or her authorized representative pursuant to the compliance requirements of the Act unless the Association has an affirmative duty not to disclose such information pursuant to the Act. Notwithstanding anything herein to the contrary, the records set forth in Section 718.111(12)(c)(1) - (4), F.S., shall not be accessible to Unit Owners.

- 20. Inspection Report Required. As to any condominium greater than three (3) stories in height, at least every 5 years, the Board shall have the building inspected to provide a report under seal of an architect or engineer authorized to practice in this State attesting to required maintenance, useful life and replacement costs of the Common Elements. However, if approved by a majority of the voting interests appearing at a properly called meeting of the association, an association may waive this requirement. Such meeting and approval must occur prior to the end of the 5 year period and is effective only for that 5 year period.
- 21. Certificate of Compliance. A certificate of compliance from a licensed electrical contractor or electrician may be accepted by the Association's Board as evidence of compliance of the Units to the applicable condominium fire and life safety code.

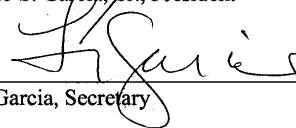
- 22. Construction. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.
- 23. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these By-Laws or the intent of any provision hereof.
- 24. Conflict. Notwithstanding anything in the Declaration to the contrary, in the event of any of the provisions of these By-Laws conflict with the provisions of the Act, the Act shall control.

The foregoing was adopted as the By-Laws of VILLAS AT SALAMANCA CONDOMINIUM ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida, as of the 8<sup>th</sup> day of August, 2023.

Approved:



\_\_\_\_\_  
Horacio S. Garcia, Sr., President



\_\_\_\_\_  
Lidia Garcia, Secretary

SCHEDULE "1" TO BY-LAWS

RULES AND REGULATIONS FOR  
VILLAS AT SALAMANCA, A CONDOMINIUM

1. Except as otherwise expressly provided in the Declaration of Condominium, each Residential Unit shall be used for residential purposes only (other than in the case of rights reserved to the Developer). No business, profession or trade of any type shall be conducted on any portion of the Residential Units. This prohibition shall not be applicable to (a) home office use of a Unit, to the extent permitted by law and to the extent that the office is not staffed by employees, is not used to receive clients and/or customers and does not generate additional visitors or traffic into the Unit or on any part of the Condominium Property; and (b) the Developer with respect to its development of the Condominium Property, its construction, repair, decorating, administration, sale rental or lease of Units, or its use of Units as models, V.I.P. or guest suites, or for sales offices or management services for the Condominium Property. Nothing herein shall be construed to prohibit ownership of a Unit by a corporation; domestic or foreign, provided that the residential nature of the Units is not disturbed.

Unless otherwise determined by the Board of Directors, and except as otherwise provided in Section 17.2 of the Declaration of Condominium, a person(s) occupying a Residential Unit for more than one (1) month without the Unit Owner or a member of his family being present shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of said section (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of the Declaration of Condominium which apply to lessees. The purpose of this paragraph is to prohibit the circumvention of the provisions and intent of the Declaration of Condominium pertaining to the approval of leases and the Board of Directors shall enforce, and the Unit Owners comply with, same with due regard for such purpose.

2. The number of people occupying a Unit shall not exceed the amount permitted by the Declaration of Condominium, applicable zoning regulations promulgated from time to time by applicable local, County, state and federal codes, ordinances and regulations.

3. No Unit may be partitioned or subdivided, except in accordance with the provisions of the Declaration of Condominium.

4. Leasing of Units shall be subject to the prior written approval of the Association. No portion of a Unit (other than an entire Unit) may be rented. No lease shall be for a period of less than six (6) months. Renewal of leases with the same prior tenants shall not be considered new leases. The Condominium Association may, from time to time, promulgate rules requiring a deposit from the prospective tenant in an amount not to exceed one (1) month's rent ("Deposit"), to be held in an escrow account maintained by the Association, provided, however, that the Deposit shall not be required for any Residential Unit which is rented or leased directly by or to the Developer. When a Residential Unit is leased, a tenant shall have all use rights in Association Property and those Common Elements otherwise readily available for use generally by the Unit Owners, and the Owner(s) of the leased Residential Unit shall not have such rights, except as a guest, unless such rights are waived in writing by the tenant. Nothing herein shall interfere with the access rights of the Unit Owner as a landlord pursuant to Chapter 83, Florida Statutes. The Association shall have the right to adopt rules to prohibit dual usage by a Residential Unit Owner and a tenant of Association Property and Common Elements otherwise readily available for use generally by Unit Owners. Additionally, copies of all leases of Units shall be submitted to the Condominium Association and the tenants thereunder must register with the Condominium Association prior to any occupancy.

There are no leasing restrictions imposed upon Residential Unit rented or leased directly by or to the Developer and all such Units may be leased on any terms that may be desired by the Developer. For additional information on leasing please refer to Section 17.2 of the Declaration of Condominium. All leases are hereby made subordinate to any lien filed by the Condominium Association whether prior to or subsequent to such lease. Any purported lease of a Residential Unit in violation of said section shall be voidable at any time at the election of the Association.

5. Children shall be permitted to reside in the Units, subject to the provisions of Section 17.1 of the Declaration of Condominium and applicable rules and regulations which may be adopted by the Association from time to time. Children will be the direct responsibility of their parents or legal guardians, including full supervision of them while within the Condominium Property and including full compliance by them with these Rules and Regulations and all other rules and regulations of the Association.

6. Unit Owners shall be permitted to keep up to one (1) domesticated dog or cat, provided such pet does not exceed twenty-five (25) pounds in weight. Household pets shall not be kept, bred or

maintained for any commercial purpose and shall not become a nuisance or annoyance to neighbors. Those pets which, in the sole discretion of the Condominium Association, endanger health, safety, have the propensity for dangerous or vicious behavior (such as pit bulldogs or other similar breeds or mixed breeds), make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or to the owner of any other portion of the Condominium shall be removed upon request of the Condominium Association. Residential Unit Owners must pick up all solid wastes of their pets and dispose of such wastes appropriately. All pets (including cats) must be kept on a leash of a length that affords reasonable control over the pet at all times, or must be carried, when outside the Unit. No pet may be kept on a balcony or terrace when its owner is not in the Unit. Without limiting the generality of this Section, a violation of the provisions of this paragraph shall entitle the Association to all of its rights and remedies, including, but not limited to, the right to fine Unit Owners (as provided in the By-Laws and any applicable rules and regulations) and/or to require any pet to be permanently removed from the Condominium Property.

7. No portion of the Units, the Limited Common Elements, the other Common Elements, or the Condominium shall be used for any purpose other than those reasonably suited for furnishing the services and facilities incident to the use of the Units. The Common Elements shall not be obstructed, littered, defaced, or misused in any manner. In no event shall any Unit Owner or occupant place, or permit the placement of, any item that obstructs, or otherwise impedes access to, any portions of the Condominium that are either designated or used as delivery and receiving areas.

8. The personal property of Unit Owners and occupants must be stored in their respective Units.

9. No Unit Owner or occupant shall permit anything to fall from a window or door of the Condominium, Association Property, nor sweep or throw from the Condominium or Association Property any dirt or other substance onto any of the balconies or elsewhere in the Building or upon the Common Elements.

10. No nuisances (as defined by the Condominium Association from time to time) shall be allowed on the Condominium or Association Property, nor shall any use, custom or practice be allowed which is a source of annoyance to occupants of Units or which interferes with the peaceful possession or proper use of the Condominium and/or Association Property by its residents, occupants or members. The Board of Directors shall have the right to determine if any equipment, fixture, improvement, materials or activity producing such noise or odor constitutes a nuisance.

11. No rubbish, garbage, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Condominium, except within designated trash receptacles. The requirements from time to time of the company or agency providing trash removal services for disposal or collection shall be complied with. All equipment for storage or disposal of such material shall be kept in a clean and sanitary condition.

12. No linens, clothing, household fabrics, curtains, rugs, or laundry of any kind shall be hung, dried or aired from any windows, doors, balconies, terraces, or other portions of the Condominium. No articles shall be placed on balconies, patios or similar areas. The foregoing shall not prevent placing and using patio-type furniture, planters and other items in such areas if the same are normally and customarily used for a residential balcony, patio or terrace area. A Unit Owner may respectfully display one (1) portable, removable American flag, and, on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day, any Unit Owner may respectfully display portable, removable official flags, not larger than four and one-half feet by six feet (4'6" x 6') that represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard. No painting or changes in the exterior colors of any Units or the Limited Common Elements appurtenant thereto shall be permitted. In the event of any doubt or dispute as to whether a particular item is permitted hereunder, the decision of the Board of Directors shall be final and dispositive.

13. The discharge of firearms and fireworks within the Condominium is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

14. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of the Declaration of Condominium, the Articles of Incorporation or the By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this section. No activity specifically permitted by the Declaration of Condominium shall be deemed to be a violation of this rule.

15. No Unit Owner shall cause or allow improvements or changes to his Residential Unit, or to any Limited Common Elements, Common Elements, or Association Property, which alters the exterior appearance thereof, or which could in any way affect the structural, electrical, plumbing or mechanical systems of the Building or elsewhere within the Condominium Property; without obtaining the prior written consent of the Association (in the manner specified in Section 9.1 of the Declaration of Condominium). Inasmuch as the Condominium has been constructed with post tension cables, absolutely no penetration shall be made to any floor slabs, roof slabs, or ceiling slabs without the prior written consent of the Board of Directors. Notwithstanding anything to the contrary contained herein, the post tension cables contained in the Building shall not be considered a part of a Unit since such cables are essential to the structure and support of the Building, all post tension cables within the Condominium shall be deemed Common Elements of the Condominium and may not be disturbed or altered without the written consent of the Board.

16. Other than as originally installed by the Developer, hard and/or heavy surface floor coverings, including, without limitation, tile, marble or wood, may not be installed in any part of a Residential Unit, without the prior written consent of the Association. The installation of such hard and/or heavy surface floor coverings shall be subject to (a) approval in writing by the Board of Directors, (b) meet applicable structural and sound insulation requirements, (c) conform with the requirements of the Florida Building Code and any other applicable building code, and (d) be compatible with the overall structural design of the Building. Additionally, the installation in any Residential Unit of any improvement or heavy object must be approved by the Board of Directors and must be compatible with the overall structural design of the Building. In no event shall any heavy object, which would exceed a life load limit of 50 pounds per square foot, be placed in any Residential Unit. The Board of Directors may require a structural engineer to review certain of the proposed improvements, with such review to be at the Owner's sole expense. Additionally, the Board may require Unit Owners to furnish it with certifications of the floor assembly Impact Isolation Class rating from the installers of such surfaces. The color and exact materials to be used on balcony floor coverings must also be approved in writing by the Board of Directors. Any use guidelines set forth by the Condominium Association shall be consistent with good design practices for the waterproofing and overall structural design of the Building. Owners will be held strictly liable for violations of these restrictions and for all damages resulting therefrom and the Condominium Association has the right to require immediate removal of violations. Applicable warranties of the Developer, if any, shall be voided by violations of these restrictions and requirements. A waterproofing system is to be placed on the concrete surface of the balcony prior to the installation of the setting bed and tile. This waterproofing system must be as recommended by the manufacturer of the tile setting material and the installation must follow the waterproofing manufacturer's written recommendations.

17. Without limiting the generality of Section 9.1 or 17.10 of the Declaration of Condominium, but subject to the provisions of the Declaration of Condominium specifically permitting same, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, balconies or windows of the Residential Units or the Limited Common Elements appurtenant thereto (including, but not limited to, awnings, canopies, shutters, window coverings, signs, screens, window tinting, fixtures and equipment) nor plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life or landscaping' on its patio or balcony, without the prior written consent of the Association. No painting or changes in the exterior colors of any Residential Units or the Limited Common Elements or any Limited Common Areas appurtenant thereto shall be permitted without the prior written consent of the Condominium Association. Notwithstanding the foregoing, to the extent otherwise permitted under the Act, the Association shall not refuse the request of a Unit Owner for a reasonable accommodation for the attachment on the mantel or frame of the door of the Unit Owner of a religious object not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep.

18. No sign, poster, display, billboard or other advertising devices of any kind including, without limitation, "FOR SALE", "FOR RENT", security services or construction signs shall be displayed to the public view on any portion of the Residential Units, and the Limited Common Elements appurtenant thereto or Common Elements, without the prior written consent of the Condominium Association, except, (a) signs, regardless of size, used by the Developer, its successors or assigns, including signs for construction or repairs, advertising, marketing, promotion, sale, leasing, and rental activities, (b) signs installed as part of the initial construction of the Condominium and replacements of such signs (similar or otherwise), (c) and bulletin boards, entrance, directional, informational and similar signs used by the Condominium Association.

19. All exterior lights and exterior electrical outlets in the Residential Units and the Limited Common Elements appurtenant thereto must be approved in accordance with Section 9 of the Declaration of Condominium.

20. Exterior sculpture and similar items in the Residential Units and the Limited Common

Elements appurtenant thereto must be approved in accordance with Section 9 of the Declaration of Condominium.

21. No window or wall mounted air conditioning units may be installed in any Unit.

22. No radio station or short-wave operations of any kind shall operate from any Residential Unit, Limited Common Element or Common Element. Except to the extent, if any, permitted under applicable law, no exterior satellite dish, or other transmitting or receiving apparatus, radio antenna, television antenna or other antenna of any type (collectively, "Receiving Devices") shall be erected or maintained on the Common Elements, Limited Common Elements, or in the Residential Units. If the installation of any such Receiving Device is permitted under applicable law, any proposed installation thereof shall be approved by the Condominium Association prior to installation and shall be installed or affixed on the floor of such Residential Unit Owner's balcony or patio so that the top of the Receiving Device does not extend beyond the top of the railing of such balcony or patio and is not visible from outside of the Residential Unit or any Limited Common Element appurtenant to such Residential Unit; provided, however, that under no circumstances shall a Residential Unit Owner drill into or otherwise alter any balcony or other Limited Common Element appurtenant to its Residential Unit. To the fullest extent permitted under applicable law, the Association may enact Rules and Regulations which prohibit or otherwise restrict individual antennas, including (without limitation): (a) prohibitions or restrictions based on the availability of a central antenna system or other central reception facilities; and (b) requirements that any devices which may be permitted under applicable law be of comparable size, weight and appearance, that any such devices be installed and maintained in a manner designed to protect the safety of the Building and its occupants and that any such devices satisfy reasonable and uniform standards established by the Association for architectural appearance purposes.

23. No reflective film, tinting or window coverings shall be installed on any windows or glass doors in any Residential Unit, except as necessary to replace or restore tinting of glass surfaces as originally installed, unless approved by the Condominium Association in accordance with Section 9 of the Declaration of Condominium of Condominium. Curtains, drapes and other window coverings (including their linings) in Residential Units, which face on exterior windows or glass doors, or are visible from the exterior of the Building, shall be white or off-white in color, unless otherwise specifically approved by the Board of Directors. No aluminum foil may be placed in any window or glass door of a Residential Unit, and no reflective substance may be placed on any glass in a Residential Unit, except for any substance previously approved by the Board of Directors for energy conservation or hurricane protection purposes. No unsightly materials may be placed on any window or glass door or shall be visible through such window or glass door. Any screen door must be of a uniform type approved by the Condominium Association.

24. The exterior glass in the Condominium is intended (without imposing any obligation) to be composed of Miami-Dade County Product Approved material and is intended to be Impact Resistant, as defined in the South Florida Building Code. Accordingly, no type of hurricane protection may be installed in or around the Residential Units and the Limited Common Elements appurtenant thereto, except to the extent, if any, expressly required to be permitted under the Act. If and to the extent the Act gives Unit Owners the right to install hurricane shutters, any proposed hurricane shutters or other hurricane protection must be approved by the Association prior to installation and shall be installed or affixed in the manner approved by the Association. All hurricane shutters and similar equipment shall be kept in an open position except during periods of hurricane warnings or watches, or tropical storm watches or warnings. Upon issuance of an official hurricane or tropical storm warning or watch, each Residential Unit Owner shall take all actions necessary to prepare his or her Residential Unit for any such hurricane or tropical storm, which shall include (i) removing all objects from balconies and terraces which will not be secured or otherwise protected, and (ii) complying with all rules and regulations which may be adopted, amended, or supplemented by the Association from time to time. No hurricane or storm shutters or other hurricane protection shall be permanently installed on any structure in a Residential Unit or in the Limited Common Elements or Common Elements, unless first approved in accordance with Section 9 of the Declaration of Condominium.

25. No person shall park any vehicle so as to obstruct or otherwise impede ingress or egress to any parking spaces, including, without limitation, to a parking space assigned to any other Unit. Parking in the Condominium shall be restricted to private automobiles and passenger-type vans, jeeps and pick-up trucks and sport utility vehicles, motorcycles, motor scooters, small trailer and jet ski trailers and vans (all of which are collectively referred to herein as "vehicles"). Except as otherwise permitted in this Section no person shall park, store or keep on any portion of the Condominium any large type commercial type vehicle (for example, dump truck, motor home, trailer, cement mixer truck, oil or gas truck, delivery truck), except temporarily in designated guest parking locations or delivery locations, nor may any person keep any other vehicle in the Condominium which is deemed to be a nuisance by the Board. No trailer, camper, motor home or recreational vehicle shall be used as a residence, either temporarily or permanently, or parked in

the Condominium. The Condominium Association shall have the authority to prohibit any vehicle, including any motorcycle or motor scooter, which it determines constitutes a nuisance due to its noise level, particularly where such vehicle is operated in the early morning or late evening hours. No vehicle is permitted within the Condominium which leaks oil, brake fluid, transmission fluid or other fluids. No Unit Owner, occupant or other person shall conduct repairs or restorations on any motor vehicle, or other vehicle, or race the engine of any vehicle, upon any portion of the Condominium. No more than one (1) motorcycle or motor scooter may be parked in a single space, and in no event may a motorcycle or a motor scooter be parked in the same parking space as another vehicle or between any parking spaces. For so long as the Developer conducts any sales or leasing activities within the Condominium, its use of parking spaces shall not be impeded or restricted. The prohibitions on parking contained in this Section shall not apply to temporary parking of: (a) commercial vehicles, such as for construction use or providing pick-up and delivery and other commercial services; (b) any vehicles of the Developer, or its affiliates or designees, used for construction, maintenance, repair, decorating, sales or marketing purposes; or (c) service vehicles operated in connection with the Condominium Association, or its management companies. Subject to applicable laws and ordinances, any vehicle, boat, motorcycle or trailer parked in violation of these or other restrictions contained herein or in the rules and regulations may be towed by the Condominium Association at the sole expense of the owner of such vehicle. The Condominium Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor shall it be guilty of any criminal act, by reason of such towing.

26. Each Residential Unit Owner must undertake or must designate a responsible firm or individual to undertake his general maintenance responsibilities, which responsibilities shall include, at a minimum, maintaining the exterior appearance of the Residential Unit and the Limited Common Elements, safeguarding the Residential Unit and the Limited Common Elements to prepare for hurricane or tropical storm watches and warnings by, among other things, removing any unfixed items on balconies and terraces, and repairing the Residential Unit and the Limited Common Elements in the event of any damage therefrom. An Owner of a Residential Unit may designate a firm or individual to perform such functions for the Owner, but such designation shall not relieve the Owner of any responsibility hereunder. The name(s) and addresses of such firm or individual must be furnished to the Association. The designation of such firm or individual shall be subject to the approval of the Association. In the event a Residential Unit Owner does not, in the Condominium Association's opinion, comply with the general maintenance responsibilities set forth herein or in the Declaration of Condominium, such maintenance and/or repair may (without imposing any obligation on the Condominium Association to do so) be effected by the Condominium Association at said Unit Owner's sole expenses and a Charge therefor may be made against such owner's Residential Unit. Notwithstanding the foregoing, the Condominium Association is not obligated to undertake any such maintenance and/or repair obligation on behalf of any Unit Owner and, if any action is so taken, the Condominium Association shall not be liable for any damage to the Residential Unit, the Limited Common Elements, or any personal property contained therein in connection with any actions taken pursuant to this Section.

27. No flammable, combustible or explosive fluids, chemicals or other substances may be kept in any Residential Unit, Limited Common Elements appurtenant thereto or Common Elements, except such as are generally used for normal household purposes.

28. Outdoor grilling and barbecuing on the roof deck and terrace shall be permissible as may be authorized by applicable law. Certain listed electric portable, tabletop grills, not to exceed 200 square inches of cooking surface, or other similar apparatus shall be permitted as authorized by applicable law, see particularly the Sixth Edition of the Florida Fire Prevention Code (*effective December 31, 2017*) and Section 633.202, Florida Statutes. No hibachi, grill or other similar devices used for cooking, heating, or any other purpose shall be used or kindled on any balcony, under any overhanging portion, or within 10 feet of any structure. Furthermore, the storage of any grill on the roof deck and terrace is prohibited.

29. No Unit Owner shall install within his or her Unit, or upon the Common Elements and/or the Association Property, non-breathable wall-coverings or low permeance paints. Additionally, any and all built-in casework, furniture and/or shelving within a Unit must be installed over floor coverings to allow air space and air movement and shall not be installed with backboards flush against any gypsum board wall. Furthermore, all Unit Owners, whether or not occupying the Unit, shall continually run the air conditioning system to minimize humidity in the Unit and the Condominium Association shall have the right, but not the obligation, to access the Unit, if it deems necessary or desirable, to monitor or to cause compliance with the provisions of this Section, including (without limitation) the requirement to continually run the air conditioning system. While the foregoing is intended to minimize the potential development of mold and other microtoxins, the Developer does not make any representations or warranties regarding the existence or development of molds, mildew, spores, fungi and/or other microtoxins and each Unit Owner shall be deemed to waive and expressly release any such warranty and claim for loss or damages resulting from the existence and/or development of molds, mildew, spores, fungi and/or other microtoxins, including without

limitation, any claims or responsibility for any illness or allergic reactions which may be experienced by such Unit Owner. Unit Owners and occupants should immediately file a written report with the Condominium Association if any molds are found or if it appears that abnormal amounts of moisture have accumulated in their Unit or elsewhere within the Condominium.

30. Bicycles, tricycles, scooters, skateboards, and other play equipment, baby strollers and similar items shall not at any time be left in the hallways or other Common Elements or in the Limited Common Elements (including balconies, terraces and patios).

31. Nothing shall be done or kept in the Common Elements or within the Residential Units or the Limited Common Elements appurtenant thereto which will increase the rate of insurance on any property insured by the Condominium Association without the approval of the Board, nor shall anything be done or kept in the Units, or on the Limited Common Elements or Common Elements, which would result in the cancellation of insurance on any property insured by the Condominium Association or which would be in violation of any law.

32. In order to facilitate access to the Residential Units by the Condominium Association for the purposes enumerated in Section 11.1 of the Declaration of Condominium, it shall be the responsibility of all Residential Unit Owners to deliver a set of keys to their Residential Unit to the Condominium Association to use in the performance of its functions. No Owner shall change the locks to its Residential Unit without so notifying the Condominium Association and delivering to the Condominium Association a new set of keys to such Residential Unit.

33. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted on, upon or in the Condominium or Association Property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in the Condominium or Association Property. No derrick or other structure designed for use in boring for oil, natural gas or minerals shall be erected, maintained or permitted upon any portion of the Condominium or Association Property.

34. The Board of Directors may, without any obligation to do so or without requirement for approval of the Unit Owners, install upon or within the Common Elements or Association Property solar collectors, clotheslines, or other energy-efficient devices based on renewable resources for the benefit of the Unit Owners.

35. Each Owner shall be obligated to deliver the documents received from the Developer, or from any prior Owner, containing the Declaration of Condominium and any other declarations and documents, and any modifications thereto, to any subsequent purchaser or grantee of their Unit. Notwithstanding the foregoing, in the event of loss or damage to the documents they may be obtained from the Condominium Association upon payment of the actual cost for preparing and furnishing the documents to any Owner requesting them.

Every Owner and occupant shall comply with these Rules and Regulations as set forth herein, any and all rules and regulations which from time to time may be adopted, and the provisions of the Declaration, By-Laws and Articles of Incorporation of the Association, as amended from time to time. Failure of an Owner or occupant to so comply shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an owner for failure of an Owner, his family, guests, invitees, lessees or employees, to comply with any covenant restriction, rule or regulation herein or in the Declaration, Articles of Incorporation or By-Laws, provided the following procedures are adhered to:

(a) Notice. The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days and said notice shall include: (i) a statement of the date, time and place of the hearing; (ii) a statement of the provisions of the declaration, association bylaws, or association rules which have allegedly been violated; and (iii) a short and plain statement of the matters asserted by the association.

(b) Hearing. The non-compliance shall be presented to a committee of other Unit Owners, who shall hear reasons why penalties should not be imposed. The party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the committee. A written decision of the committee shall be submitted to the Owner or occupant by not later than twenty-one (21) days after the meeting.

(c) Board of Directors may impose fines against the applicable Unit up to the maximum



amount permitted by law from time to time.

(d) Violations. Each incident which is grounds for a fine shall be the basis of one separate fine. In the case of continuing violations, each continuation of same after a notice thereof is given shall be deemed a separate incident.

(e) Payment of Fines shall be paid not later than thirty (30) days after notice of the imposition thereof.

(f) Application of Fines. All monies received from fines shall be allocated as directed by the Board of Directors.

(g) Non-exclusive Remedy. These fines shall not be construed to be exclusive and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any penalty paid by the offending Owner or occupant shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner or occupant.

These rules and regulations shall be cumulative with the covenants, conditions and restrictions set forth in the Declaration of Condominium, provided that the provisions of same shall control over these rules and regulations in the event of a conflict or a doubt as to whether a specific practice or activity is or is not permitted. Anything to the contrary notwithstanding, these rules and regulations shall not apply to the Developer, nor its agents or employees and contractors, nor to the Units owned by the Developer, except:

- (a) Requirements that leases or lessees be approved by the Association (if applicable); and
- (b) Restrictions on the presence of pets; and
- (c) Restrictions on occupancy of Units based upon age (if any); and

(d) Restrictions on the type of vehicles allowed to park on Condominium Property; however, the Developer or its designees shall be exempt from any such parking restriction if the vehicle is engaged in any acts relating to construction, maintenance, or marketing of Units.

All of these rules and regulations shall apply to all other Owners and occupants even if not specifically so stated in portions hereof. The Board of Directors shall be permitted (but not required) to grant relief to one or more Unit Owners from specific rules and regulations upon written request therefor and good cause shown in the sole opinion of the Board.

Those Unit Owners who violate these rules shall be responsible for all costs incurred by the Association, including court costs and a reasonable attorney's fee, in the process of rectifying the non-compliance. These costs shall also include the removal of all articles, vehicles and substances from the Condominium Property which were placed thereon in violation of these rules.

Some of the restrictions and limitations set forth herein above shall not apply to the Developer as particularly specified in the Declaration of Condominium. In enforcing its rights hereunder, the Developer shall also be entitled to bring an action and recover sums due for damages, injunctive relief, or any combination thereof, and the Developer shall be entitled to recover all legal fees and expenses reasonably incurred in connection with any such action.

ADOPTED AND APPROVED on the 8<sup>th</sup> day of August, 2023.

VILLAS AT SALAMANCA CONDOMINIUM  
ASSOCIATION, INC.,  
a Florida not-for-profit corporation

By:   
Lidia Garcia, Secretary