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DECLARATION OF CONDOMINIUM OF SOUTHPOINTE,  
UNIT IV, A CONDOMINIUM

DECLARATION OF CONDOMINIUM made as of March 4, 1986 (the Declaration) by TRAFALGAR DEVELOPERS OF FLORIDA, INC., a Florida corporation having an address at 3100 Raper Dairy Rd., Orlando, Florida 32807 (the Developer), for and on behalf of the Developer, its successors, assigns, and its grantees.

The Developer, as fee owner of the real property hereinafter described, hereby declares as follows:

1. Purpose. The purpose of this Declaration is to submit the fee simple interest and easement areas in the real property hereinafter described and improvements located thereon to the condominium form of ownership and use in the manner provided by Chapter 718, Florida Statutes (1984), hereinafter called the Condominium Act.

2. Name and Address. The name of the Condominium is Southpointe, Unit IV, a Condominium, having an initial address on Woodgate Boulevard, Orlando, Florida 32822.

3. Real Property. The real property owned in fee simple title by the Developer, is submitted by this Declaration to the condominium form of ownership, which real property is situate in Orange County, Florida and is more particularly described in Exhibit A attached hereto, and is also described on the survey and plot plan, entitled Exhibit A.

Together with a non-exclusive easement and right to use certain facilities (hereinafter referred to as the Facilities).

4. Certain Definitions. The terms used in this Declaration and all exhibits attached hereto, unless the context otherwise specifies or requires, shall have the meanings stated in the Condominium Act and as follows:

(A) "Approved Mortgagee" means a commercial bank, savings bank, life insurance company, a real estate or mortgage investment trust, mortgage company, the Developer, an agency of the United States government, private or public pension fund, savings and loan association, a holder of a mortgage granted to the seller of a Unit, the Federal National Mortgage Association, the Veterans Administration, the Federal Home Loan Mortgage Corporation, a credit union, or the successors or assigns of the foregoing. An Approved Mortgagee may hold not only a first mortgage but a subordinate mortgage.

This instrument prepared by:  
Robert W. Wilson, of  
AKERMAN, SENTERFITT  
& EIDSON  
17th Floor, CNA Building  
P. O. Box 231  
Orlando, Florida 32802

A survey and plot plan, entitled Exhibit A of the Condominium is recorded in Condominium Exhibit Book 12, Pages 120 through 121, inclusive, Public Records of Orange County, Florida

Florida	Paid	THOMAS H. LOCKER,
Rec Fee	223.00	Orange County
Doc Tax		Comptroller
Int Tax		By <u>[Signature]</u>
Total	223.00	Deputy Clerk

- (B) "Articles of Incorporation" means the Articles of Incorporation attached hereto as Exhibit B and any filed amendments thereto of the Association.
- (C) "Assessment" or "Assessments" means the cost of maintenance, repair and management of the Condominium Property which is to be paid by the Unit Owner or Unit Owners and includes but is not limited to amounts necessary to meet Common Expenses. Assessment shall also include special assessments where such special assessments are duly adopted by the Association.
- (D) "Association" means Southpointe Condominium Association, Inc., a Florida corporation not for profit and its successors.
- (E) "Association Certificate" means a certificate of the Association in recordable form signed by the President or Vice-President and Secretary or Assistant Secretary of the Association.
- (F) "Board of Directors" means the duly qualified members of the Board of Administration of the Association.
- (G) "Building and Improvements" means the structures and improvements located on the Real Property and built substantially in accordance with the Plans and Specifications.
- (H) "Bylaws" means the Bylaws attached hereto as Exhibit C and adopted by the Association and any duly adopted amendments thereto.
- (I) "Common Elements" means those portions of the Condominium Property not included within the Units, including personal property required for the enjoyment, maintenance and operation of the Condominium.
- (J) "Common Expenses" means (i) expenses of administration, maintenance, operation, insurance, repair and betterment of the Common Elements, including those portions of Units to be maintained and repaired by the Association, and all other costs and expenses required to fulfill the duties of the Association, (ii) all expenses declared to be Common Expenses by this Declaration and the Bylaws of the Association and (iii) any valid charge imposed against the entire Condominium Property.
- (K) "Common Surplus" means all receipts of the Association, including but not limited to assessments, rents, profits and revenues, in excess of the aggregate amount of Common Expenses.
- (L) "Condominium Documents" means this Declaration, all exhibits attached hereto and the survey and plot plan of the Condominium, designated as Exhibit A and recorded in the Public Records of Orange County, Florida, as the same from time to time may be amended.
- (M) "Condominium Parcel" and "Condominium Property" shall have the meanings set forth in the Condominium Act.
- (N) "County" means Orange County, Florida.
- (O) "Insurance Trustee" means the Association, or any successor designated by the Association.

(P) "Licensed Architect" means an Architect licensed to practice in the State of Florida.

(Q) "Limited Common Elements" means those portions of the Condominium Property which are reserved for the use of a certain Unit to the exclusion of other Units and consists of patios, and balconies, which are identified on Exhibit A.

(R) "Plans and Specifications" means the Plans and Specifications for the Buildings and Improvements prepared by GRV Design Group.

(S) "Rules and Regulations" means the Rules and Regulations and any amendments thereto which have been duly adopted by the Association relating to the use of the Condominium Property.

(T) "Unit" means unit as defined by the Condominium Act, referred to therein as a condominium parcel and sometimes referred to as an apartment.

(U) "Unit Owner" means the person, persons, or legal entity holding title in fee simple to a Unit.

(V) "Utility Services" means but is not limited to electric power, air conditioning and heating, gas, water, telephone, sewer, drainage, television communication, and garbage and sewage disposal.

5. Survey and Plot Plan of the Condominium. A survey and plot plan, entitled Exhibit A, of the Real Property and showing the Buildings and Improvements constructed thereon, is recorded in the Public Records of the County as indicated on the bottom margin of the first page of this Declaration. Each of the Units is a residential apartment as designated and shown on Exhibit A.

6. Changes in Units.

(A) Alteration of Units. The Developer reserves the right to make changes within Units during construction of the improvements as long as those changes do not change the size of a Unit for which an agreement for purchase has been executed and delivered, unless such change is approved by the purchaser effected by such change. The interior plan of a Unit may be changed by the owner thereof, and the boundaries (including boundaries which may be part of the Common Elements) between Units may be changed by the owners of the Units affected subject to the consent of the mortgagee or mortgagees thereof, if any. Units may not be subdivided nor shall changes in boundaries of Units encroach upon Common Elements, except as otherwise provided herein. Changed boundary or interior walls must be equal in quality of design and construction to existing boundary or interior walls. Any changes in the boundaries of Units shall be effected in accordance with plans prepared by a Licensed Architect, which plans shall be first filed with and approved by the Association. Any change which is made within a Unit or in its boundaries shall also observe the requirements of the section concerning Maintenance, Alteration and Improvement.

(B) Required Amendment of Declaration. An amendment to this Declaration is required where there are changes in boundaries between Units except where adjacent Units affected are owned by the same Unit Owner. Plans of the

Units concerned showing the Units after the change in boundaries and prepared by a Licensed Architect shall be attached to said amendment as exhibits, together with the certificate of an architect or engineer as required by the Condominium Act. Changes in boundary walls shall not effect a change in the apportionment of the individual share and interest in the Condominium, including the undivided share in the Common Elements and Common Surplus. The amendment shall be signed and acknowledged by the Unit Owners concerned, and if Developer is not such an owner, the amendment shall be also approved by the Board of Directors and signed and acknowledged by the Association. Said amendment shall also be signed and acknowledged by all lienors and mortgagees of the Units concerned, after approval by such lienors and mortgagees but it need not be approved or signed by owners of Units not affected by changes in boundaries.

7. Easements. Easements have been reserved through the Condominium Property and are covenants running with Real Property of the Condominium.

(A) Utility Easements. Utility Easements are reserved over, through or under the Condominium Property or the Common Elements as may be required for Utility Services in order to serve the Condominium, Units, other condominiums which may be developed on adjacent property, for any lawful development of the adjacent property and the Facilities. Such easements through a Unit have been installed substantially according to the Plans and Specifications or as the Buildings and Improvements have been constructed, unless otherwise approved in writing by the Unit Owner. Easements are also reserved, as may be required, desirable or necessary for the furnishing of utility services to the common elements, the Condominium Property generally and adjacent real property which is not a part of this condominium, or to other condominiums which may be developed on adjacent or contiguous real property. Easements shall include, but not be limited to, such easements as may be shown on Exhibits to this Declaration and any amendments thereto. All such easements shall be of such dimensions and location to permit in a reasonable manner the installation, existence, maintenance, repair, replacement and relocation of the improvements, devices, appliances or facilities providing such utility services or any other requirements to be serviced by such easements.

(B) Other Easements. The Condominium Property is subject to easements for encroachments which now exist or hereafter exist caused by settlement or movement of any improvements upon the Condominium Property or caused by minor inaccuracies in construction or reconstruction, which encroachments shall be permitted to remain undisturbed. The encroachments shall give rise to an easement for the same and the maintenance thereof, which shall continue until such encroachments may no longer exist. Any dumpster or similar trash collection equipment and appurtenances located on the Condominium Property, shall be available for use for trash collection purposes for the benefit of the Condominium and the Unit Owners.

(C) Unit Owners. Easements are reserved to Unit Owners for (i) pedestrian traffic over, through and across sidewalks, paths, walks, driveways, entrances to buildings, and stairways, if any, as the same may from time to time exist upon the Common Elements and (ii)



vehicular traffic over, through and across such portions of the Common Elements as may be designated and intended for such purpose. In no event, shall such easements give or create in any Unit Owner or any other person the right to obstruct such easements nor shall any Unit Owner or any other person have the right to park automobiles or other vehicles on any portion of the Condominium Property not designated as a parking area.

(D) The Developer. Until such time as the Developer has completed the Condominium and other condominiums which may be constructed on adjacent real property, or the developer has otherwise developed such adjacent real property, together with the construction of any improvements thereon, which the Developer may construct on such adjacent to real property, and sold all of the units contained within the Condominium or such other real property, easements, including but not limited to ingress and egress, are hereby reserved and shall exist through and over the Condominium Property as may be required, convenient or desired by the Developer for the completion of the development of other condominiums on real property adjacent to the condominium and improvements thereto, if any, and the sale of units thereon. Neither Unit Owners nor the Association shall interfere in any way with such completion and sale or development of adjacent real property. The Developer reserves the right to develop such adjacent real property for other condominiums or to develop such adjacent real property for any lawful use.

(E) Adjacent Real Property and Other Condominiums. Easements are hereby reserved for the benefit of adjacent and contiguous real property owned by the Developer, its successors or assigns, whether developed for other condominiums or not, such easements including but not limited to automobile parking for residents or occupants of such adjacent real property or other condominiums, such parking to be in areas designated as parking area or parking easement on Exhibit A, ingress and egress and utilities through, over and under the Condominium Property, and the Common Elements, as may be required, convenient, or desired by the Developer or the owner, owners or occupants of such adjacent real property.

(F) Intended Creation of Easement. Should the intended creation of any easement fail by reason of the fact that at the time of creation, there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to be so created shall nevertheless be considered as having been granted directly to the Association for the purpose of allowing the original party or parties to whom the easements were originally granted the benefit of such easement and the Unit Owners designate the Developer and/or Association as their lawful attorney in fact to execute any instrument on their behalf as may hereafter be required or deemed necessary for the purpose of creating such easement.

#### 8. Buildings and Improvements.

(A) Buildings. The Condominium shall consist of two buildings, as more particularly shown and described on Exhibit A and recorded as set forth on the bottom margin of the first page of this Declaration.

(B) Other Improvements. The Condominium includes landscaping, automobile parking space and other facilities

and improvements located substantially as shown on the Plans and Specifications.

9. Unit Boundaries. Each Unit shall include such portions of a building that lie within the boundaries of a Unit, which boundaries are as follows:

(A) Upper and Lower Boundaries. The upper and lower boundaries of a Unit shall be the following extended to an intersection with the perimetrical boundaries: Units are located in the buildings as more fully designated on Exhibit A. The upper boundary of a Unit shall be the plane of the lower surface of the unfinished ceiling slab and the lower boundary shall be the plane of the upper surface of the finished floor slab.

(B) Perimetrical Boundaries. The perimetrical boundaries of a Unit shall be the vertical planes of the interior of the walls bounding the Unit extended to intersections with each other and with the upper and lower boundaries.

10. Common Elements. The Common Elements include the Real Property and all other parts of the Condominium not within the Units, including but not limited to landscaping, structural portions of walls and roofs, roofs, ground floor slabs, second floor slabs and ceilings, automobile parking areas, and other accessory areas. The Association shall have the power to determine the use to be made of the Common Elements, provided that no such use shall discriminate against a Unit Owner. The Association may establish reasonable charges to be paid to the Association for the use of Common Elements not otherwise inconsistent with the provisions of this Declaration, the Articles of Incorporation or the Bylaws.

11. The Units. When all residential buildings are completed in the Condominium there will be 56 Units, all of which are more particularly described and the right and obligations of their owners established as follows:

(A) Apartment Description and Location. The 56 Units are designated, identified and are located or to be located in the buildings as shown on Exhibit A.

(B) Appurtenances to Apartments. Appurtenant to each Unit shall be a 1/56th undivided share and interest in the Common Elements and in the Common Surplus. The 56 Units together with the appurtenances thereto comprise 100% of the Condominium Property.

(1) Automobile Parking Space. The Common Elements include parking areas for automobiles of Unit Owners and owners of units in condominiums which may be part of the development of adjacent property or the owners of the adjacent real property. The right to use one parking space shall be an appurtenance to each Unit. Parking spaces may be initially assigned by the Developer, however, the Board of Directors reserves the right to reassign parking spaces to Unit Owners and owners of units in condominiums which may be part of the development of adjacent property or the owners of the adjacent real property. Motorcycles may only be parked in areas designated as such by the Association, but in no event shall motorcycles be parked on or in Limited Common Elements. Boats, boat trailers and recreational vehicles may only be parked or stored on Common Elements designated for that purpose. The Association shall have the power to move or tow away improperly parked automobiles,

motorcycles, boats or boat trailers and the Association is specifically granted the rights and benefits of §715.07, Florida Statutes.

(2) Association Membership and Voting. The membership of each Unit Owner in the Association entitles each Unit Owner to an interest in the assets of the Association. As provided by the Bylaws, each Unit Owner is a member of the Association and is entitled to one vote for each Unit owned.

12. Recreation Area (The Facilities). The recreation area and certain common facilities, hereinbefore described as the Facilities, for this Condominium may be located on real property owned or to be owned by the Association. The Developer is not committed to provide such recreation area and common facilities. The Developer reserves the right to provide, at the Developer's expense, additional recreation areas and common facilities which may be developed in the future. The Facilities may serve and be used by (i) other condominiums which may be developed on adjacent real property or (ii) may serve and be used by the owners and occupiers of such adjacent real property, whether developed with other condominiums or not. In no event shall more than 616 condominium units or residential living units share the use of the Facilities. The expenses of maintenance, operation, repairs, replacements, administration, insurance and betterments of the Facilities shall be a Common Expense, which Common Expense will be shared on a pro-rata basis by the Unit Owners and by all other condominiums, if any, or other residential living units which may use the Facilities.

13. Liability for Common Expenses. Each Unit Owner shall be liable for a proportionate share of the Common Expenses. Such share shall be in the same percentage as the undivided share in the Common Elements appurtenant to the Owner's Unit.

14. Maintenance, Alteration and Improvement. Responsibility for the maintenance of the Condominium Property and restrictions upon its alteration and its improvement shall be as follows:

14.1 Units.

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

(1) All boundary walls of a Unit (excluding dry wall, plastered surfaces or sheetrock and interior surfaces of the boundary walls), and all portions of a Unit contributing to the support of the Building and Improvements, which portions to be maintained shall include but not be limited to the outside walls of the Building and all fixtures on its exterior, structural floor and ceiling slabs, roofs, load-bearing columns and load-bearing walls;

(2) All conduits, ducts, plumbing, pipes, wiring and other facilities for the furnishing of Utility Services contained in the portions of a Unit maintained within a Unit that service part or parts of the Condominium other than the Unit in which they are contained;

(3) Common Elements;

(4) Limited Common Elements, except as otherwise provided herein; and

(5) All incidental damages caused to a Unit by such work shall be repaired promptly at the expense of the Association.

(B) By the Unit Owner. The responsibility of the Unit Owner shall be as follows:

(1) To maintain, repair and replace at the Unit Owner's expense all portions of the owner's Unit except those portions to be maintained, repaired and replaced by the Association. Each Unit Owner shall be responsible for the maintenance, repair or replacement of the plastered surfaces, dry wall or sheetrock within the Unit or forming the boundaries of the Unit. The foregoing obligation of the Unit Owner shall be performed without disturbing the rights of other Unit Owners.

(2) The portions of a Unit to be maintained, repaired and replaced by the Unit Owner at the owner's expense shall include but not be limited to the following items: air conditioner and air handling equipment for space cooling and heating (including any portions thereof which may be located outside of the boundaries of the Unit), refrigerator, electric range, range hood, if any, dishwasher, disposal, and electric water heater; interior fixtures such as electrical and plumbing fixtures; windows, screens, doors, inside paint and other inside wall finishes and floor coverings except the floor slab. Mechanical equipment and installation of such equipment shall be such that its operation will not cause annoyance to the occupants of other Units.

(3) Notwithstanding the responsibility of the Association to maintain and repair those portions of the Condominium Property as set forth in Section 14.1(A) of this Declaration, if such required maintenance and repair is required because of the negligence or misuse of the Condominium Property or Unit by a Unit Owner, such Unit Owner shall be liable and responsible for the cost and expense of such required maintenance and repair; and such cost of maintenance, repair or reconstruction shall be assessed to the Unit Owner concerned as a special assessment and may be collected and enforced in the same manner as any other assessment provided in this Declaration. Until so collected from the Unit Owner, such costs shall be treated as a Common Expense. In the event that the Unit Owner does not maintain, repair and replace that portion of the Unit required to be maintained, repaired, and replaced at the Unit Owner's cost and expense, and such lack of maintenance, repair or replacement has or will have an adverse effect on the Condominium or will cause damage to the Condominium Property or portions of the Condominium to be maintained by the Association, then, and in that event, the Association shall have the right to perform such maintenance, repair and replacement necessary in the Unit, and such cost of maintenance, repair or replacement shall be assessed by the Board of Directors to the Unit Owner concerned as a special assessment and may be collected and enforced in the same manner as any other assessment provided in this Declaration. Until so collected from the Unit Owner, such costs shall be treated as a Common Expense.

(4) Not to paint or otherwise decorate, alter or change the appearance of any portion of the exterior of

the Buildings, including the Common Elements, Limited Common Elements and the door or doors to the Unit; however, the Unit Owner may install a screen door on the owner's Unit at the Unit Owner's expense, provided, however, such improvements must be approved by the Board of Directors, or a committee appointed by the Board of Directors, it being the intent herein that all such screen doors shall be of uniform appearance insofar as practical. The Unit Owner shall be responsible for the maintenance of such screen door. Television or radio aeriels or antennas of any nature are prohibited beyond the boundary lines of a Unit.

(5) To promptly report to the Association any defect or need for repair and replacement for which the Association is responsible.

(6) To comply with Rules and Regulations of the Association relating to the type and color of window drapery material or inside window covering.

(C) Alteration and Improvement. Except as elsewhere reserved to Developer, neither a Unit Owner nor the Association shall make any alteration to or remove any portion of a Unit that is to be maintained by the Association, or make any additions to Units, or do anything that would jeopardize the safety or soundness of the Building or Improvements, or impair any easement, without first obtaining approval in writing of owners of all Units in which such work is to be done and the approval of the Board of Directors. A copy of plans for all such work prepared by a Licensed Architect shall be filed with the Association prior to the start of the work.

#### 14.2 Common Elements.

(A) By the Association. The maintenance and operation of the Common Elements shall be the responsibility of the Association and the cost thereof shall be a Common Expense. The Association shall also maintain all areas leased to it for recreational or other purposes whether the same are Units or are contiguous to the Condominium Property or not, or whether Association retains any lease in its own name or subleases undivided percentages to the Unit Owners in the Condominium.

(B) Alteration and Improvement. Subject to the provisions of Section 12, there shall be no alteration nor further improvement of the Common Elements or acquisition of additional Common Elements without prior approval either in writing or by vote of not less than 66% of the record Unit Owners of the Common Elements of the Condominium except as provided by the Bylaws. Any such alteration or improvement shall not interfere with the rights of any Unit Owners without their consent. The cost of such work or acquisition shall not be assessed against an Approved Mortgagee that acquires its title as the result of owning a mortgage upon a Unit unless such Approved Mortgagee shall approve the alteration or improvement or acquisition, whether title is acquired by deed from the mortgagor or through foreclosure proceedings. The share of any cost not so assessed shall be assessed to the other Unit Owners in the shares that their shares in the Common Elements bear to each other. There shall be no change in the shares and rights of a Unit Owner in the Common Elements, nor in the Unit Owner's share of Common Expense, whether or not the Unit Owner



contributes to the cost of such alteration, improvement, or acquisition.

(C) Additional real property acquired by the Association may be added to the Real Property of the Condominium. This shall be accomplished by an amendment to this Declaration that includes the description of the additional real property and submits the same to the Condominium pursuant to the terms of this Declaration. The amendment shall be executed by the Association and adopted by the Unit Owners in the manner elsewhere required. The amendment when recorded in the Public Records of the County, shall divest the Association of title to the additional real property and shall state that it conveys all interest of the Association to and vests title in the Unit Owners, without naming them and without further conveyance, in the same undivided shares as the undivided shares in the Common Elements appurtenant to the Units owned by them.

(D) Additional real property acquired by the Association that is not incorporated into the Condominium by amendment of this Declaration may be sold or mortgaged or otherwise disposed of by the Association after approval in writing or by vote by the record Unit Owners of not less than 75% of the Common Elements. Approval shall be evidenced by an Association Certificate stating that the approval was duly given, which shall be delivered to the purchaser or mortgagee of such additional real property.

(E) Any personal property acquired by the Association may be sold, financed, mortgaged or otherwise disposed of by the Association.

15. Assessments. The making and collection of Assessments from Unit Owners for Common Expenses shall be pursuant to the Bylaws and subject to the following provisions:

15.1 Share of Common Expense. Each Unit Owner shall be liable for a proportionate share of the Common Expenses, and shall share in the Common Surplus, such shares being the same as the undivided share in the Common Elements appurtenant to the apartment owned by the Unit Owner.

15.2 Sharing of Common Expenses Between Condominiums.

(A) Expenses of the Association which are applicable to more than one condominium (such as administration and pool expenses) shall be allocated by the Board of Directors amongst the several condominiums by multiplying such expenses by a fraction, the numerator of which is 56 and the denominator of which is the total number of units in all of the condominiums.

(B) Expenses of the Association which are directly applicable to solely this Condominium shall be allocated by the Board of Directors as a Common Expense of the Unit Owners within this Condominium.

15.3 Interest; Application of Payments. Assessments and any installments thereof not paid on or before ten days after the date when due shall bear interest at the highest lawful rate of interest per annum, or at such rate of interest as may be set by the Board of Directors, from the date when due until paid. All payments on account shall be first applied to interest and then to the Assessment payment first due.

15.4 Lien for Assessments. The lien for unpaid Assessments shall also secure reasonable attorneys' fees, including but not limited to attorneys' fees for appellate proceedings, incurred by the Association incident to the collection of such Assessment or enforcement of such lien. In connection with the failure to pay any Assessment, the Association shall have all of the rights and remedies provided for by the Condominium Act, specifically including a lien upon the Unit, and the right to record a notice of the lien in the Public Records of the County, the right to foreclose the lien in accordance with the laws of Florida, together with a reasonable attorneys' fee as provided herein. The Association may also bring an action to recover a money judgment for unpaid assessments without waiving any claim of lien.

An Approved Mortgagee which obtains title to a Unit whether by foreclosure or deed in lieu of foreclosure shall not be liable for assessments which became due prior to the acquisition of title of the Unit by the Approved Mortgagee unless such assessments are secured by a claim of lien recorded prior to the recording of the mortgage held by the Approved Mortgagee.

15.5 Rental Pending Foreclosure. In any foreclosure of a lien for failure to pay Assessments, the Unit Owner subject to the lien shall be required to pay a reasonable rental for the Unit, and the Association shall be entitled to the appointment of a receiver to collect the same.

16. Operation of the Condominium. The operation of the Condominium shall be by the Association pursuant to the Articles of Incorporation, the Bylaws and the following provisions:

16.1 Limitation of Liability of Association. Notwithstanding the duty of the Association to maintain and repair portions of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the Condominium Property to be maintained and repaired by the Association, or caused by the elements, other Unit Owners or third parties.

16.2 Restraint Upon Transfer of Assets. The share of a Unit Owner in the assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Owner's Unit.

16.3 Approval or Disapproval of Matters. Whenever the decision of a Unit Owner is required on any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of record owners is specifically required by this Declaration.

16.4 Roster of Unit Owners and Mortgagees.

(A) Unit Owners. The Association shall maintain a roster of Unit Owners from the evidence of change of ownership furnished to the Association, which roster shall include the mailing addresses of Unit Owners. If required by the Association, each Unit Owner shall furnish the Association a certified copy of the appropriate public record evidencing the Unit Owner's title.

(B) Mortgagees. Where the Association has been given notice and the necessary information, the Association shall maintain a roster which shall contain the name and address of each owner and holder of a mortgage on a Unit.

in the Condominium. Such notice shall consist of a photo copy of the recorded instrument evidencing the title of the mortgagee, which term when used in this Declaration shall include any owner and holder of a mortgage. The mortgagee shall be stricken from the roster upon receipt by the Association of a request from the mortgagee or of a photo copy of a recorded release or satisfaction of the mortgage. Notice of such removal shall be given to the mortgagee unless the removal is requested by the mortgagee.

(C) Information and Rights of Mortgagee. An Approved Mortgagee shall be entitled, upon written request to the Association, to a financial statement for the immediately preceding fiscal year. An Approved Mortgagee or insurer of the condominium property shall upon request to the Association, be entitled to written notice of:

- (1) Any condemnation loss or any casualty loss which affects a material portion of the Condominium Property for any Unit on which there is a first mortgage held, insured or guaranteed by an Approved Mortgagee, or eligible insurer or guarantor, as may be applicable;
- (2) Any delinquency in the assessments or charges owed by a Unit Owner which is subject to a mortgage of an Approved Mortgagee held, insured or guaranteed by the Approved Mortgagee, eligible insurer or guarantor, which delinquency remains uncured for a period of 60 days;
- (3) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- (4) Any proposed action which would require the consent of a specific percentage of the Approved Mortgagees.

16.5 Authority. The Association shall have all of the powers and authority reasonably necessary to operate the Condominium in accordance with this Declaration, the Articles of Incorporation, the Bylaws and the Condominium Act, including but not limited to enforcement of the terms of this Declaration.

17. Insurance. Insurance (other than title insurance) which shall be carried on the Condominium Property and the property of Unit Owners shall be governed by the following provisions:

17.1 Purchase; Named Insured.

(A) Purchase. All insurance policies on the Condominium Property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.

(B) Named Insured. The named insured shall be the Association individually and as agent for the Unit Owners without naming them and shall include the mortgagees of Units which are listed in the roster of mortgagees. All policies and endorsements thereto shall be deposited with the Insurance Trustee and such policies shall provide that payments for losses thereunder by the insurer shall be paid to the Insurance Trustee for the benefit of the Association, Unit Owners and their mortgagees pursuant to the terms of this Declaration. Unit Owners may obtain insurance coverage at their own expense for their personal

property and for their personal liability and living expense.

(C) Copies to Mortgagees. One copy of each insurance policy and of all endorsements thereto shall be furnished by the Association upon request of the mortgagee included in the mortgagee roster.

(D) Unit Owners-Public Liability Insurance. The Unit Owner shall be liable to provide public liability insurance for such owner's liability as to the use and occupancy of the Unit.

#### 17.2 Coverage.

(A) Casualty. All Buildings and Improvements shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, and all personal property included in the Common Elements shall be insured for its value, all as may be determined annually by the Board of Directors, subject however to such deductible clauses as are required in order to obtain coverage at reasonable costs. Such coverage shall afford protection against (i) loss or damage by fire and other hazards covered by a standard extended coverage endorsement and (ii) such other risks as from time to time shall be customarily covered with respect to similar buildings and improvements, including, but not limited to, vandalism and malicious mischief.

(B) Public Liability. Public liability insurance shall be carried in amounts and with coverage as shall be required by the Board of Directors, including, but not limited to, hired automobile and non-owned automobile coverages, and with cross-liability endorsement to cover liabilities of Unit Owners as a group to a Unit Owner.

(C) Worker's Compensation. Worker's compensation insurance shall be carried to meet the requirements of law and other insurance shall be carried as the Board of Directors shall determine.

17.3 Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the amount of increase in the premium occasioned by use for other than a residence, misuse, occupancy or abandonment of a Unit or its appurtenances or of the Common Elements by a Unit Owner shall be assessed against such owner.

17.4 Insurance Trustee; Shares of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, Unit Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee for the benefit of the Unit Owners and their mortgagees pursuant to the terms of this Declaration. The Association shall be liable for payment of premiums, for the renewal or the sufficiency of policies and for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are delivered to the Insurance Trustee and hold the same in trust for the purposes elsewhere stated in this Declaration and for the benefit of Unit Owners and their mortgagees in the following shares.

(A) Unit Owners. An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Elements appurtenant to the Owner's Unit.

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

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

(A) Expense of the Trust. All expenses of the Insurance Trustee, if other than the Association, shall be paid by the Association.

(B) Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances being payable jointly to Unit Owners and their mortgagees.

(C) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances being payable jointly to Unit Owners and their mortgagees.

(D) Certificate. In making distribution to Unit Owners and their mortgagees, the Insurance Trustee may rely on an Association Certificate as to the names of the Unit Owners and their respective shares of the distribution.

17.6 Association as Agent. The Association is irrevocably appointed agent, for each Unit Owner and for each owner of a mortgage or other lien on 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.

17.7 Benefit of Mortgagees. Certain provisions in this paragraph 17 are for the benefit of mortgagees of Condominium Parcels, and all of such provisions are covenants for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

18. Reconstruction or Repair After Casualty; Eminent Domain.

18.1 Determination to Reconstruct or Repair. Whether the Condominium Property damaged by casualty, shall be reconstructed or repaired shall be determined as follows:

(A) If Units to which 50% or less of the Common Elements are appurtenant are found by the Board of Directors to be tenantable after casualty, the damaged property shall be reconstructed or repaired.



(B) If Units to which more than 50% of the Common Elements are appurtenant are found by the Board of Directors to be not tenable after casualty, then whether the Condominium Property shall be reconstructed or not shall be determined as follows:

(1) Immediately after the casualty the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

(2) Immediately after receipt of the foregoing estimates, the Association shall give notice to all Unit Owners of the casualty, the extent of the damage, the estimated cost to rebuild or repair, the amount of insurance proceeds and the estimated amount of assessments, if any, required to pay the excess of the cost of reconstruction or repair over the amount of insurance proceeds. Such notice shall call a meeting of Unit Owners to be held within 30 days from the mailing of such notice. If the reconstruction and repair is approved at such meeting by the owners of 66% of the Common Elements, the damaged property will be reconstructed or repaired. If not so approved, the Condominium shall be terminated without agreement as elsewhere provided. Such approval may be expressed by vote or in a writing filed with the Association at or prior to the meeting. The cost of such determination shall be considered a Common Expense.

(3) The Insurance Trustee may rely upon an Association Certificate regarding reconstruction or repair.

18.2 Report of damage. If any part of the Condominium Property shall be damaged and insurance proceeds or other funds are paid to the Insurance Trustee on account of the damage, a report of the damage shall be submitted by the Association to the Insurance Trustee. The report shall include the following information:

(A) Date and cause of damage.

(B) Whether the damaged property will be reconstructed and repaired or the Condominium terminated.

If the damaged property will be reconstructed and repaired, the report shall include the following information:

(C) Schedule of damage for which the Association has responsibility for reconstruction and repair and the estimated costs of reconstruction and repair.

(D) Whether damaged property for which the Association has responsibility for reconstruction and repair includes structural parts of the Building and Improvements.

(E) Schedule of damage for which Unit Owners have the responsibility for reconstruction and repair and the estimated cost of each owner for reconstruction and repair.

(F) The Insurance Trustee shall approve the manner of determining the estimated costs of reconstruction and repair and the findings as to whether the damaged property includes structural parts of the Buildings and

Improvements, or the report of damage shall be substantiated by an attached report of a Licensed Architect.

18.3 Plans and Specifications. Any reconstruction or repair shall be substantially in accordance with the Plans and Specifications. If the reconstruction or repair is not substantially in accordance with the Plans and Specifications, then any changes thereto shall be approved by the (i) Board of Directors of the Association, (ii) owners of not less than 66% of the Common Elements, (iii) owners of all Units which are to be reconstructed, which approval shall not be unreasonably withheld and (iv) Approved Mortgagees of all Units included in the preceding item (iii).

18.4 Responsibility. The responsibility for reconstruction and repair after casualty shall be the same as for maintenance and repair of the Condominium Property.

18.5 Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair for which the Association is responsible, or if at any time during such reconstruction and repair, or upon completion of such reconstruction and repair, the funds for the payment of the costs thereof are insufficient, Assessments shall be made against all Unit Owners in an amount sufficient to provide funds for the payment of such costs. Assessments shall be in proportion to the owners' share in the Common Elements.

18.6 Disbursement of funds. The funds held by the Association or by the Insurance Trustee after a casualty, which may consist of proceeds of insurance and the sums collected from assessments against Unit Owners on account of the casualty, shall be disbursed in the following manner and order:

(A) Expense of the trust. All expenses of the Insurance Trustee shall be first paid or provision made for payment.

(B) Termination of the Condominium. If the Condominium is terminated, either by agreement after lesser damage or by failure of the Unit Owners to approve reconstruction and repair after major damage, the remaining funds shall be deemed to be condominium property and shall be owned by the Unit Owners as tenants in common in the undivided shares in which they own the Common Elements prior to the termination. The balance of the funds shall be distributed to the beneficial owners upon demand of the Association in the amounts certified by the Association, remittances to Unit Owners and their mortgagees being made payable jointly to them.

18.7 Construction Funds. The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from Assessments against Unit Owners, shall be disbursed in payment of such costs in the following manner:

(A) Insurance Trustee. The proceeds of insurance collected on account of casualty together with the sums deposited with the Association from collections of Assessments against 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:

(1) Association - Lesser Damage. If the amount of

the estimated costs of reconstruction and repair by the Association is less than \$75,000.00, the construction fund shall be disbursed in payment of such costs upon the order of the Association, provided, however, such funds shall be disbursed in the manner hereafter provided for the construction and repair of major damage if the damaged property includes structural parts of the Building, or if requested by an Approved Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund.

(2) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair by the Association is more than \$75,000.00, the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors and after approval of a Licensed Architect employed by the Association to supervise the work.

(3) Unit Owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with a Unit Owner shall be paid by the Insurance Trustee to the Unit Owner, or if there is a mortgagee endorsement as to such Unit, then to the Unit Owner and the mortgagee jointly, who may use such proceeds as they may determine.

(4) Surplus. It shall be presumed that the first moneys disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, the balance shall be distributed to the beneficial owners of the fund and in the manner elsewhere stated; except, however, that the part of a distribution to a Unit Owner that is not in excess of assessments paid by such owner into the construction fund shall not be made payable to any mortgagee.

(5) Mortgagee. When an Approved Mortgagee or a mortgagee is required by this Declaration to be named as payee, the Insurance Trustee shall also name the mortgagee as payee of any distribution of insurance proceeds to a Unit Owner.

(6) Approval of an architect named by the Association shall be first obtained by the Association before disbursement in payment of costs of reconstruction and repair in the following circumstances:

(a) When the report describing the loss states that the damage to the Condominium Property includes structural parts of the Building and Improvements.

(b) Upon request of the Association or request of a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund.

(c) When the report of loss made by Association shows that the estimated costs of reconstruction and repair are in excess of \$75,000.00.

18.8 Eminent Domain. The taking of a portion of a Unit or of the Common Elements by eminent domain shall be deemed to be a casualty, and the awards for such taking shall be deemed to be

proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee for the benefit of the Association, Unit Owners and their mortgagees pursuant to the terms of this Declaration. 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 a casualty. For this purpose, the taking by condemnation shall be deemed to be a casualty. 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, a special assessment shall be made against a defaulting Unit Owner in the amount of his award, or the amount of such award shall be set off against the sums hereafter made payable to such Unit Owner. The proceeds of the awards shall be distributed or used in the manner heretofore provided for insurance proceeds except that when the Condominium is not to be terminated and one or more Units are taken in part, the taking shall have the following effects:

(A) Unit Reduced But Tenatable. If the taking reduces the size of a Unit and the remaining portion of the Unit may be made tenatable, 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 effected in the Condominium:

(1) The Unit shall be made tenatable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the owner of the Unit.

(2) The balance of the award, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit included in the mortgagee roster, the remittance being payable jointly to the Unit Owner and mortgagee.

(3) If the floor area of the Unit is decreased by more than 10 percent by the taking, the share in the Common Elements appurtenant to the Unit shall be equitably reduced. This shall be done by reducing such share in the proportion by which the floor area of the Unit is reduced by the taking, and then recomputing the shares of all Unit Owners in the Common Elements as percentages of the total of all shares as reduced by the taking.

(B) Unit Made Untenatable. If the taking destroys or so reduces the size of a Unit that it cannot be made tenatable, 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 effected in the Condominium:

(1) The market value of such Unit immediately prior to the taking shall be paid to the owner of the Unit and to each mortgagee of the Unit included in the mortgagee roster, remittance being payable jointly to the owner and mortgagee. If the amount of the award exceeds the market value of such a Unit, the balance of the award shall be paid over to the Association; provided, however, that if the amount of unpaid principal and accrued interest of the mortgage of the Unit is in excess of the market value of the Unit, the award for the Unit shall be paid jointly to the owner and mortgagee to the extent the award is sufficient to satisfy the mortgage indebtedness on the Unit. Any surplus after payment of the mortgage

indebtedness shall then be distributed to the Association.

(2) The remaining portion of such Unit, if any, shall become a part of the Common Elements and shall be placed in condition for use by all Unit Owners in the manner approved by the Board of Directors. If the cost of such work shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required for further improvement of the Common Elements.

(3) The shares in the Common Elements appurtenant to the Units which continue as a part of the Condominium shall be equitably adjusted to distribute the ownership of the Common Elements among the reduced number of Unit Owners. This shall be done by recomputing the shares of the remaining owners in the Common Elements as percentages of the total of the shares of such owners as they exist prior to the adjustment.

(4) If the amount of the award for the taking is not sufficient to pay the market value of the condemned unit to the owner and to recondition 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 Unit Owners except the owner of the condemned unit. Such assessments shall be made in proportion to the shares of such owners in the Common Elements after the change effected by the taking.

(C) 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 by either party, such values shall be determined by arbitration in accordance with the rules of the American Arbitration Association, except that the arbitrators shall be two real estate appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit. Any judgment or award rendered by the arbitrators may be entered in any court of competent jurisdiction. The cost of arbitration proceedings shall be assessed against all Unit Owners in proportion to the shares of the Owners in the Common Elements as they exist prior to condemnation.

(D) Amendment of Declaration. Changes in Units, in the Common Elements and in the ownership of the Common Elements which are effected by eminent domain shall be evidenced by an amendment to this Declaration which need be approved only by a majority of the members of all of the Board of Directors.

18.9 Reliance upon certificates. Notwithstanding the provisions of this Declaration, the Insurance Trustee shall not be required to make a determination as to the existence of certain facts upon which the distribution of funds is conditioned. Instead, the Insurance Trustee may rely upon an Association Certificate stating:

(A) Whether the damaged or condemned property will be reconstructed and repaired or the condominium terminated.

(B) Whether or not payments upon assessments against Unit Owners shall be deposited with the Insurance Trustee.



(C) That sums to be paid are due and properly payable, the name of the payee and the amount to be paid.

(D) The names of Unit Owners to receive distribution of funds and the amounts to be distributed to them; provided, however, that when a mortgagee is required by this instrument to be named as payee of a distribution to a Unit Owner, the Insurance Trustee also shall name the mortgagee as payee of any distribution of insurance proceeds to a Unit Owner.

19. Use Restrictions. The use of the Condominium shall be in accordance with the following provisions:

19.1 Units. No Unit may be divided or subdivided into a smaller Unit nor any portion thereof sold or otherwise transferred without first amending this Declaration to show changes in the Units to be affected thereby. Subject to the provisions of the Rules and Regulations, small household pets may be kept by Unit Owners within the Units. Such pets may not be kept, bred or maintained for any commercial purpose, or in numbers deemed unreasonable by the Board of Directors or as otherwise set forth in the Rules and Regulations.

19.2 Common Elements. The Common Elements shall be used only for the purposes for which they are intended and the furnishing of services and facilities for the enjoyment of Unit Owners.

19.3 Nuisances. No nuisances shall be allowed upon the Condominium Property, nor shall any use or practice which is the source of annoyance to Unit Owners or which interferes with the peaceful possession and proper use of the Condominium Property by Unit Owners. The Condominium Property shall be kept in a clean and sanitary condition, and no fire hazard shall be allowed to exist. No Unit Owner shall permit any use of the owner's Unit or make any use of the Common Elements which will increase the rate of insurance upon the Condominium Property.

19.4 Lawful Use. No immoral, improper, offensive or unlawful use shall be made of any part of the Condominium Property and all valid laws, zoning ordinances and regulations of all governmental bodies which require maintenance, modification or repair of the Condominium Property shall be maintained, modified or repaired in the same manner as the responsibility for maintenance and repair of the property concerned is set forth in Section 13 of this Declaration.

19.5 Leasing. Subject to the provisions of this Declaration, entire Units may be rented, provided the occupancy is only by the lessee, lessee's family, servants or guests. No rooms or parking spaces may be rented, except as an appurtenance to a Unit or to another Unit Owner. In no event shall a lease be for a period of less than two weeks.

19.6 Signs. No signs shall be displayed from a Unit or from the Condominium Property except those signs as shall have advance written approval by the Developer or the Board of Directors of the Association.

19.7 Regulations. The Rules and Regulations concerning the use and appearance of the Condominium Property may be amended by the Association in the manner provided by the Articles of Incorporation and Bylaws. The Rules and Regulations may provide

for reasonable monetary fines against Unit Owners who violate the Rules and Regulations or the provisions of this Declaration and may further provide for arbitration in the event of a dispute between Unit Owners and the Association concerning such violations. Copies of the Rules and Regulations shall be furnished by the Association to all Unit Owners and residents of the Condominium on request.

19.8 Developers Use. Until the Developer has closed the sales of all of the Units of the Condominium, including any condominiums developed by the Developer on adjacent real property, neither the Unit Owners nor the Association nor the use of the Condominium Property shall interfere with the sale of Units. The Developer may make such use of the unsold Units and Common Elements without charge as may facilitate such sale, including but not limited to maintenance of a sales and administrative office, leases of unsold Units, parking areas, model apartments, the showing of the Condominium Property, the display of signs and such other uses which are normally associated with the sale and marketing of real property and Units.

19.9 Ventura Country Club Community. All owners of Units in the Condominium take title to the Units subject to the provisions of the (i) Master Declaration of Covenants and Conditions (the Master Declaration) of Ventura Contry Club Community, which Master Declaration and amendments thereto are recorded in the Public Records of Orange County, Florida and (ii) Articles of Incorporation and Bylaws of Ventura Country Club Homeowners Association, Inc. All owners of Units are subject to the obligations imposed by the foregoing documents and shall also have all of the rights, benefits and privileges provided by such documents.

19.10. No Time Share Estates. Time share estates may not be created in the Condominium.

20. Maintenance of Community Interests. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the Units, the lease of Units by any Unit Owner or ownership of Units by Corporations, other than the Developer, shall be subject to the following provisions so long as the Condominium exists, which provisions each Unit Owner covenants to observe:

(A) Mortgage. A Unit Owner may not mortgage a Unit nor any interest therein without the approval of the Association except to an Approved Mortgagee.

(B) Term of Lease. The lease of a Unit by any Unit Owner (other than a lease from one Unit Owner to another Unit Owner or other than a lease to or by the Developer or a lease by an Approved Mortgagee which obtains title to a Unit), shall be for a period of not less than two weeks and shall be in writing. Any time a Unit Owner leases a Unit, the Unit Owner shall register the name of the tenant with the secretary or other designated agent of the Association, and if requested by the Association, furnish a copy of the lease to the Association.

20.1 Unauthorized Transactions. Any lease or mortgage which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

21. Compliance and Default. Each Unit Owner shall be governed by and shall comply with the terms of this Declaration, the Articles of Incorporation, Bylaws and Rules and Regulations

adopted pursuant thereto and any amendments thereto. Failure of a Unit Owner to comply therewith shall entitle the Association or other Unit Owners to the following relief in addition to the remedies provided by the Condominium Act.

21.1 Negligence. A Unit Owner shall be liable for costs and expenses of any maintenance, repair or replacement rendered necessary by said owner's act, neglect or carelessness, or by that of any member of said owner's family, guests, employees, agents or lessees, but only to the extent that such costs and expenses are not met by the proceeds of insurance carried by the Association. A Unit Owner shall pay to the Association the amount of any increase in its insurance premiums occasioned by said Owner's use, misuse, occupancy or abandonment of a Unit, its appurtenances, or of the Common Elements.

21.2 Costs and Attorney's Fees. In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Declaration, Articles of Incorporation, Bylaws or the Rules and Regulations adopted pursuant thereto, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the court.

21.3 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provisions of the Condominium Act, this Declaration, the Articles of Incorporation, the Bylaws or the Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

22. Amendments. Except as elsewhere provided, this Declaration may be amended in the following manner:

22.1 Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of meeting at which the proposed amendment is considered.

22.2 Resolution of Adoption. A resolution adopting the proposed amendment may be introduced by the Board of Directors or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval or disapproval in writing, providing such approval or disapproval is delivered to the Secretary of the Association at or prior to the meeting. Except as elsewhere provided approval of the amendment must be either by:

(A) Not less than three-fourths of all of the Board of Directors and by not less than two-thirds of the votes of the entire membership of the Association; or

(B) Not less than seventy-five percent (75%) of the votes of the entire membership of the Association; or

(C) Not less than one-half of all of the Board of Directors in the case of amendments that are only for one or more of the following purposes:

(1) To correct misstatements of fact in this Declaration or its Exhibits, including but not limited to the correction of errors in the legal description of the real property or in the surveys thereof. If said Amendment is to correct this Declaration so that the total of the undivided shares of Unit Owners in either the Common Elements, Common Surplus or Common Expense shall equal 100 percent, the owners of the Units and the holders

of liens or encumbrances on the Units for which modifications in the shares are being made shall also approve the amendment.

(2) To change boundaries between Units in the manner elsewhere stated, providing the amendment is signed and acknowledged by the owners, lienors and holders of mortgages of the Units concerned.

(3) To adopt amendments of Section 16 that are reasonably required by insurers or mortgagees of the Condominium Property or Units.

(D) Until the Unit Owners are entitled to elect a majority of the Board of Directors, only by a majority of the Directors, provided, however, that such amendment shall not increase the number of Units as set forth in this Declaration nor encroach upon the boundaries of the Common Elements.

22.3 Proviso. That no amendment shall (i) discriminate against any Unit Owner nor against any Unit or class or group of Units unless the Unit Owners so affected shall consent or (ii) change any Unit nor decrease the share in the Common Elements appurtenant to it, or increase the owner's share of the Common Expenses, unless the record owner of the Unit and all record owners of liens thereon shall join in the execution of the amendment. No amendment shall be valid which changes or modifies Sections 17, 18, or this Section 22.3 of this Declaration unless the record owners of all mortgages upon the Condominium or Units shall join in the execution of the amendment or consent thereto by separate instrument.

Provided further, that notwithstanding any provisions of this paragraph 22, in the event this Declaration and Exhibit A are recorded in the Public Records of the County prior to substantial completion of all of the buildings containing the Units, the Developer shall have the sole right, to record an amendment to this Declaration and Exhibit A, if required, in order to show substantial completion of the buildings and the Units contained therein. Such amendment shall not be required to be executed by, nor consented to by, the Unit Owners or the Association, nor the holders of any lien encumbering a Unit previously submitted to condominium ownership by this Declaration.

22.4 Execution and Recording. A copy of each amendment shall be attached to an Association Certificate setting forth that the amendment has been duly adopted. The Association Certificate and amendment shall be effective when it and a copy of the amendment are recorded in the public records of the County.

23. Termination. The Condominium may be terminated in the following manner in addition to the manner provided in the Condominium Act.

23.1 Destruction. In the event it is determined in the manner elsewhere provided that the Building and Improvements shall not be reconstructed because of major damage, the Condominium will be thereby terminated without further agreement.

23.2 Agreement. The Condominium may be terminated by the approval in writing of all Unit Owners and by all record owners of mortgages thereon. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting sets forth the proposed termination, and if

approval of the owners of not less than three-fourths of the Common Elements and of three-fourths of the record owners of all mortgages on the Units are obtained in writing not later than 30 days from the date of such meeting, then the owners approving termination shall have an option to buy all Units of the other owners for a period ending on the sixtieth day from the date of such meeting. Such approvals shall be irrevocable until the expiration of the option, and if the option is exercised, the approval shall be irrevocable. Such option shall be upon the following terms:

(A) Exercise of Option. The option shall be exercised by delivery or sending by registered mail to each of the record owners of the Units to be purchased the following instruments:

(1) An Association Certificate certifying that the option to purchase Units owned by persons not approving termination has been exercised as to all of such Units. The Association Certificate shall state the names of the Unit Owners exercising the option, the Units owned by each and the Units being purchased by each purchaser.

(2) An agreement to purchase on the terms herein stated signed by the purchaser whereby the purchaser agrees to purchase the unit of the owner receiving the notice.

(B) Price. The purchase price for each Unit shall be the fair market value determined by agreement between the seller and purchaser within 30 days from the delivery or mailing of such agreement. In the absence of such agreement, then the fair market 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 real estate appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit. Any judgment or award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(C) Payment. The purchase price shall be paid in cash or terms agreed to by purchaser and seller.

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

(E) Termination. The closing of purchase of all the Units subject to such option shall effect a termination of the Condominium without further act except the filing of the Association Certificate hereafter required.

23.3 Certificate. The termination of the Condominium in either of the foregoing manners shall be evidenced by an Association Certificate setting forth the facts effecting the termination, and the termination shall become effective when recorded in the public records of the County.

23.4 Shares of Owners After Termination. After termination of the Condominium, Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided share of the Unit Owners. Such undivided shares of the Unit Owners shall be the same as the undivided shares in the

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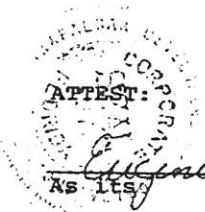
Common Elements appurtenant to the Owners' Units prior to termination.

23.5 Amendment. This Section 23 cannot be amended without consent of all Unit Owners and all record owners of mortgages of Units.

24. Approval. During the period of time that the Developer is in control of the Association, any amendments to this Declaration, the Articles of Incorporation, the Bylaws or any other enabling documents related hereto shall be subject to the approval of the Veterans Administration.

25. Severability. The invalidity in whole or in part of any covenant, restriction, section, subsection or sentence of this Declaration and the Articles of Incorporation, Bylaws and Rules and Regulations of the Association shall not affect the validity of the remaining portions thereof.

IN WITNESS WHEREOF, the Developer has executed this Declaration as of the date first above set forth.



TRAFALGAR DEVELOPERS  
OF FLORIDA, INC.

Eugene R. Beard  
As its Secretary

By Gus Hernandez  
As its Vice President

(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF DADE

The foregoing instrument was acknowledged before me this 4th day of March, 1986 by Gus Hernandez as the Vice President of Trafalgar Developers of Florida, Inc., a Florida corporation, on behalf of the corporation.



Shadline F. Young  
Notary Public

My commission expires: NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXP. JAN 20, 1989  
BONDED THRU GENERAL INS. UND.

OR3757 PG. 1706

Real property situate in Orange County, Florida, more particularly described as follows:

Starting at the Northwest corner of Tract 11, Ventura, A Portion of Phase II, Subdivision, as recorded in Plat Book 11, Page 124, Public records of Orange County, Florida, run S 00°06'26" W, along the Westerly boundary line of said Tract 11, 744.15 feet, thence run S 89°53'34" E, 150.00 feet to the point of beginning; thence run S 89°53'34" E, 35.47 feet, thence run N 48°45'54" E, 87.59 feet, thence run S 41°14'06" E, 190.10 feet, thence run N 48°45'54" E, 73.50 feet, thence run S 41°14'06" E, 30.00 feet, thence run S 48°45'54" W, 43.50 feet, thence run S 41°14'06" E, 181.37 feet, thence run S 65°39'38" W, 268.48 feet, thence run N 80°08'11" W, 146.66 feet, thence run N 00°06'26" E, 310.00 feet to the point of beginning.

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EXHIBIT A

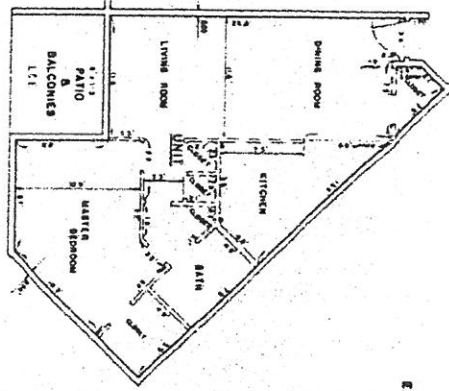
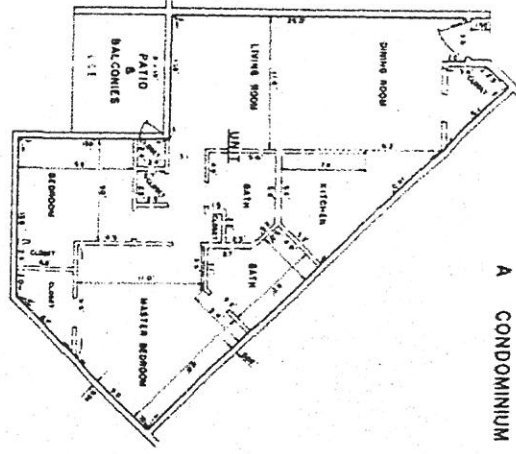


# SOUTHPOINTE UNIT IV

A CONDOMINIUM

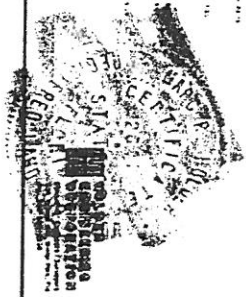
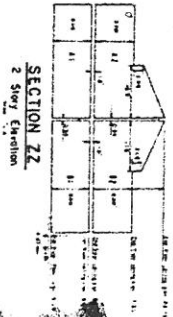
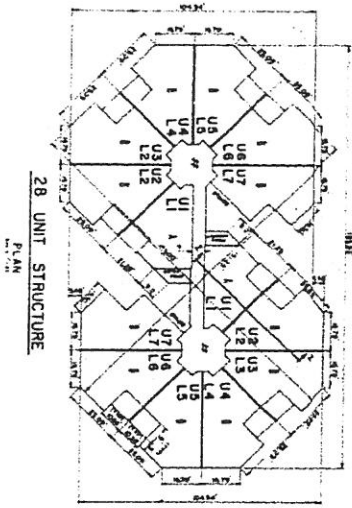
EXHIBIT 'A'

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 1888 PAGE 181  
 SHEET 1 OF 3



NOTES

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# State of Florida



Department of State

I certify that the attached is a true and correct copy of the Articles of Incorporation of SOUTHPORTE CONDOMINIUM ASSOCIATION, INC., a corporation organized under the Laws of the State of Florida, filed on November 1, 1983, as shown by the records of this office.

The charter number of this corporation is 771022.

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
1<sup>st</sup> day of November, 1983.



CER-101

George Firestone  
Secretary of State

DR3757 PG1710

EXHIBIT B