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**DECLARATION  
OF  
PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM**

**PALOMINO PARTNERS I, LLLP**, a Florida limited liability limited partnership (the "Developer"), hereby declares:

1. Introduction and Submission.
  - 1.1 The Land. The Developer owns the fee title to certain land located in the Village of Wellington, Palm Beach County, Florida, as more particularly described in Exhibit "A" annexed hereto (the "Land").
  - 1.2 Submission Statement. The Developer hereby submits the Land and all improvements erected or to be erected thereon and all other property, real, personal or mixed and all access easement rights and benefits, now or hereafter situated on or within, or benefiting, the Land - but excluding all public or private (e.g. cable television) utility installations therein or thereon - to the condominium form of ownership and use in the manner provided for in the Florida Condominium Act as it exists on the date hereof and as it may be hereafter renumbered. Without limiting any of the foregoing, no property, real, personal or mixed, not located within or upon the Land as aforesaid shall for any purposes be deemed part of the Condominium or be subject to the jurisdiction of the Association or the operation and effect of the Florida Condominium Act or any rules or regulations promulgated pursuant thereto.
  - 1.3 Name. The name by which this condominium is to be identified is **PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM** (hereinafter called the "Condominium").
2. Definitions. The following terms when used in this Declaration and in its exhibits, and as it and they may hereafter be amended, shall have the respective meanings

ascribed to them in this Section, except where the context clearly indicates a different meaning:

- 2.1 "Act" means the Condominium Act (Chapter 718 of the Florida Statutes) as it exists on the date hereof and as may be hereafter renumbered.
- 2.2 "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association, as amended from time to time.
- 2.3 "Assessment" means a share of the funds required for the payment of Common Expenses, which from time to time is assessed against the Unit Owner.
- 2.4 "Association" or "Condominium Association" means PALOMINO PARK PROFESSIONAL CENTER II CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, the sole entity responsible for the operation of the Condominium.
- 2.5 "Association Property" means any property, real and personal, in which title or ownership is vested in the Association for the use and benefit of its members.
- 2.6 "Board of Directors" or "Board" means the Board of Directors of the Association, referred to in the Act as the "board of administration".
- 2.7 "Building" means the structure(s) in which the Units and the Common Elements are located, regardless of the number of such structures, which is located on the Condominium Property.
- 2.8 "By-Laws" mean the By-Laws of the Association, as amended from time to time.
- 2.9 "Common Elements" mean and include:
  - (a) The portions of the Condominium Property, which are not included within the Units.
  - (b) Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility, wastewater treatment and other services to Units and the Common Elements.
  - (c) An easement of support in every portion of a Unit, which contributes to the support of the Building.

- (d) The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements and for the furnishing of wastewater treatment (sewer) services to the Units, provided that such property and installments are located within the Condominium Property.
  - (e) Any other parts of the Condominium Property designated as Common Elements in this Declaration.
- 2.10 "Common Expenses" mean all expenses incurred by the Association for the Condominium and charges assessed or imposed against Units in the Condominium by the Association including assessments of the POA (as defined and described in Section 22 hereof). If approved by the Board of Directors, "Common Expense" shall also include the cost of a master antenna system or duly franchised cable television service obtained pursuant to a bulk contract. For all purposes of this Declaration, "Common Expense" shall also include all reserves required by the Act or otherwise established by the Association, regardless of when reserve funds are expended, but shall not include any separate obligations of individual Unit Owners.
- 2.11 "Common Surplus" means the excess of all receipts of the Association collected on behalf of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, over the amount of Common Expenses.
- 2.12 "Condominium Parcel" means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit; and when the context permits, the term includes all other appurtenances to the Unit.
- 2.13 "Condominium Property" means the land, improvements and other property described in Section 1.2 hereof.
- 2.14 "County" means the County of Palm Beach, State of Florida.
- 2.15 "Declaration" or "Declaration of Condominium" means this instrument, as it may be amended from time to time.
- 2.16 "Improvements" mean all structures and artificial changes to the natural environment (exclusive of landscaping) located on the Condominium Property, including, but not limited to, the Building.
- 2.17 "Institutional First Mortgagee" means a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, an agency of the United States Government,

mortgage banker, or any other lender generally recognized as an institutional lender, or the Developer, holding a first mortgage on a Unit or Units. A "Majority of Institutional First Mortgagees" shall mean and refer to Institutional First Mortgagees of Units to which at least fifty-one percent (51%) of the voting interests of Units subject to mortgages held by Institutional First Mortgagees are appurtenant.

- 2.18 "Limited Common Elements" mean those Common Elements the use of which is reserved to a certain Unit or Units to the exclusion of other Units, as specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided.
- 2.19 "POA" means Palomino Executive Center Property Owners' Association, Inc., the association which administers the "Master Declaration" described in Section 22 hereof.
- 2.20 "Primary Institutional First Mortgagee" means the Institutional First Mortgagee which owns, at the relevant time, Unit mortgages securing a greater aggregate indebtedness than is owed to any other Institutional First Mortgagee.
- 2.21 "Unit" means a part of the Condominium Property which is subject to exclusive ownership.
- 2.22 "Unit Owner" or "Owner of a Unit" or "Owner" means the Owner of a Condominium Parcel according to the Public Records of the County.
- 2.23 "Village" means the Village of Wellington, a municipal corporation and political subdivision of the State of Florida.

### 3. Description of Condominium.

- 3.1 Identification of Units. The Land has constructed thereon the Building containing forty-five (45) Units. Each such Unit is identified by a separate numerical designation. The designation of each of such Units is set forth on Exhibit "B". Exhibit "B" consists of a survey of the Land, a graphic description of the Improvements located thereon, including, but not limited to, the Building in which the Units are located, and a plot plan thereof. Said Exhibit "B", together with this Declaration, is sufficient in detail to identify the Common Elements and each Unit and their relative locations and dimensions.

There shall pass with a Unit as appurtenances thereto (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements (i.e., Limited Common Elements) as may be provided in this Declaration; (c) an exclusive

easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically; (d) membership in the Association with the full voting rights appurtenant thereto; and (e) other appurtenances as may be provided by this Declaration or the Act.

3.2 Unit Boundaries. Each Unit shall include that part of the Condominium Property that lies within the following boundaries:

- (a) Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the parametrical boundaries:
  - (i) Upper Boundaries. The upper boundary of a Unit shall be the unfinished surface of the ceiling of the Unit.
  - (ii) Lower Boundaries. The lower boundary at a Unit shall be the horizontal plane of the unfinished upper surface of the floor of the Unit.
- (b) Parametrical Boundaries. The parametrical boundaries of a Unit shall be (i) the vertical planes of the interior surfaces of the wall bounding the Unit on the Building exterior, (ii) where there is a wall separating the Unit from a hallway, lobby or other Common Element in the Building, or from another Unit, the interior unfinished surface of that wall or (iii) where no wall exists, the boundary line shown on Exhibit "B" hereto. The installation and removal of walls on Unit boundaries shall be governed by Section 17.4 of this Declaration.
- (c) Apertures. Where there are apertures in any boundary, including, but not limited to, windows, doors and door alcoves, such boundaries shall be extended to include the windows, doors and other fixtures located in such apertures, including all frameworks thereof, but the exterior surfaces thereof shall be Limited Common Elements.
- (d) Exceptions. In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units set forth as Exhibit "B" hereto shall control in determining the boundaries of a Unit, except that the provisions of Section 3.2(c) above shall control unless specifically depicted otherwise on such survey.

3.3 Limited Common Elements. Each Unit may have, to the extent applicable and subject to the provisions of this Declaration, as Limited Common Elements appurtenant thereto:

- (a) Miscellaneous Areas, Equipment. Any fixtures or equipment (e.g., an air conditioning unit, with roof rack, connected to and serving the Unit and related lines and equipment) serving a Unit or Units exclusively and any area upon/within which such fixtures or equipment are located shall be Limited Common Elements of such Unit(s). Additionally, any other area labeled "L.C.E." on Exhibit "B" hereto shall be a Limited Common Element of its adjacent Unit.
- (b) Door and Window Surfaces. The exterior surface materials of the doors and windows serving a Unit shall be a Limited Common Element thereof.
- (c) Signs. Signs identifying the use/user of a Unit shall be a Limited Common Element thereof. Standardized signs within the Building identifying Unit(s) and/or their occupants will be automatically deemed Limited Common Elements of their respective Units. Additionally, Developer may assign to one or more Units the right to have and maintain signage on the exterior of the Building, such assignment to be made by written notice from the Developer to the Association. On the making of such an assignment, the space occupied by the sign shall become a Limited Common Element of the Unit(s) to which it is assigned. The Owner thereof shall own, and shall become solely responsible for the maintenance, operation and repair of, such exterior signage, at all times in a neat, orderly and attractive condition, provided that if any electrical service to the sign is by way of a meter for Common Elements, the charge for such electricity shall be a Common Expense and not separately charged to the Unit in question. An Owner may assign an exterior signage Limited Common Element to another Owner, but only with the Association's approval of the actual sign(s). Such a sign shall be subject to the Association's written approval as well as to the approval of the Village (which latter approval shall not be requested until the Association's approval is obtained, if at all). A sign may also be placed by Developer (or a Unit Owner, with the approval of the Association) to identify a Limited Common Element parking space assigned to the Unit(s). No sign may be placed in any location in or on the Condominium Property which advertises or contains the name of any person or business which is not the occupant of the Unit for which the sign is a Limited Common Element.

- (d) Parking. To the extent permitted by law and applicable land use approvals, Developer intends to assign (for consideration and by written notice to the Association) certain covered spaces in the parking lot as Limited Common Elements of the Units identified in such notice. The spaces which are intended by the Developer to be so assigned are shown on "Exhibit B" hereto. The Owner of a Unit to which a parking space Limited Common Element is assigned may assign it to another Unit by written assignment, a copy of which shall be delivered to the Association.

Solely by way of a summary of this and the other provisions of this Declaration pertaining to such area, (i) the exclusive right to use covered parking spaces shall be assigned as provided in this Section, (ii) the Association shall maintain, as well as insure and manage, the structure covering the parking spaces, including electricity and any required fire sprinklers, (iii) however, only the persons entitled to use such spaces shall pay for the cost of the Association doing so through a separate budget for same and (iv) the POA shall maintain the asphalt surface, striping and parking bumpers within the covered parking area to the same extent as the balance of the parking lot serving the Condominium Property.

The Association shall maintain a map, log or roster of all parking space assignments and shall enforce the exclusive rights to use same. No assignment of a parking space shall be recorded in the Public Records of the County, however.

- (e) Altered Common Elements. Common Elements altered for the benefit of certain Units shall become Limited Common Elements thereof per Section 9.2 of this Declaration.
- (f) Conveyance of a Unit. A conveyance of a Unit shall automatically include the conveyance of the rights established herein to any and all Limited Common Elements appurtenant to that Unit.

3.4 Easements. The following easements are hereby created (in addition to any easements created under the Act):

- (a) Support. Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.
- (b) Utility and Other Services; Drainage. Easements are reserved under, through and over the Condominium Property as may be required from time to time for utility, cable television, communications and security systems, and other services and drainage in order to serve the Condominium. The Association

shall have a right of access to each Unit during reasonable hours when necessary for maintenance, repair or replacement of any common elements or of any portion of a unit to be maintained by the association pursuant to the declaration or as necessary to prevent damage to the common elements or to a unit or units.

In addition to the foregoing, each Unit Owner shall have an easement within and through each Unit immediately above or adjacent to the Unit Owner's Unit(s) for the installation, maintenance, repair and replacement of utility, HVAC, other lines, conduits and installations serving the Unit(s) Owner's Units(s) provided such installation are within risers, chases or similar installations made by Developer or otherwise located in such a manner (e.g., attached to a ceiling slab) so as to minimize their impact upon, and interference with, the Unit(s) in which they are located. Further, any access to the Unit subject to this easement shall otherwise be conducted in such a manner as to minimize the interference with the use of Unit in question.

- (c) Encroachments. If (a) any portion of the Common Elements encroaches upon any Unit; (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements or Association Property; or (c) any encroachment shall hereafter occur as a result of (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements or Association Property made by or with the consent of the Association or Developer, as appropriate, or (iv) any repair or restoration of the Improvements (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements or Association Property, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Improvements shall stand.
- (d) Ingress and Egress. A non-exclusive easement in favor of each Unit Owner and resident, their guests and invitees, shall exist for pedestrian traffic over, through and across sidewalks, streets, paths, walks, and other portions of the Common Elements or Association Property as from time to time may be intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements or Association Property as from time to time may be paved and intended for such purposes. None of the easements specified in this subparagraph (d) shall be



encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements (other than those on Condominium Parcels) automatically shall be subordinate to the rights of Unit Owners and the Association with respect to such easements.

- (e) Construction; Maintenance. The Developer (including its designees, contractors, successors and assigns) shall have the right, in its (and their) sole discretion from time to time, to enter the Condominium Property or Association Property and take all other action necessary or convenient for the purpose of completing the construction thereof, or any part thereof, or any Improvements or Units located or to be located thereon, and for repair, replacement and maintenance purposes where the Developer, in its sole discretion, determines that it is required or desires to do so.
- (f) Sales and Leasing Activity. The Developer, its designees, affiliates, successors and assigns, shall have the right to use any Units and parts of the Common Elements or Association Property for sales, leasing, management and construction offices, to show model Units and the Common Elements or Association Property to prospective purchasers and tenants of Units and units in other developments of the Developer or its designees or affiliates, and to erect on the Condominium Property or Association Property signs and other promotional material to advertise Units (or the other aforesaid units) for sale or lease.
- (g) Construction Easement. Developer hereby reserves to itself and its successors, assigns and designees a non-exclusive easement over such portions of the Common Elements or Association Property as are necessary to afford access between the closest public road and any and all lands adjacent to the Condominium which are owned by Developer or its successors or assigns. The purpose of such easement shall be for the development, construction, sale and administration of any condominium or other development Developer elects to construct on said adjacent land. Developer shall be responsible for any damage caused to the Common Elements or Association Property as a result of the use of such easement by construction and other vehicles and persons, ordinary wear and tear excepted.
- (h) Additional Easements. The Association, by and through the Board of Directors on behalf of all Unit Owners (each of whom hereby appoints the Association as its attorney-in-fact for this purpose), shall have the right to grant such additional general ("blanket") and specific electric, gas or other utility, cable

television, security systems, communications, internet or service easements (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or relocate any such existing easements or drainage facilities, in any portion of the Condominium Property or Association Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property or Association Property, as the Association shall deem necessary or desirable, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for their lawful purposes.

- (i) Access. Non-exclusive easement in favor of the owners of Units in any adjacent or nearby condominium or other development and their family members, tenants, guests and invitees for pedestrian and vehicular ingress and egress now exist over the portions of the Common Elements or Association Property designed and suitable for such purposes.

4. Restraint upon Separation and Partition of Common Elements. The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and the exclusive right to use all appropriate appurtenant Limited Common Elements, shall not be separated therefrom and shall pass with the title to the Unit, whether or not separately described. The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all Limited Common Elements appurtenant to a Unit, except as elsewhere herein provided to the contrary, cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium.

5. Ownership of Common Elements and Common Surplus and Share of Common Expenses: Voting Rights.

5.1 Ownership. Each Unit shall own, as an appurtenance thereto, an undivided share of the Common Elements and Common Surplus and shall be responsible for the same share of Common Expenses, as shown on Exhibit "C" to this Declaration. Such allocated shares, as well as the voting rights provided below, are based upon the approximate floor areas of the Units.

5.2 Voting. Each Unit Owner shall be a member of the Association. Each Unit shall be entitled to the number of votes allocated to it on Exhibit "C", such votes to be cast by its Owner in accordance with the provisions of the By-Laws and Articles of Incorporation of the Association.

6. Amendments. Except as elsewhere provided herein, amendments may be effected as follows:
- 6.1 By the Association. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered. An amendment may be proposed either by a majority of the Board of Directors of the Association or by five (5) members of the Association. Except as elsewhere provided, approvals of proposed amendments must be by affirmative vote of Unit Owners owning in excess of sixty-six and two-thirds percent (66-2/3<sup>rd</sup> %). Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the secretary at or prior to the meeting.
- 6.2 By the Developer. The Developer, during the time it has the right to elect a majority of the Board of Directors of the Association, may amend the Declaration, the Articles of Incorporation or the By-Laws of the Association to correct an omission or error, or effect any other amendment, except that this procedure for amendment cannot be used if (i) such an amendment would materially and adversely affect substantial property rights of Unit Owners, unless the affected Unit Owners consent thereto; or (ii) the amendment purports to change the configuration or size of a Unit in any material fashion; materially alters or modifies the appurtenance to a Unit, changes the share of a Unit as set forth in Section 5.1 above, or purports to permit the creation of time-share estates. Any amendments described in clause (ii) shall require the joinders set forth in Section 718.110(4) or (8) of the Act, as and if applicable. Further, no amendment to the provisions regulating the leasing of Units shall apply to any Unit Owner at the time of the amendment who/which does not join in or approve the amendment.
- 6.3 Execution and Recording. An amendment, other than amendments made by the Developer alone pursuant to the Act or this Declaration, shall be evidenced by a certificate of the Association which shall include recording data identifying the Declaration and shall be executed with the same formalities required for the execution of a deed. Amendments by the Developer must be evidenced by a similar certificate executed by the Developer alone. An amendment of the Declaration is effective when the applicable certificate is properly recorded in the public records of the County.
- 6.4 Proviso. Unless otherwise provided specifically to the contrary in this Declaration (e.g., in Section 10 hereof), no amendment shall change the configuration or size of any Unit in any material fashion, materially alter or

modify the appurtenances to any Unit, or change the percentage by which the Owner of a Unit shares the Common Expenses and owns the Common Elements and Common Surplus, unless the record Owner(s) thereof, all record owners of mortgages or other liens thereon and the Owners of a majority of all other Units, shall join in the execution of the amendment. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer or mortgagees of Units without the consent of said Developer and mortgagees in each instance; nor shall an amendment make any change in the sections hereof entitled "Insurance", "Reconstruction or Repair after Casualty", or "Condemnation" unless the Primary Institutional First Mortgagee shall join in the amendment, such joinder not to be unreasonably withheld. The provisions of this Section 6.4 may not be amended in any manner without the consent of any party where rights and protections stated herein are affected by such amendment.

No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration. See provision . . . for present text." Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

## 7. Maintenance and Repairs.

- 7.1 Units and Certain Limited Common Elements. All maintenance, repairs and replacements of, in or to any Unit and Limited Common Elements appurtenant thereto, whether structural or nonstructural (except as provided below), ordinary or extraordinary, including, without limitation, maintenance, repair and replacement windows, the entrance door and all other doors within or affording access to a Unit, and the electrical (including wiring), plumbing (including fixtures and connections), heating and air-conditioning equipment, fixtures and outlets, appliances, built-in cabinets, carpets and other floor coverings, all interior surfaces and the entire interior of the Unit lying within the boundaries of the Unit or the Limited Common Elements or other property belonging to the Unit Owner, shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein and except as to the maintenance (to be performed by the

Association) of (i) the exterior surfaces of doors for cleaning and repainting/restaining purposes, (ii) exterior glass surfaces, but solely for cleaning purposes, (iii) building standard signs and signs described in Section 7.2 and (iv) any covering structures or installations for assigned parking spaces.

- 7.2 Common Elements, Certain Limited Common Elements and Association Property. Except to the extent (i) expressly provided to the contrary herein, or in the Master Covenants, or (ii) proceeds of insurance are made available therefore, all maintenance, repairs and replacements in or to the Common Elements or Association Property (other than those Limited Common Elements provided for above in Section 7.1), shall be performed by the Association and the cost and expense thereof shall be assessed to all Unit Owners as a Common Expense, except to the extent arising from or necessitated by the negligence, misuse or neglect of specific Unit Owners, in which case such cost and expense shall be paid solely by such Unit Owners.

The Association shall also maintain any structures or installations covering assigned Limited Common Element parking spaces described in Section 3.3(d) as well as Limited Common Element signs on the exterior of the Building, but at the expense of the Unit Owner using same. As provided in the Act, the Association shall adopt a budget which shows the cost of such Limited Common Element maintenance as being shared only by the Units to which the Limited Common Elements so maintained are assigned, either in the budget or in a schedule attached thereto. Such budget or schedule may contain allocations of related administrative and insurance costs, reasonably determined by the Board of Directors.

- 7.3 Specific Unit Owner Responsibility. The obligation to maintain and repair any equipment, fixtures or other items of property which service a particular Unit or Units shall be the responsibility of the applicable Unit Owner(s), individually, and not the Association, without regard to whether such items are included within the boundaries of the Units, provided that if not within the boundaries of a Unit, same must constitute or lie within a Limited Common Element appurtenant thereto.

8. Additions, Alterations or Improvements by the Association. Whenever in the judgment of the Board of Directors, the Common Elements, the Limited Common Elements or any part thereof, shall require capital additions, alterations or improvements (as distinguished from repairs and replacements) costing in excess of thirty percent (30%) of the Association's then-current operating budget in the aggregate in any calendar year, the Association may proceed with such additions, alterations or improvements only if the making of such additions, alterations or improvements shall have been approved by a majority of the Units represented at a meeting at which a quorum is attained. Any such additions, alterations or improvements to such Common Elements, or any part thereof, costing in the

aggregate less than such amount in a calendar year may be made by the Association without approval of the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Elements shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners as Common Expenses. For purposes of this section, "aggregate in any calendar year" shall include the total debt incurred in that year, if such debt is incurred to perform the above-stated purposes, regardless of whether the repayment of any part of that debt is made beyond that year. In the case any of the foregoing is for Limited Common Elements of a Building, then (i) the thirty percent (30%) threshold shall be computed only as a percentage of the then-current budget for the maintenance of the applicable Building's Limited Common Elements and (ii) any required Unit Owner approval shall be by a majority of the votes which may be cast only by the Owners of the Units in the applicable Building.

9. Additions, Alterations or Improvements by Unit Owner.

9.1 Consent of the Board of Directors. No Unit Owner shall make any addition, alteration or improvement in or to the Common Elements, his Unit or any Limited Common Element without the prior written consent of the Board of Directors, provided hurricane shutters shall be governed by Section 17.11 hereof. The Board shall have the obligation to answer any written request by a Unit Owner for approval of such an addition, alteration or improvement in such Unit Owner's Unit or Limited Common Elements within forty-five (45) days after such request and all additional information requested is received, and the failure to do so within the stipulated time shall constitute the Board's consent. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction (although the Association shall in no manner be required to enforce same) and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association and its Board of Directors and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Condominium Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation or construction thereof as may be required by the Association.

Without limiting the generality of the foregoing, no Unit Owner shall cause or permit the initial construction of the improvements within the Owner's Unit (commonly referred to as the "build-out" or "tenant improvements"), or the substantial (in the opinion of the Board of

Directors) replacement thereof, to commence until the Plans and Specifications and prime contractor for such work is approved by the Association. Such approval is generally to be conditioned upon the Association determining the compatibility of the improvements with the Common Elements and the contractor entering into an agreement with the Association as to the scheduling of work, protection of the Condominium Property, any staging area, parking of vehicles and preventing unreasonable interference with the use of the Condominium Property by others. The person or entity shall also obtain the Association's approval of that party as complying with Section 17.7 hereof. Any approval hereunder shall be solely for the benefit of the Association and not for the protection of the Unit Owner, who shall be solely responsible for same. Any Unit Owner subject to this paragraph shall place a deposit with the Association (in an amount to be reasonably determined by the Board of Directors) which may be applied by the Association to the cost of clean-up or repair expenses incurred with respect of the Common Elements as a result of the construction activity. A Unit Owner seeking approval may also be required to pay a fee for processing and reviewing same.

All original "build out" work and any subsequent alterations shall be conducted per the Association's approval thereof as well as Section 17.3 hereof.

No alterations, whether "build out" or otherwise, shall be deemed to comply with this Declaration – and no security or damage deposit shall be released – until the completed work and all affected Common Elements are inspected and approved (in terms of compliance with approved plans and repair or restrictions of damaged Common Elements by the Association

All persons are advised that, for reasons of practicality and convenience, persons constructing the interiors of Units will most likely draw electrical power from sources metered to the Association, but such parties shall not be separately charged for such power (i.e., the cost thereof shall be a Common Expense).

- 9.2 Additions, Alterations or Improvements by Developer. The foregoing restrictions of this Section 9 shall not apply to Developer-owned Units. The Developer shall have the additional right, without the consent or approval of the Board of Directors or other Unit Owners, to make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon any Unit owned by it or by another Unit Owner consenting to the applicable change(s), Limited Common Elements appurtenant thereto and immediately adjacent Common Elements (including, without limitation, the removal or addition of walls, floors, ceilings and other structural

portions of the Improvements). Notwithstanding the foregoing, none of the alterations described above may result in a change in the size or configuration of a Unit without the approval of all owners of mortgages and liens on the affected Unit(s) and the approval of the record Owners of all other Units. Without limiting the generality of Developer's ability to assign its rights hereunder, Developer may assign its aforesaid right to alter Common Elements to the Association, provided that (i) such right shall only be exercised upon the vote of a majority of the Board of Directors and (ii) if such alterations are for the benefit of one or more, but not all, Unit Owners, then only such benefited Unit Owners shall bear the cost of the alteration and any additional, ongoing maintenance, insurance or other costs to the Association resulting therefrom. In such case, the altered area shall become Limited Common Elements appurtenant to the benefited Units.

The Developer may also alter the Common Elements in such manner as it deems appropriate (e.g., by installing parking canopies or covers) and such alteration shall not constitute a material alteration of the appurtenances to any Unit as long as it does not substantially reduce the size of the applicable portion of the Condominium Property (e.g., substantially reduce the number of parking spaces).

10. Changes in Developer-Owned Units. Without limiting the generality of the provisions of Section 9.2 above, the Developer shall have the right, without the vote or consent of the Association or Unit Owners, to (i) make alterations, additions or improvements in, to and upon Units owned by the Developer, whether structural or non-structural, interior or exterior, ordinary or extraordinary and (ii) change the layout or number of rooms in any Developer-owned Units, subject to the requirements of Section 9.2, above, if applicable.

11. Operation of the Condominium by the Association:  
Powers and Duties.

11.1 Powers and Duties. The Association shall be the entity responsible for the operation of the Condominium and the Association Property. The powers and duties of the Association shall include those set forth in the By-Laws and Articles of Incorporation of the Association (respectively, Exhibits "D" and "E" annexed hereto), as amended from time to time. In addition, the Association shall have all the powers and duties set forth in the Act, as well as all powers and duties granted to or imposed upon it by this Declaration, including, without limitation:

(a) 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 elsewhere, or at any time and by force, if necessary, for



making emergency repairs therein necessary to prevent damage to the Common Elements or Association Property or to any other Unit or Units.

- (b) The power to make and collect Assessments and other charges against Unit Owners and to lease, maintain, repair and replace the Common Elements.
- (c) The duty to maintain accounting records according to good accounting practices, which shall be open to inspection by Unit Owners or their authorized representatives at reasonable times upon prior request.
- (d) The power to contract for the management and maintenance of the Condominium Property or any Association Property and the Association and to authorize a duly licensed management agent (who may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of Common Elements and any Association Property with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted in the Condominium documents and the Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (e) The power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security therefore mortgages and security interests in property owned by the Association, if any, provided that such actions are approved by a majority of the entire membership of the Board of Directors and of the Units represented at a meeting at which a quorum has been attained, or by such greater percentage of the Board or Unit Owners as may be specified in the By-Laws with respect to certain borrowing, provided further that no such action shall be permitted while the Developer owns any Unit without the prior written consent of the Developer.
- (f) The power to charge a fee for the exclusive use of any Common Elements or Association Property by an Owner having a right to such use.

- (g) The power to adopt and amend rules and regulations concerning the details of the operation and use of the Condominium Property and any Association Property.
- (h) The power to act as the member of the POA, as described in Section 22 hereof, on behalf of the Condominium and Unit Owners.
- (i) All of the powers which a corporation not for profit in the State of Florida may exercise.

In the event of conflict among the powers and duties of the Association or the terms and provisions of this Declaration or the exhibits attached hereto, this Declaration shall take precedence over the Articles of Incorporation, By-Laws and applicable rules and regulations; the Articles of Incorporation shall take precedence over the By-Laws and applicable rules and regulations; and the By-Laws shall take precedence over applicable rules and regulations, all as amended from time to time. Notwithstanding anything in this Declaration or its exhibits to the contrary, the Association shall at all times be the entity having ultimate authority over the Condominium, consistent with the Act.

- 11.2 Limitation upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by or on behalf of any Unit Owners regardless if whether or not same shall have been approved by the Association pursuant to Section 9.1 hereof.
- 11.3 Restraint upon Assignment of Shares in Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit.
- 11.4 Approval or Disapproval of Matters. Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of all record Owners of the Unit is specifically required by this Declaration or by law.
- 11.5 Acts of the Association. Unless the approval or action of Unit Owners, and/or a certain specific percentage of the Board of Directors of the Association, is specifically required in this Declaration, the Articles of

Incorporation or By-Laws of the Association, applicable rules and regulations or applicable law, all approvals or actions required or permitted to be given or taken by the Association shall be given or taken by the Board of Directors, without the consent of Unit Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution. When an approval or action of the Association is permitted to be given or taken hereunder or thereunder, such action or approval may be conditioned in any manner the Association deems appropriate or the Association may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal.

**NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BY-LAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE CONDOMINIUM PROPERTY INCLUDING, WITHOUT LIMITATION, OCCUPANTS AND THEIR, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:**

- (a) **IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE CONDOMINIUM PROPERTY HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE CONDOMINIUM PROPERTY AND THE VALUE THEREOF;**
- (b) **THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY, THE VILLAGE AND/OR ANY OTHER JURISDICTION OR AGENCY, THE COVENANTS, CONDITIONS, RESTRICTIONS OR RULES OF ANY OTHER ASSOCIATION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND**
- (c) **ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT**

**FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.**

**EACH UNIT OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS UNIT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE CONDOMINIUM PROPERTY (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS PROVISION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS PROVISION.**

**AS USED IN THIS ARTICLE, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE MEMBERS, EMPLOYEES, AGENTS, MANAGERS, CONTRACTORS, SUBCONTRACTORS,, SUCCESSORS AND ASSIGNS AND SHALL ALSO INCLUDE THE DEVELOPER, WHICH SHALL BE FULLY PROTECTED HEREBY.**

12. Determination of Common Expenses and Fixing of Assessments Therefor. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium as well as one for the Association, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses of the Condominium and allocate and assess such expenses among the Unit Owners in accordance with the provisions of this Declaration and the By-Laws. The Board of Directors shall advise all Unit Owners promptly in writing of the amount of the Assessments payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of each budget, on which such Assessments are based, to all Unit Owners and (if requested in writing) to their respective mortgagees. The Common Expenses shall include the expenses of and reserves for (if required by law and not lawfully waived) the operation, maintenance, repair and replacement of the Common Elements, costs of carrying out the powers and duties of the Association and any other expenses designated as Common Expenses by the Act, this Declaration, the Articles or By-Laws of the Association, applicable rules and regulations or by the Association. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall determine from time to time, and need not be restricted or accumulated. Any Budget adopted shall be subject to change to cover actual expenses at any time. Any such change shall be adopted in a manner consistent with the provisions of the By-Laws. It is understood and authorized that electricity for the illumination of exterior signs on the Building may be through a Common Element meter, notwithstanding that the sign benefits only a specific Unit(s).

13. Collection of Assessments.

13.1 Liability for Assessments. A Unit Owner (including Developer), regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments coming due while he is the Unit Owner. In the case of a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor for his share of the Common Expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit for which the Assessments are made or otherwise.

13.2 Default in Payment of Assessments for Common Expenses. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at eighteen percent (18%) from the date due until paid. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such Parcel, with interest and for reasonable attorney's fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien. The lien is effective as of the date of the recording of this Declaration and shall be evidenced by the recording of a claim of lien in the Public Records of the County, stating the description of the Condominium Parcel, the name of the record Owner, the amount due and the due dates. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid or until it is barred by law. The claim of lien shall secure (whether or not stated therein) all unpaid assessments, interest thereon, and costs and attorneys fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure thereof. A claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association may bring an action in its name to foreclose a lien for unpaid Assessments in the manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien.

As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after thirty (30) days' prior written notice to the applicable Unit Owner, the Association may declare the remaining calendar year's Assessment installments to be accelerated and shall be due and payable upon the recording of the claim of lien for same.

- 13.3 Notice of Intention to Foreclose Lien. No foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at the last known address, and upon such mailing, the notice shall be deemed to have been given. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.
- 13.4 Appointment of Receiver to Collect Rental. If the Unit Owner remains in possession of the Unit and the claim of lien is foreclosed, the court in its discretion may require the Unit Owner to pay a reasonable rental for the Unit and the Association is entitled to the appointment of a receiver to collect the rent.
- 13.5 First Mortgagee. In the event a first mortgagee or other purchaser shall obtain title to a Unit as a result of foreclosure of a mortgage thereon, or as a result of a deed given in lieu of foreclosure or in satisfaction of debt, such first mortgagee shall be liable for the share of Common Expenses or Assessments or other charges imposed by the Association pertaining to such Condominium Parcel or chargeable to the former Unit Owner of such Condominium Parcel which became due prior to acquisition of title as a result of the foreclosure or the acceptance of such deed in lieu of foreclosure or in satisfaction of debt. However, the first mortgagee's liability as aforesaid shall be limited to assessments coming due during the period ending with the acquisition of title as aforesaid and commencing thirty (30) days after the date the first mortgagee received the last payment of principal or interest on the debt secured by the mortgage and, further, in no event shall such liability exceed (i) assessments for a period of more than six (6) months prior to acquisition of title or (ii) one percent (1%) of the original mortgage debt, whichever is less.

Any assessments which cannot be collected by virtue of the foregoing paragraph shall be deemed a Common Expense payable by all of the Unit Owners.

- 13.6 Certificate of Unpaid Assessments. Within fifteen (15) days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating all assessments and other moneys owed to the Association by the Unit Owner with respect to his Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.
- 13.7 Installments. Regular Assessments shall be collected monthly or quarterly (as determined by the Board of Directors), in advance.
14. Insurance. Insurance covering the Condominium Property and the Association Property shall be governed by the following provisions:
- 14.1 Purchase, Custody and Payment.
- (a) Purchase. All insurance policies described herein covering portions of the Condominium Property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.
  - (b) Approval. Each insurance policy, the agency and company issuing the policy and the Insurance Trustee (if appointed) hereinafter described shall be subject to the approval of the Primary Institutional First Mortgagee in the first instance, if requested thereby.
  - (c) Named Insured. The named insured shall be the Association, individually, and as agent for Owners of Units covered by the policy, without naming them, and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be deemed additional insureds.
  - (d) Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and all policies and endorsements thereto shall be deposited with the Insurance Trustee (if appointed).
  - (e) Copies to Mortgagees. One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by the Association upon request to each Institutional First Mortgagee who holds a mortgage upon a Unit covered by the policy. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy, or not less than ten (10) days prior to the expiration of

each preceding policy that is being renewed or replaced, as appropriate.

- (f) Personal Property and Liability. Except as specifically provided herein or by the Act, the Association shall not be responsible to Unit Owners to obtain insurance coverage upon the property lying within the boundaries of their Unit, including, but not limited to, their personal property, and for their personal liability, rent interruption and for any other risks not otherwise insured in accordance herewith.

14.2 Coverage. The Association shall maintain insurance covering the following:

- (a) Casualty. The Building and all related improvements, including all fixtures, installations or additions comprising that part of the Building within the boundaries of the Units and required by the Act to be insured under the Association's policy(ies), but excluding the items listed in the third sentence of this paragraph, and all insurable Improvements located on the Common Elements and Association Property from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Elements or owned by the Association (collectively the "Insured Property"), shall be insured to the extent required by law, excluding foundation and excavation costs. Such insurance shall cover Limited Common Elements such as signs and covering structures or installations for assigned parking, but the Association may (but shall not be required to) allocate the incremental cost of such insurance solely to the Units to which such Limited Common Elements are appurtenant. Casualty insurance shall not be required to insure unit floor, wall or ceiling coverings or the following equipment if it is (i) located within a Unit and (ii) the repair and replacement obligation of the Unit Owner: electrical fixtures, appliances, air conditioning/heating equipment, water heaters or built-in cabinets. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against:
  - (i) Loss or Damage by Fire and Other Hazards covered by a standard extended coverage endorsement;
  - (ii) Reconstruction expenses caused by intervening changes in laws, codes, ordinances or regulations; and



- (iii) Such Other Risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.
- (b) Liability. Comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Insured Property, with such coverage as shall be required by the Board of Directors of the Association, but with combined single limit liability of not less than \$1,000,000 per occurrence with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa, if reasonably available.
- (c) Worker's Compensation and other mandatory insurance, when applicable.
- (d) Flood Insurance, if required by the Primary Institutional First Mortgagee or if the Association so elects.
- (e) Fidelity Insurance, if required by the Act or if so desired by the Board of Directors, covering all persons who control or disburse Association funds, such insurance to be in an amount which is the greater of that required by the Act or determined by the Board.
- (f) Association Property. Appropriate additional policy provisions, policies or endorsements extending the applicable portions of the coverage described above to all Association Property, where such coverage is available.
- (g) Such Other Insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) subrogation against the Association and against the Unit Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, a member of the Board of Directors of the Association, a committee of the Board of Directors or members of any such committee, one or more Unit Owners or as a result of contractual undertakings. Additionally, each policy shall provide that any insurance trust agreement will be

recognized, that the insurance provided shall not be prejudiced by any act or omissions of individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss.

- 14.3 Additional Provisions. All policies of insurance shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days' prior written notice to all of the named insureds, including all mortgagees of Units.
- 14.4 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the costs of fidelity bonding for any management company employee may be paid by such company pursuant to its contract with the Association. Premiums may be financed in such manner as the Board of Directors deems appropriate.
- 14.5 Insurance Trustee; Share of Proceeds. All insurance policies obtained by or on behalf of the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee which may be designated by the Board of Directors and which, if so appointed, shall be a bank or trust company in Florida with trust powers, with its principal place of business in the State of Florida or one or more of the Directors of the Association. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees in the following shares, but shares need not be set forth on the records of the Insurance Trustee:
- (a) Insured Property. Proceeds on account of damage to the Insured Property shall be held in undivided shares for each Unit Owner, such shares being the same as the undivided shares in the Common Elements appurtenant to each Unit, provided that if the Insured Property so damaged includes property lying within the boundaries of specific Units, that portion of the proceeds allocable to such property shall be held as if that portion of the Insured Property were Optional Property as described in paragraph (b) below.
- (b) Optional Property. Proceeds on account of damage solely to Units and/or certain portions or all of the contents thereof not

included in the Insured Property (all as determined by the Association in its sole discretion) (collectively the "Optional Property"), if any is collected by reason of optional insurance which the Association elects to carry thereon (as contemplated herein), shall be held for the benefit of Owners of Units or other portions of the Optional Property damaged in proportion to the cost of repairing the damage suffered by each such affected Owner, which cost and allocation shall be determined in the sole discretion of the Association.

- (c) Mortgagees. No mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds, except for actual distributions thereof made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.

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

- (a) Expenses of the Trust. All expenses of the Insurance Trustee shall be first paid or provision shall be made therefore.
- (b) Reconstruction or Repair. If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners thereof, remittances to Unit Owners and their mortgagees being payable jointly to them.
- (c) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the beneficial owners as provided in Section 14.5 above, and distributed first to all Institutional First Mortgagees in an amount sufficient to pay off their mortgages, and the balance, if any, to the beneficial owners.
- (d) Certificate. In making distributions to Unit Owners and their mortgagees, the Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary as to the names of the Unit Owners and their mortgagees and their respective shares of the distribution.

- 14.7 Association as Agent. The Association is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner and for each owner of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.
- 14.8 Unit Owners' Personal Coverage. Unless the Association elects otherwise, the insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within his Unit, nor casualty or theft loss to the contents of an Owner's Unit. It shall be the obligation of the individual Unit Owner, if such Owner so desires, to purchase and pay for insurance as to all such and other risks not covered by insurance carried by the Association.
- 14.9 Benefit of Mortgagees. Certain provisions in this Section 14 entitled "Insurance" are for the benefit of mortgagees of Units and may be enforced by such mortgagees.
- 14.10 Board Acting as Insurance Trustee. The Board of Directors of the Association shall have the option, in its discretion, of appointing an Insurance Trustee hereunder. If the Association fails or elects not to appoint such Trustee, the Association will perform directly all obligations imposed upon such Trustee by this Declaration. Fees and expenses of any Insurance Trustee are Common Expenses.
- 14.11 Presumption as to Damaged Property. In the event of a dispute or lack of certainty as to whether damaged property constitutes a Unit(s) or Common Elements, such property shall be presumed to be Common Elements.
15. Reconstruction or Repair after Fire or Other Casualty.
- 15.1 Determination to Reconstruct or Repair. Subject to the immediately following paragraph, in the event of damage to or destruction of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) and the Insurance Trustee (if appointed) shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

If seventy-five percent (75%) or more, measured in terms of replacement cost, of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) is substantially damaged or destroyed and if Unit Owners, owning eighty percent (80%) of the applicable interests in the Common Elements duly and promptly resolve not to proceed with the repair or restoration thereof and a Majority of Institutional First Mortgagees approve such resolution, the Condominium Property will not be repaired and shall be subject to an action for partition instituted by the Association, any Unit Owner, mortgagee or lienor, as if the Condominium Property were owned in common, in which event the net proceeds of insurance resulting from such damage or destruction shall be divided among all the Unit Owners in proportion to their respective interests in the Common Elements (with respect to proceeds held for damage to the Insured Property other than that portion of the Insured Property lying within the boundaries of the Unit), and among affected Unit Owners in proportion to the damage suffered by each such affected Unit Owner, as determined in the sole discretion of the Association (with respect to proceeds held for damage to the Optional Property, if any, and/or that portion of the Insured Property lying within the boundaries of the Unit); provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such fund all mortgages and liens on his Unit in the order of priority of such mortgages and liens.

Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than sixty (60) days from the date the Insurance Trustee (if appointed) notifies the Board of Directors and Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work, or not more than ninety (90) days after the Insurance Trustee (if appointed) notifies the Board of Directors and the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work. The Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

- 15.2 Plans and Specifications. Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements and then applicable building and other codes; or if not, then in accordance with the plans and specifications approved by the Board of Directors of the Association and then applicable building and other codes, and if the damaged property which is to be altered is the Building or the Optional Property, by the Owners of not less than 80% of the applicable interests in the Common Elements, as well as the Owners of all Units and other portions of the Optional Property (and their respective mortgagees) the plans for which are to be altered.

15.3 Special Responsibility. If the damage is only to those parts of the Optional Property for which the responsibility of maintenance and repair is that of the respective Unit Owners, then the Unit Owners shall be responsible for all necessary reconstruction and repair, which shall be effected promptly and in accordance with guidelines established by the Board of Directors (unless insurance proceeds are held by the Association with respect thereto by reason of the purchase of optional insurance thereon, in which case the Association shall have the responsibility to reconstruct and repair the damaged Optional Property, provided the respective Unit Owners shall be individually responsible for any amount by which the cost of such repair or reconstruction exceeds the insurance proceeds held for such repair or reconstruction on a Unit by Unit basis, as determined in the sole discretion of the Association). In all other instances, the responsibility for all necessary reconstruction and repair shall be that of the Association.

(a) Disbursement. The proceeds of insurance collected on account of a casualty, and the sums collected from Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:

(i) Association - Lesser Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is less than \$100,000, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors of the Association; provided, however, that upon request to the Insurance Trustee (if appointed) by an Institutional First Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage.

(ii) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than \$100,000, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by subparagraph (i) above, but then only upon the further approval of an architect or engineer qualified to practice in Florida and employed by the Association to supervise the work.

(iii) Unit Owners. If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that

are the responsibility of the Association, this balance may be used by the Association to effect repairs to the Optional Property (if not insured or if under-insured), or may be distributed to Owners of the Optional Property who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Optional Property. All proceeds must be used to effect repairs to the Optional Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Optional Property and promptly effect the repairs. Any balance remaining after such repairs have been effected shall be distributed to the affected Unit Owners and their mortgagees jointly as elsewhere herein contemplated.

- (iv) Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that part of a distribution to an Owner which is not in excess of Assessments paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee.
- (v) Certificate. Notwithstanding the provisions herein, the Insurance Trustee (if appointed) 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 made upon the order of the Association alone or upon the additional approval of an architect, engineer or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine the payees nor the amounts to be paid. The Insurance Trustee (if appointed) 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 names of the payees and the amounts to be paid.

- 15.4 Assessments. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Assessments on account of damage to the Insured Property shall be in proportion to all of the Owners' respective shares in the Common Elements.
- 15.5 Benefit of Mortgagees. Certain provisions in this Section 15 are for the benefit of mortgagees of Units and may be enforced by any of them.

16. Condemnation.

- 16.1 Deposit of Awards with Insurance Trustee. The taking of portions of the Condominium Property by the exercise of the power of eminent domain shall be deemed to be a casualty, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee (if appointed). Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee; and in the event of failure to do so, in the discretion of the Board of Directors of the Association, the amount of that award shall be set off against the sums hereafter made payable to that Owner.
- 16.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty.
- 16.3 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the awards and special Assessments will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and special Assessments shall be used for these purposes and



shall be disbursed in the manner provided for disbursement of funds by the Insurance Trustee (if appointed) after a casualty, or as elsewhere in this Section 16 specifically provided.

16.4 Unit Reduced but Habitable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable (in the sole opinion of the Association), the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

- (a) Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be payable by the Owner of the Unit.
- (b) Distribution of Surplus. The balance of the award in respect of the Unit, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and such mortgagees.
- (c) Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the share in the Common Elements and of the Common Expenses and Common Surplus appurtenant to the Unit shall be reduced by multiplying the shares of the applicable Unit prior to reduction by a fraction, the numerator of which shall be the area in square feet of the Unit after the taking and the denominator of which shall be the area in square feet of the Unit before the taking. The shares of all Unit Owners in the Common Elements, Common Expenses and Common Surplus shall then be restated as follows:
  - (i) add the total of all percentages of all Units after reduction as aforesaid (the "Remaining Percentage Balance"); and
  - (ii) divide each percentage for each Unit after reduction as aforesaid by the Remaining Percentage Balance.

The result of such division for each Unit shall be the adjusted percentage for such Unit.

16.5 Unit Made Uninhabitable. If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made habitable (in the sole opinion of the Association), the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

- (a) Payment of Award. The awards shall be paid first to the applicable Institutional First Mortgagees in amounts sufficient to pay off their mortgages in connection with each Unit which is not so habitable; second, to the Association for any due and unpaid Assessments; third, jointly to the affected Unit Owners and other mortgagees of their Units. In no event shall the total of such distributions in respect of a specific Unit exceed the market value of such Unit immediately prior to the taking. The balance, if any, shall be applied to repairing and replacing the Common Elements.
- (b) Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors of the Association; provided that if the cost of the work therefore shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required for capital improvements to the Common Elements.
- (c) Adjustment of Shares. The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Unit Owners (and among reduced Units), each Unit to receive a fractional interest equal to one (1) over the remaining number of Units.
- (d) Assessments. If the balance of the award (after payments to the Unit Owner and such Owner's mortgagees as above provided) for the taking is not sufficient to alter the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by Assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the applicable percentage shares of those Owners after all adjustments to such shares effected pursuant hereto by reason of the taking.
- (e) Arbitration. If the market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and mortgagees of the Unit and the Association within 30 days after notice of a dispute by any affected party, such value shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the

arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit. A judgment upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction in accordance with the Florida Arbitration Code. The cost of arbitration proceedings shall be assessed against all Units Owners, including Owners who will not continue after the taking, in proportion to the applicable percentage shares of such Owners as they exist prior to the adjustments to such shares effected pursuant hereto by reason of the taking.

- 16.6 Taking of Common Elements. Awards for the taking of Common Elements shall be used to render the remaining portion of the Common Elements usable in the manner approved by the Board of Directors of the Association; provided, that if the cost of such work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner elsewhere required for capital improvements to the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustments to these shares effected pursuant hereto by reason of the taking. If there is a mortgage on a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit.
- 16.7 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements and share in the Common Expenses and Common Surplus that are effected by the taking shall be evidenced by an amendment to this Declaration of Condominium that is only required to be approved by, and executed upon the direction of, a majority of all Directors of the Association.
17. Occupancy and Use Restrictions. In order to provide for congenial occupancy of the Condominium Property and for the protection of the values of the Units, the use of the Condominium Property shall be restricted to and shall be in accordance with the following provisions:
- 17.1 Occupancy and Use; Changes in Use. Each Unit shall be occupied and used only in accordance with zoning and other land use regulations applicable thereto, as same may be amended from time to time (and including any variance granted for a particular Unit) and the covenants, conditions, rules and regulations of the POA described in Section 22 hereof. Notwithstanding the foregoing, the following uses shall not be permitted within the Condominium Property: adult entertainment establishments; adult day care or assisted living; construction equipment sales, rental or leasing; labor contractors/pools; pest control; repossession services; sign painting and lettering; child care; industrial;

laundromat or coin laundry; funeral parlor; wedding chapel; arcade; fast food restaurant; grocery, fruit or vegetable sales; ice cream shop; paint or wallpaper sales; or veterinary medicine (with or without boarding).

No change in the type of use of a Unit (with "type" of use to be determined in accordance with the zoning ordinances with the Village of Wellington), even if the new type of use is permitted by applicable land use regulations, shall be made without the approval of the Association. In determining whether to approve any change of use, the Association may take into account the nature of the use and the subjective impact on the balance of the Units as well as the impact of the proposed new use on the overall Condominium Property as to matters such as, but not limited to, parking requirements and insurance premiums.

**No use of the Condominium Property shall be made which causes the total number of square feet in the Condominium devoted to medical/healthcare use to exceed the amount originally allocated thereto, subject to adjustment as approved per the Master Declaration.** The Association shall not be required to make the determination of whether a proposed use would violate this restriction but, rather, may instead require the applicable Unit Owner or purchaser to provide written evidence from the appropriate governmental authority that such square footage limitation will not be exceeded.

In the event that the Developer, in the initial deed of a Unit or a lease of a Unit, designates that Unit as having the exclusive right to operate a specified type of business within the Unit, then such type of business may not be conducted in any other Unit or if so indicated in the applicable deed or lease, no other Unit in the applicable Building, without the express written consent of the Owner of the Unit conveyed by such deed. The Owner of a Unit may waive such "exclusive" use by recording a waiver or disclaimer thereof in the Public Records of the County, which waiver or disclaimer shall be effective as to any other designated Unit or *in-toto* in each case as specified therein. Developer shall notify the Association of any "exclusive" granted as aforesaid.

17.2 Pets. No pets, birds, reptiles or wildlife shall be kept in or on the Condominium Property (including Units). Without limiting the generality of Section 19 hereof, a violation of the provisions of this paragraph shall entitle the Association to all of its rights and remedies, including, but not limited to, the right to fine Unit Owners (as provided in any applicable rules and regulations) and/or to require any pet to be permanently removed from the Condominium Property. This Section 17.2 shall not prohibit the keeping of fish in a Unit; or Limited Common Elements

17.3 Alterations. Without limiting the generality of Section 9.1 hereof, but subject to the proviso contained therein as to hurricane shutters and subject to Section 10 hereof, no Unit Owner shall cause or allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto or Common Elements, including, but not limited to, painting or other decorating of any nature (other than to the interior of the Unit), installing any electrical wiring, television antenna, machinery, or air-conditioning units or in any manner changing the appearance of any portion of the Building, without obtaining the prior written consent of the Association (in the manner specified in Section 9.1 hereof). Without limiting the generality of the foregoing, any Unit Owner wishing to install any floor covering other than carpet or sound-insulated material in a Unit shall first obtain the Association's prior written consent and all interior improvements shall include sound attenuating features as required by the Association. In order to avoid damage from condensation in walls, no vinyl or similar moisture-trapping wall coverings shall be placed on the inside of exterior Unit walls.

Without limiting the general requirement of the Association's review and approval of alterations (including initial build-out) of Units, such work shall be subject to the following specific provisions:

- (a) An outside vent shall be allowed to penetrate the roof or side wall of the Building only where reasonably necessary and then only in the manner specifically allowed by the Association. Lines, risers, vents and the like shall only be placed in the chases or conduits specifically provided for same or part of the initial construction of the Building.
- (b) Any wall, floor or ceiling penetrations shall be promptly repaired in a good and workmanlike manner.
- (c) All appropriate steps shall be taken to prevent damage to Common Elements, including using appropriate floor and wall coverings for lobbies, hallways and elevators.
- (d) No more electrical service shall be provided to a Unit than permitted by the Developer (or the Association, if any unused electrical capacity is assigned to it).
- (e) The Association may condition its approval of installations which indicate above-average water usage upon the Unit Owner's agreement to pay a monthly fee for same to the Association.
- (f) Any alteration or reconfiguration of a Unit(s) which creates a hallway accessible to persons outside of the walls of the Unit

shall not be deemed removed from the Unit for assessment or similar purposes, but shall be deemed to be subject to an easement in favor of the Unit Owners and their tenants and invitees for access purposes.

- 17.4 Demising Walls. If any demising wall separating two (2) Units, or separating a Unit from Common Elements is installed, it shall be located such that the applicable boundary line shall be approximately the center line of such demising wall. In the case of such a demising wall, (i) same shall be deemed a party wall for all common law purposes, (ii) the Owners of the adjoining Units (or the Association, as to Common Elements) shall each own the portion of the wall located on their side of the boundary (iii) each Unit shall be subject to an easement of support for the other party's portion of the demising wall and (iv) each party shall maintain the portion of the wall with in such party's Unit or Common Elements. In the event of damage to, or destruction of a demising wall, which damage or destruction was caused by the negligence of misconduct of such an Owner, such Owner shall be responsible for all of such costs.
- 17.5 Communications Equipment. No communications lines, equipment, antennas, satellite dishes or other installations shall be installed or operated in a manner which interferes with the operation of the Building or communications lines or equipment of other occupants of the Building. No antennas, satellite dishes or other apparatus shall be installed on the exterior of the Building unless approved by the Board of Directors, which approval may not be withheld or conditioned if doing so would violate the rules of the Federal Communications Commission.
- 17.6 Trash Disposal. No garbage, trash, refuse or materials shall be disposed of at the Condominium Property except in containers in a manner established by the Board of Directors. This provision shall likewise apply to recycling materials.
- 17.7 Work Within Units: Service Providers. No tenant improvement or other work (including the installation or removal of a demising wall) shall be conducted in any Unit in a manner which unreasonably interferes with the operation of the Condominium Property or the use thereof by its lawful occupants. Any party intending to have any work performed in a Unit other than routine repairs or other non-disruptive work (e.g., computer or telephone installation and wiring located solely within the boundaries of the Unit) shall give at least five (5) days' prior written notice to the Association specifying the nature of the work and the parties to perform same and shall comply with all reasonable directives of the Association in such regard so as to minimize the impact of such work on the other occupants of the Condominium Property.

Any person or entity performing "Build-Out" or tenant improvement work within a Unit shall, prior to entering the Condominium Property to perform such work, deliver to the Association evidence that such person or entity has (i) general liability insurance in an amount not less than \$1,000,000.00, (ii) all State, County and Village licenses required to undertake such activities, (iii) sufficient financial strength, experience and other attributes would qualify the person or entity to receive payment and performance bonds of the full scope and price of the work to be performed and (iv) understood and agreed to comply with the various provisions of this Declaration and other requirements of the Association with respect to the work to be undertaken.

No maintenance, janitorial, pest control or other services shall be provided to a Unit except by a person or company who/which: (i) is properly licensed, bonded and insured and (ii) is also approved by the Association. Any such party shall provide proof of compliance herewith to the Association and shall cause the Association to be made an additional insured under its liability insurance and protected by such party's bond(s).

- 17.8 Use of Common Elements and Association Property. The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units.
- 17.9 Nuisances. No nuisances (as reasonably determined by the Association) shall be allowed on the Condominium Property or Association Property, nor shall any use or practice be allowed which is a source of annoyance to occupants of Units or which interferes with the peaceful possession or proper use of the Condominium Property by its occupants. No activity specifically permitted by this Declaration shall be deemed a nuisance.
- 17.10 No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or Association Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property or Association Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property or Association Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the

provisions of this Section 17.10. No activity specifically permitted by this Declaration shall be deemed a violation of this Section.

17.11 Hurricane Protection. All exterior glass in the Building shall be hurricane-protective "impact glass". Accordingly, no other type of hurricane protection may be installed in or around the Units.

17.12 Exterior Improvements; Landscaping, Window Treatments, Signs. Without limiting the generalities of Sections 9.1 or 17.3 hereof, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior doors, walls or windows of the Building (including, but not limited to, awnings, signs, storm shutters, screens, window tinting, furniture, fixtures and equipment), nor to plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life outside his Unit unless same is approved by the Board of Directors, which may withhold or condition such approval in its sole discretion. The Board of Directors shall adopt standards for uniform signage for Units. The Board of Directors may also permit landscape planters, awnings and the like which are (i) specifically approved for the particular Unit or (ii) in accordance with uniform standards adopted by the Board of Directors. Any such exterior items or additions shall be the sole maintenance responsibility of the applicable Unit Owner except as provided in Section 7.3 hereof, and the Board of Directors shall have all rights and remedies provided in this Declaration should such Owner fail to maintain same in a neat, clean and attractive fashion.

17.13 Commercial/Recreational Vehicles and Trailers. Except as permitted below, no trucks, other commercial vehicles, campers, mobile homes, recreational vehicles or boat or other trailers shall be kept on the Condominium Property provided that a sport utility vehicle shall not be considered a truck. For purposes of the foregoing, "commercial vehicles" shall mean those not designed or used for customary personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether same is a commercial vehicle. The foregoing shall not prohibit, however, (i) the parking of otherwise prohibited vehicles on the Condominium Property in the course of providing services to the Condominium Property, the occupants thereof or the Association, (ii) unmarked pick-up trucks of less than a three-quarter (3/4) ton capacity, (iii) vans with windows along the entirety of both sides and which contain seating for at least four (4) persons, provided that such vans and trucks shall not bear commercial-type lettering or graphics or (iv) vehicles expressly approved by the Board of Directors, even if such vehicles would otherwise be in violation of this Section as long as they comply with any conditions imposed by the Association such as, but not limited to, being kept in specific locations. All vehicles kept on the Condominium Property shall be



operational and in good condition. In the event of doubt or dispute as to whether a vehicle is prohibited by this Section, the good-faith determination of the Board of Directors shall be binding and conclusive.

- 17.14 Relief by Association. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Section 17 for good cause shown.
- 17.15 Changes in Permitted Uses. No amendments to this Section 17, any other provision of this Declaration governing the use of Units or the Common Elements or to any Rules and Regulations of the Association shall operate to prohibit the parking of a vehicle or then-current leasing or occupancy of a Unit where same was (i) permitted prior to the effectiveness of the amendment, (ii) being conducted in reliance on such permissibility and (iii) is continuing with the same pet, vehicle, lessee or occupant that existed prior to the effectiveness of the amendment. Likewise, no improvement made to or about any Unit (e.g., the installation of hurricane shutters, signs, plantings or awnings) which was permitted at the time of its making shall be required to be removed by virtue of a change in the permissibility of such types of improvements.
18. Selling, Leasing and Mortgaging of Units. Units may be made subject to mortgages without restrictions, but sales and leases thereof shall be subject to the provisions of this Section 18 as well as to Section 17.1 where a change in use is involved.
- 18.1 Sales. The sale and conveyance of the Unit shall not be subject to any right of approval or of first refusal in favor of the Association as long as the use of the Unit is permitted by this Declaration. However, no conveyance of a Unit shall be valid unless there is also recorded in the public records of the County a certificate signed by an officer or agent of the Association stating that all assessments, charges, fines and other sums due the Association, as of the date of the certificate, are paid in full. The Association shall respond to a request for such certificate within fifteen (15) of receipt of same and may charge an administrative fee for the processing thereof.
- 18.2 Leases. The lease of a Unit or any assignment or sub-lease thereof shall not be subject to Association approval as long as the use of the Unit pursuant to such lease, assignment or sub-lease is permitted by this Declaration. Each lease of a Unit shall provide (or be automatically deemed to provide) an express statement that the Association shall have the right to exercise any and all remedies set forth in this Declaration against the Unit Owner and/or lessee, jointly and severally, in the event of a violation of the lessee of this Declaration, the Articles of Incorporation and By-Laws of the Association, applicable Rules and

Regulations of the Association or other applicable provisions of any agreement, document or instrument governing the Condominium or administered by the Association.

- 18.3 No Severance of Ownership. No part of the Common Elements may be sold, conveyed or otherwise disposed of, except as an appurtenance to the Unit in connection with a sale, conveyance or other disposition of the Unit to which such interest is appurtenant, and any sale, conveyance or other disposition of a Unit shall be deemed to include that Unit's appurtenant interest in the Common Elements.
- 18.4 Gifts and Devises, etc. Any Unit Owner shall be free to convey or transfer his Unit by gift, to devise his Unit by will, or to have his Unit pass by intestacy, without restriction, provided, however, that each succeeding Unit Owner shall be bound by, and his Unit subject to, the provisions of this Section 18.
19. Compliance and Default. Each Unit owner and every occupant (including a lessee) of a Unit and the Association shall be governed by and shall comply with the terms of this Declaration of Condominium and all exhibits annexed hereto, and the rules and regulations adopted pursuant to those documents, as the same may be amended from time to time. The Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:
- 19.1 Negligence. 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, invitees, employees, agents or lessees, but only to the extent such expense is not met by the proceeds of insurance actually collected in respect of such negligence by the Association.
- 19.2 Compliance. In the event a Unit Owner or occupant fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, the Master Covenants, or any other agreement, document or instrument affecting the Condominium Property or administered by the POA, in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines or to sue in a court of law for damages.
- 19.3 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same 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 (including appellate attorneys' fees).

19.4 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.

20. Termination of Condominium. The Condominium shall continue until (i) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration, or (ii) such time as withdrawal of the Condominium Property from the provisions of the Act is authorized by a vote of Owners owning at least eighty percent (80%) of the Units and by the Primary Institutional First Mortgagee. In the event such withdrawal is authorized as aforesaid, the Condominium Property shall be subject to an action for partition by any Unit Owner, mortgagee or lienor as if owned in common in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective interests in the Common Elements, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such net proceeds all mortgages and liens on his Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the basis of the termination and said certificate shall be recorded among the public records of the County.

This Section may not be amended without the consent of the Primary Institutional First Mortgagee, which consent shall not be unreasonably withheld.

21. Additional Rights of Mortgagees and Others.

21.1 Institutional First Mortgagees shall have the right, upon written request to the Association, to: (i) examine the Condominium documents and the Association's books and records, (ii) receive a copy of the Association's financial statement for the immediately preceding fiscal year, (iii) receive notices of and attend Association meetings, (iv) receive notice of an alleged default in any obligations hereunder by any Unit Owner, on whose Unit such Mortgagee holds a mortgage, which is not cured within thirty (30) days of notice of default to the Unit Owner, and (v) receive notice of any substantial damage or loss to any portion of the Condominium Property.

21.2 Any holder, insurer or guarantor of a mortgage on a Unit shall have, if first requested in writing, the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the Condominium Property or the affected mortgaged Unit, (ii) a sixty (60)

day delinquency in the payment of the Assessments on a mortgaged Unit, (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, (iv) any proposed termination of the Condominium, and (v) any proposed action which requires the consent of a specified number of mortgage holders.

- 21.3 The approval of a majority of Institutional First Mortgagees shall be required to effect an amendment to the Declaration which materially alters, or adds, a provision relating to: (i) assessments and lien rights; (ii) insurance or fidelity bonds; (iii) maintenance responsibilities for the various portions of the Condominium Property; (iv) boundaries of any Unit; (v) convertibility of Units into Common Elements or Common Elements into Units; (vi) leasing of Units; and (vii) restrictions on Owners' rights to sell or lease Units. Such approval shall not be unreasonably withheld.
22. POA. The Condominium Property is also subject to the (i) Declaration of Master Covenants for Palomino Executive Park recorded in Official Records Book 21217, Page 1022 of the Public Records of Palm Beach County, Florida, and all exhibits thereto, all as amended and supplemented from time to time (the "Master Declaration").

Without limiting the generality or applicability of the Master Declaration;

- 22.1 Each Owner (with respect to such Owner's Unit and any appurtenant Limited Common Elements) and the Association (with respect to the Condominium Property) shall comply in all respects with the covenants, conditions and restrictions contained in, and any rules or regulations adopted in connection with, the Master Declaration.
- 22.2 All persons owning or occupying any portion of the Condominium Property, by of virtue doing so, acknowledge and agree that Developer has no control over and is not responsible for, the Master Declaration, or for the association or common areas thereunder and, accordingly, Developer shall in no manner be responsible for any of same.
- 22.3 The Association shall act, and is hereby authorized and empowered to act, as the "Member" of the POA with respect to the Condominium.
- 22.4 The Association shall be excused from performing all maintenance and repair obligations with respect to any portion of the Condominium Property to be maintained and repaired by the POA.
- 22.5 The POA has the right to regulate and approve, as provided in the Master Declaration, any alterations to the Condominium Property visible from the outside of the Building (including, without limitation, signage).

Accordingly, the Association shall not undertake or approve (in a case of a Unit Owner and alterations) any such alterations without first obtaining the approval of the POA.

23. Covenant Running With the Land. All provisions of this Declaration, the Articles, By-Laws and applicable rules and regulations of the Association, as well as the Master Declaration, shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Developer and subsequent owner(s) of the Land or any part thereof, or interest therein, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Unit Owners, tenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration and such Articles, By-Laws and applicable rules and regulations, as well as the Master Declaration, as it may be amended from time to time. The acceptance of a deed or conveyance, or the entering into of a lease, or the entering into occupancy of any Unit, shall constitute an adoption and ratification of the provisions of this Declaration, and the Articles, By-Laws and applicable rules and regulations of the Association, as well as the Master Declaration and its exhibits, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained herein.

24. Disclaimer of Warranties; Mold. **DEVELOPER HEREBY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES AS TO DESIGN, CONSTRUCTION, FURNISHING AND EQUIPPING OF THE CONDOMINIUM PROPERTY, EXCEPT ONLY THOSE SET FORTH IN SECTION 718.203 OF THE ACT, TO THE EXTENT APPLICABLE. AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED.**

**ALL UNIT OWNERS, BY VIRTUE OF THEIR ACCEPTANCE OF TITLE TO THEIR RESPECTIVE UNITS (WHETHER FROM THE DEVELOPER OR ANOTHER PARTY) SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL AND CONSEQUENTIAL DAMAGES.**

**IN ADDITION TO THE FOREGOING, DEVELOPER HEREBY DISCLAIMS (AND EACH UNIT OWNER, BY VIRTUE OF ACCEPTING TITLE TO A UNIT THEREBY) HEREBY WAIVES ANY AND ALL EXPRESS OR IMPLIED WARRANTIES AS TO THE NUMBER OF SQUARE FEET CONTAINED IN THE UNIT OR ANY APPURTENANT LIMITED COMMON ELEMENTS,**

**NOTWITHSTANDING ANY STATEMENTS OR ESTIMATES OF SAME CONTAINED IN ANY SALES MATERIALS.**

The Condominium Property contains products which have water, powders, solids and industrial chemicals which are used in constructing same. The water, powders, solids and industrial chemicals will and do contain mold, mildew, fungus, spores and chemicals which may cause allergic or other bodily reactions in certain individuals. Each Owner and occupant of a Unit should consult their physician to determine the molds, mildews, fungus, spores or chemicals which may adversely affect such person.

**THE CONDOMINIUM PROPERTY CONTAINS MATERIALS WHICH CONTAIN OR ARE AFFECTED BY MOLD, MILDEW, FUNGUS, SPORES AND CHEMICALS. THE CONSTRUCTION PRODUCTS USED IN BUILDING YOUR UNIT CONTAIN, AMONG OTHERS, SOME OF THE FOLLOWING CHEMICALS IN MEASURABLE AMOUNTS:**

**WATER (contains or allows growth of molds, mildew and fungus)  
FORMALDEHYDE (e.g. in carpeting and pressed wood products)  
ARSENIC (e.g. in treated wood products)  
FIBERGLASS (e.g. in insulation products)  
PETROLEUM AND PETROLEUM PRODUCTS (e.g. in vinyl and plastic products)  
METHYLENE CHLORIDE (e.g. in paint thinners)**

**ANY PERSON WHO IS NOT COMFORTABLE WITH THE FACT THAT THESE CHEMICALS OR SUBSTANCES EXIST IN SOME AMOUNT IN THE CONDOMINIUM SHOULD NOT OCCUPY THIS CONDOMINIUM.**

**LEAKS, WET FLOORING AND MOISTURE WILL CONTRIBUTE TO THE GROWTH OF MOLDS, MILDEW, FUNGUS OR SPORES. DEVELOPER IS NOT RESPONSIBLE, AND HEREBY DISCLAIMS ANY RESPONSIBILITY FOR, ANY ILLNESS OR ALLERGIC REACTIONS WHICH ANY PERSONS MAY EXPERIENCE AS A RESULT OF MOLD, MILDEW, FUNGUS OR SPORES. IT IS THE UNIT OWNER'S OR OCCUPANT'S RESPONSIBILITY TO KEEP THE UNIT CLEAN, DRY, WELL-VENTILATED AND FREE OF CONTAMINATION. THE SAME IS TRUE OF THE ASSOCIATION WITH RESPECT TO THE COMMON ELEMENTS.**

25. Additional Provisions.

25.1 Notices. All notices to the Association required or desired hereunder or under the By-Laws of the Association shall be sent by certified mail (return receipt requested) to the Association in care of its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit

Owners. Except as provided specifically in the Act, all notices to any Unit Owner shall be sent by first class mail to the Condominium address of such Unit Owner, or such other address as may have been designated by him from time to time, in writing, to the Association. All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association. All notices shall be deemed to have been given when mailed in a postage prepaid sealed wrapper, except notices of a change of address, which shall be deemed to have been given when received, or 5 business days after proper mailing, whichever shall first occur.

- 25.2 Interpretation. The Board of Directors of the Association shall be responsible for interpreting the provisions hereof and of any of the Exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of legal counsel to the Association or the counsel having drafted this Declaration that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.
- 25.3 Mortgagees. Anything herein to the contrary notwithstanding (except as provided in Section 13.5 hereof), the Association shall not be responsible to any mortgagee or lienor of any Unit hereunder, and may assume the Unit is free of any such mortgages or liens, unless actual (vs. constructive) written notice of the existence of such mortgage or lien is received by the Association.
- 25.4 Exhibits. There is hereby incorporated in this Declaration all materials contained in the Exhibits annexed hereto, except that as to such Exhibits, any conflicting provisions set forth therein as to their amendment, modification, enforcement and other matters shall control over those hereof.
- 25.5 Signature of President and Secretary. Wherever the signature of the President of the Association is required hereunder, the signature of a vice-president may be substituted therefore, and wherever the signature of the Secretary of the Association is required hereunder, the signature of an assistant secretary may be substituted therefore, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.
- 25.6 Governing Law. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits annexed hereto or applicable rules and regulations adopted pursuant to such documents, as the same may be

amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida.

- 25.7 Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration, the Exhibits annexed hereto, or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.
- 25.8 Waiver. No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, without regard to the number of violations or breaches which may occur.
- 25.9 Ratification. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Unit, by reason of his occupancy, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and By-Laws of the Association, and applicable rules and regulations, are fair and reasonable in all material respects.
- 25.10 Execution of Documents; Attorney-in-Fact. Without limiting the generality of other Sections of this Declaration and without such other Sections limiting the generality hereof, each Owner, by reason of the acceptance of a deed to such Owner's Unit, hereby agrees to execute, at the request of the Developer, all documents or consents which may be required by all governmental agencies to allow the Developer and its affiliates to complete the plan of development of the Condominium Property as such plan may be hereafter amended, and each such Owner further appoints hereby and thereby the Developer as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of such Owners, any and all of such documents or consents. This Power of attorney is irrevocable and coupled with an interest. The provisions of this Section may not be amended without the consent of the Developer.
- 25.11 Gender; Plurality. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.
- 25.12 Captions. The captions herein and in the Exhibits annexed hereto are inserted only as a matter of convenience and for ease of reference and in no way define or limit the scope of the particular document or any provision thereof.



IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed and its corporate seal to be hereunto affixed this 24<sup>th</sup> day October, 2007.

Signed, sealed and delivered in the presence of these witnesses:

**WITNESSES:**

[Signature]  
Print Name: Jason Newfeld

[Signature]  
Print Name: Andree Barrows

**PALOMINO PARTNERS I, LLLP.**, a Florida limited liability limited partnership

By: Palomino Partners I, Inc., a Florida corporation, general partner

[Signature]  
By: Raymond E. Graziotto, President

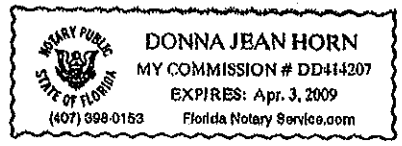
STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 24 day of October, 2007, by Raymond E. Graziotto, President of PALOMINO PARTNERS I, INC., a Florida corporation, general partners of Palomino Partners I, LLLP., a Florida limited liability limited partnership on behalf of the corporation as general partner,  who is personally known to me OR ( ) who produced a \_\_\_\_\_ as identification.

My Commission Expires: April 3, 2009

[Signature]  
Notary Public, State of Florida



**CONSENT OF MORTGAGEE**

BankAtlantic, ("Mortgagee"), the subsequent holder of that certain Mortgage Deed and Security Agreement recorded in Official Records Book 21250, Page 1357; Assignment of Rents, Leases and Deposits recorded in Official Records Book 21250, Page 1394; and UCC-1 Financing Statement recorded in Official Records Book 21250, Page 1407, all of the Public Records of Palm Beach County, Florida, and all related instruments evidencing or securing the loan secured thereby (together, the "Mortgage"), which Mortgage constitutes a lien upon the real property described in the foregoing Declaration of Palomino Park Professional Center II, a Condominium and all exhibits thereto (the "Declaration"), hereby consents, as required by Florida Statute 718.104(3), to subjecting the real property described therein to the provisions of the Declaration and agrees that the Declaration shall be binding upon all present and future owners of the real property encumbered by the Declaration and, further, that the Mortgage shall be subject and subordinate to the Declaration, except as provided therein.

Notwithstanding the execution of this Consent, nothing herein shall be construed to render the undersigned Mortgagee responsible or liable for any of the covenants, undertakings, acts or omissions of the Developer under the Declaration.

Dated this 2 <sup>November</sup> day of ~~October~~ 2007.

WITNESSES:

[Signature]  
Print Name: Julie Ryan  
[Signature]  
Print Name: Mira Dionic

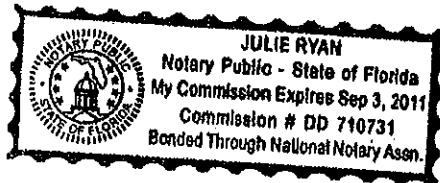
BankAtlantic

By: [Signature]  
Print Name: William Horton  
Title: SVP

STATE OF FLORIDA  
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 2 <sup>November</sup> day of ~~October~~, 2007, by William Horton, as SVP of BankAtlantic. He/she is personally known to me or produced \_\_\_\_\_ as identification.

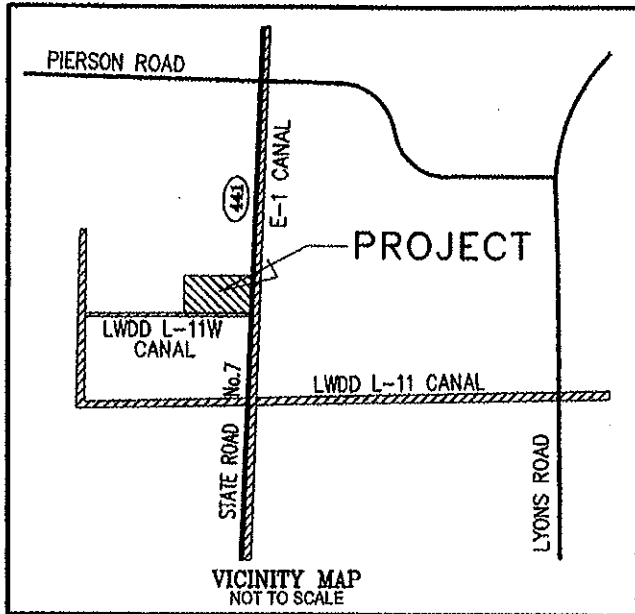
[Signature]  
Notary Public  
(Print Name) Julie Ryan  
My Commission Expires:



**EXHIBIT "A"**

Tract 2 of Palomino Executive Park, according to the Plat thereof recorded in Plat Book 108, Page 116 of the Public Records of Palm Beach County, Florida.

EXHIBIT "B"  
**PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM**  
 SECTION 24, TOWNSHIP 44 SOUTH, RANGE 41 EAST, VILLAGE OF WELLINGTON, PALM BEACH COUNTY, FLORIDA



DRAWING	INDEX OF DRAWINGS	SHEET NO.
EXHIBIT B		1 OF 11
CERTIFICATION / VICINITY MAP		2 OF 11
LAND DESCRIPTION & LEGENDS		3 OF 11
NOTES		4 OF 11
PLOT PLAN		5 - 6 OF 11
BOUNDARY SURVEY		7 OF 11
FIRST FLOOR TYPICAL UNITS		8 OF 11
SECOND FLOOR TYPICAL UNITS		9 OF 11
THIRD FLOOR TYPICAL UNITS		10 OF 11
ROOF		11 OF 11
ELEVATIONS		

**CERTIFICATION:**

I HEREBY CERTIFY THAT THE ENCLOSED SHEETS 1 THROUGH 11, INCLUSIVE, WHICH COMPRISE THIS EXHIBIT "B", ARE A CORRECT REPRESENTATION OF THE IMPROVEMENTS DESCRIBED HEREIN, TO INCLUDE THE COMMON ELEMENTS AND UNITS, AND THAT THE CONSTRUCTION OF SAID IMPROVEMENTS IS SUBSTANTIALLY COMPLETE, SUCH THAT THE MATERIAL, TOGETHER WITH THE PROVISIONS OF THE DECLARATION OF CONDOMINIUM FOR PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM, RESPECTIVELY, DESCRIBING THE CONDOMINIUM PROPERTY IS AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS, AND THAT THE IDENTIFICATION, LOCATION AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT INCLUDED WITHIN SAID CONDOMINIUM, CAN BE DETERMINED FROM THESE MATERIALS.

I HEREBY CERTIFY THAT THIS CONDOMINIUM BOUNDARY HAS BEEN PREPARED IN ACCORDANCE WITH THE MINIMUM TECHNICAL STANDARDS AS SET FORTH IN FLORIDA ADMINISTRATIVE CODE RULE 61G17-6, PURSUANT TO CHAPTER 718.104(e), FLORIDA STATUTES, AND FIND THAT THERE ARE NO EASEMENTS, ENCROACHMENTS, OR USES AFFECTING THIS PROPERTY, THAT I HAVE KNOWLEDGE OF OTHER THAN THOSE SHOWN AND DEPICTED THEREON.

LIDBERG LAND SURVEYING, INC.

**DAVID C. LIDBERG**  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA CERTIFICATE No. 3613



LB 4431

676 West Indiantown Road, Suite 200,  
 Jupiter, Florida 33458 TEL. 561-746-8464

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REF					
FLD	J.P.	FB.	PG.	JOB 04-203 (308A)	
OFF	D.B.			DATE 5/24/06	
CKD	D.C.L.	SHEET 1 OF 11	DWG A04-203E		

EXHIBIT "B"

**PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM**  
SECTION 24, TOWNSHIP 44 SOUTH, RANGE 41 EAST, VILLAGE OF WELLINGTON, PALM BEACH COUNTY, FLORIDA

**LAND DESCRIPTION**

TRACT 2, PALOMINO EXECUTIVE PARK, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 108, PAGE 116.

CONTAINING IN ALL 190,074 SQ. FT. AND/OR 4.36 ACRES, MORE OR LESS.

**LEGEND AND ABBREVIATIONS:**

- |                                   |                                     |
|-----------------------------------|-------------------------------------|
| C/L = CENTER LINE                 | DUMP = DUMPSTER (C.E.)              |
| AC = AIR CONDITIONING UNIT (C.E.) | ORB = OFFICIAL RECORD BOOK          |
| FFE = FINISH FLOOR ELEVATION      | PG = PAGE                           |
| ELEV = ELEVATION                  | TYP = TYPICAL                       |
| FL = FLOOR                        | ELECT = ELECTRIC ROOM (C.E.)        |
| LCE = LIMITED COMMON ELEMENT      | EL = ELEVATOR (C.E.)                |
| CE = COMMON ELEMENT               | ER = EQUIPMENT ROOM (C.E.)          |
| ST = STAIR WAY (C.E.)             | STR = STORAGE                       |
| DE = DRAINAGE EASEMENT            | WSE = WATER SEWER EASEMENT          |
| LSE = LIFT STATION EASEMENT       | LWDD = LAKE WORTH DRAINAGE DISTRICT |
| SF = SQUARE FEET                  | (P) = PALAMINO EXECUTIVE PARK       |
| P.B. = PLAT BOOK                  | P.B. 108, PGS. 116-118              |
| C.B. = CATCH BASIN                | W.V. = WATER VALVE                  |
| FPL = FLORIDA POWER & LIGHT       |                                     |



LB 4431

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Jupiter, Florida 33468 TEL. 561-746-8454

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FLD	J.P.	FB.	PG.	JOB	04-203 (308A)
OFF	D.B.			DATE	5/24/06
CKD	D.C.L.	SHEET	2 OF 11	DWG	A04-203E

EXHIBIT "B"  
**PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM**  
 SECTION 24, TOWNSHIP 44 SOUTH, RANGE 41 EAST, VILLAGE OF WELLINGTON, PALM BEACH COUNTY, FLORIDA

**NOTES**

- 1.) THE EXPECTED USE OF THE SUBJECT PROPERTY IS FOR THE CREATION OF CONDOMINIUMS AND FALLS WITHIN THE SUBURBAN CATEGORY AS CLASSIFIED IN CHAPTER 61G17-6.003, FLORIDA ADMINISTRATIVE CODE. ALL FIELD-MEASURED CONTROL MEASUREMENTS EXCEEDED THE ACCURACY REQUIREMENTS FOR THIS CLASSIFICATION.
- 2.) WRITTEN DIMENSIONS HAVE PRECEDENCE OVER SCALED DIMENSIONS.
- 3.) DIMENSIONS OF IMPROVEMENTS SHOWN ARE APPROXIMATE.
- 4.) UNIT BOUNDARIES:

UNIT BOUNDARIES. EACH UNIT SHALL INCLUDE THAT PART OF THE BUILDING CONTAINING THE UNIT THAT LIES WITHIN THE FOLLOWING BOUNDARIES:

(A) UPPER AND LOWER BOUNDARIES. THE UPPER AND LOWER BOUNDARIES OF THE UNIT SHALL BE THE FOLLOWING BOUNDARIES EXTENDED TO THEIR PLANAR INTERSECTIONS WITH THE PERIMETRICAL BOUNDARIES:

(I) UPPER BOUNDARIES. THE UPPER BOUNDARY OF A UNIT SHALL BE THE UNFINISHED SURFACE OF THE CEILING OF THE UNIT.

(II) LOWER BOUNDARIES. THE LOWER BOUNDARY OF A UNIT SHALL BE THE HORIZONTAL PLANE OF THE UNFINISHED UPPER SURFACE OF THE FLOOR OF THE UNIT.

(B) PARAMETRICAL BOUNDARIES. THE PARAMETRICAL BOUNDARIES OF A UNIT SHALL BE (I) THE VERTICAL PLANES OF THE INTERIOR SURFACES OF THE WALLS BOUNDING THE UNIT ON THE BUILDING EXTERIOR, (II) WHERE THERE IS A WALL SEPARATING THE UNIT FROM A HALLWAY, LOBBY OR OTHER COMMON ELEMENT IN THE BUILDING, OR FROM ANOTHER UNIT, THE INTERIOR UNFINISHED SURFACE OF THAT WALL OR (III) WHERE NO WALL EXISTS, THE BOUNDARY LINE SHOWN ON THIS EXHIBIT "B". THE INSTALLATION AND REMOVAL OF WALLS ON UNIT BOUNDARIES SHALL BE GOVERNED BY SECTION 17.4 OF THIS DECLARATION.

5.) THE UNDERSIGNED SURVEYOR HAS NOT BEEN PROVIDED A CURRENT TITLE OPINION OR ABSTRACT OF MATTERS AFFECTING TITLE OR BOUNDARY TO THE SUBJECT PROPERTY. IT IS POSSIBLE THERE ARE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES.

6.) ELEVATIONS SHOWN ARE BASED ON N.G.V.D. OF 1929.

7.) THIS PROPERTY LIES WITHIN FLOOD ZONE B, PER FLOOD INSURANCE RATE MAP No. 120192 0100B REVISED OCT. 15, 1982.

8.) BASIS OF BEARINGS: N89°00'21"E ALONG THE NORTH LINE OF SUBJECT SITE.

9.) © COPYRIGHT 2007 BY LIDBERG LAND SURVEYING, INC.

THE SKETCH OF SURVEY AND SURVEY REPORT COMPRISE THE COMPLETE SURVEY.  
 THIS SURVEY IS NOT VALID UNLESS THE SKETCH AND REPORT ACCOMPANY EACH OTHER.  
 REPRODUCTIONS OF THIS SURVEY ARE NOT VALID WITHOUT THE ORIGINAL RAISED SEAL OF A FLORIDA SURVEYOR AND MAPPER EMPLOYED BY LIDBERG LAND SURVEYING, INC.


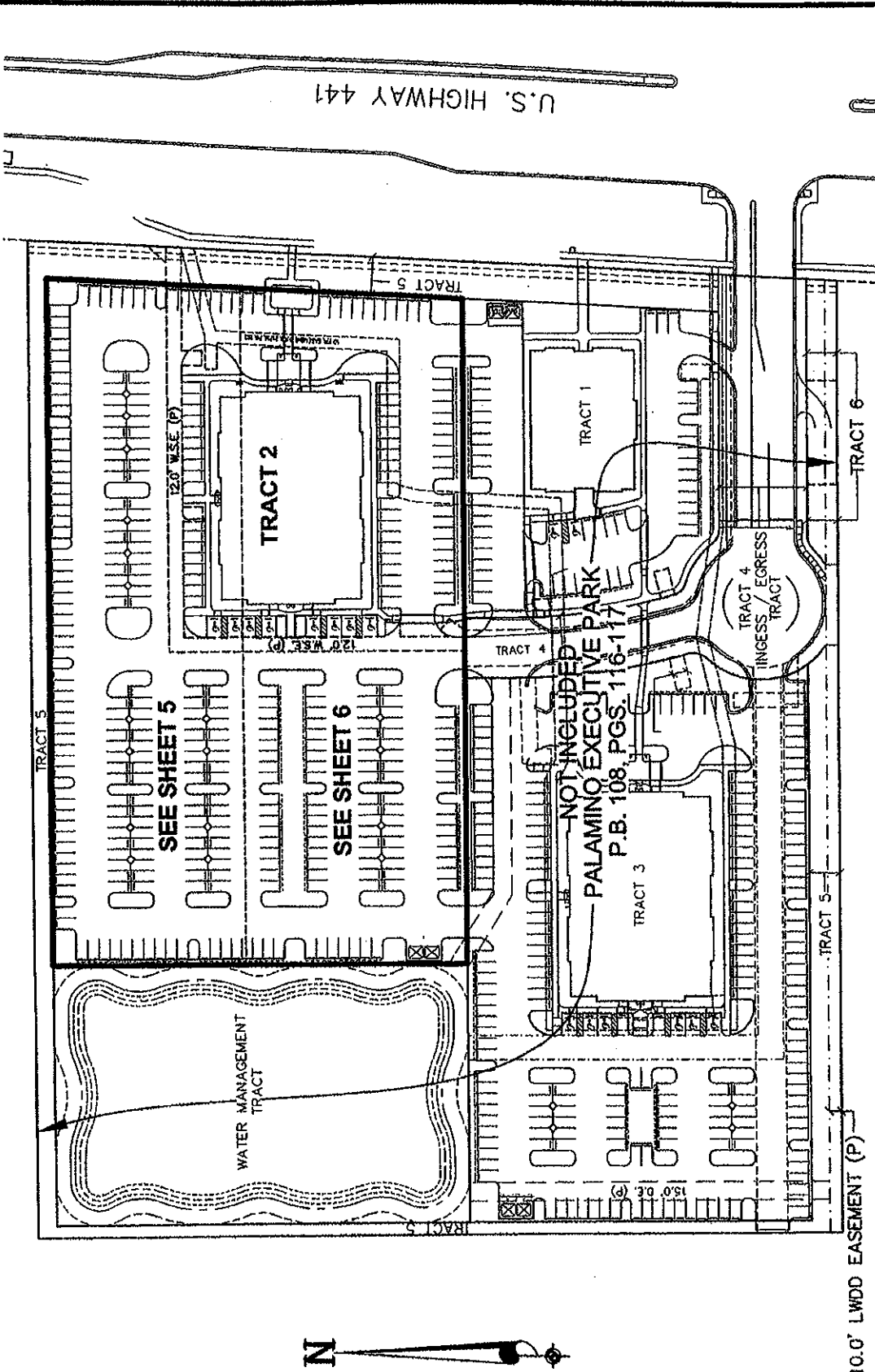
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	OFF	D.B.			DATE 5/24/06
CKD	D.C.L.	SHEET	3 OF 11	DWG A04-203E	

EXHIBIT "B"  
**PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM**  
 SECTION 24, TOWNSHIP 44 SOUTH, RANGE 41 EAST, VILLAGE OF WELLINGTON, PALM BEACH COUNTY, FLORIDA

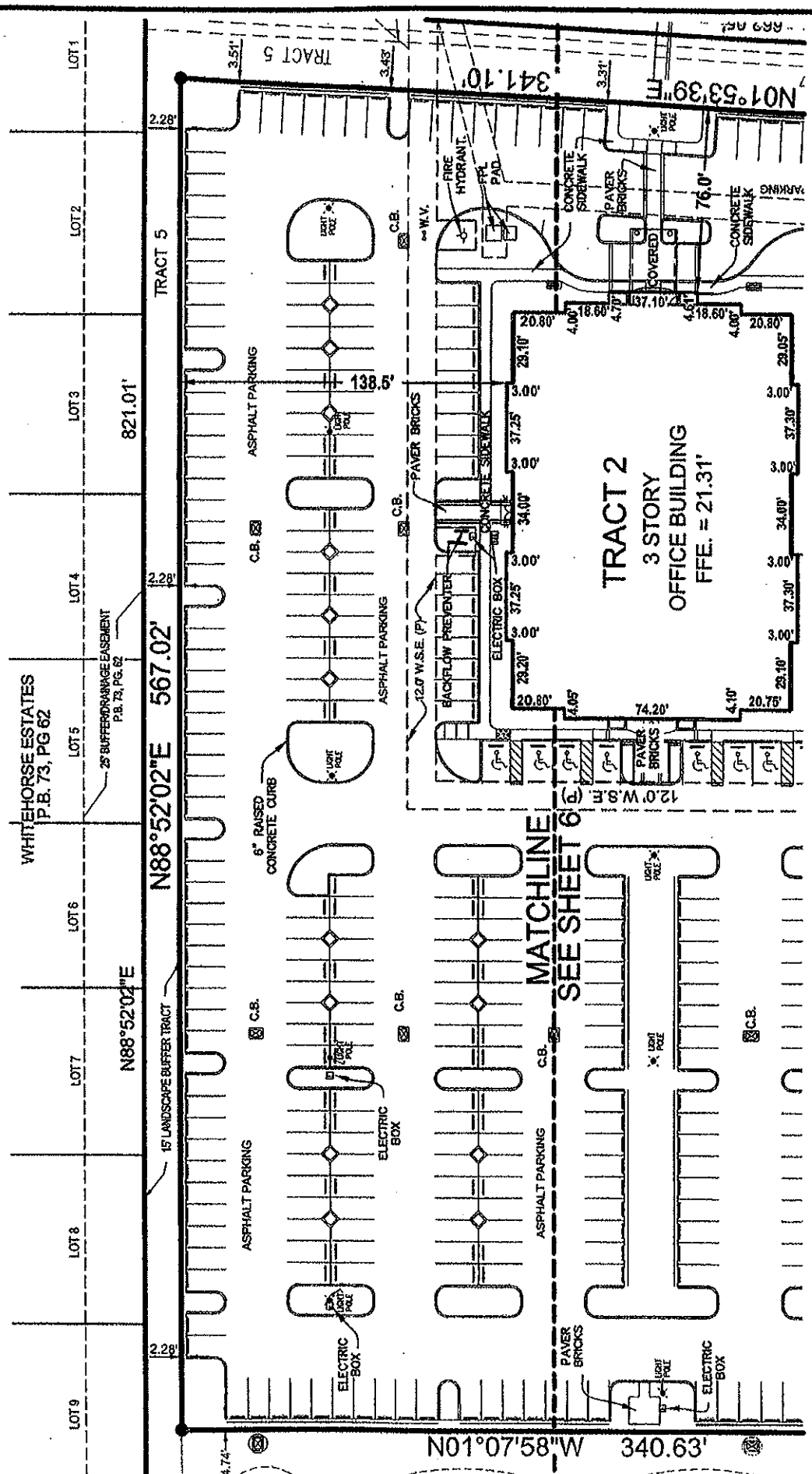


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		DATE	5/24/06
		DWG	A04-203E

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 LB 4431  
 676 West Indiantown Road, Suite 200,  
 Jupiter, Florida 33458 TEL. 561-746-8464

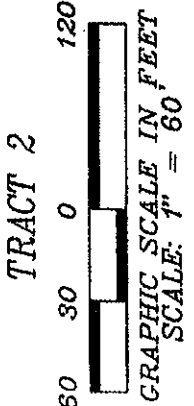
PLOT PLAN  
 OVERALL SITE  
 GRAPHIC SCALE IN FEET  
 SCALE: 1" = 120'

EXHIBIT "B"  
**PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM**  
 SECTION 24, TOWNSHIP 44 SOUTH, RANGE 41 EAST, VILLAGE OF WELLINGTON, PALM BEACH COUNTY, FLORIDA



● = SET 5/8" IRON ROD AND CAP "LB4431"

BOUNDARY SURVEY  
 TRACT 2



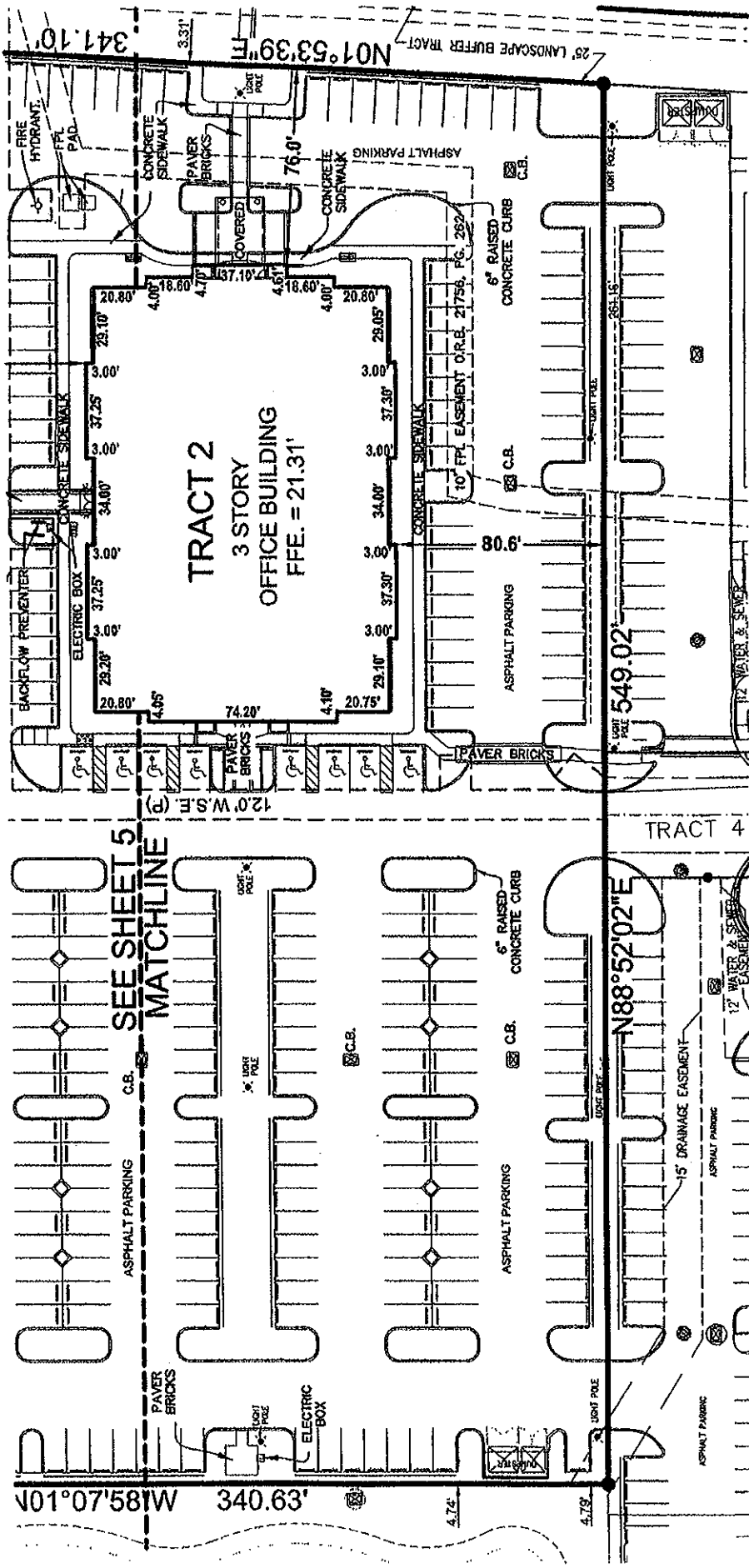
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					DATE 5/24/06
					DWG A04-203E

**LIDBERG LAND SURVEYING, INC.**  
 LB 4431  
 675 West Indianature Road, Suite 200,  
 Jupiter, Florida 33468 TEL. 561-746-8454

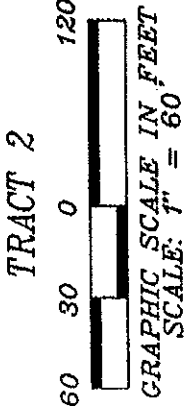


EXHIBIT "B"  
**PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM**  
 SECTION 24, TOWNSHIP 44 SOUTH, RANGE 41 EAST, VILLAGE OF WELLINGTON, PALM BEACH COUNTY, FLORIDA



● = SET 5/8" IRON ROD AND CAP "LB4431"

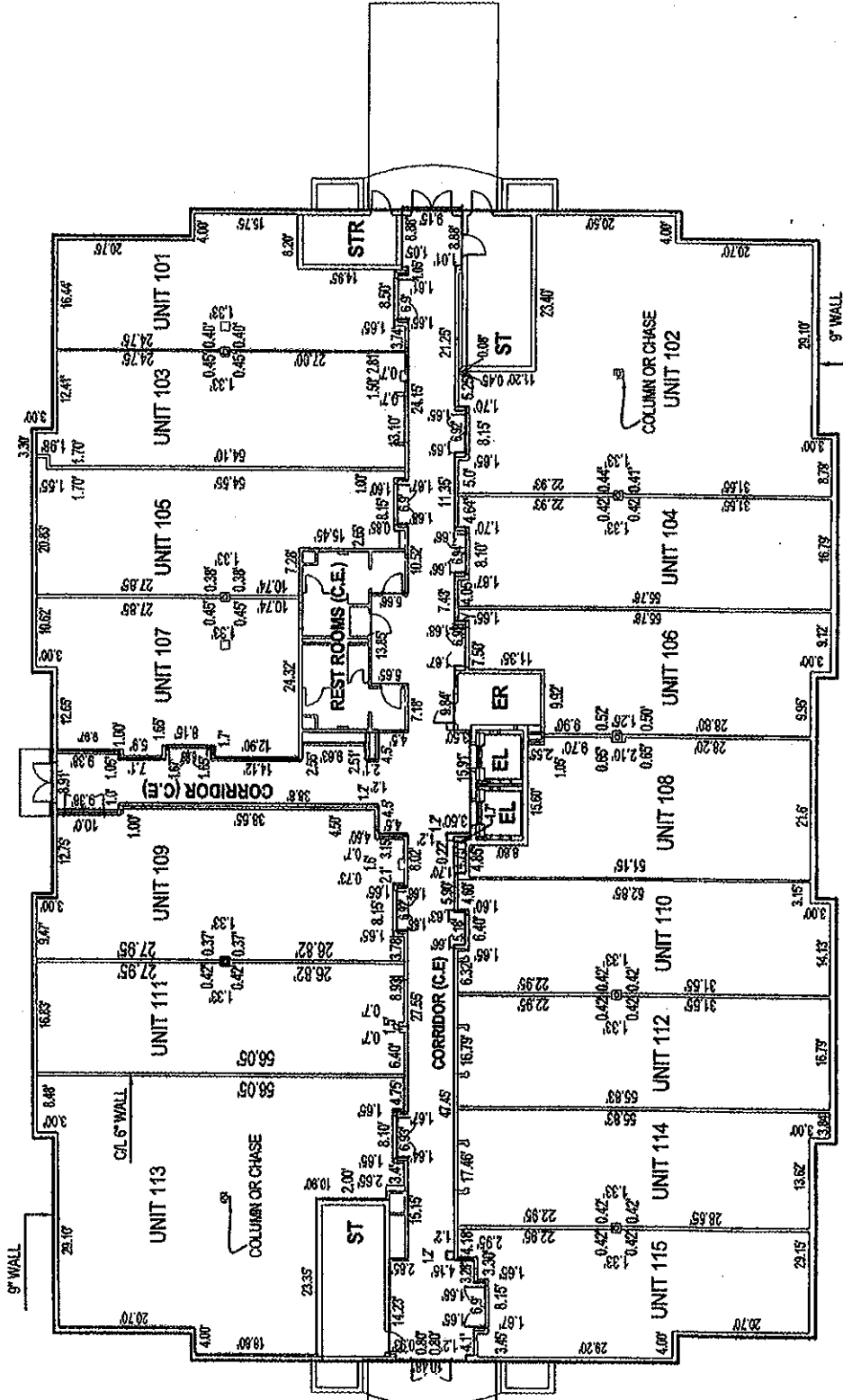
BOUNDARY SURVEY  
 TRACT 2



**LIDBERG LAND SURVEYING, INC.**  
 LB 4431  
 675 West Indiantown Road, Suite 200,  
 Jupiter, Florida 33458 TEL 561-746-8454

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			JOB 04-203 (308A)

EXHIBIT "B"  
**PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM**  
 SECTION 24, TOWNSHIP 44 SOUTH, RANGE 41 EAST, VILLAGE OF WELLINGTON, PALM BEACH COUNTY, FLORIDA



1st FLOOR

PLAN

25 12.5 0 25

GRAPHIC SCALE IN FEET  
 SCALE: 1" = 25'

CAD 101AUTOCAD2000124445104-203.dwg(14-203-302 B.DWG)

REF

FLD J.P.

JOB 04-203 (308A)

OFF M.S.E.

DATE 09/12/07

CKD D.C.L.

DWG A04-203E

**LIDBERG LAND SURVEYING, INC.**

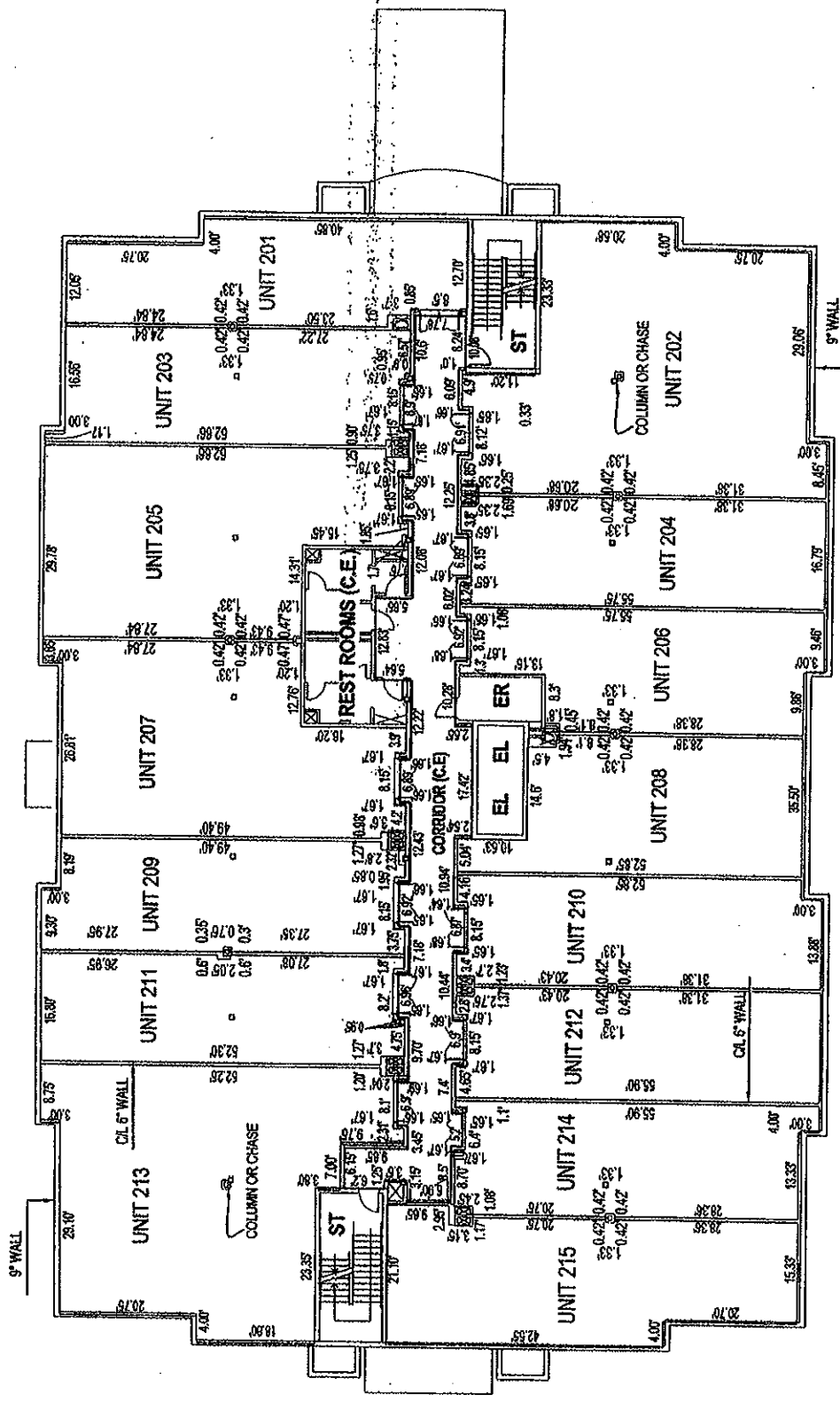
675 West Indian Town Road, Suite 200,  
 Jupiter, Florida 33468 TEL 561-746-8454

LB 4431

SHEET 7 OF 11

PG.

**EXHIBIT "B"**  
**PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM**  
 SECTION 24, TOWNSHIP 44 SOUTH, RANGE 41 EAST, VILLAGE OF WELLINGTON, PALM BEACH COUNTY, FLORIDA



2nd FLOOR  
 PLAN

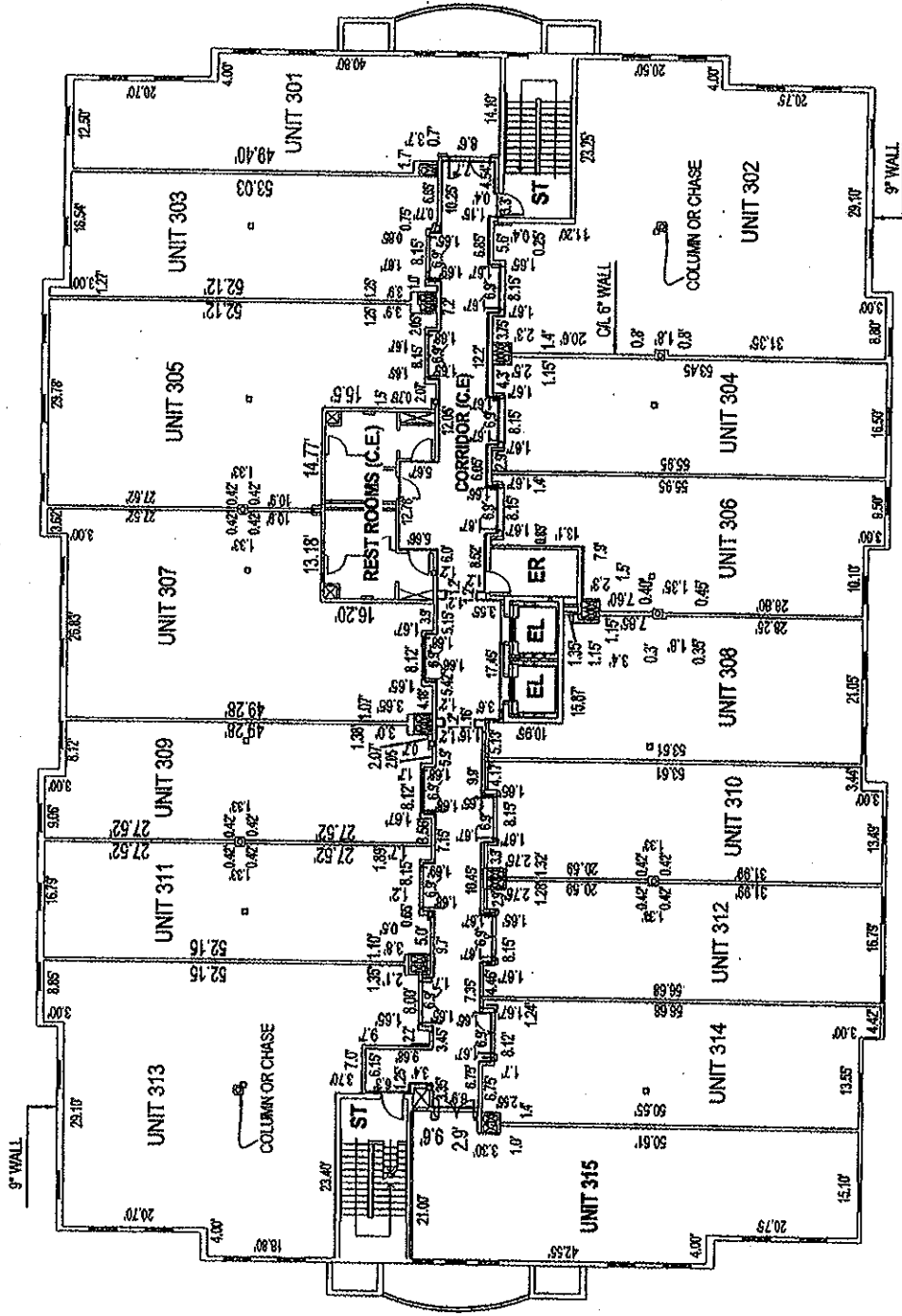
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 GRAPHIC SCALE IN FEET  
 SCALE: 1" = 25'

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CKD	D.C.L.
J.P.	FB.
M.S.E.	DATE
D.C.L.	DWG
SHEET 8 OF 11	JOB 04-203 (308A)
	DATE 09/12/07
	DWG A04-203C

**LIDBERG LAND SURVEYING, INC.**  
 575 West Indiantown Road, Suite 200  
 Jupiter, Florida 33458 TEL 661-746-8464  
 LB 4431

EXHIBIT "B"

**PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM**  
SECTION 24, TOWNSHIP 44 SOUTH, RANGE 41 EAST, VILLAGE OF WELLINGTON, PALM BEACH COUNTY, FLORIDA



THIRD FLOOR PLAN

3rd FLOOR  
PLAN

25 12.5 0 25

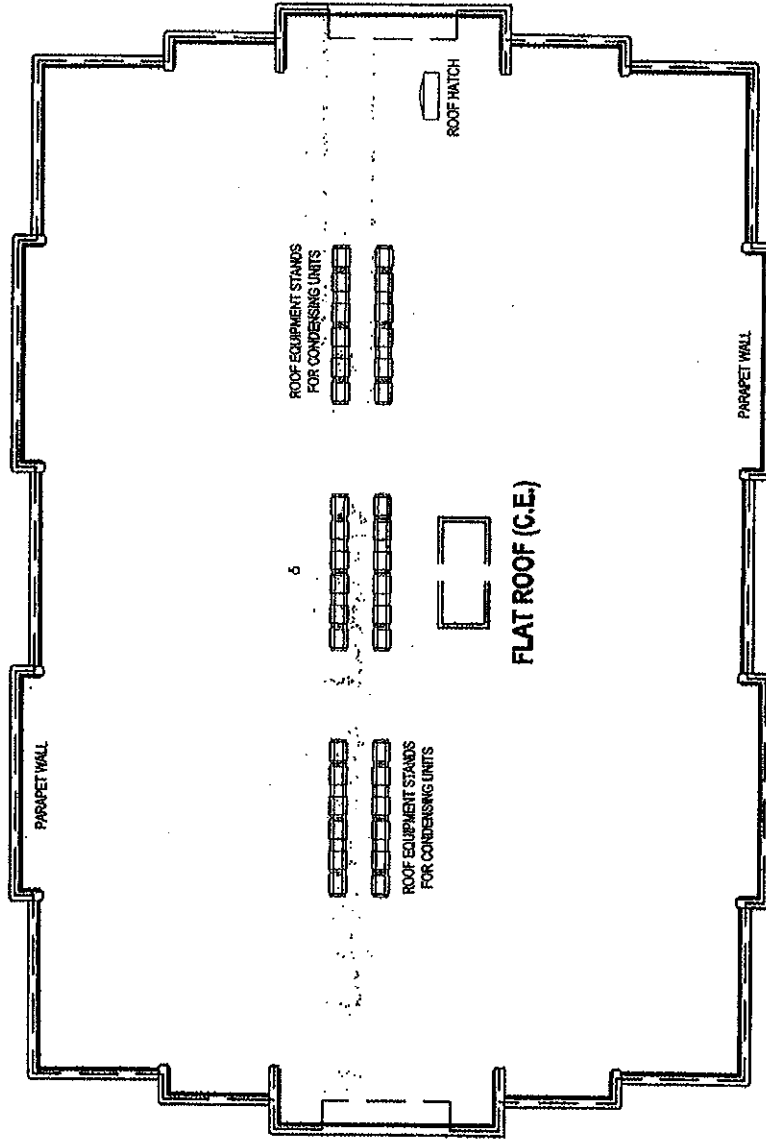


GRAPHIC SCALE IN FEET  
SCALE: 1" = 25'

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REF	
FLD	J.P.
OFF	M.S.E.
CKD	D.C.L.
PG.	PG.
JOB	04-203 (308A)
DATE	09-12-07
SHEET	9 OF 11
DWG	A04-203C

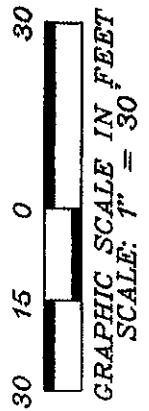
**LIDBERG LAND SURVEYING, INC.**  
 LB4431  
 675 West Indianorum Road, Suite 200,  
 Jupiter, Florida 33458 TEL. 561-746-8154

EXHIBIT "B"  
**PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM**  
 SECTION 24, TOWNSHIP 44 SOUTH, RANGE 41 EAST, VILLAGE OF WELLINGTON, PALM BEACH COUNTY, FLORIDA



ROOF PLAN

ROOF

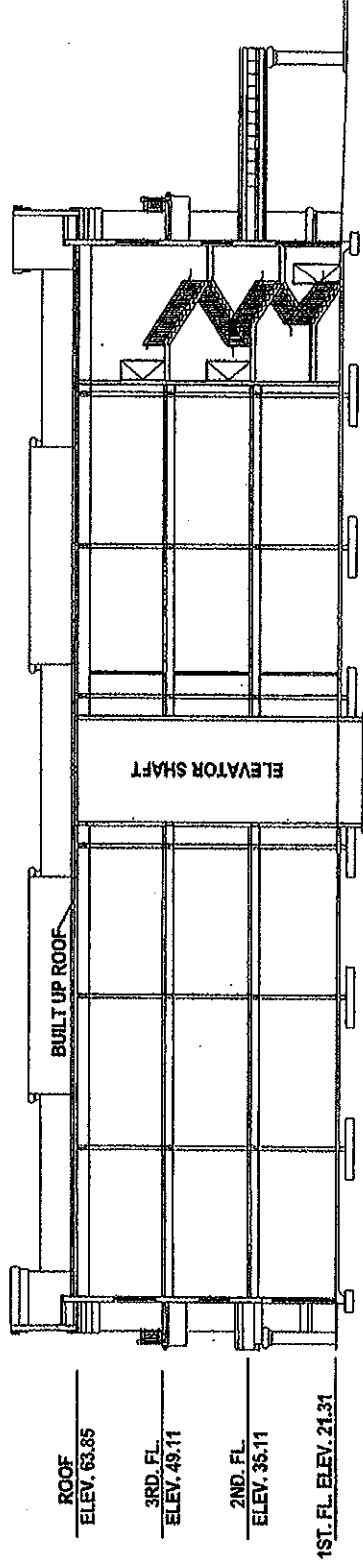


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JOB	04-203 (308A)
DATE	5/24/06
SHEET	10 OF 11
DWG	A04-203E

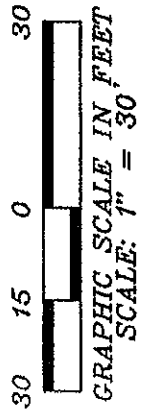
**LIDBERG LAND SURVEYING, INC.**

LB 4431  
 675 West Indianistown Road, Suite 200,  
 Jupiter, Florida 33458 TEL 561-746-8454

**EXHIBIT "B"**  
**PALOMINO PARK PROFESSIONAL CENTER II, A CONDOMINIUM**  
 SECTION 24, TOWNSHIP 44 SOUTH, RANGE 41 EAST, VILLAGE OF WELLINGTON, PALM BEACH COUNTY, FLORIDA



ELEVATIONS



CAD	K:\AUTOCAD\2000\244441\04-203\dwg\04-203-308 B.DWG		
REF			
FLD	J.P.	FB.	PG.
OFF	D.B.	JOB 04-203 (308A)	
CKD	D.C.L.	DATE 5/24/06	
SHEET 11 OF 11		DWG A04-203E	

**LIBBERG LAND SURVEYING, INC.**  
 LB 4461  
 675 West Padgettstown Road, Suite 200,  
 Jupiter, Florida 33458 TEL 561-746-8454

**EXHIBIT "C"**

**PERCENTAGE ALLOCATION OF OWNERSHIP OF COMMON ELEMENTS  
AND COMMON SURPLUS AND OF SHARING OF COMMON  
EXPENSES; VOTE ALLOCATION**

<u>UNIT #</u>	<u>PERCENTAGE</u>	<u>VOTES</u>
101	1.72%	2
102	3.77%	4
103	1.88%	2
104	1.86%	2
105	1.90%	2
106	1.80%	2
107	1.83%	2
108	1.92%	2
109	2.46%	2
110	1.91%	2
111	1.90%	2
112	1.89%	2
113	3.66%	4
114	1.88%	2
115	1.75%	2
201	1.78%	2
202	3.75%	4
203	1.88%	2
204	1.85%	2
205	2.85%	3
206	1.85%	2
207	2.81%	3
208	1.93%	2
209	1.86%	2
210	1.86%	2
211	1.83%	2
212	1.86%	2
213	3.59%	4
214	1.84%	2
215	2.32%	2
301	1.82%	2
302	3.78%	4
303	1.87%	2
304	1.83%	2
305	2.86%	3
306	1.89%	2
307	2.81%	3
308	1.91%	2
309	1.85%	2

<u>UNIT #</u>	<u>PERCENTAGE</u>	<u>VOTES</u>
310	1.88%	2
311	1.86%	2
312	1.88%	2
313	3.56%	4
314	1.89%	2
315	2.32%	2
<hr/>		
<b>TOTAL</b>	<b>100.00%</b>	<b>106</b>

7 KingsHoldings\Palomino Condo II\Declaration of Condo.doc



Incorporation, Bylaws, Rules and Regulations and similar instruments creating, governing or pertaining to any association established to administer and/or enforce the Declaration, including, without limitation Palomino Executive Park Property Owners' Association, Inc., a Florida not-for-profit corporation; and (b) all of Assignor's rights, standings, benefits, membership interests and privileges in, to and under all filings, registrations, acceptances, exemptions, approvals and authorizations made with or given by all federal, state and local real estate, land sales, securities and similar offices, departments, bureaus, agencies and authorities as the same pertain to the Declaration.

3. This Assignment is made without recourse or warranty of any kind or nature whatsoever.

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Book21440/Page1368

Order: Non-Order Search Doc:  
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Page 2 of 4

Page 2 of 4

Created By: ddonza Printed: 10/2/2007 11:22:22 AM EST

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the day and year set forth above.

Witnesses:

  
Print Name: Robert A Koch

  
Print Name: Suzette L. Noway

ASSIGNOR:

PALOMINO EXECUTIVE PARK, LLC,  
a Florida limited liability company,

By:   
Seymour Applebaum, as Managing Member

ASSIGNEE:

PALOMINO PARTNERS II, LLLP, a Florida  
Limited liability limited partnership,

By: Palomino Partners I, Inc., a Florida corporation  
Its General Partner

By:   
Raymond E. Graziotto, President

  
Print Name: VIRGINIA SCARPA

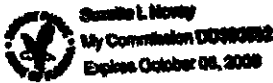
  
Print Name: John Marshall

[NOTARY ACKNOWLEDGEMENT NEXT PAGE]

STATE OF FLORIDA )  
COUNTY OF BROWARD ) SS:

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Seymour Applebaum, as Managing Member of Palomino Executive Park, LLC, a Florida limited liability company, who is personally known to me or who has produced NA as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 12 day of ~~December~~, 2008.  
FEBRUARY



Suzanne L. Novak  
Notary Public

Suzanne L. Novak  
Typed, printed or stamped name of Notary Public

My Commission Expires:

STATE OF FLORIDA )  
COUNTY OF Broward ) SS:

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Raymond E. Graziotto, as President of Palomino Partners I, Inc., a Florida corporation, the General Partner of Palomino Partners II, LLLP, a Florida limited liability limited partnership He is personally known to me or who has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 26 day of December, 2006.

Virginia Scarna  
Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:



FTL:2010733:3