

0111E

DECLARATION OF CONDOMINIUM, of PEBBLE BEACH VILLAS,
a condominium, Vero Beach, Indian River County, Florida

This Declaration of Condominium, made this 31 day of July, 1975, by H. G. HALL CONSTRUCTION CO., INC., a Tennessee Corporation, hereinafter referred to as the "Developer", for itself, its successors, grantees and assigns.

WHEREAS, the Developer makes the following declarations:

1. PURPOSE. The purpose of this Declaration is to submit the lands described in this instrument and improvements on such lands to the condominium form of ownership and use in the manner provided by Chapter 711, Florida Statutes, hereinafter called the "Condominium Act".

2. NAME. The name by which this condominium is to be identified as "Pebble Beach Villas, a condominium".

3. LAND. The lands owned by Developer, which by this instrument are submitted to the condominium form of ownership are the following described lands lying in the County of Indian River, Florida, to-wit:

Replat of Pebble Beach Villas according to the Plat thereof as recorded with the Clerk of the Circuit Court, in Plat Book 8, Page 93, Public Records of Indian River County, Florida.

4. DEFINITIONS. The terms used in this Declaration and in its exhibits shall have the meanings stated in the condominium act, being Chapter 711, Florida Statutes, and as follows unless the context otherwise requires:

A. Apartment means unit as defined by the Condominium Act.

B. Apartment Owner means unit owner as defined by the Condominium Act.

C. Association means Pebble Beach Villas, Inc., a non-profit corporation organized and existing under the laws of the State of Florida and its successors.

D. Common elements shall include the tangible personal property required for the maintenance and operation of the condominium, even though owned by the Association, as well as the items in the Condominium Act.

E. Common expenses shall include:

1. Expenses of administration, and management of the condominium property;

2. Expenses of maintenance, operation, repair or replacement of common elements:

3. Expenses declared common expenses by provisions of this Declaration or the By-Laws.

4. Any valid charge against the condominium property as a whole.

F. Condominium means all of the condominium property as a whole when the context so permits, as well as the meaning stated in the Condominium Act.

G. Singular, plural, gender. Whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and the use of any gender shall be deemed to include all genders.

H. Utility services as used in the Condominium Act and as construed with reference to this condominium, and as used in the Declaration and By-Laws, shall include but not be limited to electric power, gas, hot and cold water, heating, refrigeration, air conditioning and garbage and sewage disposal.

5. DEVELOPMENT PLAN AND IDENTIFICATION: The condominium is described and established as follows:

A. Survey. A survey of the land showing the improvements on it is attached as Exhibit "A".

B. Plans. The improvements upon the land are to be constructed substantially in accordance with the plans and specifications as set forth in Exhibits "B" and "C" attached hereto and made a part hereof. Each condominium unit is described in said plan and in such a manner that there can be determined therefrom the identification, location, dimensions, and size of such unit as well as the common elements appurtenant thereto. Each condominium unit is identified by number, as shown on the plans attached hereto as Exhibits "B" and "C", and made a part hereof, so that no unit bears the same designation as any other unit.

C. Architect and Engineering Certificates. That said survey, plot plans, together with applicable wording of the Declaration, is a correct representation of the improvements described. That there can be determined therefrom the identification, location, dimensions and size of the common elements, and of each apartment as attached as Exhibit "A-1" and "C-1".

6. AMENDMENT OF PLANS:

A. Alteration of apartment plans. Developer reserves the right to change the interior design and arrangement of all units, and to alter the boundaries between units, as long as the Developer owns the units so altered. No such change shall increase the number of apartments nor alter the boundaries of the common elements without amendment of this Declaration by approval of the Association, apartment owners and owners of mortgages in the manner elsewhere provided. If Developer shall make any changes in units so authorized, such changes shall be reflected by an amendment of this Declaration. If more than one unit is concerned, the Developer shall apportion between the units the shares in the common elements appurtenant to the units concerned.

B. Amendment of Declaration. An amendment of this Declaration reflecting such authorized alteration of apartment plans by Developer need be signed and acknowledged only by the Developer and need not be approved by the Association, apartment owners or lienors or mortgagees of apartments or of the condominium, whether or not elsewhere required for an amendment.

7. EASEMENTS. Each of the following easements is a covenant running with the land of the Condominium, to-wit:

A. Utilities. As may be required for utility services in order to adequately serve the Condominium; provided, however, easements through a unit shall be only according to the plans and specifications for the building containing the unit or as the building is actually constructed, unless approved, in writing, by the unit owner.

B. Traffic. An easement shall exist for pedestrian traffic over, through and across sidewalks, paths, walks, halls, lobbies, elevators, center cores, and other portions of the common elements as may be from time to time intended and designated for such purposes and use; and for vehicular and pedestrian traffic 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 easement shall be for the use and benefit of the unit owners; institutional mortgagees; land owners, unit owners and/or tenants in Pebble Beach Villas, a condominium, and those claiming by, through or under the aforesaid; provided, however, nothing herein shall be construed to give or create in any person the right to park upon any portion of the Condominium property except to the extent that space may be specifically designated and assigned for parking purposes.

C. Access by Private Road. Ingress and egress to the land shall be by private road over the lands described in Exhibits "A" and "B". Said private road shall service and be subject to use by other lands and owners of condominium units and/or land owners all being in Pebble Beach Villas, a condominium, their guests, tenants, invitees, mortgagees and pledgees.

D. Easement for Unintentional and Non-Negligent Encroachments. If a unit shall encroach upon any common element, limited common element, or upon any other unit, by reason of original construction or by the non-purposeful or non-negligent act of the unit owner or Developer, then an easement appurtenant to such encroaching unit to the extent of such encroachment shall exist so long as such encroachment shall exist. If any common element or limited common element shall encroach upon any unit by reason of original construction or the non-purposeful or non-negligent act of the Association or the Developer, then an easement appurtenant to such common element or limited common element to the extent of such encroachment shall exist so long as such encroachment shall exist.

8. IMPROVEMENTS - GENERAL DESCRIPTION.

A. Apartment Building. The condominium includes eight (8) apartment buildings consisting of two floors as described in Exhibit "C".

9. APARTMENT BOUNDARIES. Each apartment shall include that part of the building containing the apartment that lies within the boundaries of the apartment, which boundaries are as follows:

A. Upper and lower boundaries. The upper and lower boundaries of the apartment shall be the following boundaries extended to an intersection with the perimetrical boundaries:

1. Upper boundary - the horizontal plane of the lower surfaces of the ceiling slab;

2. Lower boundary - the horizontal plane of the lower surfaces of the floor slab;

B. Perimetrical boundaries. The perimetrical boundaries of the apartment shall be the following boundaries extended to an intersection with the upper and lower boundaries:

1. Exterior building walls - the intersecting vertical planes adjacent to and which include the exterior of the outside walls of the apartment building bounding an apartment and fixtures thereon, and when there is attached to the building a balcony, loggia, terrace, canopy, stairway or other portion of the building serving only the apartment being bounded, such boundaries shall be the intersecting vertical planes adjacent to and which include all of such structures and fixtures thereon. In the case of ground floor apartments, such boundaries shall include the terraces serving such apartments.

2. Interior building walls - the vertical planes of the center line of walls bounding an apartment extended to intersections with other perimetrical boundaries with the following exceptions:

a. When walls between apartments are of varying thickness, or about a column or shaft, the plane of the center line of a bounding wall shaft shall be extended to an intersection with the connecting bounding plane without regard to the plane of the center line of an intervening column or shaft.

b. When walls of different thickness abut with a flush side so that their center lines do not intersect, the plane of the center line of the thinner wall shall be extended into the thicker wall for a distance which is one-half the thickness of the thinner wall, and the boundary shall thence run at a right angle to the plane of the center line of the thicker wall.

10. COMMON ELEMENTS. The common elements include the land and all other parts of the condominium not within the apartments, and shall include those items enumerated in Chapter 711, Florida Condominium Act.

11. THE APARTMENTS. The apartments of the condominium are described more particularly and the rights and obligations of their owners established as follows:

A. There are 72 apartments consisting of 8 buildings; Each apartment has an enclosed covered parking garage which is a limited common element. The apartments are numbered as follows:

Villa A:	A1 - A10
Villa B:	B11 - B20
Villa C:	C21 - C30
Villa D:	D31 - D40
Villa E:	E41 - E50
Villa F:	F61 - F70
Villa G:	G51 - G60
Villa H:	H71 - H72

B. Each of the apartments shall be as reflected in the attachments hereto. Typical apartment plans are attached hereto and made a part hereof as Exhibit "C".

12. OWNERSHIP OF COMMON ELEMENTS. The owner of each unit shall own a share and certain interests in the condominium property which are appurtenant to his unit, which include, but are not limited to, the following items which are appurtenant to the several units, as indicated:

A. Automobile Parking Spaces - As each condominium unit is purchased, the Developer shall assign to said unit a parking space and the said unit member shall thereafter be marked and identified on said parking space. Once said parking space is assigned by the Developer, then said parking space shall be deemed as an appurtenance to said condominium unit to which it was assigned, and such parking space may not thereafter be separately conveyed, hypothecated, transferred, encumbered or otherwise dealt with, and title thereto shall pass only with title to the unit to which it is appurtenant. Neither the Association nor any party shall change a parking space once same has been attributed to a unit unless the unit owner affected consents to said change in writing.

B. Common Elements - The undivided shares, stated as percentages, in the common elements appurtenant to each of the condominium units is set forth on the schedule attached hereto and made a part hereof by reference as Exhibit "D".

C. Association - The membership in the Association and the interest in the funds and assets held by the Association.

D. Common Surplus - Each unit owner shall own any common surplus of his condominium in the same percentage as the common expenses appurtenant to each unit are shares as set forth in Exhibit "D". However, this ownership does not include the right to withdraw or require payment or distribution of the same, inasmuch as common surplus shall constitute advance payment of estimated monthly maintenance and shall be applied in reduction thereof for the next ensuing monthly maintenance payments during the fiscal year. Any reduction as aforementioned shall be allocated over the next succeeding fiscal year.

13. LIABILITY FOR COMMON EXPENSES. Each apartment owner shall be liable for a proportionate share of the common expenses, such share being the same as the undivided share in the common elements appurtenant to his apartment.

14. MAINTENANCE, ALTERATION AND IMPROVEMENT. Responsibility for the maintenance of the condominium property, and restrictions upon its alteration and improvement shall be as follows:

A. Apartments.

1. By the Association. The Association shall maintain repair and replace at the Associations' expense:

a. All portions of an apartment, except interior surfaces, contributing to the support of the apartment building, which portions shall include but not be limited to load-bearing columns and load-bearing walls.

b. All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services contained in the portions of an apartment maintained by the Association; and all such facilities contained within an apartment that service part or parts of the condominium other than the apartment within which contained; and

c. All incidental damage caused to an apartment by such work shall be repaired promptly at the expense of the Association.

2. By the apartment owner. The responsibility of the apartment owner shall be as follows:

a. To maintain, repair and replace at his expense all portions of his apartment except the portions to be maintained, repaired and replaced by the Association. Such shall be done without disturbing the rights of other apartment owners.

b. Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the apartment building.

c. To promptly report to the Association any defect or need for repairs for which the Association is responsible.

3. Alteration and improvement. Except as elsewhere reserved to Developer, neither an apartment owner or the Association shall make any alteration in the portions of an apartment or apartment building that are to be maintained by the Association, or remove any portion of such, or make any additions to them, or do anything that would jeopardize the safety or soundness of the apartment building, or impair any easement, without first obtaining approval in writing of owners of all apartments in which such work is to be done and the

approval of the board of directors of the Association. A copy of plans for all such work prepared by an architect licensed to practice in this State shall be filed with the Association prior to the start of the work.

B. Common elements.

1. By the Association. The maintenance and operation of the common elements shall be the responsibility of the Association and a common expense.

2. Alteration and improvement. After the completion of the improvements included in the common elements 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 75% of the common elements except as provided by the By-Laws. Any such alteration, or improvement, shall not interfere with the rights of any apartment owners without their consent. There shall be no change in the shares and rights of an apartment owner in the common elements altered or further improved, whether or not the apartment owner contributes to the cost of such alteration or improvements.

15. ASSESSMENTS. The making and collection of assessments against apartment owners for common expenses shall be pursuant to the By-Laws and subject to the following provisions:

A. Share of common expense. Each apartment owner shall be liable for a proportionate share of the common expenses, and shall share in the common surplus, such shares being the same as the undivided share in the common elements appurtenant to the apartment owned by him.

B. Interest; application of payments. Assessments and installments on such assessments paid on or before ten days after the date when due shall not bear interest, but all sums not paid on or before ten days after the date when due shall bear interest at the rate of ten percent (10%) per annum from the date when due until paid. All payments upon account shall be first applied to interest and then to the assessment payment first due.

C. Lien for assessments. The lien for unpaid assessments shall also secure reasonable attorneys' fees incurred by the Association incident to the collection of such assessment or enforcement of such lien.

D. Rental pending foreclosure. In any foreclosure of a lien for assessments the owner of the apartment subject to the lien shall be required to pay a reasonable rental for the apartment, and the Association shall be entitled to the appointment of a receiver to collect the same.

16. ASSOCIATION. The operation of the condominium shall be by Pebble Beach Villas, Inc., a corporation not for profit under the laws of the State of Florida, which shall fulfill its functions pursuant to the following provisions:

A. Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached as Exhibit "E".

B. The By-Laws of the Association shall be the By-Laws of the condominium, a copy of which is attached as Exhibit "F".

C. Limitation upon liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable to apartment owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other owners or persons.

D. Restraint upon assignment of shares in assets. The shares of members in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his apartment.

E. Approval or disapproval of matters. Whenever the decision of an apartment owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of record owners is specifically required by this Declaration.

17. INSURANCE. The insurance other than title insurance that shall be carried upon the condominium property and the property of the apartment owners shall be governed by the following provisions:

A. 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 apartment owners, without naming them, and as agents for their mortgagees. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of apartment owners. Such policies shall provide that payments by the insurer for losses shall be made to the Insurance Trustee designated below, and all policies and their endorsements shall be deposited with the Insurance Trustee. Apartment owners may obtain coverage at their own expense upon their personal property and for their personal liability and living expense.

B. Coverage

1. Casualty. All buildings and improvements upon the land shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, and all personal property included in the common elements shall be insured for its value, all as determined annually by the board of directors of the Association. Such coverage shall afford protection against:

a. Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and

b. 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 and malicious mischief.

2. Public liability 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 automobiles and nonowned automobile coverages, and with cross liability endorsement to cover liabilities of the apartment owners as a group to an apartment owner.

3. Workmen's compensation policy to meet the requirements of law.

4. Such other insurance as the board of directors of the Association shall determine from time to time to be desirable.

C. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.

D. Insurance trustee; shares of proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the apartment owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to First Citrus Bank of Indian River County as Trustee, or to such bank in Florida with trust powers as may be designated as Insurance Trustee by the board of directors of the Association, which trustee is referred to in this instrument as the "Insurance Trustee". The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this instrument and for the benefit of the apartment owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee:

1. Common elements. Proceeds on account of damage to common elements - an undivided share for each apartment owner, such share being the same as the undivided share in the common elements appurtenant to his apartment.

2. Apartments. Proceeds on account of damage to apartments shall be held in the following undivided shares:

a. When the building is to be restored - for the owners of damaged apartments in proportion to the cost of repairing the damage suffered by each apartment owner, which cost shall be determined by the Association.

b. When the apartment is not to be restored -
An undivided share for each apartment owner, such share being the same as the undivided share in the common elements appurtenant to his apartment.

3. Mortgagees. In the event a mortgagee endorsement has been issued to an apartment, the share of the apartment owner shall be held in trust for the mortgagee and the apartment owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions of such proceeds made to the apartment owner and mortgagee pursuant to the provisions of this Declaration.

E. 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:

1. Expense of the trust. All expenses of the Insurance Trustee shall be paid first or provisions made for such payment.

2. Reconstruction or repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost of such as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgagee.

3. Failure to reconstruct or repair. If it is determined in the manner elsewhere provided that the damage for which proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgagee.

4. Certificate. In making distribution to apartment 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 apartment owners and their respective shares of the distribution.

F. Association as agent. The Association is irrevocably appointed agent for each apartment owner and for each owner of a mortgage or other lien upon an apartment and for each owner of any other interest in the condominium property to adjust claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

18. RECONSTRUCTION OR REPAIR AFTER CASUALTY.

A. Determination to reconstruct or repair. If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

1. Common element. If the damaged improvement is a common element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium shall be terminated.

2. Apartment Building.

a. Lesser damage. If the damaged improvement is the apartment building, and if apartments to which 50% of the common elements are appurtenant are found by the board of directors of the Association to be tenantable, the damaged property shall be reconstructed or repaired unless within 60 days after the casualty it is determined by agreement in the manner elsewhere provided that the condominium shall be terminated.

b. Major damage. If the damaged improvement is the apartment building, and if apartments to which more than 50% of the common elements are appurtenant are found by board of directors to be not tenantable, then the damaged property will not be reconstructed or repaired and the condominium will be terminated without agreement as elsewhere provided, unless within 60 days after the casualty the owners of 75% of the common elements agree in writing to such reconstruction or repair.

3. Certificate. The Insurance Trustee may rely upon a certificate of the Association made by its president and secretary to determine whether or not the damaged property is to be reconstructed or repaired.

B. Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, portions of which are attached as exhibits; or if not, then according to plans and specifications approved by the board of directors of the Association, and if the damaged property is the apartment building by the owners of not less than 75% of the common elements, including the owners of all damaged apartments, which approval shall not be unreasonably withheld.

C. Responsibility. If the damage is only to those parts of one apartment for which the responsibility of maintenance and repair is that of the apartment owner, then the apartment owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association.

D. Estimates of costs. 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.

E. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction or repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, assessments shall be made against the apartment owners who own damaged apartments, and against all apartment owners in the case of damage to common elements, in sufficient amounts to provide funds for the payment of such costs. Such assessments against apartment owners for damage to apartments shall be in proportion to the cost of reconstruction and repair of their respective apartments. Such assessments on account of damage to common elements shall be in proportion to the owner's share in the common elements.

F. Construction funds. The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from assessments against apartment owners, shall be disbursed in payment of such costs in the following manner:

1. Association. If the total of assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair that is the responsibility of the Association is more than \$5,000.00 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.

2. Insurance Trustee. The proceeds of insurance collected on account of a casualty, and the sums deposited with the Insurance Trustee by the Association from collections of assessments against apartment 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:

- a. Association - lesser damage. If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is less than \$5,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request to the Insurance Trustee by 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 provided for the reconstruction and repair of major damage.

b. Association - major damage. If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is more than \$5,000.00, then the construction fund shall be disbursed in payment of such costs in the manner required by the board of directors of the Association and upon approval by an architect qualified to practice in Florida and employed by the Association to supervise the work.

c. Apartment owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with an apartment owner shall be paid by the Insurance Trustee to an apartment owner, or if there is a mortgagee endorsement as to the apartment, then to the apartment owner and the mortgagee jointly, who may use such proceeds as they may be advised.

d. Surplus. It shall be presumed that the first moneys disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a reconstruction 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 in the manner elsewhere stated; except, however, that the part of a distribution to a beneficial owner that is not in excess of assessments paid by such owner, into the construction fund shall not be made payable to any mortgagee.

e. Certificate. Notwithstanding the provisions of this instrument, the Insurance Trustee shall not be required to determine whether or not sums paid by the apartment 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 upon 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 that 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 as payee, the Insurance Trustee shall also name the mortgagee as a payee of any distribution of insurance proceeds to a unit owner; and further 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 upon disbursements in payment of costs of reconstruction and repair.

19. USE RESTRICTIONS. The use of the condominium property shall be in accordance with the following provisions as long as the condominium exists and the apartment building in useful condition exists upon the land.

A. Apartments. Each of the apartments shall be occupied only by a family, its servants and guests, as a residence and for no other purpose. Except as reserved to Developer, no apartment may be divided or subdivided into a smaller unit nor any portion sold or otherwise transferred without first amending this Declaration to show the changes in the apartments to be effected.

B. Common elements. The 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 apartments.

C. Nuisances. No nuisances shall be allowed upon the condominium property, 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 or refuse, or garbage allowed to accumulate nor any fire hazard allowed to exist. No apartment owner shall permit any use of his apartment or make any use of the common elements that will increase the cost of insurance upon the condominium property.

D. Lawful use. No immoral, improper, offensive, or unlawful use shall be made of the condominium property nor any part of it; 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 shall be the same as the responsibility for the maintenance and repair of the property concerned. No animals shall be allowed which have a weight in excess of 25 pounds.

E. Leasing. After approval by the Association elsewhere required, entire apartments may be rented provided the occupancy is only by the lessee and his family, its servants and guests. No rooms may be rented, and no transient tenants may be accommodated.

F. Regulations. Reasonable 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. Copies of such regulations and amendments shall be furnished by the Association to all apartment owners and residents of the condominium upon request.

G. Proviso. Provided, however, that until Developer has completed all of the contemplated improvements and closed the sales of all of the apartments neither the apartment 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 apartments. Developer may make such use of the unsold units 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, and leasing unsold apartments for a period not to exceed two (2) years from the recording of this Declaration.

20. MAINTENANCE OF COMMUNITY INTERESTS. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the apartments, the transfer of apartments by any owner other than the Developer shall be subject to the following provisions as long as the condominium exists and the apartment building in useful condition exists upon the land, which provisions each apartment owner covenants to observe:

A. Transfer subject to approval.

1. Sale. No apartment owner may dispose of an apartment or any interest in an apartment by sale without approval of the Association except to an apartment owner.

2. Lease. No apartment owner may dispose of an apartment or any interest in an apartment by lease without approval of the Association except to an apartment owner.

3. Gift. If any apartment owner shall acquire his title by gift, the continuance of his ownership of his apartment shall be subject to the approval of the Association.

4. Devise or inheritance. If any apartment owner shall acquire his title by devise or inheritance, the continuance of his ownership of his apartment shall be subject to the approval of the Association.

5. Other transfers. If any apartment owner shall acquire his title by any manner not considered in the foregoing subsections, the continuance of his ownership of his apartment shall be subject to the approval of the Association.

B. Approval by Association. The approval of the Association that is required for the transfer of ownership of apartments shall be obtained in the following manner:

1. Notice to Association.

a. Sale. An apartment owner intending to make a bona fide sale of his apartment or any interest in it 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 apartment owner's option may include a demand by the apartment owner that the Association furnish a purchaser of his apartment 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.

b. Lease. An apartment owner intending to make a bona fide lease of his apartment or any interest in it 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.

c. Gift; devise or inheritance; other transfers. An apartment owner who has obtained his title by gift, devise or inheritance, or by any other manner not previously considered, shall give to the Association notice of the acquiring of his title, together with such other information concerning the apartment owner as the Association may reasonably require, and a certified copy of the instrument evidencing the Owner's title.

d. 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 an apartment, the Association at its election and without notice may approve or disapprove the transaction or ownership. If the Association disapproves the transaction or ownership, the Association shall proceed as if it had received the required notice on the date of such disapproval.

2. Certificate of approval.

a. Sale. If the proposed transaction is a sale, then within 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 stated in a certificate executed by the president and secretary of the Association, which shall be recorded in the public records of Indian River County, Florida at the expense of the purchaser.

b. Lease. If the proposed transaction is a lease, then within 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 stated in a certificate executed by the president and secretary of the Association in recordable form, which, at the election of the Association, shall be delivered to the lessee or shall be recorded in the public records of Indian River County, Florida, at the expense of the lessee.

c. Gift; devise or inheritance; other transfers. If the apartment owner giving notice has acquired his title by gift, devise or inheritance or in any other manner, then within 30 days after receipt of such notice and information the Association must either approve or disapprove the continuance of the apartment owner's ownership of his apartment. If approved, the approval shall be stated in a certificate executed by the president and secretary of the Association which shall be recorded in the public records of Indian River County, Florida, at the expense of the apartment owner.

3. Approval of corporate owner or purchaser. Inasmuch as the condominium may be used only for residential purposes and a corporation cannot occupy an apartment for such use, if the apartment owner or purchaser of an apartment is a corporation, the approval of ownership by the corporation may be conditioned by requiring that all persons occupying the apartment be approved by the Association.

C. Disapproval by Association. If the Association shall disapprove a transfer or ownership of an apartment, the matter shall be disposed in the following manner:

1. Sale. If the proposed transaction is a sale and if

the notice of sale given by the apartment owner shall so demand, then within 30 days after receipt of such notice and information the Association shall deliver or mail by registered mail to the apartment owner an agreement to purchase the apartment concerned by a purchaser approved by the Association who will purchase and to whom the apartment owner must sell the apartment upon the following terms:

a. At the option of the purchaser to be stated in the agreement, the price to be paid shall be that stated in the disapproved contract to sell or shall be the fair market value 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 apartment; 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.

b. The purchase price shall be paid in cash.

c. The sale shall be closed within 30 days after the delivery or mailing of the agreement to purchase, or within 10 days after the determination of the sale price if such is by arbitration, whichever is later.

d. A certificate of the Association executed by its president and secretary and approving the purchaser shall be recorded in the public records of Indian River County, Florida, at the expense of the purchaser.

e. If the Association shall fail to provide a purchaser upon the demand of the apartment owner in the manner provided, or a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded in the public records of Indian River County, Florida, at the expense of the purchaser.

2. Lease. If the proposed transaction is a lease, the apartment owner shall be advised of the disapproval in writing, and the lease shall not be made.

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

a. The sale price shall be the fair market value determined by agreement between the seller and purchaser within 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 apartment; 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.

b. The purchase price shall be paid in cash.

c. The sale shall be closed within ten (10) days following the determination of the sale price.

d. A certificate of the Association executed by its president and secretary and approving the purchaser shall be recorded in the public records of Indian River County, Florida, at the expense of the purchaser.

e. 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 as elsewhere provided, which shall be recorded in the public records of Indian River County, Florida, at the expense of the apartment owner.

D. Mortgage. No apartment owner may mortgage his apartment nor any interest in it without the approval of the Association except to a bank, life insurance company or a savings and loan association, or to a vendor 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.

E. Exceptions. The foregoing section establishing maintenance of community interests, shall not apply to a purchaser who acquired the title to an apartment at a duly advertised public sale with open public bidding provided by law.

F. Unauthorized transactions. Any sale, mortgage or lease not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

21. COMPLIANCE AND DEFAULT. Each apartment owner shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation and By-Laws and the Regulations adopted pursuant to those documents, and all of such as they may be amended from time to time. Failure of an apartment owner to comply with such documents and regulations shall entitle the Association or other apartment owners to the following relief in addition to the remedies provided by the Condominium Act:

A. Negligence. An apartment owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by 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. An apartment owner shall pay the Association the amount of any increase in its insurance premiums occasioned by use, misuse, occupancy or abandonment of an apartment or its appurtenances, or of the common elements, by the apartment owner.

B. Costs and attorneys' fees. In a proceeding arising because of an alleged failure of an apartment owner or the Association to comply with the terms of the Declaration, Articles of Incorporation of the Association, the By-Laws, or the 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 such reasonable attorneys' fees as may be awarded by the Court.

C. No waiver of rights. The failure of the Association or any apartment owner to enforce any covenants, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation of the Association, By-Laws, or the Regulations shall not constitute a waiver of the right to do so thereafter.

22. AMENDMENTS. Except as elsewhere provided otherwise, this Declaration of Condominium may be amended in the following manner:

A. 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 considered.

B. A resolution for the adoption of a proposed amendment may be proposed by either the board of directors of the Association or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approval must be either by:

1. Not less than 75% of the entire membership of the board of directors and by not less than 75% of the votes of the entire membership of the Association; or
2. Not less than 80% of the votes of the entire membership of the Association; or
3. Until the first election of directors, only by all of the directors, provided the amendment does not increase the number of apartments nor alter the boundaries of the common elements.

C. Proviso. Provided, however, that no amendment shall discriminate against any apartment owner nor against any apartment or class or group of apartments, unless the apartment owners so affected shall consent; and no amendment shall change any apartment nor the share in the common elements appurtenant to it, nor increase the owner's share of the common expenses, unless the record owner of the apartment concerned and all record owners of mortgages on such apartment

shall join in the execution of the amendment. 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 the condominium shall join in the execution of the amendment.

D. Execution and recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with the formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded in the public records of Indian River County, Florida.

23. **TERMINATION.** The condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act:

A. Destruction. If it is determined in the manner elsewhere provided that the apartment building shall not be reconstructed because of major damage, the condominium plan of ownership will be terminated without agreement.

B. Agreement. The condominium may be terminated at any time by the approval in writing of all record owners of apartments and all record owners of mortgages on apartments. If the proposed termination is submitted to a meeting of the members of the Association, the notice of the meeting giving notice of the proposed termination, and if the approval of the owners of not less than 75% of the common elements, and of the record owners of all mortgages upon the apartments, are obtained in writing not later than 30 days from the date of such meeting, then the approving owners shall have an option to buy all of the apartments of the owners for the period ending on the 60th day from the date of such meeting. Such approvals shall be irrevocable until the expiration of the option, and if the option is exercised, the approvals shall be irrevocable. The option shall be upon the following terms:

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

2. Price. The sale price for each apartment shall be the fair market value determined by agreement between the seller and purchaser within 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, except that the arbitrators shall be two appraisers appointed by the American Arbitration