

## 12. USE RESTRICTIONS

The use of the Condominium Property shall be in accordance with the following provisions as long as the Condominium exists upon the land:

- 12.1 Units. Each of the Units shall be occupied only as a single family private dwelling. Except as reserved to Developer, no Unit may be divided or subdivided into a smaller Unit.
- 12.2 Common Elements and Limited Common Elements. The Common Elements and Limited Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units.
- 12.3 Nuisances. No nuisance shall be allowed upon the Condominium Property of 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 property by its residents. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist. 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.
- 12.4 Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or a Unit, and all valid 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 the same as the responsibility for the maintenance and repair of the property concerned.
- 12.5 Leasing of Units. After approval by the Association required herein, entire Units may be rented provided the occupancy is only by the Lessee and Lessee's family members and guests. No rooms may be rented and no transient tenants shall be accommodated in any Unit, nor shall any lease of any Unit release or discharge the Owner thereof from compliance with any of his obligations and duties as a Unit Owner. No lease shall be for a period of time less than one (1) year. No unit may be leased or rented for the first year (12 months) of ownership. No unit may be rented or leased more than one (1) time in any twelve (12) month period. No unit may be subleased. No lessee shall be allowed children less than the age of eighteen (18) or pets of any kind. All of the provisions of this Declaration, and Bylaws, and the Rules and Regulations of the Association pertaining to use and occupancy shall be applicable and enforceable against any person occupying a Unit as a tenant to the same extent as against a Unit Owner, and a covenant upon the part of each such tenant to abide by the Rules and Regulations of the Association, and the terms and provisions of the Declaration of Condominium and Bylaws, and designating the Association as the Unit Owner's agent for the purpose of and with the authority to terminate any such lease agreement in the event of violations by the tenant of such covenants shall be an essential element of any such lease or tenancy agreement, whether oral or written, and whether specifically expressed in such agreement or not. For purposes of this Section, a Unit is deemed to be "leased" or "rented" when it is occupied a person other than the Unit Owner who does not have a permanent residence elsewhere while the Unit Owner resides elsewhere or when it is occupied by a person who is residing in the Unit in exchange for rent or some other consideration.
- 12.6 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, except that the right is specifically reserved in the Developer to place and maintain "For Sale" or "For Rent" signs in connection with any unsold or unoccupied Unit he may from time to time own, and the same right is reserved to any institutional first mortgagee which may become the owner of a Unit, and to the Association as to any Unit which it may own.
- 12.7 Prohibited Vehicles. No commercial vehicle or van shall be parked in any parking space, except such temporary parking spaces provided to effectuate deliveries or providing services to the Condominium, the Association, a Unit, or a resident of the Condominium. Included within the definition of "commercial vehicle" is any pickup truck with a one-half (1/2) ton rated cargo capacity; trucks of any size, including but not limited to pickup trucks, which evidence visible uses or modifications for commercial purposes,

including but not limited to trucks where items are carried or stored or trucks where commercial equipment, inventory, or apparatus is visible from the exterior of the vehicle; and any vehicle which has exterior commercial lettering, signage or other advertising or commercial displays affixed thereto or which has modifications related to a commercial purpose, excluding police cars and government vehicles. A non-commercial truck may be parked in a parking space, provided that the truck is no longer than two-hundred (200) inches with no greater than a one-half (1/2) ton rated cargo capacity, does not have a lifted suspension or large "oversized" tires and is no wider than the marked parking space. No commercial vehicle shall be parked in any of the covered parking spaces within the Condominium. Truck beds must be covered at all times within the Condominium. No truck bed cover shall exceed the height of the cab of any truck on the common elements, except for trucks providing service to the Association.

12.8 Interior hallways. All doors between Units and interior hallways shall be kept closed at all times when not being used for ingress or egress. Screens or screen doors on entrances between Units and interior corridors are prohibited unless specifically authorized by the Association.

12.9 Regulations. Reasonable Rules and Regulations concerning the use of Condominium Property may be made, promulgated and amended from time to time by the affirmative vote of a majority of the Association's Board of Directors at a properly noticed Board meeting. Copies of such Rules and Regulations and amendments shall be furnished by the Association to all Unit Owners and residents of the Condominium.

12.10 Proviso. Until the Developer has completed all of the contemplated improvements and closed the sale of all of the Units of the Condominium, neither the Unit Owners nor the Association, nor the use of the Condominium Property shall interfere with the completion of the contemplated improvements and the sale of the Units. Developer may make such use of the unsold Units, Common Elements and common areas, as may facilitate such completion and sale including, but not limited to, maintenance of a sales office, showing of the property, and the display of signs.

12.11 Age Limitations on Occupants. At least one (1) person fifty-five (55) years of age or older must be an occupant of each unit while any person occupies said unit for residential purposes. Persons under the age of fifty-five (55) and at least eighteen (18) years of age may occupy and reside in a unit as long as at least one of the occupants is fifty-five (55) years of age or older. No person under the age of eighteen (18) shall be allowed to reside in or occupy a residence, except as a guest and then only for not more than thirty (30) calendar days in any 12 month period. The Board shall establish Policies and Procedures for the purpose of assuring that the foregoing required percentages of occupancy are maintained at all times, and to establish Policies in order to comply with the requirements of the FAIR HOUSING AMENDMENTS ACT OF 1988.

The keeping of pet animals is prohibited.

### 13. MAINTENANCE OF COMMUNITY INTERESTS

In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the Units, the transfer of Units by an Owner other than the Developer shall be subject to the following provisions as long as the Condominium exists upon the land:

13.1 Transfers subject to approval. No Unit Owner, except the Developer, may either acquire or dispose of any Unit by sale, lease, gift, devise inheritance, or other transfer of title or possession without the written consent of the Association except as hereinafter provided. In the event of transfer of title by operation of law the continued ownership is subject to the written approval of the Association except as hereinafter provided.

13.2 Approval by Association. The written approval of the Association that is required for the transfer of title of a Unit shall be obtained in the following manner:

(a) Notice to Association.

(1) Sale. A Unit Owner intending to make a bona fide sale of his Unit or any interest therein shall give to the Association notice of such intention, together with the name and

address of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonably require. Such notice at the Unit Owner's option may include a demand by the Unit Owner that the Association furnish a purchaser of the Unit if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell.

(2) Lease. A Unit Owner intending to make a bona fide lease of his Unit to any interest therein shall give to the Association notice of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Association may reasonably require and an executed copy of the proposed lease.

(3) Gift, devise, inheritance, or other transfers. A Unit Owner who has obtained his title by gift, devise or inheritance, or by any other manner not previously specified, shall give to the Association notice of the acquiring of his title, together with such information concerning the Unit Owner as the Association may reasonably require, and a certified copy of the instrument evidencing the Owner's title.

(4) Failure to give notice. If the above required notice to the Association is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Unit, the Association at its election and without notice may approve or disapprove the transaction, ownership, or possession. If the Association disapproves of the transaction, ownership, or possession, the Association shall proceed as if it had received the required notice on the date of such disapproval.

(b) Certificate of Approval.

(1) Sale. If the proposed transaction is a sale then within thirty (30) days after receipt of such notice and information, the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be by a certificate in recordable form executed by the Association.

(2) Lease. If the proposed transaction is a lease, then within thirty (30) days after receipt of such notice and information, the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be by a certificate in a non-recordable form executed by the Association.

(3) Gift, devises or inheritance; other transfers. If the Unit Owner giving notice has acquired his title by gift, devise or inheritance or in any other manner, then within thirty (30) days after receipt of such notice and information the Association must either approve or disapprove the continuance of the Unit Owner's ownership of his Unit. If approved, the approval shall be by a certificate in recordable form executed by the Association.

(c) Approval of corporate owner or purchaser. Inasmuch as the Condominium may be used only for residential purposes and a corporation cannot occupy a Unit for such use, if the Unit Owner, purchaser or lessee of a Unit is a corporation, the approval of ownership or lease by the corporation may be conditioned by requiring that all persons occupying the Unit be approved by the Association.

(d) Screening Fees. The Association shall require the deposit of a reasonable screening fee simultaneously with the giving of notice of intention to sell or lease, or of transfer by gift, devise or inheritance, for the purpose of defraying the Association's expenses and providing for the time involved in determining whether to approve or disapprove the transaction or continued ownership by a transferee, said screening fee shall be a reasonable fee to be set from time to time by the Association, which shall not exceed the maximum fee allowed by law.



13.3 Disapproval by Association. If the Association shall disapprove a transfer of ownership of a Unit, the matter shall be disposed in the following manner.

(a) Sale. If the proposed transaction is a sale and if the notice of sale given by the Unit Owner shall so demand, then within thirty (30) days after receipt of such notice and information the Association shall deliver or mail by registered mail to the Unit Owner an agreement to purchase the Unit by a purchaser approved by the Association, or an agreement to purchase signed on behalf of the Association by its President and attested by its Secretary, in which event the Unit Owner shall sell the Unit to the named purchaser at the price and upon the terms stated in the disapproved contract to sell, or upon mutually agreed terms.

(1) The sale shall be closed within thirty (30) days after delivery or mailing of the agreement to purchase, or upon the date designated in the disapproved contract, whichever date shall be later.

(2) If the Association shall fail to purchase or provide a purchaser upon demand of the Unit Owner in the manner provided, or if the purchaser furnished by the Association shall default in his agreement to purchase, the proposed transaction shall be deemed to have been approved, and the Association shall furnish a certificate of approval in recordable form.

(b) Lease. If the proposed transaction is a lease, the Unit Owner shall be advised of the disapproval in writing, and the lease shall not be made.

(c) Gift, devise or inheritance; other transfers. If the Unit Owner giving notice has acquired his title by gift, devise or inheritance, or in any other manner, then within thirty (30) days after receipt from the Unit Owner of the notice and information required to be furnished, the Association shall deliver or mail by registered mail to the Unit Owner an agreement to purchase the Unit concerned by a purchaser approved by the Association who will purchase and to whom the Unit Owner must sell the Unit upon the following terms:

(1) The sale price 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.

In the absence of agreement as to price, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit; 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.

(2) The purchase price shall be paid in cash.

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

(4) If the Association shall fail to provide a purchaser as required by this instrument, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval such ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval in recordable form, to the Unit Owners.

13.4 Mortgage. No Unit Owner may mortgage his Unit nor any interest in it without approval of the Association except to a bank, insurance company, savings and loan association, a real estate investment trust,

trust holding a first mortgage secured by a Unit, commercial bank or commercial loan company licensed to do business in the State of Florida, or to a seller to secure a portion or all of the purchase price. The approval of any other mortgagee may be upon conditions determined by the Association or may be arbitrarily withheld.

13.5 Exceptions. The foregoing provisions of this section entitled "Maintenance of Community Interests" shall not apply to a transfer to or purchase by a bank, life insurance company, savings and loan association, real estate investment trust, or other institution that acquires its title as the result of owning a mortgage upon the Unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor, his successors or assigns, or through foreclosure proceedings; nor shall such provision apply to a transfer, sale or lease by a bank, life insurance company, savings and loan association, real estate investment trust, or other institution that so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to a Unit at a duly advertised public sale with open bidding provided by law, such as but not limited to, execution sale, foreclosure sale, judicial sale or tax sale. Neither shall such provisions apply to the Developer, or any person who is an officer, stockholder or director of the Developer, or to any corporation having some or all of its directors, officers or stockholders in common with the Developer, and any such person or corporation or any limited partner or general partner shall have the right to freely sell, lease, transfer or otherwise deal with the title and possession of a Unit without complying with the provisions of this section, and without the approval of the Association.

13.6 Unauthorized transactions. Any sale, mortgage, lease, or transfer not authorized pursuant to the terms of this Declaration shall be voidable unless subsequently approved by the Association or otherwise cured by the terms of this Declaration.

13.7 Notice of lien or suit.

(a) A Unit Owner shall give notice, in writing, to the Association of every lien upon his Unit other than for authorized mortgages, taxes and special assessments within five (5) days after the attaching of the lien.

(b) Notice of Suit. A Unit Owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his Unit, such notice to be given within five (5) days after the Unit Owner shall receive knowledge or notice thereof.

(c) Failure to comply. Failure to comply with this subsection concerning liens will not affect the validity of any judicial sale.

13.8 Whenever in this section an approval is required of the Association in connection with the sale, transferring, leasing or pledging of any Unit, and such approval shall not have been obtained pursuant to the provisions hereof, failure upon the part of the Association to object in writing to such sale, transfer, pledging or leasing within ninety (90) days after the date of such event, or within thirty (30) days of the date upon which the purchaser, transferee or lessee shall take possession of the premises, whichever date shall be later, shall constitute a waiver by the Association of the right to object and the sale, transfer, lease or pledge of such unit shall be then considered valid and enforceable as having complied with this Paragraph Thirteen (13).

14. PURCHASE OF UNITS BY ASSOCIATION

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

14.1 Decision. The decision of the Association to purchase a Unit shall be made by its directors, without the necessity of approval by its members except as is hereinafter expressly provided.

14.2 Limitation. If at any time the Association shall be the Owner or agreed purchaser of five (5) or more Units, it may not purchase any additional Units without the prior written approval of seventy-five (75%) percent of the Unit Owners eligible to vote. A Unit Owner whose Unit is the subject matter of the proposed purchase shall be ineligible to vote thereon, provided, however, that the limitations hereof shall not

apply to Units to be purchased at public sale resulting from a foreclosure of the Association's lien for delinquent assessments where the bid of the Association does not exceed the aggregate of the amounts due by virtue of any and all senior or superior liens against the Unit plus the money due the Association, nor shall the limitation of this Paragraph apply to Units to be acquired by the Association in lieu of foreclosure of such liens if the consideration therefore does not exceed the cancellation of such lien.

#### 15. RIGHTS OF DEVELOPER

Notwithstanding anything herein to the contrary, the Developer shall have the right of first refusal to purchase any Unit which the Association shall have the right to purchase upon the same price and at the same terms available to the Association, such right of first refusal to continue until such time as the Developer shall have completed, sold and closed on the sale of all Units in the Condominium.

#### 16. COMPLIANCE AND DEFAULT

Each Unit Owner shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation and By-Laws 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 such documents and regulations shall entitle the Association or other Unit Owners to the following relief in addition to the remedies provided by the Condominium Act:

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, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. 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. All such costs and expenses incurred by the Association for such repairs or maintenance shall be assessed against the unit in which the work was done, and subject to the same collection and lien rights as set forth in Article 8. of this Declaration for all other expense assessments.

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 Declaration, Articles of Incorporation of the Association, the By-Laws, or the Rules and Regulations adopted pursuant to them, and the documents and regulations 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, this Declaration, the Articles of Incorporation of the Association, the By-Laws or the Rules and Regulations shall not constitute a waiver of the right to do so thereafter.

#### 17. AMENDMENTS

Except as provided herein, this Declaration of Condominium and the Articles and By-Laws of the Association, may be emended in the following manner:

17.1 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.

17.2 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.

17.3 (a) Until the first election of directors, and so long as the initial directors designated in the Certificate of Incorporation shall remain in office, proposal of an amendment and approval thereof shall require only the affirmative action of all of the said original directors, 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 beyond the extent provided for under the provisions of Section 5 hereof or change the Unit Owner's share in common expenses or surpluses, except to correct scrivener's error.

(b) A resolution for the adoption of a proposed amendment may be proposed by the Board of Directors of the Association or by the Unit Owners of the Association. Unit Owners may propose such an amendment by instrument in writing directed to the President or Secretary of the Board signed by not less than twenty (20%) percent of the Unit Owners. 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 to be held not sooner than fifteen (15) days nor later than sixty (60) 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 either by:

- (1) Not less than seventy-five (75%) percent of the entire membership of the Board of Directors and not less than seventy-five (75%) percent of the Association; or
- (2) Not less than eighty (80%) percent of the votes of the entire Unit Owners of the Association; or
- (3) In the alternative, an amendment may be made by an agreement signed and acknowledged by all Unit Owners in the manner required for the execution of a deed.

17.4 Proviso. Provided, however, that 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; and no amendment shall change any Unit nor the share in the Common Elements appurtenant to it nor increase the Owners share of the Common Expenses, unless the record Owner of the Unit concerned and all record Owners of mortgages on such Unit shall join in the execution of the amendment. Any vote to amend the declaration of condominium relating to a change in percentage of ownership in the common elements or sharing of the common expense shall be conducted by secret ballot. Neither shall an amendment make any change in the section entitled "Insurance" nor in the section entitled "Reconstruction or Repair After Casualty" unless the record Owners of all mortgages upon any Condominium Property shall join in the execution of such amendment. Nor shall any amendment make any change 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 or any limited partner or general partner shall join in the execution of such amendment.

17.5 Execution and recording. A copy of each amendment shall be attached to 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 with the formalities of a deed, and shall be effective upon recordation thereof in the Public Records of the County and State in which the land is situate.

## 18. TERMINATION

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

18.1 Destruction. If it is determined as provided herein that the building shall not be reconstructed because of major damage, the Condominium plan of ownership shall be terminated without agreement.

18.2 Agreement. The Condominium may be terminated at any time by the approval in writing of all record Owners of Units and all record Owners of mortgages on 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 seventy-five (75%) percent of the Common Elements, and the approval of all record Owners of mortgages upon 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 a Unit Owner of a Unit, or of a mortgage encumbering a Unit, shall be irrevocable until expiration of the aforecited 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. The option to purchase the Units 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 of the record Owners of the Units to be purchased an agreement to purchase signed by the record 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, 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.

18.3 Certificate. Termination of the Condominium in either of the foregoing manners 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 the County and State in which the land is situate.

18.4 Shares of Owners after Termination. After termination of the Condominium, the Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares that shall be the same as the undivided shares in the Common Elements appurtenant to the Owners' Units prior to the termination.

18.5 Amendment. This section concerning termination cannot be amended without consent of all Unit Owners and of all record Owners of mortgages upon the units.

#### 19. DEVELOPER RESPONSIBILITY FOR ASSESSMENTS

The Developer shall be excused from the payment of the share of the common expenses and assessments related thereto for a period subsequent to the recording of the Declaration of Condominium and terminating not later



than the first day of the fourth calendar month following the month in which such Declaration is recorded, or for a period terminating with the first day of the month of the third succeeding calendar month after the closing of the purchase and sale of any Condominium Unit within the Condominium to a Unit Owner who is not a Developer, the nominee of the Developer, or a substitute or alternative Developer, whichever shall be the lesser date.

The Developer, his successor or assign, shall be excused from the payment of his or its share of the common expense in respect to those Units during such period of time that he or it shall have guaranteed that the assessment for common expenses of the Condominium imposed upon the Unit Owners other than the Developer or such person making the guarantee, shall not increase over a stated dollar amount, and obligate himself or itself to pay any amount of common expenses incurred during that period and not produced by the assessments at the guaranteed level received from the Unit Owners, except, that the Developer shall not be obligated to pay such sums for the creation of reserves.

#### 20. SEVERABILITY

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

#### 21. SUCCESSOR TO DEVELOPER'S INTERESTS

For purposes of this Declaration of Condominium, the term "Developer" shall include the person or entity declaring the property to condominium ownership and any person or entity, including the construction mortgagee, who shall succeed to the Developer's interest in title and ownership, whether by purchase, foreclosure or deed in lieu of foreclosure and such successor shall have all of the rights and privileges of the Developer.

#### 22. RULE AGAINST PERPETUITIES

The rule against perpetuities shall not defeat a right given any person or entity by the Declaration of Condominium for the purpose of allowing Unit Owners to retain reasonable control over the use, occupancy and transfer of units.

#### 23. JOINDER AND CONSENTS

A person who joins in or consents to the execution of this Declaration of Condominium subjects his interest in the condominium property to the provisions of the Declaration.

#### 24. ENFORCEABILITY

All provisions of this Declaration of Condominium are enforceable equitable servitudes, run with the land and are effective until the Condominium is terminated.

#### 25. PARTITION

The undivided share and the Common Elements which is appurtenant to a Unit shall not be separated from it and shall pass with the title to the Unit, whether or not separately described; the share and the Common Elements appurtenant to a Unit cannot be conveyed or encumbered except together with the Units; shares and the Common Elements appurtenant to Units are undivided, and no action for Partition of the Common Elements shall lie.

#### 26. RESIDENTIAL RECREATION AREA

The Residential Recreation Area is defined on Exhibit A of this Declaration and shall be used solely and exclusively for park and recreation purposes for the Unit Owners of SUNSET HARBOUR CONDOMINIUM and said Recreation Area shall run with the land in favor of said Unit Owners and their successors in interest and such use cannot be defeated or eliminated without the prior written consent of the City of Dunedin or its successor.