

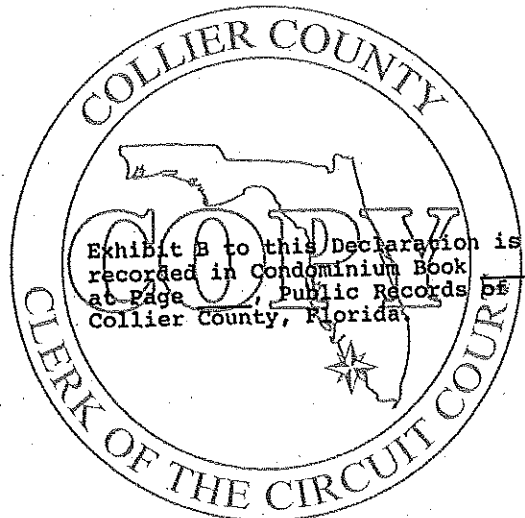
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DECLARATION OF CONDOMINIUM
OF
SPANISH PINES I, A CONDOMINIUM



Condominium Exhibit file in Condominium Book 20
Page 43 February 11, 1982. WILLIAM J. REGAN, CLERK
BY: William J. Regan D.C.

This Instrument Prepared By:

→ Kenneth W. Richman, Jr., Esq.
GILLETTE, PILON AND RICHMAN, P.A.
Suite 405
5801 Pelican Bay Blvd.
Naples, Florida 33940

DECLARATION OF CONDOMINIUM
FOR
SPANISH PINES I,
A CONDOMINIUM

On this 10th day of February, 1988, DIVERSIFIED DEVELOPMENT GROUP, INC., a Florida corporation, called the Developer, the owner of the fee simple title to the land described herein, hereby makes the following declarations:

1. Submission Statement. The Developer, the owner and holder of the fee simple title to the following described land situate in Collier County, Florida, declares that said land and improvements located thereon is hereby submitted and title is hereby declared subject to the condominium form of ownership and use in the manner provided by chapter 718, Florida Statutes, The Condominium Act. The description of the land being submitted is more particularly described in Exhibit A, attached hereto and made a part hereof.

2. Name. The name by which this condominium is to be identified is SPANISH PINES I, A CONDOMINIUM. The street address for this condominium is 136 Cypress Way
Naples, Fla. 33942

3. Definitions. The terms used in this Declaration and its exhibits shall have the meanings now stated in chapter 718, Florida Statutes, unless the context otherwise requires.

- (a) "Apartment" and "Unit" both mean unit as defined by The Condominium Act, and such terms may be used throughout this Declaration either alternatively or interchangeably, unless the context otherwise requires.
- (b) "Assessment" means a share of the funds required for payment of common expenses, which from time to time is assessed against the unit owner.
- (c) "Association" means SPANISH PINES I CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit.
- (d) "Board of Administration" means the board of administrators or other representative body responsible for administration of the association.
- (e) "By-Laws" means the By-Laws of the Association.
- (f) "Common Elements" means the portions of the condominium property not included in the Apartment, and shall include the tangible personal property required for the maintenance and operation of the condominium, and any land owned or acquired by the Association, and those items as stated in The Condominium Act.
- (g) "Limited Common Elements" means those portions of the Common Elements which are reserved for the use of a certain Apartment or Apartments to the exclusion of others.
- (h) "Common Expenses" means expenses for which the owners of apartments are

liable to the Association as defined in The Condominium Act and in the Condominium Documents.

- (i) "Common Surplus" means the excess of all receipts of the Association over the common expenses, as defined in The Condominium Act.
- (j) "Condominium Documents" means in the aggregate this Declaration and all its exhibits including without limitation, the Articles of Incorporation, the By-Laws and the Rules and Regulations of the Condominium.
- (k) "Condominium Parcel" means a unit together with the undivided share in the common elements which are appurtenant to the unit.
- (l) "Condominium Property" means and includes the lands and leaseholds that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.
- (m) "Utility Services" shall include, without limitation, electric power, gas, heating, air conditioning and disposal of garbage and sewage.
- (n) "Rules and Regulations" means the rules and regulations and any amendments as adopted by the Association from time to time respecting the use of the Condominium Property.

(o) "Unit Owner" or owner of a unit means the record owner of a Condominium parcel.

(p) "Record Owner" means the unit owner(s) according to documents recorded in the Public Records of Collier County, Florida.

(q) "Members of the Association" are unit owners whose names and mailing addresses are on the Roster of unit owners maintained by the Association.

4. Condominium Parcels; Appurtenances; Possession and Enjoyment.

(a) There shall pass with a unit an appurtenance thereto:

- (1) An undivided share in the common elements.
- (2) The exclusive right to use such portion of the common elements as may be provided by this declaration.
- (3) An exclusive easement for the use of the air space occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time.
- (4) An undivided share in the common surplus.
- (5) Such other appurtenances as may be provided in this declaration.

(b) The owner of a unit is entitled to the exclusive possession of his unit. He shall be entitled to use the common elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of owners of other units or other parties having rights to use

appurtenant or common areas.

5. Restraint Upon Separation and Partition of Common Elements.

- (a) The undivided share in the common elements which is appurtenant to a unit shall not be separated therefrom and shall pass with the title to the unit whether or not separately described.
- (b) A share in the common elements appurtenant to a unit cannot be conveyed or encumbered except together with the unit.
- (c) The shares in the common elements appurtenant to units shall remain undivided, and no action for partition of the common elements shall lie.
- (d) The shares in the funds and assets of the association cannot be assigned, pledged or transferred in any manner except as an appurtenance to the units.

6. Common Elements.

- (a) Common elements include the following items:
 - (1) The land on which the improvements are located and any other land included in the condominium property whether or not contiguous.
 - (2) All parts of the improvements which are not included within the units.
 - (3) Easements through units for conduits, ducts, plumbing, wiring and other facilities and the servicing thereof, for the furnishing of utility services to units and the common elements.
 - (4) An easement of support in every portion of a unit which contributes to the support of a building.
 - (5) Installations for the furnishing of utility services to more than one unit or to the common elements or to a unit other than the unit containing the installation.
 - (6) The property and installations in connection therewith required for the furnishing of services to more than one unit or to the common elements.
 - (7) Other parts of the condominium property designated herein as common elements.
- (b) The common elements designated by this Declaration may be enlarged by an amendment of this Declaration that includes the description of land and submits the land to the terms of this Declaration. The amendment shall be approved and executed in the manner required for an amendment by this Declaration. Such an amendment shall divest the Association of title to the land and shall vest the title in the unit owners, without naming them and without further conveyance, in the same undivided shares as the undivided shares in the common elements that are appurtenant to the units owned by them.
- (c) The Common Elements shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement which easement is hereby created, in favor of all of the unit owners in the Condominium for their use and for the use of their immediate families, guests, invitees or licensees for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended. The Association may adopt reasonable rules and

regulations pertaining to the use of such common elements, provided that such rules and regulations shall not unreasonably restrict any unit owner's right to peaceably assemble or the right to invite public officers or candidates for public office to appear and speak on common elements, common areas, and recreational facilities.

(d) There are hereby created non-exclusive easements in favor of all of the units and the owners thereof for ingress and egress and for electric power, telephone, sewer, water, and other utility services and lighting facilities, television transmission facilities, security service and facilities in connection therewith, and the like. The Association herein described shall have the right to impose upon the Common Elements henceforth and from time to time such easements and cross-easements for any of the foregoing purposes as it deems to be in the best interests of, and necessary and proper for, the Condominium.

(e) All the Condominium property shall be subject to easements for encroachments which now exist or hereafter exist, caused by settlement or movement of the building, or caused by minor inaccuracies in building or re-building, which encroachments shall be permitted to remain undisturbed and such easements shall continue until such encroachments no longer exist.

(f) All easements for ingress and egress shall not be encumbered by any leasehold or lien other than those on the condominium parcels.

7. Survey, Plot Plan and Graphic Description of Improvements.

(a) Annexed hereto and made a part hereof as Exhibit B is the survey, plot plan and graphic description of all Apartments or Units, including their identification numbers, locations and dimensions and the Common Elements and Limited Common Elements. Together with this Declaration said exhibits are in sufficient detail to identify each Apartment or Unit and the Common Elements and Limited Common Elements, their relative locations and dimensions. The legend and notes contained therein are incorporated herein and made a part hereof by reference.

(b) Unit boundaries shall not be deemed to include the inner undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding the Unit. However, the owner of an Apartment or Unit shall be deemed to own the walls and partitions which are contained in the Unit, except for bearing walls and partitions, and shall also be deemed to own the inner decorated and/or finished surface of the perimeter walls, floors and ceilings contained in such Unit, and the area up to the underside of the unfinished ceiling.

(c) The Common Elements also include lobbies, utility rooms or spaces, and the outside or public walkways, all as designated on the Exhibits.

(d) Each of the Units shall be occupied only as a residence. No Unit may be divided or subdivided into a smaller Unit and sold or otherwise transferred. No portion of any Unit may be sold or transferred except as a part of this Unit.

8. Identification of Limited Common Elements.

(a) This condominium has designated on the attached Survey and Plot Plan (Exhibit B) covered parking spaces located at the apartment building aforesaid. These parking spaces are Limited Common Elements which shall be assigned to the use of a specific Unit within the condominium and may not be sold separately.

(b) Notwithstanding the fact that the just described parking spaces are Limited Common Elements, they shall be maintained, repaired, replaced and assessed for such maintenance, repair and replacement as and in the manner that Common Elements are maintained, repaired, replaced and assessed.

9. Equitable Servitudes. All valid provisions of this Declaration shall be enforceable equitable servitudes, shall run with the land, shall bind all owners and their successors and assigns, and shall be effective until the Declaration is revoked.

10. Amendment of Condominium Documents.

(a) Except as elsewhere provided in this Declaration, this Declaration may be amended from time to time by resolution adopted at any regular or special meeting of the unit 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 seventy-five percent (75%) of all the members of the Association. Such amendment shall be duly recorded in compliance with requirements of The Condominium Act. No amendment shall change any condominium parcel nor 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 owners or owner thereof and all record owners of liens upon such parcel or parcels shall join in the execution of such amendments.

(b) The provisions of Section (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 unit owners greater than that required in Section (a) above, shall be amended or changed by any amendment to this Declaration or to the By-Laws of the Condominium Association insofar as they appertain to said provision or provisions, unless in addition to all other requirements of Section (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 Sections (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 scrivener's error a unit 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 Administrators of the Condominium Association approved by a majority of the whole number of Administrators or by a majority vote of the unit owners voting at a meeting of unit 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 Section, materially adversely affects property rights of unit owners, the unit owners whose property rights are so materially adversely affected must consent to the amendment in writing for the amendment to become effective. If the amendment, considered and approved pursuant to this Section, modifies the shares of common expense, common elements or common surplus appurtenant to one or more units, then the owners of the units and the owners of liens upon the units for which changes in the shares of common elements, common expense or common surplus are being made must consent in writing to such amendment for such amendment to be effective. For the purpose of this Section, no unit 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 unit.

11. The Association.

- (a) The operation of the condominium shall be by the Association.
- (b) A copy of the Articles of Incorporation of the Association is attached as Exhibit D and incorporated by reference herein.
- (c) A copy of the By-Laws of the Association is attached as Exhibit E and incorporated by reference herein.
- (d) The Association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the condominium property. After control of the Association is obtained by unit owners other than the developer, the Association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest, including, but not limited to, the common elements; the roof and structural components of a building or other improvements; mechanical, electrical, and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities; and protesting ad valorem taxes on commonly used facilities. If the Association has the authority to maintain a class action, the Association

may be joined in an action as representative of that class with reference to litigation and disputes involving the matters for which the Association could bring a class action.

(e) A unit owner does not have any authority to act for the Association by reason of being a unit owner.

(f) The power and duties of the Association shall include those set forth in Chapter 718, Florida Statutes, and as it may be amended. The powers and duties of the Association shall include also those set forth in this Declaration, Articles of Incorporation, and By-Laws, not inconsistent with the said law.

(g) The Association shall have the irrevocable right to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any common elements therein or accessible therefrom, or at any time for making emergency repairs therein necessary or desirable to prevent damage to the common elements or to another unit or units.

(h) The Association shall have the power to make and collect assessments, and to lease, maintain, repair and replace the common elements.

(i) The Association shall maintain accounting records according to good accounting practices which shall be open to inspection by unit owners or their authorized representatives at reasonable times and written summaries of which shall be supplied at least annually to unit owners or their authorized representatives. Failure to permit inspection of the Association's accounting records by unit owners or their authorized representatives shall entitle any person prevailing in an action for enforcement to recover reasonable attorney fees from the person or persons in control of the books and records for inspection. Such records shall include, but are not limited to:

- (1) A record of all receipts and expenditures;
- (2) An account for each unit which shall designate the name and address of the unit owner, the amount of each assessment, the dates and amounts in which the assessments come due, the amounts paid upon the account and the balance due.

(j) The Association shall have the power to purchase units in the condominium and to acquire and hold, lease, mortgage and convey the same.

(k) The association shall use its best efforts to obtain and maintain adequate insurance to protect the Association and the common elements. A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.

All hazard policies issued to protect condominium buildings shall provide that the word "building" wherever used in the policy shall include, but shall not necessarily be limited to, fixtures, installations, or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual units initially installed or replacements thereof, in accordance with the original plans and specifications. With respect to the coverage provided for by this paragraph, the unit owners

shall be considered additional insureds under the policy.

(l) The Association has the power to purchase any land or recreation lease upon the approval of two-thirds of the unit owners of the condominium.

(m) Voting rights in Association. The owner of each apartment shall be entitled to one vote. Where an apartment is owned by more than one person, by a corporation, or some other entity, the vote for such apartment shall be cast by a person named in a certificate signed by all of the owners of the apartment and filed with the Secretary of the Association. Such certificate shall be valid until revoked by a subsequent certificate. If such a certificate is not on file, the vote of such owners shall not be considered in determining the requirements for a quorum nor for any other purpose.

(n) The Association shall maintain a roster of names and mailing addresses of unit owners. The roster shall be maintained from evidence of ownership furnished to the Association from time to time and from changes of mailing addresses furnished from time to time. Each unit owner shall furnish to the Association a certified copy of the record evidence of his title, which evidence shall entitle the unit owner to be included in the roster if his ownership has been approved by the Association in the manner required herein. A copy of the up to date roster shall be furnished to any owner upon request.

(o) Whenever the approval of a unit owner is required upon any matter, whether or not the subject of an Association meeting, that approval shall be expressed by the same person who would cast the vote of that owner if in an Association meeting.

(p) The Association shall determine matters of dispute or disagreement between unit owners with respect to interpretation or application of this Declaration, the Articles of Incorporation or By-Laws, and such determination shall be final and binding on all unit owners.

(q) Within sixty (60) days following the end of the fiscal or calendar year or annually on such date as is otherwise provided in the bylaws of the Association, the board of administration of the Association shall mail or furnish by personal delivery to each unit owner a complete financial report of actual receipts and expenditures for the previous twelve (12) months. The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications including, if applicable, but not limited to, the following:

- (a) Costs for security;
- (b) Professional and management fees and expenses;
- (c) Taxes;
- (d) Costs for recreation facilities;
- (e) Expenses for refuse collection and utility services;
- (f) Expenses for lawn care;
- (g) Costs for building maintenance and repair;
- (h) Insurance costs;
- (i) Administrative and salary expenses; and

(j) General reserves, maintenance reserves, and depreciation reserves.

12. Maintenance, Limitation upon Improvement. Responsibility for the maintenance of the condominium property and restrictions on its alteration and improvement shall be as follows:

(a) Apartments.

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

(i) All portions of a unit contributing to the support of the building, which portions shall include, but not be limited to, outside walls of the building and all fixtures on its exterior, boundary walls of units, floor and ceiling slabs, load-bearing columns and load-bearing walls, but excepting windows, screens and interior surfaces;

(ii) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services contained in the portion of a unit maintained by the Association; and all such facilities contained within a unit that service part or parts of the condominium other than the unit within which they are contained;

(iii) All incidental damage caused to a unit by such work immediately above-described shall be repaired promptly at the expense of the Association.

(2) By the Unit Owners. The responsibility of the unit owner shall be as follows:

(i) Each unit owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs, and replacements of his own unit, and such portions of the heating and air-conditioning equipment, facilities or fixtures as are located or contained entirely within his own unit or which service only his own unit; provided however, that such maintenance, repairs and replacements as may be required for the bringing of water, gas and electricity to the unit shall be furnished by the Association as part of the common expenses. The Association may provide, by its Rules and Regulations, for ordinary maintenance and minor repairs and replacements to be furnished to units by Association personnel at common expense.

(ii) If, due to a negligent act, or omission of a unit owner, or of a member of the family, or a guest or other authorized guest or visitor of such unit owner, damage shall be caused to the common elements or to a unit or units owned by others, or maintenance repairs, or replacements shall be required, which would otherwise be common expense, then such unit owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Association.

(iii) Each unit owner shall be responsible for the maintenance, repair and replacement of all windows and screens of his unit and also of the doors leading onto the balconies, if any, adjacent to his unit.

(iv) Each unit owner shall be responsible for, at his own expense, all of the decorating within his own unit, including painting, wall-

papering, washing, cleaning, panelling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. Each unit owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls and ceilings, which constitute the exterior boundaries of the respective unit owned by such unit owner. The use of and the covering of the interior surfaces of windows, whether by draperies, shades or other items visible to the exterior of the building shall be subject to the Rules and Regulations of the Association. No unit owner shall paint or otherwise decorate or change the appearance of any portion of the exterior or of the common elements of the condominium apartment building.

(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 common elements, without prior written approval, in writing, by the owners of not less than seventy-five (75%) percent of the common elements.
- (3) Enforcement of Maintenance. In the event the owner of a unit fails to maintain it as required above, the Association, or any other unit owner shall have the right to proceed to any appropriate court to seek compliance with the foregoing provisions; or, the Association shall have the right to take any and all such steps as may be necessary to remedy such violation, including, but not limited to, entry of the subject unit with or without consent of the unit owner, and the repair and maintenance of any item requiring same, and assess the expense to the unit owner.

13. Common Expenses and Common Surplus

(a) Common expenses shall include the expenses of the operation, maintenance, repair, or replacement of the common elements, costs of carrying out the powers and duties of the Association and any other expense designated as common expense by the law, the Declaration, or by the By-Laws, or the Board of Administration.

(b) Funds for the payment of common expenses shall be assessed against unit owners in the proportions or percentages of ownership of the common elements provided in the Declaration in Exhibit C.

(c) The common surplus shall be owned by the unit owners in the same proportions or percentages of ownership as the unit owners have in the common elements as provided in the Declaration in Exhibit C.

14. Assessments; Liability; Lien and Priority; Interest; Collection.

(a) The Board of Administration of the Association shall have the authority to levy assessments in accordance with this Declaration of Condominium, the Articles of Incorporation, the By-Laws, and the Florida Statutes.

(b) The Board shall, in accordance with the By-Laws of the Association, establish an Annual Budget in advance for each fiscal year, which shall correspond to the calendar year, which shall estimate all expenses for the forthcoming year required for the proper operation, management and maintenance of the Condominium as set forth in the bylaws. Upon adoption of each annual budget by the Board, copies thereof shall be delivered to each Unit owner, and the assessment for the year shall be based upon such Budget. Failure to deliver a copy of the Budget to a Unit owner shall, however, not affect the liability of such owner for such assessment. Should the Board at any time and from time to time determine, in the sole discretion of the Board, that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board shall have the authority to levy such additional assessment or assessments as it shall deem to be necessary.

(c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles, and the By-Laws, and as the monies for annual assessments are paid to the Association by any unit owner, the same may be co-mingled with monies paid to the Association by the other unit owners. Although all funds and other assets of Association, and any increments thereto or profits derived therefrom, or from the leasing or use of Common Elements, including, without limitation, Common Surplus, shall be held for the benefit of the members of Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his unit.

(d) A unit owner, regardless of how title is acquired, including without limitation a purchaser at a judicial sales, shall be liable jointly and severally, as the case may be, for all assessments coming due while he is the owner of a unit. In a voluntary conveyance the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

(e) The liability for assessments may not be avoided by waiver of the use or enjoyment of any common elements or by abandonment of the unit for which the assessments are made.

(f) Assessments and installments thereon not paid when due shall bear interest from the date when due until paid at the rate of ten percent (10%) per annum but not to exceed the rate allowed by law plus expenses and reasonable attorney's fees.

(g) The Association shall have a lien on each condominium parcel for any unpaid assessments, and interest thereon, against the unit owner of such condominium parcel. Said lien shall also secure reasonable attorney's fees incurred by the Association incident to the collection of such assessment or enforcement of such lien, and advances for taxes, and payments made on account of superior mortgages.

liens or encumbrances made by the Association to preserve and protect its lien together with interest at ten percent (10%) per annum on all such advances and payments. Said lien shall be effective from and after the time of recording in the public records in the county in which the condominium parcel is located of a claim of lien stating the description of the condominium parcel, the name of the record owner, the amount due and the date when due, and the lien shall continue in effect until all sums secured by the lien have been fully paid or until barred by Chapter 95, Florida Statutes. Such claims of lien may include all assessments which are due and payable to the time the claim of lien is recorded. Such claims of liens shall be signed and verified by an officer or agent of the association and shall be entitled to be recorded. Upon full payment the party making payment shall be entitled to a recordable satisfaction of the lien. All such liens shall be subordinate to the lien of a mortgage or other lien recorded prior to the time of recording of the claim of lien.

(h) Liens for assessments may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mortgage on real property. In any such foreclosure the unit owner shall be required to pay a reasonable rental for the condominium parcel, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The Association shall have the power to bid on the condominium parcel at the foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same. Suit to recover a money judgment for unpaid assessments may be maintained without waiving the lien securing the same. No foreclosure judgment may be entered, however, until at least 30 days after the Association gives written notice to the unit owner of its intention to foreclose its lien to collect the unpaid assessments. Neither commencement of a suit for collection or a suit for foreclosure shall be deemed an election precluding the other remedy.

(i) Where the mortgagee of a first mortgage of record or other purchaser of a condominium unit obtains title to the condominium parcel as a result of foreclosure of the first mortgage, or as a result of a deed given in lieu of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the share of common expenses or assessments by the Association pertaining to such condominium parcel or chargeable to the former unit owner of such parcel which became due prior to acquisition of title as a result of the foreclosure, unless such share is secured by a claim of lien for assessments that is recorded prior to the recording of the foreclosed mortgage. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners including such acquirer, his successors and assigns. A mortgagee acquiring title to a condominium parcel as a result of foreclosure or a deed in lieu of foreclosure, may not during the period of its ownership of such parcel, whether or not such parcel is unoccupied, be excused from the payment of some or all of the common expenses coming due during the period of such ownership.

(j) Any unit owner shall have the right to require from the Association a Certificate showing the amount of unpaid assessments against him with respect to his condominium parcel. The holder of a mortgage or other lien shall have the same right as to any condominium parcel upon which he has a lien. Any person other than the owner who relies upon such certificate shall be protected thereby.

(k) Except as provided for in subsection (j) above, no unit owner may be excused from the payment of his proportionate share of the common expense of a condominium unless all unit owners are likewise proportionately excused from such payment.

15. Termination.

(a) Any other terms of this Declaration notwithstanding, the condominium may be terminated upon terms and conditions consented to by the owners of ninety percent (90%) of all the units plus one hundred percent (100%) of all institutional mortgagees.

(b) Unless otherwise provided, upon termination of the condominium or removal of the condominium property from the provisions of the Act, the condominium property shall be deemed to be owned in common by the unit owners. The undivided share in the property owned in common by each unit owner shall be the undivided share previously owned by such owner in the common elements.

(c) After termination of a condominium in any manner, the liens upon condominium parcels shall be upon the respective shares of the owners.

(d) The termination of a condominium shall not bar the creation of another condominium affecting the same property.

(e) Following termination the condominium property may be partitioned and sold upon the application of any unit owner. If the Board of Administration, following a termination, determine to accept an offer for the sale of the condominium property, each unit owner shall be bound to execute such deeds and other documents reasonably required to effect such sale at such time and in such forms as the Board of Administration directs. In such event, any action for partition or other division of the condominium property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties hereto.

(f) The members of the last Board of Administration shall continue to have powers as in this Declaration are granted, for the purpose of winding up the affairs of the Association, notwithstanding the fact that the Association itself may be dissolved upon a termination.

16. Equitable Relief. In the event of substantial damage to or destruction of all or a substantial part of the condominium property, and in the event the property is not repaired, reconstructed, or rebuilt within a reasonable period of time, any unit owner shall have the right to petition a court of equity having jurisdiction in and for the county where the condominium property is located for equitable relief, which may, but need not necessarily, include a termination of the condominium and a partition.

17. Limitation of Liability.

(a) The liability of the owner of a unit for common expenses shall be limited to the amounts for which he is assessed for common expenses from time to time in accordance with the law, the Declaration and By-Laws.

(b) The owner of a unit may be personally liable for acts or omissions of the Association in relation to the use of the common elements, but only to the extent

of his pro rata share of that liability in the same percentage as his interest in the common elements, and then in no case shall that liability exceed the value of his unit.

(c) In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the unit owners, the Association shall give notice of the exposure within a reasonable time to all unit owners, and they shall have the right to intervene and defend.

(d) In no case shall the unit owner's liability exceed the value of his unit.

18. Separate Taxation of Condominium Parcels; Survival of Declaration After

Tax Sale.

(a) Property taxes and special assessments assessed by municipalities, counties and other taxing authorities shall be assessed against and collected on the condominium parcels and not upon the condominium property as a whole. Each condominium parcel shall be separately assessed for ad valorem taxes and special assessments as a single parcel. The taxes and special assessments levied against each condominium parcel shall constitute a lien only upon such condominium parcel so assessed and upon no other portion of the condominium property.

(b) All provisions of a Declaration relating to a condominium parcel which has been sold for taxes or special assessments shall survive and be enforceable after the issuance of a tax deed or master's deed upon foreclosure of an assessment, certificate or lien, a tax deed, tax certificate, or tax lien, to the same extent that they would be enforceable against a voluntary grantee, immediate, mediate, or remote, of the owner of the title immediately prior to the delivery of the tax deed or master's deed.

19. Liens.

(a) Subsequent to recording the Declaration and while the property remains subject to the Declaration, no liens of any nature shall thereafter arise or be created against the condominium property as a whole except with the unanimous consent of the unit owners. During such period liens may arise or be created only against the several condominium parcels.

(b) Labor performed or materials furnished to a unit shall not be the basis for the filing of a lien pursuant to the mechanics lien law against the unit or condominium parcel of any unit owner not expressly consenting to or requesting the same. No labor performed or materials furnished to the common elements shall be the basis for a lien thereon, but if duly authorized by the Association such labor or materials shall be deemed to be performed or furnished with the express consent of each unit owner and shall be the basis for the filing of a lien against all condominium parcels in the proportions for which the owners thereof are liable for common expenses.

(c) In the event a lien against two or more condominium parcels becomes effective each owner thereof may relieve his condominium parcel of the lien by payment of the proportionate amount attributable to his condominium parcel. Upon such payment it

shall be the duty of the lienor to release the lien of record for such condominium parcel.

(d) Service or delivery of notices, papers or copies thereof permitted or required under the mechanics' lien law for or incident to the perfection or enforcement of liens arising from labor or materials furnished to the common elements, duly authorized by the Association, may be effected by service on or delivery to the Association. Suits to foreclose or otherwise enforce liens arising from labor or materials furnished to the common elements may be brought against the Association and the owners of units shall not be deemed necessary parties to such suits.

20. Obligations; Remedies for Violation.

(a) Each unit owner and the Association shall be governed by and shall comply with the law and the Declaration, Articles of Incorporation and By-Laws as they may exist from time to time. Failure to do so shall entitle the Association or any other unit owner to recover sums due for damages or obtain injunctive relief, or both. Such actions may be maintained by or against a unit owner or the Association or its Directors, or in a proper case by or against one or more unit owners, and the prevailing party shall be entitled to recover reasonable attorney fees. Such relief shall not be exclusive of other remedies provided by law.

(b) A unit owner shall be liable for the expense of any maintenance repair or replacement made necessary by his negligence or by that of any member of his family or his or their guests, employees, agents, or lessees, but only to the extent that that expense is not met by the proceeds of insurance carried by the Association.

(c) In any proceeding arising because of an alleged failure of a unit owner or the Association to comply with the requirements of the Condominium Act, this Declaration, the Articles of Incorporation of the Association, the By-Laws, or the Regulations, and those items 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.

(d) The failure of the Association or any unit owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation of the Association, the By-Laws, or the Regulations shall not constitute a waiver of the right to do so thereafter.

21. Insurance. Insurance shall be carried and kept in force at all times in accordance with the following provisions:

(a) Duty and Authority to Obtain. The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force any or all of such other or additional insurance coverage as it is authorized hereby to carry.

(b) Required Coverage. The Association shall purchase and carry insurance coverage as follows: Casualty insurance covering all of the buildings and other improvements of the Condominium, common and limited common areas, in an

amount equal to the maximum insurance replacement value thereof, exclusive of excavation and foundation costs, as determined by the Board of Directors of the Association; such insurance to afford protection against:

- (1) Loss or damage by fire or other hazards covered by the standard extended coverage or other perils endorsement; and
- (2) Such other risks as are or shall be customarily covered with respect to buildings and other improvements similar, in construction, location and use, to the buildings and other improvements of the condominium, including, without limitation, vandalism, malicious mischief, wind-storm, water damage and war risk insurance, if available; and
- (3) Public liability insurance, including, without limitation, hired automobile, non-owned automobile, off-premises employee coverage, water damage and legal liability, with cross-liability, endorsements to cover liability of all unit owners as a group to each unit owner; and
- (4) Workmen's compensation insurance to meet the requirements of law;
- (5) Flood insurance, if the same shall be necessary under the laws of the United States for federally related mortgage lenders to make mortgage loans on units.

(c) Optional Coverage. The Association may purchase and carry such other insurance coverage, other than title insurance, as the Board of Directors of the Association, in its sole discretion, may determine from time to time to be in the best interests of the Association and unit owners, or as an institutional lender may reasonably require while it holds a mortgage encumbering any unit.

(d) All insurance policies upon the condominium common property shall be purchased by the Association or its designated agents for the benefit of the Association and the apartment owners and their mortgagees as their interest may appear, and provisions shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of apartment owners. Apartment owners may obtain insurance coverage at their own expense upon their personal property and for their personal liability and living expense, but in all such policies the insurer must waive its right of subrogation as to claims against the Association and other unit owners and their privies.

(e) All proceeds covering casualty losses shall be paid to a national bank as Insurance Trustee, which bank shall be approved by the Board of Administration of Association. The Insurance Trustee shall not be liable for payments or 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 same in trust for the purposes elsewhere stated herein and for the benefit of the apartment owners and their mortgagees in the following shares, but which shares need not be set forth in the records of the Insurance Trustee:

- (1) Common Elements - Proceeds on account of common elements shall be held in as many undivided shares as there are apartments, the shares of each apartment owner being the same as his share in the common elements, as same are stated in Exhibit C.
- (2) Apartments - Proceeds on account of apartments shall be held in the following undivided shares:

- (i) (Partial destruction, when the buildings are to be restored.) For the owners of damaged apartments in proportion to the cost of repairing the damage suffered by each apartment owner.
- (ii) (Total destruction of the buildings or when the buildings are not to be restored.) For owners of all apartments in the buildings, each owner's share being in proportion to his share in the common elements appurtenant to his apartment.
- (iii) (Mortgagee.) In the event a mortgagee endorsement has been issued as to an apartment, the share of the mortgagee and the apartment owner as their interest appear. In no event shall any mortgagee have the right to demand the application of insurance proceeds to any mortgage or mortgagee which it may hold against apartment units, except to such extent as said insurance proceeds may exceed the actual cost of repair or restoration of the damaged building or buildings, and no mortgagee shall have any right to participate in the determination as to whether or not improvements will be restored after casualty.

(f) 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 therefor.
- (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 costs thereof as elsewhere provided. Any proceeds remaining after defraying costs shall be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being paid 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 damages for which the 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 as to the names of the apartment owners and their respective shares of the distribution.
- (5) Association as agent - The Association is hereby irrevocably appointed agent for each apartment owner to adjust all claims arising under insurance policies purchased by the Association.

22. Reconstruction or Repair After Casualty.

- (a) 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) If loss shall occur within a single unit or units, without damage to the common elements, the insurance proceeds shall be distributed to the beneficial unit owner(s), remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by them.
- (2) Where a loss or damage occurs to more than one unit, or to the common elements, or to any unit or units and the common elements, but said loss is less than "very substantial" (as hereinafter defined), it shall be obligatory upon the Association and the unit owners to repair, restore, and rebuild the damage caused by said loss. Where such loss or damage is less than "very substantial":
 - (i) The Board of Administration of the Association shall promptly obtain reliable and detailed estimates of the cost of repairing and restoration.
 - (ii) If the damage or loss is limited to the common elements, with no, or minimum damage or loss to any individual units, and if such damage or loss to the common elements is less than \$10,000.00, the insurance proceeds shall be endorsed by the Insurance Trustee over to the Association, and the Association shall promptly contract for the repair and restoration of the damage.
 - (iii) If the damage or loss involved individual units encumbered by institutional first mortgages, as well as common elements, or if the damage is limited to the common elements alone, but is in excess of \$10,000.00, the insurance proceeds shall be disbursed by the Insurance Trustee for the repair and restoration of the property upon the written direction and approval of the Association. All payees shall deliver paid bills and waivers of mechanics liens to the Insurance Trustee, and execute any affidavit required by law or by the Association or Insurance Trustee, and deliver same to the Insurance Trustee.
 - (iv) The Board of Administration shall have the obligation to negotiate and contract for the repair and restoration of the premises.
 - (v) If the net proceeds of the insurance are insufficient to pay for the estimated cost of restoration and repair (or for the actual cost thereof, if the work has actually been done), the Association shall promptly upon determination of the deficiency, levy a special assessment against all unit owners in proportion to the unit owners' share in the common elements, for that portion of the deficiency as is attributable to the cost of restoration of the common elements, and against the individual unit owners for that portion of the deficiency as is attributable to his individual unit, provided, however, that if the Board of Administration finds that it cannot determine with reasonable certainty the portion of the deficiency attributable to specific individual damaged unit(s), then the Board of Administration shall levy the assessment for the total deficiency against all of the unit owners in proportion to the unit owners' share in the common elements, just as though all of said damage had occurred in the common elements. The special assessment funds shall be delivered by the Association to

the Insurance Trustee and added by said Trustee to the proceeds available for the repair and restoration of the property.

(3) As used in this Declaration, or any other context dealing with this condominium, the term "very substantial" damage shall mean loss or damage whereby three-fourths (3/4) or more of the total unit space in the condominium is rendered untenable, or loss or damage whereby seventy-five percent (75%) or more of the total amount of insurance coverage becomes payable. Should such "very substantial" damage occur, then:

(i) The Board of Administration of the Association shall promptly obtain reliable and detailed estimates of the cost of repair and restoration thereof.

(ii) Thereupon, a membership meeting shall be called by the Board of Administration of the Association, to be held not later than sixty (60) days after the casualty, to determine the wishes of the membership with reference to the abandonment of the condominium project, subject to the following:

A. If the net insurance proceeds available for restoration and repair are sufficient to cover the cost thereof, so that no special assessment is required, then the condominium property shall be restored or repaired, unless two-thirds (2/3) of the total votes of the members of the condominium shall vote to abandon the condominium project, or unless the then applicable zoning laws or other regulatory laws will not allow the reconstruction of the same number and general type of unit, in which cases the condominium property shall be removed from the provisions of the law, in accordance with the Condominium Act.

B. If the net insurance proceeds available for restoration and repair are not sufficient to cover the costs thereof, so that a special assessment will be required, then if a majority of the total votes of the members of the condominium vote against such special assessment and to abandon the condominium project, then it shall be so abandoned and the property removed from the provisions of the law in accordance with the Condominium Act. In the event a majority of the total votes of the members of the condominium vote in favor of the special assessment, then the Association shall immediately levy such assessment, and thereupon, the Association shall proceed to negotiate and contract for such repairs and restoration, subject to the prior provisions of this Declaration. The

special assessment funds shall be delivered by the Association to the Insurance Trustee and added by said Trustee to the proceeds available for the repair and restoration of the property. The proceeds shall be disbursed by the Insurance Trustee for the repair and restoration of the property, as provided above.

(iii) In the event any dispute shall arise as to whether or not

"very substantial" damage has occurred, it is agreed that such finding made by the Board of Administration of the Association shall be binding upon all unit owners.

- (4) It shall be presumed that the first monies disbursed in payment of costs of repair and restoration shall be from the insurance proceeds; and if there is a balance in the funds held by the Insurance Trustee after the payment of all costs of repair and restoration, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated.
- (5) Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by unit owners upon assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or upon the 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, nor to determine whether surplus funds to be distributed are less than the assessments paid by owners. 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 herein required to be named as payee the Insurance Trustee shall also name the mortgagee as payee; and further provided that when the Association, or a mortgagee which is the beneficiary of an insurance policy the proceeds of which are included in the construction fund, so requires, the approval of an architect named by the Association shall be first obtained by the Association.

23. 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 upon the land, which provisions each apartment owner covenants to observe:

(a) Transfers subject to approval.

- (1) Sale. No apartment owner may dispose of an apartment or any interest in any apartment by sale without approval of

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

- (i) 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 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 the 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.
- (ii) 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.
- (iii) 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 information concerning the apartment owner as the Association may reasonably require, and a certified copy of the instrument evidencing the owner's title.
- (iv) 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.

(i) Sale. If the proposed transaction is a sale, then within thirty (30) days after receipt of such notice and information, the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the president and secretary of the Association, which shall be recorded in the public records of Collier County, Florida, at the expense of the purchaser.

(ii) Lease. If the proposed transaction is a lease, then within thirty (30) days after receipt of such notice and information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be 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 Collier County, Florida, at the expense of the lessee.

(iii) 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 thirty (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 Collier 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 of ownership of 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 thirty (30) days after receipt of

such notice and information the Association shall deliver or mail by certified 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, one of whom shall be appointed by the apartment owner and the other of whom shall be appointed by the 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 thirty (30) days after the delivery of mailing of the agreement to purchase, or within ten (10) days after the determination of the sale price if such is by arbitration, whichever is the 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 Collier 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 if 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 Collier 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 thirty (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 thirty (30) days from the delivery or mailing of such agreement. In the absence of agreement as to price, the price shall be determined by arbitration in accordance with the then exist-ing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers, one of whom shall be appointed by the Association and the other of whom shall be appointed by the apartment owner, 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 Collier 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 Collier 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 provisions of this section entitled "Maintenance of community interests" shall not apply to a transfer or purchase by a bank, life insurance company or savings and loan association that acquires its title as the result of owning a mortgage upon the apartment concerned, and this shall be so whether the title is acquired by deed from the mortgagor, his successors or assigns, or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by a bank, life insurance company or savings and loan association that so acquires its title. Neither shall such provisions require the approval of a purchaser

who acquires the title to an apartment at a duly advertised public sale with open bidding provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale.

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

24. Parking. There shall be appurtenant to each unit at all times a parking space which shall pass with the title thereto. The allocation of a particular space to a particular unit shall be made initially by the Submitter by a written assignment. The unit's owner shall thereafter have the exclusive right to use such space without charge, and the cost of maintenance of all parking spaces shall be a part of the common expenses for the purposes of assessment. Two or more unit owners may exchange the parking spaces allocated to their units by submitting to the Board of Administration signed and witnessed requests for exchange and surrendering their initial or current allocation assignments. The Administrators shall thereupon execute and deliver to such unit owners new parking space allocation assignments signed in the name of the Association by the President and Secretary and bearing the Association seal, reflecting the changed allocations. Such changed allocations shall have the same force and effect as the ones they replace. No other provision in the Declaration shall be constructed to prevent this exchange privilege. Other than as above, no parking space may be sold or transferred separate from a unit.

25. Use Restrictions. Use of the condominium property shall be in accordance with the following provisions:

(a) Units. Each of the Units shall be occupied only by a single family, its servants and guests, as a residence and for no other purpose. No unit may be divided or subdivided into a smaller unit, nor any portion thereof sold or otherwise transferred.

(b) Common Elements. The Common Elements and Limited Common Elements shall be used only for the purposes for which they are intended in the furnishing services and facilities for the enjoyment of the units.

(c) Nuisances. No nuisances shall be allowed upon the Condominium property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium property by residents. All parts of the Condominium property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor shall any fire hazard be allowed to exist. No use shall be made of any unit or of the Common Elements or Limited Common Elements which would increase the rate of insurance upon the Condominium property.

(d) Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Condominium property or any part thereof; and

all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Condominium property shall be that of those responsible for the maintenance and repair of the property concerned.

(a) 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. No lease shall be for a period of less than 30 days. A unit owner may not lease a unit under more than two leases per year.

(f) Minors. Minors under the age of twelve (12) may reside in Spanish Pines I, a condominium, subject to the approval of the Board of Administration of the association. Such minors shall, at all times, demean themselves in a manner consistent with the Declaration of Condominium, the By-Laws, and any and all Rules and Regulations which may be applicable.

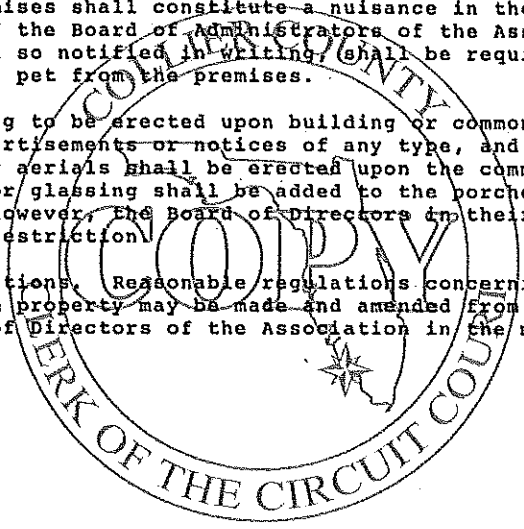
(g) Pets. Each unit owner may have two small domesticated household pets in his unit, so long as no pet shall exceed thirty-five (35) pounds in weight. All four-legged pets shall be kept on a leash while outside the owner's apartment. In the event that any pet kept on the premises shall constitute a nuisance in the opinion of a majority of the Board of Administrators of the Association, then the owner, when so notified in writing, shall be required to immediately remove said pet from the premises.

(h) Nothing to be erected upon building or common elements. No signs, advertisements or notices of any type, and no exterior antennas or aeriels shall be erected upon the common elements, and no screen or glassing shall be added to the porches of the units. Provided, however, the Board of Directors in their regulations may vary this restriction.

(i) Regulations. Reasonable regulations concerning the use of the Condominium property may be made and amended from time to time by the Board of Directors of the Association in the manner provided by

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its Articles of Incorporation and By-Laws. Copies of such regulations and amendment shall be furnished by the Association to all unit owners and residents of the Condominium upon request. Each unit owner shall above by the regulations so promulgated.

(j) Proviso. Provided, however, that until Developer has completed all of the contemplated improvements and closed the sales of all of the units of the Condominium, neither the unit owners nor the Association, nor the use of the Condominium property shall interfere with the completion of the contemplated improvements and sale of the units. 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, the showing of the property and the display of signs.

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

27. Applicability of Declaration of Condominium. All present or future owners, tenants, or any other person who might use the facilities of the Condominium in any manner, are subject to the provisions of this Declaration, and the mere acquisition or rental of any unit, or the mere act of occupancy of any unit, shall signify that the provisions of this Declaration of Condominium are accepted and ratified in all respects.

28. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of Condominium ownership.

29. Provisions Pertaining to Developer. Until all of the condominium units have been sold by the developer, the developer shall have the following rights:

(a) To use the common elements, unsold apartment units and any other areas that unit owners are entitled to use in promoting the sale of such unsold apartment units.

(b) So long as Developer, or any mortgagee succeeding Developer in title, shall own any unit, it shall have the absolute right to lease or sell any such unit to any person, firm or corporation, upon any terms and conditions as it shall deem to be in its own best interests, and as to the lease or sale of such unit, the right of first refusal and any right of redemption herein granted to the Association shall not be operative or effective in any manner.

(c) Until a completion of the contemplated improvements to the condominium property the developer reserves the right, without joinder of any person, to make such changes in the Declaration and its attachments or in the plan of development, as may be required by any lender, governmental authority, or as may

be, in its judgment, necessary or desirable; provided that such will not change the shares of the unit owners or their mortgagees in the common elements of this condominium and that all changes when made will provide facilities as good as or better than those shown on Exhibit B Surveyor Plans attached hereto. This paragraph shall take precedence over any other provision of the Declaration or its attachments.

(d) The developer shall be entitled to vote the shares of any unsold units.

(e) The developer, or his successors in interest, shall be excused from the payment of the share of the common expenses and assessments related to units offered for sale by developer for a period terminating the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first condominium unit occurs. The developer shall pay the portion of common expenses incurred during the foregoing period which exceed the amount assessed against other unit owners.

30. Recreational Parcel. Each unit owner and the Board of Administration of Spanish Pines I Condominium Association are members of the Hacienda-Pines Property Owners Association and in accordance with the Declaration of Covenants, Restrictions, Easements, Changes and Liens which has been recorded prior to the recordation of this Declaration. The Property Owners Association will ultimately be the owner of a common recreational partial to be maintained by it for the benefit of the eight (8) apartment unit owners, their lessees and invitees, of this condominium and for the benefit of fifty-nine (59) unit owners, their lessees and invitees, of additional condominium complexes, to be constructed on lands affected by the foregoing Declaration of Covenants, Restrictions, Easements, Charges and Liens as more particularly set out in said Declaration. The condominium unit owners shall be assessed by the Hacienda-Pines Property Owners Association in accordance with the said declaration for the maintenance and other operating expenses of the common recreational parcel and the property owners association, these assessments will be collected by the Spanish Pines I Condominium Association, together with, but not as a part of, the Condominium Association's assessment for the common expenses of the condominium. Under the terms of the Declaration, the Hacienda-Pines Property Owner's Association shall have a lien on apartment units of this Condominium in the event that this assessment shall become delinquent. In addition, the Spanish Pines I Condominium Association shall have the same powers and authority to collect the assessments of the Hacienda-Pines Property Owner's Association, and to enforce the responsibilities of the unit owners with

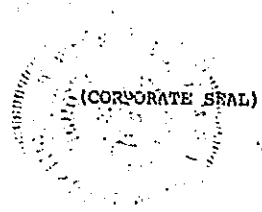
respect to the common recreational parcel, as are granted to the condominium association in connection with its assessments for common expenses of this condominium and in connection with the common areas of this condominium.

This Declaration of Condominium and the attachments hereto made and entered into this 10th day of February, 1982.

DIVERSIFIED DEVELOPMENT GROUP, INC.

By [Signature]
President

Attest _____
Secretary



(CORPORATE SEAL)

WITNESSES:

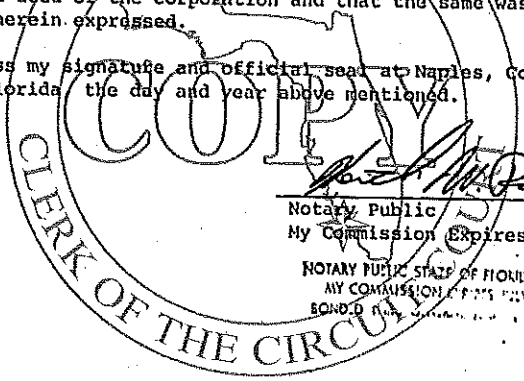
STATE OF FLORIDA

COUNTY OF COLLIER

[Signature]
[Signature]

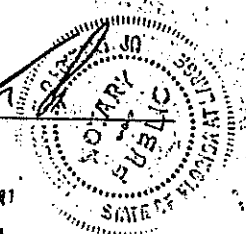
The foregoing instrument was acknowledged before me this 10th day of February, 1982, by Golden J. Simpson and [Signature] ~~Vice President and Secretary~~ respectively of DIVERSIFIED DEVELOPMENT GROUP, INC., a Florida Corporation, who acknowledged before me that they did, as such officers, execute the foregoing document as the act and deed of the corporation and that the same was executed for the purposes therein expressed.

Witness my signature and official seal at Naples, County of Collier and State of Florida the day and year above mentioned.



[Signature]
Notary Public
My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES JULY 10 1985
BOND \$ 1000



(SEAL)