

DECLARATION OF CONDOMINIUM
FOR
NOB HILL BUSINESS CENTER
CONDOMINIUM

Dated:

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EXHIBITS LIST

"A"	Legal Description of the Land
"B"	Survey, Plot Plan, and Graphic Description of Improvements
"C"	Percentage Interest in Common Elements and Allocation of Votes for Units
"D"	Articles of Incorporation
"E"	Bylaws

DECLARATION OF CONDOMINIUM
FOR
NOB HILL BUSINESS CENTER CONDOMINIUM

B & B BUSINESS CENTER, LLC, a Florida limited liability company ("Developer"), does hereby declare as follows:

1. Introduction and Submission.

1.1 The Land. The Developer owns fee simple title to certain land located within the City of Sunrise, situated in Broward County, Florida, as more particularly described in Exhibit "A" attached hereto (the "Land").

1.2 Submission Statement. The Developer hereby submits the Land and all Improvements erected or to be erected thereon, all easements, rights and appurtenances thereto, and all other property, real, personal or mixed, intended for use in connection therewith (excluding public utility installations), to the condominium form of ownership in the manner provided herein and in the Florida Condominium Act as it exists on the date hereof and as it may be hereafter renumbered.

1.3 Name. The name by which this condominium is to be identified is **NOB HILL BUSINESS CENTER 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 this Declaration is recorded and as it may be hereafter renumbered.

2.2 "Articles" or "Articles of Incorporation" mean the Articles of Incorporation of the Association, as amended from time to time.

2.3 "Assessment" means a share of the funds required for the payment of Common Expenses which from time to time is assessed against the Unit Owner.

- 2.4 "Association" means NOB HILL Business Center Association, Inc., a Florida corporation not for profit, the sole entity responsible for the operation of the Condominium.
- 2.5 "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.
- 2.6 "Building" means the structure or structures on the Condominium Property in which the Units and the Common Elements are located, regardless of the number of such structures.
- 2.7 "Bylaws" means the Bylaws of the Association, as amended from time to time.
- 2.8 "Common Elements" mean and include:
- (a) The portions of the Condominium Property which are not included within the Units.
 - (b) Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units and the Common Elements.
 - (c) An easement of support in every portion of a Unit which contributes to the support of the Building.
 - (d) The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements.
 - (e) Use rights in and to the common water line and common sewer line.
 - (f) Easement rights across common areas of the Project.
 - (g) Any other parts of the Condominium designated as Common Elements in this Declaration.
- 2.9 "Common Expenses" mean all expenses incurred by the Association for the operation, maintenance, repair, replacement or protection of the Condominium and 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: (a) all reserves required by the Act or otherwise established by the Association, regardless of when reserve funds are expended; and (b) costs attributable to any Units acquired by the Association or conveyed to the Association, including, without

limitation, assessments payable with respect thereto, the real property taxes attributable thereto and the costs of maintenance and insurance thereof. Common Expenses shall not include any separate obligations of individual Unit Owners.

- 2.10 "Common Surplus" means the amount of all receipts of the Association, including but not limited to Assessments, rents, profits and revenues on account of the Common Elements, in excess of the amount of Common Expenses.
- 2.11 "Condominium Parcel" means a Unit together with 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.
- 2.12 "Condominium Property" means "Condominium Property" means that property, real and personal, which is leased by the Association for the use and benefit of the Owners. And the Land and personal property that is subjected to condominium ownership under this Declaration, all Improvements on the Land, and all easements and rights appurtenant thereto intended for use in connection with the condominium.
- 2.13 "County" means Broward County, Florida.
- 2.14 "Declaration" or "Declaration of Condominium" means this instrument, and all exhibits attached hereto, as same may be amended from time to time.
- 2.15 "Developer" means B & B BUSINESS CENTER, LLC, a Florida limited liability company, its successors and such of its assigns as to which the rights of Developer hereunder are specifically assigned. Developer may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with specific portions of the Condominium. In the event of any partial assignment, the assignee shall not be deemed the Developer, but may exercise such rights of Developer as are specifically assigned to it. Any such assignment may be made on a nonexclusive basis.
- 2.16 "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 or under this Declaration, the Articles or Bylaws 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 or this Declaration, the Articles or Bylaws 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 or Common Elements; the interpretation or

enforcement of any warranty; or the levy of a fee or Assessment or the collection of an Assessment levied against a party.

- 2.17 "Division" means the Division of Florida Land Sales, Condominiums and Mobile Homes of the Department of Business and Professional Regulation, State of Florida, or such successor agency, if any.
- 2.18 "Environmental Laws," for purposes of Article 21, means and includes all present and future laws and any amendments (whether common law, statute, rule, order, regulation or otherwise), permits, and other requirements or guidelines of governmental authorities applicable to the Unit and relating to the environment and environmental conditions or to any Hazardous Substance or Hazardous Substance Activity (including, without limitation, the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9601, et seq.) ("CERCLA"), the Federal Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 6901, et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq., the Clean Air Act, 33 U.S.C. § 7401, et seq., the Clean Air Act, 42 U.S.C. § 7401, et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601-2629, the Safe Drinking Water Act, 42 U.S.C. § 300f-300j, the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 1101, et seq., and any so-called "Super Fund" or "Super Lien" law, environmental laws administered by the Environmental Protection Agency, any similar state and local laws and regulations, all amendments thereto and all regulations, orders, decisions, and decrees now or hereafter promulgated thereunder).
- 2.19 "Hazardous Substances", for purposes of Article 21, includes but is not limited to (i) materials defined as "Hazardous Waste" under the Federal Resource Conservation and Recovery Act and similar state laws, and (ii) "hazardous substances" as identified under the Federal Comprehensive Environmental Response, Compensation and Liability Act and especially in CERCLA §101(14) and as set forth in Title 40, Code of Federal Regulations, Part 302, and (iii) those elements or compounds which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency ("EPA") and the list of toxic pollutants designated by Congress or the EPA or defined by any other Federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, polluting, or dangerous waste, substance or material, as such lists are now or at any time hereafter in effect, and (iv) asbestos, and (v) radon, and (vi) polychlorinated biphenyls, urea formaldehyde, radioactive matter, and medical waste, and (vii) petroleum products, and (viii) such other materials, substances or waste which are otherwise dangerous, hazardous, harmful or deleterious to human, plant or animal health or well being.

- 2.20 "Hazardous Substance Activity", for purposes of Article 21, means the use, manufacturing, production, refinement, transfer, packaging, labeling, treatment, leaching, spill, cleanup, storage, holding, existence, release, emission, discharge, generation, processing, abatement, removal, disposition, handling or transportation of any Hazardous Substance from, under, into or on the Unit or Condominium Property.
- 2.21 "Improvements" mean all structures, or any portion thereof, and artificial changes to the natural environment (exclusive of landscaping), located on the Condominium Property, including but not limited to, the Building.
- 2.22 "Institutional First Mortgagee" means a bank, savings and loan association, insurance company, real estate mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, or any other lender generally recognized as an institutional lender, or the Developer, holding a first mortgage on a Unit or Units. "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.
- 2.23 "Limited Common Elements" mean those Common Elements the use of which are reserved to a certain Unit or Units to the exclusion of other Units. References herein to Common Elements shall also include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided.
- 2.24 "Primary Institutional First Mortgagee" means the Institutional First Mortgagee which owns, at the relevant time, Unit mortgages securing a greater aggregate indebtedness than is owed to any other Institutional First Mortgage.
- 2.25 "Project" means NOB HILL BUSINESS CENTER CONDOMINIUM.
- 2.26 "Unit" means a part of the Condominium Property which is subject to exclusive ownership.
- 2.27 "Unit Owner" or "Owner" means a record owner of legal title to a Condominium Parcel.

3. Description of Condominium.

- 3.1 Identification of Units. The Condominium Property consists of the following: (i) the Land, which has constructed thereon two (2) Buildings containing twenty-six (26) Units. Each such Unit is identified by a separate numerical designation. The designation of each such Unit is set forth on Exhibit "B" attached hereto. Exhibit "B" consists of a survey of the Land, a graphic

description of the Improvements located thereon, including but not limited to the Buildings in which the Units are located, and a plot plan thereof. Exhibit "B", together with this Declaration, is sufficient in detail to identify the Common Elements and each Unit and their relative locations and approximate dimensions. There shall pass with each 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; (e) easement rights across common areas of the Project; and (f) other appurtenances as may be provided in this Declaration or the Act.

3.2 Unit Boundaries. Except as otherwise provided herein, each Unit shall include that part of the Building containing the Unit that lies within the boundaries of the Unit, which boundaries are as follows:

- (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 perimetrical boundaries:
 - i. Upper Boundaries. The upper boundary shall be the horizontal plane(s) formed by the lower interior surface(s) of the unfinished ceiling of the Unit. In a Unit in which that ceiling forms more than one horizontal plane, the upper boundary shall include the plane(s) formed by the unfinished, vertical surface(s) that join the horizontal planes.
 - ii. Lower Boundaries. The lower boundary shall be the horizontal plane of the unfinished lower surface of the floor of the Unit.
- (b) Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the vertical planes formed by the interior undecorated unfinished surfaces of all walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries.
- (c) Apertures and Miscellaneous. Where there are apertures in any boundary, including, but not limited to, windows and doors, 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. All wires, conduits,

ducts, vents, concrete joists and other such facilities serving more than one Unit located within any walls or above the nonstructural acoustical ceiling lying below the upper boundary of the Unit, shall be Common Elements.

- (d) Exceptions. In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units set forth as Exhibit "B" hereto shall control in determining the boundaries of a Unit, except the provisions of Section 3.2(c) above shall control unless specifically reflected otherwise on such survey.
- (e) Property Excluded from Units. A Unit shall not be deemed to include foundations, columns, girders, beams, supports, interior load bearing walls, pillars, essential and permanent installations and equipment for power, lights, and exhaust fans, and all pipes, conduits, ducts, vents and other service and utility lines which are utilized for, serve, or pass through more than one Unit or the Common Elements.

3.3 Limited Common Elements. Each applicable Unit or Units shall have the following Limited Common Elements, regardless of whether same are appurtenant to one or more than one Unit:

- (a) Air Conditioning, Heating and Other Equipment. For those Units with air conditioning and heating equipment or other equipment serving one or more but not all Units, such air conditioning and heating equipment or other equipment shall be a Limited Common Element of the Unit(s) so served. The Unit Owner(s) served by such equipment shall be solely responsible for operating, maintaining, repairing and replacing such equipment and for all costs related thereto. In the event that physical changes in the Building result in additional Units being served by such equipment or, in the alternative, Units ceasing to be so served, then the equipment shall be a Limited Common Element appurtenant to the Units added and shall cease to be one to the Units deleted.
- (b) Plumbing, Electrical and Telecommunications Equipment.
 - (1) The potable water lines and equipment which serve one or more but not all Units shall be a Limited Common Element of the Unit(s) so served. Such Limited Common Element shall begin at the boundary of each Unit served by such lines and equipment and shall extend to the point where such lines and equipment connect with the main meter measuring potable water consumption for such Unit(s).

- (2) The sewage collection lines and equipment which serve one or more but not all Units shall be a Limited Common Element of the Unit(s) so served. Such Limited Common Element shall begin at the boundary of each Unit served by such lines and equipment and shall extend to the point where such lines and equipment connect with the sewer line serving all of the Units.
- (3) The electrical lines and equipment which serve one or more but not all Units shall be a Limited Common Element of the Unit(s) so served. Such Limited Common Element shall begin at the boundary of each Unit served by such lines and equipment and shall extend to the point where such lines and equipment connect with the meter measuring electrical consumption for such Unit(s).
- (4) The telephone and telecommunication lines and equipment which serve one or more but not all Units shall be a Limited Common Element of the Unit(s) so served. Such Limited Common Element shall begin at the boundary of each Unit served by such lines and equipment and shall extend to the network interface point in the telephone room or elsewhere for such Unit(s).

The Unit Owner(s) served by each such Limited Common Element shall be solely responsible for operating, maintaining, repairing and replacing such lines and equipment and for all costs related thereto. In the event that physical changes in the Building result in additional Units being served by such equipment or, in the alternative, Units ceasing to be so served, then the equipment shall be a Limited Common Element appurtenant to the Units added and shall cease to be one to the Units deleted.

- (c) Doors, Windows and Gates. Each door, including but not limited to overhead doors, each window and each gate in or covering an aperture in the exterior walls bounding that Unit shall be Limited Common Elements reserved for the exclusive use of that Unit. The Unit Owner shall be solely responsible for operating, maintaining, repairing and replacing such doors, windows and gates, subject to the rights of the Association to review and approve any alterations to the Condominium Property.
- (d) Other. Any other portion of the Common Elements which, by its nature, cannot serve all Units but serves one or more Units (other than exterior staircases and walkways not labeled as Limited Common Elements on Exhibit "B" hereto) shall be deemed Limited Common Elements of the Units served. In the event of any doubt or

dispute as to whether any portion of the Common Elements constitutes Limited Common Elements or in the event of any question as to which Units are served thereby, a decision shall be made by the Board of Directors and shall be binding and conclusive when so made.

3.4 Easements. The following easements are hereby created:

- (a) Support. Each Unit, the Building and the Improvements shall have an easement of support and of necessity over, under and upon, 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, the Building or the Improvements.
- (b) Utility and Other Services; Drainage. Easements are reserved under, through and over the Condominium Property as may be required from time to time for utility and other services, telecommunications and security systems, and drainage in order to serve the Condominium and/or the members of the Association. A non-exclusive easement shall exist for pipes, wires, ducts, vents, cables, conduits and other utility, telecommunications, security and similar systems in, over and through each Unit, which easement shall be located in that portion of each Unit, which lies below a plane parallel to and two (2) feet below the upper boundary of the Unit and above a plane parallel to and four (4) feet above the lower boundary of the Unit.

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, telecommunications and security systems or other services or drainage facilities or the use of these easements. The Board of Directors or its agent shall have a right of access to each Unit to install, maintain, repair or replace the pipes, wires, ducts, vents, cables, conduits and other utility, telecommunications, security and similar systems, services and drainage facilities, and Common Elements contained in the Unit or elsewhere in the Condominium Property, and to remove any Improvements interfering with or impairing such facilities or easements herein reserved; provided such right of access, except in the event of an emergency, shall not unreasonably interfere with the Unit Owner's permitted use of the Unit, and except in the event of an emergency (which shall not require prior notice), entry shall be made on not less than one (1) days' notice (which notice shall not, however, be required if the Owner is absent when the giving of such notice is attempted). Drainage systems on the Condominium Property, if any, shall be maintained continuously in good condition by the Association and easements are granted hereby

over all Units in favor of all Owners and the Association with respect thereto.

- (c) 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; or (c) any encroachment shall hereafter occur as a result of (i) construction of the Improvements, (ii) settling or shifting of the Improvements, (iii) any alteration or repair to the Common Elements made by or with the consent of the Association or the Developer as appropriate, or (iv) any repair or restoration of the Improvements (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Improvements shall stand.
- (d) Ingress and Egress. A non-exclusive easement in favor of each Unit Owner, their tenants, employees, agents, licensees and invitees, shall exist for pedestrian traffic over, through and across sidewalks, paths, walks and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as from time to time may be paved and intended for such purpose. None of the easements specified in this subparagraph (d) shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering, such easements (other than those on Condominium Parcels) shall automatically be subordinate to the rights of Unit Owners and the Association with respect to such easements.
- (e) Maintenance. The Association (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 maintenance of the Improvements or Units located or to be located thereon, or for any other purpose, provided such activity does not prevent or unreasonably interfere with the use or enjoyment by the Unit Owners of the Condominium Property or otherwise usurp the authority granted the Association herein and/or under the Act.
- (f) Sales and Leasing Activity. For as long as there are any unsold Units, the Developer, its designees, successors and assigns, shall have the right to use any such Units and parts of the Common Elements as

model units and sales offices, to show the models and the Common Elements to prospective purchasers and tenants of Units, to erect on the Condominium and/or Common Elements signs and other promotional material to advertise Units for sale or lease and for any other similar purpose the Developer deems appropriate in its opinion.

- (g) Additional Easements. The Association, through its Board of Directors on the Association's behalf and on behalf of all Unit Owners (each of whom hereby appoints the Association irrevocably as its attorney-in-fact for this purpose), shall have the right to grant such additional general ("blanket") and specific electric, drainage, gas or other utility, cable television, security systems, communications or service easements (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or relocate any such existing utility or service easements or drainage facilities in any portion of the Condominium and/or Condominium Property, or the common areas of the Project, as applicable, and to grant access easements or relocate any existing access easements in any portion of the Condominium and/or Common Elements, as the Association (upon a majority vote of the Board) shall deem necessary or desirable for the proper operation and maintenance of the Improvements, or any portion thereof, or for the general health, welfare or business opportunities of the Unit Owners or their tenants, or for the purpose of carrying out any provisions of this Declaration or otherwise, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for their lawful purposes.

3.5 Parking Spaces.

- (a) The Developer specifically designates all parking spaces situated on the Condominium Property as Common Elements for the use by Unit Owners, and their invitees, agents and assigns, all in accordance with Exhibit "B" attached hereto. Each parking space shall be maintained by the Association as Common Elements, except that one or more parking spaces shall be reserved by the Association as "handicapped" or otherwise restricted. No Unit Owner shall have or acquire any fee simple title to the parking space at any time except as part of the Unit Owner's undivided share in the Common Elements.
- (b) For good cause or when compelled by the State, County or City of Sunrise, Florida, the Association shall have the right and authority to assign parking spaces from time to time upon written notice to the Unit Owners.

- (c) Anything to the contrary in this Declaration notwithstanding, in the event a Unit Owner mortgages his Unit, together with the Limited Common Elements appurtenant thereto (whether or not ordinarily assignable apart from the Unit), such Limited Common Elements shall not be assignable apart from the Unit unless released from the lien of such mortgage.

3.6 Sign Easements. Each Unit shall have an easement on the exterior of the Building for a sign identifying the Owner or tenant of the Unit. The Association reserves the right to regulate the style, type and material used for all exterior signage for the Condominium and to impose uniform signage requirements. No exterior signage shall be installed or modified without the prior written approval of the Association. In addition, all exterior signage shall comply with all applicable zoning and building codes.

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 appurtenant right to use all appropriate appurtenant Limited Common Elements, shall not be separated therefrom, 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 Units shall remain undivided, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall be permitted, 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. The undivided percentage interest in the Common Elements and Common Surplus, and the percentage share of the Common Expenses, appurtenant to each Unit, is as set forth in Exhibit "C" attached hereto.

5.2 Voting. Each Unit shall be entitled to cast the votes allocated to the Unit in accordance with the provisions of the Bylaws and Articles of Incorporation of the Association. Each Unit Owner shall be a member of the Association. If a Unit Owner owns more than one Unit, the Voting Member for such Units shall be entitled to cast the number of votes for each Unit owned. The Association shall have two classes of voting membership:

Class A Class A members shall be all of those Unit Owners with the exception of the Developer. Class A members shall be entitled to the number of votes allocated for each Unit or fraction

thereof as more specifically set forth in Exhibit "C" attached hereto. When more than one (1) person holds such interest or interests in any Unit(s), all such persons shall be members, and the vote for such Unit(s) shall be exercised by one such member as agreed to by such members, and absent such agreement, no such vote shall be counted for purposes of any action taken.

Class B

The Class B member shall be the Developer. The Class B member shall be entitled to one (1) vote for each and every vote held by all other members of the Association combined plus one (1); provided, however, that notwithstanding any provision to the contrary, the Developer shall have the right to appoint the entire Board of Directors of the Association until one hundred (100) days after all Units have been conveyed to Unit Owners other than the Developer, or at any earlier date at the sole discretion of the Developer. The Developer shall call a meeting, as provided in the Bylaws for Special Meetings, to provide for the turnover of control of the Board of Directors to the Unit Owners at such time. The Developer shall have the right to appoint one (1) member to the Board of Directors for so long as the Developer owns any portion of the Condominium.

6. Amendments. Except as elsewhere provided herein, amendments 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 of the Association or by Unit Owners holding not less than a majority of the voting interests. 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. Except as elsewhere herein provided, approvals must be by affirmative vote of Unit Owners owning in excess of two-thirds (2/3rds) of the voting interests.
 - 6.2 Material Amendments. Unless otherwise provided specifically to the contrary in this Declaration, no amendment shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, or change the 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 thereon, shall join in the execution of the amendment, and such

amendment receives the affirmative vote of not less than two-thirds (2/3rds) of the voting interests in the Condominium. The acquisition of property by the Association, material alterations or substantial additions to such property or the Common Elements by the Association and installation, replacement and maintenance of approved hurricane shutters, if in accordance with the provisions of this Declaration, shall not be deemed to constitute a material alteration or modification of the appurtenances of the Units, and accordingly, shall not constitute a Material Amendment.

- 6.3 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 said mortgagees in each instance; nor shall an amendment make any change in the sections hereof entitled "Insurance", "Reconstruction or Repair after Casualty", or "Condemnation" unless the Primary Institutional First Mortgagee shall join in the amendment. Except as specifically provided herein, 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.
- 6.4 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 data identifying the Declaration and shall be executed with the same formalities required for the executed of a deed. An amendment of the 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 shall be inserted in the text underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of 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 non-structural, ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of the divider walls, screens, screen enclosures, windows, interior nonstructural walls, 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 constituting Limited Common Elements or other property belonging to the Unit Owner, shall be performed by the Owner of such Unit or the Association, according to the applicable provision hereof, but in either case at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein.

7.2 Common Elements. Except to the extent (i) expressly provided to the contrary herein, or (ii) proceeds of insurance are made available therefor, all maintenance, repairs and replacements in or to the Common Elements (other than those Limited Common Elements to be maintained by the Unit Owners 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 to the extent arising from or necessitated by the negligence, neglect or misuse of specific Unit Owners in the opinion of the Board, in which case such cost and expense shall be paid solely by such Unit Owners.

8. Additions, Alterations or Alterations by the Association.

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

9.1 Consent of the Board of Directors. No Unit Owner shall make any addition, alteration or improvement in or to the Common Elements, his Unit or any Limited Common Element without the prior written consent of the Board of Directors. The Board shall have the obligation to answer, in writing, any written request by a Unit Owner for approval of such an 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 Board may condition the approval in any manner, including, without limitation, retaining approval rights of the contractor to perform the work. 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. 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 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, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation or construction thereof as may be required by the Association. The Association's rights to review and approval of plans and other submissions under this Declaration are intended solely for the benefit of the Association. Neither the Developer, the Association nor any of its officers, directors, 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 same, agrees not to seek damages from the Developer and/or 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 Developer and the Association harmless from and against any and all costs, claims (whether rightfully or wrongfully asserted), damages, expenses or liabilities whatsoever (including, without limitation, reasonable attorneys' fees and court costs at all trial and appellate levels), arising out of any review of plans by the Association hereunder.

Notwithstanding anything herein contained to the contrary, the following alterations and/or improvements shall not require the prior approval of the Association: (i) replacement of any plate glass window with a window of the same material, color and size; (ii) replacement of an exterior air handler/compressor serving one or more Units, which may be effected by the Owner of any Unit directly served by the applicable air handler (and provided that the installation will not adversely affect any other Unit Owner and the replacement air handler/compressor is placed in the same location as the equipment being replaced.

- 9.2 In the event that any Unit Owner proposes to make any addition, alteration or improvement in or to a Unit which would entail or require any penetration of the roof or perimeter walls of a Unit or which constitute any use, addition, alteration or improvement to the Common Elements, the Condominium Property or any Limited Common Element or which would alter, affect or protrude into the Common Elements or any Limited Common Element or which would occupy or use any portion of the Common Elements or any Limited Common Element (collectively, "Conditional Use of Common Property"), then any such Conditional Use of Common Property shall be subject to approval by the Association, which approval shall not be unreasonably withheld if such Conditional Use of Common Property is a governmental requirement which cannot be accommodated within the boundaries of the Unit and further if the Unit Owner complies will all of the following requirements:
- (a) Unit Owners holding a majority of the voting interests present in person or by proxy at a duly called meeting of the Association approve or consent to such Conditional Use of Common Property.
 - (b) The Unit Owner requesting such Conditional Use of Common Property delivers to the Association and maintains during all times that such Conditional Use of Common Property continues a bond or security deposit for the demolition and removal of all such uses, additions, alterations or improvements in connection with its Conditional Use of Common Property and the restoration of the Common Elements, or Limited Common Element to its condition prior to such use, addition, alteration or improvement in connection with the Unit Owner's Conditional Use of Common Property.

- (c) The Unit Owner pays an annual fee to the Association for Conditional Use of Common Property based on the average rental of industrial space in the surrounding area and the square footage of the Common Elements, or any Limited Common Element used in connection with such Conditional Use of Common Property.
- (d) The Unit Owner shall be responsible for the operation, maintenance, repair, replacement and insurance of all uses, additions, alterations and improvements to the Common Elements, his Unit or any Limited Common Element in connection with such Conditional Use of Common Property. The Unit Owner shall be obligated to maintain at all times all uses, additions, alterations and improvements in connection with its Conditional Use of Common Property in a clean, orderly and safe condition.
- (e) Each Unit Owner, his heirs, personal representatives, successors and assigns shall be solely responsible for the operation, maintenance, repair, replacement and insurance of any such additions, alterations or improvements to the Common Elements, his Unit or any Limited Common Element in connection with such Conditional Use of Common Property from and after the date of installation or construction thereof. Neither the Developer nor the Association shall have any liability or responsibility for any damage to the Common Elements, Limited Common Elements or Units caused by or related to such Conditional Use of Common Property.

9.3 Improvements or Alterations by Developer. Anything to the contrary notwithstanding, the foregoing restrictions in 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 or improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon any Unit owned by it and Limited Common Elements appurtenant thereto (including, without limitation, the removal of walls, floors, ceilings and other structural portions of the Improvements), and (b) alter or add to all or any part of the common areas of the Condominium. Any amendment to this Declaration required by a change made by the Developer pursuant to this Section 9.3 shall be adopted in accordance with Section 6 and Section 10 of this Declaration.

10. Changes in Developer-Owned Units. Without limiting the generality of the provisions of paragraph 9.3 above, and anything to the contrary notwithstanding, the Developer shall have the right, without the vote or consent of the Association or Unit Owners, to (i) make alterations or improvements in, to and upon Units owned by the Developer, whether structural or non-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 space (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 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 6.4, without the vote or consent of the Association or Unit Owners (or their mortgagees) required, except to the extent that any of same constitutes a Material Amendment, in which event, the amendment must be approved as set forth in Section 6.2 above. Without limiting the generality of Section 6.4 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; Powers and Duties.

11.1 Power and Duties. The Association shall be the entity responsible for the operation of the Condominium and the Condominium Property. The powers and duties of the Association shall include those set forth in the Articles and Bylaws (respectively, Exhibits "D" and "E" attached 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 to administer, maintain, repair and replace the Common Elements and Condominium Property.
- (b) The power to make and collect Assessments and other charges against Unit Owners and to regulate, administer, maintain, repair and replace the Common Elements and Condominium Property.
- (c) The duty to maintain accounting records according to accounting practices normally used by similar associations, which shall be open

to inspection by Unit Owners or their authorized representatives at reasonable times upon prior request.

- (d) The power to contract for the management and maintenance of the Condominium Property and to authorize a management agent (who/which may be an affiliate of the Developer or the Developer itself) 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 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 this Declaration, the Articles, Bylaws, rules and regulations and the Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (e) 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 Unit Owners holding a majority of the voting interests represented at a meeting of the Association at which a quorum is attained.
- (f) The Association, when authorized by Unit Owners holding a majority of the voting interests represented at a meeting of the Association at which a quorum is attained, shall have the power to acquire, convey, lease and encumber personal and real property, whether or not contiguous to the lands of the Condominium. The expenses of ownership (including the expense of making and carrying any mortgage related to such ownership), rental, membership fees, operation, replacements and other expenses and undertakings in connection therewith shall be Common Expenses. Notwithstanding the foregoing, the Association shall be authorized to obtain title to Units through foreclosure of its lien without requiring the consent of Unit Owners.
- (g) The power to adopt and amend, upon a majority vote of the Board, rules and regulations covering the details of the operation and use of the Condominium Property.
- (h) The power to employ personnel (part-time or full-time), and if part-time, such personnel may be employees of other condominium associations and the allocation of their compensation shall be equitably apportioned among the associations for which such employee provides services.

- (i) 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 Bylaws, Chapters 607 and 617, Florida Statutes and the Act, in all cases except as expressly limited or restricted in the Act.

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

- 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, 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, improvements or other activities done by or on behalf of any Unit Owner(s) regardless of whether or not same shall have been approved by the Association pursuant to Section 9 hereof. Further, the Association also shall not be liable to any Unit Owner or lessee or to any other person or entity for any property damage, personal injury, death or other liability on the grounds that the Association did not obtain or maintain insurance (or 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 or as a result of the Association's failure or inability to access a Unit in accordance with Section 11.1(a) above.
- 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 his Unit.
- 11.4 Approval or Disapproval of Matters. Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of record Owners is specifically required by this Declaration or by 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 of the Association, is specifically required in this Declaration, the Articles or Bylaws, applicable rules and regulations or applicable law, all approvals (or actions required or permitted to be given or taken by the Association) shall be given or taken by the Board of Directors, without the consent of Unit Owners, and the Board may so approve or authorize the action 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. References to a majority or percentage vote of Unit Owners shall be to the votes thereof and not to the number of Unit Owners voting.
- 11.6 Effect on Developer. If the Developer holds a Unit for sale in the ordinary course of business, none of the following actions may be taken without the prior written approval of the Developer:
- (a) Assessment of the Developer as a Unit Owner for capital improvements;
 - (b) Any action by the Association 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 the sales of Units.
12. Determination of Common Expenses and Fixing 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 of the Condominium and allocate and assess such expenses among the Unit Owners in accordance with the provisions of this Declaration and the Bylaws. The Board of 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 each budget, on which such Assessments are based, to all Unit Owners and (if requested in writing) to their respective mortgagees. The Board shall then adopt such budget, as presented or as amended by them, by a majority vote. The Common Expenses shall include the expenses of and reserves for (if required by law and not lawfully waived) the operation, maintenance, repair and replacement of the Common Elements and/or Condominium 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 of the Association, 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 determine from time to time and need not be restricted or accumulated. Any budget adopted shall be subject to change, upon the approval of such change by the Board 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. 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. In the case of a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor for his share of the Common Expenses or otherwise up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit against which the Assessments are made or otherwise.
- 13.2 Special and Capital Improvement Assessment. 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.
 - (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 Common Elements or Condominium Property.
 - (c) Special Assessments and Capital Improvement Assessments may be levied by the Board and shall be payable by Unit Owners in lump sums or installments, in the discretion of the Board; provided that, if such Special Assessments or Capital Improvement Assessments, in the aggregate in any year, exceed the alterations limit, as applicable,

or cause the total Assessments levied to exceed 115% of Assessments for the preceding calendar year, the Board must obtain approval of Unit Owners holding a majority of the voting interests represented at a meeting of the Association at which a quorum is attained.

- 13.3 Default in Payment of Assessments for Common Expenses. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at fifteen percent (18%) per annum from the date due until paid and shall be subject to an administrative late fee in an amount not to exceed the greater of \$75.00 or five percent (5%) of each delinquent installment. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such Parcel, interest thereon and reasonable attorney's fees and costs incurred by the Association incident to the collection of the Assessments or enforcement of the lien. Except as set forth below, the lien is effective from, and shall relate back to, the date of the recording of this Declaration. However, as to first mortgages of record, the lien is effective from and after recording of a claim of lien. 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 amount due and the due dates. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid or until it is barred by law. No such lien shall continue for a longer period than one (1) year after the claim of lien has been recorded unless, within that one (1) year period, an action to enforce the lien is commenced in a court of competent jurisdiction. The claim of lien shall secure (whether or not stated therein) all unpaid Assessments, interest thereon and costs and attorneys' fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure thereof. A claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association may bring an action in its name to foreclose a lien for unpaid Assessments in the manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien. The Association is entitled to recover its reasonable attorneys' fees incurred either in a lien foreclosure action or an action to recover a money judgment for unpaid Assessments.

Additionally, each Owner of any Unit by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to have assigned all rents, issues and profits (the "Collateral Assignment of Rents") on each such Unit to the Association, which Collateral Assignment of Rents shall become absolute upon default of such Unit Owner hereunder.

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 next twelve (12) months' of Assessment installments to be accelerated and immediately due and payable. In the event that the amount of such installments changes during the twelve (12) month period, 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. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover 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 Appointment of Receiver to Collect Rental. If the Unit Owner remains in possession of the Unit after a foreclosure judgment has been entered, the court in its discretion may require the Unit Owner to pay a reasonable rental for the Unit. If the Unit is rented or leased during the pendency of the foreclosure action, the Association is entitled to the appointment of a receiver to collect the rent. The expenses of such receiver shall be paid by the party which does not prevail in the foreclosure action.
- 13.6 Institutional First Mortgagee. An Institutional First Mortgagee who acquires title to a Unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid Assessments (or installments thereof) that became due prior to the Institutional First Mortgagee's receipt of the deed. However, the Institutional First Mortgagee's liability is limited to a period not exceeding six (6) months but in no event does the Institutional First Mortgagee liability exceed one percent (1%) of the original mortgage debt. The Institutional First Mortgagee's liability for such expenses or Assessments does not commence until thirty (30) days after the date the First Mortgagee received the last payment of principal or interest. In no event shall the Institutional First

Mortgagee be liable for more than six (6) months of the Unit's unpaid Common Expenses or Assessments accrued before the acquisition of title to the Unit by the Institutional First Mortgagee or one percent (1%) of the original mortgage debt, whichever amount is less. An Institutional First Mortgagee acquiring title to a Unit as a result of foreclosure or deed in lieu thereof may not, during the period of its ownership of such Unit, whether or not such Unit is unoccupied, be excused from the payment of some or all of the Common Expenses coming due during the period of such ownership.

- 13.7 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"): (i) the last day of the twelfth (12th) complete calendar month after the recording of this Declaration, (ii) the occurrence of an "Extraordinary Financial Event" (as hereinafter defined), or (iii) the date that control of the Association is transferred to Unit Owners other than the Developer as provided in the Bylaws and the Act, the Developer shall not be obligated 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 amount set forth in the initial estimated operating budget in effect on the date on which this Declaration is recorded, and (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 and/or from income of the Association. After the Guarantee Expiration Date, the Developer shall have the option of extending the guarantee for one or more additional periods, or paying the share of Common Expenses and Assessments attributable to Units it then owns. As used in this subsection, an "Extraordinary Financial Event" shall mean a casualty loss affecting the Condominium and/or Condominium Property which exceeds by more than \$5,000.00 the insurance proceeds receivable by the Association as a result of the loss, or the entry of a judgment against the Association (or against a member or members of the Board of Directors if and to the extent those members are entitled to be indemnified by the Association as more particularly described in the Articles of Incorporation that exceeds by more than \$5,000.00 the insurance proceeds receivable by the Association as a result of the judgment, or an agreement by the Association (or said member or members of the Board of Directors to whom indemnification is owed) to pay an amount in settlement of a lawsuit against it (or against said Board members) that exceeds by more than \$5,000.00 the insurance proceeds receivable by the Association as a result of the settlement agreement.]
- 13.8 Certificate of Unpaid Assessments. Within fifteen (15) days after written request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating all Assessments and other moneys owed to the

Association by the Unit Owner with respect to his Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

- 13.9 Installments. Regular Assessments shall be collected monthly or quarterly, in advance, at the option of the Association. Initially, assessments will be collected monthly.
- 13.10 Application of Payments. Any payments received by the Association from a delinquent Unit Owner shall be applied first to any interest accrued on the delinquent installment(s) as aforesaid, then to any administrative late fees, then to any costs and reasonable attorneys' fees incurred in collection and then to the delinquent and any accelerated Assessments. The foregoing shall be applicable notwithstanding any restrictive endorsement, designation or instruction placed on or accompanying a payment.
14. Insurance. Insurance covering the Condominium Property and 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 and Condominium Property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.
 - (b) Approval. Each insurance policy, the agency and company issuing the policy and the Insurance Trustee (if appointed) hereinafter described shall be subject to the approval of the Primary Institutional First Mortgagee in the first instance, if requested thereby.
 - (c) Named Insured. The named insured shall be the Association, individually, and as agent for Owners of Units covered by the policy, without naming them, and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be 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). If no Insurance Trustee is appointed, then the payments for losses shall be made by the insurer to the Association.
 - (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, and for their personal liability and living expense and for any other risks not otherwise insured in accordance herewith.

14.2 Coverage. The Association shall maintain insurance covering the following:

- (a) Casualty. The Building (including all fixtures, installations or additions comprising that part of the Building within the boundaries of the Units and required by the Act to be insured under the Association's policies) and all Improvements located on the Common Elements and the Condominium Property from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Elements or Condominium Property (collectively the "Insured Property"), shall be insured in an amount not less than 100% of the full insurable replacement value thereof, excluding foundation and excavation costs. Notwithstanding the foregoing, the Insured Property shall not include, and shall specifically exclude, all furniture, furnishings, Unit floor coverings, wall coverings and ceiling coverings, other personal property owned, supplied or installed by Unit Owners or tenants of Unit Owners, and all electrical fixtures, appliances, air conditioner and heating equipment, water heaters and built-in cabinets, to the extent that any of same are required to be repaired or replaced by the Unit Owners. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. 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 Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.
- (b) Liability. Comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things

related to the Insured Property, with such coverage as shall be required by the Board of 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) Workmen's Compensation and other mandatory insurance, when applicable.
- (d) Flood Insurance covering the Common Elements, Condominium Property and Units if required by the Primary Institutional First Mortgagee or if the Association so elects.
- (e) Fidelity Insurance, if required by the Act or by the Primary Institutional First Mortgagee, covering all persons who control or disburse Association funds, such insurance to be in an amount not less than: (i) the greater of three (3) times the total monthly Assessments, (ii) \$50,000 per person insured, or (iii) such other amount as may be determined by the Board.
- (f) Condominium Property. Appropriate additional policy provisions, policies or endorsements extending the applicable portions of the coverage described above to all Condominium 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) to pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of the Board of Directors 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 the Primary Institutional First Mortgagee, 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 at least thirty (30) days' prior written notice to all of the named insureds, including all mortgages of Units. Prior to obtaining any policy of casualty insurance or any renewal thereof, the Board of Directors may (or if required by the Primary Institutional First Mortgagee, shall) obtain an appraisal from a fire insurance company, or other competent appraiser, of the full insurable replacement value of the Insured Property (exclusive of foundations), without deduction for depreciation, for the purpose of determining the amount of insurance to be effected pursuant to this Section.
- 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 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 be designated by the Board of Directors as provided in Section 14.10 below, and which, if so appointed, shall be a bank or trust company in Florida with trust powers, with its principal place of business in the State of Florida. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees in the following shares, but shares need not be set forth on the records of the Insurance Trustee:
 - (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 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, and 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 claims.
- 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, nor casualty or theft loss to the contents of an Owner's Unit. It shall be the obligation of the individual Unit Owner, if such Owner so desires, to purchase and pay for insurance as to all such and other risks not covered by insurance carried by the Association.
- 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 of the Association shall have the option in its discretion of appointing an Insurance Trustee hereunder. If the Association fails or elects not to appoint such Trustee, the Association will perform directly all obligations imposed upon such Trustee by this Declaration. 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) or Common Elements, such property shall be presumed to be Common Elements.
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 50% or more of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) is substantially damaged or destroyed and if Unit Owners owning 60% 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 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 that Optional Property, if any, and/or that portion of the Insured Property lying within the boundaries of the Unit); provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such fund all mortgages and liens on his Unit in the order of priority of such mortgages and liens.

Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than sixty (60) days from the date the Insurance Trustee (if appointed) notifies the Board of Directors and Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work, or not more than ninety (90) days after the Insurance Trustee (if appointed) notifies the Board of Directors and the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work. 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 of the Association and then applicable building and other codes, and, if the damaged property which is to be altered is the Building or the Optional Property, by the Owners of not less than 60% 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 costs 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 of the Association; provided, however, that upon request to the Insurance Trustee (if appointed) by an Institutional First Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage.
- ii. Association - Major Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than \$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 Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Optional Property. All proceeds must be used to effect repairs to the Optional Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Optional Property and promptly affect 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 a distribution to an Owner which is not in excess of Assessments paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee.
- v. Certificate. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be made upon the order of the Association alone or upon the additional approval of an architect, engineer or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine the payees nor 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. 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 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 on account of damage to the Optional Property, the Association shall charge the Owner (but shall not levy an Assessment) 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 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. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee; and in the event of failure to do so, in the discretion of the Board of Directors of the Association, a charge shall be made against a defaulting Unit Owner in the amount of his award, or the amount of that award shall be set off against the sums hereafter made payable to that Owner.

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, the taking by eminent domain also shall be deemed to 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 to and paid by the Owner of the Unit.
- (b) Distribution of Surplus. The balance of the award in respect of the Unit, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and such mortgagees.
- (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 so reduces the size of a Unit that it cannot be made habitable (in the sole opinion of the Association), the award for the taking of the Unit shall be used for the 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 Assessments; third, jointly to the affected Unit Owners and other mortgagees of their Units. In no event shall the total of such distributions in respect of a specific Unit exceed the market value of such Unit immediately prior to the taking. The balance, if any, shall be applied to repairing and replacing the Common Elements.

- (b) Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors of the Association; provided that if the cost of the work therefor shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required for capital improvements to the Common Elements.
- (c) Adjustment of Shares. The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Unit Owners (and among reduced Units). This shall be effected by restating the shares of continuing Unit Owners as follows:
 - i. add the total of all percentages of all Units of continuing Owners prior to this adjustment, but after any adjustments made necessary by subsection 16.4(c) hereof (the "Percentage Balance"); and
 - ii. divide the percentage of each Unit of a continuing Owner prior to this adjustment, but after any adjustments made necessary by 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 Owner and such Owner's mortgagees as above provided) for the taking is not sufficient to alter the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by Assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the applicable percentage shares of those

Owners after all adjustments to such shares effected pursuant hereto by reason of the taking.

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

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

17. Occupancy and Use Restrictions. In order to provide for congenial occupancy of the Condominium and 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 all of the terms, provisions, conditions, limitations and restrictions set forth in this Declaration, including, without limitation, all of this Section 17 (the "Occupancy and Use Restrictions"); provided, however, each of the restrictions in this Section 17 or elsewhere in this Declaration may be further amplified and/or

limited by the rules promulgated by the Board, as applicable, from time to time. These restrictions shall include the following:

- 17.1 Occupancy. Units may be used for any purpose permitted by applicable zoning laws. Notwithstanding the foregoing, no Unit may be used for any purpose which is noxious, or which will adversely affect the insurability of the Condominium or increase the cost of any of the insurance coverage for the Condominium which the Association is obligated to carry by law or by this Declaration, or which will increase the risk of fire or other casualty.
- 17.2 Animals. No animal may be kept in any Unit or brought onto the Condominium or Condominium Property.
- 17.3 Alterations. Without limiting the generality of Section 9.1 hereof, but subject to Section 11 hereof, no Unit Owner shall cause or allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto, Common Elements or Condominium Property, including, but not limited to, installing any electrical wiring, television antenna, machinery, or air conditioning units, which in any manner change the appearance of any portion of the Building, without obtaining the prior written consent of the Association (in the manner specified in section 9.1 hereof).
- 17.4 Use of Common Elements and Condominium Property. The Common Elements and Condominium Property shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units.
- 17.5 Nuisances. No nuisances (as defined by the Association) shall be allowed on the Condominium or Condominium Property, nor shall any use 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 Condominium Property by its residents, occupants or members.
- 17.6 No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of the Condominium or 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 and/or 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 Bylaws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Section 17.6. No activity specifically permitted by this Declaration shall be deemed to be a violation of this Section.

- 17.7 Leases. Leasing of Units or portions thereof shall be subject to the approval of the Association. Every lease shall be in writing, shall require a copy of the lease to be submitted to the Association as a precondition of the tenant being permitted occupancy of the Unit, and shall provide (and if not expressly in the written lease, if any, shall be deemed to provide) that the Association shall have the right (i) to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles of Incorporation or Bylaws of the Association, applicable rules and regulations, or other applicable provisions of any agreement, document or instrument governing the Condominium or administered by the Association, and (ii) to collect all rental payments due to the Owner and apply same against unpaid Assessments if, and to the extent that, the Unit Owner is in default in the payment of Assessments. Regardless of whether or not expressed in the applicable lease, if any, a Unit Owner shall be jointly and severally liable to the Association for the acts and omissions of his tenant(s) and occupant(s) which constitute a violation of, or non-compliance with, the provisions of this Declaration and of any and all rules and regulations of the Association. All leases are hereby made subordinate to any lien filed by the Condominium Association, whether prior or subsequent to such lease. If so required by the Association, Unit Owners wishing to lease their Units shall be required to place in escrow with the Association a reasonable sum, not to exceed the equivalent of two (2) month's rental, which may be used by the Association to repair any damage to the Common Elements and/or Condominium Property resulting from acts or omissions of tenants (as determined in the sole discretion of the Association).
- 17.8 Exterior Improvements. Without limiting the generality of Sections 9.1 or 17.4 hereof, but subject to any provision 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 Building (including, but not limited to, awnings, signs, storm shutters, screens, window tinting, furniture, fixtures and equipment), without the prior written consent of the Association.
- 17.9 Association Access to Units. In order to facilitate access to Units by the Association for the purposes enumerated in Section 11.1(a) hereof, it shall be the responsibility of all Unit Owners to deliver a set of keys to their respective Units to the Association to use in the performance of its functions. No Owner shall change the locks to his Unit without so notifying the Association and delivering to the Association a new set of keys to such Unit.
- 17.10 Hurricane Shutters. The Board of Directors may, from time to time, establish hurricane shutter specifications which comply with the applicable building code, and establish permitted colors, styles and materials for hurricane shutters. Subject to the provisions of Section 9.1 above, the Association

shall approve the installation or replacement of hurricane shutters conforming with the Board's specifications. A Unit Owner or occupant who plans to be absent or closed for business during all or any portion of the hurricane season must prepare his Unit prior to his departure by designating a responsible firm or individual to care for his Unit should a hurricane threaten the Unit or should the Unit suffer hurricane damage, and furnishing the Association with the name(s) of such firm or individual. Such firm or individual shall be subject to the approval of the Association.

17.11 Relief by Association. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Section 17 for good cause shown.

17.12 Effect on Developer. Subject to the following exceptions, the restrictions and limitations set forth in this Section 17 shall not apply to the Developer nor to Units owned by the Developer.

18. Selling, Leasing and Mortgaging of Units. No Unit Owner other than the Developer may sell his Unit except by complying with the following provisions:

18.1 Right of First Refusal.

- (a) Any Unit Owner who receives a bona fide offer to purchase or lease his 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. The notice shall be accompanied by an environmental report prepared by a reputable environmental consultant within six months of the date of the notice and satisfying the ASTM standards for Phase I Assessments (currently ASTM Standard E1527). The giving of such notice to the Board of Directors shall constitute an offer by such Unit Owner to sell or lease the Unit to the Association or its assignee upon the same terms and conditions as contained in such Outside Offer and shall also constitute a warranty and representation by the Unit Owner who has received such Outside Offer to the Association 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 thirty (30) days after receipt of such notice, together with such further information as may have been requested, the Association or its

assignee may elect, by sending written notice to such Offeree Unit Owner before the expiration of said thirty (30) day period, by certified and/or registered mail, to purchase or lease 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.

- (b) The Association shall promptly deliver or mail by certified mail a copy of the Outside Offer to each Unit Owner whose name appears on a separate registry maintained by the Association listing all current Unit Owners who have delivered, and not rescinded, written notice of the desire to be considered as the assignee of the Association in instances where the Association is entitled to exercise a right of prior first refusal with respect to an Outside Offer. The notice shall be mailed or delivered to such Unit Owner at its Unit in the Condominium (or the mailing address, if the Unit Owner does not occupy his Unit). Any such Unit Owner desiring to be named the assignee of the Association with respect to the Outside Offer shall, within five (5) days after receipt of a copy of the Outside Offer, deliver written notice to the Association that he is ready, willing and able to enter into a lease, or contract for the purchase of the Unit in accordance with and pursuant to all of the terms and conditions of the Outside Offer. If such notice is not received within the prescribed time frame, it shall be conclusively presumed that the assignee has not and will not exercise any right of first refusal.
- (c) The Association shall designate as the assignee the Unit Owner giving the required written notice whose Unit adjoins the Unit which is the subject of the Outside Offer. If there is more than one Unit which adjoins the Unit which is the subject of the Outside Offer, then the Unit Owner to be designated as the assignee shall be determined from among the Owners of such adjoining Units by lot. If none of the Unit Owners giving the required written notice to the Board owns a Unit adjoining the Unit which is the subject of the Outside Offer, then the Association shall designate as its assignee the Unit Owner whose written notice was received earliest. In the event that no Unit Owner gives the required written notice to the Association, then the Association shall have the right to exercise a right of first refusal within the time described above. In the event the Association or its assignee has not, within the time described above notified the Offeree Unit Owner of its intention to exercise its right of first refusal, such Unit Owner shall be free to consummate such sale or lease with the Outside Offeror in accordance with the terms of the Outside Offer. In the event the transaction between the Offeree Unit Owner and the Association's assignee shall fail to be consummated through no fault of the Offeree Unit Owner, such Offeree Unit Owner shall be free to

consummate the sale or lease with his Outside Offeror in accordance with the terms of the Outside Offer.

- (d) In the event the Association or its assignee shall fail to accept such offer or, in the case of a lease, such failure to reject the proposed lease as permitted by Section 17.8 hereof, within thirty (30) days after receipt of notice and all additional information requested, as aforesaid, the Offeree Unit Owner shall be free to accept the Outside Offer after (i) notice of refusal is given by the Association, or (ii) the expiration of the period in which the Association or its assignee might have accepted such offer, as the case may be. In the event the Offeree Unit Owner shall not accept, in writing, the Outside Offer or if the Offeree Unit Owner shall accept the Outside Offer 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 the Offeree Unit Owner shall be required to again comply with all of the terms and provisions of this Article.
- (e) In the event the Association shall timely elect to purchase such Unit or lease such Unit or to cause the same to be purchased or leased by its assignee, title shall close or a lease shall be executed, in accordance with the terms of the Outside Offer, within forty five (45) 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 assignee 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, marketable and insurable and the Offeree Unit Owner shall deliver an abstract or provide a title commitment (and subsequently, title insurance) at its expense at least thirty (30) days prior to such closing. Real estate taxes, mortgage interest if any and Common Expenses shall be apportioned between the Offeree Unit Owner and the Association, or its assignee, as of the closing date. In the event such Unit is to be lease, the Offeree Unit Owner shall execute and deliver to the Board or to its assignee a lease between the Offeree Unit Owner, as landlord, and the Association, or its assignee, as tenant, covering such Unit for the rental and term contained in such Outside Offer.
- (f) The Association may charge a transfer fee in connection with such Outside Offer and right of first refusal, which fee shall not be in excess

of the charges reasonably required for same, and such charge shall not exceed the maximum amount allowed under the Act (as its may be amended from time to time).

- (g) Any deed to an Outside Offeror shall automatically be deemed to provide that the acceptance thereof by the grantee or tenant 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.
- (h) Any purported sale or lease of a Unit in violation of this Section 18.1 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 void a conveyance. Said Unit Owner shall reimburse the Association for all expenses (including attorneys' fees and disbursements) incurred in connection with such proceedings.
- (i) The foregoing restrictions shall not apply to Units owned by the Developer or by 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 to the Association.

18.2 No Severance of Ownership. No part of the Common Elements may be sold, conveyed or otherwise disposed of, except as an appurtenance to the Unit in connection with a sale, conveyance or other disposition of the Unit to which such interest is appurtenant, and any sale, conveyance or other disposition of a Unit shall be deemed to include that Unit's appurtenant interest in the Common Elements.

18.3 Release by the Association of the Right of First Refusal. The right of first refusal contained in subsection 18.1 may be released or waived by the Association only in the manner provided in subsection 18.4. 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 said subsection 18.1.

18.4 Certificate of Termination of Right of First Refusal. A certificate executed and acknowledged by an officer, which officer has been approved and authorized to sign said certificate by a resolution of the Board of Directors, of the Association stating that the provisions of subsection 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 furnish such certificate upon request to any Unit Owner in respect to whom the provisions of such subsection have, in fact, terminated or been waived. The Association may charge a fee in connection with the furnishing of such certificate, which fee shall not be in excess of the charges reasonably required by same, and such charge shall not exceed the maximum amount allowed under the Act (as it may be amended from time to time).

- 18.5 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 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.
- 18.6 Exceptions. The provisions of subsection 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 trustee, corporation nor other entity where the Unit Owner or the aforementioned related persons are and continue to be the sole beneficiary or equity owner of such trustee, corporation or other entity, or to any one or more of the above, (b) the Developer, (c) the Association, (d) any proper officer conducting the sale of a Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or delivering a deed in lieu of foreclosure, or (e) an Institutional First Mortgagee (or its designee) deriving title by virtue of foreclosure of its mortgage or acceptance of a deed in lieu of foreclosure 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.
- 18.7 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 Article 18.
- 18.8 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 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 Mediation of Disputes.** Prior to the institution of court litigation, the parties to a Dispute shall petition the American Arbitration Association for nonbinding mediation. The mediation shall be conducted according to rules of the American Arbitration Association and before a mediator employed by the American Arbitration Association. The filing of a petition for mediation shall toll the applicable statute of limitation for the applicable Dispute, until the mediation proceedings are completed. Any mediation 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 mediation decision. The prevailing party in the mediation proceeding shall be awarded the costs of the mediation, and attorneys's fees and costs incurred in connection with the proceedings. The party who files a complaint for a trial de novo shall be assessed the other party's mediation 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 mediation decision, if the judgment upon the trial de novo is not more favorable than the mediation decision. If the judgment is more favorable, the party who filed a petitioner may recover reasonable attorneys' fees and costs incurred in enforcing the mediation 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 mediation award that has been stayed. If the petition is granted, the petitioner may recover reasonable attorneys' fees and costs incurred in enforcing the mediation award.
- 19.2 **Negligence and Compliance.** A Unit Owner and/or tenant of a Unit shall be liable for the expense of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent such expense is not met by the proceeds of insurance actually collected in respect of such negligence by the Association. 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 Bylaws, the Articles of Incorporation of the Association, 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 equity to require performance and/or compliance, to impose any applicable fines, to sue at law for damages, and to charge the Unit Owner for the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance, provided, however, that nothing contained in this Section 19.2 shall authorize the Association to enter a Unit to enforce 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.

20. Termination of Condominium. The Condominium shall continue until (i) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration, or (ii) such time as withdrawal of the Condominium Property from the provisions of the Act is authorized by a vote of Owners owning at least 80% of the applicable interests in the Common Elements and by the Primary Institutional First Mortgagee. In the event such withdrawal is authorized as aforesaid, the Condominium Property shall be subject to an action for partition by any Unit Owner, mortgagee or lienor as if owned in common in which event the net proceeds of the partition sale shall be divided among all Unit Owners in proportion to their respective interests in the Common Elements or such other method as may be approved by 80% of the applicable interests in the Common Elements, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such net proceeds all mortgages and liens on his Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the basis of the termination and said certificate shall be recorded among the public records of the County.

This Section may not be amended without the consent of the Primary Institutional First Mortgagee and the Developer as long as it owns any Unit.

21. Environmental Matters.

- 21.1 Obligations. No Hazardous Substances shall be used, manufactured, produced, refined, transferred, packaged, labeled, treated, leached, spilled, cleaned, stored, held, released, emitted, discharged, generated, processed, abated, removed, disposed, handled or transported or in any manner dealt with in any Unit or on the Condominium, except Hazardous Substances

which are stored, handled, used and disposed of in strict compliance with Environmental Laws and subject to the limitations of Section 17.1 of this Declaration. Each Unit shall at all times be owned, occupied, operated and maintained in strict compliance with all of the Environmental Laws. Each Unit Owner and tenant or occupant of a Unit shall at all times maintain in full force and effect all necessary permits, licenses, approvals and other authorizations required under the Environmental Laws for the Unit and the use or intended use thereof. No portion of the Condominium shall be used as a landfill or a dump. No Unit Owner and tenant or occupant of a Unit shall install any underground tanks of any type; nor shall any Unit Owner and tenant or occupant of a Unit allow any surface or subsurface conditions to exist or come into existence that constitute, or with the passage of time may constitute, a public or private nuisance.

21.2 Indemnification. Each Unit Owner, occupant of a Unit, tenant or other invitee of a Unit Owner ("Indemnitor") agrees to indemnify and hold harmless the Association, its officers, directors, employees, agents, contractors, consultants, licensees, all other Unit Owners and tenants and the Developer (collectively, "Indemnitees") from and against any and all losses, liabilities, damages, demands, claims, actions, judgments, causes of action, assessments, penalties, costs and expenses (including, without limitation, all amounts for investigation, monitoring, remediation, response, action, removal, restoration and permits and the reasonable fees and disbursements of attorneys, environmental experts, and accountants) arising as a result of or in connection with any of the following (the "Indemnified Claims"):

- (a) any Hazardous Substance Activity occurring in, on or about the Indemnitor's Unit or the Condominium;
- (b) any violation of or failure to comply with any applicable Environmental Laws relating to the Indemnitor's Unit, the Condominium or to the ownership, use, occupancy, or operation of the Unit;
- (c) any investigation, inquiry, order, hearing, action, or other proceeding by or before any governmental agency in connection with any Hazardous Substance Activity;
- (d) any preparation, investigation, inspection or execution of any remediation work in connection with any Hazardous Substance Activity; or
- (e) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against the Association, regardless of when such claim, demand, or cause of action or other proceeding brought or asserted, which directly or indirectly relates to, arises from or is based on any of the matters described in Clause 21.2(a), (b), (c), (d) or any allegation of any such matters.

The Indemnified Claims shall include all reasonable attorney's fees and costs (whether or not legal action has been instituted) at investigative, trial and appellate levels incurred by Indemnitees. Indemnitor agrees to undertake the defense of any administrative or judicial proceeding including any appellate proceeding arising from or related to the Indemnified Claims (provided, however, with respect to any such appellate proceeding Indemnitor shall have the right, in lieu of defending such appellate proceeding, to discharge or satisfy the underlying claim or obligation giving rise to such appeal) and to indemnify Indemnitees from any and all costs, attorney's fees, fines or costs arising out of such proceedings.

Indemnitor shall promptly advise Association in writing of any of the following (an "Environmental Complaint"): (i) any complaint, order, citation or notice with regard to air emissions, water discharges, or any other environmental, health or safety matter affecting Indemnitor, the Unit or Condominium from any person or entity or governmental agency or body (including, without limitation, the EPA), (ii) any governmental or regulatory actions instituted or threatened in writing under any Environmental Laws received by Indemnitor affecting the Unit or Condominium or any indemnity hereunder, including, without limitation, any notice of inspection, abatement or noncompliance, (iii) all claims made or threatened in writing by any third party against Indemnitor relating to any Hazardous Substance or a violation of Environmental Laws, (iv) Indemnitor's discovery of any occurrence or condition in the Unit or Condominium or real property adjoining the Condominium which could subject Indemnitor, the Association, any other Unit Owner, any Unit or the Condominium to a claim under any Environmental Law, and (v) Indemnitor's discovery of any Hazardous Substance Activity in, on, under or about the Unit or Condominium or the existence of any Hazardous Substances emanating from or passing through the Unit. Indemnitor shall provide Association with a copy of any request for information or any inspection of the Unit by any governmental authority with respect to any Hazardous Substances or Hazardous Substance Activity and a copy of any response to each such request or inspection and any written notice of any pending or threatened proceeding, advice or inquiry concerning the Unit (or any portion thereof) which relates to any Hazardous Substances, Hazardous Substance Activity or pollution or protection of the environment, promptly after delivery thereof.

The rights of the Association under this Article shall be in addition to any other rights and remedies of the Association against Indemnitor at law or in equity (including, without limitation, any right of reimbursement or contribution pursuant to CERCLA), and shall not in any way be deemed a waiver of any such rights.

- 21.3 Notice of Possible Claims. If any Indemnatee shall receive notice of an assertion by any third party of a claim against the Indemnatee that, in the

judgment of the Indemnitee, may result in the incurrence by the Indemnitee of damages for which the Indemnitee would be entitled to indemnification pursuant to this Declaration, the Indemnitee shall promptly deliver to Indemnitor a written notice describing in reasonable detail such claim and Indemnitor shall assume the defense of the Indemnitee against such claim (including the employment of counsel, who shall be counsel satisfactory to the Indemnitee, and the payment of expenses). The Indemnitee shall have the right to employ separate counsel in any such action or claim and to participate in the defense thereto. The fees and expenses of such counsel shall be at the expense of Indemnitor. Indemnitor shall be liable to indemnify the Indemnitee for any settlement of any such action or claim or if there be a final judgment not on appeal for the plaintiff in any such action, Indemnitor shall indemnify and hold harmless the Indemnitee from and against any loss or liability by reason of such settlement or judgment.

21.4 Notice of Actual Claim. If the Indemnitee shall incur any damages and shall consider that such Indemnitee is entitled to be indemnified against such damages by Indemnitor hereunder, such Indemnitee shall deliver a certificate signed by a representative of the Indemnitee (the "Certificate") to Indemnitor, which Certificate shall

- (a) state that the Indemnitee has paid or properly accrued damages for which such Indemnitee is entitled to indemnification pursuant to this Agreement; and
- (b) specify in reasonable detail each individual item of damage included in the amount so stated, the date such item was paid or properly accrued and the nature of the default or breach of covenant to which each such item is related and the computation of the amount to which such Indemnitee claims to be entitled hereunder.

21.5 Payment of Claim. Within fifteen (15) days after receipt of the Certificate set forth above: (a) Indemnitor shall pay to the Indemnitee in cash an amount equal to the amount set forth in the Certificate if the Indemnitee shall have previously paid such claim or (b) Indemnitor shall pay such amount necessary to satisfy the claim directly to the holder of the claim if the Indemnitee has not previously paid the claim; provided, however, that, in the event that the Indemnitee subsequently recovers any or all of the amount of the claim from a party other than Indemnitor, the Indemnitee shall reimburse immediately to Indemnitor in cash an amount equal to the amount of such previously paid claim which shall have been recovered. Any amount due and payable hereunder to the Association by Indemnitor which is not paid within fifteen (15) days after receipt of the Certificate set forth from the Association shall bear interest from the date of such Certificate at the maximum lawful rate and shall be secured by a lien against the Indemnitor's Unit.

- 21.6 Audits; Investigations; Remediation. The Association may obtain, at Indemnitor's expense, an environmental audit prepared by an independent engineer or other qualified environmental consultant of the Association's choice, which evaluates (i) whether any Hazardous Substances are present in any Unit or the Condominium or in the soil or surface or ground water adjacent to any such Condominium in quantities that would violate applicable Environmental Laws, (ii) whether any Hazardous Substance Activities are now or have previously occurred at a Unit, and (iv) whether activities presently being conducted at a Unit are in compliance with all applicable Environmental Laws. The environmental audit shall be based upon sampling of the soil, air, waters, materials, visual inspection, and such other methods as shall be appropriate. All sampling shall be conducted using accepted and scientifically valid technology and methodologies. The consultant shall prepare a written report detailing its findings and conclusions.

The Indemnitor agrees that in the event Association requests an audit and such audit indicates past or present Hazardous Substance Activity, the Association may, in its sole discretion, require that Indemnitor shall take all steps necessary to further define the nature of the Hazardous Substances, any risks related to or resulting therefrom, and possible remedial measures; and thereafter may also require that all violations of law with respect to Hazardous Substances be corrected by Indemnitor and that Indemnitor obtain all necessary environmental permits and approvals associated therewith.

Association shall have the right, but not the obligation, to enter the Unit or to take such other actions as it deems necessary or advisable to clean up, remove, decontaminate, detoxify, resolve or minimize the impact of, or otherwise deal with, any such Hazardous Substances or Environmental Complaint following receipt of any notice from any person or entity (including, without limitation, the EPA) asserting the existence of any Hazardous Substances or an Environmental Complaint pertaining to a Unit, the Condominium or any part thereof which, if true, could result in any order, suit or other action against Indemnitor and/or which, in the sole opinion of Association, could create or impose liability on the Association. All reasonable costs and expenses incurred by Association in the exercise of any such rights shall be payable by Indemnitor upon demand.

Association shall have the right, in its sole discretion, to require Indemnitor to periodically (but not more frequently than annually unless an environmental complaint is then outstanding) perform (at Indemnitor's expense) an environmental audit and, if deemed necessary by Association, an environmental risk assessment, each of which must be satisfactory to Association, of the Unit, hazardous waste management practices and/or hazardous waste disposal sites used by Indemnitor, if any, and of compliance

with all permits, consent orders, licenses, approvals, permissions or any of the like required for the operation of the Unit or any business, process or activity thereon. Said audit and/or risk assessment must be by an environmental consultant satisfactory to Association. Should Indemnitor fail to perform said environmental audit or risk assessment within thirty (30) days of the Association's written request, Association shall have the right but not the obligation to retain an environmental consultant to perform said environmental audit or risk assessment. All costs and expenses incurred by Association in the exercise of such rights shall be secured by the Mortgage and shall be payable by Indemnitor upon demand.

22. Additional Rights of Mortgagees and Others.

22.1 Availability of Association Documents. The Association shall have current and updated copies of the following available for inspection by Institutional First Mortgagees during normal business hours or under other reasonable circumstances as determined by the Board: (a) this Declaration; (b) the Articles; (c) the Bylaws; (d) the rules and regulations of the Association; and (e) the books, records and financial statements of the Association.

22.2 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 and/or Condominium Property or the affected mortgaged Unit;
- (b) a sixty (60) day delinquency in the payment of the Assessments 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;
- (d) any proposed action which requires the consent of a specified number of mortgage holders.

22.3 Additional Rights. Institutional First Mortgagees shall have the right, upon written request to the Association, to: (a) receive a copy of an audited financial statement of the Association for the immediately preceding fiscal year if such statements were prepared; and (b) receive notices of and attend Association meetings.

23. Covenant Running with the Land. All provisions of this Declaration, the Articles, Bylaws and applicable rules and regulations of the Association, shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with

every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Developer and subsequent Owner(s) of the Land or any part thereof, or interest therein, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Unit Owners, tenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration and such Articles, Bylaws and applicable rules and regulations, as they may be amended from time to time. The acceptance of a deed or conveyance, or the entering into occupancy of any Unit, shall constitute and adoption and ratification of the provisions of this Declaration, and the Articles, Bylaws and applicable rules and regulations of the Association, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained herein.

24. Disclaimer of Warranties. Developer hereby disclaims any and all express or implied warranties as to design, construction, sound transmission, furnishing and equipping of the Condominium Property, except only those set forth in section 718.203 of the Act, to the extent applicable and to the extent that same have not expired by their terms. As to such warranties which cannot be disclaimed, and to other claims, if any, which can be made as to the aforesaid matters,, all incidental and consequential damages arising therefrom are hereby disclaimed.

Without limiting the generality of the foregoing, Developer further disclaims any liability to comply with, or upgrade any improvements and/or the Condominium Property as a result of, any changes or modifications to, or adoption of further federal, state or municipal laws, codes, ordinances regulations or rules hereafter applicable to the Condominium Property.

All Unit 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 and consequential damages.

25. CPI. Whenever specific dollar amounts are recited in this Declaration (or in the Articles or Bylaws or rules and regulations), unless limited by law or by the specific text hereof (or thereof) or unless held to be unconscionable, such amounts will be increased from time to time by application of a nationally recognized consumer price index chosen by the Board, using the date this Declaration is recorded as the base year. In the event no such consumer price index is available, the Board shall choose a reasonable alternative to compute such increases.
26. Exculpation. Notwithstanding anything herein to the contrary, the representations, covenants, undertakings and agreements made in the Declaration by Developer are not made and intended as personal representations, covenants, undertakings and agreements by the Developer or for the purpose or with the intention of binding the

Developer personally but are made and intended for the purpose of binding the trust property. This Declaration is executed and delivered by the Developer executing the same not personally but as a trustee, and solely in the exercise of the powers conferred upon him as a trustee. No personal liability is assumed by nor shall at any time be asserted or enforceable against the Developer or beneficiary thereof on account of any representation, covenant, undertaking or agreement of the Developer contained in this Declaration, either expressed or implied. All such personal liability, if any, is expressly waived and released by the Unit Owners and by all persons claiming by, through or under the Unit Owners.

27. Additional Provisions.

- 27.1 Notices. All notices to the Association required or desired hereunder or under the Bylaws of the Association shall be sent by certified mail (return receipt requested) to the Association 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 Condominium address of such Unit Owner, or such other address as may have been designated by him from time to time, in writing, to the Association. All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association. All notices shall be deemed to have been given when mailed in a postage prepaid sealed wrapper, except notices of a change of address, which shall be deemed to have been given when received, or 5 business days after proper mailing, whichever shall first occur.
- 27.2 Interpretation. The Board of Directors of the Association shall be responsible for interpreting the provisions hereof and of any of the Exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of legal counsel that any interpretation adopted by the Association is not reasonable shall conclusively establish the validity of such interpretation.
- 27.3 Mortgagees and Lienors. Anything herein to the contrary notwithstanding, the Association shall not be responsible to any mortgagee or lienor of any Unit hereunder, and may assume the Unit is free of any such mortgages or liens, unless written notice of the existence of such mortgage or lien is received by the Association.
- 27.4 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 those in this Declaration.

- 27.5 Signature of President and Secretary. Wherever the signature of the President of the Association is required hereunder, the signature of the 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.
- 27.6 Governing Law. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits annexed hereto or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida.
- 27.7 Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, paragraph, clause, phrase or word, or other provision of this Declaration, the Exhibits annexed hereto, or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.
- 27.8 Waiver. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision 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, shall not constitute a waiver of their right to do so thereafter.
- 27.9 Ratification. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Unit, by reason of this occupancy, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and Bylaws of the Association, and applicable rules and regulations, are fair and reasonable in all material respects.
- 27.10 Execution of Documents; Attorney-in-Fact. Without limiting the generality of other Sections of this Declaration and without such other Sections limiting the generality hereof, each Owner, by reason of the acceptance of a deed to such Owner's Unit, hereby agrees to execute, at the request of the Developer, all documents or consents which may be required by all governmental agencies to allow the Developer and its affiliates to complete the plan of development of the Condominium as such plan may be hereafter amended, and each such Owner further appoints hereby and thereby the Developer as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of such Owners, any and all of such documents or consents.

This Power of attorney is irrevocable and coupled with an interest. The provisions of this Section may not be amended without the consent of the Developer.

27.11 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.

27.12 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.

27.13 Liability. Notwithstanding anything contained herein or in the Articles of Incorporation, By-laws, 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 and/or Condominium 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 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. As used herein, "Association" shall include within its meaning all of Association's directors, officers, committee and board members, employees, agents, contractors, successors and assigns. The provisions hereof shall also inure to the benefit of Developer, which shall be fully protected hereby.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed and its corporate seal to be hereunto affixed as of the 17 day of April, 2006.

Witnessed by:

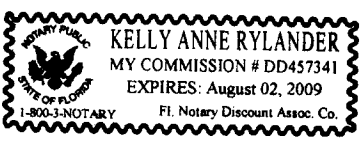
B & B BUSINESS CENTER, LLC,
a Florida limited liability company

[Signature]
Name: Robert S. Dea
[Signature]
Name: Karen Brant

By: [Signature], its

STATE OF FLORIDA)
) ss:
COUNTY OF Broward)

The foregoing instrument was acknowledged before me this 17 day of April, 2006, by Andrew Behm, as President of B & B BUSINESS CENTER, LLC, a Florida limited liability company, who is personally known to me or has produced Florida Drivers License as identification.



[Signature]
Name:

My Commission Expires:

Notary Public, State of Florida
Commission No.:

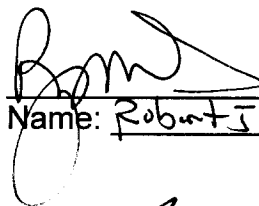
JOINDER

NOB HILL BUSINESS CENTER CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, hereby agrees to accept all the benefits and all of the duties, responsibilities, obligations and burdens imposed upon it by the provisions of this Declaration and Exhibits attached hereto.

IN WITNESS WHEREOF, NOB HILL BUSINESS CENTER CONDOMINIUM ASSOCIATION, INC. has caused these presents to be signed by its proper officer and its corporate seal to be affixed this 17 day of April, 2006.

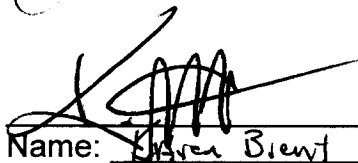
Witnessed by:

NOB HILL BUSINESS CENTER
CONDOMINIUM ASSOCIATION, INC., a Florida
not for profit corporation


Name: Robert J. Davis

By: 
Name: _____
Title: _____

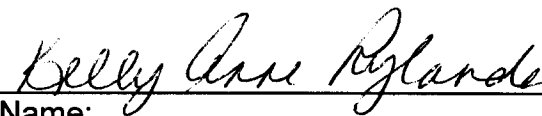
(Corporate Seal)


Name: Karen Brent

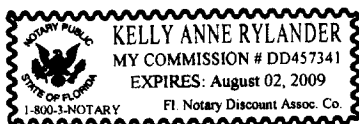
Address: _____

STATE OF FLORIDA)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 17 day of April, 2006, by Andrew Behm, as President of NOB HILL BUSINESS CENTER CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, on behalf of the corporation. He/she is personally known to me or has produced Florida Drivers License as identification.


Name: _____
Notary Public, State of Florida

My Commission Expires:



CONSENT OF MORTGAGEE

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, TRANSCAPITAL BANK, a Florida banking corporation (hereinafter called the "Mortgagee"), is the owner and holder of that certain Mortgage and Security Agreement ("Mortgage"), dated August 23, 2005, and recorded September 28, 2005, in Official Records Book 40600, at Page 1119, of the Public Records of Broward County, Florida; and

WHEREAS, the Mortgage encumbers all of the Property being encumbered by this Declaration of Condominium for NOB HILL Business Center Condominium ("Declaration") recorded herewith;

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration received, the Mortgagee hereby consents to the Declaration.

IN WITNESS WHEREOF, TRANSCAPITAL BANK, a Florida banking corporation, has caused these presents to be signed by its proper officer and its corporate seal to be affixed this 25th day of April, 2006.

Witnessed by:

Veronica Abreu
Name: Veronica Abreu

Sherie M. Selui
Name: Sherie M. Selui

TRANSCAPITAL BANK

By: [Signature]
Name: William E. Himes
Title: VP

Address: 2100 E. Hallandale Beach Blvd.
Hallandale, FL 33009

(Corporate Seal)

STATE OF FLORIDA)
COUNTY OF Broward) ss:

The foregoing instrument was acknowledged before me this 25th day of April, 2006, by William E. Himes, as Exec. V.P. of TRANSCAPITAL BANK, on behalf of the Mortgagee. (He/she is personally known to me or has produced as identification.

Veronica Abreu
Name: Veronica Abreu
Notary Public, State of Florida

My Commission Expires:

Veronica Abreu
MY COMMISSION # DD166640 EXPIRES
November 19, 2006
NOTED THRU TROY FAIN INSURANCE, INC.

**SCHEDULE OF EXHIBITS TO
DECLARATION OF CONDOMINIUM
FOR
NOB HILL BUSINESS CENTER CONDOMINIUM**

Exhibit "A"	Legal Description of the Land
Exhibit "B"	Survey of the Land, a graphic description of the Improvements located thereon, including the Building in which the Units are located, and a plot plan thereof.
Exhibit "C"	Percentage Interest in the Common Elements and Common Surplus, and the Percentage Share of the Common Expenses for each Unit, and number of Votes allocated to each Unit.
Exhibit "D"	Articles of Incorporation for NOB HILL Business Center Condominium Association, Inc., a Florida not for profit corporation.
Exhibit "E"	Bylaws for NOB HILL Business Center Condominium Association, Inc., a Florida not for profit corporation.

EXHIBIT "A"

Parcel B, SUNRISE INDUSTRIAL PARK, PARCELS 9 and 25, according to the Plat thereof, as recorded in Plat Book 128, Page 124, of the Public Records of Broward County, Florida; LESS and EXCEPT the land conveyed to Broward County, as described in Deed recorded in O.R. Book 19078, Page 42, of said Public Records.

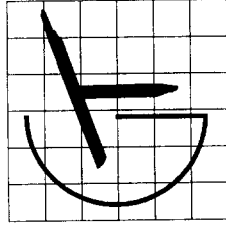
NOB HILL BUSINESS CENTER
CONDOMINIUM
UNITS 5349-5399

THE UNDERSIGNED BEING A PROFESSIONAL SURVEYOR MAPPER AUTHORIZED TO PRACTICE IN THE STATE OF FLORIDA, HEREBY CERTIFIES THAT THE CONSTRUCTION OF THE IMPROVEMENTS OF NOB HILL BUSINESS CENTER CONDOMINIUM DESCRIBED IN THIS SURVEY, PLOT PLAN AND GRAPHIC DESCRIPTION OF IMPROVEMENTS ON SHEETS 1 THROUGH -- IS SUBSTANTIALLY COMPLETE SO THAT SUCH MATERIAL TOGETHER WITH THE PROVISIONS OF THE DECLARATION OF CONDOMINIUM OF NOB HILL BUSINESS CENTER CONDOMINIUM AS RECORDED IN OFFICIAL RECORDS BOOK --, PAGE -- OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND ANY AMENDMENTS THERETO DESCRIBING THE CONDOMINIUM, IS AN ACCURATE REPRESENTATION OF THE IDENTIFICATION, LOCATION, AND DIMENSIONS OF EACH UNIT CAN BE DETERMINED FROM THESE MATERIALS.

THE UNDERSIGNED ALSO CERTIFIES THAT THIS BOUNDARY SURVEY IS IN COMPLIANCE WITH THE "MINIMUM TECHNICAL STANDARDS" PROMULGATED PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

UNLESS IT BEARS THE SIGNATURE AND RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATION PURPOSES ONLY AND IS NOT VALID

DATE	DESCRIPTION
01-24-06	SURVEYORS' CERTIFICATE
	SCALE: NOT TO SCALE
	PAGE 1 OF 4

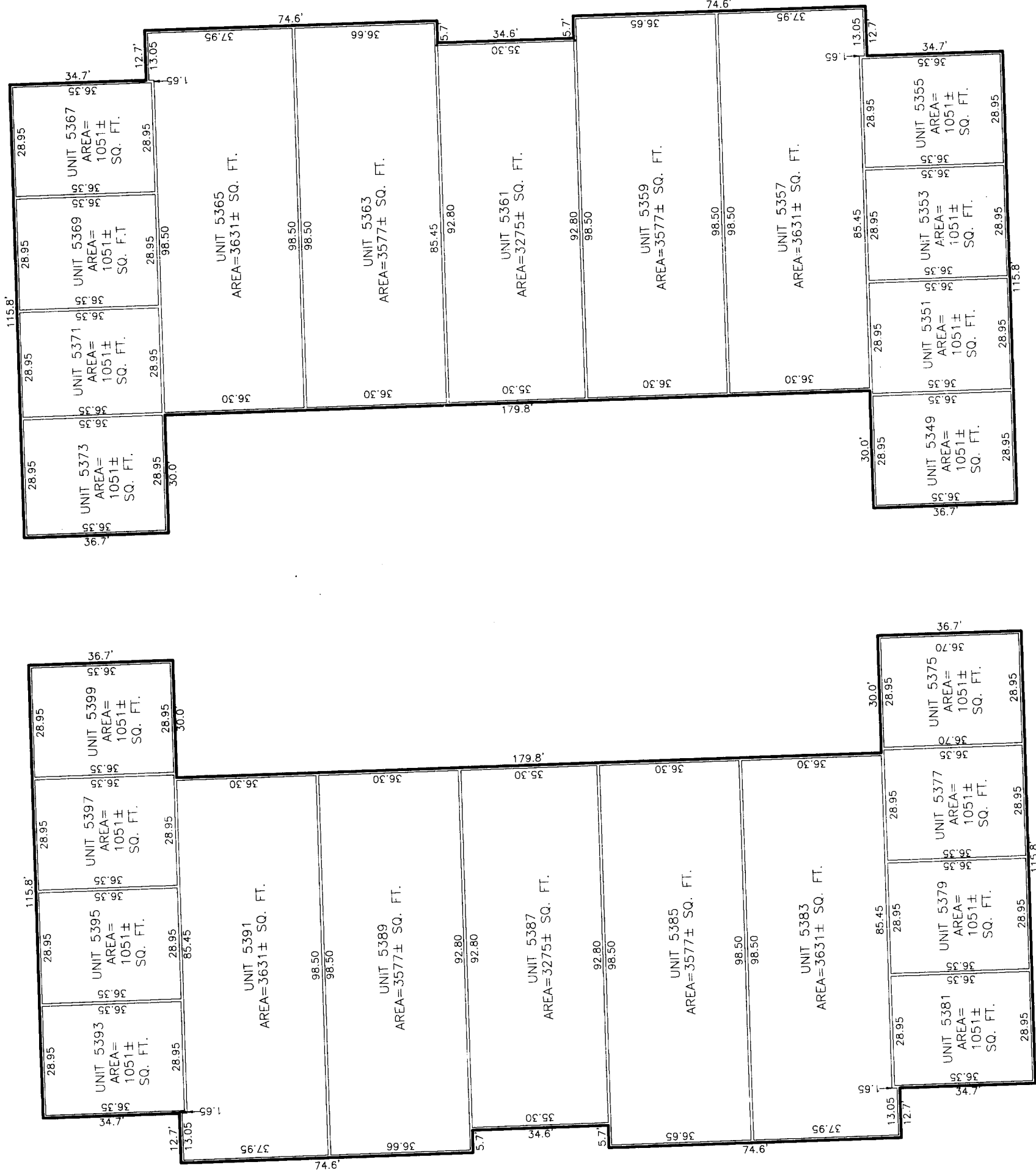


GT SURVEYING SERVICES, INC.
1860 OLD OKEECHOBEE ROAD
SUITE NO. 501
WEST PALM BEACH
FLORIDA 33409
OFFICE: 561-688-0553
FAX: 561-688-9579
E-MAIL: gt@gtsurveyinc.com



SIGNED: _____
GINO FURLAN, SURVEYOR AND MAPPER
FLORIDA LICENSE NO.: 5044
FLORIDA CERTIFICATE OF AUTHORIZATION NO.: 6026

NOB HILL BUSINESS CENTER
CONDOMINIUM
PROPOSED FLOOR PLAN
UNITS NO. 5349-5399

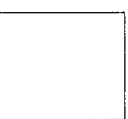


DATE	DESCRIPTION
01-24-06	PROPOSED FLOOR PLAN
	SCALE: 1"=30'
	PAGE 4 OF 4

GT SURVEYING SERVICES, INC.

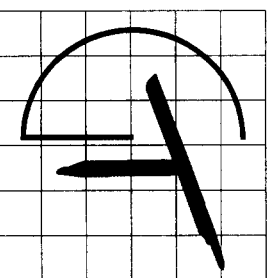
1860 OLD OKEECHOBEE ROAD
SUITE NO. 501
WEST PALM BEACH
FLORIDA 33409
OFFICE: 561-688-0553
FAX: 561-688-9579
E-MAIL: gt@gtsurveyinc.com

NOB HILL BUSINESS CENTER CONDOMINIUM PROPOSED PLOT PLANS UNITS NO. 5349-5399

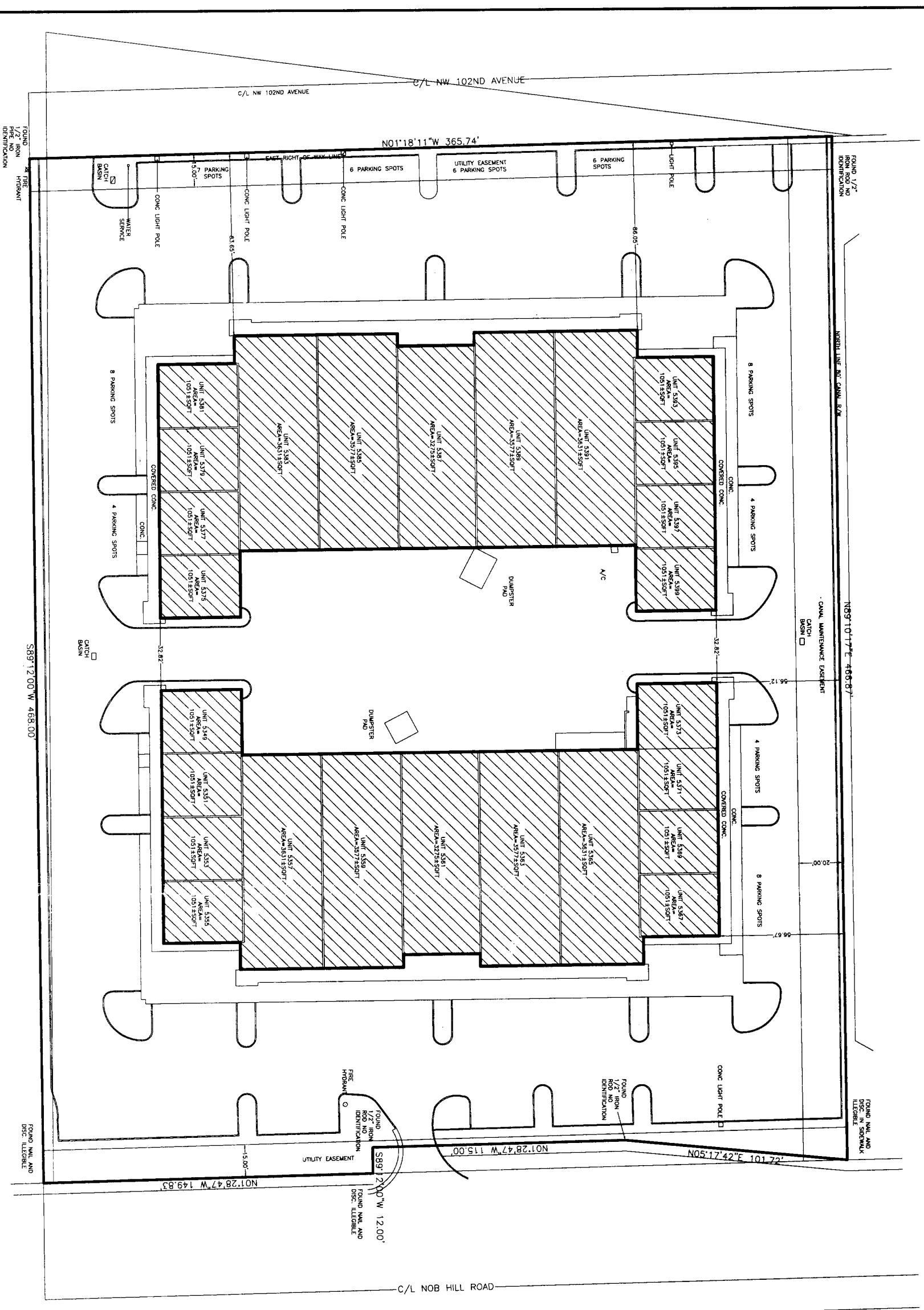


CLEAR AREA INDICATES COMMON
AND LIMITED COMMON ELEMENTS

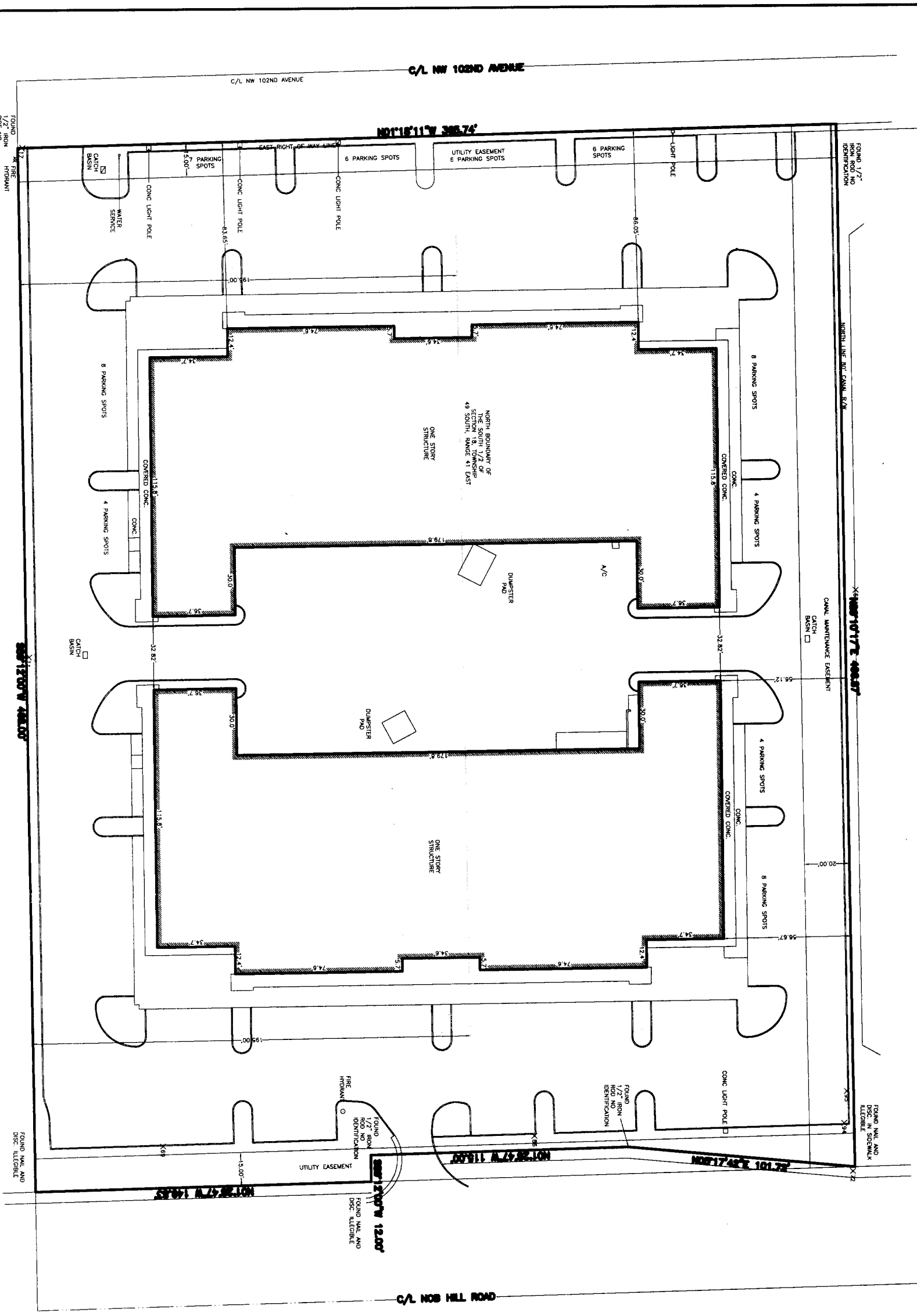
DATE	DESCRIPTION
01-24-06	PLOT PLAN AND ELEMENTS
	SCALE: 1"=50'
	PAGE 3 OF 4



**GT SURVEYING
SERVICES, INC.**
1860 OLD OKEECHOBEE ROAD
SUITE NO. 501
WEST PALM BEACH
FLORIDA 33409
OFFICE: 561-688-0553
FAX: 561-688-9579
E-MAIL: gt@gtsurveyinc.com



NOB HILL BUSINESS CENTER CONDOMINIUM BOUNDARY SURVEY



DATE	DESCRIPTION
08-18-05	BOUNDARY SURVEY
	SCALE: 1"=50'
	PAGE 2 OF 4

**GT SURVEYING
SERVICES, INC.**
 1860 OLD OKEECHOBEE ROAD
 SUITE NO. 501
 WEST PALM BEACH
 FLORIDA 33409
 OFFICE: 561-688-0553
 FAX: 561-688-9579
 E-MAIL: gt@gtsurveyinc.com

NOB HILL BUSINESS CENTER, A CONDOMINIUM
PERCENTAGE INTEREST IN COMMON ELEMENTS

TOTAL OPERATING EXPENSES: (from Budget pg)					\$ 66,375.00
UNIT #	UNIT AREA	UNIT VOTE ALLOCATION	Total Building Unit Area	% OWNERSHIP	Unit Monthly Assessment
5349	1,051	1	52,198	2.0135%	\$ 111.37
5351	1,051	1	52,198	2.0135%	\$ 111.37
5353	1,051	1	52,198	2.0135%	\$ 111.37
5355	1,051	1	52,198	2.0135%	\$ 111.37
5357	3,631	3	52,198	6.9562%	\$ 384.77
5359	3,577	3	52,198	6.8528%	\$ 379.04
5361	3,275	3	52,198	6.2742%	\$ 347.04
5363	3,577	3	52,198	6.8528%	\$ 379.04
5365	3,631	3	52,198	6.9562%	\$ 384.77
5367	1,051	1	52,198	2.0135%	\$ 111.37
5369	1,051	1	52,198	2.0135%	\$ 111.37
5371	1,051	1	52,198	2.0135%	\$ 111.37
5373	1,051	1	52,198	2.0135%	\$ 111.37
5375	1,051	1	52,198	2.0135%	\$ 111.37
5377	1,051	1	52,198	2.0135%	\$ 111.37
5379	1,051	1	52,198	2.0135%	\$ 111.37
5381	1,051	1	52,198	2.0135%	\$ 111.37
5383	3,631	3	52,198	6.9562%	\$ 384.77
5385	3,577	3	52,198	6.8528%	\$ 379.04
5387	3,275	3	52,198	6.2742%	\$ 347.04
5389	3,577	3	52,198	6.8528%	\$ 379.04
5391	3,631	3	52,198	6.9562%	\$ 384.77
5393	1,051	1	52,198	2.0135%	\$ 111.37
5395	1,051	1	52,198	2.0135%	\$ 111.37
5397	1,051	1	52,198	2.0135%	\$ 111.37
5399	1,051	1	52,198	2.0135%	\$ 111.37
TOTALS	52,198			100.0000%	\$ 5,531.25
ANNUAL TOTAL					\$ 66,375.00