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DECLARATION OF CONDOMINIUM

OF

HIALLEAH CLUB VILLAS, A CONDOMINIUM

1. SUBMISSION STATEMENT AND NAME

The undersigned, SOUTHERN INTERNATIONAL CORPORATION, a Florida corporation, hereinafter referred to as the "Developer", being the owner and holder of fee simple title in and to those certain lands located in the City of Hialeah, Dade County, Florida, more particularly described within Exhibit "A" attached hereto, does hereby submit and dedicate said lands and all improvements now or hereafter situated thereon to the condominium form of ownership and use in accordance with the provisions of Chapter 718, Florida Statutes (1983), hereinafter referred to as the "Condominium Act", subject to the following provisions:

1.1 Name. The name by which this condominium is to be identified is HIALLEAH CLUB VILLAS, A CONDOMINIUM, hereinafter referred to as the "Condominium".

1.2 Legal Description. The legal description of the lands encompassed within this Condominium being dedicated herewith is attached hereto as Exhibit "A". The Plot Plan, Elevations, Floor Plans, Survey and Graphic Description thereof is depicted within Composite Exhibit "D" which is attached hereto. The legal description of the additional land that may be added to HIALLEAH CLUB VILLAS, A CONDOMINIUM is attached hereto as Exhibits "B" and "C". The Plot Plan, Elevations, Floor Plans, Survey and Graphic Description of this additional land and contemplated improvements (Phases II and III) is included within Exhibit Composite "D".

1.3 Effect Upon Recordation. All restrictions, reservations, covenants, conditions and easements contained herein constitute covenants running with the land (Exhibit "A"), as well as with any additional lands (Exhibits "B" and "C") hereinafter dedicated, and shall run perpetually unless terminated as provided herein, and shall be binding upon all unit owners, as hereinafter defined, and upon all tenants of such owners, or any other persons (without limitation) that may in any manner use property committed to condominium ownership by this Declaration; and in consideration of receiving and by acceptance of a grant, devise or mortgage, all grantees, devisees or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons agree to be bound by, and to comply strictly with, the provisions hereof and with the provisions of the Articles of Incorporation, By-laws and Rules and Regulations of the Association, all as may be amended from time to time. Both the burdens imposed and the benefits shall run with, and be appurtenant to, each condominium unit.

2. DEFINITIONS

The terms used in this Declaration and in its exhibits, including the Articles of Incorporation and By-laws of HIALLEAH CLUB VILLAS CONDOMINIUM ASSOCIATION, INC., shall be defined in accordance with the provisions of the Condominium Act and as follows, unless the context otherwise requires:

2.1 Apartment means a part of the condominium property which is subject to exclusive ownership and possession. It is synonymous with "unit", as that word is defined in the Florida Condominium Act and in Section 2.15 hereafter. It is synonymous and used interchangeably throughout the condominium documents with the phrase "condominium unit".

PREPARED BY:

LAW OFFICE  
MULLEN & BARRINGER, P.A.  
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2.2 Assessment means a share or proportion of the monies required for the payment of common expenses (hereafter defined) which from time to time is levied against, and collected from, unit owners.

2.3 Board means Board of Directors which is also referenced as the Board of Administration.

2.4 Association means HIALEAH CLUB VILLAS CONDOMINIUM ASSOCIATION, INC., a non-profit Florida corporation, and its successors. The Articles of Incorporation of the Association are attached hereto as Exhibit "E" and incorporated herein by reference. The By-Laws of the Association are attached hereto as Exhibit "F" and incorporated herein by reference.

2.5 Common Elements shall mean and include the portions of the Condominium Property not included within the separate residential units. The Common Elements are administered and maintained by the Association, although the Common Elements are owned by Unit Owners as tenants-in-common. The Common Elements also include conduits, ducts, plumbing, wiring, and other facilities and property, both real and personal, required for the furnishing of utility services to other units and to the Common Elements, including easements for such facilities through the various units and other common elements; an easement of support in every portion of a unit which contributes to the support of a building; and the property and installations required for the furnishing of utilities and other services to more than one unit or to the common elements; guardhouse, vita course, paved parking and driveway areas, roofs and exteriors of buildings and the easements otherwise identified herein and in the Condominium Act.

2.6 Common Expenses include:

- (a) Expenses of administration and management of the Association and maintenance and repair and replacement of Condominium Property.
- (b) Expenses of maintenance, operation, repair or replacement of the Common Elements, limited Common Elements, and of those portions of Units to be maintained by the Association.
- (c) The costs of performing the obligations, duties and responsibilities of the Association.
- (d) Expenses declared Common Expenses by the provisions of this Declaration, other Condominium Documents or under the provisions of the Condominium Act.
- (e) Any valid charge against the Condominium Property as a whole.
- (f) All personal property taxes levied or assessed against personal property owned by the Association and all federal and state income taxes levied and assessed against the Association shall be paid by said Association and shall be included as a Common Expense in the budget of the Association.

2.7 Common Surplus shall include the receipts of the Association in excess of the Common Expenses. Provided, that special funds received by the Association for reconstruction or replacement or repair (reserve funds) shall not be deemed nor construed as part of the Common Surplus.

2.8 Condominium Act means the Florida Condominium Act, Chapter 718, Florida Statutes, effective as of the date of recordation of this Declaration.

2.9 Condominium Documents shall include this Declaration of Condominium together with all exhibits attached hereto and all other documents expressly incorporated herein by reference, including Rules and Regulations promulgated by the Association, all as may be amended from time to time.

2.10 Condominium Parcel is a Unit together with the undivided share in the Common Elements, Common Expenses and Common Surplus which are appurtenant to the Unit, as well as the right to the exclusive use of certain Limited Common Elements and the right to the non-exclusive use of any other easements appurtenant to the Unit and/or Common Elements and Condominium Property. A condominium parcel is to be conveyed by the Developer in fee simple. Each condominium unit being dedicated herewith is specifically identified within Composite Exhibit "D"; Composite Exhibit "D" also depicts those additional condominium units to be situated upon those additional lands (Exhibits "B" and "C") that may be dedicated to HIALEAH CLUB VILLAS, A CONDOMINIUM in the future.

2.11 Condominium Property means and includes the lands that are hereby dedicated and subject to condominium ownership (Exhibit "A"), and all improvements now and hereafter situated thereon and all personal property subjected to condominium ownership and all easements and rights appurtenant thereto intended for use in connection with this Condominium. Condominium Property shall include Phases II and III (Exhibits "B" and "C"), if either or both of these additional Phases shall be dedicated as part of this Condominium.

2.12 Developer means SOUTHERN INTERNATIONAL CORPORATION, a Florida corporation, its successors and assigns, particularly including but in no way limited to, successors through mortgage foreclosure or grantees of deeds given in lieu for foreclosure, unless the context otherwise requires.

2.13 Institutional Mortgagee or Institutional Lender may be used interchangeably and shall be synonymous with, and shall mean, any trust, savings and loan association, credit union, mortgage company, bank, insurance company, mortgage banker, Federal National Mortgage Association, and its assigns, Federal Home Loan Mortgage Corporation, and its assigns, Veteran's Administration, and its assigns, Federal Housing Authority and its assigns, or any commercial loan company licensed to do business in the State of Florida, or any agency of the County of Dade, State of Florida or United States of America, holding a mortgage on any portion of the Condominium Property, including any Unit therein.

2.14 Limited Common Elements means and includes those Common Elements which are reserved for the exclusive use and benefit of owners of certain assigned and designated Units within this Condominium to the exclusion of the owners of other Units, as more particularly specified herein. The Limited Common Elements shall include one (1) parking space assigned for the exclusive use of a designated Unit. In addition, Limited Common Elements shall include the land both immediately to the front and rear of each ground-level unit, which areas shall be for the exclusive use of such designated units, as more particularly identified and delineated hereafter.

2.15 Unit means a defined space within a building together with fixtures therein intended solely for the use by the Owner without common ownership with others. It is synonymous with "apartment" and "condominium unit".

2.16 Unit Owner or Apartment Owner means the owner of a Condominium Parcel.

2.17 Utility Services shall include but not be limited to electric power, gas, water, garbage and sewage disposal, cable and telecommunications, together with all other public services and convenience facilities.

3. EXHIBITS

Exhibits attached to this Declaration of Condominium and made a part hereof include the following:

- 3.1 Exhibit "A". Legal description of Phase I of HIALEAH CLUB VILLAS, A CONDOMINIUM.
- 3.2 Exhibit "B". Legal Description of Phase II of HIALEAH CLUB VILLAS, A CONDOMINIUM.
- 3.3 Exhibit "C". Legal Description of Phase III of HIALEAH CLUB VILLAS, A CONDOMINIUM.
- 3.4 Exhibit "D". Plot Plan, elevations, floor plans, survey and graphic description of all three (3) Phases of HIALEAH CLUB VILLAS, A CONDOMINIUM.
- 3.5 Exhibit "E". The Articles of Incorporation of the Association.
- 3.6 Exhibit "F". The By-Laws of the Association.

4. EASEMENTS

Easements are expressly provided for, and reserved in favor of, the Developer and its assigns, the Association, the Unit Owners, their lessees, their guests and invitees, and shall be appurtenant to the Condominium Property and shall pass as an appurtenance with a Unit, as follows:

4.1 Utilities. Easement for utilities, and for the installation, maintenance, repair and replacement thereof, are reserved through the Condominium Property as may be required to make available utility services in order to serve the Condominium adequately. Easements for ingress and egress to install, maintain, replace and operate the utilities are reserved over, under, across and above the Condominium Property in favor of the providers of the utilities. This would include the water distribution and sewer collection system and lift station to be located upon the Condominium and which would be owned by the appropriate water and sewer authority.

4.2 Encroachments. In the event that any Unit or any portion of the Common Elements shall encroach upon any of the Common Elements or upon any other Unit as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of any Unit or Common Elements, then an easement shall exist for such encroachment so long as the same shall exist.

4.3 Traffic. A non-exclusive easement shall exist for pedestrian traffic for ingress and egress over, through and across sidewalks, paths, paved parking areas, and other portions of the Common Elements as may be from time to time intended and designated for such purpose and use; and for vehicular traffic for ingress and egress over, through and across such portions of the Common Elements as may from time to time be paved and intended for such purposes, and such easements shall be for the use and benefit of the Unit Owners within this Condominium and those claiming by, through or undersaid Unit Owners; provided, however, nothing herein shall be construed to give or create in any person the right to park any vehicle upon any portion of the Condominium Property except to the extent that particular parking spaces may be designated and assigned for parking purposes. In the event that said easements for ingress and egress shall be encumbered by any lien, other than those on the Condominium Parcels, such liens shall be subordinated to the use rights of all Condominium Unit Owners. In addition, further easements shall exist for ingress and egress over such streets, walks and other rights of way serving the Units as shall be necessary to provide

reasonable access to the public ways. Each Unit Owner shall have an unrestricted perpetual right of ingress and egress to his Unit, which right shall be appurtenant to his Unit.

4.4 Airspace and Common Elements. There shall pass, as an appurtenance, 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 is also reserved for overhanging troughs and gutters and downspouts, and the discharge of water therefrom and for the subsequent flow of rain water over any portion of the Condominium Property.

4.5 Association Easement. The Association hereby retains an easement for ingress and egress over the Common Elements to allow for the installation, maintenance, repairs and replacement of any and all utility services being made available to Unit Owners. This easement shall inure to the assigns of the Association; provided, however, that such assigns must be Unit Owners of this Condominium. The Association shall have a reasonable right of entry upon and into any Unit to make emergency repairs so as to prevent damage to any portion of the Condominium Property, including any other unit or units and to do other work reasonably necessary for the proper maintenance and operation of the Condominium.

4.6 Construction Easement. An easement shall exist in favor of the Developer, its assigns and agents, for pedestrian and vehicular traffic above, upon, under, across and over, the Common Elements in any part of the Condominium so as to allow for the construction and repair of improvements and to maintain facilities for the development and for the marketing and sales of units within this Condominium.

4.7 Creation of Easements. Should the intended creation of any easement fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to be so created shall nevertheless be considered as having been granted directly to the Association for the purpose of allowing the original party or parties to whom the easements were originally granted the benefit of such easement. In such event, the Unit Owners designate the Developer and/or the Association as their lawful attorney-in-fact to execute any instrument on their behalf as may hereafter be required or deemed necessary for the purpose of creating such easement.

4.8 Reservation of Right to Impose further EASEMENTS. Developer, for itself, its nominees and (after the date on which unit owners other than Developer shall have elected not less than a majority of the members of the Board of Directors, referred to as the "transfer date") the Association, reserves the right to impose upon the common elements henceforth and from time to time such additional easements and cross-easements for ingress and egress, and for the installation, maintenance, construction and repair of facilities, including, but not limited to electric power, telephone, sewer, water, gas, drainage, irrigation, central and cable television transmission, security, garbage and waste removal and the like, as Developer (or, after "transfer date", the Association) deem it to be in the best interest of, and necessary and proper for, the condominium.

## 5. UNIT BOUNDARIES

Each Unit shall include that part of the building containing the Unit including the balcony appurtenant thereto, the boundaries of which shall be as follows:

5.1 Upper and Lower Boundaries The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the perimeter boundaries:

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(a) Upper Boundaries - The lowest plane of the interior unfinished surface of the second floor ceiling of the Unit.

(b) Lower Boundaries - The highest plane of the interior unfinished surface of the floor slab of the Unit.

5.2 Perimeter Boundaries The perimeter boundaries of the Unit shall be the imaginary vertical planes along and coincident with the unfinished interior surfaces of the perimeter walls bounding the unit extended to intersections with each other and with the upper and lower boundaries.

5.3 Additional Inclusions Additional inclusions within the Unit shall consist of all built-in appliance, fixtures, all doors, all windows, interior walls and partitions, drywall and/or other facing material on the perimeter walls and ceiling thereof, the inner decorated and/or finished surfaces of the floors, including all flooring tile, ceramic tile, finishing flooring, carpeting and padding and all other improvements located within a Unit and which are exclusive to such Unit.

5.4 Size of Units The approximate square footage of the various units is, as follows:

MODEL A - A minimum and a maximum of approximately 528 square feet shall be contained within each one-bedroom, one-bath Unit.

MODEL B - A minimum and a maximum of approximately 863 square feet shall be contained within each one-bedroom, one and one-half (1 1/2) bath Unit.

MODEL C - A minimum and a maximum of approximately 1,056 square feet shall be contained within each two-bedroom, one and one-half (1 1/2) bath unit.

MODEL D - A minimum and a maximum of approximately 1,056 square feet shall be contained within each two-bedroom, two and one-half (2 1/2) bath unit.

MODEL E - A minimum and a maximum of approximately 1,056 square feet shall be contained within each two-bedroom, two (2) bath unit.

MODEL F - A minimum and a maximum of approximately 1,056 square feet shall be contained within each two-bedroom, one and one-half (1 1/2) bath split unit.

MODEL G - A minimum and a maximum of approximately 1,249 square feet shall be contained within each three-bedroom, one and one-half (1 1/2) bath unit.

MODEL H - A minimum and a maximum of approximately 1,249 square feet shall be contained within each three-bedroom, two and one-half (2 1/2) bath unit.

The square footage for the end units is measured from the exterior of the outside wall to the center line of the party wall. The square footage for the interior units is measured from the center lines of both party walls. The computations are exclusive of the square footage of the balconies which are for all models approximately 98 square feet, save and except for MODEL B units which contain approximately 70 square feet of balcony area, first floor MODEL A and E units which have no balconies and second floor MODEL A Units that have a balcony area of approximately 42 square feet. All measurements are from the exterior portion of the perimeter-boundary walls of a unit.

All two-bedroom units have identical square footage, outside elevations, and party and outside walls, and consequently the developer reserves the right to interchange them at his sole discretion without such change constituting an amendment to this Declaration.

Also, all three-bedroom units have identical square footage, outside elevations, and party and outside walls, and consequently the developer reserves the right to interchange them at his sole discretion without such change constituting an amendment to this Declaration.

#### 6. PHASE DEVELOPMENT PLAN

6.1 Phase Development. Developer intends to develop the Condominium according to a plan of development (the "Plan") as set forth in this Article, as a "phase condominium", pursuant to Section 718.403 of the Florida Condominium Act. The Phase I land (Exhibit "A") and the improvements thereon shall be dedicated to this Condominium effective upon recordation of this Declaration in the Public Records of Dade County, Florida. In addition to Phase I, Developer anticipates that two (2) other parcels of land (Phases II and III) (Exhibits "B" and "C") and improvements to be located thereon may be added as part of the Condominium, subject to this Declaration, by an amendment hereto executed by the Developer alone, and otherwise in accordance with the provisions of the Condominium Act. If and when Phase III shall be added and made a part of the Condominium, the Condominium property shall be enlarged and expanded to encompass and include such additional Phase II and/or Phase III land, the improvements to be constructed thereon (including the condominium units), the common elements, limited common elements and all easements and rights appurtenant thereto situated within and upon the described real property (Exhibits "A" and "C"), as applicable. The survey, plot plan and graphic description, elevations, floor plans and identification of Units in all three (3) Phases are attached hereto as Composite Exhibit "D".

Composite Exhibit "D" shows the location and configuration of each phase, the location of the condominium buildings, vita course, Common Elements and Limited Common Elements, and the parking areas to be located thereon. Upon recordation of this Declaration of Condominium in the Public Records of Dade County, Florida, the Condominium shall be comprised of four (4) residential buildings containing a total of eighty-eight (88) condominium units. The share in the common elements, common surplus and common expenses appurtenant to each unit within Phase I shall initially be one-eighty-eighth (1/88th) of the whole. If and when Phase II is submitted to condominium ownership, the Condominium shall thereupon consist of eight (8) residential buildings containing a total of one hundred eighty-two (182) condominium units. The share in the common elements, common surplus and common expenses appurtenant to unit within Phases I and II shall then be one-one hundred eighty-second (1/182nd) of the whole. If and when Phase III is submitted to condominium ownership, the Condominium shall thereupon consist of twelve (12) residential buildings containing a total of two hundred fifty-eight (258) condominium units. The share in the common elements, common surplus and common expenses appurtenant to each unit shall thereafter be one-two fifty-eighth (1/258th) of the whole. Developer will not provide any personal property as part of Phase II or as part of Phase III, if and when added to the Condominium.

No time-share estates shall be created with respect to units in any phase. Completion of Phase II and/or Phase III will have the impact of increasing the number of persons using the common elements and recreation areas.

At all times and in all phases of the condominium, each unit shall have one vote in the Association.

Developer shall notify owners of existing units of the commencement of Phase II and of the commencement of Phase III. Notice shall be by certified mail addressed to each owner at the address of his unit or at his last known address as it appears in the records of the Association.

Developer reserves the absolute right, in its sole discretion, not to complete and/or add either or both Phase II and/or Phase III. If Developer decides not to add either or both Phase II and/or Phase III, Developer shall give notice of such decision to all unit owners and shall also file in the Public Records a statement that Developer has terminated the Plan, which "termination statement" shall set forth the total number of units then existent in the Condominium. The effect of recording such termination statement shall be that the portion of the land not theretofore submitted to condominium ownership shall not become a part of the Condominium. Notice under this paragraph shall be by United States postal service certified mail addressed to each unit owner at the address of his unit or at his last known address as it appears in the records of the Association.

Notwithstanding any other provision stated in the Declaration to the contrary, no portion of either the Phase II and/or Phase III land (Exhibits "B" and "C") shall be affected or encumbered by this Declaration, unless and until the respective amendment relating to either or both Phase II and/or Phase III is recorded in the Public Records of Dade County, Florida.

6.2 Identified Improvements. This Condominium shall be comprised of the real property and improvements identified as Phase I and as depicted within the Plot plan, survey and graphic descriptions being restricted to the Phase I land (Composite Exhibit "D").

6.3 Undivided Interest. The undivided interest of each Unit in the Condominium Property shall be equivalent to One-Eighty-Eighth (1/88th) of the whole. If and when Phase II (Exhibit "B") shall be dedicated to this Condominium, the undivided interest of each Unit shall be One-One Hundred Eighty-Second (1/182nd) of the whole. If and when Phase III (Exhibit "C") shall be dedicated to this Condominium, the undivided interest of each Unit shall be One-Two Hundred Fifty-Eighth (1/258th) of the whole.

6.4 Projected Latest Date of Expansion. Dedication of the additional lands and improvements, if any, shall be effected and accomplished within seven (7) years from the date of the recordation of this Declaration.

6.5 Notification of Expansion. The Owners of Units in this Condominium shall be notified if and when either or both Phase II and/or Phase III is being dedicated as part of this Condominium and at the time construction is being commenced.

6.6 Discretion of Developer. Notwithstanding anything herein to the contrary, the Developer reserves the sole and absolute right to determine whether to dedicate either or both parcels (Phase II and/or Phase III) to the condominium form of ownership. In the event that the Developer shall decide not to add either or both Phase II and/or Phase III (Exhibit "B" and Exhibit "C") to this Condominium, the



Developer shall give notice of such decision to all owners of apartment units within this Condominium and shall also record within the Public Records of Dade County, Florida, a statement to the effect that the Developer has completed or terminated its Phase Development Plan.

6.7 Effective Date of Voting Rights. Voting rights appurtenant to each Unit in this Condominium shall be effective as of the date of the recordation of this Declaration of Condominium and any amendment hereto by which either or both of the additional parcels (Phase II and/or Phase III) is to be dedicated as part of this Condominium.

6.8 Recreation Areas And Facilities - Personal Property. The recreational areas and facilities and other common areas and facilities, as well as personal property of the Association that will be owned as Common Elements by all Unit Owners in this Condominium, including Owners of Units within Phases II and/or III, if dedicated, shall be comprised of:

- (a) Walkways, grassy areas, asphalt driveways and guest parking areas, as well as assigned parking spaces (assigned for exclusive use of Owners of designated Units), are all encompassed within the Common Elements, as depicted within Exhibit "D";
- (b) Vita course to be situated upon and within the Condominium, as depicted upon Exhibit "D"; and
- (c) Guardhouse which is approximately seven (7') feet in width and eleven (11') feet in length.

No additional recreational areas or facilities or any additional personal property shall be constructed or supplied by the Developer other than that identified herein, notwithstanding the prospective or future dedication of Phase II and/or Phase III.

#### 7. APPURTENANCES TO UNITS

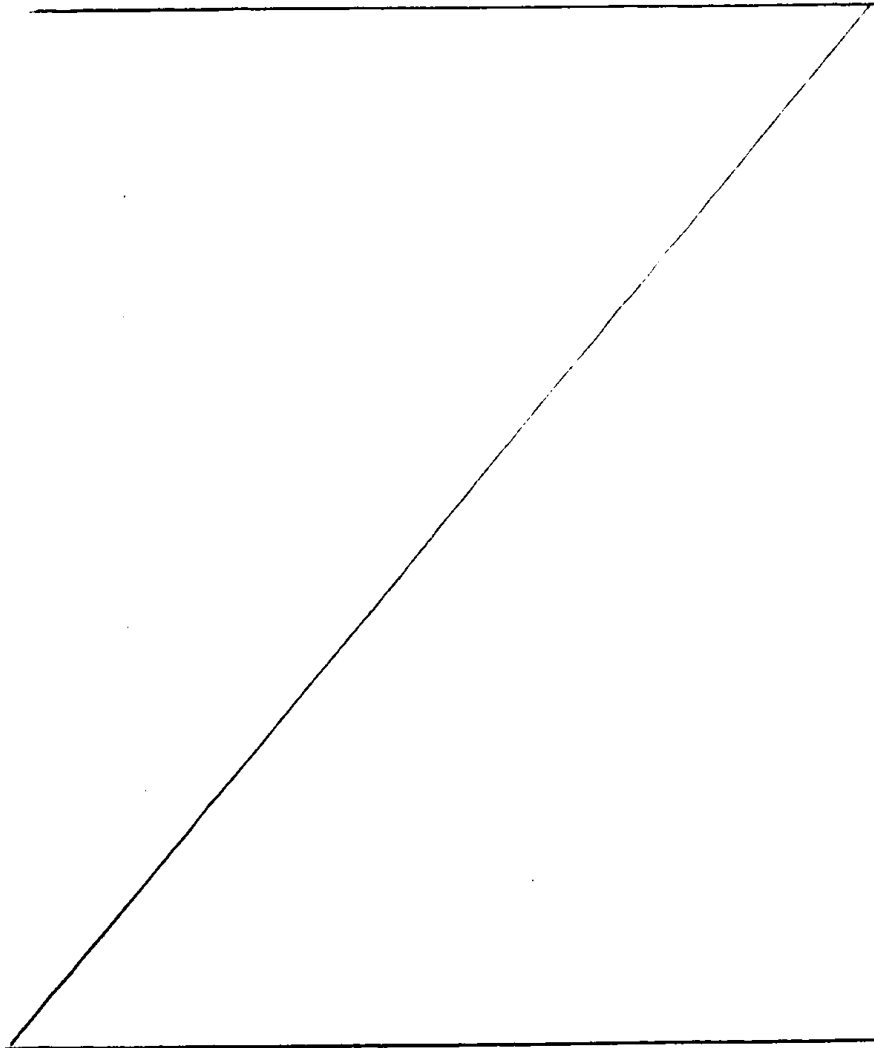
7.1 Undivided Interests. Each Unit Owner shall have an undivided share of the Common Elements and Common Surplus and undivided share of the liability for Common Expenses, which share, interest and liability shall be appurtenant to the unit. Upon recordation of this Declaration, the undivided interest of each Unit shall be One-Eighty Eighth (1/88th) of the whole. If and when Phase II (Exhibit "B") shall be dedicated to this Condominium, the undivided interest of each Unit shall be One-One Hundred Eighty-Second (1/182nd) of the whole. If and when Phase III (Exhibit "C") shall be dedicated to this Condominium, the undivided interest of each Unit shall be One-Two Hundred Fifty-Eighth (1/258th) of the whole.

7.2 Limited Common Elements - Parking Space. The right to the exclusive use of one automobile parking space shall be assigned to the first Owner of each Unit and thereafter shall be and remain appurtenant to, and reserved for the exclusive use of, all successor Owners of such Unit. The right to the exclusive use of any parking space shall pass as an appurtenance to the Unit to which the parking space is assigned and designated. A Unit Owner shall not transfer or assign use of the designated parking space, except in connection with the conveyance of the Unit. The use of the "Guest" parking spaces shall be governed by the Association, pursuant to rules and regulations promulgated by the Association from time to time.

7.3 Limited Common Elements - Lawn And Garden Areas. The right to the exclusive use, possession and enjoyment of the lawn and garden areas directly to the front and rear of each ground-level condominium unit shall be assigned to the first Owner(s) of each ground-level condominium unit and, thereafter, shall pass as an appurtenance to the unit designated.

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A Unit Owner shall not transfer or assign the right to the use, possession and enjoyment of these designated lawn and garden areas, except in conjunction with the conveyance and/or lease of the Unit. The areas encompassed within these respective Limited Common Elements shall be that area lying within the boundaries formed by imaginary straight lines superimposed upon the party walls separating each unit as extended from the exterior of each unit to the paved parking areas to the front and/or rear of each such unit. The edge of the paved parking areas constitutes one boundary opposite the exterior of the Unit and the exterior of such Unit constitutes the remaining boundary. The Association may from time to time promulgate rules and regulations governing the use, possession, enjoyment and maintenance of these Limited Common Elements, including the grassy areas, shrubs, plants and trees situated therein. Owners shall be permitted, upon approval in writing first being secured from the Association, to install a fence upon the boundary line of the Limited Common Elements (lawn and grassy area) situated to the rear only of a ground-level unit. The specifications for such fencing shall be uniform throughout the Condominium, as established by the Association. Owners may not in any instance or under any circumstance install a fence in the front of any unit.



7.4 Easements. All easements as herein set forth, and as otherwise created under the provisions of the Condominium Act, shall pass as appurtenances to each of the Unit

7.5 Airspace. An exclusive easement for the use of the air space occupied by the unit, as existing at any particular time and as lawfully altered or reconstructed from time to time, is hereby created.

7.6 Air Conditioning Unit. An exclusive easement for the use of the air space occupied by the air-conditioner compressor serving the unit, with its mounts and fittings, as existing at any particular time and as lawfully altered or re-located from time to time, is hereby created.

7.7 Identification of Units. Each Unit is identified by a separate number as set forth in Composite Exhibit "D".

7.8 Restraint Against Partition. The undivided share in the common elements and common surplus, and the undivided share of common expenses, which are appurtenant to each unit, shall not be separated therefrom and shall pass with title to, and ownership of, the unit. No action for partition of the common surplus or common elements shall lie, unless the Condominium shall be terminated in the manner hereinafter set forth.

7.9 Restraint Upon Withdrawal, Transfer or Hypothecation. A unit owner's right to share in the common elements and common surplus does not include the right to withdraw or to require payment or distribution thereof, except on termination of the condominium. A member's share in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his unit.

#### 8. MAINTENANCE, ALTERATION AND IMPROVEMENT

Responsibility for the maintenance of the Condominium Property, and restrictions upon its alteration and improvement, is established, as follows:

##### 8.1 Units.

(a) By the Association. The Association shall maintain, repair and replace at the Association's expense:

(1) All common elements and limited Common Elements except as otherwise provided in the Condominium Documents.

(2) All conduits, ducts, plumbing, wiring and other facilities required for the furnishing of Utility Services, and contained within a unit, that service other parts of the Condominium Property other than the Unit within which contained.

(3) Boundary walls between units and all portions of any unit contributing to the support of the unit building, including (without limitation) the outside walls and exterior surfaces of the units and buildings, load-bearing columns and load-bearing walls; Provided, that the Association shall not in any event be responsible for maintenance, repair or replacement of any surface of a wall, or surface of a floor slab, within any unit, or any surface of the floor or ceiling of any balcony, or a surface of any wall, fence or

railing within a balcony other than the exterior building wall that constitutes a part of the balcony.

(4) All incidental damage caused to a Unit by reason of maintenance, repair and replacement accomplished pursuant to the provisions of 8.1(a) (1), (2) and (3) above. Provided, that to the extent the repair or replacement is chargeable to a unit owner under Section 16, the cost of repairing such incidental damage shall be paid by that unit owner.

(b) By the Unit Owner. The responsibility of the Unit Owner for maintenance, repair and replacement shall be as follows:

(1) To maintain, repair and replace at his expense all portions of his Unit except the portion to be maintained, repaired and replaced by the Association. Included within the responsibility of the Unit Owner shall be fixtures, appliances and furnishings, electric wiring, plumbing, surfaces and coverings of floors, ceilings, interior walls, fences, railings on balcony, windows, screens and doors opening into or onto his Unit. All such maintenance, repair and replacement shall be done without disturbing the rights of other Unit Owners and without adversely affecting the Common Elements, or any other Unit. All replacement materials shall be of like appearance, material and quality as originally designed and built.

(2) To not paint or otherwise decorate or change the appearance of any portion of Common Elements or make any modification or addition to the Common Elements.

(3) To not paint or otherwise decorate or change the appearance of any portion of windows and outside doors and balcony.

(4) To promptly report to the Association any defect or need for repair for which the Association is responsible.

8.2 Parking Spaces. The Association shall maintain and repair at the Association's expense all parking spaces.

8.3 Lawns and Plants-Limited Common Elements. Notwithstanding anything herein to the contrary, Owners of ground-level Units shall be responsible to maintain at their own individual expense the lawns, shrubs, plants and trees that lie within the areas abutting the front and rear of their units, as more particularly defined and delineated in sub-section 7.3 hereof. This shall include the timely cutting and trimming and fertilizing of the lawn, shrubs, plants and trees and resodding and/or replacement thereof, if necessary.

8.4 Alteration and Improvement. There shall be no alteration or further improvements of the Condominium Property in any one calendar year having a total cost of more than Twenty Thousand (\$20,000.00) Dollars without the prior approval by a majority of the Unit Owners in this Condominium. Alterations or improvements of the Condominium Property costing Twenty Thousand (\$20,000.00) Dollars or less may be made at the discretion of the Board of Directors of the Association. The cost of any alteration or improvements shall be a Common Expense and so assessed. Any alteration or improvement shall not interfere with the rights of any Unit Owner without his consent. Except as elsewhere reserved to

the Developer, neither a unit owner nor the Association shall make any alteration in the portions of a unit or building that are to be maintained by the Association (Sub-sections 8.1 (a) (1), (2), (3) and (4) and 8.2), or remove any portion of such, or make any additions to them, or impair any easement, or change the character of any building or its external appearance without first obtaining approval in writing of owners and institutional mortgagees of all units wherein such work is to be done and the approval of the Board of Directors. In no event shall any alteration or any removal of any portion of a unit or building be made that would jeopardize the safety or soundness of any unit or building, except in accordance with Article 12 (Reconstruction or Repair after Casualty).

A copy of plans for all such work prepared by an architect licensed to practice in this state, together with proof that a building permit for such work has been properly issued, shall be filed with the Association prior to the start of the work; and promptly following completion as-built drawings certified by a Florida licensed architect or surveyor shall be filed with the Association.

Except as herein provided, after completion by Developer of the improvements to the common elements, as contemplated by this Declaration, there shall be no alteration nor further improvement of the real property constituting the common elements without prior approval in writing by the owners of not less than two-thirds of the common elements. The cost of such work otherwise allocable to and against a unit shall not be deemed an assessment against such unit if owned by an institutional lender if its title was acquired as result of owning a mortgage thereon, whether title was acquired by deed from its mortgagor or through foreclosure proceedings; provided, that title to such unit shall be acquired subsequent to the date that the assessment is approved and levied by the Association; and further provided that the portion of the cost which otherwise would have been assessed against that unit shall be assessed against the other unit owners in the same proportions that their shares in the common elements bear to each other. A unit owner's share in the common elements shall not be changed by reason of his contributing or not contributing to the cost of such alteration or further improvement. Any costs, expenses and assessments levied subsequent to the date that an institutional lender shall acquire title to a unit shall be deemed a proper assessment against such unit and an obligation of the institutional lender.

**8.5 Association's Access to Units.** The Association has the irrevocable right to reasonable access to each Unit during reasonable hours when necessary for pest control or for the maintenance, repair, or replacement of any Common Elements or when necessary for maintaining the Condominium Property or for making emergency repairs necessary to prevent damage to the Common Elements or to another Unit or Units.

**8.6 Negligence.** Notwithstanding anything herein to the contrary, damage due to the negligence of a Unit Owner shall be repaired by the Association at the expense of the negligent Unit Owner.

## **9. ASSESSMENTS AND COMMON EXPENSES**

**9.1 Liability for Common Expenses.** The owner or owners of each unit shall be jointly and severally personally liable to the Association for a share of the common expenses and special assessments levied by the Association, and all costs of collecting delinquent assessments, plus interest and attorney fees as herein provided; such share being equivalent to the undivided interest of each Unit in

the Condominium Property, as more particularly set forth in Section 6.3. Notwithstanding the manner title is acquired (including, without limitation, a purchaser at a judicial sale), the owner or owners of a unit shall be liable for all assessments coming due while he or they are the owners of such unit. Liability for assessments may not be avoided by waiver of the use or enjoyment of any common elements or abandonment of the apartment to which an assessment is allocable.

9.2 Developer's Obligation. For a period of time commencing as of the date of the recordation of this Declaration and ending one (1) year thereafter, during which time the Developer hereby guarantees to each owner that the assessments for the Common Elements imposed upon each Unit will not increase over the dollar amount stated in the Estimated Operating Budget, the Developer shall be excused from the payment of its share of the Common Expenses owned by Developer, except that the Developer hereby obligates itself to pay any amount of Common Expenses incurred during the guarantee period and not produced by the assessments at the guaranteed level receivable from the other Unit owners.

9.3 Assessment. The making and collection of assessments against each Unit Owner for Common Expenses, for the costs or expenses for which an individual Unit Owner may be solely responsible pursuant to the terms of the Condominium Documents, and for reserves as may from time to time be established by the Association, shall be deemed a personal obligation (joint and several) of the Owner, as well as a lien against the Unit, if unpaid, subject to the following provisions:

(a) Default Interest: Late Charges. Assessments and installments on such assessments paid on or before five (5) days after the date when due shall not bear interest, but all sums not paid on or before five (5) days after the date when due shall bear interest at the maximum legal rate allowable at law from the date when due until paid; Provided that, in addition, a late-payment handling charge of \$5.00 shall be assessed for each delinquent installment in addition to the interest charge. All payments received shall be first applied, if applicable, to interest and then to the late-payment handling charge and then to the payment of the delinquent installment. In addition, the Association shall be entitled to recover from the responsible Unit Owners any reasonable attorney's fees that may be incurred in its efforts to collect delinquent assessments.

(b) Lien for Assessments. The Association shall have a lien against a Unit for any unpaid assessments, late-payment handling charges and for interest accruing thereon, and for attorney's fees and costs incurred by the Association incident to the collection of such assessment or enforcement of such lien, whether or not legal proceedings are initiated. The lien is effective from and after recording a claim of lien in the Public Records of Dade County stating the legal description of the Unit, the name of the record owner, the amount claimed to be due and the due dates. The lien shall continue in effect until all sums secured by the lien shall have been fully paid. Such claims of lien shall be signed and verified by an officer of the Association or by an agent of the Association. Upon full payment, the unit owner making payment shall be entitled to a recordable satisfaction of lien, which shall be prepared and recorded at such unit owner's expense. All such liens shall be subordinate to any mortgage recorded prior to the date of recording the claim of lien, and all such liens may be foreclosed by suit brought in the name of the Association in the same manner as a foreclosure of a mortgage on real property.

The association may also sue to recover a money judgment for unpaid assessments without thereby waiving any claim of lien. In the event an Institutional Mortgagee, as holder of a first mortgage of record, shall obtain title to a Unit as a result of the foreclosure of such mortgage, or in the event such Institutional Mortgagee shall obtain title to a Unit as the result of a conveyance in lieu of the foreclosure of such first mortgage, such Institutional Mortgagee shall not be liable for that share of the Common Expenses or assessments chargeable to the Unit, or the Owner thereof, which became due prior to the acquisition of title by such Institutional Mortgagee and any such unpaid share of Common Expenses, or assessments, chargeable against any such foreclosed Unit, or against any Unit transferred in lieu of foreclosure, shall be deemed a Common Expenses to be paid in the same manner as other Common Expenses of the Condominium by all of the Unit Owners including such Institutional Lender; provided, that a claim of the lien for the assessments shall not have been recorded prior to the date of recordation of the mortgage. The Association shall have power for the purchase of the unit at the foreclosure sale and to thereafter acquire, hold, lease, mortgage and sell such unit.

(c) Payment of Assessments. No Unit Owner may withhold payments of any monthly assessment or special assessment or any portion thereof because of any dispute which may exist between that Unit Owner and other Unit Owners, the Association, the Directors of the Association, or the Developer, or among any of them, but rather each Unit Owner shall pay all assessments when due notwithstanding the nature, basis or probable disposition of such dispute.

9.4 Refunds of Common Surplus. If the Association shall refund all or a portion of Common Surplus to Unit Owners for any fiscal year in which the Developer paid any assessment, such refund shall be prorated as of the date of closing of any Unit upon which a sale was closed by the Developer during such year, and the prorated amount allocable to the period of the Developer's ownership shall be refunded directly to the Developer by the Association.

9.5 Common Surplus. The common surplus allocable to each unit in the Condominium shall be equivalent to One-Eighty-Eightieth (1/88th) of the whole. If and when Phase II (Exhibit "B") shall be dedicated to this Condominium, the common surplus allocable to each Unit shall be One-One Hundred Eighty-Second (1/182nd) of the whole. If and when Phase III (Exhibit "C") shall be dedicated to this Condominium, the common surplus allocable to each Unit shall be One-Two Hundred Fifty-Eighth (1/258th) of the whole.

9.6 Certificate. Any Unit Owner shall have the right to require from the Association a certificate showing the amount of unpaid assessments owed by the requesting Unit Owner. The holder of a mortgage or other lien shall have the same right as to any Unit upon which it has a lien. Any person who relies upon such certificate shall be protected thereby.

9.7 Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the common areas and limited common areas, including but not limited to reserves for roof repair, painting of exterior of buildings, maintenance and replacement of vital course, and repaving of parking surfaces. The

reserve fund shall be funded from the regular monthly assessments levied and collected for the payment of common expenses and shall be maintained in a separate, segregated account apart from the general operating account.

9.8 Obligation For Assessment. The obligation of a Unit Owner for the payment of regular and/or special assessments shall commence and be deemed effective and binding as of the date of recordation of this Declaration and if Phase II and/or Phase III shall be submitted to this Condominium, for units within either or both Phase II and/or Phase III, effective the date of the recordation of the amendment to this Declaration so dedicating Phase II and/or Phase III land, as applicable.

9.9 Liability on Voluntary Conveyance. In a voluntary conveyance, the grantee shall be personally, jointly and severally liable with the grantor for all unpaid assessments against the grantor for his share of the common expenses up to the time of such voluntary conveyance, without prejudice to the right of the grantee to maintain an action to recoup and recover such assessment from his grantor.

9.10 Obligation For Assessment. The obligation on the part of any non-developer owner to pay a proportionate share of the Common Expenses as assessed by the Association shall commence upon and be effective as of the date that ownership and title to a Unit is delivered and conveyed to such owner. The Developer's obligation is governed by the provisions of Section 9.2 of this Declaration and the provisions of the Florida Condominium Act, Chapter 718, Florida Statutes (1983).

#### 10. ASSOCIATION

The administration of the Condominium shall be through the Association, which shall fulfill its functions pursuant to the following provisions:

10.1 Membership in Association. Membership in the Association arises by reason of, and as an appurtenance to, ownership of a unit in the Condominium subject to the provisions of the Articles of Incorporation and By-Laws of the Association. Each Unit shall be entitled to one vote in the Association.

10.2 Articles of Incorporation. The Articles of Incorporation of the Association, which set forth its powers and duties, are attached hereto as Exhibit "E" and incorporated herein by reference.

10.3 By-Laws. The By-Laws of the Association are attached hereto as Exhibit "F" and incorporated herein by reference.

10.4 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair portions of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage caused by any latent defect within any part of the Condominium Property which is to be maintained and repaired by the Association, or which shall be occasioned by an act of God or by any other Owners or persons whomsoever.

10.5 Restraint upon Assignment of Shares and Assets. The Unit Owner's share in the funds and assets of the Association cannot, and shall not, be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit.



11. INSURANCE

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

11.1 Authority to Purchase; Named Insured. All insurance policies upon the Condominium Property shall be purchased by the Association. The named insured shall be the Association, individually and as agent for, the Unit Owners, without naming them, and as agent for their mortgagees, as their interests may appear. Provisions shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of Unit Owners, if requested. Such policies shall provide that payments by the insurer for losses shall be made to the Association or the Insurance Trustee designated below; all policies and their endorsements shall be deposited with the Association or the Insurance Trustee.

11.2 Property of Unit Owner. Unit Owners should at their own expense obtain such fire and extended risk casualty insurance coverage upon their own Unit and personal property therein and such public liability insurance coverage, as well as other coverages, to protect against such losses and in such amounts as they shall deem prudent; such insurance shall not be the responsibility of the Condominium Association. WALL, FLOOR AND CEILING COVERINGS WITHIN INDIVIDUAL UNITS ARE NOT COVERED OR INSURED BY THE ASSOCIATION AND REMAIN SOLE RESPONSIBILITY OF OWNER OF UNIT.

11.3 Coverage For Association.

(a) Casualty. All building and improvements upon the Condominium Property shall insured in an amount equal to One Hundred (100%) percent of the replacement cost value, excluding foundation and excavation costs, and all personal property included in the Common Elements shall be insured for its replacement value, all as shall be determined annually by the Board of Directors of the Association. All such coverage, including the amount thereof and the insurance company issuing same, shall be subject to the approval of the Institutional Mortgagee holding the greatest dollar amount of first mortgages encumbering Unit in the Condominium. Such approval shall be conclusively deemed given if such Institutional Mortgagee fails to notify the Association of its objection within ten (10) days of being notified by the Association of the proposed coverages, amounts of such coverages and the identity of the insurance company. Coverage shall afford protection against:

(1) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, generally known as All Risks Physical Damage Insurance.

(2) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including but not limited to vandalism, malicious mischief and flood insurance.

(3) Unless otherwise required and provided under the law of the State of Florida, all hazard policies issued to protect condominium buildings shall provide that the word "building" wherever used in the policy shall include, but shall not necessarily be limited to, fixtures, installations, or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the individual condominium units initially installed, in accordance with the original plans and specifications.

(4) In the event that the Condominium Property shall be determined to be situated in a flood zone, the Association shall secure and maintain flood insurance coverage.

(b) Public Liability. Public Liability insurance shall be carried in such amounts and with such coverage as shall be required by the Board of Directors of the Association, including but not limited to hired vehicles, owned, and non-owned vehicle coverages, known as Employers Automobile Non-Ownership Liability Insurance, and with cross liability endorsements to cover liabilities of the Unit Owners as a group to a Unit Owner as an individual.

(c) Workmen's Compensation. Workmen's compensation insurance shall be carried so as to meet the requirements of law.

(d) Fidelity. Fidelity Insurance Coverage shall be carried in the name of the Association to insure against loss by defalcation by Directors, officers, employees and/or agents of the Association.

(e) Officers and Directors. Insurance coverage shall be secured and maintained to protect the individual and collective officers and directors of the Association and their agents from liability related to the performance of their duties on behalf of the Association.

(f) Other. Such other insurance may be carried as the Board of Directors of the Association shall determine from time to time to be desirable.

11.4 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense.

11.5 Insurance Trustee; Share of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear and shall provide that all proceeds covering property losses shall be paid to the Association or to a named Insurance Trustee (hereinafter referred to as the Insurance Trustee), as Trustee. The Insurance Trustee shall be a commercial bank with trust powers authorized to do business in Florida, as may be designated from time to time by the Board of Directors of the Association as and when required hereunder. The Insurance Trustee shall not be liable for payment of premiums nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes stated herein for the benefit of the Unit Owners and their mortgagees, as their respective interests shall appear.

(a) Proceeds on Account of Damage to Common Elements and Limited Common Expenses. Proceeds on account of damage to Common Elements and Limited Common Elements shall be held in undivided shares for each Unit Owner, such share being the same as the undivided share in the Common Elements and Limited Common Elements appurtenant to each Unit.

(b) Condominium Units. If one or more residential condominium buildings be damaged, that portion of the insurance proceeds allocable to damage that unit owners are responsible for repairing or replacing under Section 8.1 (b) shall be held in undivided shares for the owners of the damaged units in proportion to the cost of repairing the damage suffered by each unit owner, as determined by the Board of Directors; and that portion of the insurance proceeds resulting from damage that the Association is responsible for repairing or replacing under Section 8.1 (a) shall be held in undivided shares for the owners of all the units, the share of each unit owner being the same as his undivided share in the Common Elements of the Condominium.

(c) Mortgagees. In the event a mortgagee endorsement has been issued, any share for the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear. The mortgagee shall have the right to apply or have applied to the reduction of its mortgage debt any or all sums of insurance proceeds applicable to its mortgaged unit in any of the following events:

(1) Such mortgage is not in good standing and is in default.

(2) Insurance proceeds are insufficient to restore or repair the building to the condition existing prior to the loss and additional monies are not available for such purpose.

(3) In the event that the Unit Owners and Mortgagees by such affirmative vote as otherwise required herein shall determine not to restore the damage to the Condominium Property notwithstanding there being sufficient insurance proceeds for such purpose.

(d) Insurance Trustee. An Insurance Trustee shall be appointed in compliance with the provisions of this Declaration and in accordance with the provisions of the Condominium Act.

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

(a) All expenses of the Insurance Trustee shall be paid first or provisions made for such payment.

(b) If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as provided herein. Any proceeds remaining after defraying such cost shall be distributed to the beneficial Owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of, and may be enforced by, any mortgagee of a Unit.

(c) If it is determined in the manner provided herein that the damage for which proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial Owners, remittances to Unit Owners and their mortgagees being payable jointly to them.

(d) In making distribution to Unit Owners and their mortgagees, the Insurance Trustee may rely upon a Certificate of the Association made by its President and Secretary as to the names of the Unit Owners and mortgagees and their respective shares of the distribution.

11.7 Association as Agent. The Association is hereby irrevocably appointed Agent for each Unit Owner and for each Owner of any other interest in the Condominium Property to adjust all claims arising under the insurance policies purchased by the Association and to execute and deliver releases upon the payment of a claim.

## 12. RECONSTRUCTION OR REPAIR AFTER CASUALTY

12.1 Determination to Reconstruct or Repair. If any part of the Condominium Property shall be damaged by casualty, such portion shall be reconstructed or repaired unless it is determined that the Condominium should be terminated. The Insurance Trustee may rely upon a Certificate of the Association made by its President and attested by its Secretary as to whether or not the damaged property is to be reconstructed or repaired.

**12.2 Plans and Specifications.** Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original building, or in lieu thereof, according to the plans and specifications approved by the Board of Directors of the Association and by the Owners of not less than fifty-one (51%) percent of the Units and by all holders of mortgages encumbering all of the Units within the Condominium.

**12.3 Responsibility.** If the damage is only to those parts of Units for which the responsibility of maintenance and repair is that of the Unit Owner, as set forth in Section 8.1 (b), then the Owner shall be responsible for the timely reconstruction and repair after casualty.

**12.4 Estimates of Cost.** Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

**12.5 Assessments.** If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds from insurance for the payment of the costs of reconstruction and repair are insufficient, assessments shall be made against all Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such assessments shall be allocated to Unit Owners in the same proportion as allocated to that Unit Owner for the payment and assessment of Common Expenses.

**12.6 Construction Funds.** The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Association or the Insurance Trustee and funds collected by the Association from assessments against Unit Owners, shall be disbursed to pay such costs in the following manner:

(a) **Association.** If the total of assessments made by the Association in order to provide funds for the payment of costs of reconstruction and repair that is the responsibility of the Association is more than \$50,000.00, then the sums paid upon such assessments shall be deposited by the Association with the Insurance Trustee. In all other cases the Association shall hold the sums paid upon such assessments and disburse them in payment of the costs of reconstruction and repair.

(b) **Insurance Trustee.** The proceeds of insurance collected on account of casualty, and the sums deposited with the Insurance Trustee by the Association from collections of assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:

(1) **Association - Minor Damage.** If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is less than \$50,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors of the Association; provided, however, that upon request of a mortgagee that is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner as provided for the reconstruction and repair of major damage under Paragraph 12.6(b)(2).

(2) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair that are the responsibility of the Association is more than \$50,000.00, then the construction fund shall be applied by the Insurance Trustee to the payment of such cost, and shall be paid to or for the account of the Association from time to time as the work progresses. The Insurance Trustee shall make payments upon the written request of the Association for withdrawal of insurance proceeds accompanied by a certificate, dated not more than 15 days prior to such request, signed by a responsible officer of the Association and by an architect in charge of the work, who shall be selected by the Association, setting forth that the sum then requested either has been paid by the Association or is justly due to contractors, subcontractors, materialmen, architects, or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials and any amounts paid prior to the request, and stating that the sum requested does not exceed the value of the services and material described in the certificate; that except for the amount stated in such certificate to be due as aforesaid, there is no outstanding indebtedness known to the person signing such certificate after due inquiry, which might become the basis of a vendor's, mechanic's, materialmen's or similar liens upon such work against the common elements for any individual Unit; and that the cost as estimated by the person signing such certificate of the work remaining to be done subsequent to the date of such certificate does not exceed the amount of insurance proceeds or other funds remaining in the hands of the Insurance Trustee after the payment of the sum so requested.

(3) Surplus. It shall be presumed that the first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial Owners of the fund; except, however, that only those portions of a distribution to the beneficial Owners in excess of assessments paid by a Unit Owner to the construction fund shall be made payable to any mortgagee.

(4) Certificate. Notwithstanding the provisions of this instrument, the Insurance Trustee shall not be required to determine whether sums paid by the Unit Owners upon assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid. Instead, the Insurance Trustee may rely upon a Certificate of the Association made by its President and Secretary as to any or all of such matters and stating the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided, that when a mortgagee is required in this instrument to be named payee, the Insurance Trustee shall also name the mortgagee as a payee of any distribution of insurance proceeds to a Unit Owner; and further

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provided, that when the Association, or a mortgagee that is the beneficiary of an insurance policy whose proceeds are included in the construction fund, so requires, the approval of an architect named by the Association shall be first obtained by the Association prior to disbursements in payment of costs of reconstruction and repair.

### 13. USE RESTRICTIONS

The use of the individual condominium units and the Condominium Property shall be in accordance with the following provisions so long as the Condominium shall exist:

13.1 Units. Each of the Units shall be occupied only as a single family private dwelling. Except as may herein be reserved to the Developer, no Unit may be divided or subdivided into a smaller Unit. Each unit shall be occupied only by one (1) family, its servants, and guests, as a residence, and for no other purpose, nor may any portion thereof be separately sold or otherwise transferred. No one-bedroom unit shall be occupied by more than two persons for more than thirty (30) days in the aggregate in any consecutive twelve (12) month period. No two-bedroom shall be occupied by more than four persons for more than thirty (30) days in the aggregate in any consecutive twelve (12) month period. No three-bedroom unit shall be occupied by more than five persons for more than thirty (30) days in the aggregate in any twelve (12) month period.

13.2 Common Elements and limited Common Elements. The Common Elements and limited Common Elements shall be used only by Owners, their family, guests and tenants, if any, and only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units.

13.3 Nuisances. No nuisance shall be allowed upon the Condominium Property, or within a Unit, nor any use or practice that is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property or any unit by its owners. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor may any fire hazard nor toxic wastes nor explosives be allowed to exist or remain on any part of the Condominium Property. No Unit Owner shall permit any use of his Unit or make any use of the Common Elements that will increase the cost of insurance upon the Condominium Property. Bicycles shall not be stored or parked on the Condominium Property, except in such areas as may be specifically designated for such purpose by the Association.

13.4 Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or a Unit, and all laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modification or repair of the Condominium Property or a Unit shall be upon the Association or applicable Unit Owner.

13.5 Leasing of Units. Units may be leased only twice in any consecutive twelve (12) month period and any lease shall be for a term of not less than six (6) months. All leases shall be in writing and shall specifically reflect that the tenant and his family shall be taking possession and shall use and occupy the Unit subject to the terms and provisions of this Declaration and subject to the provisions of the Articles of Incorporation, By-Laws and Rules and Regulations of the Association.

13.6 Signs. No "For Sale" or "for Rent" signs or other displays or advertising shall be maintained on any part of the Common Elements, limited Common Elements, or Units, unless first approved in writing by the Association, except that the right without qualification is specifically reserved in the Developer and its assigns to place and maintain "for Sale" or "for Rent" signs in connection with any unsold or unoccupied Unit it may from time to time own, and the same unqualified right is reserved to any Institutional Mortgagee which may become the owner of a Unit, as well as to the Association as to any Unit which it may own.

13.7 Prohibited Vehicles. No trucks, motorcycles, trailers, recreational-camper type vehicles or any type of commercial vehicle shall be parked in any parking space except with the written consent of the Board of Directors of the Association, except upon temporary parking spaces that may be provided for that limited purpose as may be necessary to effectuate deliveries to the Condominium, the Association, the Unit Owners, and residents.

13.8 Regulations. Reasonable Rules and Regulations concerning the use of Condominium Property may be made and amended from time to time by the Association in the manner provided by its Articles of Incorporation and By-laws. One copy of such Rules and Regulations and amendments shall be furnished by the Association, free of charge, to all Unit Owners and residents of the Condominium.

13.9 Developer's Exemption. The Developer may make such use of the unsold Units and Common Elements and limited Common Elements, as it in its sole discretion may require. Further, until the Developer has completed and sold all of the units, neither the Unit Owners nor the Association in their use of the condominium property shall interfere with the completion by the Developer of the contemplated improvements and the marketing sale of the unsold units. The Developer and Developer's affiliated companies, agents, employees and contractors may have such use of the unsold units and common areas as may facilitate such completion and sale, including but not limited to construction activities, the maintenance of a sales office, the showing of the property, and the display of signs. Personal property brought onto the Condominium by the Developer in connection with its sales efforts shall not become part of the Common Elements and may be freely removed from the Condominium by Developer.

13.10 Pets. Pets must be confined within the Unit of its Owner. Notwithstanding, no pets may be maintained within a unit if such shall constitute a nuisance or annoyance to the Owners of other Units.

13.11 Exterior Appearance. No Unit Owner shall decorate or alter any part of his Unit or the building so as to change the appearance of the building from the exterior without the prior written approval of the Board of Directors of the Association. Such prohibited decoration or alteration shall include, but not be limited to, painting or illumination of the exterior of the building, display of plants or other objects upon balconies or railings or exterior window sills or ledges, reflective film or other window treatments, draperies and window shades.

13.12 Antennas. No antennas of any type designed to serve a Unit or Units shall be allowed on the Common Elements or limited Common Elements, except as provided by the Association to serve as a master antenna for the benefit and use of the Condominium. No electrical or other equipment may be operated on the Condominium Property which interferes with television signal reception.

13.13 Automobile Parking. Automobile parking spaces shall be assigned by the Developer on such terms as the Developer in its sole discretion shall determine, until all Units in the Condominium have been sold, or, until the Developer transfers this authority to the Association. Thereafter, the Association shall regulate the assignment and use of automobile parking spaces. The owner(s) of each unit shall at all times be entitled to parking for one (1) automobile free of charge. Parking is otherwise prohibited throughout the Condominium except upon paved, marked parking spaces. The Association is empowered to provide for the towing away, at the expense of the owner thereof, of any vehicle improperly parked. Assignment of a parking space conveys no title to that parking space nor any interest in it other than the exclusive right to use it. No assignment of a parking space shall be recorded in the public records. All parking areas shall be maintained as a common expense.

#### 14. PURCHASE OF UNITS BY ASSOCIATION

The Association shall have the power to purchase a Unit or Units subject to the following provisions:

14.1 Decision. The decision of the Association to purchase a Unit shall be made by the affirmative vote of Owners of not less than sixty-seven (67%) percent of the Units within the Condominium.

#### 15. RIGHTS OF DEVELOPER

Notwithstanding anything in this Declaration to the contrary and in addition to any other rights which may be reserved to the Developer herein, the Developer shall have the following rights:

15.1 Alteration of Unit Interiors. The Developer reserves the right to change the interior design and floor plan arrangement of all Units so long as the Developer owns the Units so changed and altered. No amendment to this Declaration shall be required in conjunction with any such alteration.

#### 16. COMPLIANCE AND DEFAULT

Each Unit Owner and all tenants and occupants of Condominium Units within this Condominium and all persons and entities claiming any interest in any portion of the Condominium Property shall be governed by, and shall comply with, the terms of the Condominium Documents and the Rules and Regulations adopted pursuant to those documents, as they may be amended from time to time. Failure of a Unit Owner to comply with the provisions of such documents and regulations shall entitle the Association and/or other Unit Owners to pursue any and all legal and equitable remedies available through the Condominium Documents or the Condominium Act for the enforcement of such provisions, including but not limited to, an action for injunctive relief and/or an action for declaratory judgment, as well as an action for damages. All such remedies and relief shall be deemed cumulative in nature. All provisions of the Declaration, including its exhibits, shall be enforceable, equitable servitudes and shall run with the land and shall be effective until the Declaration is revoked.

Additionally, the Association shall be entitled to the following relief:

16.1 Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents, or lessees or by any pet of any owner or of any person occupying the unit or otherwise upon any portion of the Condominium Property with the permission of the Unit Owner. In addition, a Unit Owner shall pay the Association the amount of



any increase in its insurance premiums occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances, or of the Common Elements, by the Unit Owner or his tenant.

**16.2 Costs and Attorneys' Fees.** In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the terms of the Condominium Documents, or the Rules and Regulations adopted, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding, and recover such reasonable attorneys' fees as may be awarded by the Court.

**16.3 No Waiver of Rights.** The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, the Condominium Documents, or the Rules and Regulations shall not constitute a waiver of the right to do so thereafter.

#### 17. FEDERAL NATIONAL MORTGAGE ASSOCIATION LEGAL GUIDELINES

Notwithstanding anything in this Declaration of Condominium to the contrary or in the Articles of Incorporation or By-Laws of the Association to the contrary, the following terms, provisions, reservations and restrictions shall be controlling: it being the intention and purpose of this Article 17 and the provisions hereof to insure that the constituent documents creating HILIAH CLUB VILLAS, A CONDOMINIUM substantially comply with the legal and underwriting requirements and guidelines otherwise set forth in Section 803.08 of the Federal National Mortgage Association Conventional Home Mortgage Selling Contract Supplement effective as of date of recordation hereof.

**17.1 Availability and Access to Information.** The Association shall, upon the request of a Unit Owner or prospective lenders or any holders, insurers or guarantors of any first mortgage encumbering any Unit within the Condominium, make available to any such person or entity current copies of the Declaration of Condominium, Articles of Incorporation and By-Laws of the Association and any Rules and Regulations promulgated and adopted by the Association relating to the Condominium, as well as the books, records and financial statements of the Association. Such documents and records and statements shall be available for inspection, upon request, during normal business hours or under such other reasonable circumstances as conditions may permit. The holders of fifty-one (51%) percent or more of the first mortgages encumbering the several Units within this Condominium shall be entitled to have prepared at their own expense an audited financial statement relating to the affairs of the Association; however, in the event that such an audited financial statement is otherwise prepared at the direction of, and is available to, the Association or its Unit Owners, then such audited statement shall be provided to the holders of first mortgages free of charge upon request. Any document or financial statement requested pursuant to this provision shall be furnished within a reasonable time following such request.

**17.2 Professional Management Contract.** Any contract between the Association and any person or entity relating to the management of the affairs of the Association and the rendition of any maintenance services shall be terminable by either party, without cause, within not less than ninety (90) days nor more than one hundred twenty (120) days from the date of notification by either party of such intention to terminate said contract. Any contracts to which the Association shall be a party shall be limited in term and duration to a period not in excess of one (1) year; provided, however, that any such contracts may be renewable upon the mutual agreement of the parties thereto; and further provided that this limitation shall not be appli-

cable to any contract for cable telecommunications systems to be installed within the Condominium for the purpose of providing telecommunication services to the Unit Owners and Association.

**17.3 Easements for Renovations.** So long as the Developer shall own any Units within the Condominium for sale in the ordinary course of business, the Developer or its agents and assignees shall have a non-exclusive easement over, across and under the common areas of the Condominium so as to enable and allow the Developer to complete the repair, replacement and renovations of the improvements and common areas and common elements of the Condominium and of the Units then still owned by the Developer. During this period, the Developer, its agents and assigns, shall also be extended non-exclusive easements over the common areas to allow the Developer to maintain adequate facilities for the purpose of marketing and selling the Units situated within this Condominium.

**17.4 Transfer of Control** Developer shall be obligated to transfer control of the affairs of the Association to the non-developer Owners of Units by not later than the earlier of the following events:

- (a) One hundred twenty (120) days after seventy-five (75%) percent of the Units in the Condominium have been conveyed to non-developer Owners; or
- (b) Five (5) years following the conveyance of the first Unit in the Condominium.
- (c) As otherwise provided in Section 718.301, Florida Statutes (1983).

**17.5 Future Easements.** The Association shall have the right, as designated agent on behalf of each Owner of a Unit within this Condominium, such designation being deemed and construed to have been extended by each such Unit Owner upon acceptance of fee simple title to a Unit within the Condominium, to grant and extend permits, licenses and easements over, under and across the common areas and common elements for the purposes of installation, replacement, repair and maintenance of utilities, roads and such other purposes reasonably necessary and/or useful for the proper maintenance and operation of the Condominium itself.

**17.6 Reserves for Repair and Replacement.** The Association shall be obligated to establish and maintain adequate reserve funds for the periodic maintenance, repair and/or replacement of the improvements to the common areas and common elements which the Association shall otherwise be obligated to maintain under and pursuant to the provisions of this Declaration of Condominium. Each Unit Owner acknowledges that the establishment of reserve accounts for these purposes is intended to be in the best interest of the new Unit Owners and Association and of the holders, insurers and guarantors of mortgages encumbering the Units within the Condominium. The reserve accounts or funds shall be established and maintained out of the regular, periodic assessments for common expenses levied against the Unit Owners.

**17.7 Working Capital Fund.** The Association must establish a working capital fund to be available during the initial months of the operation of the Condominium and which shall be established and funded from contributions from the purchasers of Units within the Condominium. The working capital fund shall be funded with the equivalent of two (2) months' estimated common expenses for each Unit within the Condominium. The initial contribution attributable to each Unit must be collected by the Developer as agent for the Association at the time of the closing of the first sale-

purchase of each new Unit. Such funds must concurrently therewith be transferred to the accounts of the Association and maintained in a segregated account by and for the use and benefit of the Association. The purpose of the working capital fund is to insure that the Association shall have sufficient cash available to meet unforeseen expenditures which require additional equipment or services that may be deemed necessary or desirable by the Association. Any contributions paid into the working capital fund shall not be considered as advance payment of any regular, periodic assessments otherwise required under the terms of this Declaration of Condominium.

**17.8 Special Assessments.** The Association, notwithstanding any provisions of this Declaration of Condominium or of any constituent documents relating to this Condominium to the contrary, shall be entitled to levy and enforce the collection of any special assessments for common expenses, as shall be necessary to enable the Association to reasonably operate and maintain the Association and the Condominium property.

**17.9 Payment of Assessments.** The obligation on the part of any non-developer Owner to pay a proportionate share of the common expenses as assessed by the Association shall commence upon, and be effective as of, the date that ownership and title to a Unit is delivered and conveyed to such Owner. The Developer's obligation is governed by the provisions of Section 9.2 of this Declaration and the provisions of the Florida Condominium Act, Chapter 718, Florida Statutes (1983).

**17.10 Rights of Holders, Insurers and/or Guarantors of Mortgages.** Upon written request to the Association, any holder, insurer or guarantor of a mortgage encumbering any Unit within this Condominium shall be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit upon which such mortgage is held, insured or guaranteed by said requesting party, as applicable;
- (b) Any delinquency in the payment of assessment or charges owed by an Owner of a Unit encumbered by such a mortgage which remains uncured for a period of sixty (60) days;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) Any proposed action relating to (i) the restoration or repair of the Condominium after a partial condemnation or damage due to an insurable hazard, (ii) the election to terminate the legal status of the Condominium after substantial destruction or a substantial taking in condemnation, (iii) the reallocation of interest in the common areas following a partial condemnation or partial destruction of the Condominium, (iv) the termination of the legal status of the Condominium for reasons other than relating to substantial destruction or substantial taking in condemnation, or (v) as otherwise relating to the amendment of any material provision of the constituent documents relating to voting, assessments, assessment liens or subordination of such liens, reserves for maintenance, repair and replacement of common areas, insurance or fidelity bonds for the maintenance and repair of the common elements and common areas, expansion or contraction of the Condominium, boundaries of any Units, interests in the common areas or limited common areas, convertibility of Units into common areas or of common areas into Units, leasing of Units, imposition of any

right of first refusal or similar restriction on the right of the Unit Owner to sell, transfer or otherwise convey his Unit, or any provisions which are for the express benefit of the holders, insurers or guarantors of mortgages encumbering any Unit within the Condominium.

17.11 Consent by Acquiescence. Any holder, insurer, or guarantor of a mortgage on any Unit within the Condominium who receives written notice regarding any action to be taken by the Association, including any amendments to the constituent documents, who shall not deliver to the Association a negative response within thirty (30) days of receipt of such written request shall be deemed to have approved such request by reason of failure to timely respond.

17.12 Restoration of Condominium Property. Any restoration or repair of the Condominium property after a partial condemnation or following damage due to an insurable hazard shall be performed substantially in accordance with the Declaration and the original plans and specifications for the Condominium property unless other action is approved by the holders of mortgages encumbering not less than sixty-six and two-thirds (66 2/3%) percent of the Units within the Condominium.

17.13 Termination of Condominium - Destruction or Condemnation. Any election to terminate the legal status of the Condominium or a substantial taking in condemnation proceedings must require the approval of holders of mortgages encumbering not less than sixty-six and two-thirds (66 2/3%) percent of the Units within the Condominium.

17.14 Reallocation of Interests. No reallocation of interest in the common areas proposed by reason of a partial condemnation or partial destruction of the Condominium property may be effected without the prior unanimous approval of the holders of mortgages encumbering Units to which is allocated not less than sixty-six and two-thirds (66 2/3%) percent of the votes of all Units in the Condominium.

17.15 Self-Management by Association. Any decision to establish self-management by the Association shall require the prior consent of Unit Owners holding not less than sixty-six and two-thirds (66 2/3%) percent of the votes and the approval of the holders of mortgages encumbering not less than sixty-six and two-thirds (66 2/3%) percent of the Units.

17.16 Amendment to Documents. The consent of Unit Owners holding not less than sixty-six and two-thirds (66 2/3%) percent of the votes and the approval of the holders of mortgages encumbering not less than sixty-six and two-thirds (66 2/3%) percent of the Units shall be required to terminate the legal status of the project as a Condominium; provided, that such action shall not be as a result of a substantial destruction of the Condominium property or a substantial taking in condemnation in which instance the voting and approval percentages shall be as otherwise set forth herein. The consent of Unit Owners owning not less than sixty-six and two-thirds (66 2/3%) percent of the votes and the approval of holders of mortgages encumbering not less than sixty-six and two-thirds (66 2/3%) percent of the Units shall be required to add or amend any material provisions of the constituent documents of the Condominium which establish, provide for, govern or regulate any of the following:

(a) Voting;

(b) Assessments, Assessment Liens or Subordination of such Liens.

(c) Reserves for maintenance, repair and replacement of the common areas and limited common areas;

(d) Insurance or fidelity bonds;

(e) Rights to use of the common areas and limited common areas;

(f) Responsibility for maintenance and repair of the Condominium Property;

(g) Expansion or contraction of this Condominium, or the addition, annexation or withdrawal of property to or from this Condominium not otherwise expressly provided in this Declaration;

(h) Boundaries of any Unit;

(i) The interests in the common areas or limited common areas;

(j) Convertibility of Units into common areas or of common areas into Units;

(k) Leasing of Units;

(l) Imposition of any right of first refusal or similar restrictions on the right of a Unit Owner to sell, transfer or otherwise convey his or her Unit; and

(m) Any provisions which are for the express benefit of mortgage holders, or insurers or guarantors of first mortgages on Units.

Any addition or amendment to the constituent documents shall not be considered material if it is for the purpose of correcting technical errors or for clarification only.

17.17 Insurance and fidelity Bonds. The Association shall be required to maintain in effect casualty, liability insurance and fidelity bond coverage for the officers and employees of the Association.

17.18 Condemnation Proceedings. The Association shall represent the Unit Owners in any Condemnation Proceedings for negotiations, settlements and agreements with the condemning authority for the acquisition of common areas or limited common areas or any part thereof. Each Unit Owner by accepting fee simple title and interest to his or her Unit is deemed to have thereby appointed the Association as attorney-in-fact for such purposes. In the event of a taking or acquisition of part or all by a condemning authority, the award or proceeds of settlement shall be payable to the Association, or any trustee, for the use and benefit of the Unit Owners and their Mortgagees, as their respective interests may appear. Any distribution made as a result of any termination of the project shall be accomplished on a reasonable and equitable basis.

#### 18. AMENDMENTS

Except as otherwise provided in, and subject to, the provisions of Section 17, this Declaration of Condominium may be amended in the following manner:

18.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

18.2 Resolution. A resolution for the adoption of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

18.3 Adoption. A resolution shall be adopted in the following manner:

(a) Board of Directors. Until the first election of all Directors of the Association by Unit Owners other than the Developer, the proposal of an amendment and approval thereof shall require only the affirmative action of two-thirds (2/3) of the entire membership of the Board of Directors of the Association, and no meeting of the Unit Owners nor any approval thereof need be had; provided, the amendment does not increase the number of Units nor alter the boundaries of the Common Elements nor otherwise adversely affect the interests of Unit Owners.

(b) Board of Directors and Unit Owners. In addition to the procedure set forth above, a resolution for the adoption of a proposed amendment may be proposed by the Board of Directors of the Association or by the Owners of Units within this Condominium. Unit Owners may propose such an amendment by instrument in writing directed to the President or Secretary of the Board signed by the Owners of not less than fifty-one (51%) percent of the Units. Amendments may be proposed by the Board of Directors by action of a majority of the Board at any regularly constituted meeting thereof. Upon an amendment being proposed as herein provided, the President or, in the event of his refusal or failure to act, the Board of Directors, shall call a meeting of the Unit Owners of this Condominium to be held not sooner than fourteen (14) days nor later than thirty (30) days thereafter for the purpose of considering said amendment. Directors and Unit Owners not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided such approval is delivered to the Secretary at or prior to the meeting. Except as provided herein, such approvals must be by:

(1) Not less than two-thirds (2/3) of the entire membership of the Board of Directors and by Owners of not less than fifty-one (51%) percent of Units within this Condominium; or

(2) Owners of not less than sixty-six and two-thirds (66 2/3%) percent of Units within this Condominium.

18.4 Limitations. No amendment shall discriminate against any Unit Owner nor against any Unit or class or group of Units, unless the Unit Owners so affected shall consent; no amendment shall change any Unit nor the share in the Common Elements appurtenant to it nor increase the Owner's share of the Common Expenses, unless the Unit Owner concerned and all Institutional Mortgagees of record of such Unit shall join in the execution of the amendment; no amendment shall make any change in the section entitled 'Insurance' nor in the section entitled 'Reconstruction or Repair after Casualty' unless all Institutional Mortgagees of record on any of the Condominium Property shall join in the execution of such amendment; no rights, privileges, powers and/or options herein provided in favor of or reserved to the Developer, unless the Developer shall join in the execution of such amendment. No amendment shall affect the rights and interest of the holders of any mortgage of record without prior written consent of all such mortgagees.

18.5 Exception in Favor of Developer. Notwithstanding any other provision of this Declaration, Developer may amend the Declaration by instrument executed by the Developer alone in the circumstances and for the following purposes:

- (1) To add Phase II as part of the Condominium.
- (2) To add Phase III as part of the Condominium.
- (3) To add the surveyor's certificates required by Sub-section 718.104(4)(e) of the Condominium Act, respecting Phase I, Phase II and Phase III.
- (4) While Developer is the owner of all of the condominium units.

18.6 Execution and Recording. Each amendment shall be attached to, or shall contain a certificate certifying that the amendment was duly adopted, and the certificate shall be executed by the President of the Association and attested by the Secretary-Treasurer with the formalities of a deed, and said amendment shall be effective upon recordation of the amendment and certificate in the Public Records of Dade County, Florida.

#### 19. TERMINATION.

The Condominium may be terminated in the following manners, in addition to the manner provided by the Condominium Act:

19.1 Termination Due To Substantial Destruction. If any portion or all of the Condominium Property shall be damaged by casualty, such portion or all shall be reconstructed or repaired, unless it is determined that the Condominium should be terminated. The consent of Unit Owners owning not less than sixty-six and two-thirds (66 2/3%) percent of the votes and the approval of holders of mortgages encumbering not less than sixty-six and two-thirds (66 2/3%) percent of the Units shall be required to terminate this Condominium, due to destruction of the Condominium Property.

19.2 Agreement. The Condominium may be terminated at any time by the approval in writing of all Unit Owners and all mortgagees of record of Units. Notice of a meeting at which the proposed termination is to be considered shall be given not less than thirty (30) days prior to the date of such meeting. Provided that the approval of Owners of not less than sixty-seven (67%) percent of the Units, and the approval of the holders of Mortgages encumbering not less than sixty-seven (67%) percent of the Units, are obtained at the meeting or within thirty (30) days thereafter, then the approving Owners shall have an option to buy all of the Units of the Owners not approving of termination, said option to continue for a period of sixty (60) days from the date of such meeting. Approval by an owner of a Unit, or of a holder of a mortgage encumbering a Unit, shall be irrevocable until expiration of the aforerecited option to purchase the Unit of Owners not so approving, and if the option to purchase such Unit is exercised, then such approval shall be irrevocable without qualification. The option to purchase the Units of Owners not approving of termination shall be exercised upon the following terms:

(a) Exercise of Option. The option shall be exercised by delivery or mailing by registered mail to each Owner of the Units to be purchased an agreement to purchase signed by the Owners of Units who will participate in the purchase. Such agreement shall indicate which Units will be purchased by each participating Owner and shall require the purchase of all Units owned by Owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

(b) Price. The sale price for each Unit shall be the fair market value determined by agreement between the seller and the purchaser within thirty (30) days from the delivery or mailing of such agreement, and in the

absence of agreement as to price, it shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association by appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any Court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser. In any such action for specific performance, the prevailing party shall also be entitled to his reasonable attorneys' fees and costs incurred in connection therewith.

(c) Payment. The purchase price shall be paid in cash, provided, in the event there shall be a pre-existing first mortgage on the Unit, then the Purchaser shall have the option of assuming the remaining principal obligation thereof, if assumable, and that portion of the purchase price which is in excess of such mortgage shall be payable in cash at closing.

(d) Closing. The sale shall be closed within thirty (30) days following determination of the sale price.

19.3 Certificate. Termination of the Condominium pursuant to 19.2 or 19.3 shall be evidenced by a certificate of the Association executed by its President and Secretary certifying to the facts effecting the termination, said certificate to become effective upon being recorded in the Public Records of Dade County, Florida.

19.4 Shares of Owners after Termination. After termination of the Condominium, the Owner(s) of each Unit shall own, as tenants-in-common, an undivided share of the Condominium Property and of all assets of the Association in the same proportion as the share of Common Surplus and Common Elements then allocated and appurtenant to each Unit, as of the date of termination.

19.5 Amendment. This section concerning termination cannot be amended without consent of all Unit Owners and all mortgagees of record of the Units.

## 20. TIME-SHARING

None of the Units in this Condominium shall be used for and/or subject to time-sharing.

## 21. SEVERABILITY

The invalidity in whole or in part of any covenant or restriction, of any section, sub-section, sentence, clause, phrase or word, or other provision of the Condominium Documents and Rules and Regulations of the Association shall not affect the validity of the remaining portions.

## 22. TELECOMMUNICATIONS SYSTEMS

Developer does hereby reserve unto itself, its successors and assigns, a perpetual easement in gross upon, under, through and across the Common Areas and Common Elements, including Limited Common Areas, now dedicated to this Condominium and in the future to be dedicated as part of this Condominium, to allow for the construction, installation, repair, improvement and replacement of such conduits, wires, amplifiers, towers, antennae, satellite disks, and other apparatus and equipment as shall be necessary to establish, maintain, and improve a telecommunications receiving and distribution system in and upon the Condominium Property. Consistent herewith, Developer has and does hereby reserve unto itself, its successors and assigns, a perpetual easement for ingress and egress from, to and across the Land for the purposes of ser-



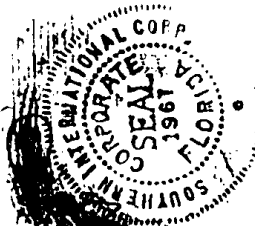
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vicings, maintaining, repairing, replacing and relocating such apparatus and equipment as shall be necessary to maintain and/or improve upon and upgrade the telecommunications system as the state of the art may permit in the future. It is anticipated that these easements shall be assigned to a franchise cable telecommunications company so as to make available to the Condominium and Unit Owners cable television and related services.

IN WITNESS WHEREOF, the Developer has executed this Declaration this 24th day of JUNE, 1985.

Signed, Sealed and Delivered  
in the presence of:

SOUTHERN INTERNATIONAL  
CORPORATION, a Florida  
corporation



Mona Rive  
[Signature]

By:

Daniel C. Perez President

Attest:

[Signature]  
Secretary

STATE OF FLORIDA  
COUNTY OF DADE

Before me personally appeared Daniel C. Perez and WALTER  
I. [Signature], to me well known, and known to me to be the individuals described in and who executed the foregoing instrument as President and Secretary of the above named Southern International Corporation, a Florida corporation, and who severally acknowledged to and before me that they executed such instrument as President and Secretary, respectively, of said corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that it was affixed to said instrument by due and regular corporate authority, and that said instrument is the free act and deed of said corporation.

WITNESS my hand and official seal, this 24th day of JUNE, 1985.

My Commission Expires:

[Signature]  
Notary Public

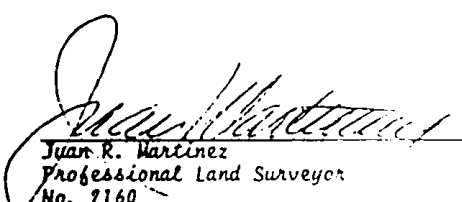


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August 10, 1984

LEGAL DESCRIPTION: "PHASE I"

Commencing at the Southeast corner of Tract 10, CHAMBERS LAND COMPANY SUB-DIVISION of the S.E. 1/4 of Section 34, Township 52 south, Range 40 east, according to the plat thereof, as recorded in Plat Book 2, at Page 68, of the Public Records of Dade County, Florida; run N.  $2^{\circ}37'04''$  W. along the East line of said Tract 10, for a distance of 856.37 feet to the POINT OF BEGINNING of the parcel of land herein described; thence continue along the last described line for a distance of 420.35 feet to a point on the South Right-of-Way line of West 60th. Street; thence run S.  $89^{\circ}38'35''$  W., along the South Right-of-Way line of West 60th. Street for a distance of 330.29 feet to a point on the West line of said Tract 10; thence run S.  $2^{\circ}36'55''$  E., along the West line of said Tract 10 for a distance of 375.12 feet to a point; thence run N.  $87^{\circ}22'56''$  E., for a distance of 165.05 feet to a point; thence run S.  $2^{\circ}37'04''$  E., for a distance of 58.26 feet to a point; thence run N.  $87^{\circ}22'56''$  E., for a distance of 165.00 feet to the POINT OF BEGINNING.

  
Juan R. Martinez  
Professional Land Surveyor  
No. 2160  
State of Florida

8850 WEST FLAGLER STREET - SUITE 108 - MIAMI, FLORIDA 33144 (305) 552-7007




EXHIBIT A

August 10, 1984

LEGAL DESCRIPTION: "PHASE II"

Commencing at the Southeast corner of Tract 10, CHAMBERS LAND COMPANY SUB-DIVISION of the S.E. 1/4 of Section 34, Township 52 south, Range 40 east, according to the plat thereof, as recorded in Plat Book 2, at Page 68, of the Public Records of Dade County, Florida, run N. 2°37' 04" W., along the East line of said Tract 10, for a distance of 856.37 feet to the POINT OF BEGINNING of the Tract of land herein described; thence run S. 87°22' 56" W., for a distance of 165.00 feet; thence run N. 2°37' 04" W., for a distance of 58.26 feet to a point; thence run S. 87°22' 56" W., for a distance of 165.05 feet to the West line of said Tract 10; thence run S. 2°36' 55" E., along the West line of said Tract 10 for a distance of 463.70 feet to a point; thence run N. 87°22' 54" E., for a distance of 330.07 feet to the POINT OF BEGINNING.

  
Juan R. Martinez  
Professional Land Surveyor  
No. 2160  
State of Florida

JUAN R. MARTINEZ & ASSOCIATES, INC. ENGINEERS - PLANNERS - SURVEYORS

8880 WEST FLAGLER STREET • SUITE 105 • MIAMI, FLORIDA 33144 (305) 552-7007



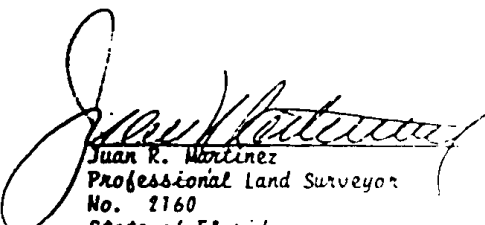
EXHIBIT B

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August 10, 1984

LEGAL DESCRIPTION: "PHASE III"

Beginning at the Southeast corner of Tract 10, CHAMBERS LAND COMPANY SUB-DIVISION of S.E. 1/4 of Section 34, Township 52 south, Range 40 east, according to the plat thereof, as recorded in Plat Book 2, at Page 68, of the Public Records of Dade County, Florida, run N.  $2^{\circ}37'04''$  W. for a distance of 450.93 feet to a point; thence run S.  $87^{\circ}22'54''$  W. for a distance of 330.07 feet to the West line of said Tract 10; thence run S.  $2^{\circ}36'55''$  E., along the West line of said Tract 10, for a distance of 437.87 feet to the Southwest corner of said Tract 10; thence run N.  $89^{\circ}38'54''$  E., for a distance of 330.34 feet to the POINT OF BEGINNING.

  
Juan R. Martinez  
Professional Land Surveyor  
No. 2160  
State of Florida

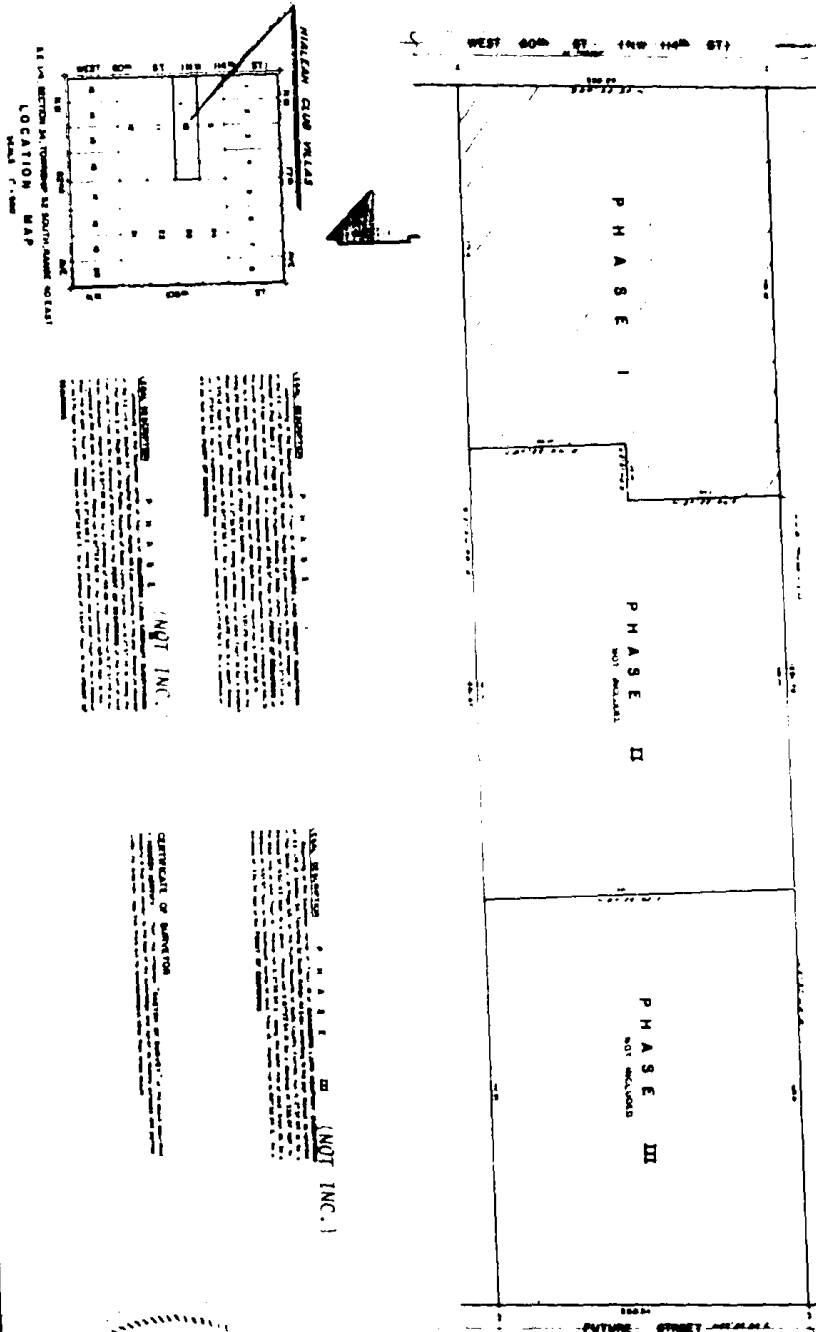
JUAN R. MARTINEZ & ASSOCIATES, INC. ENGINEERS · PLANNERS · SURVEYORS

8550 WEST FLAGLER STREET · SUITE 105 · MIAMI, FLORIDA 33144 (305) 552-7007



EXHIBIT C

CLERK NOTE:  
 1. E. ARNOLD, CE CONDUCTOR  
 SEE OFFICIAL RECORD BK. 235 PG. 178C



~~FUTURE - STREET ADDRESS~~

INC INC

(NOT INC.)

DECLASSIFICATION OF BUREAU OF  
INVESTIGATION



**JUAN R. MARTINEZ & ASSOCIATES, INC.**  
DIRECTOR: DAVID TORRES  
VICE PRESIDENT: LUIS SANCHEZ  
CUBAN

# MILLER CLUB VILAS

**FOR SOUTHERN INTERNATIONAL COUNTRIES**

A circular seal with a dotted border. Inside the border, the text "J.R. MARTINEZ" is at the top, "CERTIFICATE OF TITLE" is in the middle, "NO. 2150" is below that, and "FLORIDA" is at the bottom. There are small stars on either side of the central text.

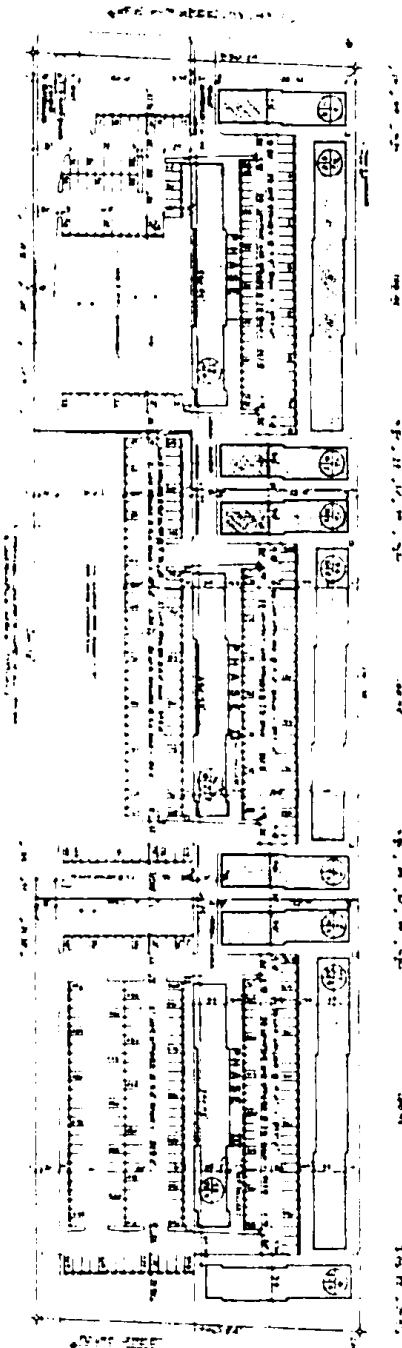
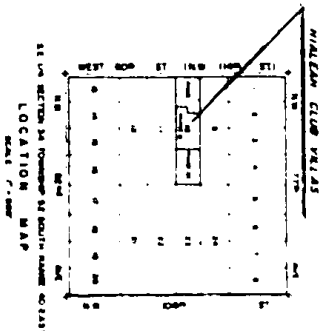
COMPOSITE EXHIBIT "D"



# MILITARY CLUB VILLAS

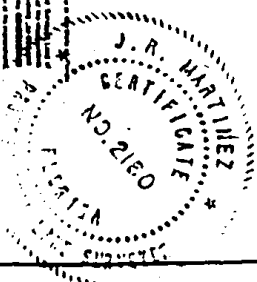
FOR SOUTHERN INTERNATIONAL CORP.

## PARKING AND SITE PLAN



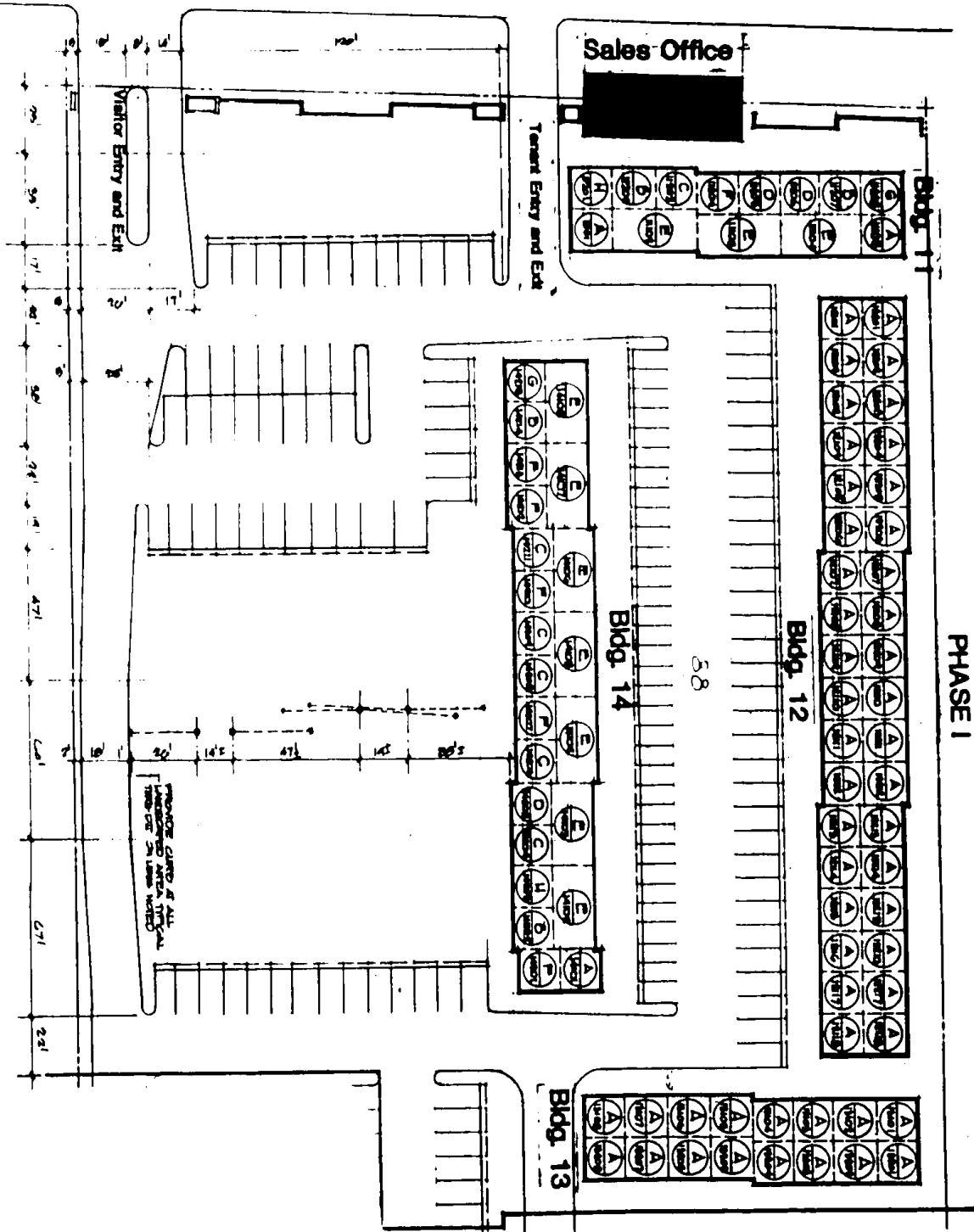
### SURVEYOR'S CERTIFICATE

I, the undersigned, being a duly qualified and licensed Surveyor, do hereby certify that the foregoing is a true and correct copy of the original survey and plan as the same appears on the records of the Surveyor General of the State of Texas.



**JUAN R. MARTINEZ & ASSOCIATES, INC.**  
 SURVEYORS  
 DALLAS, TEXAS

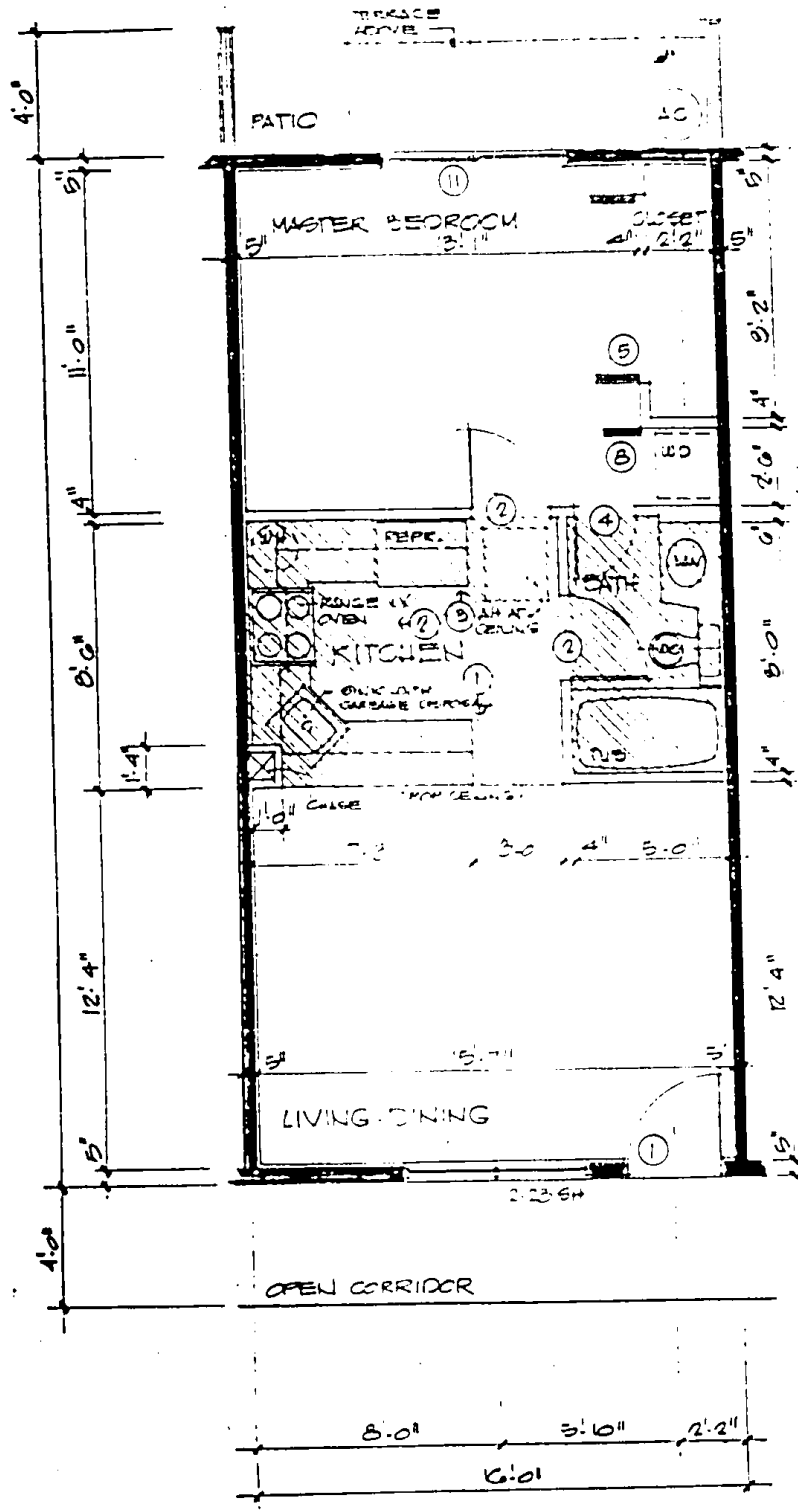
Prepared by: J. R. Martinez  
 Checked by: J. R. Martinez  
 Date: 11/1/67  
 Scale: 1" = 40'



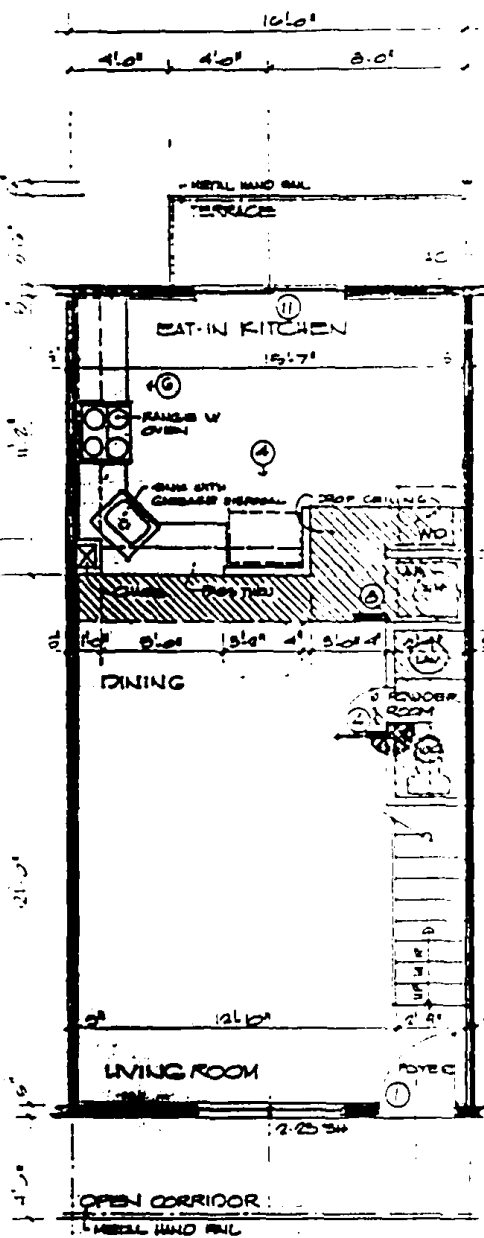


THIS IS THE ONLY COPY OF THE ORIGINAL REPORT

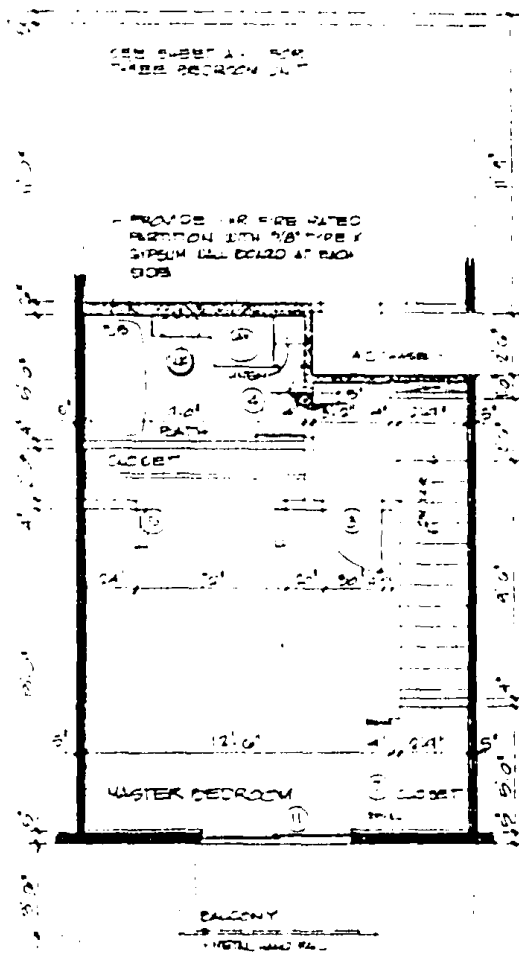




(GROSS AREA 528.0 SQ. FT.)  
**UNIT "A" (1 BR-1 BATH)**



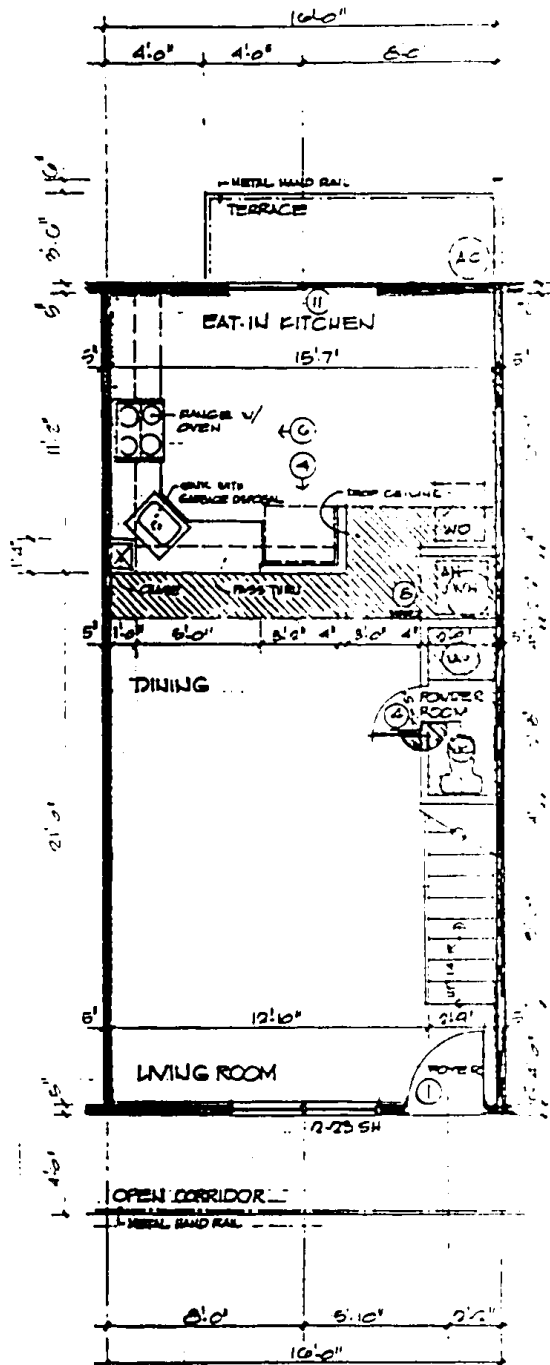
Lower Floor (513.0 SQ. FT.)



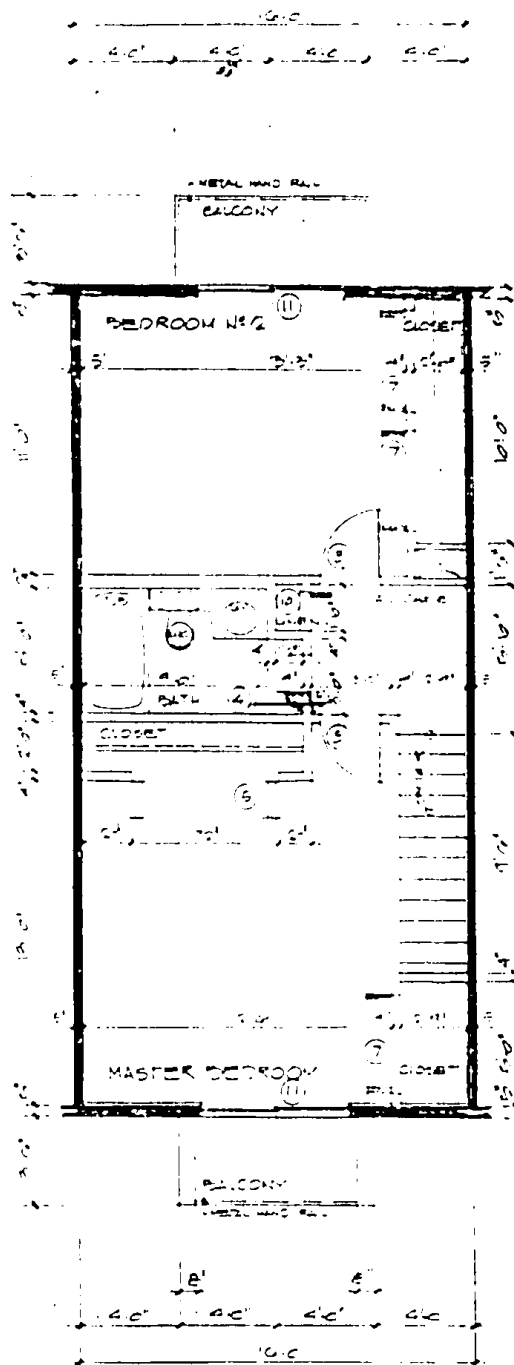
Upper Floor (322.0 SQ. FT.)

UNIT "B" (1 BR-1 1/2 BATH) (GROSS AREA 835.0 SQ. FT. BALCONY AREA 70.0 SQ. FT.)

OFF REC 12552 PG 1823

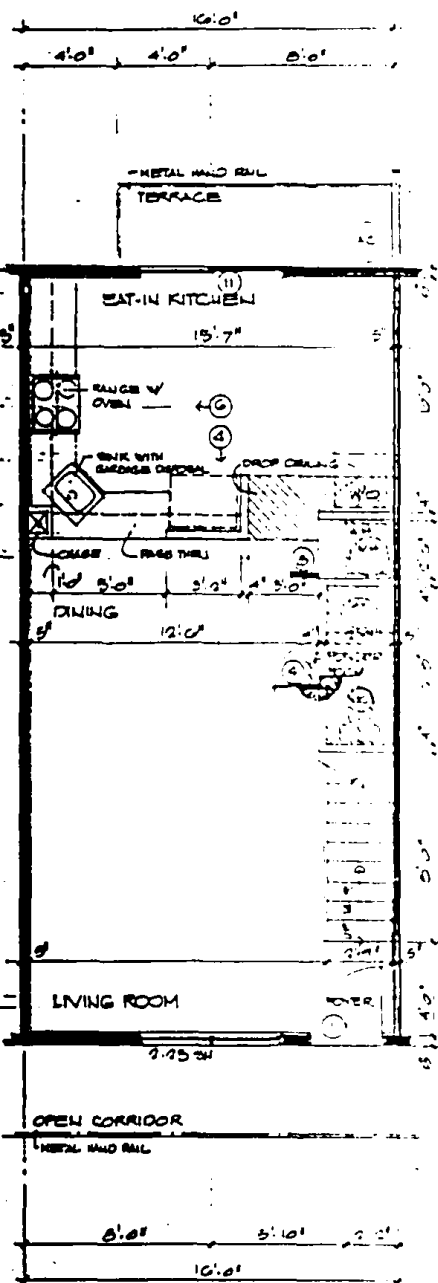


Lower Floor (528.0 SQ. FT.)

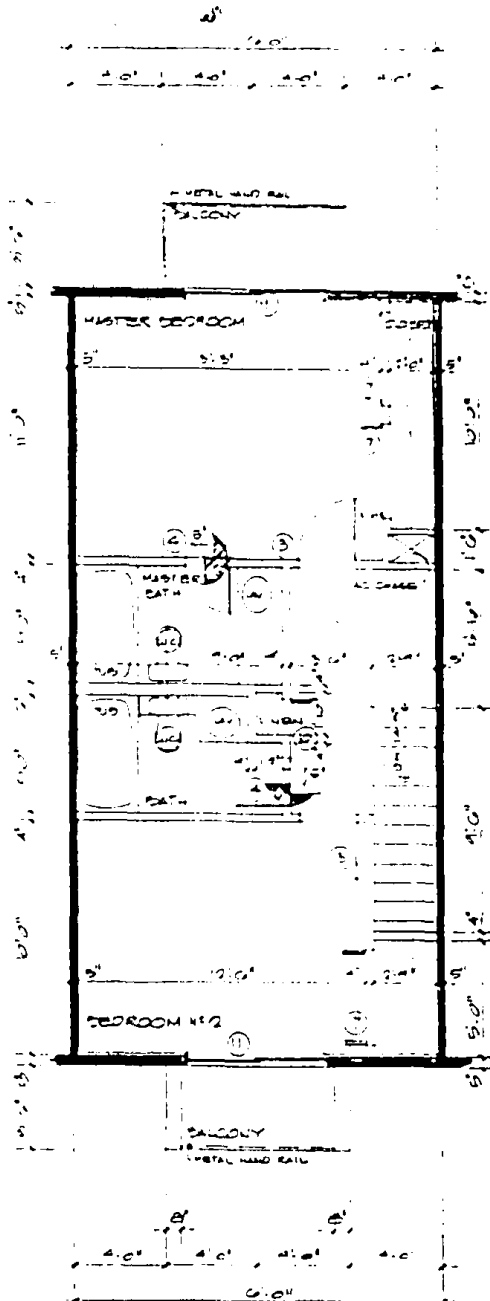


Upper Floor (528.0 SQ. FT.)

UNIT "C" (2 BR-1 1/2 BATH) (GROSS AREA 1,056.0 SQ. FT. BALCONY AREA 45.0 SQ. FT.)



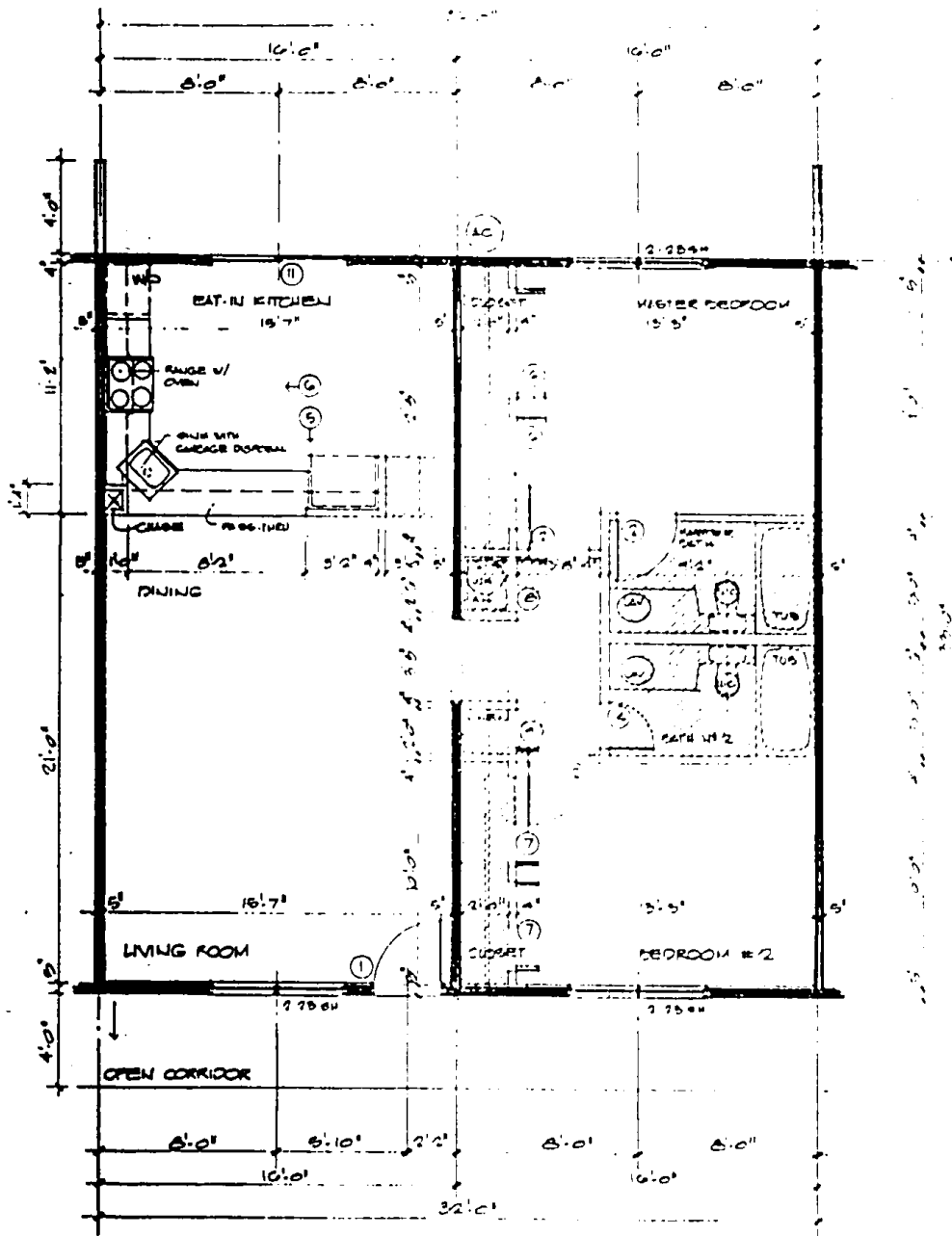
Lower Floor (578.0 SQ. FT.)



Upper Floor (518.0 SQ. FT.)

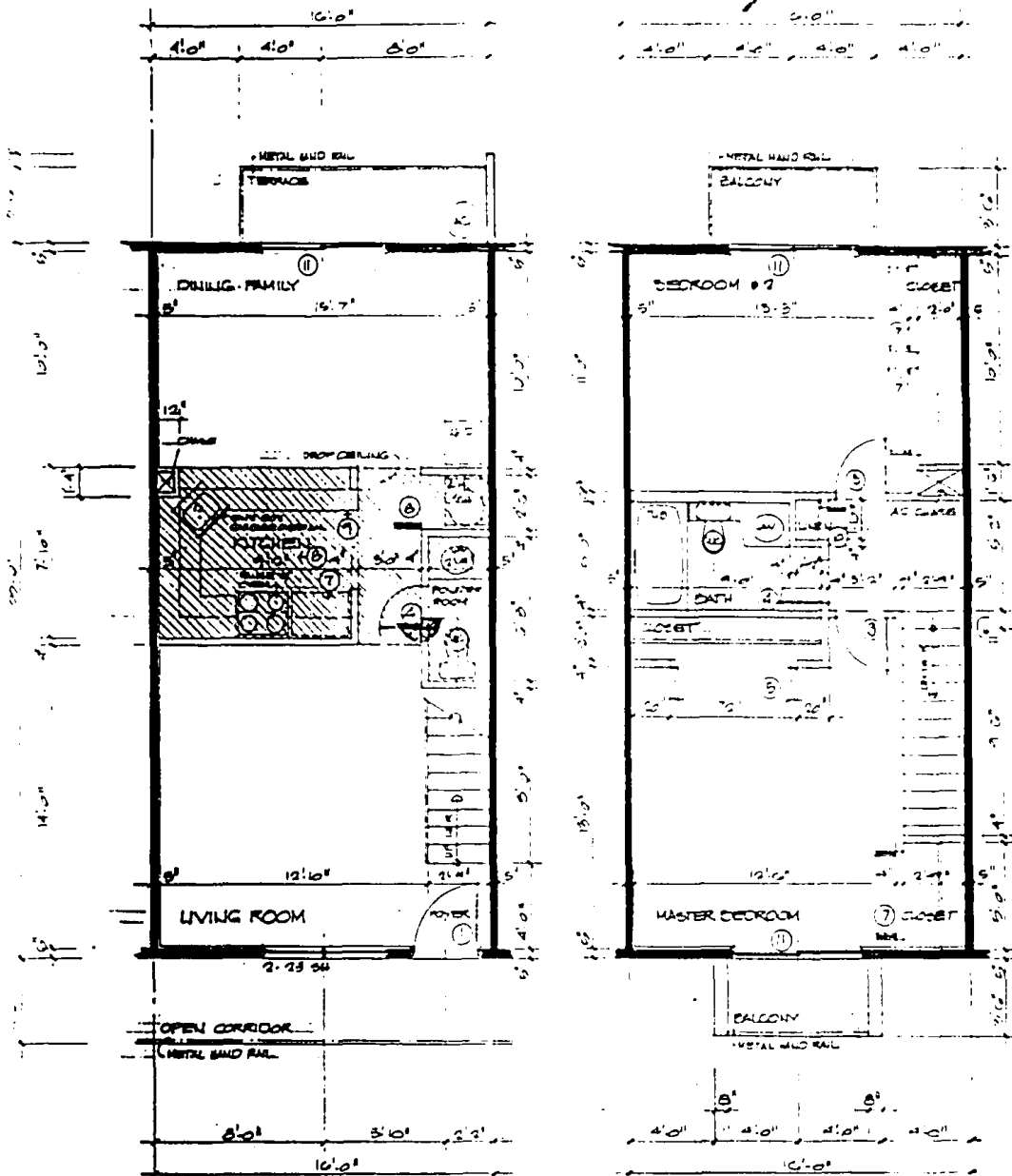
UNIT "D" (2 BR-2 1/2 BATH) (GROSS AREA 1,096.0 SQ. FT. BALCONY AREA 18.0 SQ. FT.)

OFF 12552 PG 1825  
REC



**UNIT "E" (2 BR-2 BATH)** (GROSS AREA 1,066.0 SQ. FT.)

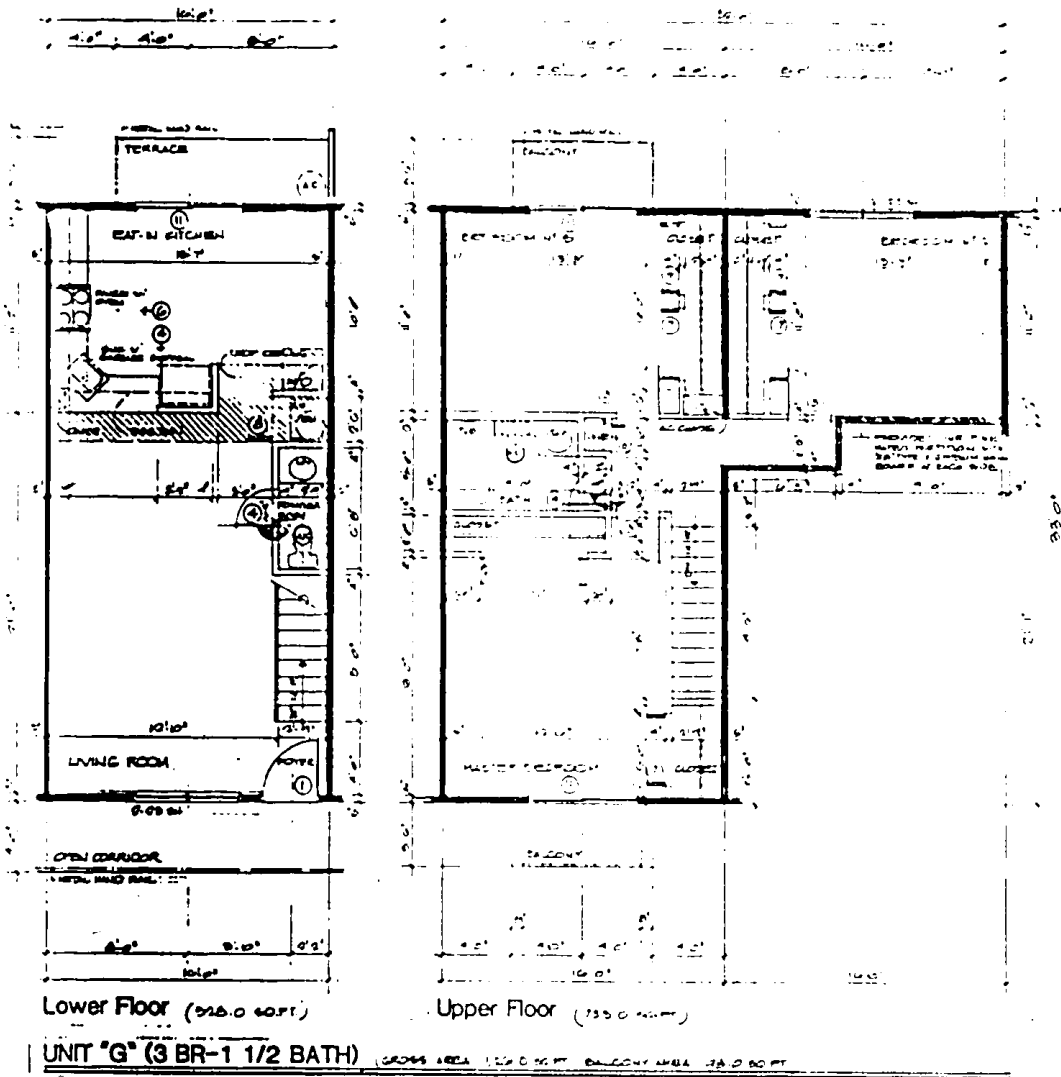
THIS PLAN IS A COPY OF THE ORIGINAL. IT IS NOT A REPRODUCTION OF THE ORIGINAL. IT IS NOT A REPRODUCTION OF THE ORIGINAL. IT IS NOT A REPRODUCTION OF THE ORIGINAL.



Lower Floor (528.0 SQ. FT.)

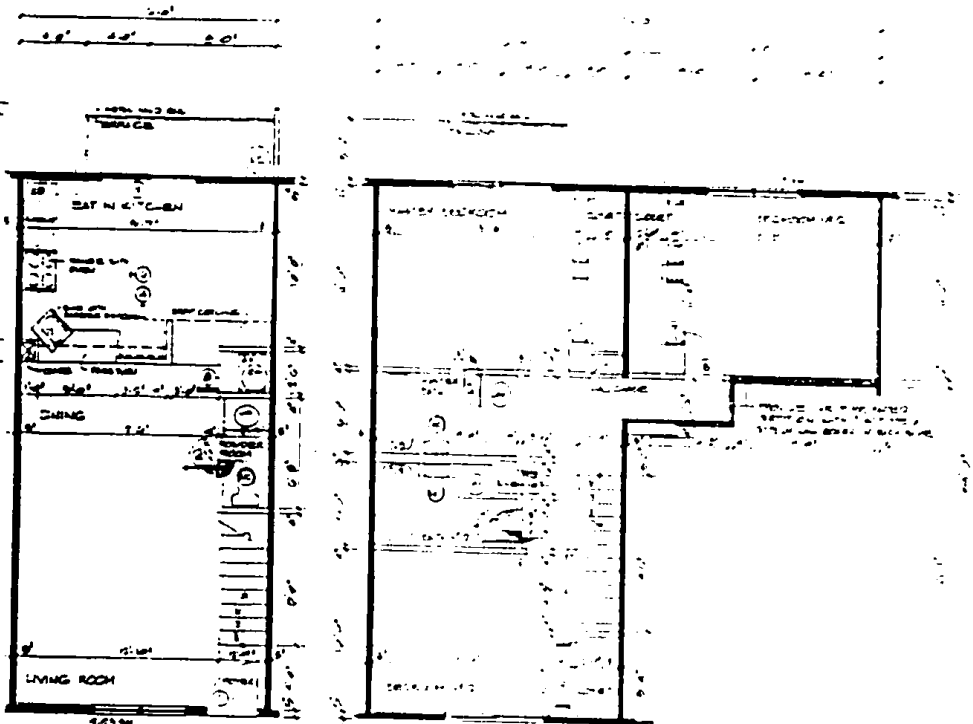
Upper Floor (528.0 SQ. FT.)

UNIT 'F' (2 BR-1 1/2 BATH SPLIT) (GROSS AREA 1056.0 SQ. FT. BALCONY AREA 48.0)





OFF 12552 PG 1828  
REC



Lower Floor (920.0 sq. ft.)

Upper Floor (1120.0 sq. ft.)

UNIT "H" (3 BR-2 1/2 BATH)

8/08/84

OFF 12552 PG 1829  
REC

ARTICLES OF INCORPORATION

OF

HIALEAH CLUB VILLAS CONDOMINIUM ASSOCIATION, INC.  
(A Florida Corporation Not-For-Profit)

In order to form a corporation not-for-profit pursuant to, and in accordance with, the provisions of Chapter 617 of the Florida Statutes (1983), we, the undersigned, hereby associate ourselves into a corporation not-for-profit for the purposes, and with the powers, hereinafter set forth, and to that end, we do, by these Articles of Incorporation, certify as follows:

Unless inconsistent with the definition as set forth within Chapter 718, Florida Statutes (1983), the following words and phrases shall have the following meanings and as otherwise within the Declaration of Condominium:

A. "Act" means the Condominium Act, Chapter 718, Florida Statutes (1983).

B. "Apartment" means a condominium unit, together with the undivided share in the common elements, common surplus and common expense, which is appurtenant to the unit situated within HIALEAH CLUB VILLAS, A CONDOMINIUM.

C. "Apartment Owner" means the owner or owners of an apartment and may include a corporation or other legal entity.

D. "Articles" and "By-laws" mean these Articles of Incorporation and the By-laws of the "Association", as hereinafter defined.

E. "Assessment" means an allocation against each Unit and the Owner(s) thereof required to defray the "Common Expenses" of the Condominium, as hereinafter defined, which from time to time is assessed against an apartment owner.

F. "Association" means HIALEAH CLUB VILLAS CONDOMINIUM ASSOCIATION, INC., a Florida corporation not-for-profit, organized to administer the "Condominium" (as hereinafter defined) and having as its members the apartment owners.

G. "Board" means the Board of Directors of the Association.

H. "Common Elements" means the portion of the Condominium Property not included within the apartments and as otherwise defined by the Act and by the Declaration of Condominium.

I. "Common Expenses" means expenses for which the apartment owners are liable to the Association by reason of the obligations and charges as set forth within the provisions of the "Condominium Documents" (as hereinafter defined), and Condominium "Act" and includes:

- a. The expenses for the operation, maintenance, repair or replacement of the Common Elements, costs of carrying out the powers and duties of the Association, costs of fire and extended coverage insurance; and
- b. Any other expenses designated as Common Expenses from time to time by the Board; and
- c. Any valid charge against the Condominium Property as a whole.

J. "Condominium" means HIALEAH CLUB VILLAS, A CONDOMINIUM, which shall be created upon the recording of the "Declaration"

EXHIBIT E

OFF 12552 PG 1830  
REC

(as hereinafter defined) in the Public Records of Dade County, Florida.

K. "Condominium Documents" mean collectively the Declaration of Condominium, these Articles, and the By-laws of the Association, as well as all exhibits referenced in these several documents.

L. "Declaration" means the Declaration of Condominium of HIALLAH CLUB VILLAS, A CONDOMINIUM, and is the document through which the land and improvements of the Condominium are dedicated to condominium ownership in accordance with the Act.

M. "Developer" means SOUTHERN INTERNATIONAL CORPORATION, a Florida corporation, its grantees, successors and assigns.

N. "Director" means a member of the Board of Directors (Board of Administration) of the Association.

O. "Member" means a member (condominium unit owners) of the Association.

#### ARTICLE I

##### NAME

The name of this corporation shall be HIALLAH CLUB VILLAS CONDOMINIUM ASSOCIATION, INC., with its current business address situated at Suite 400, 1401 Ponce de Leon Boulevard, Coral Gables, Florida 33134.

#### ARTICLE II

##### PURPOSE - POWERS

A. The Association shall have all of the common law and statutory powers of a corporation not-for-profit which are not in conflict with the terms of these Articles or the Act. The Association has been organized to provide a corporate entity responsible for the operation of HIALLAH CLUB VILLAS, A CONDOMINIUM in accordance with the provisions of Chapter 718, Florida Statutes (1983), as may from time to time be amended, and in accordance with the provisions of the Declaration of Condominium hereafter to be recorded in the Public Records of Dade County, Florida, which shall thereby create HIALLAH CLUB VILLAS, A CONDOMINIUM.

B. The Association shall have all of the powers reasonably necessary to implement the purpose of the Association, including by way of illustration and not of limitation, the following:

1. To adopt a budget and to make and collect assessments against members to defray the costs of maintaining and operating the Condominium.
2. To use the proceeds of assessments in the exercise of its powers and duties.
3. To maintain, manage, repair, replace and operate the Condominium Property, including but not limited to, obtaining and maintaining adequate insurance coverage to protect the interests of the Association and its membership in the Condominium Property.
4. To reconstruct improvements after casualty and construct further improvements to the Condominium Property.
5. To make and amend rules and regulations respecting the use of Condominium Property.
6. To approve and disapprove proposed purchasers, lessees, and any other proposed occupants of a unit.
7. To enforce by legal means the terms and provisions

of the Condominium Documents and of the Rules and Regulations of the Association.

8. To contract for the management of the Condominium and to delegate to such contractor all powers and duties of the Association except those powers and functions which require approval on the part of the Board of Directors or of the members of the Association.

9. Notwithstanding anything herein to the contrary, the Corporation shall exercise only such powers as are consistent with the purposes of exempt organizations set forth in Section 501(c)(7), of the Internal Revenue Code and its regulations as the same may now exist or as they may be hereinafter amended from time to time.

C. All funds and title to all property acquired by the Association and the proceeds thereof shall be held in trust and for the benefit of the members in accordance with the provisions of the Condominium Documents.

D. The Powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration of Condominium and provisions of the Act.

#### ARTICLE III

##### MEMBERS

The qualifications of members, the manner of their admission, and voting by members shall be, as follows:

1. All owners of units in the Condominium shall be members of this Association and no other persons or entities shall be entitled to membership. Each unit shall be entitled to one vote.

2. Membership in the Association shall be established and confirmed by recording in the Public Records of Dade County, Florida, a deed or other instrument effecting the transfer of ownership in and to a unit in the Condominium and by delivering to the Association of a copy of such recorded instrument. The new owner(s) designated by such instrument upon recordation shall be confirmed as member(s) of the Association. The membership of the prior owner shall be thereby terminated.

3. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his unit.

4. A unit owner shall not have any authority to act for the Association solely by reason of being a member therein or otherwise.

5. If a unit is owned by one person, his right to vote shall be established by the record title to his unit. If a unit is owned by more than one person, the vote for the unit owned by them shall be as agreed unanimously by all such owners; except that all the owners of any such unit may designate one person to cast the vote for the unit by a certificate signed by all the record owners of the unit and filed with the secretary of the Association, which certificate shall be valid until revoked by one or more of the owners, or superseded by a subsequent certificate signed by all the record owners, or until a change in the ownership of the unit. If a unit is owned by a corporation, the person entitled to cast the vote for the unit shall be the person designated by a certificate of appointment signed by the president or vice-president sealed with the corporate seal, and filed with the secretary of the Association, which certificate shall be valid until revoked or superseded by a subsequent certificate or until a change in the ownership of the unit.

ARTICLE IV

TERM

OFF REC 12552 PG 1832

The term of the Association shall be perpetual unless the Condominium itself shall be sooner terminated in accordance with the Declaration of Condominium of HIALEAH CLUB VILLAS, A CONDOMINIUM.

ARTICLE V

SUBSCRIBERS

The names and business addresses of the Subscribers are as follows:

JOSEPH P. MULLEN	2501 E. Commercial Blvd. #206 Fort Lauderdale, FL 33308
JUDY A. BARRINGER	2501 E. Commercial Blvd. #206 Fort Lauderdale, FL 33308
SUSAN K. MOTTA	2501 E. Commercial Blvd. #206 Fort Lauderdale, FL 33308

ARTICLE VI

DIRECTORS

A. Number and Qualification. The affairs of the Association shall be managed by a Board of Directors comprised of nine (9) Directors. The number of Directors may be increased or decreased by amendment hereto but, in no event, shall be less than three (3) in number. Directors need not be members of the Association.

B. Duties and Powers. All of the duties and powers of the Association existing under the Condominium Act, the Declaration of Condominium, the By-laws and Rules and Regulations of the Association and these Articles shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, unless otherwise specifically provided.

C. Election; Removal. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the By-laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-laws.

D. Term of First Directors. The Developer, its successors and assigns, shall be required to transfer control of the Association to Unit Owners no later than the earliest occurrence of any of the following events: When apartment owners other than the Developer own fifteen (15%) percent or more of the apartments that will be operated ultimately by the Association, the apartment owners other than the Developer shall be entitled to elect not less than one-third (1/3) of the members of the Board of Directors of the Association. Apartment owners other than the Developer shall be entitled to elect not less than a majority of the members of the Board of Directors of the Association: three (3) years after fifty (50%) percent of the apartments that will be ultimately operated by the Association have been conveyed to purchasers; or when some of the apartments 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 120 days after seventy-five (75%) percent of the apartments in the project have been conveyed to purchasers; or five (5) years following conveyance of the first apartment; or when all of the apartments 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, whichever of the events shall first occur. The Developer shall be entitled to elect not less than one (1) member of the Board of Directors of the Association so long as the Developer holds for sale in the ordinary course of business at least five (5%) percent of the apartments in the Condominium which will ul-

timately be operated by the Association. However, the Developer may, at its option, relinquish control of the Board of Directors of the Association at any time the Developer may so elect.

f. First Directors. the names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and have qualified, or until removed, are as follows:

DANIEL C. PERLZ	Suite 400 1401 Ponce de Leon Blvd. Coral Gables, Fl. 33134
DANIEL SANTANA	Suite 400 1401 Ponce de Leon Blvd. Coral Gables, Fl. 33134
WALFREDO I. CONSULGRA	Suite 400 1401 Ponce de Leon Blvd. Coral Gables, Fl. 33134
ALFREDO RAVINET	Suite 400 1401 Ponce de Leon Blvd. Coral Gables, Fl. 33134
FATIMA FERNANDEZ	Suite 400 1401 Ponce de Leon Blvd. Coral Gables, Fl. 33134
LIBIAN DIAGO	Suite 400 1401 Ponce de Leon Blvd. Coral Gables, Fl. 33134
IRENE BATILLI	Suite 400 1401 Ponce de Leon Blvd. Coral Gables, Fl. 33134
VERONICA PERLI	Suite 400 1401 Ponce de Leon Blvd. Coral Gables, Fl. 33134
JORGE DELGADO	Suite 400 1401 Ponce de Leon Blvd. Coral Gables, Fl. 33134

f. POTENTIAL CONFLICT OF INTERESTS. The directors and officers may lawfully and properly exercise the powers set forth in these Articles and in the By-laws, notwithstanding the fact that some or all of them who may be directly or indirectly involved in the exercise of such powers and in the negotiation and/or consummation of agreements executed pursuant to such powers are some or all of the persons with whom the Association enters into such agreements or who own some or all of the proprietary interest in the entity or entities with whom the Association enters into such agreements; and all such agreements shall be presumed conclusively to have been made and entered by the directors and officers of this corporation in the valid exercise of their lawful powers.

#### ARTICLE VII

##### Officers

The affairs of the Association shall be administered by a President, a Secretary and a Treasurer, and as many Assistant Secretaries and Assistant Treasurers as the Board of Directors shall from time to time establish. Such Officers shall be elected by the Board of Directors from among the Board of

Directors at its first meeting following the Annual Meeting of the members of the Association. Officers shall serve without compensation at the pleasure of the Board of Directors. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the office of President and Secretary or Assistant Secretary or Treasurer or Assistant Treasurer be held by the same person. The names and addresses of the Officers who shall serve until their successors are designated by the Board of Directors are as follows:

<u>Name</u>	<u>Title</u>	<u>Address</u>
DANIEL C. PEREZ	President	Suite 400 1401 Ponce de Leon Blvd. Coral Gables, Fl. 33134
ALFREDO RAVINET	Secretary	Suite 400 1401 Ponce de Leon Blvd. Coral Gables, Fl. 33134
WALFREDO I. CONSUEGRA	Vice-President/ Treasurer	Suite 400 1401 Ponce de Leon Blvd. Coral Gables, Fl. 33134

#### ARTICLE VIII

##### INDEMNIFICATION

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

#### ARTICLE IX

##### BY-LAWS

The By-Laws of the Association shall be adopted by the Board of Directors at the first organizational meeting of the Association and may be amended in accordance with the provisions therein set forth for that purpose. Provided, that until the first election by members of the Board of Directors, as set forth in Article VI hereof, the By-laws may be amended by resolution adopted by a majority of the members of the Board of Directors.

#### ARTICLE X

##### AMENDMENTS

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

A. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

B. A resolution for the adoption of a proposed amendment may be proposed by the Board of Directors of the Association or by the members of the Association. Members may propose such an amendment by instrument in writing directed to the President or

Secretary of the board signed by not less than ten (10%) percent of the membership. Amendments may be proposed by the Board of Directors by action of a majority of the Board at any regularly constituted meeting thereof. Upon an amendment being proposed as herein provided, the Board of Directors shall call a meeting of the membership to be held not sooner than fifteen (15) days nor later than sixty (60) days thereafter for the purpose of considering such amendment. Except as elsewhere provided, such approvals must be either by:

1. Not less than sixty-six and two-thirds (66-2/3%) percent of the entire membership of the Board of Directors and by not less than fifty-one (51%) percent of the entire membership of the Association; or

2. Not less than seventy-five (75%) percent of the entire membership of the Association. Provided, that until such time as a majority of the members of the Board of Directors of the Association shall be elected by apartment owners other than the Developer, all amendments to the Articles of Incorporation shall be approved as set forth in Paragraph (B)(1) above.

C. Provided, however, that no amendment shall make any changes in the qualifications for membership nor the voting rights of the members, without approval in writing by all members and the joinder of all record owners of mortgages on the condominium apartments, including the Developer. No amendment shall be made that is in conflict with the Condominium Act or the Declaration of Condominium, nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers and/or options herein provided in favor of or reserved to the Developer, or any person who is an officer, stockholder or director of the Developer, or any corporation having some or all of its directors, officers or stockholders in common with the Developer, unless the Developer shall join in the execution of such amendment.

D. Notwithstanding anything herein to the contrary, no amendment to the Declaration of Condominium or the Articles of Incorporation or By-laws of the Association relating to the following topics shall be affected unless:

1. The consent of owners of units to which at least 75% of the votes in the Condominium Association are allocated and the approval of eligible holders holding mortgages on units which have at least 75% of the votes of units subject to eligible holder mortgages shall be required to terminate the legal status of the project as a Condominium.

2. The consent of the owners of units to which at least 75% of the votes in the Condominium Association are allocated and the approval of eligible holders holding mortgages on units which have at least 51% of the votes of units subject to eligible holder mortgages shall be required to add or amend any material provisions of which constitute documents of the project, which establish, provide for, govern or regulate any of the following:

- a. Voting;
- b. Assessments, assessment liens or subordination of such liens;
- c. Reserves for maintenance, repair and replacement of the common areas;
- d. Insurance or Fidelity Bonds;
- e. Rights to use of the common areas;



OFF REC 42552 PG 1836

f. Responsibility for maintenance and repair of the several portions of the project;

g. Expansion or contraction of the project or the addition, annexation or withdrawal of property to or from the project;

h. Boundaries of any unit;

i. The interests in the limited common areas;

j. Convertibility of units into common areas or of common areas into units;

k. Leasing of units;

l. Imposition of any rights of first refusal or similar restriction on the right of a unit owner to sell, transfer, or otherwise convey his or her unit;

m. Any provisions which are for the express benefit of mortgage holders or eligible insurers or guarantors of first mortgages on units.

An eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver to the requesting party a negative response within 30 days shall be deemed to have approved such request. Eligible mortgage holder shall mean the holder of a first mortgage on a unit who has requested notice of certain matters from the Association.

l. A copy of each amendment shall be filed with the Secretary of State, pursuant to the provisions of the applicable Florida Statutes, and a copy certified by the Secretary of State shall be recorded in the Public Records of Dade County, Florida.

#### ARTICLE XI

##### INITIAL REGISTERED OFFICE, AGENT AND ADDRESS

The principal office of the Association pending transfer of control shall be Suite 400, 1401 Ponce de Leon Boulevard, Coral Gables, Florida 33134, or at such other place as may be subsequently designated by the Board of Directors. The initial registered office is at Suite 206, 2501 East Commercial Boulevard, Fort Lauderdale, Florida 33308 and the initial registered agent therein is Judy A. Barringer.

IN WITNESS WHEREOF, the undersigned, as subscribers hereto, have hereunto set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 1984.

\_\_\_\_\_  
JOSEPH P. MULLEN

(SEAL)

\_\_\_\_\_  
JUDY A. BARRINGER

(SEAL)

\_\_\_\_\_  
SUSAN K. MOTTA

(SEAL)

STATE OF FLORIDA  
COUNTY OF BROWARD

OFF REC 12552 PG 1837

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared JOSEPH P. MULLEN, JUDY A. BARRINGER and SUSAN K. MOITA, to me known to be the persons described in and who executed the foregoing instrument and acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State aforesaid, this \_\_\_\_\_ day of \_\_\_\_\_, 1984.

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

My Commission Expires:

OFF 12552 PG 1838  
REC

CERTIFICATE DESIGNATING (OR CHANGING) PLACE OF BUSINESS OR  
DOMICILL FOR THE SERVICE OF PROCESS WITHIN THIS STATE, NAMING  
AGENT UPON WHOM PROCESS MAY BE SERVED.

In pursuance of Chapter 48.091, Florida Statutes, the  
following is submitted, in compliance with said Act:

First - That HIALEAH CLUB VILLAS CONDOMINIUM ASSOCIATION,  
INC., desiring to organize under the laws of the State of  
Florida, with its principal office, as indicated in the Articles  
of Incorporation, in the County of Dade, State of Florida, has  
named Judy A. Barringer, Attorney-At-Law, located at Suite 206,  
2501 East Commercial Boulevard, Fort Lauderdale, Florida 33308,  
County of Broward, State of Florida, as its agent to accept  
service of process within the State of Florida.

ACKNOWLEDGEMENT: (MUST BE SIGNED BY DESIGNATED AGENT)

Having been named to accept service of process for the above  
stated corporation, at the place designated in this certificate,  
I hereby accept to act in this capacity, and agree to comply with  
the provisions of said Act relative to keeping open said office.

BY: \_\_\_\_\_  
Judy A. Barringer

DATE: \_\_\_\_\_

8/08/84

BY-LAWS

OF

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HIALEAH CLUB VILLAS CONDOMINIUM ASSOCIATION, INC.

1. DEFINITIONS AND IDENTIFICATION.

1.1 These are the By-Laws of HIALEAH CLUB VILLAS CONDOMINIUM ASSOCIATION, INC., herein called the "Association", a corporation not-for-profit, organized under the laws of the State of Florida. The Articles of Incorporation of the Association were filed in the office of the Secretary of State of Florida on \_\_\_\_\_, 198\_\_. The Association has been organized for the purpose of administering the operation of a condominium located in Dade County, Florida, to be known as HIALEAH CLUB VILLAS, A CONDOMINIUM.

1.2 The provisions of these By-Laws shall be interpreted in accordance with the definitions and provisions of the Florida Condominium Act and of the Articles of Incorporation of HIALEAH CLUB VILLAS CONDOMINIUM ASSOCIATION, INC. and the Declaration of Condominium for HIALEAH CLUB VILLAS, A CONDOMINIUM.

1.3 The fiscal year shall be the calendar year.

1.4 The initial office of the Association shall be Suite 400, 1401 Ponce de Leon Blvd., Coral Gables, Florida 33134 or such other place or places as the Board of Directors may from time to time determine.

1.5 The seal of the Association shall have inscribed thereon the name of the Association, the year of its organization and the words "corporation not-for-profit". Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise.

2. MEMBERSHIP AND MEMBERS' MEETINGS.

2.1 The members of the Association shall consist of all record owners of townhome condominium apartments within HIALEAH CLUB VILLAS, A CONDOMINIUM and such membership shall become effective immediately upon a party becoming a record holder of fee simple title of such a condominium apartment.

2.2 Annual Members' Meetings shall be held at the office of the Association upon the Condominium Property, to elect the Board of Directors and to transact any other business authorized to be transacted by the Association members and shall be held at 7:00 P.M. on the third Thursday in the month of October of each year.

2.3 Notice of all members' meetings stating the time and place and the objects for which the meeting is called shall be given by the President or Vice President or Secretary, unless waived in writing. A special meeting must be called by the Secretary upon receipt of written request therefor signed by members entitled to cast twenty (20%) percent or more of the votes of the entire membership. Such notice shall be in writing and shall state the time and place and object for which the meeting is called. Such notice shall be given to each member not less than fourteen (14) days, nor more than thirty (30) days, prior to the date set for such meeting. The written notice shall be mailed by ordinary mail or presented personally to each member within said time. If presented personally, receipt for such notice shall be signed by the member, indicating the date on which such notice was received by him. If mailed, such notice shall be deemed to be properly given when deposited in the United States mails, addressed to the member at his post office address as it appears on the records of the Association, the postage thereon prepaid. Proof of such mailing shall be given by the Affidavit of the person mailing and posting the notice. Any member may, by written notice signed by such member, waive such notice, and such waiver, when filed in the records of the

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Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. Such notice shall be posted in a conspicuous place and upon the Condominium Property at least fourteen (14) days before, but not more than thirty (30) days before, such meeting.

2.4 A quorum at members' meetings shall consist of those unit owners who appear in person or by proxy. The acts approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the members, except where approval by a greater number of members is required by the Articles of Incorporation or these By-laws.

2.5 In any meeting of members, the apartment owners of an apartment shall be entitled to cast one (1) vote for each apartment so owned. If an apartment is owned by one (1) person, his right to vote shall be established by the roster of apartment owners kept by the Secretary of the Association. If an apartment is owned by more than one (1) person, the person entitled to cast the vote for the apartment shall be designated by a certificate signed by all of the record owners of the apartment and filed with the Secretary of the Association. If an apartment is owned by a corporation, the person entitled to cast the vote for the apartment shall be designated by a certificate signed by the President or Vice President of that corporation and attested by the Secretary or Assistant Secretary of the corporation and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in ownership of the apartment concerned. A certificate designating the person entitled to cast the vote of an apartment may be revoked by any owner thereof.

2.6 Votes may be cast in person or by written proxy. A proxy may be made by any person entitled to vote and shall be valid only for the particular meeting designated therein but, in no event, for a period in excess of ninety (90) days subsequent to the date of the designated meeting, notwithstanding any adjournment(s) thereof. The written proxy must be filed with the Secretary at or before the appointed time of the meeting, or any adjournment thereof.

2.7 If any meeting of members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

2.8 At meetings of the membership, the President shall preside, or in his absence, the Vice President shall preside, or in the absence of both, the membership shall select a chairman.

2.9 The order of business at members' meetings shall be:

- a. Determination of chairman of the meeting.
- b. Calling of the roll and certifying of proxies.
- c. Proof of notice of meeting or waiver of notice.
- d. Reading and disposal of any unapproved minutes.
- e. Reports of Officers.
- f. Reports of committees.
- g. Election of inspectors of elections.
- h. Election of Directors.
- i. Unfinished business.
- j. New business.
- k. Adjournment.

### 3. DIRECTORS.

3.1 The affairs of the Association shall be managed by a Board of Directors, as follows:

- a. The nine (9) Directors named in the Articles shall serve until such time as designated in the Articles.

- b. Not less than nine (9) members are to be elected to the Board of Directors at, and subsequent to, the time of the first election by townhome unit owners.
- c. A nominating committee of five (5) members shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual members' meeting. The Committee shall nominate one (1) person for each Director's seat that shall be vacated at the time of the forthcoming annual meeting. Other nominations may be made from the floor at the meeting.
- d. The election shall be by ballot (unless dispensed by unanimous consent) and by a plurality of the votes cast. Each person voting shall be entitled to cast his votes for as many nominees as there are vacancies to be filled. There shall be no cumulative voting.
- e. Vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors.
- f. Any Director may be removed by concurrence of a majority of the votes of the entire membership at any annual meeting or at a special meeting of the members called for that purpose. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting. Provided, however, no Director appointed by the Developer shall be removed except by the Developer.

3.2 Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph at least three (3) days prior to the day named for each meeting.

3.3 Special meetings of the Directors may be called by the President and must be called by the Secretary upon written request of a majority of the Directors. Not less than three (3) days notice of the meeting shall be given to each Director personally or by mail or telephone, which notice shall state the time, place and purpose of the meeting.

3.4 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.

3.5 A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by written consent or by a greater number of Directors is otherwise required by the Articles of Incorporation or these By-Laws.

3.6 If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present.

3.7 At any adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

3.8 The presiding officer of Director's meetings shall be the President. In the absence of the President, the Directors shall designate one (1) of their number to preside.

3.9 The order of business at Director's meetings shall be:

- a. Calling of roll.
- b. Proof of notice of meeting.
- c. Reading and disposal of any unapproved minutes.
- d. Reports of Officers and committees.
- e. Unfinished business.
- f. New business.
- g. Adjournment.

3.10 Notice of both regular and special meetings of the Board of Directors shall be posted in a conspicuous place upon the Condominium Property not later than forty-eight (48) hours prior to the date of the meeting. Meetings shall be open to the membership.

3.11 The organization meeting of a newly elected board shall be held within ten (10) days following their election at such place and time as shall be fixed by the board members at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary.

3.12 Subject to the Articles of Incorporation, any member of the board may be recalled and removed from office with or without assignment of cause by the vote or agreement in writing by a majority of all unit owners. A special meeting of the members of the Association to recall a member of the board may be called by ten (10%) percent of the unit owners giving notice of the meeting as required for a meeting of members of the Association, and the notice shall state the purpose of the meeting.

3.13 Board members' fees, if any, shall be determined by a majority of the unit owners.

#### 4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.

4.1 All of the powers and duties of the Association existing under the Declaration of Condominium, Articles of Incorporation and these By-laws, as well as under the Florida Condominium Act, shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by members of the Association when such is specifically required. Such powers and duties of the Directors shall include, but shall not be limited to, the following:

- a. To purchase insurance coverage for the protection of the Association and its members.
- b. To pay the cost of water and sewer utility services made available to all apartment owners and not billed separately by the utilities to the owners of the individual units.
- c. To enforce by legal means, the provisions of the Articles of Incorporation and By-laws of the Association, Declaration of Condominium and the Rules and Regulations hereinafter promulgated governing the use of the Condominium property and of the townhome units.
- d. To appoint and remove at their pleasure, all agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these By-Laws shall be construed to prohibit the employment of any member, Officer or Director of the Association in any capacity whatsoever.
- e. To establish, levy and assess, and collect the assessments (periodic/regular and/or special) necessary to operate the Association and carry on

its activities; and to create such reserves for deferred expenditures as may be deemed appropriate by the Board of Directors.

4.2 The undertakings, leases and contracts authorized by the initial board shall be binding upon the Association in the same manner and with the same effect as though such undertakings, leases and contracts had been authorized by the first Board of Directors duly elected by the membership after the Developer has relinquished control of the Association.

#### 5. EXECUTIVE OFFICERS.

5.1 The Executive Officers of the Association shall be a President who shall be elected from among the members of the Board, a Treasurer, a Secretary and an Assistant Secretary, none of whom need be directors and who shall be elected annually by the Board of Directors and all of whom may be removed individually and/or collectively without cause by vote of the Directors at any meeting by concurrence of a majority of the Directors. No person may hold two (2) or more offices. The Board of Directors shall from time to time elect such other Officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

5.2 The President shall be the Chief Executive Officer of the Association. He shall have all of the powers and duties which are usually vested in the office of President, including, but not limited to, the power to appoint committees from among the members, as he may in his discretion deem appropriate, to assist in the administration of the affairs of the Association. He shall preside at meetings of the members and at meetings of the Board of Directors.

5.3 The Vice-President shall in the absence, or in the event of the disability, of the President exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

5.4 The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall be responsible for providing all notices to the members and Directors and such other notices as may be required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties usually incident to the office of Secretary. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

5.5 The Treasurer shall have custody of all property of the Association, including funds, securities and evidence of indebtedness. He shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. He shall submit a Treasurer's report to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of Treasurer.

5.6 The compensation of all officers, if any, and that of employees of the Association shall be fixed by the Directors. The provisions that board members' fees shall be determined by the members of the Association shall not preclude the board from employing a member of the board as an employee of the Association nor preclude contracting with a board member for the management of the condominium. No officer's compensation shall be paid unless published in a budget distributed to all unit owners.



6.1 The receipts and expenditures of the Association shall be credited and charged to accounts which shall include but not be limited to the following classifications, all of which expenditures shall be Association expenses:

a. An account for current expenses which shall include all receipts and expenditures to be made within the year for which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves or to betterments.

b. A reserve for the repair and replacement of Association property which shall include funds for the repair or replacement of property required because of damage, depreciation or obsolescence.

6.2 The Board of Directors shall have the authority, during a budget year, to transfer funds, which, in its discretion, it deems unnecessary to hold for the purposes of a particular account, to and for the use of another purpose in another account. Notwithstanding the foregoing, the Board of Directors shall not have the authority to transfer any funds in the reserve accounts for capital expenditures and deferred maintenance without a vote of the majority of the members present at a duly called meeting of the Association pursuant to Section 718.112(2)(k), Florida Statutes (1983).

6.3 The Board of Directors shall adopt a budget for each calendar year which shall include the estimated funds required to defray the common expenses, as well as establish and maintain reserve accounts, as authorized hereunder.

6.4 Copies of the budget and proposed assessments shall be available to each member on or before November 15th, preceding the year for which the budget is proposed.

6.5 Assessments against the townhome unit owners for their share of the Association expenses shall be made for the calendar year annually in advance on or before December 20th, preceding the year for which the assessments are made. Such assessments shall be due and paid in equal monthly installments beginning on the first day of January of the year for which the assessment is made and the first day of each month thereafter. If an annual budget is not established, as required, the monthly assessment shall be presumed to have been made in the amount of the last prior assessment and monthly installments thereon shall be due upon each installment payment date until changed by an amended assessment. In the event the annual assessment proves to be insufficient, the budget and assessments therefore may be amended at any time by the Board of Directors.

6.6 The depository for the Association funds shall be such bank or banks as shall be designated from time to time by the Directors. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

6.7 An audit of the accounts of the Association shall be made annually by a certified public accountant and a copy of the audit report shall be furnished to each member by not later than sixty (60) days following the end of each calendar year for which the audit was made. The Board of Directors shall mail or furnish by personal delivery to each unit owner a complete financial report of actual receipts and expenditures for the previous calendar year. The report shall show the amount of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classification including, if applicable, but not limited to the following:

- a. Costs for security;
- b. Professional and management fees and expenses;
- c. Taxes;
- d. Costs for recreation facilities;
- e. Expenses for utility services;
- f. Expenses for lawn care;
- g. Costs for building maintenance and repair;
- h. Insurance costs;
- i. Administrative and salary expenses; and
- j. General reserves, maintenance reserves, and depreciation reserves. Reserve accounts shall include, but not be limited to roof replacement, building painting, pavement resurfacing and resurfacing of tennis courts; the amount to be reserved shall be computed by means of a formula based on estimated life and estimated replacement cost of each reserve item.

6.8 Fidelity bonds shall be required by the Board of Directors for all persons handling or responsible for Association funds. The amount of such bonds and the sureties shall be determined by the Directors. The premiums on such bonds shall be paid by the Association as an Association expense.

6.9 The termination of membership in the Association shall not relieve or release any such former owner or a member from a liability or obligation incurred under or in any way connected with the Association during the period of membership, or impair any rights or remedies which the Association may have against such former member arising out of or in any way connected with such membership and the covenants and obligations incident thereto.

6.10 The Board of Directors shall adopt the Association's annual budget of common expenses and receipts. It shall mail copies of the proposed annual budget to the unit owners not less than thirty (30) days before the meeting at which the budget will be considered, together with notice of the time and place of said meeting. If an adopted budget requires assessment against the unit owners in any calendar year exceeding 115 percent of the assessments for the preceding year, the board, upon written application of ten (10%) percent of the unit owners to the board shall call a special meeting of the unit owners within thirty (30) days, upon not less than 10 days' written notice to each unit owners and at said special meeting the unit owners shall consider and enact a budget; provided, however that in determining whether an adopted budget exceeds 115 percent of the preceding year's assessments due adjustments shall be made for the following: (a) inasmuch as the first year of the Association is not a full calendar year, for purposes of comparing the first year's assessments to the second year's assessments, the daily rate of the first year's assessments shall be compared with the daily rate of the second year's assessments; (b) any contribution by the Developer toward payment of the common expenses under Section 10.03\* of the Declaration shall be considered as part of the assessments for the year in which made; (c) adjustment shall be made to offset any disparity between annual assessments resulting from the addition of Phase II or Phase III to the Condominium; and (d) any authorized provisions for reasonable reserves for repair or replacement of the Condominium property, anticipated expenses by the Condominium Association which are not anticipated to be incurred on a regular or annual basis, or assessments for betterments to the Condominium property shall be excluded from the corporation.

\* "Developer is excused from payment of the share of common expenses and assessments related to units held by Developer for sale, for period of time commencing on the effective date of the Declaration and continuing to the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first condominium unit occurs. However, the Developer shall pay the portion of common expenses incurred during that period which exceed the amount assessed against other unit owners, excluding, however, all special assessments and establishment of reserves for deferred maintenance and reserves for repairs and replacements of any portion of the condominium property."

7. RULES AND REGULATIONS.

7.1 The Board of Directors may, from time to time, adopt or amend previously adopted rules and regulations governing the details of the operation, use, maintenance, management and control of the Condominium Property and of the townhome units and of any facilities or services made available to the townhome unit owner.

8. REGISTERS.

8.1 The Secretary of the Association shall maintain a register in the Association office showing the names and addresses of members. It shall be the obligation of the individual member to advise the Secretary of the Association of any change of address and ownership as otherwise provided. The Association, for purposes of notification, shall have the right to rely upon the last given address of each of the members.

9. AMENDMENTS TO BY-LAWS.

9.1 Amendments to these By-Laws shall be proposed and adopted in the following manner:

a. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

b. A resolution for the adoption of a proposed amendment may be advanced by the Board of Directors of the Association or by the members of the Association. Members may propose such an amendment by instrument in writing directed to the President or Secretary of the Board signed by not less than the owners of twenty (20%) percent of the Common Elements. Amendments may be proposed by the Board of Directors by action of a majority of the Board at any regularly constituted meeting thereof. Upon an amendment being proposed as herein provided, the Board of Directors shall call a meeting of the membership to be held not sooner than fourteen (14) days nor later than thirty (30) days thereafter for the purpose of considering such amendment. Except as elsewhere provided, the consent of the owners of units to which at least 75% of the votes in the Condominium Association are allocated and the approval of eligible holders holding mortgages on units which have at least 51% of the votes of units subject to eligible holder mortgages shall be required to add or amend any material provisions of which constituent documents of the project, which establish, provide for, govern or regulate any of the following:

1. Voting;
2. Assessments, assessment liens or subordination of such liens;
3. Reserves for maintenance, repair and replacement of the common areas;
4. Insurance or Fidelity Bonds;
5. Rights to use of the common areas;
6. Responsibility for maintenance and repair of the several portions of the project;

7. Expansion or contraction of the project or the addition, annexation or withdrawal of property, to or from the project;
8. Boundaries of any unit;
9. The interests in the limited common areas;
10. Convertibility of units into common areas or of common areas into units;
11. Leasing of units;
12. Imposition of any rights of first refusal or similar restriction on the right of a unit owner to sell, transfer, or otherwise convey his or her unit;
13. Any provisions which are for the express benefit of mortgage holders, eligible mortgage holders or eligible insurers or guarantors of first mortgages on units.

An eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver to the requesting party a negative response within 30 days shall be deemed to have approved such request. Eligible mortgage holder shall mean the holder of a first mortgage on a unit who has requested notice of certain matters from the Association.

c. A copy of each amendment shall be attached to a certificate executed by the President and attested by the secretary or Assistant Secretary filed with the Secretary of State, pursuant to the provisions of the applicable Florida Statutes. No amendment is valid unless filed in the Public records of Dade County, Florida as an Amendment to the Declaration.

9.2 No amendment shall discriminate against any Unit Owner nor against any Unit or class or group of Units, unless the Unit Owners so affected shall consent; no amendment shall increase any Owner's share of the Common Expenses, unless the Unit Owner concerned and all Institutional Mortgagees of record of such Unit shall join in the execution of the amendment; no amendment shall make any change in the configuration of the Association Areas or the improvements thereon unless all Institutional Mortgagees of record on all of the Units within the development area shall join in the execution of such amendment; no amendment shall make any change which would in any way affect any of the rights, privileges, powers and/or options provided in favor of or reserved to the Developer, unless the Developer shall join in the execution of such amendment. No amendment shall affect the rights and interest of the holders of any mortgage of record without prior written consent of all such mortgagees.

9.3 Proposals to amend existing by-laws shall contain the full text of the by-laws to be amended; new words inserted in the text shall be underlined and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder rather than assist understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of by-law. See by-law.... for present text."

#### 10. PARLIAMENTARY RULES.

10.1 Robert's Rules of Order (latest edition) shall govern the conduct of the Association meeting when not in conflict with any provision of the Declaration of Condominium, the Articles of Incorporation or these By-Laws.

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11. MISCELLANEOUS.

11.1 Whenever the masculine singular form of the person is used in these By-Laws it shall be construed to mean the masculine, feminine or neuter, singular or plural, wherever the context so requires.

11.2 If any irreconcilable conflicts should exist, or hereafter arise, with respect to the interpretation of any provision(s) of these By-Laws, the Articles of Incorporation or Declaration of Condominium, the provisions of the Declaration of Condominium shall prevail.

I HEREBY CERTIFY that these By-Laws of HIALEAH CLUB VILLAS CONDOMINIUM ASSOCIATION, INC., a corporation not-for-profit under the laws of the State of Florida, were duly proposed and approved by resolution of the Board of Directors at the first meeting of the Board of Directors on the \_\_\_\_ day of \_\_\_\_\_, 198\_\_

Secretary  
Secretary

(Corporate Seal)

Approved:

President  
President

RECORDED IN OFFICIAL RECORDS BOOK  
OF DADE COUNTY, FLORIDA  
RECORD VOLUME

RICHARD R. BRINKER  
CLERK CIRCUIT COURT

CLERK NOTE  
FOR DEPOSIT IN PLANS OF OFFICIAL  
RECORDS BOOK 180 PAGE 33.

RICHARD R. BRINKER, CLERK  
CIRCUIT & COUNTY COURT

BY Yvette C. Frank D.C.