

This instrument prepared by:  
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(space above line for official use only)

**DECLARATION OF CONDOMINIUM  
FOR  
PORTOFINO AT PONTE VEDRA, A CONDOMINIUM**

MADE this 1<sup>st</sup> day of November 2005 by Crosswinds at Mickler's Bend, LLC, a Florida limited liability company (the "Developer"), for itself and its successors, grantees and assigns.

**WHEREIN** the Developer makes the following declarations:

- 1. THE LAND.** The Developer owns in fee simple title to certain real property located in St. Johns County, Florida, as more particularly described in Exhibit "A" attached hereto (the "Condominium Property").
- 2. SUBMISSION STATEMENT.** The Developer hereby submits the Condominium Property described in Exhibit "A" to this Declaration, and all improvements erected or to be erected thereon, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, located within it, to the condominium form of ownership and use in the manner provided by Chapter 718, Florida Statutes (the "Florida Condominium Act"), as it exists on the date of recording this Declaration, excluding therefrom, however, all public utility installations, cable television lines, and other similar equipment, if any, owned by the utility furnishing services to the condominium. The covenants and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future owners of Condominium Parcels, as hereafter defined. The acquisition of title to a Unit, as hereafter defined, or any interest in the Condominium Property, or the lease, occupancy, or use of the Condominium Property shall constitute an acceptance and ratification of all provisions of this Declaration as it may be amended from time to time, and shall signify agreement to be bound by its terms.
- 3. NAME.** The name by which this Condominium shall be identified is PORTOFINO AT PONTE VEDRA, A CONDOMINIUM, (the "Condominium") and its address is c/o 600 Corporate Drive, Suite 102, Fort Lauderdale, Florida 33334.
- 4. DEFINITIONS.** The terms used in this Declaration and its exhibits shall have the meanings stated below and in Chapter 718, Florida Statutes, unless the context otherwise requires. Terms used and not defined herein have the meaning given to them by the Florida Condominium Act.

- 4.1 **“Assessment”** means a share of the funds required for the payment of common expenses which from time to time is assessed against the Units.
- 4.2 **“Association”** means the Portofino at Ponte Vedra Condominium Association, Inc., a Florida not for profit corporation, the entity responsible for the operation of this Condominium.
- 4.3 **“Association Property”** means all property, real or personal, owned by the Association for the use and benefit of the Unit Owners.
- 4.4 **“Board of Directors”** or **“Board”** means the representative body which is responsible for the administration of the Condominium Association’s affairs, and is the same body referred to in the Condominium Act as the “Board of Administration.” Except for those directors appointed by the Developer, each director must be a member or the spouse of a member or an officer, owner or member in an entity that is a member of the Association.
- 4.5 **“Building”** means the structures to be constructed upon the Condominium Property.
- 4.6 **“Common Elements”** means (a) the portions of the Condominium Property that are not included in the Units; (b) an easement of support in every portion of the Buildings that contribute to the support of the Units and the Condominium Property; and (c) all other portions of the Condominium Property declared as Common Elements in this Declaration.
- 4.7 **“Common Surplus”** means the excess of all receipts of the Association collected on behalf of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, over the amount of “Common Expenses,” as defined in Section 11.1 herein.
- 4.8 **“Condominium Documents”** means this Declaration and all recorded exhibits hereto, as amended from time to time.
- 4.9 **“Condominium Property”** has the meaning ascribed to it in Section 1 herein.
- 4.10 **“Developer”** includes its designated successors and assigns. Developer shall have the right to assign any and all of the rights and privileges reserved for Developer under this Declaration. A Unit Owner, solely by the purchase of a Unit, shall not be deemed a successor or assign of Developer or of the rights of Developer under the Condominium Documents or by law unless such Unit Owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Developer.
- 4.11 **“Family”** or **“Single Family”** shall refer to any one (1) of the following:
- (A) One (1) natural person.
  - (B) Two (2) or more natural persons who commonly reside together as a single housekeeping Unit, each of whom is related by blood, marriage or adoption to each of the others.

- (C) Two (2) or more natural persons meeting the requirements of (B) above, except that there is among them not more than one (1) person who is not related to some or all of the others.

4.12 "**Guest**" means any person (other than the Unit Owner and his or her family) who is physically present in, or occupies a Unit on a temporary basis at the invitation of the Unit Owner or other permitted Occupant, without the payment of consideration. "Temporary" means not longer than sixty (60) days in any calendar year.

4.13 "**Institutional Mortgagee**" shall refer to any one (1) of the following:

- (A) A lending institution holding a mortgage encumbering a Unit, including, without limitation, any of the following types of institutions or entities: a federal or state savings and loan or building and loan association, a bank chartered by a state or federal government, a real estate investment trust, a pension and profit sharing trust, a mortgage company doing business in the State of Florida, or a life insurance company doing business in Florida which is approved by the Commissioner of Insurance of the State of Florida.
- (B) A governmental, quasi-governmental or private company that is engaged in the business of making, purchasing, holding, guaranteeing or insuring residential mortgages, including, without limitation, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration and the Department of Urban Development.

4.14 "**Lease**" means the grant by a Unit Owner of a temporary right of use of the Unit Owner's Unit for valuable consideration.

4.15 "**Limited Common Elements**" means those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of other Units, as further described in Section 9 hereof.

4.16 "**Occupant,**" when used in connection with a Unit, refers to a person staying overnight in a Unit.

4.17 "**Primary Institutional Mortgagee**" means that Institutional Mortgagee which, at the time a determination is made, holds more first mortgages on Units in the Condominium than any other Institutional Mortgagee, such determination to be made by reference to the number of Units encumbered, and not by the dollar amount of such mortgages.

4.18 "**Rules and Regulations**" means the rules and regulations promulgated by the Board of Directors concerning the use of the Common Elements and the operation of the Association.

**4.19** **“Subsequent Phase II Unit”** means the Unit that may be constructed and added to the Condominium as a subsequent phase, as further described in Section 7, below.

**4.20** **“Unit”** means a part of the Condominium Property which is to be subject to private ownership as designated herein. Unless otherwise provided, reference herein to Unit shall include the Subsequent Phase II Unit, if added to the Condominium.

**4.21** **“Unit Owner”** or **“Owner”** has the same meaning as the term **“Unit Owner”** as defined in the Condominium Act.

## **5. DESCRIPTION OF IMPROVEMENTS; SURVEY AND PLANS.**

**5.1** **Survey and Plot Plans.** Attached to this Declaration as part of Exhibit “B” and incorporated by reference herein, are a survey of the Condominium Property and plot plans, which graphically describe the improvements in which Units are located, and which show all the Units, including their identification numbers, locations and approximate dimensions and the Common Elements and Limited Common Elements. Together with this Declaration, the exhibit is in sufficient detail to identify each Unit, the Common Elements and Limited Common Elements, and their relative locations and dimensions.

**5.2** **Initial Phase Unit Boundaries.** Each Unit, except the Subsequent Phase II Unit (if added to the Condominium), shall include that part of the Building that lies within the following boundaries:

- (A) **Upper and Lower Boundaries.** The upper and lower boundaries of the Unit shall be the following boundaries extended to their intersections with the perimeter boundaries:
  - (1) **Upper Boundaries.** The horizontal plane of the unfinished lower surface of the ceiling of the Unit.
  - (2) **Lower Boundaries.** The horizontal plane of the unfinished upper surface of the concrete floor of the Unit.
- (B) **Perimeter Boundaries.** The perimeter boundaries of the Unit shall be the vertical planes of the unfinished interior surfaces of the plasterboard or drywall bounding the Unit as shown in Exhibit “B” hereto, extended to their intersections with each other and with the upper and lower boundaries.
- (C) **Interior Walls.** No part of the non-structural interior partition walls within a Unit (including stucco, framing, drywall abutting an exterior or interior structural wall) shall be considered part of the boundary of a Unit.
- (D) **Apertures.** Where there are openings in any boundary, including, without limitation, windows, doors and skylights, the boundaries of the Unit shall extend to the interior unfinished surfaces of the coverings of such openings, and their

frameworks thereof. Therefore, windows, doors, screens and all framing, casings and hardware therefor, are excluded from the Unit.

- (E) **Utilities.** The Unit shall not be deemed to include any pipes, wiring, ducts or other utility installations that are physically within the above-described boundaries, but which serve other Units or the Common Elements. Such utility installations shall be Common Elements or Limited Common Elements, as applicable.

**5.3 Subsequent Phase II Unit Boundaries.** If added, the Subsequent Phase II Unit upper, lower and perimeter boundaries will not be defined by the boundaries of any improvement or Building, but rather will be a description of cubic airspace upon which a 4,800 square foot single family home may be constructed, as further described on Exhibit "E" hereto.

In cases not specifically covered in this Section 5, or in any case of conflict or ambiguity, the graphic depictions of the Unit boundaries set forth in Exhibits "B" and "E" hereto shall control in determining the boundaries of a Unit, except Sections 5.2 (C), (D), and (E), above, shall control over Exhibit "B."

## 6. CONDOMINIUM PARCELS; APPURTENANCES AND USE.

**6.1 Shares of Ownership.** The Condominium contains twenty (20) Units located within five (5) buildings, all of which are residential Units. The Owner of each Unit shall also own an undivided one-twentieth ( $1/20^{\text{th}}$ ) share of the Common Elements and the Common Surplus.

**6.2 Appurtenances to Each Unit.** The Owner of each Unit shall have certain rights and own a certain interest in the Condominium Property, including, without limitation, the following:

- (A) An undivided ownership share in the Condominium Property and other Common Elements and the Common Surplus, as specifically set forth in Section 6.1, above.
- (B) Membership and voting rights in the Association, which shall be acquired and exercised as provided in the Articles of Incorporation and Bylaws of the Association, attached hereto as Exhibits "C" and "D," respectively. The members of the Association shall consist of all record title owners in one (1) or more of the Units, as more particularly described in said Articles and Bylaws. The members of the Association are entitled to one (1) vote for each Unit as more particularly described in said Bylaws.
- (C) The exclusive right to use the Limited Common Elements reserved for the Unit, and the non-exclusive right to use the Common Elements.
- (D) 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. An easement in airspace which is vacated shall be terminated automatically.

- (E) Other appurtenances as may be provided by law or by this Declaration and its exhibits.

Each Unit and its appurtenances constitute a **“Condominium Parcel.”**

**6.3 Use and Possession.** A Unit Owner is entitled to exclusive use and possession of his or her Unit. He or she is entitled to use the Common Elements and Common Property in accordance with the purposes for which they are intended, but no use may unreasonably interfere with the rights of other Unit Owners or other persons having rights to use the Condominium Property. No Unit may be divided or any fractional portion sold, leased or otherwise transferred. The use of the Units, Common Elements and Limited Common Elements shall be governed by the Condominium Documents and by the Rules and Regulations adopted by the Association, through its Board of Directors, as set forth in the Bylaws.

## **7. ADDITION OF SUBSEQUENT PHASE II.**

**7.1 Description of Subsequent Phase II.** Developer reserves the right, but is not obligated, to unilaterally amend this Declaration in order to add land and Units to the condominium regime created hereby as subsequent phase II (“Subsequent Phase II”). The land that will comprise Subsequent Phase II is described on Exhibit “E” hereto. If added, Subsequent Phase II will contain one (1) Subsequent Phase II Unit consisting of cubic airspace upon which a 4,800 square foot single family home may be constructed, as further described on Exhibit “E.”

**7.2 Architectural Restriction and Control of Subsequent Phase II Unit.** In view of the Developer’s plan for the Condominium Property to be developed pursuant to a common and consistent plan, all construction of improvements and landscaping to be located upon the Subsequent Phase II Unit must be consistent with the standards and plans promulgated by Developer respecting architecture, colors, size, height, location, the use of Building materials, signage and other relevant criteria. Prior to the commencement of construction, the Unit Owner intending to construct improvements upon the Subsequent Phase II Unit shall submit to the Developer architectural plans and drawings (the “Plans”) depicting the exterior elements of the proposed improvements and Building. The Developer shall approve or reject the Plans within thirty (30) days after receipt and any rejection shall note with specificity the particular objections. Thereafter, no material deviation shall be made from the approved Plans. The Plans shall comply with all requirements contained in the Planned Unit Development Ordinance Number 2004-38 recorded at Official Record Book R, Page 1699, of the Public Records of St. Johns County, Florida pertaining to the Condominium Property. Developer, and thereafter the Association, have the right to enforce the foregoing by appropriate legal action, including, but not limited to, injunctive relief.

**7.3 Shares of Ownership with Addition of Subsequent Phase II.** If, as and when the Condominium is enlarged by the addition of Subsequent Phase II, each Unit will own an undivided one twenty first (1/21<sup>st</sup>) share in the Common Elements and Common Surplus of the Condominium.

**7.4 Recreational Facilities and Amenities.** There will be no additional recreational facilities or amenities that will be added to the Condominium with the addition of Subsequent Phase II.

**7.5 Voting.** If Subsequent Phase II is added to the Condominium, the votes allocated to each Unit will remain one (1) vote per Unit.

**7.6 Timeshare Estates.** No timeshare estates will be created with respect to the Unit in Subsequent Phase II.

**7.7 Size of Subsequent Phase II Unit.** As described in Section 5.3 above, the Subsequent Phase II Unit is described as a cubic airspace description upon which a 4,800 square foot home may be constructed.

**7.8 Timing.** Subsequent Phase II must be added to the Condominium, if at all, within seven (7) years after the date hereof.

## **8. EASEMENTS.**

**8.1 Easements.** Each of the following easements and easement rights is reserved through the Condominium Property and is a covenant running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Condominium. None of the easements specified in this section may be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of Unit Owners with respect to such easements.

(A) **Utility and other Easements.** The Association has the power, without the joinder of any Unit Owner, to grant easements such as electric, gas, cable television, or other utility or service easements, or relocate any existing easements, in any portion of the Common Elements, and to grant access easements or relocate any existing access easements in any portion of the Common Elements, as the Association shall deem necessary or desirable for the proper operation and maintenance of the Condominium. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the Units. The Association may also transfer title to utility-related equipment, facilities or material, and to take any other action to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred.

(B) **Encroachments.** If any Unit encroaches upon any of the Common Elements or upon any other Unit for any reason other than the intentional act of the Unit Owner, or if any Common Element encroaches upon any Unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.

- (C) Ingress and Egress. A non-exclusive easement shall exist in favor of each Unit Owner and Occupant, their respective Guests and invitees for pedestrian traffic over, through, and across portions of the Common Elements as from time to time may be intended and designated for such purpose and use.
- (D) Support. Each Unit shall have an easement of support and necessity and shall be subject to an easement of support and necessity in favor of all other Units and Common Elements.
- (E) Construction. The Developer (including its designees and contractors) shall have the right to enter the Condominium Property and take any action reasonably necessary or convenient for the purpose of completing the construction thereof, provided such activity does not prevent or unreasonably interfere with the use or enjoyment by the Unit Owners of the Condominium Property.
- (F) Sales Activity. For as long as it holds any Unit for sale in the ordinary course of business, the Developer and its designees shall have the right to use, without charge, any Units owned by it, and the Common Elements, in order to establish, modify, maintain and utilize, as it and they deem appropriate, model apartments and sales and other offices. Without limiting the generality of the foregoing, the Developer and its designees may show Units or the Common Elements to prospective purchasers or tenants, and take all other action helpful for sales, leases and promotion of the Condominium. Any models, sales or other offices, signs and any other items pertaining to any sales or leasing efforts shall not be considered part of the Common Elements and Association Property and shall remain the property of Developer. Developer reserves the right for itself and any of its affiliates to use the office(s) and show models, unsold Units, Common Elements and Association Property to sell, lease or promote other communities located within or outside the Condominium, as Developer and/or any of Developer's affiliates as developers of other communities may determine, in their sole discretion, to the extent permitted by law.
- (G) Warranty. For as long as Developer remains liable under any warranty, whether statutory, express or implied, for act or omission of Developer in development, construction, sale and marketing of the Condominium, then Developer and its contractors, agents and designees shall have the right, in Developer's sole discretion and from time to time, to enter upon the Common Elements and Units for the purpose of making any necessary inspections, tests, repairs, improvements and/or replacements required for the Developer to fulfill any of its warranty obligations. Failure of the Association or any Unit Owner to grant such access may result in the appropriate warranty being nullified and of no further effect. Nothing herein shall be deemed or construed as the Developer making or offering any warranty, all of which are disclaimed to the extent possible, except those set forth herein.
- (H) Subsequent Phase II Unit Landscaping. If added, the Association or its agents shall have the right and easement of ingress and egress, upon and over any portion



of the Subsequent Phase II Unit for the purpose of maintaining and providing all necessary landscaping and gardening to properly maintain and periodically replace, when necessary, the trees, plants, grass and other vegetation.

- (I) The easements and rights described in (E) and (F) above shall terminate upon the sale of all Units in the Condominium to purchasers other than a successor Developer.

**8.2 Restraint Upon Separation and Partition.** The undivided share of ownership in the Common Elements and Common Surplus appurtenant to a Unit cannot be conveyed or encumbered separately from the Unit and shall pass with the title to the Unit, whether or not separately described. No Owner may maintain an action for partition of the Common Elements. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to the Units.

## 9. LIMITED COMMON ELEMENTS.

**9.1 Description of Limited Common Element.** Certain of the Common Elements may be designated as Limited Common Elements, reserved for the use of a particular Unit or Units, to the exclusion of the other Units.

- (A) Garage Parking. Each Unit, except the Subsequent Phase II Unit (if added to the Condominium), will have as an appurtenance the exclusive use of one (1) private garage located within the ground floor of the Building in which the Unit is located. Such garage parking shall be appurtenant to its designated Unit and the right to use such garage parking shall pass with title to the Unit regardless of whether such garage parking shall be referred to in any such Unit deed of conveyance. All parking garages are intended for the primary use of parking and storage of motor vehicles. No designated parking area may be converted to another primary use except with prior approval of the Board of Directors.
- (B) Air Conditioning and Heating Equipment. All equipment, fixtures and installations located outside of a Unit, and which furnish air conditioning or heating exclusively to that Unit, shall be Limited Common Elements, the exclusive use of which is appurtenant to the Unit.
- (C) Balconies and Terraces. Any balcony or terrace which is attached or contiguous to a Unit and lying outside that Unit, but within the Condominium Property, shall be a Limited Common Element, the exclusive use of which is appurtenant to that Unit.
- (D) Buildings 2, 3, 4, 5 and 6 Structural Walls, Plumbing, Pipes, Wires, Ducts and Roof. The structural walls of Buildings 2, 3, 4, 5 and 6, its plumbing, pipes, wires and ducts (not exclusively serving any one (1) Unit) and the roofs, are Limited Common Elements of the Units located within each respective Building. The Association has the obligation to maintain, repair and replace, as further described

in Section 12 hereof, with the cost thereof being assessed to the Owners of Units located within each respective Building as a special assessment. For example, Building 2, as shown on the Plot Plan attached hereto as a portion of Exhibit "B," its plumbing, pipes, wires, ducts (which do not exclusively serve a Unit) and its roof are Limited Common Elements of Units 2-101, 2-102, 2-201 and 2-202 located therein and the cost of maintaining, repairing and replacing them shall be allocated equally to Units 2-101, 2-102, 2-201 and 2-202 as a special assessment. The intent is that the cost to maintain Buildings 2, 3, 4, 5 and 6 be borne solely by those Units located within each respective Building. This provision does not apply to the Subsequent Phase II Unit (if added to the Condominium) since the Building to be constructed thereon is to be constructed within the boundaries of the airspace comprising the Subsequent Phase II Unit and, thus, included as a part of the Unit.

- (E) Subsequent Phase II. If added, all grounds comprising Subsequent Phase II, as defined in Section 7 above, not included within the boundaries of the Subsequent Phase II Unit, shall be a Limited Common Element, the exclusive use of which is appurtenant to the Subsequent Phase II Unit. The Association or its agents shall have the right and easement of ingress and egress, upon and over any portion of the same (in addition to the landscaped areas lying within the Subsequent Phase II Unit) for the purpose of maintaining and providing all necessary landscaping and gardening to properly maintain and periodically replace, when necessary, the trees, plants, grass and other vegetation.
- (F) Others. Any part of the Common Elements that is connected to and exclusively serves a single Unit, and is specifically required in Section 12 of this Declaration to be maintained, repaired or replaced by, or at the expense of, the Unit Owner, shall be deemed a Limited Common Element, whether specifically described above or not.

**9.2 Exclusive Use.** The exclusive right to use a Limited Common Element is an appurtenance to the Unit or Units to which the Limited Common Element is designated or assigned. The right to such use passes with the Unit, whether or not separately described, and cannot be separated from it except by separate assignment.

**10. ASSOCIATION.** The operation of the Condominium is by the Portofino at Ponte Vedra Condominium Association, Inc., a Florida not for profit corporation, which shall perform its functions pursuant to the following:

**10.1 Articles of Incorporation.** A copy of the Articles of Incorporation of the Association is attached as Exhibit "C."

**10.2 Bylaws.** The Bylaws of the Association shall be the Bylaws attached as Exhibit "D," as they may be amended from time to time.

**10.3 Delegation of Management.** The Board of Directors may contract for the management and maintenance of the Condominium Property and authorize a manager or management company to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, keeping of records, enforcement of rules, and maintenance and repair of the Common Elements with funds made available by the Association for such purposes. The Association and its Directors and officers shall, however, retain at all times the powers and duties provided in the Condominium Act.

**10.4 Membership.** The membership of the Association shall be comprised of Owners of the Units, as further provided in the Bylaws.

**10.5 Acts of the Association.** Unless the approval or affirmative vote of the Unit Owners is specifically made necessary by some provision of the Condominium Act or the Condominium Documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the Unit Owners. The officers and Directors of the Association have a fiduciary relationship to the Unit Owners. A Unit Owner does not have the authority to act for the Association by reason of being a Unit Owner.

**10.6 Powers and Duties.** The powers and duties of the Association include those set forth in the Condominium Act and the Condominium Documents. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the Condominium Property and Association Property. The Association may impose reasonable fees for use of Common Elements or Association Property. The Association has the power to enter into agreements to acquire leaseholds, memberships and other possessory or use interests in lands or facilities contiguous to the lands of the Condominium, for the use and enjoyment of the Unit Owners.

**10.7 Official Records.** The Association shall maintain its official records as required by law. The records shall be open to inspection by members or their authorized representatives at all reasonable times. The right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the member seeking copies.

**10.8 Purchase of Units.** The Association has the power to purchase Units in the Condominium and to acquire and hold, lease, mortgage, and convey them, such power to be exercised by the Board of Directors.

**10.9 Acquisition of Property.** The Association has the power to acquire property, both real and personal. The power to acquire personal property shall be exercised by the Board of Directors. Except as provided in Section 9.8, above, the power to acquire real property may be exercised by the Board of Directors, but only after approval by at least a majority of the voting interests.

**10.10 Disposition of Property.** Any property owned by the Association, whether real, personal or mixed, may be mortgaged, sold, or otherwise encumbered or disposed of by the affirmative vote of the Board of Directors, without need for authorization by the Unit Owners.

**10.11 Roster.** The Association shall maintain a current roster of names and mailing addresses of Unit Owners. A copy of the roster shall be made available to any member upon request.

**10.12 Indemnification.** The Association covenants and agrees that it will indemnify and hold harmless Developer and the members of the Board from and against any and all claims, suits, actions, damages, and/or causes of action arising from any personal injury, loss of life, and/or damage to property sustained in or about Condominium Property, Association Property or the appurtenances thereto from and against all costs, legal fees, expenses and liabilities incurred in and about any such claim, the investigation thereof or the defense of any action or proceeding brought thereon, and from and against any orders, judgments and/or decrees which may be entered therein, to the extent permitted by law. Included in the foregoing provisions of indemnification are any expenses that Developer may be compelled to incur in bringing suit for the purpose of compelling the specific enforcement of the provisions, conditions and covenants contained in this Declaration to be kept and performed by the Association. This provision should not be construed to mean that the Association funds will be used for the purposes of the Developer, including, but not limited to, sales and promotional activities, utilities or other costs for construction activities or repair or replacement which is within the warranty obligations of the Developer.

**11. ASSESSMENTS AND LIENS.** The Association has the power to levy and collect Assessments against each Unit, together with the undivided share in the Common Elements appurtenant to the Unit, in order to provide the necessary funds for proper operation and management of the Condominium and for the operation of the Association, including regular Assessments for each Unit's share of the common expenses as set forth in the annual budget, and special assessments for unusual, non-recurring or unbudgeted common expenses. The Association may also levy special charges against any individual Unit for any amounts other than common expenses which are properly chargeable against such Unit under this Declaration or the Bylaws. Assessments shall be levied and payment enforced as provided in the Bylaws and as follows:

**11.1 Common Expenses.** Common expenses include all expenses of the operation, maintenance, repair, replacement and protection of the Common Elements and Association Property, the expenses of operating the Association, and any other expense properly incurred by the Association for the Condominium, including the Association's share of the cost of maintenance, upkeep, insurance and repair and replacement of the Common Property, and any amounts budgeted for the purpose of funding reserve accounts.

**11.2 Share of Common Expenses.** The Owner of each Unit shall be liable for a share of the common expenses of the Association equal to his or her share of ownership of the Common Elements and the Common Surplus, as set forth in Section 6.1, above.

**11.3 Ownership.** Assessments collected by or on behalf of the Association become the property of the Association. No Unit Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his or her Unit. No Owner has the right to withdraw or receive distribution of his or her share of the Common Surplus, except as otherwise provided herein or by law.

**11.4 Who is Liable for Assessments.** The Owner of each Unit, regardless of how title was acquired, is liable for all Assessments or installments thereon coming due while he or she is the Owner. Multiple Owners are jointly and severally liable. Except as provided in Section 21.3, below, whenever title to a Condominium Unit is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid Assessments against the transferor, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

**11.5 No Waiver or Excuse from Payment.** The liability for Assessments may not be avoided or abated by waiver of the use or enjoyment of any Common Elements, by abandonment of the Unit for which the Assessments are made, or by interruption in the availability of the Unit or the Common Elements for any reason whatsoever. No Unit Owner may be excused from payment of his or her share of the common expenses unless all Unit Owners are likewise proportionately excused from payment, except as provided in Section 21.3, below, as to certain first mortgagees, and in Sections 11.12 and 11.13, below, as to the Developer. Nothing herein shall be construed to prevent the Association from compromising or settling a claim for past due Assessments for less than full payment, if the Board determines that such action is in the best interests of the Association.

**11.6 Application of Payments; Failure to Pay; Interest.** Assessments and installments thereon paid on or before ten (10) days after the due date shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, until paid. Assessments and installments thereon shall become due, and the Unit Owner shall become liable for said Assessments or installments, on the date established in the Bylaws or otherwise set by the Association for payment. The Association may impose a late payment fee, in addition to interest, as allowed by law. All payments on account shall be applied first to interest, then to late payment fees and attorney's fees, and costs and finally to unpaid Assessments, in such manner as determined by law. No payment by check is deemed received until the check has cleared.

**11.7 Acceleration.** If any special assessment or quarterly installment as to a Unit becomes more than thirty (30) days past due and a claim of lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the Unit's annual Assessment and all special assessments for that fiscal year as if said balance had originally been due on the date the claim of lien was recorded. The Association's claim of lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorneys fees and costs as provided by law, and said claim of lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent Owner a notice of the exercise, which notice shall be sent by certified or registered mail to the Owner's last known address, and shall be deemed given upon mailing of the notice, postpaid. The notice may be given as part of the notice of intent to foreclose required by Section 718.116, Florida Statutes, or may be sent separately.

**11.8 Liens.** The Association has a lien on each Condominium Parcel securing payment of past due Assessments, including interest and reasonable attorney's fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien, whether

before, during or after a lien foreclosure suit. The lien is perfected upon recording a claim of lien in the Public Records of St. Johns County, Florida, stating the description of the Condominium Parcel, the name of the record Unit Owner, the name and address of the Association, the Assessments past due and the due dates. The claim of lien secures all unpaid Assessments and charges coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

**11.9 Priority of Lien.** The Association's lien for unpaid Assessments shall be subordinate and inferior to the lien of any recorded first mortgage against the Condominium Parcel, unless the Association's claim of lien has been recorded before the first mortgage, but shall be superior to, and take priority over, any other mortgage or lien regardless of when the mortgage or lien was recorded, except as otherwise provided by law. The lien of the charges provided for in this Section 11 shall also be subordinate to real property tax liens and the lien of any first mortgage as aforesaid; provided, however, that any such mortgage lender or person acquiring title by foreclosure or by deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgage lender, shall hold title subject to the liability and lien of any Assessments coming due after such foreclosure (or conveyance in lieu of foreclosure). Any unpaid Assessments which cannot be collected as a lien against any Condominium Parcel by reason of the provisions of this Section 11 shall be deemed to be a charge divided equally among, payable by and a lien against all Units, including the Units as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

**11.10 Foreclosure of Lien.** The Association may bring an action in its name to foreclose its lien for unpaid Assessments in the manner provided in the Condominium Act, and may also bring an action to recover a money judgment for the unpaid Assessments without waiving any lien rights.

**11.11 Certificate As To Assessments.** Within fifteen (15) days after request by a Unit Owner, Unit purchaser or mortgagee, the Association shall provide a certificate stating whether all Assessments and other monies owed to the Association by the Unit Owner with respect to the Condominium Parcel have been paid. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

**11.12 Special Assessments.** So long as Developer holds any Unit for sale in the ordinary course of business, Developer shall be exempt from Assessments as a Unit Owner for capital improvements unless Developer gives its approval in writing. Developer shall further be exempt from any action by the Association that would be detrimental to the sales of Units by Developer unless Developer approves the action in writing. However, an increase in Assessments for common expenses without discrimination against Developer will not be deemed to be detrimental to the sales of Units.

**11.13 Statutory Assessment Guarantee; Liability of Developer for Common Expenses.** Notwithstanding anything to the contrary, Developer shall not be liable for the payment of Assessments in respect to Units owned by it so long as the guarantee, hereafter set forth, is in effect, but shall be liable and responsible to pay to the Association the difference between the Assessments received from Unit Owners other than itself and the amount actually required to

operate the Association based on its adopted budget. In this regard the Developer hereby guarantees to Owners other than itself that their regular quarterly Assessments, inclusive of reserves, will not exceed \$1,416.21 for the period ending at the end of the fourth full fiscal quarter following the later of: (i) creation of the Condominium, or (ii) completion of construction of the Condominium, but it will terminate earlier on the occasion of "transfer of control" as set forth in Section 22.5 hereof.

**12. MAINTENANCE; LIMITATIONS UPON ALTERATIONS AND IMPROVEMENTS.** Responsibility for the protection, maintenance, repair and replacement of the Condominium Property, and restrictions on its alteration and improvement shall be as follows:

**12.1 Association Maintenance.** The Association is responsible for the protection, maintenance, repair and replacement of all Common Elements and Association Property (other than the Limited Common Elements that are required elsewhere herein to be maintained by the Unit Owner).

The Association's responsibility does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within a Unit and serving only that Unit (those responsibilities belonging to the respective Unit Owner). All incidental damage caused to a Unit or the Common Elements by work performed or ordered to be performed by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the damage and the cost shall be a Common Expense, except the Association shall not be responsible for the damage to any alteration or addition to the Common Elements made by a Unit Owner or his or her predecessor in title.

**12.2 Unit Owner Maintenance.** Each Unit Owner is responsible, at his or her own expense, for all maintenance, repairs, and replacements of his or her own Unit (in the case of the Subsequent Phase II Unit, if added to the Condominium, this will include the Building and all other improvements located within the boundaries of the Subsequent Phase II Unit, except the landscaping which the Association will maintain) and certain Limited Common Elements, if any. The Unit Owner's responsibilities include, without limitation, the following:

- (A) Cleaning of screens, windows, and window glass;
- (B) All decorations, walls and other interior improvements, equipment and fixtures within the Unit and its interior surfaces;
- (C) The electrical, mechanical and plumbing fixtures, switches, valves, drains and outlets (including connections) located partially or entirely within the Unit and serving only the Unit;
- (D) The circuit breaker panels located inside the Unit and all electrical wiring into the Unit from the panels serving only the Unit;

- (E) Appliances, water heaters, smoke alarms and vent fans located within the Unit and serving only the Unit;
- (F) Except as provided in Section 12.4, below, all air conditioning and heating equipment, thermostats, ducts and installations located within the Unit and serving only the Unit;
- (G) Carpeting and other floor coverings;
- (H) Door and window hardware and locks;
- (I) Shower pans;
- (J) The main water supply shut-off valve for the Unit;
- (K) All interior, partition walls which do not form part of the boundary of the Unit, excluding any structural or utility components of the walls, which are part of the Common Elements; and
- (L) Cleaning and routine maintenance of balconies and terraces that serve only the Unit.

**12.3 Other Unit Owner Responsibilities:**

- (A) Balconies and Terraces. No balconies or terraces may be modified or the deck thereof tiled, carpeted, covered or enclosed in any way without the prior written approval of the Association. Maintenance, repair and replacement of (i) balconies and terraces, except for cleaning and routine maintenance, (ii) screening and sliding glass doors, except for cleaning and routine maintenance, and (iii) all exterior walls of Buildings 2 through 6 and the concrete slabs are the responsibility of the Association, with the costs thereof being assessed against the respective Unit Owners as a special assessment.
- (B) Flooring. The floors of a Unit, except the Subsequent Phase II Unit (if added to the Condominium), shall be covered with carpeting installed over high quality padding, or, if an Owner desires to install in place of carpeting any hard-surface floor covering (e.g. marble, slate, ceramic tile, parquet, hardwood, etc.), the hard-surface floor covering shall be installed over sound absorbent underlayment of such kind and quality as to equal or exceed the sound transmission inhibiting properties of a 1/4" cork underlayment to substantially reduce the transmission of noise to adjoining Units. If the installation is made without the required underlayment, the Board may, in addition to exercising all the other remedies provided in this Declaration, require the Unit Owner to cover all such hard-surface flooring with carpeting, or require the removal of such hard-surface flooring at the expense of the offending Unit Owner.



- (C) Window Coverings. The covering and appearance of windows and doors, whether by draperies, shades, reflective film or other items, whether installed within or outside of the Unit, visible from the exterior of the Unit, shall be subject to the Rules and Regulations of the Association.
- (D) Modifications and Alterations. If a Unit Owner makes any modifications, installations or additions to his or her Unit, any appurtenant Limited Common Element, or the Common Elements, the Unit Owner, and his or her successors in title, shall be financially responsible for the insurance, maintenance, repair and replacement of the modifications, installations or additions, as well as the costs of repairing any damage to the Common Elements, the Limited Common Elements or other Units resulting from the existence of such modifications, installations or additions, and the costs of removing and replacing or reinstalling such modifications if their removal by the Association becomes necessary in order to maintain, repair, replace, or protect other part of the Condominium Property. In the event of conflict, the provisions of this paragraph shall prevail over the provisions of Section 12.1, above.
- (E) Use of Licensed and Insured Contractors. Whenever a Unit Owner contracts for maintenance, repair, replacement, alteration, addition or improvement of any portion of the Unit or Common Elements, whether with or without Association approval, such Unit Owner shall be deemed to have warranted to the Association and its members that his or her contractor(s) are properly licensed and fully insured, and that the Unit Owner will be financially responsible for any resulting damage to persons or property not paid by the contractor's insurance.
- (F) Duty to Report. Each Unit Owner shall promptly report to the Association or its agents any defect or need for repairs to the Condominium Property or Association Property, the remedying of which is the responsibility of the Association.

**12.4 Appliance Maintenance Contracts.** If there shall become available to the Association a program of contract maintenance for kitchen appliances or water heaters within Units and/or air-conditioning compressors and/or air handlers serving individual Units, which the Association determines is to the benefit of the Unit Owners to consider, then upon agreement by a majority of the voting interests present, in person or by proxy and voting, at a meeting called for the purpose, or upon agreement by a majority of the voting interests in writing, the Association may enter into such contractual undertakings. The costs of such contractual undertakings to the Association shall be common expenses. All maintenance, repairs and replacements not covered by the contracts shall be the responsibility of the Unit Owner.

**12.5 Alteration of Units, Limited Common Elements by Unit Owners.** No Unit Owner shall make, or permit the making of, any material alterations or substantial additions to his or her Unit, Limited Common Elements or the Common Elements, or in any manner change the exterior appearance of any portion of the Condominium, without first obtaining the written approval of the Board of Directors, which approval may be denied if the Board of Directors determines that the proposed modifications or alterations would adversely affect, or in any

manner be detrimental to, the Condominium in part or in whole. Any door, glass, screen, curtain, blind, shutter, awning, or other modifications, additions or installations which may be installed where visible from outside the Unit, are subject to regulation by the Board of Directors. The Board of Directors may revoke or rescind any approval of an alteration or modification previously given, if it appears that the installation has had unanticipated, adverse effects on the Condominium.

**12.6 Alterations and Additions to Common Elements and Association Property.** Except as otherwise provided herein, the protection, maintenance, repair, insurance and replacement of the Common Elements and Association Property is the responsibility of the Association and the cost is a common expense. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the Common Elements or the real property owned by the Association costing more than \$20,000.00 in the aggregate in any calendar year without prior approval of at least a majority of the voting interests. Alterations or additions costing less than this amount may be made with Board approval. If work reasonably necessary to protect, maintain, repair, replace or insure the Common Elements or Association Property also constitutes a material alteration or substantial addition to the Common Elements, no prior Unit Owner approval is required.

**12.7 Enforcement of Maintenance.** If after reasonable notice the Unit Owner fails to maintain the Unit or its appurtenant Limited Common Elements as required above, the Association may institute legal proceedings to enforce compliance, or may take any other lawful actions to remedy such violation. Notwithstanding the above, the Association has the irrevocable right of access to each Unit during reasonable hours, when necessary for maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Element of a Unit or Units. Any expenses incurred by the Association in performing work within the Unit as authorized by this Declaration shall be charged to the Unit Owner, together with reasonable attorney's fees and other expenses or collection, if any.

**12.8 Negligence; Damage Caused by Condition in Unit.** Each Unit Owner shall be liable for the expenses of any maintenance, repair or replacement of Common Elements, other Units, or personal property made necessary by his or her act or negligence, or by that of any member of his or her family or his or her Guests, employees, agents, or tenants. Each Unit Owner has a duty to maintain his or her Unit, any Limited Common Element appurtenant to the Unit (except as otherwise provided herein), and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other Units, the Common Elements or the property of other Unit Owners and residents. If any condition, defect or malfunction, resulting from the Unit Owner's failure to perform this duty causes damage to other Units, the Common Elements, Association Property or property within other Units, the Owner of the offending Unit shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. If one (1) or more of the Units involved is not occupied at the time the damage is discovered, the Association may enter the Unit without prior notice to the Owner and take reasonable action to mitigate damage or prevent its spread. The Association may, but is not obligated to, repair the damage with the prior consent of the Owner.

Nothing herein contained shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

**12.9 Association's Access to Units.** The Association has an irrevocable right of access to the Units for the purposes of maintaining, repairing and replacing the Common Elements, Limited Common Elements or portions of a Unit to be maintained by the Association under this Declaration, and as necessary to prevent damage to one (1) or more Units or any other portion of the Condominium Property. The Association's right of access includes, without limitation, entry for purposes of pest control and preventive maintenance of safety equipment, as well as the right, but not the duty, to enter under circumstances where the health or safety of residents may be endangered. The exercise of the Association's rights of access to the Unit shall be accomplished with due respect for the rights of Occupants to privacy and freedom from unreasonable annoyance, as well as with appropriate precautions to protect the personal property within the Unit. The Association may retain a pass-key to all Units. If it does, no Unit Owner shall alter any lock, nor install a new lock, which prevents access when the Unit is unoccupied, unless the Unit Owner provides a key to the Association. If the Association is not given a key, the Unit Owner shall pay all costs incurred by the Association in gaining entrance to the Unit, as well as all damage to his or her Unit caused by gaining entrance thereto, and all damage resulting from delay in gaining entrance to his or her Unit caused by the non-availability of a key.

**12.10 Pest Control.** The Association may supply pest control services for the inside of each Unit, with the cost being part of the common expenses. A Unit Owner has the option to decline service unless the Association determines that service is necessary for the protection of the Condominium Property or Buildings as a whole, in which case the Owner must either permit the Association's pest control company to enter the Unit, or must employ a licensed pest control company to perform the required pest control services and furnish written evidence to the Association that such treatment has occurred. Because the cost of pest control service provided by the Association is a common expense, the election of a Unit Owner not to use the service shall not reduce the Unit Owner's Assessments.

**12.11 Developer's Warranties.** Notwithstanding anything contained in this Section 12 to the contrary, each Unit Owner acknowledges and agrees that Developer shall be irreparably harmed if a Unit Owner undertakes the repair or replacement of any defective portion of a Unit, a Building, the Common Elements or any other real or personal property comprising the Condominium Property during the time in which Developer is liable under any warranties in connection with the sale of any Unit. Accordingly, each Unit Owner hereby agrees: (i) to promptly, upon such Unit Owner's knowledge of the existence of any such defective portion, provide written notice to Developer specifying each defective portion, upon the receipt of which Developer shall have sixty (60) days (the "Repair Period") to commence the repair or replacement of such defective portion and diligently pursue the completion thereof; and (ii) not to repair, replace or otherwise adjust any such defective portion during the Repair Period; provided, however, that if Developer fails to commence the repair or replacement of such portion within the Repair Period, such Unit Owner may, upon obtaining all required Association approvals, repair or replace same. If any Unit Owner fails to comply with the provisions of this Section 12.11, such Unit Owner will be deemed to have breached his or her obligation to mitigate damages, and such Unit Owner's conduct shall constitute an aggravation of damages.

The foregoing provision is not intended to limit a Unit Owner's access to the courts pursuant to Section 558.004, Florida Statutes.

**12.12 Combining Units.** Nothing in this Declaration shall be construed as prohibiting the Board of Directors from authorizing the removal of any party wall between two (2) or more Units to allow them to be used together as one (1) Unit. In that event, all Assessments, voting rights and the share of Common Elements shall be calculated as the Units were originally designated on the exhibits attached to the original Declaration, notwithstanding the fact that several Units are used as one (1), to the intent and purpose that the Owner of such combined Units shall be treated as the Owner of as many Units as have been so combined.

**12.13 Balcony or Terrace Modification and/or Enclosure.** A Unit Owner may not modify, screen or enclose the balcony or terrace that adjoins his or her Unit.

**12.14 Hurricane Shutters.** Notwithstanding any provision set forth hereinabove to the contrary, the Board of Directors, may adopt and approve a model, style and color of hurricane shutter as a standard hurricane shutter for use in the Condominium. No hurricane shutter except of the standard model, color and style adopted by the Board of Directors shall be used in or upon the Condominium. All specifications adopted by the Board shall comply with the applicable building code. Notwithstanding any provision in the Condominium Documents to the contrary, the Board shall not refuse to approve the installation or replacement of hurricane shutters conforming to the specifications adopted by the Board.

**13. USE RESTRICTIONS.** The use of the Condominium Property shall be in accordance with the following provisions.

**13.1 Units.** Units shall at all times be occupied as a residence and for no other purpose. No business, commercial activity or profession may be conducted from any Unit. The use of a Unit as a public lodging establishment shall be deemed a business or commercial use. This restriction shall not be construed to prohibit any Unit Owner from maintaining a personal or professional library, from keeping personal, business or professional records in the Unit, or from handling personal, business or professional telephone calls or written correspondence in and from the Unit. Such uses are expressly declared customarily incident to residential use.

**13.2 Minors.** There is no restriction on the age of Occupants of Units. All Occupants under eighteen (18) years of age must be closely supervised by an adult to ensure that they do not become a source of annoyance to other residents.

**13.3 Pets.** No animals or pets may be kept in any Unit or brought upon the Condominium Property other than dogs, cats, birds, or fish; provided, however, that there shall not be kept or permitted in any Unit more than a total of two (2) dogs and/or cats. Any Unit Owner who keeps a pet, or permits a pet to be kept in his or her Unit, shall be liable for all damage or injury to persons or property caused by such pet. The ability to keep pets is a privilege, not a right, and the Board of Directors is empowered to adopt rules concerning pet size and type and rules of behavior and to order and enforce the removal of any pet which becomes a source of unreasonable annoyance or causes disturbance or fear to other residents of the Condominium.

Pets must be leashed or carried under the owner's arm at all times while on the Condominium Property outside of the Unit, and the pet Owner shall immediately remove any animal droppings left by such owner's pet upon the Common Elements. Guests and tenants are not permitted to have pets. The Association may establish and enforce fines for violations of this provision.

**13.4 Nuisances.** No Unit Owner shall use his or her Unit, or permit it to be used, in any manner that is disturbing, detrimental or a nuisance to the Occupants of another Unit, or which would not be consistent with the maintenance of the highest standards for a first class residential Condominium located within St. Johns County, Florida, nor permit the premises to be used in a disorderly or unlawful way. The use of each Unit shall be consistent with existing laws and the Condominium Documents, and Occupants shall at all times conduct themselves in a peaceful and orderly manner.

**13.5 Signs.** No person other than the Developer may post or display any signs anywhere on the Condominium Property, including "For Sale," "For Rent," "Open House" and other similar signs. Developer specifically reserves the right to place and maintain identifying or informational signs on the Condominium Property as well as any signs in connection with its sales activities.

**13.6 Motor Vehicles; Parking.** No vehicle shall be parked on the Condominium Property, except in conformity with this Declaration.

**14. LEASING OF UNITS.** The leasing of Units by Unit Owners shall be restricted as provided in this section. The ability of a Unit Owner to Lease his or her Unit to others is a privilege, not a right. The privilege may be revoked by the Board of Directors if it is abused by the Owner. All Leases of Units must be in writing. A Unit Owner may Lease only his or her entire Unit together with any garage parking spaces appurtenant thereto, and then only in accordance with this section. Unit Owners may not Lease garage parking spaces separately from any Unit which they own. The lessee must be a natural person.

**14.1 Procedures.**

- (A) Notice by the Unit Owner. An Owner intending to Lease his or her Unit shall give to the Board of Directors or its designee written notice of such intention at least twenty (20) days prior to the first day of occupancy under the Lease together with the name and address of the proposed lessee, a fully executed copy of the proposed Lease, and such other information as the Board may reasonably require.
- (B) Board Action. After the required notice and all information or interviews requested have been provided, the Board or if delegated by the Board, any management company managing the operation of the Condominium, shall have twenty (20) days in which to disapprove the proposed Lease. If the Board does not affirmatively disapprove within that time, its failure to act shall be deemed the equivalent of approval.

(C) Disapproval. Appropriate grounds for disapproval shall include, without limitation, the following:

- (1) the Unit Owner is delinquent in the payment of Assessments at the time the application is considered;
- (2) the Unit Owner has a history of leasing to troublesome lessees and/or refusing to control or accept responsibility for the occupancy of his or her Unit;
- (3) the real estate company or rental agent handling the leasing transaction on behalf of the Unit Owner has a history of screening lessee applicants inadequately, recommending undesirable lessees, or entering into Leases without prior Association notification;
- (4) the application on its face indicates that the person seeking approval intends to conduct himself or herself in a manner inconsistent with the covenants and restrictions applicable to the Condominium;
- (5) the prospective lessee has been convicted of a felony involving violence to persons or property, a felony involving sale or possession of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;
- (6) the prospective lessee has a history of conduct which evidences disregard for the rights and property of others;
- (7) the prospective lessee evidences a strong probability of financial irresponsibility;
- (8) the prospective lessee, during previous occupancy in this Condominium or any other, has evidenced an attitude of disregard for the Association rules;
- (9) the prospective lessee gives false or incomplete information to the Board as part of the application procedure, or the required transfer fee and/or security deposit is not paid; or
- (10) the Owner fails to give proper notice of his or her intention to Lease his or her Unit to the Board of Directors.

(D) Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board at its election may disapprove the Lease. Any such Lease may, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee with five (5) days notice, without securing consent to such eviction from the Unit Owner.

(E) Applications; Assessments. Applications for authority to Lease shall be made to the Board of Directors on such forms and include such terms as the Board may provide from time to time. The legal responsibility for paying Condominium Assessments may not be delegated to the lessee.

(F) Committee Approval. To facilitate review of Leases proposed during times when many of the members are not in residence, the Board of Directors may by resolution delegate its disapproval powers to an *ad hoc* committee, which shall consist of at least three (3) members or in the alternative to the aforesaid management company.

**14.2 Term of Lease and Frequency of Leasing.** No Unit may be leased for a term less than thirty (30) days. No Lease may be for a period of more than one (1) year, and no option for the lessee to extend or to renew the Lease for any additional period shall be permitted. However, the Board may, in its discretion, approve the same lessee from year to year.

**14.3 Subleases/Assignment of Lease Rights.** No subleasing or assignment of Lease rights by the lessee is allowed.

**14.4 Occupancy During Lease Term.** No one but the lessee, his or her family members within the first degree of relationship by blood, adoption or marriage, and their spouses and temporary house Guests may occupy the Unit. The total number of overnight Occupants of a leased Unit is limited to two (2) persons per bedroom.

**14.5 Occupancy in Absence of Lessee.** If a lessee absents himself or herself from the Unit for any period of time during the Lease term, his or her family within the first degree of relationship already in residence may continue to occupy the Unit and may have house Guests subject to all the restrictions in Sections 13 and 14. If the lessee and all of the family members mentioned in the foregoing sentence are absent, no other person may occupy the Unit.

**14.6 Use of Common Elements and Association Property.** A Unit Owner whose Unit is leased may not use the Association Property and Common Elements readily available for use generally by Unit Owners during the Lease term except as a Guest, unless such rights are waived in writing by the lessee.

**14.7 Regulation by Association.** All of the provisions of the Condominium Documents and the Rules and Regulations of the Association shall be applicable and enforceable against any person occupying a Unit as a lessee or Guest to the same extent as against the Owner. A covenant on the part of each Occupant to abide by the Rules and Regulations of the Association and the provisions of the Condominium Documents, designating the Association as the Owner's agent with the authority to terminate any Lease agreement and evict the tenants in the event of breach of such covenant, shall be deemed to be included in every Lease agreement, whether oral or written, and whether specifically expressed in such agreement or not.

**14.8 Fees and Deposits Related to the Lease of Units.** Whenever herein the Board's approval is required to allow the Lease of a Unit, the Association may charge the Owner a preset

fee for processing the application, such fee not to exceed the maximum amount allowed by law. No fee may be charged for approval of a renewal or extension of a Lease with the same lessee. The Association may also require any deposits that are authorized by the Condominium Act as amended from time to time.

**15. TRANSFER OF OWNERSHIP OF UNITS.** In order to maintain a community of congenial, financially responsible residents, with the objectives of protecting the value of the Units, inhibiting transiency, and facilitating the development of a stable, quiet community and peace of mind for all residents, the transfer of ownership of a Unit shall be subject to the following provisions:

**15.1 Forms of Ownership:**

- (A) One (1) Person. A Unit may be owned by one (1) natural person who has qualified and been approved as elsewhere provided herein.
- (B) Two (2) or More Persons. Co-ownership of Units by two (2) or more natural persons is permitted. If the co-owners are other than husband and wife, the Board shall condition its approval upon the designation of one (1) approved natural person as "primary occupant." The use of the Unit by other persons shall be as if the primary occupant were the only actual Owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 15. No more than one (1) such change will be approved in any twelve (12) month period, except in the case of the death or incapacity of the primary occupant.
- (C) Ownership by Corporations, Limited Liability Companies, Partnerships, or Trusts. A Unit may be owned in trust, or by a corporation, limited liability company, partnership or other entity which is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the Unit may be used as short-term transient accommodations for several individuals or families. The approval of a trustee, or corporation, partnership or other entity as a Unit Owner shall be conditioned upon designation by the owner of one (1) natural person to be the "primary occupant." The use of the Unit by other persons shall be as if the primary occupant were the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 15. No more than one (1) such change will be approved in any twelve (12) month period, except in the case of the death or incapacity of the primary occupant.
- (D) Life Estate. A Unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved under Section 15.2, below. In that event, the life tenant shall be the only Association member from such Unit, and occupancy of the Unit shall be as if the life tenant was the only Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy rights



unless separately approved by the Association. The life tenant shall be liable for all Assessments and charges against the Unit. Any consent or approval required of Association members may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one (1) life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights.

## 15.2 Transfers.

- (A) Sale or Gift. No Unit Owner may dispose of a Unit or any ownership interest in a Unit by sale or gift (including, without limitation, agreement for deed) without prior written approval of the Board of Directors.
- (B) Devise or Inheritance. If any Unit Owner acquires title by devise or inheritance, his or her right to occupy or use the Unit shall be subject to the approval of the Board of Directors under Section 15.3(A)(2), below. The approval shall not be denied to any devisee or heir who was the prior Owner's lawful spouse at the time of death, or was related to the owner by blood or adoption within the first degree.
- (C) Other Transfers. If any person acquires title in any manner not considered in the foregoing subsections, that person shall have no right to occupy or use the Unit before being approved by the Board of Directors under the procedures outlined in Section 15.3, below.
- (D) To facilitate transfers proposed during times when many of the members are not in residence, the Board of Directors may by resolution delegate its approval powers to an *ad hoc* committee, which shall consist of at least three (3) members. The Chairman of the committee shall be deemed a Vice-President, and as such shall be empowered to execute Certificates of Approval on behalf of the Association.

## 15.3 Procedures.

- (A) Notice to Association.
- (1) Sale or Gift. An Owner intending to make a sale or gift of his or her Unit or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least twenty (20) days before the intended closing date, together with the name and address of the proposed purchaser or donee, a copy of the executed sales contract, if any, and such other information as the Board may reasonably require.
- (2) Devise, Inheritance or Other Transfers. The transferee must notify the Board of Directors of his or her ownership and submit a certified copy of the instrument evidencing his or her ownership and such other information as the Board may reasonably require. The transferee shall have no

occupancy or use rights until and unless approved by the Board, but may sell or Lease the Unit following the procedures in this section or Section 14.

(3) Demand. With the notice required in Subsection (A)(1), above, the Owner or transferee seeking approval may make a written demand that if the transfer is disapproved without good cause, the Association shall furnish an approved alternate purchaser who shall purchase the Unit at the same price and upon substantially the same terms as in the disapproved sales contract, or if no contract is involved, for the fair market value of the Unit determined as provided below.

(4) Failure to Give Notice. If no notice is given, the Board of Directors, at its election, may approve or disapprove at the time it learns of the transfer. If any Owner fails to obtain the Association's approval prior to selling an interest in a Unit, such failure shall create a rebuttable presumption that the seller and the purchaser intend to violate the covenants of this Declaration, and shall constitute good cause for Association disapproval.

(B) Board Action. Within twenty (20) days after receipt of the required notice and all information or interviews requested, or not later than sixty (60) days after the notice required by paragraph (A) above is received, whichever occurs first, the Board shall either approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a certificate of approval executed by the President or Vice-President of the Association in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within the time limits as set forth above, such failure to act shall be deemed the equivalent of approval and on demand the Board shall issue a certificate of approval to the transferee.

(C) Disapproval.

(1) With Good Cause. Approval of the Association shall be withheld for good cause only if a majority of the whole Board so votes, after receiving a written opinion of counsel that good cause exists. Only the following may be deemed to constitute good cause for disapproval:

(a) The applicant seeking approval has been convicted of a felony involving violence to persons or property, a felony involving possession or sale of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;

(b) The applicant seeking approval gives the Board reasonable cause to believe that person intends to conduct himself or herself in a manner inconsistent with the covenants and restrictions applicable to the Condominium;

- (c) The applicant seeking approval has a history of disruptive behavior or behavior evidencing disregard for the rights or property of others;
- (d) The applicant seeking approval has evidenced an attitude of disregard for Association rules by his or her conduct in this Condominium as a tenant, Unit Owner or Occupant of a Unit;
- (e) The applicant seeking approval has failed to provide the information, fees or interviews required to process the application in a timely manner, or provided false information during the application process; or
- (f) The transaction, if a sale or gift, was concluded by the parties without having sought and obtained the prior approval required herein.

- (2) Without Good Cause. The Association's approval shall not be denied unless a majority of the whole Board so votes. If the Board disapproves without good cause, and if the Owner or transferee has made the demand set forth in Section 15.3(A)(3), above, then within thirty (30) days after the Board meeting at which the disapproval took place, the Board shall deliver in writing to the Owner (hereafter "the seller") the name of an approved purchaser who will purchase the Unit at the same price, and upon substantially the same terms, as in the disapproved sales contract. If no sales contract was involved, or if the Association challenges the contract price as not being a good faith purchase price, then the purchase price shall be paid in cash, and the price to be paid shall be determined by agreement, or in the absence of agreement, shall be the fair market value determined by the arithmetic average of appraisals by two (2) state-certified property appraisers, one (1) selected by the seller and the other by the Association. The cost of the appraisals, and all other closing costs in cases where no sales contract is involved, shall be shared equally by the buyer and seller, except that the purchaser shall pay for his or her own title insurance, and all costs of mortgage financing. Real property taxes and Condominium Assessments shall be prorated to the day of closing and the parties shall bear their own attorneys fees, if any. The closing shall take place not longer than sixty (60) days after the date of Board disapproval or thirty (30) days after determination of fair market value by appraisal, whichever occurs last. Failure or refusal to close by either party shall constitute a breach of contract and shall entitle the other party to seek specific performance or damages.
- (3) If the Board fails to deliver the name of the approved purchaser within thirty (30) days as required above, then the original proposed purchaser shall be deemed to be approved, despite the Board's former disapproval, and upon demand a Certificate of Approval shall be issued.

**15.4 Exception.** The provisions of Sections 15.2 and 15.3, above, are not applicable to sales by the Developer, the acquisition of title by a first mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure, or to any transfer or sale by any such mortgagee which so acquires title, the acquisition of title by a purchaser who acquires title through a duly advertised public sale, such as, but not limited to, a foreclosure sale, judicial sale or tax sale, or the acquisition of title by an individual or entity acquiring title through a court order.

**15.5 Unapproved Transfers.** Any sale or transfer which is not approved, or which is disapproved pursuant to the terms of this Declaration shall be void unless subsequently approved in writing by the Board.

**15.6 Fees and Deposits Related to the Sale of Units.** Whenever herein the Board's approval is required to allow the sale or other transfer of an interest in a Unit, the Association may charge the owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. The Association may also require any deposits that are authorized by the Condominium Act as amended from time to time.

**16. INSURANCE.** In order to adequately protect the Association and its members, the Common Elements, and Buildings, insurance shall be carried with an insurance company authorized to do business in Florida or a reputable surplus lines carriers offering policies for properties in Florida and kept in force at all times in accordance with the following provisions:

**16.1 By the Unit Owner.** Each Unit Owner is responsible for insuring his or her own Unit (in the case of the Subsequent Phase II Unit, if added to the Condominium, this will include insurance for the improvements and Building constructed within the boundaries of the Subsequent Phase II Unit), and the personal property therein; all floor, wall and ceiling coverings; all built-in cabinets, appliances, water heaters, air conditioning and heating equipment, and electrical fixtures that are located within the Unit and required to be repaired or replaced by the Owner; and all alterations, additions and improvements made to the Unit or the Common Elements by the Owner or his or her predecessors in title. Each Unit Owner is expected to carry homeowner's insurance, with endorsements for leakage, seepage and wind-driven rain, additions and alterations, and loss Assessment protection, or recognize that he or she bears financial responsibility for any damage to his or her property or liability to others that would otherwise be covered by such insurance.

**16.2 Association Insurance; Duty and Authority to Obtain.** The Board of Directors shall obtain and keep in force, for the benefit of itself, its members and the Association, as their interests appear, the insurance coverage which it is required to carry by law and under the Condominium Documents, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the Unit Owners without naming them and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure.

**16.3 Required Coverage.** The Association shall maintain (or make provision for as set forth above) adequate insurance covering all of the Common Elements, as well as all Association

Property, in amounts determined annually by the Board of Directors, such insurance to afford the following protection:

- (A) Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by what is commonly known as an "All Risk" property contract;
- (B) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner;
- (C) Automobile. Automobile liability for bodily injury and property damage for all owned and non-owned motor vehicles, in such limits of protection and with such coverage as may be determined by the Board of Directors;
- (D) Compensation. The Association shall maintain Workers' Compensation insurance on at least a minimum premium basis; and
- (E) Statutory Fidelity Bond. The Association shall maintain any bond required by law or by the Board.

**16.4 Optional Coverage.** The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and Unit Owners. Some of the more common options include:

- (A) Flood insurance;
- (B) Broad Form Comprehensive General Liability Endorsement;
- (C) Directors and Officers Liability;
- (D) Medical Payments; and
- (E) Leakage, seepage and wind-driven rain.

**16.5 Description of Coverage.** A detailed summary of the coverage included in the master policies, and copies of the master policies, shall be available for inspection by Unit Owners or their authorized representatives upon request.

**16.6 Waiver of Subrogation.** If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against the Unit Owners, or their respective servants, agents or Guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

**16.7 Insurance Proceeds.** All insurance policies purchased by the Association pursuant to this Declaration shall be for the benefit of the Association, the Unit Owners and their respective mortgagees as their interests may appear, and all proceeds from policies purchased by the Association shall be payable only to the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust, and disburse them for the purposes stated herein and for the benefit of the Unit Owners and their respective mortgagees in the following shares:

- (A) Common Elements. Proceeds on account of damage to Common Elements shall be held in as many undivided shares as there are Units, the shares of each Unit Owner being the same as his or her share in the Common Elements.
- (B) Units. Proceeds received on account of damage within the Units shall be held in prorated shares, based on the amount of damage within each damaged Unit as a percentage of the total damage within all Units.
- (C) Mortgagee. If a mortgagee endorsement has been issued as to a Unit, the shares of the mortgagee and the Unit Owner shall be as their interests appear. No mortgagee shall have the right to require application of insurance proceeds to any mortgage it may hold against a Unit, unless insurance proceeds on account of damage to that Unit are not used for repairs, or the proceeds exceed the actual cost of repairs or reconstruction. Except as otherwise expressly provided, no mortgagee shall have the right to participate in determining whether improvements will be repaired or reconstructed after casualty.
- (D) Deductible. The policies may provide for reasonable deductibles. In the case of property insurance, the deductible shall be paid by the party who would be liable for the loss or required to pay for the repairs in the absence of insurance. If multiple parties would be responsible, the deductible shall be allocated among them in relation to the amount each party's loss bears to the total.

The foregoing notwithstanding, insurance proceeds on account of NFIP flood insurance policies (if any) covering specific Units which was purchased by the Association or various Unit Owners shall be used only for the purpose of repairing or replacing the Unit to which the respective policy applies and that Unit's appurtenant share of the Common Elements, and no other Unit Owner or Unit may benefit from said proceeds. If the Condominium is not to be restored or rebuilt, the proceeds shall accrue to the benefit of the respective Unit Owner and his or her mortgagees, if any.

**16.8 Distribution of Proceeds.** Insurance proceeds from Association policies shall be distributed to or for the benefit of the Unit Owners in the following manner:

- (A) Costs of Protecting and Preserving the Property. If a person other than the person responsible for repair and reconstruction has properly advanced funds to preserve and protect the property to prevent further damage or deterioration, the funds so advanced shall first be repaid, with interest if required.

(B) **Cost of Repair or Reconstruction.** If the damage for which the proceeds are paid is to be repaired or reconstructed the remaining proceeds shall be paid to defray the costs as provided in Sections 16.7 (A) and (B), above. Any proceeds remaining after repairs and reconstruction shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being paid jointly to them.

(C) **Failure to Repair or Reconstruct.** If it is determined in the manner elsewhere provided herein that the damages for which the proceeds are paid shall not be reconstructed or repaired, the proceeds on account of that damage shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being payable jointly to them.

**16.9 Association as Agent.** The Association is hereby irrevocably appointed as agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the Condominium Property.

**17. RECONSTRUCTION OR REPAIR AFTER CASUALTY.** If any part of the Condominium Property is damaged by casualty, whether and how it shall be reconstructed or repaired shall be determined as follows:

**17.1 Damage to Units.** Where loss or damage occurs within one (1) or more Units, any Association insurance proceeds on account of the loss or damage shall be distributed to the Owner(s) of the damaged Unit(s) in shares as provided in Section 16.7, above. The Owner(s) of the damaged Unit(s) shall be responsible for reconstruction and repair, and shall bear the burden of the deductible in the same shares as they received the benefits of the Association's coverage.

**17.2 Damage to Common Elements - Less than "Very Substantial."** Where loss or damage occurs to the Common Elements, but the loss is less than "very substantial," as herein defined, it shall be mandatory for the Association to repair, restore and rebuild the damage caused by the loss and the following procedures shall apply:

- (A) The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration, and shall negotiate and contract for repair and reconstruction.
- (B) If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the Common Elements, the Association shall promptly, upon determination of the deficiency, levy a special assessment against all Unit Owners in proportion to their shares in the Common Elements for the deficiency. Such special assessments need not be approved by the Unit Owners. The proceeds from the special assessment shall be added to the funds available for repair and restoration of the property.

**17.3 "Very Substantial Damage."** As used in this Declaration, the term "very substantial" damage shall mean loss or damage caused by a common occurrence whereby at least two thirds

( $2/3^{\text{rds}}$ ) of the Units, cannot reasonably be rendered habitable, or that the portions of the Condominium Property and the Common Property which are necessary to make use of the Units, cannot be used within one-hundred twenty (120) days after the casualty. Should such "very substantial" damage occur then:

- (A) The Board of Directors and the officers, or any of them, are authorized, regardless of any other provision of this Declaration, to take such action as may reasonably appear to be necessary under emergency conditions, as further provided in Section 4.17 of the Bylaws. This authority includes actions to protect life and property, to evacuate or shore-up structures and salvage property, to engage security to protect against looting or other criminal acts, and to alter the Condominium Property or Association Property as might be reasonable under the circumstances to protect the Condominium Property or Association Property from further damage or deterioration. This authority includes the authority to expend any and all available Association funds, including reserves.
- (B) The Board of Directors shall endeavor to obtain comprehensive, detailed estimates of the cost of repair and restoration.
- (C) A membership meeting shall be called by the Board of Directors to be held not later than sixty (60) days after the Board has obtained the estimates, to determine the opinion of the membership on rebuilding or termination of the Condominium, subject to the following:
- (1) If the insurance proceeds, reserves and other Association funds available for restoration and repairs that are the Association's responsibility are sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can be accomplished with a special assessment not exceeding fifteen percent (15%) of the total annual budget for the year in which the casualty occurred, then the Condominium shall be restored or repaired unless two-thirds ( $2/3^{\text{rds}}$ ) of the total voting interests vote for termination, in which case the Condominium shall be terminated.
  - (2) If upon the advice of legal counsel, it appears unlikely that the then applicable zoning or other regulatory laws will allow reconstruction of the same number and general types of Units, or if the insurance proceeds, reserves and other Association funds available for restoration and repair are not sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can only be accomplished by levying special assessments exceeding fifteen percent (15%) of the total annual budget for the year in which the casualty occurred, unless two-thirds ( $2/3^{\text{rds}}$ ) of the total voting interests vote in favor of such special assessment and against termination of the Condominium, it shall be terminated and the property removed from the provisions of the Condominium Act. If the requisite number of Unit Owners approve



reconstruction, the Board of Directors shall levy the necessary Assessments and shall proceed to negotiate and contract for repairs and restoration. The proceeds from the special assessments shall be added to the funds available for repair and restoration of the property.

- (D) If any dispute shall arise as to whether "very substantial" damage has occurred, or as to the amount of special assessments required, a determination approved by at least two-thirds (2/3<sup>rds</sup>) of the Directors shall be conclusive, and shall be binding upon all Unit Owners.

**17.4 Application of Insurance Proceeds.** It shall always be presumed that monies disbursed for repair and restoration come first from insurance proceeds, if there is a balance left in the funds held by the Association after the payment of all costs of repair and restoration, such balance shall be distributed to the Unit Owners, except as otherwise provided in Section 16.7(C) above.

**17.5 Equitable Relief.** If damage to the Common Elements renders any Unit uninhabitable, and the damage is not repaired, reconstructed, or rebuilt within a reasonable period of time, the Owner of the uninhabitable Unit may petition a court for equitable relief, which may include a termination of the Condominium and a partition. For the purposes of this provision, it shall be conclusively presumed that repair, reconstruction or rebuilding has occurred within a reasonable period of time if substantial work is commenced within six (6) months after the occurrence of the damage or destruction, and is completed within nine (9) months thereafter.

**17.6 Plans and Specifications.** Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original Building, or according to different plans and specifications approved by the Board of Directors, by the Owners of at least two-thirds (2/3<sup>rds</sup>) of the Units, and by the Primary Institutional Mortgagee, if any. Such approvals may not be unreasonably withheld. However, no change in plans and specifications shall materially reduce the interior floor space of any Unit without the consent of the Unit Owner and his or her Institutional Mortgagee, if any.

## 18. CONDEMNATION.

**18.1 Deposit of Awards with Association.** The taking of all or any part of the Condominium Property by condemnation or eminent domain shall be deemed to be a casualty to the portion taken and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Association, and if any fail to do so, a special charge shall be made against the defaulting Unit Owner in the amount of his or her award, or the amount of that award shall be set off against any sums payable to that Owner.

**18.2 Determination Whether to Continue Condominium.** Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after a casualty.

**18.3 Disbursement of Funds.** If the Condominium is terminated after condemnation, the proceeds of all awards and special assessments will be deemed to be Association Property and shall be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced, the Owners of condemned Units, if any, will be made whole, and any property damaged by the taking will be made usable in the manner provided below. Proceeds of awards and special assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursements of funds after a casualty.

**18.4 Association as Agent.** The Association is hereby irrevocably appointed as each Unit Owner's attorney-in-fact for purposes of negotiating or litigating with the condemning authority for the purpose of realizing just compensation for the taking.

**18.5 Units Reduced but Tenatable.** If the taking reduces the size of a Unit the remaining portion of the Unit can be made tenatable, the awards for the taking of a portion of that Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

- (A) Restoration of Unit. The Unit shall be made tenatable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be paid by the Owner of the Unit.
- (B) Distribution of Surplus. The balance of the award, 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 mortgagees.
- (C) Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the Unit's percentage interest in the Common Elements, Common Expenses, and Common Surplus 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 respective percentage interests of all Unit Owners in the Common Elements, common expenses, and Common Surplus shall then be restated as follows:
  - (1) the respective square feet of each Unit after reduction by virtue of any taking as aforesaid; and
  - (2) divide such amount by the total square feet of all Units after reduction by virtue of such taking.
  - (3) The result of such division for each Unit shall be the adjusted percentage interest in the Common Elements, Common Expenses and Common Surplus for such Unit.

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

- (A) Payment of Award. To the extent of the award for the taking, the fair market value of the Unit immediately prior to the taking (as determined in the condemnation proceeding) shall be paid to the Unit Owner and to each mortgagee of the Unit, the remittance being made payable jointly to the Unit Owner and mortgagee(s).
- (B) Addition to Common Elements. If possible and practical, the remaining portions of the Unit shall become a part of the Common Elements and shall be placed in condition for use. If the takings award is insufficient to pay for the cost of accomplishing the foregoing, the Association shall promptly levy a special assessment against all Unit Owners in proportion to their shares in the Common Elements. The Unit Owners need not approve such special assessment.
- (C) Adjustment of Shares in Common Elements. The shares in the Common Elements appurtenant to the Units that continue as part of the Condominium shall be increased to absorb the ownership shares of the Units not continuing among the reduced number of Units. This shall be done by amending the ownership shares of each continuing Unit in the Common Elements on an equal basis. The amendment must be approved by a majority of all Unit Owners if it is not ordered by a governmental entity, but no other consent is required.
- (D) Assessments. If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned Unit to the Unit Owner and to condition the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for those purposes shall be raised by special assessment against all Unit Owners who will continue as Owners of Units after the changes in the Condominium affected by the taking. The Assessments shall be made in proportion to the shares of those owners in the Common Elements after the changes affected by the taking.
- (E) Arbitration. If the fair market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and the Association within thirty (30) days after notice by either party, the value shall be determined by appraisal in accordance with the following. The Unit Owner, the first mortgagee, if any, and the Association shall each appoint one (1) M.A.I. appraiser, who shall appraise the Unit and shall determine the fair market value by computing the arithmetic average of their appraisals of the Unit, and a judgment of specific performance upon the value arrived at by the appraisers may be entered in any court of competent jurisdiction. The cost of appraisal shall be paid by the party selecting the appraiser.

**19. TERMINATION:** The Condominium may be terminated in the following manner:

**19.1 Agreement.** The Condominium may be terminated at any time by written agreement of the Owners of at least three-fourths (3/4<sup>ths</sup>) of the Units and the Primary Institutional Mortgagee, if any.

**19.2 Very Substantial Damage.** If the Condominium suffers "very substantial damage" to the extent defined in Section 17.3, above, and it is not decided as therein provided that the Condominium will be reconstructed or repaired, the condominium form of ownership of the property in this Condominium will be terminated.

**19.3 Certificate of Termination.** The termination of the Condominium by either of the foregoing methods shall be evidenced by a certificate of termination, executed by the President or Vice-President with the formalities of a deed, and certifying as to the facts effecting the termination. The certificate shall also include the name and address of a Florida financial institution with trust powers, or a licensed Florida attorney, who is designated by the Association to act as termination trustee, and shall be signed by the trustee indicating willingness to serve in that capacity. Termination of the Condominium occurs when a certificate of termination meeting the requirements of this section is recorded in the Public Records of St. Johns County, Florida. The recording of that certificate of termination automatically divests the Association and all Unit Owners of legal title, and vests legal title in the termination trustee named in the certificate of termination, to all real and personal property which was formerly the Condominium Property or Association Property, without need for further conveyance. Beneficial title to the former Condominium and Association Property is owned by the former Unit Owners as tenants in common, in the same undivided shares as each owner previously owned in the Common Elements. Upon termination, each lien encumbering a Condominium Parcel is automatically transferred to the equitable share in the Condominium Property attributable to the Unit encumbered by the lien, with the same priority.

**19.4 Wind-up of Association Affairs.** The termination of the Condominium does not, by itself, terminate the Association. The former Unit Owners and their successors and assigns shall continue to be members of the Association, and the members of the Board of Directors and the officers of the Association shall continue to have the powers granted in this Declaration, and in the Articles of Incorporation and Bylaws, for the purpose of winding up the affairs of the Association in accordance with this section.

**19.5 Trustee's Powers and Duties.** The termination trustee shall hold title to the property for the benefit of the former Unit Owners and their successors, assigns, heirs, devisees, mortgagees and other lien holders, as their interests shall appear. If the former Unit Owners approve a sale of the property as provided in this section, the termination trustee shall have the power and authority to convey title to the real property, and to distribute the proceeds in accordance with the provisions of this section. The termination trustee shall be entitled to charge a reasonable fee for acting in such capacity, and such fee and all costs and expenses incurred by the termination trustee in the performance of its duties shall be paid by the Association or taken from the proceeds of the sale of the former Condominium Property and Association Property, and shall constitute a lien on the property superior to any other lien. The trustee shall be entitled to

indemnification by the Association from any and all liabilities and costs incurred by virtue of acting as termination trustee unless such liabilities are the result of gross negligence or malfeasance. The termination trustee may rely upon the written instructions and information provided by officers, Directors or agents of the Association, and shall not be required to inquire beyond such information and instructions.

**19.6 Partition; Sale.** Following termination, the former Condominium Property and Association Property may be partitioned and sold upon the application of any Unit Owner. If following a termination, at least sixty percent (60%) of the voting interests agree to accept an offer for the sale of the property, the Board of Directors shall notify the termination trustee, and the trustee shall complete the transaction. In that event, any action for partition of the property shall be held in abeyance pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto. If the Unit Owners have not authorized a sale of the former Condominium Property and Association Property within one (1) year after the recording of the certificate of termination, the trustee may proceed to sell the property without agreement by the former Unit Owners. The proceeds of the sale of any of the property or assets of the Association shall be distributed by the termination trustee to the beneficial owners thereof, as their interests shall appear.

**19.7 Sale of Condominium Property and/or Purchase of Remainder of Property.** In the event that an event, action, or circumstance occurs or arises under this Declaration that gives rise to a right in favor of the Association or the Unit Owners to purchase or sell, then in any such event, Unit Owners to which sixty percent (60%) of the voting interests are attached may vote to sell or purchase, as is the case. Provided however, nothing herein shall obligate any Unit Owner who has not voted in favor of a decision to purchase, to contribute Assessments for or be obligated to pay a share thereof. Instead, however, any such Unit Owner shall, notwithstanding a negative vote, have the right to participate in such purchase with other Unit Owners, pari passu, or the right to instead require that (and the right to allow) the Unit Owners comprising the sixty percent (60%) of voting interests, that approved the purchase, to also purchase the interest of said Unit Owners as were not part of the sixty percent (60%). The failure of such Unit Owners to make such an election shall be deemed to be an election to allow the approving Unit Owners to purchase. The price to be paid for the interest will be its fair market value which will be determined among the selling and purchasing Unit Owners in a manner, and following a procedure similar to that set forth in Section 17.3(C)(2) hereof.

**19.8 New Condominium.** The termination of the Condominium does not bar creation of another condominium including all or any portion of the same property.

**19.9 Provisions Survive Termination.** The provisions of this Section 19 are covenants running with the land, and shall survive the termination of the Condominium until all matters covered by those provisions have been completed. The Board of Directors shall continue to function in accordance with the Bylaws and Articles of Incorporation, and shall have the power to levy Assessments. to pay the costs and expenses of maintaining the property until it is sold. The costs of termination, the fees and expenses of the termination trustee, as well as post-termination costs of maintaining the former Condominium Property, are common expenses, the payment of which shall be secured by a lien on the beneficial interest owned by each former Unit

Owner, which to the maximum extent permitted by law, shall be superior to, and take priority over, all other liens.

## 20. OBLIGATIONS OF OWNERS.

**20.1 Duty to Comply; Right to Sue.** Each Unit Owner, his or her tenants and Guests, and the Association shall be governed by and shall comply with the provisions of the Condominium Act, the Condominium Documents and the Rules and Regulations. Actions for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a Unit Owner against:

- (A) The Association;
- (B) A Unit Owner;
- (C) Anyone who occupies a Unit including, without limitation, tenants;
- (D) Any member of the Board of Directors who willfully and knowingly fails to comply with these provisions; or
- (E) Any Director appointed by the Developer, for actions taken by them prior to the time control of the Association is assumed by Unit Owners other than the Developer.

**20.2 Waiver of Rights.** The failure of the Association or of a member to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future. A provision of the Condominium Act may not be waived by a Unit Owner if the waiver would adversely affect the rights of the Owner or defeat the purpose of the provision, except that Unit Owners or Directors may waive notice of specific meetings as provided in the Bylaws.

**20.3 Attorney's Fees.** In any legal proceeding arising out of an alleged failure of a tenant, Unit Owner or the Association to comply with the requirements of the Condominium Act or the Condominium Documents, as they 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, costs and expenses of litigation as may be awarded by the court.

**20.4 No Election of Remedies.** All rights, remedies and privileges granted to the Association or Unit Owners under any terms, provisions, covenants, or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one (1) or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the Condominium Documents, or at law or in equity.

## 21. RIGHTS OF MORTGAGEES.

**21.1 Approvals.** Written consent of the Institutional Mortgagee of a Unit shall be required for any amendment to the Declaration which would decrease the percentage interests of the Unit in the ownership of the Common Elements, except as provided in Sections 18.5(C) and 18.6(C) above.

**21.2 Notice of Casualty or Condemnation.** In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of, any Unit or any part of the Common Elements, the record holder of any first mortgage on an affected Unit shall be entitled to notice.

**21.3 Mortgage Foreclosure.** If a Unit Owner acquires title to a Condominium Parcel as a result of foreclosure of the mortgage, or by a deed given in lieu of foreclosure, the Unit Owner shall be liable for all Assessments which come due while such owner retains title to the parcel. Additionally, a Unit Owner is jointly and severally liable with the previous Owner for all unpaid Assessments that came due up to the time of transfer of title. Notwithstanding the foregoing, the liability of a first mortgagee, its successor or assignees, who acquired title to a condominium Unit by foreclosure (or by a deed in lieu of foreclosure) for unpaid Assessments that became due prior to the mortgagee's acquisition of title is limited to the amounts provided in Section 718.116, Florida Statutes, or any replacement section, as the section may be subsequently amended from time to time. No Owner or acquirer of title to a Condominium Parcel by foreclosure (or by a deed in lieu of foreclosure) may during his or her period of ownership, whether or not the parcel is occupied, be excused from the payment of any Assessments coming due during the period of such ownership.

**21.4 Redemption.** If proceedings are instituted to foreclose any mortgage or lien on any Unit, the Association, on behalf of one (1) or more Unit Owners and with the permission of the mortgagee, may redeem the mortgage or lien for the amount due thereon and be thereby subrogated to all of the mortgagee's or lienor's rights of action, or the Association may purchase the Unit at the foreclosure sale. A mortgagee shall have an unrestricted, absolute right to accept title to the Unit in settlement and satisfaction of the mortgage or to foreclose its mortgage in accordance with its terms, and to bid upon the Unit at the foreclosure sale.

**21.5 Right to Inspect Books.** The Association shall make available to Institutional Mortgagees upon request current copies of the recorded Condominium Documents and the books, records and financial statements of the Association. "Available" means ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies provided at the request of the mortgagee shall be at the expense of the mortgagee.

**21.6 Financial Statement.** Any Institutional Mortgagee is entitled, upon written request, to a copy of the most recent financial report or financial statement of the Association.

**21.7 Lender's Notices.** Upon written request to the Association, any Institutional Mortgagee shall be entitled to timely written notice of:

- (A) Any delinquency of sixty (60) days or longer in the payment of Assessments or charges owed by the Owner of any Unit on which it holds a mortgage.
- (B) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- (C) Any proposed action that requires the consent of a specified number or percentage of mortgage holders.
- (D) **Right to Cover Cost.** Developer (until the date Unit Owners other than Developer elect a majority of the Directors which is known as the "turnover date") and any Institutional Mortgagee shall have the right, but not the obligation, jointly or singularly, and at their sole option, to pay any of the Assessments which are in default and which may or have become a charge against any Unit. Further, Developer (until the turnover date) and any Institutional Mortgagee shall have the right, but not the obligation, jointly or singly, and at their sole option, to pay insurance premiums or fidelity bond premiums on behalf of the Association where, in regard to insurance premiums, the premiums are overdue and where lapses in policies may or have occurred. Developer and any Institutional Mortgagee paying insurance premiums on behalf of the Association as set forth above shall be entitled to immediate reimbursement from the Association plus any costs of collection, including, without limitation, legal fees.

**22. DEVELOPER'S RIGHTS AND DUTIES.** Notwithstanding any other provision of this Declaration, so long as the Developer or any successor in interest to the Developer holds any Units in the Condominium for sale in the ordinary course of business, the following shall apply:

**22.1 Developer's Use.** Until the Developer has completed all of the contemplated improvements and has sold all of the Units in the Condominium, neither the Unit Owners nor the Association, nor their use of the Condominium Property shall unreasonably interfere with the completion of the contemplated improvements or the sale of Units. Developer may make any use of the unsold Units and the Common Elements and Association Property as further provided in Sections 8.1 (E) and (F) hereof.

**22.2 Assignment.** All or any of the rights, privileges, powers and immunities granted or reserved to the Developer in the Condominium Documents may be assigned by the Developer to any successor developer without the consent of any other Unit Owner or any holder of a mortgage secured by any Unit. In the event of the foreclosure of any mortgage owed by the Developer, or deed in lieu of such foreclosure, the person first acquiring title to such interest by reason of such foreclosure, or deed in lieu of foreclosure, shall succeed to all rights, powers, privileges and immunities of the Developer.

**22.3 Amendments by Developer.** Developer has the unilateral right to amend this Declaration and any of its exhibits to the fullest extent permitted by the Condominium Act as it exists on the date of recording of this Declaration. Said amendments may be made and executed solely by the Developer and recorded in the Public Records of St. Johns County, Florida, and



without any requirement of securing the consent of any Unit Owner, the Association, or the owner and holder of any lien encumbering a Condominium Parcel.

**22.4 Sales of Units.** The Developer shall have the right to sell or transfer any Unit owned by it to any person, on such terms and conditions as it deems in its own best interest.

**22.5 Transfer of Association Control.** The Developer shall relinquish Association control three (3) years after fifty percent (50%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers, or three (3) months after ninety percent (90%) of the Units that will be operated by the Association have been conveyed to purchasers, or when all the Units have been completed and some have been conveyed to the purchasers and none of the others are being offered for sale by the Developer in the ordinary course of business, or when some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, or seven (7) years after the Declaration of Condominium is recorded, whichever shall first occur.

When Unit Owners other than the Developer elect a majority of the Directors, the Developer relinquishes control of the Association, and the Unit Owners simultaneously assume control. At that time the Developer shall deliver to the Association all property of the Unit Owners, and of the Association, held or controlled by the Developer, and all items and documents that the Developer is required to turn over to the Association under Florida law. The Developer may turn over control of the Association to Unit Owners other than the Developer before the above-mentioned dates, in its sole discretion, by causing all of its appointed Directors to resign, whereupon it becomes the affirmative obligation of Unit Owners other than the Developer to elect Directors and assume control. Provided at least sixty (60) days notice of the Developer's decision to cause its appointees to resign is given to Unit Owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with the resignations, if Unit Owners other than the Developer refuse or fail to assume control.

**22.6 Developer's Rights.** As long as the Developer holds Units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer.

- (A) Any 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. However, an increase in Assessments for common expenses shall not be deemed to be detrimental to the sales of Units.

**22.7 Security.** THE ASSOCIATION MAY, BUT SHALL NOT BE OBLIGATED TO, MAINTAIN OR SUPPORT CERTAIN ACTIVITIES WITHIN THE CONDOMINIUM DESIGNED TO MAKE THE CONDOMINIUM SAFER THAN IT OTHERWISE MIGHT BE. DEVELOPER SHALL NOT IN ANY WAY OR MANNER BE HELD LIABLE OR RESPONSIBLE FOR ANY VIOLATION OF THIS DECLARATION BY ANY PERSON OTHER THAN DEVELOPER. ADDITIONALLY, NEITHER, DEVELOPER, NOR THE CONDOMINIUM ASSOCIATION MAKES ANY REPRESENTATIONS WHATSOEVER AS

TO THE SECURITY OF THE PREMISES OR THE EFFECTIVENESS OF ANY MONITORING SYSTEM OR SECURITY SERVICE. ALL UNIT OWNERS AGREE TO HOLD DEVELOPER, AND THE CONDOMINIUM ASSOCIATION HARMLESS FROM ANY LOSS OR CLAIM ARISING FROM THE OCCURRENCE OF ANY CRIME OR OTHER ACT. NEITHER THE CONDOMINIUM ASSOCIATION, DEVELOPER, NOR ANY SUCCESSOR DEVELOPER SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE CONDOMINIUM. NEITHER THE CONDOMINIUM ASSOCIATION, DEVELOPER, NOR ANY SUCCESSOR DEVELOPER SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OR SECURITY MEASURES UNDERTAKEN, IF ANY. ALL UNIT OWNERS AND OCCUPANTS OF ANY UNIT, AND TENANTS, GUESTS AND INVITEES OF UNIT OWNERS, ACKNOWLEDGE THAT THE CONDOMINIUM ASSOCIATION AND ITS BOARD, DEVELOPER, OR ANY SUCCESSOR DEVELOPER DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM, OR OTHER SECURITY SYSTEM, IF ANY, DESIGNATED BY OR INSTALLED ACCORDING TO THE GUIDELINES ESTABLISHED BY DEVELOPER, OR THE CONDOMINIUM ASSOCIATION MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH UNIT OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST AND INVITEE OF A UNIT OWNER, ACKNOWLEDGES AND UNDERSTANDS THAT THE CONDOMINIUM ASSOCIATION, ITS BOARD, DEVELOPER, OR ANY SUCCESSOR DEVELOPER ARE NOT INSURERS AND THAT EACH UNIT OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST, AND INVITEE OF THE UNIT OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT, DEVELOPER, OR ANY SUCCESSOR DEVELOPER HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY UNIT OWNER OR OCCUPANT OF ANY UNIT, OR ANY TENANT, GUEST OR INVITEE OF A UNIT OWNER RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED, IF ANY, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE CONDOMINIUM, IF ANY.

**23. AMENDMENT OF DECLARATION.** Except as otherwise provided herein as to amendments made by the Developer, all amendments to this Declaration shall be proposed and adopted in the following manner:

**23.1 Proposal.** Amendments to this Declaration may be proposed by the Board of Directors or by written petition signed by the Owners of one-fourth (1/4<sup>th</sup>) of the voting interests of the Association.

**23.2 Procedure.** Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can be given.

**23.3 Vote Required.** Except as otherwise provided by law, or by specific provision of the Condominium Documents, or except where a greater percentage vote is required by this Declaration for a certain action (in which case such greater percentage shall also be required to effectuate an amendment), this Declaration may be amended if the proposed amendment is approved by at least two-thirds ( $2/3^{\text{rds}}$ ) of the voting interests present in person or by proxy and voting at any annual or special meeting called for the purpose. The foregoing notwithstanding, prior to the assumption of control of the Association by Unit Owners other than the Developer, this Declaration may be amended by vote of a majority of the Directors.

**23.4 Certificate; Recording.** A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be in the form required by law and shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of St. Johns County, Florida.

**23.5 Proviso.** An amendment to this Declaration may change the configuration or size of any Unit in a material fashion, materially alter or modify the appurtenances to the Unit, or change the proportion or percentage by which the Owner of a parcel shares the common expenses and owns the Common Surplus, only if the record Owner of the Unit, his or her Institutional Mortgagee, if any, and the Owners of at least a majority of the Units, consent to the amendment. This proviso does not apply to changes in ownership shares necessitated by condemnation or a taking by eminent domain under Section 17, above.

**23.6 Amendment of Provisions Relating to Developer.** As long as the Developer holds any Units in the Condominium for sale in the ordinary course of business, no amendment shall be effective to change any provision relating specifically to the Developer without the Developer's written consent.

**23.7 Rights of Developer and Institutional Mortgagees.** No amendment shall be passed which shall materially impair or prejudice the rights or priorities of Developer, the Association or any Institutional Mortgagee under this Declaration and the other Condominium Documents without the specific written approval of Developer, the Association and any Institutional Mortgagees affected thereby. The consent of any such Institutional Mortgagee may not be unreasonably withheld.

**23.8 Amendments Required by Secondary Mortgage Market Institutions.** Notwithstanding anything contained herein to the contrary, Developer, without the consent of the Unit Owners, may file any amendment which may be required by an Institutional Mortgagee for the purpose of satisfying its planned Unit development criteria or such criteria as may be established by such mortgagee's secondary mortgage market purchasers, including without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage

Corporation; provided, however, that any such Developer-filed amendments must be in accordance with any applicable rules, regulations and other requirements promulgated by the United States Department of Housing and Urban Development.

**24. MISCELLANEOUS.**

**24.1 Severability.** The invalidity or unenforceability in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, or any exhibit attached thereto, shall not effect the remaining portions thereof.

**24.2 Applicable Statutes.** The validity, application and construction of this Declaration and its exhibits shall be governed by the laws of Florida, particularly the Condominium Act, as it exists on the date of recording this Declaration in the Public Records of St. Johns County, Florida.

**24.3 Conflicts.** If there is a conflict between this Declaration and the Association's Articles of Incorporation or Bylaws, the Declaration shall control.

**24.4 Interpretation.** The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

**24.5 Exhibits.** There is hereby incorporated within this Declaration any materials contained in any of the exhibits hereto which, under the Condominium Act, are required to be part of the Declaration.

**24.6 Headings.** The headings used in the Condominium Documents are for reference purposes only, and do not constitute substantive matter to be considered in construing the terms and provisions of these documents.

**[SIGNATURE TO FOLLOW ON NEXT PAGE.]**

IN WITNESS WHEREOF, Developer has caused this Declaration to be executed on the day and year first above written.

*Amy Walthall*

Signature of Witness #1

AMY WALTHALL

Printed Name of Witness #1

**CROSSWINDS AT MICKLER'S BEND, LLC, a Florida limited liability company**

By: Bentley Management, L.L.C., a Michigan limited liability company, as Manager

*Kathy Owens*

Signature of Witness #2

KATHY OWENS

Printed Name of Witness #2

By: *Bernard Glieberman*, as Manager

STATE OF MICHIGAN )  
                                  §§  
COUNTY OF ~~WAYNE~~ Oakland

22 I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this day of September 2005, by Bernard Glieberman, as Manager of Bentley Management, L.L.C., a Michigan limited liability company, as Manager of Crosswinds at Mickler's Bend, LLC, a Florida limited liability company, who  is personally known to me OR  produced \_\_\_\_\_ as identification.

(Notary Seal)

AMY L. WESS  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF WAYNE  
MY COMMISSION EXPIRES Mar 20, 2008  
ACTING IN COUNTY OF Oakland

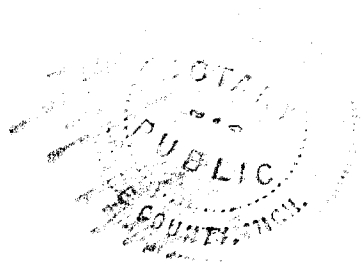
*Amy L. Wess*

Notary Public

AMY L WESS

Printed Name of Notary Public

My Commission Expires:



JOINDER AND CONSENT

The undersigned, being the owner and holder of a mortgage recorded at Official Records Book 2435, Page 1929, of the Public Records of St. Johns County, Florida, which encumbers the land described on Exhibit "A" of the Declaration of Condominium for Portofino at Ponte Vedra, a Condominium, to which this instrument is attached, hereby joins in and consents to the Declaration of Condominium.

Signed, Sealed and Delivered in the Presence of:

COLONIAL BANK, N.A.

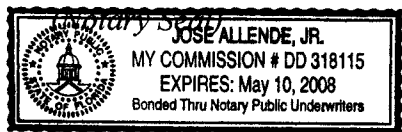
[Signature]  
Witness #1  
Jose Allende  
Printed Name of Witness #1

By: [Signature]  
Jacques Couillard, President

[Signature]  
Witness #2  
Laurie Thibault  
Printed Name of Witness #2

STATE OF FLORIDA            )  
  §§:  
COUNTY OF Osceola        )

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 19 day of August 2005, by Jacques Couillard, as President of Colonial Bank, N.A. who is personally known to me or who produced \_\_\_\_\_ as identification.



[Signature]  
Notary Public  
Jose Allende Jr.  
Printed Name of Notary Public  
My Commission Expires:

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF CONDOMINIUM  
(PHASE I)**

COPY

**LEGAL DESCRIPTION  
PORTOFINO AT PONTE VEDRA, A  
CONDOMINIUM - PHASE I**

LEGAL DESCRIPTION: PORTOFINO AT PONTE VEDRA, A CONDOMINIUM - PHASE I

A PART OF SECTION 46, TOWNSHIP 4, SOUTH, RANGE 29, EAST, ST. JOHNS COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROAD A-1-A (A 200 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED) POINT BEING THE SOUTHEAST CORNER OF TRACT "G", SEASIDE AT PONTE VEDRA BEACH UNIT TWO, AS RECORDED IN MAP BOOK 27 PAGES 29 THROUGH 33, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY; THENCE SOUTH 74°50'43" WEST, ALONG THE SOUTHERLY BOUNDARY LINE OF SAID TRACT "G" AND LOT 19 OF SAID SEASIDE AT PONTE VEDRA BEACH UNIT TWO, A DISTANCE OF 313.49 FEET TO AN ANGLE POINT ON THE BOUNDARY OF SAID SEASIDE AT PONTE VEDRA BEACH UNIT TWO; THENCE SOUTH 08°38'52" EAST, CONTINUING ALONG THE BOUNDARY LINE OF SAID SEASIDE AT PONTE VEDRA BEACH UNIT TWO, A DISTANCE OF 395.82 FEET TO THE POINT OF BEGINNING; THENCE NORTH 70°57'56" EAST, A DISTANCE OF 397.41 FEET; THENCE SOUTH 09°08'23" EAST, A DISTANCE OF 608.02 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF MICKLER ROAD (A 100 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED); THENCE SOUTH 68°21'37" WEST, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID MICKLER ROAD, A DISTANCE OF 397.00 FEET; THENCE NORTH 09°25'54" WEST, A DISTANCE OF 621.64 FEET; THENCE NORTH 08°38'52" WEST, A DISTANCE OF 4.20 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF THE LANDS AS DESCRIBED BY ROBERT M. ANGAS AND ASSOCIATES CONSULTING CIVIL ENGINEERS & SURVEYORS, FILE NO: 751-56 AND BY ALL AMERICAN SURVEYORS, INC.; FILE NO: 96-315

LESS AND EXCEPT A PARCEL OF LAND LYING IN SECTION 46, TOWNSHIP 4 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROAD A-1-A (A 200 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED) POINT BEING THE SOUTHEAST CORNER OF TRACT "G", SEASIDE AT PONTE VEDRA BEACH UNIT TWO, AS RECORDED IN MAP BOOK 27 PAGES 29 THROUGH 33, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY; THENCE SOUTH 74°50'43" WEST, ALONG THE SOUTHERLY BOUNDARY LINE OF SAID TRACT "G" AND LOT 19 OF SAID SEASIDE AT PONTE VEDRA BEACH UNIT TWO, A DISTANCE OF 313.49 FEET TO AN ANGLE POINT ON THE BOUNDARY OF SAID SEASIDE AT PONTE VEDRA BEACH UNIT TWO; THENCE SOUTH 08°38'52" EAST, CONTINUING ALONG THE BOUNDARY LINE OF SAID SEASIDE AT PONTE VEDRA BEACH UNIT TWO, A DISTANCE OF 395.82 FEET; THENCE SOUTH 09°08'23" EAST, A DISTANCE OF 323.94 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 09°08'23" EAST, A DISTANCE OF 105.01 FEET; THENCE SOUTH 80°07'15" WEST, A DISTANCE OF 111.05 FEET; THENCE NORTH 09°25'53" WEST, A DISTANCE OF 74.70 FEET; THENCE NORTH 29°53'04" EAST, A DISTANCE OF 39.42 FEET, THENCE NORTH 80°07'15" EAST, A DISTANCE OF 86.61 FEET TO THE POINT OF BEGINNING.

CONTAINING 229,388 SQUARE FEET OR 5.27 ACRES MORE OR LESS.

**LEGEND:**

- R/W=RIGHT-OF-WAY
- MB=MAP BOOK
- ORB=OFFICIAL RECORDS BOOK
- PG=PAGE
- BLDG=BUILDING

**GENERAL NOTES:**

1. BEARINGS BASED ON SOUTHERLY BOUNDARY LINE OF TRACT "G", SEASIDE AT PONTE VEDRA BEACH UNIT TWO, MAP BOOK 27, PAGES 29 THROUGH 33.
2. THIS IS A SKETCH AND DESCRIPTION ONLY AS REQUESTED BY OUR CLIENT AND DOES NOT ADDRESS ANY UNDERGROUND UTILITIES OR ENVIRONMENTAL CONCERNS AS MAY BE DEEMED AS SUCH BY ANY GOVERNMENT AGENCY OR SPECIAL INTEREST GROUP. **THIS IS NOT A BOUNDARY SURVEY.**
3. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF ABSTRACT OR SEARCH OF TITLE, AND THEREFORE THE UNDERSIGNED AND PRIVETT-NILES & ASSOCIATES, MAKE NO CERTIFICATIONS REGARDING INFORMATION SHOWN OR NOT SHOWN HEREON PERTAINING TO EASEMENTS, RIGHTS OF WAY, SETBACK LINES, OVERLAPS, BOUNDARY LINE DISPUTES, AGREEMENTS, RESERVATIONS OR OTHER SIMILAR MATTERS WHICH MAY APPEAR IN THE ABSTRACT, OR SEARCH OF TITLE.
4. ALL IMPROVEMENTS ARE PROPOSED AS OF THE DATE OF THIS DRAWING, UNLESS OTHERWISE SHOWN.

**CERTIFICATION:**

I HEREBY CERTIFY THAT THIS SURVEY OF THE HEREON DESCRIBED PROPERTY WAS SURVEYED UNDER MY RESPONSIBLE CHARGE ON 10/12/05. THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17-6, FAC PURSUANT TO SECTION 472.027 FLORIDA STATUTES.



ALBERT D. BRADSHAW, P.S.M.  
FLORIDA CERTIFICATION No. 6824

**PREPARED BY:**

PRIVETT-NILES & ASSOC., INC.  
SURVEYORS, MAPPERS AND LAND PLANNERS  
3000 N. PONCE DE LEON BLVD.  
ST. AUGUSTINE, FLORIDA, 32084  
(904) 829-2591 LB No.6824



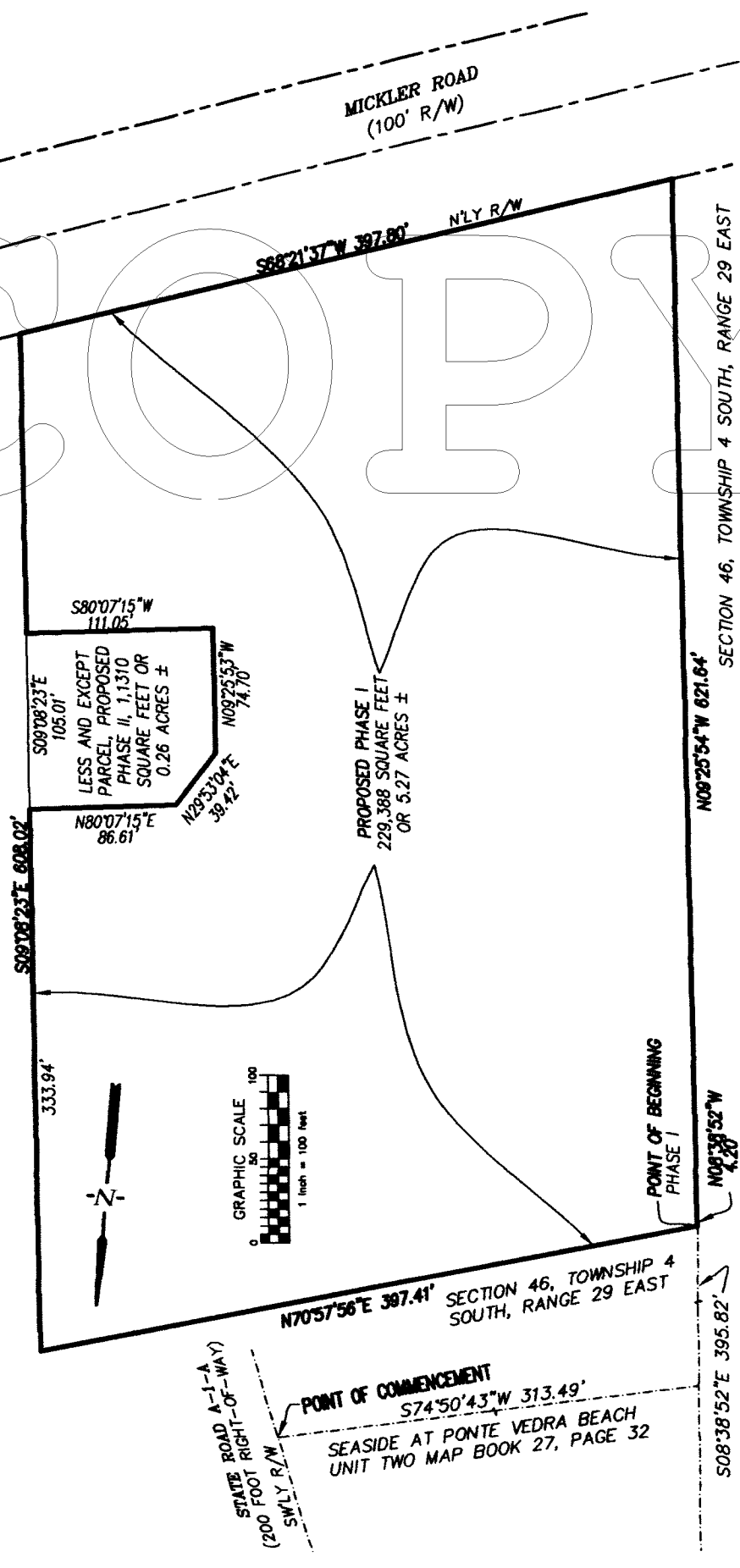
**EXHIBIT "B"**

**SURVEY, PLOT PLAN, FLOOR PLANS**

This exhibit consists of:

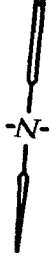
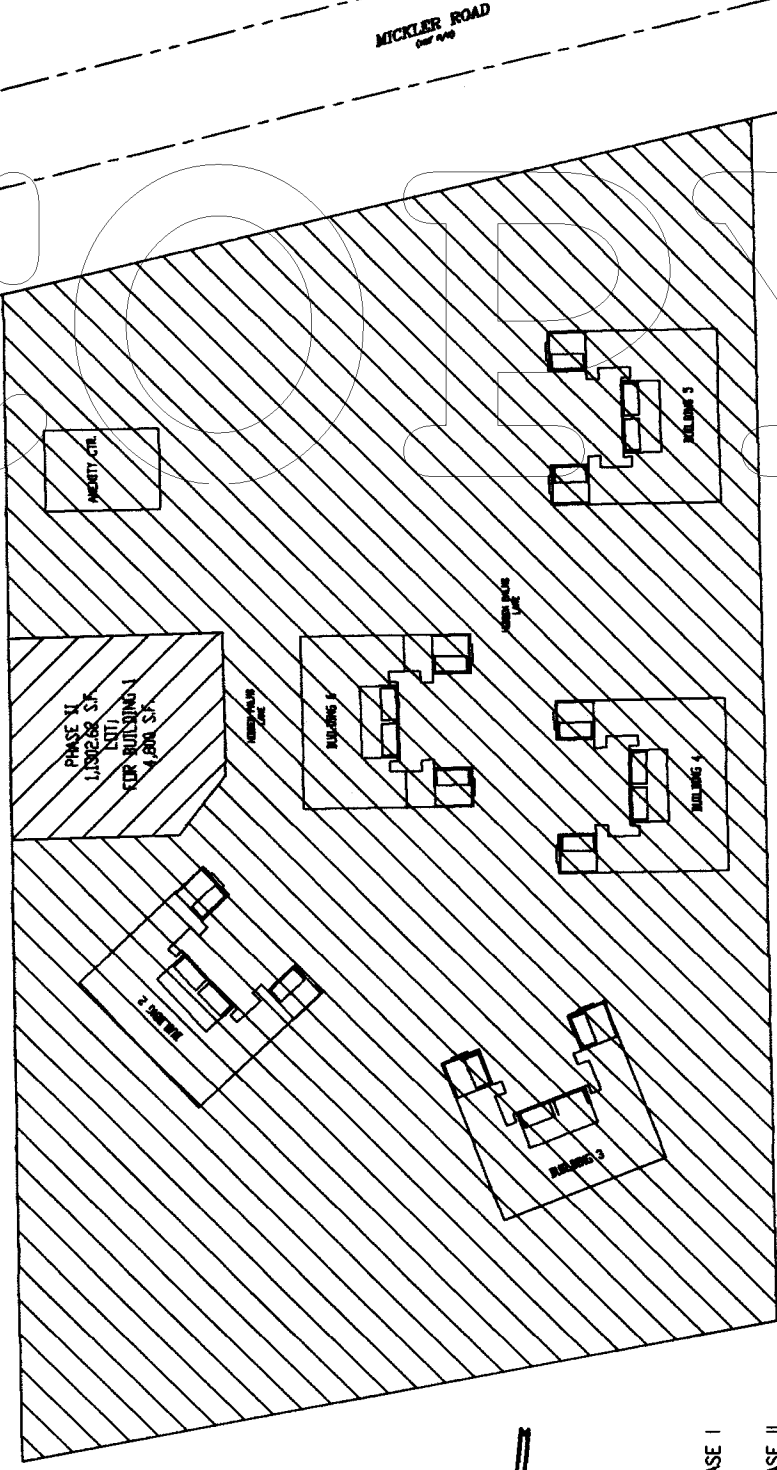
1. Sheet 1. Survey of the initial phase ("Phase I") of the Condominium.
2. Sheet 2. Plot Plan showing Phase I and Subsequent Phase II of the Condominium. The Plot Plan depicts the location of Buildings 1, 2, 3, 4, 5 and 6 and the clubhouse/amenity center.
3. Sheet 3. Unit Identification Plan for Phase I of the Condominium consisting of units located within Buildings 2, 3, 4, 5 and 6.
4. Sheet 4. Front Elevation drawing reflecting the vertical elevations of the unit boundaries within each of Buildings 2, 3, 4, 5 and 6.
5. Sheets 5 and 6. Graphics reflecting the 4 units within each of Buildings 2, 3, 4, 5 and 6 located on 2 floors with 2 units per floor in each Building (for a total of 20 units). Units in each Building 2, 3, 4, 5 and 6 are numbered pursuant to the Unit Identification Plan appearing as Sheet 3.

# PORTOFINO AT PONTE VEDRA, A CONDOMINIUM - PHASE I



PREPARED BY:  
PRIVETT-NILES & ASSOC., INC.  
SURVEYORS, MAPPERS AND LAND PLANNERS  
3000 N. PONCE DE LEON BLVD.  
ST. AUGUSTINE, FLORIDA, 32084  
(904) 829-2591 LB No.6824

**SPECIFIC PURPOSE MAP SHOWING PLOT PLAN OF:  
PORTOFINO AT PONTE VEDRA, A CONDOMINIUM**



GRAPHIC SCALE  
1" = 20' 0"

LEGEND

- PHASE I
- PHASE II

SHEET 1 OF 1

**PRIVETT-NILES and ASSOCIATES, INC.**  
SURVEYING AND MAPPING CONSULTANTS  
LICENSED BUSINESS NO. 8824  
3000 N. PONCE DE LEON BOULEVARD, SUITE "D"  
ST. AUGUSTINE, FLORIDA 32084  
(904) 829-2581 FAX: (904) 829-8070

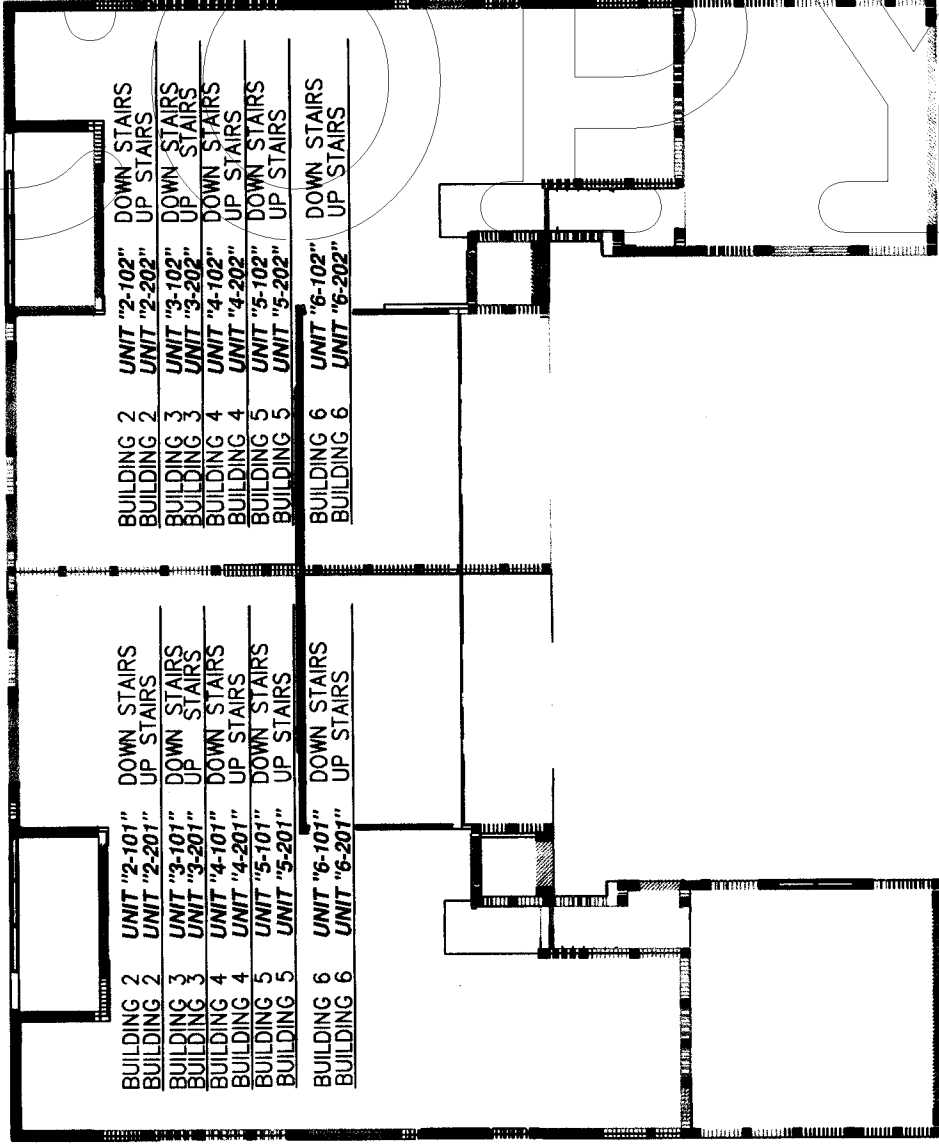
THIS PLAN IS PREPARED AND PLOTTED FOR THE CLIENT'S USE ONLY. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

PROJECT NUMBER: 749-003  
DATE: 08/12/08  
SCALE: 1"=20'  
DRAWN BY: PNF-PLM  
CHECKED BY: PNF-PLM  
SHEET No. 1/1

# PORTOFINO AT PONTE VEDRA, A CONDOMINIUM (TYPICAL BUILDINGS 2,3,4,5 & 6)

(TYPE 1)

## UNIT IDENTIFICATION PLAN FIRST & SECOND FLOOR



PREPARED BY:

PRIVETT-NILES & ASSOC., INC.  
 SURVEYORS, MAPPERS AND LAND PLANNERS  
 3000 N. PONCE DE LEON BLVD.  
 ST. AUGUSTINE, FLORIDA, 32084  
 (904) 829-2591 LB No.6824



SCALE 1" = 15'  
 THIS EXHIBIT MAY HAVE BEEN REDUCED  
 OR ENLARGED

**NOTES:**

DATE: 10/11/05

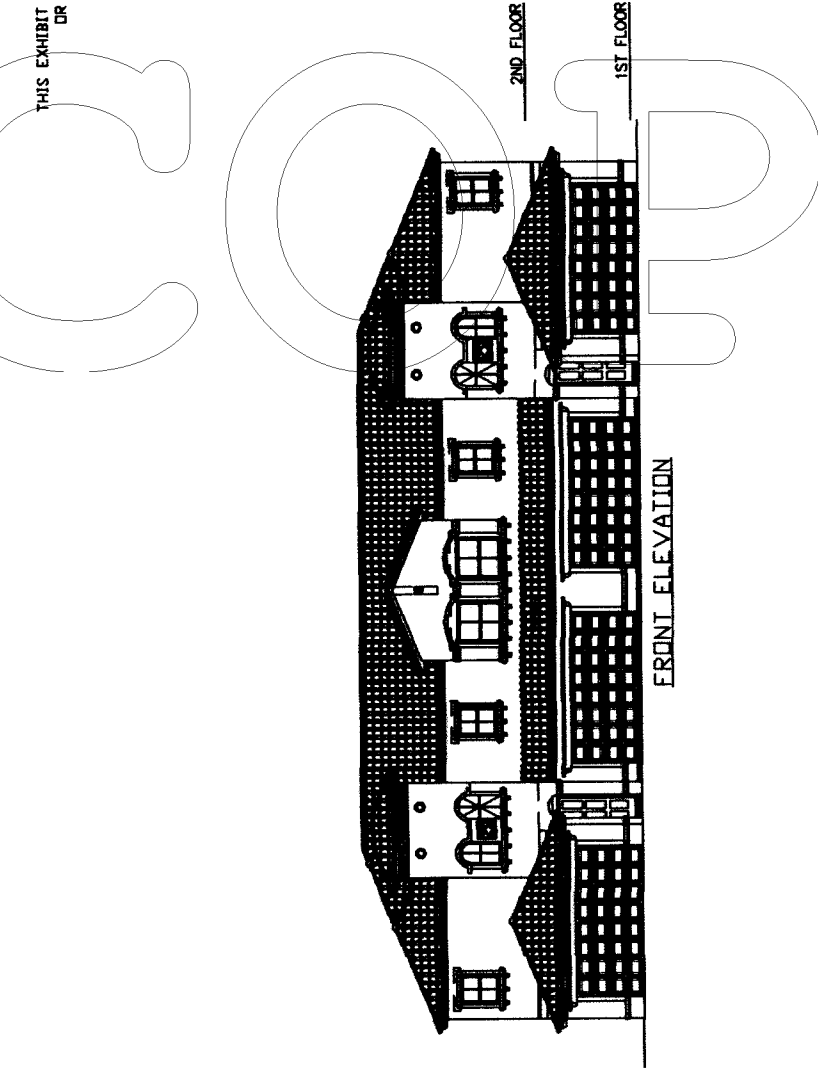
REFER TO PLOT PLAN FOR BUILDING LOCATION

ALL IMPROVEMENTS ARE PROPOSED AS OF THE DATE OF THIS DRAWING, UNLESS OTHERWISE SHOWN.

PROPOSED IMPROVEMENTS ARE SUBJECT TO NORMAL CONSTRUCTION TOLERANCES.

# PORTOFINO AT PONTE VEDRA, A CONDOMINIUM

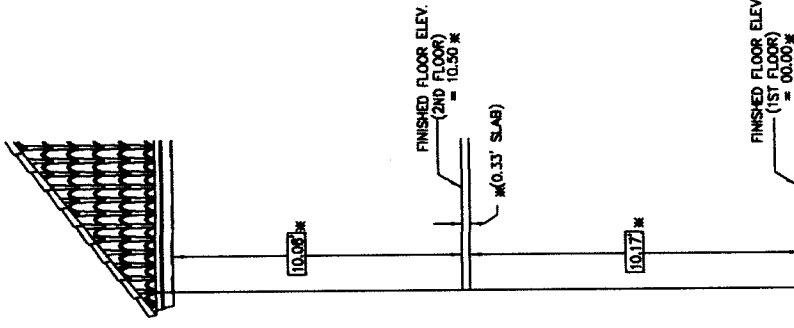
THIS EXHIBIT MAY HAVE BEEN REDUCED OR ENLARGED



SCALE: 1"=20'  
DATE: 10/10/05

PREPARED BY:  
 PRIVETT-NILES & ASSOC., INC.  
 SURVEYORS, MAPPERS AND LAND PLANNERS  
 3000 N. PONCE DE LEON BLVD.  
 ST. AUGUSTINE, FLORIDA, 32084  
 (904) 829-2591 LB No.6824

## FRONT ELEVATION BUILDINGS 2, 3, 4, 5 & 6



### VERTICAL UNIT LIMITS DETAIL

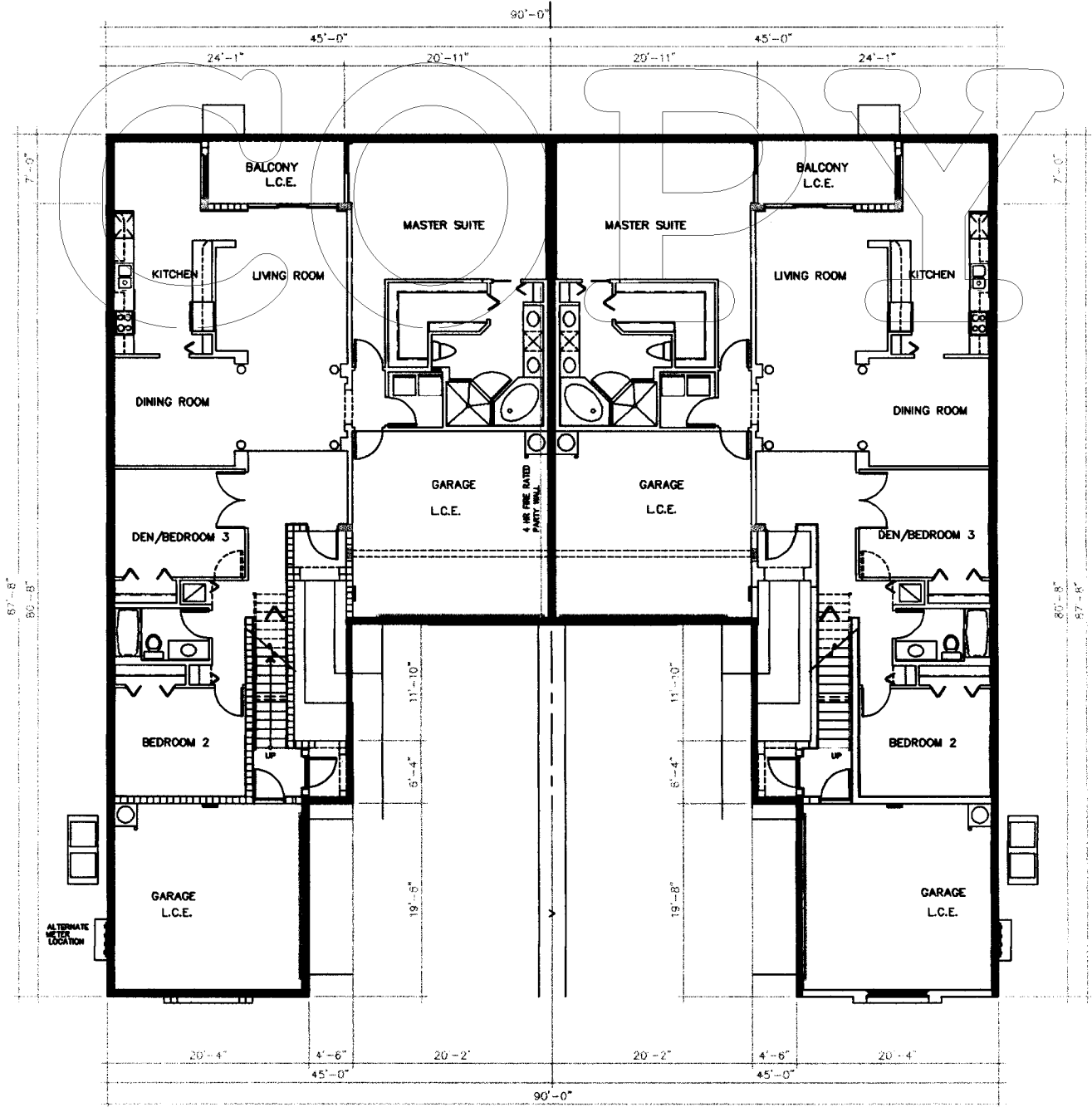
NOT TO SCALE

#### NOTES:

- ARCHITECTURAL DESIGN PROVIDED BY: SOTOLONGO ARCHITECTS
- DIMENSIONS MAY BE DETERMINED USING THE BAR SCALE.
- \* DIMENSION PROVIDED BY ARCHITECTURAL PLANS.
- DROP CEILINGS & CATHEDRAL CEILINGS HAVE NOT BEEN SHOWN. REFER TO DECLARATION OF CONDOMINIUM FOR A DESCRIPTION OF VERTICAL UNIT BOUNDARIES.
- ALL IMPROVEMENTS ARE PROPOSED AS OF THE DATE OF THIS DRAWING, UNLESS OTHERWISE SHOWN.
- PROPOSED IMPROVEMENTS ARE SUBJECT TO NORMAL CONSTRUCTION TOLERANCES.

# PORTOFINO AT PONTE VEDRA, A CONDOMINIUM (TYPICAL BUILDINGS 2,3,4 5 &6) (TYPE 1)

FIRST FLOOR BUILDING PLAN  $\frac{1}{8}"$



**PREPARED BY:**

**PRIVETT-NILES & ASSOC., INC.**  
**SURVEYORS, MAPPERS AND LAND PLANNERS**  
 3000 N. PONCE DE LEON BLVD.  
 ST. AUGUSTINE, FLORIDA, 32084  
 (904) 829-2591 LB No.6824

**NOTES:**

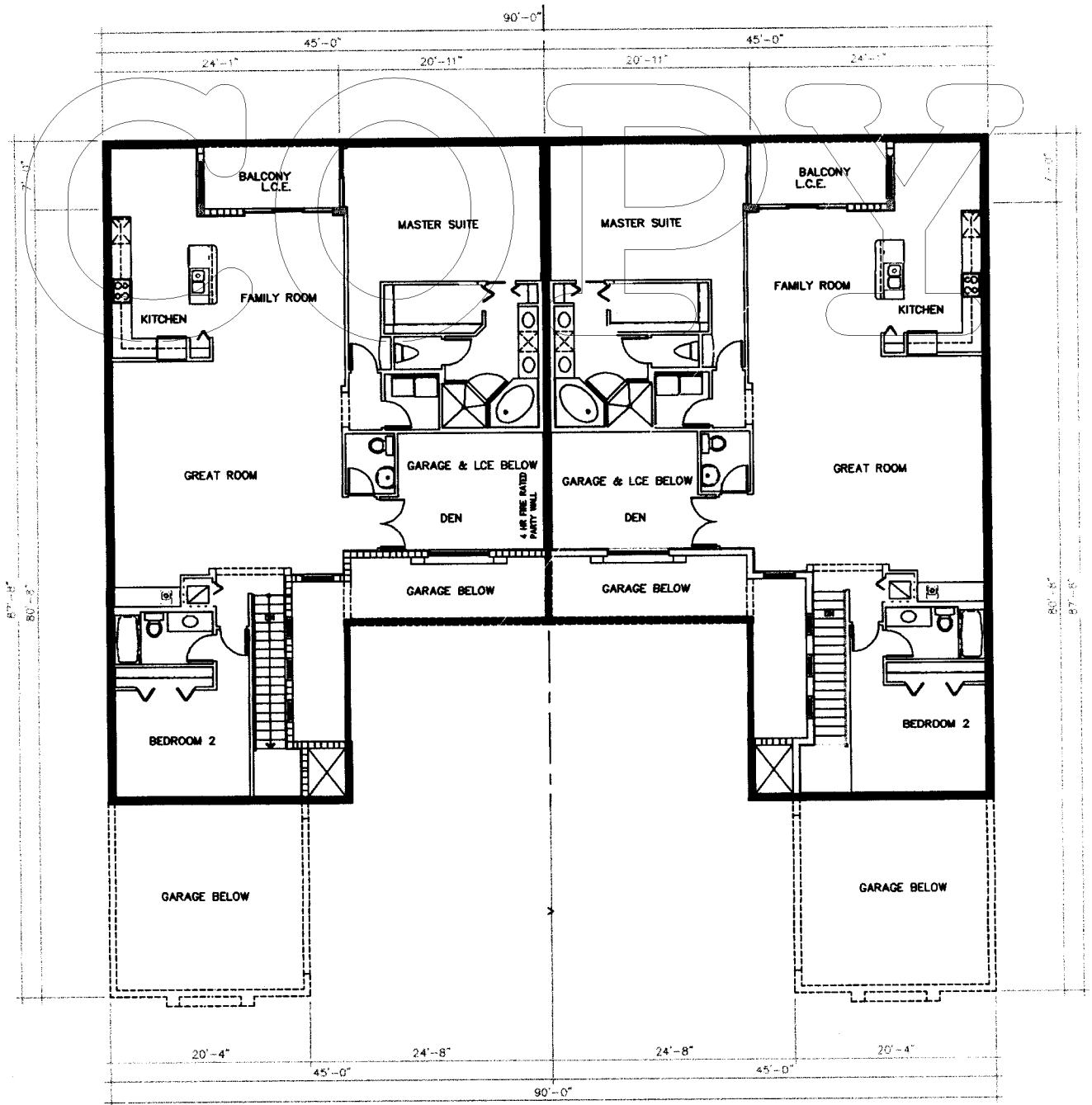
ARCHITECTURAL DESIGN PROVIDED BY: SOTOLONGO ARCHITECTS  
 DIMENSIONS MAY BE DETERMINED USING THE BAR SCALE.

\* DIMENSION PROVIDED BY ARCHITECTURAL PLANS.

ALL IMPROVEMENTS ARE PROPOSED AS OF THE DATE OF THIS DRAWING, UNLESS OTHERWISE SHOWN.  
 PROPOSED IMPROVEMENTS ARE SUBJECT TO NORMAL CONSTRUCTION TOLERANCES.

# PORTOFINO AT PONTE VEDRA, A CONDOMINIUM (TYPICAL BUILDINGS 2,3,4,5 & 6) (TYPE 1)

SECOND FLOOR BUILDING PLAN 1/8"



**NOTES:**

- ARCHITECTURAL DESIGN PROVIDED BY: SOTOLONGO ARCHITECTS
- DIMENSIONS MAY BE DETERMINED USING THE BAR SCALE.
- \* DIMENSION PROVIDED BY ARCHITECTURAL PLANS.
- DROP CEILINGS & CATHEDRAL CEILINGS HAVE NOT BEEN SHOWN. REFER TO DECLARATION OF CONDOMINIUM FOR A DESCRIPTION OF VERTICAL UNIT BOUNDARIES.
- ALL IMPROVEMENTS ARE PROPOSED AS OF THE DATE OF THIS DRAWING, UNLESS OTHERWISE SHOWN.
- PROPOSED IMPROVEMENTS ARE SUBJECT TO NORMAL CONSTRUCTION TOLERANCES.

PREPARED BY:  
**PRIVETT-NILES & ASSOC., INC.**  
 SURVEYORS, MAPPERS AND LAND PLANNERS  
 3000 N. PONCE DE LEON BLVD.  
 ST. AUGUSTINE, FLORIDA, 32084  
 (904) 829-2591 LB No.6824


**EXHIBIT "C"**

**ARTICLES OF INCORPORATION OF CONDOMINIUM ASSOCIATION**

**COPY**



# State of Florida



Department of State

I certify from the records of this office that PORTOFINO AT PONTE VEDRA CONDOMINIUM ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on September 23, 2005.

The document number of this corporation is N05000009874.

I further certify that said corporation has paid all fees due this office through December 31, 2005, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code, 905A00058590-092605-N05000009874-1/1, noted below.

Authentication Code: 905A00058590-092605-N05000009874-1/1

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Twenty-sixth day of September, 2005



*Glenda E. Hood*  
Glenda E. Hood  
Secretary of State

**ARTICLES OF INCORPORATION  
OF  
PORTOFINO AT PONTE VEDRA CONDOMINIUM ASSOCIATION, INC.**

Pursuant to Section 617.02011, Florida Statutes, these Articles of Incorporation are created by Cheryl L. Hastings, as sole incorporator, for the purposes set forth below. The street address of the incorporator to these Articles of Incorporation is: Cheryl L. Hastings, Esq, Grant, Fridkin, Pearson, Athan & Crown, P.A., Pelican Bay Corporate Centre, 5551 Ridgewood Drive, Suite 501, Naples, Florida 34108.

**ARTICLE I**

**NAME AND ADDRESS:** The name of the corporation is the "Portofino at Ponte Vedra Condominium Association, Inc." (the "Association"). The address of the Association shall be c/o 600 Corporate Drive, Suite 102, Fort Lauderdale, Florida 33334.

**ARTICLE II**

**DEFINITIONS:** The definitions set forth in Section 4 of the Declaration of Condominium shall apply to the terms used in these Articles.

**ARTICLE III**

**PURPOSE AND POWERS:** The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act for the operation of the Portofino at Ponte Vedra, a Condominium (the "Condominium"), located in St. Johns County, Florida. The Association is organized and shall exist upon a non-stock basis as a Florida corporation not for profit. No portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, Director or officer. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit, except as limited or modified by these Articles, the Declaration of Condominium, or by Chapter 718 Florida Statutes, as it may hereafter be amended, including, but not limited to, the following:

- (A) To make and collect Assessments against members of the Association to defray the costs, expenses and losses of the Condominium, and to use the proceeds of Assessments in the exercise of its powers and duties.
- (B) To protect, maintain, repair, replace and operate the Condominium Property.
- (C) To purchase insurance upon the Condominium Property and Association Property for the protection of the Association and its members.

(D) To reconstruct improvements after casualty and to make further improvements of the property.

(E) To make, amend and enforce reasonable rules and regulations governing the use of the Common Elements, and the operation of the Association.

(F) To approve or disapprove the transfer of ownership, leasing and occupancy of Units, as provided by the Declaration of Condominium.

(G) To enforce the provisions of the Condominium Act, the Declaration of Condominium, these Articles, the Bylaws, and any Rules and Regulations of the Association.

(H) To contract for the management and maintenance of the Condominium Property to delegate to management any powers and duties of the Association in connection therewith, except those which are specifically required by law or by the Condominium Documents to be exercised by the Board of Directors or the membership of the Association.

(I) To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Condominium.

(J) To enter into agreements, or acquire leaseholds, memberships, and other possessory, ownership or use interests in lands or facilities contiguous to the lands of the Condominium if they are intended to provide enjoyment, recreation, or other use or benefit to the Unit Owners.

(K) To borrow money without limit as to amount if necessary to perform its other functions hereunder.

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Declaration of Condominium, these Articles of Incorporation and the Bylaws.

#### ARTICLE IV

##### MEMBERSHIP:

(A) The members of the Association shall consist of all record Owners of legal title in one (1) or more Units in the Condominium, as further provided in the Bylaws.

(B) The share of a member in the funds and assets of the Association cannot be assigned or transferred in any manner except as an appurtenance to his or her Unit.

(C) The Owners of each Unit, collectively, shall be entitled to the number of votes in Association matters as set forth in the Declaration of Condominium and the Bylaws. The manner of exercising voting rights shall be as set forth in the Bylaws.

**ARTICLE V**

**TERM:** The term of the Association shall be perpetual.

**ARTICLE VI**

**BYLAWS:** The Bylaws of the Association may be altered, amended, or rescinded in the manner provided therein.

**ARTICLE VII**

**DIRECTORS AND OFFICERS:**

(A) The affairs of the Association will be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors, and in the absence of such determination shall consist of three (3) Directors.

(B) Directors of the Association shall be elected by the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

(C) The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected each year by the Board of Directors at its first meeting after the annual meeting of the members of the Association, and they shall serve at the pleasure of the Board.

**ARTICLE VIII**

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

(A) Prior to the recording of the Declaration of Condominium for Portofino at Ponte Vedra, a Condominium, among the public records, these Articles may be amended by an instrument in writing signed by the President (or Vice President) and the Secretary (or an Assistant Secretary) and filed with the Secretary of State of the State of Florida. The instrument amending these Articles shall identify the particular Article or Articles being amended, give the exact language of such amendment and give the date of adoption of the amendment by the Board of Directors. A certified copy of each such amendment shall always be attached to any certified copy of these Articles or a certified copy of the Articles as restated to include such amendments and shall be an exhibit to the Declaration

of Condominium upon the recording of such Declaration. This Article VIII is intended to comply with Chapter 617, Florida Statutes.

**(B)** After the recording of the Declaration of Condominium for Portofino at Ponte Vedra, a Condominium, among the public records, these Articles may be amended in the following manner:

**(1)** Proposal. Amendments to these Articles may be proposed by a majority of the Board or by petition of the Owners of one-fourth (1/4<sup>th</sup>) of the Units by instrument, in writing, signed by them.

**(2)** Procedure. Upon any amendment or amendments to these Articles being proposed by said Board or Unit Owners, such proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can be given.

**(3)** Vote Required. Except as otherwise required by law, a proposed amendment to these Articles of Incorporation shall be adopted if it is approved by a majority of the voting interests at any annual or special meeting, or by approval in writing of a majority of the voting interests without a meeting, provided that notice of any proposed amendment has been given to the members, and the notice contains the full text of the proposed amendment.

**(4)** Effective Date. An amendment shall become effective upon filing with the Secretary of State and recording a certified copy in the public records of St. Johns County, Florida.

**ARTICLE IX**

**INITIAL DIRECTORS:** The initial Directors of the Association shall be:

Tirso San Jose  
600 Corporate Drive, Suite 102  
Fort Lauderdale, Florida 33334

Kyle Castillo  
600 Corporate Drive, Suite 102  
Fort Lauderdale, Florida 33334

Albert Valdivia  
600 Corporate Drive, Suite 102  
Fort Lauderdale, Florida 33334

**ARTICLE X**

**INITIAL REGISTERED AGENT:**

The initial registered office of the Association shall be at:

Grant, Fridkin, Pearson, Athan & Crown, P.A.  
 Pelican Bay Corporate Centre  
 5551 Ridgewood Drive, Suite 501  
 Naples, Florida 34108

The initial registered agent at said address shall be:

Cheryl L. Hastings, Esq.

**ARTICLE XI**

**INDEMNIFICATION:** To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities, including attorneys' fees, actually and reasonably incurred by or imposed on him or her in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he or she may be a party because of his or her being or having been a Director or officer of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication establishes that his or her actions or omissions to act were material to the cause adjudicated and involved:

- (A) Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.
- (B) A violation of criminal law, unless the Director or officer had no reasonable cause to believe his or her action was unlawful or had reasonable cause to believe his or her action was lawful.
- (C) A transaction from which the Director or officer derived an improper personal benefit.
- (D) Recklessness, or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard for human rights, safety, or property in an action by or in the right of someone other than the Association or a member.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to

which a Director or officer may be entitled. The indemnification hereby afforded to Directors and officers shall also extend to any other entity other than the Association found responsible or liable for the actions of such individuals in their capacity as Directors or officers, including, but not limited to, the Developer.

**WHEREFORE**, the incorporator has caused these presents to be executed this 23<sup>rd</sup> day of September 2005.

**COPY**  
By: *Cheryl L. Hastings*  
Cheryl L. Hastings, Incorporator

**ACCEPTANCE BY REGISTERED AGENT**

Having been named to accept service of process for the Portofino at Ponte Vedra Condominium Association, Inc., at a place designated in these Articles of Incorporation, I hereby accept the appointment to act in this capacity and agree to comply with the laws of the State of Florida in keeping open said office.

*Cheryl L. Hastings*  
Cheryl L. Hastings

**EXHIBIT "D"**

**BYLAWS OF CONDOMINIUM ASSOCIATION**

COPY



**BYLAWS  
OF  
PORTOFINO AT PONTE VEDRA CONDOMINIUM ASSOCIATION, INC.**

**1. GENERAL.** These are the Bylaws of the Portofino at Ponte Vedra Condominium Association, Inc., a Florida corporation not for profit (the "Association"), organized for the purpose of operating a residential condominium pursuant to the Florida Condominium Act.

**1.1 Principal Office.** The principal office of the Association shall be at the Condominium or at such other place in St. Johns County, Florida as the Board of Directors may determine.

**1.2 Seal.** The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "corporation not for profit." The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

**1.3 Definitions.** The terms used herein shall have the same definitions as stated in the Declaration of Condominium to which these Bylaws are attached as an exhibit.

**2. MEMBERS.** The members of the Association shall be the record Owners of legal title to the Units in the Portofino at Ponte Vedra, a Condominium (the "Condominium").

**2.1 Qualification.** Membership shall become effective upon the recording in the public records of a deed or other instrument evidencing legal title to the Unit in the member.

**2.2 Voting Rights; Voting Interests.** The members of the Association are entitled to one (1) vote for each Unit owned. The total number of votes (the "voting interests") is equal to twenty (20). The vote of a Unit is not divisible. The right to vote may not be denied because of delinquent Assessments. If a condominium Unit is owned by one (1) natural person, his or her right to vote is established by the record title to the Unit. If a Unit is owned jointly by two (2) or more persons, that Unit's vote may be cast by any of the record Owners. If two (2) or more Owners of a Unit do not agree among themselves how their one (1) vote shall be cast, that vote shall not be counted. If the Owner of a Unit is a corporation, the vote of that Unit may be cast by the president or vice-president of the corporation. If a Unit is owned by a partnership, its vote may be cast by any general partner. In cases of membership votes, the phrase "a majority of the voting interests of the Association" shall mean the number of votes equal to one-half (1/2) of the total number of the voting interests plus at least one (1) vote.

**2.3 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, such decision may be expressed by any person authorized to cast the vote of such Unit at an Association meeting as stated in Section 2.2 above, unless the joinder of all record Unit Owners is specifically required.

**2.4 Termination of Membership.** The termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Condominium during the period of his or her membership, nor does it impair any rights or remedies which the Association may have against any former member arising out of or in any way connected with such membership and the covenants and obligations incident thereto.

**3. MEMBERS' MEETINGS; VOTING.**

**3.1 Annual Meeting.** The annual meeting shall be held in St. Johns County, Florida, each calendar year not later than the month of March, at a day, place and time designated by the Board of Directors, for the purpose of transacting any business duly authorized to be transacted by the members. At the time of the annual meeting all ballots cast in the annual election of Directors shall be counted and the election results announced.

**3.2 Special Members' Meetings.** Special members' meetings must be held whenever called by the President or by a majority of the Board of Directors, and may also be called by any two (2) members. Business at any special meeting shall be limited to the items specified in the request and contained in the notice of meeting.

**3.3 Notice of Meetings.** Notice of all members' meetings must state the time, date, and place of the meeting and include an agenda for the meeting. The notice must be mailed to each member at the address which appears on the books of the Association, or may be furnished by personal delivery. The member bears the responsibility for notifying the Association of any change of address. The notice must be mailed or delivered at least fourteen (14) days before the meeting. Notice of any meeting may be waived in writing by any person entitled to receive such notice.

**3.4 Notice of Annual Meeting; Special Requirements.** Notice of the annual meeting together with an agenda shall be posted in a conspicuous place on the Condominium Property for at least fourteen (14) continuous days prior to the annual meeting. The notice and agenda of the annual meeting shall also be sent by first class mail to each Unit Owner, and an affidavit of the officer or other person making such mailing shall be retained in the Association records as proof of mailing. Notice of the annual meeting may be delivered in person to any Unit Owner, instead of by mail, if a written waiver of mailing is obtained. The notice and agenda of the annual meeting must be mailed or delivered to Unit Owners at least fourteen (14) days before the annual meeting.

**3.5 Quorum.** A quorum at a members' meeting shall be attained by the presence, either in person or by proxy, of persons entitled to cast at least one-third (1/3<sup>rd</sup>) of the votes of the entire membership.

**3.6 Vote Required.** The acts approved by a majority of the votes cast at a duly called meeting of the members at which a quorum has been attained shall be binding upon all Unit

Owners for all purposes, except where a greater or different number of votes is required by law or by any provision of the Condominium Documents.

**3.7 Proxy Voting.** To the extent lawful, any person entitled to attend and vote at a members meeting may establish his or her presence and cast his or her vote by proxy. "Limited proxies" shall be used for votes taken to waive or reduce reserves, to amend the Condominium Documents, and for all other matters for which the Condominium Act requires or permits a vote of the members. "General proxies" may be used to establish a quorum, for procedural votes, and for non-substantive amendments to proposals for which a limited proxy is being used. A proxy may be given by any person entitled to vote, but shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting, and no proxy is valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the Unit, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. Holders of proxies need not be members. No proxy shall be valid if it names more than one (1) person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy.

**3.8 Adjourned Meetings.** Any duly called meeting of the members may be adjourned to be reconvened at a specific later time by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance.

**3.9 Order of Business.** The order of business at members' meetings shall be substantially as follows:

- (A) Collection of election ballots not yet cast.
- (B) Counting of ballots in annual election (if necessary).
- (C) Call of the roll or determination of quorum.
- (D) Reading or disposal of minutes of last members meeting.
- (E) Reports of officers.
- (F) Reports of committees.
- (G) Unfinished business.
- (H) New business.
- (I) Adjournment.

**3.10 Minutes.** Minutes of all meetings of the members, and of the Board of Directors, shall be kept in a businesslike manner, available for inspection by members or their authorized representatives at all reasonable times, and for at least seven (7) years after the meeting. Minutes must be reduced to written form within thirty (30) days after the meeting at which they were taken.

**3.11 Parliamentary Rules.** Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the law, with the Declaration, or with these Bylaws. The presiding officer may appoint a parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

**3.12 Action by Members Without Meeting.** Except the holding of the annual meeting and annual election of members of the Board of Directors, any action required or permitted to be taken at a meeting of the members may be taken by mail without a meeting if written consents or other instruments expressing approval of the action proposed to be taken are signed and returned by members having not less than the minimum number of votes that would be necessary to take such action at a meeting at which all of the voting interests were present and voting. If the requisite number of written consents are received by the Secretary within sixty (60) days after the earliest date which appears on any of the consent forms received, the proposed action so authorized shall be of full force and effect as if the action had been approved by vote of the members at a meeting of the members held on the sixtieth (60th) day. Within ten (10) days thereafter, the Board shall send written notice of the action taken to all members who have not consented in writing. If the vote is taken by the method described in this Section 3.12, the list of Unit Owners on record with the Secretary at the time of mailing the voting material shall be the list of qualified voters.

**4. BOARD OF DIRECTORS.** The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles of Incorporation, and these Bylaws, shall be exercised by the Board, subject to approval or consent of the Unit Owners only when such approval and consent is specifically required.

**4.1 Number and Terms of Service.** Initially the number of members of the Board of Directors which shall constitute the entire Board of Directors shall be three (3). In order to provide for a larger Board and a continuity of experience, by establishing a system of staggered terms of office, in the first election in which Unit Owners other than the Developer elect a majority of the Board of Directors, the number of members of the Board of Directors to be elected shall be increased to five (5). The three (3) candidates receiving the highest number of votes shall each be elected for a term which expires at the annual election after the next annual election. The two (2) candidates receiving the next highest number of votes shall be elected for a term which expires at the next annual election. If there are five (5) or fewer candidates, the determination of who is elected to serve the longer terms shall be made among them by agreement or by lot. Thereafter, all members of the Board of Directors shall be elected for two (2) year terms. A member of the Board of Director's term ends at the annual election at which his or her successor is to be duly elected, or at such other time as may be provided by law.

Directors shall be elected by the members as described in Section 4.3, below, or in the case of a vacancy, as provided in Section 4.4, below.

**4.2 Qualifications.** Except for Directors appointed by the Developer, each Director must be a member or the spouse of a member.

**4.3 Elections.** In each annual election the members shall elect, by written, secret ballot, as many Directors as there are regular terms of Directors expiring, unless the balloting is dispensed with as provided for by law.

**(A) First Notice; Candidates.** Not less than sixty (60) days before the election, the Association shall mail or deliver to each Unit Owner entitled to vote, a first notice of the date of the election. Any Unit Owner or other eligible person wishing to be a candidate may qualify as such by giving written notice to the Association at least forty (40) days before the annual election.

**(B) Second Notice; Candidate Information Sheets.** If there are more candidates than there are Directors to be elected, balloting is required. Together with the written notice and agenda as set forth in Section 718.112(2)(d)(2), Florida Statutes, the Association shall mail or deliver a second notice of election to all Unit Owners entitled to vote in the contested election, together with a ballot listing all qualified candidates in alphabetical order, by surname. This notice shall also include the notice of the annual meeting required by Section 3.3, above. Upon request of a candidate, no later than thirty-five (35) days prior to the election, the Association shall also include an information sheet (no larger than 8-1/2 inches by 11 inches, furnished by the candidate) in the mailing. The costs of mailing and copying the candidate information sheet are borne by the Association.

**(C) Balloting.** Where balloting is required, Directors shall be elected by a plurality of the votes cast, provided that at least twenty percent (20%) of the eligible voters cast ballots. Proxies may not be used in the election. In the election of Directors, each Unit shall have as many votes as there are Directors to be elected, but no Unit may cast more than one (1) vote for any candidate, it being the intent hereof that voting for Directors shall be non-cumulative. Tie votes shall be broken by agreement among the candidates who are tied, or if there is no agreement, by lot, or by any other method required or permitted by law.

**4.4 Vacancies on the Board.** Except as otherwise provided by law for the filling of vacancies during the time when the Developer is entitled to appoint at least one (1) Director, if the office of any Director becomes vacant for any reason, a successor or successors to fill the remaining unexpired term or terms shall be appointed or elected as follows:

**(A)** If a vacancy is caused by the death, disqualification or resignation of a Director, a majority of the remaining Directors, though less than a quorum, shall appoint a successor, who shall hold office until the next regularly scheduled election, unless otherwise provided by law.

(B) If a vacancy occurs as a result of a recall and less than a majority of the Directors are removed, the vacancy may be filled by appointment by a majority of the remaining Directors, though less than a quorum. If vacancies occur as a result of a recall in which a majority or more of the Directors are removed, the vacancies shall be filled as provided by law.

**4.5 Removal of Directors.** As set forth in Section 718.112(2)(j), Florida Statutes, any or all Directors, except those appointed by the Developer, may be removed with or without cause by a majority vote of the entire membership, either by a written petition or at any meeting called for that purpose. If a meeting is held or a petition is filed for the removal of more than one (1) Director, the question shall be determined separately as to each Director sought to be removed. If a special meeting is called by ten percent (10%) of the voting interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. The meeting must be held not less than fourteen (14) days nor more than sixty (60) days from the date that notice of the meeting is given.

**4.6 Organizational Meeting.** The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election of new Directors at such place and time as may be fixed and announced by the Directors at the meeting in conjunction with which they were elected. Unit Owners shall receive notice of the organizational meeting of the new Board in accordance with the provisions of Section 4.8, below.

**4.7 Other Meetings.** Meetings of the Board may be held at such time and place in St. Johns County, Florida, as shall be determined from time to time by the President or a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone or telegram at least two (2) days prior to the day named for such meeting.

**4.8 Notice to Unit Owners.** All meetings of the Board of Directors shall be open to members. A notice and agenda for each Board meeting shall be posted conspicuously on the Condominium Property for at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. Notice of any Board meeting at which a non-emergency special assessment or an amendment to the rules regarding the use of Units will be considered, shall be mailed to each Unit Owner at least fourteen (14) days before the meeting and an affidavit of mailing shall be retained as proof of mailing. Notice of any Board meeting at which a budget will be adopted or amended shall conform to the requirements of Section 6.2, below. The right of Unit Owners to attend Board meetings includes the right to speak on designated agenda items, subject to reasonable rules of the Association governing the manner, duration and frequency of doing so.

**4.9 Waiver of Notice.** Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

**4.10 Quorum of Directors.** A quorum at a Board meeting exists only when at least a majority of all Directors are present in person at a duly called meeting. Directors may participate in any

meeting of the Board, by a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation in a meeting by such means is equivalent to presence in person. Directors may not vote or participate in Board meetings by proxy or by secret ballot, except that officers may be elected by secret ballot.

**4.11 Vote Required.** The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Condominium Documents or by applicable statutes. A Director who is present at a meeting of the Board shall be deemed to have voted with the majority on any action taken, unless he or she voted against such action or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes. A Director may submit in writing his or her agreement or disagreement with any action taken at a meeting that the Director did not attend. However, this agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purposes of creating quorum.

**4.12 Adjourned Meetings.** The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date. At any reconvened meeting, provided a quorum is present, any business may be transacted that might have been transacted at the meeting originally as called.

**4.13 The Presiding Officer.** The President of the Association, or in his or her absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of the Directors present.

**4.14 Compensation of Directors and Officers.** Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

**4.15 Committees.** The Board of Directors may appoint, from time to time, such standing or temporary committees as the Board may deem necessary and convenient for the efficient and effective operation of the Condominium. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. Meetings of a committee to take final action on behalf of the Board or to make recommendations to the Board regarding the Association budget shall be noticed and conducted in the same manner as provided in Section 4.8, above. All other committees shall not be required to comply with Section 4.8.

**4.16 Limited Power to Convey.** The Board of Directors shall possess a limited power to convey a portion of the Common Elements to a condemning authority for the purpose of providing utility easements, right-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.

**4.17 Emergency Powers.** In the event of an "emergency" as defined in Section 4.17(G) below, the Board of Directors may exercise the emergency powers described in this Section, and

any other emergency powers authorized by Sections 617.0207 and 617.0303, Florida Statutes, as amended from time to time.

(A) The Board may name as assistant officers persons who are not Directors, which assistant officers shall have the same authority as the executive officers to whom they are assistant during the period of the emergency, to accommodate the incapacity of any officer of the Association.

(B) The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.

(C) During any emergency, the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including, but not limited to, publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

(D) Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association, and shall have the rebuttable presumption of being reasonable and necessary.

(E) Any officer, Director, or employee of the Association acting with a reasonable belief that his or her actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.

(F) These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

(G) For purposes of this Section only, an "emergency" exists only during a period of time that the Condominium, or the immediate geographic area in which the Condominium is located, is subjected to:

- (1) a state of emergency declared by local civil or law enforcement authorities;
- (2) a hurricane warning;
- (3) a partial or complete evacuation order;
- (4) federal or state "disaster area" status; or
- (5) a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of the Condominium, such as an earthquake, tidal wave, flood, fire, hurricane, tornado, war, civil unrest, or act of terrorism.



An "emergency" also exists for purposes of this Section during the time when a quorum of the Board cannot readily be assembled because of the occurrence of a catastrophic event, such as a hurricane, earthquake, act of war or terrorism, or other similar event. A determination by any two (2) Directors, or by the President, that an emergency exists shall have presumptive validity.

**5. OFFICERS.** The executive officers of the Association shall be a President, and a Vice-President, who must be Directors, a Treasurer and a Secretary, all of whom shall be elected annually by a majority vote of the Board of Directors. Any officer may be removed with or without cause at any meeting by vote of a majority of the Directors. Any person, except the President, may hold two (2) or more offices. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one (1) Vice-President. Any officer may resign at any time by giving written notice to the Association and unless otherwise specified therein, the resignation shall become effective upon receipt.

**5.1 President.** The President shall be the chief executive officer of the Association; shall preside at all meetings of the members and Directors; shall be *ex officio* a member of all standing committees; shall have general and active management of the business of the Association; and shall see that all orders and resolutions of the Board are carried into effect. The President shall execute bonds, mortgages and other contracts requiring the seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

**5.2 Vice-Presidents.** The Vice-Presidents, in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall assign.

**5.3 Secretary.** The Secretary shall attend meetings of the Board of Directors and of the members and cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for standing committees when required. The Secretary shall give, or cause to be given, proper notice of all meetings of the members, and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. The Secretary shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the Condominium Documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one (1) is elected.

**5.4 Treasurer.** The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate accounts in books belonging to the Association. The Treasurer is responsible for the deposit of all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board. The Treasurer shall oversee the disbursement of Association funds, keeping proper vouchers for such disbursements,

and shall render to the President and Directors, at meetings of the Board, or whenever they may require it, a full accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if one (1) is elected.

**6. FISCAL MATTERS.** The provisions for fiscal management of the Association set forth in the Declaration of Condominium shall be supplemented by the following:

**6.1 Depository.** The Association shall maintain its funds in federally insured accounts in such financial institutions authorized to do business in the State of Florida, as shall be designated from time to time by the Board. Withdrawal of moneys from such accounts shall be only by such persons as are authorized by the Board.

**6.2 Budget.** The Board of Directors shall adopt a budget of common expenses for each fiscal year. A copy of the proposed budget, and a notice stating the time, date and place of the meeting of the Board at which the budget will be adopted, shall be mailed to or served on the Unit Owners not less than fourteen (14) days before that meeting. The proposed budget must be detailed, and must show the amounts budgeted by income and expense classifications.

If the Board of Directors adopts in any fiscal year an annual budget which requires Assessments against Unit Owners which exceed one hundred fifteen percent (115%) of Assessments for the preceding fiscal year, the Board shall conduct a special meeting of the Unit Owners to consider a substitute budget if the Board receives, within twenty one (21) days after adoption of the annual budget, a written request for a special meeting from at least ten percent (10%) of all voting interests. The special meeting shall be conducted within sixty (60) days after adoption of the annual budget. A notice stating the time, date and place of the meeting of the Board, shall be mailed to or served on the Unit Owners not less than fourteen (14) days before the special meeting. Unit Owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all voting interest. If there is not a quorum at the special meeting or a substitute budget is not adopted, the annual budget previously adopted by the Board shall take effect as scheduled.

**6.3 Statutory Reserves for Capital Expenditures and Deferred Maintenance.** In addition to operating expenses, the proposed budget must include provisions for funding reserve accounts for capital expenditures and deferred maintenance, as required by law. These accounts shall include roof replacement, building painting, and pavement resurfacing. They shall also include any other planned or foreseeable capital expenditure or deferred maintenance item with a current estimated cost of \$10,000.00 or more. The amount to be reserved for each item shall be computed by a formula based on the estimated remaining useful life and replacement cost of the item. These reserves must be funded unless the members subsequently determine, in the manner provided by law, to fund no reserves, or less than adequate reserves, for a fiscal year. The vote to waive or reduce reserves, if any is taken, may be taken only after the proposed budget has been mailed to the Unit Owners as required in Section 6.2, above. The funds in a reserve account established under this Section 6.3, and all interest earned on the account, shall be used only for the purposes for which the reserve account is established, unless use for another purpose is approved in advance by the members in the manner provided by law. Prior to turnover of control

of the Board of Directors of the Association by the Developer to Unit Owners other than the Developer, the Association shall not vote to use reserves for purposes other than that for which were intended without the approval of a majority of all non-developer voting interests, voting in person or by limited proxy at a duly called meeting of the Association.

**6.4 Surplus Operating Accounts.** In addition to the statutory reserves described in Section 6.3, above, the Board may establish one (1) or more additional accounts in the operating budget for contingencies, operating expenses, repairs, minor improvements or special projects. These accounts will serve to offset cash flow shortages, provide financial stability, and avoid the need for special assessments on a frequent basis. These amounts shall be included in the proposed annual budget. These funds may be spent for any purpose approved by the Board.

**6.5 Assessments; Installments.** Regular annual Assessments based on an adopted budget shall be payable in quarterly installments, in advance, due on the first day of January, April, July and October of each year. Written notice of each quarterly installment shall be sent to the members at least fifteen (15) days prior to the due date, but failure to send (or receive) the notice does not excuse the obligation to pay. If an annual budget has not been adopted at the time the first quarterly installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as that included in the proposed budget, and payments shall be continued at such rate until a budget is adopted and new quarterly installments are calculated, at which time an appropriate adjustment shall be added to or subtracted from each Unit's next due quarterly installment.

**6.6 Special Assessments.** Special assessments may be levied by the Board of Directors to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special assessments are due on the day specified in the resolution of the Board approving such Assessments. The total of all special assessments coming due in any fiscal year shall not exceed fifteen percent (15%) of the total annual budget for that year, including reserves, unless a majority of the voting interests first consent. The notice of any Board meeting at which a special assessment will be considered shall be given as provided in Section 4.8, above, and the notice to the Unit Owners that the Assessment has been levied must contain a statement of the purpose(s) of the Assessment. The funds collected must be spent for the stated purpose(s) or returned to the members as provided by law.

**6.7 Fidelity Bonds.** All persons who control or disburse funds of the Association including, but not limited, to the President, Secretary and Treasurer, and all other persons who are authorized to sign checks, shall be bonded in such amounts as may be required by law, or in excess of such legally required amounts as otherwise determined by the Board of Directors. The premium on such bonds is a common expense.

**6.8 Financial Reports; Statements.** A complete financial report of actual receipts and expenditures of the Association for the preceding fiscal year shall be made annually by April 30 of each year and shall comply with Section 718.111(13), Florida Statutes. Within twenty-one (21) days after the financial report is complete or received by the Association, the Association shall mail each Unit Owner at the address last furnished to the Association by the Unit Owner, or

hand deliver to each Unit Owner, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the Unit Owner, without charge, upon receipt of a written request from the Unit Owner.

**6.9 Fiscal Year.** The fiscal year for the Association shall begin on the first day of January of each calendar year. The Board of Directors may adopt a different fiscal year in accordance with law and the regulations of the Internal Revenue Service.

**7. RULES AND REGULATIONS.** The Board of Directors may, from time to time, adopt and amend administrative rules and regulations governing the use, maintenance, management and control of the Common Elements and the operation of the Association. Copies of such rules and regulations shall be furnished to each Unit Owner. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness and peace of mind of the Unit Owners, and to be uniformly applied and enforced.

**8. COMPLIANCE AND DEFAULT; REMEDIES.** In addition to the remedies provided in Section 11 of the Declaration of Condominium, the following shall apply:

**8.1 Fines.** The Board of Directors may levy fines against Units whose Owners violate the provisions of the Condominium Declaration, these Bylaws, or the Association rules and regulations, or who condone such violations by their family members, guests or lessees. Fines shall be in amounts deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amount allowed by law, and no fine may be levied against an unoccupied Unit. The procedure for imposing fines shall be as follows:

**(A) Notice:** The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days, and the notice shall include:

- (1) A statement of the date, time and place of the hearing;
- (2) A specific designation of the provisions of the Declaration, Bylaws or rules that are alleged to have been violated;
- (3) A short and plain statement of the specific facts giving rise to the alleged violation(s); and
- (4) The possible amounts of any proposed fine.

**(B) Hearing:** At the hearing the party sought to be fined shall have a reasonable opportunity to respond, to present evidence, to provide written and oral argument on all issues involved, and to review, challenge, and respond to any evidence or testimony presented by the Association. The hearing shall be conducted before a panel of three (3) Unit Owners appointed by the Board, none of whom may then be serving as Directors. If

the panel, by majority vote which may be taken by secret ballot, does not agree with the fine, it may not be levied.

**8.2 Mandatory Non-Binding Arbitration.** In the event of any dispute, as defined in Section 718.1255(1), Florida Statutes, between a Unit Owner and the Association arising from the operation of the Condominium, the parties, if required by law, must submit the dispute to mandatory non-binding arbitration under the rules of the Division of Florida Land Sales, Condominiums and Mobile Homes (the "Division") before filing any lawsuit over the disputed matters. Nothing herein shall be construed to require arbitration of disputes related to the levy or collection of fees or Assessments.

**9. NOTICE OF COMPLIANCE.** Within fifteen (15) days after request by a Unit Owner, Unit purchaser or mortgagee, the Association shall provide a certificate stating whether all Assessments and other monies owed to the Association by the Unit Owner with respect to the condominium parcel have been paid. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

**10. WRITTEN INQUIRIES.** When a Unit Owner files a written inquiry by certified mail with the Board, the Board shall respond in writing to the Unit Owner within thirty (30) days of receipt of the inquiry. The Board's response shall either give a substantive response to the Unit Owner, notify the Unit Owner that a legal opinion has been requested, or notify the Unit Owner that advice has been requested from the Division. If the Board requests advice from the Division, the Board shall, within ten (10) days of its receipt of the advice, provide in writing a substantive response to the Unit Owner. If a legal opinion is requested, the Board shall, within sixty (60) days after the receipt of the inquiry, provide in writing a substantive response to the Unit Owner. The failure to provide a substantive response to the inquiry as provided in Section 718.112(2)(a)2, Florida Statutes, precludes the Board from recovering attorneys' fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. Notwithstanding the foregoing, the Board is only obligated to respond to one (1) written inquiry per Unit in any given thirty (30) day period.

**11. TRANSFER OF ASSOCIATION CONTROL; DEVELOPER'S RIGHTS.**

**11.1 Members' Rights to Elect Directors.** When Unit Owners other than the Developer own fifteen percent (15%) or more of the Units, the Unit Owners other than the Developer shall be entitled to elect one-third (1/3<sup>rd</sup>) of the members of the Board of Directors. Unit Owners other than the Developer become entitled to elect a majority of the members of the Board of Directors upon the first of the following events to occur:

(A) Three (3) years after fifty percent (50%) or more of the Units have been conveyed to purchasers;

(B) Three (3) months after ninety percent (90%) or more of the Units have been conveyed to purchasers;

(C) When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business;

(D) When all the Units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business; or

(E) Seven (7) years after the Declaration of Condominium was recorded.

**11.2 Developer's Right to Designate Members of Board of Directors.** Developer shall be entitled to designate all directors which the members, other than the Developer, are not permitted to elect as provided above. Except as provided above, the Developer shall be entitled to designate at least one (1) Director as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the Units.

**11.3 Notice of Election.** Within seventy-five (75) days after Unit Owners other than the Developer are entitled to elect one (1) or more Directors, the Association shall call, upon not less than sixty (60) days notice, a meeting of the members, and an election in which the Unit Owners shall elect Directors that the Unit Owners are entitled to elect. The election, and the meeting in conjunction with which the election is to be held, may be called, and the notice given, by any Unit Owner if the Association fails to do so. All non-developer Unit Owners may vote in the election of Directors. The meeting in conjunction with which Unit Owners other than the Developer first elect a majority of the Directors is referred to as the "turnover meeting."

**11.4 Transfer of Association Control.** When Unit Owners other than the Developer that elect a majority of the Directors of the Association, the Developer relinquishes control of the Association, and the Unit Owners assume control. At that time the Developer shall deliver to the Association all property of the Unit Owners, and of the Association, held or controlled by the Developer, and all items and documents that the Developer is required to deliver or turn over to the Association under Florida law. The Developer may turn over control of the Association to Unit Owners other than the Developer prior to the above-mentioned dates, in its sole discretion, by causing all of its appointed Directors to resign, whereupon it becomes the affirmative obligation of Unit Owners other than the Developer to elect Directors and assume control of the Association. Provided at least sixty (60) days notice of the Developer's decision to cause its appointees to resign is given to Unit Owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations, even if Unit Owners other than the Developer refuse or fail to assume control.

**12. AMENDMENT OF BYLAWS.** Except as otherwise provided in the Declaration of Condominium, amendments to these Bylaws may be proposed and adopted in the following manner:

**12.1 Proposal.** Amendments to these Bylaws may be proposed by a majority of the Board, or by written petition to the Board signed by at least one-fourth (1/4<sup>th</sup>) of the voting interests.

**12.2 Procedure.** Upon any amendment to these Bylaws being proposed by said Board or Unit Owners, the proposed amendment shall be submitted to a vote of the Unit Owners not later than the next annual meeting for which proper notice can be given.

**12.3 Vote Required.** Except as otherwise provided by law, or by specific provision of the Condominium Documents, these Bylaws may be amended if the proposed amendment is approved by at least two-thirds ( $2/3^{\text{rds}}$ ) of the voting interests present in person or by proxy and voting at any annual or special meeting called for the purpose, provided that notice of the amendment has been given to the members in accordance with law.

**12.4 Recording; Effective Date.** A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted, which certificate shall be executed by the President or Vice President of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of St. Johns County, Florida. The certificate must identify the book and page of the public records where the Declaration of Condominium is recorded.

### **13. MISCELLANEOUS.**

**13.1 Gender; Number.** Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

**13.2 Severability.** Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

**13.3 Conflict.** If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration of Condominium or Articles of Incorporation, the provisions of the Declaration of Condominium or Articles of Incorporation shall prevail over the provisions of these Bylaws.

**13.4 Certificate of Compliance with Fire Safety Code.** In respect to the performance of any work or services concerning electrical systems within this Condominium, pursuant to Section 718.112(2)(1), Florida Statutes, the Board may accept the certificate of a licensed electrical contractor or electrician as of evidence compliance with applicable fire safety and fire codes.

**EXHIBIT "E"**

**SUBSEQUENT PHASE II**

This exhibit consists of:

1. Sheets 1 and 2 providing the legal description of the Subsequent Phase II land and a survey of the description.
2. Sheets 3 and 4 providing the cubic airspace legal description of the Subsequent Phase II Unit and a survey of the description. If added, the Subsequent Phase II Unit will be numbered 1-101.

COPY



**LEGAL DESCRIPTION  
PORTOFINO AT PONTE VEDRA, A  
CONDOMINIUM - PHASE II**

LEGAL DESCRIPTION: PORTOFINO AT PONTE VEDRA, A CONDOMINIUM - PHASE II

A PARCEL OF LAND LYING IN SECTION 46, TOWNSHIP 4 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROAD A-1-A (A 200 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED) POINT BEING THE SOUTHEAST CORNER OF TRACT "G", SEASIDE AT PONTE VEDRA BEACH UNIT TWO, AS RECORDED IN MAP BOOK 27 PAGES 29 THROUGH 33, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY; THENCE SOUTH 74°50'43" WEST, ALONG THE SOUTHERLY BOUNDARY LINE OF SAID TRACT "G" AND LOT 19 OF SAID SEASIDE AT PONTE VEDRA BEACH UNIT TWO, A DISTANCE OF 313.49 FEET TO AN ANGLE POINT ON THE BOUNDARY OF SAID SEASIDE AT PONTE VEDRA BEACH UNIT TWO; THENCE SOUTH 08°38'52" EAST, CONTINUING ALONG THE BOUNDARY LINE OF SAID SEASIDE AT PONTE VEDRA BEACH UNIT TWO, A DISTANCE OF 395.82 FEET; THENCE SOUTH 09°08'23" EAST, A DISTANCE OF 323.94 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 09°08'23" EAST, A DISTANCE OF 105.01 FEET; THENCE SOUTH 80°07'15" WEST, A DISTANCE OF 111.05 FEET; THENCE NORTH 09°25'53" WEST, A DISTANCE OF 74.70 FEET; THENCE NORTH 29°53'04" EAST, A DISTANCE OF 39.42 FEET, THENCE NORTH 80°07'15" EAST, A DISTANCE OF 86.61 FEET TO THE POINT OF BEGINNING.

CONTAINING 11,310 SQUARE FEET OR 0.26 ACRES MORE OR LESS.

**LEGEND:**

- R/W=RIGHT-OF-WAY
- MB=MAP BOOK
- ORB=OFFICIAL RECORDS BOOK
- PG=PAGE
- BLDG=BUILDING

**GENERAL NOTES:**

1. BEARINGS BASED ON SOUTHERLY BOUNDARY LINE OF TRACT "G", SEASIDE AT PONTE VEDRA BEACH UNIT TWO, MAP BOOK 27, PAGES 29 THROUGH 33.
2. THIS IS A SKETCH AND DESCRIPTION ONLY AS REQUESTED BY OUR CLIENT AND DOES NOT ADDRESS ANY UNDERGROUND UTILITIES OR ENVIRONMENTAL CONCERNS AS MAY BE DEEMED AS SUCH BY ANY GOVERNMENT AGENCY OR SPECIAL INTEREST GROUP. **THIS IS NOT A BOUNDARY SURVEY.**
3. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF ABSTRACT OR SEARCH OF TITLE, AND THEREFORE THE UNDERSIGNED AND PRIVETT-NILES & ASSOCIATES, MAKE NO CERTIFICATIONS REGARDING INFORMATION SHOWN OR NOT SHOWN HEREON PERTAINING TO EASEMENTS, RIGHTS OF WAY, SETBACK LINES, OVERLAPS, BOUNDARY LINE DISPUTES, AGREEMENTS, RESERVATIONS OR OTHER SIMILAR MATTERS WHICH MAY APPEAR IN THE ABSTRACT, OR SEARCH OF TITLE.
4. ALL IMPROVEMENTS ARE PROPOSED AS OF THE DATE OF THIS DRAWING, UNLESS OTHERWISE SHOWN.

**CERTIFICATION:**

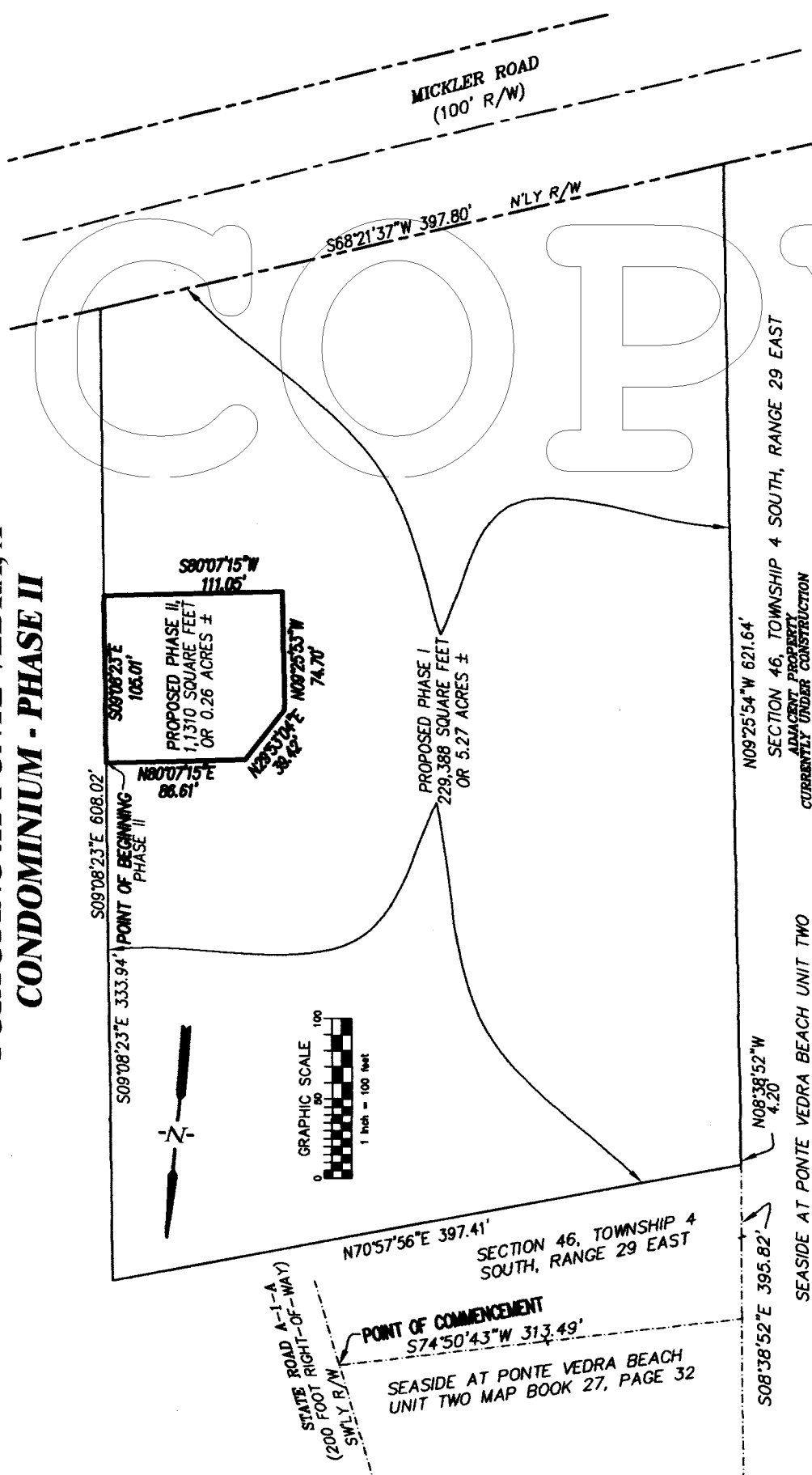
I HEREBY CERTIFY THAT THIS SURVEY OF THE HEREON DESCRIBED PROPERTY WAS SURVEYED UNDER MY RESPONSIBLE CHARGE ON 10/12/05. THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17-6, FAC PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

  
ALBERT D. BRADSHAW, P.S.M.  
FLORIDA CERTIFICATION No. 6824

**PREPARED BY:**

PRIVETT-NILES & ASSOC., INC.  
SURVEYORS, MAPPERS AND LAND PLANNERS  
3000 N. PONCE DE LEON BLVD.  
ST. AUGUSTINE, FLORIDA, 32084  
(904) 829-2591 LB No.6824

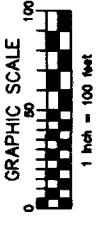
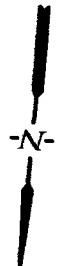
# PORTOFINO AT PONTE VEDRA, A CONDOMINIUM - PHASE II



S09°08'23"E 608.02'  
 S09°08'23"E 333.94' | POINT OF BEGINNING  
 PHASE II

S09°08'23"E 105.01'  
 S80°07'15"W 111.05'  
 PROPOSED PHASE II,  
 1,1310 SQUARE FEET  
 OR 0.26 ACRES ±  
 N80°07'15"E 86.61'  
 N28°30'24"E 74.70'  
 N09°25'53"W 74.70'

PROPOSED PHASE I  
 229,388 SQUARE FEET  
 OR 5.27 ACRES ±



STATE ROAD A-1-A  
 (200 FOOT RIGHT-OF-WAY)  
 SWLY R/W

N70°57'56"E 397.41'  
 SECTION 46, TOWNSHIP 4  
 SOUTH, RANGE 29 EAST

POINT OF COMMENCEMENT  
 S74°50'43"W 313.49'

SEASIDE AT PONTE VEDRA BEACH  
 UNIT TWO MAP BOOK 27, PAGE 32

N08°38'52"W  
 4.20'

S08°38'52"E 395.82'

N09°25'54"W 621.64'  
 SECTION 46, TOWNSHIP 4 SOUTH, RANGE 29 EAST  
 ADJACENT PROPERTY  
 CURRENTLY UNDER CONSTRUCTION

SEASIDE AT PONTE VEDRA BEACH UNIT TWO  
 MAP BOOK 27, PAGE 32

MICKLER ROAD  
 (100' R/W)

S68°21'37"W 397.80'  
 N'LY R/W

PREPARED BY:  
 PRIVETT-NILES & ASSOC., INC.  
 SURVEYORS, MAPPERS AND LAND PLANNERS  
 3000 N. PONCE DE LEON BLVD.  
 ST. AUGUSTINE, FLORIDA, 32084  
 (904) 829-2591 LB No. 6824

**LEGAL DESCRIPTION  
PORTOFINO AT PONTE VEDRA, A  
CONDOMINIUM - PHASE II, UNIT 1-101**

LEGAL DESCRIPTION: PORTOFINO AT PONTE VEDRA, A CONDOMINIUM - PHASE II UNIT

A PARCEL OF LAND LYING IN SECTION 46, TOWNSHIP 4 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: (ALL OF THE AIRSPACE LOCATED WITHIN THE VERTICAL LIMITS OF ELEVATION 14.00 FEET (N.G.V.D. 1929) AND 49.00 FEET (N.G.V.D. 1929), THE SAME BEING LOCATED WITHIN THE FOLLOWING DESCRIBED HORIZONTAL LIMITS;

COMMENCE AT A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROAD A-1-A (A 200 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED) POINT BEING THE SOUTHEAST CORNER OF TRACT "G", SEASIDE AT PONTE VEDRA BEACH UNIT TWO, AS RECORDED IN MAP BOOK 27 PAGES 29 THROUGH 33, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY; THENCE SOUTH 74°50'43" WEST, ALONG THE SOUTHERLY BOUNDARY LINE OF SAID TRACT "G" AND LOT 19 OF SAID SEASIDE AT PONTE VEDRA BEACH UNIT TWO, A DISTANCE OF 313.49 FEET TO AN ANGLE POINT ON THE BOUNDARY OF SAID SEASIDE AT PONTE VEDRA BEACH UNIT TWO; THENCE SOUTH 08°38'52" EAST, CONTINUING ALONG THE BOUNDARY LINE OF SAID SEASIDE AT PONTE VEDRA BEACH UNIT TWO, A DISTANCE OF 395.82 FEET; THENCE SOUTH 09°08'23" EAST, A DISTANCE OF 333.94 FEET THENCE SOUTH 80°07'15" WEST, A DISTANCE OF 20.00 FEET; TO THE POINT OF BEGINNING; THENCE SOUTH 09°08'23" WEST, A DISTANCE OF 85.01 FEET; THENCE SOUTH 80°07'15" WEST, A DISTANCE OF 81.10 FEET; THENCE NORTH 09°25'53" WEST, A DISTANCE OF 61.05 FEET; THENCE NORTH 29°53'04" EAST, A DISTANCE OF 31.16 FEET, THENCE NORTH 80°07'15" EAST, A DISTANCE OF 61.79 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,675 SQUARE FEET OR 0.15 ACRES MORE OR LESS.

**LEGEND:**

R/W=RIGHT-OF-WAY  
MB=MAP BOOK  
ORB=OFFICIAL RECORDS BOOK  
PG=PAGE  
BLDG=BUILDING

**CERTIFICATION:**

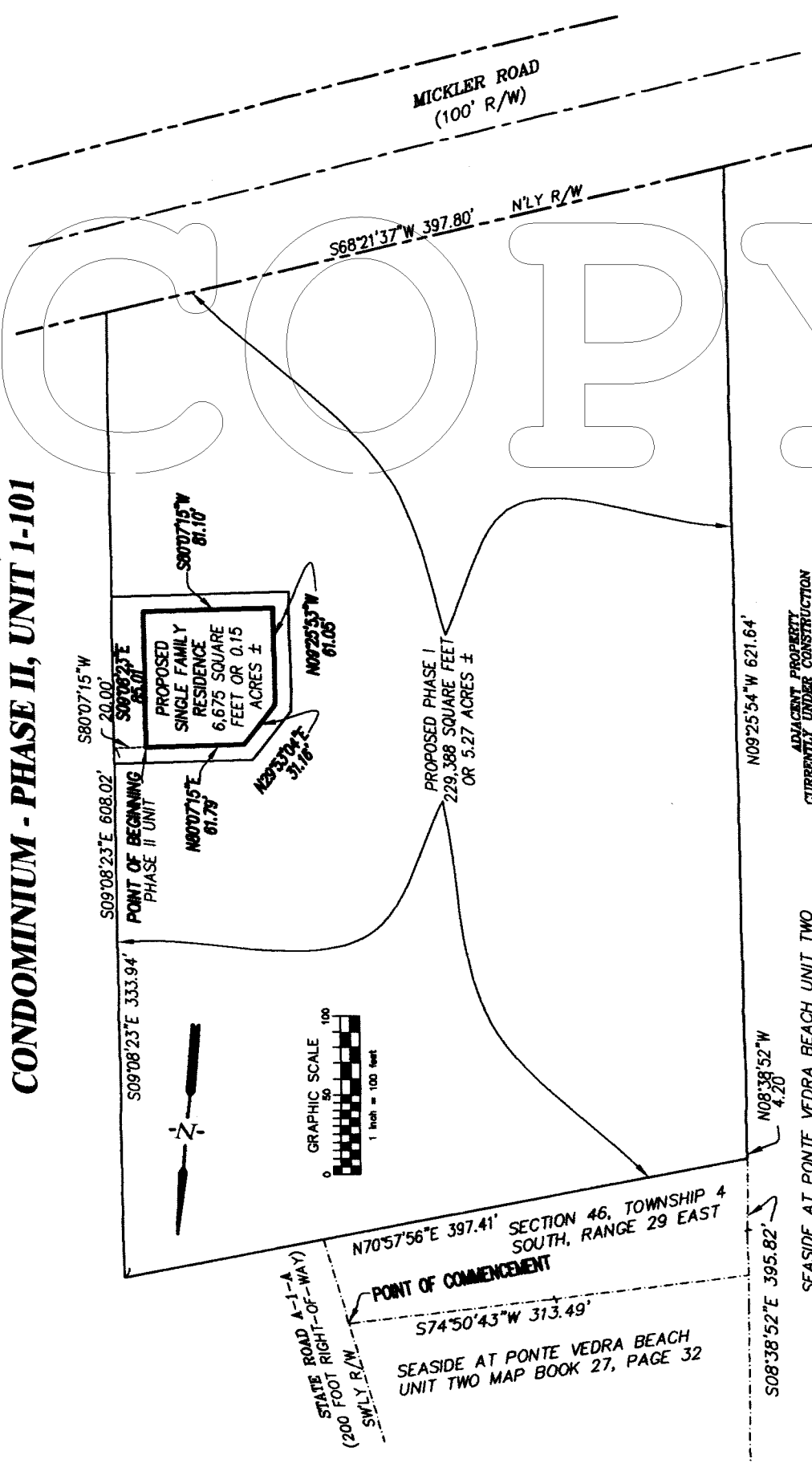
I HEREBY CERTIFY THAT THIS SURVEY OF THE HEREON DESCRIBED PROPERTY WAS SURVEYED UNDER MY RESPONSIBLE CHARGE ON 10/12/05. THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17-6, FAC PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

  
ALBERT D. BRADSHAW, P.S.M.  
FLORIDA CERTIFICATION No. 6824

**PREPARED BY:**

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# PORTOFINO AT PONTE VEDRA, A CONDOMINIUM - PHASE II, UNIT 1-101



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