

279014

DECLARATION OF CONDOMINIUM

CALEDON SHORES CONDOMINIUM

I.

SUBMISSION STATEMENT

SERVANTES LIMITED, A CORPORATION, a British Virgin Islands corporation qualified and authorized to do business in the State of Florida, the Developer of CALEDON SHORES CONDOMINIUM and the owner and holder of the fee simple title in and to the real property hereafter described in Article III hereof entitled "LAND", hereby submits the same to condominium ownership pursuant to Chapter 718, Florida Statutes, The Condominium Act, upon terms and conditions, restrictions, reservations and limitations hereinafter set forth. Except where variances permitted by law appear in this Declaration or in the attached By-Laws or in lawful amendments to either of them, the provisions of The Condominium Act as presently constituted, including the definitions therein contained are adopted and included herein by express reference.

II.

NAME

The name by which this Condominium is to be known and identified is

CALEDON SHORES CONDOMINIUM

III.

LAND.

The legal description of the real property included in the Condominium and submitted herewith to Condominium Ownership is:

Lot 1, 2, 3, and 4, I.D. JANDREAU SUBDIVISION, lying East of the East right-of-way of State Road A-1-A, according to the Plat filed in the office of the Clerk of the Circuit Court of St. Lucie County, Florida, in Plat Book 3 at Page 41; said lands now lying and being in Indian River County, Florida.

SUBJECT TO: Easements, restrictions, reservations, covenants, limitations and conditions of record.

IV.

IDENTIFICATION OF UNITS

The Condominium Property consists of the land described in Article III hereof and all easements and rights appurtenant thereto, together with the buildings and other improvements constructed thereon, which includes the units, common elements and limited common elements. In addition, the Condominium Property shall include as common elements and/or to be treated as common elements any interest in real property acquired by the Condominium Association in accordance with the provisions of Article XXIV entitled "RECREATIONAL FACILITIES" herein contained. The principal improvements on the real property submitted herewith to condominium ownership consists of one (1) apartment building, which contains a total of fifty-three (53) apartments which are condominium units subject to private ownership.

This instrument prepared by:
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The Apartment Building consists of five (5) stories plus a basement which are designated on the Condominium Plan (Exhibit No. 1 hereto) as the Basement, First Floor or Ground Floor, Second Floor, Third Floor, Fourth Floor and Fifth Floor. There are five (5) apartments on the first (ground) floor, floor, and twelve (12) apartments on Floors Second through Fifth inclusive. The Apartment Building apartment units, each of which is declared to be a condominium unit and subject to private ownership, are designated by three-digit identifying numbers. The first digit identifies the floor upon which the apartment is located, to-wit, "1" corresponds to the First Floor, "2" to the Second Floor, etc. The next two digits, -01 through -12 identify the specific and particular apartment. There are no apartments (units) numbered 102, 107, 108, 109, 110, 111 nor 112.

The apartments contain, in addition to other living areas contained within the boundaries of the apartment (unit) as described on the Condominium Plan, the following:

UNITS 104, 204, 304, 404 and 504;

210, 310, 410, and 510;

211, 311, 411 and 511 each contain three (3) bedrooms and three (3) bathrooms;

UNIT 101 is a special unit which is sometimes herein referred to as the "Penthouse" and which has sufficient area to contain approximately five (5) bedrooms and four (4) bathrooms; however its exact interior design will be tailored to the requirements of its first owner (see Article XVIII herein).

All other units contain two (2) bedrooms and two (2) bathrooms.

The balconies, terraces or porches abutting each apartment unit are limited common elements appurtenant to those units which they abut, the use of which is restricted to the units to which they are appurtenant. Maintenance and upkeep of each balcony, terrace or porch shall be the exclusive responsibility of the owner or owners of the unit to which that balcony, terrace or porch is appurtenant. The areas, rooms and spaces which are not within the boundaries of the condominium apartment unit are common elements or limited common elements and shall be used, occupied, dealt with and managed as provided for in The Condominium Act and hereafter in this Declaration of Condominium.

All parking facilities for apartment owners are located in parking fields adjacent to the Building and in the basement and shall be assigned in accordance with the provisions hereafter contained in this Declaration of Condominium.

The storage closets or lockers located off the stairs and elevator lobby on each floor each bears the number of the unit to which it is appurtenant as a limited common element.

A. Each numbered unit (apartment) shall have as its boundary lines the interior unpainted finished surfaces of the ceiling, floor and perimeter walls. All bearing walls located within a unit (apartment) constitute part of the common elements up to the unpainted finished surface of said walls.

B. The boundary lines of each apartment terrace, balcony or porch are the interior vertical surfaces thereof and the exterior unpainted unfinished surface of the perimeter balustrade or railing abutting the porch, terrace or balcony or, if said terrace, balcony or porch is enclosed, the exterior unfinished surface of the perimeter wall; and the interior finished surfaces of the floor and ceiling of said porch.

C. Each condominium parcel includes the undivided interest of each unit (apartment) owner in and to the common elements, it being understood that all conduits and wires up to their outlets and all other utility lines and pipes up to their outlets, regardless of location, constitute parts of the common elements. Each condominium parcel includes the condominium unit together with the undivided share in the common elements which is appurtenant to that unit and the interest of each unit in any limited common elements appurtenant to that unit such as balconies, terraces, porches and parking spaces.

V.

SURVEY, PLOT PLAN AND GRAPHIC DESCRIPTION OF IMPROVEMENTS

A. There is attached hereto as an exhibit and made a part hereof and recorded simultaneously herewith, a Survey, Plot Plan and Graphic Description of Improvements mentioned above, showing the apartments, common elements and limited common elements, their location and approximate dimensions in sufficient detail to identify them, and said Survey, Plot Plan and Graphic Description of Improvements and the notes and legends appearing thereon are made a part hereof and shall be deemed and identified as Exhibit #1 to this Declaration. Said Exhibit #1 has been certified to and in the manner required by Section 718.104(4)(e), Florida Statutes, The Condominium Act.

B. Limited common elements shall include the storage closets or lockers, balconies, porches, terraces and parking spaces. The parking spaces which are numbered P-1 through P-109, inclusive, are located in parking fields adjacent to the Apartment Building and in the basement. One parking space will be assigned to each apartment as a limited common element thereto in the manner hereinafter provided. Subsequent to the recording of the Declaration of Condominium the Developer or the Condominium Association may assign the parking spaces in this Condominium to the various units and may record among the Public Records of Indian River, Florida, as such assignments are made, an instrument executed with the formalities of a deed designating the assignment of said parking spaces to the condominium apartment or apartments to which such parking spaces shall thereafter be appurtenant as limited common elements. From and after the recording of such designation such parking space or spaces shall constitute a limited common element to the unit to which they are appurtenant and may not thereafter be removed as a limited common element appurtenant to said apartment or apartments without the written consent of the owner of the apartment or apartments to which they are appurtenant. The Developer and the Condominium Association in assigning from time to time the various parking spaces to or for each condominium apartment shall nevertheless be required to assign or reserve until assigning one (1) parking space to or for each 2-bedroom condominium apartment in the Condominium and two (2) parking spaces for each 3-bedroom and larger condominium apartment in the Condominium. Combined apartments (apartments composed of more than one condominium apartment as elsewhere mentioned or provided for in this Declaration) shall be entitled to the total number of parking spaces as they would be entitled to if such apartments were not combined. Any parking space not assigned as a limited common element shall, during the period when they are not assigned, be deemed common elements. Providing that each apartment shall have assigned to it the required number of parking spaces, the remaining parking spaces may be designated by the Condominium Association as common elements of the Condominium not appurtenant to any specific unit by an instrument in writing and recorded, and such parking spaces shall thereafter be subject to such use as the Condominium Association shall from time to time direct and may be made available for guest parking. Parking spaces so designated common elements by the Association may with the approval of a majority of the whole number of apartment owners be designated by the Association as limited common elements to one or more apartments, providing that such designation is executed with the formalities required of deeds by the authorized officers of the Condominium Association and sets forth that the approval of a majority of the whole number of apartment owners to such designation was obtained at a meeting of apartment owners (members of the Condominium Association) called at least in part for the purpose or obtained in writing and on file with the Condominium Association, either of which procedure shall be valid for the purposes herein mentioned. From and after the recording of such designation among the Public Records of Indian River County, Florida, the subject parking spaces shall become limited common elements to the apartments to which they have been so assigned to the same effect and with the same results as if such designation had been made herein. In lieu of the procedure set forth hereinabove for the designation of parking spaces as limited common elements, the Developer and/or the Condominium Association may assign specific parking spaces (the required number per apartment) to the apartments without recording such assignment and in such case the use of such parking spaces shall be restricted to the apartment owner or owners to which the space is so assigned.

In any case, each condominium apartment shall have assigned or attributable to it not less than the number of parking spaces as specified in the foregoing provision.

C. During such time as the Developer shall own any apartments in the Condominium and shall not have designated in respect of such apartments the required number of parking spaces, the Developer shall control and have the right in lieu of the Condominium Association to make all designations of parking. Until the Developer shall, in whole or in part, relinquish the right to designate the parking spaces or until the Developer has designated with respect to all unsold apartments retained by the Developer or owned by the Developer (or Developer's successor as Developer) the required number of parking spaces, then the Condominium Association shall not exercise the rights and authorities herein granted to the Condominium Association in respect of parking, but all such rights shall be exclusively exercisable by Developer. The Developer may at any time by an instrument in writing delivered to the Condominium Association relinquish in whole or in part any of its rights herein relative to the designation of parking spaces. The Developer may relinquish the right to designate certain numbered spaces as limited common elements for the apartments.

D. Developer has reserved to itself the right to sell excess parking spaces which are not assigned in accordance with the specific requirements noted in Paragraph B above.

VI.

UNDIVIDED SHARES IN THE COMMON ELEMENTS
AND SHARE IN THE COMMON EXPENSES AND COMMON
SURPLUS APPURTENANT TO EACH APARTMENT

- A. Each apartment shall have as an appurtenance thereto an undivided share in the common elements as set forth in the Schedule contained in Exhibit #2 attached hereto and made a part hereof.
- B. The common expenses shall be borne by the condominium apartment owners and the said apartment owners shall share in the common surplus in the proportions set forth in the Schedule contained in Exhibit #2 attached hereto and made a part hereof.
- C. In the event of termination of the Condominium Regime, the Condominium Property shall be owned in common by the unit owners in accordance with the provisions contained in Paragraph M of Article XXX entitled "SHARES OF OWNERSHIP ON TERMINATION" and as contained in Exhibit #5 hereto.

VII.

CONDOMINIUM ASSOCIATION

The Association responsible for the operation of this Condominium is CALIFORNIA SHORES CONDOMINIUM ASSOCIATION, INC., a Florida corporation, not-for-profit. The Association shall have all the powers, rights and duties set forth in this Declaration, the By-Laws and the rules and regulations enacted pursuant to such By-Laws. The Association is sometimes herein referred to as the Condominium Association, the Association or the Corporation. A copy of the Articles of Incorporation of the Association are appended hereto as Exhibit #4. Amendments to the Articles of Incorporation shall be valid when adopted in accordance with their provisions and filed with the Secretary of State or as otherwise required by Chapter 617, Florida Statutes, as amended from time to time. Article X of this Declaration regarding amendments to this Declaration shall not pertain to amendments to the Articles of Incorporation, the recording of which shall not be required among the Public Records to be effective, unless such recording is otherwise required by law. No amendment to the Articles shall, however, change any condominium parcel nor the share of common elements, common expenses or common surplus attributable to a parcel nor the voting rights appurtenant to a parcel unless the record owner or owners thereof and all record owners of liens upon such parcel or parcels shall join in the execution of such amendment.

VIII.

BY-LAWS

The operation of the Condominium Property shall be governed by the By-Laws of the Condominium Association which are annexed hereto as Exhibit #3 and made a part hereof. The By-Laws may be amended in the same manner and with the same vote as required for amendments to this Declaration.

IX.

MEMBERSHIP IN THE CONDOMINIUM ASSOCIATION
AND VOTING RIGHTS OF UNIT OWNERS

Every owner of a condominium apartment, whether he has acquired title by purchase from the Developer, the Developer's grantee, successor or assigns, or by gift, conveyance or by operation of law, is bound to and hereby agrees that he shall accept membership in the Condominium Association described in Article VII hereinabove and does hereby agree to be bound by this Declaration, the By-Laws of the Condominium Association and the rules and regulations enacted pursuant thereto and the provisions and requirements of The Condominium Act and of the lawful amendments thereto. Membership is automatic upon acquisition of ownership of a condominium apartment and may not be transferred apart and separate from a transfer of the ownership of the apartment. Membership shall likewise automatically terminate upon sale or transfer of the apartment, whether voluntary or involuntary.

The owner of every condominium apartment shall accept ownership of said apartment subject to restrictions, easements, reservations, conditions and limitations now of record and affecting the land and improvements constituting the Condominium Property.

Subject to the provisions and restrictions set forth in the By-Laws of the Condominium Association, each apartment owner is entitled to one (1) vote in the Condominium Association for each apartment owned by him, except that in accordance with the provisions of Paragraph C of Article XVIII, Unit 101 shall be entitled to two (2) votes unless and until it shall be severed into two (2) apartment units, in which case each resulting unit shall have only one (1) vote. Voting rights and qualifications of voters and membership in the Corporation are more fully stated, qualified and determined by the provisions of the Articles of Incorporation and by the By-Laws of the Association (Exhibits #4 and #3 respectively).

X.

AMENDMENT TO DECLARATION

A. Except as elsewhere provided herein, this Declaration may be amended from time to time by resolution adopted at any regular or special meeting of the apartment owners of the Condominium called in accordance with the By-Laws at which a quorum is present, such adoption to be by the affirmative vote of 2/3 of the total number of votes to which the apartment owners present and voting shall be entitled. Such amendment shall be duly recorded in compliance with the requirements of The Condominium Act. No amendment shall change any condominium parcel or the share of the common elements, common expenses or common surplus attributable to any parcel, nor the voting rights appurtenant to any parcel, unless the record owner or owners thereof and all record owners of liens upon such parcel or parcels shall join in the execution of such amendments.

B. The provisions of Paragraph A above notwithstanding, no provisions of this Declaration or of the By-Laws of the Condominium Association which requires to be effective, operational or to be enacted, a vote of the apartment owners greater than that required in Paragraph A above, shall be amended or changed by any amendment to this Declaration or to the By-Laws of the Association insofar as they appertain to said provision or provisions, unless in addition to all other requirements of Paragraph A above being met, said amendment or change shall be approved by a vote of the membership not less than that required by this Declaration or the By-Laws, whichever shall be applicable, to effect such provision or provisions. Furthermore, no amendment or change to this Declaration or to the By-Laws shall be effective to affect or impair the validity or priority of any mortgage encumbering a condominium parcel or parcels without the written consent thereto by all of the mortgagees owning and holding the mortgage or mortgages encumbering the said parcel or parcels, which consent shall be executed with the formalities required for deeds and recorded with the aforesaid amendment.

C. The provisions of Paragraphs A and B to the contrary notwithstanding, if it shall appear that through scrivener's error all of the common expenses or interest in the common surplus or all of the common elements in this Condominium have not been distributed in this Declaration such that the sum total of the shares of common elements which have been distributed or the shares of the common expenses or ownership of common surplus fails to equal 100%; or, if it shall appear that through such error more than 100% of the common elements or common expenses or ownership of the common surplus shall have been distributed; or, if it shall appear that through scriveners' error an apartment has not been designated an appropriate undivided share of the common elements, common expense or common surplus; or, if it appears that there is an omission or error in this Declaration or in any of the Condominium Documents required by Law to establish this Condominium, the Condominium Association may correct the error and/or omission by an amendment to this Declaration and/or the other Documents by simple resolution of the Board of Directors of the Condominium Association approved by a majority of the whole number of Directors or by a majority vote of the apartment owners voting at a meeting of apartment owners (members of the Association) called at least in part for the purpose, at which a quorum is present. If such an amendment, considered and approved pursuant to this Paragraph, modifies the shares of common expense, common elements or common surplus appurtenant to one or more apartments, then the owners of the apartments and the owners of liens upon the apartments for which changes in the shares of common elements, common expenses or common surplus are being made must consent in writing to such amendment for such amendment to be effective. For the purpose of this Paragraph, no apartment owner's property rights shall be deemed to be materially adversely affected nor shall his share of the common elements, common expense or common surplus be deemed modified for reason of the modification of the shares of common expense, common elements or common surplus appurtenant or attributable to another apartment.

XI.

PURPOSE AND USE RESTRICTIONS

Condominium apartments shall be used and occupied by the respective owners thereof as single-family residences for themselves, their families and social guests and for no other purpose except where specific exceptions are made in this Declaration. In order to provide for a congenial occupation of the Condominium and to provide for the protection of the value of the apartments, the use of the Condominium Property shall be restricted in accordance with the following provisions:

A. The apartments shall be used as single-family residences only. The various rooms on the Ground Floor of the Apartment Building and all rooms and facilities which are not limited common elements appurtenant to one or more condominium apartments may be used for such purposes as shall be lawful and permitted by the Association. The designations of such rooms or spaces by a name such as "Lobby" shall be descriptive of the use to which the space or room may be put but shall not be deemed restrictive of the power of the Condominium Association to vary such use.

B. The common elements shall be used for the furnishing of services and facilities for which they are reasonably intended, for the enjoyment of the apartment owners, and subject to such regulation by rules and By-Laws as may, in the opinion of the Corporation, achieve the maximum beneficial use thereof.

C. The Developer reserves to itself and to the Condominium Association the right to make such rules and restrictions as it deems necessary with regard to the use of the common elements and of the recreational facilities by persons under the age of sixteen (16) years.

D. No nuisance shall be allowed upon the Condominium Property, nor shall any practice be allowed which is a source of annoyance to residents or which will interfere with the peaceful possession and proper use of the Condominium Property by residents.

E. No apartment owner shall permit nor suffer anything to be done or kept in his apartment which will increase the rate of insurance on the Condominium Property.

F. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property nor of any condominium apartment or any part thereof.

G. No "for sale" or "for rent" signs or other signs shall be displayed by any individual unit owner on his condominium parcel or any part of the Condominium Property.

H. Reasonable regulations concerning use of the Condominium Property and especially the common elements and limited common elements may be promulgated by the Condominium Association. Copies of all regulations shall be furnished to all apartment owners.

XII.

CONVEYANCES

In order to assure a community of congenial residents and occupants and protect the value of the apartments and to further the continuous harmonious development of the condominium community, the sale, lease and mortgage of apartments shall be subject to the following provisions which shall be covenants running with the land so long as the Condominium Property shall be subject to the condominium form of ownership under the laws of the State of Florida:

A. In the event of an attempted conveyance in contravention of the directions herein contained, the Condominium Association shall have the right to enforce these provisions by legal proceedings, by injunctive proceedings, or by any legal means calculated to produce compliance.

B. An apartment owner intending to make a bona fide sale or lease of his parcel or any interest therein shall give to the Association a written notice of his intention to sell or to lease, together with the name and address of the intended purchaser or lessee, and such other information as the Association may reasonably require, and the terms of the proposed transaction. The giving of such notice shall constitute a warranty and representation by the apartment owner that he believes the proposal to be bona fide in all respects.

C. No sale, transfer, lease or conveyance of a condominium apartment shall be valid without the approval of the Condominium Association except in the cases elsewhere provided in this Declaration, which approval shall not be unreasonably withheld. Approval shall be in recordable form, signed by an executive officer of the Association and shall be delivered to the purchaser or lessee and made a part of the document of conveyance.

D. Failure of the Association to act in thirty (30) days shall be deemed to constitute approval in which event the Association must on demand prepare and deliver approval in recordable form.

E. The provisions of this ARTICLE XII shall apply to original and all successive sales, leases, transfers, subleases or assignments.

F. No apartment shall sell or lease nor shall approval be given until and unless all assessments past and due are paid or their payment provided for to the satisfaction of the Association and unless the proposed lessee can qualify as to the use restrictions.

G. If an apartment owner shall lease his apartment, he shall remain liable for the performance of all agreements and covenants in the Condominium Documents and shall be liable for the violations by his lessee of any and all use restrictions.

H. Every purchaser or lessee who acquires any interest in a condominium apartment shall acquire the same subject to this Declaration, the provisions of the By-Laws of the Condominium Association and the provisions of The Condominium Act.

I. Should any condominium apartment at any time become subject to a mortgage or similar lien given as security, in good faith and for value, the holder thereof (hereinafter called the "Mortgagee"), upon becoming the owner of such interest through foreclosure of that mortgage or deed in lieu of foreclosure, shall have the unqualified right to sell, lease or otherwise dispose of said apartment, including the fee ownership thereof, without complying with the provisions of Paragraphs C through F above, provided however, that in all other respects the provisions of this Declaration, the By-Laws of the Association and the provisions of The Condominium Act shall be applicable thereto; and provided further that nothing herein contained shall be deemed to allow or cause a severance from the condominium apartment of the share of the common elements and limited common or other appurtenances of said apartment. Once the Mortgagee mentioned above or the purchaser at the foreclosure sale or the grantee of the deed in lieu of foreclosure has sold, transferred or conveyed his fee simple interest to any person whomsoever, the provisions of Paragraph C through F above shall again be fully effective with regard to subsequent sales or conveyances of said apartment.

XIII.

RIGHTS OF HEIRS AND DEVISEES OF DECEASED APARTMENT OWNERS

A. If the owner of a condominium parcel should die and the title to the parcel shall pass to his surviving spouse or to any member of his family regularly in residence with him in the condominium parcel prior to his death, who is over the age of sixteen (16) years, then such successor in title shall fully succeed to the ownership, rights, duties and obligations of the apartment owner, the provisions of ARTICLE XII of this Declaration notwithstanding.

B. If the title to the condominium parcel of such deceased owner shall pass to any person other than a person or persons designated in Paragraph A above, then within ninety (90) days of such person or persons' taking title, occupancy or possession of the parcel of the deceased owner, he shall advise the Association in writing of his intention of residing in the parcel and of his or their current address. The Association shall have thirty (30) days thereafter to advise said person or persons in writing, delivered or mailed to the said current address, whether his or their occupancy and ownership of the parcel is approved. The failure of the Association to give such advice within the said thirty (30) days shall be deemed automatic approval. If the Association does not approve the ownership and/or occupancy of the parcel by said person or persons and so notifies them, said person or persons shall remain in occupancy only until the Association or such other person or persons shall have procured a purchaser acceptable to the Association for said parcel at a fair market value therefor, established by the Association, which value shall be conclusive upon all persons for all purposes unless grossly inadequate or fraudulent. Thereupon, the person or persons having title, possession and/or occupancy of said parcel shall execute such papers and documents as the Association may require to effect the transfer of title, possession and occupancy of the parcel to such purchaser, which purchaser may be the Association.

C. Nothing in this ARTICLE XIII shall be deemed to reduce, forgive or abate any amounts due the Association from the unit owner at the time of his death, nor the assessments attributable to the unit becoming due after the owner's death, all of which shall be fully due and payable as if the apartment owner had not died.

D. Nothing herein shall prevent the sale and transfer of a condominium parcel by the owner thereof in the manner otherwise provided in this Declaration

XIV.

ASSESSMENTS

A. The Condominium Association, through its Board of Directors, shall have the power to make and collect assessments, special assessments and such other assessments as are provided for by The Condominium Act, this Declaration and the By-Laws.

B. Common expenses shall include but not be limited to costs and expenses of operation, maintenance and management, property taxes and assessments against the Condominium Property (until such time as any of such taxes and assessments are made against the Condominium Property (until such thereafter only as to such taxes or assessments, if any, as may be assessed against the Condominium as a whole), insurance premiums for fire, windstorm and extended coverage insurance on the Condominium real property and personal property, premiums for public liability insurance, legal and accounting fees, management fees and operating expenses of the Condominium Property and the Association; maintenance, repairs and replacements (but only as to the common elements and limited common elements, except for emergency repairs or replacements deemed necessary to protect the common elements and properly chargeable to the individual condominium parcel concerned), charges for utility and water used in common for the benefit of the Condominium, cleaning and janitorial services for the common elements and limited common elements, expenses and liabilities incurred by the Association in and about them enforcement of its rights and duties against the members or others, and the creation of reasonable contingency or reserve requirements for the protection of the members and the Condominium Property (i.e., reserve for replacements, operating reserve to cover deficiencies or collections), and all other expenses declared by the Board of Directors of the Association to be common expenses from time to time, and any and all other sums due from the Association under any lease, contract or undertaking for recreational facilities permitted in ARTICLE XXIV hereof.

C. The Association shall estimate from time to time the amount of common expenses it expects to incur and the period of time involved therein and may assess sufficient monies from unit owners to meet this estimate. Assessments for common expenses shall be borne by apartment owners in the portions or shares set forth in ARTICLE VI hereof pertaining thereto. Assessments shall be payable monthly or in such other installments and at such times as may be fixed by the Board of Directors.

D. Should the Association through its Board of Directors at any time determine that the assessments made are not sufficient to pay the common expenses or, in the event of emergencies, the Board of Directors shall have authority to levy and collect additional assessments to meet such needs of the Association.

E. All notices of assessments from the Association to the apartment owners shall designate when they are due and payable. Assessments and installments thereof not paid when due shall bear interest from due date at ten (10%) percent per annum.

F. In the event that assessments levied against any apartment owner or any installments thereof shall remain unpaid for ninety (90) days or more, then so long as such delinquent assessments and/or installments are not received by the Association such unpaid assessments and/or installments shall be deemed to be a common expense of the Association to be paid out of Association reserves or surplus and, in the event said reserves or surplus are exhausted, then by means of a special assessment as the Board of Directors of the Association shall determine. Nothing herein shall be deemed to forgive or abate the obligation of the delinquent apartment owner to pay the amount of such unpaid assessments to the Association or to pay assessments thereafter becoming due.

XV.

LIEN OF THE ASSOCIATION

The Association shall have a lien on each condominium apartment for any unpaid assessment and interest thereon against the apartment owner of each condominium apartment as provided in The Condominium Act. In the event such lien is asserted or claimed, the delinquent apartment owner agrees to pay reasonable attorneys' fees sustained by the Association incident to the collection of such unpaid assessment or the enforcement of such lien and the said lien shall also secure the payment of such attorneys' fees. Said lien shall be effective from and after its recording in accordance with the provisions of The Condominium Act, and shall otherwise be enforceable as provided in The Condominium Act.

XVI.

PROVISIONS RE TAXATION

The Condominium Act provides that property taxes and special assessments shall be assessed against and collected on the condominium parcels and not upon the Condominium Property as a whole. Such taxes, when assessed, shall be paid by each parcel owner in addition to the payment of such parcel owner's share of the common expenses.

However, until such procedure is put into effect and operation by the taxing authorities, it is likely that tax bills may be rendered against the entire Condominium Property, including common elements, limited common elements and the condominium apartments. In such case, the tax will be apportioned against each parcel according to the schedule of ownership of common elements contained in Exhibit No. 2 hereto and otherwise shall be treated as a part of the common expenses of the Condominium Association.

Whenever a tax is assessed against the Condominium Property as a whole instead of against each parcel it shall be treated as a common expense in accordance with the provisions of this ARTICLE XVI.

XVII.

MAINTENANCE AND REPAIRS

A. The owner of each condominium apartment at his own expense shall see to and be responsible for the maintenance of his apartment and all equipment and fixtures therein, including but not limited to all air-conditioning equipment (including compressors for his apartment located within an apartment or on the common elements), and must promptly correct any condition which would, if left uncorrected, cause any damage to another apartment, and shall be responsible for any damages caused by his willful, careless or negligent failure to act. Furthermore, the owner of each apartment shall at his own expense be responsible for the upkeep and maintenance, including but not limited to painting, replastering, sealing and polishing, of the interior finished surfaces of the perimeter walls, ceiling and floor which constitute the boundary lines of the apartment (including its attached balconies); and such owner shall at his own expense maintain and replace when necessary all screening within his apartment and within the perimeter walls of his apartment (including its attached balconies); and all window and plate glass in windows and plate glass in the perimeter walls of the apartment and its attached balconies. The foregoing maintenance and repair obligation notwithstanding, the Condominium Association, in the exercise of its discretion, may require established levels of maintenance and upkeep of the various apartment owners with respect to their balconies and may reasonably regulate and control and make rules relating to the appearance, painting and decorating and utilization of the balconies. The Condominium Association may likewise undertake the painting, maintenance and/or repair of all exterior walls of the Condominium, whether or not falling within a balcony, balustrade or railing, as part of any overall program of maintenance and repair. Apartment owners will be individually responsible for the maintenance of the electrical system and electrical distribution systems within their own apartments from and including the fuse box applicable and servicing and apartment inward; that is to say, in respect of all distributor lines servicing only the apartment and outlets within the apartment. It shall be the responsibility of the Association to maintain the repair the electrical system and distribution lines up to the individual apartment fuse boxes.

B. Except as provided in Paragraph A above and elsewhere in this Declaration, the Association shall be responsible for and see to the maintenance, repair and operation of the common elements and limited common elements of the Condominium. The Association shall have all the power necessary to discharge this responsibility and may exercise these powers exclusively if it so desires, or may delegate them as elsewhere provided for in this Declaration or in the By-Laws of the Association.

XVIII.

ALTERATION OF APARTMENTS

A. No owner of a condominium apartment shall make or cause to be made any structural modifications or alterations in his apartment, or in the water, gas, electrical, plumbing, air-conditioning equipment or utilities therein, without the consent of the Association, which consent may be withheld in the event the Board of Directors determines that such structural alteration or modification would in any manner endanger the building. If the modification or alteration desired by an apartment owner involves the removal of any permanent interior partition, the Association may permit same if the same is not a load bearing partition and if the same does not interfere with any common utility source. No apartment owner shall cause any improvements or changes to be made to the exterior of the building, including but not limited to painting, installation of electric wires, TV antennae or

air-conditioning units which may protrude through the walls or roof of the building, install hanging plants or lights in balconies or exterior walls, or in any other manner change the appearance of the exterior of the building or any portion of the building not totally within the apartment, without consent of the Association. No apartment owner nor any other person shall install upon the roof or exterior of the Apartment Building upon the Condominium Property, or upon the common elements or limited common elements of the Condominium, any TV antennae, radio antennae, electric, electronic or electro-mechanical device, decorative item or affixed furnishing without the consent of the Association.

B. Provisions of Paragraph A to the contrary notwithstanding, with the permission of the Condominium Association or of the developer, abutting condominium apartments may be physically combined into a single dwelling, but they shall nevertheless, for all other pertinent purposes including but not limited to assessments, attribution of common elements and voting, be deemed separate apartments. Apartments which have been or are combined to form one dwelling may be severed into their component parts (separate apartments) at any time the owner of the combined apartments so desires. Any construction or modification of the interior of such apartments as may be required to effectuate the severance of the combined apartments into separate apartments shall be subject to the approval of the Board of Directors of the Condominium Association, which approval shall not be unreasonably withheld. Such modifications for the combining or severing of combined apartments shall in any and all events be accomplished at the sole expense of the apartment owner or owners of the combined apartments and not at the expense of the Condominium Association. Nothing herein shall be deemed to require the Association or the Developer to approve any structural modification which involves the weakening, movement or significant modification of any load bearing element. Furthermore, nothing herein shall be deemed to require the Condominium Association or the Developer to approve any modification which will alter the exterior appearance of the Condominium Apartment Building in which the combined apartments being severed into its component parts is located or in which the separate apartments being combined are located.

C. Unit 101 shall for the purposes of Paragraph B above be considered a combined unit except that it may not be severed into two apartments or two units without the approval of the applicable zoning authorities and the consent of the Condominium Association. Should it be severed into two apartments or units, one will be denominated Unit 101 and the other Unit 102. After severance, the owners of each resulting unit will have one (1) vote as provided in Article IX hereof and the common elements, common expenses and common surplus appurtenant to Unit 101 set forth in Exhibit #2 hereto shall be fairly and reasonably apportioned between the two (2) resulting units, as shall the termination shares attributable thereto set forth in Exhibit #5. Furthermore, assessments against 101 prior to any such severance shall be deemed assessments against it as a single unit and not separate units (combined into one unit). If Unit 101 is once effectively severed into two units, then this Paragraph C shall not apply in the case the resulting units are recombined as contemplated by Paragraph B above. This Paragraph C shall not be amended without the consent of the owner of Unit 101 or, if it be severed into two units, without the consent of the owners of both resulting units.

D. Any alteration in apartments owned by the Developer or a successor Developer, as hereinafter defined, shall not require the approval of the Condominium Association, but such approval may be given solely by the Developer herein named or by his designee or nominee specifically granted such authority. Provisions of this Paragraph D may not be amended without the approval in writing of the Developer or the specific designee or nominee of the Developer.

XIX.

ALTERATIONS, ADDITIONS AND IMPROVEMENTS TO COMMON ELEMENTS

The Association shall have the right to make or cause to be made substantial and material alterations, improvements and additions to the common elements, in accordance with the following provisions:

1. A special meeting of all of the apartment owners may be called for the purpose of acting upon the proposal for such substantial alteration, improvement or addition, upon not less than ten (10) days nor more than thirty (30) days notice.
2. A vote of two-thirds (2/3) of the total number of votes of all members in the Association, in person or by proxy, shall be required to approve and adopt the provisions allowing such alterations, improvements or additions.
3. The cost of such alteration, improvement or addition shall be assessed and collected as a common expense and each apartment owner shall bear the same portion or share of such cost as is the share of the common elements appurtenant to his apartment, as such shares are set forth in Exhibit No. 2 to this Declaration.
4. So long as a mortgage outstanding at the time of the recording of this Declaration securing a construction loan to Developer incidental to the construction of this Condominium is not totally satisfied of record and encumbers any part of the Condominium Property, no substantial nor material alterations, improvements or additions to the common elements may be made without the approval of the holder of that unsatisfied construction loan (the "construction mortgagee" or "construction lender"), which approval shall not be unreasonably withheld."